



**REPORT ON MEASURES TO COMBAT DISCRIMINATION
Directives 2000/43/EC and 2000/78/EC**

COUNTRY REPORT 2013

Liechtenstein

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State of affairs up to 1st January 2014

This report has been drafted for the **European Network of Legal Experts in the Non-discrimination Field** (on the grounds of Race or Ethnic Origin, Age, Disability, Religion or Belief and Sexual Orientation), established and managed by:

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This report has been drafted as part of a study into measures to combat discrimination in the EU Member States, funded by the European Community Programme for Employment and Social Solidarity – PROGRESS (2007-2013). The views expressed in this report do not necessarily reflect the views or the official position of the European Commission.



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INTRODUCTION

0.1 The national legal system

Explain briefly the key aspects of the national legal system that are essential to understanding the legal framework on discrimination. For example, in federal systems, it would be necessary to outline how legal competence for anti-discrimination law is distributed among different levels of government.

The Principality of Liechtenstein is one of the smallest countries in Europe, with only 36,000 inhabitants. It lies embedded between Switzerland and Austria and its history goes back to the beginning of the 18th century, being for many decades part of the Holy Roman Empire. Liechtenstein has been an independent country since 1806. The current constitution, first approved on 5 October 1921, defines Liechtenstein as “a constitutional, hereditary monarchy on a democratic and parliamentary basis”¹ where “the power of the State is embodied in the Reigning Prince and the People”.² This means that political power is shared equally between the elected parliament/the people and the monarch. However, the Prince must approve every law and financial resolution in order for it to attain legal force.³ If the Prince does not give his approval within six months, the relevant act is considered to have been refused. Thus it cannot enter into force. Liechtenstein law is significantly influenced by Swiss and Austrian law – the two neighbouring countries.

Art. 45 of the Constitution states that the Parliament (Landtag) is the “legal organ which represents and asserts the rights and interests of the people in relation to the government in accordance with the constitution”.⁴ The parliament is made up of 25 elected members, 15 from the “upper country” (Oberland - the southern part of Liechtenstein) and 10 from the “lower country” (Unterland - the northern part); they are elected for a period of four years. In respect of international relations, Parliament is not allowed to amend a treaty which has already been signed by the government; it can however accept or reject it completely. In addition, the people have the direct democratic rights of initiative and referendum, including the referendum on international treaties. New laws, and amendments to laws and the constitution, therefore, can also be initiated and decided on by the people in a popular vote.

The members of the government are selected on the recommendation of the Parliament and are appointed by the reigning Prince. The government consists of five members, one of them being the Prime Minister, who has to countersign the laws

¹ Art. 2 of the Constitution of the Principality of Liechtenstein: <http://www.llv.li/verfassung-e-01-02-09.doc.pdf>. Verfassung des Fürstentums Liechtenstein vom 5. Oktober 1921 (LV), LGBl. 1921, no. 15.

² Art. 2 of the Constitution.

³ Art. 9 of the Constitution.

⁴ Art. 45 of the Constitution.

and financial resolutions which have passed the parliament and have been signed by the reigning Prince.⁵

The legal system is dual. On the one hand, criminal and civil law is handled by the Princely Ordinary Courts (Landgericht); appeals from first instance are treated by the Princely Upper Court (Obergericht), and ultimately by the Princely High Court (Oberster Gerichtshof). In cases of dispute between citizens and organs of the state, the Administration Court (Verwaltungsgericht) and the Constitutional Court (Staatsgerichtshof) act as the relevant courts of law.

The legal system requires that all laws must be in conformity with the constitution and with relevant international treaties. Article 104 §1 of the constitution requires that a Constitutional Court be established as a court of public law to protect the rights guaranteed by the Constitution, to decide in conflicts of jurisdiction between the Courts and the administrative authorities, and to act as a disciplinary court for the Ministers. Art. 104 §2 states that the Constitutional Court shall have jurisdiction to review the constitutionality of laws and international treaties and the legality of Government ordinances; in such matters, it may declare their annulment. Regarding the adoption of international law, Liechtenstein follows a monist approach.

Seventy-six per cent of the population are members of the Roman Catholic Church, nearly eight per cent are members of Protestant churches and five per cent are Muslims (Census 2010).⁶ An increasing percentage of the population confesses no religion. There are no precise figures on people with disabilities in Liechtenstein. According to a research study⁷ in 2007, approximately 18 per cent (6,300) of the population have some kind of disability: 3,500 are estimated to have a physical disability, 1,200 to have a sensory disability, 350 to have an intellectual disability, and 1,200 to have a psychosocial disability.

33.6 per cent of the Liechtenstein inhabitants are foreigners (as of the end of June 2013).⁸ There are no figures on minority groups, but the nationality of the aliens is covered by the statistics.⁹ Most of the foreigners are from other German speaking countries (Switzerland, Austria and Germany). Social integration is not a severe problem for them. The biggest group from countries with a language other than German are people from Italy (1,146), followed by Turkey (775), Portugal (626), and Spain (339). The statistical data refers to nationality. It does not indicate whether people are well integrated or not, how proficient they are in German language and so on. In Liechtenstein, a minority problem as such does not exist.

⁵ www.liechtenstein.li/index.php?id=19&L=1. Constitution of the Principality of Liechtenstein: https://www.gesetze.li/get_pdf.jsp?PDF=1921015.pdf.

⁶ Marxer, Wilfried (2012): Menschenrechte in Liechtenstein – Zahlen und Fakten 2012, p. 82.

⁷ Marxer, Wilfried & Simon, Silvia (2007): Zur gesellschaftlichen Lage von Menschen mit Behinderung (Arbeitspapiere Liechtenstein-Institut, 15), p. 109.

⁸ Amt für Statistik: http://www.llv.li/files/as/pdf-llv-as-bevoelkerungsstatistik_30_juni_2013.

⁹ Marxer, Wilfried (2013): Menschenrechte in Liechtenstein – Zahlen und Fakten 2013, p. 12 ff.

The national laws of Liechtenstein and the international treaties which have primary relevance for anti-discrimination in Liechtenstein are listed in the appendix 1.

0.2 Overview/State of implementation

List below the points where national law is in breach of the Directives or whether there are gaps in the transposition/implementation process, including issues where uncertainty remains and/or judicial interpretation is required. This paragraph should provide a concise summary, which may take the form of a bullet point list. Further explanation of the reasons supporting your analysis can be provided later in the report.

This section is also an opportunity to raise any important considerations regarding the implementation and enforcement of the Directives that have not been mentioned elsewhere in the report.

This could also be used to give an overview of the way (if at all) national law has given rise to complaints or changes, including possibly a reference to the number of complaints, whether instances of indirect discrimination have been found by judges, and if so, for which grounds, etc.

Please bear in mind that this report is focused on issues closely related to the implementation of the Directives. General information on discrimination in the domestic society (such as immigration law issues) are not appropriate for inclusion in this report.

Please ensure that you review the existing text and remove items where national law has changed and is no longer in breach.

The Directives 2000/78/EC and 2000/43/EC are based on Art. 13 of the EC Treaty which was introduced by the Treaty of Amsterdam and which is not reflected in the EEA Agreement. The Directives have thus not been incorporated into the EEA Agreement. Liechtenstein has refrained from implementing the Directives autonomously. The reluctant attitude of Liechtenstein can be explained by the lack of administrative resources and the aim of a low regulatory density. In addition, Liechtenstein has signed and ratified the following Conventions:

- the international Convention on the Elimination of All Forms of Discrimination against Women, into force since December 1995
- the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which came into force on October 2001
- the international Convention on the Elimination of All Forms of Racial Discrimination in March 2000.

- The European Convention on Human Rights (ECHR),¹⁰ which Liechtenstein signed in 1982, is also applicable. It protects individuals from discrimination on grounds of gender, race, colour, language, religion and belief, political and other opinions, origin, national minority, property, birth and other status.

In addition, Liechtenstein law includes different legal acts which cover most aspects of those Directives. This applies in particular to equal treatment of women and men as well as to discrimination on grounds of disability. Nevertheless the Convention on the Elimination of All Forms of Racial Discrimination rules additional grounds of discrimination which are not ruled by a specific national legal act in Liechtenstein.

The UN Convention on the Rights of Persons with Disabilities (UNCRPD) has not yet been ratified by Liechtenstein. The government has appointed an inter-office working group to assess the need for preparation of its ratification. It has been assumed, that its ratification is highly connected to the issue of the administrative reform. The administrative reform was approved by the Parliament in September 2012 and has been implemented step by step over the last couple of months in 2013. By now, the administrative reform has been completed, but there is no official statement known to the authors, how far the process of the ratification of the UN Convention on the Rights of Persons with disabilities has grown meanwhile.

Nevertheless Liechtenstein government declared in 2013, that the recommendations made during its universal periodic review¹¹ on 30 January 2013 are welcome. After thorough consideration and consultations, Liechtenstein accepted the recommendation to ratify the Convention on the Rights of Persons with Disabilities by the next UPR review.¹²

a) *Constitutional Provision*¹³

Art. 31 of the Constitution states in respect of equality that all citizens are equal before the law. They shall be equally eligible for every public office in accordance with the law. The rights of foreigners are governed by treaty and, in the absence of any treaty, by reciprocal law.

b) *Act on Equality of People with Disabilities (AEPD)*.¹⁴

¹⁰ Konvention vom 4. November 1950 zum Schutze der Menschenrechte und Grundfreiheiten, LGBl. 1982, no. 60/1.

¹¹ Recommendations out of the second cycle universal periodic review (UPR): http://www.llv.li/files/aaa/el_llv_aaa_bericht_upr-arbeitsgruppe_2013.pdf.

¹² Statement of the Liechtenstein government regarding the second cycle universal periodic review (UPR): http://www.llv.li/files/aaa/pdf-llv-aaa-reaktion_auf_empfehlungen_en.pdf.

¹³ Verfassung des Fürstentum Liechtenstein vom 05. Oktober 1921, LGBl. 1921, no. 15: https://www.gesetze.li/get_pdf.jsp?PDF=1921015.pdf.

¹⁴ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

This act aims at eliminating and preventing discrimination against people with disabilities. It aims to guarantee equal participation of persons with disabilities in the daily life of society.

c) *Act on Civil Union for Same-Sex Couples (ACUSSC)*.¹⁵

A big step was taken in 2011 to further limit discrimination since the electorate approved an Act on Civil Union for Same-Sex Couples (ACUSSC) in a popular vote. With the implementation of this act, equal treatment between heterosexual and same-sex couples was granted in respect of inheritance law, social security law, naturalisation law, tax law, and pension legislation. This act regulates the creation, effects and annulment of registered partnerships of same-sex couples. It states that the partnership of same-sex couples is legally recognised. They therefore have similar rights and responsibilities as different-sex married couples when it comes to the legal recognition of the partnership. But there are also exceptions. Same-sex couples, for instance, may not adopt children nor are they authorized to medically assisted procreation. In 2012 five partnerships of same-sex couples had been registered.¹⁶ Currently there are projects ongoing to implement legally a civil marriage between same-sex couples.

d) *Act on Equality between Women and Men (AEWM)*.¹⁷

This act regulates equality between women and men and postulates gender equality in the workplace as well as in relation to access to goods and services. The AEWM also serves to implement several EEA-relevant EU acts, in particular the Directives 2004/113/EC and 2006/54/EC which Liechtenstein finally incorporated into domestic law in 2011 after a decision by the EFTA Court.

e) *Act on Employment in Industry, Commerce and Trade (AEICT)*.¹⁸

This act regulates and specifies the rules of employment of men, young people and women in industry, commerce and trade.

f) *Common Civil Code (CCC)*.¹⁹

The labour law of the Principality of Liechtenstein is part of the CCC, which relates strongly to the Austrian Civil Code. The labour law is implemented by the state, as

¹⁵ Gesetz vom 16. März 2011 über die eingetragene Partnerschaft gleichgeschlechtlicher Paare (Partnerschaftsgesetz; PartG), LGBl. 2011, no. 350.

¹⁶ Zivilstandsstatistik 2012: <http://www.llv.li/files/as/Zivilstandsstatistik%202012.pdf>.

¹⁷ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

¹⁸ Gesetz vom 29. Dezember 1966 über die Arbeit in Industrie, Gewerbe und Handel (Arbeitsgesetz); LGBl. 1967, no. 6.

¹⁹ Allgemeines bürgerliches Gesetzbuch (ABGB), publiziert im ASW, LGBl.1967, no. 34.

stated in Art. 19 of the Constitution: “The State shall protect the right to work and the workers, especially women and young persons employed in trades and industry”. Liechtenstein’s civil law is based to a certain degree on both Austrian and Swiss law. Art. 8b of the CCC states clearly that an employer may not discriminate against an employee for gender reasons, due to the AEWG.²⁰ Art. 27 of the CCC also states, inter alia, that an employer has to ensure that both female and male employees are not sexually harassed.

g) *Act on the Employment of Public Officials (AEGS)*²¹.

This act regulates and specifies the employment of public officials. In respect of non-discrimination it stipulates that the human resources management of the Liechtenstein government supports the integration of people with disabilities and guarantees equal opportunities for women and men (Art.4 §2i and §2f).

h) *Act on School Education (ASE)*.²²

This act concerns school education from kindergarten to gymnasium (grammar school). It states that school education is free of charge (Art. 7) and that school attendance of at least nine years is mandatory for every child with Liechtenstein residence (Arts. 74 and 76). Art. 15b of the ASE provides for pedagogic and therapeutic measures for pupils who are disabled in any way up to the age of 20.

i) *Penal Code (PC)*.²³

Art. 33 of the PC states that aggravating circumstances apply (for any kind of crime) if the perpetrator has acted out of racist, xenophobic or other particularly reprehensible motives. Furthermore, Art. 283 of the PC concerns discrimination on grounds of race, ethnicity, and religion. The law states that a sentence of up to two years shall be given to a person who incites publicly against a person or against a group of persons based on race, ethnicity, or religious belief; and to anyone who publicly disseminates ideologies aimed at the systematic reduction or defamation of members of a race, ethnicity, or religion. The PC says nothing about homophobic motives or any discrimination on grounds of sexual orientation. Also within the scope of the PC is any participation as a member in a group promoting and inciting to racial discrimination and furthermore the manufacturing, import, storing, distribution etc. of documents, sounds or image recordings, whose content is a racial discrimination. This article was incorporated into national law in 2000 following the ratification of the UN Convention on the Elimination of All Forms of Racial Discrimination.

²⁰ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

²¹ Gesetz vom 24. April 2008 über das Dienstverhältnis des Staatspersonals (Staatspersonalgesetz; StPG), LGBl. 2008, no. 144.

²² Schulgesetz vom 15. Dezember 1971, LGBl. 1972, no. 7.

²³ Strafgesetzbuch (StGB) vom 24. Juni 1987; LGBl. 1988, no. 37.

In addition, Liechtenstein has also signed several international treaties with relevance to anti-discrimination, though not directly applicable. The major ones are listed in the appendix 2.

The above-mentioned Directives 2000/78/EC, however, identify more forms of discrimination than are mentioned in the Liechtenstein Constitution or in any other Liechtenstein law.

With the national acts AEPD and AEWL Liechtenstein set clear provisions regarding discrimination on grounds of disability and gender, which correspond to the Directive 2000/78/EC. Nevertheless, Liechtenstein has still failed to formally confirm and ratify the Convention on the Rights of Persons with Disabilities (UNCRPD)²⁴ to ensure that it meets the international standard for anti-discrimination in all aspects. Based on the acceptations the government gave in 2013 regarding the recommendation to ratify the Convention on the Rights of Persons with Disabilities, it can be assumed that this process will be done before the next UPR review for Liechtenstein takes place.

Furthermore, there are more provisions regarding discrimination on additional grounds, for instance religion, age etc., covered by the Directive 2000/78/EC.

Notably, apart from rather general provisions in the penal code prohibiting hate speech / incitement with respect to race, ethnicity and religion, there are no distinct anti-discrimination acts covering discrimination on grounds of race or ethnic origin, religion and belief, age, or sexual orientation.

In 2012 Liechtenstein started to reform the relationship between the state and religious communities. The central element of the new arrangement is the cancellation of the current status of the Catholic Church as the “National Church” (Liechtenstein Constitution, Article 37 §2) and the creation of a general act on religious communities based on their recognition by the state. This point in particular is seen crucial to other religious communities in Liechtenstein (e. g. the Evangelical Church, The Evangelical-Lutheran Church, the Jewish community, the Orthodox religious community, the Muslim community et cetera) to ensure equal treatment for all religious communities.²⁵ The government goal, to have the negotiations with the Archdiocese Vaduz concluded by the end of 2013, was not reached due to material property questions. An announcement to the Permanent Committee for the decision-making can be expected within the first quarter of 2014.²⁶

Hence, Liechtenstein still needs further efforts to challenge discrimination. A comprehensive anti-discrimination act, covering all grounds of discrimination and including provisions regarding an independent ombudsman office would be welcome from the point of view of anti-discrimination. Although the European Convention on

²⁴ <http://www.un.org/disabilities/default.asp?id=259>.

²⁵ <http://www.vaterland.li/index.cfm?id=21487&source=lv&ressort=liechtenstein>.

²⁶ Article in local newspaper „Volksblatt“, 09.10.2013:
<http://www.volksblatt.li/nachricht.aspx?p1=fl&id=60104&src=vb>.

Human Rights (ECHR)²⁷ and other international treaties are binding to the Liechtenstein jurisdiction, clear legal anti-discrimination provisions at the national level covering all grounds of discrimination are missing.

0.3 Case-law

*Provide a list of any **important** case-law in **2012** within the national legal system relating to the application and interpretation of the Directives. (The **older case-law mentioned in the previous report should be moved to Annex 3**). Please ensure a follow-up of previous cases if these are going to higher courts. This should take the following format:*

Name of the court: OGH Liechtenstein

Date of decision: 06 November 2013

Name of the parties: anonymous

Reference number: 13 UR.2013.103

Address of the webpage:

<http://www.gerichtsentseide.li/default.aspx?mode=suche&txt=Diskriminierung&vonjahr=2013&bisjahr=2014&id=4160&backurl=?mode=suche%26txt=Diskriminierung%26vonjahr=2013%26bisjahr=2014>

Brief summary: Case law regarding discrimination on grounds of race or ethnic origin. A private individual (NN) claimed to have been discriminated against by the national law (Art. 283 of the StGB) because of his ethnic origin, namely his nationality. The criminal investigation regarding the claimed discrimination was based on the rejection of the individual's application for participation at a university programme, which was rejected in 2012 by the Liechtenstein Administrative Court (Verwaltungsgerichtshof). The private individual passed his/her claim onward to the following instances. Finally it was rejected by the Constitutional Court of Liechtenstein (Staatsgerichtshof). Essentially the judgment was based on the following arguments:

- The individual claimed an act of discrimination based on his nationality by Art. 283 of the StGB. As Art. 283 StGB does not define nationality as a legal category, it can therefore not be seen as an objective existence of discrimination based on nationality. This argument was based on the defined grounds of discrimination in the StGB and not on the Courts interpretation of what might be a protectable ground under the non-discrimination law.
- Grounds for the rejection of the application for a university program participation were given based on objective reasons, e.g. uncompleted documents for application, mission motivation declaration etc.

²⁷ Convention of 4. November 1950 on the Protection of Human Rights and Fundamental Freedoms, LGBl. 1982, no. 60/1.



Based on the decision of the Constitutional Court of Liechtenstein, the individual claimed that he had applied as private prosecution party in the criminal proceeding through a subsidiary application in time and that the rejection of his claim is therefore not correct.

In the following judicial inquiry the Princely High Court (*Fürstlicher Oberster Gerichtshof*) came to the decision, that the subsidiary application was legally permissible and therefore abrogated the decision of the Princely Upper Court (*Obergericht*). The criminal case was referred back to the Court of first Instance (06th November 2013).

Please describe trends and patterns in cases brought by Roma and Travellers, and provide figures – if available.

There is no case law in respect of Roma. As of today, there are very few Roma in Liechtenstein.



1 GENERAL LEGAL FRAMEWORK

Constitutional provisions on protection against discrimination and the promotion of equality

- a) *Briefly specify the grounds covered (explicitly and implicitly) and the material scope of the relevant provisions. Do they apply to all areas covered by the Directives? Are they broader than the material scope of the Directives?*

The Constitution of the Principality of Liechtenstein has no provisions directly related to discrimination, neither on grounds of disability, nor race or ethnic origin, age, gender, or sexual orientation. However, it includes the basic principle of equality. Concerning religion and belief, the Constitution states that freedom of belief and conscience (*Glaubens- und Gewissensfreiheit*) is guaranteed (Art. 37)²⁸ and that property of religious communities and associations is safeguarded as well (Art. 38). Art. 27bis states that human dignity shall be respected and protected and that no one may be subjected to inhuman or degrading treatment or punishment.

Art. 31 notes that all Liechtenstein citizens shall be equal before the law. It is stated in the Constitution (Art. 31 §1) that the term “Liechtenstein citizens” (*Landesangehörige*) is to be understood as referring to all persons holding Liechtenstein national citizenship, aliens excluded. In 2011, 33.3 per cent of the Liechtenstein population were foreigners.

Art. 31 §2 states that men and women are equal.

Concerning religion, the Roman-Catholic Church has a privileged status in the Liechtenstein Constitution (Art. 37 §2).²⁹ The Constitution, on the other hand, guarantees freedom of belief and conscience (Art. 37 §1). Despite this guarantee, the privilege of the Catholic Church can be interpreted as discriminating against other confessions. As mentioned before, a new arrangement which would include the cancellation of the current status of the Catholic Church is underway.

- b) *Are constitutional anti-discrimination provisions directly applicable?*

Arts. 27 and 31 of the Constitution are legally binding, even if the clauses are not specifically laid out as anti-discrimination provisions.³⁰ Anyone who is directly affected by any kind of discrimination (meaning that human dignity has not been preserved) is able to write a complaint which then will be analysed and further decided on by the Constitutional Court. All national laws must be in line with the

²⁸ Verfassung des Fürstentums Liechtenstein vom 5. Oktober 1921 (LV), LGBl. 1921, no. 15, https://www.gesetze.li/get_pdf.jsp?PDF=1921015.pdf.

²⁹ Verfassung des Fürstentums Liechtenstein vom 5. Oktober 1921 (LV), LGBl. 1921, no. 15.

³⁰ Verfassung des Fürstentums Liechtenstein vom 5. Oktober 1921 (LV), LGBl. 1921, no. 15, https://www.gesetze.li/get_pdf.jsp?PDF=1921015.pdf.



Constitution and with relevant international treaties, such as the European Convention on Human Rights (relevant international treaties are listed in Art.15 §2 of the Act on the Constitutional Court).³¹

c) *In particular, where a constitutional equality clause exists, can it (also) be enforced against private actors (as opposed to the State)?*

Equality clauses in the Constitution are applicable to both private and state actors.

³¹ Act on the Constitutional Court (Gesetz über den Staatsgerichtshof), 27.11.2003, LGBl. 2004 no.

32. Source:

<https://www.gesetze.li/Seite1.jsp?LGBl=2004032.xml&Searchstring=StGHG&showLGBl=true>.



2 THE DEFINITION OF DISCRIMINATION

2.1 Grounds of unlawful discrimination

Which grounds of discrimination are explicitly prohibited in national law? All grounds covered by national law should be listed, including those not covered by the Directives.

The Liechtenstein Constitution explicitly prohibits unequal treatment of men and women (Art. 31 §2) and guarantees freedom of religion and conscience (Art.37 §1).³²

The Liechtenstein Constitution states in Art. 39³³ that the use of the civil and political rights is not depending on the religious affiliation. The same is stated in Art. 39 of the CCC, which also refers to the possibility of exceptions in respect of particular subject matters, which can result from specific rules in certain laws.

The AEPD protects individuals against any kind of discrimination based on disability.

The Liechtenstein Act on Children and Youth (ACY)³⁴ protects children and young persons from discrimination due to sexism, racism, political radicalization or violence (Art. 1 and Art. 63).

The Liechtenstein Act on Postal Services (APS)³⁵ explicitly excludes any discrimination based on political, religious, or ideological grounds (Art. 5).

The Liechtenstein Act on Media (AM)³⁶ declares medial content to be illegal, if it incites or supports discrimination based on racial or ethnic origin, gender, religion, age, disability, or sexual orientation. The Media Act was made for media companies and media owners on the territory of Liechtenstein, whereas the Penal Code (*Strafgesetzbuch*)³⁷ is applicable to a wider circle of persons. Within the Penal Code, Art. 283, religion, race or ethnicities are mentioned in relation to the discriminating acts which are subject to criminal liability. The other grounds mentioned by the Act on Media, as e. g. gender, age, disability, sexual orientation et cetera are not explicitly mentioned in the Penal Code and therefore need juridical interpretation in court cases.

³² Verfassung des Fürstentums Liechtenstein vom 5. Oktober 1921 (LV), LGBl. 1921, no. 15, https://www.gesetze.li/get_pdf.jsp?PDF=1921015.pdf.

³³ Verfassung des Fürstentums Liechtenstein vom 5. Oktober 1921 (LV), LGBl. 1921, no. 15.

³⁴ Kinder- und Jugendgesetz vom 10. Dezember 2008 (KJG), LGBl. 2009, no. 29.

³⁵ Gesetz vom 18. Dezember 1998 über das liechtensteinische Postwesen (Postgesetz; PG), LGBl. 1999, no. 35.

³⁶ Mediengesetz (MedienG) vom 19. Oktober 2005, LGBl. 2005 Nr.250.

³⁷ Strafgesetzbuch (StGB) vom 24. Juni 1987; LGBl. 1988, no. 37.

Art. 18 § 3 of the Liechtenstein Act on Aviation (AA)³⁸ governs the process of acceptance of foreign licences. In this context, discrimination due to nationality is explicitly excluded.

The Liechtenstein Act on Employment of Public Officials (AEGS)³⁹ regulates protection against dismissal in reference to the AEW⁴⁰ and the AEPD (Art. 22 § 3).

The Liechtenstein Act on Information and Consultation of Employees in Business Enterprises (AIC)⁴¹ states in Art. 10 that employees are not allowed to be treated less favourably due to their involvement in an organisation for workers' representation.

2.1.1 Definition of the grounds of unlawful discrimination within the Directives

a) *How does national law on discrimination define the following terms: (the expert can provide first a general explanation under a) and then has to provide an answer for each ground)*

i) *racial or ethnic origin,*

Although there is no specific discrimination law in Liechtenstein defining the term “racial or ethnic origin”, we can refer to the International Convention on the Elimination of All forms of Racial Discrimination of 4 November 1950, which came into force in Liechtenstein on 31 March 2000.⁴² It defines racial discrimination in Art. 1 as: any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

There are no further definitions in the national law of Liechtenstein.

ii) *religion or belief,*

There are no definitions of religion or belief in the national law of Liechtenstein. The Constitution stays vague and guarantees freedom of religion and belief. In the context of Art.37 of the Constitution, which covers religion and belief, “belief” must be interpreted as “religious belief”, not as “political belief”. This interpretation would

³⁸ Gesetz vom 15. Mai 2002 über die Luftfahrt (Luftfahrtgesetz, LFG), LGBl. 2003 Nr. 39.

³⁹ Gesetz vom 24. April 2008 über das Dienstverhältnis des Staatspersonals (Staatspersonalgesetz; StPG), LGBl. 2008 Nr. 144.

⁴⁰ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

⁴¹ Gesetz vom 23. Oktober 1997 über die Unterrichtung und Anhörung der Arbeitnehmerschaft in den Betrieben (Mitwirkungsgesetz; MWG), LGBl. 1997, no. 211.

⁴² Internationales Übereinkommen zur Beseitigung jeder Form von Rassendiskriminierung, LGBl. 2000, no. 80.

include, that “belief” has to be treated as “religious belief” and therefore non-religious belief as e. g. vegetarianism, pacifism, etc. is not included in the notion of belief. Despite this, the Roman-Catholic Church has a privileged status in Liechtenstein (Art.37 §2 of the Constitution).⁴³ Art.40 of the Constitution covers freedom of speech (*Meinungsfreiheit*), Art.41 covers the right of assembly and association (*Vereins- und Versammlungsrecht*).⁴⁴

- iii) *disability. Is there a definition of disability at the national level and how does it compare with the concept adopted by the Court of Justice of the European Union in Joined Cases C-335/11 and C-337/11 Skouboe Werge and Ring, Paragraph 38, according to which the concept of ‘disability’ must be understood as: “a limitation which results in particular from physical, mental or psychological impairments which in interaction with various barriers may hinder the full and effective participation of the person concerned in professional life on an equal basis with other workers” (based on Article 1 UN Convention on the Rights of Persons with Disabilities)?*

According to Art.3 of the AEPD, the definition of disability is: “the result of a deficiency of functions that is not just temporary and is based on a physiological, mental, or psychological condition or an impairment of sensory functions which constitutes a possible complication for participation in the labour market. Such a condition is not deemed temporary if it is likely to last for more than 6 months.” The definition is taken from the Austrian Act on the Employment of People with Disabilities.

This definition is very similar to the European Court of Justice Case C-13/05, Chacón Navas, Paragraph 43 definition. In the latest joined cases C-335/11 and C-337/11 Ring and Skouboe Werge, the Court of Justice of the European Union ruled that a curable or incurable illness entailing a physical, mental or psychological limitation may be assimilated to a disability. A reduction in working hours may be regarded as an accommodation measure which the employer must take in order to enable a person with a disability to work. As the legal background, the Directive on equal treatment in employment and occupation (Directive 2000/78/EC of 27 November 2000) does not define “disability”, the Court already gave a definition of that concept in its judgment in Chacón Navas (Case C-13/05). After that judgment was delivered, the EU ratified the UN Convention on the Rights of Persons with Disabilities. It follows that the directive must be interpreted, as far as possible, in a manner consistent with the Convention. Therefore the Court states in the Cases Ring and Skouboe Werge, that the concept of ‘disability’ must be interpreted as including a condition caused by an illness medically diagnosed as curable or incurable, if that illness entails a limitation which results in particular from physical, mental or

⁴³ Verfassung des Fürstentums Liechtenstein vom 5. Oktober 1921 (LV), LGBl. 1921, no. 15.

⁴⁴ Verfassung des Fürstentums Liechtenstein vom 5. Oktober 1921 (LV), LGBl. 1921, no. 15, https://www.gesetze.li/get_pdf.jsp?PDF=1921015.pdf.

psychological impairments which in interaction with various barriers may hinder the full and effective participation of the person concerned in professional life on an equal basis with other workers, and the limitation is a long-term one.

With reference to Liechtenstein it has to be said, that the Directive 2000/78/EC was not incorporated into the EEA Agreement, based on the fact that the legal background of the Directive was not declared compatible with the EEA Agreement. The Directive is based on the former Article 13 of the EEC Treaty (today Art. 19 TFEU), which was brought into the EC Treaty by the Amsterdam Treaty. A similar legal basis does not exist in the EEA Agreement. Therefore the Directive was concluded as not falling within the territory covered of the EEA Agreement. Liechtenstein has refrained from implementing the Directives autonomously. Nevertheless the national law refer to “physiological, mental and physical” limitations which occur in disabilities without any interpretation of limitation based on illness.

iv) *age*

There are no stated definitions within national law in relation to age. However, children and young people up to and including the age of 18 enjoy special protection (cp. the Liechtenstein Act on Children and Youth (ACY)).⁴⁵

v) *sexual orientation?*

The Act on Civil Union for Same-Sex Couples (ACUSSC)⁴⁶ contains no definition of sexual orientation.

There are no stated definitions known to the authors elsewhere in the law.

b) *Where national law on discrimination does not define these grounds, how far have equivalent terms been used and interpreted elsewhere in national law? Is recital 17 of Directive 2000/78/EC reflected in the national anti-discrimination legislation?*

i) *racial or ethnic origin*

No specific national definition exists regarding the definition of racial or ethnic origin, therefore no explanation is available regarding any differentiation between the two terms.

ii) *religion or belief (e.g. the interpretation of what is a ‘religion’ for the purposes of freedom of religion, or what is a “disability” sometimes defined only in social security legislation)?*

⁴⁵ Kinder- und Jugendgesetz vom 10. Dezember 2008 (KJG), LGBl. 2009, no. 29.

⁴⁶ Gesetz vom 16. März 2011 über die eingetragene Partnerschaft gleichgeschlechtlicher Paare (Partnerschaftsgesetz; PartG), LGBl. 2011, no. 350.

The Liechtenstein legal framework does not contain a legal definition of, or any equivalent terms for religion or belief. An interpretation of how “religion” is defined, could be based on Art. 9 of the European Convention on Human Rights (ECHR).⁴⁷ In general judicial interpretation seems to be necessary.

iii) disability

A definition is given as described under 2.1.1. a. Furthermore recital 17 of Directive 2000/78/EC is reflected in national law under Art. 10 §3 of the AEPD.⁴⁸

iv) age

The law is silent on the definition of age in respect of discrimination. Hence judicial interpretation on this subject is required.

v) sexual orientation

The Act on Civil Union for Same-Sex Couples (ACUSSC)⁴⁹ grants equal treatment between same-sex and different-sex couples in respect of inheritance law, social security law, law of naturalisation, tax law, and pension legislation.

The act itself is not a discrimination law in the narrower sense of the term.

Besides this, the act itself contains no definitions of sexual orientation. Hence judicial interpretation on this subject is required.

c) Are there any restrictions related to the scope of ‘age’ as a protected ground (e.g. a minimum age below which the anti-discrimination law does not apply)?

The laws do not state a maximum age for apprenticeships and suchlike. Thus one can say that the anti-discrimination law applies to all ages. There is no case law known to the authors on this subject. There is no strong focus of the Liechtenstein legislation on age as a ground of discrimination, compared to disability and gender.

2.1.2 Multiple discrimination

a) Please describe any legal rules (or plans for the adoption of rules) or case law (and its outcome) in the field of anti-discrimination which deal with situations of

⁴⁷ Konvention vom 4. November 1950 zum Schutze der Menschenrechte und Grundfreiheiten, LGBl. 1982, no. 60/1.

⁴⁸ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

⁴⁹ Gesetz vom 16. März 2011 über die eingetragene Partnerschaft gleichgeschlechtlicher Paare (Partnerschaftsgesetz; PartG), LGBl. 2011, no. 350.

multiple discrimination. This includes the way the equality body (or bodies) are tackling cross-grounds or multiple grounds discrimination.

Would, in your view, national or European legislation dealing with multiple discrimination be necessary in order to facilitate the adjudication of such cases?

The AEPD states in Article 23 that multiple discrimination has to be taken into account when it comes to decide on the compensation for immaterial damages at a court trial. Nevertheless there is no definition or description of grounds of multiple discrimination in the sense of listing possible grounds or even combinations of grounds to fall under the term multiple discrimination. There are no provisions regarding multiple discrimination on other grounds like religion and belief, sexual orientation, race and ethnic origin, age, or gender. There are no plans for the adoption of such rules known to the authors.

There is no case law known to the authors, which dealt with situations of multiple discrimination.

b) How have multiple discrimination cases involving one of Art. 19 TFEU grounds and gender been adjudicated by the courts (regarding the burden of proof and the award of potential higher damages)? Have these cases been treated under one single ground or as multiple discrimination cases?

So far Liechtenstein courts have not given special attention to multiple ground cases. Up to now, there are no cases relating to multiple discrimination known to the authors. The only national legal provision addressing multiple discrimination is provided by Art. 23 § 3 of the AEPD, dealing with the compensation for immaterial damages with regard to multiple discrimination at a court trial.⁵⁰

2.1.3 Assumed and associated discrimination

a) Does national law (including case law) prohibit discrimination based on perception or assumption of what a person is? (e.g. where a person is discriminated against because another person assumes that he/she is a Muslim or has a certain sexual orientation, even though that turns out to be an incorrect perception or assumption).

There exists no explicit regulation on this issue in national law. Thus, the law is silent on this subject. Art. 31 of the Constitution⁵¹ states that all citizens are equal before the law. Based on this principle of equality, judicial interpretation is required to determine if discrimination based on perception or assumption of what a person is,

⁵⁰ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

⁵¹ Verfassung des Fürstentum Liechtenstein vom 05. Oktober 1921, LGBl. 1921, no. 15: <https://www.gesetze.li/Seite1.jsp?LGBl=1921015.xml&Searchstring=Verfassung&showLGBl=true>.

falls under the anti-discrimination regulations of the AEPD, the AEWG or even the Constitution itself.

Furthermore there is no known case law on the subject of a wrong perception of what a person is.

- b) *Does national law (including case law) prohibit discrimination based on association with persons with particular characteristics (e.g. association with persons of a particular ethnic group or the primary carer of a disabled person)? If so, how? Is national law in line with the judgment in Case C-303/06 Coleman v Attridge Law and Steve Law?*

The AEPD prohibits discrimination against persons who assist people with a disability on a temporary basis or who take care of them, or who report or take action against an act of discrimination on the grounds of disability (Art. 5 § 4). There are no further provisions concerning discrimination based on association with persons with particular characteristics, neither regarding people with disabilities, nor discrimination on other grounds.

2.2 Direct discrimination (Article 2(2)(a))

- a) *How is direct discrimination defined in national law? Please indicate whether the definition complies with those given in the directives.*

Direct discrimination is defined in Liechtenstein law as when a person is treated less favourably than another person has been or would be treated in a comparable situation. Direct discrimination according to this legal definition is prohibited on grounds of disability (AEPD Art.6 §1) and on grounds of gender (AEWG Art.1a).⁵² The authors would therefore argue that the definition in Liechtenstein law is in line with the definition given in directives 2000/78/EC, 27.11.2000, article 2 (2) a) and 2000/43/EC, 29.06.2000, article 2 (2) a)).

- b) *Are discriminatory statements or discriminatory job vacancy announcements capable of constituting direct discrimination in national law? (as in Case C-54/07 Firma Feryn).*

Primarily legal protection against discrimination in the working environment is defined in AEPD Art. 10. Furthermore, since all the different acts and conventions have been incorporated into various national laws, it can be said that any kind of discrimination in job vacancy or other announcements can to some extent be seen as direct discrimination. An exception is if there are obvious reasons why for instance only a man or a woman or a person with special characteristics, skills or knowledge is

⁵² Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

qualified for the vacant position (AEPD Art.10 §3 and AEWG Art.3 §4).⁵³ In this spirit, disability can be a reason why somebody does not fit into the job requirement. For such genuine and determining occupational requirements, different treatment is allowed. The same holds for gender (advertising for an actor or an actress for example), or for religion and belief (advertising for a priest). There are no such exceptions provided for sexual orientation, race and ethnic origin. As long as there do exist obvious reasons for specific job requirements, this would not be interpreted as discriminating against people with disabilities or people with other characteristics. Regarding gender, most job vacancies nowadays are explicitly announced in advertisements for male and female applicants and are therefore labelled with (w/m) after the job title.

- c) *Does the law permit justification of direct discrimination generally, or in relation to particular grounds? If so, what test must be satisfied to justify direct discrimination? (See also 4.7.1 below).*

There is no explicit justification of direct discrimination relating to sexual orientation, age, religion and belief, or ethnic origin. However, exceptions and different treatment are allowed if, for instance, special knowledge, skills, physical conditions or other characteristics are required for a job. These “objectively justified” provisions can also be relevant for people with disabilities (Art.10 §3 AEPD)⁵⁴ or persons of a specific gender (Art 3 §4 AEWG).⁵⁵

In addition, jobs in the public services can be restricted to Liechtenstein citizens, but race and ethnicity would not be permitted as selection criteria.

- d) *In relation to age discrimination, if the definition is based on ‘less favourable treatment’ does the law specify how a comparison is to be made?*

Liechtenstein’s legal framework does not contain a clear definition of age in relation to discrimination. Thus the law does not specify how to assess “less favourable treatment” as no such specification is given by the law.

2.2.1 Situation Testing

- a) *Does national law clearly permit or prohibit the use of ‘situation testing’? If so, how is this defined and what are the procedural conditions for admissibility of such evidence in court? For what discrimination grounds is situation testing*

⁵³ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

⁵⁴ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

⁵⁵ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

permitted? If not all grounds are included, what are the reasons given for this limitation? If the law is silent please indicate.

Due to the low regulatory density and the limited capacity of civil society actors within Liechtenstein, as of now, there are no legal provisions for or practical examples of situation testing in Liechtenstein. The method of situation testing is not mentioned by any national legislative act. Furthermore, there are no defined conditions for using this kind of evidence in court and as there are no respective legal cases so far, there is no evidence on how courts will handle such cases.

b) Outline how situation testing is used in practice and by whom (e.g. NGOs, equality body, etc.).

So far no situation testing has been carried out, neither in case law nor by NGOs. There are no activities known to the authors for any preparation of situation testing in connection with discrimination in the near future in Liechtenstein.

c) Is there any reluctance to use situation testing as evidence in court (e.g. ethical or methodology issues)? In this respect, does evolution in other countries influence your national law (European strategic litigation issue)?

As there has not been any case law so far in which situation testing was used as evidence, no prior judgment can be made about its acceptance, or in relation to ethical or methodological issues, etc. This issue could be described as unknown terrain within the legal framework of Liechtenstein.

Developments within the EU might lead to further amendments in the Liechtenstein national law. The activity “situation testing regarding discrimination” in 2012 by NGOs in 14 countries has so far not had any influence on national NGO’s activities in this area.⁵⁶

d) Outline important case law within the national legal system on this issue.

There is no case law on this issue.

2.3 Indirect discrimination (Article 2(2)(b))

a) How is indirect discrimination defined in national law on discrimination? Please indicate whether the definition complies with those given in the directives.

Indirect discrimination is when apparently neutral provisions, criteria or procedures would put persons of a specific ground of discrimination at a particular disadvantage compared to other persons. Indirect discrimination is explicitly only defined on

⁵⁶ <http://www.sos-racisme.org/content/first-europe-wide-testing-against-racial-discriminations>.

grounds of disability (AEPD Art. 6 §2)⁵⁷ and gender (AEWM Art. 1a).⁵⁸ There are no legal prohibitions on other grounds known to the authors. The definition given in the national law as stated above complies with those given in the directives.

b) *What test must be satisfied to justify indirect discrimination? What are the legitimate aims that can be accepted by courts? Do the legitimate aims as accepted by courts have the same value as the general principle of equality, from a human rights perspective as prescribed in domestic law? What is considered as an appropriate and necessary measure to pursue a legitimate aim?*

According to the AEPD (Art. 6 §2)⁵⁹ and the AEWM (Art. 1a)⁶⁰ the differential treatment is objectively justified if provisions, criteria or procedures are necessary in order to achieve a legitimate aim. In addition, the means of achieving that aim have to be appropriate. Liechtenstein law thus states that justification of indirect discrimination is possible in certain situations. In addition, Art. 3 §4 and Art.4a §5 of the AEWM⁶¹ list certain conditions under which gender specific measures do not represent discrimination, e.g. if the specific gender is an essential requirement for carrying out particular occupational activities (similar to Directive 2000/78/EC Art. 4).

c) *Is this compatible with the Directives?*

The justification for indirect discrimination in Liechtenstein law is compatible with the Directives.

d) *In relation to age discrimination, does the law specify how a comparison is to be made?*

The AEWM and the AEPD do not include age discrimination. There is no further law quoting the Directive in respect of age discrimination.

e) *Have differences in treatment based on language been perceived as potential indirect discrimination on the grounds of racial or ethnic origin?*

⁵⁷ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

⁵⁸ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

⁵⁹ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

⁶⁰ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

⁶¹ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.



Law is silent on this subject. There are no known cases dealing with discrimination based on language. However, language requirements play an important role in respect of the integration of foreigners. According to the Liechtenstein Act on Foreigners (AF)⁶² (Art. 6) as well as the Liechtenstein Act on Free Movement of Persons of EEA and Swiss citizens (AFM)⁶³ (Art. 5) foreigners are obliged to learn the German language in both speech and writing. In job advertisements, a good command of German language is not a common requirement, probably since the employer expects this anyway in most cases. But language skills – not necessarily knowledge of the German language – can be part of a job profile. This is not interpreted as discriminating.

2.3.1 Statistical Evidence

- a) *Does national law permit the use of statistical evidence to establish indirect discrimination? If so, what are the conditions for it to be admissible in court?*

Statistical Evidence is not mentioned in the context of discrimination. The same applies to case law, but there is on the other hand no general restriction on the use of statistical data. One can assume, though, that any evidence, including evidence from statistical data, is admissible in court. Up to now no case of discrimination has been brought to court using statistical data as evidence.

- b) *Is the use of such evidence widespread? Is there any reluctance to use statistical data as evidence in court (e.g. ethical or methodology issues)? In this respect, does evolution in other countries influence your national law (European strategic litigation issue)?*

There are no cases known to the authors where statistical data as evidence has been used in cases of indirect discrimination. Generally speaking, the national courts do not usually amend national case law based on developments in other jurisdictions.

- c) *Please illustrate the most important case law in this area.*

There are no cases known to the authors on this subject.

- d) *Are there national rules which permit data collection? Please answer in respect to all five grounds. The aim of this question is to find out whether or not data collection is allowed for the purposes of litigation and positive action measures. Specifically, are statistical data used to design positive action measures? How are these data collected/ generated?*

⁶² Gesetz vom 17. September 2008 über die Ausländer (Ausländergesetz; AuG), LGBl. 2008, no. 311.

⁶³ Gesetz vom 20. November 2009 über die Freizügigkeit für EWR- und Schweizer Staatsangehörige (Personenfreizügigkeitsgesetz; PFZG), LGBl. 2009, no. 348.

Legal restrictions on the collection of data are given by the Data Protection Act (DPA)⁶⁴ which refers to EU Directive 95/46/EG of 24 October 1995. Art. 3 §1 e) of the DPA defines the following data as especially sensitive personal data that have to be protected in particular: data regarding religious, ideological or political beliefs; data regarding health, personal privacy and race/ethnicity; data regarding social security assistance; data regarding administrative and penal prosecution.

Data collection in respect of information about disability, age and sexual orientation is not explicitly mentioned in the DPA but could be subsumed under “data on personal privacy”.

Art. 5 §1 of the DPA⁶⁵ gives the data collecting institution the duty to inform the involved person about the collection of data. This duty is waived in certain exceptional cases laid down in Art. 5 §4 of the DPA.⁶⁶ Furthermore, under certain conditions laid down in Art 5 §7 of the DPA, Art 5 §1 of the DPA does not apply to data collection for statistical or scientific purposes.

The DPA’s validity differs for private and public actors (data processing by private persons and by authorities). The administration may only process data if this is clearly intended by a legal act (Art. 21 §1 DPA).⁶⁷ The DPA provides many additional restrictions and exceptions to data collection and processing. An Office for Data Protection has been established.

Further rules are given in the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Art. 6).⁶⁸ In this context the automatic processing of personal data is strictly subject to appropriate protection by national law. There are no further specifications about what kind of protection is appropriate.

Additional requirements for data collection by the Department of Statistics are provided in the Act on Statistics (AS),⁶⁹ especially Arts. 16 to 18. Furthermore, Arts. 8 to 14 of the Act on the Central Register of Personal Data (ACRPD)⁷⁰ specify requirements for data collection and use,

Other statistical data collections, surveys, scientific research projects et al. give additional insight into the status of different social groups. All these data collections and data analysis have to be in line with the above-mentioned legal provisions.

⁶⁴ Datenschutzgesetz vom 14. März 2002 (DSG), LGBl. 2002, no. 55.

⁶⁵ Datenschutzgesetz vom 14. März 2002 (DSG), LGBl. 2002, no. 55.

⁶⁶ Datenschutzgesetz vom 14. März 2002 (DSG), LGBl. 2002, no. 55.

⁶⁷ Datenschutzgesetz vom 14. März 2002 (DSG), LGBl. 2002, no. 55.

⁶⁸ Übereinkommen zum Schutz des Menschen bei der automatischen Verarbeitung personenbezogener Daten, LGBl. 2004, no. 167.

⁶⁹ Statistikgesetz vom 17. September 2008 (StatG), LGBl 2008, no. 271.

⁷⁰ Gesetz vom 21. September 2011 über das Zentrale Personenregister (ZPRG), LGBl. 2011, no. 574.



Data collection and statistical services in a very small country such as Liechtenstein are restricted due to the smallness of the country and small size of the population. In addition, data collection in such a small society raises the problem of anonymity. The officials of the Data Protection Agency would have to decide whether data collection for purposes of litigation and positive action measures are allowed or not in a specific case.

2.4 Harassment (Article 2(3))

- a) *How is harassment defined in national law? Does this definition comply with those of the directives? Include reference to criminal offences of harassment insofar as these could be used to tackle discrimination falling within the scope of the Directives.*

The two main Acts on anti-discrimination (AEPD Art.8; AEWG Art. 1a)⁷¹ prohibit harassment within their specific scope on grounds of disability (AEPD) and gender (AEWG). In general, harassment is defined as unwanted modes of behaviour towards a person with the purpose or the effect of violating the dignity of the person and of creating an intimidating, hostile, degrading, humiliating or abusive environment. Such behaviour can refer to disability or can be gender-related. Regarding gender-specific discrimination, the AEWG covers also sexual harassment, which is defined as unwanted modes of sexual behaviour expressed in a verbal, nonverbal, or physical way with the purpose or the effect of violating the dignity of the person (without distinction of sex).

- b) *Is harassment prohibited as a form of discrimination?*

Yes, harassment is a type of discrimination. It is therefore considered as discrimination and is prohibited as a form of discrimination. Art. 8 of the AEPD clearly states that harassment constitutes discrimination. A similar statement is shown in the AEWG (Art. 4).⁷² "Harassment and sexual harassment, as well as instructing another to carry out the same, are considered to be discrimination based on gender".

- c) *Are there any additional sources on the concept of harassment (e.g. an official Code of Practice)?*

There are no additional officially binding sources on the concept of harassment. There is no official Code of Practice in this sense known to the authors.

- d) *What is the scope of liability for discrimination)? Specifically, can employers or service providers (in the case of racial or ethnic origin, but please also look at*

⁷¹ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

⁷² Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

the other grounds of discrimination) e.g. landlords, schools, hospitals, be held liable for the actions of employees? Can they be held liable for actions of third parties (e.g. tenants, clients or customers)? Can the individual harasser or discriminator (e.g. co-worker or client) be held liable? Can trade unions or other trade/professional associations be held liable for actions of their members?

Generally speaking, in all meanings of discrimination relating to the AEPD and AEWM act, the individual practising discrimination or harassment can be held liable under the terms of Art. 5 of the AEWM⁷³ and/or Art. 23 of the AEPD.

Employers may be held liable for the actions of their employees. Art. 10 §2 of the AEPD states that discrimination also exists when an employer, in the event of harassment by employees, fails to act in accordance with statutory regulations, norms and standards in the labour contract to remedy the situation. This means that the employer can also be punished. In addition Art. 3 §3 of the AEWM⁷⁴ as well as Art. 9 of the AEPD stipulate liability for people who instruct others to discriminate. Since there are no further references it can be assumed that service providers cannot be held directly liable for the actions of third parties as long as they are not directly involved in the incident or instruction (see also PC §283).⁷⁵

2.5 Instructions to discriminate (Article 2(4))

- a) *Does national law (including case law) prohibit instructions to discriminate? If yes, does it contain any specific provisions regarding the liability of legal persons for such actions?*

Art. 9 of the AEPD states that discrimination is also present if a person instructs another to discriminate or harass on the grounds of a disability.

Art. 3 § 4, Art 4 § 3 and Art 4b § 1 of the AEWM similarly state that discrimination is also present if a person instructs someone to discriminate against another person on grounds of gender (without distinction of sex). There are no specific provisions regarding the liability of legal persons. Art 10 § 2 of the AEPD gives some additional provisions but makes no distinction between natural and legal persons.

- b) *Does national law go beyond the Directives' requirement? (e.g. including incitement)*

The national law is equivalent to the Directives regulations regarding the definition of instructions to discriminate on the grounds of disability (AEPD) and gender (AEWM).

⁷³ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

⁷⁴ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

⁷⁵ Strafgesetzbuch (StGB) vom 24. Juni 1987; LGBl. 1988, no. 37.

- c) *What is the scope of liability for discrimination? Specifically, can employers or service providers (in the case of racial or ethnic origin) (e.g. landlords, schools, hospitals) be held liable for the actions of employees giving instruction to discriminate? Can the individual who discriminated because s/he received such an instruction be held liable?*

Art. 10 §2 of the AEPD states that discrimination also exists when an employer, in the event of harassment by employees, fails to act in accordance with statutory regulations, norms and standards in the labour contract to remedy the situation. This means that the employer can also be punished. In addition, Art. 3 §3 of the AEWM⁷⁶ as well as Art. 9 of the AEPD, stipulate liability for people who give instructions to discriminate. It can be assumed that employers can be held directly liable for the actions of third parties as long as they are directly involved in the instruction (see also PC §283).⁷⁷

Regarding discrimination on the ground of a disability, Art. 9 of the AEPD states that discrimination is also present if a person instructs another to discriminate or harass.

With reference to discrimination on the grounds of gender, Art. 3 § 3 of the AEWM similarly state that discrimination is also present if a person instructs someone to discriminate against another person without distinction between natural and legal persons. Based on the given law, there exists no general exclusion-clause of being held liable for persons who discriminated on any other ground than disability and gender because s/he received the instruction to do so by another person. There are no specific provisions regarding the liability for people who give the instructions to discriminate (e.g. to what extent they can be held liable) and the person who discriminated another person because s/he received such an instruction. Thus, judicial interpretation is required as such a situation would have to be evaluated and legally decided based on the individual case as the degree of the dependency relationship between the person giving the instruction to discriminate and the person who discriminated, might be of relevance regarding the question of punishment.

2.6 Reasonable accommodation duties (Article 2(2) (b)(ii) and Article 5 Directive 2000/78)

- a) *How does national law implement the duty to provide reasonable accommodation for people with disabilities? In particular, specify when the duty applies, the criteria for assessing the extent of the duty and any definition of 'reasonable'. For example, does national law define what would be a "disproportionate burden" for employers? Is the availability of financial assistance from the State to be taken into account in assessing whether there is a disproportionate burden?*

⁷⁶ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

⁷⁷ Strafgesetzbuch (StGB) vom 24. Juni 1987; LGBl. 1988, no. 37.



The AEPD provides no provision to set up reasonable accommodation for people with disabilities in general. The act is not very detailed regarding its purpose and scope and the duty to provide reasonable accommodation. Art. 7 §3 of the AEPD states that indirect discrimination is also given if no attempts were undertaken to accommodate the situation of a concerned person. In case that indirect discrimination is a consequence of barriers, Art. 7 §4 states that it must be proved whether legal provisions regarding accessibility exist, and if so, whether the legal tasks are fulfilled.

Art. 10 § 1 and §2 of the AEPD specify the extent of the duty to make provisions for the avoidance of discrimination within the area of working world. In addition, Art. 7 of the AEPD lists the type of disproportionate burden (*unverhältnismässige Belastungen*) that may justify unequal treatment and prevent this from being regarded as indirect discrimination (cf. 2.3a for definition of indirect discrimination). In detail, Art. 7 §2 specifies that the following criteria in particular have to be taken into consideration when deciding whether the likely burden is “disproportionate” or not:

- the costs of the accommodation;
- the resources of the enterprise;
- the extent to which public assistance is available;
- the time period between the entering into force of the AEPD and the complaint;
- the effect on the general interest of people with disabilities.

Regarding public assistance, Arts. 17 to 21 of the AEPD provide rules on government aid in the above stated cases. To summarise, the provisions of Arts. 19 and 20 are rather vague, saying that the state supports the integration of people with disability and the community can establish appropriate programmes. The activities are limited in time, and no strict obligations on employers are stated. Thus, adaptations to workplaces and other integrative activities are to be developed on a case-by-case basis, whilst binding and strong legal obligations on employers are lacking in Liechtenstein legislation.

Segregation is practiced more regularly than integration into the common work environment. According to Art. 82 of the Disability Insurance,⁷⁸ the Insurance can support public and private, non-profit residential care homes, integration centres, and sheltered workshops for people with disabilities. All of them are specialised to assist people with disabilities.

- b) *Please also specify if the definition of a disability for the purposes of claiming a reasonable accommodation is the same as for claiming protection from non-discrimination in general, i.e. is the personal scope of the national law different (more limited) in the context of reasonable accommodation than it is with regard to other elements of disability non-discrimination law.*

⁷⁸ Gesetz vom 23. Dezember 1959 über die Invalidenversicherung (IVG), LGBl. 1960, no. 5.

Arts. 11 to 16 of the AEPD make no distinction in the definition of a disability for the purposes of claiming a reasonable accommodation or protection from non-discrimination in general.

- c) *Does national law provide for a duty to provide a reasonable accommodation for people with disabilities in areas outside employment? Does the definition of “disproportionate burden” in this context, as contained in legislation and developed in case law, differ in any way from the definition used with regard to employment?*

The AEPD provides no provision to set up reasonable accommodation for people with disabilities in general. Clearer rules exist within section C of the AEPD, which provides regulations for buildings and public transportation facilities regarding accessibility and suitability for people with disabilities. These rules can be seen as a general duty to provide accessibility, which exists in the absence of an individual request. Art. 7 of the AEPD (cf. section 2.6a) e. g. is not restricted to the employment area.

Art. 18 of the AEPD covers measures in education (cf. 3.2.8). According to Art. 18, early intervention and basic training that is customized to the specific needs of persons with disabilities must be ensured by the state (§1). §2 says that the state promotes appropriate forms of training and also adequate training and support for teachers to integrate children and young people with disabilities into regular schools. §3 finally requests that the state ensures that children and young people with disabilities receive vocational education with respect to their special needs, abilities and interests.

Art. 13 of the AEPD provides for a duty to provide reasonable accommodation for people with disabilities outside of their employment; this duty is qualified, however. Buildings which were built before the act came into force should be adapted at the next major renovation; buildings which, for any reason, cannot be adapted may be exempted by the government. (See also a).

The definition of “disproportionate burden” as detailed in Art. 7 of the AEPD does not differ between cases in areas of employment and outside employment.

- d) *Does failure to meet the duty of reasonable accommodation count as discrimination? Is there a justification defence? How does this relate to the prohibition of direct and indirect discrimination? What is the potential sanction? (i.e.: fine)*

The failure to provide accessibility of buildings, facilities or public transportation facilities in line with the AEPD counts as discrimination under Liechtenstein law.



The law is silent about the classification of failures to meet the obligation of reasonable accommodation as direct or indirect discrimination. Therefore, judicial interpretation would be required. Art. 23 §5 of the AEPD⁷⁹ on legal claims states that: “If the discrimination consists in the violation of the provisions on accessibility and adaptability according to articles 11 to 16 (referring to public buildings), the assertion of claims under section 1 and 2 is excluded”. Thus, in cases of failure to provide accessibility of public buildings, facilities or transportation, there are no legal compensation rights given for pecuniary losses or a shortcoming of the failure.

The law specifies furthermore, that if in civil cases (e. g. originally without any connection to discrimination) an objection in the sense of an appeal is raised that – additionally - discrimination is based on a violation of the provisions on accessibility and adaptability, the court shall decide on the objection without interrupting the legal proceeding itself. As a result, the court has to deal with the objection and has to decide if a discrimination based on the violation of the provisions on accessibility and adaptability is given, without handling this objection as a different and therefore second law case. This clearly shows that the national law requires public buildings and infrastructures to be designed, built, and possibly adapted in a disability-accessible way. If anyone fails to comply, the courts will have to decide on the penalties.

- e) *Has national law (including case law) implemented the duty to provide reasonable accommodation in respect of any of the other grounds (e.g. religion)*
- i) *race or ethnic origin*

There are no specific regulations implemented in national law relating to the duty to provide reasonable accommodation in respect of discrimination due to race or ethnic origin.

- ii) *religion or belief*

There are no specific regulations implemented in national law relating to the duty to provide reasonable accommodation in respect of discrimination due to religion or belief.

- iii) *age*

There are no specific regulations implemented in national law relating to the duty to provide reasonable accommodation in respect of discrimination due to age.

- iv) *sexual orientation*

⁷⁹ Gesetz über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), 25.10.2006, LGBl. 2006, no. 243. Source: <https://www.gesetze.li/Seite1.jsp?LGBl=2006243.xml&Searchstring=Gleichstellung&showLGBl=true>.

There are no specific regulations implemented in national law relating to the duty to provide reasonable accommodation in respect of discrimination due to sexual orientation.

f) *Please specify whether this is within the employment field or in areas outside employment*

i) *race or ethnic origin*

As national law is silent about the duty to provide reasonable accommodation in respect to any other grounds than disability, there is no applicable rule relating to the employment field or areas outside employment.

ii) *religion or belief*

As national law is silent about the duty to provide reasonable accommodation in respect to any other grounds than disability, there is no applicable rule relating to the employment field or areas outside employment.

iii) *age*

As national law is silent about the duty to provide reasonable accommodation in respect to any other grounds than disability, there is no applicable rule relating to the employment field or areas outside employment.

iv) *sexual orientation*

As national law is silent about the duty to provide reasonable accommodation in respect to any other grounds than disability, there is no applicable rule relating to the employment field or areas outside employment.

g) *Is it common practice to provide for reasonable accommodation for other grounds than disability in the public or private sector?*

There are no rules by national law to provide for reasonable accommodation for other grounds than disability. There is no corresponding common practice in Liechtenstein.

h) *Does national law clearly provide for the shift of the burden of proof, when claiming the right to reasonable accommodation?*

With reference to direct discrimination and according to Art. 26 §2 of the AEPD it is obligatory on the defendant to prove that it is more likely in all the circumstances that he claims to have another reason for the difference in treatment and that this reason is crucial. Art. 26 §3 states that when citing a reference to harassment as well as indirect discrimination, it is obligatory on the defendant to prove that in consideration of all circumstances it is more likely that the facts substantiated by him are truthfully.



The provisions of Art. 26 refer to the section of protection of discrimination in general and in employment (Arts. 5 to 10 of the AEPD).

In other cases the complaining person has to make the claim credible. Art. 26 of the AEPD on the burden of proof states in §1 that when a person claims to be discriminated against according to Arts. 5 to 10, this person shall make this claim credible.

The second part of article 26 states that the defendant can try to prove that he has another reason for the difference in treatment and that this reason is crucial. This can also be applied to the right to reasonable accommodation. If the defendant can come up with a reasonable and crucial reason for him to have ignored the law on reasonable accommodation the courts can exonerate him.

- i) *Does national law require services available to the public, buildings and infrastructure to be designed and built in a disability-accessible way? If so, could and has a failure to comply with such legislation be relied upon in a discrimination case based on the legislation transposing Directive 2000/78?*

Section C of the AEPD provides regulations for buildings and public transportation facilities regarding accessibility and suitability for people with disabilities. These rules can be seen as a general duty to provide accessibility, which exists in the absence of an individual request.

The AEPD includes various articles (11 to 14) focusing on accessibility for people with disabilities – in their apartments and homes, at their workplace and in any public building. According to the AEPD, public buildings must be constructed in a way that gives people with disabilities the possibility to move around freely. If buildings are not convenient for people with disabilities – especially public places – they must be adapted in order to give people with disabilities the freedom to move around freely as soon as work has been completed on the building. Houses with six or more apartments which were constructed before the law entered into force must be adapted at the first major renovation the house undergoes in order to give people with disabilities access and free movement. If such a building is constructed under the new law, it must be accessible from the beginning. However, if there are problems with space etc. the government may make an exception. The reasons, though, must be valid and the problem of providing unfettered access must be unsolvable. These subjects are treated in Art. 11 – 14 of the AEPD.

Art. 12 on publicly accessible buildings and facilities in the AEPD states that:

- 1 Public buildings and facilities, for which, after the commencement of this Act, a building code permit is granted, shall be made accessible to all.
- 2 Public buildings and facilities, for which building regulations have been approved before the date of this Act, insofar as they are not already accessible, need to be modified and changed to make them accessible. This does not

- include buildings undergoing maintenance and renovation work, and work without extensive intervention in the buildings brickwork.
- 3 The planning authority is obliged to provide, under the building permit process, the regulations which are to be complied with in accordance with paragraphs 1 and 2. Building permits are to be provided with appropriate conditions.
 - 4 As part of the building permit process, the planning authority has to inform the disability organizations that primarily work for the rights and interests of people with disabilities about planning applications in accordance with paragraphs 1 and 2. They should be allowed, within a reasonable period, to comply with the regulations on accessibility. Disability organizations which have exercised their right to submit comments are eligible for appeal.
 - 5 As part of the final building inspection, the building authority has to invite representatives of disability organizations which have agreed to participate in the final building inspection. They are granted the opportunity to inform the planning authority of their final acceptance and of any violations against accessibility. Other rights available to disability organizations as part of the final building inspection do not apply.
 - 6 Public buildings and facilities which are approved by the planning authority without any objections, or where objections have been resolved, count as barrier-free.
 - 7 In particular cases the building authority can permit exceptions to the barrier-free rule, or it can, in cases of renovation or maintenance according to §2, dictate measures for barrier-free access.
 - 8 The owner, executive planners, construction management, engineers as well as contractors are responsible for the implementation of accessibility provisions after the granting of planning permission.

Art. 23 §5 on Legal Claims states that: “If the discrimination consists in the violation of the provisions on accessibility and adaptability according to articles 11 to 16, the assertion of claims under section 1 and 2 is excluded. If in civil cases the claim is made that discrimination is based on a violation of the provisions on the accessibility and adaptability, the court shall rule on the objection without interrupting the process itself.

This clearly shows that the national law requires public buildings and infrastructures to be designed, built, and possibly adapted in a disability-accessible way. If anyone fails to comply, the courts will have to decide on the penalties.

There is no case law on this subject known to the authors.

- j) *Does national law contain a general duty to provide accessibility by anticipation for people with disabilities? If so, how is accessibility defined, in what fields (employment, social protection, goods and services, transport, housing, education, etc.) and who is covered by this obligation? On what grounds can a failure to provide accessibility be justified?*

Art. 3 §1g of the AEPD defines accessibility as follows: Accessibility is given when built features of the landscape designed for public use are accessible and usable for people with disabilities in the usual way, without any particular difficulty and in principle without assistance from others. According to Art.12 AEPD new public buildings must be constructed in an accessible way, existing buildings must be adopted as soon as they are renewed. Private housing areas with more than six apartments also have to be accessible to people with disabilities, and Art. 14 of the AEPD states that residential buildings are only subsidised if they are adaptable.

Exceptions can be made concerning public buildings (Art. 12 §7 AEPD) and also to private housing areas if the terrain is difficult to realize accessibility (Art. 13 §1). The Office for Equality of People with Disabilities must be consulted before an exception is permitted.

k) Does national law require public services to also translate some or all of their documents in Braille? (i.e. Tax declarations, general information) Is translation in sign languages provided in some of the public services where needed? What is the practice?

Art. 17 of the AEPD⁸⁰ states the obligation of society to take into consideration the special requirements of people with disabilities when interacting with them. This obligation is combined with the right of speech-, hearing- and visually impaired people to use familiar facilities or tools, e.g. sign language, when communicating with official authorities in Liechtenstein. This includes also the possibility upon request to receive forms, court cases or official notices in an understandable and comprehensible form for disabled people without additional cost. Regarding the voting documents no special, accessible format for person with disabilities, e.g. Braille documents, have been used so far nor are there respective legal provisions.. Additionally no case of individual request of such documents has been reported by the official authorities or the Association for People with Disabilities to the authors.

Art. 56a of the Act on Media (MedienG)⁸¹ states the obligation on all broadcasters to implement adequate measures to ensure that their programmes are made accessible to hearing- and to visually impaired people. Art. 2 of the Media Act⁸² defines broadcasters and all persons who provide media content in terms of their responsibilities to the general public. Thus, there is a legal obligation on broadcasters to ensure that the media content of election debates and political parties etc. is accessible to hearing- and to visually impaired people.

⁸⁰ Gesetz über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), 25.10.2006, LGBl. 2006, no. 243. Source: <https://www.gesetze.li/Seite1.jsp?LGBl=2006243.xml&Searchstring=Gleichstellung&showLGBl=true>.

⁸¹ Mediengesetz (MedienG), 19.10.2005, LGBl. 2005 no. 250. Source: <https://www.gesetze.li/Seite1.jsp?LGBl=2005250.xml&Searchstring=Mediengesetz&showLGBl=true>.

⁸² Mediengesetz (MedienG), 19.10.2005, LGBl. 2005 no. 250. Source: <https://www.gesetze.li/Seite1.jsp?LGBl=2005250.xml&Searchstring=Mediengesetz&showLGBl=true>.

In practice, accessibility is not uniform across all aspects of the different media types. The written content of the main public newspapers in Liechtenstein, for example, is accessible online and the size of the text can be adjusted to the level of vision of the reader. The web content for the online version of the newspaper, as well as the information given via social media platforms (e.g. Facebook, Twitter, etc.) is designed to be a simple and understandable abbreviated version of the print media content. Although there are no specific Web Content Accessibility Writers or accessible web templates within a content management system, accessibility is understood as a task by the broadcasters and therefore addressed to them.⁸³ Most broadcasters have no specific technical support system to enable people who are deaf or hard of hearing to watch real-time audio-visual content. In some cases the broadcasters offer a choice of either watching or reading the media content on the web-side, for example via a text transcript.

Regarding voting documents, there are no legal binding regulations in place. The VRG is silent about this topic. In practice, voting documents (including ballot papers) are designed according to the internal guidelines of the government. Thus, comparing the internal guidelines of the government with the rules of easy language for people with disabilities (published by the Organisation of the Disabled)⁸⁴ it can be said, that the voting documents are not completely accessible to people with learning difficulties (as one group of people with disabilities).

The organisation for persons with a disability (*Behindertenverband*) in Liechtenstein launched an initiative in 2013 to translate the official political content of the parties into simple language. The response of the various political parties in terms of participating and supporting the initiative was subdued. The lack of legal obligations on the parties to implement accessibility in their election activities and communications is still a practical problem for persons with disabilities.

1) Please explain briefly the existing national legislation concerning people with disabilities (beyond the simple prohibition of discrimination). Does national law provide for special rights for people with disabilities?

The AEPD in Liechtenstein has to be mentioned first. It supports and demands special activities in favour of people with disabilities. The main focus of the act is to make sure that people with disabilities are treated in a way that allows them to live like people without disabilities – at home, at their workplace, and anywhere else. This includes provisions and measures regarding employment, education, public transport, barrier-free accessibility to buildings, to public services and administration.

⁸³ This assessment resulted from short interviews with the main local newspaper agencies and the disability organisation in Liechtenstein (Association for People with Disabilities, Hr. Kubisch-Risch).

⁸⁴ Source:

<http://www.leichtesprache.org/downloads/Presse%20Information%20Netzwerk%20Leichte%20Sprache%20IN%20LEICHTER%20SPRACHE%2029.August%202013.pdf>.



The Act on Disability Insurance (ADI)⁸⁵ provides additional regulations and assistance for people with disabilities. Besides financial benefits (disability pension) it seeks to assist people in employment (Arts. 39-44) by specific career counselling, job services, vocational training, and capital assistance in cases of self-employment.

There are also measures for speech, hearing or visually impaired people especially in the areas of public transport, dealing with the law, education, the internet, and television. This includes for example acoustic information on bus-stops in public buses, or the use of sign language at media conferences of the government upon request. Furthermore, associations for people with disabilities communicate in the newspapers and other media channels on special needs of people with disabilities, for example on the kind of presentation of texts and graphs which makes it easier for concerned persons to understand the content.

2.7 Sheltered or semi-sheltered accommodation/employment

- a) *To what extent does national law make provision for sheltered or semi-sheltered accommodation/employment for workers with disabilities?*

Sheltered and semi-sheltered accommodation and employment is organized by two private associations, the Special Education Centre and the Association for Sheltered Housing. These non-profit associations run several sheltered workshops and sheltered residential homes. They are financially supported by the State. In addition, Art. 80 of the ADI states that private non-profit organizations assisting people with disabilities may receive financial support from the disability insurance.

- b) *Would such activities be considered to constitute employment under national law- including for the purposes of application of the anti-discrimination law?*

Disabled people working in sheltered workshops are not to be considered as employees according to the AEICT,⁸⁶ although this is not explicitly stated as an exception in the employment law.

⁸⁵ Gesetz vom 23. Dezember 1959 über die Invalidenversicherung (IVG), LGBl. 1959 Nr. 5.

⁸⁶ Gesetz vom 29. Dezember 1966 über die Arbeit in Industrie, Gewerbe und Handel (Arbeitsgesetz); LGBl. 1967, no. 6.



3 PERSONAL AND MATERIAL SCOPE

3.1 Personal scope

3.1.1 EU and non-EU nationals (Recital 13 and Article 3(2) Directive 2000/43 and Recital 12 and Article 3(2) Directive 2000/78)

Are there residence or citizenship/nationality requirements for protection under the relevant national laws transposing the Directives?

The rights of Liechtenstein citizens and foreigners are basically stated in the Constitution of the Principality of Liechtenstein⁸⁷ of 1921:

Article 28

- 1) *Every Liechtenstein citizen shall have the right to reside freely in any location within the territory of the State and to acquire all forms of property, in accordance with further detailed legal provisions.*
- 2) *The entry and exit, stay and residence of foreigners shall be governed by international treaties and by legislation.*
- 3) *Persons present within the borders of the Principality shall be bound to observe its laws and shall be entitled to the protection afforded by the Constitution and the other laws.*

Article 31

- 1) *All Liechtenstein citizens shall be equal before the law. Public offices shall be equally open to them, subject to observance of the legal provisions.*
- 2) *Men and women shall enjoy equal rights.*
- 3) *The rights of foreigners shall be determined in the first instance by international treaties, or, in their absence, by reciprocity.*

Art. 31 of the Liechtenstein Constitution (CCC)⁸⁸ states that all citizens are equal before the law. The term citizen is to be understood as referring to all persons holding Liechtenstein national citizenship without distinction of sex.⁸⁹ Foreigners are excluded from this definition. The right of foreigners is governed by treaty and, in the absence of any treaty, by reciprocal law. Furthermore the CCC states in Art. 39 that the use of the civil and political rights is not depending on the religious affiliation.

⁸⁷ Verfassung des Fürstentums Liechtenstein vom 5. Oktober 1921 (LV), LGBl. 1921 Nr. 15.

⁸⁸ Verfassung des Fürstentums Liechtenstein vom 5. Oktober 1921 (LV), LGBl. 1921, no. 15.

⁸⁹ The appendix "without distinction of sex" makes sense because in German language there is a difference between male citizens (*der Landesangehörige*) and female citizens (*die Landesangehörige*). The constitution only uses the male term (*der Landesangehörige*), but this term includes also women. This was explicitly stated in an Act on the amendment of the constitution (LGBl. 1971, no 22).

Regarding the AEPD, there is no difference made between Liechtenstein citizens and others. Special provisions regarding racial discrimination are contained in Art. 283 of the Penal Code (PC).⁹⁰ Again there is no distinction made between Liechtenstein citizens and foreigners. Protection from racial discrimination is independent of citizenship. Thus, foreigners are also entitled to protection from racial discrimination

There are no further national laws dealing with the aspect of discrimination based on grounds of race or origin.

3.1.2 Natural persons and legal persons (Recital 16 Directive 2000/43)

- a) *Does national law distinguish between natural persons and legal persons, either for purposes of protection against discrimination or liability for discrimination?*

The Personal and Corporate Law (PCL)⁹¹ distinguishes between a natural person (*natürliche Person*) and a legal person (*juristische Person*). Regarding discrimination, the law does not make a difference between natural and legal persons. Concerning protection against discrimination on grounds of disability, the AEPD as well as the AEWG focus on natural persons. This is defined in Art. 2 and 3 §2 of the AEPD. As the term “person” is defined as referring to members of both female and male genders (also in Art. 1 §1 of the AEWG)⁹² the law applies to both women and men. Art. 23 §1 of the AEPD covers the restitution of any financial losses incurred and compensation for the personal detriment suffered. Only persons, i.e. natural persons, are mentioned there. The regulations for protection of unequal treatment between man and woman in the AEWG are not including legal persons.

- b) *Is national law applicable to both private and public sector including public bodies?*

Basically the AEPD and the AEWG (Art. 2)⁹³ are applicable to both the private and public sectors. Nevertheless, within the AEPD there are some regulations which restrict the application of the law to the public sector (Art. 2 § 2 of the AEPD). The AEPD is not applicable in the areas of non-public buildings with less than six apartment units and without state funding.

⁹⁰ Strafgesetzbuch (StGB) vom 24. Juni 1987; LGBl. 1988, no. 37.

⁹¹ Personen- und Gesellschaftsrecht (PGR) vom 20. Januar 1926, LGBl. 1926 Nr. 4.

⁹² Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

⁹³ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.



3.1.3 Scope of liability

Are there any liability provisions other than those mentioned under harassment and instruction to discriminate? (e.g. employers, landlords, tenants, clients, customers, trade unions)

The scope of liability for discrimination is rather wide. Employers may be held liable for actions of employees. Art. 10 §2 of the AEPD⁹⁴ states that discrimination also exists when an employer, in the event of harassment by employees, fails to act in accordance with statutory regulations, norms and standards in the labour contract to remedy the situation. This means that the employer can also be punished. In addition, Art. 3 §3 of the AEWG,⁹⁵ as well as Art. 9 of the AEPD,⁹⁶ stipulate liability for people who give instructions to discriminate.

Furthermore §282 of the Penal Code⁹⁷ (PC) defines a liability for persons who call on someone or approve someone's action to discriminate in a way which is against the law. For the application of §282 of the PC the discriminating action has to be done in a way to be applicable to the general public respectively its content infringe against the general legal sense. Since there are no further references it cannot be generally judicially ruled out, that service providers might be held directly liable for the actions of third parties, even if they are not directly involved in the incident or instruction (see also PC §283).⁹⁸

3.2 Material Scope

3.2.1 Employment, self-employment and occupation

Does national anti-discrimination legislation apply to all sectors of public and private employment and occupation, including contract work, self-employment, military service, holding statutory office? In case national anti-discrimination law does not do so, is discrimination in employment, self-employment and occupation dealt with in any other legislation?

National legislation applies to all sectors of public and private employment. However, in the sector of public employment certain provisions of a specific law seek to prevent discrimination on grounds of gender or disability. Military service does not exist in Liechtenstein.

⁹⁴ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

⁹⁵ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

⁹⁶ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

⁹⁷ Strafgesetzbuch (StGB), LGBl. 1988, no. 37.

⁹⁸ Strafgesetzbuch (StGB), LGBl. 1988, no. 37.



In paragraphs 3.2.2 - 3.2.5, you should specify if each of the following areas is fully and expressly covered by national law for each of the grounds covered by the Directives.

3.2.2 Conditions for access to employment, to self-employment or to occupation, including selection criteria, recruitment conditions and promotion, whatever the branch of activity and at all levels of the professional hierarchy (Article 3(1)(a))

*Does national law on discrimination include access to employment, self-employment or occupation as described in the Directives? In case national anti-discrimination law does not do so, is discrimination regarding access to employment, self-employment and occupation dealt with in any other legislation?
Is the public sector dealt with differently to the private sector?*

Art. 5 of the AEPD states that nobody shall be discriminated against due to disability. Art. 10 §1 states that people with disabilities may not be discriminated against as employees in the public and in the private sector or at any other workplace, either directly or indirectly. There are exceptions to this general rule provided in Art. 10 §3 and §4. Art.10 §3 states that discrimination does not apply if a special attribute is necessary to fulfil the professional task and the disabled person concerned does not fit into this scheme. Art.10 §4 states that wages may be in relation to merits, without this being regarded as discrimination.

As there are no specific references in the AEPD it can be assumed that the scope of discrimination covers all aspects of the conditions for access to employment, to self-employment or to occupation. However, in relation to the public sector, discrimination is further limited by the Act on the Employment of Public Officials,⁹⁹ which explicitly names the guarantee of equal opportunities for women and men (Art. 4 §2f), as well as the integration of people with special needs, such as people with disabilities (Art. 4 §2i), as an objective of personnel policy, whereas there are no such positive statements relating to the private sector.

Art. 10 §1 lit. a to lit. k of the AEPD include the aspects of recruitment, payment, voluntary social security benefits, vocational training, occupational career and promotion, other working conditions, termination of employment, accessibility to job services, vocational training and other services outside an employment contract, membership and co-operation in trade unions, and conditions for the access to self-employment .

⁹⁹ Gesetz vom 24. April 2008 über das Dienstverhältnis des Staatsappersonals (Staatspersonalgesetz; StPG), LGBl. 2008 Nr. 144.

Art. 2 of the AEW¹⁰⁰ states that all regulations under this law are valid for the private and public sector in the same way. Art. 3 of the AEW states that women may not be discriminated against, especially due to marriage, pregnancy or motherhood, neither directly nor indirectly. Different treatment is allowed to provide better conditions for women with respect to pregnancy and motherhood.

3.2.3 Employment and working conditions, including pay and dismissals (Article 3(1)(c))

Does national law on discrimination include working conditions including pay and dismissals? In case national anti-discrimination law does not do so, is discrimination regarding working conditions dealt with in any other legislation?

In respect of occupational pensions, how does national law on discrimination ensure the prohibition of discrimination on all the grounds covered by Directive 2000/78 EC? NB: Case C-267/06 Maruko confirmed that occupational pensions constitute part of an employee's pay under Directive 2000/78 EC. In case national anti-discrimination law does not do so, is it dealt with in any other legislation?

Note that this can include contractual conditions of employment as well as the conditions in which work is, or is expected to be, carried out.

There are explicit anti-discrimination provisions in the AEPD (Art. 10), in the AEW (Art. 3) and in the CCC (Art. 9) thus including discrimination on grounds of disability and gender. For other grounds of discrimination, judicial interpretation is required to confirm, whether rather general provisions in the Constitution, in international treaties and in national law is sufficient to protect against discrimination.

The pension age in Liechtenstein is 64 years for both men and women.¹⁰¹ Retirement planning is based on three pillars: the general national pension, the company pension and private savings. There is no distinction made between men and women, nor between Liechtenstein citizens and foreigners or people with disabilities and others. Nevertheless, there are differences in the amount of pension since the company pension in particular depends on how much capital was paid into the pension account during professionally active years. The general national pension, to a lesser degree, is also dependent on the duration of the professional career, but the differences between the minimum and the maximum pensions are not so great. For these reasons, people with limited opportunities on the labour market have significantly lower pensions than others.

¹⁰⁰ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

¹⁰¹ Art. 55 of the National Old Age and Widow's/Widower's Pension (NOWP). Gesetz vom 14. Dezember 1952 über die Alters- und Hinterlassenenversicherung (AHVG), LGBl. 1952, no. 29.

Art. 30 of the ACUSSC stipulates equal treatment for pension rights in the event of a divorce, regardless of whether the person was living in a legally recognised same-sex partnership in accordance with the ACUSSC, or in a marriage (see also Art. 86 b) of the AMA).¹⁰² The equivalent ruling is also stated in Art. 54 of the NOWP.

Within the following tables all mentioned laws and articles refer to regulations regarding avoiding discrimination in the area of employment and working conditions, including payment and dismissal, based on different grounds. Nevertheless, race and religion as grounds for discrimination are not covered by any law.

3.2.4 Access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience (Article 3(1)(b))

Does national law on discrimination include access to guidance and training as defined and formulated in the directives? In case national anti-discrimination law does not do so, is discrimination regarding working conditions dealt with in any other legislation?

Note that there is an overlap between ‘vocational training’ and ‘education’. For example, university courses have been treated as vocational training in the past by the Court of Justice. Other courses, especially those taken after leaving school, may fall into this category. Does national law on discrimination apply to vocational training outside the employment relationship, such as that provided by technical schools or universities, or such as adult lifelong learning courses? If not does any other legislation do so?

The AEW (Art. 3 §2)¹⁰³ and AEDP (Art. 10 §1)¹⁰⁴ cover all types and stages of vocational training and education. This includes the access to careers guidance, vocational training, retraining, and further training, as well as access to practical professional experience. The AEW includes in particular access to self-employment. In addition to the AEW and AEDP, the Act on Vocational Training (AVT, Art. 1c)¹⁰⁵ promotes, among other things, equal treatment of women and men as well as the elimination of discrimination against people with disabilities in relation to a vocational training system.

¹⁰² Art. 86 b) of the Act on Marriage, Ehegesetz (EheG) vom 13. Dezember 1973, LGBl. 1974 Nr. 20.

¹⁰³ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

¹⁰⁴ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

¹⁰⁵ Berufsbildungsgesetz (BBG) vom 13. März 2008, LGBl. 2008, no. 103.



3.2.5 Membership of, and involvement in, an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations (Article 3(1)(d))

Does national law on discrimination include membership of, and involvement in workers or employers' organisations as defined and formulated in the directives? In case national anti-discrimination law does not do so, is it dealt with in any other legislation?

In relation to paragraphs 3.2.6 – 3.2.10 you should focus on how discrimination based on racial or ethnic origin is covered by national law, but you should also mention if the law extends to other grounds.

Based on the Act on Information and Consultation of Employees in Business Enterprises (*Mitwirkungsgesetz, AIC*), the membership of organisations of workers or employers is covered as a separate reason for discrimination related to employment in the sense that it is defined as a prohibited ground of discrimination. The rule stays valid even if the membership has been terminated (Art. 10 AIC).¹⁰⁶

Furthermore, according to the AEPD (Art. 10 §1)¹⁰⁷ and the AEWG (Art. 3 §2)¹⁰⁸ people cannot be treated less favourably based on gender or disability in respect of membership of an organisation of workers or employers, or any organisation whose members carry on a particular profession. Contravention of this rule represents discrimination.

3.2.6 Social protection, including social security and healthcare (Article 3(1)(e) Directive 2000/43)

Does national law on discrimination cover social protection, including social security and healthcare? In case national anti-discrimination law does not do so, is it dealt with in any other legislation?

In relation to religion or belief, age, disability and sexual orientation, does national law seek to rely on the exception in Article 3(3), Directive 2000/78?

Within the AEPD discrimination in the context of social protection (e.g. social security or healthcare) is not explicitly listed. Referring to Art. 2 of the AEPD, all areas of life

¹⁰⁶ Gesetz vom 23. Oktober 1997 über die Unterrichtung und Anhörung der Arbeitnehmerschaft in den Betrieben (*Mitwirkungsgesetz; MWG*), LGBl. 1997, no. 211.

¹⁰⁷ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (*Behindertengleichstellungsgesetz; BGIG*), LGBl. 2006, no. 243.

¹⁰⁸ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; *Gleichstellungsgesetz; LGBl.* 1999, no. 96.

of people with disabilities are covered and therefore social protection falls under the anti-discrimination regulation of the mentioned Act.

Art. 3 §2 of the AEWG lists different/unequal treatment of contributions to social protection as a ground of discrimination, meaning that such an unequal treatment would be seen as a form of discrimination on the ground of gender.

In general, Liechtenstein provides social security services to all individuals. The main act in this regard is the Act on Social Help (ASH).¹⁰⁹ Children and young person's up to the age of 16 benefit from a premium waiver. Persons who receive the official pension or disability pension payment are granted a discount of up to 70% (status as of 2012) on the social security contribution. Many additional instruments to support people in need are provided in the Act on Supplementary Aid to the National Old Age and Widow's/Widower's Pension (ASANP).¹¹⁰ This act focuses mainly on supportive measures in respect of age and disability. A further special act provides support for people with a sensory disability (Act on Assistance for Blind People, AABP).¹¹¹ In the areas of race, ethnic origin, religion or belief, and sexual orientation there are no distinct provisions.

There is also financial assistance for people who cannot afford accommodation (Act on Rent Allowance for Families, ARAF).¹¹² Rent allowance is restricted to Liechtenstein residents who have to support dependent persons in their own household (immature children, parents etc.) and whose household income lies below defined thresholds.

There are many other legal provisions in different acts that support individuals, families or client systems by financial or other means. Not only the state and its administration are involved in the activities of social assistance but municipal authorities and private associations as well.

3.2.7 Social advantages (Article 3(1)(f) Directive 2000/43)

Does national law on discrimination cover social advantages? In case national anti-discrimination law does not do so, is it dealt with in any other legislation?

This covers a broad category of benefits that may be provided by either public or private actors to people because of their employment or residence status, for example reduced rate train travel for large families, child birth grants, funeral grants and discounts on access to municipal leisure facilities. It may be difficult to give an

¹⁰⁹ Sozialhilfegesetz vom 15. November 1984, LGBl. 1985 no 17.

¹¹⁰ Gesetz vom 10. Dezember 1965 über Ergänzungsleistungen zur Alters-, Hinterlassenen- und Invalidenversicherung (ELG), LGBl. 1966 no 46.

¹¹¹ Gesetz vom 17. Dezember 1970 über die Gewährung von Blindenbeihilfen (BBHG), LGBl. 1971 no 7.

¹¹² Gesetz vom 13. September 2000 über Mietbeiträge für Familien, LGBl. 2000 no 202.

exhaustive analysis of whether this category is fully covered in national law, but you should indicate whether national law explicitly addresses the category of 'social advantages' or if discrimination in this area is likely to be unlawful.

In the last decades Liechtenstein has economically very well developed. This allowed the state and the municipalities to give a wide range of benefits to groups of persons with lower income. Thus, tax reduction for families, child birth grants, monthly extra pay for children, discounts for access to public buses and facilities for young and old people and many other benefits are implemented. Support in this regard is not interpreted as being discriminating against others. The benefits are provided to all people or to people with special characteristics, e.g. age or income, yet not discriminating for any grounds such as gender, disability, sexual orientation, race and ethnicity, religion and belief.

3.2.8 Education (Article 3(1)(g) Directive 2000/43)

Does national law on discrimination cover education? In case national anti-discrimination law does not do so, is it dealt with in any other legislation?

This covers all aspects of education, including all types of schools. Please also consider cases and/ or patterns of segregation and discrimination in schools, affecting notably the Roma community and people with disabilities. If these cases and/ or patterns exist, please refer also to relevant legal/political discussions that may exist in your country on the issue.

Please briefly describe the general approach to education for children with disabilities in your country, and the extent to which mainstream education and segregated "special" education are favoured and supported.

Art. 18 of the AEPD states:

- 1) The State shall ensure that children and young people with disabilities receive early intervention and a basic training that is customized to their specific needs. Decisive are the provisions of the Education Act.*
- 2) The State promotes appropriate forms of training and adequate training and support for teachers to integrate children and young people with disabilities into regular schools. Decisive are the rules of the school and the teacher employment law.*
- 3) The State shall further ensure that children and young people with disabilities receive vocational education with respect to their special needs, abilities and interests. The state can participate in the disability-related costs, provided they are not covered by insurance and other benefits.*

Most children and young people with disabilities tend to attend the Special Education Centre, especially the ones with mental impairment.¹¹³ There they have the chance to attend a Special Education Day School¹¹⁴ which gives them individual teaching and prepares them for the professional world. There are also various other organizations which provide children, young people and adults with an interesting and varied programme which they are able to attend after school, during weekends and holidays. If possible, children are integrated into the regular schools and assistance by professionals is given in such cases.

There are no specific problems which need to be addressed concerning Roma or other minorities. A Roma minority does not exist in Liechtenstein.

Foreign children, including Turks and Kosovars, are integrated into the regular schools. If there are deficits in respect of German language or other skills, special language and educational assistance is given in classes for these children. In addition, the Act on Vocational Training (AVT, Art. 1c)¹¹⁵ supports the elimination of discrimination for people with disabilities in any area of vocational training. The specific needs of people with disabilities in respect of their pre-vocational training (in terms of basic education and training) are taken into account by Art. 16 of the AVT through the possibility of shorten or extending the training period.

3.2.9 Access to and supply of goods and services which are available to the public (Article 3(1)(h) Directive 2000/43)

Does national law on discrimination cover access to and supply of goods and services? In case national anti-discrimination law does not do so, is it dealt with in any other legislation?

The AEPD act aims at eliminating and preventing discrimination against people with disabilities and covers therefore the access to and supply of goods and services within Art. 2 §1. It aims to guarantee equal participation by people with disabilities in the daily life of society. Art. 2 §2 covers some exceptions from the general non-discrimination regulations in Art. 2 §1, e.g. privately offered goods and services as far as they do not include specific items for people with disabilities, are excluded from the non-discrimination law.

Art. 9 of the Act on Health Insurance (Krankenversicherungsgesetz) states equal treatment regarding the access to and supply of goods and services has to be given and discrimination on grounds of age is not allowed.

The national law on discrimination says nothing about access to and supply of goods and services for grounds as racial or ethnic origin, religion or belief or sexual

¹¹³ Heilpädagogische Zentrum, located in Schaan.

¹¹⁴ Sonderpädagogische Tagesschule.

¹¹⁵ Berufsbildungsgesetz (BBG) vom 13. März 2008, LGBI. 2008, no. 103.

orientation. Nevertheless the Constitution of the Principality of Liechtenstein includes the basic principle of equality. Art. 27bis states that human dignity shall be respected and protected and that no one may be subjected to inhuman or degrading treatment or punishment. Judicial interpretation is required.

- a) *Does the law distinguish between goods and services available to the public (e.g. in shops, restaurants, banks) and those only available privately (e.g. limited to members of a private association)? If so, explain the content of this distinction.*

In principle, the Liechtenstein legislation on discrimination does not differ between goods and services available to the public and those only available privately. Nonetheless, the principle of non-discrimination is more strongly anchored within the public sector as there are additional laws.

Art. 2 of the AEPD¹¹⁶ state all areas of life of people with disabilities are equally affected by the non-discrimination act. Exceptions of this general clause are listed in Art. 2 §2 of the AEPD and include private offerings of goods and services which are not explicitly defined for people with disabilities, non-public buildings which fulfil specific conditions and private transportation-roads.

The AEWG (Art. 3 §4; Art. 4a §5)¹¹⁷ allows different treatment on the grounds of sex. This applies first to the calculation of contributions and benefits of the voluntary occupational pension which can differ between women and men if they take into account well-known statistical data, for instance, life expectancy. Secondly, the AEWG allows the stipulation of different insurance premiums and benefits for women and men. As an EEA member, the Liechtenstein government does not feel bound by the respective case law of the European Court of Justice, in particular the judgement C-236/09, which declared that using gender as a factor in the assessment of insurance risks is discriminatory.

- b) *Does the law allow for differences in treatment on the grounds of age and disability in the provision of financial services? If so, does the law impose any limitations on how age or disability should be used in this context, e.g. does the assessment of risk have to be based on relevant and accurate actuarial or statistical data?*

To capture differences in treatment on the grounds of age and disability relating to social insurance, one has to differ between obligatory and voluntary insurance. According to the Act on Health Insurance (Art. 9),¹¹⁸ insurance companies have to

¹¹⁶ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen; LGBl. 2006, no. 243.

¹¹⁷ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

¹¹⁸ Gesetz vom 24. November 1971 über die Krankenversicherung (KVG); LGBl. 1971, no 50.

offer the obligatory benefits without consideration of the age and health of the applicant. For insurance benefits outside the obligatory regulations, insurance companies are free to define age limits and to exclude insurance for diseases from which the applicant has suffered in the past (Art.8 and Art. 9 of the Act on Health Insurance).

The Act on Company Personnel Plan (ACPP) (Art. 3)¹¹⁹ releases employers from the obligation to implement an occupational pension for the individual employee if that employee is two-thirds disabled. Nevertheless, Art. 34 of the ACPP¹²⁰ grants the employee the right to participate in the occupational pension scheme on his or her own behalf. Hence there is no obligation on the employer to contribute. People with a degree of disability of more than 60% and of the official retirement age are given a helplessness allowance in addition to the state pension (see Art. 3bis of the Act of Supplementary Aid to the National Old Age and Widow's/Widower's Pension (ASANP)¹²¹ in combination with Art 67bis of the Act on the National Old Age and Widow's /Widower's Pension).¹²² The degree of disability, on the other hand, is defined and stated by the disability insurance.

3.2.10 Housing (Article 3(1)(h) Directive 2000/43)

Does national law on discrimination cover housing? In case national anti-discrimination law does not do so, is it dealt with in any other legislation?

To which aspects of housing does the law apply? Are there any exceptions? Please also consider cases and patterns of housing segregation and discrimination against the Roma and other minorities or groups, and the extent to which the law requires or promotes the availability of housing which is accessible to people with disabilities and older people.

The national law on non-discrimination for people with disabilities (AEPD) covers housing within Art. 11 – 13.¹²³ The AEPD protects people with disabilities by ensuring access to public buildings. To this end, the government is obliged to consult the Office for Equal Opportunities,¹²⁴ as well as recognized associations for people with disabilities, before formal approval for construction work is granted. Private housing areas with more than six apartments also have to be accessible to people with

¹¹⁹ Gesetz vom 20. Oktober 1987 über die betriebliche Personalvorsorge (BPVG); LGBl 1988, no. 12.

¹²⁰ Gesetz vom 20. Oktober 1987 über die betriebliche Personalvorsorge (BPVG); LGBl 1988, no. 12.

¹²¹ Gesetz vom 10. Dezember 1965 über Ergänzungsleistungen zur Alters-, Hinterlassenen- und Invalidenversicherung (ELG), LGBl. 1956 no 46.

¹²² Gesetz vom 14. Dezember 1952 über die Alters- und Hinterlassenenversicherung (AHVG), LGBl. 1952, no. 29.

¹²³ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

¹²⁴ Stabsstelle für Chancengleichheit: <http://www.llv.li/#/12395>.



disabilities and Art. 14 of the AEPD¹²⁵ states that residential buildings are only subsidised if they are adaptable to accessibility (if they are not yet accessible from the very beginning). There are no specific problems which need to be addressed concerning Roma since there is no Roma minority living in Liechtenstein. Turks, Kosovars and other foreigners living in Liechtenstein have the same status as Liechtenstein nationals with respect to different grounds of discrimination. Discrimination on grounds of race, ethnicity or nationality is generally forbidden, though not stated clearly in the law regarding housing. In relation to housing segregation the Convention on the Elimination of All Forms of Racial Discrimination states in Art. 3 that the contracting states are obliged to avoid any actions of segregation based on discrimination.¹²⁶ Housing segregation does not occur in the rather rural area of Liechtenstein.

¹²⁵ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

¹²⁶ Internationales Übereinkommen zur Beseitigung jeder Form von Rassendiskriminierung, LGBl 2000 Nr.80.



4 EXCEPTIONS

4.1 Genuine and determining occupational requirements (Article 4)

Does national law provide an exception for genuine and determining occupational requirements? If so, does this comply with Article 4 of Directive 2000/43 and Article 4(1) of Directive 2000/78?

Yes, the AEWG (Art. 3 §4b)¹²⁷ provides an exception for genuine and determining occupational requirements in compliance with the EU provisions. This is valid for all occupational areas, thus also including employment in the field of religion and belief (e.g. male priests), although not explicitly stated.

The AEPD (Art. 10 §3) states, that exceptions from general anti-discrimination rules can be allowed if special skills, physical condition etc. are required for a job, thus potentially excluding people with disabilities from such jobs.

There are no such reservations for other grounds.

4.2 Employers with an ethos based on religion or belief (Art. 4(2) Directive 2000/78)

a) Does national law provide an exception for employers with an ethos based on religion or belief? If so, does this comply with Article 4(2) of Directive 2000/78?

Apart from the ECHR,¹²⁸ there is no legislation dealing with discrimination against people in the case of employers with an ethos based on religion or belief. ECHR, like several other international treaties, is relevant to Constitutional Court decisions and thus can have an effect on decisions regarding discrimination.

In Liechtenstein the Catholic Church still enjoys a special status by comparison with other religious communities. The current government's efforts to establish a concept for disentangling the state and the Church are a challenge. It remains to be seen how the judiciary will set the fine lines between the Directive and the historical grown interlink-age (pls. refer to bullet point c).

b) Are there any specific provisions or case law in this area relating to conflicts between the rights of organisations with an ethos based on religion or belief and other rights to non-discrimination? (e.g. organisations with an ethos based on religion v. sexual orientation or other ground).

¹²⁷ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

¹²⁸ European Convention on Human Rights (Europäische Menschenrechtskonvention), LGBl. 1982 no 60/1.

There are no specific provisions or case law on this subject. Judicial interpretation is required to see how rather general provisions in the constitution and in international treaties, e.g. the ECHR, are applicable.

- c) *Are religious institutions permitted to select people (on the basis of their religion) to hire or to dismiss from a job when that job is in a state entity, or in an entity financed by the State (e.g. the Catholic church in Italy or Spain can select religious teachers in state schools)? What are the conditions for such selection? Is this possibility provided for by national law only, or international agreements with the Holy See, or a combination of both? Is there any case law on this?*

Art. 16 Par. 4 of the Constitution¹²⁹ states that the respective church-related institutions are responsible for religious education in school. The funding is ensured by the state. The main religion and church in Liechtenstein is the Roman-Catholic Church. Provisions on catholic religion classes are stated in an agreement between the Liechtenstein government and the Archdiocese Vaduz as of 21 January 2003. According to this agreement, the Catholic teachers are selected by the Catholic Church. They must have the necessary theological qualifications as well as pedagogical and didactical qualifications, and they must have a Church permission to teach catholic religion classes. They are nominated by the Church and appointed by the State.

So far there is no case law on the potentially discriminatory selection of teachers of religion, but this area might become an issue in the future.

4.3 Armed forces and other specific occupations (Art. 3(4) and Recital 18 Directive 2000/78)

- a) *Does national law provide for an exception for the armed forces in relation to age or disability discrimination (Article 3(4), Directive 2000/78)?*

Liechtenstein abolished its armed forces in 1868. Since then Liechtenstein has focused on a neutral position with an independent and active foreign policy. Due to the fact that there are no armed forces in Liechtenstein, no discrimination can occur.

- b) *Are there any provisions or exceptions relating to employment in the police, prison or emergency services (Recital 18, Directive 2000/78)?*

There are no specific provisions with the exception that only candidates who are of Liechtenstein nationality can be employed. However, the Decree on the Organisation of the Police (Art. 56)¹³⁰ states that a candidate for the police can in general not be older than 35 years. In respect of the physical requirements, different minimum

¹²⁹ Verfassung des Fürstentums Liechtenstein vom 5. Oktober 1921 (LV), LGBl. 1921 Nr. 15,

¹³⁰ Verordnung vom 22. August 2000 über den Dienstbetrieb und die Organisation der Landespolizei (PoIDOV); LGBl. 2000, no 195.

requirements apply to women and men. There are no provisions with respect to other grounds of discrimination.

4.4 Nationality discrimination (Art. 3(2))

Both the Racial Equality Directive and the Employment Equality Directive include exceptions relating to difference of treatment based on nationality (Article 3(2) in both Directives).

- a) *How does national law treat nationality discrimination? Does this include stateless status?
What is the relationship between ‘nationality’ and ‘race or ethnic origin’, in particular in the context of indirect discrimination?
Is there overlap in case law between discrimination on grounds of nationality and ethnicity (i.e. where nationality discrimination may constitute ethnic discrimination as well?)*

Regarding racial discrimination the Penal Code does not explicitly list nationality as a ground of discrimination. There is no regulation or definition known to the authors within the Liechtenstein law that defines the relationship between “nationality” and “race or ethnic origin”. Therefore judicial interpretation is needed.

Nationality is not explicitly defined as a protected ground in national law on discrimination. The Constitution of Liechtenstein (Verfassung des Fürstentums Liechtenstein), the Act on Free Movement of EEA Persons and Swiss citizens (*Personenfreizügigkeitsgesetz*)¹³¹ and the Act of Foreigners (*Ausländergesetz*) include specific regulation in context to nationality and have to be taken into consideration when talking about nationality as a protected ground in national law on discrimination.

In respect of stateless persons, Liechtenstein asylum law is in line with the EU Schengen provisions.¹³² Moreover, Liechtenstein has signed several international agreements, for instance the Convention on the Reduction of Statelessness.¹³³

Liechtenstein has a very small inhabitable area with an unusually high percentage of non-national residents and employees. As of the end of June 2013, 33.6 per cent of all inhabitants were non-nationals¹³⁴ Looking at the employment figures, out of 50,1 per cent gainfully employed inhabitants in Liechtenstein (nationals and non-nationals), 36.9 per cent were non-nationals. Furthermore, as of the end of 2013, 52.3 per cent of all employees were commuters, crossing the border from

¹³¹ This Act is part of the national law in Liechtenstein.

¹³² Asylgesetz (AsylG), LGBl. 2012, no. 29.

¹³³ Übereinkommen vom 30. August 1961 zur Verminderung der Staatenlosigkeit; LGBl. 2009, no. 290.

¹³⁴ Amt für Statistik: http://www.llv.li/files/as/pdf-llv-as-bevoelkerungsstatistik_30._juni_2013.

Switzerland or Austria daily and returning there in the evening.¹³⁵ Free movement of persons, one of the basic European freedoms, is restricted in Liechtenstein with respect to taking residence. For Liechtenstein, this is a crucial issue and the annually available number of residence permits is limited. In this regard, the Liechtenstein government differentiates between persons of Swiss and EEA nationality, and persons of third countries, when applying different procedures and quotas. This is also valid for integration requirement, e.g. family reunion. There is, however, no discrimination among permanent residents with respect to a specific nationality. The specific regulations are laid down for persons with EEA and Swiss nationality in the Act on Free Movement of EEA Persons and Swiss citizens.¹³⁶ In respect of persons with third country nationality, the Act on Foreigners (AF) regulates residency rights.¹³⁷

b) Are there exceptions in anti-discrimination law that seek to rely on Article 3(2)?

There are no such exceptions.

4.5 Work-related family benefits (Recital 22 Directive 2000/78)

Some employers, both public and private, provide benefits to employees in respect of their partners. For example, an employer might provide employees with free or subsidised private health insurance, covering both the employees and their partners. Certain employers limit these benefits to the married partners (e.g. Case C-267/06 Maruko) or unmarried opposite-sex partners of employees. This question aims to establish how national law treats such practices. Please note: this question is focused on benefits provided by the employer. We are not looking for information on state social security arrangements.

a) Would it constitute unlawful discrimination in national law if an employer only provides benefits to those employees who are married?

Thus far, there are no legal provisions or case law dealing with benefits provided by an employer to employees in respect of their partners. As a result, it cannot be determined whether such benefits are unlawful. Taking into account, however, the high importance of the freedom of contracts in Liechtenstein, one might assume that such benefits are lawful. For instance, benefits for extra holiday leave for married couples only thus probably would not be interpreted as discriminating against others. But law is silent on this subject and juridical interpretation is required, albeit not existing. In the state administration, marriage and registered partnership are treated equally concerning such benefits. This is not necessarily the case with other employers, namely employers in the private sector.

¹³⁵ Figures from 2012 are at the time being not available.

¹³⁶ Gesetz über die Freizügigkeit für EWR- und Schweizer Staatsangehörige (PFZG), LGBl. 2009, no. 348.

¹³⁷ Gesetz vom 17. September 2008 über die Ausländer (Ausländergesetz; AuG), LGBl. 2008, no. 311.

According to Art. 2 b of the ACCP¹³⁸ benefit claims from a company pension scheme have to be treated equally in respect of non-married persons and registered partnerships (ACUSSC), based on the Act on Civil Union for Same-Sex Couples.¹³⁹ Taking into account the high importance of the freedom of contract in Liechtenstein, one might assume that specific benefits for certain groups are lawful. For instance, benefits for extra holiday leave exclusively for married couples would probably not tend to be interpreted as discriminating against others. But as there is no overall regulation on this subject, juridical interpretation is required, albeit currently non-existent. In the state administration, marriage and registered partnership are treated equally in respect of such benefits. This is not necessarily the case in all aspects with employers in the private sector.

b) Would it constitute unlawful discrimination in national law if an employer only provides benefits to those employees with opposite-sex partners?

Yes. Due to the ACUSSC, discrimination on grounds of sexual orientation must be interpreted as unlawful, though not explicitly stated in the law and thus dependent on juridical interpretation. Hence, benefits cannot be confined to opposite-sex partners. The principle of equality of same-sex partnership and married couples is stated in various acts covering special issues, such as the Act on the Pension Scheme for Public Servants (Art. 3a)¹⁴⁰ or the Act on the National Old Age Insurance (Art. 54bis)¹⁴¹ and entering into force after the enactment of the ACUSSC.

4.6 Health and safety (Art. 7(2) Directive 2000/78)

a) Are there exceptions in relation to disability and health and safety (Article 7(2), Directive 2000/78)?

Yes, the AEPD allows for positive measures to integrate people with disabilities. However, most positive measures are soft law and Liechtenstein does not have any kind of quotas. Art. 19 of the AEPD¹⁴² covers integration programmes for people with disabilities (education, employment, accommodation, transport, culture, sports); Art. 20 covers pilot projects of integration into work life.

Besides this, there are no exceptions in relation to disability and health and safety.

¹³⁸ Gesetz vom 20. Oktober 1987 über die betriebliche Personalvorsorge (BPVG); LGBl 1988, no. 12.

¹³⁹ Gesetz über die eingetragene Partnerschaft gleichgeschlechtlicher Paare (PartG), LGBl. 2011, no. 350.

¹⁴⁰ Gesetz vom 20. Dezember 1988 über die Pensionsversicherung für das Staatspersonal (Pensionsversicherungsgesetz; PVG), LGBl. 1989, no. 7.

¹⁴¹ Gesetz vom 14. Dezember 1952 über die Alters- und Hinterlassenenversicherung (AHVG), LGBl. 1952, no. 29.

¹⁴² Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

- b) *Are there exceptions relating to health and safety law in relation to other grounds, for example, ethnic origin or religion where there may be issues of dress or personal appearance (turbans, hair, beards, jewellery, etc.)?*

There are no specific provisions.

4.7 Exceptions related to discrimination on the ground of age (Art. 6 Directive 2000/78)

4.7.1 Direct discrimination

Please, indicate whether national law provides an exception for age? (Does the law allow for direct discrimination on the ground of age?)

Is it possible, generally, or in specified circumstances, to justify direct discrimination on the ground of age? If so, is the test compliant with the test in Article 6, Directive 2000/78, account being taken of the Court of Justice of the European Union in the Case C-144/04, Mangold and Case C-555/07 Kucukdeveci?

The anti-discrimination legislation of Liechtenstein does not define discrimination on the grounds of age and there are no relevant provisions regarding that (apart from the special protection of children). Hence, there are no exceptions. Since age as a ground of discrimination is not explicitly stated in the law, discrimination on the ground of age does not need to be justified. Unequal treatment in employment is therefore allowed, for instance by defining a minimum or a maximum age when hiring employees.

There is no case law known to the authors referring to this issue.

- a) *Does national law permit differences of treatment based on age for any activities within the material scope of Directive 2000/78?*

Although there is no defined discrimination on the grounds of age, some specific age-related exceptions exist, such as for example:

- the special protection of children (the Liechtenstein Act on Children and Youth (ACY)¹⁴³ as well as the by-law on Special Provisions for the Protection of Young Employees);¹⁴⁴
- the Decree on the Organisation of the Police (Art. 56), which states that a candidate for the police must in general not be older than 35 years;

¹⁴³ Kinder- und Jugendgesetz vom 10. Dezember 2008 (KJG), LGBl. 2009, no. 29.

¹⁴⁴ Verordnung vom 22. März 2005 zum Arbeitsgesetz (ArGV V) (Sonderbestimmungen über den Schutz der jugendlichen Arbeitnehmer), LGBl. 2005, no. 69.

- in the Act on Foreigners, Art. 13 e)¹⁴⁵ states, that an application for a residence and working permit can be refused if various factors - including the age of the applicant - suggest that the latter might not be able to achieve long-term integration into society and the world of work (Art. 41 of the Act on Foreigners).
- b) *Does national legislation allow occupational pension schemes to fix ages for admission to the scheme or entitlement to benefits, taking up the possibility provided for by article 6(2)?*

The ACPP (Company Personnel Pension Act) states in Art. 3 §2 and Art. 4 §1 c)¹⁴⁶ that insurance is mandatory for employees who fulfil the following criteria:

- They are insured through the occupational pension fund (AHV, IV);
- Their annual salary reaches at least 2/3 of the maximum pension from the occupational pension fund;
- in the case of old age pension: a minimum age of 23 years, if the employment is not limited in time (i.e. temporary);
- in the case of disability pension: a minimum age of 17.

4.7.2 Special conditions for young people, older workers and persons with caring responsibilities

Are there any special conditions set by law for older or younger workers in order to promote their vocational integration, or for persons with caring responsibilities to ensure their protection? If so, please describe these.

There are frequently positive measures taken to support younger or older people in regard to their opportunities in the labour market. The department of vocational education and career counselling¹⁴⁷ is mainly active in advising persons on finding employment and/or educational training. The AVW with its sub department AMS is focused on advising and supporting unemployed persons.¹⁴⁸ In addition, the educational authority supports people who fulfil certain criteria financially in the form of scholarships.¹⁴⁹

There are no further special conditions known to the authors.

¹⁴⁵ Gesetz vom 17. September 2008 über die Ausländer (Ausländergesetz; AuG), LGBl. 2008, no. 311.

¹⁴⁶ Gesetz vom 20. Oktober 1987 über die betriebliche Personalvorsorge (BPVG); LGBl 1988, no. 12.

¹⁴⁷ Amt für Berufsbildung und Berufsberatung (ABB): <http://www.llv.li/amtstellen/llv-abb-home.htm>.

¹⁴⁸ Amt für Volkswirtschaft (AVW): <http://www.llv.li/amtstellen/llv-avw-home.htm>.

¹⁴⁹ Schulamt (SA): http://www.llv.li/amtstellen/llv-sa-amts-geschaefte-stipendien_darlehen.htm.



4.7.3 Minimum and maximum age requirements

Are there exceptions permitting minimum and/or maximum age requirements in relation to access to employment (notably in the public sector) and training?

Minimum and maximum age requirements are not regulated by the legislation as long as it is not child labour. Provisions on the protection of young employees are enacted in a By-law (*Verordnung*) to the Act on Employment (By-law on Special Provisions for the Protection of Young Employees, LGBl. 2005 no. 69). According to this By-law, employment of children (*Kinder*, i.e. persons below 16 years), and employment of young persons (*Jugendliche*, i.e. persons below 18 years) who attend school, is forbidden. Exceptions can be permitted. There are numerous provisions concerning exclusion of special employment duties (e.g. dangerous work) as well as concerning working hours, rest time, night work etc. (See also 4.7.1 b).

4.7.4 Retirement

In this question it is important to distinguish between pensionable age (the age set by the state, or by employers or by collective agreements, at which individuals become entitled to a state pension, as distinct from the age at which individuals actually retire from work), and mandatory retirement ages (which can be state-imposed, employer-imposed, imposed by an employee's employment contract or imposed by a collective agreement).

For these questions, please indicate whether the ages are different for women and men.

- a) *Is there a state pension age, at which individuals must begin to collect their state pensions? Can this be deferred if an individual wishes to work longer, or can a person collect a pension and still work?*

The state-imposed and generally applicable mandatory retirement age is 64 for women as well as for men (Art. 36 of the NOWP).¹⁵⁰ It is possible, however, to draw the pension at a maximum of four years in advance by accepting fixed reductions in the amount payable (Art. 73 of the NOWP). At the same time, it is also possible to work longer regarding to Art 74 of the NOWP (at least to the age of 70). There are no differences between women and men in this respect.

- b) *Is there a normal age when people can begin to receive payments from occupational pension schemes and other employer-funded pension arrangements? Can payments from such occupational pension schemes be*

¹⁵⁰ Gesetz vom 14. Dezember 1952 über die Alters- und Hinterlassenenversicherung (AHVG), LGBl. 1952, no. 29.

deferred if an individual wishes to work longer, or can an individual collect a pension and still work?

The pension age is defined by Art. 8 of the ACPP.¹⁵¹ The regulation is primarily linked to the rules of the NOWP (see 4.7.4.a), according to which the retirement age is 64 with no differentiation between men and women. However, the ACPP includes the possibility of defining a different age limit as long as insurance of at least equivalent value is granted. The option of drawing the pension from one to four years early is also given.

c) *Is there a state-imposed mandatory retirement age(s)? Please state whether this is generally applicable or only in respect of certain sectors, and if so please state which. Have there been recent changes in this respect or are any planned in the near future?*

The state-imposed retirement age is 64 for all sectors and regardless of gender. It is possible, however, to draw a pension for a maximum of four years earlier (Art. 73 of the NOWP) or extending the working period up to the age of 70 (Art. 74 of the NOWP) if the employee wishes to do so. Within the last 2 to 3 years there has been a political discussion on changing the age of retirement for economic reasons.¹⁵² The discussion is still on-going and focuses primarily on the state pension fund.¹⁵³ European developments in this area might influence national regulation in this area in the future.

d) *Does national law permit employers to set retirement ages (or ages at which the termination of an employment contract is possible) by contract, collective bargaining or unilaterally?*

Yes. Employers, both public and private, have the right to set specific retirement ages for their specific company pension schemes in the sense of early retirement with payment deductions etc. Nevertheless the maximum age of retirement has to be in line with the age given by law. Specific company pension scheme rules have no effect on the pension age set by the public pension fund bylaw.

e) *Does the law on protection against dismissal and other laws protecting employment rights apply to all workers irrespective of age, if they remain in employment, or are these rights lost on attaining pensionable age or another age (please specify)?*

¹⁵¹ Gesetz vom 20. Oktober 1987 über die betriebliche Personalvorsorge (BPVG); LGBl 1988, no. 12.

¹⁵² Interview with H.S.H. Prince Hans-Adam II:

<http://www.vaterland.li/index.cfm?ressort=home&source=lv&id=21429>.

¹⁵³ Article in the local daily newspaper, 01/2013:

<http://www.vaterland.li/index.cfm?ressort=liechtenstein&source=lv&id=21429>.

Age is not defined as a permissible reason for dismissal in national law. Furthermore, there is no upper age limit for protection against unfair dismissal. Employers can impose retirement at the pension age of 64 without liability for unfair dismissal as long as no different contractual provision has been made between the employer and the employee. Juridical decisions would be needed in this regard. The relevant provisions apply to all workers irrespective of age.

- f) *Is your national legislation in line with the CJEU case law on age (in particular Cases C-229/08 Wolf, C-499/08 Andersen, C-144/04 Mangold and C-555/07 Kücüdevici C-87/06 Pascual García [2006], and cases C-411/05 Palacios de la Villa [2007], C-488/05 The Incorporated Trustees of the National Council on Ageing (Age Concern England) v. Secretary of State for Business, Enterprise and Regulatory Reform [2009], C-45/09, Rosenbladt [2010], C-250/09 Georgiev, C-159/10 Fuchs, C-447/09, Prigge [2011]) regarding compulsory retirement?*

Directive 2000/78 prohibits discrimination on grounds of age in the field of employment and occupation. However, the directive does not preclude national measures which are necessary for the protection of very specific reasons, meaning that national legislature can provide, in certain cases, differences of treatment, based on age and this will not, therefore, be treated as discrimination.

The anti-discrimination legislation of Liechtenstein does not define discrimination on the grounds of age and there are no relevant provisions regarding this. Different treatment in some specific areas based on age is possible by law. Since age as a ground of discrimination is not explicitly stated in the law, discrimination on the ground of age does not need to be justified. Unequal treatment in employment is therefore allowed, for instance by defining a minimum or a maximum age when hiring employees.

There is no national legislation controlling age discrimination or requiring proportionality in age requirements. Therefore it can be said that national legislation has not implemented the content and rationale of the directive 2000/78 regarding discrimination on the grounds of age. However, documented, practical treatment of age limits in employment in Liechtenstein comply with the CJEU case law (e. g. Liechtenstein police requirements profile¹⁵⁴ / Wolf CJEU 12 January 2012) and therefore to Art. 4.1 of the directive 2000/78.

4.7.5 Redundancy

- a) *Does national law permit age or seniority to be taken into account in selecting workers for redundancy?*

¹⁵⁴ <http://www.landespolizei.li/Polizeiberuf.aspx>.

The anti-discrimination legislation of Liechtenstein does not explicitly define discrimination on the grounds of age. Nevertheless Art. 46 of the CCC¹⁵⁵ defines redundancy due to reasons based on personal attributes (e. g. age would be defined as a personal attribute in juridical interpretation)¹⁵⁶ as improper and therefore against the law.¹⁵⁷

b) *If national law provides compensation for redundancy, is this affected by the age of the worker?*

In the case of an improper redundancy based on personal attributes (see 4.7.5 a), Art. 47 of the CCC¹⁵⁸ requires the employer to pay compensation.

4.8 Public security, public order, criminal offences, protection of health, protection of the rights and freedoms of others (Article 2(5), Directive 2000/78)

Does national law include any exceptions that seek to rely on Article 2(5) of the Employment Equality Directive?

Besides the below listed special regulations, no provision explicitly refers to these issues:

- the Liechtenstein Act on Children and Youth (ACY)¹⁵⁹
- the by-law on Special Provisions for the Protection of Young Employees¹⁶⁰
- the Decree on the Organisation of the Police¹⁶¹
- the Act on Foreigners¹⁶²
- the Act of National Old Age and Widow's /Widower's Pension¹⁶³

4.9 Any other exceptions

Please mention any other exceptions to the prohibition of discrimination (on any ground) provided in national law.

¹⁵⁵ Allgemeines bürgerliches Gesetzbuch (ABGB), publiziert im ASW, LGBl.1967, no. 34.

¹⁵⁶ Public statement of a Liechtenstein law firm: <http://www.wanger.net/schuldrecht/items/wann-ist-eine-kuendigung-des-arbeitsvertrags-missbraeuchlich.html>.

¹⁵⁷ Allgemeines bürgerliches Gesetzbuch (ABGB), publiziert im ASW, LGBl.1967, no. 34.

¹⁵⁸ Allgemeines bürgerliches Gesetzbuch (ABGB), publiziert im ASW, LGBl.1967, no. 34.

¹⁵⁹ Kinder- und Jugendgesetz vom 10. Dezember 2008 (KJG), LGBl. 2009, no. 29.

¹⁶⁰ Verordnung vom 22. März 2005 zum Arbeitsgesetz (ArGV V) (Sonderbestimmungen über den Schutz der jugendlichen Arbeitnehmer), LGBl. 2005, no. 69.

¹⁶¹ Verordnung vom 22. August 2000 über den Dienstbetrieb und die Organisation der Landespolizei (PolDOV); LGBl. 2000, no 195.

¹⁶² Gesetz vom 17. September 2008 über die Ausländer (Ausländergesetz; AuG), LGBl. 2008, no. 311.

¹⁶³ Gesetz vom 14. Dezember 1952 über die Alters- und Hinterlassenenversicherung (AHVG), LGBl.1952, no. 29.



There are no further exceptions known to the authors.

5 POSITIVE ACTION (Article 5 Directive 2000/43, Article 7 Directive 2000/78)

- a) *What scope does national law provide for taking positive action in respect of racial or ethnic origin, religion or belief, disability, age or sexual orientation? Please refer to any important case law or relevant legal/political discussions on this topic.*

Basically the AEPD and the AEWM, implementing the Directives, only state that in general positive action is permissible and does not constitute discrimination. There is no important case law on this topic. Art. 4 on positive measures in the AEPD¹⁶⁴ states: Specific measures to achieve equal participation of people with a disability in daily life within society are not considered to be discriminatory.

Art. 3 §4a of the AEWM¹⁶⁵ also states this fact: There is no discrimination if: a) appropriate measures are taken to implement practical equality.

Art. 4 of the International Convention on the Elimination of All Forms of Racial Discrimination states that: They [the contract states] commit themselves to adopting immediate and positive measures to eradicate incitement to racial discrimination and all acts of racial discrimination.

There are no similar definitions of positive measures/actions against discrimination based on religion or belief, age, or sexual orientation. This corresponds with the fact that specific acts on these grounds of discrimination are missing. There is no comprehensive anti-discrimination act in Liechtenstein, covering all grounds of discrimination, as well. If there are positive actions on other grounds than disability or gender, this is not clearly stated in the law as a legal commitment. Nevertheless, there are actions, mainly communication campaigns, with respect to aliens or old people, for instance. Such activities are directly supported by the government (e.g. via activities of the Office for Equal Opportunities or the Integration Office at the Alien's Department), or indirectly by mandating private associations with such tasks.

- b) *Do measures for positive action exist in your country? Which are the most important? Please provide a list and short description of the measures adopted, classifying them into broad social policy measures, quotas, or preferential treatment narrowly tailored. Refer to measures taken in respect of all five grounds, and in particular refer to the measures related to disability and any quotas for access of people with disabilities to the labour market, any related to Roma and regarding minority rights-based measures.*

¹⁶⁴ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

¹⁶⁵ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.



Measures for positive action exist in Liechtenstein. The following are the most important positive actions in the fight against discrimination.

Positive actions against discrimination due to disability

Arts. 17 to 20 of the AEPD¹⁶⁶ state that different measures in favour of people with disabilities may be supported. Art. 19 §3 of the AEPD¹⁶⁷ specifies that various programmes may be implemented and supported by the government, including programmes on vocational training and integration as well as on housing. Art. 20 states that pilot projects on the integration of people with disabilities into the work environment may be supported by the society. The term “society” is not elaborated any further, but one can assume that the government and the municipalities are addressed, maybe also the disability insurance and other public services. These pilot attempts have to be limited in time. One of the measures – according to Art. 20 – is financial support in order to adapt a workplace to the special needs of a person with disability.

There are additional measures in the area of education; this part of the Act declares that the state will provide early intervention and basic education according to the Education Act; that the state also supports special schools with special training for teachers; and that the state will also make sure that these children and young people have a chance in the working world. Priority is for integration of people with disabilities into the regular schools.

There are also programmes to integrate people with disabilities. The state promotes this integration, with programmes occurring in the following areas: education, work, living, transport, culture, sports and relief for family members who take on the role of carer. These activities are emphatically communicated by the Liechtenstein newspapers and other media, with assistance of the relevant associations and offices. For instance, sport activities of people with disabilities (Paralympics) are financially supported by the government and there are many news reports on such events.

Art. 20 is about pilot tests for integration into the labour force. In summary: the society can carry out or support pilot projects to explore incentives for the employment of people with disabilities. In practice this means that such activities are supported by the state or municipalities, but it is not restricted to work places in the public sector.

¹⁶⁶ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

¹⁶⁷ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.



Positive action on the equality of Women and Men

Arts. 18 and 19 of the AEW¹⁶⁸ also have a section on Positive Action. This is limited to actions regarding gender. Art. 18 concern the Commission for the Equality of Women and Men. It summarises the job of this Commission and shows the possibility this Commission has of minimising discrimination due to gender. It divides the remit of the Commission into five parts: preparing its own recommendations or proposals to the government for measures with regard to gender equality; handing in comments during the consultation process on legislative documents which affect gender equality; preparing opinions at the request of the government or individual members of the government; public relations, reporting on the work of the Commission and events taking place on gender equality; and monitoring developments in terms of gender equality, following up the measures taken and periodically reporting to the government.

Art. 19 of the AEW¹⁶⁹ defines the tasks of the Office for Equal Opportunities as follows: a) Advising the authorities and private individuals on how to pursue gender equality issues and support victims of discrimination; b) conducting public relations; c) carrying out investigations and recommending appropriate action to authorities and private individuals; d) being involved in drafting rules and regulations; e) working with others on the funding of programmes and projects and carrying out or participating in them; f) reviewing applications for funding assistance under articles 16 & 17, as well as monitoring the implementation of programmes; g) informing stakeholders about measures taken to achieve equality; h) and exchanging information with relevant European institutions. The Office for Equal Opportunities acts independently on its activities according to lit. a) to c).

There is a clear commitment and obligation of the Commission and the Office for Equal Opportunities regarding gender equality, based on the AEW. Besides this, the Office operates as a promoting institution with respect to other grounds of discrimination, mandated by the government and without a distinct legal mission. This covers race and ethnicity, sexual orientation, age, religion and belief. The Office does not act independently in these areas and there are no provisions regarding positive action related to these grounds of discrimination.

An initiative in this area was launched by the Commission for gender equality, Liechtenstein and the women's department of the provincial government of Vorarlberg, Austria. This initiative focuses on involving women in a much more intensive way in politics. The course in political studies is given by specialists from different areas. The aim is to enable and encourage women to participate in political parties and public organisations and to bring their concerns to bear.

¹⁶⁸ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

¹⁶⁹ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.



Positive action on equality opportunities in general

An initiative was launched by the government and supported by the Office for Equal Opportunities and represents a programme for NGO's, private persons and companies. It has been installed to promote equal opportunities for all persons living in Liechtenstein. Participation is free and the proposed projects have to fulfil certain criteria in the broad area of "equal treatment" from "gender" to "education" to "disability". The aim is to support realistic and ambitious plans and is therefore backed by government funding.



6 REMEDIES AND ENFORCEMENT

6.1 Judicial and/or administrative procedures (Article 7 Directive 2000/43, Article 9 Directive 2000/78)

In relation to each of the following questions please note whether there are different procedures for employment in the private and public sectors.

- a) *What procedures exist for enforcing the principle of equal treatment (judicial/administrative/alternative dispute resolution such as mediation)?*

Based on Art 24 of the AEPD¹⁷⁰ and Art. 5 of the AEW¹⁷¹, persons who are affected by any discrimination based on these legal acts have a legal recourse. The legal basis for court trials is the Code of Civil Procedure (CCP).¹⁷²

Art. 25 of the AEPD state that the civil courts (part of the Ordinary Courts) are the appropriate authority to decide upon complaints against discrimination on the ground of disability. Any claim shall be adjudicated according to the CCP, except regarding Art. 26 of the AEPD which provides special provisions on the burden of proof (cf. 3.6 e). Art. 12 of the AEW¹⁷³ similarly states that disputes on discrimination have to be brought to the Ordinary Courts (first instance of the ordinary jurisdiction, followed by the Upper Court and the High Court as last instance).

Complaints regarding anti-discrimination provisions of the Penal Code (race, ethnicity et al.) are also adjudicated by the Ordinary Courts at the first instance (Art.283 of the Penal Code).¹⁷⁴ Claims based on the Convention on the Elimination of All Forms of Racial Discrimination, which came into force in Liechtenstein in 2000, can be brought to court similar to the one based on national law, e.g. the AEPD.

Procedures for addressing discrimination are not the same for employment in the private and the public sector. Whereas in private disputes the ordinary court is the first judicial authority, in disputes between individuals and the public it is the Administrative Court (part of the public jurisdiction, followed by the Constitutional Court as last instance).

¹⁷⁰ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

¹⁷¹ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

¹⁷² Gesetz vom 10. Dezember 1912 über das gerichtliche Verfahren in bürgerlichen Rechtsstreitigkeiten (Zivilprozessordnung; ZPO), LGBl. 1912 Nr. 9/1.

¹⁷³ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

¹⁷⁴ Strafgesetzbuch (StGB), LGBl. 1988, no. 37.

Art. 11 of the AEW¹⁷⁵ states that the ordinary court designates an arbitration board (“*Schlichtungsstelle*”) which seeks to achieve an agreement between the conflicting parties instead of taking the case to court. The arbitration board process is mandatory and has to take place within the period for filing a suit.

The out-of-court settlement of disputes is ruled by §§ 594-616 of the CCP.¹⁷⁶ Additionally in 2005 the Act on Mediation in Civil Law Cases (AMCLC)¹⁷⁷ entered into force. This law provides for definitions of mediation and mediators as well as the rights and duties of mediators. Details of the necessary qualifications of a mediator are stated in the by-law to the Act on Mediation in Civil Law Cases.¹⁷⁸ Mandatory mediation in particular law cases, though, has not yet been introduced. Once this is implemented, it might open a way to making a complaint without the financial risk of carrying on a process in court. However, there are no current discussions about such possible developments.

b) Are these binding or non-binding?

Decisions taken by the courts are binding if there is no appeal to the higher judicial authority. Procedures for addressing discrimination in the private sector go to the ordinary court as first judicial authority, following by the Upper Court and the High Court as last instance. Whereas in disputes between individuals and the public the first instance of the ordinary jurisdiction is the Administrative Court (part of the public jurisdiction), followed by the Constitutional Court as last instance.

c) What is the time limit within which a procedure must be initiated?

Art. 24 of the AEPD¹⁷⁹ states that claims according to Art. 23, §§1 & 2 lapse in a year, reckoned from the day on which the person concerned first learns about the act of discrimination and its author, or in any event after three years from the day on which the act of discrimination occurred. For further preconditions for statutory limitation, the provisions of the general civil code apply correspondingly.

Art. 8 of the AEW¹⁸⁰ states that a complaint against a discriminating refusal of employment or a dismissal from employment has to be started within three months.

¹⁷⁵ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

¹⁷⁶ Gesetz vom 10. Dezember 1912 über das gerichtliche Verfahren in bürgerlichen Rechtsstreitigkeiten (Zivilprozessordnung; ZPO), LGBl. 1912 Nr. 9/1.

¹⁷⁷ Gesetz vom 15. Dezember 2004 über die Mediation in Zivilrechtssachen (Zivilrechts-Mediations-Gesetz; ZMG), LGBl. 2005 Nr. 31.

¹⁷⁸ Verordnung vom 12. April 2005 zum Gesetz über die Mediation in Zivilrechtssachen (Zivilrechts-Mediations-Verordnung; ZMV), LGBl. 2005, no. 71.

¹⁷⁹ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

¹⁸⁰ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

d) *Can a person bring a case after the employment relationship has ended?*

There are neither provision in the AEPD nor in the AEWP which exclude to bring a case after the employment relationship has been terminated. Section B of the AEWM regulates legal claims, whereas the claim is time-barred to five years (special rules apply in the sense of claims regarding payments to the social security. In the case of discriminatory dismissal under the AEWM a claim against it or any claim regarding compensation has to be made within the contract period of notice, meaning the period of notice as laid down in the contract. Generally the Common Civil Code¹⁸¹ is applicable.

The AEPD states a limitation period of one year after the day, on which the involved person got notice about the discrimination.

e) *In relation to the procedures described, please indicate any costs or other barriers litigants will face (e.g. necessity to instruct a lawyer?) and any other factors that may act as deterrents to seeking redress (e.g. strict time limits, complex procedures, location of court or other relevant body).*

There is no legal provision which requires the use of a lawyer when bringing a complaint before the court, although this is probably helpful. Art. 25 of the CCP states that court procedures can be carried out either in person or by a representative (e.g. a lawyer).

Arts. 63 to 73 of the CCP concern assistance for court trials (*Verfahrenshilfe*). Assistance has to be provided for persons if they are not able to finance a trial without this having a negative effect on their ability to feed themselves properly. This holds for anyone, not just for people with disabilities or other groups with specific characteristics.

The time schedule for court proceedings is either ruled in particular acts, or, if this is not the case, the judge can decide on deadlines with respect to the needs and the character of the specific court case.

Since Liechtenstein is a very small country and all national judicial authorities are located in Liechtenstein, the territorial distances to the courts are very short.

f) *Are there available statistics on the number of cases related to discrimination brought to justice? If so, please provide recent data.*

There is only limited information and data available regarding court cases, especially cases at the first instance (Ordinary Court).

¹⁸¹ Allgemeines bürgerliches Gesetzbuch (ABGB), publiziert im ASW, LGBl.1967, no. 34.

- g) *Are discrimination cases registered as such by national courts? (by ground? Field?) Are these data available to the public?*

Any discrimination law cases which are prosecuted by national courts are not generally open to the public. It depends to the court's decision to make the case and the judgement available to the public. The main criteria for a court decision to be published or not are the interest of the public and the protection of the privacy of the involved parties. Thus no specific discrimination-court-cases-list exists.

6.2 Legal standing and associations (Article 7(2) Directive 2000/43, Article 9(2) Directive 2000/78)

Please list the ways in which associations may engage in judicial or other procedures

- a) *Are associations entitled to act on behalf of victims of discrimination? (to represent a person, company, organisation in court)*

Art. 25 of the AEPD¹⁸² states that court trials have to be carried out according to the Code of Civil Procedure (CCP), with the exception of the provision with respect to the burden of proof in Art. 26. Basically the CCP states that court procedures can be carried out in person or by a representative (Art. 25 of the CCP). The representative may be a lawyer, but the CCP (Arts. 26 and 28) does not restrict to lawyers, but any authorized, mandated person. There are no provisions with respect to the engagement of associations (including trade unions) on behalf of any complaining person. Therefore, no registration of such associations is implemented. This does not exclude assistance, e.g. financial and personal support, legal advice etc., in court trials. Mandating, though, must be authorized by the complaining person.

Art. 7 of the AEW¹⁸³ states that associations residing in Liechtenstein that are dedicated to supporting the interests of male and female employees, and which have been in existence for more than five years, may do the following if the complainant approves and gives them the mandate:

- state that discrimination is occurring;
- pursue a court trial.

See also 6.2. a.

- b) *Are associations entitled to act in support of victims of discrimination? (to join already existing proceedings)*

¹⁸² Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

¹⁸³ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

The AEPD and the AEWL are silent about any rule of joining already existing proceedings by associations entitled to act in support of victims of discrimination. The Code of Civil Procedure (CCP) state in Art. 17 and the following articles that the admission of a third party to participation or intervention in a case, makes the individual a party to the judicial proceeding. With the consent of the involved parties of the judicial case, the third party as intervener can even take the place of that party, for whom he/she intervened.

Referring to Art. 11 and Art. 25 of the CCP¹⁸⁴ joint plaintiffs, with or without a legal representative, are generally possible in case law. But certain conditions have to be fulfilled for these constellations. These are:

- The plaintiffs must form a legal community with respect to the subject of litigation or they must be entitled in law or in fact on the same grounds;
- The claims of the plaintiffs must be based on similar matters of law or fact which forms the subject-matter of the dispute and at the same time allocates jurisdiction to the court for each individual of the plaintiffs.

In this sense class actions are possible, but there is as yet no case law or any case pending which relates to this issue.

- c) *What types of entities are entitled under national law to act on behalf or in support of victims of discrimination? (please note that these may be any association, organisation, trade union, etc.).*

Court procedures can be carried out in person or by a representative (Art. 25 of the CCP). The representative may be a lawyer, but the CCP (Arts. 26 and 28) does not restrict to lawyers. It admits any authorized, mandated person, thus also associations (or a mandated lawyer), to act as a legal representative.

Art. 31 of the AEPD¹⁸⁵ defines the circumstances under which associations for persons with disabilities can claim on their own behalf for discrimination. Similar rules are set out in Art. 7 of the AEWL.¹⁸⁶ The main criteria for such associations are:

- domicile within Liechtenstein;
- existing at least for five years;
- defined statutory purpose in relation to the aims of the AEPD or AEWL.

¹⁸⁴ Gesetz vom 10. Dezember 1912 über das gerichtliche Verfahren in bürgerlichen Rechtsstreitigkeiten (Zivilprozessordnung; ZPO), LGBl. 1912 Nr. 9/1.

¹⁸⁵ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

¹⁸⁶ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

There also exists a special law to assist victims, the Act on Aid for Victims of Criminal Offences (AACVO).¹⁸⁷ This law defines who is entitled to assistance, it defines the role of the state, and it provides for compensation for damages. It is furthermore the legal basis (Arts. 12 to 16) for an Office for the Support of Victims of Criminal Offences (*Opferhilfestelle*).¹⁸⁸ This Office advises victims free of charge and supports victims by financial means. The Office also assists victims at court trials free of charge. There are no provisions that the Office can act on behalf of victims of discrimination.

- d) *What are the respective terms and conditions under national law for associations to engage in proceedings on behalf and in support of complainants? Please explain any difference in the way those two types of standing (on behalf/in support) are governed. In particular, is it necessary for these associations to be incorporated/registered? Are there any specific chartered aims an entity needs to have; are there any membership or permanency requirements (a set number of members or years of existence), or any other requirement (please specify)? If the law requires entities to prove “legitimate interest”, what types of proof are needed? Are there legal presumptions of “legitimate interest”?*

Basically the CCP states that court procedures can be carried out in person or by a representative (Art. 25 of the CCP). The representative may be a lawyer, but the CCP (Arts. 26 and 28) does not restrict to lawyers, but any authorized, mandated person. There are no provisions with respect to the engagement of associations (including trade unions) on behalf of any complaining person. Therefore, no registration of such associations is implemented. Mandating, though, must be authorized by the complaining person.

Art. 7 of the AEW¹⁸⁹ states that associations residing in Liechtenstein that are dedicated to supporting gender equality or to supporting the interests of male and female employees, and which have been in existence for more than five years, may do the following if the complainant approves and gives them the mandate:

- state that discrimination is occurring;
- pursue a court trial.

See also 6.2. a.

- e) *Where entities act on behalf or in support of victims, what form of authorization by a victim do they need? Are there any special provisions on victim consent in*

¹⁸⁷ Gesetz vom 22. Juni 2007 über die Hilfe von Opfern von Straftaten (Opferhilfegesetz, OHG), LGBl. 2007 no 228.

¹⁸⁸ Opferhilfestelle: <http://www.llv.li/#/11484>.

¹⁸⁹ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.



cases, where obtaining formal authorization is problematic, e.g. of minors or of persons under guardianship?

In respect of gender discrimination, discrimination at the workplace, or any other grounds of discrimination, associations like trade union, equality associations etc. may act as representatives if the complainant gives them the respective mandate. This is what the Civil Court Procedures (CCP) enacts in Art. 25. Literally, a person can authorize another person according to Art. 26 CCP (c.f. a lawyer or another authorized person).

Parents are the representatives of minors at the court, if law does not provide for differing rules.

f) *Is action by all associations discretionary or do some associations have a legal duty to act under certain circumstances? Please describe.*

Action by all associations is discretionary. If they act on behalf of victims they must be mandated. According to the CCP, lawyers and other representatives have to show an authorization document at the first day of the court trial. This document must be either in original writing or certified.

g) *What types of proceedings (civil, administrative, criminal, etc.) may associations engage in? If there are any differences in associations' standing in different types of proceedings, please specify.*

There are no specific regulations regarding the types of proceedings. Since court proceedings vary between disputes with private and public employers, different courts can be included anyway.

h) *What type of remedies may associations seek and obtain? If there are any differences in associations' standing in terms of remedies compared to actual victims, please specify.*

There is no difference in the type of remedy given by law to victims themselves or to associations, mandated by the victim. As NGOs can only act in support of or on behalf of an individual victim, they cannot seek remedies other than those which the victims themselves can seek.

i) *Are there any special rules on the shifting burden of proof where associations are engaged in proceedings?*

The rules on the burden of proof are not affected by NGO engagement, meaning that the requirements and functioning of the burden of proof clause do not change when a victim mandates an association.

- j) *Does national law allow associations to act in the public interest on their own behalf, without a specific victim to support or represent (**actio popularis**)? Please describe in detail the applicable rules, including the types of associations having such standing, the conditions for them to meet, the types of proceedings they may use, the types of remedies they may seek, and any special rules concerning the shifting burden of proof.*

Whether associations are allowed to act in the public interest on their own behalf or not depends on the concerning law. Art. 31 and Arts. 27 to 29 of the AEPD¹⁹⁰ entitle associations for people with disabilities to make legal claims on their own behalf for accessibility provision in public buildings, for accessibility of public roads and traffic areas, and for accessibility on public transport systems. Precondition is that these associations have a Liechtenstein residence and that they have been in existence for at least five years. They can do this in their own name (cf. 7e.).

The AEWG does not give NGOs a position to file an action on behalf of an unidentifiable group of affected persons. Art. 7 §1 provides rules for associations to support equality between women and men in the sense, that NGOs which are mandated by the victim can file an action to get a confirmation on their own behalf by a court that discrimination exists. As a consequence the discrimination must be eliminated.

In addition, according to the Act on the Constitutional Court (ACC),¹⁹¹ the Constitutional Court decides on the compatibility of laws and bylaws with the constitution and international treaties. Concerning bylaws, inter alia, 100 or more individuals entitled to vote can demand a review (*Antrag*) of the provision by the Constitutional Court (Art. 20 of the ACC). Associations are not allowed to ask for such a review, but Art. 20 of the ACC gives them the opportunity to collect the required number of signatures in order to have a bylaw examined by the Constitutional Court.

The above mentioned provisions are covering the review of bylaws. Concerning the verification of the compatibility of laws and international treaties with the constitution, the right to demand a review by the Constitutional Court is restricted to other courts, to the government, municipalities, administrative bodies, or the constitutional court itself, depending on the case.

- k) *Does national law allow associations to act in the interest of more than one individual victim (**class action**) for claims arising from the same event? Please describe in detail the applicable rules, including the types of associations having such standing, the conditions for them to meet, the types of proceedings they*

¹⁹⁰ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

¹⁹¹ Gesetz vom 27. November 2003 über den Staatsgerichtshof (StGHG), LGBl. 2004, no. 32.

may use, the types of remedies they may seek, and any special rules concerning the shifting burden of proof.

There are no specific provisions regarding class action in the sense of a concentrated process filed by an association on behalf of a group of identifiable individuals affected by the same discrimination. However, referring to Art. 11 and Art. 25 of the CCP¹⁹² joint plaintiffs (*Streitgenossen*), with or without a legal representative, are generally possible in case law. But certain conditions have to be fulfilled for these constellations. These are:

- The plaintiffs must form a legal community with respect to the subject of litigation or they must be entitled in law or in fact on the same grounds;
- The claims of the plaintiffs must be based on similar matters of law or fact which forms the subject-matter of the dispute and at the same time allocates jurisdiction to the court for each individual of the plaintiffs.

In this sense class actions are possible, but there is as yet no case law or any case pending which relates to this issue.

6.3 Burden of proof (Article 8 Directive 2000/43, Article 10 Directive 2000/78)

Does national law require or permit a shift of the burden of proof from the complainant to the respondent? Identify the criteria applicable in the full range of existing procedures and concerning the different types of discrimination, as defined by the Directives (including harassment).

Art. 26 Burden of Proof of the AEPD¹⁹³ states that:

- 1) *When a person claims to be discriminated against according to Arts. 5 to 10, this person shall make this claim credible.*
- 2) *With reference to direct discrimination, it is obligatory on the defendant to prove that it is more likely in all the circumstances that he claims to have another reason for the difference in treatment and that this reason is crucial.*
- 3) *When citing a reference to harassment as well as indirect discrimination, it is obligatory on the defendant to prove that in consideration of all circumstances it is more likely that the facts substantiated by him are truthful.*

¹⁹² Gesetz vom 10. Dezember 1912 über das gerichtliche Verfahren in bürgerlichen Rechtsstreitigkeiten (Zivilprozessordnung; ZPO), LGBl. 1912 Nr. 9/1.

¹⁹³ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

Art. 6 of the AEW¹⁹⁴ states that discrimination according to Arts. 3 (prohibition of discrimination) and 4b (harassment) can be assumed if the concerned person describes it in a credible manner.

6.4 Victimisation (Article 9 Directive 2000/43, Article 11 Directive 2000/78)

What protection exists against victimisation? Does the protection against victimisation extend to people other than the complainant? (e.g. witnesses, or someone who helps the victim of discrimination to bring a complaint).

Both the AEPD and the AEW state that any adverse consequence as a reaction to a complaint or similar proceedings, in compliance with the principle of equal treatment on grounds of disability (AEPD) or gender (AEW) is forbidden. The complainant must not be penalised by a response to a complaint or to the launching of a legal process to secure a ban on discrimination. Neither must anyone who appears as a witness or informant in court proceedings, or who supports a person affected by discrimination, be penalised or disadvantaged. (Art. 23 §4 of the AEPD).¹⁹⁵

Art. 7a of the AEW¹⁹⁶ states similarly that there must not be disadvantages for complainants or witnesses in case of complaint on grounds of discrimination or when proceedings to enforce the prohibition of discrimination are started.

6.5 Sanctions and remedies (Article 15 Directive 2000/43, Article 17 Directive 2000/78)

a) *What are the sanctions applicable where unlawful discrimination has occurred? Consider the different sanctions that may apply where the discrimination occurs in private or public employment, or in a field outside employment.*

Art. 23 §1 of the AEPD¹⁹⁷ states that the person concerned is entitled in any case to restitution of any financial losses incurred and to compensation for the personal detriment suffered.

The victim can also request an injunction to ban or prevent the threat of future discrimination or to eliminate existing discrimination (Art. 23 §2). In assessing the extent of compensation for the immaterial injury, the length of the period of

¹⁹⁴ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

¹⁹⁵ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

¹⁹⁶ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

¹⁹⁷ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

discrimination, the seriousness of the act, the extent of the detriment and whether there has been multiple discrimination, must in particular be taken into account (Art. 23 §3).

Art. 7b of the AEW¹⁹⁸ states: “Anyone affected by discrimination in the sense of Arts. 3 and 4 of the AEW can request the court or the authorities to:

- a) order payment of any lost wages;
- b) a refund of any overpaid social security contributions, or compensation for any social security services/payments missed.

Claims in respect of a) lapse after five years. The lapse of claims in respect of b) is governed by the provisions of the relevant special laws.

Art. 7c of the AEW states:

- 1) *If the act of discrimination consists in the rejection of a job application or in the termination of a contract of employment under private law, the person affected has a claim only to compensation instead of the claims referred to in Art. 5 §1 [= prohibit or eliminate discrimination]. Compensation is to be determined taking into account all the relevant circumstances and is calculated on the basis of either the prospective or actual wage.*
- 2) *In the case of discrimination through harassment or sexual harassment the court or the local authority of the person affected can, in addition to the claims according to Art. 5, also award compensation if the employer(s) cannot demonstrate that he/she/they has/have taken measures necessary and appropriate for the prevention of harassment or sexual harassment and which could reasonably have been expected of them. If the employer had received prior notice from the employee about a prospective or actual harassment or sexual harassment, and if despite this the employer did not take the necessary and reasonable measures, the court or the authority must award damages.*
- 3) *The extent of damages in respect of discrimination resulting from the rejection of a job application according to §1 may not be greater than the sum of three months’ wages. The total amount of damages may not exceed this sum even where a claim for compensation for the discriminatory rejection of an application for the same job is made by more than one person. Compensation in the case of discrimination arising from the termination of a work contract under private law according to §1 must be at least of the value of three months’ wages. The extent of damages to be awarded in the case of harassment or sexual harassment according to*

¹⁹⁸ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

§2 is to be determined after consideration of all the circumstances and must not be less than 5000 SF (approx. 4000 €).

- 4) *If the discrimination relates to accession to or maintenance of the claim to services/payments within the social security system, the person affected has a right only to compensation, instead of the claims according to Art. 5 §1. Compensation is to be awarded after consideration of all the circumstances and is to be calculated on the basis of the prospective or actual services/payments and contributions.*

Art. 15a of the AEWG states:

- 1) *If the discrimination consists in the rejection or termination of a legal relationship, the person affected has a claim only for compensation instead of the claims under Art. 5 §1. The level of compensation is to be determined taking all the circumstances into consideration, and must be no more than 3000 SF (approx. 2500 €).*
- 2) *In the case of discrimination through harassment or sexual harassment the court may award the victim compensation in addition to the claims under Art. 5. The level of compensation is to be determined taking all the circumstances into account and must be at least 1000 SF (approx. 800 €).*

- b) *Is there any ceiling on the maximum amount of compensation that can be awarded?*

Art. 23 §1 of the AEPD¹⁹⁹ (discrimination on grounds of disability) states that the person concerned is entitled in any case to restitution of any financial losses incurred and to compensation for the personal detriment suffered. No limit is stated in the law.

Concerning discrimination on grounds of gender, the AEWG (Art. 15a)²⁰⁰ sets maximum and minimum limits, depending on the case. Compensation amounts for discrimination in the area of employment are stated in Art. 7c of the AEWG (employment under private contracts) and in Art. 13 of the AEWG referring to Art. 7c of the AEWG (employment under public law). Special rules apply in the area of access to and supply of goods and services, according to Art. 15a of the AEWG.

There are no provisions on the maximum amount of compensation with respect to other grounds of discrimination.

- c) *Is there any information available concerning:*
- i) *the average amount of compensation awarded to victims?*

¹⁹⁹ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

²⁰⁰ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.



- ii) *the extent to which the available sanctions have been shown to be - or are likely to be - effective, proportionate and dissuasive, as required by the Directives?*

There is no data available on this issue. Case law in this regard is almost non-existent. So far, a very low number of victims actually bring their cases to court. Thus it is not possible to give an objective indication of whether the sanctions are effective or not.

7 SPECIALISED BODIES, Body for the promotion of equal treatment (Article 13 Directive 2000/43)

When answering this question, if there is any data regarding the activities of the body (or bodies) for the promotion of equal treatment, include reference to this (keeping in mind the need to examine whether the race equality body is functioning properly). For example, annual reports, statistics on the number of complaints received in each year or the number of complainants assisted in bringing legal proceedings.

- a) *Does a 'specialised body' or 'bodies' exist for the promotion of equal treatment irrespective of racial or ethnic origin? (Body/bodies that correspond to the requirements of Article 13. If the body you are mentioning is not the designated body according to the transposition process, please clearly indicate so).*

Office for Equality of People with Disabilities.²⁰¹ This Office was installed by the government according to Art. 22 of the AEPD after the AEPD had entered into force in 2007. The Office is attached to the (private) Association for People with Disabilities and acts independently.

Office for Equal Opportunities.²⁰² This is the administrative department with the broadest spectrum of issues concerning disadvantage and discrimination. The main focus, based on the Act on Equality between Women and Men (AEWM), is gender equality. The Office is also mandated by the government to cover other grounds of discrimination (disability, sexual orientation, migration and integration, social disadvantage). Disability, though, is also covered by the Office for Equality of People with Disabilities. Migration and integration as one of the fields of work of the Office for Equal Opportunities includes discrimination on grounds of race and ethnic origin, although this is not a major task of the Office. In addition, the Integration Office at the Alien's Department serves as institution to advise people and to conduct activities for a better integration of migrants.

The Office for Equal Opportunities is subordinated to the government (Ministry of Society as of March 2013). In some respect it acts independently, namely the following: advising administrative bodies and private persons in equality affairs, supporting victims of discrimination, public affairs, research, and recommendations to administrative bodies and private stakeholders (Art. 19 §3 AEWM).²⁰³

²⁰¹ Liechtensteiner Behinderten-Verband:

<http://www.lbv.li/Dienstleistungen/B%C3%BCrof%C3%BCdieGleichstellung/tabid/916/Default.aspx>.

²⁰² Stabsstelle für Chancengleichheit: <http://www.liv.li/#/12395/stabsstelle-chancengleichheit>.

²⁰³ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

Commission for Equality of Women and Men.²⁰⁴ This commission advises the government. The Head of the Office for Equal Opportunities is a counselling member of the Commission.

Integration Office at the Alien's Department.²⁰⁵ The Integration Office is responsible for integration agreements, integration courses, public affairs, campaigning and other activities for a successful integration of migrants in Liechtenstein. It is based on the Act on Aliens.²⁰⁶

Ombudsman Office for Children and Young Persons.²⁰⁷ This office was installed due to Arts. 96 to 100 of the ACY.

In relation to the organisation of specialised bodies, new avenues are currently being explored. As a result of the restructuring of departments, some tasks of the Equal Opportunities Office will be integrated into the new department for Society and Social Welfare, which is in place as of March 2013. This department is responsible for all topics regarding the societal and social Policy) in Liechtenstein, which include the aspects regarding social aid, social insurance, Old Age and Widow's/Widower's Pension Insurance etc.

The government also foresees the creation of a new Centre for Human Rights, which is not in place by the time of this report. This is meant to take over the tasks of the former Equal Opportunities Office – in respect of which there has long been a demand for greater independence from the political world – and also those of the Ombudsman Office for children and young people. The Centre for Human Rights is intended to be the appropriate institutional solution for current and future discrimination issues and also function as an independent foundation for public law. Its thematic focus has not yet been finally defined, but the government's report suggests that it will probably cover the following areas: the elderly, gender, refugees and asylum seekers, people with a disability, migration and integration, racism, and sexual orientation. It should remain open to integrating other thematic fields. The Centre for Human Rights, according to the government plans, shall be managed by a private Association for Human Rights which would be financially supported by the government.

b) Describe briefly the status of this body (or bodies) including how its governing body is selected, its sources of funding and to whom it is accountable. Is the independence of the body/bodies stipulated in the law? If not, can the body/bodies be considered to be independent? Please explain why.

²⁰⁴ Kommission für die Gleichstellung von Frau und Mann.

²⁰⁵ Integrationsbüro: <http://www.llv.li/amtstellen/llv-apa-integration.htm>.

²⁰⁶ Gesetz vom 17. September 2008 über die Ausländer (Ausländergesetz; AuG), LGBl. 2008, no. 311.

²⁰⁷ Ombusstelle für Kinder und Jugendliche:

<http://www.oskj.li/%C3%9CberdieOSKJ/tabid/62/Default.aspx>.



Office for Equality of People with Disabilities is attached to the (private) Association for People with Disabilities and acts independently. Access to financial resources is given via membership fees, donations, allowances and state subsidies.

The Office for Equal Opportunities is attached to the government. The government appoints the staff of the Office. There is a number of duties of the Office where, according to Art. 19 §3 AEWM,²⁰⁸ the Office acts independently (advising administrative bodies and private persons in equality affairs, supporting victims of discrimination, public affairs, research, and recommendations to administrative bodies and private stakeholders). Nevertheless, dependency on the government is quite clear. Financing is served by the government, department of family and equal opportunities.

The Commission for Equality of Women and Men is elected by the government. The Commission advises the government, supports equality of women and men by means of public relations about its own activities, statements on legal developments, and by monitoring of the status of equal opportunities.²⁰⁹ The Commission does not have its own budget. The activities are financed via the budget of the Office for Equal Opportunities as well as via the existing budgets of the bodies represented in the Commission office.

The Integration Office is part of the Alien's Department and thus dependent on the government.

The Ombudsman Office for Children and Young Persons is based on an official government mandate. The Ombudsman is elected by the parliament of Liechtenstein for a 4 year term. The office acts independently, though it is financed by the government.

- c) *Describe the competences of this body (or bodies), including a reference to whether it deals with other grounds of discrimination and/or wider human rights issues.*

The **Office for Equal Opportunities** is subordinated to the government (Ministry of Society as of March 2013). It is committed to promoting equal opportunities in the following areas: equality between women and men, disability, migration and integration (including race and ethnic origin), social discrimination, and sexual orientation. The main focus of the law (AEWM) is clearly gender equality. Other grounds of discrimination are not explicitly mentioned in the law. Nevertheless, the government has mandated the Office to deal also with other grounds of discrimination, to raise awareness, and to combat discrimination in any field.

²⁰⁸ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

²⁰⁹ <http://www.llv.li/files/srk/Rechenschaftsbericht%202013-mit%20Landesrechnung.pdf>, pp. 221.

The **Commission for Equal Opportunities** as a consultative body is a permanent commission appointed by the government in order to address issues of equality in all spheres of life, especially in the areas of migration and integration, disability, education, religion, housing, health, age, social security, sexual orientation, and work. The commission is responsible for the coordination of activities with respect to equal opportunities and the implementation of an interdepartmental anti-discrimination policy.²¹⁰

The **Office for Equality of People with Disabilities** focuses on discrimination on grounds of disability.

The **Integration Office** conducts activities for a better integration of migrants into society, including language courses and integration tests, public campaigns and more. The focus thus is more on integration than on anti-discrimination, although these aspects cannot be clearly separated. The main focus is on immigrants from non-German speaking countries, namely from Mediterranean countries, from South-East Europe and from Turkey.

The **Ombudsman Office for Children and Young Persons**²¹¹ was installed as a result of Arts. 96 to 100 of the ACY.²¹² in 2010. The main objective of this office is the implementation of the UN Convention on the Rights of the Child and to provide assistance and information for children and young persons in all areas of life.

d) *Does it / do they have the competence to provide independent assistance to victims, conduct independent surveys and publish independent reports, and issue recommendations on discrimination issues?*

According to Art. 19 §3 of the AEW²¹³ (amended by LGBl. 2006 no 152) the Office for Equal Opportunities acts independently in some fields: advising administrative bodies and private persons in equality affairs, supporting victims of discrimination, public affairs, research, and recommendations to administrative bodies and private stakeholders. Nevertheless, there is a significant dependency on the government.

Art. 17a of the AEW²¹⁴ states that the state can financially support private associations for assistance in a complaint. No data is available on the extent to which this has taken place in the past and how many cases have been involved.

²¹⁰ [http://www.llv.li/pdf-llv-scg-](http://www.llv.li/pdf-llv-scg-reglement_kommission_chancengleichheit_schlussfassung_feb_8230_-2.pdf)

[reglement_kommission_chancengleichheit_schlussfassung_feb_8230_-2.pdf](http://www.llv.li/pdf-llv-scg-reglement_kommission_chancengleichheit_schlussfassung_feb_8230_-2.pdf).

²¹¹ Ombudsstelle für Kinder und Jugendliche: <http://www.oskj.li>.

²¹² Kinder- und Jugendgesetz vom 10. Dezember 2008 (KJG), LGBl. 2009, no. 29.

²¹³ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

²¹⁴ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.



The Office for Equality of People with Disabilities acts independently. It is rather a question of financial and staff resources whether assistance can be provided or not. There are various activities planned by the Office. Publications are issued on a non-regular basis.

The Ombudsman Office for Children and Young Persons is supposed to act independently. Recommendations on discrimination issues in respect of children have been published in the past. Furthermore, the Ombudsman Office for Children and Young Persons assists individuals in issues concerning official authorities (e.g. the Education Authority).

The Act on Aid for Victims of Criminal Offences (AAVCO) also provides for assistance of victims. This Office for Aid for Victims of Criminal Offences advises victims for free and supports victims by financial means. The Office also assists victims at court trials. The Office is part of the Department of Social Services, but is supposed to act independently (Art. 9 §1 AAVCO).

In addition, mainly private organisations provide assistance to persons suffering discrimination (pls. refer to 7. c). The most important and best known are:

- *Commission for Equality of Women and Men*
 - *Integration Office at the Aliens Department*
 - *Ombudsman Office for Children and Young Persons*
- e) *Are the tasks undertaken by the body/bodies independently (notably those listed in the Directive 2000/43; providing independent assistance to victims of discrimination in pursuing their complaints about discrimination, conducting independent surveys concerning discrimination and publishing independent reports).*

The Office for Equal Opportunities – formerly Office for Equality of Women and Men – runs its own studies or awards contracts with specialist research institutes to make research with relevance to equal opportunities. Nevertheless it has to be mentioned that because the anti-discrimination provisions are spread across a number of laws, their coverage is in part patchy. The existing Ombudsman Offices – such as the Office for Equal Opportunities, the Office for Equality of Treatment for people with a disability and the Ombudsman Office for Children and Young People are publicly funded and – in the case of the Office for Equal Opportunities – directly associated to an official department of the government. Based on this structure the tasks undertaken by the bodies are not fully independently.

- f) *Does the body (or bodies) have legal standing to bring discrimination complaints or to intervene in legal cases concerning discrimination?*

The Office for Equal Opportunities and the Commission for Equal Opportunities can advise victims, but cannot bring a complaint to the courts on behalf of the victims.



The only exception is defined in Art. 7 §1 of the AEW, ²¹⁵ which states that associations with Liechtenstein residence which support equality between women and men or which support the interests of female and male employees and which have been in existence for at least five years can act - in the event that they are mandated by the victim – as follows:

- a) have courts confirm on their own behalf that discrimination exists;
- b) go to court in the name of a complainant or assist a complainant at a court hearing.

If the court confirms that discrimination exists, the next step would be to prevent and to eliminate the discrimination.

In Art. 7a of the AEW ²¹⁶ it is stated that disadvantages for complainants on grounds of gender discrimination are forbidden.

The AEPD in relation to public buildings contains nearly similar provisions as the AEW. Associations for people with disabilities with Liechtenstein residence which have been in existence for at least five years are entitled to make legal claims on their own behalf for accessibility provision in public buildings, accessibility of public roads and traffic areas, and accessibility on public transport systems. They can do this in their own name (Art. 31, Arts. 27-29 of the AEPD). ²¹⁷

There are no relevant provisions concerning other grounds of discrimination.

- g) *Is / are the body / bodies a quasi-judicial institution? Please briefly describe how this functions. Are the decisions binding? Does the body /bodies have the power to impose sanctions? Is an appeal possible? To the body itself? To courts? Are the decisions well respected? (Please illustrate with examples/decisions).*

The Office for Equal Opportunities and the respective Commission are not judicial bodies. The role of both cannot be interpreted as quasi-judicial. Their statements have no binding legal character and do not automatically trigger a right of action (in court). The Commission cannot impose sanctions.

- h) *Does the body register the number of complaints and decisions? (by ground, field, type of discrimination, etc.?) Are these data available to the public?*

²¹⁵ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

²¹⁶ Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999, no. 96.

²¹⁷ Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006, no. 243.

The Office for Equal Opportunities publishes an activity report²¹⁸ every year as part of the official annual report of the government. Part of this report is the amount of contacts/complaints which were placed at the Office without giving the grounds, fields or type of discrimination. Furthermore the various activities in the different fields of discrimination are also outlined in the report. The latest available activity report, as part of the annual report of the government, is dated from 2013. Within 2013, between 30 and 40 persons have contacted the Office for Equal Opportunities. The Office for Equal Opportunities does not publish an official statistic containing complaints and court decisions by any ground, field or type of discrimination.

In regard to the Office for Children and Young People there exists also an annual report²¹⁹ about the tasks and activities of the Office. An overview about the number of complaints and decisions in relation to the Office for Children and Young People is given within the annual report but there is no comprehensive statistic available regarding case laws etc.

- i) *Does the body treat Roma and Travellers as a priority issue? If so, please summarise its approach relating to Roma and Travellers.*

Roma and Travellers are not a priority issue since there is no Roma minority living in Liechtenstein nor are there travellers. There are no specific problems which need to be addressed concerning Roma and Travellers at this time.

²¹⁸ <http://www.llv.li/files/srk/Rechenschaftsbericht%202013-mit%20Landesrechnung.pdf>, pp. 216-221.

²¹⁹ <http://www.oskj.li/Portals/0/docs/TAETKBER%20OSKJ%202012%20pdf%20%20.pdf>.



8 IMPLEMENTATION ISSUES

8.1 Dissemination of information, dialogue with NGOs and between social partners

Describe *briefly* the action taken by the Member State

- a) *to disseminate information about legal protection against discrimination (Article 10 Directive 2000/43 and Article 12 Directive 2000/78)*

The dissemination of information concerning legal protection against discrimination is not directly promoted by state organs. However, the state supports private agencies that are active in this regard.

The Association for People with Disabilities gives assistance to people with disabilities in many regards. Much of the public affairs is done via the Liechtenstein daily newspapers. There are many news, articles etc., addressed to the public through this media channel. Information on websites is important as well. The Association runs an own website. The following webpage contains links to websites related to one or another aspect of disability [<http://www.lbv.li/Links/tabid/813/Default.aspx>].

The employees' association²²⁰ provides information and support for members as well as for non-members. The Liechtenstein employees' association, though, is rather weak. Only a small proportion of the workers are members of the employees' association and thus the employees' association lacks financial and staff resources.

The organization called "Infra"²²¹ – which is a private service and contact office for women – advises women on various topics free of charge. Experienced lawyers advise and inform women about their rights and legal protection in individual interviews.²²²

The organization "Flay" is an organization for gay people. It informs about legal protection against discrimination based on sexual orientation.

There are several other organizations and campaigns against discrimination as well as for education on discrimination. They also inform on legal protection and rights in the case of discrimination.

- b) *to encourage dialogue with NGOs with a view to promoting the principle of equal treatment (Article 12 Directive 2000/43 and Article 14 Directive 2000/78) and*

²²⁰ ArbeitnehmerInnenverband (LANV): <http://www.lanv.li>.

²²¹ Informations- und Kontaktstelle für Frauen (infra): <http://www.infra.li>.

²²² Homepage: <http://www.infra.li/Themen/Beratung.aspx>.



During the process of developing new legal provisions there are regular consultations (*Vernehmlassung*). Relevant social groups are invited to give comments and statements on draft bills. This eventually has an impact on the final version of an act.

When it comes to the role of the state as an employer, there is the goal of acting as an employer with responsibility, taking into account the needs of underprivileged groups such as people with disabilities and women (Art. 4 of the AEGS).²²³

See also a) above.

- c) *to promote dialogue between social partners to give effect to the principle of equal treatment within workplace practices, codes of practice, workforce monitoring (Article 11 Directive 2000/43 and Article 13 Directive 2000/78)*

The state leaves negotiations between the employees' association and the employers to a high degree to the social partners themselves. State interventions are restricted mainly to the monitoring of the respective laws.

The foundation SAVE (founded 12/2007) is maintained jointly by the employees' association and the Chamber of Commerce. SAVE has set up a Central Parity Commission (*Zentrale Paritätische Kommission, ZKP*) in order to monitor collective labour agreements (*Gesamtarbeitsverträge, GAV*).²²⁶

See also a) above.

- d) *to specifically address the situation of Roma and Travellers. Is there any specific body or organ appointed on the national level to address Roma issues?*

There are no specific problems which need to be addressed concerning Roma and Travellers at this time. Therefore no specific body or organ is appointed.

8.2 Compliance (Article 14 Directive 2000/43, Article 16 Directive 2000/78)

- a) *Are there mechanisms to ensure that contracts, collective agreements, internal rules of undertakings and the rules governing independent occupations, professions, workers' associations or employers' associations do not conflict with the principle of equal treatment? These may include general principles of the national system, such as, for example, "lex specialis derogat legi generali (special rules prevail over general rules) and lex posteriori derogat legi priori (more recent rules prevail over less recent rules).*

²²³ Gesetz vom 24. April 2008 über das Dienstverhältnis des Staatspersonals (Staatspersonalgesetz; StPG), LGBl. 2008 Nr. 144.



The legal system of Liechtenstein demands that laws are in accordance with the Constitution and relevant international law; bylaws have to be in harmony with the respective laws. Thus, complaints to the courts can ultimately result in the Constitutional Court declaring a provision null and void.

b) *Are any laws, regulations or rules that are contrary to the principle of equality still in force?*

The political system of Liechtenstein is a combination of democracy and hereditary monarchy. The family statute of the Princely House²²⁴ rules that the oldest son of the Prince shall be the successor to the throne (male primogeniture). Women are therefore excluded from succession to the throne. This traditional rule of succession to the throne was affirmed by the Princely House in 1993.

There are no further laws or regulations known to the authors which are contrary to the principle of equality and legally in force. Nevertheless, there are some areas of equality treatment which are not explicitly regulated or where no specific law is in place. These areas are mainly related to unequal treatment by grounds of nationality, race, religion or sex.

²²⁴ Hausgesetz des Fürstlichen Hauses vom 26. Oktober 1993, LGBl. 1993 Nr. 100.



9 CO-ORDINATION AT NATIONAL LEVEL

Which government department/ other authority is/ are responsible for dealing with or co-ordinating issues regarding anti-discrimination on the grounds covered by this report?

Ministry of Society (*Ressort Soziales, Ressort Familie und Chancengleichheit*)
 Ministry of Home Affairs, Justice and Economics (*Ressort Justiz, Ressort Inneres*)
 Ministry of Foreign Affairs, Education and Culture (*Ressort Bildung.*)

The Ministries are in different aspects involved in questions of discrimination. The Ministry of Family Affairs and Equal Opportunities is responsible for the implementation of the AEW and supervising the Office for Equal Opportunities, which covers all aspects of discrimination. Thus, the Ministry of Family Affairs and Equal Opportunities is the leading ministry within the government concerning discrimination. The co-operation between the different ministries is quite close since the government, by Constitution, is collegial and decisions are taken collectively.

Is there an anti-racism or anti-discrimination National Action Plan? If yes, please describe it briefly.

A National Action Plan against racism was discussed in 2002 (Nationaler Aktionsplan gegen Rassismus). A working group with representatives from several administrative departments finally stated that a national action plan against racism would be very hard to implement due to overlaps between involved parties. Based on this outcome, specific action plans for single areas of potential discrimination were developed (e.g. establishing the Commission on protection against violence (Gewaltschutzkommission),²²⁵ and the action plan against right-wing extremism).²²⁶

²²⁵ Gewaltschutzkommission Liechtenstein: <http://www.respect-bitte.li/Aktivitaeten/GewaltimSport/tabid/69/Default.aspx>.

²²⁶ <http://www.gewaltschutz.li/Portals/0/pdf/MAX%20klein.pdf>.



ANNEX

- 1. Table of key national anti-discrimination legislation**
- 2. Table of international instruments**
- 3. Previous case-law**



ANNEX 1: TABLE OF KEY NATIONAL ANTI-DISCRIMINATION LEGISLATION

Please list below the **main transposition and Anti-discrimination legislation** at both Federal and federated/provincial level

Name of Country: Liechtenstein

Date: 1 January 2014

Title of Legislation (including amending legislation)	Date of adoption:d/m/y	Date of entry in force from :dd/m/y	Grounds covered	Civil/Administrative/ Criminal Law	Material Scope	Principal content
Act on Equality of People with Disabilities (<i>Gesetz über die Gleichstellung von Menschen mit Behinderungen; Behindertengleichstellungsgesetz; BGIG; LGBl. 2006 no 243</i>) ²²⁷	25 October 2006	1 January 2007	Disability	Civil/Administrative Law	All sectors	Equality of people with disabilities; prohibition of discrimination; support for people with disabilities; reasonable accommodation for persons with disability; pilot projects for integration into work environment.

²²⁷ <http://www.gesetze.li/Seite2.jsp?LGBl=2006243.xml&Searchstring=behinderung&showLGBl=true&suchart=lgbllaktuell>.



Act on Equality between Women and Men (<i>Gesetz über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; GLG; LGBl. 1999 no 96</i>) ²²⁸	10 March 1999	Day of announcement	Gender	Civil/Administrative Law	Employment; services; goods	Equality between women and men in all sections; prohibition of discrimination
Act on Disability Insurance (<i>Invalidenversicherung; IVG; LGBl. 1959 no. 5</i>) ²²⁹	23 December 1959	1 January 1960	Disability	Civil/Administrative Law	Insurance; goods; assistance; employment	Financial support for people with disabilities; direct and indirect assistance to improve living and working conditions; support of care homes and sheltered workshops
Act on Civil Union for Same-Sex Couples (<i>Gesetz über die eingetragene</i>	16 March 2011 (parliament);	1 September 2011	Sexual orientation	Civil Law	Same-sex registered partnership	Official Recognition of same-sex partnership/same-

²²⁸ <http://www.gesetze.li/Seite2.jsp?LGBl=1999096.xml&Searchstring=gleichstellung&showLGBl=true&suchart=lgblaktuell>.

²²⁹ <http://www.gesetze.li/Seite2.jsp?LGBl=1960005.xml&Searchstring=invaliden&showLGBl=true&suchart=lgblaktuell>.



<i>Partnerschaft gleichgeschlechtlicher Paare; Partnerschaftsgesetz; PartG; LGBl. 2011 no 350</i> ²³⁰	17/19 June 2011 (popular vote)					sex couples
Common Civil Code (<i>Allgemeines Bürgerliches Gesetzbuch; ABGB</i>) ²³¹	1 June 1811	-	Gender, nationality, pregnancy	Civil Law	General	Civil rights
Penal Code (<i>Strafgesetzbuch; StGB; LGBl. 1988 no 37</i>) ²³² [Amendment regarding racial discrimination by LGBl. 2000 no. 36]	24 June 1987 [15 December 1999]	1 January 1989 [Day of announcement]	Race, national origin, ethnicity, language, religion, belief	Criminal Law	Penalties	Prohibition of racial discrimination by threat of punishment
Act on Foreigners (<i>Ausländergesetz; AuG; LGBl. 2008 no. 311</i>) ²³³	17 September 2008		Integration (nationality, race, ethnic origin)			

²³⁰ <http://www.gesetze.li/Seite2.jsp?LGBl=2011350.xml&Searchstring=partnerschaft&showLGBl=true&suchart=lgbaktuell>.

²³¹ <http://www.gesetze.li/Seite2.jsp?LGBl=1003001.xml&Searchstring=invaliden&showLGBl=true&suchart=lgbaktuell>.

²³² <http://www.gesetze.li/Seite2.jsp?LGBl=1988037.xml&Searchstring=strafgesetzbuch&showLGBl=true&suchart=lgbaktuell>.

²³³ <http://www.gesetze.li/Seite2.jsp?LGBl=2008311.xml&Searchstring=ausl%E4ndergesetz&showLGBl=true&suchart=lgbaktuell>.



ANNEX 2: TABLE OF INTERNATIONAL INSTRUMENTS

Name of country: Liechtenstein

Date: 1 January 2014

Instrument	Date of signature (if not signed please indicate) Day/month/year	Date of ratification (if not ratified please indicate) Day/month/year	Derogations/ reservations relevant to equality and non- discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
European Convention on Human Rights (ECHR)	23 November 1978 ²³⁴	8 September 1982 (entry into force)	Art. 64 and Art. 6 §1: Regarding publicity of trials, several existing national legal provisions that might limit publicity shall remain valid.	Yes	Yes
Protocol 12, ECHR	4 November 2000 ²³⁵	Not ratified.	N/A	N/A	N/A
Revised European Social Charter	not yet signed by Liechtenstein ²³⁶	Not ratified	N/A	N/A	N/A

²³⁴ *Europäische Menschenrechtskonvention*, LGBl. 1982 no. 60/1), <http://www.gesetze.li/Seite1.jsp?LGBIm=1982060a>.

²³⁵ <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=177&CM=1&DF=10/02/2010&CL=ENG>.

²³⁶ <http://www.conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=163&CM=7&DF=26/10/2008&CL=ENG>.



Instrument	Date of signature (if not signed please indicate) Day/month/year	Date of ratification (if not ratified please indicate) Day/month/year	Derogations/ reservations relevant to equality and non- discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
International Covenant on Civil and Political Rights	16 December 1966 ²³⁷	10 December 1998	Art. 26: “The Principality of Liechtenstein reserves the right to guarantee the rights contained in article 26 of the Covenant concerning the equality of all persons before the law and their entitlement without any discrimination to the equal protection of the law only in connection with other rights contained in the present Covenant.”	Yes	Yes
Framework Convention	No signature. Direct	18 September 1997	Declaration that no national minorities are	No specific regulation is	See reservations

²³⁷ Internationaler Pakt vom 16. Dezember 1966 über bürgerliche und politische Rechte; LGBl. 1999 no. 58. <http://www.gesetze.li/Seite1.jsp?LGBIm=1999058>.



Instrument	Date of signature (if not signed please indicate) Day/month/year	Date of ratification (if not ratified please indicate) Day/month/year	Derogations/ reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
for the Protection of National Minorities	Ratification ²³⁸	(parliament) 1 March 1998 (entry into force)	present in Liechtenstein and that the ratification has to be seen as an act of solidarity with the goals of the convention.	given within the framework. Nevertheless Art. 3 is accepted, saying that "Persons belonging to national minorities may exercise the rights flowing from the principles enshrined in the framework Convention individually as well as ...	

²³⁸ *Rahmenübereinkommen vom 1. Februar 1995 zum Schutz nationaler Minderheiten*; LGBl. 1998 no. 10, <http://www.gesetze.li/Seite1.jsp?LGBIm=1998010>.



Instrument	Date of signature (if not signed please indicate) Day/month/year	Date of ratification (if not ratified please indicate) Day/month/year	Derogations/ reservations relevant to equality and non- discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
International Convention on Economic, Social and Cultural Rights	No signature. Direct Ratification ²³⁹	16 September 1998 (parliament) 10 March 1999 (entry into force)	No derogations.	Yes	Yes
Convention on the Elimination of All Forms of Racial Discrimination	No signature. Direct Ratification ²⁴⁰	21 October 1999 (parliament) 31 March 2000 (entry into force)	Art. 14: Only applicable if a case is not investigated by another international agency at the same time	Yes	Yes. Pursuant to article 14, paragraph 2, of the Convention, the Constitutional Court has been designated as competent to receive and consider petitions

²³⁹ *Internationaler Pakt vom 16. Dezember 1966 über wirtschaftliche, soziale und kulturelle Rechte*; LGBl. 1999 no. 57, <http://www.gesetze.li/Seite1.jsp?LGBIm=1999057>.

²⁴⁰ *Internationales Übereinkommen zur Beseitigung jeder Form von Rassendiskriminierung*, LGBl. 2000 no. 80, <http://www.gesetze.li/Seite1.jsp?LGBIm=2000080>.



Instrument	Date of signature (if not signed please indicate) Day/month/year	Date of ratification (if not ratified please indicate) Day/month/year	Derogations/ reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
					from individuals and groups of individuals within the jurisdiction of Liechtenstein who claim to be victims of a violation of any of the rights set forth in the Convention."
Convention on the Elimination of all Forms of Discrimination Against Women	No signature. Direct Ratification ²⁴¹	31 October 1995 (parliament) 21 January 1996 (entry into force)	Art. 3 of the Liechtenstein Constitution regarding the succession to the throne etc. laid down by the Princely House in the form of a Law on the Princely House	Yes	Yes

²⁴¹ Übereinkommen zur Beseitigung jeder Form von Diskriminierung der Frau; LGBl. 1996 no. 164, <http://www.gesetze.li/Seite1.jsp?LGBIm=1996164>.



Instrument	Date of signature (if not signed please indicate) Day/month/year	Date of ratification (if not ratified please indicate) Day/month/year	Derogations/ reservations relevant to equality and non- discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
			(male primogeniture etc.)		
ILO Convention No. 111 on Discrimination	Not Signed. Liechtenstein is not an ILO member state	N/A	N/A	N/A	N/A
Convention on the Rights of the Child ²⁴²	30 September 1990	22 December 1995	On 1 October 2009, the Government of Liechtenstein informed the Secretary-General that it had decided to withdraw the declaration concerning article 1 and the reservation concerning article 7 made upon ratification to the Convention. The text of the declaration	YES	Yes

²⁴²Übereinkommen vom 20. November 1989 über die Rechte des Kindes; LGBl. 1996 no. 163, <http://www.gesetze.li/Seite1.jsp?LGBIm=1996163>.



Instrument	Date of signature (if not signed please indicate) Day/month/year	Date of ratification (if not ratified please indicate) Day/month/year	Derogations/ reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
			<p>withdrawn reads as follows: “According to the legislation of the Principality of Liechtenstein children reach majority at 20 years of age. However, Liechtenstein law provides for the possibility to prolong or to shorten the duration of minority.” The text of the reservation withdrawn reads as follows: “The Principality of Liechtenstein reserves the right to apply the Liechtenstein legislation according to which Liechtenstein nationality</p>		



Instrument	Date of signature (if not signed please indicate) Day/month/year	Date of ratification (if not ratified please indicate) Day/month/year	Derogations/ reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
			is granted under certain conditions.”		
Convention on the Rights of Persons with Disabilities	Not Signed	N/A	N/A	N/A	N/A

Additional international instruments

Instrument	Date of signature (if not signed please indicate) Day/month/year	Date of ratification (if not ratified please indicate) Day/month/year	Derogations/ reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?



<p>European Charter for Regional or Minority Languages²⁴³ (<i>Europäische Charta vom 5. November 1992 der Regional- oder Minderheitensprachen</i>; LGBl. 1998 no. 9)²⁴⁴</p>	<p>No signature. Direct Ratification.</p>	<p>5 November 1997 (parliament) 1 March 1998 (entry into force)</p>	<p>Declaration that in Liechtenstein no regional or minority languages exist</p>	<p>No specific regulation is given within the Charta. Nevertheless Art. 3 is accepted, saying that “Persons belonging to minorities may exercise the rights, including those set forth in the present declaration ... individually as well as</p>	<p>Yes</p>
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²⁴³ <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=148&CM=8&DF=23/01/05&CL=ENG>.

²⁴⁴ <http://www.gesetze.li/Seite1.jsp?LGBIm=1998009>.



Protocol of 6 October 1999; LGBl. 2002 no. 17 amending the Convention on the Elimination of Discrimination Against Women	Direct Ratification	13 September 2001 (parliament) 24 January 2002 (entry into force)	See Convention on the Elimination of Discrimination Against Women	Yes	Yes
Optional Protocol to amending the Convention on the Rights for the Child as of 29 May 2000; LGBl. 2013 no. 164	08. September 2000.	20 December 2012 (parliament) 28 February 2013 (entry into force)	See Convention on the Rights for the Child	Yes	Yes
Protocol No. 15 amending the Convention for the Protection of Human Rights and Fundamental Freedoms	24 June 2013	26 November 2013	See European Convention on Human Rights	Yes	Yes

ANNEX 3: PREVIOUS CASE-LAW**Name of the court:** StGH Liechtenstein**Date of decision:** 15 May 2012**Name of the parties:** anonymous**Reference number:** StGH 2011/203**Address of the webpage:**<http://www.gerichtsentseide.li/default.aspx?mode=suche&txt=&id=3321&backurl=?mode=suche%26txt=>

Brief summary: Case law regarding discrimination on grounds of race or ethnic origin. A private individual claimed to have been discriminated against by the national law (Art. 9 §1 of the Arms Law/WaffG) because of his ethnic origin, namely his nationality. The by-law to the Liechtenstein Arms Law (Waffenverordnung, WaffV)²⁴⁵ bans citizens of certain states generally from possessing and carrying weapons under the law. The Liechtenstein Administrative Court (Verwaltungsgerichtshof) decided to uphold the appellant's claim, basically based on the argument that the by-law was contrary to the law. Therefore an application of standard verification was given to the Constitutional Court of Liechtenstein (Staatsgerichtshof), who finally did not agree to the application and therefore judged the by-law as not contrary to the Constitution, the law or international agreements. Essentially the judgment was based on the following arguments:

- Based on the case law of the Constitutional Court of Liechtenstein, no arbitrariness is given through the weapons ban for Turkish nationals, as neither the standard itself nor the standard based differentiation between norm addressees was beyond objective justification.
- Legislative violations against human dignity have to be measured through stringent standards. A violation in this sense cannot be seen in the given case, meaning the by-law regulation is not contrary to international agreements.

The Committee on the Elimination of Racial Discrimination (CERD) was not invoked.

Name of the court: OGH- Fürstlicher Oberster Gerichtshof (Princely High Court)**Date of decision:** 09 March 2011**Name of the parties:** -**Reference number:** 03 KG.2010.16**Address of the webpage:**<http://www.gerichtsentseide.li/default.aspx?mode=suche&txt=Brandanschlag&id=2401&backurl=?mode=suche%26txt=Brandanschlag>

Brief summary: On 22 November 2009, NN threw a petrol bomb into the apartment of family Ü. The bomb bounced off the balcony railing causing some objects to catch fire (cushion and a tool box). The rest of the bomb burned out on the parking space

²⁴⁵ Verordnung vom 16. Juni 2009 über Waffen, Waffenzubehör und Munition (Waffenverordnung; WaffV), LGBl. 2009, no. 166.

in front of the building. Then, on February 26th, 2010, NN and at least one other unnamed person threw four petrol bombs into a new shop which was due to open soon. They also smashed windows before throwing the petrol bombs. The families living above the shop, as well as the owner of the shop, are of Turkish and Kosovan origin. The attack was motivated by racism. The petrol bombs burned out and caused no damage to the rest of the building or the furnishings.

The court trial had started at the Princely Ordinary Court as Criminal Court (*Land- als Kriminalgericht*) (Decision on 5 October 2010), followed by the Princely Upper Court (*Obergericht*) (7 December 2010). The sentence of the Ordinary Court was confirmed by the Upper Court. NN was sentenced to 30 months of prison.

Name of the court: StGH Liechtenstein

Date of decision: 20 December 2010

Name of the parties: anonym

Reference number: StGH 2010/088

Address of the webpage:

<http://www.gerichtsentcheidungen.li/default.aspx?mode=gerichte&prim=2&value=2010&id=2553&backurl=?mode=gerichte%26prim=2%26value=2010>

Brief summary: case law regarding racial discrimination by a natural person who actively participated in a racial discrimination group which itself encourage and incited to racial discrimination. The person was found guilty by the court and sentenced a 3-year sentence, suspended for 4 month.

Name of the court: OGH- *Fürstlicher Oberster Gerichtshof* (Princely High Court)

Date of decision: 02 August 2006

Name of the parties: -

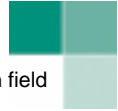
Reference number: 1 JG 2005.32-49

Address of the webpage:

<http://www.gerichtsentcheide.li/default.aspx?mode=suche&txt=1%20JG%202005.32-49&gericht=4>

Brief summary: On June 23, 2003, NN was incriminated because he had displayed a swastika banner and the SS sign which could be seen from the outside. The police also found different CDs of Nazi bands which he had bought over the internet and had also sold to various friends. Both the banners and the music were directed towards the systematic reduction or defamation of members of a certain race or religion; meaning that NN had twice contravened the laws against racial discrimination under §283 Art. 1 Par. 2 and §283 Art. 2 Par. 2 of the Penal Code (PC).²⁴⁶ The accused person was sentenced to three months of prison. The sentence was put on probation.

²⁴⁶ Strafgesetzbuch (StGB) vom 24. Juni 1987; LGBl. 1988, no. 37.



The court trial had started at the Princely Ordinary Court as Juvenile Court (*Landgericht als Jugendgericht*) (Decision on 21 February 2006), followed by the Princely Upper Court (*Obergericht*) (31 May 2006).

ANNEX 4: ABBREVIATIONS

AA	Act on Aviation
AABP	Act on Assistance for Blind People
AAVCO	Act on Aid for Victims of Criminal Offences
ACC	Act on the Constitutional Court
ACPP	Act on Company Personnel Plan
ACRPD	Act on Central Register of Personal Data
ACUSSC	Act on Civil Union for Same-Sex Couples
ACY	Act on Children and Youth
ADI	Act on Disability Insurance
AECS	Act on the Employment of Public Officials
AEICT	Act on Employment in Industry, Commerce and Trade
AEPD	Act on Equality of People with Disabilities
AEWM	Act on Equality between Women and Men
AF	Act on Foreigners
AFM	Act on Free Movement of Persons of EEA and Swiss citizens
AIC	Act on Information and Consultation of Employees in Undertakings
AM	Act on Media
AMA	Act on Marriage
AMCLC	Act on Mediation in Civil Law Cases
APS	Act on Postal Services
ARAF	Act on Rent Allowance for Families
AS	Act on Statistics
ASANP	Act on Supplementary Aid to the National Old Age and Widow's/Widower's Pension
ASA	Act on State Administration
ASH	Act on Social Help
ASE	Act on School Education
AVT	Act on Vocational Training
CCC	Common Civil Code
CCP	Code of Civil Procedure
DPA	Data Protection Act
NOWP	National Old Age and Widow's/Widower's Pension
PC	Penal Code
PCL	Personal and Corporate Law



ANNEX 5 DEFINITION OF TERMS

Refuge for women who are exposed to violence	Frauenhaus
Administration Court	Verwaltungsgerichtshof
Arbitration board	Schlichtungsstelle
Arranged areas of life	gestaltete Lebensbereiche
Care homes and residential groups for young people	Jugendwohngruppen
Central Parity Commission	Zentrale Paritätische Kommission
Collective labour agreements	Gesamtarbeitsverträge
Constitutional Court	Staatsgerichtshof
Freedom of belief and conscience	Glaubens- und Gewissensfreiheit
Freedom of speech	Meinungsfreiheit
Helplessness allowance	Hilfslosenentschädigung
Joint plaintiffs	Streitgenossen
Legal person	juristische Person
Liechtenstein citizens	Landesangehörige
Lower country	Unterland
Ministry of Society	Ministerium für Gesellschaft
Ministry of Home Affairs, Justice and Economics	Ministerium für Inneres, Justiz und Wirtschaft
Ministry of Foreign Affairs, Education and Culture	Ministerium für Äusseres, Bildung und Kultur
Natural person	natürliche Person
Parliament	Landtag
Princely Ordinary Court	Landesgericht
Princely Upper Court	Obergericht
Princely High Court	Oberster Gerichtshof
Right of Naturalisation	Einbürgerungsrecht
Right of assembly and association	Vereins- und Versammlungsrecht
Undue burden	unverhältnismässige Belastung
Upper country	Oberland