



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

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**Committee against Torture**

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**Written replies by the Government of Liechtenstein  
to the list of issues (CAT/C/LIE/Q/3) to be taken up in  
connection with the consideration of the third periodic report  
of Liechtenstein (CAT/C/LIE/3)\***

[6 April 2010]

**Article 1**

**Reply to the issues raised in paragraph 1 of the list of issues (CAT/C/LIE/Q/3)**

1. As explained in para. 37 of the report, § 312 of the Liechtenstein Criminal Code (StGB) contains the offense of "torment and neglect of a prisoner", which is expressly penalized. Unlike the definition of torture in the Convention, punishment under this article does not require that the acts inflict severe physical or mental pain or suffering. However, if the offense leads to serious injury or injury with serious permanent consequences, the sentence is increased. Also subject to punishment is considerable damage to physical or mental development due to gross neglect of the obligation to ensure care and custody. On a supplementary basis, the offense of bodily injury set out in §§ 83 to 90 StGB may apply if the offense is committed by a person not serving in an official function. In such a case, § 12 StGB also applies, which provides that not only the immediate perpetrator is guilty of a punishable offense, but also persons directing others to commit the offense or otherwise contributing to its commission.

2. By ratifying and publishing the Convention in the Liechtenstein Law Gazette, the provisions thereof have become an integral component of the Liechtenstein legal order pursuant to Liechtenstein's monist legal system. The same is true of the European Convention on Human Rights and in particular article 3 thereof, the interpretation of which has been developed in extensive case law of the European Court of Human Rights. This interpretation and the definition of torture in article 1 of the Convention can be used to apply the aforementioned penal provisions.

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

## Article 2

### Reply to the issues raised in paragraph 2 of the list of issues

3. The starting point for amendment of the Liechtenstein Constitution (LV) by the new article 27bis was a popular initiative "For Life", the goal of which was to "protect human life from conception to natural death" by amending article 14 of the Constitution. Over the course of the debate on this popular initiative, the Liechtenstein Parliament drafted a counterproposal which was ultimately approved in a popular vote on 25/27 November 2005. This counterproposal amended the Constitution by adding article 27bis and article 27ter, which read as follows:

#### *Article 27bis LV*

- 1) Human dignity shall be respected and protected.
- 2) No one may be subjected to inhuman or degrading treatment or punishment.

#### *Article 27ter LV*

- 1) Every person shall have the right to life.
- 2) The death penalty shall be prohibited.

4. In the debate on this counterproposal in Parliament, the point was made in reference to article 27bis para. 2 that torture is a "qualified form of inhuman and degrading treatment" and that the prohibition of torture is thus contained in the prohibition of inhuman and degrading treatment. The Parliament was thus of the opinion that it would be unnecessary to expressly include the prohibition of torture in this provision. At the same time, it was noted that the prohibition of torture was already included at that time in the Liechtenstein Constitution. Article 10 para. 2 LV provides that the "prohibition of torture and inhuman treatment" is an absolute obligation and may not be undermined either by law or by emergency decrees issued by the Reigning Prince.

5. Against the backdrop of this "legislative history" of article 27bis LV and the direct application of the international human rights conventions to which Liechtenstein is a party (especially the Convention against Torture and the European Convention on Human Rights; see also the answer to question 1), there is currently no intention to include an explicit definition of "torture" in the Constitution.

6. No cases arose before Liechtenstein courts during the reporting period in which a reference to article 27bis or the Convention against Torture served as the basis for a complaint. In fact, there has never been a legal complaint or proceeding in Liechtenstein for torture or other cruel, inhuman or degrading treatment or punishment.

### Reply to the issues raised in paragraph 3 of the list of issues

7. In reference to the Corrections Commission, which also serves as the national preventive mechanism (NPM) under the Optional Protocol to the Convention against Torture (OPCAT), the following information is intended to supplement article 71 of the report.

8. The Commission was established by the Government in December 2007 on the basis of article 17 of the Execution of Sentences Act (StVG) and took up its work at the beginning of 2008. The key aspects relating to its mandate and functioning are set out in article 17 StVG, the full text of which is included below, and were already explained to a large extent in para. 71 of the report.

9. Pursuant to article 17 para. 1 StVG, the Commission is mandated to "satisfy itself that provisions governing the execution of sentences are precisely observed, especially with respect to the treatment of prisoners." This includes verification of legal norms governing compliance with the prohibition of torture and other forms of ill-treatment as well as reporting on any violations of these legal norms in practice (article 17 paras. 1 and 6 StVG). It should be emphasized in this regard that the Commission is authorized to speak with persons detained in the National Prison in private. It should also be noted that the activities of the Corrections Commission are not limited to convicted persons. Rather, it also concerns itself with pre-trial detainees (§ 133 para. 4 of the Code of Criminal Procedure stipulates that the StVG is applicable in this regard) and other persons detained in the National Prison.

*Article 17 StVG:*

1) For terms of four years, the Government shall appoint a Commission whose members are not subject to any instructions in the exercise of their responsibilities. The Commission shall satisfy itself that provisions governing the execution of sentences are precisely observed, especially with respect to the treatment of prisoners.

2) The Commission shall be composed of five members, who for each year of the Commission's service shall elect a chairperson and a deputy chairperson from among their membership.

3) Persons may only be appointed as members who are capable of acting and who are trustworthy. At least two members shall not be in the service of the National Public Administration, and at least two members must be women. When appointing the members, special care shall be given to selecting persons who have an understanding of the execution of prison sentences.

4) The Commission may only act when the chairperson and at least three of the other members are present.

5) Each quarter, the Commission shall visit the National Prison once without notice. The Commission shall have the right to carry out additional visits. The National Prison shall, upon request, provide the Commission with the necessary information on prisoners and grant access to corrections records. The Commission shall be entitled to speak with the persons detained in the National Prison in private.

6) After each visit to the National Prison, the Commission shall notify the Government of its activities in writing within 14 days as well as when the Commission deems it necessary to provide suggestions.

7) When performing their duties, the members shall be considered equivalent to officials as defined in § 74(4) of the Criminal Code. They shall be subject to official secrecy and shall not be required to disclose the identity of an informant or to report judicially punishable acts.

8) Compensation shall be governed by the Law on Remuneration of Members of the Government, the Courts, the Commission, and the Governing Bodies of State Establishments and Foundations. The Government shall decide on the right to compensation.

9) The Government shall dismiss members who abuse their office.

10. In addition to the provisions set out in article 17 StVG, the Commission also has the responsibilities and rights appropriate to its function as NPM under Part IV (articles 17-23) of OPCAT (see also the remarks in the answer to question 1 on Liechtenstein's monist system). In particular, the Commission is empowered to regularly monitor the treatment of

persons who are deprived of their liberty at all places of detention as defined in article 4 OPCAT, with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment (article 19(a) OPCAT). Additionally, it may make recommendations to the Government with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment and punishment (article 19(b) OPCAT). The direct application of article 20 OPCAT entails that, as the NPM, the Commission is authorized to visit all places of detention under Liechtenstein jurisdiction. These visits need not be announced, and the Commission may speak with detained persons without the presence of corrections and supervision personnel and review the applicable documentation.

11. With respect to the composition of the Corrections Commission, the aspect of interdisciplinary composition of the Commission should be emphasized in addition to the points made in para. 71 of the report. Currently, the five members of the Commission are: (1) a university professor for criminal law, criminal procedure and criminology, (2) the Liechtenstein CPT member, who previously gathered international experience in the care of convicts, (3) the former managing director of Liechtenstein Probation Assistance, and one member each of the (4) Liechtenstein Medical Association and (5) the Liechtenstein Chamber of Lawyers.

12. Since taking up its work, the Corrections Commission (in its dual function as the Corrections Commission defined in article 17 StVG and as the NPM) has visited the National Prison a total of eight times (as of the beginning of March 2010) and reported on these visits to the Government in the form of quarterly and annual reports.

13. Overall, the Commission considers cooperation with the competent Government authorities and personnel of the facilities visited to be very good (see Annual Report 2009 of the Liechtenstein NPM). In particular, the Commission expressed satisfaction in that report that the NPM was immediately granted access to all facilities it wished to visit and that the NPM was also able to speak confidentially with all persons it wanted to.

14. The recommendations made by the Commission in its reports so far concerned the following issues:

- 1) Creation of premises permitting execution of sentences in a less stringent form (pursuant to article 120 StVG);
- 2) Access to the large prison courtyard for female detainees and pre-trial detainees;
- 3) Ensuring regular work placement for convicts;
- 4) Expansion of continuing education for prison staff and creation of a binding basis for such continuing education;
- 5) Establishment of supervision opportunities for prison staff and creation of a binding basis for participation in supervision events;
- 6) Uniform rules allocating competence in the field of corrections (full placement of corrections under the Ministry of Justice), i.e. separation of competence for justice enforcement facilities (National Prison) from competence for police and investigative authorities;
- 7) Dispensation of pharmaceuticals in the National Prison by medical personnel;
- 8) Regular therapeutic services in the National Prison;

- 9) Immediate briefing of detained persons on their right to access a medical doctor.

15. With a view to the discussion and potential implementation of the Commission's recommendations, a direct dialogue between the Commission and the ministries responsible for corrections (Home Affairs and Justice) has been established in recent years. The latest talks between the Commission and the Liechtenstein Minister of Justice and Minister of Home Affairs took place in August 2009, in which the recommendations of the Corrections Commission and next steps were discussed. (The plan is to continue this direct dialogue in future.) A specific need for action was identified in particular with respect to point 6 of the above list (full placement of corrections under the Ministry of Justice).

16. As a reaction to these talks, the Government commissioned an external evaluation of the question of full placement of corrections under the Ministry of Justice and of the personnel requirements in the National Prison for implementation of the Execution of Sentences Act. In order to obtain an unrestricted and unprejudiced assessment, two renowned corrections experts from Austria were appointed. The results of this evaluation should be available by the end of April 2010. After considering the results, the Government will define the next steps.

17. Irrespective of this evaluation, specific improvement measures have already been undertaken with respect to some of the recommendations made by the Commission, for instance in relation to points 3, 7, 8 and 9 (see also the answer to question 18).

#### **Reply to the issues raised in paragraph 4 of the list of issues**

18. On the basis of the new Children and Youth Act, which entered into force on 1 February 2009, the institution of an ombudsoffice for children and young people was established in accordance with the Paris Principles. The first ombudswoman was elected by Parliament on 20 October 2009 and began her work in January 2010. In addition, the responsibilities of an "Office for the Equality of People with Disabilities" was delegated to the Liechtenstein Disability Association (LBV), i.e. an NGO, on the basis of the Disability Equality Act (BGIG), which entered into force on 1 January 2007. In this function, the LBV is responsible for observing implementation of this law (article 22 BGIG). With the Victims Protection Office, which is explained in more detail in the answer to question 22, a further independent office has been established on the basis of the Victims Protection Act to support victims of human rights violations. These three offices complement the work of the Office for Equal Opportunity, the Commission for Equal Opportunity, and the Corrections Commission described in the answer to question 3.

19. In light of these various already existing human rights mechanisms and the small size of the country (approx. 35,000 inhabitants), there is currently no intention in Liechtenstein to create an additional human rights institution with a general focus.

20. With regard to the prevention of torture, the Liechtenstein authorities are of the view that the Corrections Commission fulfills the requirements for an NPM set out in the Optional Protocol to the Convention (see also the answers to questions 3 and 17).

#### **Reply to the issues raised in paragraph 5 of the list of issues**

21. Supplementing the remarks on article 2 CAT contained in paras. 15-28 of the report, it should be noted that the Liechtenstein National Police has issued instructions on implementation of the provisions mentioned there. These instructions govern the procedure for all arrests by the National Police, irrespective of the legal norm (Police Act, Code of Criminal Procedure, or immigration provisions) on which they are carried out. The instructions also cover the procedure for the arrest of juveniles, which is as follows:

(a) First of all, these instructions provide that all detentions – irrespective of any other legal notification provisions – must immediately be notified to the competent specialized officer (head of division). The prison staff of the National Prison must also be notified so that a medical examination can be conducted by the official doctor assigned to the National Prison within 24 hours. In the case of arrests carried out pursuant to criminal proceedings, the notification duty also includes the Office of the Public Prosecutor and the competent investigating judge.

(b) These instructions further stipulate that all detainees must immediately be informed of the grounds for their arrest and of their rights. This information must be provided in a language the detainee can understand. The rights of the detainee, of which the detainee is also informed, include the right to contact a related person of their choice and a lawyer. Foreign nationals are also informed that they are free to notify their consular representative of their detention. All detainees are also free to have an examination conducted by a doctor of their choice at their own expense, in addition to the examination by the prison doctor.

(c) Should a juvenile be detained (on an exceptional basis), a guardian or a relative of the juvenile living in the same household shall be notified immediately and without unnecessary delay, as well as the Office of Social Affairs and any probation officer assigned to the juvenile detainee. These communications are made *ex officio* and irrespective of the will of the juvenile detainee. All information provided to the detainee are also presented in writing in the form of a fact sheet.

(d) The information is provided to foreign-language detainees with the help of an interpreter. If an interpreter is not immediately available, the information is initially provided to the detainee in the form of an information sheet succinctly stating the grounds for detention and the detainee's rights. This information sheet is available in 20 different languages (currently Albanian, Bulgarian, Czech, Dutch, English, Finnish, French, German, Greek, Hungarian, Italian, Norwegian, Polish, Portuguese, Romanian, Russian, Serbo-Croatian, Slovenian, Somali and Spanish). As soon as the interpreter is available, the information is again provided in a comprehensive manner.

22. It should be noted in conclusion that when detainees are transferred to the National Prison, they are again notified of their rights by the prison director, and a copy of the Execution of Sentences Act and the House Rules are handed out. The detainees also receive information sheets on their rights and duties. These are currently available in German and six additional languages.

23. With respect to asylum-seekers, such persons are detained when undergoing deportation proceedings if they absconded in another country during pending proceedings and/or if they claimed a false identity. The detention order must be reviewed by a judge of the Court of Justice within 96 hours at the latest. Asylum-seekers filing complaints may be detained for a maximum of 72 hours. Detention orders and temporary detention orders are always translated by an interpreter and handed out to the asylum-seeker. Detention orders, temporary detention orders and explanations of rights are recorded in a protocol to be signed by the asylum-seeker. Asylum-seekers have the right to free legal counsel.

### **Article 3**

#### **Reply to the issues raised in paragraph 6 of the list of issues**

24. With respect to the systematic compilation of statistical data in specific individual areas, it must be remarked at the outset that the small size of the country of Liechtenstein and the capacities of its administration should be taken into account. The area of asylum is

also affected by this problem of limited personnel resources. Against this background, it is unfortunately not possible to provide all the information requested in question 6.

*(a) The number and nationalities of asylum-seekers who have applied for refugee status in Liechtenstein during the reporting period*

25. The following table provides an overview of the number of asylum-seekers in the reporting period, broken down by nationality of the applicants:

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	TOTAL
Afghanistan								1				1
Albania			1		1							2
Algeria		1					1					2
Angola											4	4
Argentina				1								1
Armenia		3				1		1			1	6
Austria		1			1							2
Azerbaijan				3		2						5
Belarus					2	4	12	4	4		4	30
Bosnia & Herzegovina		8		11	1	4	1	3				28
Brazil										1		1
Bulgaria						4			1	1		6
Cameroon					1		2					3
China							2			1		3
Congo										3		3
Croatia					1							1
Egypt										1		1
Ethiopia					1			1				2
France				1								1
Gambia										1		1
Georgia					1	1				2		4
Germany		2	4	2	1		3		1	1	3	17
Iran						1	3		1	1	1	7
Iraq						1			1	3		5
Israel							4	1		2		7
Kazakhstan					2	4	1	4	6			17
Kenya									1			1
Kosovo											1	1
Kyrgyzstan								1	4			5
Latvia					1							1
Macedonia				47	44	26	9	2	1		1	130

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	TOTAL
Moldova							1					1
Mongolia					2	1	2	4	1			10
Morocco		1							1	1		3
Netherlands								2				2
Nigeria								1				1
Poland		1				1				2		4
Romania					2							2
Russia		2			5	17	9	8	10	6	2	59
Saudi Arabia						1						1
Sweden							1					1
Switzerland			1		1		1			1		4
Serbia									7	2	1	10
Serbia & Montenegro	211	476	42	47	20	23	14	4				837
Slovakia		1				1						2
Somalia								11	7	2		20
stateless									1			1
Tajikistan						1						1
Czech Republic		4				1				1	2	8
Turkey	6	17	1					1			2	27
Ukraine	1	5	2		9	8	8	3				36
Yemen								1				1
TOTAL	218	522	51	112	96	102	74	53	47	32	22	1329

26. In total, 1,329 persons requested asylum in Liechtenstein in the reporting period. The large majority of asylum applications were submitted by persons from the countries of the Balkans and Eastern Europe.

(b) *The number of asylum requests which were based on the applicant's fear of being subject to torture or other forms of ill-treatment and the number of approved requests in those cases*

27. Due to the aforementioned problem of limited personnel resources, it has so far not been possible to make asylum statistics available broken down by grounds for asylum requests.

(c) *The number rejected asylum requests which were appealed, on what basis, and the outcome of such appeals*

28. The same applies to statistics broken down by appeals and appellate bodies.



(d) *The number of asylum requests and long-term resident permits that were granted on the basis of the Convention*

29. Since, due to the personnel situation, no orderly asylum statistics are available in this regard, no information on the number of asylum requests and resident permits granted on the basis of the Convention against Torture can be provided.

**Reply to the issues raised in paragraph 7 of the list of issues**

30. The following table provides an overview of deportations and expulsions in the years 2003-2008, broken down by nationality and gender of the affected persons. In total, 117 persons were deported or expelled during this time period. (Data on the years 1998 to 2003 are not available.)

	Men				Women			
Age group	0-13	14-17	18-34	35-64	0-13	14-17	18-34	35-64
Algeria			1					
Armenia				1				
Belarus			8	1			1	1
Bosnia & Herzegovina	1			1		2		1
Bulgaria				1				
Cameroon			1				1	
Ethiopia				1				
Georgia		1	2					
Iraq		1	2	1				
Israel				1				
Kazakhstan			2		1		1	
Kyrgyzstan				1				
Macedonia			6	2				
Moldova			1					
Mongolia						1	5	
Morocco				2				
Nigeria				1				
Poland					1			
Russia	2	3	6	8	3		3	1
Saudi Arabia								1
Sweden			1					
Serbia			1					

Serbia & Montenegro	1		4	3		1	2	2	
Somalia			3				1		
stateless			1						
Turkey				2					
Ukraine	1	1	3	6			3		
TOTAL	5	6	42	32	5	4	17	6	OVERALL TOTAL: 117

(a) *The meaning of “preventive expulsion” (para. 35). Under what circumstances are such expulsions executed?*

31. The Liechtenstein Refugee Act (FlüG) in principle provides that persons submitting an asylum request in Liechtenstein may stay in Liechtenstein until conclusion of the proceedings (article 30 para. 2 FlüG). However, asylum-seekers may be expelled on a preventive basis by the competent office (the Immigration and Passport Office) if an onward journey into a third country is possible, permissible and reasonable (article 30 para. 2 FlüG). This is the case if:

- this country is under a treaty obligation to consider the asylum request, subject to the principle of non-refoulement (article 3 FlüG);
- the persons previously spent some time there;
- relatives and other persons live there to whom the asylum-seekers have close links.

32. The possibility of preventive expulsion is mainly used in connection with decisions on non-consideration of asylum requests.

33. As explained in para. 35 of the report, preventive expulsion is executable immediately (article 30 para. 3 FlüG). However, the asylum-seeker may submit a request within 24 hours for restoration of the suspensive effect (article 90 para. 1 FlüG). The competent authority must then decide on a request for restoration of the suspensive effect within 48 hours (article 90 para. 2 FlüG).

(b) *The review procedures in place to determine that extradited, expelled or returned persons will not be in danger of being subjected to torture or other forms of ill-treatment, despite the strict time-frame under which preventive expulsion is decided and executed?*

34. In practice, the Liechtenstein authorities rely as a rule on the international obligations of a State to which a person is to be expelled or returned as an important criterion. For instance, it is assumed that a State party to the European Convention on Human Rights will comply with the protective duties set out in that convention.

35. Additionally, it should be emphasized that in each case, the asylum-seeker has the possibility of commenting on the expulsion. If the asylum-seeker asserts reasons indicating a threat to life or limb upon expulsion or return, these reasons are reviewed in depth. Additionally, every asylum-seeker may at any time consult legal counsel free of charge. In the case of expulsion and detention orders, all asylum-seekers are expressly asked whether they desire such free legal counsel.

36. Finally, in connection with the implementation of the EC Return Directive (Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals) into Liechtenstein domestic law, it should be noted that a revision of the Foreigners Act (AuG) is currently in preparation. The goal of the Return Directive is to minimally harmonize the procedures for illegally staying persons from non-Schengen States (third countries). In particular, it contains provisions on the issue of expulsion orders, detention for purposes of ensuring execution of the expulsion order, deportation, and the issue of entry bans. In view of implementation of this directive into Liechtenstein law, introduction of a system for monitoring deportations is planned. For this purpose, the AuG will be amended accordingly.

*(c) Do persons subject to preventive expulsion have the right to appeal the decision? If so, does the appeal have suspensive effect?*

37. As explained in para. 35 of the report, preventive expulsion is executable immediately (article 30 para. 3 FlüG). However, the asylum-seeker may submit a request within 24 hours for restoration of the suspensive effect (article 90 para. 1 FlüG). The competent authority must then decide on a request for restoration of the suspensive effect within 48 hours (article 90 para. 2 FlüG). The complainant may be detained for a maximum of 72 hours by the competent authority until the decision on the request (article 90 para. 3 FlüG). The submission of extraordinary appeals and legal remedies does not interfere with execution, unless the authority responsible for considering them suspends execution (article 90 para. 4 FlüG). Complaints by asylum-seekers against decisions not to consider asylum requests where the asylum-seeker can leave for a country subject to the Dublin/Eurodac acquis do not have suspensive effect (article 90 para. 5 FlüG).

*(d) Whether a time limit exists for the detention of foreigners against whom an expulsion or extradition order has been issued?*

38. It should be noted at the outset that the detention periods in connection with asylum procedures in Liechtenstein are very short (see the following table).

Detention relating to asylum	2005	2006	2007	2008
Number of detention orders	14	12	5	4
Total number of detention days	46	75	14	10
shortest detention period	1	1	1	2
longest detention period	15	24	4	3
Number of detention hearings (Court of Justice)	2	5	0	0
Complaints	0	0	0	0

39. Liechtenstein applies detention relating to asylum in a very restrained manner and tries to keep detention periods as short as possible. One indication of this is that detention hearings are necessary only in very rare cases. It should be noted again in this regard that the affected persons are offered legal counsel free of charge.

40. According to the provisions currently in force, detention to prepare or ensure deportation may not exceed the maximum detention period of nine months (six months in the case of minors between 15 and 18 years of age).

## Articles 4

### Reply to the issues raised in paragraph 8 of the list of issues

41. The abovementioned penalties – two years imprisonment in the case of torment and neglect of a prisoner (§ 312 StGB) and up to five years imprisonment in the case of bodily injury (§§ 83-85 StGB) or up to ten years imprisonment if the injury results in death (§ 86 StGB) – are considered to be appropriate. Compared with "simple" bodily injuries, in which generally monetary penalties are imposed and (initially suspended) sentences of imprisonment of a few weeks are imposed only in the event of a repeated offense, the abovementioned penalties are relatively high and in conformity with the system.

42. As noted in the answer to question 20, no cases of torture have been claimed in Liechtenstein as defined in the Convention. Accordingly, no actually imposed penalties can be cited in regard to such cases.

### Reply to the issues raised in paragraph 9 of the list of issues

43. According to § 57 para. 3 StGB (3rd case), the statute of limitations is five years for offenses punishable by more than one year but at most five years imprisonment. These include criminal offenses under § 84 para. 1 StGB (serious bodily injury; punishment of up to three years imprisonment) and § 85 StGB (bodily injury resulting in serious permanent damage; punishment of six months to five years imprisonment).

44. From today's perspective and given the lack of court decisions, there is no intention to amend the Criminal Code so as to eliminate the statute of limitations applicable to cases of torture.

## Articles 5 and 7

### Reply to the issues raised in paragraph 10 of the list of issues

45. As explained in paras. 42 and 49-53 of the report, the Liechtenstein legal system has several specific legal provisions concerning the competence of national courts to adjudicate criminal offenses committed abroad within the scope of article 4 of the Convention (§§ 63-65 StGB) and concerning the obligation to initiate criminal proceedings under article 7 of the Convention. In addition, articles 5 and 7 of the Convention are directly applicable, ensuring the competence of Liechtenstein court in the cases referred to in those articles.

### Reply to the issues raised in paragraph 11 of the list of issues

46. No relevant cases have arisen in Liechtenstein so far.

### Reply to the issues raised in paragraph 12 of the list of issues

47. Pursuant to article 60 MLAA, requests for taking over criminal proceedings – as well as extradition requests – generally arrive by way of justice ministry or diplomatic channels. The Liechtenstein Ministry of Justice first conducts a preliminary review of all requests transmitted, including in particular any obvious deficits (such as lack of judicial punishability, lack of translation, no link to Liechtenstein). After this preliminary review, requests for taking over criminal prosecution are forwarded to the Office of the Public Prosecutor with a view to further steps, as follows:

(a) The Office of the Public Prosecutor then reviews whether domestic jurisdiction obtains (offense committed in Liechtenstein or by Liechtenstein citizen). If this

is the case, then domestic proceedings are initiated or the foreign proceedings are taken over.

(b) Foreign criminal proceedings are taken over upon request if, among other circumstances, no extraditable criminal offense has occurred and accordingly the accused person cannot be extradited from Liechtenstein.

## **Article 8**

### **Reply to the issues raised in paragraph 13 of the list of issues**

48. The bilateral treaties mentioned expressly refer to the European Convention on Extradition (ECE) and either serve to facilitate administrative application of that convention (in the case of Austria) or to expand its geographic scope to partially or fully dependent territories (in the case of the Netherlands and the United Kingdom). In principle, the ECE defines extraditable offenses as acts that are punishable under the laws of the requesting State and of the requested State by deprivation of liberty or under a detention order for a maximum period of at least one year or by a more severe penalty. This is true of the criminal offenses falling within the scope of § 312 StGB in Liechtenstein. Accordingly, torture is in principle an extraditable offense under Liechtenstein law. The prohibition of extradition where persons may face torture in the requesting State arises both from the application of article 3 of the Convention in Liechtenstein and from article 3 of the European Convention on Human Rights as well as the relevant case law of the European Court of Human Rights.

49. As noted in para. 58 of the report, no requests were submitted during the reporting period as referred to in article 8 of the Convention against Torture. Accordingly, there have been no extraditions on the basis of the treaties with Austria, the Netherlands, or the United Kingdom.

50. Other than the bilateral extradition treaties with the United States and Belgium mentioned in para. 57 of the report, both of which were concluded in 1936 and exhaustively list the extraditable offenses, Liechtenstein has not concluded any further such treaties. In practice, the ECE and the Liechtenstein Mutual Legal Assistance Act apply almost exclusively.

## **Article 10**

### **Reply to the issues raised in paragraph 14 of the list of issues**

*(a) The contents of the basic training on the problem of violence such training and the intention of the State party to extend the duration of such training and to make it compulsory for all officers of the National Police, especially law enforcement personnel involved in the custody, interrogation and treatment of detained or imprisoned persons*

51. In addition to basic training (one-year Police Academy), which covers various aspects of the topic of violence (see answer to subquestion (b)), all newly recruited officers of the security and traffic police receive one day of basic training on the problem of violence. In various continuing training workshops, current case studies are also discussed. This helps officers become acquainted in more depth with individual problems relating to violence. The continuing training based on specific cases that have occurred in Liechtenstein also allows improved consideration of the specific circumstances and needs such as the fact that, given the small size of the country, officers may personally know the perpetrator or the victim. Additionally, all officers of the National Police are trained on the

topic of "domestic violence" as part of their supplementary basic training. This training lasts one day and covers the manifestations, definitions (etc.) of domestic violence and the role of the police in this context. The training also explains the legal foundations in detail that are available to the National Police when intervening in this area for the benefit of the victim (e.g. expulsions from the home, prohibition of reentering the home). Instruction is also provided on internal police procedures. Officers are informed of social institutions offering help for affected persons. Specific cases are analyzed as a team, and the previously conveyed theoretical knowledge is applied in practice. Finally, the problem of domestic violence is also a regular topic in the annual continuing training programs for executing officers who are called on to intervene in this area. The officers are briefed on legal and organizational changes. Current cases are analyzed and the role of the National Police is discussed for purposes of recognizing improvement potential and future implementation in the interest of all persons involved.

*(b) The contents and duration of human rights training, including on the Convention, for all officers of the National Police*

52. The topic of ethics and human rights is a key component of basic training for police; in the first half of the one-year Police Academy, training in the field of human rights is the main focus. To successfully complete the Police Academy (with a Swiss federal qualification examination), passing the specialized examination in "Ethics and Human Rights" is an absolute prerequisite. In addition to the definition and sources of human rights, human rights training covers areas such as permissible restrictions and encroachments on human rights and the limits thereof, the tension in police work between the respect for human rights and the obligation to fulfill one's duty, groups of persons with special protection needs (e.g. minors, women, victims of offenses, foreign nationals, and refugees), and the procedure for alleged human rights violations in the course of duty (disciplinary measures, criminal prosecution, and civil action). The relevant instruments and mechanisms of the UN and the Council of Europe in this connection are discussed (e.g. Universal Declaration of Human Rights, European Convention on Human Rights, International Covenant on Civil and Political Rights, CAT, CPT). The training component on (police) ethics is expressly also based on the UN Code of Conduct for Law Enforcement Officials and the European Code of Police Ethics. These codifications are also used to develop the various case studies. The content of this area includes topics such as dealing with and applying violence, the purpose and object of punishment, professional ethics at the police (including main points of the UN Code of Conduct), ethnic conflicts in police work, and religious minorities.

#### **Reply to the issues raised in paragraph 15 of the list of issues**

53. The use of force and firearms is governed by the Police Act (PolG) and the associated Ordinance on the Organization and Operations of the National Police (PolDOV, LGBI. 2000 No. 195). These provisions apply to all police officers. There are no special provisions for SWAT teams in Liechtenstein.

54. It should be noted at the outset that the National Police is in general absolutely bound by the principle of proportionality (article 23 PolG) in its duties, and that it must also employ its means in accordance with this principle. The use of force is only permissible if demanded by the immediate circumstances and if less severe means are not suitable (article 27 PolG). The use of firearms is the last resort in this regard (article 28 para. 1 PolG). The use of physical force and especially also the use of firearms must be communicated unambiguously in advance, if permitted by the circumstances of the individual case (article 28 para. 2 PolG, article 88 para. 2 PolDOV). Every use of force with auxiliary means (e.g. non-lethal weapons such as truncheons, multi-purpose police batons, pepper spray or rubber bullets; see article 88 para. 2 PolDOV) and the use of firearms (both with and without

firing) must be reported immediately by official channels to the chief of police (article 88 para. 4 PolDOV and article 90 para. 5 PolG). If someone is injured during a police operation, the National Police is required to offer assistance and support immediately (article 30 PolG).

*Firearms may be used by the National Police only as a last resort (article 29 PolG) if:*

- the National Police or third parties are attacked in a dangerous way or are immediately threatened by a dangerous attack;
- persons who have committed a crime or are strongly suspected of having committed a crime try to resist arrest by fleeing;
- the National Police must assume, on the basis of reliable findings, that persons constitute an immediate and serious danger to life and limb for others and try to resist arrest by fleeing;
- necessary to free hostages; or
- the immediate threat of a serious crime against facilities can be prevented, if damage to such facilities would constitute a serious danger to the general public.

55. The use of coercive measures and in particular the use of firearms are a component of both basic training in the Police Academy and the regular continuing training sessions at the National Police. In addition to the relevant legal provisions (concerning the question of when the use of force and firearms is permissible), the legal limits of such use and any alternatives for action are conveyed. Every police officer must attend several continuing training sessions each year, in which training in firearms and the use of alternative means are taught.

56. In addition to their personal firearm, police officers have other personally assigned means at their disposal, such as pepper spray, multi-purpose police batons, and bullet-proof vests. With these means and the de-escalation strategy pursued by the National Police, the use of force is to be reduced to the necessary minimum.

57. There are currently no plans to adjust the abovementioned provisions, especially since their practical application has shown that they are appropriate in the Liechtenstein context.

#### **Reply to the issues raised in paragraph 16 of the list of issues**

58. It should first be noted that the prison staff of the National Prison has always been trained on the treatment and care of convicts and other detained persons (see para. 60 of the report). Every corrections officer must first complete a two-year part-time basic training course in Switzerland (Swiss Prison Staff Training Centre in Fribourg). Part of the training is administered in the National Prison itself. In addition, staff must attend a total of 15 weeks of various module courses in the Training Centre over the course of two years. The content of this basic course includes the study of the various legal foundations of importance in this context. These include the Conventions against Torture, the Criminal Code, the Code of Criminal Procedure, and the Execution of Sentences Act. (These are also covered in the training of law enforcement officers, judges and lawyers.) Upon completion of basic training – in addition to specialized continuing training – prison staff must complete approximately one week of a continuing training seminar at the Training Centre each year. This training also covers topics such as those referred to in the Istanbul Protocol (e.g. dealing with intercultural conflict situations, dealing with violence in the deprivation of liberty, dealing with inmates with mental problems, and closeness and distance in professional relations).

59. With respect to medical personnel, it should first be noted that the National Prison has no such personnel on its own, due to its small size. The responsibilities of the prison doctor are administered by the Liechtenstein public health officer and a Liechtenstein general practitioner to whom these responsibilities have primarily been delegated. Against this backdrop, it should also be noted that all medical professions practiced in Liechtenstein are studied abroad. Liechtenstein has no medical training facilities of this kind. Instead, Liechtenstein recognizes the basic and continuing training to qualify them for their professions. The EC directive on the recognition of professional qualifications (2005/36/EC) serves as the main basis for this purpose. With respect to the specific training of medical personnel relevant to the rights and treatment of persons deprived of liberty, a certain dependency therefore exists on the manner in which content of medical training is defined abroad.

## **Article 11**

### **Reply to the issues raised in paragraph 17 of the list of issues**

60. It should again be noted at the outset that Liechtenstein has a small corrections facility (the National Prison in Vaduz), which is only designed for 20 persons. The National Prison holds pre-trial detainees, convicts, and foreign nationals detained under immigration provisions. Additionally, a secure room for prisoners is installed at the National Hospital in Vaduz, in which inmates of the National Prison can be treated on an in-patient basis in the event of sickness or accident. The National Police has only one receiving cell and one secure cell (with video surveillance). In addition, there are two receiving cells at the Schaanwald border post. (In regard to the local and spatial conditions for execution of sentences in Liechtenstein due to the small size of the country, see also paras. 61 ff. of the report.)

61. The Corrections Commission mentioned above is the primary review mechanism for purposes of article 11 of the Convention. (For details concerning the mandate, functioning, and composition of this Commission, and also in regard to its work as the national preventive mechanism under the Optional Protocol to the Convention against Torture, see the remarks in paras. 70 and 71 and the answer to question 3). A regular systematic review for purposes of article 11 of the Convention is conducted primarily in connection with the periodic visits and reports of the Corrections Commission. As explained in para. 71 of the report, the Corrections Commission must visit the National Prison at least once every quarter unannounced. After every visit, it must report to the Government in writing within 14 days. These reports (including any recommendations) of the Commission are considered by the competent Government authorities (Ministry of Home Affairs and Ministry of Justice). The same applies to the annual reports prepared by the Corrections Commission in its function as the national preventive mechanism. Where necessary, appropriate improvement measures are initiated. For additional details, please refer to the answers to questions 3 and 18.

62. In addition to review in connection with the work of the Corrections Commission, some case-by-case evaluations are carried out for purposes of article 11 of the Convention (see also the answers to questions 3 and 18).

63. Liechtenstein is also a State party to the European Convention for the Prevention of Torture and is subject to that convention's visiting and reporting obligations. The same is true of the Optional Protocol to the Convention against Torture.

64. Finally, please note that according to § 53 of the Code of Criminal Procedure, every authority that learns of a suspicion of a punishable act subject to prosecution ex officio and



falling within its legally defined sphere of activity is required to report this act to the Office of the Public Prosecutor or the National Police.

**Reply to the issues raised in paragraph 18 of the list of issues**

65. With respect to the recommendation concerning the use of the courtyard in the National Prison in Vaduz by female inmates, it should first be noted that female detainees were originally given the option to spend time outdoors in the main courtyard. Some male detainees who had an unobstructed view of the prison courtyard from their detention rooms used this circumstance to harass the female detainees with salacious shouts and whistles, however. For this reason – and due to the fact that female detainees are only rarely held in the National Prison – outdoor exercise for female prisoners was consequently limited to the courtyard on the prison roof. This practice was recently reviewed by the Liechtenstein authorities in response to the CPT report mentioned in the question. The review showed that the interests of female prisoners when exercising in the main courtyard can only be ensured if the cells with a view of the main courtyard are unoccupied. Where this is the case, female prisoners are indeed given access to the main courtyard. Otherwise, the option of course still exists for female detainees to exercise in the courtyard on the prison roof. In this connection, please note that on average at most one or two women were detained per year during the reporting period.

66. With respect to the CPT recommendation to organize regular visits by a nurse, please note that the competent authorities already considered this possibility several years ago. However, it was found that there was no need for a nurse exclusively responsible for the detainees in the National Prison and that any such need would not amount to a full-time position. Nursing personnel exclusively responsible for the National Prison could not be justified. Nothing has changed about this situation since that review. It should be noted in this connection, however, that:

(a) The inmates regularly receive psychological care by the staff of the Therapeutic Services Division of the Office of Social Affairs. A psychologist of the Therapeutic Services Division holds psychological office hours every 14 days. The inmates may voluntarily take advantage of this opportunity.

(b) Additionally, the inmates are counseled by social workers of the Liechtenstein Probation Assistance, which has a service agreement for this purpose with the Office of Social Affairs. The social work is governed by article 74 of the Execution of Sentences Act and covers networking of the care of inmates, taking account of client-related and organizational aspects, mediation of contacts with relatives, clarification of finances and insurances, and release counseling.

(c) In addition to these measures, the Liechtenstein authorities have reviewed other alternatives pursuant to the CPT recommendation. For instance, it was considered to delegate this task to the medical personnel of the emergency service of the Liechtenstein Red Cross. This option could not be implemented however. There are currently negotiations with the National Hospital in Vaduz concerning the supply of medicine by nursing personnel. These negotiations should be concluded in the first half of 2010, so that decisions can be made on further steps in this regard.

67. With respect to the recommendation of developing a program of activities available to all detainees in the National Prison in Vaduz, it should be emphasized that the Liechtenstein authorities – and in particular the National Prison – will continue to make every effort to develop such a program of activities for all persons detained in the National Prison. As noted in para. 65 of the report, convicts generally have access to two common areas for seven to eight hours each day. These common areas include a library (with books, computers, and a video/DVD player) and a game/sport room. Additionally, two computers

and fitness machines are available. Male prisoners can also exercise outdoors in the prison courtyard. For female prisoners, this option is available on the roof terrace of the prison.

#### **Reply to the issues raised in paragraph 19 of the list of issues**

68. Please note at the outset that the term "imprisonment with restrictions" should not be confused with solitary confinement. In accordance with the provisions of the European Convention on Human Rights, all inmates in the National Prison (convicts, pre-trial detainees, persons held pursuant to immigration provisions) are held in individual cells, in order to promote the free development of personality.

69. Detention referred to as "imprisonment with restrictions" is in principle only applied to pre-trial detainees and only if several persons suspected of an offense are held in pre-trial custody and, due to the danger of collusion, the competent investigating judge orders that these persons should not be able to meet each other for the duration of pre-trial detention. Since Liechtenstein only has one (small) prison (19 cells, of which 16 are designed as individual cells), it is not possible in such cases to separate the pre-trial detainees into several different prison facilities. For this reason, the prison staff has to prevent contact between these pre-trial detainees in a different way. This is done by assigning these pre-trial detainees to different groups of prisoners during the daily routine (exercise in the courtyard, use of common areas). For security reasons, individual wishes regarding assignment and contact with other prisoners cannot be taken into account. To this extent, these pre-trial detainees are "restricted". This approach is based on § 134 para. 2 of the Code of Criminal Procedure (StPO), according to which pre-trial detainees shall be held in such a way that they cannot communicate with each other, if necessary for achieving the purposes of detention. As long as the investigating judge has not made any decision in this regard, such pre-trial detainees shall in any event be held separately.

70. These "restrictions" do not affect contact with the outside world, however. During the time of "restriction", these pre-trial detainees have the same possibilities of receiving visitors, writing letters, and making phone calls as other pre-trial detainees.

71. A "restriction" as described above ordered for pre-trial detainees may in exceptional cases also apply to convicted persons, if the meeting of two or more convicts would endanger security and order in the National Prison. In such cases, the groups of prisoners (for work, exercise, etc.) are formed considering the potential group dynamics. The assignment to groups is undertaken by the prison staff.

72. Convicts have the right to file a complaint against any decision or order affecting their rights and against any conduct of prison staff affecting their rights. Decisions of this sort can be appealed all the way to the independent Administrative Court (article 114 StVG). This right is also granted to pre-trial detainees (§ 133 para. 4 StPO in connection with article 114 StVG).

#### **Articles 12, 13 and 14**

##### **Reply to the issues raised in paragraph 20 of the list of issues**

73. During the reporting period, no cases of torture or ill-treatment were reported. As to relevant complaints received by the competent Liechtenstein authorities, please see the information in para. 41 of the report.

### Reply to the issues raised in paragraph 21 of the list of issues

(a) *Disaggregated data (by age, gender and nationality) on the number of persons sentenced to imprisonment by a court in Liechtenstein that serve their sentence in Austria during the reporting period*

74. During the ten-year reporting period (1998-2008), a total of 125 persons convicted by a Liechtenstein court served their sentence in Austrian prisons on the basis of the treaty between the Principality of Liechtenstein and the Republic of Austria on the confinement of prisoners. Broken down by year, the numbers are as follows:

	Persons from Liechtenstein confined in Austria	Days in prison
1998	17	3790
1999	16	4053
2000	22	5236
2001	19	5522
2002	16	2532
2003	7	1761
2004	9	1812
2005	5	1277
2006	2	383
2007	3	1117
2008	9	1087
Total number of inmates	125	
Total days in prison		28570

(b) *To which jurisdiction any complaints of torture or other forms of ill-treatment are made, the number and nature of such complaints, and under which jurisdiction such complaints are investigated. Please also provide information on the outcome of such cases and the remedies available, including compensation and rehabilitation for victims of acts of torture or ill-treatment;*

75. According to article 1 of the abovementioned treaty between Liechtenstein and Austria, Austria grants legal assistance to Liechtenstein upon request by executing sentences of imprisonment and preventive measures imposed by a Liechtenstein court and by confining persons who are to be held in custody pursuant to the order of a Liechtenstein court. A precondition for this legal assistance is that the request must be based on an act that is judicially punishable according to the law of both contracting parties (article 2 of the treaty).

76. Execution initiated in Austria pursuant to article 1 is based on Austrian law (article 5 para. 3 of the treaty; complaints and legal remedies relating to such execution are thus also based on Austrian law). Accordingly, decisions of the executing court during execution of

the sentences (with the exception of the areas referred to in article 5 para. 2 of the treaty) are to be made by the competent Austrian court in accordance with Austrian law.

77. So far, the Liechtenstein authorities know of no cases in which persons held in custody in Austria on the basis of this treaty have filed a complaint for alleged acts of torture or other forms of ill-treatment (in Austria). (It can be assumed that the Liechtenstein authorities would have gained notice of such cases in Austria.) If such a case arose, the legal remedies applicable in Austria would be available.

*(c) The procedures and mechanisms in place to ensure that the rights of persons convicted by the State party are ensured while they are imprisoned in Austrian facilities, including the role of the newly established Corrections Commission in this regard*

78. Since execution initiated in Austria is based on Austrian law pursuant to the bilateral treaty, Liechtenstein has no specific procedures or mechanisms in place to ensure that the rights of persons imprisoned in Austria are upheld. The mandate of the Corrections Commission (described in the answer to question 3) is limited to Liechtenstein territory, also in relation to the activities of the Commission as the NPM.

79. It should be emphasized, however, that Austria in turn is a State party in particular to the Convention against Torture and the European Convention on Human Rights as well as the European Convention for the Prevention of Torture and thus is obliged to implement the relevant protection measures. The guarantee of this protection also covers persons imprisoned in Austria pursuant to the bilateral treaty between Liechtenstein and Austria. Based on experiences so far (see answer to subquestion (d)), the Liechtenstein authorities see no reason to doubt that the protection of the rights of convicts imprisoned in Austria is ensured.

*(d) Any other relevant information on the mechanisms in place to ensure that the State party's obligation under the Convention are fulfilled with respect to imprisoned persons in Austria, irrespective if they are nationals of the State party or foreigners*

80. From the perspective of the Liechtenstein authorities, practical implementation of the treaty with Austria functions well, also with respect to human rights. In particular, there have been no indications so far of torture or other forms of ill-treatment of prisoners transferred from Liechtenstein to Austria.

81. With respect to any different treatment of Liechtenstein citizens and nationals of other States convicted by a Liechtenstein court, it should be noted that no difference in this respect exists in the application of the bilateral treaty between Liechtenstein and Austria.

*(e) Please provide a copy of the bilateral treaty between Liechtenstein and Austria, if possible translated in one of the working languages of the Committee*

82. A copy of the treaty published in the Liechtenstein Law Gazette is included with these answers. The published treaty (LGBI. 1983 No. 39) can also be accessed online at: [http://www.gesetze.li/get\\_pdf.jsp?PDF=1983039.pdf](http://www.gesetze.li/get_pdf.jsp?PDF=1983039.pdf)

### **Reply to the issues raised in paragraph 22 of the list of issues**

83. A Victims Assistance Office has been established on the basis of the Victims Assistance Act (OHG) which entered into force on 1 April 2008. This Office provides medical, psychological, social, material and legal assistance needed in individual cases. In cases in which (due to limited capacity) it is unable to provide such assistance itself, the Victims Assistance Office provides information on relevant contact points. The Office provides around-the-clock emergency assistance and also ensures long-term help.

84. Every person immediately affected by a criminal offense with respect to physical, psychological or sexual integrity (victim) is entitled to assistance. This also includes victims of torture and other cruel, inhuman or degrading treatment or punishment. Also entitled to help are family members of victims and persons who, in helping or attempting to help victims, have been immediately affected with respect to physical or psychological integrity. Family members of such persons are entitled to victims assistance in the same way as family members of victims (article 1 paras. 1-3 OHG).

85. The following five forms of victims assistance are available (article 2 OHG):

- counseling and urgent assistance;
- longer-term assistance by the Victims Assistance Office;
- cost contribution to longer-term assistance by third parties;
- compensation;
- legal aid.

86. It should be noted that victims assistance is granted on a subsidiary basis. Counseling by the Victims Assistance Office is always free of charge. With respect to financial assistance, the Victims Assistance Act provides for both comprehensive legal aid and compensation claims. Legal aid includes a waiver of actual legal costs for the victim, including court fees and expert opinions, as well as free legal counsel depending on the victim's financial situation. This is intended to help victims assert their claims versus the perpetrator or, for instance, versus an insurance company. The Victims Assistance Act is also intended to help victims attain compensation from the State for material or non-material injury suffered, if such compensation cannot be adequately paid by third parties. Compensation for non-material injury is provided in the spirit of comprehensive victims protection and as recognition by society of the difficult situation of the victim. Unlike compensation for financial loss, non-material compensation does not depend on the income of the victim. Maximum amounts are stipulated for both forms of compensation.

87. All abovementioned forms of victims assistance are also available to victims of torture or other cruel, inhuman or degrading treatment or punishment. Overall, the newly created Victims Assistance Office thus makes an additional contribution to implementation (especially of article 14) of the Convention against Torture (see the relevant remarks in paras. 78-81 of the report).

## **Article 16**

### **Reply to the issues raised in paragraph 23 of the list of issues**

88. Please note at the outset that the Liechtenstein National Police only uses force in arresting a suspect – as is generally the case in applying force against persons – as a last resort and only according to the principle of proportionality (see articles 23 and 27 of the Police Act). The arrest of suspects is a regular topic in basic and continuing training, with a special emphasis on the proper arrest technique (i.e. only as much force as absolutely necessary) and the conduct toward the suspect. It is also firmly emphasized that insults toward arrested persons by police officers are not tolerated and will lead to disciplinary and/or criminal penalties.

89. In light of the fact that no complaints have been filed against police officers in this regard in recent years, it is assumed that the intervening officers properly implement and follow the relevant instructions and requirements (see also the answer to question 20).

90. As already communicated to the CPT (see CPT/Inf (2008) 21), however, the National Police believes that it may in very rare individual cases (approximately once every three years) be necessary to obstruct sight of the acting police officers by covering the heads of suspects immediately after arrest and during transport, in order to make identification of the police officers impossible. This is done specifically to ensure the personal security of the officers involved in the arrest if the suspect is an extremely dangerous and violent criminal. Additionally, the head covering – which is an air-permeable black sack that does not interfere with breathing – also has the effect that the arrested violent criminal cannot be recognized by outsiders (passersby, the press, etc.), for instance during transport from a building into a vehicle, which also serves to protect the personal rights of the suspect. In summary, these measures do not appear to be unusual in an international comparison and should be retained in Liechtenstein in rare individual cases.

**Reply to the issues raised in paragraph 24 of the list of issues**

*(a) Disaggregated data (by age, gender and nationality) on the number of juveniles sentenced to imprisonment or held in pre-trial detention in the State party*

91. During the reporting period, a total of five juveniles (14-18 years of age) served sentences of imprisonment. Four were males and one was female. The juveniles were nationals of the following countries: Turkey, Italy/Switzerland (dual national), Serbia, Moldova, and Liechtenstein. The imprisoned juveniles were between 16 and 18 years of age at the time of their detention.

92. During the reporting period, there were no cases of imprisonment of minors under the age of criminal responsibility (up to 14 years). (Article 5 para. 1 of the Juvenile Court Act provides that minors under the age of criminal responsibility cannot be punished for offenses committed.)

93. No juveniles were held in pre-trial detention during the relevant time period.

*(b) Specific measures in place to prevent ill-treatment of juveniles in places of detention and imprisonment*

94. As explained in para. 66 of the report, there are no separate juvenile detention facilities in Liechtenstein. Since the National Prison is in principle not designed for the detention of juveniles, they are where necessary imprisoned in a suitable juvenile detention facility in Austria pursuant to the treaty between the Principality of Liechtenstein and the Republic of Austria on the confinement of prisoners. Where possible, Liechtenstein ensures that the sentence is served in a facility near the Liechtenstein border. This is meant to facilitate contact between the juveniles and their families to the extent possible. As explained in the answer to question 21, execution initiated in Austria pursuant to article 1 is based on Austrian law (article 5 para. 3 of the treaty). During the reporting period, only one juvenile was imprisoned in Austria pursuant to the bilateral treaty. In the event of an exceptional, brief detention of juveniles in the National Prison (see para. 66 of the report), it is ensured that the juveniles have no contact with adult inmates. For this purpose, they are held in separate areas within the prison.

*(c) Progress in establishing by law a maximum length of pre-trial detention for persons under the age of 18, as called for by the Committee on the Rights of the Child (CRC/C/LIE/CO/2, para. 35)*

95. In the course of the reform of the Code of Criminal Procedure concerning the provisions governing pre-trial detention, which entered into force on 1 January 2008, the legal provisions concerning the pre-trial detention of juveniles were also amended at the same time. In particular, the maximum length of pre-trial detention according to § 142

StPO was reduced in article 19 para. 2 of the Juvenile Court Act (JGG) in the interest of restricting the liberty of juveniles for as short a period as possible. In arguing for reduction of this time period, explicit reference was made to the cited recommendation by the Committee on the Rights of the Child.

96. As explained in para. 26 of the report, these amendments now provide for a maximum length of pre-trial detention for juveniles of one year (§ 19 JGG). This maximum period may only be exhausted under very specific circumstances, however (only in the case of crimes punishable by more than five years imprisonment and only if extension of pre-trial detention beyond six months is unavoidable due to unusual difficulties or the unusual scope of the investigation in light of the gravity of the suspected offense). Otherwise, the time periods are shorter (three and six months, respectively). It should be emphasized in this regard that the penalties (for the same offense) for juveniles are in principle half as long as for adults (§ 6 JGG). According to the principle of proportionality – pre-trial detention shall last at most as long as the expected penalty – pre-trial detention shall likewise not last as long as for adults.

97. With respect to the pre-trial detention of juveniles, please refer in general also to the special provisions (especially article 19 JGG) mentioned in para. 26 of the report.

*(d) Intention to revise the provision § 21 of the Juvenile Children's Act (JCA) which makes the presence of a confidant during police interrogation dependent on a request by the juvenile (para. 26), rather than a formally guaranteed right of the under-aged*

98. As communicated to the CPT (see CPT/Inf (2008) 21), Liechtenstein continues to be of the view that consulting a confidant during police interrogation or questioning by a court should not be imposed on a juvenile. There may be good reasons (e.g. shame, etc.) why the juvenile wants to avoid disclosure of the misconduct.

99. It should be noted, however, that the juvenile concerned is in principle entitled to consult a confidant in such situations, provided that this consultation does not entail unreasonable prolongation of the arrest procedure (§ 21a JGG). According to § 21a JGG, the juvenile must be informed immediately of this right upon arrest.

100. Against this backdrop, there is currently no plan to amend the abovementioned provision in the Juvenile Court Act (§ 21 JGG).

*(e) Steps taken by the State party to increase non-custodial measures when sentencing or deciding on pre-trial measures for persons under the age of 18, including the intention of the authorities to review the practice provided for under the 1982 treaty with Austria (para. 26) to transfer juveniles to a special facility in Austria, in view of the principle that separation from parents should only be a measure of last resort.*

101. The fact that no juveniles were taken into pre-trial detention during the reporting period shows that alternative measures are taken whenever possible. As examples of such alternative measures, please note some of the "gentler measures" mentioned in § 131 para. 5 StPO:

- a vow neither to flee nor to hide or leave one's place of residence without approval by the investigating judge until the criminal proceedings have been properly concluded;
- a vow not to make any attempt to obstruct the investigation;
- instructions to live in a particular place or with a particular family, to avoid a particular abode, particular places or particular dealings, to refrain from alcoholic beverages or other drugs, or to engage in regular work;

- instructions to report any change of abode or to report to the court or other office on a regular basis;
- temporary confiscation of travel documents.

102. As explained in para. 66 of the report, Liechtenstein has no separate juvenile detention facilities. Given the small size of the country and the very low number of juvenile inmates, there are currently no plans to create such facilities in Liechtenstein. Accordingly, there is also no intention to change the practice based on the treaty with Austria. With respect to ensuring contact between juveniles imprisoned in Austria and their parents, please again note that every effort is made to ensure that, whenever possible, juveniles are held in correctional facilities close to the Liechtenstein border.

#### **Reply to the issues raised in paragraph 25 of the list of issues**

*(a) Whether the State party is reconsidering this its position not to establish ex-officio prosecution of all acts of domestic violence (A/HRC/10/77/Add.1), with a view to strengthening the prevention of domestic violence, also recalling Council of Europe recommendation (2002) 5*

103. A revision of Liechtenstein sexual criminal law is currently in preparation. In addition to adjusting several offenses to the new requirements, it is envisaged that the commission of these offenses in the family be defined as ex officio offenses, so that domestic violence in the sexual sphere can be criminally prosecuted when such acts become known. The Government is expected to consider the results of the work of the working group on the revision of sexual criminal law in the first half of 2010 already.

*(b) The number of investigations into cases of domestic violence and the number and outcome of prosecutions and convictions of perpetrators as well as information on redress and compensation measures ordered by the courts in domestic violence cases, including the requests made, the number granted and the amounts ordered and provided in each case. Please also indicate how many victims have been compensated despite the perpetrator not being identified and the provision of rehabilitation to victims of domestic violence*

104. Data relating to domestic violence have been systematically collected by the Liechtenstein authorities only since entry into force of the Violence Protection Act in 2001. The following table provides an overview of the number of interventions in cases of domestic violence and the measures imposed in the years 2001-2008.

	2008	2007	2006	2005	2004	2003	2002	2001
<b>Number of victims</b>								
Total interventions/actions	30	49	34	25	38	28	25	22
Interventions without measures (police on site)	5	13	6	5	9	3	3	1
domestic violence	25	36	28	20	29	25	22	21
women affected by violence	13	21	17	11	21	20	14	15
men affected by violence	2	5	0	2	2	1	2	2
both affected by and perpetrating violence	9	10	7	5	2	2	4	2
children/young people affected by violence	1	0	4	2	4	2	2	2
<b>Measures</b>								
Police counseling/assistance	16	19	13	11	13	12	10	8
Expulsions	7	10	5	3	7	7	6	5



Prohibitions of entry	2	7	10	6	9	6	6	8
<b>Temporary injunctions</b>								
Temporary injunction after prohibition of entry	0	4	2	1	0	1	2	3
Temporary injunction without prohibition of entry	3	6	3	3	1	1	1	1

105. Since domestic violence is a collective term for several offenses that may also be committed in another environment (e.g. bodily injury, dangerous threat, or sexual offenses), cases of domestic violence are not statistically recorded as such by the Liechtenstein law enforcement authorities. For this reason, no information can be provided on the number of cases or on the amount of compensation ordered by the courts or on other compensation payments.

*(c) Whether the Convention, or equivalent provisions of national legislation (paras. 38-39), was invoked as a basis, either by the prosecution authorities or by a court of the State party, when establishing that an act of domestic violence has occurred and appropriate penalties identified.*

106. So far, domestic violence has never been linked to the Convention against Torture by any Liechtenstein authority. Penal provisions relating to physical and sexual integrity, however, constitute an important basis for the prosecution of domestic violence.

*(d) Whether the State party is considering prohibiting by law all forms of corporal punishment, in particular in the family and in private alternative care settings (CRC/C/LIE/CO/2, para. 23).*

107. The Liechtenstein General Civil Code (ABGB) stipulates that underage children must follow their parents' instructions (§ 146a para. 1 ABGB). The use of violence and the infliction of physical or emotional suffering are expressly forbidden (§ 146a para. 2 ABGB). Under article 24 para. 6 of the School Organization Ordinance, corporal punishment at schools is also forbidden.

108. These rather general provisions, which have been in force for a long time, were supplemented by the new Children and Youth Act (KJG), which entered into force on 1 February 2009, with specific provisions concerning the family sphere as well as care and nursing facilities. Specifically, the prohibition of parental violence set out in § 146a para. 2 ABGB was extended to include "private care and nursing arrangements" (article 51 KJG) and "care and nursing facilities" (article 55 KJG). Accordingly, all forms of corporal punishment are now prohibited by law in Liechtenstein.

109. Noteworthy in this connection is also that article 3(1) of the new Children and Youth Act stipulates that the rights of the child according to the UN Convention on the Rights of the Child must be protected. This includes the right to be raised without violence. Corporal punishment, emotional injuries, and other degrading measures are thus impermissible (article 3(1)(b) KJG).

#### **Reply to the issues raised in paragraph 26 of the list of issues**

110. According to the findings of the National Police, Liechtenstein is neither a transit nor a destination country for organized human trafficking. So far, no cases of human trafficking have become known. Accordingly, neither the National Police nor the Liechtenstein justice authorities have carried out investigations of human trafficking or commercial sexual exploitation in Liechtenstein over the past years.

111. Dancers in the currently six nightclubs in Liechtenstein are considered to be a potential risk group with respect to human trafficking. They stay in Liechtenstein for a maximum of seven months within a calendar year on the basis of a special short-term stay permit.

112. Although no cases of human trafficking have been identified in Liechtenstein so far, the Liechtenstein Government has taken measures to continue to prevent such cases and to facilitate the identification of any cases of human trafficking and commercial sexual exploitation. For instance, the Government issued special instructions in 2008 to prevent human trafficking and commercial sexual exploitation in Liechtenstein nightclubs/cabarets. These instructions set out clear rules concerning the housing and payment of dancers. All new dancers are also required to participate in an official information session on their rights and duties, at which representatives of the Victims Assistance Office, the migration authority (Immigration and Passport Office), the police, the labor law authority (Office of Economic Affairs), and the Office for Foreign Affairs provide information on employment, social insurance, victims rights, and immigration law (in translation and in writing). The contact information of the (independent and non-governmental) FIZ counseling office (Advocacy and Support for Migrant Women and Victims of Trafficking) in Zurich (Switzerland) is also distributed. The National Police regularly monitors compliance with the Government instruction by nightclub operators. In 2009, 207 women from Belarus, the Dominican Republic, Brazil, Russia, Ukraine, Romania, Venezuela, Moldova, Thailand and Uzbekistan took part in these information sessions.

## **Other matters**

### **Reply to the issues raised in paragraph 27 of the list of issues**

113. With respect to the legislative, administrative and other anti-terrorism measures taken by Liechtenstein, please note at the outset that Liechtenstein condemns terrorism in all its forms and manifestations, irrespective of the reasons given to justify them. Perpetrators of terrorist acts must be tried in court. At the same time, investigation of the root causes of terrorism is an important element in its prevention. Liechtenstein supports effective international cooperation against terrorism and has therefore ratified and implemented all 16 relevant legal instruments (conventions and protocols) of the United Nations to combat terrorism. To fully implement the International Convention for the Suppression of the Financing of Terrorism of 1999, a special package of laws was adopted, which entailed amendments to criminal law, the Code of Criminal Procedure, and due diligence legislation. Liechtenstein is also a State party to the European Convention on the Suppression of Terrorism of 1977 and the 2003 protocol amending it. Liechtenstein actively supports the work of the Counter-Terrorism Committee (CTC) created by the UN Security Council and conducts an ongoing dialogue concerning global anti-terrorism measures. For this purpose, reports have regularly been submitted to the CTC (2001, 2002, 2003, 2004, 2006, 2009) which explain the measures Liechtenstein has taken to combat terrorist financing. Liechtenstein has also declared its willingness to make financial expertise available to the CTC and to provide technical assistance to other countries in the implementation of anti-terrorism standards.

114. With respect to maintaining the rule of law and basic rights (including the prohibition of torture) in the suppression of terrorism, Liechtenstein regularly emphasizes the importance of the protection of human rights and fundamental freedoms for the effectiveness of any anti-terrorism measures, and it has actively supported the relevant resolutions both of the UN General Assembly and of the UN Human Rights Commission and Human Rights Council. Liechtenstein grants all guarantees of fair proceedings in accordance with the international legal provisions when implementing UN Security Council

resolution 1373 (2001), especially regarding the judicial procedural guarantees when prosecuting terrorist financing. All relevant standards of the European Convention on Human Rights, especially articles 5 and 6, are key components of Liechtenstein procedural law. Their implementation is in the final instance monitored by the European Court of Human Rights in Strasbourg. Liechtenstein is also a State party to the International Convention on Civil and Political Rights and implements the procedural guarantees set out therein.

115. The adoption and implementation of the abovementioned anti-terrorism measures has in no way adversely affected the protection of the rights set out in the Convention against Torture in Liechtenstein.

*Enclosure:*

Treaty between the Principality of Liechtenstein and the Republic of Austria on the confinement of prisoners (LGBI. 1983 No. 39).

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