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Country report

Non-discrimination

Liechtenstein
2021
including summary



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Country report

Non-discrimination

Transposition and implementation at national level of
Council Directives 2000/43 and 2000/78

Liechtenstein

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Reporting period 1 January 2020 – 31 December 2020

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LIST OF ABBREVIATIONS

AA	Act on Aviation
AABP	Act on Assistance for Blind People
AAVCO	Act on Aid for Victims of Criminal Offences
ABP	Association for Assisted Living in Liechtenstein
ACC	Act on the Constitutional Court
ACUSSC	Act on Civil Union for Same-Sex Couples
ACY	Act on Children and Youth
ADI	Act on Disability Insurance
AEICT	Act on Employment in Industry, Commerce and Trade
AEPD	Act on Equality of People with Disabilities
AEPO	Act on the Employment of Public Officials
AEWM	Act on Equality between Women and Men
AFM	Act on the Free Movement of Persons from the EEA and Switzerland
AIC	Act on Informing and Consulting Employees in Enterprises
AM	Act on the Media
AMA	Act on Marriage
AMCLC	Act on Mediation in Civil Law Cases
AOP	Act on Occupational Pensions.
APPS	Act on the Pension Scheme for Public Servants
APS	Act on Postal Services
APR	Act on Political Rights
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
ECHR	European Convention on Human Rights
ECRI	European Commission against Racism and Intolerance
EEA	European Economic Area
DPA	Data Protection Act
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
LC	Constitution of the Principality of Liechtenstein
NOWP	National Old Age and Widow's/Widower's Pension Act
PCL	Personal and Corporate Law
UNCRPD	Convention on the Rights of Persons with Disabilities
VMR	Verein für Menschenrechte – Association for Human Rights in Liechtenstein

EXECUTIVE SUMMARY

1. Introduction

The Principality of Liechtenstein is one of the smallest countries in Europe, with only 38,557 inhabitants. Political power is shared equally between the elected Parliament/the people and the monarch. The Parliament decides on new legislation, which can be amended by the electorate by means of popular initiative or referendum. New laws must be sanctioned by the Prince. Criminal and civil law is handled by the ordinary courts, and appeals are dealt with by the Upper Court in the first instance, and ultimately by the High Court. However, in cases of dispute between citizens and organs of the state, the Administrative Court and the Constitutional Court act as the relevant courts of law. Liechtenstein follows a monist approach to the adoption of international law. The legal system requires that all acts must conform to the Constitution of the Principality of Liechtenstein and relevant international treaties.

Directives 2000/78/EC and 2000/43/EC are based on Article 13 of the EC Treaty. The directives have not been incorporated into the EEA Agreement. Liechtenstein, as a Member State of the EEA and a non-member of the European Union, has refrained from implementing the directives autonomously. The reluctant attitude of Liechtenstein can be explained by the lack of administrative resources and the overriding objective to keep regulatory density as low as possible.

Liechtenstein signed the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in 2020. Ambassador Christian Wenaweser, Liechtenstein's Permanent Representative to the United Nations in New York, signed the Convention on 8 September 2020 on behalf of the Liechtenstein Government. The Government has now commissioned the implementation of its ratification. Thus, the ministries concerned have been instructed by the Government to submit a timetable for making the necessary legal adjustments. In addition, the Office of Foreign Affairs has been instructed to examine the attachment of reservations and declarations in the context of ratification of the UNCRPD, taking into account the comments received, and to make appropriate recommendations or proposals to the Government. As soon as the relevant legislative amendments have been made, ratification of the UNCRPD can take place.

The Office of the Public Prosecutor initiated eight discrimination proceedings in 2020. In three proceedings, criminal charges were brought before the ordinary courts (*Landgericht*). In 2020, there was one conviction under Section 283 of the Criminal Code for a religious and politically motivated discrimination offence. This conviction was legally concluded by a decision of the Upper Court (*Obergericht*) on 16 December 2020.¹

There is no case law in respect of Roma. As of the date of this report, there are very few Roma in Liechtenstein.

2. Main legislation

In Liechtenstein, there exists no specific anti-discrimination law covering all five grounds under the directives. Besides the anti-discrimination provisions in various national acts listed below, judicial interpretation is required to confirm whether the general anti-discrimination provisions in the Constitution and the Criminal Code are sufficient to protect against discrimination.

The following list of anti-discrimination laws in Liechtenstein includes those laws that explicitly cover the relevant grounds of discrimination:

¹ Upon request, the court was unable to state whether publication is planned.

- the Common Civil Code (CCC) states that the exercise of civil and political rights is not dependent on religious affiliation;
- the Criminal Code² (for details see below);
- the Act on Equality of People with Disabilities (AEPD)³ protects individuals against any kind of discrimination based on disability (for details see below);
- the Act on Equality between Women and Men (AEWM)⁴ states that disadvantaging someone on the ground of his or her gender is forbidden;
- the Act on Children and Youth (ACY)⁵ protects children and young persons from discrimination due to sexism, racism, political radicalisation or violence;
- the Act on Postal Services (APS)⁶ explicitly prohibits any discrimination based on political, religious or ideological grounds in this area;
- the Act on the Media (AM)⁷ declares that media content will be considered to be illegal if it incites or supports discrimination based on racial or ethnic origin, gender, religion, age, disability, or sexual orientation;
- the Act on the Employment of Public Officials (AEPO)⁸ governs protection against dismissal in the public sector in relation to the AEWM and the AEPD.

Constitution of the Principality of Liechtenstein⁹

The Constitution states that freedom of religion and belief is guaranteed by the Constitution.¹⁰ There are no anti-discrimination provisions in the Constitution with respect to other grounds. Since Liechtenstein's accession to the European Convention on Human Rights (ECHR) and the creation of Article 15(2) of the Act on the Constitutional Court, the fundamental rights laid down in the ECHR have been regularly asserted in individual complaints before the Constitutional Court (Staatsgerichtshof), together with the fundamental rights laid down in the Constitution. As a result, there is effective implementation of the principle of equal treatment. No constitutional amendment is therefore being considered at the present time by the Liechtenstein Government. The international treaties that are deemed explicitly relevant to the Constitutional Court's jurisdiction are listed in Article 15(2) of the Act on the Constitutional Court.¹¹

Criminal Code

Criminal offences include publicly inciting hatred or discrimination on the grounds of language, nationality, ethnic origin, religion, ideology, gender, disability, age or sexual orientation as well as racial discrimination (§ 283(1), first, second and third sentences) and public discrimination against a person or a group of persons on grounds of race, language, nationality, ethnicity, religion or belief, gender, disability, age or sexual orientation in a manner contrary to human dignity (§ 283(1), fourth sentence).

Act on Equality of People with Disabilities (AEPD)¹²

This act aims to eliminate and prevent discrimination against people with disabilities. It seeks to guarantee equal participation in the daily life of society for people with disabilities.

² Criminal Code (*Strafgesetzbuch, StGB*), LGBI. 1988, No. 37, [1988037000 \(gesetzte.li\)](#).

³ Act on Equality of People with Disabilities (*Gesetz über die Gleichstellung von Menschen mit Behinderungen, Behindertengleichstellungsgesetz* (AEPD), BGIG), 25 October 2006, LGBI. 2006, No. 243, [2006243000 \(gesetzte.li\)](#).

⁴ Act on Equality between Women and Men (*Gesetz über die Gleichstellung von Frau und Mann, Gleichstellungsgesetz*), 10 March 1999, LGBI. 1999, No. 96, [1999096000 \(gesetzte.li\)](#).

⁵ Children and Youth Act (*Kinder- und Jugendgesetz, KJG*), 10 December 2008, LGBI. 2009, No. 29, [2009029000 \(gesetzte.li\)](#).

⁶ Act on Postal Services (*Gesetz über das liechtensteinische Postwesen, Postgesetz, PG*), 18 December 1998, LGBI. 1999, No. 35, [1999035000 \(gesetzte.li\)](#).

⁷ Act on the Media (*Mediengesetz, MedienG*), 19 October 2005, LGBI. 2005 No. 250, [2005250000 \(gesetzte.li\)](#).

⁸ Act on the Employment of Public Officials (*Gesetz über das Dienstverhältnis des Staatspersonals, Staatspersonalgesetz, StPG*), 24 April 2008, LGBI. 2008 No. 144, [2008144000 \(gesetzte.li\)](#).

⁹ Constitution of the Principality of Liechtenstein (*Verfassung des Fürstentums Liechtenstein, LV*), LGBI. 1921, No. 15.

¹⁰ See Article 37 of the Constitution.

¹¹ Act on the Constitutional Court (*Gesetz über den Staatsgerichtshof, StGHG*), 27 November 2003, LGBI. 2004, No. 32, [2004032000 \(gesetzte.li\)](#).

¹² Act on Equality of People with Disabilities, 25 October 2006.

The act covers the fields of education, employment, goods and services, social protection and security as well as social advantages.

International human rights treaties

As a member of the United Nations and the Council of Europe, Liechtenstein has ratified various international and European agreements on the protection of human rights. It is the ongoing practice of the Liechtenstein Government to ratify an agreement only once the legal and practical preconditions have been created at the domestic level. This ensures that the agreement can be applied domestically from the time of entry into force. The table in Annex 2 includes the most important human rights instruments to which Liechtenstein is a State Party.

In addition, further international treaties with high relevance to anti-discrimination jurisdiction – according to the Act on the Constitutional Court – are in force in Liechtenstein. Liechtenstein law includes various legal acts, covering most aspects of the above-mentioned international human rights treaties. This applies in particular to the equal treatment of women and men and to discrimination on the ground of disability.

3. Main principles and definitions

Out of the grounds covered by this report, direct discrimination is explicitly prohibited only on the ground of disability in the AEPD.¹³ It is defined as occurring when a person is treated less favourably than another person has been or would be treated in a comparable situation. Indirect discrimination is defined in the AEPD as occurring when an apparently neutral provision, criterion or practice would put persons with disabilities at a particular disadvantage compared with persons without disability, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.¹⁴

The Criminal Code says in the first sentence of § 283(1) that any person who publicly incites hatred or discrimination against a person or group of persons on the grounds of race, language, nationality, ethnicity, religion or belief, gender, disability, age or sexual orientation will be sentenced to a period of imprisonment of up to two years. The fourth sentence of § 283(1) of the Criminal Code clearly states that any person who publicly discriminates against a person or a group of persons on grounds of race, language, nationality, ethnicity, religion or belief, gender, disability, age or sexual orientation in a manner contrary to human dignity must be punished by law. Furthermore, participation as a member of an association whose activity consists of promoting or inciting discrimination within the meaning of the provision is prohibited.¹⁵

Harassment is defined in the AEPD. Harassment is unwanted conduct related to the disability of a person, with the purpose or effect of violating the dignity of the person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.¹⁶ Race and ethnic origin, religion and belief, age and sexual orientation are not included in this definition.

The AEPD¹⁷ 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. There are no further provisions concerning discrimination based on association with persons with particular characteristics – neither regarding people with disabilities nor in relation to discrimination on other grounds.

¹³ See Article 6(1) of the AEPD.

¹⁴ See Article 6(2) of the AEPD.

¹⁵ See § 283(1) of the Criminal Code.

¹⁶ See Article 8 of the AEPD.

¹⁷ See Article 5(4) of the AEPD.

The AEPD allows exceptions from the general rule, in cases where there are such rules, and unequal treatment can be 'objectively justified'. Exceptions are allowed specifically in the field of employment if there are genuine and determining occupational requirements, such as special knowledge, skills or physical condition, or if special characteristics are required for a job. Positive action is also allowed.¹⁸ This does not harm anti-discrimination provisions. Further victimisation is prohibited in the AEPD. The complainant must not be penalised as a response to a complaint or as a response to the launching of a legal process to secure a ban on discrimination. Anyone who appears as a witness or informant in court proceedings, or anyone who supports a person affected by discrimination, must not be penalised or disadvantaged.

The AEPD states that multiple discrimination must be taken into account when deciding on compensation for immaterial damages at a court trial.¹⁹ There are no provisions regarding multiple discrimination on other grounds, such as religion and belief, sexual orientation, race and ethnic origin or age.

In Liechtenstein, the duty to provide reasonable accommodation is included in the law indirectly, through the prohibition of indirect discrimination. The AEPD provides no provision to set up reasonable accommodation for people with disabilities in general, but it states that indirect discrimination has occurred if no attempts have been made to accommodate the situation of the person concerned.²⁰

Judicial interpretation would be required to clarify whether or not discrimination on other grounds is also covered, since there are no explicit legal provisions. The Constitution, binding international treaties and provisions in various national laws might eventually justify a conviction. The provisions on victim assistance in the Victim Assistance Act (*Opferhilfegesetz*, OHG) also extend the legal scope of civil law compensation provisions and substantive criminal law provisions with regard to anti-discrimination.²¹

4. Material scope

The AEPD states that people with disabilities must not be discriminated against.²² Further, the AEPD specifies that employees must not be discriminated against, in either a direct or an indirect way. The provisions also include aspects of prohibition of discrimination in 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 cooperation in trade unions, conditions for access to self-employment, education and access to goods and services.²³ There is no explicitly mentioned protection against discrimination on grounds other than disability and gender in either employment or non-employment law.

Since an amendment was made to the Criminal Code in 2016, introducing a comprehensive prohibition of direct discrimination, not only racial discrimination but discrimination on the basis of language, nationality, ethnicity, religion, ideology, gender, disability, age or sexual orientation now constitutes a criminal offence. The Criminal Code does not contain any specific provisions about indirect discrimination or the fields of discrimination. It states,

¹⁸ See Article 20 of the AEPD, which allows pilot projects in favour of people with disabilities, including incentives for employers to adapt their workplaces to the needs of people with disabilities.

¹⁹ See Article 23 of the AEPD.

²⁰ See Article 7(3) of the AEPD.

²¹ For example, victims of racist assaults can make a claim for compensation within the framework of criminal proceedings (§ 32 of the Criminal Procedure Code). Compensation for non-material damages can be claimed through civil law. Both criminal law and civil law allow for the use of procedural assistance, which includes, among other things, an exemption from legal costs. Victim Assistance Act, <https://www.gesetze.li/konso/pdf/2007228000?version=6>.

²² See Article 5 of the AEPD.

²³ See Article 10 of the AEPD in general, and in particular Article 10(1(a to k)).

however, that a sentence of imprisonment of up to two years will be imposed on any person who refuses to provide a service offered by him or her to a person or group of persons on the grounds of race, language, nationality, ethnicity, religion or belief, gender, disability, age or sexual orientation.²⁴

5. Enforcing the law

Several ministries and workgroups support the enforcement of the law by advising and counselling people affected by discrimination and by coordinating activities. State authorities strongly cooperate with and provide financial support to the non-governmental associations that are listed in Section 6 below.

Complaints are brought to the ordinary courts or, in the case of a complaint against a public authority, to the Administrative Court. Court procedures can be carried out in person or through a representative.²⁵ The representative may be a lawyer, but the Code of Civil Procedure (CCP) does not restrict representation to lawyers; the CCP allows any authorised, mandated person – thus including associations – to act as a legal representative. The AEPD defines the circumstances under which associations for persons with disabilities can claim for discrimination on their own behalf.²⁶ Such associations can, on their own behalf, call upon the courts to consider that a discrimination has occurred. As a consequence, the discriminatory actions in question must be eliminated if the court finds that such discrimination has occurred.

Complaints relating to these anti-discrimination provisions are adjudicated by the ordinary courts in the first instance. Claims based on the Convention on the Elimination of All Forms of Racial Discrimination can be brought to court in the same way as claims based on national law, including the AEPD.

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

Court trials must be carried out according to the CCP, although there is an exception with respect to the burden of proof. The AEPD states that, for complaints of direct discrimination, it is obligatory for the defendant to prove that it is more likely, in all the circumstances that he claims, for there to be another reason for the difference in treatment, and that that reason is crucial. There are similar provisions in relation to harassment and indirect discrimination.

Statistical evidence and the use of situation testing in the context of discrimination are not explicitly permitted, but nor are there general restrictions on the use of such material under national law. One can assume, however, that any evidence, including evidence from statistical data, is admissible in court. Due to the low regulatory density and the limited capacity of civil servants within Liechtenstein, there are currently no legal provisions for, or practical examples of, situation testing in Liechtenstein.

The AEPD states that claims have a limitation period of a year, starting from the day on which the person concerned first learned about the act of discrimination and the perpetrator, or in any event lasting three years from the day when the act of discrimination occurred.²⁷ The provisions of the Common Civil Code (CCC) apply correspondingly to further preconditions for statutory limitation.

²⁴ See 283(1) of the Criminal Code.

²⁵ See Articles 25, 26 and 28 of the Code of Civil Procedure (CCP).

²⁶ See Article 31 of the AEPD.

²⁷ See Article 24 of the AEPD.

The AEPD states that persons with disabilities who are discriminated against are entitled to the 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 on the ground of disability. In assessing the extent of compensation for the immaterial injury, the length of the period of discrimination, the seriousness of the act, the extent of the detriment and the question whether there has been multiple discrimination, must be taken into account. No limits on compensation are set out in the law.

6. Equality bodies

Given that the directives have not been transposed into Liechtenstein law, no equality bodies have been officially designated in accordance with the directives. Nevertheless, Liechtenstein has two main official institutions that are entrusted with a broad spectrum of tasks concerning disadvantage and discrimination.

The Office for the Equality of Persons with Disabilities²⁸ was set up by the Government in accordance with the AEPD. The office is attached to the (private) Liechtenstein Association of People with Disabilities and acts independently. The office has the following tasks:²⁹

- to submit recommendations or applications for action to the Government;
- to advise and ensure cooperation between public authorities and private individuals;
- to participate in the preparation of relevant legislation;
- to carry out public relations work to raise public awareness;
- to promote social dialogue between employers and employees.

The Association for Human Rights in Liechtenstein (Verein für Menschenrechte, VMR),³⁰ founded in 2016, replaced the former Office of Equal Opportunities. The VMR is the independent national human rights institution of Liechtenstein in accordance with the United Nations Paris Principles of 1993. The association has the following main functions:

- advising authorities and private individuals on human rights issues;
- acting as the independent ombudsman for children and young people;
- counselling people and supporting victims of human rights violations;
- inform the public about the human rights situation in Liechtenstein;
- conducting investigations and recommending appropriate measures to authorities and private individuals;
- giving opinions on draft laws and on the ratification of international conventions;
- promoting dialogue and cooperation with human rights bodies.

The VMR may, with the consent of a victim of a human rights violation, participate in judicial and administrative proceedings either on behalf of or in support of the victim, represented by an external lawyer contracted by the association.³¹

The VMR has twice issued an official statement in favour of the ratification of the UNCPRD.³² In addition, the VMR organised and issued invitations for the first round table on LGBTI issues. A total of 17 different institutions accepted the invitation. The aim of the event was to have an exchange about the situation of homosexual, transgender and intersex youth

²⁸ Office for the Equality of Persons with Disabilities (*Büro für die Gleichstellung von Menschen mit Behinderung*). See <http://www.lbv.li/>.

²⁹ See Article 22 of the AEPD.

³⁰ Association for Human Rights in Liechtenstein (*Verein für Menschenrechte, VMR*). See <https://www.menschenrechte.li/category/ueber-uns/>. Act on the Association for Human Rights in Liechtenstein (*Gesetz über den Verein für Menschenrechte in Liechtenstein, VMRG*), 4 November 2016, LGBl. 2016, No. 504, <https://www.gesetze.li/konso/pdf/2016504000?version=1>.

³¹ The legal basis for this is stated in Article 5 of the Act on the Association for Human Rights in Liechtenstein.

³² See VMR statement to the Committee on the Rights of Persons with Disabilities: [Behindertenrechtskonvention: Stellungnahme VMR – Verein für Menschenrechte in Liechtenstein](#).

in Liechtenstein. In a message on Facebook, this event was described as 'A novelty in Liechtenstein and a step towards a society in which diversity becomes normality'.³³

It should be mentioned that, in respect of either body, there are no specific complaints mechanisms in place for an individual to complain to a treaty body. Since the purpose of the VMR is the protection and promotion of human rights, the Association can only perform an advisory function on human rights issues with regard to private individuals. The same is true for the Office for the Equality of Persons with Disabilities. Its main responsibility is advising private individuals on issues relating to the integration and equality of persons with disabilities.

7. Key issues

At its meeting on 26 May 2020, the Government decided to sign the UNCRPD. The ministries concerned have been instructed by the Government to present a timetable for making the necessary legislative adjustments. In addition, the Office of Foreign Affairs was instructed to examine the raising of reservations and declarations in the context of ratification of the UNCRPD, taking into account the comments received, and to make appropriate recommendations or proposals to the Government. By the end of 2020 the appropriate legislative amendments had not been made, thus the Convention will probably be ratified in 2021.

In June 2019, the Government established an interagency working group, led by the Office of Foreign Affairs, with the aim of improving the follow-up of recommendations from international human rights bodies and coordinating data collection and reporting under the human rights conventions. In 2019/2020, the working group addressed in particular the recommendations of the European Commission against Racism and Intolerance of the Council of Europe (ECRI) and the UN Committee on the Elimination of Discrimination against Women (CEDAW). The working group's initial analysis report on the urgent recommendations of the two human rights bodies was noted by the Government in June 2020. The Government then decided to start the process of ratifying the Istanbul Convention.

In order to obtain an overview of the integration process in Liechtenstein, the Integration Strategy Working Group, under the direction of the Ministry of Society and on behalf of the Government, commissioned a study in 2018 entitled 'Integration in Liechtenstein: Socio-economic potentials and areas of tension'. In June 2020, the result was presented to the public.

With the completion of the sociological study on the situation of migrants in Liechtenstein in June 2020 (the migration study), ECRI's urgent recommendation No. 6 from 2018 was implemented. The study covers acculturation, integration into the labour market, education and training, social life, religion and political participation. The results of the study serve the working group commissioned by the Government as a reference document for the development of the new integration strategy in Liechtenstein. The strategy is expected to be published in 2021.

In June 2020, Liechtenstein submitted its fifth country report on the ratification of the Framework Convention for the Protection of National Minorities to the Council of Europe. Liechtenstein is taking national measures to prevent discrimination, racism and intolerance, to better integrate foreign nationals, and to combat right-wing extremism.

³³ This statement was given by the management of the Haus Gutenberg, who hosted the meeting, on their Facebook page.

Liechtenstein was issued a recommendation, as part of the review by the UN Human Rights Council in 2018,³⁴ to continue taking measures towards creating comprehensive anti-discrimination legislation that would include all prohibited grounds for discrimination. The Government responded that, on the basis of existing laws, Liechtenstein provides comprehensive protection against discrimination. However, the introduction of a general anti-discrimination law would contradict the liberal economic order of the country and could provoke possible conflicts with the principle of freedom of contract. No further action has been taken by the Government in 2020.

The legal measures to combat the COVID-19 pandemic in Liechtenstein included the Ordinance on Measures to Control the Coronavirus (the COVID-19 Ordinance), published on 25 June 2020.³⁵ This COVID-19 Ordinance has been continuously adapted to pandemic developments. Pursuant to Article 11 of the COVID-19 Ordinance, Liechtenstein applies the provisions of the Swiss COVID-19 Ordinance on the maintenance and adequate supply of care and essential medical supplies to the population, in accordance with the guidelines of the Swiss Society of Intensive Care Medicine (SGI). These guidelines state that the available resources are to be distributed without discrimination, i.e., without unjustified unequal treatment according to age, gender, place of residence, nationality, religious affiliation, social status, insurance status or chronic disability. In relation to the COVID-19 crisis, no amendments have been made to the AEPD, nor is any legal reference between the COVID-19 Ordinance and the AEPD in place.

³⁴ UN Human Rights Council (2018), 'Draft report of the Working Group on the Universal Periodic Review: Liechtenstein' (unedited version) (A/HRC/WG.6/29/L.13).

³⁵ Ordinance on Measures to Control the Coronavirus (COVID-19 Ordinance), version as of 06.05.2021, <https://www.gesetze.li/konso/pdf/2020206000?version=31>.

INTRODUCTION

The national legal system

Liechtenstein's Constitution defines the country as 'a constitutional, hereditary monarchy on a democratic and parliamentary basis',³⁶ where 'the power of the State is embodied in the Reigning Prince and the People'.³⁷ 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.³⁸ Article 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'. In respect of international relations, the Parliament is not allowed to amend a treaty that has already been signed by the Government, although it can accept or reject it completely. In addition, the people have the direct democratic rights of initiative and referendum, including the right to hold a referendum on international treaties. Therefore, new laws and amendments to laws and the Constitution can 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, including the Prime Minister, who has to countersign the laws and financial resolutions that have been passed by the Parliament and signed by the reigning Prince.³⁹

The legal competence for anti-discrimination law is distributed among different levels of government. The Ministry of Society is, among other things, responsible for equal opportunities. This includes equality in all areas of life for men and women, people with disabilities and other population groups. The Office of Social Services, specifically its Equal Opportunities Department, reports to the Ministry. The Equal Opportunities Department is committed to promoting equal opportunities in the areas of gender equality, disability, migration and integration, social protection and sexual orientation. Other grounds, such as age, are not explicitly mentioned.

The Ministry of Foreign Affairs, Justice and Culture is responsible for all areas of law (civil law, criminal law, the penal system, victim assistance, the coordination of official liability, etc.) The Office of Foreign Affairs, among other bodies, is subordinate to the Ministry. Its task is to ensure the ongoing domestic implementation of Liechtenstein's human rights obligations, and it is also responsible for compliance with the reporting obligations under human rights conventions.

The legal system is dual in nature. Criminal and civil law is handled by the Ordinary Court (*Landgericht*); appeals in the first instance are dealt with by the Upper Court (*Obergericht*), and ultimately by the High Court (*Oberster Gerichtshof*). In cases of dispute between citizens and organs of the state, the Administrative Court (*Verwaltungsgericht*) and the Constitutional Court (*Staatsgerichtshof*) act as the relevant courts of law.⁴⁰

A person in Liechtenstein may assert claims arising from human rights, which are enshrined as fundamental rights in the Constitution of the Principality of Liechtenstein, against any

³⁶ Article 2 of the Constitution of the Principality of Liechtenstein, 1921 (for English version, copy the following link into web browser): <https://www.gesetze.li/lilexprod/dloadpdf.jsp?smatik=201>.

³⁷ Article 2 of the Constitution.

³⁸ Article 9 of the Constitution.

³⁹ Constitution of the Principality of Liechtenstein, 1921 (for English version, copy the following link into web browser): <https://www.gesetze.li/lilexprod/dloadpdf.jsp?smatik=201>.

⁴⁰ 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 Government ministers. Article 104(2) states that the Constitutional Court shall have jurisdiction to review the constitutionality of laws and international treaties and the legality of Government regulations and that, in such matters, it may declare their annulment.

state authority. As the final national instance, the Liechtenstein Constitutional Court (*Staatsgerichtshof*) decides on the basis of Article 15 of the Constitution on individual complaints alleging a violation of human rights.

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

List of main legislation transposing and implementing the directives

Liechtenstein is not a member of the EU. Directive 2000/43/EC (Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin) and Directive 2000/78/EC (Council Directive establishing a general framework for equal treatment in employment and occupation) have not been transposed to EEC law and therefore to national law in Liechtenstein. Both these directives were considered not to be EEA relevant, because Articles 6 and 13 of the Treaty establishing the European Community (TEC) (in the Amsterdam version) form the legal basis, and there are no provisions that correspond to these articles in the EEA Agreement. An adoption of the directives would thus have extended the scope of the EEA Agreement.

The following national laws are of relevance in terms of equality and anti-discrimination legislation:

- the Constitution of the Principality of Liechtenstein states that freedom of religion and belief is guaranteed by the Constitution. There are no anti-discrimination provisions in the Constitution with respect to other grounds (for details see below);
- the Common Civil Code (CCC)⁴¹ states that the exercise of civil and political rights is not dependent on religious affiliation;
- the Criminal Code⁴² covers the grounds of age, disability, race, ethnic origin, religion, belief, sex, sexual orientation and gender; material scope: all sectors (for details see below);
- the Act on Equality of People with Disabilities (AEPD)⁴³ protects individuals against any kind of discrimination based on disability (for details see below); ground covered: disability; material scope: all sectors;
- the Act on Children and Youth (ACY)⁴⁴ protects children and young persons from discrimination due to sexism, racism, political radicalisation or violence;
- the Act on Postal Services (APS)⁴⁵ explicitly prohibits any discrimination based on political, religious or ideological grounds in this area;
- the Act on the Media (AM)⁴⁶ declares that media content will be considered to be illegal if it incites or supports discrimination based on racial or ethnic origin, gender, religion, age, disability, or sexual orientation;
- the Act on the Employment of Public Officials (AEPO)⁴⁷ governs protection against dismissal in the public sector in relation to the AEWG and the AEPD; grounds covered: disability and gender; material scope: protection against dismissal in reference to the AEPD (Article 22(3)) and the AEWG;

⁴¹ Common Civil Code (*Allgemeine Bürgerlich Gesetzbuch*), [1003001000 \(gesetzte.li\)](#)

⁴² Criminal Code, 1988, [1988037000 \(gesetzte.li\)](#).

In 2016, an amendment to § 283(1-3) of the Code entered into force, introducing a comprehensive prohibition against discrimination. Criminal offences now include publicly inciting hatred or discrimination on the grounds of language, nationality, ethnic origin, religion, ideology, gender, disability, age or sexual orientation as well as racial discrimination.

⁴³ Act on Equality of People with Disabilities, 25 October 2006.

⁴⁴ Children and Youth Act, 10 December 2008.

⁴⁵ Act on Postal Services, 18 December 1998.

⁴⁶ Act on the Media, 19 October 2005.

⁴⁷ Act on the Employment of Public Officials, 24 April 2008.

- the Act on Informing and Consulting Employees in Enterprises (AIC)⁴⁸ states that employees are not allowed to be treated less favourably due to their involvement in a workers' representative organisation.

Constitution of the Principality of Liechtenstein⁴⁹

Article 15(2) of the Act on the Constitutional Court governs fundamental human rights and grants effective implementation of the principle of equal treatment. No constitutional amendment is therefore being considered at the present time by the Liechtenstein Government. The international treaties that are deemed explicitly relevant to the Constitutional Court's jurisdiction are listed in Article 15(2) of the Act on the Constitutional Court.⁵⁰

Criminal Code

The Criminal Code states that any person shall be punished with imprisonment if they publicly incite hatred or discrimination against another person or any group of persons on the grounds of their race, language, nationality, ethnic origin, religion or ideology, gender, disability, age, or sexual orientation.⁵¹ On the same grounds, the Criminal Code penalises the public dissemination of ideologies which systematically denigrate or defame; the organisation of or participation in propaganda campaigns; the public denial or gross belittlement of or seeking of justification for genocide or other crimes against humanity; refusing to provide a service that is intended to be provided to the general public; and participation as a member of a group whose activity consists in promoting or inciting discrimination within the meaning of the relevant provision.

Furthermore, the Criminal Code states that any person shall likewise be punished who, with regard to discriminatory written materials, audio or video recordings, signs transmitted by electronic media, images or other objects of this kind,

- produces, imports or stores them or brings them into circulation for the purposes of dissemination;
- publicly advertises, exhibits, offers or shows them.

Act on Equality of People with Disabilities (AEPD)⁵²

This act aims to eliminate and prevent discrimination against people with disabilities. It seeks to guarantee equal participation in the daily life of society for people with disabilities. The act covers the fields of education, employment, goods and services, social protection and security as well as social advantages.

Other types of legislation

In addition, the following grounds of discrimination are protected by other types of legislation in very limited circumstances:⁵³

⁴⁸ Act on Informing and Consulting Employees in Enterprises (*Gesetz über die Unterrichtung und Anhörung der Arbeitnehmerschaft in den Betrieben, Mitwirkungsgesetz, MWG*), 23 October 1997, LGBl. 1997, No. 211.

⁴⁹ Constitution of the Principality of Liechtenstein, 1921.

⁵⁰ Act on the Constitutional Court, 2003.

⁵¹ The amendment of the Criminal Code in 2016 followed a recommendation from the European Commission against Racism and Intolerance (ECRI) contained in its Fourth Country Report in 2013. See § 283(1-2) of the Criminal Code.

⁵² Act on Equality of People with Disabilities, 25 October 2006.

⁵³ Act on the Media, 19 October 2005. Grounds covered: racial or ethnic origin, gender, religion, age, disability or sexual orientation; material scope: all media and media owners under the jurisdiction of Liechtenstein. Act on Civil Union for Same-Sex Couples (*Gesetz über die eingetragene Partnerschaft gleichgeschlechtlicher Paare, Partnerschaftsgesetz, PartG*), 16 March 2011. Grounds covered: sexual orientation; material scope: inheritance law, social insurance law, occupational pension provision, immigration and naturalisation law, tax law and the other areas of public law. The adoption of children and the use of reproductive procedures remain excluded.

The Constitution provides equality before the law only to Liechtenstein citizens, although the case law of the Constitutional Court has extended the principle of equality before the law to foreigners to a certain extent, covering the field of public services and goods. See the case law of the Constitutional Court: StGH 2013/167 (*Erhebung von Gebühren im Ausländerrecht – Ungleichbehandlung*), https://www.gerichtsentscheidungen.li/default.aspx?z=ypRkEt5GShU6UZJlINtNoOUtqCRtb34zuLBLJ_xRQ14

- religion;
- belief;
- race;
- ethnic origin;
- nationality;
- ideology;
- sexual orientation;
- age;
- language.

1 GENERAL LEGAL FRAMEWORK

Constitutional provisions on protection against discrimination and the promotion of equality

Articles 27bis to 44 of the Liechtenstein Constitution enshrine numerous fundamental rights and freedoms. In particular, the Constitution of Liechtenstein includes the following articles dealing with non-discrimination:

Article	Type of clause	Grounds covered	Material scope
Article 27bis ⁵⁴	A general clause, not listing any specific grounds of discrimination. The article says: 'Human dignity must be respected and protected. No one shall be subjected to inhuman or degrading treatment or punishment.' ⁵⁵	Basic principle of human dignity of all Liechtenstein citizens; prohibits inhuman or degrading treatment	General
Article 31	A general clause on equality between persons with Liechtenstein citizenship.	Basic principle of equality of all Liechtenstein citizens	General
Article 37(1) ¹⁰	An explicit clause that guarantees freedom of religion and conscience	Religion, belief	General
Article 39 ¹⁰	A specific clause stating that the exercise of civil and political rights is not dependent on religious affiliation	Religion, belief	General
Article 40 ¹⁰	A clause covering freedom of speech (<i>Meinungsfreiheit</i>)	Religion, belief	General
Article 41 ¹⁰	A clause covering the right of assembly and association (<i>Vereins- und Versammlungsrecht</i>)	Not explicitly specified	General

These provisions do not apply to all areas covered by the directives. Their material scope is not broader than those of the directives. These provisions are directly applicable. These provisions can be enforced against private individuals (as well as against the state).

The case law of the Constitutional Court has derived further fundamental rights from those enumerated above or has recognised them as independent, non-codified fundamental rights. Some fundamental rights only apply to Liechtenstein citizens. In particular, these include political rights and freedom of residence. While the text of the Constitution provides equality before the law only to Liechtenstein citizens, the case law of the Constitutional Court has extended the principle of equality before the law to foreigners.

Liechtenstein uses the incorporation or monist system, whereby a ratified agreement becomes part of domestic law on the date when it enters into force, without the need for separate legislation to be introduced. The Constitutional Court has often ruled on the status of constitutional treaties and has repeatedly found that international treaties approved by Parliament enjoy at least the same rank as legislation. However, international treaties are

⁵⁴ Constitution of the Principality of Liechtenstein, 1921.

⁵⁵ As far as the author is aware, this article has never been interpreted or challenged to include protection on the basis of sexual orientation.

not often used to censure discrimination based on the five grounds given by the directive. For example, the following decisions of the Liechtenstein courts refer to the International Convention on the Elimination of Racial Discrimination (ICERD) in connection with discrimination:

- StGH 2013/167 paragraph 9.1 mentions Article 1 ICERD;
- StGH 2013/009 paragraph 2.6, facts and recitals 1.2 and 5, refer to ICERD and to the definition of racial discrimination.

StGH 2011/203 recital 4 also refers to ICERD and makes a definition of racial discrimination.

Anyone who believes that a final decision or decree of a court or public authority has violated one of his or her rights guaranteed under the Constitution or rights guaranteed under an international convention for which an individual right of complaint has been recognised by the legislative power⁵⁶ may appeal the decision or decree to the Constitutional Court. This entails that the various international conventions for the protection of human rights are considered as substantive constitutional law. Only after exhausting national legal remedies can a violation of fundamental rights then be asserted before the European Court of Human Rights (ECtHR).

Since Liechtenstein's accession to the ECHR and the creation of Article 15(2) of the Act on the Constitutional Court,⁵⁷ the fundamental rights laid down in the ECHR have been regularly asserted in individual complaints before the Constitutional Court, together with the fundamental rights laid down in the Constitution. As a result, there is effective implementation of the principle of equal treatment. No constitutional amendment is therefore being considered at the present time by the Liechtenstein Government.

⁵⁶ Liechtenstein has recognised the individual right to complaint under the following conventions:
European Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms;
International Covenant of 16 December 1966 on Civil and Political Rights;
International Convention of 21 December 1965 on the Elimination of All Forms of Racial Discrimination;
Convention of 18 December 1979 on the Elimination of All Forms of Discrimination against Women;
Convention of 10 December 1984 against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

⁵⁷ Act on the Constitutional Court, 2003.

2 THE DEFINITION OF DISCRIMINATION

2.1 Grounds of unlawful discrimination explicitly covered

Gender and disability are the two grounds of discrimination that are explicitly prohibited in the main legislation transposing and implementing the two EU anti-discrimination directives, as listed in the introduction.

Besides gender (which is covered by the Act on Equality between Women and Men),⁵⁸ disability (covered under the Act on Equality of People with Disabilities)⁵⁹ is the only ground that is explicitly covered by specific anti-discrimination law in Liechtenstein.

Furthermore, the fourth sentence in § 283(1) of the Criminal Code⁶⁰ includes a comprehensive prohibition against discrimination on the grounds of:

- language;⁶¹
- nationality;
- ethnic origin;
- ideology;⁶²
- gender;
- disability;
- age;
- sexual orientation.⁶³

The Act on the Media (AM)⁶⁴ declares that media content will be considered to be illegal if it incites or supports discrimination based on racial or ethnic origin, gender, religion, age, disability or sexual orientation. The act is applicable to media companies and media owners in the territory of Liechtenstein, whereas the Criminal Code⁶⁵ is applicable to a wider circle of persons.

The Act on the Employment of Public Officials (AEPO)⁶⁶ regulates protection against dismissal in reference to the AEPD (Article 22(3)) and the Act on Equality between Women and Men (AEWM).⁶⁷

2.1.1 Definition of the grounds of unlawful discrimination within the directives

There is no general anti-discrimination law in Liechtenstein. Thus, besides the AEPD, Article 3(1) of which provides a definition of the ground of disability, no definition of any other grounds of discrimination is provided. Definitions may be made in reference to the ECHR. In 2005, the Liechtenstein Constitutional Court pointed out that, according to the

⁵⁸ Act on Equality between Women and Men (*Gesetz über die Gleichstellung von Frau und Mann, Gleichstellungsgesetzes, GLG*), 10 March 1999.

⁵⁹ Act on Equality of People with Disabilities, 25 October 2006.

⁶⁰ Criminal Code, 1988, [1988037000 \(gesetze.li\)](#).

Criminal offences include publicly inciting hatred or discrimination on the grounds of language, nationality, ethnic origin, religion, ideology, gender, disability, age or sexual orientation as well as racial discrimination (§ 283(1), first, second and third sentences) and public discrimination against a person or a group of persons on grounds of race, language, nationality, ethnicity, religion or belief, gender, disability, age or sexual orientation in a manner contrary to human dignity (§ 283(1), fourth sentence).

⁶¹ Liechtenstein has been a member of the European Charter for Regional or Minority Languages since 1998. Furthermore, language has been explicitly mentioned as an inadmissible ground of discrimination in the Criminal Code since 1 April 2016.

⁶² The Criminal Code does not define ideology. Thus, judicial interpretation would be needed here.

⁶³ As regards sexual orientation, there are no legal cases known to the author that refer to the adopted provisions of the Criminal Code that entered into force in April 2016.

⁶⁴ Act on the Media, 19 October 2005.

⁶⁵ Criminal Code, 1988, [1988037000 \(gesetze.li\)](#).

⁶⁶ Act on the Employment of Public Officials, 24 April 2008.

⁶⁷ Act on Equality between Women and Men, 10 March 1999.

settled case law of the Constitutional Court, the ECHR holds a constitutional status,⁶⁸ and that the definitions within the ECHR are applicable to Liechtenstein and national law.

a) Racial or ethnic origin

The Liechtenstein legal framework does not contain a specific legal definition of race or ethnic origin.

In a ruling in 2011, the Administrative Court stated that a legal distinction based on a link to nationality did not constitute discrimination per se. This was justified by the fact that the International Convention on the Elimination of All Forms of Racial Discrimination states in Article 1(2) that 'any distinction, exclusion, restriction or preference which a State Party may make between its own nationals and foreign nationals' does not fall under the prohibition of racial discrimination as long as the distinction is not made on the basis of a 'frowned upon (taboo)' characteristic.⁶⁹ With this ruling, reference can be made to the applicability of the definition in the ICERD, which entered into force in Liechtenstein on 31 March 2000, for specific definitions of the grounds of discrimination.⁷⁰

In the light of the judicial decisions of the State Court and other courts in Liechtenstein, it can be said that Liechtenstein courts refer to and apply the ICERD.⁷¹

Further legal interpretation would be necessary to provide guidance on the limits or scope of ethnic origin or race.

b) Religion and belief

The Liechtenstein legal framework does not contain a specific legal definition of religion or belief. An interpretation of how 'religion' is defined may be based on Article 9 of the ECHR.

c) Disability

Article 3(1) of the AEPD gives the following definition of disability:

'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.'

Comparing this definition with the definition of disability based on Article 1 of the CRPD (referring to the CJEU case of *HK Danmark, Ring and Skouboe Werge*), it can be said that the AEPD does not fully reflect the concept of 'disability' as a limitation which results in particular from physical, mental or psychological impairments, which, in interaction with

⁶⁸ See Constitutional Court 2005/89, <http://www.gerichtsentscheide.li/default.aspx?mode=suche&txt=EMRK&gericht=2&vonjahr=2005&bisjahr=2006&id=1601&backurl=?mode=suche%26txt=EMRK%26gericht=2%26vonjahr=2005%26bisjahr=2006>.

⁶⁹ The Court came to this interpretation of the law in its ruling StGH 2011/203 with reference to other legal treatises (Kälin, W. (2000), *Grundrechte im Kulturkonflikt*, Zürich, Verlag Neue Zürcher Zeitung, p. 102; Waldmann, B. (2003), *Das Diskriminierungsverbot von Art. 8 Abs. 2 BV als besonderer Gleichheitssatz*, Bern, Stämpfli Verlag), where the term *verpönt* ('frowned upon') was used. See https://www.gerichtsentscheidungen.li/default.aspx?z=j1hdehR988NZFq80gqVNoy5HCs5abV9q4sNGiafRA9kPktkcwOq-q8v3fI_tL4IdOmQ0uhRNDKVV4VpELQtTMyyVBeo8DEchUF058Q_50.

⁷⁰ In Article 1, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) defines racial discrimination 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.'

⁷¹ See court rulings: StGH 2013/167 Recital 9.1 mentions Art. 1 ICERD. StGH 2013/009 No. 2.6 Facts and Recitals 1.2 and 5 refer to the ICERD and the definition of racial discrimination; see also StGH 2011/203 Recital 4.

various barriers, may hinder the full and effective participation of the person concerned in their professional life on an equal basis with other workers.

Further, it is important to note that the national law refers to 'physiological, mental and physical' conditions that result in disabilities without any reference to limitation based on illness.

In Article 29 of the Act on Disability Insurance, disability is defined as the probable permanent or prolonged incapacity for work caused by physical or mental damage to health as a result of a birth defect, illness or accident.⁷²

In the Government's comments on the AEPD,⁷³ it was stated with regard to the definition of disability that the disability insurance scheme determines the degree of disability on the basis of existing earning capacity.⁷⁴ In addition, the legislature made a reference to the World Health Organization's holistic concept of disability assessment, which focuses on the consequences of health disorders rather than on the causes. Against this background and taking into account the intention of the legislator (referring to the definition of disability in the Act on Disability Insurance), it can be assumed that illness may be regarded as a disability under the AEPD.

d) Age

The law is silent on the definition of age in respect of discrimination. Only one definition is given in the Act on Children and Youth (ACY), stating that children and young people up to and including the age of 18 enjoy special protection.

e) Sexual orientation

The Liechtenstein legal framework does not contain a specific legal definition of sexual orientation. Even the Act on Civil Union for Same-Sex Couples (ACUSSC)⁷⁵ contains no definition of sexual orientation. Based on the case law known to the author, no definitions of sexual orientation have been made by the courts.

2.1.2 Multiple discrimination

In Liechtenstein, multiple discrimination is prohibited by law.

The AEPD states in Article 23 (in combination with Article 5) that multiple discrimination must be taken into account when deciding on compensation for immaterial damages at a court trial. However, 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 (religion or belief, sexual orientation, race and ethnic origin or age). The author is not aware of any plans for the adoption of such rules.

In Liechtenstein, there is no case law dealing with multiple discrimination.

⁷² Act on Disability Insurance (Gesetz über die Invalidenversicherung), 23 December 1959, [1960005000 \(gesetze.li\)](https://www.gesetze.li).

⁷³ See <https://bua.regierung.li/BuA/default.aspx?nr=15&year=2006&erweitert=true>.

⁷⁴ The AEPD does not state that only persons who have been officially assessed as having a disability under the Act on Disability Insurance will qualify as disabled under the AEPD.

⁷⁵ Act on Civil Union for Same-Sex Couples, 16 March 2011.

2.1.3 Assumed and associated discrimination

a) Discrimination by assumption

In Liechtenstein, discrimination based on a perception or assumption of a person's characteristics is not explicitly prohibited in national law. National law (including case law) does not explicitly prohibit discrimination by assumption.

b) Discrimination by association

In the national law of Liechtenstein, discrimination based on association with persons with particular characteristics is prohibited to a limited extent in terms of disability.

According to Article 5(2) to (4)⁷⁶ of the AEPD, the prohibition of discrimination based on disability shall also apply to any parent who is discriminated against because of the disability of a child (including a stepchild, adopted child or foster child) whose care they provide, as required because of the disability. Furthermore, the AEPD extends the provision to relatives and other persons who provide persons with disabilities with the care required for their disabilities. The AEPD can therefore be viewed as being in line with the judgments in case C-303/06 (*Coleman v. Attridge Law and Steve Law*).

In Liechtenstein, there is no case law dealing with discrimination by association.

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

a) Prohibition and definition of direct discrimination

In Liechtenstein, direct discrimination is prohibited in national law. It is defined.

Out of the grounds covered by this report, direct discrimination is explicitly prohibited on the ground of disability in Article 6(1) of the AEPD. It is defined as occurring when a person is treated less favourably than another person has been or would be treated in a comparable situation. The material scope is not explicitly defined within the AEPD regarding direct discrimination. It is applicable to the areas of employment, education and social protection, but the AEPD does not include a specific provision to explicitly prohibit discrimination against people with disability regarding access to and the supply of goods and services (see chapter 3.2). Article 2(2) covers some exceptions to the general non-discrimination regulations in Article 2(1). For example, privately offered goods and services, insofar as they do not include specific items for people with disabilities, are excluded from non-discrimination law (for instance, if a beautician offers her services in a treatment room within her private building, the AEPD regulations regarding accessibility do not apply).⁷⁷ On the basis of Article 2 of the AEPD, it can be said that the production or sale (in terms of services) of goods that cannot be used by certain disabled people because of their impairment cannot be treated as a form of discrimination. This also applies to the supply of such goods.

The fourth sentence of the Criminal Code states that any person shall be punished with imprisonment if they publicly discriminate against another person or group of persons, which has to be understood as a general prohibition of discrimination on the grounds of race, language, national origin, ethnicity, religion or belief, gender, disability, age or sexual orientation, even if the Criminal Code is not a comprehensive anti-discrimination act. The Criminal Code does not provide a definition of direct discrimination.

⁷⁶ The AEPD contains a prohibition of 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 ground of disability (Article 5(4)).

⁷⁷ Where such a service was offered in a building open to the public, the anti-discrimination prohibitions of the AEPD would apply.

b) Justification for direct discrimination

In Liechtenstein, there are no specific requirements for a test to justify direct discrimination.

There has not been any recent case law regarding this issue. Nevertheless, judicial interpretation would be required, and the person claiming that discrimination had taken place would have to produce evidence.

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

a) Prohibition and definition of indirect discrimination

In Liechtenstein, indirect discrimination is prohibited in national law. It is defined only on the ground of disability (AEPD, Article 6(2)).

It is defined as occurring when apparently neutral provisions, criteria or procedures would put some persons at a particular disadvantage compared with others on a specific ground of discrimination.

There are no legal prohibitions in place regarding indirect discrimination in relation to other grounds. The specific anti-discrimination provisions of the fourth sentence of § 283(1) of the Criminal Code, which punish discrimination on the grounds of race, language, national origin, ethnicity, religion or belief, gender, disability, age or sexual orientation, do not include any definition of indirect discrimination. The law constitutes a prohibition of discrimination against another person or a group of persons (§ 283(1), fourth sentence, of the Criminal Code).

There has not been any case law on the matter.

b) Justification test for indirect discrimination

According to the AEPD (Article 6(2)), differential treatment is objectively justified if provisions, criteria or procedures are necessary in order to achieve a legitimate aim, although no specific justification test is mentioned. In addition, the means of achieving that aim must be appropriate. Liechtenstein law thus states that justification of indirect discrimination is possible in certain situations.

The justification for indirect discrimination in the AEPD is compatible with the directives.

2.3.1 Statistical evidence

a) Legal framework

In Liechtenstein, there is legislation regulating the collection of personal data.

The Data Protection Act (DPA),⁷⁸ which refers to the EU General Data Protection Regulation, entered into force on 26 May 2018 (EU Regulation 2016/679 and 2016/680 as of 27 April 2016), and governs the protection of the personality and the fundamental rights of natural persons with regard to the collection and processing of their personal data. The provisions of Chapter III, Articles 45 and 46 DPA apply to the processing of personal data by public bodies responsible for the prevention, investigation, detection or prosecution of criminal offences or for the execution of criminal sentences, insofar as they process data for the purpose of carrying out those tasks.

⁷⁸ Data Protection Act (*Datenschutzgesetz, DSG*), 4 October 2018, LGBl. 2018, No. 272, <https://www.gesetze.li/konso/pdf/2018272000?version=1>.

In Article 46(o), the DPA specifies sensitive personal data that requires particular protection as a separate category of personal data. This special category of data consists of:

- data regarding race/ethnicity;
- data regarding religious, ideological or political beliefs;
- data on sexual orientation;
- genetic data;
- biometric data for the unique identification of a natural person;
- health data.

The law is silent about how to identify data on sexual orientation, for instance, as national law does not provide any specific definition of sexual orientation.

Data collection in respect of information about disability and age is not explicitly mentioned in the DPA, but could be subsumed under 'biometric' or 'health' data.

The processing of data from this category is only permitted if it is absolutely necessary to fulfil the institution's duties and if:

- a law expressly provides for it;
- it serves to safeguard the vital interests of a person; or
- it relates to personal data which is made public by the data subject himself/herself.

Where special categories of personal data are processed, appropriate safeguards have to be provided to protect the legal interests of the data subjects.

The DPA contains no explicit regulation regarding data collection for the purposes of litigation and positive action measures. The officials of the Data Protection Agency would have to decide whether or not data collection for the purposes of litigation and positive action measures should be allowed in a specific case. Data collection is allowed for statistical or scientific purposes without an explicit duty to inform the person involved about that collection of data (Article 27 of the DPA).

The Code of Civil Procedure (CCP) does not contain any specific regulations allowing statistical data to be admitted as evidence in court with regard to indirect discrimination. The same applies to the DPA. Thus, judicial interpretation would be required to clarify whether statistical data is admissible as evidence in court.

b) Practice

Statistical evidence is not used in practice in order to establish indirect discrimination. Its use is not explicitly permitted by national law for this purpose. The same applies to case law, although there is no general restriction on the use of statistical data. However, one can assume 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.

2.4 Harassment (Article 2(3))

a) Prohibition and definition of harassment

In Liechtenstein, harassment is prohibited in national law. It is defined.

Article 8 of the AEPD prohibits harassment within its specific scope on grounds of disability. Harassment is defined as unwanted modes of behaviour towards a person with the purpose or effect of violating the dignity of the person and of creating an intimidating, hostile,

degrading, humiliating or abusive environment. Such behaviour can relate to a person's disability.

Furthermore, harassment is prohibited on the ground of sex in § 203 of the Criminal Code. Thus, sexual harassment is prohibited but, apart from gender and disability, no other ground is explicitly mentioned as being subject to protection against harassment.

In Liechtenstein, harassment explicitly constitutes a form of discrimination based on the grounds of disability and sex. Article 8 of the AEPD clearly states that harassment constitutes discrimination.

There has not been any recent case law on the matter.

b) Scope of liability for harassment

In Liechtenstein, where harassment is perpetrated by an employee, the employer and the employee are liable. However, the law is silent about the extent of liability, leaving it for the court to determine whether the employer and employee are severally liable and, if so, their share of liability.

In relation to the AEPD, the individual who has been practising discrimination or harassment can be held liable under the terms of Article 23 of the AEPD.

Employers may be held liable for the actions of their employees. Article 10(2) of the AEPD states that discrimination also exists when an employer fails to act to remedy a situation of harassment by employees in accordance with statutory regulations and the norms and standards set out in the labour contract. This means that the employer can also be punished.

2.5 Instructions to discriminate (Article 2(4))

a) Prohibition of instructions to discriminate

In Liechtenstein, instructions to discriminate are prohibited in national law. Instructions are defined. Article 9 of the AEPD states that discrimination occurs when a person instructs another to discriminate or harass someone on the ground of disability. The AEPD states this without placing limitations on the scope of the regulation.

The first sentence in § 283(1) of the Criminal Code says that any person who publicly incites hatred or discrimination against a person or group of persons on grounds of race, language, nationality, ethnicity, religion or belief, sex, disability, age or sexual orientation will be punishable by imprisonment for up to two years. As the Criminal Code only refers to 'incitement' and does not explicitly include the text 'instructs another person to discriminate', judicial interpretation would be needed to determine whether 'instructions to discriminate' fall under this legal definition.

In Liechtenstein, instructions explicitly constitute a form of discrimination, as set out above.

b) Scope of liability for instructions to discriminate

In Liechtenstein, the instructor and the discriminator are liable.

According to the first sentence in § 283(1) of the Criminal Code, a person who publicly incites hatred or discrimination against a person or group of persons can be held liable for this action. As the law does not explicitly include the wording 'instructs another person to discriminate', judicial interpretation would be needed to determine whether 'instructions to

discriminate' fall under this legal definition. Regarding the discriminator, the fourth sentence in § 283(1) of the Criminal Code states that the person who carries out the discrimination can be punished by imprisonment of up to two years.

Article 9 of the AEPD stipulates that people who give instructions to another person to discriminate against others may be held liable. It may be assumed that employers can be held directly liable for the actions of their employees as long as they are directly involved in the instruction to discriminate against others (see also § 283(1) of the Criminal Code).

Based on the law as it stands, there is no general exclusion clause for holding a person liable for discriminating against persons on any grounds other than disability and sex because she or he received an instruction to do so from another person. There are no specific provisions regarding the liability of people who have given instructions to discriminate (e.g. to what extent they can be held liable) or of the person who discriminated against another person because she or he received an instruction to do so. Judicial interpretation is required, as such a situation would have to be evaluated and legally decided upon based on the individual case, given that the degree of the dependency relationship between the person giving the instruction to discriminate and the person who discriminated might be of relevance to the question of punishment.

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

- a) Implementation of the duty to provide reasonable accommodation for people with disabilities in the area of employment

In Liechtenstein, the duty on employers to provide reasonable accommodation for people with disabilities is not explicitly included in the law and is not defined.

Although Article 10 of the AEPD implements the concept of protection against discrimination in the field of employment for people with disabilities, it is not clearly defined how and to what extent there is a duty on employers to provide reasonable accommodation in terms of individualised measures to accommodate the needs of a specific person with a disability in a specific situation. It can be assumed that it is included in the law indirectly, through the prohibition of indirect discrimination. Article 10 of the AEPD states that no person shall be discriminated against directly or indirectly on grounds of disability in connection with an employment relationship in either the private or public sector or in any other sphere of employment, in particular with regard to other working conditions. This prohibition covers, in particular, the establishment of the employment relationship, training and retraining measures and promotions. Thus, it could be argued that Article 10 of the AEPD comprehensively implements the provisions of Article 27 of the UNCRPD.

Furthermore, Article 7(3) of the AEPD states that indirect discrimination has occurred if no attempts have been made to accommodate the situation of the person concerned. This could be interpreted as requiring individualised measures to accommodate the needs of a specific person with a disability in a specific situation. Judicial interpretation of Article 7(3) of the AEPD is required. So far, no case law has been generated.

In addition, Article 7 of the AEPD lists the type of disproportionate burden (*unverhältnismässige Belastungen*) that may justify unequal treatment and prevent it from being regarded as indirect discrimination (see Section 2.3(a) for the definition of indirect discrimination). Article 7(2) AEPD specifies that the following criteria in particular have to be taken into consideration when deciding whether the likely burden is 'disproportionate':

- the effort involved in eliminating the conditions giving rise to the disadvantage;
- the economic capacity of the party contesting discrimination;
- public subsidies for the relevant measures;

- the time between the entry into force of the AEPD and the alleged discrimination;
- the effect of the disadvantage on the general interests of the group of persons protected by the AEPD.

Thus, given that binding and legal obligations on employers are lacking in Liechtenstein legislation, adaptations to workplaces and other integrative activities are developed on a case-by-case basis.

In cases where indirect discrimination is a consequence of barriers, Article 7(4) states that it must be proved whether other legal provisions regarding accessibility exist and, if so, whether the appropriate legal tasks have been fulfilled.

If the requirements that are set out in other laws have not been met, and barriers exist as a result, the existence of those barriers will be regarded as indirect discrimination. This would be the case, for example, if a public building did not provide wheelchair access, as that is a legal requirement under Articles 11 and 12 of the AEPD.

The provisions of Articles 19 and 20 of the AEPD are rather vague, setting out that the state supports the integration of people with disability, and that the community may establish appropriate programmes. Article 10(1) of the AEPD states that no one may be discriminated against directly or indirectly on the grounds of disability in connection with an employment relationship in either the private or public sector. Nevertheless, there is no legal provision that specifically obliges a private sector employer to accommodate the particular needs of persons with disabilities in a certain way.

b) Case law

To the best of the author's knowledge, there has not been any recent case law confirming or explaining a duty on employers to provide reasonable accommodation for people with disabilities.

c) Definition of disability and non-discrimination protection

Articles 11 to 14 of the AEPD make no distinction in the definition of disability for the purposes of claiming a reasonable accommodation via the prohibition of indirect discrimination or with regard to protection through the general non-discrimination rules.

d) Failure to meet the duty of reasonable accommodation for people with disabilities

In Liechtenstein, failure to meet the duty of reasonable accommodation in employment for people with disabilities is not explicitly recognised as a form of discrimination. The law is silent with regard to an explicit duty to provide reasonable accommodation for people with disabilities in employment. However, the definition of indirect discrimination could be interpreted in such a way that a failure to provide reasonable accommodation would count as indirect discrimination. However, under Article 10(1) of the AEPD, no one may be discriminated against on the ground of disability in connection with an employment relationship in either the private or public sector, in particular with regard to other working conditions. Thus, it may be assumed that this provision includes the duty of reasonable accommodation for employees. Furthermore, Article 7(3) of the AEPD states that indirect discrimination has occurred if no attempts have been made to accommodate the situation of the person concerned. This could be interpreted as requiring individualised measures to accommodate the needs of a specific person with a disability in a specific situation. Judicial interpretation would be needed in such cases.

Regarding the burden of proof, Article 26(1) of the AEPD states that, when a person claims to have been discriminated against according to Articles 5 to 10, that claim must be credible. In cases of direct discrimination, however, under Article 26(2) of the AEPD, the

defendant is obliged to prove that it is more likely than not that the claim of unequal treatment in the sense of discrimination can be explained for another reason, and that this reason is crucial. Article 26(3) states that, when a complaint is made about harassment or indirect discrimination, the defendant must prove that, in consideration of all the circumstances, it is more likely than not that the facts substantiated by him or her are legally truthful. The provisions of Article 26 refer to the section on protection against discrimination in general and in employment (Articles 5 to 10 of the AEPD).

The second part of Article 26 states that the defendant may try to prove that he or she has a non-discriminatory reason for the difference in treatment and that that reason is of crucial importance to the defendant in respect of his or her economic and/or social environment. This can also be applied to the right to reasonable accommodation. If the defendant can come up with a sensible and crucial reason for having ignored the law on reasonable accommodation, he or she may be exonerated by the court.

- e) Duties to provide reasonable accommodation in areas other than employment for people with disabilities

In Liechtenstein, there is no explicit legal duty to provide reasonable accommodation for people with disabilities outside the area of employment. This means that there is no individualised reactive duty to provide reasonable accommodation outside the field of employment. Article 7(3) of the AEPD could be interpreted as requiring individualised measures to accommodate the needs of a specific person with a disability in a specific situation, but judicial interpretation would be needed in such cases.

- f) Duties to provide reasonable accommodation in respect of other grounds

In Liechtenstein, there is no legal duty to provide reasonable accommodation in respect of other grounds in the public sector and/or the private sector.

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)

In Liechtenstein, the following residence/citizenship/nationality requirements are applied when it comes to protection under the relevant national laws transposing the directives.

The basic rights of Liechtenstein citizens and foreigners are stated in the Constitution of the Principality of Liechtenstein of 1921 (LC). Article 31 of the Constitution 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.⁷⁹ Foreigners are excluded from this definition. The rights of foreigners are governed by treaty and, in the absence of any treaty, by reciprocal law.

The purpose of the AEPD is to eliminate or prevent discrimination against persons with disabilities, thereby ensuring the equal participation of persons with disabilities in society and enabling them to lead their life autonomously. The AEPD does not make a distinction between Liechtenstein citizens and others, nor are its provisions based on residency status or the holding of asylum permits.

Special provisions regarding discrimination on grounds of race, nationality or origin are contained in § 283(1) of the Criminal Code. Like the AEPD, the Criminal Code does not make any distinction between Liechtenstein citizens and foreigners, nor are its provisions based on residency status or the holding of asylum permits. Protection against racial discrimination or discrimination on the ground of origin is independent of citizenship.

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

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

a) Protection against discrimination

In Liechtenstein, the personal scope of anti-discrimination law covers natural persons for the purpose of protection against discrimination.

Judicial interpretation is required to a certain extent when it comes to legal persons. The Personal and Corporate Law Act (PCL)⁸⁰ distinguishes between a natural person (*natürliche Person*) and a legal person (*juristische Person*) in the context of protection and measures against discrimination. As regards protection against discrimination on grounds of disability, the AEPD focuses on natural persons. This is set out in Articles 2, 3(2), 5 and 8 of the AEPD. As the term 'person' is defined as referring to members of both female and male gender, the law applies to both women and men. Article 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 in that section of the Act.

⁷⁹ The phrase 'without distinction of sex' makes sense because, in German, 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 also includes women. This was explicitly stated in an act amending the constitution (LGBI. 1971, No. 22).

⁸⁰ Personal and Corporate Law Act (*Personen- und Gesellschaftsrecht, PGR*), 20 January 1926, LGBI. 1926 No. 4, <https://www.gesetze.li/konso/pdf/1926004000?version=44>.

b) Liability for discrimination

In Liechtenstein, the personal scope of anti-discrimination law covers natural and legal persons for the purpose of liability for discrimination.

The AEPD does not make a distinction between natural and legal persons with regard to liability. Further, the AEPD does not contain a specific article determining liability for discrimination regarding natural and legal persons, except for Article 12(8), which explicitly states that the building owner as well as the executing planner, the construction management, the engineers and the contractors are responsible for the implementation of the accessibility regulations within the scope of their duties after the building permit has been granted.

The Criminal Code uses the term person in § 283(1), and the responsibility of legal persons is defined. Legal persons, insofar as they do not act in execution of the law, are responsible for offences and crimes committed unlawfully and culpably in the exercise of business activities within the scope of the purpose of the legal person (occasional acts) by management personnel. Thus, the Criminal Code does not distinguish between natural and legal persons for the purpose of liability for discrimination. The Code further states that the legal person shall be held responsible only for actions that are committed by employees of the legal entity, although not culpably if the commission of the action was made possible or substantially facilitated by the fact that management personnel, within the meaning of the law, had failed to take the necessary and reasonable measures to prevent such actions.

3.1.3 Private and public sector including public bodies (Article 3(1))

a) Protection against discrimination

In Liechtenstein, the personal scope of national anti-discrimination law covers the private and public sectors, including public bodies, for the purpose of protection against discrimination. Basically, the AEPD is applicable to both the private and public sectors (Articles 2, 3, 5 and 8 of the AEPD). Nevertheless, the AEPD contains some regulations that restrict the application of the law to the private sector. Based on Article 2(2) of the AEPD, the anti-discrimination provision does not apply to buildings and structures that are not open to the public, with the exception of residential complexes with six or more residential units and subsidised residential buildings. Thus, the provisions of the AEPD are applicable to housing provided by state authorities, but housing provided by private housing companies or individuals renting out their houses that contain fewer than six apartment units and that do not attract state funding are outside the scope of the anti-discrimination law in the AEPD. Furthermore, the Criminal Code is applicable to the private and public sectors in terms of the non-discrimination regulations.

Within the framework of the protection of the employee's personality in Chapter VII, Article 27, of the CCC, the employer must ensure, in particular, that employees are not harassed and that the victims of harassment do not suffer further disadvantages. The grounds of harassment are not defined within the CCC, although they are encapsulated under the term 'protection of the personality of the employee'. However, based on the Criminal Code regulations under § 283(1), one can assume that the same grounds must apply as set out in the Criminal Code (race, language, nationality, ethnic origin, religion or ideology, gender, disability, age, or sexual orientation). Thus, judicial interpretation is required.

b) Liability for discrimination

In Liechtenstein, the personal scope of anti-discrimination law covers the private and public sectors, including public bodies, for the purpose of liability for discrimination. The AEPD does not contain a specific article determining liability for discrimination regarding the private and public sectors.

§ 74a of the Criminal Code states that legal persons can be held liable for discrimination against others, irrespective of whether they are in the public sector or the private sector. Thus, legal persons are liable, unless they act in execution of the law for misdemeanours and crimes unlawfully and culpably committed by management personnel in the course of business activities within the scope of the purpose of the legal person (offences). Penalties apply against discrimination on all grounds.

Furthermore, under the Common Civil Code, employers can be held liable for not respecting or protecting the personality of the employee by not ensuring the protection of the employee against harassment or sexual abuse. There is an implicit liability on the part of the employer in cases of harassment by employees. The CCC is not very specific with regard to the grounds of discrimination (see Article 27 of Section C, Chapter VII of the Code). Only gender is explicitly mentioned in the section on prohibition of discrimination (Section C, Article 9). There is no case law known to the author regarding such discrimination in Liechtenstein.

3.2 Material scope

3.2.1 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))

In Liechtenstein, national legislation prohibits discrimination in relation to conditions for access to employment, self-employment or occupation, including selection criteria, recruitment conditions and promotion, whatever the branch of activity and at all levels of the professional hierarchy, on the ground of disability in both the private and public sectors, as described in Directive 2000/78.

Article 5 of the AEPD states that nobody shall be discriminated against due to disability. Some exceptions to this general rule are set out, however, in Article 10(3) and (4). Article 10(3) of the AEPD states that discrimination does not apply in cases where special attributes are necessary to fulfil the professional task and the disabled person concerned does not have such attributes. Article 10(4) states that wages may be set in relation to merit, without this being regarded as discrimination. Article 10(1), paragraphs (a) to (k), covers recruitment, employment and conditions for access to self-employment.

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

Apart from the AEPD, no specific national law exists on the conditions for access to employment, self-employment or occupation, including selection criteria, recruitment conditions and promotion, whatever the branch of activity and at all levels of the professional hierarchy for the other grounds (race/ethnic origin, religion/belief, age and sexual orientation), in both private and public sectors, as described in the directives. Therefore, judicial interpretation is required to confirm whether the general anti-discrimination provisions in the Constitution are sufficient to protect against discrimination.

There is no case law known to the author on this issue.

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

In Liechtenstein, national legislation explicitly prohibits discrimination in working conditions, including pay and dismissals, for the ground of disability and for both private and public employment.

There are explicit anti-discrimination provisions in Article 10 of the AEPD.

Article 30 of the Act on Civil Union for Same-Sex Couples (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 Article 86b of the Act on Marriage, AMA).⁸¹ The equivalent ruling is also stated in Article 54 of the National Old Age and Widow's/Widower's Pension Act.⁸²

The laws and articles mentioned above refer to regulations regarding the avoidance of discrimination in the area of employment and working conditions, including with regard to payment and dismissal, based on different grounds. For other grounds of discrimination, judicial interpretation is required to confirm whether the rather general provisions in the Constitution, in international treaties and in national law are sufficient to protect against discrimination. As grounds for discrimination in employment and working conditions, race and religion are not covered by any specific law.

Judicial interpretation would be required to determine if the general regulation principle of the Criminal Code – which states that discrimination exists if the principle of equality has been violated by unequal treatment without objective reason, linked to the criteria mentioned in § 283(1) of the Criminal Code, and if the intention or effect was to damage the human dignity of the persons concerned – explicitly prohibits discrimination in working conditions, including pay and dismissals, for all other grounds.

There is no case law known to the author on this issue.

3.2.3 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))

In Liechtenstein, national legislation prohibits discrimination in vocational training outside the employment relationship, such as adult lifelong learning courses or vocational training provided by technical schools or universities.

The AEPD (Article 10(1)) covers all types and stages of vocational training and education. This includes access to careers guidance, vocational training, retraining and further training, as well as access to practical professional experience. In addition to the AEPD, the Act on Vocational Training (AVT, Article 1c)⁸³ promotes, among other things, equal treatment of women and men, as well as the elimination of discrimination against people with disabilities in relation to any vocational training system. The AVT is silent about any other ground of discrimination, as are other laws.

No specific case law regarding this topic is known to the author.

⁸¹ Act on Marriage (*Ehegesetz (EheG)*), 13 December 1973, LGBl. 1974 No. 20, <https://www.gesetze.li/konso/pdf/1974020000?version=9>.

⁸² National Old Age and Widow's/Widower's Pension Act (*Gesetz über die Alters- und Hinterlassenenversicherung (AHVG)*), 14 December 1952, LGBl. 1952, No. 29, <https://www.gesetze.li/konso/pdf/1952029000?version=51>.

⁸³ Act on Vocational Training (*Berufsbildungsgesetz (BBG)*), 13 March 2008, LGBl. 2008, No. 103, [2008103000 \(gesetze.li\)](https://www.gesetze.li/konso/pdf/2008103000?version=1).

3.2.4 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))

In Liechtenstein, national legislation prohibits discrimination in relation to membership of and involvement in workers' or employers' organisations as formulated in the directives for the ground of disability for both private and public sector employment.

Article 10(1) of the Act on Equality of People with Disabilities (AEPD) prohibits discrimination in the above-mentioned areas. Other grounds are not covered by the AEPD or by any other legislation.

No specific case law regarding this topic is known to the author.

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

In Liechtenstein, national legislation does not prohibit discrimination in social protection, including social security and healthcare, as formulated in the Racial Equality Directive. Liechtenstein provides social security services to all individuals, with equal treatment.

However, it can be assumed, on the basis of the anti-discrimination provisions of the Criminal Code, that discrimination is prohibited in the area of social protection if the principle of equality has been violated by unequal treatment without objective reason, linked to the criteria mentioned in § 283(1) of the Criminal Code, and if the intention or effect was to damage the human dignity of the persons concerned. According to § 283(1) of the Criminal Code, a person is liable to criminal prosecution if he or she publicly disparages or discriminates against a person on the grounds of race, language, nationality, ethnicity, religion or belief, sex, disability, age or sexual orientation in a manner that violates human dignity by word, writing, image, gestures, assault or in any other way. Thus, social protection could be interpreted with reference to § 283 of the Criminal Code as covering any unequal treatment in the area of social security and healthcare when it is based on grounds of race, language, nationality, ethnicity, religion or belief, sex, disability, age or sexual orientation. Judicial interpretation is necessary here.

The Constitution lays down the basic principle of equality. Article 27bis states that 'human dignity shall be respected and protected', and that 'no one may be subjected to inhuman or degrading treatment or punishment'. Article 31 notes that 'all Liechtenstein citizens shall be equal before the law'. Through international treaties such as the ECHR, this equality rule is extended to non-nationals, with the exception of political rights, especially voting rights.

With regard to the special rights arising from a marriage (e.g. social security and pension insurance), the Act on Civil Union for Same-Sex Couples states that the same rules apply to same-sex couples as to heterosexual married couples regarding social security and occupational pensions (Article 30). Therefore, the Act on Civil Union for Same-Sex Couples grants the same benefits to registered same-sex couples as to married heterosexual couples and prohibits discrimination in general in the respective areas.

It should be mentioned in this context that the Constitutional Court found a discriminatory paragraph in the Act on Civil Union for Same-Sex Couples. In its ruling 2018/154, the Court noted that the prohibition on registered couples adopting stepchildren violates the European Convention on Human Rights: it violates the equality principles, as people with

a certain sexual orientation (same-sex couples) are restricted by law with regard to adoption in comparison with heterosexual couples.⁸⁴

Discrimination in the context of social protection (e.g. social security or healthcare) is not explicitly listed in the AEPD. All areas of the lives of people with disabilities are covered by Article 2 of the AEPD, so social protection falls under the anti-discrimination provisions of the act.

a) Article 3.3 exception (Directive 2000/78)

Payments of various kinds are made under state schemes or similar arrangements, including state social security or social protection schemes, which refer to the exceptions in Article 3.3 of the Employment Equality Directive. The author has no knowledge about any problems at a national level based on these exceptions.

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

In Liechtenstein, national legislation does not prohibit discrimination in social advantages as formulated in the Racial Equality Directive.

The AEPD does not explicitly prohibit discrimination on the ground of disability in the area of social advantages, although Article 5 states clearly that there shall be no direct or indirect discrimination on the grounds of disability, which could be interpreted to include the area of social advantages. The anti-discrimination provisions in the Constitution regarding the grounds of disability, age and sexual orientation can be interpreted as a prohibition regarding discrimination in social advantages, but judicial interpretation would be required. As far as the author is aware, there has been no case law and no court decisions in this respect so far.

According to the Criminal Code, discrimination exists if the principle of equality has been violated by unequal treatment without objective reason, linked to the criteria mentioned in § 283(1) of the Criminal Code, and if the intention or effect was to damage the human dignity of the persons concerned. Thus, the grounds of race, language, nationality, ethnicity, religion or belief, gender, disability, age and sexual orientation would be included.

Judicial interpretation is necessary here.

Liechtenstein makes available a wide range of benefits to groups of persons with lower incomes. In particular, a tax reduction for families,⁸⁵ childbirth grants, extra monthly pay for children, discounts for access to public buses and other facilities for young and old people have all been implemented, as well as many other benefits. Support in this regard is not interpreted as discriminating against others. These benefits are provided to all people or to people with special characteristics, including those of age or income, but no discrimination is made on grounds such as disability, sexual orientation, race and ethnicity, or religion and belief. Discrimination is not explicitly prohibited with regard to the provision of these social benefits.

⁸⁴ The full Constitutional Court decision is not yet available, but it should be published shortly at: https://www.gerichtsentscheidungen.li/default.aspx?z=XwwLKn-e-0-Zy8bCALSk1m05MvW_C9FV0.

⁸⁵ In this context, the definition of family is linked to persons who have their own children, children who have been adopted, stepchildren and foster children (Article 186 of the Common Civil Code). The Common Civil Code does not provide any specific rule regarding same-sex families in this context. On the basis of Article 25 of the Act on Civil Union for Same-Sex Couples, persons living in a registered partnership are not admitted for adoption or reproductive procedures. For additional information about privileges, see Article 24 of the Family Allowance Act (*Familienzulagengesetz, FZG*), 18 December 1985, <https://www.gesetze.li/konso/1986028000>.

The National Old Age and Widow's/Widower's Pension Act (NOWP) covers aspects of the old age pension with reference to the Act on Disability Insurance (ADI).⁸⁶ This may be understood to mean that discrimination on the ground of disability with regard to social advantages is prohibited by national law, although judicial interpretation is required.

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

In Liechtenstein, national legislation does not prohibit discrimination in education as formulated in the Racial Equality Directive.

Liechtenstein law says nothing about specific educational measures in relation to racial or ethnic origin, age, sexual orientation and religion or belief. Nevertheless, the Constitution includes the basic principle of equality. Article 27bis states that 'human dignity shall be respected and protected' and that 'no one may be subjected to inhuman or degrading treatment or punishment'. Article 31 notes that 'all Liechtenstein citizens shall be equal before the law'. To the best knowledge of the author, the Constitution has never been interpreted in relation to educational discrimination by a court.

The AEPD states in Article 1 that the law aims to eliminate or prevent discrimination against people with disabilities and thus to ensure the equal participation of people with disabilities in society and to enable them to lead a self-determined life. To this end, Article 2 of the AEPD states that the scope of application applies to all areas of life of persons with disabilities. A few exceptions are defined for this purpose, but these do not include the area of education.

Article 18 of the AEPD states in relation to children and young people with disabilities:

- 1) The State shall ensure that children and young people with disabilities receive early intervention and a basic training that is customised to their specific needs. The main regulations are laid down in the Act on School Education (ASE).
- 2) The State promotes appropriate forms of training for pupils as well as adequate training and support for teachers in integrating children and young people with disabilities into regular schools. The rules of the Act on School Education and the Act on Teachers contain the relevant regulations.⁸⁷
- 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 contribute to the disability-related costs, provided they are not covered by insurance and other benefits. The law is silent about any rules determining when the State will cover such costs.

Based on these general duties to take the specific needs of pupils with disabilities into account in their education, Article 1c of the Act on Vocational Training (AVT)⁸⁸ prohibits discrimination against people with disabilities in any area of vocational training. The specific needs of people with disabilities in respect of their pre-vocational training (basic education and training) should be considered on the basis of Article 16 of the AVT, with the possibility of shortening or extending the training period. These are the two issues that are explicitly covered by the AVT.

The priority for the legal framework is to include disabled children within mainstream education. However, in practice, many children and young people with disabilities – especially those with intellectual impairments – attend the Special Education Centre (HPZ). There, they have the opportunity to attend a special education day school

⁸⁶ Act on Disability Insurance, 23 December 1959.

⁸⁷ Act on School Education (*Schulgesetz*), 15 December 1971, LGBl. 1972 No. 7, [1972007000 \(gesetzze.li\)](#); Ordinance to the Act on Teachers (*Verordnung zum Lehrerdienstgesetz*), 6 April 2004, LGBl. 2004 No. 92, [2004092000 \(gesetzze.li\)](#).

⁸⁸ Act on Vocational Training, 13 March 2008.

(*Sonderpädagogische Tagesschule*), which gives them individual tuition and prepares them for the world of work. There are also various other organisations that provide children, young people and adults with an interesting and varied programme that they can attend after school, at weekends and during holidays. If possible, children are integrated into the regular schools, in which case assistance is provided by professionals.

In 2018/2019,⁸⁹ 91 out of 156 pupils with disabilities in Liechtenstein were taught and supported at the special education day school (58 %). Approximately 42 % of all pupils with disabilities are integrated into the mainstream school system in Liechtenstein. After the mandatory school years, there is only a partial integration of pupils with disabilities into the post-compulsory school system.

However, the UNCRPD requires that the entire education system has to be designed to be inclusive. The inclusive education strategy is based on four core principles: availability, accessibility, acceptability and adaptability. In the long term, it seeks to end the dual system of education. This means an end to the parallelism of any form of special schools for people with disabilities alongside general schools. This has not yet been achieved in Liechtenstein. In addition, adequate inclusion of persons with disabilities in bodies that develop, decide on or evaluate educational measures, such as the school councils or a children's and youth advisory board, does not yet exist. With regard to performance assessment, the needs of persons with disabilities must also be addressed by way of an inclusive education system. In particular, a different assessment procedure must be used in addition to assessment with grades.

Within Liechtenstein's official education strategy for 2020,⁹⁰ vocational training is one of the levels of education that is supported and promoted by the Government. On this basis, the AEPD prohibits discrimination in vocational training outside the employment relationship. Article 10(1) covers all types and stages of vocational training and education. In addition to the AEPD, the Act on Vocational Training (AVT, Article 1c)⁹¹ promotes, among other things, the equal treatment of women and men, as well as the elimination of discrimination against people with disabilities in relation to any vocational training system. The AVT is silent about any other ground of discrimination, as are other laws. The term 'vocational training' can be interpreted to cover education for people with disabilities in Liechtenstein but, as far as the author is aware, no such interpretation has been made by the courts up to now.

If the right to education of people with disabilities is understood as applying without discrimination, with the same opportunities provided as those enjoyed by people without disabilities, measures are needed to identify and remove legal, physical, social and financial barriers within educational institutions and the community in order to create inclusive education in Liechtenstein. Competence and responsibility for the education of people with disabilities lies with the Ministry of Social Affairs, not the Ministry of Education.⁹²

No anti-discrimination case law regarding patterns of segregation or education involving migrants is known to the author, nor are any major policies aiming to address discrimination against migrants in education.

⁸⁹ More recent figures for the 2019/2020 school year will be published in March 2021. Details based on the Education statistics (*Bildungsstatistik*) 2019, Central Statistical Office, available at: [Amt für Statistik \(AS\) - Bildungsstatistik \(llv.li\)](#).

⁹⁰ See Liechtenstein's education strategy 2020: https://www.llv.li/files/sa/pdf-llv-sa-broschuere_bildungsstrategie_2020.pdf.

⁹¹ Act on Vocational Training, 13 March 2008.

⁹² When drafting new laws or revising existing laws, the Liechtenstein Government takes into account the provisions of Protocol No. 12 to the ECHR and the UNESCO Convention against Discrimination in Education, in accordance with the Education Integration Concept 2011-2013.⁹² The focus of this concept, which was the most recent specific project in this area, was on integration with anti-discrimination measures on grounds of gender, origin and race. Disability was not a focus.

On the basis of the current version of the COVID-19 Ordinance,⁹³ classroom instruction is carried out with physical presence. For this reason, the Ministry of Home Affairs, Education and Environment has issued guidelines regarding school-specific implementation plans (protection concept) at public kindergartens, elementary schools, lower and upper secondary schools and private schools approved by the Government.⁹⁴

The Government of Liechtenstein has not launched specific measures during the COVID-19 pandemic regarding the education of children and adults with disabilities. There are no cases or complaints known to the author regarding discrimination in access to education on grounds of race, language, nationality, ethnic origin, religion or ideology, gender, disability, age or sexual orientation in relation to the pandemic regulations.

a) Trends and patterns regarding Roma pupils

In Liechtenstein there are no specific trends or patterns (whether legal or societal) in education regarding Roma pupils, such as segregation.

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

In addition, no major policies aiming to address discrimination against such persons in education are known to the author.

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

In Liechtenstein, national legislation prohibits discrimination in access to and the supply of goods and services, as formulated in the Racial Equality Directive.

§ 283(1) of the Criminal Code states that a sentence of imprisonment of up to two years will be imposed on any person or group of persons who refuses to provide a service offered by him or her to the general public on the grounds of race, language, nationality, ethnicity, religion or belief, gender, disability, age or sexual orientation, as this is regarded as discrimination. This prohibition is not further specified in the Criminal Code. In its practical application, this regulation focuses on services offered or provided in general to the public, which cannot be refused to people in individual cases with reference to one of the grounds listed above.

The Constitution includes the basic principle of equality. Article 27bis states that 'human dignity shall be respected and protected' and that 'no one may be subjected to inhuman or degrading treatment or punishment.'

Regarding the ground of disability, the AEPD aims to eliminate and prevent discrimination against people with disabilities and, in Article 2(1), covers access to and the supply of goods and services. The act aims to guarantee equal participation by people with disabilities in the daily life of society. However, the AEPD does not include a specific provision to explicitly prohibit discrimination against people with disability regarding access to and the supply of goods and services. Article 2(2) covers some exceptions from the general non-discrimination regulations in Article 2(1). In particular, privately offered goods and services – other than specific items for people with disabilities – are excluded from the non-discrimination law. For example, if a beautician offers her services in a treatment room within her private building, the AEPD regulations regarding accessibility do not apply.⁹⁵

⁹³ Ordinance on Measures to Control the Coronavirus (COVID-19 Ordinance), version as of 06.05.2021.

⁹⁴ Ministry of Home Affairs, Education and Environment, Guidelines regarding school-specific implementation plans, [vorgaben-betr-schulspez-umsetzungsplane-schutzkonzept-v44-def.pdf \(llv.li\)](#).

⁹⁵ Where such a service was offered in a building open to the public, the anti-discrimination prohibitions of the AEPD would apply.

Article 9 of the Act on Health Insurance⁹⁶ states that equal treatment must be ensured regarding access to and the supply of goods and services, and that discrimination on the ground of age is not allowed. To capture differences in treatment relating to social insurance on the grounds of age and disability, one has to distinguish between obligatory and voluntary insurance. According to Article 9 of the Act on Health Insurance, insurance companies must offer the obligatory benefits without consideration of the age and health of the applicant. For insurance benefits beyond 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 (Articles 8 and 9 of the Act on Health Insurance).

There is no case law known to the author on this matter.

a) Distinction between goods and services available publicly or privately

In Liechtenstein, national law distinguishes between goods and services that are available to the public (e.g. in shops, restaurants and banks) and those that are only available privately (e.g. those restricted to members of a private association).

Article 2 of the AEPD states that all areas of life of people with disabilities are equally affected by the non-discrimination legislation. Exceptions to this general clause are listed in Article 2(2) of the AEPD, and include private offerings of goods and services that are not explicitly defined as being for people with disabilities. No such exception is made in terms of goods and services offered by public authorities.

§ 283(1), sixth sentence, of the Criminal Code provides that it is a criminal offence to refuse a service that is offered the public to a person or a group of persons on grounds of race, language, nationality, ethnicity, religion or belief, sex, disability, age or sexual orientation.

Article 3 of the Act on Occupational Pensions⁹⁷ (AOP) allows for differential treatment of employees in cases of disability. It releases employers from the obligation to provide an occupational pension to an individual employee if that employee is two-thirds disabled. Thus, unequal treatment is possible on the ground of disability. Nevertheless, Article 34 of the AOP grants the employee the right to participate in the occupational pension scheme on his or her own behalf, but without the employer being obliged to contribute. People with a degree of disability of more than 60 % and who attain the official retirement age are given a 'helplessness allowance', in addition to the state pension (see Article 3bis of the Act on Supplementary Aid to the National Old Age and Widow's/Widower's Pension (ASANP), in combination with Article 67bis of the Act on the National Old Age and Widow's/Widower's Pension). The degree of disability, on the other hand, is defined and stated under the disability insurance.

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

In Liechtenstein, national legislation does not prohibit discrimination in the area of housing as formulated in the Racial Equality Directive. There are no such regulations that provide protection on the grounds of race and ethnic origin.

The author knows of no case law or judicial interpretation whereby housing is considered to fall within the area of provision of services. Thus, it is not clear so far if the prohibition of discrimination in § 283(1) of the Criminal Code could be applicable to the area of housing.

⁹⁶ Act on Health Insurance (*Gesetz über die Krankenversicherung, KVG*), 24 November 1971, LGBl. 1971, No. 50, [1971050000 \(gesetze.li\)](#).

⁹⁷ Act on Occupational Pensions (*Gesetz über die betriebliche Personalvorsorge, BPVG*), 6 May 1988, LGBl. 1988, No. 12, [BPVG | Lilex - Gesetzesdatenbank des Fürstentum Liechtenstein](#).

According to Article 3(1) AEPD, accessibility exists 'if designed areas of life are accessible and usable for people with disabilities in the generally customary manner, without particular difficulty and basically without outside assistance'. This includes, in particular, the identification and removal of obstacles and barriers to access to 'buildings, roads, means of transport and other indoor and outdoor facilities, including schools, homes, medical facilities and places of work'. At the national level, this mainly concerns the regulations relating to construction and planning.

The legal definition contained in Article 3(1) AEPD can therefore be regarded as fundamentally broad and openly formulated.

In Articles 12 to 14, the Act on Equality of People with Disabilities (AEPD) contains rules on structural accessibility and, in this respect, contains three sets of regulations for (a) publicly accessible buildings and facilities (Article 12), (b) residential buildings (Article 13) and (c) subsidised residential buildings (Article 14). The AEPD protects people with disabilities by ensuring access to public buildings. To this end, the Government is obliged to consult the Office for the Equality of Persons with Disabilities (Article 22) as well as recognised organisations for people with disabilities (Article 31), before formal approval for construction work is granted in accordance with Article 1. Private housing units with more than six apartments must be accessible to people with disabilities, and Article 14 of the AEPD states that residential buildings may only be subsidised if they may be adapted to provide accessibility (if they are not already accessible). Thus, the AEPD ensures accessibility, but contains no explicit provisions prohibiting discrimination in the field of housing. In respect of accessibility, the AEPD has an exception for private buildings with fewer than six apartments in a private housing area. The AEPD prohibitions do not come into force for such buildings, as they only stipulate an obligation for buildings with six flats or more to be accessible by people with disabilities. If the owner of such a building refuses to rent out a flat to a person with disability and if, in a legal case, the property owner can prove that other reasons had been relevant and the disability was not the sole ground, this would probably not count as discrimination. To the best knowledge of the author, no case law exists in Liechtenstein regarding this issue. Furthermore, in such a situation, the legally defined measures for adaptations to buildings to make them accessible for people with disabilities do not apply.

Based on the integration concept of the Liechtenstein Government,⁹⁸ migrants are not treated differently under anti-discrimination legislation in the field of housing. They have equal access to housing. The author knows of no patterns of segregation in social housing, nor of any major anti-discrimination case law involving migrants in the field of housing.

a) Trends and patterns regarding housing segregation for Roma

In Liechtenstein, there are no trends and/or patterns of housing segregation and discrimination against the Roma. There are no specific problems that need to be addressed concerning Roma since there is no Roma minority living in Liechtenstein.

⁹⁸ Integration concept (*Integrationskonzept*), 2010.

4 EXCEPTIONS

4.1 Genuine and determining occupational requirements (Article 4)

In Liechtenstein, national legislation provides for an exception for genuine and determining occupational requirements.

It should be noted that, according to Article 10(3) AEPD, there is no discrimination if a characteristic related to disability 'constitutes an essential and determining occupational requirement by reason of the nature of a particular occupational activity or of the context in which it is carried out and provided that the objective is legitimate and the requirement is reasonable'. This does not mean, however, that far-reaching restrictions on access to jobs can be introduced for people with disabilities. An assessment must be made of which characteristics actually constitute an 'essential and decisive' occupational requirement. As long as there are obvious reasons for specific requirements to be made, this would not be interpreted as discriminating against people with other characteristics. In addition, public service jobs can be restricted to Liechtenstein citizens, but race and ethnicity would not be permitted as selection criteria.

There are no such reservations for other grounds.

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

In Liechtenstein, national law does not provide for an exception for employers with an ethos based on religion or belief.

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

- Conflicts between rights of organisations with an ethos based on religion or belief and other rights to non-discrimination

In Liechtenstein, there are specific provisions relating to conflicts between the rights of organisations with an ethos based on religion or belief and other rights to non-discrimination in the context of employment. The Catholic Church still enjoys a special status in comparison with other religious communities. Article 37 of the Constitution states that freedom of faith and conscience is guaranteed for everyone. The same article goes on to state that the Roman Catholic Church is the national church and, as such, enjoys the full protection of the state. Other denominations shall be guaranteed the exercise of their profession and the holding of their worship within the bounds of morality and public order.

The ongoing Government's efforts to establish a plan for 'disentangling' the state and the church are proving a challenge.⁹⁹ While 9 of the country's 11 communities have reached an agreement with the Roman Catholic Church, the reform has not yet been successfully completed. The new regulations on the relationship between church and state were based on a planned agreement between the Principality of Liechtenstein and the Holy See, which is no longer under discussion as of 2019, mainly due to the fact that the proposal on the part of the Liechtenstein Government and the municipalities was not accepted by some Catholic municipal units in Liechtenstein. The latest ECRI report, published in 2018, recalls that differential treatment of religious minorities, in particular with regard to their legal

⁹⁹ Latest statement of the Government regarding 'disentangling the state and the church', (*Trennung von Staat und Kirche*), 06.11.2019, available at: https://www.landtag.li/files/temp/kleineanfrage_18271.pdf?t=637174736484329244.

recognition and funding, may constitute discrimination on the grounds of religion and thus a violation of Articles 9 and 14 of the ECHR.

There are no specific provisions or case law on this subject. Judicial interpretation is required in order to determine the extent to which the rather general provisions in the Constitution and in international treaties, including the ECHR, are applicable.

4.3 Armed forces and other specific occupations (Article 3(4) and Recitals 18 and 19, Directive 2000/78)

In Liechtenstein, national legislation does not 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 in this area.

4.4 Nationality discrimination (Article 3(2))

a) Discrimination on the ground of nationality

In Liechtenstein, national law includes exceptions relating to difference of treatment based on nationality.

The free movement of persons, one of the basic European freedoms, is restricted in Liechtenstein with respect to taking up residence. This is a crucial issue for Liechtenstein. The number of annually available residence permits is limited according to a special treaty between Liechtenstein and the European Union as a result of the access of Liechtenstein to the European Economic Area (EEA) in 1995. This special regulation was introduced because Liechtenstein already had a high share of foreigners among its resident population (by the end of June 2020, 34 % of the total population were foreigners with resident permits).¹⁰⁰ Following this agreement, the Liechtenstein Government has differentiated between persons of Swiss and EEA nationality and persons of third countries when applying different procedures and quotas. This also applies to integration requirements, in cases of family reunion, for instance. However, there is no discrimination between permanent residents with respect to specific nationalities. Specific regulations for persons with EEA and Swiss nationality are laid down in the Act on Free Movement of EEA Persons and Swiss citizens.¹⁰¹ In respect of persons with third country nationality, the Act on Foreigners regulates residency rights.¹⁰²

In Liechtenstein, nationality (as in citizenship) is mentioned as a protected ground in the first and fourth sentences of § 283(1) of the Criminal Code (on incitement to hatred or discrimination against a person and on publicly disparaging or discriminating against a person, respectively). The fourth sentence states that any person shall be punished with imprisonment if they publicly discriminate against another person or group of persons, which has to be understood as a general prohibition of discrimination on the grounds of nationality, among other things, even if the Criminal Code is not a comprehensive anti-discrimination act. There is no specific, separate national anti-discrimination law dealing with the ground of nationality in terms of discrimination.

¹⁰⁰ Semi-annual population report (*Bevölkerungsstatistik 30. Juni 2020*), Central Statistical Office, [Amt für Statistik \(AS\) - Bevölkerungsstatistik \(llv.li\)](#).

¹⁰¹ Act on Free Movement of EEA Persons and Swiss citizens (*Gesetz über die Freizügigkeit für EWR- und Schweizer Staatsangehörige, PFZG*), 20 November 2009, LGBl. 2009, No. 348, [2009348000 \(gesetze.li\)](#).

¹⁰² Act on Foreigners (*Gesetz über die Ausländer, Ausländergesetz, AuG*), 17 September 2008, LGBl. 2008, No. 311, [2008311000 \(gesetze.li\)](#).

Furthermore, the Constitution of Liechtenstein, the Act on Free Movement of EEA Persons and Swiss citizens¹⁰³ and the Act on Foreigners include specific regulations regarding nationality, but no anti-discrimination provisions.

b) Relationship between nationality and 'racial or ethnic origin'

There is no specific national anti-discrimination law which defines 'nationality' and 'racial or ethnic origin' or explains the relationship between these terms. Uniquely, however, the Criminal Code was extended in 2016 *inter alia* to racial or ethnic origin. § 283(1), fourth sentence, of the Criminal Code states that a person who publicly disparages or discriminates against a person or a group of persons on the grounds of race, nationality or ethnic origin will be punished by imprisonment.

Therefore, judicial interpretation is needed in this regard.

4.5 Health and safety (Article 7(2) Directive 2000/78)

In Liechtenstein, there are no exceptions in relation to disability and health and safety as allowed for under Article 7(2) of the Employment Equality Directive.

4.6 Exceptions related to discrimination on the ground of age (Article 6 Directive 2000/78)

4.6.1 Direct discrimination

a) Exceptions to the prohibition of direct discrimination on grounds of age

In Liechtenstein, there is no general prohibition of discrimination on the ground of age and therefore national law does not provide for specific exceptions in regulating direct discrimination on the ground of age. § 283(1) of the Criminal Code provides for a penalty clause if a person publicly disparages or publicly discriminates against a person or group of persons on grounds of age.

Differential treatment based on age is admitted by law in some specific areas (see Section 4.6.1(b) below).

b) Justification of direct discrimination on the ground of age

In Liechtenstein, national law does not provide for justifications for direct discrimination on the ground of age. The law is silent on the issue of potential legitimate aims to justify direct discrimination.

As far as the author is aware, there was no case law on this issue during 2020 (nor in previous years).

c) Permitted differences of treatment based on age

In Liechtenstein, national law neither explicitly permits nor prohibits differential treatment based on age for any activities within the material scope of Directive 2000/78. Although there is no general prohibition of discrimination on the ground of age, some specific age-related provisions exist, for example:

- the special protection of children (the Act on Children and Youth (ACY), as well as the Regulations on Special Provisions for the Protection of Young Employees);¹⁰⁴

¹⁰³ This act forms part of Liechtenstein's national legislation.

¹⁰⁴ Ordinance to the Special Provisions for the Protection of Young Employees (*Verordnung zum Arbeitsgesetz, ArGV V, Sonderbestimmungen über den Schutz der jugendlichen Arbeitnehmer*), 22 March 2005, LGBl. 2005, No. 67, [2005069000 \(gesetze.li\)](https://www.gesetze.li/2005069000).

- the Decree on the Organisation of the Police (Article 56), which states that, in general, a candidate for the police must not be older than 35 years;
- the Act on Foreigners (Article 13e) states that an application for residency and a working permit can be refused if various factors – including the age of the applicant – suggest that the applicant might not be able to achieve long-term integration into society and the world of work, as outlined in Article 41 of the Act on Foreigners.

d) Fixing of ages for admission to occupational pension schemes

In Liechtenstein, national law allows occupational pension schemes to set ages for admission to the scheme, taking up the opportunity provided by Article 6(2).

The AOP states in Articles 3(2) and 4(1)(c) that insurance is mandatory for employees who fulfil the following criteria:

- they are insured through the occupational pension fund;
- their annual salary is at least two thirds of the maximum pension from the occupational pension fund;
- in the case of old age pensions: a minimum age of 23 years if the employment is not limited in time (i.e. under a temporary contract);
- in the case of disability pension: a minimum age of 17.

Article 5(3) of the Ordinance to the AOP¹⁰⁵ stipulates that, in their regulations, the respective pension funds must convert the basis for calculating retirement assets upon reaching retirement age into a life-long retirement pension in accordance with recognised technical principles. The pension conversion rate or its basis of calculation must be specified in the regulations. Thus, the age relevant for determining the amount of contributions and retirement credits corresponds to the difference between the current calendar year and the year of birth of the insured person. In addition, most regulations provide for early retirement within the framework of the statutory provisions, provided that the gainful employment is discontinued completely or at least to a quarter of the previous workload (partial retirement).

4.6.2 Special conditions for younger or older workers

In Liechtenstein, there are no special conditions set by the Labour Act (ArG)¹⁰⁶ for younger or older workers in order to promote their vocational integration.

However, some positive measures, mainly based on governmental projects and private network activities, are frequently taken to support younger and older people with regard to their opportunities in the labour market.

On its homepage, the Sichtwechsel network group¹⁰⁷ has compiled an overview of services to promote vocational integration for persons with disabilities offered by public bodies and private institutions. The network group and this service are supported by the Government.

The Job Integration initiative in Liechtenstein¹⁰⁸ has adopted the method of 'supported employment', which is internationally recognised as a proven and effective method of vocational integration for people with disabilities, to reintegrate older people into everyday

¹⁰⁵ Ordinance to the Act on Occupational Pensions (*Verordnung zum Gesetz über die betriebliche Personalvorsorge, BPVV*), 30 December 2005, LGBl. 2005, No. 288, [BPVV | Lilex - Gesetzesdatenbank des Fürstentum Liechtenstein](#).

¹⁰⁶ Labour Act (*Arbeitsgesetz, ArG*), 31. January 1967, LGBl. 1967, No. 6, [ArG | Lilex - Gesetzesdatenbank des Fürstentum Liechtenstein](#).

¹⁰⁷ Sichtwechsel, overview of services for promoting vocational integration, <https://www.ilv.li/files/scg/uberblick-uber-die-angebote-der-amtsstellen-und-der-ahv-mai-2016.pdf>.

¹⁰⁸ Job Integration initiative Liechtenstein, [Verein für Betreutes Wohnen - JIL - JOB INTEGRATION IN LIECHTENSTEIN \(vbw.li\)](#).

working life. The aim is to integrate people who have experienced long-term gaps in their life (e.g. due to an illness, an accident or unemployment) back into working life and to help them become financially independent. This initiative was launched by the Assisted Living Association Liechtenstein.

The Office of Vocational Training and Career Counselling¹⁰⁹ is mainly active in advising older persons on finding employment and/or educational training. In addition, the Office of Education supports young people who fulfil certain criteria with scholarships.¹¹⁰ There are no further special conditions known to the author.

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

4.6.3 Minimum and maximum age requirements

In Liechtenstein, there are exceptions that permit minimum and/or maximum age requirements in relation to access to employment and training. Article 56 of the Decree on the Organisation of the Police states that, in general, a candidate for the police must not be older than 35 years. Besides this exception, minimum and maximum age requirements are not regulated by legislation as long as the employment does not constitute child labour.

There is no case law known to the author regarding this subject.

4.6.4 Retirement

a) State pension age

In Liechtenstein there is a state pension age, at which individuals must begin to collect their state pensions.

The state-imposed and generally applicable pensionable age is 65 for women as well as for men (Article 36 NOWP).

If an individual wishes to work beyond the state pension age, the pension can be deferred. According to Article 74 of NOWP, it is possible to work until the maximum age of 70.

On the other hand, it is also possible to draw the pension a maximum of four years in advance by accepting fixed reductions in the monthly payable amount (Article 73 NOWP) or to defer the pension for a maximum of five years (ending at the age of 70) and receive a higher pension afterwards. Thus, according to Articles 73 and 74 of NOWP, an individual can collect the state pension (as a certain share of the full pension amount) and still work.

There is no specific case law known to the author in respect of the directive requirements on unlawful discrimination.

b) Occupational pension schemes

In Liechtenstein, there is a standard age at which people can begin to receive payments from occupational pension schemes and other employer-funded pension arrangements.

The pension age is defined by Article 8 of the AOP and corresponds to the above-mentioned pension age for state pension.

¹⁰⁹ Office of Vocational Training and Career Counselling (Amt für Berufsbildung und Berufsberatung, ABB). See <http://www.llv.li/#/1757>.

¹¹⁰ Office of Education (Schulamt). See <http://www.llv.li/#/11631/schulamt>.

If an individual wishes to work longer, payments from such occupational pension schemes can be deferred; because of the longer working and pension-contribution period, the future pension payments increase. An individual can collect a pension and still work.

In accordance with the same regulation as for the state pension age, an individual who wishes to enter into retirement earlier than the stated pension age can draw their pension in advance. By law, early retirement can take place four years before a person reaches the legally defined pension age. Occupational pension schemes are free to prolong this period according to their statutory retirement regulations. Thus, they can offer their insurance holders an earlier pension age by contract. In such cases, the consequence of early retirement is that the pension is paid at a reduced rate.

The author knows of no specific case law regarding the directive requirements on unlawful discrimination.

c) State imposed mandatory retirement ages

In Liechtenstein, there is a state-imposed mandatory retirement age for both the public and private sectors.

The state-imposed retirement-age is 65 for all sectors, regardless of gender. In recent years there has been a political discussion on changing the retirement age for economic and demographic reasons.¹¹¹ This discussion is still on-going and has focused primarily on the state pension fund. In December 2019, the Liechtenstein Government proposed solutions on how to secure old-age and pension provision insurance in Liechtenstein. One scenario involves an increase in the retirement age.¹¹² No decision has yet been taken, however, and European developments in this area might influence relevant national regulation in the future.

The author knows of no specific case law in this area.

d) Retirement ages imposed by employers

In Liechtenstein, national law does not permit employers to set retirement ages (or ages at which the termination of an employment contract is possible) by contract and/or collective bargaining and/or unilaterally. The law makes no differentiation between pension age and retirement age.

The retirement age is defined by Article 8 of the AOP. Employers, both public and private, have the right to set specific retirement ages for their particular company pension schemes, offering early retirement with payment deductions etc. as a voluntary – and therefore positive – option for the employee. Nevertheless, the minimum and maximum retirement ages must be in line with the age set out by law.

The author knows of no specific case law in this regard.

e) Employment rights applicable to all workers irrespective of age

The law on protection against dismissal and other laws protecting employment rights apply to all workers irrespective of age, even if they remain in employment after attaining retirement age or any other age.

¹¹¹ Interviews with H.S.H. Prince Hans-Adam II: 2013, <http://www.vaterland.li/index.cfm?ressort=home&source=lv&id=21429>; and 2018, at: <http://www.vaterland.li/liechtenstein/politik/fuerst-hans-adam-ii-mit-leserbrief-zu-pensionsalter;art169,316652>.

¹¹² BuA of the Government to the 2019 actuarial appraisal for the AHV. See: https://www.llv.li/files/srk/bua_138_2019_gutachten-ahv.pdf.

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 65 without liability for unfair dismissal. Thus, even if the employee wishes to continue working (by prolonging their pension age from 65 to 70), there is no legally binding condition on the employer to allow this. The relevant provisions apply to all workers, irrespective of their age.

The Law on Work in Industry, Trade and Commerce¹¹³ (Labour Code, LGBI. 1967.006) only provides for exceptions with regard to age for young people, pregnant women and breastfeeding mothers. Thus, these exceptions are not applicable to all workers irrespective of age.

f) Compliance of national law with CJEU case law

In Liechtenstein, national legislation is not in line with the CJEU case law on age regarding mandatory 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 that are necessary for the protection of people for very specific reasons, meaning that national legislature can, in certain cases, provide for differences of treatment based on age, which will not, therefore, be treated as discrimination. Liechtenstein's anti-discrimination legislation does not define discrimination on the ground of age, and there are no relevant provisions regarding this. Differential treatment based on age is not prohibited by law in some specific areas. 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 and unequal treatment in employment is therefore allowed, for instance by defining a minimum or maximum age when hiring employees.

Although § 283(1) of the Criminal Code criminalises a person who publicly incites hatred or discrimination against another person because of his/her age, there is no explicit national legislation regulating age discrimination or requiring proportionality in age requirements at a general level. Therefore, it can be said that national legislation has not implemented the content and rationale of Directive 2000/78 regarding discrimination on the grounds of age. However, the documented and practical treatment of age limits in employment in Liechtenstein complies with CJEU case law (e.g. regarding the Liechtenstein police requirements profile¹¹⁴ – see case C-229/08 Wolf [2010] ECR I-00001) and is therefore in line with Article 4.1 of Directive 2000/78.

4.6.5 Redundancy

a) Age and seniority taken into account for redundancy selection

In Liechtenstein, national law does not permit age or seniority to be taken into account in selecting workers for redundancy.

Liechtenstein's anti-discrimination legislation does not explicitly define discrimination on the grounds of age. Nevertheless, Article 46 of the CCC¹¹⁵ defines redundancy due to reasons based on personal attributes (age would be defined as a personal attribute in judicial interpretation)¹¹⁶ as improper and therefore against the law. The law is silent about seniority as a ground for redundancy, but it can be assumed that seniority would also count

¹¹³ Law on Work in Industry, Trade and Commerce (*Gesetz betreffend die Arbeit in Industrie und Gewerbe, Arbeiterschutzgesetz*), 29 November 1945, LGBI. 1964 No. 4; [1946004000 \(gesetze.li\)](http://www.gesetze.li/1946004000).

¹¹⁴ See <http://www.landespolizei.li/Polizeiberuf.aspx>.

¹¹⁵ Common Civil Code (*Allgemeines Bürgerlich Gesetzbuch*), [1003001000 \(gesetze.li\)](http://www.gesetze.li/1003001000).

¹¹⁶ Public statement of a Liechtenstein law firm, available at: <http://www.wanger.net/schuldrecht/items/wann-ist-eine-kuendigung-des-arbeitsvertrags-missbraeuchlich.html>.

as a personal attribute and would therefore be interpreted as a ground for redundancy which is protected by the law.

b) Age taken into account for redundancy compensation

In Liechtenstein, national law provides compensation for redundancy. Such compensation is not affected by the age of the worker.

As it is not permitted by law for age to be taken into account in selecting workers for redundancy, no age-related redundancy compensation would be in line with the law. Judicial interpretation is required to determine whether the concept of 'seniority' is the same as age and if it should therefore be legally treated in the same way as age. Thus, in the case of an improper redundancy based on personal attributes (as noted above, age would be defined as a personal attribute in judicial interpretation, based on Article 46 of the CCC), this would be classified as improper and therefore against the law.

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

In Liechtenstein, national law includes exceptions that seek to rely on Article 2(5) of the Employment Equality Directive.

The special regulations listed below include exceptions that seek to rely on Article 2(5) of the Directive:

- the AEPD (Article 4);
- the Act on Children and Youth (ACY);
- the Regulations on Special Provisions for the Protection of Young Employees;
- the Decree on the Organisation of the Police;¹¹⁷
- the Act on Foreigners;
- the Act of National Old Age and Widow's/Widower's Pension.

There are no other provisions explicitly referring to these issues.

4.8 Any other exceptions

In Liechtenstein, there are no other exceptions to the prohibition of discrimination (on any ground covered by this report) provided in national law.

One remark may be made regarding the placement or retention of persons against their will in institutions or psychiatric clinics, which is currently regulated under Articles 11 to 13 of the Social Assistance Act (*Sozialhilfegesetzes*, SHG).¹¹⁸ According to these provisions, persons who are mentally ill or mentally deficient, who suffer from addictive disorders or who are severely neglected may be placed or retained in a suitable institution against their will if the necessary assistance cannot be provided to them in any other way. This legislation had been incomplete and was out of date. Thus, the Liechtenstein Government suggested amending the Social Assistance Act in the Parliament in November 2020.¹¹⁹ Since the existing law on placement and restraint was essentially adopted from Switzerland, and as placements – in the absence of a suitable domestic institution or clinic – are in practice carried out abroad, mainly in Switzerland, the Swiss provisions are being used as the basis for the revision of the Liechtenstein Social Assistance Act. Unlike in

¹¹⁷ Decree on the Organisation of the Police (*Verordnung über den Dienstbetrieb und die Organisation der Landespolizei, PolDOV*), 22 August 2000, LGBl. 2000, No. 195, [2000195000 \(gesetze.li\)](#).

¹¹⁸ Social Assistance Act (*Sozialhilfegesetz, SHG*), [1985017000 \(gesetze.li\)](#).

¹¹⁹ Report and Government motion for the amendment of the Social Assistance Act (*Sozialhilfegesetzes*, SHG, https://www.llv.li/files/srk/bua_129_2020_abanderung-shg-und-weiterer-gesetze.pdf).

Switzerland, placement under the Liechtenstein Social Assistance Act (as at 2019) is only possible in the case of danger to oneself or exclusive danger to others. The term 'danger' is not defined in the Social Assistance Act itself. Thus, no clear indications about what 'danger' covers are given by law. Juridical interpretation is required.

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

a) Scope for positive action measures

In Liechtenstein, positive action is permitted in national law in respect of disability.

Essentially, only the AEPD, in implementing Directive 2000/78, states that positive action is permissible and does not constitute discrimination. Article 4, on positive measures, states: 'Specific measures to achieve equal participation of people with a disability in daily life within society are not considered to be discriminatory.' The AEPD allows for positive measures to integrate people with disabilities. However, most positive measures can be described as soft law, and Liechtenstein does not have any kind of quotas. Article 19 of the AEPD covers integration programmes for people with disabilities in education, employment, accommodation, transport, culture and sport, and Article 20 covers pilot projects for people's integration into working life. Other grounds are not covered in the AEPD.

There are no similar definitions of positive action measures against discrimination based on religion or belief, age, racial or ethnic origin or sexual orientation in any other specific national law. This corresponds with the fact that there are no specific laws on these grounds of discrimination. Furthermore, there is no comprehensive anti-discrimination act in Liechtenstein covering all grounds of discrimination. Positive action measures on grounds other than disability are not clearly set out in the law as a legal commitment. Nevertheless, some measures have been implemented. These have mainly been communication campaigns, including campaigns in relation to foreigners and old people. Such activities are directly supported by the Government (via the integration department of the Immigration and Passport Office or the Office of Social Services) or indirectly supported by mandating private associations with such tasks.

The Association for Human Rights (Verein für Menschenrechte, VMR) is tasked, *inter alia*, with raising public awareness of human rights and combating all forms of discrimination, in particular racial discrimination, by increasing public awareness through information and education and using the press and other media.

b) Quotas in employment for people with disabilities

In Liechtenstein, national law does not provide for a quota/quotas for the employment of people with disabilities.

Articles 17 to 20 of the AEPD state that different measures in favour of people with disabilities may be supported. Article 19(3) of the AEPD specifies that various programmes may be implemented and supported by the Government, including those on vocational training, integration and housing. Article 20 states that pilot projects on the integration of people with disabilities into the work environment may be supported by society.

6 REMEDIES AND ENFORCEMENT

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

a) Available procedures for enforcing the principle of equal treatment

In Liechtenstein, the following procedures exist for enforcing the principle of equal treatment:

- Article 25 of the AEPD states that the civil courts (as ordinary courts) are the appropriate authority to decide upon complaints against discrimination on the ground of disability. Claims are adjudicated under the Code of Civil Procedure (CCP).¹²⁰
- Complaints relating to the anti-discrimination provisions of the Criminal Code (race, language, national origin, ethnicity, religion or belief, gender, disability, age or sexual orientation) are adjudicated by the ordinary courts in the first instance (§ 283(1–2) of the Criminal Code).
- 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 a Liechtenstein court (the Constitutional Court) on the basis of Section II - A, Article 15(2c) of the Act on the Constitutional Court.¹²¹

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

The out-of-court settlement of disputes is regulated by Articles 594 to 616 of the CCP. In 2005, the Act on Mediation in Civil Law Cases (AMCLC)¹²² entered into force. This law defines mediation and mediators, as well as their rights and duties. Details concerning the necessary qualifications of a mediator are stated in the Regulations on the Act on Mediation in Civil Law Cases.¹²³ However, mandatory mediation in particular legal cases have not yet been introduced. If this were to be implemented, it might open the way to people being able to make a complaint without the financial risk of undertaking a court process. However, there are no current discussions about such an extended use of mediation.

b) Barriers and other deterrents faced by litigants seeking redress

There is no legal provision that requires the use of a lawyer when bringing a complaint before the court, although using a lawyer is likely to be helpful. Article 25 of the CCP states that court procedures can be carried out either in person or by a representative (e.g. a lawyer). Articles 63 to 73 of the CCP concern assistance for court trials (*Verfahrenshilfe*). Assistance has to be provided for persons who 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 regulated by particular acts – or, where that is not the case, the judge can decide on deadlines with respect to the needs and the nature of the specific court case.

¹²⁰ Code of Civil Procedure (*Gesetz über das gerichtliche Verfahren in bürgerlichen Rechtsstreitigkeiten, Zivilprozessordnung, ZPO*), LGBL. 1912 No. 9/1, [1912009001 \(gesetzte.li\)](#).

¹²¹ Act on the Constitutional Court, 2003.

¹²² Act on Mediation in Civil Law Cases (*Gesetz über die Mediation in Zivilrechtssachen, Zivilrechts-Mediations-Gesetz, ZMG*), 15 December 2004, LGBL. 2005 No. 31, [2005031000 \(gesetzte.li\)](#).

¹²³ Ordinance to the Act on Mediation in Civil Law Cases (*Verordnung zum Gesetz über die Mediation in Zivilrechtssachen, Zivilrechts-Mediations-Verordnung, ZMV*), 12 April 2005, LGBL. 2005, No. 71, [2005071000 \(gesetzte.li\)](#).

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

c) Number of discrimination cases brought to justice

In Liechtenstein, statistics on the number of cases related to discrimination brought to justice are not available.

Discrimination law cases prosecuted by the national courts are not generally open to the public. Whether the case and the judgment are made public depends on the court's decision. The main criteria for a court decision to be published or not are the interests of the public and the protection of the privacy of the parties involved.

d) Registration of national court decisions on discrimination

In Liechtenstein, court decisions on discrimination are not registered as such by the national courts.

As stated under paragraph (c) above, no specific statistics on discrimination cases are made public, and no statistics from published decisions are available to the public.

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

a) Engaging in proceedings on behalf of victims of discrimination (representing them)

In Liechtenstein, associations, organisations and trade unions are entitled to act on behalf of victims of discrimination if they have been mandated by the victim as a representative.

Article 31 of the AEPD states that organisations for persons with disabilities that have existed for at least five years and have their registered office in Liechtenstein may assert legal claims on their own behalf on the grounds of discrimination within the meaning of Articles 27 to 29 of the AEPD.

Article 25 of the AEPD states that court trials must be carried out according to the Code of Civil Procedure (CCP), with the exception of the provision regarding the burden of proof in Article 26. Basically, the CCP states that court procedures can be carried out in person or by a representative (Article 25). The representative may be a lawyer, but the CCP, in Articles 26 and 28, does not restrict the term to lawyers, and a representative can be any authorised, mandated person.

Article 17 of the CCP states that any person who has a legal interest in one party prevailing in a legal action pending between other persons may intervene in the legal action on behalf of that party (subsidiary intervention). Furthermore, all persons who are entitled to intervene by virtue of statutory provisions shall be entitled to do so.

The author knows of no discrimination case law where this right was exercised in 2019.

b) Engaging in proceedings in support of victims of discrimination (joining existing proceedings)

In Liechtenstein, associations, organisations and trade unions are entitled to act in support of victims of discrimination under certain criteria.

The AEPD is silent about any regulation of associations entitled to act in support of victims of discrimination joining ongoing proceedings. The Code of Civil Procedure (CCP) states in

Articles 17 and the subsequent articles¹²⁴ that the admission of a third party to participate or intervene in a case makes the individual a party to the judicial proceedings. With the consent of the parties involved in the case, the third party, as intervener, can even take the place of the party for whom he/she intervened.

c) Actio popularis

In Liechtenstein, under specific conditions, national law allows associations, organisations and trade unions to act in the public interest on their own behalf, without a specific victim to support or represent (*actio popularis*).

Whether associations are allowed to act in the public interest on their own behalf depends on the relevant law. Articles 27 to 29 and 31 of the AEPD entitle associations for people with disabilities to make legal claims on their own behalf only for accessibility provisions in public buildings, for the accessibility of public roads and traffic areas, and for accessibility on public transport systems. There are preconditions, however – that such associations must be based in Liechtenstein and must have been in existence for at least five years. They can make such claims in their own name (see paragraph 7(e) below).

In addition, according to the Act on the Constitutional Court (ACC),¹²⁵ the Constitutional Court decides on the compatibility of laws and regulations (*Verordnung*) with the Constitution and international treaties. As far as regulations are concerned, 100 or more individuals who are entitled to vote can demand a review of a provision by the Constitutional Court (Article 20 ACC) within one month of the publication of the regulation concerned. Associations are not allowed to ask for such a review, but Article 20 of the ACC gives them the opportunity to collect the required number of signatures in order to have regulations examined by the Constitutional Court.

The above-mentioned provisions cover the review of regulations. As regards 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, the Government, municipalities, administrative bodies or the Constitutional Court itself, depending on the case.

d) Class action

In Liechtenstein, national law allows associations, organisations and trade unions to act in the interest of more than one individual victim under a class action for claims arising from the same event.

Although class action is possible under Liechtenstein law, the author knows of no case regarding discrimination, regardless of the ground. There are no specific provisions regarding class action in the sense of specific proceedings filed by an association on behalf of a group of identifiable individuals affected by the same discrimination. Referring to Articles 11 and 25 of the CCP, it is generally possible to have joint claimants (*Streitgenossen*), with or without a legal representative, in case law. However, certain conditions must be fulfilled. These are:

- the claimants 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 claimants must be based on similar matters of law or facts which form the subject matter of the dispute, with jurisdiction allocated to the court for each individual claimant.

¹²⁴ Code of Civil Procedure, [1912009001 \(gesetzte.li\)](#).

¹²⁵ Act on the Constitutional Court, 2003.

In this context, 'joint claimants' means that several persons may be taken to court jointly or take someone else to court jointly, where the subject matter of the litigation is a set of essentially similar claims or obligations. The law contains no details regarding opt-in or opt-out models.

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)

In Liechtenstein, national law requires a shift of the burden of proof from the complainant to the respondent.

This is valid in cases of direct and indirect discrimination as well as harassment on grounds of disability only. Article 26 of the AEPD, on burden of proof, states that:

- when a person claims to be discriminated against according to Arts. 5 to 10, this person shall make this claim credible;
- with reference to direct discrimination, it is obligatory for the defendant to prove that it is more likely in consideration of all circumstances that another reason claimed by him was crucial for the difference in treatment;
- when citing a reference to harassment as well as indirect discrimination, it is obligatory for the defendant to prove that in consideration of all circumstances it is more likely that the facts substantiated by him are truthful.

There has been hardly any case law regarding discrimination. There has not been a full shift of the burden of proof in those cases where information is publicly available. No case law was published regarding or in relation to this issue in 2020.

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

In Liechtenstein, there are legal measures of protection against victimisation only for the ground of disability.

The AEPD states that any adverse consequence in reaction to a complaint or similar proceedings regarding the principle of equal treatment on grounds of disability (as defined by the AEPD) is forbidden. The complainant must not be penalised in response to a complaint or to the launching of a legal process to secure a ban on discrimination. Similarly, anyone who appears as a witness or informant in court proceedings, or who supports a person affected by discrimination, must not be penalised or disadvantaged (Article 23(4) AEPD).

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

a) Applicable sanctions in cases of discrimination – in law and in practice

§ 283(1) of the Criminal Code states that a person who publicly incites hatred or discrimination (first sentence) and a person who publicly denigrates or discriminates (fourth sentence) against a person or a group of persons on the grounds of race, language, national origin, ethnicity, religion or belief, gender, disability, age or sexual orientation may be punished by imprisonment up to two years. The law is silent about any possibility of a fine in addition to the imprisonment.

Likewise, under the Criminal Code, anyone who publicly disseminates ideologies aimed at the systematic degradation or defamation of persons on account of their race, language,

nationality, ethnicity, religion or belief, sex, disability, age or sexual orientation may be punished by imprisonment up to two years.

Article 23(1) of the AEPD states that, in any case, the person concerned is entitled 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 (Article 23(2)). In assessing the extent of compensation for the immaterial injury, the length of the period of discrimination, the seriousness of the act, the extent of the detriment and any indication of multiple discrimination, must, in particular, be taken into account (Article 23(3)). In cases where there has been a valid claim of discrimination on the ground of disability regarding reasonable accommodation, the court may order the defendant to carry out specific measures to fulfil their duty to provide reasonable accommodation.

Damages cannot be claimed on the basis of explicit legal regulations for grounds other than disability. Article 268 of the Code of Civil Procedure states that, if a decision in a case of civil litigation depends on the evidence and attribution of a criminal act, the judge shall be bound by the content of a final convicting decision of the Criminal Court. As the Criminal Code states in § 283(1) that imprisonment for up to two years is to be imposed on anyone who publicly incites hatred or discrimination or who publicly denigrates or discriminates against a person or group of persons on the grounds of race, language, nationality, ethnicity, religion or belief, gender, disability, age or sexual orientation, judicial interpretation would be required to establish whether this would entitle those concerned to restitution for the personal detriment suffered. Since the amendment of the Criminal Code came into force in 2016, there has been no case law with regard to this issue as far as the author is aware.

b) Compensation – maximum and average amounts

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

c) Assessment of the sanctions

Regarding the Act on Equality of People with Disabilities it can be said that the available sanctions are likely to be effective and proportionate, as required by the directives.¹²⁶ As there is no data available regarding the effectiveness or proportionality of the given sanctions, and as almost no case law exists in this regard, it is not possible to give a final assessment as to whether the sanctions are dissuasive or not. So far, a very low number of victims actually bring their cases to court and, even for those who do so, there is no public data available about the details of the case and the ruling.

Article 23(1) of the AEPD (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. Article 23(3) lists the criteria for evaluating the amount of non-pecuniary damages.

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

Since the amendment of the Criminal Code came into force in 2016, there has been no case law with regard to this issue as far as the author is aware.

¹²⁶ The same is valid for the Act on Equality between Women and Men.

7 BODIES FOR THE PROMOTION OF EQUAL TREATMENT (Article 13 Directive 2000/43)

- a) Body for the promotion of equal treatment irrespective of racial/ethnic origin according to Article 13 of the Racial Equality Directive

Given that Directive 2000/43 has not been transposed into Liechtenstein law, no equality bodies have been officially set up in accordance with Article 13. Nevertheless, Liechtenstein has two main official institutions that are entrusted with tasks concerning a broad spectrum of disadvantage and discrimination.

The Office for the Equality of Persons with Disabilities (Liechtensteiner Behinderten-Verband – Büro für Gleichstellung)¹²⁷ was set up by the Government in accordance with Article 22 of the AEPD after the act entered into force in 2007. In implementation of the act, the office has been established as an independent institution integrated into the organisational set-up of the Liechtenstein Association of Persons with Disabilities.

As successor to the Office of Equal Opportunities (Stabsstelle für Chancengleichheit),¹²⁸ the Association for Human Rights in Liechtenstein (Verein für Menschenrechte, VMR)¹²⁹ was founded by 26 non-governmental organisations on 10 December 2016 as the independent national human rights institution in Liechtenstein. The status of this association and the relevant legal provisions had been laid down in a new law, the Act on the Association for Human Rights in Liechtenstein (*Gesetz über den Verein für Menschenrechte in Liechtenstein*, VMLG).¹³⁰ This act entered into force on 1 January 2017, and the association became operational from that day. The VMR includes the Ombuds Office for Children and Young People, which was created in 2010 and acts as an independent, neutral, and universally accessible contact and complaints office on child and youth issues, as provided for by the Act on Children and Youth (ACY). One of its specific responsibilities is to monitor implementation of the UN Convention on the Rights of the Child. Where children's rights are violated, the Ombuds Office may conduct investigations, submit complaints to the competent bodies and suggest improvements. The following information on the VMR therefore also covers the Ombuds Office for Children and Young People.

The association acts independently and brings together various tasks which had previously been performed by different governmental offices and NGOs in Liechtenstein. These tasks are:

- advising authorities and private individuals on human rights issues;
- counselling people who feel violated in their rights and supporting victims of human rights violations;
- informing the public about the human rights situation in Liechtenstein;
- conducting investigations and recommending appropriate measures to authorities and private individuals;
- giving opinions on draft laws and regulations and on the ratification of international conventions;
- promoting dialogue and national/international cooperation with human rights bodies.

People from over 100 different countries live in Liechtenstein. Thus, the Liechtenstein population contains a great diversity in linguistic, cultural and ethnic terms. In order to

¹²⁷ Office for the Equality of Persons with Disabilities. See <http://www.lbv.li/Buero-Gleichstellung.php>.

¹²⁸ The former Office of Equal Opportunities, which was created under Article 22 of the AEWG, was dissolved in 2016.

¹²⁹ Association for Human Rights in Liechtenstein. See <https://www.menschenrechte.li/category/ueber-uns/>.

¹³⁰ Act on the Association for Human Rights in Liechtenstein, 4 November 2016.

ensure continued co-existence on the basis of common fundamental values and the rule of law, the governmental Office of Social Services¹³¹ promotes measures that:

- contribute to intercultural tolerance in Liechtenstein;
- improve mutual understanding and respect;
- provide advice, support and information for migrants; and
- promote participation in the social life of migrants and combat any discrimination, xenophobia and racism.

As far as the author is aware, no specific steps have so far been taken to promote the rights of LGBT individuals.

With the founding of the VMR in Liechtenstein, the official tasks of the former Office of Equal Opportunities and the integration projects of the Office of Foreigners and Passports were transferred to the Office of Social Services. Thus, the Office of Social Services acts as the Government's specialist unit for issues of integration and equal opportunities.

b) Political, economic and social context of the body

By creating the VMR through the Act on the Association for Human Rights in Liechtenstein, the Government actively committed itself to promoting and protecting human rights, and civil society's demand for an independent contact and advice centre was met. Furthermore, the act implemented the long-standing international recommendation for an independent human rights association, thus strengthening the credibility of Liechtenstein's foreign policy on human rights.

The VMR is politically independent and denominationally neutral, in accordance with Article 3 of the Act on the Association for Human Rights in Liechtenstein (LGBI. 2016 No. 504). It acts on its own initiative, without any commitment to fulfil any requirements or instructions from the Government or from other authorities or interest groups. In a spirit of plurality, the association involves all civil society forces in the promotion and protection of human rights.

The VMR is financed by funds from the state (the budget awarded is approximately EUR 300 000 per annum (CHF 350 000)), membership fees and donations.

When the Disability Equality Act entered into force in January 2007, the Office for the Equality of Persons with Disabilities was established as part of the Liechtenstein Association of Persons with Disabilities, a non-governmental body. The office is politically independent and denominationally neutral. It acts on its own initiative, without any commitment to fulfil any requirements or instructions from the Government or from other authorities. In a spirit of plurality, the office involves all civil society forces in the promotion of integration and equality for people with disabilities.

In accordance with the Disability Equality Act, the state is charged with promoting the legal and factual equality of people with disabilities in all areas of life. The Office for the Equality of Persons with Disabilities is financed by funds from the state.

c) Institutional architecture

In Liechtenstein, the body forms part of a body with multiple mandates.

The legal status and tasks of the Association for Human Rights in Liechtenstein were established according to the Paris Principles of the United Nations. On the basis of these principles, the association is recognised, promoted and reviewed as the key actor in the

¹³¹ See <https://www.llv.li/#/117687/chancengleichheit>.

implementation and monitoring of human rights at national level and fulfils multiple mandates. It has a mandate as the national human rights institution and as the Ombuds Office for Children and Young People. Its most important characteristics are its independence (in its financing, its human resources and its legal basis), its sufficient resources and its broad mandate for the protection of human rights.

The Government mandated the private Liechtenstein Association of Persons with Disabilities (LBV) to set up the Office for the Equality of Persons with Disabilities. The main task of the office is to advise public authorities and private individuals on the integration and equality of people with disabilities and to assist in the drafting of legislation insofar as it is relevant to the integration and equality of people with disabilities. However, assisting victims of disability discrimination is the responsibility of the Association for Human Rights in Liechtenstein.

The Office for the Equality of Persons with Disabilities has a clear and focused mandate in relation to the integration and equality of persons with disabilities. It is a very active and well-known institution, promoting the integration and equality of people with disabilities in all areas of life in Liechtenstein. The office focuses on public relations work to raise public awareness and on developing and implementing projects in cooperation with public and private organisations for people with disabilities. The office is often contacted by private individuals seeking advice in relation to non-discrimination regarding people with disabilities.

d) Status of the body – general independence

i) Status of the body

In accordance with the United Nations Paris Principles, the legal status and tasks of the VMR have been enshrined in the Act on the Association for Human Rights in Liechtenstein. Further details are set out in the articles of the association.¹³² The organisation's legal form as an association guarantees the greatest possible independence. In addition, the association is a fundamentally democratic form of organisation, with equal rights and obligations for all members. The registration of the association in the commercial register is intended to ensure transparency.

The general assembly, which consists of all association members, appoints the board of directors for a period of four years. Re-election is permitted. The board of directors consists of seven members. It is independent, and its composition is balanced according to age, gender and origin. The members of the board of directors were selected on the basis of their professional competence in the areas of equal opportunities, non-discrimination, protection against violence, and integration, as well as according to their expertise in international law and human rights. The aim was to strike a balance between their practical experience and knowledge of the situation in Liechtenstein and their professional expertise and international experience.

The VMR has legally defined income streams. These are:

- state contributions;
- membership fees;
- private donations; and
- income from their own services.

The VMR has a permanent office, which is supervised by the board of directors. The office is managed by a managing director, who is responsible for the operational management of the association. The managing director is appointed by the board of directors. The contract

¹³² Statutes of the Association for Human Rights in Liechtenstein, available at: <https://www.menschenrechte.li/wp-content/uploads/2017/09/Statuten-VMR-definitiv.pdf>.

is preceded by a public invitation to tender. The substantive work of the association is monitored by the board of directors.

An external auditor must audit the annual financial statements and balance sheet and must prepare a written report to the board of directors on its findings for submission to the general assembly.

The Office for the Equality of Persons with Disabilities operates in accordance with Article 22 of the Act on Equality of People with Disabilities.¹³³ The office is organisationally integrated into the Liechtenstein Association of Persons with Disabilities, a private self-help organisation. The general assembly is the meeting of the association's members and its supreme organ. The board of directors consists of five to nine persons elected by the general assembly, who must also appoint the president and vice-president. All board functions are honorary and unpaid. The financial management of the association is carried out by the executive committee within the framework of a budget to be decided upon annually in advance.

In order to be able to offer diverse services and activities, the organisation depends on volunteers, financial donations including legacies and inheritances, ordinary membership fees, special collections within the association and public collections.

ii) Independence of the body

The VMR has a legal basis and a comprehensive mandate, as well as appropriate infrastructure and financing. These factors allow for a considerable degree of independence vis-à-vis the Government, as the association is only answerable to its members.¹³⁴ The board members are selected on the basis of their professional competence in the areas of equal opportunities, non-discrimination, protection against violence, and integration, as well as their expertise in international law and human rights.

Nevertheless, the institution's activities are financed mainly by contributions from the Government. In order to avoid conflicts of interest, it was decided that the VMR would have its own section in the national budget and the power to decide on the use of its own financial resources.

The Office for the Equality of Persons with Disabilities acts independently. Whether assistance can be provided or not depends on the office's financial and staff resources. As a non-governmental organisation, the office is largely dependent on volunteers and financial donors.

¹³³ Act on Equality of People with Disabilities, 25 October 2006.

¹³⁴ Members of the Association for Human Rights in Liechtenstein can be private persons or NGOs or other associations whose membership may be open to the public.

e) Grounds covered by the body

The VMR has a broad mandate in promoting and acting for the implementation and monitoring of human rights at national level. It has a mandate as the national human rights institution. The corresponding legal act does not explicitly list the grounds covered; instead, it covers all areas of human rights and violations against them. Thus, there is no detailed regulation in the law in this regard. In accordance with its legal mandate, the VMR has decided to focus its work on specific grounds, as listed in the annual adopted VMR strategy. The focused grounds for 2020/2021 are gender, sex, religion, disability, sexual orientation and transgender status.¹³⁵

Nevertheless, the VMR does not have a mandate to deal with integration agreements for migrants in Liechtenstein.¹³⁶

The Office for the Equality of Persons with Disabilities has a mandate to focus on discrimination on the ground of disability. All other grounds of discrimination fall outside the scope of the institution.

f) Competences of the body – and their independent exercise

i) Independent assistance to victims

In Liechtenstein, the bodies do have the competence to provide independent assistance to victims.

The VMR acts in an independent manner as an ombudsman; it can receive complaints from those affected and bring them to the courts on their behalf. It provides general information to victims of discrimination, advises them about the legal situation and their options and refers them to the relevant institutions.

In 2020, the VMR handled a total of 45 complaints. Of these, 17 complaints concerned the specialised area of child protection (under the Ombuds Office for Children and Young People) and youth protection, and 28 complaints mainly concerned personal rights or human rights issues related to discrimination in various areas as well as residence and asylum law issues.

In 2020 the VMR received three complaints in relation to discrimination. These contacts concerned discrimination in various areas. Among them were issues related to religious freedom and origin.¹³⁷ None of the bodies, including the VMR, publishes the decisions regarding these complaints in detail. This data is not available to the public.

The complaints concerning the protection of children and minors mainly concerned questions of legal guardianship, problems with violence in the family or on the internet, and the right to family reunification. While the VMR had to deal with two cases of discrimination in relation to children in 2019, there were no reports of violations of the prohibition of discrimination with regard to the protection of children and young people in 2020.

¹³⁵ See the Strategy of the Association for Human Rights in Liechtenstein, available at: https://www.menschenrechte.li/wp-content/uploads/2019/05/2020-Webseite_Strategie-2020-2021-Hauptziele.pdf.

¹³⁶ The Office of Social Services is responsible for integration courses, public information, campaigning and other activities for the successful integration of migrants. However, in cases of discrimination on grounds of race, ethnicity or nationality, the Office of Social Services refers to the Association for Human Rights in Liechtenstein.

¹³⁷ VMR annual report 2020, https://www.menschenrechte.li/wp-content/uploads/2019/01/JB_VMR_2020_web.pdf.

The alleged human rights violations that came before the VMR in 2020 in relation to the Government's COVID-19 measures were mainly related to restrictions on individual freedom and the prohibition of discrimination. Specifically in the second half of 2020, the VMR received four complaints related to the COVID-19 measures. These concerned quarantine and isolation provisions, masking requirements and interference with other civil liberties. The VMR report regarding these complaints says nothing about the discrimination grounds.¹³⁸

All the complaints were examined in terms of possible human rights violations. In 10 cases, the VMR contacted the authorities or intervened with the responsible offices. The VMR did not provide legal representation in court, but in one case participated in a court hearing as a neutral observer.

As a contact and information centre, the VMR brings together knowledge and acts as a single point of contact for those affected. Since the office was established, it has used its competences in an independent way.

No competence-related budget exists within the association, so there are no specific resources allocated for assistance to victims except for the Ombuds Office for Children and Young People.

The Office for the Equality of Persons with Disabilities is run by the Liechtenstein Association of Persons with Disabilities (LBV), which was established as a private association under Articles 246 et seq. of the Personal and Company Act of 20 January 1926. The office provides general information about discrimination based on disability and refers individual cases to the Association for Human Rights in Liechtenstein or any other relevant institution (for example, the Office of Aid for Victims of Criminal Offences).

The office has no specific mandate to assist people with disabilities who have faced discrimination based on the ground of disability in financial or legal matters.

No particular financial budget or staff are allocated to the body to assist victims of discrimination, and that duty is carried out under the general budget of the institution.

The Office of Aid for Victims of Criminal Offences is part of the Office of Social Services, although it is supposed to act independently (Article 9(1) AAVCO). It advises victims for free and supports them by financial means. The office also assists victims at court trials.

There is no publicly available data about the effectiveness of the office and the number of cases it assists with each year. In 2020, no court trials involving the Office of Aid for Victims of Criminal Offences were made public and therefore made known to the author.

ii) Independent surveys and reports

The VMR states in its statutes¹³⁹ that it has the task of carrying out investigations and can recommend suitable measures to authorities and private individuals. Associated with this, the association can carry out and publish independent surveys, reports and studies.

Based on the material, reports and surveys produced by the VMR, it can be said that the association produces surveys and reports in an independent manner without influence from the Government or governmental organisations.

¹³⁸ VMR annual report 2020, https://www.menschenrechte.li/wp-content/uploads/2019/01/JB_VMR_2020_web.pdf.

¹³⁹ Statutes of the Association for Human Rights in Liechtenstein, available at: <https://www.menschenrechte.li/wp-content/uploads/2017/09/Statuten-VMR-definitiv.pdf>.

In 2020, the VMR addressed the impact of coronavirus protections on vulnerable individuals and groups through an online survey.

The survey focused on the impact of the Government's coronavirus protection measures from mid-March to mid-June 2020 and thus gives a mood picture of the immediate effects of the 'lockdown'. Regarding discrimination, no specific issues were detected or reporting in the survey.

On Decent Work Day 2020, the VMR, together with the Labour Union of Liechtenstein (LANV) and the Information and Counselling Centre for Women, published a study on 24-hour home care. The study identifies legal and structural deficiencies that need to be addressed to provide more legal certainty and better support for caregivers. The already difficult framework conditions of this work have been further burdened by the COVID-19 pandemic.

The Office for the Equality of Persons with Disabilities prepares recommendations and applications based on issues affecting people with disabilities in order to improve their situations. In this role, the office can conduct independent surveys or reports.

The Office for the Equality of Persons with Disabilities also commissions surveys and reports from independent third parties with the necessary competence and experience, mainly because the office itself has limited resources. In addition to this, the office reports periodically to the Government on developments in the integration and equality of people with disabilities and on the impact of the actions and projects undertaken, as required by law. Furthermore, the association responds to consultations on new laws relevant to people with disabilities, having been officially invited to participate by the Government.

iii) Recommendations

In Liechtenstein, the bodies do have the competence to issue recommendations on discrimination issues.

The VMR states in its statutes¹⁴⁰ that it can recommend suitable measures to authorities in order to change the law, and it may offer opinions in the course of legislative hearings. This includes giving information about the legal situation and offering suggestions for improvement – for example, with regard to situations in private companies or by conducting workshops.

The VMR participated in three consultations in the second half of 2020:

- The proposed legislative amendments to the Code of Civil Procedure and the Non-Contentious Disputes Act (*Ausserstreitgesetz, AussStrG*)¹⁴¹ strengthen provisions for victims and witnesses of domestic violence in civil proceedings. Minor victims and witnesses will be given special protection in the proceedings. These amendments create the necessary legal conditions for the ratification of the Council of Europe's Istanbul Convention on preventing and combating violence against women.
- The amendment to the Social Welfare Act concerns, among other things, preventive placement and measures restricting movement in residential and nursing homes. These very sensitive interventions in a person's rights to freedom are to be regulated transparently and with as little invasiveness as possible. The discrimination grounds of disability and age are implicated by these proposed measures.

¹⁴⁰ Statutes of the Association for Human Rights in Liechtenstein, available at: <https://www.menschenrechte.li/wp-content/uploads/2017/09/Statuten-VMR-definitiv.pdf>.

¹⁴¹ *Gesetz über das gerichtliche Verfahren in Rechtsangelegenheiten ausser Streitsachen (Ausserstreitgesetz; AussStrG)*, LGBl. 2010 No. 454, 25.11.2010, [AussStrG | Lilex - Gesetzesdatenbank des Fürstentum Liechtenstein](#).

- In the consultation on amending the legislation on family allowances and unemployment insurance, the VMR argued that, according to the principle of equality, employed asylum seekers should not be discriminated against in relation to social insurance benefits.

In the assessment of the author, the association effectively exercises its ability to give recommendations on discrimination issues.

The Office for the Equality of Persons with Disabilities prepares recommendations and applications independently. It advises authorities on integration and equality issues based on its own assumptions and recommendations and issues opinions within the framework of legislative hearings. Advice to private individuals is given in a general manner by means of public relations work to raise public awareness and promote dialogue between employers and employees, and through mediation on discrimination issues. The office provides a platform for promoting social dialogue and promotes cooperation with public and private institutions.

The Office for the Equality of Persons with Disabilities has submitted a statement to the Liechtenstein Government on the ratification of the UN Convention on the Rights of Persons with Disabilities in 2020, and the ratification of the Convention was thereby supported.

From the authors' perspective, the Office for the Equality of Persons with Disabilities effectively exercises its duty to report periodically to the Government on developments in the integration and equality of people with disabilities and on the impact of the actions and projects undertaken.

iv) Other competences

The VMR has the following additional competences in relation to the protection and promotion of human rights:

- supporting victims of human rights violations;
- informing the public about the human rights situation in Liechtenstein;
- carrying out investigations and recommending appropriate measures to public authorities and private individuals;
- delivering opinions on draft laws and regulations and on the ratification of international conventions insofar as they are relevant to human rights;
- promoting dialogue between national and international bodies with human rights mandates;
- acting as an independent ombudsman for children and young people in accordance with Article 96(2) of the Children and Youth Act.

The Office for the Equality of Persons with Disabilities is also mandated:

- to carry out public relations work to raise public awareness of the needs of people with disabilities;
- to promote social dialogue between employers and employees with a view to promoting the implementation of the principle of equal treatment;
- to promote dialogue with non-governmental organisations involved in combating discrimination;
- to ensure cooperation with public and private institutions.

g) Legal standing of the body

The VMR has legal standing to:

- bring discrimination complaints on behalf of identified victims to court;

- bring discrimination complaints *ex officio* to court;
- intervene in legal cases concerning discrimination, including in the capacity of *amicus curiae*.

The VMR may, with the consent of a victim of a human rights violation, participate in judicial and administrative proceedings, either on behalf of the victim or in support of the victim, who can be represented by an external lawyer contracted by the association. The legal basis for the association is set out in Article 5 of the Act on the Association for Human Rights in Liechtenstein (LGBI. 2016 No. 504).

No relevant case law is known to the author.

h) Quasi-judicial competences

In Liechtenstein, the relevant bodies are not quasi-judicial institutions.

The VMR and the Office for the Equality of Persons with Disabilities are not judicial bodies. None of their roles can be interpreted as being quasi-judicial. Their statements have no binding legal character, and they do not automatically trigger a right of action (in court).

i) Registration by the body of complaints and decisions

In Liechtenstein, only the VMR registers the number of complaints of discrimination that are made.

In 2020 the VMR received three complaints in relation to discrimination (in 2019 there had been eight complaints). These contacts concerned discrimination in various areas. Among them were issues related to religious freedom and origin.¹⁴²

None of the bodies, including the VMR, publishes the decisions regarding these complaints in detail. This data is not available to the public.

k) 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 that need to be addressed concerning Roma and Travellers at this time.

¹⁴² VMR annual report 2020,
https://www.menschenrechte.li/wp-content/uploads/2019/01/JB_VMR_2020_web.pdf.

8 IMPLEMENTATION ISSUES

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

- a) Dissemination of 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.

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

- b) Measures 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)

Through its agencies, the Government promotes dialogue with non-governmental organisations in the field of human rights. This takes place in the form of regular exchanges (including through an integration group of people with disabilities) or concrete projects to improve the human rights situation (such as situation analyses of the equality of women in Liechtenstein),¹⁴³ in which the various parties take part. The national conferences on the ratification of the UNCPRD provide one example. The purpose of the meeting was to discuss the consequences and necessary legislative adjustments of a possible ratification of the Convention. Institutions affected by the implementation of the Convention, as well as representatives of public authorities, were invited to the conference by the Government.¹⁴⁴

The Liechtenstein Association of Persons with Disabilities gives assistance to people with disabilities in many ways. Much of the public information work is done via the Liechtenstein daily newspapers. Information on websites is important as well, and the association runs its own website. Links to various websites related to one or another aspect of disability may be found at <http://www.lbv.li/Links-FL.php#>.

Flay is an organisation for gay people. It provides information about legal protection against discrimination based on sexual orientation. Currently, the author knows of no specific project or platform whereby the Government stays in regular dialogue with this organisation.

There are several other organisations that campaign against discrimination and for education on discrimination. They also provide information on legal protection and rights in cases of discrimination.

- c) Measures 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)

When it comes to the role of the state as an employer, the objective is to act as an employer with responsibility, taking into account the needs of underprivileged groups such as people with disabilities or women (Article 4 AEPO).

¹⁴³ See the action plan entitled 'Equal Opportunities 2019', Government of Liechtenstein, <https://www.llv.li/files/asd/massnahmenplan-chancengleichheit-2019-homepage.pdf>.

¹⁴⁴ Government announcement of the national conference on the signing and ratification of the UNCPRD in 2020, <https://www.regierung.li/de/mitteilungen/223220/?typ=news>.

To a large extent, the state leaves negotiations between the employees' association and the employers to the social partners themselves. State interventions are restricted mainly to the monitoring of the relevant laws. The SAVE foundation, which was founded in December 2007, is jointly supported by the Liechtenstein Employees' Association and the Chamber of Commerce. SAVE has set up a central parity commission (*Zentrale Paritätische Kommission*) in order to monitor collective labour agreements (*Gesamtarbeitsverträge*).¹⁴⁵

The Liechtenstein Employees' Association¹⁴⁶ provides information and support for both members and non-members. However, the association is rather weak: only a small share of workers are members of the association, and thus it lacks financial and staff resources.

d) Addressing the situation of Roma and Travellers

There are no specific problems that need to be addressed concerning Roma and Travellers at this time. Therefore, no specific body or organ is appointed to carry out such work.

8.2 Measures to ensure compliance with the principle of equal treatment (Article 14 Directive 2000/43, Article 16 Directive 2000/78)

a) Compliance of national legislation (Articles 14(a) and 16(a))

The legal system of Liechtenstein demands that laws are in accordance with the Constitution and relevant international law; regulations have to be in harmony with the respective laws and the Constitution. Thus, any laws, regulations or administrative provisions that are contrary to the principle of equal treatment in Article 31 of the Liechtenstein Constitution can be abolished, and any complaints to the courts could ultimately result in the Constitutional Court declaring a provision null and void.

b) Compliance of other rules/clauses (Articles 14(b) and 16(b))

Liechtenstein is not a member of the EU, so Directives 2000/43/EC and 2000/78/EC have not been transposed to EEC law and therefore to national law in Liechtenstein. Liechtenstein has nevertheless taken the necessary measures to ensure compliance with the ratified International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women, which have been ratified.

Regarding discrimination on the ground of disability, Article 10 of the AEPD states that no one may be directly or indirectly discriminated against in connection with an employment relationship under private or public law or in the other world of work. Thus, the necessary regulations regarding disability have been put in place to ensure that contracts and collective agreements are in accordance with the principle of equal treatment. Thus, if an individual employment contract included a clause in violation of the AEPD, the individual employee would be entitled to take legal action against this discrimination under the AEPD.

¹⁴⁵ See <http://www.zpk.li/>.

¹⁴⁶ Workers Association of Liechtenstein (ArbeitnehmerInnenverband, LANV). See <http://www.lanv.li>.

9 COORDINATION AT NATIONAL LEVEL

The following Government departments are responsible for dealing with issues or coordinating matters regarding non-discrimination:

- the Ministry of Social Affairs;¹⁴⁷
- the Ministry of Home Affairs, Education and Environment;¹⁴⁸
- the Ministry of Foreign Affairs, Justice and Culture.¹⁴⁹

The various ministries are involved in different aspects of discrimination. The Ministry of Social Affairs is responsible for the implementation of the AEW and, since 2016, for the Equal Opportunities Department, which mainly covers the ground of gender and, to a certain extent, that of sexual orientation. Thus, the Ministry of Social Affairs is the leading ministry within the Government with regard to discrimination. The Ministry is responsible for the social policy of Liechtenstein,¹⁵⁰ and one of its main tasks is to provide social assistance and social insurance, which cover the grounds of age, disability and gender. Other grounds are not explicitly mentioned in the corresponding laws. Thus, no regulations exist stating that issues of sexual orientation, for example, fall within the Ministry's remit. Furthermore, there has been no explicit provision in any other ministerial statement in this regard. The Ministry mainly coordinates the social security systems in Liechtenstein, such as old-age and survivors' insurance, health insurance and maternity allowances. Part of its focus is on old-age policy and securing the financial capacity of the national old age and widow's/widower's pension (the *Alters- und Hinterlassenenversicherung* or AHV).

The Ministry of Foreign Affairs, Justice and Culture is in charge of Liechtenstein's commitment to the further development and improved application of international law and, in particular, human rights. The Ministry of Home Affairs, Education and Environment has responsibility for public safety, civil protection, political rights, state and municipal citizenship, civil status and the law on foreigners.

Cooperation between the different ministries is quite close since, according to the Constitution, the Government is collegiate, and decisions are taken collectively.

Finally, the independent national Association for Human Rights in Liechtenstein promotes human rights in areas that mainly affect the weakest groups in Liechtenstein society (people with disabilities, children, single mothers, asylum seekers, undocumented foreigners, etc.) and coordinates activities with respect to equal opportunities. Additionally, it is tasked with the implementation of an interdepartmental anti-discrimination policy.¹⁵¹

¹⁴⁷ Ministry of Social Affairs. See <https://www.regierung.li/ministerien/ministerium-fuer-gesellschaft/>.

¹⁴⁸ Ministry of Home Affairs, Education and Environment. See <https://www.regierung.li/ministerien/ministerium-fuer-inneres-bildung-und-umwelt/>.

¹⁴⁹ Ministry of Foreign Affairs, Justice and Culture. See <https://www.regierung.li/ministerien/ministerium-fuer-aeusseres-justiz-und-kultur>.

¹⁵⁰ The Ministry was newly created when the new Government took office in 2013 and has taken over responsibilities from three previously existing ministries, the Ministries of Social Affairs, Health and Family and Equal Opportunities.

¹⁵¹ Act on the Association for Human Rights in Liechtenstein, 4 November 2016. Government report for consultation, <http://www.llv.li/files/srk/vnb-scq.pdf>. Government bill (2016) for submission to the Parliament, <http://bua.gmg.biz/BuA/default.aspx?year=2016&nr=57&content=449861478&erweitert=true>.

10 CURRENT BEST PRACTICES

On 18 June 2019, the Government decided to create an internal administrative working group on human rights, with the aim of improving the follow-up of recommendations made by international human rights bodies, coordinating data collection and reporting to these bodies. The establishment of the working group was based in part on the advice of the Association for Human Rights (VMR). Related to this advice, the VMR requested the setting up of a database to provide an overview of all international human rights recommendations for Liechtenstein. This tool would be an extremely useful basis not only for the VMR but for other civil society organisations in the human rights field. As of the end of 2020, however, no results were available in this regard.¹⁵²

The working group's tasks include the preparation of relevant Government decisions, ongoing monitoring of implementation and exchanges with internal and external bodies. The working group is composed of representatives from the Office of Foreign Affairs (including the head of the working group), the Office of Justice, the Office of Social Services, the Office of Statistics, the Office of National Economy, the Office for Foreigners and Passports, the National Police and the Office of Education.

In 2019/2020, the working group specifically addressed the recommendations from ECRI and CEDAW. The urgent recommendations from ECRI included the preparation of two studies, one on the social problems of migrants and the other on the situation of lesbian, gay, bisexual, transgender and intersex persons (LGBTI persons). A corresponding migration study had already been published by June 2020 and served as the basis for the creation of a new integration strategy. The second urgent recommendation (the LGBTI study) has not yet been implemented.

The working group's initial analysis report on the urgent recommendations of the two human rights bodies was noted by the Government in June 2020. The Government then decided to start the process of ratifying the Istanbul Convention. The working group also met with civil society actors for an exchange and consultations on the recommendations made by ECRI and CEDAW.

In order to obtain an overview of the integration process in Liechtenstein, the Integration Strategy Working Group, under the direction of the Ministry of Society and on behalf of the Government, commissioned a study in 2018 entitled 'Integration in Liechtenstein: Socio-economic potentials and areas of tension'. In June 2020, the report was presented to the public. Given the need to set priorities, the study focused on migration from Mediterranean countries and on third-country nationals. Unless recruited as highly skilled workers, the latter fall under the Aliens Act, which was introduced in 2008 under the guiding principle of 'demand and promote.' Today, the majority of these groups enter the country under the family reunification programme. The study emphasises that new provisions and requirements under the Aliens Act came into force from 2008, but that further measures to promote integration were ultimately implemented only hesitantly. From this, the authors of the study derive an important option for action, which is the creation or strengthening of a legally backed and sufficiently resourced integration office, whose officials on the state side shall take over management and coordination while acting as the main contact persons for municipalities, authorities, politicians and civil society, but also for the immigrants themselves.

The study serves the Integration Strategy Working Group as a reference document for the development of the new integration strategy for Liechtenstein. Due to the low volumes of systematically collected information and figures on migration events in Liechtenstein, the development of an integration strategy that is appropriate to the current circumstances

¹⁵² See the 2019 annual report of the Association for Human Rights in Liechtenstein, available at: [Jahresbericht_VMR_2019.pdf \(menschenrechte.li\)](#).

represents a certain challenge. With the present study, however, a valuable foundation has now been created.¹⁵³

With the completion of the sociological study on the situation of migrants in Liechtenstein (migration study) in June 2020, ECRI's urgent recommendation No. 6 from 2018 was implemented (preparation of a study on the social problems of migrants in Liechtenstein). The study covers acculturation, integration into the labour market, education and training, social life, religion, and political participation. The migrant perspective was taken into account through various interviews with selected migrant groups to highlight socioeconomic potential and areas of tension. The recommendations and results of the study serve the working group commissioned by the Government as a reference document for the development of the new integration strategy in Liechtenstein. The strategy is expected to be published in 2021.

¹⁵³ Integration Strategy study Liechtenstein,
<https://www.llv.li/medienmitteilungen/detail/3822/integrationsstudie-liechtenstein>.

11 SENSITIVE OR CONTROVERSIAL ISSUES

11.1 Potential breaches of the directives at the national level

Directive 2000/43/EC has not been transposed completely in national law (except in terms of Annex XVIII, which has been adopted to EEC law and therefore to national law in Liechtenstein). No further attempts have been made so far to incorporate the directive into the EEA Agreement or national law.

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 (now Article 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, it was concluded that the directive did not fall within the territory covered by the EEA Agreement. Liechtenstein has refrained from implementing the directives autonomously. However, regulations with regard to disability have been transposed from the directive into national law.

11.2 Other issues of concern

With regard to housing, the adoption of the UNCRPD means that it must be ensured that people with disabilities have the opportunity, on an equal basis with others, to freely choose where they live and with whom they live and are not obliged to live in special forms of housing, so that people with disabilities are also granted an effective 'right to home'. Thus, there is an obligation for the Government to deinstitutionalise, meaning to provide an adequate range of living arrangements for persons with disabilities so that they are effectively enabled to have freedom of choice and are not directly or indirectly forced into housing and care structures that are currently still dominant. This freedom of choice has not yet been fully established in Liechtenstein, as institutionalised forms of housing dominate, and therefore there are, if not legal, then de facto constraints that lead people with disabilities to live predominantly in such housing and care structures.

The adoption of the UNCRPD means not so much an adjustment of the legal basis in Liechtenstein, but rather a challenge to ensure that the existing legal framework is applied in practice in the sense of promoting freedom of choice. Furthermore, the necessary human and material resources require to be made available to enable people to effectively and autonomously determine their place of residence and domicile.

A further concern is the continuing absence of comprehensive anti-discrimination legislation covering all prohibited grounds for discrimination. Liechtenstein was issued a recommendation, following the review by the UN Human Rights Council in 2018,¹⁵⁴ to continue taking measures towards creating comprehensive anti-discrimination legislation that would include all prohibited grounds for discrimination. The stated position of the Liechtenstein Government is that, on the basis of existing laws, Liechtenstein provides comprehensive protection against discrimination. However, the introduction of a general anti-discrimination law would contradict the liberal economic order of the country and could provoke possible conflicts with the principle of freedom of contract. No further action has been taken by the Government in 2020.

A relevant education structure is in place to integrate children with disabilities into regular schools. In practice, however, many young people with disabilities attend the Special Education Centre (HPZ), especially those with intellectual impairment. According to some DPOs, the inclusion effort should be expanded in order to integrate children with disabilities in regular schools in a much more comprehensive way. In the area of tertiary education, no measures or policies at a state level are in place.

¹⁵⁴ UN Human Rights Council (2018), 'Draft report of the Working Group on the Universal Periodic Review: Liechtenstein' (unedited version) (A/HRC/WG.6/29/L.13).

A key concern of the UNCRPD in the area of education is the inclusion of persons with disabilities in bodies that develop, decide on or evaluate educational measures. Their inclusion in bodies such as a school board or a children's and youth advisory board is still not assured in Liechtenstein. In the context of an inclusive education system, performance assessment must address the needs of persons with disabilities. In addition to assessment using the classic grading system, another assessment procedure must be created and applied.

Article 29 of the UNCRPD guarantees disabled persons equal enjoyment of political rights. This includes both the right to vote and the right to stand for election. However, the Convention does not contain a prohibition of disability-specific exclusions from the right to vote.

An exclusion from the right to vote may only be maintained if it is based on reasons laid down by law and if these reasons are objective and reasonable. Thus, based on the legal provisions, a court cannot base exclusion from the right to vote on a disability per se. For this purpose, the individual capacity of the person concerned must be determined in a court procedure. These proceedings are governed by the Non-Contentious Disputes Act (*Ausserstreitgesetz*, *AussStrG*).¹⁵⁵ Article 131 f. stipulates that the person concerned has to bear the costs of the proceedings himself/herself. This provision constitutes discrimination against persons with a disability, as they are put at a financial disadvantage due to the disability that is the subject of the proceedings. This provision is therefore considered by Liechtenstein legal experts to be contrary to the Convention, and requires deletion given the context described above.¹⁵⁶

Furthermore, statistical data and information are lacking for Liechtenstein. One recommendation is therefore to conduct statistical research to help understand the situation of young people with disabilities and to support them in an effective and useful way.

¹⁵⁵ *Gesetz über das gerichtliche Verfahren in Rechtsangelegenheiten ausser Streitsachen (Ausserstreitgesetz; AussStrG)*, 25.11.2010.

¹⁵⁶ Schwärzler Attorneys at Law, Liechtenstein. Link: [Liechtenstein beschliesst Ratifikation der UNO-Behindertenrechtskonvention 0.pdf \(s-law.com\)](#).

12 LATEST DEVELOPMENTS IN 2020

12.1 Legislative amendments

There were no relevant legislative amendments with regard to discrimination in 2020.

12.2 Case law

There was no official case law in Liechtenstein in 2020 regarding discrimination on grounds of race or ethnic origin, disability, sexual orientation or age.

ANNEX 1: MAIN TRANSPOSITION AND ANTI-DISCRIMINATION LEGISLATION

Country: Liechtenstein
Date: 31 December 2020

Title of the Law: Act on Equality of People with Disabilities (Gesetz über die Gleichstellung von Menschen mit Behinderungen; Behindertengleichstellungsgesetz)
Abbreviation: AEPD/BGIG
Date of adoption: 25.10.2006
Latest relevant amendments: LGBL 2016, no. 273
Entry into force: 01.01.2007
Web link: <https://www.gesetze.li/konso/pdf/2006243000?version=4>
Grounds covered: disability
Civil/administrative/criminal law: civil/administrative law
Material scope: all sectors
Principal content: 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

Title of the law: Act on Disability Insurance (Invalidenversicherung)
Abbreviation: IVG
Date of adoption: 23.12.1959
Latest relevant amendments: LGBL 2018 Nr. 345
Entry into force: 04.02.1960
Web link: 1960005000 (gesetze.li)
Grounds covered: disability
Civil/administrative/criminal law: civil/administrative law
Material scope: insurance; goods; assistance; employment
Principal content: financial support for people with disabilities; direct and indirect assistance to improve living and working conditions; support of care homes and sheltered workshops

Title of the law: Act on Civil Union for Same-Sex Couples (Gesetz vom 16 März 2011 über die eingetragene Partnerschaft gleichgeschlechtlicher Paare)
Abbreviation: ACUSSC/PartG
Date of adoption: 16.03.2011
Latest relevant amendments: LGBL 2016, no. 348
Entry into force: 01.09.2011
Web link: <https://www.gesetze.li/konso/pdf/2011350000?version=2>
Grounds protected: sexual orientation
Civil/administrative/criminal law: civil law
Material scope: same-sex registered partnership
Principal content: official Recognition of same-sex partnership/same-sex couples

Title of the Law: Common Civil Code (Allgemeines Bürgerliches Gesetzbuch)
Abbreviation: CCC/ABGB
Date of adoption: 01.06.1812
Latest relevant amendments: LGBL 2018 Nr. 15
Entry into force: 18.12.1812
Web link: 1003001000 (gesetze.li)
Grounds covered: nationality, pregnancy
Civil/administrative/criminal law: civil law
Material scope: general
Principal content: civil rights

Title of the Law: Criminal Code (Strafgesetzbuch)

Abbreviation: StGB

Date of adoption: 24.06.1987

Latest relevant amendments: LGBL 2018 Nr. 311

Entry into force: 22.10.1988 (announcement)

Web link: 1988037000 (gesetze.li)

Grounds covered: race, language, national origin, ethnicity, religion or belief, gender, disability, age or sexual orientation

Civil/administrative/criminal law: criminal law

Material scope: penalties

Principal content: prohibition of racial discrimination by threat of punishment

Title of the law: Act on Foreigners (Ausländergesetz)

Abbreviation: AuG

Date of adoption: 17.09.2008

Latest relevant amendments: LGBL 2018 Nr. 391

Entry into force: 15.12.2008

Web link: 2008311000 (gesetze.li)

Grounds covered: integration (nationality, race, ethnic origin)

Civil/administrative/criminal law: civil law

Material scope: regulation regarding foreigners in Liechtenstein

Principal content: specific regulation in context to nationality

Title of the law: Constitution of the Principality of Liechtenstein (Verfassung des Fürstentums Liechtenstein)

Abbreviation: LC

Date of adoption: 05.10.1921

Latest relevant amendments: LGBL 2011, no. 594

Entry into force: 05.10.1921

Web link: <https://www.gesetze.li/konso/1921.015>

Grounds covered: national origin

Civil/administrative/criminal law: all

Material scope: regulation equal treatment of all Liechtenstein citizens

Principal content: Specific regulation in context to religion and belief

Title of the law: Law on the Association for Human Rights in Liechtenstein

(Gesetz über den Verein für Menschenrechte in Liechtenstein)

Abbreviation: VMRG

Date of adoption: 04.11.2016

Latest relevant amendments: -

Entry into force: 01.01.2017

Web link: <https://www.gesetze.li/konso/pdf/2016504000?version=1>

Grounds covered: race, language, national origin, ethnicity, religion or belief, gender, disability, age or sexual orientation

Civil/administrative/criminal law: civil law

Material scope: promotes human rights

Principal content: promotion of human rights

<p>Title of the law: Act on Equality between Women and Men (Gesetz über die Gleichstellung von Frau und Mann)</p> <p>Abbreviation: GLG (AEWM)</p> <p>Date of adoption: 10.03.1999</p> <p>Latest relevant amendments: LGBL 2016 no. 505</p> <p>Entry into force: 01.01.2017</p> <p>Web link: https://www.gesetze.li/konso/pdf/1999096000?version=6</p> <p>Grounds covered: equal treatment of men and women</p> <p>Civil/administrative/criminal law: civil law</p> <p>Material scope: equal treatment of men and women</p> <p>Principal content: equal treatment of men and women</p>
<p>Title of the law: Act on the National Old Age and Widow's /Widower's Pension (Gesetz über die Alters- und Hinterlassenenversicherung)</p> <p>Abbreviation: AHVG</p> <p>Date of adoption: 14.12.1952</p> <p>Latest relevant amendments: LGBL 2018 no. 344</p> <p>Entry into force: 15.12.1952</p> <p>Web link: https://www.gesetze.li/konso/pdf/1952029000?version=51</p> <p>Grounds covered: age, disability</p> <p>Civil/administrative/criminal law: civil law</p> <p>Material scope: social protection, social advantages</p> <p>Principal content: pension insurance</p>
<p>Title of the law: Children and Youth Act (<i>Kinder- und Jugendgesetzes</i>)</p> <p>Abbreviation: KJG</p> <p>Date of adoption: 10.12.2008</p> <p>Latest relevant amendments: LGBL 2018 no. 340</p> <p>Entry into force: 01.02.2009</p> <p>Web link: 2009029000 (gesetze.li)</p> <p>Grounds covered: age, disability</p> <p>Civil/administrative/criminal law: civil law</p> <p>Material scope: education</p> <p>Principal content: education</p>
<p>Title of the law: Act on Employment of Public Officials (<i>Gesetz über das Dienstverhältnis des Staatspersonals, Staatspersonalgesetz; StPG</i>)</p> <p>Abbreviation: AEPO (StPG)</p> <p>Date of adoption: 19.10.2005</p> <p>Latest relevant amendments: LGBL 2017 no. 421</p> <p>Entry into force: 01.01.2006</p> <p>Web link: 2008144000 (gesetze.li)</p> <p>Grounds covered: gender</p> <p>Civil/administrative/criminal law: civil law</p> <p>Material scope: dismissal</p> <p>Principal content: deployment</p>

ANNEX 2: INTERNATIONAL INSTRUMENTS

Country: Liechtenstein
Date: 31 December 2020

Instrument	Date of signature	Date of ratification	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 of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms, including Protocols 1-12 and 14 (ECHR)	23 November 1978 ¹⁵⁷	8 September 1982	Art. 64 and Art. 6(1): Regarding publicity of trials, several existing national legal provisions that might limit publicity shall remain valid.	Yes	Yes
Revised European Social Charter	Not signed ¹⁵⁸	Not ratified	N/A	N/A	N/A
International Covenant on Civil and Political Rights (CCPR)	16 December 1966 ¹⁵⁹	10 December 1998	Declaration concerning Article 3 ¹⁶⁰ Reservation concerning Article 14(1) ¹⁶¹ Reservation concerning Article 17(1) ¹⁶² Reservation concerning Article 26 ¹⁶³	Yes	Yes

¹⁵⁷ European Convention on Human Rights (Europäische Menschenrechtskonvention), LGBl. 1982 No. 60/1, [1982060001 \(gesetze.li\)](http://www.gesetze.li/1982060001).

¹⁵⁸ Source: <http://www.conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=163&CM=7&DF=26/10/2008&CL=ENG>.

¹⁵⁹ International Covenant on Civil and Political Rights (Internationaler Pakt vom 16 Dezember 1966 über bürgerliche und politische Rechte), LGBl. 1999 No. 58, [1999058000 \(gesetze.li\)](http://www.gesetze.li/1999058000).

¹⁶⁰ 'The Principality of Liechtenstein declares that it does not interpret the provisions of Article 3 of the Covenant as constituting an impediment to the constitutional rules on the hereditary succession to the throne of the Reigning Prince.'

¹⁶¹ 'The Principality of Liechtenstein reserves the right to apply the provisions of Article 14, para. 1 of the Covenant, concerning the principle that hearings must be held and judgments pronounced in public, only within the limits deriving from the principles at present embodied in the Liechtenstein legislation on legal proceedings.'

¹⁶² 'The Principality of Liechtenstein makes the reservation that the right to respect for family life, as guaranteed by Article 17, para. 1 of the Covenant, shall be exercised, with regard to aliens, in accordance with the principles at present embodied in the legislation on aliens.'

¹⁶³ The Principality of Liechtenstein reserves the right to guarantee the rights contained in Article 26 of the

Instrument	Date of signature	Date of ratification	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?
			Declaration concerning Article 41 ¹⁶⁴		
Framework Convention for the Protection of National Minorities	No signature. Direct Ratification ¹⁶⁵	18 September 1997	Declaration ¹⁶⁶	No specific regulation is given within the framework ¹⁶⁷	No signature. Direct Ratification
European Charter for Regional or Minority Languages as of 5 November 1992	No signature. Direct Ratification	1 March 1998	Declaration ¹⁶⁸	No specific regulation is given within the framework ¹⁶⁹	Yes
International Covenant on Economic, Social and Cultural Rights (CESRC)	No signature. Direct Ratification	10. December 1998 ¹⁷⁰	No derogations.	Yes	Yes

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.

¹⁶⁴ 'The Principality of Liechtenstein declares under Article 41 of the Covenant to recognise the competence of the Human Rights Committee, to receive and consider communications to the effect that a State party claims that another State party is not fulfilling its obligations under the Covenant.

¹⁶⁵ Framework Convention for the Protection of National Minorities (Rahmenübereinkommen vom 1. Februar 1995 zum Schutz nationaler Minderheiten), LGBl. 1998 No. 10, [1998010000 \(gesetzte.li\)](#).

¹⁶⁶ Declaration that no national minorities are present in Liechtenstein and that the ratification has to be seen as an act of solidarity with the goals of the convention.

¹⁶⁷ Nevertheless Article 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 in community with others'.

¹⁶⁸ Declaration: The Principality of Liechtenstein declares, in accordance with Art. 2 para. 2 and Art. 3 para. 1 of the European Charter for Regional or Minority Languages of 5 November 1992, that at the time of ratification there are no regional or minority languages in Liechtenstein within the meaning of the Charter.

¹⁶⁹ Nevertheless Article 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 in community with others'.

¹⁷⁰ International Covenant on Economic, Social and Cultural Rights (Internationaler Pakt vom 16. Dezember 1966 über wirtschaftliche, soziale und kulturelle Rechte), LGBl. 1999 No. 57, [1999057000 \(gesetzte.li\)](#).

Instrument	Date of signature	Date of ratification	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?
Convention on the Elimination of All Forms of Racial Discrimination (CERD)	No signature. Direct Ratification	1 March 2000 ¹⁷¹	Declaration concerning Art. 14 ¹⁷²	Yes	Yes ¹⁷³
ILO Convention No. 111 on Discrimination	Not Signed ¹⁷⁴	N/A	N/A	N/A	N/A
Convention of 20 November 1989 on the Rights of the Child (CRC)	30 September 1990	22 December 1995	1 October 2009 ¹⁷⁵	Yes	Yes
Convention on the Rights of Persons with Disabilities (UNCRPD)	8 September 2020	N/A	N/A	N/A	N/A
Convention of 10 December 1984 against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	12 September 1990	2 December 1990	Declaration concerning Article 21(1) ¹⁷⁶	Yes	Yes

¹⁷¹ Convention on the Elimination of All Forms of Racial Discrimination (Internationales Übereinkommen zur Beseitigung jeder Form von Rassendiskriminierung), LGBl. 2000 No. 80, [2000080000 \(gesetzze.li\)](#).

¹⁷² In accordance with Article 14 of the International Convention of 21 December 1965 on the Elimination of All Forms of Racial Discrimination, the Principality of Liechtenstein recognises the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within the jurisdiction of Liechtenstein claiming to be victims of a violation by Liechtenstein of any of the rights set forth in the Convention. The Principality of Liechtenstein recognises that competence on the understanding that the said Committee shall not consider any communication without ascertaining that the same matter is not being considered or has not already been considered under another international procedure of investigation or settlement.

¹⁷³ Pursuant to Article 14, para. 2 of the Convention, the Constitutional Court has been designated as competent to 'receive and consider petitions 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'.

¹⁷⁴ Liechtenstein is not an ILO Member State.

¹⁷⁵ 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 of the Convention. The text of the declaration 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 is granted under certain conditions.'

¹⁷⁶ The Principality of Liechtenstein recognises the competence of the Committee against Torture to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention.

Instrument	Date of signature	Date of ratification	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?
			Declaration concerning Article 22(1) ¹⁷⁷		

¹⁷⁷ The Principality of Liechtenstein recognises the competence of the Committee against Torture to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention.

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