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Summary record of the 6th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 3 May 2006, at 3 p.m.

Chairperson: Ms. Bonoan-Dandan

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The meeting was called to order at 3.10 p.m.

Consideration of reports:

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant *(continued)*

Initial report of Liechtenstein (E/1990/5/Add.66 and Corr.1; E/C.12/Q/LIE/1; E/C.12/Q/LIE/1/Add.1)

1. *At the invitation of the Chairperson, the delegation of Liechtenstein took places at the Committee table.*
2. **Mr. Frick** (Liechtenstein) said that in his country human rights were universal, indivisible, interdependent and closely linked. Liechtenstein attached the utmost importance to the implementation of international and regional human rights agreements, even though it was a small country with limited human resources. At the same time, Liechtenstein was committed to strengthening the system of human rights protection within the framework of the United Nations, and therefore followed the reform of the treaty bodies with great interest.
3. With a population of 34,000, Liechtenstein was a small State, which was experiencing similar demographic changes as other European countries: its population was ageing — although less quickly than in neighbouring Switzerland and Germany — and was growing faster than the European average (the population rose by 32 per cent between 1980 and 2000). Another distinctive feature was the rising number of cross-border commuters, who represented half the labour force. Consequently regional cooperation was very close, especially with respect to economic, social and cultural issues.
4. As Liechtenstein was a member of the European Economic Area (EEA), approximately two-thirds of European Union laws also applied in Liechtenstein, particularly those relating to the implementation of basic freedoms (goods, persons, services and capital), social security, education, environmental protection, gender equality, consumer protection and worker protection. In the area of economic, social and cultural rights, Liechtenstein had adopted important European Union (EU) directives, such as the Council Directive of 28 June 1999 concerning the framework agreement on fixed-term work; the Directive of 15 December 1997 concerning the framework agreement on part-time work; the Directive of 15 December 1997 on the burden of proof in cases of discrimination based on sex; the Directive of 3 June 1996 on the framework agreement on parental leave; and the Directive of 22 June 1994 on the protection of young people at work. The parliament was considering a revision of the Gender Equality Act to incorporate the Council Directive of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions. Within the framework of EEA, Liechtenstein also participated in some 30 EU programmes in education, research and development, culture, public health and equal opportunity.
5. To promote the implementation of the Covenant, in 2003 the parliament had begun consideration of a bill on equality for people with disabilities with a view to establishing living conditions equivalent to those of the rest of the population. The bill provided for a general prohibition of discrimination and harassment of people with disabilities, in particular in the workplace. It also proposed to establish a framework to prevent their marginalization and exclusion, and to make public buildings and public transport accessible to them. The bill should enter into force on 1 January 2007.
6. Liechtenstein had a highly developed social protection system, but the costs of social services had increased greatly since the beginning of the 1990s. A study commissioned by

the Government in 2004–2005 to examine the trend in social security costs showed that they had increased by 141 per cent between 1995 and 2004. This had shown the need to carry out reforms to guarantee the security of the system for future generations. The largest budget expenditures were allocated to health insurance, old age and survivors' insurance, disability insurance and financial support of hospitals.

7. Lastly, international humanitarian cooperation and solidarity with poor countries and with countries affected by disasters or armed conflict had always been a traditional focus of Liechtenstein foreign policy. Total credits allocated to reconstruction, refugee assistance and development cooperation amounted to 0.4 per cent of gross domestic product (GDP) in 2001. The Government had set the goal of increasing the rate to 0.5 per cent by 2009, in line with international commitments. By way of comparison, it should be noted that the average rate of credits allocated to that purpose among Organisation for Economic Cooperation and Development (OECD) countries was 0.22 per cent of GDP. Development cooperation constituted the largest share of international humanitarian cooperation. Its goal was to achieve sustainable economic, social and cultural development and its main focus was on health, education, rural and social development, the environment and good governance. Its main priorities were eliminating poverty and protecting vulnerable groups.

Articles 1 to 5

8. **Mr. Atangana** asked whether the fact that the Covenant had not been invoked in courts in the seven years since its adoption did not suggest that defendants and judges themselves had not been adequately informed about it. He would like to know how the independence of the judiciary was guaranteed, and particularly whether justice was dispensed on behalf of the Prince or the people.

9. The State party had indicated that it was not in a position to join all the international organizations on account of its small size and its limited human resources. However, in view of the close links between the Covenant and International Labour Organization (ILO) conventions, he wondered whether the State party would not envisage changing its position and becoming a member of that organization, as well as of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

10. **Mr. Riedel**, noting that Liechtenstein was in favour of adopting an Optional Protocol to the Covenant, asked whether the individual complaints procedure provided for by that instrument would be compatible with the general framework for the protection of basic rights instituted by the State party. He would like to know whether the State party envisaged establishing an independent national institution mandated with the promotion and protection of all human rights, including economic, social and cultural rights, given that the mandate of the Office of Equal Opportunity was regrettably too limited.

11. **Mr. Kolosov**, noting that according to article 4, paragraph 2, of the Constitution, individual municipalities were entitled to secede from the State, recalled that a study by the Organization for Security and Cooperation in Europe (OSCE) had concluded that the principle of territorial integrity took precedence over self-determination, and that the secession of a region in a country was justified only in very special circumstances. He would like to know whether internal conflicts were likely to break out in Liechtenstein, and lead to the secession of one or more municipalities.

12. **Mr. Pillay**, noted that international instruments ratified by the State party became part of domestic law from their date of entry into force, so long as their provisions were specific enough to serve as a basis for judicial decisions. He hoped that the provisions of the Covenant and the general comments of the Committee were considered sufficiently clear by the State party for them to be applied directly by the courts.

13. With respect to the independence of the judiciary, he wished to know the term of office of judges, and whether judges could be relieved of their functions. Additional information would be welcome on the criteria used to appoint members of the joint body responsible for the selection of judges.

14. Regarding non-discrimination, several reports from reliable sources denounced discrimination against Muslims and persons of Turkish origin in the State party, particularly in the areas of employment, education, housing and access to public places. Those persons were also reported to be the target of extreme right-wing groups and victims of xenophobia and intolerance. The delegation might perhaps indicate what steps the State party had taken to remedy those problems.

15. **Ms. Bras Gomes** wished to know whether, apart from the Liechtenstein Employees Association, which seemed to be a professional association, non-governmental organizations caring for the most vulnerable people in society had been consulted during the drafting of the report.

16. She would be grateful if the delegation could explain why asylum procedures were so long that asylum-seekers were issued with a long-term residence permit pending a final reply to their request from the authorities.

17. She noted that the Office of Equal Opportunity, which had replaced the Office of Gender Equality, intended to tackle the issue of the integration of foreigners, but regretted that the Office had lost its specificity, namely its role to promote gender equality, even though in recent years it had focused on young girls' education and on ways for women to reconcile family life and their career.

18. **Mr. Sa'di** said that he had no doubt that Liechtenstein was irreproachable with regard to human rights, despite its inadequate resources. However, he was concerned by paragraph 23 of the report, which stated that constitutionally guaranteed fundamental rights might be limited by legislation in certain circumstances, thus paving the way for all kinds of violations. The delegation might like to provide details on the particular circumstances in which fundamental rights could be limited, in view of the potential for abuses.

19. Given that there was no case law concerning application of the Covenant by courts, he would like to know whether judges and lawyers received training in that area.

20. He welcomed the fact that the State party had chosen to take into account the concluding observations of United Nations treaty bodies in programmes and legislative projects on an ongoing basis but said that that did not exempt it from developing a national action plan to improve promotion and protection of human rights.

21. Lastly, the report stated that the Constitution guaranteed the principle of equal treatment for all citizens, while the rights of foreign citizens were determined by international treaties and instruments. He asked whether such a distinction indicated differential treatment of citizens and non-nationals.

22. **Ms. Barahona Riera** expressed concern at the change in emphasis of work undertaken by the Office of Equal Opportunity, which focused on gender equality issues less than before. She wished to know whether, within the framework of the policy for the integration of non-nationals, specific measures were taken to promote the integration of foreign women. More broadly, she would like to know what the State party was doing to ensure that women participated more in political life and entered the labour market more easily. Were measures aimed particularly at encouraging single mothers' employment, through credits allocated to the construction of crèches or preschool facilities for children under 4 years of age? Lastly, were there any plans to implement parental leave for both mothers and fathers?

23. **Mr. Tirado Mejía** asked the delegation to explain why, in the State party, equality between nationals and foreigners with respect to the enjoyment of fundamental rights was not an established principle, but depended on the bilateral treaties applicable in each case.

24. **Ms. Ghose** would like to know what measures the State party had taken to curb the upsurge in racism and xenophobia targeting Muslims and to combat discrimination against them. Efforts to sensitize the population in those areas seemed sporadic, and the principles of equality and non-discrimination should be enforced in schools. The delegation might perhaps provide information on measures taken to guarantee equal opportunities for men and women, and indicate whether members of the security forces received training on violence against women.

25. She noted that to date only one violation of the Gender Equality Act had been brought to court, concerning the right to equal pay for equal work, and in which the court had found in favour of the complainant. She would like to know whether a national act guaranteed that equally well-qualified men and women doing identical work received the same salary.

26. **Mr. Kerdoun** asked whether the State party allocated 0.4 per cent of its GDP or its budget to international cooperation, whether it had set a target of allocating 0.7 per cent of its GDP to official development assistance in line with its international commitments, and, if so, when it might be able to do so. The delegation might also like to indicate whether the State party preferred, on environmental issues, to favour bilateral cooperation or to rely on international institutions tasked with development cooperation.

27. **Mr. Ritter** (Liechtenstein) acknowledged that the fact that the Covenant had not been invoked in courts probably reflected unfamiliarity with that instrument among both judges and the public at large, who seemed to be more familiar with the European Convention for the Protection of Human Rights and Fundamental Freedoms. The probable reason was that Liechtenstein had been a member of the Council of Europe for over 30 years, and that the decisions of the European Court of Justice on the application of that Convention were published in the press. International human rights treaty bodies were not sufficiently well known among the public at large in Liechtenstein and that was why Liechtenstein was involved in the reform to rationalize the United Nations system for protecting fundamental rights.

28. The principle of the independence of the judiciary was guaranteed by article 95 LV of the revised Constitution. Judges were independent not only vis-à-vis the Government but also vis-à-vis parliament — with the exception of the right of pardon — and also vis-à-vis the Reigning Prince.

29. He expressed regret that a State had to be a member of the International Labour Organization (ILO) or the United Nations Educational, Scientific and Cultural Organization (UNESCO) to have the right to ratify their conventions.

30. **Mr. Frick** (Liechtenstein) added that the authorities had considered closely the possibility of joining ILO but had concluded that Liechtenstein did not have adequate human resources to establish the tripartite system recommended by that Organization.

31. Judges were indeed appointed by the Prince, but parliament had a say in the matter, and could put forward counter-proposals if it was not in favour of the appointment of the person nominated by the Prince. In that case, a consultation process was set in motion and the different proposals were put to a popular vote. The whole process was therefore completely democratic and carried out with total independence.

32. **Mr. Ritter** (Liechtenstein) said that his country was in favour of the adoption of an Optional Protocol to the Covenant, and recalled that his country had accepted all individual

complaints procedures provided for under the different international human rights instruments.

33. The Government considered that, with both an Office of Equal Opportunity and an Ombudsperson for children and young persons, it offered victims the opportunity to be heard, particularly to denounce violations of their economic, social and cultural rights. The Office was perhaps not in line with the Paris Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights, but it worked together with civil society organizations.

34. With respect to the right to self-determination, he said that, as soon as a municipality expressed the wish to secede, the Constitution established that both the population concerned and the rest of the population of Liechtenstein should be consulted. That provision had not been added to the Constitution at a time when Liechtenstein might have had reason to fear a secessionist movement, but to ensure that democracy prevailed, were such a case to arise. He said that he understood that the Charter of the United Nations did not establish a hierarchy between the principle of territorial integrity and that of self-determination, and considered that OSCE was not an authoritative source on that matter.

35. He said that some of the provisions of the Covenant had been incorporated into domestic law while others had not, but, in any event, the Covenant was directly applicable in courts.

36. Judges in the Constitutional Court and in the Administrative Court were elected for five years and could be re-elected. Each year, one judge and one deputy judge were renewed.

37. **Mr. Wolfinger** (Liechtenstein) said that many projects had been put in place to encourage multiculturalism in schools, promote the integration of foreigners and thereby combat discrimination against Muslims and Turks in schools. As German was the official State language, German lessons were provided for non-German-speaking children for six months or a year. After a year, pupils were generally able to follow the regular curriculum in German, but could still receive extra language classes for several years. Acts of a xenophobic or racist nature were sometimes committed in playgrounds, and teachers were trained to manage such incidents.

38. **Mr. Walch** (Liechtenstein) said that asylum procedures were long because judicial procedures allowing appeal against decisions of the Administrative Court, for example, were themselves long. The claimant could submit evidence that had not been presented at first instance, which had the effect of prolonging the procedure.

39. He indicated that non-governmental organizations (NGOs) had been involved in preparing the initial report, including the Association for Intercultural Education and other associations bringing together foreigners from diverse backgrounds and nationalities.

40. It was true that the upsurge in racism and xenophobia was worrying. To put things into context, it should be recalled that 80 years earlier Liechtenstein had still been a poor, rural society with no migration, while currently foreigners accounted for 34 per cent of the population. Many of them were from neighbouring Germany, Switzerland and France, while others — such as Turks or Kosovars, of Muslim faith — had cultural and religious backgrounds further removed from those of people of Liechtenstein descent. Moreover, new issues arose from the new demographic make-up, such as the question of where to bury Muslims in a predominantly Catholic country.

41. **Mr. Gstohl** (Liechtenstein) said the staff of the Office of Equal Opportunity had doubled, rising from two to four, and that an Equal Opportunity Commission had been appointed by the Government to support it, enabling it to deal with a wider range of subjects.

42. **Mr. Ritter** (Liechtenstein) added that the Director of the Office of Equal Opportunity and his deputy had not changed, and they were therefore very well acquainted with the work. Their mandate had been extended to cover the combat against all forms of discrimination, particularly those based on religion, sexual orientation and national or ethnic origin, without neglecting the combat against discrimination on the grounds of sex.

43. The fact that Liechtenstein did not have both an Ombudsperson for human rights and a national institution to promote and protect human rights in accordance with the Paris Principles did not mean that it intended to avoid its fundamental rights obligations. A body of that kind was not adapted to the size of the country.

44. He said that the Liechtenstein Government had never had recourse to the possibility available to it of derogating from certain fundamental rights under certain conditions.

45. Training had been provided for judges better to acquaint them with international human rights instruments and the work of treaty bodies; two national action plans had been formulated to combat discrimination in economic, social and cultural life.

46. The fact that article 31 of the Constitution guaranteed equality of treatment to “all citizens”, while the rights of foreign nationals depended on international instruments, did not constitute differential treatment for nationals and foreigners. All the international instruments to which Liechtenstein had acceded since adopting its Constitution — whether they were United Nations or Council of Europe instruments — required States to treat all persons within their jurisdiction equally, without any distinction. Each of the new international instruments therefore further strengthened Liechtenstein’s human rights protection system.

47. **Mr. Wolfinger** (Liechtenstein) said that the Equal Opportunity Commission worked closely with the Office of Equal Opportunity with a view to putting in place a comprehensive integration strategy. The two bodies had jointly prepared draft guidelines in that regard, which had been submitted to the Government for consideration.

48. **Mr. Ritter** (Liechtenstein) said that measures had been taken to increase women’s political participation. At the most recent parliamentary elections, in particular, a list of women ready to commit themselves to political action — either through public participation in community life, or by standing for election — had been drawn up by an NGO network and the Office of Equal Opportunity. Training courses had also been provided for women wishing to learn public speaking, in cooperation with bodies responsible for women’s equality in neighbouring countries. An exchange of good practices had also been set up at the regional level.

49. With respect to childcare facilities, the public service had set an example by establishing crèche and nursery facilities for its workers. Preschool education facilities cared for children aged from 4 to 6 years, while children under 4 years of age were cared for from 8 a.m. to 6 p.m. in private childcare facilities, for a modest fee. Preschool education was not compulsory, but almost all families used it. However, it was unusual to have to wait before obtaining a place. Public institutions asked parents for a financial contribution towards childcare costs based on their income level: poor families and single-parent families therefore paid less.

50. Liechtenstein allocated 0.4 per cent of its infrastructure budget to official development assistance. The environment was one of the key priorities of international cooperation, and several rural development projects had been implemented to teach local population groups to respect the environment, particularly in Asia. That assistance had been in place for 40 years; for the first 20 years, the Liechtenstein Development Service — an independent institution working in cooperation with local or international NGOs within the framework of bilateral agreements — had been responsible for managing it. The sum

allocated to multilateral aid was also considerable, but remained below that of bilateral aid. Liechtenstein reiterated its objective of allocating 0.7 per cent of its GDP to official development assistance.

51. The law prohibited discrimination on grounds of sex; men and women must therefore receive equal pay for equal work. A court had convicted an employer who had not respected that principle, and had ordered the victim to be compensated. Lastly, training on domestic violence and racism was provided for members of the security forces within the framework of a joint project with Switzerland.

Articles 13 to 15

52. **The Chairperson** invited the members of the Committee to focus their questions on articles 13 to 15 of the Covenant since the member of the delegation responsible for education issues was unable to attend the following meeting in its entirety.

53. **Mr. Kerdoun** noted that Liechtenstein students wishing to study in higher education were often obliged to go abroad – particularly to Switzerland or Austria, with whom the State party had agreements and where the range of subjects taught was wider than in Liechtenstein. He would like to know whether foreigners resident in Liechtenstein enjoyed the same rights as Liechtenstein students with regard to access to higher education and study grants, whether they could choose their area of studies, and whether the State party envisaged establishing a national university where all disciplines would be taught. The delegation might also like to indicate whether the State party gave preference to technical degree courses or general education subjects.

54. **Mr. Riedel**, referring to the reply to question No. 24 in the list of issues, asked the delegation to confirm that young foreigners from countries that were not members of the European Union or the European Economic Area were indeed included among “students residing in Liechtenstein” and therefore had equal access to educational institutions in Switzerland and Austria.

55. The Liechtenstein delegation might like to indicate to what extent the Covenant was disseminated in schools.

56. Lastly, it would be interesting to know the exact role the Office of Equal Opportunity intended to play in promoting a dialogue between cultures, and whether it had set specific objectives in that field, particularly regarding the realization of economic, social and cultural rights.

57. **Mr. Walch** (Liechtenstein) said that any person residing in Liechtenstein, whatever their nationality, could go abroad to follow a university course without fear of losing their residence permit in Liechtenstein, however long the course.

58. He said that his country had chosen to establish an Office of Equal Opportunity covering all possible grounds of discrimination so as to combat that scourge through an integrated and coordinated approach. The ultimate objective was to introduce equality of opportunity for all.

59. **Mr. Wolfinger** (Liechtenstein) again referred to the size of the country and its population to explain why Liechtenstein had not established a university offering a wide range of courses. Out of the approximately 5,000 students in the country, only 400 or 500 would study at a university, if one existed. The Liechtenstein Government had, on the other hand, put in place a successful study grant system enabling Liechtenstein students to follow a university course abroad, which young foreigners living in Liechtenstein could also benefit from, including those who were not from EU or EEA countries. Moreover, everyone was free to choose their area of studies from among the different courses offered in Swiss, German and Austrian universities.

60. Liechtenstein, like Switzerland, had a long tradition of vocational training, combining work placements with technical training in the classroom. Career prospects were good in industry, with supply outstripping demand in the job market, which explained why students from Switzerland and Austria were trained in Liechtenstein. An international technical school had been established in Switzerland, a few kilometres from Vaduz. About 30 per cent of young people chose to take a university course and 70 per cent a vocational course. However, those choosing technical subjects could further their studies by following complementary university courses.

61. The Covenant was disseminated in primary schools, but it had to be acknowledged that pupils were not very familiar with it.

62. **Mr. Pillay** welcomed efforts undertaken by the State party to integrate immigrant children into all levels of education but regretted that, nevertheless, their results were below the secondary-school average, and that fewer pupils with a foreign background went on to study in higher education. He invited the delegation to comment on that matter.

63. The delegation might also indicate whether a law prohibited corporal punishment at school and at home, and whether it was aware of the use of that practice in Liechtenstein.

64. **Mr. Wolfinger** (Liechtenstein) acknowledged that the results of pupils from immigrant families were less satisfactory than those of their classmates of Liechtenstein descent. In his opinion, poor command of the language and the influence of their socio-economic background disadvantaged those children. In fact, at the end of their primary education, they were often advised to go to an *Oberschule* rather than a *Realschule* or *Gymnasium*. Within the framework of a review of the Education Act due to take place within the following two years, the age at which children were given such guidance should be put back from 11 years to 15 years, so that differences caused by their command of German would be less marked.

65. **Mr. Walch** (Liechtenstein) explained that many immigrant children had language problems because they arrived in Liechtenstein at a later age on the basis of family reunion. It was therefore difficult for them to be educated in a language and culture that they were not familiar with, and those joining primary school midway through the programme found it difficult to catch up.

66. **Mr. Rothlisberger** (Liechtenstein) said that Liechtenstein had, for almost 25 years, recruited Turkish and Kosovar seasonal workers, who spoke little or no German and came from disadvantaged backgrounds. It would probably take more than a generation for those population groups to enjoy real equality of opportunity in Liechtenstein society.

67. The Education Act prohibited corporal punishment at school. Given the small size of the country, the authorities would certainly be immediately alerted in the event of any violation of that Act. However, the practice was not illegal in the private sphere.

Articles 6 to 9

68. **Mr. Texier** wished to know whether the unemployment rate was still higher among young people than in the rest of the population, where it was almost non-existent, whether the average length of time for them to find a job was still almost six months and whether they were entitled to receive benefits. If so, the delegation might perhaps indicate what the unemployment benefit was, and whether jobseekers had to provide proof that they were actively seeking work to receive the benefit.

69. It seemed that no law guaranteed the principle of "equal pay for equal work". He would therefore appreciate additional information on the work of women, who, according to the initial report, often filled low-paid jobs as well as 82 per cent of part-time jobs.

70. The delegation might also confirm that in cases of sex discrimination, it was for the employer to prove that there had been no discrimination, and not for the injured party to prove that he or she had received discriminatory treatment, in line with the principle of the reversal of the burden of proof.

71. Given that there was no legislation or agreement on a minimum wage, he asked how the State party could be sure that no employee received an income lower than the minimum necessary for subsistence (article 7 of the Covenant).

72. Noting from paragraph 66 of the State party's report that strikes or refusal to work might lead to dismissal, and that the International Confederation of Free Trade Unions had stated that the right to strike was, in practice, prohibited in the civil service, he invited the delegation to comment on that issue. He pointed out that the State party should comply with the provisions of the Covenant relating to labour law, particularly with regard to a minimum wage, the right to strike and equality of opportunity for men and women in the area of employment.

The meeting rose at 6 p.m.