

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: Fourth Cycle, 43rd Session

LIECHTENSTEIN

I. BACKGROUND INFORMATION

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

With a population of around 38,700 inhabitants, Liechtenstein is one of the smallest countries in Europe and thus hosts a limited number of persons of concern (on average around 100 asylum applications per year). In 2021, 97 asylum requests were submitted.¹ The main countries of origin were Syria (13 applications), followed by Ukraine (10 applications) and Morocco (9 applications). During 2021, 60 applications were declared inadmissible based on the *Dublin III Regulation*² or due to the countries of origin being considered safe and 6 were rejected on the merits. The refugee population was of 104 (counted since 2000) and the number of provisionally admitted persons was 37 people at the end of 2021.

An additional 361 requests for temporary protection have been submitted by refugees fleeing the Ukraine as of 14 September 2022,³ of which 300 were responded to positively.

The Office of Alien and Passport Affairs (APA) is responsible for the asylum procedure (Art. 5 of the *Asylum Act*⁴) and the Government or competent member of Government for a decision on the merits. Free legal advice against negative first instance decisions is provided to all asylum-seekers by a Government commissioned lawyer. The Liechtenstein Refugee Council has been commissioned by the Government to provide reception facilities to asylum seekers and provisionally admitted persons.

Recognized refugees are granted a residence permit and, in general, enjoy the rights they are entitled to under the *1951 Convention*. Provisionally admitted persons have access to reduced rights.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Linked to 3rd cycle UPR recommendation no. 108.122: "Establish comprehensive protection mechanisms, in order to strengthen the protection and promotion of the rights of migrants and asylum seekers in the country (Mexico)."

UNHCR welcomes the open border policy and reception of refugees from Ukraine since February 2022. The initiation of the temporary protection status in March 2022 ensured that

¹ The latest figures were provided upon request to the UNHCR Office for Switzerland and Liechtenstein by the Office of Alien and Passport Affairs (APA). They are not yet published. For statistics of previous years, see: <https://www.llv.li/inhalt/117396/amtstellen/statistiken>.

² European Union: Council of the European Union, *Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)*, 29 June 2013, OJ L. 180/31-180/59; 29.06.2013, available at: <http://www.refworld.org/docid/51d298f04.html>.

³ The latest figures on refugees from Ukraine are announced by the government of Liechtenstein on the following website: <https://www.regierung.li/statusbericht>.

⁴ *Asylum Act* of 14 December 2011 (Status as of 21 October 2021) available at: <https://www.gesetze.li/konso/2012.29>.

refugees from the Ukraine have received protection quickly without having to undergo an ordinary asylum procedure (Art. 43 ff. of the *Asylum Act*). UNHCR especially commends the solidarity Liechtenstein is showing by hosting such a high number of additional refugees.⁵

UNHCR further welcomes the ratification of the *Council of Europe Convention on preventing and combating violence against women and domestic violence* (the *Istanbul Convention*), which entered into force for Liechtenstein on the 1st of October 2021. The *Istanbul Convention* recognizes gender-based violence against women as a form of persecution.

UNHCR commends the implementation of a comprehensive integration strategy in 2021.⁶ The strategy defines, among others, action in the area of language acquirement, education and access to the labor market which benefits persons of concern.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 3rd cycle UPR recommendations

Issue 1: Refugee recognition policy

Linked to 3rd cycle UPR recommendation no. 108.124: “Introduce subsidiary protection status for those in need of international protection who fall outside the scope of the 1951 Convention relating to the Status of Refugees (Portugal).”

UNHCR remains concerned about the restrictive application of the *1951 Convention* refugee definition. Persons considered refugees by UNHCR are either not recognized as such or are not granted asylum. This especially concerns persons fleeing conflict and generalized violence, such as asylum-seekers from Syria or Afghanistan, or applicants with so-called subjective post-flight reasons for persecution (Art. 35 *Asylum Act*). Such asylum claims are rejected by the asylum authorities, and they receive an expulsion order, which is then suspended. Their expulsion is declared “impossible”, “non-admissible” or “unreasonable” due to the existing conflict and violence in their home country or due to international obligations (Art. 29 *Asylum Act*). As a result, they are granted a provisional admission status.

The “provisional admission” has to be renewed on an annual basis and rights fall short of the rights granted to recognized refugees. For instance, a request for family reunification can only be submitted after three years and is tied to economic and social stipulations (Art. 30 *Asylum Act* in connection with Art. 23 *Asylum Regulation*⁷). Furthermore, social allowances and freedom of movement are restricted. Especially concerning is, considering the size of the country, the fact that provisionally admitted persons are not allowed to leave Liechtenstein.

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

Recommendations:

UNHCR recommends that the Government of Liechtenstein:

- a) Ensures the inclusive application of the *1951 Convention* refugee definition in line with international standards, including with respect to persons fleeing conflict and

⁵ The UNHCR Office for Switzerland and Liechtenstein was given the opportunity to comment on the application of the temporary protection status. See *UNHCR Stellungnahme zur Einführung des vorübergehenden Schutzes für Flüchtlinge aus der Ukraine*, March 2022, available at: https://www.unhcr.org/dach/wp-content/uploads/sites/27/2022/03/20220317_OSL_Konsultation-Liechtenstein-MM.pdf.

⁶ See Regierung des Fürstentums Liechtenstein, *Integrationsstrategie*, 1 January 2021, available at: <https://www.regierung.li/files/attachments/20220117-LIGK-Integration-Broschuere-A4-WEB.pdf?t=637786406283668409>.

⁷ *Asylum Regulation* of 29 May 2012 (Status as of 15 June 2022) available at: <https://www.gesetze.li/konso/2012.153>.

- generalized violence;
- b) Introduce a subsidiary protection status, with rights equivalent to those of refugees, for individuals in need of international protection who fall outside the scope of the *1951 Convention*.

Issue 2: Fair and efficient asylum procedures

Linked to 3rd cycle UPR recommendation no. 108.121: “Improve special procedures concerning asylum seekers (Iraq).”

Many asylum claims are deemed to be inadmissible based on the *Dublin III Regulation* and only few are decided on the merits. Of concern are also the additional admissibility grounds to filter out unfounded claims in the *Asylum Act*. The asylum claim can, for example, be declared inadmissible if an asylum-seekers’ behavior shows that he or she is not willing or able to integrate (Art. 20 para. 1 (g) of the *Asylum Act*). UNHCR is worried that these admissibility grounds will lead to exclusion from refugee status beyond the exclusion clauses of the *1951 Convention* (Art. 1F).

In addition, restrictions in the legal aid system⁸ and the limited cognition of the Administrative Court⁹ (second instance authority) may lead to unjustified restrictions to the right to an effective remedy.

Recommendations:

UNHCR recommends that the Government of Liechtenstein:

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

Issue 3: Family reunification and the right to family life

Linked to 3rd cycle UPR recommendation no. 108.119: “Guarantee that all persons in need of international protection effectively have access to family reunification, by eliminating administrative obstacles (Argentina).”

Family reunification for refugees is restricted to spouse and minor children (Art. 39 *Asylum Act*). Provisionally admitted persons can only apply for family reunification after a three-year waiting period, and only if they fulfil additional requirements, e.g. independence from social welfare benefits (Art. 23 of the *Regulation to the Asylum Act*). The 3-year waiting period has been found in violation of art. 8 ECHR by the *European Court of Human Rights (ECtHR)* in a recent judgement.¹⁰ Its implications for Liechtenstein remain to be seen. Asylum-seekers have no right to be reunified with their family.

Recommendations:

UNHCR recommends that the Government of Liechtenstein:

- Ensure effective access to family reunification for all persons in need of international protection by amending the *Asylum Act* and its *Regulations* and removing administrative obstacles.

⁸ See Art. 83 para. 1 (a) of the *Asylum Act* according to which the Administrative Court decides on granting legal aid only with its decision on the substance.

⁹ See Art. 78 of the *Asylum Act* according to which discretionary decisions are only eligible to a legal review. Furthermore, the provision entails restrictions regarding novation.

¹⁰ See ECHR, *M.A. v. Denmark [GC]*, no. 6697/18, 9 July 2021, paras. 194-195, available at: <https://www.refworld.org/cases/ECHR,60ec0ae24.html> in which the Court criticized the lack of balancing the applicant’s interest of being reunited with his wife and the interest of the community to protect the economic well-being of the country.

Issue 4: Integration and naturalization of refugees and stateless persons

Linked to 3rd cycle UPR recommendation no. 108.114: “Remove legal obstacles to the permanent residence of migrants, refugees and asylum seekers in the territory of Liechtenstein, especially obstacles related to the knowledge of the German language and the non-reliance on social benefits as preconditions to the issuance of permanent residence permits (Brazil); and no. 108.126: “Grant nationality to children born in Liechtenstein who would otherwise be stateless (Sierra Leone).”

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

The *Citizenship Act*¹¹ contains provisions to reduce childhood statelessness, but the safeguards fall short of Liechtenstein’s obligations under the *1961 Convention*. Naturalization of persons born in Liechtenstein who would otherwise be stateless is, for example, conditional on lawful residence (Art. 5b (1)(b) and 4e of the *Citizenship Act*) and various requirements relating to the person’s financial situation and behavior, including his or her criminal history (Art. 4b of the *Citizenship Act*).

Economic integration for asylum-seekers, provisionally admitted persons and to some extent recognized refugees is difficult due to employers’ reluctance to hire persons with an uncertain residence status. Additionally, Liechtenstein’s labor market is very small and employment opportunities are limited if a person cannot work in the surrounding countries due to their residence status.

Recommendations:

UNHCR recommends that the Government of Liechtenstein:

- a) Establish a facilitated naturalization process for refugees and stateless persons in accordance with the *1951 Convention relating to the Status of Refugees* and the *1954 Convention relating to the Status of Stateless Persons*;
- b) Automatically grant nationality to children born in Liechtenstein who would otherwise be stateless in accordance with the *1961 Convention on the Reduction of Statelessness* and the principle of the best interests of the child; and
- c) Facilitate economic integration, especially for provisionally admitted persons, by providing a permanent residence status and by removing restrictions to the freedom of movement.

UNHCR
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¹¹ *Citizenship Act* of 4 January 1934 (Status as of 1 January 2019) available at: <https://www.gesetze.li/konso/1960.23>.