

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report-

Universal Periodic Review:

LIECHTENSTEIN

I. BACKGROUND INFORMATION

Liechtenstein is a State party to the *1951 Convention relating to the Status of Refugees* and to its *1967 Protocol* (hereinafter referred to as “the 1951 Convention”). Liechtenstein also acceded to both the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness* in 2009.

Liechtenstein is a small country with a generally limited number of asylum-seekers. Nevertheless, the number of asylum-seekers in Liechtenstein sharply increased in 2009, with a major influx - in view of Liechtenstein's size - of Eritrean and Somali nationals (more than 200 within a three-month period). The influx generated pressure for enhanced streamlining of asylum procedures, although the majority of these asylum-seekers departed from Liechtenstein during 2009–10.

Reception and legal counselling for refugees and asylum-seekers is provided by the Liechtenstein Refugee Council, which has been entrusted with these functions by the Government. During the arrivals in 2009, Liechtenstein relied *inter alia* on a public nuclear bunker for a limited period of time. Otherwise, asylum-seekers are generally housed in a regular reception centre with a capacity of 60 persons. Asylum-seekers are permitted and even required to work immediately.

A new asylum law entered into force on 1 June 2012. UNHCR had the opportunity to provide substantive comments throughout the drafting processes.

The refugee definition in Liechtenstein is based on the 1951 Convention relating to the Status of Refugees. Liechtenstein recognizes the right of asylum and a so-called provisional admission, a complementary form of protection, primarily granted to persons fleeing conflict and generalized violence. Two different authorities are responsible for asylum and provisional admission claims: the Office of Foreigners conducts an initial admissibility review, and if the claim is deemed admissible, the Governing Council carries out a substantive examination of the claim.

In the past, few claims were considered beyond the admissibility stage, since asylum-seekers were presumed to have entered through Switzerland or Austria (which are the two only access points to the country, as Liechtenstein does not have an airport). Liechtenstein thus generally deemed claims to be inadmissible based on the readmission agreement it has

with both countries. The lack of an assessment of the merits of the asylum claims has raised concerns with respect to Liechtenstein's obligations under the 1951 Convention, particularly given the fact that there was at the time no agreement with another State to assume responsibility for examining the claim and ensure protection if required. Liechtenstein, however, started implementing the Dublin system on 19 December 2011, and this should allow clearer assignment of responsibility for the processing of asylum claims.

Following the implementation of the Dublin system, in principle, claims can no longer be deemed inadmissible on the basis of illegal entry via Austria and Switzerland, unless another Dublin Member State is responsible under the criteria of the Dublin II Regulation. The new policy should lead to an increased number of substantive examinations of asylum claims, as Liechtenstein should examine those claims for which it is ultimately responsible. The actual impact of this change and how it will play out in practice remains to be seen.

In the course of 2011, 75 asylum claims were submitted and 79 applications were decided; of these only 10 were decisions on the substance or merits of the claims.

With regard to statelessness, as a State party to both international statelessness instruments Liechtenstein has in principle included adequate safeguards against statelessness in its citizenship legislation. UNHCR welcomes Liechtenstein's pledge made at UNHCR's ministerial meeting in Geneva in December 2011 to "reduce statelessness by applying its national legislation in the spirit of the 1961 Convention on the Reduction of Statelessness" and hopes that concerns as outlined below will be addressed in this spirit.

II. ACHIEVEMENTS

UNHCR generally welcomes Liechtenstein's openness to discuss legislative proposals and the fact that a significant number of its recommendations were included in the new Asylum Act.

UNHCR further welcomes the decision of Liechtenstein to acknowledge non-State actors as agents of persecution in its asylum law and to reflect this important development in the new Asylum Act, leading to a more protection-oriented approach to asylum overall.

UNHCR wishes to note that the Liechtenstein Constitutional Court issued a judgment in 2010, securing the stay of an appellant in Liechtenstein at least until the court has decided whether suspensive effect against an expulsion is to be granted.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: "Provisional Admission"

UNHCR is particularly concerned about the protection needs of persons with *sur place* claims. This includes persons who might be persecuted due to "illegal" departure from their country of origin. Liechtenstein appears to be one of the very few countries in

Europe, which do not recognize their needs through a positive protected status. In the view of UNHCR, persons with a valid *sur place* claim are refugees according to the 1951 Convention.

The situation of persons fleeing conflict and generalized violence has also not been specifically addressed with the new Asylum Act. In the EU, persons displaced by conflict and generalized violence receive as a rule “subsidiary protection”, a complementary form of protection which is a positive status and provides for a (renewable) residence permit and generally the same rights as refugees. Liechtenstein, however, does not recognize the needs of persons displaced by conflict and generalized violence through a positive protected status, e.g. humanitarian status.

Instead, such persons are issued a negative decision and an expulsion order, which is then stayed, because expulsion would be unlawful, unreasonable or impossible. A provisional admission is then issued. Persons with provisional admission are subject to restrictions of their rights, including freedom of movement and the right to family reunification. This can mean significant hardship for persons in need of international protection and may also negatively impact their local integration. It is important to note that, although the name implies a temporary status, in practice, “provisional admission” operates as a permanent status but without effective potential for integration. Such persons have needs, which are equally compelling and of equal duration as refugees.

Recommendations:

- Ensure that refugees who are granted asylum and refugees ‘*sur place*’ enjoy the same status and rights, both in principle and in practice.
- Ensure that persons fleeing conflict and generalized violence obtain a positive protection status linked with a residence permit and the same rights as recognized refugees.

Issue 2: Integration and naturalization of refugees and stateless persons

While persons receiving protection in Liechtenstein are generally provided with integration assistance, in part through citizens’ private initiatives, integration policy for foreigners generally does not appear to refer to the specific needs of persons of concern to UNHCR.

There is no facilitated naturalization for refugees and stateless persons under Liechtenstein law. UNHCR is of the view that as a result, Liechtenstein falls short of complying with Article 34 of the 1951 Convention and with Article 32 of the 1954 Convention, which require States to facilitate as much as possible the naturalization of refugees and of stateless persons respectively. According to the 1951 Convention, the State “shall, in particular, make every effort to expedite naturalization proceedings.” In Liechtenstein, refugees are required to meet the same requirements for naturalization as other foreigners. The same concerns arise with respect to adult stateless persons. Decisions on naturalization are subject to a vote at communal level without a possibility to appeal against a decision. In addition, there is no procedure to determine statelessness, although this has not been an issue in practice to date as UNHCR is not aware of anyone who has claimed to be stateless recently.

Recommendations:

- Adopt targeted integration measures for refugees, persons with provisional admission and stateless persons, which take into account the specific needs of persons in need of international protection.
- Implement a facilitated naturalization process for refugees and stateless persons in the country in accordance with the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* and the *1954 Convention relating to the Status of Stateless Persons*.

Issue 3: Freedom of movement

The Regulation to the Asylum Act states that persons with provisional admission are to be provided with a document certifying a right of stay (Aufenthaltsausweis) for a maximum of 12 months. This permit is to be confiscated, if a person leaves Liechtenstein. UNHCR understands that persons with provisional admission may be issued a travel document based on the “Regulation on Home Country Identity Papers” (Heimatschriftenverordnung (HSchV)).

The practice in this regard is not clear, i.e. whether persons with provisional admission are issued a travel document upon request, whether their “Aufenthaltsausweis” is confiscated pursuant to the new provision in the Regulation on the Asylum Act and whether their documents would be returned and/or renewed.

In this context, as noted above under Issue 1, this provision could *de facto* lead to persons with provisional admission, who despite the term are generally present on a permanent basis, being restricted in their freedom of movement. Such restrictions can have a significant impact on their lives and their integration.

Recommendation:

- Clarify the policies surrounding the issuance of travel documents for persons with provisional admission and ensure freedom of movement for all persons in need of international protection residing in Liechtenstein regardless of their legal status. This includes allowing protected persons, including persons with provisional admission, in principle to leave the country and to return.

**Human Rights Liaison Unit
Division of International Protection
UNHCR
July 2012**