

**Council of Europe Convention on Preventing and Combating Violence
against Women and Domestic Violence
(Istanbul Convention)**

**Shadow Report to the First State Report
of the Government of the Principality of Liechtenstein
of 7 October 2022 (BNR 2022/1560)**

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Introduction

The Council of Europe Convention of 11 May 2011 on preventing and combating violence against women and domestic violence (Istanbul Convention) entered into force for Liechtenstein on 1 October 2021. The first State Report on the implementation of the Istanbul Convention based on the GREVIO questionnaire of 11 March 2016 was submitted by the Government of the Principality of Liechtenstein to the competent group of experts (GREVIO) on 7 October 2022 in accordance with Article 68 (1) of the Istanbul Convention. This first Shadow Report contains recommendations on the implementation of the Convention as well as supplements and comments on the first state report of Liechtenstein (referred to as the Government Report). For better comparability, it is structured identically to the Government Report and makes substantial reference to the Explanatory Report on the Istanbul Convention.¹

This Shadow Report was prepared by 9 non-governmental organizations under the auspices of the Liechtenstein Human Rights Association, the National Human Rights Institution of Liechtenstein (NHRI), and with the involvement of an independent legal expert. The shadow report was submitted to the Group of Experts on Action against Violence against Women and Domestic Violence, GREVIO on 15 December.

The shadow report was written by:

Bewährungshilfe	(Probation Service)
Frauenhaus Liechtenstein	(Liechtenstein Women's Shelter)
Frauennetz Liechtenstein	(Women's Network Liechtenstein)
Informations- und Beratungsstelle für Frauen, infra	(Information and Counseling Center for Women, infra)
Verein kinderschutz.li	(Association for Childprotection)
Liechtensteiner Behinderten-Verband	(Liechtenstein Association for Persons with Disabilities)
Beratungsstelle love.li	(Counseling Center „love.li“)
Verein für Männerfragen	(Association for Men's Issues)
Ombudsstelle für Kinder und Jugendliche, OSKJ	(Ombudsperson's Office for Children and Young People, OSKJ)
Verein für Menschenrechte (NMRI)	(Liechtenstein Human Rights Association (NMRI))

Associating with the report:

Verein Sicheres Liechtenstein	(Association for a safe Liechtenstein)
Lebenshilfe Balzers	(Life support of the municipality Balzers)

¹ Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence <https://rm.coe.int/1680a48903>

The preparation of the report was supported and scientifically accompanied by Ms. Jasmin Beck, research assistant and doctoral candidate for the project "Correcting Inequality through Law" at the Chair of Public Law, International and European Law and Empirical Legal Research at the Westfälische Wilhelms-Universität Münster.

1. Purpose, definitions, equality and non-discrimination, general obligations

The Government Report makes no mention of Chapter 1 of the Convention. It therefore does not explain how the definitions and the principles of equality and non-discrimination are embedded in the national legal system and society.

1.1. Violence against women

The Association for Men's Issues regrets that the Convention does not explicitly define gender specific violence against men.

The Association for Human Rights emphasizes that the implementation of the Convention should consider all forms of gender-based violence, including against people with different sexual orientations or gender identities.

It is recognized by all the signatory organizations that most victims of gender-based violence are still women and that some facts exclusively affect women. Under this premise and in order not to change the focus of the Convention, the title and purpose of the Convention will be adopted unchanged in the following.

1.2. Domestic violence

It is recognized and welcomed by all signatory organizations that the purpose of the Convention is to prevent and combat all forms of domestic violence and thus includes women, men, people of different sexual orientations and gender identities, children, and persons in need of care and all other persons affected. Especially when relationships break down, men can also be affected by psychological violence or physical assault.

1.3. Equality and non-discrimination

All signatory organizations are committed to the principles of equality and non-discrimination. It is emphasized that combating all forms of violence without discrimination must be a declared goal of the state and all forces in society.

2. Policy measures and data collection

(Chapter II of the Convention, Articles 7 to 11)

2.1. Strategies and action plans

The preamble to the Convention recognizes that achieving equality in law and in practice between women and men is an essential element in preventing and combating violence against women and domestic violence. By acceding to the Convention, the Government of Liechtenstein undertakes to create equality between women and men and to overcome violence and discrimination. Measures against domestic violence and violence against women conversely promote the social equality of women and men as well as gender justice.

Under the Convention, the government is obliged to develop strategies and measures that go beyond isolated adjustments of civil, criminal and administrative law provisions. Violence against women and domestic violence are not private problems or individual cases without a structural background. This requires a national strategy for preventing and combating violence against women and domestic violence with concrete, long-term goals and coordinated measures (e.g. an action plan), which involves all governmental and non-governmental actors.

The process announced for autumn 2022 to develop a comprehensive equal opportunities strategy is therefore seen as an opportunity to include a strategy and a plan of measures to prevent and combat violence against women and domestic violence. The existing, annually adjusted action plans of the Ministry of Society and the Department of Equal Opportunities of the Office of Social Services are also to be embedded in this overall strategy and thus made more sustainable and their impact verifiable.

All civil society actors should be involved in the development of a gender equality strategy, including a violence protection strategy for domestic violence and violence against women. Despite the manageable size of the Liechtenstein organizational landscape, a large number of governmental and non-governmental organizations are active in the field of preventing and combating domestic violence and violence against women. In the Office of Social Services alone, according to the Government Report, three different departments or specialist areas deal with aspects of these forms of violence. In the civil society landscape, apart from the women's shelter, there is no organizations specialized in domestic violence or violence against women. It is expected that when a gender equality and violence protection strategy is drawn up, an overview will be made and mandates and responsibilities reviewed and coordinated.

For all the authorities and organizations mentioned, preventing and combating domestic violence and violence against women is only a partial mandate - in many cases the mandate is not even specifically mentioned. Accordingly, addressing this form of violence is not a core task of these organizations and they lack resources and expertise for a targeted approach to the problem. Here, a strategic framework would set important guidelines. For the design of a strategy and the coordination of its implementation through an action plan, a permanent position is urgently needed, i.e. a person who is always available and who is not in charge of other mandates.

2.2. Financial means

As the Government Report shows, a large part of the activities to prevent and combat violence against women and domestic violence are carried out by civil society actors. These actors also execute governmental tasks, sometimes through service agreements (“Leistungsvereinbarungen”) but are often too poorly funded to be able to comprehensively fulfil and further develop their

mandates. The ratification of the Istanbul Convention did not lead to any new service agreements with NGOs, nor were existing service agreements expanded for the implementation of the Convention. The parliament and the government showed little political will to deploy additional resources for the effective implementation of the Convention during the parliamentary debate on the ratification of the Convention in May 2021.²

Regrettably, therefore, when the Istanbul Convention was ratified, no additional human or financial resources were created for the coordination mechanism under the Convention. A coordination group was appointed under the leadership of the Department of Law/Projects in the Office of Social Services. This group fulfils its task under Art. 10 of the Istanbul Convention in addition to their regular tasks and without additional resources. To be able to implement the coordination tasks under the Istanbul Convention effectively and comprehensively, additional human resources are necessary. As mentioned, this requires an additional permanent position, i.e. a person who is continuously approachable without other mandates.

This fact has already been recognized by the Government in Report and Motion 15/2021 on the ratification of the Convention to Parliament. It states on page 28: "... [It] can be assumed that the fulfilment of the tasks of the coordination body will be demanding due to already existing personnel and financial resources in Liechtenstein and could lead to a corresponding additional burden. It cannot be ruled out that Liechtenstein could receive a [...] recommendation in an evaluation by GREVIO regarding the institutional and financial resources of the coordination body. Nevertheless, as a first step Liechtenstein will implement Art. 10 with existing human and financial resources [...]."³ In the parliamentary debate of May 2021, several MPs pointed out the additional resource needs for the coordination unit and requested additional human and financial resources for it.⁴

In addition to an adequately equipped coordination office, sufficient financial resources must be available to implement measures to be defined in a strategy and an action plan. For this purpose, specific funds must be made available, also accessible for qualified NGOs.

The signatory organizations are convinced that not enough measures are implemented in the area of prevention. Specifically, the obligations to raise awareness and education enshrined in Article 13 and Article 14 of the Convention are not sufficiently implemented and promoted. Existing offers, such as the awareness raising activities for first level school children and their parents by the Association for Child Protection (Verein kinderschutz.li), the campaign "No place for sexism" by infra (Informations- und Beratungsstelle für Frauen) and aha (Tipps & Infos für junge Leute), as well as the prevention events of the Women's Shelter (Frauenhaus) are individual NGO initiatives and are not sustainably funded. The sexual education workshops in schools of the Counseling Center 'love.li', which all include a prevention part on protection against sexualized violence for children and young people in all school levels, also take place without financial support by the state. This is where sustainable, state-coordinated and financed prevention involving civil society organizations should come in.

² Landtag minutes of 7 May 2021, agenda item 44, https://www.landtag.li/protokolle/default.aspx?lpid=718&id=9838&typ=eintrag&backurl=mode%3dsuche%26krit%3d1%26txt%3distanbul&txt=istanbul&sh=resulttag07_05_2021-9838

³ <https://bua.regierung.li/BuA/default.aspx?nr=15&year=2021&backurl=modus%3dnr%26filter1%3d2021>; P. 28

⁴ Landtag minutes of 7 May 2021, agenda item 44, https://www.landtag.li/protokolle/default.aspx?lpid=718&id=9838&typ=eintrag&backurl=mode%3dsuche%26krit%3d1%26txt%3distanbul&txt=istanbul&sh=resulttag07_05_2021-9838

2.3. Cooperation with non-governmental organizations and civil society

The coordination group under the Istanbul Convention consists exclusively of representatives of public authorities. The Women's Network and the Association for Human Rights had already recommended to the government during the legislative process for ratifying the Convention that all domestic non-governmental organizations concerned with the issue be included as actors in the coordination group so that a common understanding of the problem situation and common approaches to prevention and combating can be developed.⁵ The Women's Shelter also considers representation in this working group necessary. Finally, the public prosecutor's office, the law enforcement agencies and the judiciary should also be included in the coordination mechanism.

While a regular exchange with NGOs was foreseen when the coordination group was created and a first exchange was implemented in June 2022, a reliable, institutionalized exchange is essential for effective collaboration, which includes processes and structures (e.g., working groups) for joint implementation of identified problems. These processes and structures must be adequately funded. The cooperation of civil society organizations must also be financed. To ensure effective cooperation, the signatory organizations advocate that a concrete cooperation mechanism including funding regulations be elaborated and enshrined in law. GREVIO itself states in its report on Austria: "cooperation seems to work best when it is placed on a legal basis" (GREVIO/Inf(2017) 4, para. 31).

Existing structures, such as the Working Group against Domestic Violence, should be linked to the coordination mechanism or newly set up within the coordination mechanism. The Working Group meets twice a year. The exchange is considered useful by the non-governmental organizations involved. The Working Group consists of three administrative authorities (Office for Social Services, Office for Foreigners and Passports, and the Victim Assistance Office assigned to the Office of Justice) as well as the two non-governmental organizations *infra* (Informations- und Beratungsstelle für Frauen) and the Women's Network (Frauenhaus). The Association for Men's Issues (Verein für Männerfragen) and the Women's Shelter (Frauenhaus) see their participation in this working group as indispensable. A new composition of the Working Group was rejected by some existing members in the past. The Association for Human Rights suggests reviewing the composition of the Working Group and including all organizations that work to prevent and combat domestic violence. The Working Group should also be set up as part of the coordination mechanism and be given a clear mandate, which includes documentation and review of its achievements.

2.4. Coordinating body according to Art. 10 of the Convention

The coordinating body pursuant to Art. 10 of the Convention has a central function in the implementation of the Istanbul Convention. The Coordination Group under the leadership of the Office for Social Services, that has been designated for this purpose (see 2.3) is not well staffed. No member of the group has received additional personnel or financial resources for their participation in the Working Group. All members must fulfil their cooperation in addition to their existing tasks. This is not realistic. The coordination group should be participatory (as stated in 2.3). It needs sufficient resources and a written strategic basis (policies) for its mandate and the implementation of the Convention. This basis should be laid down in law or adopted by the government as part of an overarching gender equality strategy.

⁵ <https://www.menschenrechte.li/category/menschenrechte/frau-und-mann/gewaltschutz/> - Recommendations of the Women's Network and VMR on BuA 15/2012 of 27 April 202; p 3:

In the course of developing the strategic basis, substantive priorities are to be set and the various mandates of state and non-state actors within the scope of the Istanbul Convention are to be revised and coordinated (see comments on the Working Group against Domestic Violence under 2.3). In this way, existing activities of civil society and state actors could be better coordinated and thus made more effective. In the Office of Social Services alone, according to the Government Report, three departments or specialist areas other than the person tasked with leading the Coordination Group, are concerned with aspects of domestic and gender-based violence. Here, it would have to be examined how responsibilities could be bundled and synergies used, and thus also how resources could be better utilized.

2.5.Data collection; 2.6 Research; 2.7 Population studies

In June 2022, the Coordination Group convened a first comprehensive exchange of experts on the Istanbul Convention with civil society organizations. This revealed the lack of information, data and baseline studies on domestic and gender-based violence. It also became clear that information on mandates and activities of existing contact and counseling centers must be exchanged and coordinated.

Different organizations collect data on forms of violence covered by the Istanbul Convention. However, there is neither a synthesis nor an overarching evaluation of these data. Thus, there is no comprehensive understanding of the situation. However, this would be necessary for the development of tailor-made prevention and protection measures.

The study "Violence has no Home" from 2003, which was prepared within the framework of the Interregional Project "Crossing borders - setting boundaries" and investigated domestic violence in Liechtenstein and the neighboring areas of Austria and Switzerland (Vorarlberg and Graubünden), has been the only study on this topic in Liechtenstein so far.

There are also no reliable data on gender-specific violence. An online survey by aha (Tipps & Infos für junge Leute) and infra (Informations- und Beratungsstelle für Frauen) from 2021 shows that 71 per cent of females and 35 per cent of males out of a total of 200 respondents, mainly adolescents and young adults, have already experienced sexual or sexist harassment at least once.

The signatory organizations agree that a representative and up-to-date study on domestic violence and violence against women is urgently needed. This study must provide information on which factors currently promote violence against women and domestic violence in Liechtenstein and how those affected - perpetrators, victims, observers, responsible persons (employers, teachers, etc.) - can be reached with targeted measures. This is the only way to effectively counteract these forms of violence.

A consistent definition of violence against women and domestic violence in the (penal) legislation as well as for all statistics is also imperative. According to the government, the Office for Statistics and the National Police will report violence against women and domestic violence according to the definition of the Convention in their crime statistics from 2024 on. This is very much welcomed by the signatory organizations.

3. Prevention

(Chapter III of the Convention, Articles 12 to 17)

3.1. Campaigns and programs - Awareness raising

A large number of the awareness-raising activities listed as state measures in the Government Report were developed and implemented under the leadership of non-governmental actors and financed essentially with private funds, namely:

- the campaign "16 Days against Violence against Women" and the nationwide street campaign "Sprechblasen" (speech bubbles)
- the campaign of the Working Group against Domestic Violence of 2018
- the information event on the Istanbul Convention organized by infra (Informations- und Beratungsstelle für Frauen) and the Women's Shelter (Frauenhaus) in 2019
- the cross-border campaign "Sexual Harassment in Public Sphere" of infra and aha (Tipps & Infos für junge Leute) - of 2022
- the campaign "GewaltFREI erziehen" of the Children's Lobby (Kinderlobby) of 2021 and 2022
- the long-standing interactive prevention project "My Body belongs to Me!" of the Foundation for Child Protection Switzerland (Stiftung Kinderschutz Schweiz)
- the counseling centers and long-standing school workshops of the Sophie von Liechtenstein Foundation on sexuality and pregnancy (love.li and schwanger.li)
- the long-standing activities of the health promotion Association NetWork (Verein NetzWerk) and the aha (Tipps & Infos für junge Leute) for prevention and sex education at schools
- the activities of the Child Protection Association (Verein kinderschutz.li) against violence, mobbing and abuse

Some NGOs receive institutional government contributions tied to specific commitments ("Leistungsvereinbarungen") as well as project-specific support, but the funds are not sufficient to fulfil the measures envisaged in the Convention:

The Women's Shelter cannot expand its services in the area of prevention and public relations because of a lack of funds. In the service agreement between the Women's Shelter and the Government, only a 20 percent post is financed for public relations. Political work (incl. statements on legislative proposals, e.g. for the ratification of the Istanbul Convention), reporting under international conventions as well as the preparation and holding of meetings with international human rights bodies are explicitly excluded from the service agreement and are not financed.

Apart from a base funding by the state, infra (Informations- und Beratungsstelle für Frauen) is financed through membership fees, donations from third parties and grants from foundations. Projects are largely not covered by the state contribution. The project "Stop Sexism" was mainly financed by donations, the state department for equal opportunities supported the project financially.

The 'Verein für Männerfragen' (Association for Men's Issues) has received an institutional contribution for the first time in 2022 - 13 years after its foundation - which enables the association to run a small office.

The Child Protection Association (Verein kinderschutz.li) as well as the counseling center 'love.li' do not have a service agreement with the state and do not receive any state funding.

3.2. Violence prevention - teaching materials

Individual awareness-raising campaigns are not sufficient for the implementation of this provision. There is a need for sustainable violence prevention strategies for families, early childhood, schools and the workplace with compulsory and long-term activities that are conveyed through appropriate materials (e.g. on role models, non-violent conflict resolution, etc.) for all age groups. In addition, trained teachers are needed. To accomplish this, there is a lack of financial and human resources.

The Ombudsperson's Office for Children and Young People (Ombudsstelle für Kinder und Jugendliche) also sees a need for action in the schools. Although a "Crisis Compass" manual was introduced in 2012 (see Government Report 3.3.), it is up to school teams to decide whether to use it. Members of the Children's Lobby Network, who work with schools, note that in some schools there is uncertainty about responsibilities and procedures. The Children's Lobby recommends that all schools be encouraged by the school authorities to develop a common attitude and procedure (code of conduct) as well as an intervention guideline in cases of suspected violence in upbringing or domestic violence and to consistently apply and review these instruments.

3.3. Training of professional groups

Professional training and continuing education of selected professional groups explained in the Government Report are welcomed. In particular, the internal police 'Domestic Violence Coordination Unit' is recognized as a key unit in identifying and combating domestic violence. Training in the field of justice is also very important.

The signatory NGOs cannot assess to what extent these trainings are present and applied in everyday work.

As can be seen from the definition of violence in the Istanbul Convention and as confirmed by casework, domestic violence is a very complex issue. The different aspects of violence (physical, sexual, psychological or economic) often intertwine and are difficult to identify. In addition, there are new forms of violence, for example in the digital space and through new technologies.⁶ Constant attention is needed here, which can only be achieved through regular training and an inter-agency and inter-organizational exchange on the topic.

As to training and continuing education, the signatory NGOs also note a need within their own ranks, which is, however, not sufficiently perceived due to limited financial and personal resources. It is also in the interest of the state that counseling centers and specialized organizations have funds available for further professional training. It is therefore suggested that the state's service agreements with the NGOs include concrete funds for further professional training within the organizations.

⁶ See Ariane van der Wilk/Council of Europe, "Protecting Women and Girls from Violence in the Digital Age: The relevance of the Istanbul Convention and the Budapest Convention on Cybercrime in addressing online and technology-facilitated violence against women" <https://rm.coe.int/the-relevance-of-the-ic-and-the-budapest-convention-on-cybercrime-in-a/1680a5eba3>

3.4. Preventive intervention and treatment programs for offenders; 3.5 Preventive intervention and treatment programs for sex offenders

The signatory organizations are not aware of any preventive intervention programs, treatment programs or self-help groups in connection with preventing or combating violence in Liechtenstein. Describing the work with perpetrators, the Government Report does not explain the meaning and content of the anti-violence groups mentioned and by whom they are run or offered. It is also not made clear by whom the anti-violence trainings are conducted and whether or under which circumstances these programs are obligatory. There also seems to be no evaluation of whether these offers are used and whether offenders who have participated in such programs or groups have been successfully reintegrated into society (see para. 104 of the Explanatory Report).

The Association for Men's Issues (Verein für Männerfragen) runs a specialized unit for counseling on violence for male victims and perpetrators. Unfortunately, the counseling has not yet been used by perpetrators. The association would like its specialized unit to be called in by official agencies at an early stage so that it can take preventive action or provide comprehensive counseling in the event of an incident.

The Liechtenstein Probation Service (Bewährungshilfe) has been trying to establish a violence counseling service for 10 years. In a pilot project from 2019 - 2022, the violence counseling service www.gewaltig.li was established. With private donations, three employees were trained over three years (35 days plus 6 peer group meetings) for violence counseling. The pilot project received government support through the Office of Social Services. During the project period, 28 violence counseling sessions could be started or carried out, most of which were assigned by the Office for Social Services and the first-instance court (*Landgericht*). During the project phase, a number of perpetrators volunteered for violence counseling. From 2023 onwards, the counseling service will be receiving a financial contribution by the state. Since the beginning, self-reporters were also to be addressed, which is why cooperation with the state police was sought and two information events were held. Unfortunately, no (voluntary) access to violence counseling gewaltig.li could be achieved through the police in the last four years.

The Probation Service (Bewährungshilfe) advocates for comprehensive and obligatory violence prevention counseling after a police intervention (removal/interdiction see 6.1) in cases of domestic violence. This violence prevention counseling could be followed up with violence counseling. The experience of Austria serves as a good practice: throughout the country a 6-hour violence counseling in case of an incident is mandatory. Further counseling on violence, diversionary proceedings or probationary assistance follow this first measure. These options would also exist in Liechtenstein. The Probation Service is also committed to an institutionalized exchange of experience with authorities such as the Office for Social Services, the police and the public prosecutor's office, as well as to an exchange of information that complies with data protection regulations and enables proactive and targeted violence counseling.

The signatory organizations believe that in addition to individual counseling offered, there is an urgent need for long-term and systematic intervention and offender programs which also include regular evaluation.

The signatory organizations are not able to judge whether the anti-violence training in the context of detention for sex offenders and violent offenders or the supervision of offenders in the execution of release, as listed in the Government Report, is appropriate. It should also be noted that these measures cannot be considered as state measures of Liechtenstein, as the mentioned prisons are located abroad.

The signatory organizations are unable to assess the use and success of the counseling and support provided by the psychiatric-psychological service of the Office for Social Services for victims and perpetrators. Furthermore, they have no information on the financing of therapy costs for perpetrators and victims. It would have to be clarified whether the existing offers are used, target-oriented and sufficiently financed.

The signatory organizations call on the government to promote offender work outside of penal institutions and to expertly evaluate the success of all existing offers in the sense of Art. 16 of the Convention and paras. 102-105 of the Explanatory Report.

3.6 Private sector and media participation; 3.7 Private sector and media participation - media self-regulation

According to para. 107 of the Explanatory Report, the state should encourage the media to refrain from offensive stereotyping and to promote rights-based, non-sensationalized reporting (as well as appropriate choice of images), including on violence against women or other forms of gender-based violence. Media professionals should undergo regular training to prevent sensationalist portrayals of domestic violence. In addition, the tutorial for media professionals on the topic of gender and media coverage, which was developed by the Equal Opportunities Unit in 2017, should be renewed and re-promoted.

The guideline "Gender-equitable language"⁷, which was adopted by the Government in October 2021 and recommended for use throughout the national administration, is very welcome. However, implementation should be demanded more strongly and systematically reviewed. The guideline should also be made known in the private sector and among non-official actors.

3.8 Private sector involvement - sexual harassment and violence against women at work

The Equality Act 1999 contains various provisions against sexual harassment and violence against women in the workplace. However, since the creation of this Act, there have been no complaints and no case law under its provisions. As the Government Report reports according to the District Court, there were no civil complaints or proceedings before the ordinary courts for sexual harassment of women in the workplace as of 1 September 2022.

The experience of *infra* (Informations- und Beratungsstelle für Frauen) shows that proceedings concerning sexual harassment at the workplace were settled by diversion or via conciliation procedure according to Art. 11 of the Gender Equality Act. Affected persons often do not dare to

⁷ Guide "Gender-equitable language" [https://www.llv.li/files/asd/bro_geschlechtergerechtesprache_a5_2021_final_web.pdf].

defend themselves against sexual harassment in court due to the small size of the country and the lack of anonymity in Liechtenstein. They rather leave their job.

Organizations which have been in existence for more than five years and which, according to their statutes, promote equality between women and men or protect the interests of female and male employees may have a finding of discrimination made on their own behalf if the outcome of the proceedings is likely to affect a larger number of employment relationships.⁸ For a declaratory action to be brought, several female workers must be affected. So far, *infra* (Informations- und Beratungsstelle für Frauen) has only been aware of individual cases to which these conditions did not apply. In addition, *infra*'s financial resources do not allow for filing a declaratory action at the present time.

The awareness-raising measures for employees and employers mentioned in the Government Report date back more than 10 years. The measures need to be renewed and further developed - if possible within the framework of the planned equality strategy. Service instructions and regulation should by default include guidelines, codes of conduct and catalogues of measures against discrimination and sexual harassment or against gender-specific violence in the workplace. Existing measures and regulations have to be reviewed in terms of timeliness and effectiveness. The state should promote and review this requirement via the professional associations.

The Explanatory Report (para. 255) emphasizes that awareness-raising programs are elementary to counteract acceptance of certain forms of violence. Certain forms of violence are not prioritized in investigations and court proceedings and perpetrators can expect to go unpunished. Victims of such incidents of violence are not adequately protected and run the risk of being unsuccessful in pressing charges. Therefore, the signatory organizations consider it enormously important that binding guidelines for dealing with victims and perpetrators of sexual offences, discrimination and mobbing be introduced in the workplace with reference to the relevant legal provisions. This clarifies that sexual harassment is not acceptable in the workplace and ensure that workers are aware of their rights and entitlements to protection.

The Association for Men's Issues (Verein für Männerfragen) suggests that companies above a certain size be legally obliged to issue guidelines and instructions on how to deal with victims and perpetrators of sexual offences, discrimination and mobbing.

3.9 Further prevention measures

Domestic violence affects the whole system of a (also extended) family. Accordingly, many authorities and specialized agencies are affected: e.g. independent counseling centers for victims and perpetrators, doctors, psychiatric-psychological services, child protection authorities, the judiciary and the police. It is essential that clear agreements and responsibilities are established between these agencies and that victims receive help quickly and unbureaucratically.

The signatory organizations suggest that a low-threshold intervention agency be set up, which is not based at the Office of Social Services or the police and can assume a triage function. Following the Explanatory Report (para. 83), it should be examined how the municipalities could be more involved

⁸ Declaratory action pursuant to Art. 7 of the Gender Equality Act, LGBl. 1999 No. 96.

in the implementation of prevention measures. The Ombudsperson's Office for Children and Young People (Ombudsstelle für Kinder und Jugendliche) suggests the introduction of case management in cases of domestic violence.

It is also important to raise awareness and remove taboos about the forms of violence mentioned in the Convention through targeted public relations and project work. As the Explanatory Report states (para. 83), the aim is to bring about "far-reaching changes in the attitude of the general public, overcoming gender stereotypes and raising awareness". This requires "changes in mentality and attitudes towards violence against women and domestic violence" and reaching those "hearts and minds of people who contribute to the perpetuation of violence through their behavior" (para. 85).

As the Explanatory Report states (para. 88), it is of great importance that men and boys are included or addressed in these measures in order to emphasize their special role in the prevention of violence. It is crucial that men and boys actively speak out against violence, present equal role models based on partnership, for example by taking responsibility for care of family members, and stand up for equal rights of women and men.

At the same time, the state is obliged to promote gender equality by increasing women's scope for action and reducing their vulnerability (para. 90 of the Explanatory Report). This calls for programs and activities that empower women in all areas of life, including politics and business.

Finally, it is important to create an understanding that culture, customs, religion, tradition and an idea of "honor" can also promote violence in Liechtenstein. However, these concepts must not be used to justify violence. A key principle of the Convention is that violence is never permitted, nor may it be justified for the observance of cultural or religious rights or freedoms (para. 89 of the Explanatory Report).

4. Protection and support

(Chapter IV of the Convention, Articles 18 to 28)

[4.1 Access to information for victims of violence](#); [4.2 Access to general support services](#); [4.3 Support for individual and collective complaints](#); [4.4 Specialized support services](#); [4.5 Telephone counseling](#)

Although the more serious forms of violence are considered official offences under the Convention in Liechtenstein, they are often not prosecutable because they take place in private and behind closed doors. Victims often do not report to the prosecution authorities out of fear or shame. The Government Report (p.7) names the specialist Unit for Threat Management (Fachstelle Bedrohungsmanagement) at the State Police as the central intervention unit. However, no figures on registered cases and no legal or scientific basis for threat management are given. Relevant research shows that many cases of domestic violence are recognized too late by the police threat management and that those affected are not referred to appropriate agencies.

What is needed here are lower-threshold intervention options. Some victims already report to non-governmental counseling and aid organizations. These have various possibilities to help the victims.

The Association for Men's Issues (Verein für Männerfragen) reports about three to five men per year who seek counseling due to domestic violence or "stalking". Especially in the context of separations or disturbed relationship constellations, violence is a recurring theme. In its annual report of 2021 Infra (Informations- und Beratungsstelle für Frauen) reports 20 consultations on violence. The legal counseling provided by infra is only partially financed by the state contribution. The costs for legal counseling is not covered by the state contribution. Private fund have to be sought additionally. This poses an uncertainty because private donors usually only finance projects for a limited period of time. Both organizations need additional financial resources that ensure the professionally qualified legal counseling of victims in the long term.

According to the 2021 annual report of The Liechtenstein Human Rights Association (NHRI), the Ombudsperson's Office for Children and Young People (Ombudsstelle für Kinder und Jugendliche) counselled in 4 cases of (mostly domestic) violence. The NHRI can support victims of human rights violations and, 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. According to the Law on the Liechtenstein Human Rights Association⁹ the Human Rights Association advises victims of human rights violations on proceedings before regional and international bodies (e.g. CEDAW and ECHR), assists victims in filing a complaint and accompanies or represents them during the proceedings. To date, however, no victims of domestic or gender-based violence have approached the association and it is difficult to assess whether the existing staff competences and resources would be sufficient for such accompaniment.

The signatory organizations have too little insight into the functioning of victim counseling and legal assistance by the Victim Support Unit (Opferhilfestelle) as well as into the services of the Office of Social Services (Psychiatric-psychological Service) to be able to make an assessment. The awareness-raising work of the Equal Opportunities Department (Fachbereich für Chancengleichheit) of the Office for Social Services (e.g. sending out emergency cards in eight languages or the guide "Violence in marriage and partnership - How can I help?" as well as the information on websites and brochures) are noticed and welcomed by the signatory organizations. However, it would have to be systematically checked how effective these measures are and whether the target groups are reached. Targeted awareness-raising and information work is needed.

According to Art. 6 of the Gender Equality Act, girls and women who are affected by discrimination in the world of work or in access to or the supply of goods and services may sue or assert legal claims. Here, associations based in Liechtenstein which, according to their statutes, aim to promote equality between women and men or to safeguard the interests of employees can also sue in their own name. However, this instrument of declaratory action does not apply in the case of domestic violence or gender-based violence outside the workplace.

Regarding sexual abuse, it is very welcome that the Office of Social Services has concluded a service contract with the Institute for Social Services in Vorarlberg (ifs) since 2020. This is to ensure competent low-threshold counseling for children and adolescents who are affected by sexual abuse and/or their caregivers.

⁹ Law of 4 November 2016 on the Liechtenstein Human Rights Association (VMRG), LGBl 2016 No. 504.

The signatory organizations cannot assess whether the medical and therapeutic treatment of victims of violence mentioned in the Government Report and financed by health insurance, is sufficient. It would have to be examined under which conditions and to what extent the health insurance companies pay for such treatment and whether the treatment is easily accessible for all victims or if it is provided only in the case of a conviction. Other possible hurdles could be: Franchise and deductible of the health insurance or if the insurance is in the name of another person (e.g. the violent partner).

The Convention requires States Parties to provide immediate, short- and long-term specialized assistance. Victims are to be provided with sufficient suitable, easily accessible and safe shelters. In addition, a free telephone hotline must be available around the clock, seven days a week. The signatory organizations believe that the hotlines mentioned by the government meet these requirements, even though they do not specifically target victims of the forms of violence mentioned in the Convention.

4.6 Protection and support for minor witnesses; 4.7 Other measures to support victims of violent acts against women

According to section 75a (1) of the Code of Civil Procedure (ZPO) and Art. 10 a of the Non-Contentious Proceedings Act (AussStG), the disclosure of a party's residential address may be waived if the party can demonstrate "an interest in secrecy worthy of protection" and this interest outweighs the opposing party's interest in disclosure of the address. The balancing of interests is carried out by the court. The signatory organizations are of the opinion that in cases of domestic violence the disclosure of the victims' home address should be waived as a matter of principle.

5. Substantive law

(Chapter V of the Convention, Articles 29 to 48)

5.1. Legal framework

As the Government Report points out, the latest revision of the Criminal Code (Strafgesetzbuch, StGB) in 2019 included new offences that are very useful for combating violence against women and domestic violence. However, the various acts (physical, sexual, psychological or economic violence) that make up domestic violence according to Art. 3 lit. B of the Istanbul Convention are currently not all punishable in Liechtenstein on their own. Moreover, the individual acts, which may be difficult or impossible to prosecute on their own due to their intensity or duration, may well qualify as domestic violence when taken as a whole – and should thus be punishable. A legal definition is necessary to effectively protect victims of domestic violence. The signatory organizations therefore call for the introduction of an legal offence of domestic violence in the Criminal Code in accordance with Art. 3 lit. B of the Istanbul Convention.

In addition, the signatory organizations suggest that the Gender Equality Act be comprehensively expanded with a view to implementing the Istanbul Convention. This should define violence against women and other forms of gender-specific violence as well as domestic violence, outline the national strategy, define measures and regulate the responsibilities for implementation.

Furthermore, a right of complaint by associations (Verbandsklage) for cases of violence against women or other forms of gender-based violence as well as domestic violence should be introduced into the Gender Equality Act. The right to complain by associations must go beyond the existing right of action for a declaratory judgment (Feststellungsklage), so that effective claims can be made to the court in the individual case in the sense of effective protection for victims.

5.2. Ensuring implementation

Without knowing the statutory basis of the Threat Management Unit (Fachstelle Bedrohungsmanagement) of the National Police mentioned in the Government Report, the signatory organizations cannot assess whether the Unit monitors all the offences provided for by the Istanbul Convention. Therefore, a national violence protection strategy with an action plan and clear responsibilities, a good data situation (statistical data and research) as well as a clear definition of the offence of domestic violence and violence against women or gender-based violence according to the Istanbul Convention is necessary for the implementation of the Convention and the monitoring of its implementation.

5.3. Civil claims and remedies; 5.4 Damages and compensation

As stated in the Government Report, §§ 1323 to 1329 of the General Civil Code (Allgemeines Bürgerliches Gesetzbuch, ABGB) lay down the right to damages and compensation for pain and suffering. The amount of compensation for pain and suffering is assessed by a court in each individual case.

The Victim Assistance Act (Opferhilfegesetz, OHG) provides that a victim who receives no compensation from the offender or third parties (e.g. insurance companies) receives compensation from the state for pecuniary as well as non-pecuniary damage suffered (Art. 18 to Art. 24 OHG). In the case of pecuniary damage, compensation amounts to a maximum of CHF 120,000, taking into account the victim's current income. In the case of non-pecuniary damage, compensation amounts to a maximum of CHF 70,000 for the victim and CHF 35,000 for relatives, regardless of the victim's income. As explained in the Government Report, no compensation payments were made by the state in 2021, 2020 and 2019.

It is difficult for the signatory organizations to assess whether the amount of damages is sufficient. The Government Report makes no statements as to why no compensation payments have been made by the state. It can be assumed that these will be paid out on a subsidiary basis.

The signatory organizations note, however, that the provisions in the General Civil Code should be amended so that compensation can be claimed for damage resulting from all the forms of violence mentioned in the Istanbul Convention (Art. 30 para. 1 of the Istanbul Convention and para. 165 of the Explanatory Report). Regarding damages resulting from psychological violence (e.g. psychological therapy and if the job was lost because of the psychological violence), an addition to § 1325 ABGB would be recommended. Damages caused by stalking should be covered by § 1328a.

5.5 Visitation and custody

As stated in the Government Report, the 2015 reform of the law concerning the rights of children and their parents (Kindschaftsrecht) introduced joint custody as the rule and stipulated that the best interests of the child are to be taken into account as the guiding consideration in custody and personal contacts after a divorce as well as in all other matters concerning the minor child.

In its statement on the ratification of the Istanbul Convention¹⁰ in 2019, the Women's Shelter (*Frauenhaus*) demanded that greater focus be placed on the safety of children in the area of custody and visitation rights. Today, joint custody applies in the case of divorce. Unfortunately, this is often also granted in cases where one parent has been violent, which leads to victims continuing to regularly meet the perpetrators of the crime. The custody and visitation rights of violent parents should be revoked or restricted by the authorities without the victim having to apply for this on their own initiative. In cases of domestic violence, shared custody and regular visitation contacts should be the exception rather than the rule.

The Ombudsperson's Office for Children and Young People (Ombudsstelle für Kinder und Jugendliche, OSKJ) suggests the introduction of a case management in cases of domestic violence. Experience shows that court rulings on contact rights in divorce cases are not respected. If domestic or gender-based violence occurs before, during or after a divorce, it must be possible to monitor and sanction compliance with contact arrangements via an external organization in order to prevent ongoing violence and to protect the children and young people concerned.

§ Section 176 (1) ABGB allows the court to withdraw custody of the child in whole or in part if the parents' behavior endangers the welfare of the minor child (see also explanations under Chapter 5.12.).

As stated in para. 233 of the Explanatory Report, different legal procedures must not contradict each other and all legal measures for the protection of victims must be coherent. This means that if a restraining or protection order has been issued against one parent who uses violence in order to protect the other parent who is entitled to custody, the parent who uses violence may not be granted a right of contact to the child at the same time (without further measures being taken). Furthermore, the decision on a right of contact to the child must not disregard the fact that the child itself is a victim of violence and may be traumatized, even if the direct violence was directed against one of the parents and the child witnessed this (para. 144 of the Explanatory Report).

The Women's Shelter (*Frauenhaus*) points out that no contact may be forced if a child willingly refuses contact with one parent. This also corresponds to Liechtenstein's obligations under Art. 12 of the Convention on the Rights of the Child, which is directly applicable in Liechtenstein and states:

- 1) States Parties shall ensure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child and shall give due weight to the views of the child in accordance with his or her age and maturity.

¹⁰ Statement of the Women's Shelter on the ratification of the Istanbul Convention for the attention of the government dated 29 January 2019.

2) To this end, the child shall, in particular, be given the opportunity to be heard in any judicial or administrative proceedings affecting the child, either directly or through a representative or appropriate body, in accordance with national procedural rules.¹¹

In 2020, a working group on custody was formed on the initiative of the Ombudsperson's Office for Children and Young People (Ombudsstelle für Kinder und Jugendliche). The working group consists of non-governmental organizations and representatives of the authorities and is accompanied by a first-instance court judge. It examined the reform of the law concerning the rights of children and their parents (*Kindschaftsrecht*) that took place in 2017 and is currently in the process of drafting various amendments that are to be submitted to the government. Among other things, mandatory parental counseling with a qualified specialist is to be introduced at the beginning of amicable divorce proceedings and court-ordered parental counseling in contact and custody proceedings is to be introduced in the the Law of 25 November 2010 on Judicial Proceedings in Non-Contentious Matters (Non-Contentious Proceedings Act/ Ausserstreitgesetz; AussStrG). This is to prevent divorce conflicts. In cases of domestic violence, contact rights are to be restricted. The creation of a children's advocacy (qualified specialists in children's law, *Kindsbeistand*) is intended to improve the representation of the child's interests in divorces. Finally, the structures and processes in the Child and Youth Service (Kinder- und Jugenddienst) of the Office of Social Services are to be reviewed and additional resources are to be created in the Child and Youth Service (Kinder- und Jugenddienst) as well as in the Guardianship Court (Pflegerischeinstellung).

The Association for Men's Issues (*Verein für Männerfragen*) advocates that more modern terminology be used in legal practice. For example, the term "visitation rights" should be replaced by the term "contact rights" and "visitation arrangements" should be replaced by "care arrangements" or at best "rights of access" in the law and used equally for both parents.

5.6 Sanctioning of individual offences

Regarding Art. 33 of the Convention - Psychological Violence

As stated in the Government Report, psychological violence is primarily prosecuted under Liechtenstein criminal law through the offences of coercion (section 105 f. StGB), dangerous threat (section 107 StGB), possibly in connection with the continued use of violence (section 107b StGB), as well as intentional damage to health (section 83 para. 1 StGB). The basic penalty is imprisonment for up to one year in cases of coercion (section 105(1) StGB), dangerous threat (section 107(1) StGB) and damage to health (section 83(1) StGB) and up to three years in serious cases of dangerous threat (section 107(2) StGB) and continued use of force (section 107b(1) StGB). In cases of severe coercion (section 106 (1) StGB) and if the perpetrator, by persistently exercising violence, establishes comprehensive control over the behavior of the injured person or causes a considerable restriction of the autonomous lifestyle of the injured person (section 107b (3) (2) StGB), imprisonment of six months to five years is provided for. Anyone who exercises this form of (controlling or considerably restricting) violence for longer than one year is liable to a custodial sentence of five to fifteen years (section 107b (4) StGB).

This regulation does not cover the forms of psychological violence that do not reach the criminal law threshold of coercion or dangerous threat. This includes in particular duress (*Zwang*) or coercion without the use of force as well as threats that do not have the characteristics of a dangerous threat

¹¹ Art. 12 of the Convention on the Rights of the Child (LGBI 1996 No. 163)

according to section 107 (2) StGB (threat of death, considerable mutilation or striking disfigurement, kidnapping, arson, danger from nuclear energy, ionizing radiation or explosives or with the destruction of economic existence or social position). Such forms of coercion and threat are used in partnership violence, especially in the context of coercive control, and can lead to the same damage to health as severe forms of persistent violence under section 107b (3)(2) StGB. However, according to the current legal regulation, these forms of violence can apparently only be prosecuted under section 83 (1) StGB if damage to health has occurred, regardless of how long the coercive control was exercised.

Thus, Liechtenstein does not currently follow the Istanbul Convention's understanding of psychological violence as a form of violence that is already used in the early stages of the cycle of violence, and thus possibly before damage to health has occurred, in order to control the victim's behavior even without the threat of violence (see paras. 179-181 of the Explanatory Report).

The signatory organizations call on the government to comply with the provisions of Art. 33 of the Convention and to criminalize any threat or coercion that seriously affects the psychological integrity of a person, even if such conduct does not involve the use of force.

The signatory organizations also see the need for information about the various ways in which psychological violence can be expressed, so that it can be recognized as such by those affected. In addition, it must be made clear to the public that psychological violence is taken seriously and not tolerated by society and that it can be prosecuted.

Regarding Art. 34 of the Convention - Stalking

As explained in the Government Report, section 107a of the Criminal Code protects victims from stalking (Beharrliche Verfolgung). Anyone who unlawfully stalks ("persistently pursues") a person is liable to a custodial sentence of up to two years. The custodial sentence may be increased to up to three years if the stalking results in suicide or attempted suicide by the person stalked.

§ Section 107a (2) of the Criminal Code differs from Article 34 of the Istanbul Convention in that the Criminal Code applies an objective standard ("in a way that is likely to unreasonably prejudice them in their way of life"), whereas the Istanbul Convention focuses on the subjective perception of the victim as a standard. Due to this difference, not all forms of behavior are covered that are listed as examples in the Explanatory Report to this Article. Therefore, section 107a (2) StGB should be supplemented to include conduct that "persecutes the person in another way and causes the person to fear for his or her safety". It is also important here that this offence is made public.

Regarding Art. 35 of the Convention - Physical Violence

As stated in the Government Report, this includes violent offences such as murder (section 75 StGB), manslaughter (section 76 StGB) and bodily harm (section 83 StGB).

Regarding Art. 36 of the Convention - Sexual violence, including rape

As stated in the Government Report, these forms of conduct regulated by the Convention are punishable under the 10th section (offences against sexual self-determination and other sexual offences, sections 200-221) of the Criminal Code. According to the provisions, legally valid consent only exists if it is free from error, deception or coercion by force or threat and if the person giving consent has the appropriate capacity of insight and judgement. This is not the case if the victim lacks

maturity, is mentally ill, consumes addictive substances or is in a state of shock at the time of the offence.

The definition of rape in Liechtenstein law presupposes the constituent elements of (physical) violence and coercion (section 200 StGB) and is punishable by imprisonment of one to ten years, subject to the aggravating elements listed in subsection 2 (section 200(1) StGB). The criminalization of inducing a person to perform non-consensual sexually determined acts with a third person (Art. 36 para. 1 lit. c of the Convention) is missing in section 200 StGB.

Since the introduction of section 204a StGB in 2019, rape is also punishable in Liechtenstein if the victim did not physically resist. Section 204a StGB regulates the "violation of sexual self-determination" and describes a form of rape without naming it as such. The constituent elements of section 204a StGB are lack of consent, exploitation of a coercive situation or preceding intimidation as well as copulation (Beischlaf) or a sexual act equivalent to copulation. According to section 204a (1) StGB, the rape must have taken place "against" the victim's will, whereas according to Article 36, para. 2 of the Istanbul Convention, there must be freely given consent for a sexual act to be lawful (paras. 189 and 193 of the Explanatory Report). This form of rape is punishable by up to two years' imprisonment (section 204a (1) StGB).

Liechtenstein followed Austria in introducing section 204a StGB. In the report on Austria, GREVIO notes that there is a difference between sexual acts against the will of a person and sexual acts without freely given consent (para. 171 GREVIO/Inf(2017)4). Therefore, GREVIO stresses that the value of this new provision will depend heavily on rigorous application by law enforcement authorities (para. 140 GREVIO/Inf(2017)4). In particular, the term "against their will" should not be interpreted as requiring the victim to verbally express their will.

This is supported by experience from practice: Victims of rape often fall into a state of shock or paralysis and cannot express an act against their will, neither verbally nor through gestures. The victim cannot outwardly express an act against their will, whereas section 204a StGB requires "against their will". The incomplete implementation of the Convention's understanding of sexual self-determination is thus to the detriment of potential victims of sexual violence.

The Women's Network (Frauennetz), the Women's Shelter (Frauenhaus), *infra* (Informations- und Beratungsstelle für Frauen) and the Association for Human Rights (Verein für Menschenrechte, NMRI) therefore advocate that the regulation in the Criminal Code be adapted in accordance with Art. 36 para. 2 of the Convention, so that a lawful sexual act only exists if there is freely given consent ("only yes means yes").

In addition, sections 200 and 204a of the Criminal Code use the term "copulation or a sexual act equivalent to copulation", while Art. 31 para. 1 lit. a of the Istanbul Convention defines the offence of vaginal, anal or oral penetration of the body of another person with a body part or object. The term "a sexual act equivalent to copulation", as well as the terms "force" and "coercing" used in section 200 of the Criminal Code, can be interpreted both in the sense of and contrary to Art. 36 of the Istanbul Convention. In the report on Austria, GREVIO further criticizes the fact that the new provision in Austria only criminalizes non-voluntary sexual acts above a certain threshold (para. 140 GREVIO/Inf(2017)4). In Liechtenstein, too, sexual coercion (section 201 StGB) requires violence or dangerous threat in addition to a sexual act.

Overall, Liechtenstein's law on sexual self-determination has not been systematically adapted to the requirements of the Istanbul Convention. Due to Liechtenstein's obligation under Art. 36 of the Convention as well as the requirement of certainty and the prohibition of analogy in criminal law, the signatory organizations recommend that the text of the law be adapted to the standard required by the Istanbul Convention.

Regarding Art. 37 of the Convention - Forced Marriage

As stated in the Government Report, forced marriage is sanctioned under section 106a of the Criminal Code with prison sentences of six months to five years. Transfer to another state for the purpose of forced marriage is also punishable. The Government Report does not comment on the civil consequences of forced marriage (Art. 32 of the Convention).

The criminal provision cited in the Government Report does not fully comply with the Istanbul Convention: section 106a (1) StGB requires the constituent elements of violence or dangerous threat (thus coercion) or threatening to break off or withdraw family contacts because it was introduced into the Criminal Code as a sub-form of aggravated coercion (section 106 StGB). However, violence or threats are not provided for as requirements in Art. 37 of the Convention (para. 196 of the Explanatory Report). Section 106a (2) StGB therefore also speaks of "coercing", but refers to the first paragraph. These requirements do not correspond to the concept of forced marriage, because forcing (zwingen) does not require violence or threat. In addition, these increased requirements for the offence do not do justice to the fact that many victims of forced marriage are very young and can therefore be more easily forced to an action without violence or threat. A legal adjustment would have to be made here.

The Women's Network (Frauennetz), the Women's Shelter (Frauenhaus), *infra* (Informations- und Beratungsstelle für Frauen), the Association for Men's Issues (Verein für Männerfragen) and the Association for Human Rights (Verein für Menschenrechte) are of the opinion that forced marriages must be sanctioned more severely, at least mandatorily with custodial sentences. It is important that the criminal provisions are also applied in practice. The Association for Men's Issues (Verein für Männerfragen) is in favor of tougher penalties for all offences involving forced measures and violence against minors (including female genital mutilation, involuntary circumcision of boys and the involuntary or illegal transfer of children abroad) (specifically an increase in the lower penalty range).

The signatory organizations are aware of one case of forced marriage with reference to Liechtenstein. However, it cannot be ruled out that other girls or women residing in Liechtenstein are married off to other states or that persons residing in Liechtenstein were forcibly married off in their countries of origin. Investigations and awareness-raising for vulnerable groups (e.g. girls with a migration background) would be necessary here, e.g. in schools.

Regarding Art. 38 of the Convention - Female Genital Mutilation

As the Government Report states, female genital mutilation is considered bodily harm, bodily harm with serious consequences or with serious permanent consequences under sections 83 to 85 StGB or intentional grievous bodily harm under section 87 StGB. This can be punished with up to fifteen years imprisonment. For female genital mutilation, consent is unlawful under section 90(3) StGB. If

the victim is coerced, this is aggravated coercion under Liechtenstein law pursuant to section 106(1)(3) StGB.

Para. 198 of the Explanatory Report emphasizes that the offence of female genital mutilation causes irreparable and lifelong damage. Therefore, such an offence must always qualify as bodily harm with serious consequences or with serious permanent consequences. In Liechtenstein, there is no criminal offence of female genital mutilation. Female genital mutilation is described in section 90 (3) StGB (Impossibility of Consent) as "mutilation or other injury to the genitals which is likely to cause lasting impairment of sexual sensation". Considering the complex forms and consequences of female genital mutilation, this description should not be understood as a definition.

Art. 38 lit. b and c of the Istanbul Convention are not fully covered by section 106 StGB. Section 106 StGB only criminalizes coercion. This sets a higher threshold than "procuring" a woman (Art. 38 lit. b of the Convention) or "inciting" or "procuring" a girl (Art. 38 lit. c of the Convention). Whether section 12 StGB covers the acts described in Art. 38 lit. b and c of the Convention is unclear and not explained by the Government.

Thus, there are two main reasons for introducing a criminal offence of female genital mutilation based on the definition used in the Convention (see Art. 38 of the Convention and paras. 198-202 of the Explanatory Report). Firstly, to ensure that female genital mutilation is always treated as intentional, serious bodily harm with serious permanent consequences. This must also be ensured in cases in which the visible consequences of female genital mutilation can be medically eliminated and thus section 85 (1) (2) of the Criminal Code would no longer be fulfilled. Secondly, to ensure that procuring or facilitating and inciting are also punishable and thus that Art. 38 lit. b and c of the Convention are implemented.

The Association for Men's Issues (*Verein für Männerfragen*) points out that there are also cases of boys being subjected to involuntary circumcisions that do not have medical causes. It regrets that these forced measures are not defined as genital mutilation and are not regulated in the Convention.

Regarding Art. 39 of the Convention - Forced abortion and forced sterilization

According to the Istanbul Convention, a legal abortion may only be performed after the woman has given her prior and informed consent. Any abortion performed without prior and informed consent of the pregnant woman is therefore a forced abortion under Article 39(a) of the Convention (para. 204 of the Explanatory Report).

According to national legislation (section 97 StGB), forced abortion is punishable. Liechtenstein has a restrictive abortion law. Even with the consent or wish of the pregnant woman, abortion is punishable in Liechtenstein, provided there is no danger to life or serious harm to the pregnant woman and she has already reached the age of 14 (section 96 StGB). The termination of a pregnancy is not punishable if the pregnancy is the result of rape (section 200 StGB), sexual assault (section 201 StGB) or sexual abuse of a defenseless or psychologically impaired person (section 204 StGB).

If these criteria do not apply and a Liechtenstein doctor performs an abortion, that person faces up to three years in prison. If a pregnant woman performs the abortion herself or has it performed by a non-medical person, she or the person in question faces up to one year in prison. Therefore, pregnant

women still have to go abroad to have an abortion. However, for a woman who has her pregnancy terminated, abortion has been penalty-free since 2015 at any point in the pregnancy.

The psychosocial counseling center "schwanger.li" assumes about 40 abortions per year. According to the Federal Statistical Office, the abortion rate in Switzerland is 6.7 per 1000 women in 2021.¹² Converted to the 19,478 women living in Liechtenstein (end of 2021), this would mean 130 abortions per year. In neighboring eastern Switzerland, the average value is somewhat lower, but the statistical value - transferred to Liechtenstein - would be over 100 abortions per year.

In 2018, the CEDAW Committee recommended that Liechtenstein harmonize Articles 96 and 98a of the Criminal Code with a view to legalizing abortion also for doctors, at least in cases of rape, incest, life-threatening situations or health of the pregnant person, and serious fetal impairment. This is already the case in Liechtenstein. The Committee also called for decriminalization in all other cases and the reinforcement of efforts to prevent early pregnancies and ensure that access to information on contraception is available to young women and girls.

There have been various efforts to liberalize abortion law. The last time this was called for was in 2011 via the initiative "Hilfe statt Strafe" (help instead of punishment), with the introduction of an abortion limit (Fristenlösung). On 28 September 2011, the initiative was rejected in a referendum: A total of 52.3 % of the Liechtenstein population voted against the initiative.¹³

In her 2021 Master's thesis on the intersection of feminism, disability rights and Catholicism in the context of abortion discourses in Liechtenstein at the University of Vienna, the author Sara Nigg analyzes the legislation on abortion in the light of human rights requirements and makes a concrete proposal for legislative adaptation to liberalize abortion legislation in Liechtenstein, which incorporates the CEDAW recommendations to Liechtenstein to decriminalize abortion in cases of fatal impairment of the unborn child and at the same time does not violate the principle of equality and non-discrimination of persons with disabilities.¹⁴ It also recommends the inclusion of a legal provision obliging the State to offer free and impartial counseling to persons in dilemma of whether to have an abortion or not (Schwangerschaftskonflikt).

The Women's Network (Frauennetz) advocates for the decriminalization of abortion in Liechtenstein without violating the principle of equality and non-discrimination of persons with disabilities.

The criminalization of forced sterilization is not clearly regulated in Liechtenstein. Forced sterilization should at least be qualified as bodily harm with serious permanent consequences (section 85 (1) (1) StGB explicitly speaks of loss of reproductive capacity). However, maltreatment is a constituent element of the offence. Whether a surgical intervention qualifies as maltreatment would have to be examined.

Furthermore, the Istanbul Convention requires prior informed consent and understanding of the procedure for sterilization to be legal. Similar to abortion, any sterilization that has not been subject

¹² <https://www.bfs.admin.ch/bfs/de/home/statistiken/gesundheit/gesundheitszustand/reproduktive/schwangerschaftsabbrueche.html>

¹³ Nigg, Sarah, 2021: A matter of choice - but about what? The intersection of feminism, disability rights, and Catholicism in context of the abortion discourses in Liechtenstein; Master Thesis, University Vienna, p. 41.

¹⁴ United Nations Committee on the Elimination of Discrimination against Women, Concluding Observations on the Fifth Periodic Report of Liechtenstein, CEDAW/C/LIE/CO/5, July 2018. p. 9-10, in: Nigg, Sarah, 2021: A matter of choice - but about what? The intersection of feminism, disability rights, and Catholicism in context of the abortion discourses in Liechtenstein; Master Thesis, University Vienna, p. 79f.

to informed consent and understanding is to be criminalized as forced sterilization. Whether this is sufficiently implemented by national legislation would also need to be examined.

In principle, the introduction of a separate offence of forced sterilization should be examined, because forced sterilization is a special form of bodily harm, even to that mentioned in section 85(1)(1) of the Criminal Code, since it has the purpose or consequence of ending a woman's ability to reproduce naturally.

In addition, the criminal law regulation would have to be modernized and adapted to the provisions of the Istanbul Convention by including "prior informed consent to and understanding of the procedure" as a prerequisite for the legitimacy of sterilization. The reference to "good morals" (die guten Sitten) is no longer appropriate and the age limit should also be reconsidered.

5.7 Sexual harassment - Art. 40 of the Convention; 5.8 Aiding or abetting; 5.9 Attempting

According to section 203 of the Criminal Code, sexual harassment is punishable, upon request, by imprisonment of up to six months or a fine of up to 360 daily rates. A higher penalty is provided for if the sexual harassment takes place under abuse of a relationship of authority. A custodial sentence of up to three years is imposed if the victim of the offence is a minor under 14 years of age (unmündig), irrespective of the abuse of a position of authority. Aiding and abetting and attempting to commit an offence are also punishable under section 12 StGB and section 15 StGB respectively.

Various forms of sexual harassment are currently exempt from punishment in Liechtenstein, as section 203 (1) StGB does not fully cover Art. 40 of the Convention. Section 203 (1) StGB only covers physical (tätliche) sexual harassment, sexual harassment by words and performing sexual acts in front of the victim. Art. 40 of the Istanbul Convention, on the other hand, covers all forms of (unwanted) sexually determined behavior. This includes, in particular, looks, facial expressions, gestures, symbolism, sounds such as whistles or noises, drawings and sexually explicit images of third parties. Verbal sexual harassment includes not only sexually explicit words, but also, for example, sexually explicit jokes, questions and remarks (para. 208 of the Explanatory Report).

Furthermore, the consequences of the offence differ. This allows for a restrictive application of section 203 of the Criminal Code even in cases of sexual harassment which are covered by section 203 of the Criminal Code. Section 203 of the Criminal Code requires that the performance of a sexual act causes "justified offence" (berechtigtes Ärgernis). The wording of section 203 of the Criminal Code leaves some leeway as to what is meant by a justified offence. In contrast, Art. 40 of the Istanbul Convention states that sexual harassment is unwanted conduct of a sexual nature with the purpose or effect of violating the dignity of a person. If this purpose or consequence is given, the offence (Ärgernis) is always to be considered justified. Thus, the Convention describes as sexual harassment a pattern of behavior whose individual elements or acts are not necessarily sanctionable on their own, but are sanctionable in their interaction (para. 208 of the Explanatory Report).

In their counseling practice, *infra* (Informations- und Beratungsstelle für Frauen) and the Women's Network (Frauennetz) find that "cat-calling", i.e. sexual harassment in public spaces, happens frequently, especially to young women and girls, and that the hurdle to reporting and prosecution is very high. Here, an adjustment or specification of the legislation would be desirable.

5.10 Unacceptable justifications for criminal offences, including those committed in the name of so-called "honor"

As explained in the Government Report, Liechtenstein criminal law and criminal procedure law do not provide any grounds of justification according to which culture, religion, tradition or so-called "honor" could be considered for the acts of violence falling within the scope of this Convention.

However, according to Art. 42 para. 1 of the Convention, the personal convictions of judicial officers must not lead to an interpretation that permits the justification of criminal offences on the above-mentioned grounds. To this end, case law would have to be analyzed and judicial officials would have to be sensitized accordingly.

5.11 Relationship with the perpetrator of violence

As explained in the Government Report, these offences are criminal offenses liable to public prosecution (Offizialdelikte) that are prosecuted ex officio. The relationship to the person committing the violence is not relevant.

However, the reservations that Liechtenstein made when ratifying the Convention may exclude certain persons from prosecution. See explanation under chapter 8.

5.12 Sanctions and measures

The sanctions and measures for the offences described are explained in the Government Report. With the last reform of the Criminal Code, the penalties for many sexual offences were increased. The signatory organizations consider the range of penalties to be appropriate, with the exception of the range of penalties for sexual abuse of minors. The signatory organizations support the existing efforts to increase the penalties.

As stated in the Government Report, there are various accompanying measures to prevent recidivism of offenders, e.g. judicial supervision of sex offenders according to section 42a StGB, probationary period of 5 years, court orders, probationary assistance. Overall, these measures are considered sufficient by the signatory organizations.

Section 176 (1) ABGB allows the court to withdraw custody of the child in whole or in part if the parents' behavior endangers the welfare of the minor child (see also explanations under Chapter 5.5.).

5.13 Grounds for aggravation

According to section 33 of the Criminal Code, different grounds for aggravation can be taken into account, e.g. if there are several similar offences or if they were committed over a longer period of time, if there are discriminatory motives or if the offence was particularly cruel or insidious. The grounds for aggravation are not exhaustive. They are considered sufficient by the signatory organizations. However, it should be pointed out that the aggravating grounds must be adequately taken into account in the administration of justice. A systematic study would be necessary here.

In order for the special vulnerability of the victim (Art. 46 lit. c of the Istanbul Convention) to be used as an aggravating circumstance under written law, the offence must not only have been committed against a person in need of protection due to special circumstances, as required by the Istanbul Convention in Art. 46 lit. c, but the special vulnerability must also be exploited (section 33 para. 3 no. 2 StGB). The threshold is thus higher in national law than determined by the Convention. In the application of the law, at least the circumstances mentioned in para. 87 of the Explanatory Report should lead to an aggravation of the penalty.

As stated in the Government Report, Art. 46 lit. d of the Convention is implemented in section 39a (1) StGB only insofar as the offence was committed against or in the presence of a child with the use of force or dangerous threat. Severe physical or psychological harm to the victim (Art. 46 lit. h of the Convention) is only provided for in written law with regard to a limited number of offences, as also stated by the government.

The Government Report does not address the obligation under Art. 47 of the Istanbul Convention. This should be implemented by ensuring that convictions by foreign courts are also considered grounds for aggravation within the meaning of section 33(1)(2) of the Criminal Code (see paras. 245-250 of the Explanatory Report).

5.14 Prohibition of mandatory alternative dispute resolution procedures

Divorces in Liechtenstein are compulsorily conducted in divorce proceedings and not in mediation proceedings. This is a central element of the implementation of Art. 48 of the Istanbul Convention in Liechtenstein. At the same time, the Liechtenstein legal system allows alternative dispute resolution proceedings in the context of divorces as complementary instruments of conflict resolution. The legal basis for this is the Non-Contentious Proceedings Act (AussStrG). The AussStrG applies, inter alia, to certain child welfare proceedings (Art. 1 (2) (a) AussStrG), in proceedings of non-contentious matrimonial matters (Art. 1 (2) (c) AussStrG) and in proceedings of divorce on joint request for all matters related thereto (Art. 1 (2) (d) AussStrG).

The signatory organizations recognize that the Non-Contentious Proceedings Act (Ausserstreitgesetz) and the whole range of extrajudicial conflict resolution procedures such as mediation, facilitation or conciliation are valuable instruments of conflict resolution and should in principle be better used if it can be ruled out that violence as defined by the Istanbul Convention has occurred in the relationship.

The Women's Network (Frauennetz), the Women's Shelter (Frauenhaus) and *infra* (Informations- und Beratungsstelle für Frauen) point out that diversion measures in cases of domestic violence are completely prohibited according to the Istanbul Convention. Diversion measures force victims into a situation where they have to "negotiate" with the perpetrator. Domestic violence is almost always a repeat offence with a high risk of revictimization for the victim. The two organizations see the suspended sentence in combination with probation assistance as a sensible instrument. In addition, however, directives for the protection of victims should be issued and offenders should be obliged to participate in a victim protection-oriented offender program.

Following these statements, the signatory organizations are also unanimously of the opinion that diversion must not be permitted in cases of violence against women and domestic violence.

5.15 Data on criminal offences

The introduction of crime statistics that take into account the categorization of violence against women and domestic violence according to the Istanbul Convention, as announced in the Government Report, is very welcome. The same holds true for the plan of the coordination group to develop standardized data collection forms with the involvement of NGOs.

According to the Government Report, one violent offence involving attempted femicide (under the gender-neutral criminal provision of attempted homicide - versuchte Tötung) was registered in Liechtenstein in 2021 (2020: 0; 2019: 0). In this case, the authorities had no prior knowledge that the woman had been previously affected by domestic violence (2020: 0; 2019: 0). In 2021, there were no convictions concerning an attempted femicide (2020: 0; 2019: 1). No other sentences or measures in this context are known for this reporting period.

As there is no explicit criminal offence of domestic violence in the Liechtenstein Criminal Code, cases of domestic violence are based, among others, on the criminal offences of dangerous threat (section 107 StGB), coercion (section 105 StGB), rape (section 200 StGB) or bodily harm (section 83 StGB). In the view of the signatory organizations, following GREVIO/INf(2017)4 para. 8, it is necessary to introduce a criminal offence of domestic violence in order to make it visible and to prevent and prosecute it more effectively.

As explained in the Government Report, the database of the first-instance court (Landgericht) does not record victims as "victims" but as "witnesses". Therefore, there is a lack of statistical data on the number of convictions and other measures related to violence against women. Data on the type of measures taken (such as deprivation of parental rights, etc.) are also not systematically recorded. Here, a breakdown of the data according to witnesses and victims would be absolutely necessary.

5.16 Other measures

The signatory organizations welcome the current legislative efforts to toughen the punishment of child and adolescent abuse offences as well as image-based sexual abuse of children (child pornography) and the abandonment of conditional full reduction of a penalty in cases of rape or serious sexual abuse of minors.

6. Investigations, prosecution, procedural law and protective measures

(Chapter VI of the Convention, Articles 49 to 58)

In order to report violence against women and domestic violence and to reduce the stress of the investigation and court proceedings for the victims, the victims should be closely supported by counseling centers. They should also be able to delegate as many stressful steps in the process as possible to the counseling centers.

One possible relief measure by the counseling centers is representation in court or communication with parties involved in the proceedings. It should be examined whether legal changes are necessary so that the counseling centers can provide more relief for the victim in the proceedings. The basis for

legal representation is Section 34 (2) sentence 3 of the Code of Criminal Procedure, according to which "a person authorized to practice law, a recognized victim protection institution or another suitable person" can be authorized.

It is known from research that procedural support tailored to the needs of victims of violence against women and domestic violence is essential to ensure that violence against women and domestic violence can be effectively prosecuted and that the rights of the victim are protected in the proceedings in accordance with Article 49 (1) of the Istanbul Convention. However, the capacities of the counseling centers must be equipped for this.

While the seriousness of the offence underlines the importance of procedural accompaniment in the case of official offences, procedural accompaniment is even more important when the offence does not qualify as an official offence. In these cases, the court does not take action on its own here and it is thus up to the victim and the accompanying counseling centers to prosecute the violence.

6.1 Emergency aid, prevention and protection

The right of the National Police to order a potential offender away from the place of the crime, i.e. from their home ("Wegweiserecht") and the prohibition of entry ("Betretungsverbot") in case a dangerous attack on a person at risk is imminent, is of great importance for preventing and combating domestic violence. These instruments are laid down in Art. 24g of the Police Act (PolG).

These instruments have been discussed in the 2021 expert exchange between the Threat Management Unit of the National Police, the Association for Human Rights and various NGOs. The signatory organizations welcome the fact that the specialized unit is mandated to ensure that the two instruments are enforced in accordance with the law. G. However, they point out that the enforcement is still very rare. They consider it as very important that all police officers are regularly informed about this instrument and that the instrument is used more as a preventive measure in implementation of Art. 50 para. 2 of the Convention. According to the Government Report, only one removal order and two prohibition orders were issued in 2021.

In addition to these protective measures, the examining magistrate may order custody or pre-trial detention in the case of an attempted or threatened offence (section 127 para. 1 no. 4). In addition, the National Police can implement various coercive measures according to Art. 24 ff. PolG, e.g. forcibly entering homes if there are signs of domestic violence, for example. The Women's Network (Frauennetz) notes that for a good and effective implementation of this provision, regular training and awareness building within the law enforcement authorities, as well as evaluation of these measures must be ensured.

According to the Government Report, the National Police employs just under 13 per cent female police officers or female civilian persons with police functions. In accordance with the recommendations of CEDAW, the signatory organizations call for an increase in the proportion of women in the national police force so that it can be guaranteed that a female police officer can always be summoned for female victims of sexual offences (including sexual harassment) and domestic violence. This should be laid in the police's internal regulations.

The Women's Network (Frauennetz) and *infra* (Informations- und Beratungsstelle für Frauen) demand that female applicants be given preference in new appointments in law enforcement agencies until there is a balanced distribution at all hierarchical levels. The same should apply to interpreters.

According to research, the very first contact with law enforcement is critical in determining whether a victim will pursue prosecution. It is not clear whether it is possible to ensure that a female officer is present at the very first contact with a female victim (see p. 44 in the Government Report), or whether she is only called in at a later stage of the investigation. The signatory organizations demand that in cases of domestic violence and violence against women, a female police officer is always present at the first contact.

The expanded definition and statistical recording of domestic violence in the sense of the Istanbul Convention is very welcome. This means that domestic violence incidents that do not take place in the same household are also documented, and the implementation of the Convention can be better monitored.

6.2 Hazard analysis and hazard management

The creation of the Threat Management Unit within the National Police is very much welcomed by the signatory organizations. As an internal awareness-raising and coordination unit for domestic violence, it ensures that the instrument of removal and prohibition of entry in cases of domestic violence is enforced in accordance with Art. 24g of the Police Act (PolG). The Threat Management Unit is a preventive unit. If concrete offences such as threats, coercion or bodily harm have been committed, this no longer falls under its responsibility. It is described as a contact point for external network partners, but is not a contact point for affected persons, nor is it a coordination or counseling center for NGOs.

However, it would be important for prevention work that external counseling centers could also receive specialist advice on how to deal with threats. A regular exchange between the Threat Management Unit and violence counseling centers would be desirable. This is necessary for an effective implementation of Art. 51 of the Istanbul Convention, as this provision does not only refer to the police but requires effective case management in cooperation with all relevant actors (para. 261 of the Explanatory Report). Finally, the signatory organizations consider it extremely important that NGOs and counseling centers receive financial and organizational support from the state for further training, education and coaching.

6.3 Urgent protection orders; 6.4 Prohibitions of contact and approach and protective measures

The legally anchored instruments of removal and prohibition of entry in cases of domestic violence according to Art. 24g PolG are, in the view of the signatory organizations, good and quick protection instruments in cases of physical domestic violence. However, as the Government Report states, only one removal order and two prohibition of entry orders were issued in 2021. (In 2020, five police removals and five prohibitions of entry were issued). Given the statistics on domestic violence, this seems little. It is not possible for the signatory organizations to assess whether these instruments are used as often as necessary. An independent review in this matter would be valuable. In particular,

the requirements that have to be fulfilled in order to enforce a removal order or a prohibition of entry would have to be reviewed. It would also be interesting to know whether entry prohibitions had to be lifted again after review (Art. 24g para. 7 and 8 PolG) because their maintenance was deemed disproportionate, or whether they were generally proportionate. Finally, it should be noted that the 10-day prohibition is short by European standards (10 days to four weeks, according to para. 264 of the Explanatory Report).

The Government Report does not elaborate on the conditions for removal and prohibition of entry. Nor does it provide any information on how violations of these measures will be prosecuted. Finally, no information is given on the costs of these measures. An important aspect of Art. 52 of the Istanbul Convention is that any costs would not impose an undue financial burden or otherwise result in victims not making use of the measures (para. 270 of the Explanatory Report).

It would also be necessary to review which additional protective measures and rapid intervention possible could be introduced for victims of all forms of violence falling within the scope of the Convention (i.e. also psychological and economic as well as non-physical sexual violence). This is provided for in Art. 53 of the Convention. National legislation (Art. 277a to 277d of the Law on Execution and Legal Security Proceedings (Execution Code; EO)) covers "conduct significantly affecting mental health" (Art. 277a para. 1 EO) as well as "interference with privacy" (Art. 277d EO). According to the knowledge of the signatory organizations, however, the previous removal orders and prohibitions on entry orders were only issued due to physical violence and it is questionable whether the legal basis for these instruments is also sufficient for the other forms of violence or whether these instruments are effective for non-physical forms of violence. Good practice examples from other States Parties could be sought here.

Many affected persons are not aware that they experience psychological or economic violence and that they have the right to defend themselves against it and to turn to a counseling center or file a complaint. According to the Women's Network (Frauennetz), there is not enough knowledge about the mechanisms of psychological and economic violence and how to deal with it among those affected, but also among counseling centers and law enforcement agencies. What is needed here is broad-based information and training.

Finally, the Explanatory Report (para. 276) suggests that not only victims themselves should be able to apply for protective measures. Especially in the case of particularly vulnerable victims who are unwilling or unable to apply for such a protective measure due to fear or emotional distress and attachment, it should also be possible for third parties to apply for the measure. This is not provided for in national legislation (Art. 277a para. 1 EO).

6.5 Procedure upon request and ex officio

Art. 55 para. 2 of the Istanbul Convention requires Parties to ensure that governmental and non-governmental organizations as well as counseling centers in domestic violence can assist victims and support them during investigations and court proceedings. This requirement is made, because practice has shown that victims who are supported by specialized organizations during investigations and proceedings are more likely to report and testify and are better able to take on the emotionally challenging task of actively contributing to the outcome of the proceedings. Counseling centers are supportive in many ways: they relieve the victim as much as possible, reduce feelings of helplessness

and shame, and thus help the victim to fight back effectively. In addition to counseling, procedural support and legal representation can also be helpful so that the victim can participate in the process as self-determinedly as possible in the given circumstances. If organizations are given procedural rights, they can contribute significantly to the prosecution of violence against women and domestic violence under the rule of law. This is because the goal must be to ensure that, in the course of prosecuting the offender, the victim is not further injured or traumatized (para. 279 ff. of the Explanatory Report).

6.5.1 Persecution against the will of the victim

The signatory organizations welcome the extension of the material protection of victims, which was introduced with the revision of the Sexual Offences Act of 2011 to combat violence against children and women. The fact that the offences 'dangerous threats against close relatives', 'persistent pursuit' (stalking), 'rape and sexual coercion in marriage or cohabitation' and 'coercion to marry' are prosecuted ex officio is an important improvement in combating domestic violence and violence against women. This means that prosecution for any of the above-mentioned offences is not dependent on a report or complaint by the victim and can also be continued against the victim's will.

Art. 55 para. 1 of the Convention requires that physical violence, sexual violence, forced marriage, female genital mutilation as well as forced abortion and forced sterilization be prosecuted ex officio. There are gaps in national legislation with this regard that should be closed (see comments under Chapter 5).

6.5.2 Procedures with participation of NGOs and civil society actors

As the Government Report states referring to section 31a (2) of the Code of Criminal Procedure, the Victim Support Unit (Opferhilfestelle) can call in other support institutions to fulfil its tasks and coordinate the services.

The Women's Shelter (Frauenhaus) accompanies affected women to police and court hearings. In addition to the inhouse services, the Shelter offers low-threshold external ambulatory counseling.

Infra (Informations- und Beratungsstelle für Frauen), the Association for Men's Issues (Verein für Männerfragen) and the Association for Human Rights (Verein für Menschenrechte) offer free initial legal counseling for victims. The Liechtenstein Employees Association (Liechtensteinischer ArbeitnehmerInnenverband, LANV) advises its members on labor law issues free of charge. The Association for Men's Issues (Verein für Männerfragen) also offers extrajudicial interventions. The costs for legal counseling are borne by the organizations themselves.

6.6 Protective measures during the procedure

The signatory organizations welcome the legally extended protection of witnesses as well as a considerate adversarial, separate or anonymous questioning. Furthermore, they welcome the counseling, support and procedural assistance or legal representation by the Victim Support Unit (Opferhilfestelle) in criminal, civil and non-contentious proceedings, as stated in the Government Report. The possibility of exempting underage victims from hearings as well as preserving the confidentiality of victims' home addresses are also very welcome.

However, it remains to be seen how effective the new regulations prove to be in civil and non-contentious proceedings and whether the financial resources for litigation support are sufficient.

The witness protection program for witnesses at risk (cf. Art. 30d ff. PolG) has not yet been used. Here, too, it remains to be seen to what extent the program can be used in practice and is effective.

The same applies to the victim's right to information on the release of the perpetrator upon request (section 141 (7) Code of Criminal Procedure) and without request in the case of victims of domestic violence and victims whose sexual integrity has been violated. It is also not clear whether a victim would be informed in the case of an escape of the perpetrator from a detention. Finally, it is doubtful that all victims are aware of their information rights in this respect.

It remains questionable how victims and their family members are protected from intimidation, retaliation, and re-victimization by the perpetrators, especially if they are not in pre-trial detention (as is probable in most cases). Furthermore, it remains to be seen whether a meeting of victim and perpetrator in the premises of the investigating authorities or the courts can actually be avoided.

Finally, it stands to test whether the right to translation assistance (section 31(1)(5) Code of Criminal Procedure with reference to section 23a Code of Criminal Procedure), which guarantees victims independent and capable interpreters, is sufficiently known and enforced. Furthermore, the competence and independence of translators as well as their availability free of charge at any time during the investigations and proceedings is not explicitly guaranteed.

6.7 Free legal aid and free legal advice

Here, the Government Report refers to the offer of the Victim Support Service (Opferhilfestelle) for counseling, support and accompaniment of victims, which is free of charge and fees. However, the counseling at the Victim Support Service is limited to two to three hours or CHF 800. It is doubtful whether this is sufficient in all cases.

There are no state agencies that offer free legal counseling or legal aid. As mentioned in 6.5.2, the private counseling centers *infra* (Informations- und Beratungsstelle für Frauen) and the Association for Men's Issues (Verein für Männerfragen) offer free legal advice. The Liechtenstein Employees' Association (Liechtensteinischer ArbeitnehmerInnenverband) provides advice on labor law issues - the advice is free of charge for members. Apart from the Independent Human Rights Association (NMRI), who supports complainants by providing free initial legal advice and accompanying legal representation in certain complaints with overriding human rights significance, the organizations do not provide legal representation and do not finance legal proceedings. The organizations receive state support, the legal advice at *infra* (Informations- und Beratungsstelle für Frauen) is partly privately funded. This does not guarantee funding, as these donors need to be sought annually.

If a victim cannot afford legal assistance and cannot reasonably be expected to represent himself or herself, legal assistance must be provided free of charge (para. 295 of the Explanatory Report). Para. 294 of the Explanatory Report emphasizes the need for free legal advice and free legal assistance in cases of domestic violence and violence against women. If this is not provided, victims may not take legal measures - even where they exist and they will continue to suffer violence. In this case, the state does not fulfill its obligations under the Istanbul Convention.

7. Migration and asylum

(Chapter VII of the Convention, Articles 59 to 61)

7.1 Residence status for victims

Art. 39 of the Foreign Nationals Act (AuG) regulates: If a marriage or registered partnership is dissolved after less than five years, the right of residence for a foreign person from a third country (all states outside the EU, the EEA and outside Switzerland) expires as a rule. As the Government Report states, according to Art. 39 para. 2 of the Foreign Nationals Act, an independent right of residence (so-called right to remain) may be granted, if the person concerned can prove their economic independence (living wage, sufficient assets, no social assistance) and give important reasons for remaining in Liechtenstein. "Marital violence" is among these important reasons. However, since there is no legal right to residency, this provision does not provide legal certainty for victims of domestic or gender-based violence.

Even if a marriage or a registered partnership is dissolved after more than five years, the right of residence can only be extended if the person is successfully integrated. Such an optional provision, linked to an undefined concept of "successful integration," also offers no legal certainty whatsoever.

The Foreign Nationals' Act (AuG) does not offer family reunification and therefore no right of residence for foreign persons in unregistered partnerships.

As the Government Report states with reference to Art. 21 AuG connected with Art. 16 of the Ordinance on the Admission and Residence of Foreigners (ZAV; LGBI. 2008 No. 350), victims and witnesses of crimes may be granted a short-term permit ("Kurzaufenthaltsbewilligung") or residence permit ("Aufenthaltsbewilligung") to carry out criminal prosecution. This is also subject to individual review and does not provide legal certainty.

Victims of forced marriage lose their residence title in Liechtenstein when they leave Liechtenstein and there is currently no possibility to regain their previous status in Liechtenstein.

The hardship regulation according to Art. 21 AuG is practically never applied.

The legal provisions for EU nationals and for Swiss nationals are less restrictive in some respects (e.g. family reunification). However, even for these persons, residence is conditional on gainful employment in Liechtenstein (with 80 full-time equivalent and at least a one-year employment contract) or proof of sufficient financial means for a residence without gainful employment. This also applies in cases of hardship.

The Istanbul Convention obliges states to condemn all forms of discrimination against women. Migrant women and men – especially from third countries - are discriminated against in comparison to domestic victims by these provisions of the law on foreigners.

The signatory organizations demand an independent residence permit for victims of violence against women and domestic violence that offers legal certainty. They also demand the extension of a residence permit as well as a suspension of expulsion procedures for persons affected by those forms of violence regulated under the Istanbul Convention. The signatory organizations claim that the expiry of the residence permit for victims of forced marriage be retroactively declared invalid and the permit be restored. Proposals for concrete adjustments to the relevant legal provisions can be found in the annex to this report (in German).

7.2 Asylum based on gender; 7.3 Gender-equitable asylum procedure and protection of asylum seekers

According to the Government Report, gender-specific grounds for asylum are taken into account in Art. 2 para. 1 let. a and para. 2 of the Asylum Act (AsylG)¹⁵ as a basis for granting refugee status. However, it is not specified what is considered a gender-specific ground for asylum. It is also not known whether there are guidelines and training for a gender-sensitive interpretation and assessment of asylum applications at the competent authorities.

According to the Government Report, gender-specific criteria are taken into consideration in care and accommodation. However, the Government Report does not address the accommodation requirements for asylum-seeking women as listed in the Explanatory Report (paras. 314-316). These include:

- separate accommodation for single men and women;
- separate toilets or at least different schedules for use by men and women;
- Rooms that can be locked by the residents;
- Protection by guards, including female guards trained to meet the gender-specific needs of residents;
- Training of the staff of the reception center;
- a Code of Conduct, which also applies to private service providers;
- formal arrangements for intervention and protection in cases of gender-based violence;
- provision of information to women and girls about gender-based violence and available support services/counseling centers;
- gender-specific support services for asylum seekers that address their specific needs (e.g. additional psychosocial and crisis counseling and medical care for trauma survivors);

The signatory organizations cannot assess the extent to which these criteria are met in the accommodation and care system.

The Government Report also explains that the asylum procedure pays attention to gender-specific criteria by using persons of the same gender for interviewing and interpreting. No further gender-specific criteria are listed. The Women's Network (Frauennetz) demands that there must be enough female employees and interpreters at the competent authorities and that female persons are given preference in employment until a gender-balanced workforce is achieved.

¹⁵ Asylum Act (AsylG), LGBl. 2012 No. 29, LR 152.31.

7.4 Prohibition of refoulement; 7.5 other measures

The non-refoulement principle based on the Geneva Refugee Convention and the ECHR, which also applies in Liechtenstein, is unfortunately interpreted very restrictively by Liechtenstein. The statements made in this regard in the Government Report cannot be shared unconditionally by the signatory organizations. Art. 21 of the Foreign Nationals Act should be supplemented in accordance with Art. 61 of the Istanbul Convention, so that victims of all forms of violence regulated in the Istanbul Convention would be entitled to a humanitarian residence permit.

8. Multiple discrimination - vulnerable groups

As the Explanatory Report states (para. 87), it is particularly important to take preventive measures that address the needs of particularly vulnerable groups of people, such as pregnant women and women with young children, persons with disabilities, including those with mental or cognitive impairments, persons living in rural or remote areas, substance abusers, prostitutes, persons of national or ethnic minority background, migrants – including undocumented migrants and refugees, gay men, lesbian women, bi-sexual and transgender persons as well as HIV-positive persons, homeless persons, children and the elderly.

8.1 Persons with disabilities

In Liechtenstein, there are no statistics on the extent to which persons with disabilities are affected by violence against women and domestic violence. However, in neighboring countries, which have comparable conditions to Liechtenstein, there are statistics which clearly show that violence against persons with disabilities takes place and that the number of unreported cases is higher than in general.

In preventing and combating violence against women or other forms of gender-based violence, as well as domestic violence, it is important to ensure that people with disabilities can benefit equally from prevention, protection and support as all other persons. To this end, special measures must be taken that are tailored to the respective form of life and individual vulnerabilities.

Awareness and educational material have to be accessible and understandable without barriers, e.g. via plain language, Braille and sign language. Access to information, support services or other measures to support victims of the forms of violence covered by the Istanbul Convention must also be barrier-free for all people.

In the training of the police, law enforcement agencies, courts, state and municipal authorities, victim protection agencies, paramedics, medical personnel, etc., the interaction with people with disabilities must be trained and the learning of sign language must be offered. Professional groups working with people with disabilities need to be trained on violence against women and domestic violence specifically against people with disabilities, so that they can prevent violence and take protective measures.

8.2 Migrants

Para. 301 of the Explanatory Report emphasizes the risk of multiple discrimination against persons without an independent residence title in cases of domestic violence. The legislation on foreigners is used by perpetrators as an instrument to perpetuate violence against victims. Infra (Informations- und Beratungsstelle für Frauen) states: “The situation of migrant women affected by domestic violence is in many cases clearly different from the situation of domestic women affected by violence, despite all similarities in the structure of violent relationships. Of particular importance is the often greater dependence of a migrant woman on her husband, which arises not only due to a lack of language skills, a lower level of knowledge about local structures, laws, regulations and support services, but also precisely because her right of residence is linked to the marital cohabitation until she receives an independent right of residence after five years. In the case of particularly difficult circumstances (including domestic violence) during the first five years of marriage, an independent right of residence can be applied for by providing evidence of a serious case of personal hardship. The proof of this case of hardship is very high-threshold and lies in the discretion of the authorities. This legal uncertainty and the fact that it is difficult for many of those affected to credibly prove their experiences of violence discourage women from applying for a hardship provision. Many women thus remain in a violent relationship for fear of having their right of residence revoked. This situation urgently needs to be addressed with a reform of the relevant provisions.”

8.3 Children

The Association for Childprotection (Verein kinderschutz.li) is very concerned about the sharp increase in cases of cyber-grooming. There is an urgent need for education and prevention for very young children (from about 10 years) on the internet.

8.4 LGBTIQ+

Paragraph 313 of the Explanatory Report points out that a gender-sensitive interpretation of the grounds for persecution in asylum procedures also concerns gay, lesbian, bisexual or transsexual persons. These persons can also be victims of gender-specific persecution and should be placed under the protection of the Istanbul Convention.

9. Reservations

Liechtenstein has made reservations to three provisions of the Istanbul Convention for a period of five years. With the reservation to Art. 44 para. 1 lit. e of the Convention, Liechtenstein reserves the right not to establish jurisdiction over the offences described in the Istanbul Convention if the offence was committed abroad by a person without Liechtenstein nationality who is regularly resident in Liechtenstein. This reservation is disproportionate. Removing the reservation would have no effect on the workload of the domestic courts, as it is likely to affect only a minimal number of cases.

Removing the reservation would thus counteract the impunity of perpetrators – in particular in cases of violence against women.

With the reservation to Art. 44 para. 3 of the Istanbul Convention, Liechtenstein reserves the right to make the establishment of jurisdiction about forced abortion and forced sterilization dependent on those acts being punishable in the territory in which they were committed. This reservation is unfounded in terms of content and must be classified as disproportionate for the same reasons as above regarding Art. 44 para. 1 lit. e. They constitute a violation of fundamental rights of a victim, whose prosecution may not be made dependent on the legal provisions of other states. The reservation is particularly absurd because in Liechtenstein an abortion is even punishable if the pregnant women consents to it. Abroad, on the other hand, the proviso grants impunity for abortions and sterilizations against the will of the persons concerned, if this is so regulated by law in the country concerned.

With the reservation to Art. 59 of the Istanbul Convention, Liechtenstein reserves the right to apply this article, which regulates the right of residence of foreign victims who are married or living in a registered partnership in Liechtenstein (see 7.1 and 8.2), only in certain cases or under certain conditions. This reservation is also disproportionate because it concerns a small number of cases. Furthermore, no reason for the reservation to Art. 59 of the Istanbul Convention is apparent from practice. Due to the cooperation between counseling centers and the Foreigners and Passport Office, no case is known to date that would have led to a violation of Art. 59 of the Istanbul Convention. Liechtenstein would also be free to determine the concrete form of the residence title required by Art. 59 (1) of the Istanbul Convention.

At the same time, the uncertain legal basis leads to an additional burden for victims that is difficult to bear. This applies in particular to parents. Furthermore, due to the current regulation and in view of the reasons described in para. 301 of the Explanatory Report, an unreported number of victims cannot be ruled out. Moreover, Art. 59 of the Istanbul Convention cannot be considered in isolation from the other provisions of the Convention. The state's due diligence obligations and the general obligations to prevent and prosecute violence and to protect and assist victims are explicitly applicable to all victims. However, the current regime creates a particular vulnerability for a group of people based on their residence status. With the reservation to Art. 59 of the Istanbul Convention, Liechtenstein has consequently opted for an inconsistent implementation of the above-mentioned obligations and the prohibition of discrimination enshrined in Art. 4 (3) of the Convention.

This is to be counteracted by eliminating the discretionary decision of the Aliens and Passport Office enshrined in Art. 39 para. 2 of the Foreign Nationals Act. Instead, the victim's right to be protected from violence is to be enshrined in Liechtenstein law in the form of the independent residence title required by the Istanbul Convention. In doing so, Liechtenstein would - as is often the case in criminal matters - follow Austria, which has explicitly enshrined in law the right to an independent residence permit in cases of domestic violence.

The signatory organizations call on the government to strengthen the protection of victims by not renewing all reservations to the Istanbul Convention after the five-year period, as some other countries have done.

Vaduz, 15 December 2022

 <p>Bewährungshilfe Liechtenstein</p>	 <p>info@bewaehrungshilfe.li www.bewaehrungshilfe.li www.gewaltig.li</p>
 <p>FRAUEN HAUS LIECHTENSTEIN</p>	 <p>info@frauenhaus.li www.frauenhaus.li</p>
 <p>frauennetz liechtenstein</p>	 <p>info@frauennetz.li www.frauennetz.li</p>
 <p>infra Informations- und Beratungsstelle für Frauen</p>	 <p>info@infra.li www.infra.li</p>
 <p>kinderschutz.li</p>	 <p>kontakt@kinderschutz.li www.kinderschutz.li</p>
 <p>Liechtensteiner Behinderten-Verband</p>	 <p>lbv@lbv.li www.lbv.li</p>

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info@love.li
www.love.li



MÄNNER
FRAGEN



info@maennerfragen.li
www.maennerfragen.li



OSKJ
Ombudsstelle
für Kinder
und Jugendliche
www.oskj.li



margot.sele@oskj.li
www.oskj.li

Verein für Menschenrechte
in Liechtenstein VMR



info@vmr.li
www.menschenrechte.li

ANNEX

Proposals for adjustments to the legal provisions on Chapter 7.1 "Residence status for victims" (German)

Zu Abs. 1) eigenständiger Aufenthaltstitel für Opfer: Für einen eigenständigen Aufenthaltstitel vor Ablauf der fünf Jahre nach Art. 39 Abs. 2 AuG müssen, wie im Regierungsbericht dargelegt, mehrere Voraussetzungen erfüllt sein. Für einen eigenständigen Aufenthaltstitel nach fünf Jahren muss nach wie vor die Voraussetzung von "erfolgreicher Integration" erfüllt sein (Art. 26 Abs. 3 AuG) bzw. es müssen die Voraussetzungen zur Erteilung einer Niederlassungsbewilligung erfüllt sei (Art. 27 AuG). Dies kann insbesondere für Opfer von häuslicher Gewalt problematisch sein, welche vom Täter von ihrem Umfeld isoliert wurden. Für ein Härtefall nach Art. 21 AuG connected Art. 16 lit. d der Verordnung vom 16. Dezember 2008 über die Zulassung und den Aufenthalt von Ausländern (ZAV) muss ein Strafverfahren laufen.

Es empfiehlt sich die Änderung der Ermessensentscheidung in Art. 39 Abs. 2 AuG ("kann abgesehen werden") in ein Recht des Opfers von Gewalt gegen Frauen und häuslicher Gewalt, dass vom Widerruf oder von der Nichtverlängerung seiner Aufenthaltsbewilligung abgesehen wird. Dabei könnte Art. 39 Abs. 2 lit. b Ziff. 2 AuG in einen Abs. 4 umgewandelt werden.

Zusätzlich könnte Art. 59 Abs. 1 der Istanbul-Konvention durch Art. 21 AuG umgesetzt werden. Hierfür wäre es empfehlenswert, einen Art. 15 Abs. 1bis ZAV einzufügen mit dem Wortlaut: "Eine schwerwiegende persönlichen Notlage liegt insbesondere in Fällen von Gewalt gegen Frauen und häuslicher Gewalt im Sinne des Übereinkommens des Europarates zur Verhütung und Bekämpfung von Gewalt gegen Frauen und häuslicher Gewalt vor. Von einem solchen Fall ist insbesondere auszugehen, wenn die Gewalt in Form von medizinischer oder polizeilicher Dokumentation, einer gerichtlichen Verurteilung, einer einstweiligen Verfügung, einer Scheidungsanordnung oder durch Dokumentation des Amtes für Soziale Dienste oder einer Nichtregierungsorganisation belegt ist." (Siehe Abs. 303 des Erläuternden Berichts)

Hierzu müsste in Art. 21 AuG zusätzlich ein Abs. 1bis eingefügt werden: "Eine Ermessensentscheidung entfällt in Fällen von Gewalt gegen Frauen und häuslicher Gewalt im Sinne des Übereinkommens des Europarates zur Verhütung und Bekämpfung von Gewalt gegen Frauen und häuslicher Gewalt. Auf diese Fälle findet Art. 15 Abs. 1bis ZAV Anwendung."

Zu Abs. 2) Aussetzen von Ausweisungsverfahren: Hierfür sollten die folgenden Ergänzungen vorgenommen werden: Art. 48 AuG sollte durch einen Abs. 4 ergänzt werden: "Die Aufenthaltsbewilligung eines Opfers von Gewalt gegen Frauen oder häuslicher Gewalt im Sinne des Übereinkommens des Europarates zur Verhütung und Bekämpfung von Gewalt gegen Frauen und häuslicher Gewalt kann nur aufgrund einer schwerwiegenden Gefährdung der öffentlichen Ordnung ausgehend vom Opfer selber widerrufen werden."

Art. 49 AuG sollt mit einem lit. c ergänzt werden: "der Ausländer oder die Ausländerin kein Opfer von Gewalt gegen Frauen oder häuslicher Gewalt im Sinne des Übereinkommens des Europarates zur Verhütung und Bekämpfung von Gewalt gegen Frauen und häuslicher Gewalt ist, es sei denn, von diesem Opfer geht eine schwerwiegende Gefährdung der öffentlichen Ordnung aus."

Da mit diesen Ergänzungen die Aufenthalts- oder Niederlassungsbewilligungen von Opfern grundsätzlich nicht widerrufen werden können, erübrigen sich Ergänzungen in den Bestimmungen über die Wegweisung, die Ausschaffung und Einreiseverbote. Trotzdem könnten in jenen Bestimmungen allenfalls noch Ergänzungen getätigt werden.

Zu Abs. 3) Verlängerbarkeit der Aufenthaltstitel: Hier empfiehlt sich zusätzlich zur Veränderbarkeit einer Aufenthaltsbewilligung gemäss Art. 21 AuG i.V.m. Art. 16 lit. d ZAV eine Ergänzung von Art. 26 (Einfügen eines Abs. 3bis): "Opfer von Gewalt gegen Frauen oder häuslicher Gewalt im Sinne des Übereinkommens des Europarates zur Verhütung und Bekämpfung von Gewalt gegen Frauen und häuslicher Gewalt haben Anspruch auf Verlängerung ihrer Aufenthaltsbewilligung, wenn ihre persönlichen Umstände einen Wegzug aus Liechtenstein unzumutbar machen. Dies ist insbesondere der Fall, wenn ein Wegzug bzw. die Situation im Herkunftsland die Sicherheit, Gesundheit oder das Recht auf Familienleben des Opfers gefährden würde."

Zu Abs. 4) Aufenthaltsbewilligungen von Opfern von Zwangsheirat: Opfer von Zwangsheirat verlieren ihren Aufenthaltstitel in Liechtenstein mit dem Wegzug aus Liechtenstein, entweder mit persönlicher Abmeldung (Art. 47 Abs. 1 lit. a AuG) oder wenn das Opfer Liechtenstein für länger als vier (bei einer Aufenthaltsbewilligung) oder sechs Monate (bei einer Niederlassungsbewilligung) verlassen hat (Art. 47 Abs. 2 AuG). Für Opfer von Zwangsheirat existiert derzeit keine Möglichkeit, den vorherigen Status in Liechtenstein wiederzuerlangen, es sei denn, sie erfüllen die allgemeinen Voraussetzungen von Art. 13 Abs. 1 oder Art. 14 AuG (Aufenthalt mit Erwerbstätigkeit), Art. 19-21 AuG (Aufenthalt ohne Erwerbstätigkeit, Härtefall oder wichtige öffentliche Interessen) oder Art. 27 Abs. 3 oder 4 AuG (Niederlassungsbewilligung). Es wird empfohlen, einen Abs. 4 in Art. 47 AuG einzufügen: "Erfolgte die Abmeldung oder das Verlassen Liechtensteins im Zusammenhang mit einer Zwangsheirat der Bewilligungsträgerin oder des Bewilligungsträgers, wird das Erlöschen rückwirkend für ungültig erklärt und die Bewilligung unverzüglich wiederhergestellt."