**Preliminary observations by Ms. Attiya Waris, United Nations Independent Expert on foreign debt, other international financial obligations and human rights**

**on her visit to Liechtenstein, 19 – 26 June 2023**

**Vaduz, 26 June 2023**

**Introduction**

At the invitation of State authorities, Ms. Attiya Waris, United Nations Independent Expert on foreign debt, other international financial obligations and human rights conducted a visit to Liechtenstein from 19 to 26 June 2023. This is the second visit of a Special Procedures mandate holder after the visit of the Special Rapporteur on violence against women in 1998.

The Independent Expert expresses her sincere gratitude to the Government of Liechtenstein for the standing invitation extended to all Special procedures mandate holders and the excellent level of cooperation and openness from all state authorities. She is grateful for the constructive discussions that she held with the Prime Minister, Mr. Daniel Risch, and state authorities’ representatives including from the Ministry of Foreign Affairs, Education and Sport; Ministry of General Government Affairs and Finance; Ministry of Social Affairs; Ministry of Home Affairs, Economy and Environment; Ministry of Justice; Financial Stability Council and Financial Market Authority.

The Independent Expert had the pleasure to meet with Parliamentarians of all political parties as well as representatives of the judiciary including the Office of the Public Prosecutor and of the Administrative and Constitutional Courts. The Independent Expert also exchanged views with representatives of the financial and banking sector, industry; civil society; trade union and academia. She would like to thank them all for their precious insights.

**Background**

Liechtenstein is a double landlocked small country of 160 square kilometres with a total resident population of 39308 (out of which a third is foreign nationals, mainly from Switzerland, Germany, Austria and Italy).[[1]](#footnote-1) It is the fourth-smallest state in Europe and the sixth smallest in the world. It has nevertheless managed to have an industrial and financial sector with a large global presence. Inward cross-border commuters constituted 56% of Liechtenstein’s work force in 2021. A total 32 per cent of the total workforce were employed in the 18 largest companies in Liechtenstein at the end of 2020. [[2]](#footnote-2)

Liechtenstein had a gross national income per capita (income from work and assets of private households, companies, and the public sector) of CHF 162’000 in 2019. [[3]](#footnote-3) Liechtenstein's Human Development Index value for 2021 was 0.935 (Very High human development category) positioning it at 16 out of 191 countries and territories.[[4]](#footnote-4)

Liechtenstein does not have its own central bank but uses the Swiss central bank. It does not have its own currency and uses Swiss francs and has no debt. The country has a strong financial and banking sector as well as interesting challenges and promising practices in the fields of finance and tax that could be helpful to other countries.

**Compliance with international financial standards**

Several events were wake up calls for Liechtenstein including the 2008 Liechtenstein tax affair scandal. The 2007-8 financial crisis impacted the banks in Liechtenstein immensely. “The assets under management of Liechtenstein banks in Liechtenstein and abroad collapsed in the wake of the financial crisis and subsequent far-reaching reforms in the financial centre.”[[5]](#footnote-5)

At that juncture and consensually, all stakeholders decided to move in the compliance with international financial standards by getting rid of “shady” businesses and “dirty” money, complying with international and European rules. This led to establishing Liechtenstein’s international reputation of stability and ethics.

The Expert noted that because of its institutional structure, means and political will, the country was able in a short period of time to incorporate and establish compliance mechanisms for a large number of EU/EEA laws and directives.

While the Expert understand that the financial sector may have initially lost some of its clients and banking businesses when they made the shift of complying with international taxation and other standards, she also noted that this was quickly overcome with the arrival of a new clientele that wanted stability and were generally more risk adverse.

The Expert was also appreciative how a small country, with a limited number of government staff, was able to cope, incorporate and comply with the many European laws and regulations, as well as the recommendations that they receive through various evaluation processes like Council of Europe’s MONEYVAL or GRECO, on the same footing than much larger countries although it stops short of charting its own path and keeps very much to the position of bare minimum requirements.

**Good practices**

The Independent Expert noted several good/promising practices in the areas of finance, technology and law that she will further assess in her final report and eventually share with other countries for their consideration.

She noted the great efforts the Government and the financial sector has put regarding Ukrainian refugees, in particular regarding their right to work and the possibility of opening bank accounts and that this facility is extended to all refugees.

The Expert was informed about the Finance against Slavery and Trafficking (FAST) initiative. Indeed, survivors of modern slavery and human trafficking can find that traffickers have hijacked their financial identity or banking products for money laundering or other criminal purposes, compromising their creditworthiness and increasing their risk of re-victimization. This initiative supports leading banks and survivor service providers to deliver financial services to survivors. This initiative follows the work of the Liechtenstein Initiative for a Financial Sector Commission on Modern Slavery and Human Trafficking, a public-private partnership between the Governments of Liechtenstein, Australia and the Netherlands, United Nations University Centre for Policy Research – acting as the Commission’s Secretariat – and the Liechtenstein private sector and charitable groups.

The Expert noted the possibility of non-conviction-based confiscation, if conditions are met, when criminal proceedings against a specific person are not possible as well as the ability to return stolen assets with interest.

She also heard about the work of the State on digitalization, blockchains and token economy. While she sees the potential of these innovations, she urges a thorough assessment of its potential impact on human rights inside and outside the country, including on collective rights, privacy and international inequalities.

**International human rights obligations**

Throughout her discussions, the Expert was told about the almost “automatic” and rather quick incorporation of European laws into domestic law, policies and programmes. Yet, she heard much less about the strategies that have been put in place to implement the international human rights obligations of Liechtenstein.

While she understands that many of the regional and international human rights law may be similar, she also believes that international human rights obligations go beyond and cannot be incidentally addressed through the incorporation of regional legislations. They require clear national human rights strategies with benchmarks and dedicated budget.

In this context, the Expert recalls Article 2.1 of the International Covenant on Economic, Social and Cultural Rights ratified by Liechtenstein in 1998 that calls for State parties “to take steps, … to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means”. For instance, when it comes to poverty and inequality, she looks forward to hearing what is the analysis of the latest statistical report hopefully scheduled for release in late 2023 in terms of root causes of such poverty and inequality and what will be put in place to address them. In this context, but also for its reporting obligations to human rights mechanisms, the Expert suggest that Liechtenstein considers the development of human rights indicators to assess its progress in terms of their international human rights obligations. The Human Rights Council, the Special Procedures mandate holders and the Office of the High Commissioner for Human Rights could provide guidance and support in this regard.[[6]](#footnote-6)

The Expert heard that, despite the “principle that treaty obligations should be entered into only when internal compliance is guaranteed”[[7]](#footnote-7) and that international treaties become part of the national law from the time of its entry into force, economic, social and cultural rights are still not justiciable in Liechtenstein. Against this shortfall, the Expert recommends legislative changes that will allow shifting from the vision of economic, social and cultural rights as simple social benefits to rights as defined under international law. She also recommends that civil society organizations are given the right to represent victims in Court proceedings. The Expert also strongly encourages that Liechtenstein ratifies Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

The independent Expert welcomes the forthcoming ratification of the United Nations Convention on the Rights of Persons with Disabilities and encourages the authorities to develop a clear national disability strategy for the implementation of the Convention including funding and stakeholder oversight for its implementation.

The Expert reiterates the recommendations provided by the Committee on Economic, Social and Cultural rights in the last review of the country, including regarding the Liechtenstein Human Rights Association, serves as an Ombuds body, and the increase in the level of its contribution to official development assistance. She also stated the importance of joining the ILO.

**Applying a human rights lens to the banking and financial activities**

The Expert wishes to emphasize that actions relating to the Sustainment Development Goals or applying corporate social responsibility support are insufficient and do not equate to addressing the international human rights obligations. By becoming parties to international treaties, States assume obligations and duties under international law to respect, to protect and to fulfil human rights.

The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses by third parties including the private sector. The obligation to fulfil means that States must take all possible steps and action to enable the full enjoyment of human rights.

In the context of financial and banking sector, the Expert wishes to emphasize the need of assessing extraterritorial human rights obligations as well as applying the “Guiding Principles on Business and Human Rights”.[[8]](#footnote-8) She invites the State and businesses to apply a human rights lens to their activities and international investments to avoid violations and abuses of human rights. She also noted that while banking regulations were much improved since 2008, it is now time for a more proactive approach on issues around SDG 16 especially and joining the global call for the creation of a global financial architecture especially since the country has experienced the challenges of the absence of a global tax body.[[9]](#footnote-9)

**Issues and challenges**

Having an extremely small population, Liechtenstein faces similar challenges as those of other sparsely populated nations, which includes issues linked with conflict of interest between the State ad businesses and separation of powers. In maintaining this delicate balance, the continuous refection on and disclosure of conflict of interest was noted and this should be stepped up.

The Independent Expert was truly appreciative of the delicate balance that the State plays in its engagement with all stakeholders including with European institutions, neighbouring countries, international financial institutions and the private sector.

While Liechtenstein has made remarkable progress, various improvement can be made in the field of financial flows transparency, trustees, supply chains and more regular collection and assessment of data, including by actively taking initiatives. These issues will be further analysed, and recommendations will be provided in the report that will be presented to the Human Rights Council in March 2024.

Finally, the Expert recommends a more proactive role of Liechtenstein as a member of the international community with a focus on its role in international collaboration and cooperation for the realizing the human rights of all Peoples across the world. Liechtenstein’s veto initiative - General Assembly’s automatically meeting within 10 days if veto is used in the Security Council by one of its five permanent members - at the United Nations General Assembly is an example that it can make a difference internationally.

Ends

1. As of 31 December 2021; <https://www.statistikportal.li/de/uebergreifendes-indikatoren/liechtenstein-in-figures> [↑](#footnote-ref-1)
2. <https://www.liechtenstein-institut.li/application/files/9716/6012/0323/economic-and-financial-data-2022.pdf> [↑](#footnote-ref-2)
3. Economic and financial data on Liechtenstein, as of end June 22, <https://www.liechtenstein-institut.li/application/files/9716/6012/0323/economic-and-financial-data-2022.pdf> [↑](#footnote-ref-3)
4. <https://hdr.undp.org/data-center/specific-country-data#/countries/LIE> [↑](#footnote-ref-4)
5. <https://www.liechtenstein-institut.li/application/files/9716/6012/0323/economic-and-financial-data-2022.pdf> [↑](#footnote-ref-5)
6. <https://www.ohchr.org/en/instruments-and-mechanisms/human-rights-indicators> [↑](#footnote-ref-6)
7. Liechtenstein Country Report, First Report Pursuant to Article 40 of the International Covenant on Civil and Political Rights, p.12, <https://www.llv.li/serviceportal2/amtsstellen/amt-fuer-auswaertige-angelegenheiten/pdf-llv-aaa-ccpr-eng.pdf> [↑](#footnote-ref-7)
8. <https://www.ohchr.org/en/topic/business-and-human-rights> [↑](#footnote-ref-8)
9. <https://www.ohchr.org/en/press-releases/2022/11/human-rights-experts-support-call-un-tax-treaty> [↑](#footnote-ref-9)