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FLASH REPORT

Country:	Liechtenstein
Title:	National conference on the ratification of the UNCRPD
Date:	11 March 2020
Expert:	Hornich, Patricia
<u>Context</u>	
Issue at stake:	Liechtenstein Government hosted the second national conference on the ratification of the UN Convention on the Rights of Persons with Disabilities
Grounds of discrimination:	Disability
Field of application:	All fields
Source:	Policy development
Applicable law:	Act on Equality of People with Disabilities (AEPD, Behindertengleichstellungsgesetz)

Content

Policy development: The second national conference on the ratification of the UN Convention on the Rights of Persons with Disabilities (UNCRPD) took place on 6 February 2020 in Liechtenstein. The purpose of the meeting was to present the legal opinion obtained out of the legal assessment on the consequences and necessary legislative adjustments of a possible ratification of the Convention. Institutions affected by the implementation of the Convention as well as state authorities were invited to this conference by the Government.

Following the conference, the Ministry of Society gave the institutions present the opportunity to make a final, written statement on the possible ratification of the Convention. It will, after receiving the comments, evaluate them and submit a proposal to the Government for further action.

Key points of analysis: The main results of the legal assessment which showed a need for action can be summarised as follows:

- The definition of disability in Article 29 of the Act on Disability Insurance¹ must be examined with regard to its compatibility with the concept of disability in the Convention.
- The constitutive deprivation and restriction of the capacity to act for persons with disabilities is fundamentally contrary to the Convention. It follows that the restrictions of legal capacity under § 280 of the Common Civil Code,² of testamentary capacity under § 568 of the Common Civil Code and of marriage and partnership capacity (Article 11(1) Marriage Act³ and Article 3(2) Act on Civil Union for Same-Sex

¹ Act on Disability Insurance of 23.12.1959, LGBl. 1960 No. 5.

² Common Civil Code (Allgemeines bürgerliches Gesetzbuch, ABGB), 01.06.1811, LGB.No. 1003.001.

³ Marriage Act (Ehegesetz, EheG), 13.12.1973, LGBl. 1974 no. 20.

Couples)⁴ are contrary to the Convention. These should be deleted without replacement.

- The legal practice of restricting the freedom of persons of full age in inpatient nursing and care institutions on the basis of the guidelines of the LAK (Liechtenstein Old Age and Sickness Assistance) is contrary to the Convention.
- §§ 21 to 23 of the Criminal Code⁵ are not in conformity with the Convention, both in terms of terminology and concrete implementation. Thus, amendments would be required.
- Article 131f of the Non-Contentious Proceedings Act,⁶ according to which the costs of the proceedings for the exclusion from the right to vote must be borne by the person concerned, is not in line with the Convention.
- Article 19 of the Convention obliges States Parties to provide adequate housing for persons with disabilities that effectively gives them freedom of choice and does not directly or indirectly push them into currently dominant housing and care structures. Thus, the challenges for Liechtenstein lie less in the relevant legal framework, but rather in the formal regulatory framework. In other words, in administrative and application practice the necessary personnel and material resources have to be made available so that persons with disabilities can decide autonomously on their place of residence and form of housing. Liechtenstein has a need for action here.
- There is currently no general and clear legal provision in the Act on Equality of People with Disabilities⁷ regarding reasonable accommodation in the field of work and employment as given under Article 27(1) of the Convention. The Liechtenstein legal situation should therefore be clarified by adapting Article 10 of the Act on Equality of People with Disabilities accordingly.
- In the field of vocational training, the idea of an inclusive education system is already well established in the legal foundations of Liechtenstein. However, the Scholarship Act⁸ and the related Regulation to the Scholarship Act do not address people with disabilities or inclusive educational aspects. Amendments would be required, or detailed regulations would have to be given within the framework of the inclusive education strategy.

Internet link source: Legal expert opinion on the assessment of the UNCRPD ratification for Liechtenstein (homepage of the Liechtenstein Government):

<https://www.regierung.li/media/attachments/Gutachten-Liechtenstein-UNBRK-28-10.pdf?t=637188255405710836>.

⁴ Act on Civil Union for Same-Sex Couples (Gesetz vom 16. März 2011 über die eingetragene Partnerschaft gleichgeschlechtlicher Paar, PartG), 16.03.2011, LGBl. 2011 no. 350.

⁵ Criminal Code (Strafgesetzbuch, StGB), 24.06.1987, LGBl. 1988 no. 378.

⁶ Non-Contentious Proceedings Act (Gesetz über das gerichtliche Verfahren in Rechtsangelegenheiten ausser Streitsachen, AussStrG), 30.12.2010. LGBl. 2010 no. 454.

⁷ Act on Equality of People with Disabilities (Gesetz über die Gleichstellung von Menschen mit Behinderungen, Behindertengleichstellungsgesetz, BGIG), 25.10.2006, LGBl. 2006, no. 243.

⁸ Scholarship Act (Gesetz über die staatlichen Ausbildungsbeihilfen, Stipendiengesetz, StipG), 20.10.2004, LGBl. 2004 no. 262.