

---

**Study on Homophobia, Transphobia and Discrimination on  
Grounds of Sexual Orientation and Gender Identity**

**Legal Report: Liechtenstein**

**by Dr. Sigrid Launois-Mayer**

---

**Disclaimer:**

This report was drafted by an independent expert and is published for information purposes only. Any views or opinions expressed in the report are those of the author and do not represent or engage the Council of Europe or the Office of the Commissioner for Human Rights.

## Table of Contents

<b>A. EXECUTIVE SUMMARY</b>	<b>3</b>
<b>B. FINDINGS</b>	<b>5</b>
B.1. Overall legal framework	5
B.2. Freedom of assembly and association	5
B.3. Freedom of expression	6
B.4. Hate crime – Penal Code	6
B.5. Family issues	7
B.6. Asylum and refugee issues	7
B.7. Social security, social care and insurance	8
B.8. Education	8
B.9. Employment	9
B.10. Housing	10
B.11. Health care	10
B.12. Access to goods and services	10
B.13. Media	11
B.14. Transgender issues	11
B.15. Intersex people	12
B.16. Good practice	12
B.17. Other relevant issues	12

## A. **Executive summary**

1. The territory of the Principality of Liechtenstein covers an area of 160km<sup>2</sup>. Liechtenstein consists of 11 rural municipalities, the two largest of which have a population of between 5000 and 6000. At the end of 2008, Liechtenstein had a resident population of about 35,600 and is thus approximately the same size as a small city. These facts have to be taken into consideration when reviewing the situation and circumstances considering LGBT persons.
2. No full medical university exists in Liechtenstein. The Vaduz National Hospital is run as an attending physician hospital. For various complicated surgeries or special treatments, numerous health institutions in Switzerland and Austria can be used (hospitals under contract, psychiatric clinics and rehabilitation hospitals). Foreign physicians may be licensed in Liechtenstein pursuant to the Agreement on the European Economic Area.
3. Systematic data are compiled with regards to various topics, mainly concerning sociological and economic information. No systematic compilation of data takes place with regards to gender identity or sexual orientation.
4. There are no (known cases of) transgender or intersex persons in Liechtenstein. It has to be assumed that transgender persons, but also a number of LG persons would leave a small state with a rural character to rather settle in large cities, which do not exist in Liechtenstein.
5. The Constitution of Liechtenstein (1921, main constitutional revision 2003) provides a wide range of fundamental rights including the respect and the protection of human dignity. The Constitution also declares that all citizens are equal before the law and that rights of foreign nationals are governed by treaties or the principle of reciprocity.
6. The Liechtenstein legal order contains no explicit provisions concerning the rank of international treaties within domestic law. International agreements may have the substantive rank of the Constitution, legislation or ordinances. The Constitutional Court Act provides that various individual rights and international treaties can be asserted the same way as constitutional rights by way of a constitutional complaint. This is also true of the European Convention on Human Rights.
7. No special legislation exists on sanctioning homophobia/transphobia and/or discrimination on the grounds of sexual orientation and gender identity.
8. The findings of this report may be summarised as follows:
  - Freedom of assembly and association as well as freedom of expression is guaranteed in Liechtenstein.
  - As far as hate crime is concerned, discrimination on the basis of nationality, race and ethnicity is prohibited, but there exists no legislation with regards to discrimination on the basis of sexual orientation or gender identity.
  - Civil marriage or registration of same-sex couples is not recognised.
  - Sexual orientation or gender identity is not recognised as a ground for obtaining asylum. However, should a refugee come from a country, where homosexuality is punished with imprisonment or death, the asylum seeker would not be sent back to that country.

- All persons living in Liechtenstein have access to social security and other social protection measures regardless of their sexual orientation and gender identity.
- Liechtenstein has nine mandatory years of schooling. School is open to all children and young people free of charge. Sex education is part of the curriculum. A sex education service is offered by the Institute for sexual questions.
- All workers have the right to equal opportunities and equal treatment in employment matters without discrimination. There is no specific legislation with regards to homophobia/transphobia or discrimination on the grounds of sexual orientation or gender identity.
- The right to land- and homeownership as well as the right to inheritance is not dependent on sexual orientation or gender identity.
- All persons living or working in Liechtenstein are subject to compulsory health insurance. No special legislation exists with regards to sexual orientation or gender identity.
- No cases are known where LGBT persons have been denied access to services on the grounds of sexual orientation.
- Legislation ensures the compliance of the media with the prohibition against freedom of discrimination, freedom of expression and equal opportunity and treatment.
- No legislation with regards to LGBT persons exists. However, various projects and activities have been and are initiated by the Office for Equal Opportunity and the Institute for sexual questions to the general population against discrimination of LG persons.
- There have been no court cases/convictions with regards to sexual orientation/gender identity or otherwise relevant for this report.

## **B. Findings**

### **B.1. Overall legal framework**

9. A wide range of fundamental rights are part of the Constitution of the Principality of Liechtenstein.<sup>1</sup> These include the respect for, and protection of, human dignity (Article 27), the right to work (Article 19), the freedom of expression (Article 40), the freedom of association and assembly (Article 41), the freedom of the press and the right to education, among others. However, there is no explicit non-discrimination or equality clause in the constitution but Article 31 declares that all citizens are equal before the law and that the rights of foreign nationals are governed by treaties or by the principle of reciprocity.
10. The Liechtenstein legal order contains no explicit provisions concerning the rank of international treaties within domestic law. International agreements may have the substantive rank of the Constitution, legislation or ordinances. The Constitutional Court Act provides that various individual rights under international treaties can be asserted the same way as constitutional rights by way of a constitutional complaint. This is true explicitly of the European Convention on Human Rights.
11. There exists no legislation on sanctioning homophobia/transphobia and/or discrimination on the grounds of sexual orientation and gender identity. However, in 2005 the government established the Equal Opportunity Commission with its operational Office of Equal Opportunity. The main task of the Commission is to ensure equality between men and women, especially by advising the government. The five members of the Commission are appointed by the government for a period of four years. The head officer of the Office of Equal Opportunity is a further advisory member. The Equal Opportunity Commission defines strategies on questions of equal opportunities and against discrimination, monitors implementation measures and advises the government.
12. The Office of Equal Opportunity consists of one head officer and two part time employees. However, the head officer usually invites various officers from other departments and/or members of NGOs to build a task force for a special purpose (e.g. to combat homophobia, to propose legislation to give sex-workers a legal status and various other topics).
13. The focus of the Office of Equal Opportunity's activities is on combating discrimination and advancing equal opportunity in areas central to the protection of human rights, such as gender equality and sexual orientation, among others. It furthermore advises private individuals, organisations and companies free of charge and serves as a contact office for victims. It is also active on behalf of awareness-raising measures, draft legislative proposals and coordinates measures within the administration to bring about equal opportunity. The Office of Equal Opportunity undertakes programmes to promote and enhance the full enjoyment of all human rights by all persons, irrespective of their sexual orientation.

### **B.2. Freedom of assembly and association**

14. The freedom of assembly and association is guaranteed in the Liechtenstein Constitution. Pursuant to Article 41 everybody has the right to freedom of assembly and to freedom of

---

<sup>1</sup> LGBl.1921, No. 15, main constitutional revision 2003.

association with others as well as the right to join with others for the protection or pursuit of his/her interests.

15. There is no special implementation in the Liechtenstein legal system in the context of homophobia/transphobia and/or discrimination on the grounds of sexual orientation or gender identity. However, the legal system is such that a general clause guaranteeing the freedom of assembly and association comprises also the rights of LGBT persons, if such rights are not expressly excluded.
16. Since 1996 there exists in Liechtenstein an Association for Gay and Lesbian persons called "Flay".
17. Permissions for demonstrations in favour of or against LGBT persons / rights or gay pride parades have never been requested.. The reason is probably the small size of the country. However, the gay pride parade in Zürich (110km from Liechtenstein) is quite popular.
18. Pursuant to §§ 284, 285 Criminal Code the disturbance of an assembly by force is punished by imprisonment for up to one year.

### **B.3. Freedom of expression**

19. Freedom of expression is guaranteed in the Liechtenstein Constitution. Article 40 states that everybody has the right to freedom of expression within legal limits.
20. The protection of freedom of expression in the context of homophobia/transphobia and/or discrimination on the grounds of sexual orientation or gender identity is not specifically implemented in the legal system.
21. Restrictions to freedom of expression related to hate speech are only set in connection with race, ethnicity or religion (§ 283 Criminal Code).
22. There have been no court cases regarding violations of the right to freedom of expression of LGBT persons nor have such violations been reported to the Office of Equal Opportunity.
23. There is no statistical material available.

### **B.4. Hate crime – Penal Code**

24. § 283 Penal Code provides that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence is prohibited. Furthermore all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin is an offence punishable with imprisonment for up to two years.
25. There is no special legislation as regards to combating homophobia. But § 33 (5) Penal Code states, that if a perpetrator commits acts with racist, xenophobic or similar motives this would be an aggravating factor.
26. During the period 2005-2009 there were no court cases regarding homophobic/transphobic hate speech and no criminal court decisions in which homophobic/transphobic motivation was used as an aggravating factor in sentencing.

27. No statistical material or relevant case law is available.
28. There exist no discriminatory provisions (as regards of consent etc.) in the criminal law of Liechtenstein.

#### **B.5. Family issues**

29. For the time being, the legal system neither recognises civil marriage of same-sex couples nor an alternative registration scheme similar to marriage.
30. Cohabitation of same-sex partners providing some limited rights and obligations (e.g. family reunification) is recognized. For example Liechtenstein legislation allows for family reunification for unmarried partners under certain conditions (age over 30, five years partnership). This includes same-sex partners.<sup>2</sup>
31. However, the government has drafted a new law concerning the possibility to register the partnership of same-sex couples. The draft is based on the respective Swiss law. The draft was sent out to interested authorities/parties in Spring 2010. These parties have the possibility to file their comment/recommendations until 16 July 2010.
32. Adoption is not allowed by same-sex partners and will not be allowed after the possibility to register the partnership of same-sex couples will have been enacted.
33. Adoption by a single parent is allowed; adoption by two persons is only allowed if they are married (this does not apply to same-sex couples).
34. Article 179 General Civil Law (ABGB) states as follows: (1) Persons who have not solemnly vowed celibacy may adopt ... (2) The voluntary adoption of a child by more than one person is permissible only if the adopting parties are married to each other (there are a few exceptions, but none have to do with LGBT persons).
35. However, Article 25 of the proposed new law on registered partnership for same-sex couples explicitly forbids fertility treatments and adoption by persons who live in a registered partnership.
36. Pursuant to § 72 para. 2 Criminal Code, persons who live in a partnership similar to marriage will be treated like family members (e.g. they do not have to testify against their partners). This article applies also to same-sex partners.
37. There is no equivalent Article in Civil Law. However, the new law on registered partnerships will change that.
38. In general the notion of "spouse" does not extend to same-sex spouses, even if their marriage has been validly contracted in a foreign jurisdiction.

#### **B.6. Asylum and refugee issues**

39. Liechtenstein ratified the Geneva 1951 Convention in 1956. However, the Liechtenstein authorities do not consider persecution of LGBT persons due to their sexual orientation or gender identity as a ground for obtaining asylum and/or subsidiary protection. No legislation to ensure that a well-founded fear of persecution on the basis of sexual

---

<sup>2</sup> LGBl. 2004, No. 253.

orientation or gender identity is accepted as a ground for the recognition of refugee status and asylum has been enacted. However, if a refugee comes from a country where homosexuality is punished with prison terms or even death, the asylum seeker would not be returned to that country.

40. Up until now, no persons have been granted asylum or subsidiary protection due to a claim of persecution on the ground of sexual orientation.
41. In the context of asylum and/or subsidiary protection the legal system accepts close relatives like spouses and children (blood relatives) as family members but not LG partners.
42. The health care needs of everybody, also transgender persons, are covered for the duration of their asylum procedure.
43. There is no statistical information available.

#### **B.7. Social security, social care and insurance**

44. Everybody has equal access to social security and other social protection measures, including employment and unemployment benefits, health insurance or care or benefits, other social insurance and pension benefits without discrimination on the basis of sexual orientation or gender identity.
45. Everybody has the same access to poverty reduction strategies and programmes as well as to appropriate public or private social care and other services such as advice and personal help without discrimination on the basis of sexual orientation or gender identity.
46. Treatments related to gender identity, genital surgeries, hormone treatment etc. are not in the official catalogue of mandatory insurance contributions and might therefore have to be paid for by private insurance (*see also topic 11. Health care*). However, no such cases are known.
47. There have been no court cases in connection with violations of the right to social security/care of LGBT persons due to homophobic/transphobic motivation.
48. No statistical information is available.

#### **B.8. Education**

49. Liechtenstein has nine mandatory years of schooling. The Liechtenstein curriculum and the design and further development of school as a whole are based on specific guiding principles applicable to all schools and school levels. School is open to all children/young people free of charge, without regards to origin, religion or gender.
50. Although education is directed to the development of each student's personality, abilities and talents, no special legislation exists on how to deal with different sexual orientations or gender identities.
51. The school curriculum includes sexual education. The extent of such education is up to the respective teacher. Furthermore there is the Institute for sexual questions and HIV-prevention, which is a special government service. One of the tasks of this Institute is the sex-educational service for children and young people. It offers workshops, courses and



personal advice to pupils and students as well as information and advice to their parents, especially also in connection with questions or problems with regard to sexual orientation.

52. Advice is given in schools, in youth-centres and on official or private request.
53. Should cases of bullying or harassment with respect to sexual orientation and gender identity become known, the Institute would offer sexual educational work, included work related to sexual orientation and gender identity. It would furthermore offer the possibility for guided discussion between the pupils/students and - if necessary - their parents. Information about transgender or intersex is only given on request, if such information is specifically asked for.
54. There is no full medical university in Liechtenstein.
55. No cases of gender reassignment are known.
56. No relevant statistical information is available.

### **B.9. Employment**

57. The individual right to work and the protection of workers are set out in Article 19, paragraph 1 of the Liechtenstein Constitution.
58. All workers have the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of their sex. All workers have the right to protection in cases of termination of employment and have the right to protection of their claims in the event of the insolvency of their employer. All persons with family responsibilities and who are or wish to be engaged in employment have a right to do so without being subject to discrimination. However, no special legislation at all exists in the context of homophobia/transphobia and/or discrimination on the grounds of sexual orientation or gender identity.
59. Legislation to ensure equal employment and opportunity exists only to counter discrimination based on sex or in connection with persons with disabilities but there is no special legislation in relation to LGBT persons.
60. Persons experiencing discrimination on the grounds of sexual orientation and/or gender identity may contact the Office of Equal Opportunity. The Office of Equal Opportunity deals with all cases of discrimination including discrimination on the basis of sexual orientation. In the case of a complaint, the Office of Equal Opportunity will give advice and direct the parties to the competent authorities. The Office has no legal authority for investigation or sanction.
61. In connection with employment and discrimination on the basis of sexual orientation no cases or complaints have ever been brought before the Office of Equal Opportunity.
62. Furthermore there is the Association for Employees (wage and salary earners). It advises its members and gives them help in the case of legal or financial problems with their employers.
63. No relevant statistical information is available.

## **B.10. Housing**

64. As far as the right to land- and homeownership and the financing of such ownership is concerned as well as the right to inheritance, the law does not make any distinction with regards to the sexual orientation or gender identity of a person.
65. Sexual orientation or gender identity is no legal ground for eviction.
66. Complaints in respect to discrimination due to homophobic/transphobic motivations can be directed to the Office of Equal Opportunity. However, the Office of Equal Opportunity has never been made aware that the right to housing of LGBT persons had been violated due to such motivation.
67. No statistical information is available in this respect.

## **B.11. Health care**

68. All persons living or working in Liechtenstein are subject to compulsory health insurance.
69. All persons have equal access to health care facilities, goods and services, including in relation to their sexual and reproductive health without regards to their sexual orientation or gender identity. People have also a right to their medical records.
70. Surgery, therapy and other treatments to be covered by insurance are laid down in Annex 1 to the Ordinance to the Law about Health Insurance.<sup>3</sup> Gender reassignment treatment such as hormone therapy, genital surgery, chest surgery and similar surgery/treatment are not specifically mentioned in the Annex. However, in the case of medical indication, a special request for insurance coverage could be made. No cases of such requests are known.
71. There are no cases known where LG persons have been diagnosed as being sick because of their sexual orientation and where hormone or affirmative therapy has been prescribed to them (*see also topic 5. Family Issues and topic 7. Social security, social care and insurance*).
72. Neither same-sex nor other partners but only married partners are recognised as next of kin and thereby allowed to receive information about the patient's health.
73. No cases of transgender persons are known in Liechtenstein, nor are there any known cases where LGBT persons have been deprived of the right to access to health care facilities.
74. Gender reassignment treatments are available in Liechtenstein's neighbouring countries, Switzerland and Austria. They are not forbidden in Liechtenstein.
75. No relevant statistic material is available.

## **B.12. Access to goods and services**

76. No cases are known where LGBT persons have been denied access to private insurance and financial services, have been refused to rent premises for a LGBT-event, publish

---

<sup>3</sup> LGBl. 2000, No.74.

announcements or have been refused to be served in a bar or restaurant on the ground of sexual orientation.

77. No relevant statistic material is available.

### **B.13. Media**

78. Liechtenstein legislation ensures the compliance of the media with the prohibition against discrimination, equal opportunity and equal treatment.<sup>4,5</sup>
79. A media council has been established with the purpose of monitoring the compliance of the media with the prohibition against discrimination and the principle of equal treatment and opportunities in respect of journalistic ethics.
80. It is a legal requirement to refrain from incitement to hatred or discrimination on the basis of race, sex, age, disability, religion or nationality. There is no special legislation relating to LGBT interests.
81. There is no special journalistic code of ethics in Liechtenstein. However, Article 4.2 of the Media Law<sup>5</sup> states that the dignity of people, their life, freedom, faith and opinions have to be respected.
82. From time to time the Office of Equal Opportunity and the Institute for sexual questions and HIV-prevention ("Fachstelle für Sexualfragen und HIV-Prävention") publish articles or give interviews on the radio with regards to their activities for the prevention of the perpetuation of prejudices and against biased information in connection with LG persons.
83. There have been neither court cases nor convictions by the media council regarding non-compliance of the media with the prohibition against discrimination and/or the principle of equal treatment or equal opportunity with regards to LGBT Persons.
84. No statistical material is available.

### **B.14. Transgender issues**

85. It is not known whether there were any transgender/intersex persons in Liechtenstein in the period 2005 - 2009 or before.
86. No special legislation exists concerning transgender/transsexual persons or their rights. Since there are no known transgender/transsexual persons in Liechtenstein, it is not known whether they would be legally recognised in Liechtenstein.
87. Every person has the right to a pension, social security, health insurance etc. Partners have these rights only if they are married, or - as soon as the law on registered partnerships will take effect - if they are in such a registered partnership.
88. As far as a name change is concerned, pursuant to Article 46 of the Law of Persons and Companies (PGR) the change of a name is possible if there are important personal or other grounds for such a change. The legal change of name is to be decided in administrative proceedings.

---

4 LGBl 2003, No. 229.

5 LGBl 2005, No. 250.

### **B.15. Intersex people**

89. There are no (known) intersex persons in Liechtenstein.
90. No legislation or case law exists in this respect.

### **B.16. Good practice**

91. As stated before, there are no special legal provisions, degrees or regulations with regards to LGBT-persons. However, in various cases the interpretation of the law allows to include same-sex partners. This is the case with the possibility for family reunification for unmarried partners and the right not to have to testify against family members (*see topic 5. Family issues*).
92. As far as projects are concerned, the Office of Equal Opportunity has, in 2007, initiated a report/questionnaire about the experience of discrimination of LG persons on the one hand and of the general population on the other hand. Overall, homosexuals continue to feel discriminated against, even though they consider the general situation as having improved. Still, as compared to the general population, twice as many (71%) homosexual persons were of the opinion that LG persons were discriminated against because of their sexual orientation. The percentage of homosexual persons who had experienced insults or molestation and threats (53%, 40% resp.) is somewhat higher than in the general population. However, the survey does not distinguish whether the grounds for threats and molestation were homophobia.
93. Furthermore the Office of Equal Opportunity has participated in the preparation of the European Youth Conference in Liechtenstein in 2005 with the topic homosexuality.
94. In 2008/09 the Office of Equal Opportunity undertook a public poster campaign, intended to sensitise the general population and tackle homophobic taboos.
95. For 2010, further activities shall be decided by a work group consisting, among others, of the Association for Gays and Lesbians "Flay", the Office of Equal Opportunity, the Institute for sexual questions, Amnesty International Liechtenstein and church representatives.

### **B.17. Other relevant issues**

96. There is no legislation on HIV/AIDS in Liechtenstein, which may have indirect effect or indirectly discriminate against LGBT persons. The blood of everybody who donates is tested. As far as sexual orientation is concerned there are no legal or factual requirements or restrictions.