



REPRÉSENTATION PERMANENTE DE LA PRINCIPAUTÉ DE LIECHTENSTEIN AUPRÈS
DU CONSEIL DE L'EUROPE
STÄNDIGE VERTRETUNG DES FÜRSTENTUMS LIECHTENSTEIN BEIM EUROPARAT

Mr. Terry Davis
Secretary General
Council of Europe
67075 Strasbourg Cedex

Strasbourg, 20 February 2006

Dear Secretary General,

Referring to your request of 21 November 2005 for an explanation in accordance with Article 52 of the European Convention on Human Rights we have the honour of submitting the relevant report of the Ministry of Foreign Affairs of the Principality of Liechtenstein.

Yours sincerely,



Daniel Ospelt
Ambassador

Enclosure

**Report of the Principality of Liechtenstein,
pursuant to article 52 ECHR
to the Secretary General of the Council of Europe**

The Ministry of Foreign Affairs of the Principality of Liechtenstein, referring to the letter of the Secretary General of 21 November 2005, would like to provide the following information:

1. According to article 2 of the State Security Act (Liechtenstein Law Gazette LGBl 1949/8), the Liechtenstein Court of Justice shall impose a sentence of up to 3 years of imprisonment for a misdemeanor upon anyone who undertakes official activities for a foreign State on Liechtenstein territory without authorization, or upon anyone who aids or abets such official activities, where official activities are those that inhere in a State authority or an official. Any approval for such official activities is only granted in the framework of mutual legal assistance by the Government and by the Court of Justice under the conditions laid down in article 59 of the Law on International Legal Assistance in Criminal Matters (LGBl 2000/215). In such cases, the actual official activities are carried out by Liechtenstein authorities and officials. Foreign officials are only granted participation in these activities. This ensures adequate monitoring of the activities of foreign officials on the territory of the Principality of Liechtenstein.

2. In Liechtenstein a suspect can only be arrested upon a written warrant (Haftbefehl) issued by a judge. The issuing court is to be informed immediately by the police about an arrest, based on such a warrant. The suspect must be handed over to the court within 48 hours of arrest.

In exceptional cases the suspect can also be arrested by the police without a judicial warrant. In these cases the suspect must immediately be interrogated on the facts of the case and the preconditions for detention and either be released immediately thereafter or handed over to the court within 48 hours.

After the suspect has been handed over to the court, he/she must be heard by the investigating judge within 48 hours. At the end of this hearing, the judge must decide whether the suspect is to be freed or put in detention.

Arrests pursuant to requests by a foreign State or service are likewise only carried out if an international (judicial) arrest warrant is available or, in urgent cases, is presented within 48 hours. The transfer of the detainee must necessarily be preceded by a formal judicial extradition procedure, in which the detainee has the right to appeal any extradition decision.

3. Any unlawful deprivation of liberty shall be punished as a misdemeanor or a felony pursuant to §99, paragraphs 1 and 2 of the Penal Code with imprisonment of up to 10 years. According to §303 of the Penal Code, negligent violations of personal liberty or of the sanctity of the home shall be punished with imprisonment of up to one year or a fine of up to 360 daily rates. There is only one prison in Liechtenstein. Due to the small context, it is impossible for the police or a foreign service to unlawfully detain persons there without the knowledge of the Government or the judicial system. According to article 137 of the Liechtenstein Code of Criminal Procedure, the President of the Court of Justice must make at least one unannounced visit to the prison every quarter. During these visits, the President of the Court of Justice speaks with the inmates and inspects the conditions of detention. In the event of an unlawful imprisonment, the President would immediately intervene on the occasion of these visits.

4. If the suspicion of unlawful detention by a domestic or foreign authority or service were to arise, the Office of the Public Prosecutor would be required to immediately initiate a judicial investigation on suspicion of an offense of deprivation of liberty pursuant to §99 of the Penal Code, which must be prosecuted *ex officio*, the misdemeanor of prohibited activities for a foreign State pursuant to article 2 of the State Security Act, or any other offenses committed in the course of the action (e.g., battery). Victims of unlawful detention have a civil claim to compensation for damages in the event of culpable injury by domestic officials or authorities in accordance with the Official Liability Act.

5. No Liechtenstein official or any other person in an official capacity was in any way, either actively or passively, involved in an unlawful displacement of persons as described in greater detail in the inquiry of the Secretary General.

6. Additional information:

The Office of Customs Affairs and the Office of Civil Aviation do not know of any overflights at issue over Liechtenstein territory.

The Office of Customs Affairs and the Office of Civil Aviation have not received any official or unofficial reports that aircraft registered in Liechtenstein have been used to transport (illegally detained) terrorism suspects.

According to point 2(a) of the applicable exchange of notes with Switzerland (LGBI 96/2000), the Swiss authorities must only contact Liechtenstein in advance concerning overflights with military and other State aircraft if an overflight altitude of less than 12,000 feet is envisaged.

In the context of civil aviation, Liechtenstein airspace is generally included in the arrangements of the Swiss authorities without advance notice to Liechtenstein, with the exception of approval of low altitude flights over Liechtenstein.

According to article 31 of the Aviation Act (LGBI 39/2003), criminal liability arising from other penal provisions remains expressly reserved.

It should also be noted that Liechtenstein is a State Party to the Convention on Offences and Certain Other Acts Committed on Board Aircraft (LGBI 94/2001); i.e., this convention is to be applied in cases where the offense has been committed on board an aircraft entered in the Liechtenstein aircraft register. Criminal prosecution is, however, likewise undertaken according to national Liechtenstein criminal law.

The Liechtenstein Police does not know of any traffic with persons concerned.

Vaduz, 14 February 2006