

Parliamentary **Assembly** **Assemblée** parlementaire

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COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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COMMITTEE ON THE HONOURING OF OBLIGATIONS AND COMMITMENTS BY MEMBER STATES OF THE COUNCIL OF EUROPE (MONITORING COMMITTEE)

LIECHTENSTEIN

Co-rapporteurs : *Mr Michael HANCOCK, United Kingdom, LDR*
 Mr Erik JURGENS, Netherlands, SOC

DRAFT OPINION FOR THE BUREAU OF THE ASSEMBLY

I. INTRODUCTION

1. In May 2002 and in September 2002¹ the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) of the Parliamentary Assembly had two requests referred to it from citizens of Liechtenstein, asking it to consider whether the proposed constitutional amendments, which were still being discussed at the time, were in accordance with Council of Europe standards and Liechtenstein's other international obligations. The Monitoring Committee twice placed this item on its agenda and, in the absence of any formal request to begin a monitoring procedure under Resolution 1115(1997), and in the light of a letter from the Chair of Liechtenstein's parliamentary delegation, Mrs R. Wohlwend, Monitoring Committee member, it decided in October 2002 to suggest to the Bureau of the Assembly that the matter be referred to the Committee on Legal Affairs and Human Rights.

2. At its meeting on 6 November 2002 the Bureau decided instead to request an opinion from the Venice Commission. The Venice Commission adopted an opinion, on the basis of input from three of its members, during its 53rd plenary session on 13-14 December 2002 and made it public, as is its usual practice.

3. At its meeting on 13 January 2003 the Bureau decided to publish the Venice Commission's opinion as an Assembly document² (Doc 9661), to suggest that the Assembly hold an urgent debate during its January session and to refer the matter to the Political Affairs Committee for a report. On 15 January, Lord Kilclooney was appointed rapporteur by the Political affairs committee and prepared a memorandum.

4. However, on 27 January 2003, the request for an urgent debate was dismissed by the Assembly since it did not obtain the necessary two-thirds majority. There was therefore no debate and the Kilclooney memorandum remained a non-paper.

5. The referendum on the Liechtenstein Constitution took place on 14/16 March 2003. The country's 16 000 voters had to choose between two proposals for a constitutional revision, both initiated by popular initiative. One was presented by the Princely House and the other by a "Citizens' initiative for constitutional peace". The turnout was high (87,7%). The proposal presented by the Princely House obtained the absolute majority (9412 votes in favour and 5221 votes against, that is 64,3 % of the votes) whereas the proposal of the Initiative for constitutional peace was rejected by 12065 votes against and 2394 in favour.

6. On 31 March 2003, the Bureau of the Assembly decided to refer the opinion of the Venice Commission on the amendments to the Constitution of Liechtenstein proposed by the Princely House of Liechtenstein to the Monitoring Committee and made an application to this Committee to initiate a monitoring procedure.

7. According to Resolution 1115 (1997) on the setting up of an Assembly Monitoring Committee and the terms of reference contained therein, an application to initiate a monitoring procedure, which may originate, *inter alia*, from the Bureau of the Assembly, is to be considered by the Monitoring Committee which, after the appointment of two co-rapporteurs and after carrying out the necessary investigations, will prepare a written opinion for the Bureau. The Bureau will then take a decision on whether to initiate a monitoring procedure and if that is the case will refer the matter, subject to ratification by the Assembly, to the Monitoring committee for report.

8. Subsequently, in April and May 2003, the Monitoring Committee appointed Michael Hancock (United Kingdom, LDR) and Erik Jurgens, (Netherlands, SOC) as co-rapporteurs for Liechtenstein and authorised them to carry out a fact-finding visit to the country.

¹ This matter was also the subject of a parliamentary question from Mr. A. Gross during the exchange of views with the Chair of the Committee of Ministers during the June 2002 part-session.

² The text of the 1921 Liechtenstein Constitution, together with the proposed amendments, can be found in the addendum to Assembly document Doc 9661.

9. The rapporteurs deplore the decision of the Assembly in January 2003 not to have an urgent debate on the matter during its part-session of January 2003. This would have allowed the Political Affairs Committee to discuss a draft report by Lord Kilclooney, together with the statement³ made by the Liechtenstein Government on 21 January 2003, and would have given the Assembly the possibility to give a clear signal to the people of Liechtenstein in time for the vote on 14/16 March 2003 on the text of the people's initiative proposed by the Prince.

10. The argument that this would have been an interference into the internal decision making process of a member state would seem to be invidious. Very many of the decisions of the Assembly are specifically aimed at influencing political decisions being taken in member states. There was no objective reason to make an exception in the case of Liechtenstein. As a consequence, the opinion of the Venice Commission received no timely backing from the Assembly. The people of Liechtenstein were thus left in uncertainty as to the important question whether the Assembly considered the proposal by the Prince as acceptable with regard to Council of Europe standards. There is good reason to believe that such an Assembly position could have led to a different outcome of the vote. Now that the vote has been taken, and the Constitution of Liechtenstein will be changed by the outcome of it, it will be more difficult to implement the proposals that the Assembly will wish to make in this matter.

II. FINDINGS OF THE RAPORTEURS

11. The fact-finding visit took place from 2 to 4 July 2003⁴. It was organised in close cooperation with the Liechtenstein parliamentary delegation and was preceded by an official invitation addressed to the rapporteurs by the Government of the Principality of Liechtenstein. The rapporteurs would like to express their gratitude to the Liechtenstein authorities and their other interlocutors for the courtesy, openness, and co-operation they were met with.

12. It became clear to the rapporteurs during the meetings they had during their visit that they should comment on three separate, but related issues;

a) Was the existing constitution of Liechtenstein, dating from 1921 and since then amended several times, compatible with Council of Europe standards?

b) Were the amendments proposed by the Prince compatible with Council of Europe standards?

c) Were the way the Prince made use of the possibility of proposing a people's initiative, and the way he influenced the outcome of the vote, compatible with Council of Europe standards?

13. The rapporteurs wish to tackle the third question first, as it gives the most insight in the situation existing in Liechtenstein regarding the position of the head of state.

i. The Princely House's popular initiative and the electoral campaign

14. The territory now known as the Principality of Liechtenstein, for a long time after the princes of Liechtenstein acquired it in 1699⁵, was a small and unimportant outpost in the possessions of the family, which – under Austro-Hungarian Empire and until the occupation of Czechoslovakia by Nazi-Germany in 1938 and the so-called Benes-decrees of 1946 – lay predominantly in Bohemia and Vienna. After the Anschluss of Austria by Hitler, the then reigning Prince – father of the present Prince – however moved to Vaduz and became an active head of state, defending its neutrality and sovereignty and instigating important changes. In 1938 the country had no more than 11000 inhabitants and a lack-lustre economy, it now has more than 33 000 inhabitants and a booming economic situation, which is generally attributed to the role played by the father of the present Prince.

³ This statement is reproduced in Doc. 9667, dated 22 January 2003.

⁴ The programme of the visit appears in Appendix 1.

⁵ Originally, the lordships of Schellenberg and Vaduz were purchased, respectively in 1699 and 1712, by Prince Johann Adam von Liechtenstein, enabling his princely family of Austrian origin to become a (*Reichsfürst*) and sit as the 343rd member on the Council of the Holy Roman Empire, with the right to vote.

15. The Princely house also has a high personal stake in the economy of the country. This explains, at least partly, the strong influence the Prince can exert, even outside the prerogatives that the Constitution of 1921 gives him. It must also be noted that the feeling of national identity in Liechtenstein is strongly linked to the presence of the Princely family. Given the size of the country, its only distinctive feature compared with its immediate neighbours, Austria and Switzerland, is the existence of a hereditary monarchy.

16. Since 1992 there have been negotiations between the Princely House, successive governments of different political persuasion and Parliament with a view to amending the 1921 Constitution. Numerous expert opinions were sought and two constitutional reform committees were set up by Parliament. The rapporteurs were given detailed information as to the history of the constitutional debate, which appears to have divided the country for years.

17. In 2001 the Progressive Peoples' party (Fortschrittliche Bürgerpartei) won the elections and the present government is now led by Mr Otmar Hasler. This government conferred again with the head of state as to possible amendments, but it seemed that sufficient consensus could not be reached between the Prince, the government party and the main opposition party, the Patriotic Union (Vaterländische Union)⁶. This became clear when the Constitutional reform Committee which had been set up by the Landtag was unable to decide unanimously on the text of the constitutional amendments to be submitted to Parliament. As a consequence the constitutional changes were unlikely to be adopted by parliament, since they would have required either a unanimous vote or a three/ quarters majority in favour at two successive readings. In August 2002 the head of state chose not to wait any longer for decisions to be taken by parliament and decided to launch a popular initiative himself, together with the Hereditary Prince. They easily collected the 1500 signatures that were necessary to start a referendum.

18. In a constitutional monarchy of the type now known in the rest of Europe (such as the United Kingdom, the Netherlands, Belgium, Sweden, Denmark or Spain) such a political initiative, taken by the monarch, is unheard of. The monarch can only take such decisions as are counter-signed by ministers who are responsible to parliament. The Prince is, however, of the opinion that he is not only head of state but also citizen of Liechtenstein. Thus he has the right, he claims, that all citizens have in his country, i.e. to put a proposal to change the constitution directly before the people by way of a People's Initiative (PI). The decision on such a PI is taken by referendum and is binding.

19. In itself the existence of such a possibility, practically unique among member states of the Council of Europe, is evidence of the strong adhesion of the people of Liechtenstein to principles of democracy. What strikes the rapporteurs as incongruous is the use of this form of direct democracy by a head of state himself, who is hardly to be seen as an ordinary citizen⁷ – and even doing so without any minister being responsible for such an act. Use of PI's or referendums by the government itself to gain the acquiescence of the people, over the head of parliament, is generally regarded as a not acceptable populist plebiscite. As such the initiative of the Prince cannot be regarded as a normal political activity within a constitutional monarchy, even if he did so with the understandable aim to break a political stalemate and to end a constitutional debate which had been going on without result for over 10 years.

20. In a parliamentary democracy, which Liechtenstein claims to be, it is not the task of a constitutional monarch to do this, but that of parliament. To correct parliament the citizens, not the head of state, can make use of democratic instruments like popular initiative and referendum. It is surprising that the government was not able to deter the Prince from taking this initiative. It is even more surprising that it gave the impression to the citizens that it supported it.

21. The special role of the Prince in this matter was aggravated by the fact that the head of state put strong pressure on the voters to agree with his proposals, thus transforming the vote on the issue of constitutional amendments into a vote for or against the monarchy. He did this by openly saying that

⁶ The third party represented in Parliament is the Free list (Freie Liste).

⁷ The fact that the Prince's popular initiative was also signed by Hereditary Prince Alois does not change this conclusion because, although he may more justifiably claim to be an ordinary citizen than the acting Head of State, his special position as the heir to the "throne" should also have excluded him from launching a PI to introduce changes in the Constitution that would benefit his future position.

the voters had a choice between accepting the proposals, with the consequence that he would stay in Vaduz, and rejecting them, in which case he would move to Vienna.

22. This position was buttressed by a leaflet sent to all voters by the Prince and his son (see Appendix 2), featuring on the one side a picture of four generations of the Princely family and on the other side a copy of the ballot-paper with the “yes” to the princely initiative clearly printed in. The accompanying text, signed by both the Prince and his son, stated: “In order to enable the princely family to continue living in the country also in the future and defend the interests of the Principality, we ask you to go on trusting us and to support our initiative for the vote on 14/16 March with a “yes”.

23. Both the Prince and his son also stated publicly that the Princely House could under no circumstances accept the constitutional amendments proposed by the authors of the other popular initiative, the “Citizens’ Initiative for constitutional peace” and that, should this initiative gain the necessary majority in the popular vote, the Prince would refuse to sanction it.

24. In the newspapers an advertisement was printed showing a photograph of the castle on the hill above Vaduz, meaning a “yes” vote, and a photo next to it on which the hill was depicted without the castle, the consequence of a “no” vote. Formally, of course, this campaign was not instituted by the Prince but by a “Citizens Movement for a Dual Liechtenstein” (the word “dual” is meant to express that sovereignty in Liechtenstein is invested both in the people and in the Prince, separately, see below). The rapporteurs think that these examples suffice to illustrate the highly emotional climate of the campaign.

25. Thus the Prince has played a preponderant role in the matter – in his capacity as a private citizen – by putting forward the proposals, thus going over the head of parliament and the responsible government. Also he has used his influence – which in a small community is much larger than in other constitutional monarchies – to put the pressure on the voters to vote “yes”. The threat of otherwise leaving Vaduz would seem to be excessive, as the Prince knows that many people regard the present affluence to be the consequence of the Prince’s stabilising role in the community. Thus the Prince plays – be it with the best intentions for his country – a role in political decision making in his country that behoves not a constitutional monarch in a parliamentary democracy.

26. The situation described above, in which the Prince actively asserts himself in a political role, and is allowed to do so by an acquiescent government and parliamentary majority, is in itself –whatever the acceptance of such a situation has been in the past – not acceptable from the point of view of a democratic state under the rule of law. The rapporteurs understand that the stabilising role of the princely house in a community as small as Liechtenstein must not be underestimated. Hence the big influence that the announcement had that the Princely family might leave the country.

27. But there is a big difference between an actively stabilising role, and one in which the Prince actively takes part on the political scene. This clearly oversteps by a large margin the sensitive dividing line between the role of the constitutional monarch and that of the government, in a parliamentary democracy, that is responsible to parliament and people.

28. Proponents of this strong role of the Prince base themselves on the theory that the Liechtenstein Constitution allows for two separate sovereignties, that of the reigning Prince and that of the people. The Constitution of 1921, these proponents argue, envisages a system of checks and balances within this system of dual sovereignty. Whatever may be the merits of this argument on the basis of the 1921 Constitution, in a parliamentary democracy under the rule of law it cannot be acceptable, so the rapporteurs find, that the Prince should wield political power on the basis of this system without being responsible to parliament or to the people. If the role of the Prince described in the above paragraphs is based on this theory – and the Prince himself claims this personal sovereignty – then this theory is surely incompatible with basic values the Council of Europe stands for.

ii. Compatibility of the 1921 constitution with Council of Europe standards

29. This brings us to the first question noted in § 12, whether the 1921 Constitution was and is⁸ compatible with Liechtenstein’s obligations as member of the Council of Europe.

⁸ The constitutional changes were adopted during the referendum of 14/16 March 2003 and entered into force on 14 August 2003, after having been sanctioned by the Prince.

The government claims that there can be no doubt about this matter, as Liechtenstein was accepted as member of the Council of Europe in 1978 on the basis of this constitution, even though at that time it precluded women from exercising the right to vote. The rapporteurs cannot agree with this proposition. Since 1978, indeed since 1949, our system of values has evolved. Situations existing at the moment of accession could be acceptable then (1949, Turkey - 1978, Liechtenstein), but not acceptable now. Voting rights for women and the present role of the military in Turkey are cases in point. Moreover, it could be argued that in 1978, when Liechtenstein became a member of the Council of Europe, the 1921 constitution gave no particular cause for concern because it was assumed that, as in many other constitutional monarchies, the monarch's prerogatives existed only on paper and that the constitutional practice was in conformity with the standards of the Councils of Europe. The discussion on the new constitution, the way the election campaign was conducted and the text of the new constitution adopted by referendum on 16 March clearly show that this was not the case⁹.

30. It is therefore perfectly valid to analyse both the 1921 and the new constitution so as to examine the role of the Prince. If the theory of dual sovereignty is indeed entrenched in art. 2 of the 1921 Constitution, then this would be an example of non-conformity of the 1921 Constitution with Liechtenstein's obligations towards the Council of Europe, because of the use of political prerogatives without being accountable to parliament or to the people.

31. Clearly the 1921 constitution offered some more problems, such as:

- art. 3 and 13 bis: the succession to the throne and the regency is not governed by the constitution but by the so-called "Law on the Princely House" (Hausgesetz), which is not a law but an internal agreement within the princely family (consisting of some hundred members scattered across many countries) but published in the official gazette in which the real laws are promulgated (Liechtensteinisches Landesgesetzblatt).

- art. 9: Every law shall require the sanction of the Prince: rapporteurs were assured that this is not just a formal prerogative, but that the Prince can refuse to give his sanction for political reasons, although this will seldom happen, because the Prince can use his influence preventively.

- art. 11: The Prince appoints all State officials. Again, was this a formal right, to be exercised exclusively on the basis of decisions of the responsible minister there would be no problem. But the present Prince does not hesitate to take personal decisions. In the case of Wille v. Liechtenstein, decided by the ECHR on 28 October 1999, it became clear that he had declared that he would not again appoint Dr. Wille, a sitting judge, if such a proposal from parliament would reach him.

- art. 64: As regards the right to initiate legislation: art. 64 gives this right to the Prince, together with the Government, to Parliament and to citizens. Citizens can do so by petition, signed by 1000 citizens, 1500 if it concerns the Constitution. Clearly the present Prince regards himself as an ordinary citizen to whom this right of petition for a popular initiative is given, so that he can collect the 1500 signatures (i.e. just above 5% of the electorate) and start the procedure to change the Constitution. This position becomes even more curious with the constitutional amendment of art. 111, now art. 112 of the new Constitution adopted on 16 March 2003, which provides that constitutional changes, including binding interpretation of the Constitution, require the Prince's assent to enter into force. So the Prince comes in twice: as an ordinary citizen who can initiate a popular initiative to change the Constitution and as the head of State whose signature is required for the new Constitution to enter into force.

32. As it is not the mandate of the rapporteurs to examine the existing text of the 1921 constitution, unless there is a relation to amendments contained in the people's initiative, they go no further than cite these examples. They, of course, do already give the general picture of a non-elected head of state playing an active political role without accountability.

⁹ It should also be noted that Liechtenstein ratified the European Convention on Human Rights in 1982, i.e. after its accession in 1978, accepting the right of individual petition and the mandatory jurisdiction of the Court. Protocol No 1, Article 3 of which sets out the right to free elections by secret ballot, under conditions which ensure the free expression of the opinion of people in the choice of the legislature, was not ratified until 1995.

iii. Compatibility of the Prince's constitutional amendments with Council of Europe standards

33. The Venice Commission was asked to comment on the text of the amendments put forward in the popular initiative instigated by the Prince¹⁰. The three rapporteurs appointed by the Venice Commission were all three jurists from constitutional monarchies (Belgium, Denmark and the Netherlands), just as the two authors of this report come from monarchies (the United Kingdom and the Netherlands). Thus the expertise on the functioning of constitutional monarchies with a system of parliamentary democracy is and was fully present.

34. The rapporteurs were shocked to learn that the Prince had declared on 8 February 2003, in an interview with the *Liechtensteiner Vaterland*, one of the country's two daily newspapers, that the opinion of the Venice Commission was a "political pamphlet", that it was superficial and full of mistakes and that the jurists who drafted it had failed to really look into the situation in Liechtenstein. The rapporteurs would have preferred that the Prince had taken the report of the Venice Commission seriously, and had tried to rebut the arguments put forward in it. During their discussions in Vaduz the rapporteurs received the impression that those who had this opinion meant that the Venice Commission had not taken due notice of the theory of dual sovereignty (of the Prince and of the people) which they claim exists. As this claim in itself controverts the idea of a constitutional and parliamentary democracy as the Venice Commission sees it, this can hardly be an argument against its findings, as summarised below.

35. The rapporteurs were also surprised by a public pronouncement by Hereditary Prince Alois, the son of the Prince. He had suggested that the motive of those in the Assembly who wanted an enquiry into the situation round the People's Initiative instigated by the Princely House were motivated by their antagonism against any form of direct democracy, of which popular initiatives and referendum are examples. During their discussion with the Prince and his son the rapporteurs made it clear that this allegation is totally unfounded and that they took exception to it. On the contrary, Liechtenstein must be commended for its very extensive form of direct democracy.

36. The Venice Commission commented on the following proposals for amendment of the Liechtenstein Constitution (the Opinion of 18 December 2002 and the text of the Constitution of 1921 with the suggested amendments appear in Doc. 9661 and Addendum):

- art. 80: dismissal of the government by the Prince
- art.65.1: the sanctioning of laws by the Prince
- art.7: the immunity of the Prince
- art.112: abolishment of the possibility for the state court to interpret the Constitution
- art.63.1: parliamentary control does not extend to functions assigned to the Prince
- art. 96 et seq.: appointment of judges
- art.10: emergency decrees
- art.3: the Law on the Princely House
- art.13ter: popular Initiative for a motion of no confidence in the Prince
- art.113: popular initiative to abolish the monarchy

37. In its conclusions the Venice Commission states unequivocally that the amendments "would prevent the further development of constitutional practice in Liechtenstein towards a fully fledged constitutional monarchy as in other European countries". Not only that but "it would even constitute a serious step backward".

38. During their visit, the rapporteurs have listened carefully to the arguments put forward by the authorities in favour of these constitutional amendments, which can be summarized as follows: the new constitution does not significantly alter the prerogatives that the Prince already enjoyed under the 1921 constitution, which was accepted by the Council of Europe. On the contrary, on some points, it significantly reduces his powers (such as the suppression of the absolute veto right with regard to the appointment of judges, the suppression of his right to appoint all civil servants, the clearer definition of

¹⁰ The Venice Commission did not comment on the proposal submitted by the "Citizens's Initiative for constitutional peace", because it considered that it did not raise any problems as to its compatibility with Council of Europe standards (see § 3 of the Opinion).

his powers as regard the emergency rule and a clear time-limit to sanction laws adopted by parliament).

39. Furthermore the Prince's powers would be counterbalanced by the further and unprecedented direct democracy in Liechtenstein: the people now have the possibility of launching a popular initiative for a motion of no-confidence in the Prince and they can even start one to abolish the monarchy, if they so wish. It was also pointed out that, even if it is unique in Europe, the Liechtenstein people clearly adhered to the principle of dual sovereignty and that they wanted the Prince to continue exercising these powers, as was shown by the overwhelming majority with which the Prince's constitutional amendments were adopted in the March referendum. Finally, the rapporteurs were asked to take due account of the extremely small size of the country, where everybody knows each other and where an impartial arbitrator such as the Prince is very much needed to achieve or impose the necessary political consensus on issues important for the country.

40. Notwithstanding the above, the rapporteurs have found no evidence during their visit to Liechtenstein that could seriously contradict the opinion of the Venice Commission. What they have found is a hereditary head of state exercising political powers without accountability. Some of the amendments clearly even strengthen his present position under the 1921 Constitution.

41. The rapporteurs do not wish to repeat the analysis made by the Venice Commission on all the ten points. They would like to stress those elements in which the Prince can take political positions, which cannot, or only under difficult conditions, be corrected by parliament or the people:

a) Art.80: the right of the Prince to dismiss the government if it loses his confidence. By what right, the rapporteurs ask, can someone in a non-elected office dismiss ministers who have not lost the confidence of the elected representatives of the people?

b) Similarly, art.65 §1, by what right can he block decisions made by parliament by refusing to sanction a law?

c) art. 7: since 1848 the Netherlands constitution says: "The King is inviolable; the ministers are responsible": in the new text of art. 7 the Prince is declared inviolable without the concomitant rule that the ministers are responsible for everything the monarch does in a public capacity. Everything.

d) art.96: appointment of judges: here the Prince takes part as president with a casting vote in a commission to put forward candidatures for judicial appointment by Parliament. Half the commission is also appointed by him personally, and even then he can block recommendations he does not like. Considering what happened in the Wille case, the Prince is quite able to push through very personal opinions. Although in a small community like Liechtenstein it is understandable that extra measures are taken to see to it that independent candidates are selected, the rapporteurs cannot see why this should be done by giving the head of state such prerogatives.

42. Although the rapporteurs risk also being reproached that they have not taken the trouble to really take note of what is going on in Liechtenstein, they are – after listening carefully to all the arguments put forward during their visit to Vaduz - of the opinion that the conclusions which the Venice Commission reached are generally an equitable synopsis of the amendments as were put forward during the vote on the popular initiative in March. Comparison with other constitutional monarchies makes it quite clear that the position of the Prince is unique, especially because the basic doctrine of ministerial responsibility for all the actions of the head of state does not fully apply in Liechtenstein.

III. Conclusions

43. The Prince was quoted on the eve of the vote as saying: "If the Council of Europe does not accept the content of the Prince's initiative, then Liechtenstein will have to decide between the Princely House and Council of Europe" (Liechtensteiner Vaterland, 14 March 2003). On 9 August 2003, after the visit of the rapporteurs, he stated, again in the Liechtensteiner Vaterland, that membership in the Council of Europe was costing Liechtenstein only time and money¹¹ and that, should the Council of Europe require a change in the new constitution adopted by referendum in March, this would represent a golden opportunity to leave the organisation.

¹¹ In 2003, the contribution of Liechtenstein to the Council of Europe general budget totals 94 834 €, i.e. 0,0529 %.

44. As this report suggests, the Council of Europe cannot accept the result of the popular vote in Liechtenstein that took place on 16 March 2003 because it strengthened the political position of the non-elected head of state of that country.

45. The rapporteurs understand the special position of the Princely House in Liechtenstein, especially since 1938, when the Prince took up active residence in Vaduz. They also understand that in a very small community, which wishes to assert itself as a sovereign state, the role of the hereditary monarch is stronger than, say, in the United Kingdom or in the Netherlands. At the same time they would stress that such a basic democratic achievement as that of responsible government and accountability to parliament for all government actions, that such a basic rule cannot lightly be put aside.

46. Since 1978, Liechtenstein is part of the great European family. This implies adherence to the common European values and standards enshrined in the organisation's statute and in the numerous conventions adopted within the framework of the Council of Europe. Many other countries could claim, as Liechtenstein does, that their system is unique and cannot be compared with those existing in other member States. This however does not dispense Liechtenstein or any other country from abiding by fundamental European principles.

47. The Rapporteurs therefore recommend to the Bureau that a monitoring procedure be opened as regards Liechtenstein according to the procedure prescribed in Resolution 1115 (1997). This procedure should aim at re-examining, in co-operation with the national authorities, the decisions taken during the vote on the People's Initiative in March 2003 in the light of this report, of the Venice Commission's opinion, and of constitutional practice in existing constitutional monarchies in Europe, with a view to ensuring that the constitutional practice in Liechtenstein is in conformity with the general principle that no government action can be taken without accountability to parliament or to the people.

Appendix 1

Programme of the visit to Liechtenstein by the co-rapporteurs (2-4 July 2003)

Co-rapporteurs: Mr M. Hancock, United Kingdom, LDR
Mr E. Jurgens, Netherlands, SOC

Secretariat: Mrs Caroline Ravaud, Head of the Monitoring Committee Secretariat

Wednesday, 2 July 2003

Evening Arrival
Check-in at Hotel Schlosswald, Triesen

Private dinner

Thursday, 3 July 2003

8.30 – 9.30 Discussion with the Demokratie-Sekretariat

9.45 – 10.45 Discussion with the Liechtenstein-Institut

11.00 – 12.00 Discussion with the constitutional group “Dual Liechtenstein”

12.15 – 13.45 Lunch (offered by the Secretariat at the Landtag
Hotel Schatzmann, Triesen)

14.00 – 15.00 Discussion with the President of the Constitutional Court, Mr Harry Gstöhl

15.15 – 18.45 Discussion with representatives of the three political parties
(one hour each)
-Free List
-Progressive Citizens’ Party
-Patriotic Union

19.00 – 20.00 Discussion with the Government, represented by Prime Minister
Otmar Hasler and Foreign Minister Ernst Walch

23.30 Dinner at the invitation of the Liechtenstein Delegation to the Parliamentary
Assembly of the Council of Europe
Gasthof Löwen, Vaduz

Friday, 4 July 2003

9.00 – 10.30 Discussion with H.S.H. Prince Hans-Adam II of Liechtenstein and with the
Crown Prince (Castle of Vaduz)

11.00 – 12.00 Discussion with the former Constitutional Commission of the Parliament

12.15 – 13.45 Lunch (offered by the Government of the Principality of Liechtenstein)
Restaurant Torkel, Vaduz

Departure

Appendix 2

Leaflet sent to voters by the Prince





Ämtlicher Stimmzettel

Volksabstimmung

vom Freitag, 14. März und Sonntag, 16. März 2003
über zwei Initiativbegehren zur Abänderung der Landesverfassung

Frage	Antwort (bitte ankreuzen)	Falls Ihr mehr als einem Vorschlag zustimmt, wel- chem dieser Vorschläge gebt Ihr den Vorzug? (bitte ankreuzen)
Wollt Ihr den Entwurf von S.D. Fürst Hans Adam II. von Liechtenstein und S.D. Erbprinz Alois von Liechtenstein zur Abänderung der Landesverfassung annehmen?	<input checked="" type="checkbox"/> Ja <input type="checkbox"/> Nein	<input type="checkbox"/>
Wollt Ihr den Entwurf des Initiativkomitees „Verfassungsfrieden“ zur Abänderung der Landesverfassung annehmen?	<input type="checkbox"/> Ja <input checked="" type="checkbox"/> Nein	<input type="checkbox"/>
Nichtamtliche Stimmzettel und Stimmzettel, die Anmerkungen ehrverletzenden Inhalts oder Beeingfügung, Botschaften oder Auflagen enthalten, sind ungültig.		

Liebe Liechtensteinerinnen, liebe Liechtensteiner

Damit die fürstliche Familie auch in Zukunft hier im Land leben und sich für das Fürstentum Liechtenstein einsetzen kann, bitten wir Sie, uns weiterhin Ihr Vertrauen zu schenken und uns bei der Abstimmung am 14./16. März 2003 mit einem «Ja» zu unterstützen.

Für Ihr Vertrauen und Ihre Unterstützung möchten wir uns schon jetzt recht herzlich bedanken.

Ihr

Alois Erbprinz von Liechtenstein

Hans-Adam II. Fürst von Liechtenstein