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THE RIGHT TO VOTE AND THE QUEST FOR THE OPTIMAL ELECTORAL SYSTEM IN LIECHTENSTEIN

Summary: I. Introduction. – II. The Requirements for Exercising the Right to Vote and Stand for Election. – III. The System of Proportional Representation in Liechtenstein. – IV. Concluding Remarks.

PER ESIGENZE DI IMPAGINAZIONE ELIMINATO IL CAPOVERSO. È POSSIBILE?

I. *Introduction*

This article deals with the legal basis for the election of the Liechtenstein Parliament (the *Landtag*), the right to vote being an issue that requires regulation in every state, not just microstates. The article seeks to explain the applicable law, highlighting important developments in the provisions governing who is eligible to vote and how the electoral system is structured in Liechtenstein. Wherever appropriate, I will ask whether the nature of the regulation could be related to the fact that Liechtenstein is a very small country, and will make comparative remarks on other small states in relevant instances. At the time of its creation by the Constitution of 1862 (the *Konstitutionelle Verfassung* or "KonV"),[1] Liechtenstein's Parliament had 15 members,[2] rising to 25 following the 1989 election.[3] The number of inhabitants[4] and eligible voters[5] in Liechten-

[1] Konstitutionelle Verfassung vom 26. September 1862, *www.e-archiv.li/D42357*.

[2] § 55 KonV and Art. 46 para. 1 LV.

[3] Art. 46 para. 1 LV in the version published in the State Law Gazette or *Liechtensteinisches Landesgesetzblatt* (hereinafter: "LGBl") 1988 No. 11. No reference is made to the so-called "alternate" (i.e., deputy) MPs, who may only attend parliamentary sessions if one of the 25 regular MPs is unavailable. See Art. 46 para. 2 and Art. 49 para. 4 LV and the ruling of the Constitutional Court on StGH 2023/024. For all StGH rulings mentioned herein, see *https://www.gerichtsentscheide.li*.

[4] The population figures determined in the censuses of 1861, 1921, and 1970 were: 7,394, 8,841, and 21,350, respectively. See P. Vogt, *Bevölkerung*, 31 December 2011, in Historisches Lexikon des Fürstentums Liechtenstein online (eHLFL), *https://historisches-lexikon.li/Bevölkerung*.

[5] Vote on 3 February 1985 (the first time women were allowed to participate):

stein has also risen steadily. As of 30 June 2025, the permanent resident population was 41,024, of which 35.2 per cent were foreigners.[6] A total of 21,183 eligible voters were called to the parliamentary elections of 9 February 2025.[7]

Liechtenstein has never had a second chamber.[8] This is not only because of the small size of the country but also because there have never been any minorities, and it has never been a federalist state.

The Parliament elects the Prime Minister and four other ministers, and the Head of State – the Reigning Prince – formally appoints them.[9] The collegial government and its individual members need the confidence of Parliament and the Head of State throughout the entire legislative period.[10] As Liechtenstein is a hereditary monarchy, its Head of State is not elected.[11]

The 1862 Constitution was repealed with the adoption of the 1921 Constitution (*Verfassung* or "LV").[12] The latter has undergone many changes over the years but is still in force today. It granted the people of Liechtenstein direct democratic rights, in a newly designed political system that resembled the Swiss model.[13] Among its features, it recognises Liechtenstein citizens' right to submit propo-

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12,272 eligible voters; 2005 parliamentary elections: 17,428 eligible voters; 2025 parliamentary elections: 21,183 eligible voters.

[6] *https://www.statistikportal.li/de/themen/bevoelkerung/bevoelkerungsstand*.

[7] *https://www.landtagswahlen.li/resultat/16*. For the political results of the 2025 election, see W. Marxer, Historical Shift of Power in Liechtenstein, 10 February 2025, *https://whogoverns.eu/parliamentary-elections-in-liechtenstein/*.

[8] Outside Europe, bicameral systems are also found in small states. See D. Anckar, Bicameralism, Small States Style, *Small States & Territories*, 1(1) (2018), 55-68.

[9] Art. 79 para. 2 LV.

[10] Art. 80 LV.

[11] See, in particular, Arts. 2 and 3 LV. Art. 2 LV reads: "The Principality is a constitutional, hereditary monarchy on a democratic and parliamentary basis …".

[12] Verfassung des Fürstentums Liechtenstein vom 5. Oktober 1921, LGBl, 1921 No. 15 LR 101. The version published in 1921 is available at *https://www.gesetze.li/chrono/1921015*. The current version is available at *https://www.gesetze.li/konso/1921015*. For a translation, see *https://www.regierung.li/files/attachments/101-05-02-2021-en.pdf*.

[13] See, in particular, Arts. 64 and 66 LV. Art. 66bis LV was only added in LGBl, 1992 No. 27. The Constitution also delineates further political rights. See the list in P. M. Schiess Rütimann, Art. 29 LV, 15 December 2015, in Liechtenstein-Institut (ed.), *Online-Kommentar zur liechtensteinischen Verfassung*, *https://verfassung.li/Art._29*, no. 45 and 46; and B. Ehrenzeller & R. Brägger, *Politische Rechte*, in A. Kley & K.A. Vallender (eds.) *Grundrechtspraxis in Liechtenstein*, LPS (*Liechtenstein Politische Schriften*) 52, Schaan, 2012, pp. 637-685, nos. 62-72.

sals for legislative and constitutional amendments by means of popular initiatives.[14] Furthermore, decisions by Parliament concerning the Constitution, a law, an international treaty, or major expenditure can be rejected by voters, provided that a sufficient number of voters or municipalities request a referendum or the Parliament voluntarily submits its decision to a public referendum on its own initiative.[15] It usually opts for this step if it considers the issue to be important and wishes to obtain the confirmation of the electorate or if there is no consensus within Parliament and it is clear that a referendum would be demanded.

III. *The Requirements for Exercising the Right to Vote and Stand for Election*

This part will address two aspects of the regulation of active and passive voting rights that are arguably required for this microstate with trade relations all over the world, many commuters who work there, and locals who regularly visit the two neighbouring countries for shopping and leisure purposes. Given these characteristics, it is not uncommon for Liechtensteiners to meet future lifepartners who come from across the border and then, upon marriage, decide to move there. The two aspects addressed here are: the question of whether Liechtenstein citizens living abroad should be allowed to vote (Section II.A);[16] and the denial of political rights for foreigners (Section II.B).

In the original version of the 1921 Constitution, only Art. 29 was concerned with the regulation of access to elections and referenda,[17] and read as follows: "Every Liechtenstein citizen shall be

[14] Art. 64 LV.

[15] Arts. 66 and 66-*bis* LV.

[16] Political scientist Kerryn Baker explained: "Many small states, by virtue of their size and enduring ties to metropolitan states that generate migration pathways, have large populations of citizens who ordinarily reside outside their borders. […] Small state governments have grappled with the issue of voting rights for temporary and permanent migrants, with diverse approaches." K. Baker, Small States and Large Questions: Elections and Political Participation, *Small States & Territories*, 8(1) (2025), 82-85.

[17] In its opinion of 13 July 1970 (ELG 1967, 254), the Constitutional Court stated that, with regard to the right to vote and stand for election, the Constitution itself contained no provisions.

entitled to civil rights in accordance with the provisions of this Constitution."[18] It was not until the introduction of women's suffrage in 1984 that a more precise definition of who is entitled to political rights was included in Art. 29 para. 2.[19] The fact that the number of eligible voters has also grown over the years is not only because the country now has a much larger population but also because the requirements have been relaxed;[20] the voting age, for instance, was gradually lowered (from 24 in 1862[21] to 18 today[22]). Unequal voting (census suffrage) was abolished in 1918.[23] However, those who were dependent on social welfare or had been declared bankrupt were still excluded from voting in the 1922 Act on the Exercise of Political Rights.[24] Liechtenstein saw the largest increase in the number of eligible voters in a 1984 referendum,[25] when men finally granted women suffrage.[26]

A. *No Voting Rights for Liechtenstein Citizens Residing Abroad*

1. *Rejection of a detailed proposal in 2016*

Art. 1 para. 1 of the 1973 Political Rights Act (*Volksrechtegesetz* "VRG")[27] states: "In national matters, all nationals who have

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[18] Art. 29 LV in the version published in LGBl, 1921 No. 15 was worded just as Art. 29 para. 1 LV is today.

[19] LGBl, 1984 No. 27. See below fn. 29.

[20] On the relationship between the resident population and those eligible to vote, see W. Marxer, *Volk und Volksrechte*, in W. Marxer, T. Milic, & P. Rochat (eds.), *Das politische System Liechtensteins. Handbuch für Wissenschaft und Praxis*. Schriftenreihe des Liechtenstein-Instituts Band 1, Baden-Baden, 2024, pp. 235-259 and especially pp. 253-254.

[21] § 57 KonV.

[22] Art. 29 para. 2 LV. The lowering to 18 years was effected by LGBl, 2000 No. 55.

[23] Amendment to § 57 KonV by LGBl, 1918 No. 4.

[24] Art. 2 para. 3 lit. B and C Gesetz vom 31. August 1922 betreffend die Ausübung der politischen Volksrechte in Landesangelegenheiten, LGBl, 1922 No. 28, *https://www.gesetze.li/chrono/1922028*.

[25] See the voting results in LGBl, 1984 No. 27.

[26] See, in particular, C.K. Lanter, *Aufgewacht! Der dornige Weg zum Frauenwahlrecht in Liechtenstein*, Schaan, 2022; and B. Ospelt, *Das Frauenwahlrecht in Liechtenstein und in der Schweiz*, in G. Baur, C. Frommelt, & F. Frommelt (eds.), *Die Beziehungen Liechtenstein - Schweiz*, LPS 64, Gamprin-Bendern, 2024, pp. 217-249.

[27] Gesetz vom 17. Juli 1973 über die Ausübung der politischen Volksrechte in Landesangelegenheiten (Volksrechtegesetz, VRG), LGBl, 1973 No. 50 LR 161. The

reached the age of 18 and have been ordinarily resident in the country for one month prior to the election or vote are eligible to vote and stand for election."[28] This distinguishes Liechtenstein from its immediate neighbours Switzerland and Austria, but also from other countries such as Germany and Italy, which also allow citizens residing abroad to vote in elections.

Art. 1 para. 1 Political Rights Act is based on Art. 29 para. 2 of the Constitution,[29] which reserves political rights exclusively for citizens with normal residence in the country. Any amendment to the relevant provision of the Political Rights Act therefore requires a constitutional amendment. On the question of voting rights, the government submitted a constitutional amendment to Parliament and an amendment to the 1973 Political Rights Act in its report of 29 September 2015 (*Bericht und Antrag* [BuA] No. 110/2015). The arguments for and against extending voting rights to Liechtensteiners living abroad had already been presented previously.[30] The government did not want to grant political rights to *all* Liechtensteiners living abroad but only to those who could potentially be affected[31] by political decisions in the country. So its first move was to make the assumption (with no empirical basis) that those citizens who could reasonably be expected to return to Liechtenstein to live could be treated as "potentially concerned." In a next step, it then determined that citizens who had previously lived in Liechtenstein for some time and had left the country not too long ago were likely

version published in 1973 is available at *https://www.gesetze.li/chrono/1973050*. The current version is available at *https://www.gesetze.li/konso/1973050*.

[28] Translated using DeepL.

[29] Art. 29 para. 2 LV reads: "All Liechtenstein citizens who have completed their 18th year, have their normal residence in Liechtenstein, and whose right to vote has not been suspended shall be entitled to all political rights in national matters". See also StGH 2023/024 Consideration 2.2 on the significance of Art. 29 LV.

[30] See the overview of previous initiatives and discussions in W. Marxer & S. Sele, *Auslandswahlrecht - Pro und Contra sowie Einstellungen liechtensteinischer Staatsangehöriger im Ausland*, Arbeitspapiere Liechtenstein-Institut Nr. 38, Bendern, 2012, *http://dx.doi.org/10.13091/li-ap-38*, pp. 17-28. See also the arguments compiled in BuA No. 110/2015, p. 16 et seq., and BuA No. 103/2013, p. 39 et seq. ECHR Hilbe v. Liechtenstein, No. 31981/96, inadmissibility decision of 7 September 1999, which did not address a complaint against Liechtenstein of a Liechtensteiner living in Switzerland who was not entered in the electoral register in Schaan.

[31] The government called it a "potential concern" ("*potenzielle Betroffenheit*") of those citizens living abroad.

to return to the country.[32] According to the proposed amendment, then, only citizens who had previously lived there for at least five years would have been granted the right to vote, but not the right to stand for election.[33] The right to vote would have been granted for ten years, with a one-time option to extend for 5 years after emigrating.[34] Despite these restrictions, the bill did not receive the parliamentary support required for a constitutional amendment.[35]

The government's comments on the special circumstances of Liechtenstein are interesting. It argued that the small size of the country justified granting voting rights to citizens living abroad because, it wrote, such a small state has a vested interest in enabling these citizens to maintain their civic ties.[36] Maintaining a "reservoir" of people with Liechtenstein citizenship who are loyal to the country and often only reside abroad temporarily would be, in the eyes of the government, a wise measure, especially for a very small state.[37] However, the government argued against granting voting rights too generously, on the grounds that the exact number of Liechtensteiners living abroad was unknown in 2015 – and remains so today.[38] Based on a study by the Liechtenstein Institute in 2012,[39] the government estimated that there were more than 8,000 citizens of legal age living abroad, compared to around 19,000 eligible voters residing in Liechtenstein at the time.[40] However, if the right to vote from abroad were restricted to ten years (and upon extension for a further five years) for those citizens who had previously been resident in Liechtenstein, the government estimated that there would be "only" 1,400 eligible voters[41] (that is, slightly less than 7 per cent of all eligible voters and slightly less than the combined

[32] BuA No. 110/2015, p. 32.

[33] See the proposal for Art. 29 para. 3 LV and for Art. 1a para. 1 VRG (BuA No. 110/2015, pp. 51 and 53). On the subject of passive suffrage, the government merely stated (p. 31) that no one had advocated for this right.

[34] See the proposal for Art. 1a para. 2 VRG (BuA No. 110/2015, p. 54).

[35] Art. 112 para. 2 LV. Landtags-Protokolle 2016, p. 893 (session of 12 May 2016).

[36] BuA No. 110/2015, p. 10.

[37] BuA No. 110/2015, p. 22.

[38] BuA No. 110/2015, p. 29.

[39] Marxer & Sele, *Auslandswahlrecht - Pro und Contra sowie Einstellungen liechtensteinischer Staatsangehöriger im Ausland*, cit. above fn. 30, pp. 15-17.

[40] BuA No. 110/2015, p. 29.

[41] BuA No. 110/2015, p. 35.

population of Planken and Schellenberg, the two smallest municipalities of the country).[42]

2. *Exception for temporary residence abroad*

Although Liechtenstein citizens who choose to live abroad generally forfeit their right to vote, the law makes some specific concessions related to the special circumstances of a small state.

There are few opportunities for vocational training in Liechtenstein, due to a lack of appropriate apprenticeships and Universities of Applied Sciences. The University of Liechtenstein in Vaduz offers only Bachelor's and Master's programmes in architecture and business administration. For this reason, many young Liechtensteiners opt to study abroad. The majority of these students retain their residence officially with their parents in term-time as they often spend their weekends in the country. They therefore continue to be eligible to vote in Liechtenstein on the basis of Art. 1 para. 1 Political Rights Act, which refers to the normal place of residence. Since 1958, the law has contained an explicit provision – today, in Art. 1 para. 2 Political Rights Act[43] – granting suffrage to these young people and to all citizens who are temporarily abroad for professional reasons, if doubts arise about their place of residence.[44] This goes back to a provision from the 1922 Act on the Exercise of Political Rights,[45] which stated: "In particular, persons who work or reside abroad for most of the year as alpine farmhands, plasterers, bricklayers, etc., but who have relatives here or otherwise have the recognisable intention of returning, retain their local voting rights […]."[46] Until the Second World War, many Liechtensteiners had no choice but to seek seasonal employment abroad.[47]

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[42] Office of Statistics, Liechtenstein in Figures 2025, p. 10, *https://www.statistikportal.li/de/?uebergreifendes-indikatoren/liechtenstein-in-figures*.

[43] Art. 2 para. 2 VRG reads: "Persons who are staying abroad to attend an educational institution or for temporary work such as seasonal work, or who are temporarily accommodated in a foreign sanatorium, retain their right to vote if they meet the other requirements." [translated using DeepL].

[44] Art. 2 para. 2 of the Act on the Exercise of Political Rights, as amended by LGBl, 1958 No. 2.

[45] Art. 2 para. 2 of the 1922 Act (see above fn. 24).

[46] Translated using DeepL.

[47] P. Schurti & V. Marxer, *Saisonniers*, 31 December 2011, in *Historisches Lexikon des Fürstentums Liechtenstein online (eHLFL)*, *https://historisches-lexikon.li/Saisonniers*.

This exemption, then – which applies to persons studying abroad, undertaking seasonal work abroad, or temporarily accommodated in a foreign medical facility or home for the disabled – seems to speak to Liechtenstein's self-concept as a small but cosmopolitan state whose inhabitants face certain constraints. First, they may need to move abroad for education and/or to take the next step on the career ladder; and, second, the exemption acknowledges that Liechtensteiners with special needs have only a limited number of facilities in their home country.

B. *No Voting Rights for Foreigners*

Art. 22 para. 1 of the Treaty on the Functioning of the European Union (TFEU) and Directive 94/80/EC[48] do not apply in the European Economic Area (EEA). Hence, Liechtenstein, Iceland, and Norway as EEA/EFTA States are not obliged to grant EU foreigners the right to vote in local elections.

In response to an interpellation in 2011, the government compiled a report (BuA No. 84/2011) providing extensive data on foreigners living in Liechtenstein.[49] It also commented on the rules governing voting rights for foreigners in Switzerland and other European countries,[50] and demanded that the political discussion on the introduction of voting rights for foreigners take into account the special characteristics of Liechtenstein. The government cited, once again, the small size of the country, the high proportion of foreigners (33 per cent), the right to facilitated naturalisation,[51] and direct democratic rights.[52]

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[48] Directive 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals, OJ L 368, 31 December 1994, pp. 38-47.

[49] The six largest foreign groups, as at 30 June, 2025 were: Swiss (26.8% of all foreigners living in Liechtenstein), Austrians (16.4%), Germans (13.7%), Italians (8.4%), Portuguese (4.6%), and Ukrainians (4.4%), *https://www.statistikportal.li/de/themen/bevoelkerung/bevoelkerungsstand.*

[50] BuA No. 84/2011, p. 22 et seq.

[51] See § 5a of the Liechtenstein Citizenship Act (below fn. 57). However, the government itself stated (BuA No. 84/2011, p. 13 et seq.) that the waiting period is long and that the previous nationality must be renounced.

[52] BuA No. 84/2011, p. 4.

In the case of Luxembourg – also a small country but with an even higher proportion of foreigners[53] – voters were invited to express their opinion in a referendum held on 7 June 2015 regarding the introduction of voting rights for foreigners. The proposed reform at stake was to permit those foreigners who had been residing in Luxembourg for at least ten years and had previously participated in local or European elections to register to vote.[54] Fewer than 22 per cent of Luxembourgers who took part in the referendum voted in favour of this proposal.[55]

In discussions about voting rights for foreigners in Liechtenstein, it is regularly pointed out – as it is in Switzerland – that foreigners can become naturalised citizens.[56] This is correct. However, the Liechtenstein Citizenship Act[57] sets a high bar for people who have not lived in Liechtenstein since childhood or are not married to a Liechtenstein citizen. These include, in particular, having had a permanent residence there for at least ten years, renouncing one's previous citizenship, and receiving a guarantee of acceptance from a Liechtenstein municipality.[58] The latter requirement means that the citizens of the municipality in which the foreigner resides

[53] Luxembourg had 682,000 inhabitants in 2025. Of these, 47.0% were foreigners: Statec, Luxembourg in Figures. Edition 2025, p. 16, *https://statistiques.public.lu/en/publications/series/luxembourg-en-chiffres/2025/luxembourg-en-chiffres-2025.html*.

[54] *https://elections.public.lu/fr/referendum/2015/resultats.html*.

[55] Id.

[56] A link between political rights and nationality had already been established in 1984 with the introduction of women's suffrage. Together with the bill on women's suffrage, Parliament passed an amendment to the Citizenship Act (LGBl, 1984 No. 23). Until 1984, a foreign woman who married a Liechtenstein man automatically became a Liechtenstein citizen upon marriage. With this amendment to the Liechtenstein Citizenship Act, a foreign woman could acquire Liechtenstein citizenship only after three years of marriage, and, consequently, could only participate in elections from that point onward. The waiting period (of at least three years) had been intended to increase the chances of women's suffrage in the referendum. See B. Ospelt, *Die "Eingeheirateten" und das Frauenwahlrecht in Liechtenstein*, in K. Meyer, S. Pfenninger Tuchschmid, & Y. Skliarov (eds.), *Revisioning Democracy and Women's Suffrage: Critical Feminist Interventions*, Zurich/Geneva, 2024, pp. 111-135, and further references in P. M. Schiess Rütimann, Keine kurzen Wege für die Gleichstellung, *LJZ* (*Liechtensteinische Juristen-Zeitung*), 2025, 72-93, p. 84.

[57] Gesetz vom 4. Januar 1934 über den Erwerb und Verlust des Landesbürgerrechtes (Bürgerrechtsgesetz; BüG), LGBl, 1960 No. 23 LR 151.0, *https://www.gesetze.li/konso/1960023*.

[58] § 6 para. 1 Citizenship Act.

vote on whether to grant the individual citizenship.[59] A foreigner is only entitled by law to naturalisation *without* the approval of the citizens of the municipality in which she or he lives in the case of having resided in Liechtenstein for at least 30 years. Each year's residency up to the age of 20 counts as two years.[60]

The fact that the majority of Liechtenstein voters are not prepared to accommodate foreigners wishing to become naturalised was demonstrated in the referendum of 30 August 2020.[61] A sizeable majority, 61.5 per cent, of voters rejected an amendment to the Liechtenstein Citizenship Act[62] that would have allowed all foreigners from an EU member state, Iceland, Norway, or Switzerland who wished to become naturalised to retain their previous nationality.[63] Note that Liechtenstein citizens are allowed to acquire any number of additional nationalities. Many have two passports from birth because one of their parents is a foreign national.[64]

III. *The System of Proportional Representation in Liechtenstein*

This Part discusses the introduction of proportional representation in 1939 (Section III.A), the electoral threshold (Section III.B), and the structure of the electoral lists (Section III.C). Section III.D pays particular attention to references to foreign regulations in Liechtenstein legislation and case law. Examples include the in-

[59] Art. 21 para. 3 Gemeindegesetz (GemG) vom 20. März 1996, LGBl, 1996 No. 76 LR 141.0, *https://www.gesetze.li/konso/1996076*. See also P.M. Schiess Rütimann, Art. 30 LV, 15 December 2015, in Liechtenstein-Institut (ed.), *Online-Kommentar zur liechtensteinischen Verfassung, https://verfassung.li/Art. _30*, no. 46 et seq. These so-called "ordinary" naturalisations accounted for only 9.6% of all naturalisations, on average, between 1971 and 2024. See Amt für Statistik, Einbürgerungen, 2024, Vaduz 2025, p. 8, *https://www.statistikportal.li/de/publikation/einbuergerungen2024/2024/01/v-1/p31598/pdf*.

[60] § 5a para. 1 lit. A Citizenship Act.

[61] For the arguments of those voting "no", see W. Marxer, Volksabstimmung "Doppelte Staatsbürgerschaft" vom 30. August 2020. Ergebnisse einer Online-Umfrage. Liechtenstein-Institut, Bendern, 2020, *http://dx.doi.org/10.13091/li-aktuell-2020-2*, p. 5 and p. 20.

[62] *https://www.abstimmungen.li/resultat/23#a72*.

[63] *https://www.abstimmungen.li/files/attachments/23/RD18-130-Abstimmungsvorlage.pdf*.

[64] Amt für Statistik, Bevölkerungsstruktur 2020, p. 6, *https://www.statistikportal.li/de/publikation/bevoelkerungsstruktur-2020/2020/01/v-1/p11876/pdf*.

troduction of the candidate voting system (subsection III.D.1) and postal voting (subsection III.D.2), and the current discussion on the switch to a new apportionment procedure (III.D.3).

Since 1988,[65] Art. 46 para. 1 Constitution has remained unchanged:

> "Parliament shall consist of 25 Members who shall be elected by the People by universal, equal, secret and direct suffrage according to the system of proportional representation. The Upper Country (Oberland) and the Lower Country (Unterland) shall each form a voting district. Of the 25 Members of Parliament, 15 shall be elected by the Upper Country and 10 by the Lower Country."

A. *Late Introduction of Proportional Representation*

With the constitutional amendment of 21 January 1918,[66] the electors were abolished and universal direct suffrage for men was introduced. The two aforementioned electoral districts of Oberland and Unterland were introduced in 1878.[67] Since 1989, the Oberland has been allocated 15 seats and the Unterland ten seats,[68] resulting in fewer voters per seat in the Unterland than in the Oberland.[69] While voters in the Unterland remain overrepresented,[70] a political party must achieve a higher share of the vote there than in the Oberland in order to win a seat.

In the so-called "castle agreements" (*Schlossabmachungen*) of 1920,[71] in which the basic principles of the 1921 Constitution were

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[65] LGBl, 1988 No. 11.

[66] LGBl, 1918 No. 4.

[67] § 55 and § 74 KonV in the version of LGBl, 1878 No. 2.

[68] Art. 46 para. 1 LV since the amendment by LGBl, 1988 No. 11.

[69] A total of 21,183 eligible voters took part in the elections held on 9 February 2025 (*https://www.landtagswahlen.li/stimmbeteiligung/16*), comprising 13,527 eligible voters (63.86%) in the Oberland and 7,656 (36.14%) in the Unterland. In contrast, the seats are distributed in a ratio of 3 (60%) to 2 (40%).

[70] P. Bussjäger, Art. 46 LV, 5 February 2016, in Liechtenstein-Institut (ed.), *Online-Kommentar zur liechtensteinischen Verfassung*, *https://verfassung.li/Art._46*, no. 49.

[71] R. Quaderer, *Schlossabmachungen (Septemberabmachungen, Schloss-Protokoll)*, 31 December 2011, in Historisches Lexikon des Fürstentums Liechtenstein online (eHLFL), *https://historisches-lexikon.li/Schlossabmachungen_(Septemberabmachungen,_Schloss-Protokoll)*.

discussed and adopted between Prince Johann II and representatives of the Christian Social People's Party,[72] the introduction of proportional representation was agreed.[73] However, the 1921 Constitution did not address the question of majority or proportional representation:[74] in 1921, Art. 46 para. 4 merely referred to the law for the conduct of elections.[75] The relevant 1922 Act on the Exercise of Political Rights[76] required an absolute majority. In addition, every municipality with 300 or more inhabitants had to be represented in Parliament.[77] It was not until 1939, two decades later than in neighbouring Austria and Switzerland, that the proportional representation system was introduced – after ardent and prolonged verbal confrontations – via an amendment to the 1921 Constitution[78] and by the enactment of the Proportional Representation Act.[79] However, no elections were held in 1939. Instead, the two established political parties – the Progressive Citizens' Party (FBP) and Patriotic Union (VU) agreed on a silent election[80] of the 15 candidates they had jointly proposed.[81] In 1943, the Reigning Prince extended their

[72] The Christian Social People's Party (VP) merged with the Liechtenstein Homeland Service (*Liechtensteiner Heimatdienst*) in 1936 to form the Patriotic Union (VU). See W. Marxer, *Christlich-soziale Volkspartei (VP)*, 31 December 2011, in Historisches Lexikon des Fürstentums Liechtenstein online (eHLFL) *https://historisches-lexikon.li/Christlich-soziale_Volkspartei_(VP)*.

[73] § 6 Schlossabmachungen, *www.e-archiv.li/D45182*.

[74] The right to vote was a particularly controversial issue during the constitutional revision: see Bussjäger, Art. 46 LV, cit. above fn. 70, nos. 5-9.

[75] Art. 46 para. 4 LV in the version published in LGBl, 1921 No. 15: "The details of the conduct of elections shall be regulated by a special law." [translated using DeepL].

[76] LGBl, 1922 No. 28 (see above fn. 24).

[77] Art. 14 and 16 of the 1922 Act, LGBl, 1922 No. 28. This requirement was confirmed in 1932 by LGBl, 1932 No. 9.

[78] Gesetz vom 18. Januar 1939 betreffend Abänderung von Art. 46, 47, 49 und 53 der Verfassung vom 5. Oktober 1921, LGBl, 1939 No. 3, *https://www.gesetze.li/chrono/1939003*.

[79] Gesetz vom 18. Januar 1939 über die Einführung des Verhältniswahlrechtes, LGBl, 1939 No. 4, *https://www.gesetze.li/chrono/1939004*.

[80] Art. 30 of the Proportional Representation Act allowed for such a silent election.

[81] See P. Vogt, *Landtag*, 31 December 2011, in Historisches Lexikon des Fürstentums Liechtenstein online (eHLFL), *https://historisches-lexikon.li/Landtag*. See W. Marxer, *Wahlsystem und Wahlen*, in W. Marxer, T. Milic, & P. Rochat (eds.), *Das politische System Liechtensteins. Handbuch für Wissenschaft und Praxis*. Schriftenreihe des Liechtenstein-Instituts Band 1, Baden-Baden, 2024, pp. 503-530, p. 508.

mandate indefinitely.[82] It was not until 29 April 1945 that elections were held for the first time in accordance with the provisions on proportional representation. Finally, with the enactment of the 1973 Political Rights Act, all provisions relating to elections were consolidated into a single piece of legislation.

B. *The Electoral Threshold*

In order to ward off the national socialist movements founded in the 1930s, an electoral threshold was included in the Proportional Representation Act of 1939. Only political parties that had achieved 18 per cent of the votes of the total number of men *eligible* to vote (not just of those who actually voted) in their constituency were allowed to participate in the apportionment of seats.[83] This threshold was repealed as unconstitutional by the ruling of the Constitutional Court (*Staatsgerichtshof* or StGH) of 1 May 1962 (StGH 1962/1).[84] Nevertheless, the Christian Social Party (CSP), which had lodged the complaint, did not obtain a seat, because it had not achieved a so-called "basic mandate" (*Grundmandat*) in either of the two constituencies.[85] The Constitutional Court later confirmed the basic mandate requirement.[86]

With the introduction of the Political Rights Act in 1973,[87] this basic mandate requirement was abandoned.[88] However, an electoral threshold was reintroduced; and, this time, it was incorporated into the Constitution. A party must achieve at least 8 per cent of the votes cast nationwide in order to apportion seats.[89] In 1992, 1996, and

[82] Fürstliche Verordnung vom 18. Februar 1943 [betreffend die Verlängerung der Mandatsdauer des Landtags], LGBl, 1943 No. 4.

[83] Art. 22 para. 3 Proportional Representation Act.

[84] StGH 1962/1 (= ELG 1962, 191 et seq.) and LGBl, 1962 No. 17.

[85] StGH 1962/1 Consideration 7 (= ELG 1962, 191 et seq., p. 199).

[86] StGH 1962/2 (= ELG 1962, 202 et seq.); StGH 1966/2 Consideration 3 (= ELG 1962, 230 et seq., p. 233); StGH 1968/6 Consideration 2 (= ELG 1967, 248 et seq.).

[87] See above fn. 27.

[88] Since then, based on Art. 56 para. 1 VRG, a party also obtains a mandate if it receives no seats due to an insufficient number of votes in the distribution, pursuant to Art. 55 VRG, but if there are remaining mandates to be distributed.

[89] Art. 46 para. 3 LV states: "Seats shall be distributed among electoral groups that have obtained at least eight percent of the valid votes cast in the entire country." See also Art. 55 para. 1 and Art. 56 para. 1 VRG.

2014, successive political initiatives to abolish or lower the electoral threshold failed.[90] Academics have long called for it to be abolished or, at least, relaxed.[91]

The Free List (FL), founded in 1985, managed to enter Parliament on its third attempt in 1993.[92] This was the first time that a third party had achieved this feat (alongside the VU and the FBP). In the 2013 elections, The Independents (DU) won four seats. Since then, representatives from four political parties have been elected in every election.[93]

C. *Electoral Lists*

In Liechtenstein, any citizen can submit electoral lists. The only requirement is that these must be signed by 30 eligible voters from the relevant constituency.[94] Hence, it would be permissible for a group of friends or relatives to submit a list on which some of them stand as candidates without having an election programme, or for two political groups to compile a joint list. Despite the existence of this right, to date, electoral lists have always been compiled by political parties.

Candidates are not required to be members of the party whose name appears on the list, and it is not unusual for people who were not previously members of a party to stand as candidates.[95] The Political Rights Act does not dictate how a party decides whose name appears on the list, since Liechtenstein has no party law that could regulate organisational issues such as the nomination of candidates.

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[90] For information on the history of the electoral threshold and the various attempts since 1973 to lower or abolish the existing 8% threshold, see W. Marxer, *Wahlrecht Liechtenstein - Sperrklausel, Grundmandat, Restmandat*, March 2014, published as an Appendix to BuA No. 45/2014.

[91] Critical of the electoral threshold in particular are Bussjäger, *op. cit.* above fn. 70, no. 111, and R. Beck, *Rechtliche Ausgestaltung, Arbeitsweise und Reformbedarf des liechtensteinischen Landtags*, LPS 53, Schaan, 2013, pp. 68-71. See also Marxer, *Wahlsystem und Wahlen*, cit. above fn. 81, pp. 503-530, p. 524. Less critical is M. Batliner, *Die politischen Volksrechte im Fürstentum Liechtenstein*, Fribourg 1993, p. 93.

[92] W. Marxer, *Freie Liste*, 31 December 2011, in *Historisches Lexikon des Fürstentums Liechtenstein online (eHLFL)*, *https://historisches-lexikon.li/Freie_Liste*.

[93] See the tables in Vogt's article: Vogt, *Landtag*, cit. above fn. 81.

[94] Art. 37 para. 2 and Art. 37 para. 5 VRG.

[95] On the recruitment of candidates, see L. Märk-Rohrer, *Frauen und politische Parteien in Liechtenstein*. Arbeitspapiere Liechtenstein-Institut Nr. 48, Bendern, 2014, pp. 22-29, *http://dx.doi.org/10.13091/li-ap-48*.

Nor does the law specify the order in which candidates should be placed on the list. The Liechtenstein parties usually present the candidates in alphabetical order. The Act of 1984 on the Payment of Contributions to Political Parties[96] only regulates the conditions under which parties receive financial support.

As will be explained in subsection III.D.1, voters have the right to remove names from their preferred electoral list and replace them with names of candidates from other lists in their constituency (a system known as *panachage*, sometimes referred-to as "sympathy votes").[97] Liechtenstein therefore does not follow a closed list proportional system. Due to the competition for individual votes,[98] voters who choose to split their votes reduce the support for their preferred party.[99] Since 2013, more "modified ballots" than "unmodified ballots" have been cast in every parliamentary election.[100]

While the government candidates from the VU and FBP are the real driving forces behind these parties' election campaigns, they never stand for Parliament.[101] They aspire to become ministers (which means a full-time position with good pay), not Members of Parliament (MPs) (which means holding political office alongside a regular job). The situation may be different for the smaller parties that hope to attract more attention in the election campaign by si-

[96] Gesetz vom 28. Juni 1984 über die Ausrichtung von Beiträgen an die politischen Parteien, LGBl, 1984 No. 31 LR 162, *https://www.gesetze.li/konso/1984031*.

[97] Art. 49a VRG.

[98] For information on the introduction of this competitive system, see subsection III.D.1.

[99] See also the explanations in Beck, *Rechtliche Ausgestaltung*, cit. above fn. 91, p. 74 f. For information on vote splitting and cancellation behaviour in the 2025 elections, see K. Frick, T. Milic, & P. Rochat, *Landtagswahlen 2025 - Ergebnisse der Wahlumfrage*. Beiträge Liechtenstein-Institut Nr. 57, Gamprin-Bendern, 2025, *http://dx.doi.org/10.13091/lib-57-2025*, pp. 71-83. For changes in vote splitting behaviour since 1974, see W. Marxer, *Wahlverhalten*, in W. Marxer, T. Milic, & P. Rochat (eds.), *Das politische System Liechtensteins. Handbuch für Wissenschaft und Praxis*. Schriftenreihe des Liechtenstein-Instituts Band 1, Baden-Baden, 2024, pp. 555-574 and especially pp. 567-568.

[100] See the section entitled "WahlProtokoll Liechtenstein" at *https://www.landtagswahlen.li/resultat/16*.

[101] On the question of whether candidates for the government should also stand for election to Parliament, see C. Frommelt, T. Milic, & P. M. Schiess Rütimann, *Direktwahl der Regierung. Beispiele, Szenarien, Machbarkeit*. Liechtenstein-Institut, Gamprin-Bendern, 2022, pp. 57-60.

multaneously nominating a parliamentary candidate as a candidate for the government.

Liechtenstein has no regulations governing conduct during election campaigns.[102] There is also no obligation to disclose campaign expenses or election donations. Political parties that are constituted as associations and registered on the commercial register receive annual financial support from the state if they contested the last parliamentary election in both constituencies and achieved at least 3 per cent of the vote.[103] This support is calculated on the basis of the election results, plus a supplement for parties represented in Parliament.[104] All parties, however, are required to disclose their annual accounts. The total amount of income from all types of donations must be shown separately, together with income from membership fees, contributions from ministers, etc.,[105] but there is no obligation to disclose the names of donors. However, political parties are not allowed to accept anonymous donations of more than 300 Swiss francs (approximately 320 Euros).[106]

D. *Repeated Reference to Foreign Legislation, Case Law, and Doctrine*

As the Constitution merely stipulates that MPs "shall be elected by the People by universal, equal, secret and direct suffrage according to the system of proportional representation",[107] this gives the lawmaker considerable leeway.[108] Let us now consider three

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[102] See also OSCE Office for Democratic Institutions and Human Rights, Principality of Liechtenstein Parliamentary Elections 9 February 2025: ODIHR Needs Assessment Mission Report 13-14 November 2024, Warsaw 16 January 2025, p. 7-8, *https://odihr.osce.org/sites/default/files/f/documents/e/5/584721.pdf*.

[103] Art. 1 lit. A and Art. 2 para. 1 lit. A Act on the Payment of Contribution to Political Parties (see above fn. 96).

[104] See Art. 3 Act on the Payment of Contribution to Political Parties and, in this regard, VGH 2018/149 and StGH 2019/036, consideration 6.6.1. For criticisms of the judgements of the Constitutional Court and the Administrative Court, see P. M. Schiess Rütimann, Herausgeforderte Parteienfinanzierung, *LJZ* 2019, 125-135. The legislator has since amended Art. 3 para. 3 of the Act with regard to the surcharge in LGBl, 2024 No. 38. See BuA No. 90/2023, pp. 7-10.

[105] Art. 6 para. 5 lit. F of the Act.

[106] Art. 6a para. 2 of the Act.

[107] See Art. 46 para. 1 LV since the amendment by LGBl, 1939 No. 3.

[108] For example, specifically StGH 1968/6 Consideration 1 (= ELG 1967, 248 et seq., p. 249), and Bussjäger, *op. cit.* above fn. 70, nos. 34 and 45.

examples of how the legislator adopted foreign regulations and how it justified the selection of the elements it took into account.

1. *The switch from the list voting system to the candidate voting system*

The 1939 Proportional Representation Act gave voters the right to change the lists presented to them. Specifically, they were allowed to remove names from the electoral list and, if they wished, fill the gaps with the names of candidates from other parties. If a party did not propose as many candidates as there were seats to be allocated in the constituency, voters were also allowed to fill the gaps with candidates from other parties.[109] Only the so-called "list votes" (*Listenstimmen*) were decisive for the apportionment of seats to the parties, not the "candidate votes".[110] Put simply, this means that it was not the votes received by an individual candidate that were decisive but the name of the party at the top of the list. The candidate votes were only decisive for the allocation of the seats won by the party to its candidates.[111]

When the Political Rights Act was debated in Parliament in 1973, the VU persuaded the FBP to switch from this list-based to candidate-based proportional representation.[112] The FBP parliamentary group spokesman was particularly convinced[113] by the fact that the candidate-vote system had already been used since 1918 for the elections of the National Council of the Swiss Confederation.[114]

2. *Introduction of universal postal voting*

According to Art. 8 Political Rights Act, since the revision of 15 September 2004,[115] each voter has three options from which to

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[109] See Art. 14 para. 4 of the Proportional Representation Act in the version published in LGBl, 1939 No. 4.

[110] See Art. 15 and Art. 22 para. 1 of the Proportional Representation Act.

[111] Art. 23 para. 1 of the Proportional Representation Act.

[112] See, in particular, Art. 50 lit. A VRG and Art. 55 VRG.

[113] Landtags-Protokolle 1973 II, p. 264 (session of 17 July 1973).

[114] Bundesgesetz vom 14. Februar 1919 betreffend die Wahl des Nationalrates, BBl 1919 I 262-269.

[115] LGBl, 2004 No. 235.

choose. They can: go to the polling station in their municipality in person during the designated voting period; deposit their vote in the envelope provided (either in person or through a representative) at the municipal administration building in advance of polling day; or post the envelope containing their vote (using any post box in the country or abroad).

This amendment of 2004 was prompted by a postulate submitted by several MPs. When the matter was referred to the government, some of the MPs who had submitted the postulate argued that postal voting had already been successfully operating in Switzerland for several years. Others, who were critical of the innovation, pointed out that the Austrian Constitutional Court[116] had expressed criticism of postal voting with regard to the secrecy of the ballot.[117] In its response to the postulate on 25 March 2003 (BuA No. 19/2003), the government addressed the ruling of the Austrian Constitutional Court in detail. However, it underlined that Liechtenstein primarily follows Swiss models, particularly in the area of administrative law, largely because of its more obviously similar direct democratic institutions.[118] The government then provided its own interpretation of the secret ballot enshrined in the Constitution.[119] It concluded that the reasoning of the Austrian Constitutional Court did not apply to the constitutional situation in Liechtenstein.[120] Ultimately, the government submitted various practical arguments in favour of introducing universal postal voting that is open to every registered voter and is subject to no prior formal authorisation.

In the 2025 parliamentary election, 96.6 per cent of ballots were cast by post. Only 545 people went to the polls in person and placed their envelopes in the ballot box.[121]

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[116] Constitutional Court ruling of 16 March 1985 G 18/85 (VfSlg 10.412/1985).

[117] Landtags-Protokolle 1999, pp. 1648-1654 (session of 24 November 1999).

[118] BuA No. 19/2003, p. 7.

[119] BuA No. 19/2003, p. 12 et seq. The fact that the principles of electoral law are not borrowed from Austrian law and that different implementation is therefore permissible is also confirmed by Bussjäger, *op. cit.* above fn. 70, no. 76.

[120] BuA No. 19/2003, p. 17.

[121] *https://www.landtagswahlen.li/resultat/16* (see under "WahlProtokoll Liechtenstein").

3. *Initiatives for the introduction of a new method to calculate the apportionment of votes to parliamentary seats*

In the 2021 parliamentary elections, both the VU and the FBP won ten seats, with the VU receiving 72,361 votes (35.89 per cent) and the FBP 72,319 votes (35.87 per cent).[122] However, more voters had cast their votes for the FBP than for the VU.[123] The discrepancy between "votes" and "voters" stems from the fact, as mentioned earlier, that voters from the Oberland have 15 votes to cast (due to the 15 parliamentary seats), while those from the Unterland have only ten votes, corresponding to 10 seats.

In a parliamentary initiative dated 30 October 2023, entitled "Double Pukelsheim procedure" (*Doppeltes Pukelsheim-Verfahren*),[124] FBP MPs called for a revision of the Political Rights Act that would have introduced the new apportionment procedure named after its inventor, Friedrich Pukelsheim.

This calculation method, officially known as the "biproportional divisor method with standard rounding", had already been used in the City of Zurich's 2006 local elections. In its 2001 ruling BGE 129 I 185, the Swiss Federal Court had concluded that the parliamentary election in constituencies of very different sizes in the City of Zurich violated the freedom of suffrage and the principle of equality guaranteed in the Federal Constitution.[125] This was largely because between two and 19 seats were to be allocated in the 12 constituencies of Zurich, meaning that significant political minorities were not adequately represented in the distribution of seats in the small electoral districts.[126] To address this, the Canton of Zurich commissioned Pukelsheim, a German mathematician, to develop a

[122] The results for the other three parties standing for election were as follows: The Independents (DU) 8,556 votes (4.24%), Democrats for Liechtenstein (DpL) 22,456 votes (11.14%), Free List (FL) 25,943 votes (12.87%). See: *https://www.llv.li/import/srk/landtagswahlen/pdf-llv-rk-ltw_2021_kundmachung_ergebnis_landtagswahl-2021.pdf*.

[123] In 1978, the VU achieved a parliamentary majority, while the FBP was able to gain more party votes; in 1993, the opposite was true – see Beck, *op. cit.* above fn. 91, p. 65.

[124] See BuA No. 10/2024.

[125] Federal Constitution of the Swiss Confederation of 18 April 1999, SR 101. English translation: *https://www.fedlex.admin.ch/eli/cc/1999/404/en*.

[126] BGE 129 I 185 Consideration 7.6.1.

procedure that would comply with the Constitution.[127] Since then, not only have the City of Zurich and the Canton of Zurich switched to the new method, but also other cantons with constituencies of varying sizes.

In 2024, the Swiss Federal Court summarised this procedure in BGE 151 I 41, Consideration 8.4, as follows:

> "In a first step, the votes obtained by a political party in all constituencies are added up at cantonal level and the party is allocated a corresponding number of seats for the entire canton. In a second step, these seats allocated to the parties are distributed among the constituencies in the canton. […] Since the adjustment of mandates takes place across constituency boundaries, it is possible that candidates may not achieve the required number of votes in their own constituency but still obtain a seat because the party is entitled to a seat for the canton as a whole and this seat is allocated to the constituency in question."[128]

The FBP's parliamentary initiative was rejected by Parliament.[129] However, in the autumn of 2025, the Young FBP (*Junge FBP*) launched its own popular initiative entitled "Fairly counted. Fairly elected" (*Fair gezählt. Fair gewählt*).[130] This popular initiative called for almost the same changes to the Political Rights Act as the previous parliamentary initiative. Surprisingly, it was withdrawn by the initiators themselves on 2 December 2025 because of constitutional concerns raised by the government immediately before Parliament was due to examine the proposal.[131] However, it is expected to be relaunched.

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[127] F. Pukelsheim, Zurich's New Apportionment, *German Research*, 31(2) (September 2009), 10-12, *https://onlinelibrary.wiley.com/doi/10.1002/germ.200990024*.

[128] Translated using DeepL. See also the explanations by Friedrich Pukelsheim himself (above fn. 127).

[129] See the discussions in the session of 6 March 2024 (Landtags-Protokolle 2024, pp. 73-95) and the rejection of the parliamentary initiative in the session of 5 December 2024 (Landtags-Protokolle 2024, p. 32-59).

[130] See BuA No. 109/2025.

[131] D. Sele, "Der Anlass zum Rückzug der Initiative kam direkt vom Innenministerium" (Interview mit Alexander Batliner, FBP-Parteipräsident), *Liechtensteiner Vaterland*, 9 December 2025, p. 3.

The government had to examine the constitutionality of the amendments to the Political Rights Act proposed by both the parliamentary and the popular initiatives.[132] Regarding the latter, it merely stated in its report of 4 November 2025 (BuA No. 109/2025) – in just two brief sentences – that the amendment proposed in the popular initiative solely concerned the methodology for allocating mandates in the Political Rights Act and that the constitutional provisions on proportional representation, the constituency ratio (15:10), and the 8 per cent threshold would remain – in its opinion – unchanged.[133] The government referred in a third sentence to its review of the parliamentary initiative (BuA No. 10/2024) in which it had already dealt with the issue of constitutionality (also in just two short sentences).[134] The government presented no further considerations or legal arguments. In my opinion, it should have pointed out that the proposed Pukelsheim apportionment method would affect the separation between the two constituencies, because, under this system, the results of the electoral list in the other constituency are also taken into account when determining who is elected in one of the two districts. The government could also have mentioned that the relationship between the principle of proportional representation and the constituencies had been dealt with by the Constitutional Court on several occasions in the 1960s.[135]

Breaking up the constituencies through a new legal provision in the Political Rights Act is not necessarily contrary to the Constitution. After all, as we saw earlier, Art. 46 para. 1 phrase 2 of the Constitution is very broadly worded: "The Upper Country (Oberland) and the Lower Country (Unterland) shall each form a voting district." In addition, since 1973, the electoral threshold has also

[132] Art. 9a para. 2 GVVKG (Geschäftsverkehrs- und Verwaltungskontrollgesetz vom 12. März 2003, LGBl, 2003 No. 108 LR 172.012, *https://www.gesetze.li/konso/2003108*) (for the parliamentary initiative) and Art. 70b para. 1 VRG (for the popular initiative). The government's reviews form the basis for the decision of the Parliament.

[133] BuA No. 109/2025, p. 11.

[134] In BuA No. 10/2024, p. 6, the government merely stated that, in its opinion, "there are no relevant constitutional provisions that would prevent the initiative from being implemented. The initiative does not affect or violate any constitutionally guaranteed rights." [translated using DeepL].

[135] StGH 1966/2 Consideration 4 (= ELG 1962, 230 et seq., p. 434) and StGH 1968/6 Consideration 2 (= ELG 1967, 248 et seq., p. 250).

considered the results of a party in both constituencies together.[136] If Parliament were to conclude that the proposed amendment to the Political Rights Act would require a constitutional revision first and would, therefore, have to be declared null-and-void without it,[137] the Constitutional Court would have the final say.[138]

I share the government's political view that the "double Pukelsheim method" is not fit-for-purpose for Liechtenstein, as it was developed specifically for Swiss Cantons with multiple constituencies of markedly different sizes.[139] Like Wilfried Marxer,[140] I would advocate for discussions centring on an increase in the size of Parliament, on having a number of seats in the constituencies that is more closely aligned with the size of the population, or even on the introduction of a single constituency.[141]

On this latter point, merging the two constituencies would cause far fewer difficulties than the electoral reform in a comparable case, that of Guernsey. This Channel Island is similar to Liechtenstein in terms of both population (around 60,000) and size (approx. 78 km?). In October 2020, Guernsey held its first island-wide elections for the 38 MPs.[142] This election proved challenging for all involved, because there was no party system in place (yet) and because a vote had to be taken on very different proposals for the structure of the electoral system before the election. Unlike Guernsey, Liechtenstein has had political parties for over 100 years. And, from the outset, their goal was to win seats in both constituencies. Their internal organisation is structured accordingly.

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[136] See Art. 46 para. 3 LV and Art. 55 para. 1 VRG.

[137] Art. 70b para. 2 VRG.

[138] Art. 70b para. 3 VRG. See the case of a popular initiative to amend a law: StGH 2013/183.

[139] BuA No. 109/2025, p. 14 f. The government also bases its arguments on Bundeskanzlei, Sektion Politische Rechte, Wahlsysteme und Sitzzuteilungsverfahren im Vergleich. Bericht der Bundeskanzlei vom 6. Juni 2025, reproduced in the Appendix to BuA No. 109/2025.

[140] See W. Marxer, Gutachterliche Stellungnahme zur parlamentarischen Initiative vom 30. Oktober 2023 zur Abänderung des Volksrechtegesetzes, p. 5, reproduced in the Appendix to BuA No. 10/2024 and the Appendix to BuA No. 109/2025.

[141] The question of whether the division into two constituencies still makes sense today is raised by Beck, *op. cit.* above fn. 91, pp. 64-68.

[142] J. Reardon & C. Pich, The Strangest Election in the World? The October 2020 General Election in Guernsey. *Small States & Territories*, 4(1) (2021), 137-156, p. 142 et seq.

IV. *Concluding Remarks*

Both with regard to the definition of eligible voters and the design of the electoral system, proposals for change have repeatedly been discussed in Liechtenstein over the years, and the regulations adopted by other countries have naturally been taken into account in this discourse. But the inspiration for new regulations was not drawn from other microstates but, primarily, from Liechtenstein's German-speaking neighbours. Liechtenstein has always acted (and continues to act) in the same way in the area of electoral law as it does in other subjects when it resorts to legal transplants.[143] This means that the legislator gathers information about different options and compiles data on how these options have been experienced, in practice, abroad. It then decides which rules to adopt, and, if necessary, modifies them to better fit Liechtenstein's circumstances. Even in the area of political rights, which is strongly influenced by Swiss law, not all standards originate in Switzerland, as the example of the regulations governing voting rights for prisoners shows.[144] The interplay of the various elements "transplanted" from different sources means that Liechtenstein's electoral law – like its political system as a whole – can be described as a unique creation. That political rights in Liechtenstein, unlike those in other very small states,[145] have been so thoroughly researched is a great help when it comes to further developing the applicable law.

Based on the findings presented here, it cannot be said that the most powerful party in Liechtenstein has always succeeded in imposing its wishes. For instance, as mentioned in subsection III.D.1, the candidate voting system was incorporated, at the request of the VU, into the then-newly-enacted Political Rights Act in 1973.[146]

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[143] For general information on "*Rezeption*" (literally translated: reception, in English-language literature, more commonly referred-to as a "legal transplant"), see, in particular, H. Helbock, Chancen und Grenzen der Rezeption anhand praktischer Beispiele aus der Gesetzgebung, *LJZ* 2022 137-143, or, for example, Schiess Rütimann, *Keine kurzen Wege*, cit. above fn. 56, p. 82-83.

[144] See Art. 2 VRG in the version published in LGBl, 2012 No. 357 and the reference to Austrian law in BuA No. 66/2012, p. 44-45.

[145] See, for example, the challenges faced by researchers in the Channel Island of Jersey. C. Pich & J. Reardon, A Changing Political Landscape: The 2022 General Election in Jersey, *Small States & Territories*, 6(2) (2023), 169-184 and especially pp. 171-173.

[146] The MPs from VU and FBP had unanimously decided that the newly-passed

This innovation did not pay off for the party. While the VU held eight seats after the 1970 parliamentary elections and the FBP seven, the FBP won eight seats in the election in 1974, and the VU only seven.[147] Moreover, simultaneous examination of election results and later amendments to the Political Rights Act shows that neither the entry of the Free List (FL) into Parliament in 1993, nor the electoral success of The Independents (DU), which won four seats at a stroke in 2013, nor the gaining of six mandates by Democrats for Liechtenstein (DpL) in 2025[148] were preceded by amendments to the relevant provisions of the Political Rights Act. Legislative revisions thus cannot be held responsible for the political shifts of recent years. The last revision to the Political Rights Act was carried out at the end of 2012.[149] It contained new regulations on the voting rights of prisoners and of people who are incapable of making decisions regarding elections and referenda, plus organisational changes to the voting process, which most voters probably did not even notice.

The Liechtenstein electoral system has been characterised by stability since the end of the 20th century. If the contemporary popular initiative to introduce the proposed "double Pukelsheim" apportionment system were to come to fruition,[150] Liechtenstein citizens would be able to decide whether or not they approve of this change to the allocation procedure.

Further, this particular popular initiative is illustrative of how political debate regarding the electoral system can also be initiated through the exercise of direct democratic rights. That women's suffrage was introduced so late in Liechtenstein may also be explained by the fact that voters can reject any proposal approved by Parliament, via the ballot box. Popular initiatives and referenda, on the one hand, and the parliamentary elections, on the other, are therefore closely linked.

VRG should be put to a referendum: Landtags-Protokolle 1973 II, p. 277 (session of 17 July 1973). The results of the referendum are published in LGBl, 1973 No. 50.

[147] See the tables in Vogt's article: Vogt, *Landtag*, *op. cit.* above fn. 81.

[148] On these "events", see W. Marxer, *Parteien*, in W. Marxer, T. Milic, & P. Rochat (eds.), *Das politische System Liechtensteins. Handbuch für Wissenschaft und Praxis*. Schriftenreihe des Liechtenstein-Instituts Band 1, Baden-Baden, 2024, pp. 397-424, p. 401. See also Marxer, *Historical shift of power*, cit. above fn. 7.

[149] LGBl, 2012 No. 357.

[150] See subsection III.D.3.

Abstract

Abstract italiano

This article explains Liechtenstein's electoral system – based on proportional representation and an electoral threshold. A popular initiative for a new apportionment procedure is also examined. The legislator often bases changes to existing law on foreign regulations. But the rationales it gives for *deviating* from foreign law are telling: (*i*) the large number of Liechtensteiners living abroad justifies denying them the right to vote; (*ii*) foreigners will not be granted voting rights as they represent a high percentage of the population.