



INTERNATIONAL COURT OF JUSTICE

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Liechtenstein institutes proceedings against Germany
concerning "decisions of Germany to treat certain property of Liechtenstein nationals as
German assets seized for purposes of reparation as a consequence of World War II
without ensuring any compensation"

THE HAGUE, 1 June 2001. Today, Liechtenstein instituted proceedings against Germany concerning "decisions of Germany . . . to treat certain property of Liechtenstein nationals as German assets . . . seized for the purposes of reparation or restitution as a consequence of World War II . . . without ensuring any compensation."

In the Application, Liechtenstein alleges the following facts. In 1945, Czechoslovakia — during World War II an allied country and a belligerent against Germany — through a series of decrees (the Beneš decrees) seized German and Hungarian property located on its territory. Czechoslovakia applied those decrees not only to German and Hungarian nationals, but also to other persons allegedly of German or Hungarian origin or ethnicity. For this purpose it treated the nationals of Liechtenstein as German nationals. The property of these Liechtenstein nationals seized under these decrees (the "Liechtenstein property") has never been returned to its owners nor has compensation been offered or paid. The application of the Beneš decrees to the Liechtenstein property remained an unresolved issue between Liechtenstein and Czechoslovakia until the dissolution of the latter, and it continues to be an unresolved issue as between Liechtenstein and the Czech Republic, on whose territory the vast majority of Liechtenstein property is located.

Liechtenstein further refers to the Convention on the Settlement of Matters arising out of the War and the Occupation, signed at Bonn on 26 May 1952 ("the Settlement Convention"). The Application states that by Article 3, paragraph 1, of this Convention, Germany agreed, *inter alia*, that it would "in the future raise no objections against the measures which have been, or will be, carried out with regard to German external assets or other property, seized for the purpose of reparation or restitution, or as a result of the state of war". The Application alleges that the Settlement Convention was only concerned with German property so-called, i.e., property of the German State or of its nationals, and that under international law, having regard to Liechtenstein's neutrality and the absence of whatsoever links between Liechtenstein and the conduct of the war by Germany, any Liechtenstein property that may have been affected by measures of an Allied power could not be considered as "seized for the purpose of reparation or restitution, or as a result of the state of war". Liechtenstein maintains that subsequent to the conclusion of the Settlement Convention, it was accordingly understood between Germany and itself that the Liechtenstein property did not fall within the regime of the Convention, and that, as a corollary, Germany maintained the position that property falling outside the scope of the Convention was unlawfully seized, and that the German courts were not barred from considering claims affecting such property.

Liechtenstein alleges that in 1998 the position of the Federal Republic of Germany changed however, as a result of a decision of the Federal Constitutional Court of 28 January 1998. The decision concerned a painting which was among the Liechtenstein property seized in 1945, and which was in possession of the Historic Monument Offices in Brno, Czech Republic, a State entity of the Czech Republic. It was brought to Germany for the purposes of an exhibition, and thus came into possession of the Municipality of Cologne. At the request of the Reigning Prince, Prince Hans Adam II, acting in his private capacity, the painting was attached pending determination of the claim by the German courts. Eventually, however, the claim failed. The Federal Constitutional Court held that the German courts were required by Article 3 of the Settlement Convention to treat the painting as German property in the sense of the Convention. Accordingly the painting was released and returned to the Czech Republic. The Application of Liechtenstein claims that the decision of the Federal Constitutional Court is unappealable, and is attributable to Germany as a matter of international law and is binding upon Germany.

Liechtenstein states that it protested to Germany that the latter was treating as German assets which belonged to nationals of Liechtenstein, to their detriment and the detriment of Liechtenstein itself. It states further that Germany rejected this protest and that in subsequent consultations it became clear that Germany now adheres to the position that Liechtenstein assets as a whole were "seized for the purpose of reparation or restitution, or as a result of the state of war" within the meaning of the Convention, even though the decision of the Federal Constitutional Court only concerned a single item. According to the Application of Liechtenstein, in taking this position Germany remains faithful to the decision of its highest court in the matter; but at the same time it ignores and undermines the rights of Liechtenstein and its nationals in respect of the Liechtenstein property. Liechtenstein claims that:

- "(a) by its conduct with respect to the Liechtenstein property, in and since 1998, Germany failed to respect the rights of Liechtenstein with respect to that property;
- (b) by its failure to make compensation for losses suffered by Liechtenstein and/or its nationals, Germany is in breach of the rules of international law".

Liechtenstein accordingly requests the Court "to adjudge and declare that Germany has incurred international legal responsibility and is bound to make appropriate reparation to Liechtenstein for the damage and prejudice suffered". Liechtenstein further requests "that the nature and amount of such reparation should, in the absence of agreement between the parties, be assessed and determined by the Court, if necessary, in a separate phase of the proceedings".

As a basis for the Court's jurisdiction, Liechtenstein invokes Article 1 of the European Convention for the Peaceful Settlement of Disputes, signed at Strasbourg on 29 April 1957.

The full text of Liechtenstein's Application will shortly be available on the Court's website at the following address: <http://www.icj-cij.org>

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