

Part I

Fundamentals

Chapter 1

Working with Liechtenstein law

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I. Laws

A. Chronological and systematic collection (LILEX)

The law of the Principality of Liechtenstein by now is readily accessible to the public. All laws and ordinances as well as the treaties concluded by Liechtenstein and certain other legal acts are recorded chronologically in the Liechtenstein **Law Gazette** (Landesgesetzblatt, LGBl). The Law Gazette is published in electronic form only.¹ More detailed provisions can be found in the Publication Act (Kundmachungsgesetz). **1.1**

In addition, modeled on the Swiss Classified Compilation (Schweizer Rechtssammlung, SR)², the **Systematic Collection of Liechtenstein Laws** (Systematische Sammlung der liechtensteinischen Rechtsvorschriften, LR)³ classifies all national and international standards effective for Liechtenstein, such as laws, ordinances and treaties in their respective consolidated versions, and assigns them their unique LR number. This means that all amendments to the respective legal source, i.e. amendments or abrogations and/or insertions of articles in the original text, are incorporated in the Liechtenstein LR. Thus, the law in force on the respective record date is shown. For example, numbers of private law provisions always start with 2, while those of criminal law start with 3. While the first digit of the lead numbers of treaties always is 0, they otherwise adhere to the national classification. For example, the Persons and Companies Act (Personen- und Gesellschaftsrecht) can be found under LR 216.0, the Commercial Register Ordinance (Han- **1.2**

¹ www.gesetze.li, “Landesgesetzblatt”.

² www.fedlex.admin.ch, “Classified Compilation”.

³ www.gesetze.li, “Konsolidiertes Recht”.

delsregisterverordnung) under LR 216.012, and the Hague Trust Convention under LR 0.216.41.⁴

- 1.3** The Liechtenstein LR is available in HTML or PDF format. The amendments to the original text, together with the references in the Law Gazette (LGBI), are specified in footnotes. The required date can be entered under “Fassung von” (version of). If no date is selected, the respective current version is shown. The website offers a wide range of search options, including word search, LR or Law Gazette (LGBI) search, title of an enactment, abbreviations, etc. If necessary, the search may be limited to state law or treaty law. Finally, an up-to-date register of Liechtenstein legal provisions is available online in the LR system, including a detailed index.⁵ The classification is presented in full. For each enactment, all amendments are indicated, together with the associated Law Gazette (LGBI) number up to the register’s record date (cf. hierarchical overview of the LR).
- 1.4** A considerable number of English **translations of Liechtenstein laws** are available on the Government’s website.⁶ The translations are for information purposes only. They are not legally binding. Moreover, they are not always available in the latest and current version.

B. Official Gazette

- 1.5** Official notifications of public interest, such as auctions, insolvencies, job advertisements, public tenders, or entries in the Trade Mark Register are announced in the electronic **Official Gazette**⁷ (Amtsblatt), and in part also in the two national newspapers Liechtensteiner Volksblatt⁸ and Liechtensteiner Vaterland⁹.

C. European law

- 1.6** The **secondary European law** (regulations and directives) applicable in Liechtenstein due to its membership in the EEA (cf. 3.1 et seqq.) is codified in the 22 Annexes to the EEA Agreement. The decisions of the EEA Joint Committee on the entry into force of an EU regulation or EU directive in the EEA are published by the Government in the Law Gazette (LGBI). Decisions state only the title of the respective EU law as well as any adaptations and exceptions of the version of an EU standard applicable in the EEA as compared to the original version applicable in the EU. However, such changes are rare and concern, for example, cases where the EU standard refers to the European Commission, whereas the EEA Joint Committee decision refers to the EFTA Surveillance Authority (ESA). This form of simplified publication is regulated by the EEA Publication Act (EWR-Kundmachungsgesetz).
- 1.7** The **EEA Register**¹⁰ is published by the EEA Coordination Unit and is updated at least monthly. It lists all EEA legal acts according to the aforementioned system and links them

4 A complete overview of the entries is included in the prelims section of this book.

5 www.gesetze.li, “Konsolidiertes Recht”, “Systematisches Register”.

6 www.regierung.li/law.

7 www.amtsblatt.llv.li.

8 www.volksblatt.li.

9 www.vaterland.li.

10 www.sewr.llv.li, “EWR-Register”.

to the full text of the respective EU standard¹¹ as well as to the decisions of the EEA Joint Committee in the respective Law Gazette (LGBI). This makes it easy to determine the version of an EU standard applicable in the EEA – and thus in Liechtenstein. Finally, another very useful resource is the EEA-Lex database¹². It provides information in English as well as – to a somewhat limited extent – in German on proposed or already adopted EU acts with relevance for the EEA as well as acts that have already been incorporated into the EEA.

D. Swiss law

The current versions of the numerous **Swiss enactments** that – as a consequence of the various bilateral treaties with Switzerland (Customs Treaty, Patent Protection Treaty, Currency Treaty, agreement on stamp duties, etc.) – are directly applicable in Liechtenstein, are published at least twice a year by the Government in the Law Gazette (LGBI). The publications state only the titles of the applicable Swiss enactments and link to their numbers in the Swiss Classified Compilation (Systematische Sammlung des Bundesrechts)¹³. If a Swiss law does not apply in its entirety, the respective applicable articles are cited. **1.8**

E. Legal materials

The Government bill, including explanatory notes, submitted to the Liechtenstein Parliament (Landtag) as part of the legislative process is of key importance for the interpretation of norms. In Liechtenstein it is called **Report and Motion** (Bericht und Antrag, BuA), if it is issued between first and second parliamentary reading, it is called **Comments** (Stellungnahme, StN), and is available in HTML and PDF format from 1980 onward.¹⁴ Older BuA are available in the Liechtenstein National Library (Liechtensteinische Landesbibliothek)¹⁵ or can be ordered by email as PDF from the Liechtenstein National Archives (Liechtensteinisches Landesarchiv)¹⁶. For some years now, the numbers of BuA as well as the numbers of StN of newly enacted laws have been cited in a footnote to the version of the law published online.¹⁷ **1.9**

Parliamentary debates of bills from 1997 onward are recorded in the **parliament protocols** (Landtagsprotokolle, LTP), which are searchable on the Parliament's website¹⁸. The Government usually publishes a **Consultation Report**¹⁹ (Vernehmlassungsbericht) on important planned legislation in advance and invites the public to comment on them within a certain period of time. These comments are subsequently incorporated into the respective BuA. The comments received on important Consultation Reports can also **1.10**

¹¹ www.eur-lex.europa.eu.

¹² www.efta.int/eea-lex.

¹³ www.fedlex.admin.ch, "Classified Compilation".

¹⁴ bua.regierung.li.

¹⁵ www.landesbibliothek.li.

¹⁶ www.llv.li/inhalt/1650/amtstellen/landesarchiv.

¹⁷ www.gesetze.li.

¹⁸ www.landtag.li/protokolle.

¹⁹ www.rk.llv.li, "Vernehmlassungen".

be downloaded from the website of the Government Chancellery Unit (Stabsstelle Regierungskanzlei).²⁰

- 1.11** Sometimes, so-called **Parliamentary Inquiries** (Kleine Anfragen) submitted by Members of Parliament to the Government also include requests for information on legislative projects. Parliamentary Inquiries since December 2006 can be viewed together with the Government's answers on the Parliament's website.²¹
- 1.12** In a fee-based legal database (Rechtportal), the Liechtenstein enactments are linked to the respective BuA, LTP as well as relevant case law.²²

II. Courts and administration

- 1.13** Liechtenstein **case law** from 1947 to 1977 can be found in the Decisions of the Liechtenstein Courts (Entscheidungen der Liechtensteinischen Gerichtshöfe, ELG) and from 1978, in the Compilation of the Decisions of the Liechtenstein Courts (Liechtensteinische Entscheidungssammlung, LES). Important judgments of the Constitutional Court (Staatsgerichtshof, StGH), the Administrative Court (Verwaltungsgerichtshof, VGH), the Princely Supreme Court (Oberster Gerichtshof, OGH) and in part of the Princely Court of Appeal (Obergericht, OG) are published. The Compilation of the Decisions of the Liechtenstein Courts (LES) is published as part of the Liechtensteinische Juristenzeitung (LJZ) and is available online for a fee.²³
- 1.14** A free Government website contains selected decisions of Liechtenstein courts since 1997.²⁴ The website offers a full-text search, and it is also possible to search for file numbers, keywords, courts, legal provisions and LR numbers. In addition, a selection of important Constitutional and Administrative Court judgments is available on the courts' respective websites.²⁵ The judgments of the EFTA Court as well as those of the European Court of Human Rights are also accessible online.²⁶ Important decisions of Liechtenstein judicial and administrative authorities in the field of financial market law are published annually online in "FMA-Praxis" reports of the Financial Market Authority (Finanzmarktaufsicht, FMA).²⁷
- 1.15** The portal of the Liechtenstein National Administration (Landesverwaltung)²⁸ provides a wealth of information on specific offices and units as well as forms, guidelines, explanations, contact data of contact persons, etc. Examples include the websites of the Office of Justice (Amt für Justiz)²⁹ with information on the land register (Grundbuch) and on the commercial register (Handelsregister), or the website of the Tax Administration (Steuer-

20 www.rk.llv.li, "Externe Stellungnahmen zu Vernehmlassungsberichten".

21 www.landtag.li/kleine-anfragen.

22 www.rechtportal.li.

23 www.juristenzeitung.li; www.rechtportal.li.

24 www.gerichtsentscheidungen.li.

25 www.stgh.li; www.vgh.li.

26 www.eftacourt.int; www.echr.coe.int.

27 www.fma-li.li, "Publikationen".

28 www.llv.li.

29 www.aju.llv.li.

verwaltung)³⁰. The same applies to the website of the Liechtenstein Financial Market Authority (FMA)³¹ and the Foundation Supervisory Authority (Stiftungsaufsichtsbehörde, STIFA)³². More information is also available on the Government's official information portal.³³

III. References

Legal periodicals include the **Liechtensteinische Juristen-Zeitung** (LJZ)³⁴, published four times a year since 1980, and the **liechtenstein-journal**, published four times a year since 2009 and twice a year since 2017.³⁵ Between 1997 to 2012, the periodical **Jus & News** was published three times a year.³⁶ **1.16**

Fortunately, the specialist literature on Liechtenstein law has recently expanded considerably. All works are listed in the online catalog of the Liechtenstein National Library³⁷. Among the legal publication series, the Liechtenstein Political Papers (Liechtenstein Politische Schriften, LPS) of the Liechtenstein Academic Society (Liechtensteinische Akademische Gesellschaft)³⁸, which focus on public law, and, in private law, the Papers on Liechtenstein Law (Schriften zum liechtensteinischen Recht, SLR) of publishing house GMG³⁹ and the Publication Series on Liechtenstein Company, Tax and Banking Law (Schriftenreihe zum liechtensteinischen Gesellschafts-, Steuer- und Bankenrecht), published by Marxer & Partner Rechtsanwälte⁴⁰, must be named. The yearbooks of the Historical Association of the Principality of Liechtenstein (Historischer Verein für das Fürstentum Liechtenstein, JBL) have been published since 1901 and are a treasure trove of general, but also legal history topics on Liechtenstein.⁴¹ **1.17**

A wide range of books on Liechtenstein law, on history and politics as well as the Liechtenstein newspapers have been available online and free of charge for several years.⁴² Queries can be made either at the National Library only, or, if copyright permits, anywhere. **1.18**

30 www.stv.llv.li.

31 www.fma-li.li.

32 www.stifa.li.

33 www.regierung.li.

34 www.juristenzeitung.li.

35 wagner-joos.de/de/publikationen_liechtenstein_journal.

36 jn.rechtportal.li.

37 www.landesbibliothek.li.

38 www.verlag-lag.li.

39 www.gmg.biz.

40 www.marxerpartner.com.

41 www.historischerverein.li.

42 www.eliechtensteinensia.li.

Chapter 2

Constitutional principles

Sources: *G. Batliner*, Die liechtensteinische Verfassung 1921. Elemente der staatlichen Organisation (1994); *M. Batliner*, Die politischen Volksrechte im Fürstentum Liechtenstein (1993); *Baur* (Ed.), Europäer – Botschafter – Mensch. FS für Prinz Nikolaus von Liechtenstein (2007); *Beattie*, Liechtenstein – Geschichte und Gegenwart² (2015); *Bradke/Hauser*, 75 Jahre Zollvertrag Schweiz-Liechtenstein. Jubiläumsschrift im Auftrage der Gesellschaft Schweiz-Liechtenstein (1998); *Busek/Hummer* (Eds.), Der Kleinstaat als Akteur in den Internationalen Beziehungen (2004); *Bussjäger*, Aktuelles aus der Rechtsprechung des Staatsgerichtshofes 2016–2019, LJZ 2020, 104; *Hoch*, Die EMRK in der Rechtsprechung des Staatsgerichtshofes, LJZ 2018, 111; *Kley/Vallender*, Grundrechtspraxis in Liechtenstein, (2014); *Langewiesche* (Ed.), Kleinstaaten in Europa. Symposium am Liechtenstein-Institut zum Jubiläum 200 Jahre Souveränität Fürstentum Liechtenstein 1806–2006 (2007); *W. Marxer*, Direkte Demokratie in Liechtenstein. Entwicklung, Regelungen, Praxis (2018); *Müller*, Zum Jubiläumsjahr 2010. Liechtenstein in der organisierten Staatengemeinschaft. Zugleich ein Beitrag zur Rolle des Kleinstaats in den internationalen Organisationen, LJZ 2010, 77; *Nigg*, Das Sanktionsrecht des Landesfürsten, LJZ 2017, 85; *Ranzoni*, Aktuelle Rechtsprechung des Europäischen Gerichtshofs für Menschenrechte, LJZ 2020, 316; *Schädler/Vogt*, Innerstaatliche Umsetzung von Urteilen des Europäischen Gerichtshofs für Menschenrechte gegen Liechtenstein, LJZ 2018, 132; *Stotter* (Ed.), Die Verfassung des Fürstentums Liechtenstein samt Nebengesetzen² (2004); *Vogt*, Das Willkürverbot und der Gleichheitsgrundsatz in der Rechtsprechung des liechtensteinischen Staatsgerichtshofes (2008); *Wille*, Die Normenkontrolle im liechtensteinischen Recht auf der Grundlage der Rechtsprechung des Staatsgerichtshofes (1999); *Wille*, Liechtensteinisches Verfassungsprozessrecht (2007); *Wille*, Die liechtensteinische Staatsordnung. Verfassungsgeschichtliche Grundlagen und oberste Organe (2015).

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I. Political history

- 2.1** The **origin** of the Principality of Liechtenstein dates back to the 17th century. In 1699, Prince Johann Adam Andreas of Liechtenstein purchased the Lordship of Schellenberg for the sum of 115,000 gulden; soon afterwards, in 1712, the County of Vaduz was acquired. The high esteem in which the Prince of Liechtenstein was held by the Emperor led to both territories being united in 1719 to form the Imperial Principality of Liechten-

stein. After the fall of the Holy Roman Empire of German Nations, in 1806, Emperor Napoleon I granted the Principality of Liechtenstein full sovereignty under the Treaty of the Confederation of the Rhine (Rheinbundakte). In 1815, the Principality of Liechtenstein became a founding member of the German Confederation and remained a party to it until the dissolution of the Confederation in 1866. As early as 1852, Liechtenstein entered into a Customs Treaty with the Austro-Hungarian Monarchy. After the collapse of the Austro-Hungarian Empire, negotiations with Switzerland began, culminating in 1923 in the ratification of the Customs Treaty still in force today. In 1924, the Swiss franc was introduced as the national currency. Finally, the Agreement on the European Economic Area (EEA) entered into force for Liechtenstein on 1 May 1995, thus closely linking the country with the European Union.

II. The National Constitution

The structure of the State of Liechtenstein is anchored in the **Constitution** (Landesverfassung, LV) of 5 October 1921, which underwent a comprehensive revision in 2003. Liechtenstein is a constitutional hereditary monarchy based on a parliamentary democracy (Article 2 of the Constitution), with the power of the State inherent in the Reigning Prince and the People (elliptic constitution). In addition to defining the structure of the state (the Reigning Prince, Parliament, Government, courts), the Constitution lists the central tasks of the State, with the top priority being “to promote the general welfare of the People” (Article 14). Fundamental rights as well as human and civil rights are guaranteed (Articles 27^{bis} – 43 of the Constitution), as is the autonomy of the 11 Liechtenstein municipalities (Article 110 of the Constitution). The National Constitution can be amended only by unanimous vote of the Parliament in one sitting or by a three-quarters majority of members in two sittings of the Parliament (Article 112 (2) of the Constitution). It may also be amended, where appropriate, by a referendum. In any case, the sanction of the Reigning Prince is required. **2.2**

An excellent commentary on the Constitution of Liechtenstein, which is provided by the Liechtenstein Institute⁴³ and constantly updated, is available free of charge online.⁴⁴ The publication series Liechtenstein Political Papers (Liechtenstein Politische Schriften, LPS)⁴⁵, which by now comprises 60+ volumes, contains numerous other contributions on Liechtenstein constitutional law and constitutional history, on the country’s foreign relations, as well as on political and economic issues. **2.3**

III. Government bodies

A. The Reigning Prince

The Reigning Prince (Landesfürst, Articles 7–13 of the Constitution), whose rights are based on hereditary succession to the throne, is the country’s Head of State (Staatsoberhaupt).⁴⁶ He is not subject to the jurisdiction of the courts, but is bound by the Consti- **2.4**

43 www.liechtenstein-institut.li.

44 www.verfassung.li.

45 www.verlag-lag.li.

46 www.fuerstenhaus.li.

tution and laws (Article 7 (2) of the Constitution). The Constitution grants him considerable powers. Thus, the Reigning Prince is entitled to represent the country in relations with foreign countries (Article 8 of the Constitution), he appoints the Government (Article 79 (2) of the Constitution) and the judges (Articles 11, 96 of the Constitution). In the field of legislation, the Reigning Prince has the right of sanction: resolutions of the Parliament on the enactment of a law can only become law if the Reigning Prince sanctions them (Article 9 of the Constitution). Moreover, in urgent cases the Reigning Prince may issue emergency decrees (Article 10 of the Constitution), which cease to apply no later than six months after they have been issued. If the Government loses the confidence of the Reigning Prince, he may dismiss it (Article 80 of the Constitution). Furthermore, the Reigning Prince has the right to convene, close, prorogue or dissolve the Parliament for significant reasons (Article 48 of the Constitution). Finally, he has the prerogative of remitting, pardoning, mitigating or commuting sentences and of quashing prosecutions that have been initiated (Article 12 (1) of the Constitution). The sovereign acts of the Reigning Prince must be countersigned by the Head of the Government (Regierungschef). Since 15 August 2004 H.S.H. Hereditary Prince Alois von und zu Liechtenstein has exercised the sovereign rights of the Reigning Prince and thus the duties of the Head of State (Article 13^{bis} of the Constitution).

B. Parliament

- 2.5** The Liechtenstein **Parliament**, called the Landtag⁴⁷, is regulated in Articles 45–70 of the Constitution. It consists of 25 Representatives who are elected every four years by the People according to the proportional representation election system. It is a lay parliament – Liechtenstein does not have any full-time Members of Parliament. The Reigning Prince has the right to convene, close, prorogue or dissolve the Landtag (Article 48 of the Constitution). Likewise, the Landtag must be convened at the request of 1,000 citizens entitled to vote or of three municipalities. 1,500 citizens or four municipalities may demand a referendum with regard to the dissolution of the Landtag. The Landtag is convened in February each year and closes in December. It usually meets eight times a year for approximately three days at a time. After the Landtag is closed until it is reconvened, the so-called National Committee (Landesausschuss) assumes individual tasks (Articles 71–77 of the Constitution), but cannot enter into any permanent obligations for the Country.
- 2.6** The competences of the Landtag are defined by the Constitution (Articles 62 et seqq. of the Constitution). First and foremost, the Landtag is responsible for legislation, whereby a resolution on the enactment of a law always requires sanction by the Reigning Prince and publication in the Law Gazette (LGBI; Article 67 of the Constitution). The Landtag also participates in the conclusion of state treaties imposing costs on the State (Article 8 (2) of the Constitution), establishes the annual budget, authorizes taxes and other public dues, passes resolutions on credits at the expense of the State and controls the State administration. It may furthermore impeach Members of the Government before the Constitutional Court for breaches of the Constitution or other laws and pass a motion of no confidence in the Government or one of its Members. An Investigational Committee

47 www.landtag.li.

(Parlamentarische Untersuchungskommission) may be appointed if a majority of one quarter of the number of Representatives request this (Article 63^{bis} of the Constitution).

C. Participation of the People

The People participate in the Government through the election of the Members of the Parliament, on the one hand, and through the exercise of direct democratic rights, comparable to those in Switzerland, on the other hand. The right of **popular initiative**, in particular, needs to be mentioned here. It allows the People to request the enactment, amendment or revocation of a constitutional provision or – in contrast to Switzerland – of an ordinary law (Article 64 (2) of the Constitution, elaborated in Articles 80 et seqq. of the Act on Political Rights (Volksrechtengesetz, VRG). The **right of referendum** grants the People the right to request a referendum on a constitutional, treaty, enactment of laws or financial resolution of the Landtag within 30 days of the official publication of the resolution, unless the Landtag declares the law to be urgent (Articles 66 et seq. of the Constitution, elaborated in Articles 75 et seqq. of the Act on Political Rights [VRG]). The relevant resolution of the Landtag will be submitted to the Reigning Prince for sanction only if it is adopted by an absolute majority of the validly cast votes in the referendum. The People furthermore have the right to convene or dissolve the Landtag (Article 48 of the Constitution). 2.7

D. Government

The **Government**⁴⁸ (Articles 78–94 of the Constitution) comprises the Head of Government and four Ministers (called Counselors), nominated by Parliament and appointed by the Reigning Prince. Each Member of Government has a deputy. The period of office of the Government is four years. If the Government loses the confidence of the Reigning Prince or of the Landtag, it loses its power to exercise its functions. The Government is primarily responsible for issuing decrees within the limits of treaties and laws (Article 92 of the Constitution), for preparing Government bills (BuA or StN) for submission to the Landtag and for carrying out the entire State administration. The Government has subordinate offices and staff units.⁴⁹ As a rule, orders in administrative proceedings are issued in the first instance by the Government offices, subject to appeal to the Government or to the **Board of Appeal for Administrative Matters** (Beschwerdekommision für Verwaltungsangelegenheiten; Article 4 of the Appeals Commission Act [Beschwerdekommisionsgesetz]). In financial market law, the Financial Market Authority Liechtenstein (Finanzmarktaufsicht, FMA)⁵⁰ was established as an independent supervisory authority. In data protection law, the Data Protection Authority (Datenschutzstelle)⁵¹. Administrative and administrative penalty proceedings are governed by the General State Administration Act (Gesetz über die allgemeine Landesverwaltungspflege, LVG). Sovereign acts of the Reigning Prince and resolutions on enactments must be countersigned by the Head of Government. The employees of the Liechtenstein National Administration 2.8

48 www.regierung.li.

49 www.llv.li.

50 www.fma-li.li.

51 www.datenschutzstelle.li.

(Landesverwaltung) are public-sector employees (Article 6 of the State Employee Act [Staatspersonalgesetz]) and, unlike the Ministers, do not necessarily have to be Liechtenstein citizens.

E. Courts

- 2.9** Jurisdiction, the third power of the State, is exercised by independent judges in the name of the Reigning Prince and the People (Articles 95 – 105 of the Constitution). Judges are appointed by the Reigning Prince on the proposal of the **Judicial Appointments Commission** (Richterbestellungsgremium) and with the participation of the Landtag (Article 96 of the Constitution, detailed in the Judicial Appointments Act [Richterbestellungsgesetz, RBG]). Foreign citizens may also become Liechtenstein judges. Provisions on the exclusion and rejection of judges are stipulated with regard to the ordinary **courts** (Articles 56 et seqq. of the Court Organization Act [Gerichtsorganisationsgesetz, GOG]), with regard to the Administrative Court (Articles 6 et seqq. of the General State Administration Act [Gesetz über die allgemeine Landesverwaltungspflege, LVG]) and with regard to the Constitutional Court (Articles 10 et seq. of the Constitutional Court Act [Staatsgerichtshofgesetz, StGHG]).
- 2.10** Jurisdiction on ordinary civil and criminal matters exercised in first instance by the **Princely Court of Justice** (Landgericht) at Vaduz, in second instance by the **Princely Court of Appeal** (Obergericht) at Vaduz, and in third instance by the **Princely Supreme Court** (Oberster Gerichtshof; Article 97 of the Constitution).⁵² The court organization is regulated in further detail in the Court Organization Act (Gerichtsorganisationsgesetz, GOG). Civil jurisdiction is dealt with under 41.1 et seqq. Rulings by the Government or other administrative authorities, such as the Board of Appeal for Administrative Matters, the FMA Appeals Commission and the Data Protection Authority can be appealed before the **Administrative Court**⁵³ of the Principality of Liechtenstein (Verwaltungsgerichtshof des Fürstentums Liechtenstein; Article 102 of the Constitution and General State Administration Act).
- 2.11** The **Constitutional Court**⁵⁴ of the Principality of Liechtenstein (Staatsgerichtshof des Fürstentums Liechtenstein; Articles 104 et seq. of the Constitution and Constitutional Court Act) is responsible for deciding on conflicts of jurisdiction between courts and administrative authorities. Moreover, it also acts as the Disciplinary Court (Disziplinargerichtshof) for Members of Government (impeachment of a minister), of the Constitutional Court and the Administrative Court and decides on election complaints. However, the most important competences of the Constitutional Court are the decision on individual applications and the judicial review of the constitutionality of acts. In case of an individual application (Article 15 of the Constitutional Court Act), the applicant claims that one or more fundamental rights have been violated by a final and last-instance decision of a public authority, especially by a court (including the Princely Supreme Court or the Administrative Court) or by an administrative authority. Rights arising from the ECHR and its Additional Protocols as well as from other international treaties, e.g., the

⁵² www.gerichte.li.

⁵³ www.vgh.li.

⁵⁴ www.stgh.li.

International Covenant on Civil and Political Rights, the Conventions on the Elimination of All Forms of Racial Discrimination and on the Elimination of All Forms of Discrimination against Women or the UN Convention on the Rights of the Child (Article 15 (2) of the Constitutional Court Act) are equivalent to fundamental rights. The Constitutional Court may annul the contested decision.

If the Constitutional Court finds that the law, ordinance or treaty on which the contested decision is based is unconstitutional, it may annul the relevant provision of the law or ordinance or, in the case of treaties, annul their domestic binding force (judicial review of the constitutionality of an act, Articles 18 et seqq. of the Constitutional Courts Act). The annulment must be published in the Law Gazette (LGBI). In addition, a review of the constitutionality of laws, the constitutionality, legality and compliance with treaties of ordinances as well as of the constitutionality of treaties takes place at the request of courts and certain other applicants (such as the Government or a municipality). **2.12**

Following the Swiss and German model, the Constitutional Court proceeds from a consistently substantive understanding of fundamental rights, according to which even the legislator must not undermine fundamental rights and must observe the prohibition of disproportionate measures. Any interference with constitutionally guaranteed rights is only permissible on the basis of sufficient legal grounds and if there is a public interest in doing so. The interference must be proportionate, whereby the core content of the affected fundamental right must be preserved. **2.13**

In case of alleged violations of the ECHR or the ECHR Additional Protocols ratified by Liechtenstein by last-instance national decisions, an individual application may be submitted (Articles 34 et seqq. ECHR) to the **European Court of Human Rights**⁵⁵ in Strasbourg. Appeals against decisions of the EFTA Surveillance Authority (cf. 3.24), for example in competition matters, may be lodged with the **EFTA Court**⁵⁶ in Luxembourg. The Liechtenstein courts also may request an advisory opinion from the EFTA Court on the interpretation of the EEA Agreement (Article 34 EFTA Court/ESA Agreement). **2.14**

IV. Foreign policy

The key duties of **foreign policy** are maintaining the sovereignty of the State, ordering its relationships under international law, protecting its citizens abroad as well as co-operating within the international community.⁵⁷ In the last few decades, the presence of Liechtenstein in the field of foreign policy has increased considerably. For example, Liechtenstein is a member of the **United Nations**⁵⁸ and of many organizations within the United Nations, as well as of the OSCE⁵⁹, the **Council of Europe**⁶⁰ and numerous other international organizations. However, Liechtenstein is not a Member State of the OECD⁶¹ or **2.15**

⁵⁵ www.echr.coe.int.

⁵⁶ www.eftacourt.int.

⁵⁷ www.liechtenstein.li; www.regierung.li; www.aaa.llv.li.

⁵⁸ www.un.org.

⁵⁹ www.osce.org.

⁶⁰ www.coe.int.

⁶¹ www.oecd.org.

the European Union⁶². Liechtenstein furthermore has been a participant in the Statute of the **International Court of Justice**⁶³ since 1950 and has recognized its compulsory jurisdiction since then. Liechtenstein has also ratified the Rome Statute of the **International Criminal Court**⁶⁴. In addition to the Customs Treaty with Switzerland (cf. 4.5) as well as the membership in EFTA and the EEA Agreement (cf. 3.1 et seqq.), full accession to the **World Trade Organization** (WTO)⁶⁵ in 1995 is of particular importance for economic life.

- 2.16** The Principality of Liechtenstein maintains **diplomatic representation**⁶⁶, with embassies in Berlin, Bern, Brussels, Washington, Vienna (also covering the Czech Republic) and at the Holy See (the latter non-resident). Its closest bilateral relations are with the two neighboring countries Switzerland and Austria. Liechtenstein has permanent seats and diplomatic missions at the European Union in Brussels, the United Nations in New York, the Council of Europe in Strasbourg, the OSCE and the UNO in Vienna as well as the international organizations (UNO, WTO, EFTA) in Geneva. While Liechtenstein does not maintain any professional consulates, **honorary consulates** without passport authority have been established in Germany (Frankfurt am Main and Munich), the United States (various locations) and of late in London. The diplomatic and consular representatives of Liechtenstein abroad are proposed by the Government and appointed by the Reigning Prince.
- 2.17** In all countries where Liechtenstein does not maintain its own diplomatic institution, its diplomatic interests have been represented by Switzerland since 1919. The same applies to consular matters. If neither Liechtenstein nor Switzerland maintain a consular representation in a country concerned, a Liechtenstein citizen may contact the competent Austrian representation or the representation of another EU state. Ambassadors of more than 80 states are accredited in Liechtenstein. They do of course not reside in Liechtenstein, but usually in Bern. Similarly, a large number of consuls are accredited, with some honorary consulates based in Liechtenstein.⁶⁷

V. Relations with Switzerland

- 2.18** The severe political and economic problems caused by the aftermath of the war, the fall of the Austro-Hungarian monarchy and the hyperinflation of the Austrian currency, the crown, which was also used in Liechtenstein, caused Liechtenstein to turn towards **Switzerland** in the years after World War I. This was manifested, among other things, in Switzerland assuming the diplomatic and consular representation of Liechtenstein in 1919 and in the unilateral introduction of the Swiss franc as the national currency in 1924. The most significant development, however, was that after long negotiations, the Customs Treaty (Zollvertrag, ZV) on Liechtenstein joining the Swiss customs territory was concluded in 1923. Liechtenstein has since been part of the Swiss customs territory,

62 www.europa.eu.

63 www.icj-cij.org.

64 www.icc-cpi.int.

65 www.wto.org.

66 www.regierung.li/de-diplomatische-vertretungen.

67 www.regierung.li.

and the Liechtenstein-Austrian border is guarded by Swiss customs officials.⁶⁸ The integration of Liechtenstein into the Swiss economic area is an essential pillar of Liechtenstein's prosperity. General information on the very close Liechtenstein-Swiss relations is available on the website of the embassy of Liechtenstein in Bern.⁶⁹ The Swiss ambassador to Liechtenstein resides in Bern⁷⁰, and Switzerland maintains a consulate general in Vaduz.

Swiss customs legislation and all other federal legislation is directly applicable in Liechtenstein, where the Customs Union requires the application of such laws (Article 4 of the Customs Treaty). The application of customs and trade treaties concluded by Switzerland with third countries is extended to cover Liechtenstein as well (Article 7 of the Customs Treaty). While Liechtenstein has been able since 1995 to conclude trade and customs agreements with third countries, without Switzerland participating, this requires a special agreement between Liechtenstein and Switzerland (Article 8^{bis} (2) of the Customs Treaty). This was the prerequisite for Liechtenstein being able to join the EEA in 1995 after two positive referendums, even though the Swiss People had voted against accession in 1992 (cf. 3.2).

In addition to the Customs Treaty, among other things, a Patent Protection Treaty (Patentschutzvertrag) of 1978 is in place between Liechtenstein and Switzerland (cf. 47.1 et seqq.), which created a uniform Liechtenstein-Swiss patent protection area, as well implementing provisions concerning Swiss federal stamp duties of 1974 (cf. 18.1 et seqq.). Comprehensive agreements between the two countries are also in place in aviation law and in the law on aliens (cf. 50.1 et seqq.). In 1980, a currency treaty was concluded between Liechtenstein and Switzerland, creating a single currency area and making the Swiss National Bank the "lender of last resort" for Liechtenstein banks. The **Swiss National Bank**⁷¹ is responsible for monetary policy. It has the same powers with regard to Liechtenstein as in Switzerland. All of these treaties provide for the direct applicability of Swiss law in Liechtenstein. The relevant Swiss enactments are published at least twice a year in the Liechtenstein Law Gazette (LGBL, cf. 1.1).

VI. Key statistical data

In the years following World War II, Liechtenstein was able to develop from an impoverished agrarian country into one of the most highly industrialized countries in the world with a very high standard of living. As of 31 December 2019, 38,747 people lived within the national territory of Liechtenstein, covering 160 km²; 34.2% of its inhabitants being foreigners. Of the more than 40,611 people employed in Liechtenstein, 56% are cross-border commuters from Austria and Switzerland, who commute daily to Liechtenstein. Only about 0.6% of those gainfully employed work in agriculture; 36.5% of the workforce are employed in industry or the trades, and 62.9% are engaged in the service sector. According to the 2018 national accounts, 42.6% of national gross value added is generated by industry and trade, 57.3% by services, and 0.1% by agriculture and house-

68 www.ezv.admin.ch.

69 www.bern.liechtenstein.li.

70 www.eda.admin.ch/vaduz.

71 www.snb.ch.

hold activities. The country's public finances are healthy. The 2019 national accounts showed an exceptionally high surplus of CHF 328 million.

- 2.22** Comprehensive **statistical data**, the Statistical Yearbook (Statistisches Jahrbuch) as well as the **national accounts** are available on the website of the Office of Statistics (Amt für Statistik).⁷² Special websites focus on information and facts about the business location and the financial center.⁷³

⁷² www.as.llv.li.

⁷³ www.liechtenstein-business.li; www.finance.li.

Chapter 3

Liechtenstein and the European Economic Area

Sources: *Arnesen et al* (Eds.), Agreement on the European Economic Area. A Commentary (2018); *Barriga/Schindler*, Die EWR-rechtliche Dimension des Brexit, LJZ 2020, 75; *Batliner*, Die Anwendung des EWR-Rechts durch liechtensteinische Gerichte. Erfahrungen eines Richters, LJZ 2004, 139; *Baudenbacher*, Individualrechtsschutz nach dem EWR-Abkommen, LJZ 2002, 63; *Baudenbacher*, Zehn Jahre EFTA-Gerichtshof, LJZ 2004, 142; *Baudenbacher*, Bemerkungen zur Auslegung des EWR-Rechts durch den EFTA-Gerichtshof, Jus & News 2005, 7; *Baudenbacher*, Der EFTA-Gerichtshof, der EuGH, die nationalen Gerichte der EG-Staaten und der Finanzplatz Liechtenstein, Jus & News 2006, 153; *Baudenbacher* (Ed.), The Handbook of EEA Law (2016); *Baudenbacher*, Wie robust ist der EWR? LJZ 2020, 130; *Baur* (Ed.), Europäer – Botschafter – Mensch. Liber Amicorum für Prinz Nikolaus von Liechtenstein (2007); *Baur*, Kleine und mittlere Unternehmen im Kampf mit der Verwaltung um den Zugang zum Binnenmarkt, Jus & News 2008, 297; *Baur*, Unmittelbare Wirkung und Vorrang im EWR: Schutz einer abstrakten Souveränität der EFTA-Staaten oder konkreter Rechtsschutz für Bürger und Unternehmen? LJZ 2020, 56; *Bischof*, SOLVIT. Effiziente Problemlösung im EWR, LJZ 2020, 97; *Bruha/Pällinger/Quaderer* (Eds.), Liechtenstein. 10 Jahre im EWR. Bilanz, Herausforderungen, Perspektiven (2005); *Büchel*, Die Rolle der ESA im EWR, LJZ 2020, 21; *Bussjäger*, Rechtsfragen des Vorrangs und der Anwendbarkeit von EWR-Recht in Liechtenstein, LJZ 2006, 140; *Bussjäger/Frommelt*, Europäische Regulierung und nationale Souveränität. Praxisfragen zur Übernahme europäischen Rechts ausserhalb der EU, LJZ 2017, 40; *Epiney/Egbuna-Joss*, Rechtsfragen der Mitwirkung Liechtensteins am Schengen-System und an der europäischen Asylpolitik, LJZ 2007, 52; *Fredriksen*, 25 years after Liechtenstein saved the EFTA Court. The case for reform, LJZ 2020, 50; *Frommelt*, Ist die EWR-Mitgliedschaft ein Souveränitätsgewinn? Über ein Narrativ und dessen aktuelle Bedeutung, LJZ 2020, 41; *Gétaz*, Der Europäische Wirtschaftsraum. Eine resiliente institutionelle Konstruktion, LJZ 2020, 7; *Hammermann*, Grundrechte in der Rechtsprechung des EFTA-Gerichtshofs, LJZ 2018, 105; *Hammermann*, Liechtenstein. 25 Jahre EWR-Gerichtbarkeit, LJZ 2020, 11; *Lorez*, Liechtenstein und der EWR-Finanzierungsmechanismus, LJZ 2020, 82; *Monauni*, Liechtenstein und die EU. Mehr als eine reine Wirtschaftsbeziehung, LJZ 2020, 3; *Müller*, Rechtsfragen der bevorstehenden Assoziierung Liechtensteins zum Schengen- und Dublin-Acquis der Europäischen Union, Jus & News 2007, 47 bzw 269; *Müller*, EWR-Recht und Extraterritorialität, LJZ 2020, 91; *Müller/Schröder* (Eds.), 25 Jahre Europäischer Wirtschaftsraum. Ein Integrationsszenarium auf dem Prüfstand (2020); *Neier*, Der EWR-Beschlussfassungsprozess in Recht und Praxis, LJZ 2020, 26; *Regierung des Fürstentums Liechtenstein*, Bericht und Antrag der Regierung an den Landtag des Fürstentums Liechtenstein betreffend 25 Jahre Mitgliedschaft des Fürstentums Liechtenstein im Europäischen Wirtschaftsraum (EWR) (Report and Motion 2020/34); *Schafhauser*, Personenverkehr in Liechtenstein. Unde venit – Status quo – quo vadit? Jus & News 2008, 25; *Schirmer*, Die Durchsetzung des EU- und EWR-Beihilferechts vor nationalen Gerichten, LJZ 2020, 65; *Sild*, Die Herausforderungen für das EWR-System durch die “Agenturisierung” des Unionshandelns, LJZ 2020, 34; *Sild*, Die Rechtsprechung des EFTA-GH im Jahr 2019. In addition, decision overview of European courts and authorities, LJZ 2020, 239; *Tömördy*, Staatshaftung. Anmerkungen zur Rechtsprechung der Europäischen Gerichtshöfe, LJZ 2005, 77.

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I. Development

- 3.1** In 1989, the President of the European Commission at the time, Jacques Delors, propagated an intensified form of cooperation between the then EEC and EFTA states, beyond the existing mutual free trade agreements. At that time, Liechtenstein participated in the 1972 free trade agreement between the European Economic Community and the Swiss Confederation. Delors proposed creating a **European Economic Area**. Negotiations went underway in 1990, and the EEA Agreement was already signed on 2 May 1992 in Porto, between the EFTA States, on the one hand, including Liechtenstein, which in 1991 had become a full member of EFTA⁷⁴, and the European Economic Community or the European Coal and Steel Community and their Member States, respectively, on the other hand.
- 3.2** Already in December 1992, the Liechtenstein People voted in a referendum in favor of participation in the **EEA**. However, after the Swiss people the previous week had decided against Switzerland joining the EEA, the Customs Treaty between Liechtenstein and Switzerland (cf. 2.1) needed to be adapted. Negotiations resulted in the insertion of the provision stipulating that the conclusion of international conventions and the membership in international organizations of a commercial or customs nature by Liechtenstein require a special agreement with Switzerland, unless Switzerland itself becomes a member (Article 8^{bis} (2) of the Customs Treaty). The relevant agreement, which enabled Liechtenstein to join the EEA while retaining the Customs Treaty, was concluded on 2 November 1994. Following another positive referendum on 9 April 1995, the EEA Agreement en-

74 www.efta.int.

tered into force for Liechtenstein on 1 May 1995. A detailed overview of 25 years of EEA membership is provided in BuA 2020/34.⁷⁵

According to Article 128 of the EEA Agreement, any country wishing to join the EU must also become a member of the EEA, which is why the EEA today comprises 30 states, namely the 27 EU Member States and the EFTA members Iceland, Norway and Liechtenstein. Since neither Liechtenstein nor Norway or Iceland are currently aspiring to become EU Member States, the EEA at present does not appear to be at risk at all. **3.3**

A. Brexit

On 31 January 2020, the United Kingdom exited the EU (**Brexit**), thus also terminating its EEA membership. The EEA Withdrawal Agreement was signed on 28 January 2020 in London. The agreement was provisionally applied since 1 February 2020 and entered into force for Liechtenstein on 14 December 2020.⁷⁶ Since, during a transition period until 31 December 2020, the United Kingdom continued to be treated as an EU and EEA Member, most EU legal acts continued to apply relating to the United Kingdom, including the four fundamental freedoms. The transition period ended on 1 January 2021. With respect to EU and EEA countries, the United Kingdom has since been considered a third country. **3.4**

The Trade and Cooperation Agreement⁷⁷ concluded between the EU and the United Kingdom on 24 December 2020, which has been provisionally applied since 1 January 2021, does not apply to EEA states. Together with the EEA/EFTA member states Iceland and Norway, Liechtenstein is negotiating its own trade agreement with the United Kingdom, including services and investments. The FMA Liechtenstein⁷⁸ provides information on the current state of affairs in the financial services sector, for example with regard to equivalence decisions or the UK Temporary Permissions Regime. The trade in goods between Liechtenstein and the United Kingdom is governed by an additional agreement to the UK-Switzerland Trade Agreement, which entered into force on 1 January 2021. More detailed information on this Trade Agreement is available on the website of the Swiss Federal Customs Administration.⁷⁹ The website of the Office for Foreign Affairs provides a good overview of the respective legal basis in force and over the state of affairs in negotiations with the United Kingdom.⁸⁰ **3.5**

B. EFTA (European Free Trade Association)

As the fourth **EFTA state** alongside Iceland, Norway and Liechtenstein, Switzerland does not participate in the EEA, but has regulated its relations with the EU in bilateral treaties.⁸¹ In areas not covered by the EEA Agreement, the legal relationship between the four **3.6**

⁷⁵ bua.regierung.li.

⁷⁶ bua.regierung.li, BuA 2019/139.

⁷⁷ ec.europa.eu.

⁷⁸ www.fma-li.li.

⁷⁹ www.ezv.admin.ch.

⁸⁰ www.aaa.llv.li, "Liechtenstein and Europe", "Brexit".

⁸¹ www.europa.admin.ch.

EFTA States is governed by the EFTA Convention of 1960 and 2001 (so-called Vaduz Convention), e.g., in foreign trade or generally in relation to Switzerland.⁸²

II. Substantive scope of the EEA Agreement

A. EEA matters

3.7 The EEA ensures a level playing field between the contracting parties from a competition perspective, namely for all EU Member States as well as the EFTA States Liechtenstein, Iceland and Norway, and grants the latter access to the European Single Market. The EEA represents the most potent economic area in the world. The EEA Agreement primarily covers the following fields:⁸³

- four fundamental freedoms (Articles 8–45 of the EEA Agreement): free movement of goods, free movement of persons, free movement of services, and free movement of capital (cf. 3.11);
- protection of fair competition (Articles 53–60 of the EEA Agreement) and **prohibition of State aid** (Articles 61–64);
- general prohibition of discrimination (Article 4 of the EEA Agreement): any discrimination on grounds of nationality is generally prohibited in the EEA. Liechtenstein citizens are thus treated on par with EU citizens, and the same applies to Liechtenstein legal entities;
- horizontal policies (Articles 66–77 of the EEA Agreement): harmonization in the areas of social policy (Annex XVIII to the EEA Agreement), consumer protection (Annex XIX to the EEA Agreement), environment (Annex XX to the EEA Agreement), statistics (Annex XXI to the EEA Agreement) and company law (Annex XXII to the EEA Agreement);
- flanking policies (Articles 78–88 of the EEA Agreement): cooperation in areas not directly impacting the four fundamental freedoms, namely in research and development, education, tourism, media, measures designed to assist Small and Medium-sized Enterprises (SME). The EEA/EFTA States (Liechtenstein, Iceland and Norway) participate in the relevant EU programs.⁸⁴

B. EEA Acquis

3.8 The EEA Agreement consists of the main Agreement with 129 Articles, 22 Annexes and 49 Protocols as well as the European legal acts of relevance for the EEA (regulations, directives, decisions etc.) referenced therein. A continuously updated consolidated version of the EEA Agreement is available online and free of charge.⁸⁵ The provisions of the EEA Agreement governing fundamental freedoms, competition and the prohibition of State aid are in line with the respective provisions of EU primary law. Approximately two-thirds of the secondary European law (regulations and directives) existing when the EEA Agreement was signed in 1992 were incorporated into the 22 Annexes to the

⁸² www.efta.int.

⁸³ www.efta.int.

⁸⁴ www.sewr.llv.li, “EU-Programme”.

⁸⁵ www.efta.int; www.sewr.llv.li.

EEA Agreement (so-called **EEA Acquis**). In order to ensure the homogeneity of European law and legal certainty within the EEA, new acts of European law are continuously being integrated into the EEA Acquis (Article 102 of the EEA Agreement). Moreover, ECJ case law up to the date of signature of the EEA Agreement is part of the EEA Acquis and hence is binding (Article 6 of the EEA Agreement), and ECJ case law since 1992 must be duly considered in the rulings of the EFTA Court and of the national courts of the EEA/EFTA States (Articles 105 et seq. of the EEA Agreement).

All legal acts listed in the Annexes to the EEA Agreement are recorded in the **EEA Register**, and publication in the Law Gazette (LGBI) takes place in accordance with the EEA Publication Act (cf. 1.6). The European company law relevant for the EEA is specified, for example, in Annex 22 to the EEA Agreement. 10,428 EU legal acts had been incorporated into the EEA Agreement by the end of 2019.⁸⁶ In Liechtenstein's understanding, EEA law takes precedence over conflicting national law. If Liechtenstein law conflicts with the EEA Agreement or with the EEA Acquis, it cannot be applied in the specific case.⁸⁷ However, in some cases, the Constitutional Court also formally annuls national law that conflicts with European law.⁸⁸

C. Areas not regulated

All EU regulations concerning the EU Customs Union as well as essential EU policy areas such as the common foreign and security policy, the common agricultural and fishing policy, the common regional, tax, financial, and monetary policies, the economic and monetary union as well as important parts of justice policy and home affairs are not covered by the EEA Agreement. However, all EFTA States are part of the Schengen area (cf. 3.28). Thus, the EEA Agreement does not create a customs union, or tax union, or economic and monetary union, or political union but, nevertheless, a highly integrated and developed sui generis free trade area with the EU. Liechtenstein's trade relations with third countries are governed by the network of EFTA free trade agreements⁸⁹, by Swiss agreements whose validity has been extended to Liechtenstein, and by WTO law⁹⁰.

III. The four fundamental freedoms

A. Free movement of goods

According to the provisions on the **free movement of goods** (Articles 8–27 of the EEA Agreement), all products originating or marketed in one EEA Member State can be freely marketed in all other EEA Member States. Customs duties on imports and exports as well as any charges having equivalent effect are not allowed between the Contracting Parties, and neither are quantitative restrictions on imports and exports as well as all measures having equivalent effect.

⁸⁶ www.sewr.llv.li, “EWR-Abkommen”.

⁸⁷ E.g., VGH 2005/94.

⁸⁸ E.g., StGH 2006/94.

⁸⁹ www.efta.int.

⁹⁰ www.wto.org.

- 3.12** Since Liechtenstein is both an EEA Member State and (under the Customs Treaty) part of the Swiss Customs Territory, which means that Liechtenstein belongs to two economic areas at the same time, the concept of parallel marketability was worked out in the course of accession to the EEA (Agreement between Liechtenstein and Switzerland of 2 November 1994 and Customs Act (Gesetz über das Zollwesen) of 22 March 1995). According to that concept, both goods complying with EEA law and goods complying with the provisions of the Customs Treaty may be put on the market on Liechtenstein territory. For this purpose, a special Liechtenstein market control and surveillance mechanism managed by the Office of the National Economy (Amt für Volkswirtschaft) had to be established⁹¹, in order to prevent goods approved in the EEA but not in Switzerland from entering Switzerland via the open Liechtenstein-Swiss border.

B. Free movement of persons

- 3.13** Free movement of persons (Articles 28–35 of the EEA Agreement) comprises freedom of movement for workers in the EEA and the freedom of establishment for self-employed persons. Both arrangements require the recognition of professional diplomas and training certificates as well as the coordination of the various social security systems (Articles 29 et seq. of the EEA Agreement). The freedom of movement for workers (Articles 28–30 of the EEA Agreement) gives employees from EEA States the right to pursue their work throughout the EEA. It also covers the ancillary right of gainfully employed persons to move freely within the territory of each Member State for the purpose of applying for a post. Furthermore, it entitles workers to stay in a Member State and to leave once the employment relationship has been terminated. This means that a Liechtenstein citizen can work and reside anywhere throughout the entire EEA on the same conditions as an EU citizen.
- 3.14** The **freedom of establishment** (Articles 31–35 of the EEA Agreement) permits natural persons who are EEA nationals, to take up and pursue a self-employed activity in another EEA contracting state on a permanent basis and to establish themselves there. The same applies to legal persons (Article 34 of the EEA Agreement) (cf. 3.7). The freedom of establishment in particular grants the right to set up permanent establishments, branches, representative offices or subsidiaries throughout the EEA under the same conditions as nationals. This is of great significance not only to Liechtenstein's industry, but also to local financial intermediaries. Reference is made in this regard to the individual chapters on financial intermediaries. A permit procedure is not required for branches, permanent establishments or representative offices of Liechtenstein financial intermediaries in the respective host country (single license principle), as they are also supervised by the Liechtenstein FMA (home country control principle or passporting). Subsidiaries, on the other hand, are independent legal entities. If a Liechtenstein company establishes a subsidiary in another EEA Member State, the subsidiary must meet all the establishment requirements of the host country. This means that the German subsidiary of a Liechtenstein bank must – in contrast to the German branch of a

⁹¹ www.avw.llv.li.

Liechtenstein bank – have a permit from the German supervisory authorities and is directly subject to German supervision.

In the area of **free movement of persons**, the Principality of Liechtenstein has been granted protective regulations due to the high proportion of foreigners among its residents (34.2% as of 31 December 2019). The relevant detailed standards are set forth in Annex VIII to the EEA Agreement, with a consolidated version available online.⁹² Liechtenstein can also maintain its permit system for EEA nationals, thus for all EU citizens as well as for citizens of Iceland and Norway who wish to take up residence in Liechtenstein. However, in addition to the regular procedure for obtaining a residence permit, a lottery-type procedure has been introduced for EEA citizens, not dissimilar to the green card procedure in the United States.⁹³ EEA citizens and their family members thus require a permit from the Liechtenstein authorities to take up residence in Liechtenstein. These protective regulations are reviewed every five years. Annulling them would require a unanimous decision by all EEA States, including Liechtenstein. By contrast, Liechtenstein citizens who wish to take up residence in another EEA state, are not subject to any restrictions. **3.15**

C. Free movement of services

Self-employed persons not only have a right of establishment but also the right to provide cross-border services in any other EEA Member State (**freedom of services**, Articles 36–39 of the EEA Agreement). Services as defined in the EEA Agreement include, in particular, industrial, commercial, trade and freelance activities. Financial services are one key area of application of this fundamental freedom. Insurance companies, banks, asset management companies, fund companies, pension funds, etc. licensed in Liechtenstein can offer their services across borders throughout the entire EEA without any further permit procedures (**passporting** or European passport).⁹⁴ A permit procedure in the host country is not necessary (single license principle), as the FMA supervises the cross-border activities of the Liechtenstein financial intermediary in other EEA States as well (home country control principle). Furthermore, professional diplomas and training certificates from other EEA States must be recognized (Article 39 in conjunction with 30 of the EEA Agreement). **3.16**

D. Free movement of capital

The **free movement of capital** (Articles 40–45 of the EEA Agreement) allows any natural or legal person resident in an EU state or in Liechtenstein, Iceland and Norway to make investments and to acquire real estate or company shares throughout the entire EEA on the same conditions as nationals do. It is irrelevant whether or not any consideration is given in return. Any restrictions or discrimination on the basis of nationality, place of residence of the parties or place of investment are prohibited. **3.17**

⁹² www.efta.int, “EEA Legal Texts”.

⁹³ www.apa.llv.li.

⁹⁴ www.fma-li.li.

IV. Competition law and prohibition of State aid

A. Substantive norms

- 3.18** The EEA Agreement provides for uniform competition rules throughout the entire EEA in order to prevent distortions of competition (Articles 53–65 of the EEA Agreement). Cartels, business combinations and other concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition, are prohibited (Article 53 of the EEA Agreement). Any variation requires the approval of the competent authority. In addition, the prohibition of abuse of a dominant position in the EEA or in a substantial part of it by one or more undertakings applies (Article 54 of the EEA Agreement). Liechtenstein does not have a national antitrust or merger control law.
- 3.19** The EEA Agreement also prohibits State aid which distorts or threatens to distort competition by favoring certain undertakings or the production of certain goods, insofar as such aid affects trade between the contracting parties (Article 61 of the EEA Agreement). However, aid having a social character, granted to individual consumers or aid in the event of natural disasters and similar events is permissible. All existing aid schemes are reviewed on an ongoing basis.
- 3.20** The applicable secondary legislation, e.g., with regard to de minimis aid, to SME support and to sectoral and regional aid, is regulated (Annex XV to the EEA Agreement). Finally, the standards on public procurement are relevant in competition law (Article 65 (1) of the EEA Agreement; set forth in Protocol 27 and in Annex XVI). A Specialized Unit for Public Procurement (Fachstelle Öffentliches Auftragswesen)⁹⁵ has been created, which provides further information, including information on the application of the Public Procurement Act (Gesetz über das Öffentliche Auftragswesen, ÖAWG) and of the Sectoral Public Procurement Act (Gesetz über das Öffentliche Auftragswesen im Bereich der Sektoren, ÖAWSG). Reference should finally be made to the harmonization of provisions on the protection of intellectual property (Article 65 (2) of the EEA Agreement; elaborated in Protocol 28 and Annex XVII).

B. Regulatory competence

- 3.21** The competence of public authorities in competition law is divided at EEA level between the European Commission and the EFTA Surveillance Authority (Articles 55–59, 62, 64 of the EEA Agreement and Protocols 23–26). Detailed information is available on the website of the EFTA Surveillance Authority.⁹⁶ To put it very simply, in the EU Member States, compliance with competition rules is monitored by the European Commission and in the EEA/EFTA states, i.e., also in Liechtenstein, by the EFTA Surveillance Authority (ESA). Where possible, duplications should be avoided, and decisions of the Commission hence can also have direct applicability for Liechtenstein. However, only the EFTA Surveillance Authority can take measures against EEA/EFTA States. Decisions of the EFTA Surveillance Authority in competition and State aid law generally can be appealed to the EFTA Court.

⁹⁵ www.faw.llv.li.

⁹⁶ www.eftasurv.int, “Competition” or “State Aid”.

The national authorities of all EEA Member States, the European Commission and the EFTA Surveillance Authority are required to cooperate in order to maintain uniform supervision of competition throughout the entire EEA and to promote the homogeneous implementation and interpretation of the pertinent provisions. While Liechtenstein does not have any substantive national antitrust or merger control law, it has enacted an Act on the Implementation of Competition Rules in the European Economic Area (Gesetz über die Durchführung der Wettbewerbsregeln im Europäischen Wirtschaftsraum). The Office of the National Economy (Amt für Volkswirtschaft)⁹⁷ is responsible, among other things, for providing mutual administrative assistance with the competition authorities of other EEA States and for cooperating with the EFTA Surveillance Authority or the European Commission, for taking any required remedial action and imposing administrative fines or penalty payments. Based on a pertinent decision by the EFTA Surveillance Authority, the Office of the National Economy may effect search measures before the Princely Court of Justice. Decisions of the Office can be appealed to the Government within 14 days, and a further appeal is possible to the Constitutional Court. The competence of the authorities and the public procurement procedure are governed by the Public Procurement Act (Gesetz über das Öffentliche Auftragswesen, ÖAWG) and of the Sectoral Public Procurement Act (Gesetz über das Öffentliche Auftragswesen im Bereich der Sektoren, ÖAWSG).⁹⁸

V. Institutions of the EEA

As already shown, the EEA unites the EU Member States and the three EFTA Member States Liechtenstein, Iceland and Norway, into a unique common internal market. The institutional framework of the EEA is based on two pillars, i.e., on the EU and its institutions, on the one hand⁹⁹, and, mirroring them, the EEA/EFTA institutions, on the other hand.¹⁰⁰ The Joint Institutions form the umbrella. The EEA/EFTA institutions and the Joint Institutions are supported by the EFTA Secretariat. The EEA in itself is merely a contractual entity and – unlike, for example, the EU, EFTA, the EFTA Court and the EFTA Surveillance Authority – does not have international legal personality.

A. EEA/EFTA institutions

The EEA/EFTA institutions have the EEA/EFTA Member States Liechtenstein, Iceland and Norway as their sole members and form the second pillar of the EEA, together with the EU institutions. These institutions do not have any legislative powers. The following bodies, in particular, should be mentioned:

- The **EFTA Surveillance Authority** (ESA) with its seat in Brussels is an international organization and is based on Article 108 (1) of the EEA Agreement and on Articles 4 et seqq. of the EFTA Court/ESA Agreement.¹⁰¹ It is governed by a college of three members (one from each Member State) and ensures that the EEA/EFTA States meet their

⁹⁷ www.avw.llv.li.

⁹⁸ www.faw.llv.li.

⁹⁹ www.europa.eu.

¹⁰⁰ www.efta.int, “EEA Institutions”; www.sewr.llv.li.

¹⁰¹ www.eftasurv.int.

EEA obligations. In this regard, it has the same powers as the European Commission for the EEA/EU States. In particular, it monitors implementation of and compliance with the EEA Acquis. In the event of a breach of the EEA Agreement by an EEA/EFTA State, the Authority initiates treaty infringement proceedings against the Member State concerned. If the deficiency is not remedied, an action will be brought before the EFTA Court. It cooperates closely with the European Commission.

- The **EFTA Court** has been established in Luxembourg (Article 108 (2) of the EEA Agreement; Articles 27 et seqq. of the EFTA Court/ESA Convention).¹⁰² The EFTA Court is comprised of one judge per EEA/EFTA State and has similar competences with regard to the three Member States as the ECJ has for the EU Members. The EFTA Court rules on treaty infringement actions brought by the EFTA Surveillance Authority against an EEA/EFTA Member State and is entrusted with the settlement of disputes between two or all EEA/EFTA States. It furthermore is the appellate court against decisions of the EFTA Surveillance Authority under competition and State aid law. Finally, the national courts of the EEA/EFTA States may also request an advisory opinion of the EFTA Court on the interpretation of the EEA Agreement. This right is actively used by Liechtenstein courts.
- The Standing Committee of the EEA/EFTA States consists of representatives of Liechtenstein, Iceland and Norway at ambassadorial level. Switzerland and the EFTA Surveillance Authority have observer status. The Standing Committee usually meets once a month and serves to agree on a common position of the EEA/EFTA States. The Standing Committee has established five sub-committees, which in turn are divided into numerous working and expert groups.
- The Parliamentary Committee of the EFTA States (EFTA Parliamentary Committee) consists of members of the national parliaments of the EFTA/EEA States. Switzerland has observer status. Liechtenstein is delegating two members. The members form the EFTA side of the EEA Joint Parliamentary Committee, give opinions on EEA agendas and act as the interface with national parliaments.
- The Consultative Committee of the EFTA States is a forum for the social partners (employers' and employees' organizations) of all EFTA States.

B. Joint Institutions

3.25 The Joint Institutions are responsible for preparing decisions, adopting resolutions and resolving disputes. All EEA Member States, i.e., the EU Member States as well as Iceland, Liechtenstein and Norway, are represented – directly or indirectly – in the relevant Institutions.¹⁰³ They are the following four Institutions:

- The **EEA Council** (Articles 89–91 of the EEA Agreement) is composed of the Foreign Ministers of the EEA/EFTA States, the Foreign Ministers of the EU Troika (i.e., the past, the current and the following EU Presidencies) and the High Representative of the EU for Foreign Affairs and Security Policy. It is the highest body of the EEA and

¹⁰² www.eftacourt.int.

¹⁰³ www.efta.int, “EEA Institutions”.

primarily determines its political orientation. The EEA Council meets twice a year, with the presidency alternating between the two EEA pillars.

- The EEA Joint Committee (Articles 92–94 of the EEA Agreement) consists of the ambassadors of the EEA/EFTA States and representatives of the European Commission and the EU Member States, respectively. Four sub-committees were established. The EEA Joint Committee usually meets once a month. Its most important task is to make decisions for the purpose of incorporating secondary European law of EEA-relevance into the EEA Agreement (EEA Acquis) in order to ensure the homogeneity of the European Economic Area (Article 102 of the EEA Agreement). These decisions (EEA Joint Decisions) are made by mutual agreement between the EU, on the one hand, and the EEA/EFTA States, speaking with one voice, on the other hand.¹⁰⁴ The decisions are published in the Law Gazette (LGBI). If Liechtenstein law requires referral to the Landtag (Article 8 (2) of the Constitution), the Joint Decisions enter into force only after notification of the approval by the Landtag (Article 103 of the EEA Agreement). The Landtag has appointed a special commission for this purpose.¹⁰⁵
- The EEA Joint Parliamentary Committee (Article 95 of the EEA Agreement) consists of 12 members each of the European Parliament and 12 members of the Parliamentary Committee of the EFTA States. Liechtenstein is delegating two members. The EEA Joint Parliamentary Committee has only certain control and advisory rights; it is not involved in the EEA decision-making process.
- The EEA Consultative Committee (Article 96 of the EEA Agreement) is composed of nine members each of the EU Economic and Social Committee and nine members of the EFTA Consultative Committee; Liechtenstein is delegating two representatives. It meets once a year and is the body for the exchange of views and regular cooperation between the social partners in the EEA. The EEA Consultative Committee is also not directly involved in the EEA decision-making process.

C. Liechtenstein authorities

Both the EEA Agreement as well as the secondary European law stipulated in the EEA Acquis must be applied by all Liechtenstein authorities. As European law affects more and more areas of governmental action, its importance for legal practitioners is constantly increasing. After Liechtenstein's accession to the EEA, the Government created the **EEA Coordination Unit**¹⁰⁶ (Stabsstelle EWR), which is responsible for coordinating the adoption of EEA law, advising the Government and Government offices on European law, representing the Government in proceedings before the EFTA Surveillance Authority, the EFTA Court and the ECJ, and also for documenting EEA law in Liechtenstein (e.g., the EEA Register; cf. 1.7). It also is the national point of contact of the EEA-wide problem-solving network Solvit¹⁰⁷ for the country's residents and companies who are facing issues in other EEA states due to incorrect or inadequate application of EEA

¹⁰⁴ www.efta.int/eea-lex.

¹⁰⁵ www.landtag.li/ewr-schengen-kommission.

¹⁰⁶ www.sewr.llv.li.

¹⁰⁷ www.ec.europa.eu/solvit.

law. Finally, the Coordination Unit provides information on EU programs in which EEA member states participate. Liechtenstein's interests in Brussels are represented by the diplomatic mission to the European Union.¹⁰⁸

D. Special case: European Financial Supervisory Authorities

- 3.27** The three **European Financial Supervisory Authorities** for Banking (EBA),¹⁰⁹ based in Paris, Insurance (EIOPA)¹¹⁰, based in Frankfurt, and Securities (ESMA)¹¹¹, based in Paris – with Liechtenstein being a full member, albeit without voting rights – enjoy a somewhat special status. The EFTA Surveillance Authority (ESA) has the competence to adopt measures with binding force for the national supervisory authorities of Liechtenstein, Iceland and Norway, as well as vis-à-vis any financial intermediaries established in these countries, while any legally non-binding measures are adopted directly by the European financial supervisory authorities. Guidelines and recommendations of the European financial supervisory authorities addressed to the national supervisory authorities – in Liechtenstein to the FMA – usually are declared binding by the FMA by way of notifications.¹¹²

VI. Schengen and Dublin

- 3.28** The **Schengen Agreement**, signed in 1985 by Germany, France, Belgium, the Netherlands and Luxembourg in Schengen, Luxembourg, together with the Schengen Convention signed in 1990, resulted in the elimination of border controls on people at internal borders between the participating states, as well as in increased cooperation in the area of visas and in the areas of police (Schengen Information System) and justice. The Schengen Acquis, hence all legal acts applicable under the Agreement and Convention, has since been incorporated into the EU legal framework, thus making the EU institutions responsible for its further development. The **Dublin Convention** signed in 1990, intensifies the cooperation on asylum-related matters and serves to determine the State responsible for examining an asylum application lodged in a participating State.
- 3.29** In 2001, Switzerland asked the EU to be associated with Schengen and Dublin. The EEA/EFTA States Norway and Iceland had previously already embarked on the pathway to association to Schengen as a non-Member of the EU. Switzerland has been participating in the Schengen and Dublin Acquis since 12 December 2008. Liechtenstein also contacted Bern and Brussels as early as 2001 about its possible association in parallel with Switzerland, followed by exploratory talks with the Commission. Formal negotiations between Liechtenstein and the EU commenced in 2006. Liechtenstein's association to the Schengen system has been in force since 19 December 2011 (Council Decision 2011/842/EU, Schengen Association Protocol). Since the same date, Liechtenstein has been associated to Dublin (Dublin Association Protocol).

108 www.bruessel.liechtenstein.li.

109 www.eba.europa.eu.

110 www.eiopa.europa.eu.

111 www.esma.europa.eu.

112 www.fma-li.li, “Regulierung”, “Regulierungen der Europäischen Aufsichtsbehörden”.

Since Liechtenstein is not part of the EU Customs Union, but belongs to a single customs territory with Switzerland, the Schengen Acquis has eliminated checks on persons but not on goods at Liechtenstein's borders with Austria. In addition to modifications to the law on aliens (cf. 50.1 et seqq.), Liechtenstein's Schengen association resulted especially in changes to the legal situation prior to the association in the areas of mutual assistance in criminal matters (cf. 23.1 et seqq.) and in fiscal matters (cf. 20.5 et seqq.). **3.30**

Liechtenstein's association to the Schengen and Dublin Acquis takes the form of Protocols to the Swiss Association Agreements, explicitly stating that a lapse of Switzerland's Schengen association would not automatically terminate Liechtenstein's association. The Protocols provide for institutional and substantive equality of Liechtenstein with the Schengen States Switzerland, Iceland and Norway. **3.31**

The development of the Schengen Acquis is ongoing, with the EU determining which new legal acts are of relevance for Schengen. While Liechtenstein, like the other association states, has a right of co-determination, it does not have co-decision powers. From the date of notification of new relevant legal acts, Liechtenstein has up to 18 months to implement them on the domestic level, if a referendum were to be held as part of the implementation process. If the implementation fails, Liechtenstein's association will automatically be terminated, unless the Mixed Committee (Gemischter Ausschuss) decides otherwise. Implementing Decisions of the EU Commission on the further development of the Schengen Acquis are in each instance implemented in Liechtenstein by way of an exchange of notes between Liechtenstein and the EU. **3.32**

Chapter 4

History of Liechtenstein Private Law

Sources: *Berger* (Ed.), Eine Zivilrechtsordnung für Liechtenstein. Die Entwürfe des Landvogts Joseph Schuppler (1999); *Berger*, Rezeption im liechtensteinischen Privatrecht unter besonderer Berücksichtigung des ABGB (2008); *Berger/Brauneder*, 200 Jahre ABGB in Liechtenstein, LJZ 2012, 1; *Brauneder*, 175 Jahre “Allgemeines bürgerliches Gesetzbuch” in Liechtenstein, LJZ 1988, 94; *Gschnitzer*, Lebensrecht und Rechtsleben des Kleinstaates, in *Goop* (Ed.), GedS Ludwig Marxer (1963) 19; *F. Marxer*, Streifzug durch das liechtensteinische Privatrecht, insbesondere das Stiftungs- und Gesellschaftsrecht, ZEuP 2004, 477; *Merki*, Von der liechtensteinischen Landkanzlei zur internationalen Finanzberatung. Die Anwaltskanzlei Marxer & Partner und der Finanzplatz Vaduz (2003); *Merki*, Wirtschaftswunder Liechtenstein. Die rasche Modernisierung einer kleinen Volkswirtschaft im 20. Jahrhundert (2007); *Schädler*, Die alten Rechtsgewohnheiten und Landsordnungen der Grafschaft Vaduz und der Herrschaft Schellenberg, sowie des nachherigen Fürstentums Liechtenstein, JBL 1905/5; *Schädler*, Franz Klein und die bevorstehende Teilreform der Zivilprozessordnung. Ein rechtshistorisch-konzeptionelles Schlaglicht, LJZ 2017, 65; *Schamberger-Rogl*, “Landts Brauch, oder Erbrecht” in der “Vaduzischen Grafschaft üblichen”. Ein Dokument aus dem Jahr 1667 als Grundlage für landschaftliche Rechtssprechung, JBL 2001, 1; *Ungerank*, Ein Abgesang auf das Gesetz über die Vermittlerämter, LJZ 2015, 39; *Wille*, Die Neukodifikation des liechtensteinischen Privatrechts als Rezeptionsfrage ausländischen Rechts, in *Ebert* (Ed.), FG Karl Kohlegger (2001) 613.

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I. Until 1900

- 4.1** Until the beginning of the 19th century, the territory of what is now the Principality of Liechtenstein was governed by local Alemannic customary law that had been recorded as **national custom** (Landsbrauch) since the 16th century. In 1808, Prince Johann I of Liechtenstein decreed the abrogation of national custom and the elaboration of a whole series of new laws, the editing of which was entrusted to Joseph Schuppler, a bailiff (Landvogt) of Liechtenstein who had originally come from Moravia. As early as 1809, a Code of Succession and Probate Proceedings (Erbfolgs- und Verlassenschaftsabhandlungsordnung), a Bankruptcy Code (Konkursordnung) and a Land Register Code (Grundbuchsordnung) were put into force, all of which closely resembled their Austrian models.
- 4.2** Per Princely Decree of 18 February 1812, the Austrian General Civil Code (Allgemeines Bürgerliches Gesetzbuch) of 1811 was adopted, with the exception of the provisions governing the law of succession, so that Liechtenstein became the first sovereign state to adopt the Austrian General Civil Code. For the most part, the Austrian General Civil Code is still in force today, even though it has been frequently amended. Simultaneously,

the Austrian General Code of Court Procedure (Allgemeine Gerichtsordnung) of 1781 and the Austrian Code on Crimes and Grave Violations of Police Orders and Prohibitions (Gesetzbuch über Verbrechen und schwere Polizeiübertretungen) of 1803 were introduced in Liechtenstein. In 1819, a new Princely Decree ruled that amendments of the Austrian General Civil Code should automatically be effective in Liechtenstein as well. This **automatic reception** was to last until 1843, when the reception of each Austrian code was made subject to Princely sanction in order to be able to take into account, to a greater extent, the prevailing local circumstances. In 1846, the Code of Succession and Probate Proceedings of 1809 was repealed and the Austrian law of succession was introduced; finally, in 1859, the new Austrian Penal Code (Strafgesetz) of 1852 was adopted.

II. From 1900 to 1990

Between 1912 and 1916, the law of civil procedure and the organization of the court system were renewed based on the model of the Austrian court system. Furthermore, conciliation proceedings before the Conciliation Office (Vermittleramtsverfahren; in 2015 abolished without substitution), mostly obligatory, were instituted to precede the proceedings in court. The creation of new legislation (Legiferierungstätigkeit) within the law of civil procedure ended, for the time being, by the Act on Special Extra-Judicial Proceedings (Gesetz betreffend das Rechtsfürsorgeverfahren) of 1922 (in 2010 replaced by the Non-Contentious Proceedings Act) (cf. 41.21 et seq.), and the Act on the Protection of Rights (Rechtssicherungs-Ordnung) of 1923. **4.3**

In 1817/18, the Imperial-Royal Appellate Court for Tyrol and Vorarlberg (k.k. Appellationsgericht für Tirol und Vorarlberg) in Innsbruck was named as the court of appeal (third instance) for appeals dealing with questions of law only (Revisionsgericht). The second instance was the Princely Appellate Court (Fürstliches Appellationsgericht) in Vienna, which was connected to the Princely Chancellery (Fürstliche Hofkanzlei). It was only after the Court Organization Act (Gerichtsorganisationsgesetz) of 1922 was adopted that the courts of all three instances were moved to Liechtenstein. **4.4**

After the First World War, Liechtenstein, like its customs treaty partner at the time, Austria, was completely devastated economically. The customs treaty with Austria, which had been in place since 1852, was terminated and Liechtenstein turned to Switzerland, resulting in the conclusion of a Postal Treaty (Postabkommen) in 1921, the Treaty regarding the inclusion of the Principality of Liechtenstein in the Swiss Customs Union (Zollanschlussvertrag) in 1923 (cf. 2.18) and the legal introduction of the Swiss franc as the official currency of Liechtenstein in 1924. Thus, since the 1920s, Liechtenstein has been united with Switzerland in a monetary, customs and postal union, which has been a central pillar of the country's prosperity. In private law as well, the country shifted its focus to Switzerland. Under the decisive leadership of Dr. Wilhelm Beck, a jurist and politician trained in Switzerland, who was also one of the leading experts behind the new Constitution of 1921, steps were taken to create a Liechtenstein Civil Code to replace the Austrian General Civil Code of 1812 and the General German Commercial Code of 1866. The first part to be introduced in 1922 was the Act on Property Law (Sachenrecht, SR), which adopted the introductory and property law provisions of the Swiss Civil Code (Zivilgesetzbuch) almost without any changes. In 1926, the Persons and Companies Act **4.5**

(Personen- und Gesellschaftsrecht or, in short, PGR) was introduced (cf. 5.4 et seqq.). After that, the project of a Liechtenstein civil law codification stalled and has not been continued to date. Hence, even today, the Austrian General Civil Code of 1812 is used in most areas of civil law in Liechtenstein.

- 4.6** In the mid-1970s, the Austrian General Civil Code was modernized by provisions on tenant protection law, the reception of the Swiss law governing employment contracts and the implementation of the three Austrian partial amendments (Teilnovellen) of 1914–1916. In addition, a Marriage Act (Ehegesetz) abrogating the denominational marriage law of the Austrian General Civil Code previously in force was created, which also introduced the obligatory marriage before a registrar and the possibility of divorce, including for members of the Catholic faith. Furthermore, between 1971 and 1973, a new Bankruptcy Code (Konkursordnung) and an Enforcement Code (Exekutionsordnung) based on the Austrian model were adopted. Towards the end of the 1980s, the Austrian Criminal Code (Strafgesetzbuch) of 1974 was adopted almost without modifications. The new Criminal Procedure Code (Strafprozessordnung) was also based on the Austrian model. Moreover, between 1988 and 1993, extensive modifications were made to the law of parents and children (Kindschaftsrecht) and to matrimonial law (Eherecht). These areas of law were also modeled on Austrian law.

III. Since 1990

- 4.7** Between 1990 and 2010, to a large part in connection with Liechtenstein's accession to the EEA in May 1995 (cf. 3.2), extensive legislative activities were carried out in most areas of private law. Among others, modern laws were enacted against unfair competition, on copyright, on product liability, and on private international law. From 2000, among other things, an Insurance Contract Act (Versicherungsvertragsgesetz), a Consumer Protection Act (Konsumentenschutzgesetz) and a Design Act (Designgesetz) were enacted, and warranty law was newly regulated in the Austrian General Civil Code. In the area of electronic communications, an E-Commerce Act (E-Commerce-Gesetz), an Electronic Signatures Act (Gesetz über elektronische Signaturen), and a new Service of Documents Act (Zustellgesetz) were enacted. The total revision of the foundation law (Stiftungsrecht) came into force on 1 April 2009 (cf. 9.4 et seqq.).
- 4.8** Significant legislative activity in the area of private law and civil procedure law has continued since 2010. A new tenant protection law was introduced in the Austrian General Civil Code, the law of property underwent adjustments, and amendments recently enacted in Austria were adopted in the law of succession (cf. 35.1 et seqq.). In civil proceedings, arbitration law underwent a total revision in 2010 (cf. 44.1 et seqq.) and the Non-Contentious Proceedings Act (Außerstreitgesetz) inspired by Austrian law was introduced (in force since 1 January 2011), as was a far-reaching amendment of the Code of Civil Procedure in 2018 (in force since 1 January 2019). The Data Protection Act of 4 October 2018 (in force since 1 January 2019), which serves to implement the General Data Protection Regulation (DSGVO) in Liechtenstein (cf. 51.1 et seqq.), and the Blockchain Act (cf. 31.1 et seqq.) also have a significant impact on private law.
- 4.9** On 1 January 2020, the Notaries Act (Notariatsgesetz) came into force, which introduced the profession of notary in Liechtenstein. However, notarial activities could not be started