



Liechtenstein v. Germany

ARGUED: 19 November 2017

DECIDED: 20 November 2017

1 The Concurring Opinion was signed by Justice Caine, Justice Knights, Justice Kennedy, Justice Wallrich,
2 Justice Taoreed, and Justice Dolan.

3 The Concurring Opinion agrees with the majority opinion in that the Court lacks jurisdiction to adjudicate
4 Liechtenstein's petition regarding Germany's temporary possession of Liechtensteiner property. However, our deter-
5 mination of cause for the lack of jurisdiction is founded primarily in the majority's argument regarding Chapter 6,
6 Article 3 of the Convention on the Settlement of Matters Arising out of the War and Occupation (26, May 1952).

7 Disagreeing with the majority, the concurring opinion does not view Article 27 (a) of the European Conven-
8 tion on the Settlement of Disputes as limiting the Court's jurisdiction under *ratione temporis*.

9 The section, which states, "*The provisions of this Convention shall not apply to: a disputes relating to facts*
10 *or situations prior to the entry into force of this Convention as between the parties to the dispute,*" came into force for
11 the applicant and respondent on 18 February, 1980. The initial seizure by Czechoslovakia, under the Benes Decrees,
12 of Liechtensteiner property preceded this date by more than three decades. This, in the opinion of the majority, is
13 a basis to deny the Court's jurisdiction in the matter in itself.

14 We, the concurring members of the Court, find this dispute may be based on information considering the
15 acts by Czechoslovakia and Germany since 1945, but the basis of the case is founded in the 1995 litigation in the
16 courts of Germany. The decision by the German court in determining Liechtenstein's "neutral party asset" as a
17 "German external asset" was the first time the Convention's statutes had been applied in this manner. Thereby, this
18 new application of the Convention has created the current litigative dispute between Liechtenstein and Germany.
19 Thereby, *ratione temporis* is fulfilled for the purposes of this Court's jurisdiction.

Signed By

Justice Dolan

Justice Knights

Justice Wallrich

Justice Kennedy

Justice Caine

Justice Taoreed