

IN THE INTERNATIONAL COURT OF JUSTICE

**PRINCIPALITY OF LIECHTENSTEIN,
APPLICANT**

V.

**FEDERAL REPUBLIC OF GERMANY,
RESPONDENT**

MEMORIAL OF THE PRINCIPALITY OF LIECHTENSTEIN

COMES NOW the Principality of Liechtenstein and for their Memorial to the Court states the following:

STATEMENT OF LAW:

1. The Convention on the Settlement of Matters Arising out of the War and the Occupation (5 May 1955) states in Chapter Six-Reparation, Article 3, section 1 that The Federal Republic shall 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, or on the basis of agreements concluded, or to be concluded, by the Three Powers with other Allied countries, neutral countries or former allies of Germany.
2. The European Convention for the Peaceful Settlement of Disputes (18 February 1980) states in Article 27 section a that the provisions of this Convention shall not apply to: a disputes relating to facts or situations prior to the entry into force of this Convention as between the parties to the dispute; (section b) disputes concerning questions which by international law are solely within the domestic jurisdiction of States.
3. The European Convention for the Peaceful Settlement of Disputes (18 February 1980) states in Article 30 that If the execution of a judicial sentence or arbitral award would conflict with a judgement or measure enjoined by a court of law or other authority of one of the parties to the dispute, and if the municipal law of that party does not permit or only partially permits the consequences of the judgement or measure in question to be annulled, the Court or the Arbitral Tribunal shall, if necessary, grant the injured party equitable satisfaction.”
4. The European Convention for the Peaceful Settlement of Disputes (18 February 1980) states in Article 32, section 1 that this Convention shall remain applicable as between the Parties thereto, even though a third State, whether a Party to the Convention or not, has an interest in the dispute.
5. The European Convention on Human Rights (3 September 1953) states in ARTICLE 1 (Protection of Privacy) that every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce

such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

6. The European Convention on Human Rights (3 September 1953) states in ARTICLE 14 (Prohibition of discrimination) that the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

STATEMENT OF FACT:

During World War II, Czechoslovakia was an allied nation and fought against Germany. In 1945, through a series of legislations (the Benes Decrees), Czechoslovakia seized German and Hungarian property located on its territory.

The Benes Decrees were applied to people suspected of being of German or Hungarian, in addition to the persons that were German or Hungarian. Czechoslovakia treated the nationals of Liechtenstein as German nationals because of these policies. As a forward, the Prince of Liechtenstein and his family, along with other Liechtensteiners, were not German nationals nor were they ethnically German. Substantial amounts of arable land, private properties along with their contents, industrial assets, and a painting, owned by the then Prince of Liechtenstein, Franz Joseph II, were seized by Czechoslovakia. The seized property has not been returned, nor have there been any reparations or compensation of any sort been offered or paid by Czechoslovakia or Germany. The application of the Benes decrees to the Liechtenstein property remained an unresolved issue between Liechtenstein and Czechoslovakia. After the dissolution of Czechoslovakia, the dispute is ongoing and is currently an unresolved issue between Liechtenstein and the current Czech Republic. Much of the Liechtensteinian property is under the control of the Czech Republic. It should be noted that Germany was cognizant of all the historical events.

In 1995, the painting, seized from the late Prince Franz Joseph II in 1945, was exhibited in Germany and was put into the possession of the Municipality of Cologne. The son of the late Prince Franz Joseph II, Prince Hans-Adam II, in his personal capacity, then filed legal action against Germany before the European Court of Human Rights, citing Articles 1,6,14 from The European Convention on Human Rights. The Principality of Liechtenstein also protested the seizure of assets of private Liechtensteiners by Germany, under the guise of their being German assets.

STATEMENT OF JURISDICTION:

1. The application is brought under Article 36, Paragraph 1 of the Statute of the International Court of Justice, “The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.”

2. Article 27 of the European Convention for the Peaceful Settlement of Disputes, having entered into force between Germany and Liechtenstein on 18 February 1980, yields jurisdiction in this matter to the Court for any international dispute arising after its entering into force.
3. Article 32 (1) of the European Convention for the Peaceful Settlement of Disputes, having entered into force between Germany and Liechtenstein on 18 February 1980, states that the Convention, and with it the Court's jurisdiction is applicable, regardless of the involvement of some other third party in the dispute.

ARGUMENTS:

1. The Court is not bound from reviewing this dispute by Article 27 (a) or Article 27 (b) of the European Convention for the Peaceful Settlement of Disputes: "The provisions of this Convention shall not apply to: (a) disputes relating to facts or situations prior to the entry into force of this Convention as between the parties to the dispute; (b) disputes concerning questions which by international law are solely within the domestic jurisdiction of States." Article 27 (a) is not restrictive in this matter due to the fact that, regardless of the seizure of Liechtensteinian assets by then Czechoslovakia before the Convention entered into force, this dispute arose in 1995, when the Municipality of Cologne was given possession of the late Prince's painting, after the Convention entered into force between Germany and Liechtenstein. Article 27 (b) does not restrict the Court, as this matter is not solely a domestic dispute within the jurisdiction of Germany.
2. The German courts, when rejecting the suit brought by Prince Hans-Adam II, in citing Chapter 6, Article 3 (1) of the Convention on the Settlement of Matters Arising out of the War and the Occupation: "The Federal Republic shall 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, or on the basis of agreements concluded, or to be concluded, by the Three Powers with other Allied countries, neutral countries or former allies of Germany," infringed upon the State sovereignty of the Principality of Liechtenstein. This infringement stems from the German courts referring to the painting, a private asset possessed by a non-German, in a sovereign non-German land, as a "German external asset," without having paid any sort of restitution for it.
3. Further, this citation of Chapter 6, Article 3 (1) of the Convention on the Settlement of Matters Arising out of the War and the Occupation violated the rights of the family of the Prince of Liechtenstein, according to Article 1 of the European Convention on Human Rights: "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties." The Article 1 rights of the family were violated in that

they were deprived of their property, as the courts decided it was a “German external asset,” while their deprivation of their property made no discernible contribution to the public interest, and was not in standing with “the general principles of international law.” This action was not in standing with “the general principles of international law,” as Article 14 of the European Convention on Human Rights states that “the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.” Though Germany played no part in the seizure of this property, Article 32 (1) of the European Convention for the Peaceful Settlement of Disputes states “This Convention shall remain applicable as between the Parties thereto, even though a third State, whether a Party to the Convention or not, has an interest in the dispute,” Germany is still answerable to the International Court of Justice for their continued deprivation of property. And though the European Convention on Human Rights had not yet entered into force at the time of this original seizure, at the time of this present dispute, the Article 14 Prohibition of Discrimination was considered one of the “general principles of international law.” As the family’s property was originally seized for discriminatory reasons on “grounds such as ... language ... [and] national or social origin,” any extension of this seizure would not be in standing with such general principles. It must also be noted that the citation of the Convention on the Settlement of Matters Arising out of the War and the Occupation by the German courts was neither “accordance with the general interest” nor “to secure the payment of taxes or other contributions or penalties.”

4. As the German courts have ruled a final decision on this case, and Article 30 of the European Convention for the Peaceful Settlement of Disputes states: “If the execution of a judicial sentence or arbitral award would conflict with a judgement or measure enjoined by a court of law or other authority of one of the parties to the dispute, and if the municipal law of that party does not permit or only partially permits the consequences of the judgement or measure in question to be annulled, the Court or the Arbitral Tribunal shall, if necessary, grant the injured party equitable satisfaction.” If the Court should rule in favor of the Principality of Liechtenstein, the Court should grant Liechtenstein some “equitable satisfaction” to the injury it has suffered

SUMMARY AND REQUESTS:

The Federal Republic of Germany, having been bound to Article 1 of the European Convention on Human Rights and Article 31, section 1 of the European Convention for the Peaceful Settlement of Disputes, has ignored the obligations therein and violated those agreements, thus injuring the Principality of Liechtenstein. Further, in the German courts’ citing Chapter Six-Reparations, Article 3, section 1 of the Convention on the Settlement of Matters Arising out of the War and the Occupation, they have further injured and belittled Liechtenstein. The Principality of Liechtenstein asks that the court rule that the Federal Republic of Germany be obligated to pay reparations for the prejudice and damage it inflicted, or else, by Article 30 of the European Convention for the Peaceful Settlement of Disputes, that some “equitable satisfaction” be given to Liechtenstein.