

LIECHTENSTEIN-INSTITUT

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Social services of general interest (SSGI) in small states – Liechtenstein as an example

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Presentation at CECS - Centre for European and Comparative
Legal Studies, University of Copenhagen



Outline

1. General information about Liechtenstein
2. Debate on state's duties & public services in Liechtenstein
3. Social services of general interest (SSGI) in Liechtenstein



1. General information about Liechtenstein



1. General information about Liechtenstein



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- Capital: Vaduz
- 11 Municipalities
- 6th smallest country worldwide
 - Total area: 160 km²
 - Population: 37 810
 - Cross-border workers: 20 239
- **1818**: Constitutional, hereditary monarchy
- **1921**: Constitution (Const.)
 - Right to initiative (Art. 64)
 - ⇒ Prince, parliament, 4 municipalities or 1 500 citizens
 - 2003: right to secession



1. General information about Liechtenstein



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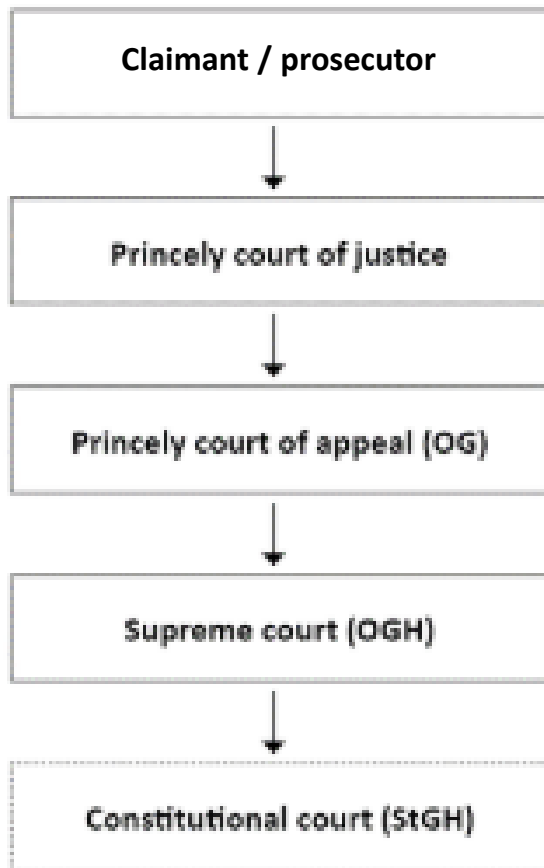
- **1923:** Customs union agreement with Switzerland
- Law = influenced by
 - Swiss, Austrian & EU law
 - Monistic legal tradition
- Among others = member of:
 - ⇒ **1978:** Council of Europe
 - ⇒ **1990:** United Nations (UN)
 - ⇒ **1995:** European Economic Area (EEA) & World Trade Organization (WTO)
 - ⇒ International Monetary Fund (IMF)?



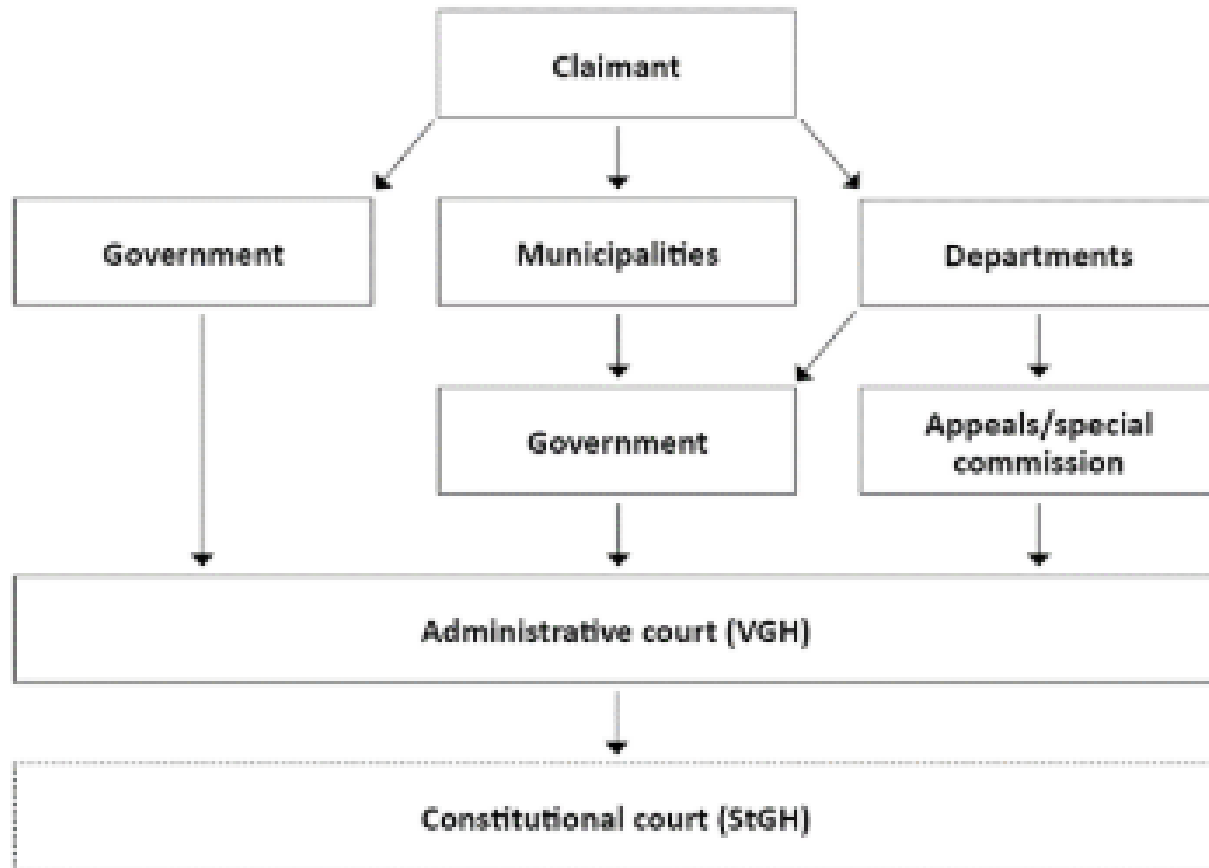
1. General information about Liechtenstein

Stages of appeal

Civil / penal law



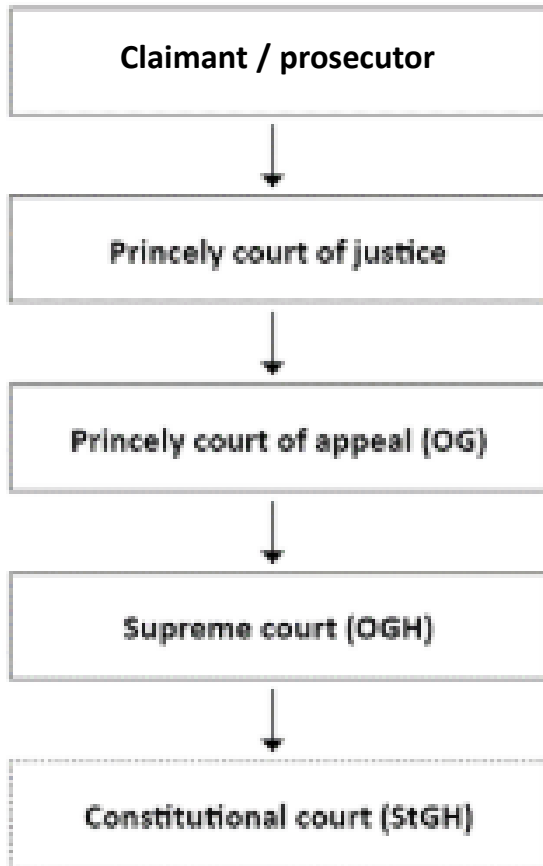
Public law



1. General information about Liechtenstein

Stages of appeal

Civil / penal law



- Judges can
 - be foreigners
 - work part-time (e.g. as lawyers)
- Prison sentence ⇨ executed in Austria



2. Debate on state's duties & public services in Liechtenstein



2. State duties – public services in Liechtenstein



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Recurring debate on state's duties and public services:

- Waiver:
 - ⇒ Maternity unit
 - ⇒ Psychiatry
- Communalisation:
 - ⇒ Retirement homes (LAK - Liechtensteinische Alters- & Krankenpflege)
 - ⇒ Radio Liechtenstein
 - ⇒ Waste disposal



2. State duties – public services in Liechtenstein



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■ Privatisation:

- ⇒ Legal guardianship for people in need
- ⇒ Debt counseling

■ Who provides public services?

- ⇒ Public undertakings
- ⇒ Private undertakings / NGOs



3. Social services of general interest (SSGI) in Liechtenstein



3. Social services of general interest (SSGI)

Services of general interest (SGI)

Services of general economic interest (SGEI)

Social services of general interest (SSGI)

Non-economic services of general interest (NSGI)



3. Social services of general interest (SSGI)



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■ Who provides public services?

⇒ Public undertakings

⇒ Private undertakings / NGOs

1. What rules must be respected when entrusting private undertakings with SSGI?
2. Which rules are applicable when the state supports private undertakings who provide SSGI?



3. Social services of general interest (SSGI)



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Conditions for entrustment

■ Art. 78(2) Const.

Specific affairs may be transferred by law or by virtue of legislative authorization to be handled independently by individual officials, Government offices or special commissions, subject to recourse to the collegial Government.



3. Social services of general interest (SSGI)



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■ Const. Court (StGH 1984/17)

⇒ Private organisations could be entrusted with public services



3. Social services of general interest (SSGI)



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Entrustment of private undertakings with SSGI

- Public procurement law (ÖAWG)
- Public procurement ordinance (ÖAWV)
- ⇒ Procurement directive 2014/24/EU
- ⇒ [Concession directive 2014/23/EU]



3. Social services of general interest (SSGI)



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State aid

Art. 107(1) TFEU / Art. 61(1) EEA

- Intervention by the State or through State resources
- Affect on trade between EU and/or EEA States
- Selective advantage ⇒ undertaking
- (Threat of) distortion of competition

⇒ Incompatible with the internal market / EEA

⇒ Exceptions ⇒ SSGI

- Case law (e.g. Altmark / BUPA)
- Primary & secondary law



3. Social services of general interest (SSGI)



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1. Are there differences between EEA law and EU law applicable to SSGI?
2. Is there room in EU/EEA law for a differential treatment of small states?





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