

**The Vienna-based lawyer Maximilian Schaffgotsch is leading a team of experts defending the rights of the Liechtenstein family in legal disputes with the Czech state.**

**Are you leading the disputes in the name of all 38 Liechtenstein citizens from whom properties were confiscated?**

I only represent the princely family which was forced into this lawsuit. But it is not embroiled in the suit merely on its own behalf but also as prejudication for all other citizens. We need to find a solution for both parties.

**How many lawsuits are there?**

This shouldn't sound so wild. There are three lawsuits at the Constitutional Court, or rather two, there will be three in several weeks. And then another 22 lawsuits at other courts.

**Are any of the cases finished?**

Not a single one.

**How long have they been under way?**

It all started when the Czech state sued the Prince of Liechtenstein Foundation and thus the Prince himself. That happened in 2014.

**Does it mean the Czech side took the first step?**

Yes. The Czech state sued the Prince in 2014. It concerned an entry in the land registry, it was an entry of a small property. The relevant authorities made the entry but the Czech state challenged the ownership of the Prince by filing a suit against the princely foundation, arguing that the prince could not own property in the Czech Republic for historical reasons. It was the result of an inheritance proceeding in Czech courts, which showed the Liechtenstein Foundation was an heir to Franz Josef.

**If our state claims it is a successor to post-war Czechoslovakia, we may dare say, with a bit of exaggerating, that a culprit is suing its own victim in court. Do you see it that way?**

I am always very cautious in this case and I distinguish the Czech state from the Czech administration. I would not consider the Czech state a culprit. But injustice has been caused when it comes to the princely family. Some Czechoslovak authorities breached the law as early as in 1945, and one office of the Czech state administration filed this lawsuit in 2014. I also have to stress that the law was abused the worst in 1951, by Czech Communists from the Stalin era.

**What, in legal terms, is the core of the dispute?**

In 1945, a part of the Czech administration, the Communist ministers especially at the agriculture ministry, saw an opportunity to deprive the Prince of Liechtenstein of his property. Non-Communist ministers and key constitutional lawyer František Weyr said at that time that this was a clear violation of the international law. Czech Communists then gained the control of the Liechtenstein property through the regional sub-levels, which was a breach of both the international and the Czech laws. It was a violation of the Beneš Decrees, because they absolutely do not concern this case. The courts acknowledged this and the Communists found out they were set to lose. So they put the courts under pressure and in 1951, it means already in the time of the Communist dictatorship, this Stalinist pseudo-decision was taken. And to have a pseudo-reason, they said Prince Franz Josef had claimed to be a German national in 1930. This is simply not true. Even the Communists knew that, and so they were reluctant to submit the original documents from the Interior Ministry during the process. Instead, they submitted a written confirmation of the alleged

contents of the document. The confirmation says – and I have learnt Czech well enough to understand it – that the Prince of Liechtenstein had been registered. It does not say it was he who registered, or a family member on his behalf. He was registered by a forester. Which, however, made the registration completely invalid. And today, in the lawsuit started in 2014, it is again said by the Czech state that the Prince of Liechtenstein had registered German nationality, so he is subject to the Beneš Decrees. So the alleged evidence from the Stalin era was repeated here.

### **So the Prince himself did not register as a German but was registered instead?**

This is a very important fact. People needed to register as nationals on their own will. When someone did it for them, the registration is completely invalid because the important personal decision on ethnicity cannot be done by anybody else. Another important aspect is that the Prince, the head of a state, will not register as a citizen in other countries.

### **Do our courts not take this argument seriously?**

We are at the Constitutional Court and I suppose the Constitutional Court will comply with the valid international law. The civil courts which have passed their verdicts made things easier for themselves and they have made several mistakes. First they said they could not review documents from before 1948. But then they should not have accepted the expropriation documents from 1945. It's either this or that. This proceeding was unjust to the Prince. If they consider aggravating evidence but ignore mitigating circumstances, they violate the right to a fair process. The question is which legal tradition the Czech state will follow now. Will it be the legal tradition of František Weyr before 1947 who clearly said this was a breach of the international law and the sovereignty of one state and that the property seizure was illegal, or the tradition observed by Czech courts now?

### **Did the state not take the Liechtenstein citizenship seriously at that time?**

They were robbed because the Communists spread false information that the Liechtensteins are Germans. We have a letter from 1947 in which the foreign ministry warns the agriculture ministry against problems. It says: "When confiscating properties, beware of German-speaking Swiss, Italians or Americans, but with the Liechtensteins everything's fine, they are so small that no one in Europe will support them." This is the rule of power, not of the law.

### **Does the nationality of the Liechtensteins play a role in the decision-making by courts today? And what is their nationality?**

You all know Asterix and Obelix. Their tiny territory was not a part of the Roman Empire. The fact you are an independent nation does not depend on the size of your territory. With the Liechtensteins it's the same. They justly consider themselves a sovereign, self-confident state with its own dialect they are very proud of. This year they celebrate the 300<sup>th</sup> anniversary of their authentic, sovereign state, internationally recognized for centuries. And their nationality is Liechtenstein – by the way, in 1930 it was officially registered for the members of the family who resided in Velké Losiny. After two world wars the rude abuse of the nationality concept brought a significant misfortune to Europe. In both world wars, the Liechtensteins were neutral and they were endangered by Hitler's dictatorship. Moreover, Prince Franz Josef supported the Czech government in exile in London, because he felt Liechtenstein and Czechoslovakia were in the same boat. Ten days after Hitler had marched into Prague, the Nazis attempted a putsch against the Prince in Vaduz. The attempt failed. But Liechtenstein was also jeopardised by the Third Reich.

*Editorial note: When probing into the Liechtenstein case, we found out Liechtenstein was contributing to a number of development projects in the Czech Republic by means of the EEA and Norway Grants.*