

Application of Liechtenstein  
To Become A Party To The  
Statute Of The International Court Of Justice

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(von Prof. Clyde G. Gwynne, B.H.L., LL.D.)  
(Prof. für Internat. Recht an d. Universität New-York)

The Principality of Liechtenstein seeks to become a party to the Statute of the International Court of Justice under Article 93 (2) of the Charter. It is understood that formal application to this end will be lodged by Switzerland, this being presumably merely a matter of diplomatic representation by Switzerland.

According to Article 93 (2) "A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council".

1. Qualifications

A. Is Liechtenstein a state within the meaning of this Article?

(1) According to Fenwick, International Law (p.95): "Liechtenstein is a sovereign state without question."

(2) The Report made by the Fifth Committee to the First Assembly of the League of Nations, December 6, 1920, said "The Government of the Principality of Liechtenstein has been recognized de jure by many States ... there can be no doubt that juridically the Principality of Liechtenstein is a sovereign state ... but she has deputed some attributes of sovereignty such as customs, communications, diplomatic representation ... Liechtenstein has no army. For the above reasons we are of the opinion that the Principality of Liechtenstein could not discharge all the international obligations which would be imposed upon her by the Covenant"

(League of Nations, Records of the First Assembly, Plenary (1920), p.652.)

(3) On May 6, 1931, the Department of State of the United States in reply to an inquiry, said "This Government

has regarded Liechtenstein as being an independent Principality ..."

(Hackworth, Digest of International Law, Vol. 1, p. 49.)

(4) It would appear that the Permanent Court of International Justice recognized that Liechtenstein was a state for the purposes of appearing before the Court under Article 35 of the Statute. In accordance with a Council Resolution of May 17, 1922, the Principality in May, 1939 made a declaration accepting the jurisdiction of the Court; and on June 17, 1939, instituted proceedings in the Court against Hungary. The case was never concluded, but an order was issued by the Court fixing time limits for presentation of documents by the parties.

(M.O. Hudson, World Court Reports, Vol. 4, pp. 43, 84-85, 497-499.)

This declaration was for a period of five years and was apparently not renewed; it is not listed in the Yearbook of the International Court of Justice. Nevertheless, it may be regarded as strong evidence, on the one hand, of the willingness of the Court to accept Liechtenstein as a party to the Statute and, on the other hand, of the willingness of Liechtenstein to accept obligations in relation to the Court. It is also to be observed that Liechtenstein showed sufficient interest in judicial settlement and willingness to submit to this process by making an additional declaration under Article 36 of the Statute accepting the compulsory jurisdiction of the Court.

No provision was made in the Statute of the Permanent Court of International Justice by which a non-Member of the League could become a party to the Statute; the authorization to the Council found in Article 35, and the Council Resolution of May 17, 1922, allowing a "general declaration" to be made, is as near as a non-Member state could come to being made a party to the Statute. The status given to Liechtenstein under the "general declaration" made by her in 1939 is sufficiently near to that of being a party to the Statute to justify using it as a precedent.

B. Since Liechtenstein is not a Member of the United Nations, the conditions upon which she could be admitted would be set ("in each case") by the General Assembly on the recommendation of the Security Council.

(1) The only precedent thus far established in the practice of the United Nations was the application of

