Litigation & Dispute Resolution

2018

Seventh Edition

Contributing Editor:
Michael Madden

glg global legal group

CONTENTS

Preface	Michael Madden, *Winston & Strawn London LLP*	
Australia	Colin Loveday, Richard Abraham & Sheena McKie, *Clayton Utz*	1
Bermuda	David Kessaram, Matthew Watson & Sam Riihiluoma, *Cox Hallett Wilkinson Limited*	14
Brazil	Eduardo Perazza & Ariana Anfe, *Machado, Meyer, Sendacz & Opice Advogados*	25
British Virgin Islands	Scott Cruickshank & Matthew Freeman, *Lennox Paton*	32
Cayman Islands	Ian Huskisson, Anna Peccarino & Neil McLarnon, *Travers Thorp Alberga*	47
China	Cui Qiang & Li Qishi, *Commerce & Finance Law Offices*	55
England & Wales	Michael Madden & Justin McClelland, *Winston & Strawn London LLP*	62
Finland	Markus Kokko & Niki J. Welling, *Borenius Attorneys Ltd*	96
France	Olivier Laude, Victor Champey & Olivier Guillaud, *Laude Esquier Champey*	105
Germany	Dr Thomas Nebel & Thomas Weimann, *Herbert Smith Freehills Germany LLP*	121
Greece	Spyros G. Alexandris & Eirini Panopoulou, *Bahas, Gramatidis & Partners*	131
India	Rishi Agrawala & Vishnu Tallapragada, *Agarwal Law Associates*	141
Italy	Micael Montinari & Filippo Frigerio, *Portolano Cavallo*	149
Japan	Shinya Tago, Takuya Uenishi & Landry Guesdon, *Iwata Godo*	160
Liechtenstein	Thomas Nigg, Eva-Maria Rhomberg & Domenik Vogt, *GASSER PARTNER Attorneys at Law*	173
Malaysia	Datuk Peter S.K. Yap, *Amin, Yap & Co.* Mark Ho, *Chellam Wong* Ooi Huey Miin, *Raja, Darryl & Loh*	183
Mexico	Miguel Angel Hernandez-Romo Valencia & Miguel Angel Hernandez Romo, *Foley Gardere Arena*	195
Romania	Silvia Uscov, *USCOV | Attorneys at law*	202
Russia	Dr Viktor Gerbutov & Artem Kara, *Noerr*	209
Singapore	Chia Boon Teck & Wong Kai Yun, *Chia Wong LLP*	217
Spain	Pedro Moreira & Isabel Álvarez, *SCA LEGAL, SLP*	227
Switzerland	Balz Gross, Claudio Bazzani & Julian Schwaller, *Homburger*	239
Taiwan	Hung Ou Yang, Hung-Wen Chiu & Jia-Jun Fang, *Brain Trust International Law Firm*	254
Turkey	Orçun Çetinkaya & Burak Baydar, *Moroğlu Arseven*	261
Turks & Caicos Islands	Tim Prudhoe, *Prudhoe Caribbean*	268
Ukraine	Oleksandr Zavadetskyi, *Zavadetskyi Advocates Bureau*	278
UAE	Hamdan Al Shamsi, *Hamdan AlShamsi Lawyers and Legal Consultants*	288
USA	Rodney G. Strickland, Jr., Matthew R. Reed & Anthony J Weibell, *Wilson Sonsini Goodrich & Rosati, P.C.*	299

Liechtenstein

Thomas Nigg, Eva-Maria Rhomberg & Domenik Vogt
GASSER PARTNER Attorneys at Law

Efficiency of process

In general, Liechtenstein has a very efficient court system. Located between Switzerland and Austria, Liechtenstein is not a common law but a civil law country. Case law does exist, but it does not play as important a role as it does in Anglo-Saxon jurisdictions.

In light of Liechtenstein's history, which has always been closely related to Austria's, it does not come as a surprise that both the legal system and the organisation of Liechtenstein's courts depend heavily on Austrian law. Nonetheless, Swiss law has also left significant traces on the legal system. Liechtenstein law is a hybrid of Austrian and Swiss Law. The most common, and thus fatal, error committed by lawyers regularly dealing exclusively with either Austrian or Swiss law is to ignore Liechtenstein specifics, at least as far as procedural law is concerned. Furthermore, Liechtenstein has its own specialities because it was the first and only country in continental Europe to adopt the legal institution of trusts.

However, litigation in Liechtenstein is not always the first choice either for foreign parties or their legal advisors. Most parties wish to seek justice in their home country, being unaware of the efficiency and competence of Liechtenstein lawyers and courts. Compared with other jurisdictions, Liechtenstein justice is considerably swift. There is no rule requiring criminal cases to be granted priority. Once the relevant documents are filed, a hearing is scheduled within weeks. The median time from commencement of a lawsuit to judgment is 12 months. It may take longer if the case is complex or international, if foreign courts or foreign law must be applied, or if witnesses who live abroad must be heard in court. In the vast majority of civil cases, a final decision can be obtained within two or three years.

Integrity of process

In both civil and criminal matters, judicial powers are vested in and exercised by the courts in Vaduz. Historically, judges were selected and appointed by the parliament (the *Landtag*). Nowadays, under the amended Constitution of the Principality of Liechtenstein, the reigning Prince and the parliament employ a joint commission for the selection of judges, chaired by the Prince, who has the casting vote. The government appoints its own member responsible for supervising the administration of justice. The commission may recommend candidates to the parliament only with the Prince's assent. If the parliament chooses the recommended candidate, he or she is appointed a judge by the Prince.

Due to limited human resources, there is a long-standing tradition under which judges are "recruited" from both Austrian and Swiss courts.

The circumstances under which a judge may be challenged on the grounds of partiality are determined in the Law relating to the Organisation of the Courts (*Gerichtsorganisationsgesetz*,

© Published and reproduced with kind permission by Global Legal Group Ltd, London

GOG). The GOG guarantees, among other principles, the impartiality and independence of the court. As in many other jurisdictions, a judge may not hear a case if that judge, or a person with whom that judge has a close relationship, is a party to that specific dispute. A judge must also withdraw whenever there is reason to believe that their impartiality may be questioned, specifically if they have either a friendly or a hostile attitude toward a party to the dispute.

In the Liechtenstein legal system, questions of both fact and law are decided by a judge. Juries as formed in other (especially common law) jurisdictions are alien to Liechtenstein. However, Liechtenstein has the concept of lay assessors. The Superior Court (*Obergericht*) and the Supreme Court (*Oberster Gerichtshof*) may be composed of both judges and lay assessors. The various instances guarantee a maximum of judicial security.

Proceedings before the District Court (*Landgericht*) are conducted by a single judge, whereas the Superior Court consists of three judges, one of whom may be a lay assessor; and the Supreme Court consists of five judges, two of whom may be lay assessors.

So-called *Willkürbeschwerden* (appeals on arbitrariness) may be brought to the Liechtenstein Constitutional Court (*Staatsgerichtshof*, StGH). This could prolong the average duration of a proceeding for another year. Nevertheless, this "last frontline in defending the law" guarantees that severe procedural errors or gross negligence regarding the principles of law result in the lifting of court decisions.

Privilege and disclosure

Documents

Compulsory pre-trial discovery, as known in common law countries, does not exist and there is no comparable provision under Liechtenstein law. However, it is possible to obtain an order that forces the other party to produce certain types of documents in the course of a civil law procedure. This order is *inter alia* limited to cases in which the document is in the possession of a party which had previously referred to it. Nonetheless, there are no strong means to force the opposing party to produce relevant documents. A refusal to cooperate could be weighed and considered accordingly by the court only within its free evaluation of the evidence. Such disobedience may lead to the unprovability of important facts. Under Liechtenstein law, there is no deposition without the court's lead, which means that parties cannot compel a witness to appear at a pre-trial deposition and answer questions under the penalty of perjury. The same applies for pre-trial interrogatories, which are also not to be found within Liechtenstein's jurisdiction.

Privilege

Attorneys must respect client confidentiality concerning issues entrusted to them. Non-compliance with this rule could have severe consequences for lawyers – up to the loss of their licence and criminal proceedings. Under Liechtenstein law, a client may release a lawyer from the obligation of confidentiality. The lawyer's duty of professional secrecy is stated in Article 15 of the *Law on the Legal Profession* (*Rechtsanwaltsgesetz*, RAG) and reflected in § 321 of the *Civil Procedure Code*, ZPO, which together authorise lawyers to refuse the disclosure of privileged information. In addition, lawyers are allowed to refuse to testify in criminal proceedings (see § 108 *Criminal Procedure Code*, StPO).

Client confidentiality may conflict with the reporting obligations of Liechtenstein professionals which were created by the implementation of the European Anti-Money Laundering Directives. In these cases, lawyers could face punishment for non-compliance with the Due Diligence Act or, in more severe cases, for aiding and abetting. According to

© Published and reproduced with kind permission by Global Legal Group Ltd, London

Article 3 para. 1 (m) of the Liechtenstein Due Diligence Act, DDA (*Sorgfaltspflichtgesetz*), lawyers and law firms entered in the lists of lawyers or lists of law firms under the RAG are subject to various due diligence obligations to the extent that they assist in the planning or execution of financial or real estate transactions for their clients in cases set forth in the aforementioned article. However, along with some other professionals, lawyers are not required to report to the Financial Intelligence Unit (FIU) if they have received notifiable information from or about a client in the course of ascertaining the legal position for their client or when performing their task of defending or representing that client in or concerning judicial proceedings, including advice on instituting or avoiding proceedings, whether such information is received before, during or after such proceedings (see Article 17 para. 2 DDA).

Under Liechtenstein law, a conflict of interest arises when a lawyer is acting for both parties involved in the same case. It may also arise if the lawyer acts for a party after having represented the counterparty in the same or in a connected case (see Article 17 para. 1 RAG). In the same way, there may be a conflict of interest if the lawyer acts for one party in one case and for the counterparty in another, pending case.

Costs

When it comes to trial, one must always bear in mind the risk of losing a case and the risk associated with its costs. All necessary and appropriate costs caused by litigation are considered as legal costs. As a general rule, each party bears all their own costs. Nonetheless, a party may seek legal aid if he or she is unable to fund legal costs and lawyers' fees without putting their "daily needs" in danger (see §§ 63 *et seq. Civil Procedure Code*, ZPO). Lawyers' fees are regulated by a statutory tariff. This tariff is applicable on a party-to-party basis and determines which costs have to be reimbursed to the other party. Apart from that, lawyers may freely agree on their fees in relation to each client. The complexity of the case, the kind of services involved and the degree of liability linked to the case determine the calculation of the fees, which are usually calculated on an hourly basis.

The amounts expended – costs and legal fees – are generally recoverable from the losing party in proportion to the extent to which the plaintiff or defendant has succeeded with his or her claim or defence. Should the plaintiff prevail with only 50% of his or her claim, the costs are considered compensated and each party is responsible for any costs incurred by him or herself. It is important to note that should the other party fail to pay within the required time, an order for the payment of costs is enforceable.

The danger that a plaintiff might sue for no good cause and might lose against a Liechtenstein resident is the reason why there are laws to the effect that a plaintiff who neither has a residence in Liechtenstein, nor owns land or receivables which are secured on such land, has to pay security in the amount of the defendant's estimated and presumed court and lawyers' fees (see §§ 57 *et seq.* ZPO).

Litigation funding

Court proceedings in Liechtenstein are usually funded by the parties themselves. However, as mentioned above, a party may seek legal aid if he or she is unable to fund legal costs without putting his or her "daily needs" in danger. According to § 64 ZPO, legal aid can include a temporary exemption from – *inter alia* – paying court fees, paying an advance on costs for witnesses or official experts or interpreters, and providing security. Legal aid is available for natural persons as well as legal entities under the conditions set forth in § 63 ZPO.

In Liechtenstein, lawyers are not allowed to assert a contingency fee, and they are further

© Published and reproduced with kind permission by Global Legal Group Ltd, London

not allowed to purchase a client's claim which is the object of current proceedings (*see* § 879 ABGB). In the case of successful litigation, only a surcharge to the fees may be agreed.

Under Liechtenstein law, there are no specific provisions with respect to third-party funding. However, litigation funding by an independent third party is possible in Liechtenstein. It is up to the parties how they fund court proceedings.

Interim relief

The success of court actions often depends on the effectiveness of provisional remedies, conservatory measures or summary judgments taken before or in lieu of the main proceedings. Generally, interim measures are obtained from a court exclusively upon application by a party for the purpose of preventing (irreparable) injuries to the petitioner. During the pendency of extra-judicial proceedings, interlocutory injunctions may be rendered *ex officio* (*see* Article 270 (3) EO). The Liechtenstein Enforcement Act of 24th November 1971 (*Exekutionsordnung*, "EO") deals with interim relief, and particularly with such injunctions as described in the following.

Interlocutory injunctions or interim relief – prior to the commencement of a lawsuit and during litigation – may either take the form of a security restraining order (*Sicherungsbot*) or an official order (*Amtsbefehl*), the choice of which generally depends on the nature of the claim. Whilst security restraining orders aim exclusively at securing pecuniary claims, official orders deal with claims other than those of a pecuniary nature.

(a) *Security restraining orders*

As long as the party may issue enforcement on the alleged debtor's assets to achieve the same results, injunctions are inadmissible. If the petitioner is already sufficiently secured, either by a right of lien or retention, or the court views him or her as sufficiently protected, an injunction may be denied.

To be granted an injunction by a court, one has to fulfil two major conditions. Besides certifying the claim that warrants such a legally far-reaching measure, it is necessary to establish reasonable security reasons. The applicant must furnish (*prima facie*) evidence that he is going to face a subjective or an objective risk. In some cases, it is sufficient to certify that the opposing party is a "domiciliary company" (objective reason), i.e. a company which is not engaged in business in Liechtenstein because its purpose is limited to managing funds or holding participations or equity interests.

As security for pecuniary claims, the court may order different injunctions such as the seizure, custody and compulsory administration of movable tangible property and the deposit of funds in court, an injunction by order of the court on the sale or seizure of movable tangible property to the effect that the sale or seizure is rendered invalid, or an injunction addressed to a third party in which the alleged debtor has to file a pecuniary claim against that third party.

(b) *Official orders*

According to Article 276 EO, an official order may be issued if it is otherwise likely that the prosecution or realisation of a claim may be rendered impossible or substantially more difficult. Even if there is no particular endangerment or defeat of prosecution, the court can grant such an injunction in order to settle the relation of the parties to the subject of controversy, more precisely to settle the ownership, or maintain the real condition of the tangible property or legal relationship, if such measures are necessary. An official order is a remedy for the temporary regulation of a specific situation.

© Published and reproduced with kind permission by Global Legal Group Ltd, London

As security for such claims, the court may order, among others, a deposit in court of movable, tangible property in the alleged debtor's custody, or the compulsory administration of the movable tangible property or immovable tangible property or rights or, depending on the claim, an order addressed to the alleged debtor (or opposing party) to perform specific acts necessary to maintain either the movable or immovable tangible property.

In urgent cases, an applicant may make a preliminary request to the competent authorities (the mayor, members of the local council, the court usher, police officers, or the bailiff of the court, who are responsible for the alleged debtor) to render a provisional order. However, the applicant must file a motion with the court in writing. A preliminary court order loses any effect if the applicant fails to do so (*see* Article 272 EO).

Interim injunctions are always issued and enforced at the expense of the applicant, without prejudice to a claim for reimbursement of costs due to the applicant at the end of an ordinary proceeding, but there are exemptions, e.g. in case of interlocutory proceedings (*Zwischenstreit*) for which the applicant is entitled to the reimbursement of costs. The opposing party will also be ordered to pay the costs should he or she unsuccessfully have applied for the restriction or removal of the interlocutory injunction. Upon service of the injunction, the applicant can be required to pay in advance to the court the amount of money required for the enforcement of the issued injunction. The enforcement of the injunction may not be effected until that amount has been paid [*see* Article 286 (1) and (3) EO].

Enforcement of judgments

The enforcement of civil law judgments in Liechtenstein is exclusively based on the Liechtenstein Enforcement Act (EO). According to the EO, a formal recognition, and thus the enforcement of a foreign judgment in Liechtenstein, is contingent upon reciprocity and thus generally not possible.

Although Liechtenstein is a member of the EEA (European Economic Area), *Council Regulation (EC) No 44/2001 on Jurisdiction and the Recognition and Enforcement of Judgements in Civil and Commercial Matters* (EuGVVO; Brussels I) does not apply in Liechtenstein. Neither is it subject to EC regulations and directives in this area of law nor, with only very few exceptions, party to general international, multilateral or bilateral agreements when it comes to the acknowledgment and enforcement of foreign judgments. Furthermore, Liechtenstein is not a signatory to the *Lugano Convention.*

Among others, Liechtenstein is a signatory to the following international and multilateral agreements:

- Hague Convention on the Recognition and Enforcement of Decisions relating to Maintenance Obligations, 15th April 1958;
- European Convention of 20th May 1980 Concerning the Recognition and Enforcement of Decisions relating to Custody Rights for Children;
- European Convention on Information on Foreign Law, 7th June 1986;
- Additional Protocol to the European Convention on Information and Foreign Law, 15th March 1978;
- European Convention on the Calculation of Time Limits, 16th May 1972;
- Convention on the Recognition and Enforcement of Foreign Arbitral Awards ("New York Convention"), 10th June 1958; and the

© Published and reproduced with kind permission by Global Legal Group Ltd, London

- Hague Convention on the Law Applicable to Trusts and on their Recognition ("Hague Trust Convention"), 1st July 1985.

There are bilateral agreements with Austria and Switzerland when it comes to the acknowledgment and enforcement of judgments in civil law matters, provided the decisions are in compliance with certain prerequisites and formal requirements stated in the agreements. The agreements do not cover every single civil law matter, and expressly exclude the enforcement of interim injunctions, decisions issued in insolvency proceedings, estate proceedings, etc. Finally, it should be mentioned that Liechtenstein has signed the *New York Convention*.

Apart from these exceptions, foreign judgments are, in general, not recognised and enforced in Liechtenstein. However, Liechtenstein law offers specific procedures which may provide a chance for a successful plaintiff, who is a creditor on the basis of a foreign judgment, to achieve his or her goal.

Under Liechtenstein law, the decisions of foreign courts may be used as a basis for summary proceedings to convert a foreign judgment into an enforceable Liechtenstein court order. The creditor may apply for a *payment order* or a *court order* based on a foreign judgment. Such summary court orders have the quality of a Liechtenstein judgment and can therefore be enforced based on the EO. This only works if the opposing party does not object.

If the opposing party objects and the summary court order is disputed, Liechtenstein law provides for a specific procedure, the "Reinstitution Procedure" (*Rechtsöffnungsverfahren*) which is laid down in the Liechtenstein Act on the Protection of Rights (*Rechtssicherungsordnung*, RSO). The demand for such a reinstitution can be considered in the same way as a regular claim and leads to a court procedure in Liechtenstein which is, however, structured as a speedy summary procedure and gives the opposing party a first chance to argue his or her position. When it comes to submitting evidence, there is a very restrictive approach.

The decision of the Reinstitution Procedure is of the utmost importance for what happens next. The creditor has a legal title if the court grants the reinstitution. There is no "normal" appeal against such a decision; rather, the opposing party has to file a disallowance claim ("*Aberkennungsklage*"). Should reinstitution not be granted, the creditor has to act against the debtor through regular procedures (*see* Article 51 RSO).

An attempt to enforce foreign judgments in Liechtenstein could lead to entirely new procedures in Liechtenstein. It may thus be easier and more efficient to sue a Liechtenstein debtor in Liechtenstein at the very beginning instead of initiating legal proceedings abroad.

Cross-border litigation

Liechtenstein is a signatory to the *Convention on the Taking of Evidence Abroad in Civil or Commercial Matters*, *1970* (the Hague Evidence Convention). Therefore, Liechtenstein assists in the service of judicial documents, as well as the obtaining of evidence such as local inspections, taking statements from witnesses and parties to disputes, the production of documents, providing expert opinions, etc. Mutual legal assistance to parties not signatory to the aforementioned convention is provided but the extent of the assistance has to be evaluated in each case. Regarding interim injunctions and their enforcement, see the sections on *Interim relief* and *Enforcement of judgments*. The responsibility for requests for legal assistance lies with the District Court (*Landgericht*) and is enforced pursuant to Liechtenstein procedural law.

© Published and reproduced with kind permission by Global Legal Group Ltd, London

International arbitration

Liechtenstein, with its political neutrality, geographically central location, excellent infrastructure and legal framework, is predestined to act as an attractive central European arbitration location. Provisions on arbitration in Liechtenstein can be found in the *Civil Procedure Code* (*see* §§ 594 *et seq.* ZPO). Arbitration law is up to date, due to a total revision in 2010 that closely followed the Austrian provisions and the Model Law on International Commercial Arbitration ("UNCITRAL Model Law"). However, in order to make Liechtenstein more attractive as an arbitration location, it has included several special features in its arbitration procedure, e.g. the grounds for challenging an award are strictly limited. Furthermore, the Liechtenstein Chamber of Commerce and Industry (LCCI) released the Liechtenstein Rules of Arbitration in 2012. Parties may agree that an arbitral tribunal has jurisdiction under these rules.

As mentioned above, Liechtenstein is a signatory to the *New York Convention* which entered into force in 2011, with the effect that the enforcement of Liechtenstein arbitral awards and *vice versa* is guaranteed in all countries party to that convention.

Liechtenstein jurisdiction is arbitration-friendly because nearly every matter that could be subject to a claim may also be the object of an arbitration agreement. In a nutshell, most business- and civil law-related matters can be subject to an arbitration agreement. Only certain company-related disputes, matters of family law and disputes arising out of contract articles of apprenticeship may not be subject to arbitration agreements (*cf.* § 599 para. 2 ZPO). Arbitration agreements have to be in writing and can be entered into either through signing a common document, a (standard) clause in a contract, or through correspondence.

Arbitration parties – Legal entities

Regarding legal entities with members (see Article 114 para. 2 PGR), the Liechtenstein Supreme Court has held that disputes between legal entities and the members of the legal entity are arbitrable (LES 1982, 16). However, according to Liechtenstein doctrine, the arbitration panel needs to have its mandatory seat at the place of domicile of the legal entity if the statutes of the legal entity generally provide for arbitration or the parties to the dispute specifically stipulate arbitration.

Article 114 para. 2 PGR does not apply to foundations and establishments with ceased founder's rights as they do not have members, but only beneficiaries. According to the above, the board of a foundation may provide for an arbitration not domiciled in Liechtenstein. The statutes may also provide for arbitration with a non-Liechtenstein venue. All other Liechtenstein legal entities are arbitrable without limitation. Regarding trusts, Article 931 no. 2 PGR provides that a mandatory court of arbitration shall decide in disputes between settlors, trustees and beneficiaries of trusts settled in Liechtenstein and governed by non-Liechtenstein law. This is the strongest argument for the arbitrability of trusts governed by Liechtenstein law.

Arbitrators

Unlike Austrian law, Liechtenstein ZPO still excludes judges of the courts of law from serving as arbitrators during their tenure. The minimum standards as to the neutrality of the arbitrators set forth in § 605 para. 1 ZPO constitute mandatory law and may not be derogated by agreement of the parties. The parties may provide for stricter or additional requirements as to neutrality or specific qualifications. An arbitrator's duty to disclose any circumstances infringing his or her impartiality or independence lasts from his appointment until the closing of the arbitral proceedings. An arbitrator is obliged to disclose such

© Published and reproduced with kind permission by Global Legal Group Ltd, London

circumstances immediately. Any challenge to the suitability of a particular arbitrator can only be based on justifiable doubts regarding his or her impartiality or independence.

Challenging of arbitrators

Parties are free to agree on a specific challenge procedure. To challenge an arbitrator, it is not necessary for him or her to actually lack impartiality or independence. To act as an arbitrator, arbitrators are required to disclose several personal matters such as financial or other business interests in the subject matter of the dispute, or personal or business relationships with one of the parties. The grounds for challenging an arbitrator are open to interpretation by the courts. The grounds for challenging state judges in Liechtenstein courts, including applicable case law, may serve as a guideline for what will constitute doubts as to an arbitrator's impartiality or independence.

If the parties have failed to agree on a challenge procedure, § 606 para. 2 ZPO provides a default procedure. A party challenging an arbitrator must file an application with the arbitral tribunal explaining the reasons for the challenge. The application must be filed within four weeks of the challenging party gaining knowledge of the circumstances constituting such reasons. If a challenged arbitrator does not resign from office upon such an application, or if the opposing party contests the challenge, the arbitral tribunal, including the challenged arbitrator, decides on the challenge. According to § 608 ZPO, a substitute arbitrator must be appointed if an arbitrator resigns or is successfully challenged.

Liechtenstein Arbitration Association

The Liechtenstein Arbitration Association (LIS) (www.lis.li), which in fact is not an arbitral institution in the literal sense, is a non-commercial association of lawyers and academics working in arbitration, which was established in June 2011. They work together closely with the Liechtenstein Chamber of Commerce and Industry (LCCI) to establish opportunities for national and international arbitration in Liechtenstein. One core purpose includes the development and advancement of Liechtenstein as an arbitration venue. The association currently counts more than 40 members who, in their daily work, are frequently confronted with issues relating to arbitration.

Mediation and ADR

Alternative Dispute Resolution (ADR)

Unlike a few years ago, Liechtenstein does not provide for mandatory mediation. There are several organisations which provide alternative and extrajudicial means of dispute resolution in Liechtenstein, including the Conciliation Board and the Professional Ethics Committees.

The Conciliation Board (www.schlichtungsstelle.li) is a mediator for conflicts between clients and banks, investment and asset-management companies and payment service providers. It provides a neutral and cost-free service that deals with specific client complaints. An essential precondition is its independence from any possibly involved institutes.

The Professional Ethics Committee of the Liechtenstein Institute of Professional Trustees and Fiduciaries (*Liechtensteinische Treuhandkammer*) is responsible for disciplinary complaints regarding licensed trustees and trust companies.

Regulatory investigations

As a member of the EEA (European Economic Area), Liechtenstein has to implement most of the EU legislation, such as directives and regulations, on condition that they have

© Published and reproduced with kind permission by Global Legal Group Ltd, London

been or will be adopted in the EEA body of law, in addition to international standards and requirements. These numerous regulations have an impact on regulatory investigations, and seem to be on the increase. Especially when it comes to the General Data Protection Regulation (GDPR), which harmonises the substantive data protection law within the European Union and which will be adopted into the EEA body of law in due time, new regulatory requirements will have to be observed.

With regard to the litigation landscape, it is therefore safe to say that lawyers have increasingly become involved in issues pertaining to administration and compliance.

© Published and reproduced with kind permission by Global Legal Group Ltd, London

Thomas Nigg
Tel: +423 236 30 80 / Email: thomas.nigg@gasserpartner.com
Thomas Nigg is a Liechtenstein lawyer and citizen, currently practising in Vaduz. He studied law at the University of St. Gallen (Switzerland) where he obtained his Master of Arts in Legal Studies HSG (M.A. HSG) in 2008. In 2007 he began practising as a lawyer in Liechtenstein and was admitted to the Liechtenstein Bar in 2010. In 2014 he was appointed partner in Batliner Gasser Attorneys at Law (now GASSER PARTNER Attorneys at Law). In 2016 he was appointed senior partner of GASSER PARTNER Attorneys at Law. The greater part of his work involves representing clients, mostly corporations or high-net-worth individuals, before courts in civil, criminal and administrative matters and assisting clients in commercial, corporate and criminal law, pertaining to both national and international affairs. In addition he is a co-author of "Litigation and Arbitration in Liechtenstein", the Liechtenstein chapter in *The Asset Tracing and Recovery Review*, and has authored articles on various legal topics.

Eva-Maria Rhomberg
Tel: +423 236 30 80 / Email: eva-maria.rhomberg@gasserpartner.com
Eva-Maria Rhomberg is an associate at GASSER PARTNER Attorneys at Law, currently practising in Vaduz. Before joining GASSER PARTNER in 2017, she studied law at the Universities in Vienna and Innsbruck, where she earned her Master's degree in law (*Mag. iur.*) in 2013. After graduating from Innsbruck University, she worked as a patient representative for an extrajudicial mediator and as a legal trainee at the Financial Market Authority (FMA) in Liechtenstein. Her main areas of practice include civil law, criminal law, litigation and compliance.

Domenik Vogt
Tel: +423 236 30 80 / Email: domenik.vogt@gasserpartner.com
Domenik Vogt is a senior associate at GASSER PARTNER Attorneys at Law, currently practising in Vaduz. Before joining GASSER PARTNER in 2015 he studied business law at the Vienna University of Economics and Business, where he earned his Bachelor's degree in law (LL.B.) in 2012 and his Master's degree (LL.M.) in 2014. In 2013, during his Master's studies, he spent a semester abroad at the University of Chicago. After graduating from the Vienna University of Economics and Business he studied at Christ's College, Cambridge, where he obtained his second Master's degree (LL.M.) in 2015. In 2017 he passed the Liechtenstein bar exam. His main areas of practice include civil law and the law of succession, corporate and foundation law, M&A, litigation and arbitration, administrative and tax law.

GASSER PARTNER Attorneys at Law

Wuhrstrasse 6, 9490 Vaduz, Liechtenstein
Tel: +423 236 30 80 / Fax: +423 236 30 81 / URL: www.gasserpartner.com

© Published and reproduced with kind permission by Global Legal Group Ltd, London

www.globallegalinsights.com

Other titles in the **Global Legal Insights** series include:

- **Banking Regulation**
- **Blockchain & Cryptocurrency Regulation**
- **Bribery & Corruption**
- **Cartels**
- **Corporate Tax**
- **Employment & Labour Law**
- **Energy**
- **Fund Finance**
- **Initial Public Offerings**
- **International Arbitration**
- **Merger Control**
- **Mergers & Acquisitions**
- **Pricing & Reimbursement**

Strategic partner