

Schichten der liechtensteinischen Verfassung*

Summary

The constitution of 1921 of Liechtenstein is part of a much wider tradition of constitutional development. In some single provisions the legal philosophy of the 17th, 18th and 19th century is retained. In particular, the constitution combines monarchic, representative and direct democratic elements as well as the rule of law and guarantees comprehensive protection of legal, fundamental and constitutional rights. Certain components of the constitution link Liechtenstein with early Southern German constitutionalism as well as Austrian and Swiss legal philosophy. From the USA, Liechtenstein, like other states, adopted the "feeling for the inviolability and the legal superiority of the constitutional provisions".

Contrary to the larger German speaking monarchies and to the developments in Russia, the monarchy in Liechtenstein did not come to an abrupt end after the First World War, but was transformed organically from the constitutional monarchy of the 19th century into a modern constitutional state based on monarchic and democratic principles. This unique elliptical form of government with its dual focus strengthens the small state in many respects, and exposes it at the same time to possible tensions between monarchic and democratic principles. Tensions may also arise between the democratic-monarchic legislator and the constitutional court (Staatsgerichtshof) with its extensive powers to judicially review the existing legal provisions and, if necessary, to quash them as unconstitutional, like a "negative" legislator with an effect *erga omnes*.

*) Diese Arbeit war Ende Januar 1992 abgeschlossen. Sie berücksichtigt nicht die mit der Regierungsvorlage zu einem Staatsgerichtshof-Gesetz (Bericht und Antrag an den Landtag vom 8.10.1991, Nr. 71/1991) angestrebte bzw. die vom Landtag am 11.11.1992 beschlossene Gesamtrevision des StGHG, zu welcher die Sanktion des Fürsten aussteht. Zur derzeitigen Stellung des StGH vgl. nachstehende Ausführungen in I 4, 10 und 11 sowie in II 2, deren Substanz mit Ausnahme der Ausführungen über die Prüfung von Staatsverträgen (nachstehend in I 10) auch nach der (noch nicht in Kraft getretenen) Gesamtrevision des StGHG nicht berührt wird.