Liechtenstein Bank Secrecy Confirmed by EU

Liechtenstein becomes a member state of the European Schengen/Dublin agreements

As of 2008 the Principality of Liechtenstein will most likely, along with 25 other Member States of the EU as well as Iceland, Norway and Switzerland, belong to the so-called Schengen Area. After Switzerland accepted the Schengen/Dublin agreement with the EU in a referendum on 5th June 2005, Liechtenstein was also faced with the necessity to join the agreements in order to avoid isolation within Europe. In negotiations with the EU, Liechtenstein succeeded in procuring a solution, in which direct taxation is excluded and bank secrecy remains safeguarded.

Law enforcement agencies are increasingly challenged with cross-border crime. The authority of national police forces, however, stops at the border of the corresponding sovereign territory.

There are of course mutual legal agreements between a large number of states as well as joint police activities. The structures are often too cumbersome to combat fast moving international crime, which does not concern itself with national boundaries.

Internal Security through External Cooperation

One of the major goals of the Schengen Agreement foresees the improvement of internal security and protection against crime. The member states are therefore focussed on increased cooperation between the national security services at the same time guaranteeing greater personal freedom of movement. «Schengen» is closely linked to the free movement of individuals already achieved in the EEA, while striving to complement the internal market. As border controls on individuals within the Schengen area are abolished, the controls on the outer borders will be increased, unified and jointly financed.

Since crime increasingly operates on a global basis, so must the police. The Schengen Contracts therefore envisage a wide range of instruments in order to improve cooperation of national security services. The heart of international cooperation is a computer-based information network, which receives data from all of the countries participating in the Schengen Agreement. The Schengen Information System (SIS) provides access from any place at any time

Liechtenstein and the European Union

Since 1st May 1995 Liechtenstein has been connected to the European Union (EU) and its member states through an extensive agreement of association – the agreement on the European Economic Area (EEA) – and benefits through the free movement of capital, goods, services and individuals. When the EU was extended on 1st May 2004 from 15 to 25 member states, the free internal market also became fully accessible to Liechtenstein as an export country. Liechtenstein's relationship to the EU is also reflected in further agreements such as the agreement on the taxation of savings income of EU citizens which came into force on 1st July 2005 (see F.L. Trending 2004). The envisaged participation of Liechtenstein in the Schengen/Dublin Agreement is a further step in consolidating Liechtenstein's position in Europe.

Liechtenstein's special rules incorporate a right to veto if obligations with regard to direct taxes are extended.

to current investigation data on individuals or stolen goods.

Participation in the Dublin agreement provides Liechtenstein with the great advantage of direct access to the European Asylum System and the Central Data Bank Eurodac. This will simplify asylum procedures significantly.

Increased Security

Increased security also involves increased cooperation between the judicial authorities, the basis of which is the European Agreement on Mutual Assistance in Criminal Matters, which Liechtenstein signed as early as 1970.

The Schengen rules bring about a simplification of procedures and the dismantling of bureaucratic hurdles. Writs e.g. must no longer be processed through national judicial authorities but can be served directly to the recipient abroad.

No legal assistance in the case of tax evasion

A delicate new ruling for Liechtenstein – and Switzerland – is legal assistance in the case of fiscal offences. Legal assistance is envisaged among Schengen States in certain cases concerning indirect taxation (consumer tax, VAT and customs duties). Legal assistance can, in certain circumstances, be provided in connection with the execution of measures of compulsion such as searches, confiscation of files and bank account documents.

Within the framework of further development of the agreement, the EU demands the inclusion of direct taxes. This would also encroach on the sensitive area of bank secrecy.

Special Rules for Switzerland

On this point Switzerland has been able to negotiate special rules which differentiate between tax evasion and tax fraud as prescribed in Swiss National Law.

Tax evasion occurs when - amounts of money are kept secret, whereas fraud involves malicious actions such as falsification of

The Term «Schengen/Dublin»

The term Schengen/Dublin is synonymous for the joint efforts of the EU member states to extend personal freedom and, at the same time, improve security within Europe.

- The Schengen Agreement regulates the cross border movement of individuals and the supervision of the outer borders of the EU. Entry controls to the Schengen Area will be unified and strengthened. In addition, the network of cooperation between the police and judicial authorities has been improved. The Schengen Information System forms the basis, a data bank providing information about wanted persons and goods. It further foresees the simplification of legal assistance and deportation rules.

- The Dublin Rules aim at an efficient and unified European procedure in the treatment of asylum applications. In future, asylum seekers can only apply to one country. Thanks to the Eurodac data bank, in which finger prints are stored, persons making multiple applications can be easily detected and deported to the country of their first application.

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Strict bank secrecy is also safeguarded in Liechtenstein's new agreement with the EU.

Success for Liechtenstein

«Liechtenstein – as Switzerland – was able to negotiate an exemption with regard to direct taxes, thus safeguarding bank secrecy. Securing bank secrecy is, without question, of central importance to the financial market place Liechtenstein. Contrary to Liechtenstein, the new EU member states have not been granted an exemption with regard to direct taxes. The solution achieved must be seen as a success.»
Otmar Hasler, Prime Minister, Principality of Liechtenstein.

«The Schengen Agreement lends more strength to bank secrecy in Liechtenstein than the agreement on taxation of interests. This is a significant result.»
H.S.H. Prince Nikolaus of Liechtenstein, Liechtenstein Ambassador to the European Union in Brussels, Chief Negotiator of the Liechtenstein Delegation

documents and accounts. Switzerland will provide legal assistance in the case of fraud, but in the case of tax evasion it will only grant requests for measures of compulsion in very serious cases.

In the negotiations with the EU, Switzerland secured a right to veto if new obligations with regard to the exchange of information on direct taxes would jeopardize the bank secrecy laws.

Special Rules also for Liechtenstein

Liechtenstein will enter the Schengen Area as an equal and independent contractual party by means of an entry protocol to Switzerland's agreement with the EU. The rules pertaining to Liechtenstein's entry are basically the same as those of Switzerland. They also include the right to veto if the obligations to exchange information on direct taxes are extended.

Liechtenstein Law differs with respect to the evasion of indirect taxes from that of Switzerland. As a result, a special rule needed to be found with the EU.

This rule states that all measures of compulsion are excluded in procedures concerning tax evasion of indirect and direct taxes. This provides Liechtenstein with a more favourable solution to that of Switzerland.

Liechtensteins Bank Secrecy Safeguarded

In conclusion, it can be said that strict Liechtenstein bank secrecy remains assured in the new agreement with the EU. By granting the right to veto in the case of further developments, the EU recognises the significance of this eminently important instrument for the financial market place Liechtenstein.

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Liechtenstein's sovereignty is an important corner stone for the development of the country as a financial market place.

F.L.BULLETIN

The Principality of Liechtenstein celebrated its bicentenary jubilee as a sovereign state in 2006. On 14th July 1806, Napoleon accepted Liechtenstein into the Rhine Confederation that he had created thereby granting Liechtenstein independence.

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Sovereignty was confirmed in 1815 by the Congress of Vienna and was upheld by the German Confederation, the successor of the Rhine Confederation, which was subsequently abolished in 1866. The peace treaty of St Germain which marked the end of the First World War, confirmed the national territory of Liechtenstein. The Principality of Liechtenstein received its latest recognition as a sovereign state when it became a member of the United Nations Organisation in 1989.

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The recognition of Liechtenstein by the International Community was an important corner stone for the economic development of the country into a modern service and industrial state as well as into an international financial market place.

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On 1st July 2005 the tax on savings' interest agreement between Liechtenstein and the EU came into force. It aims at guaranteeing taxation of interest payments in Liechtenstein to EU citizens and only applies to natural persons and not legal entities. Liechtenstein retains a withholding tax of 15 percent on interest payments, which will be increased to 20 percent on 1st July 2008 and will finally increase to 35 percent on 1st July 2011. During the first administrative period (1st July to 31st December 2005) Liechtenstein Tax Authorities collected approximately 4 million Swiss Francs. Approximately 3 million Francs were transferred to the beneficiary EU member states and 1 million Francs were retained by Liechtenstein as payment for services. Switzerland withheld 159.4 million Swiss Francs in the same period.

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Liechtenstein's financial market continues to boom. At the end of September 2006 the FMA (Financial Market Authority) registry encompassed: 16 banks, 187 domestic and 241 foreign investment companies, 33 insurances and 39 pension funds.