

Pro Bono Practices and Opportunities in Liechtenstein

***Excerpt from: A Survey of Pro Bono Practices and
Opportunities in Selected Jurisdictions***

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This chapter discusses the law governing the provision of free legal services, the practice and culture of *pro bono*, as well as *pro bono* opportunities for international law firms in Liechtenstein.

I. *Legal Services and the Legal Profession in Liechtenstein*

Practicing as a lawyer in Liechtenstein generally requires admission to the Liechtenstein bar association. However, there are exceptions for foreign lawyers. For instance, lawyers admitted in a country which is part of the European Economic Area are generally privileged; they can offer legal services in Liechtenstein upon notifying the mandate to the bar association. This notification has to contain information on the matter, the client, as well as documents concerning the qualification and admission of the lawyer from his country of origin.

In Liechtenstein, the compensation of lawyers is freely negotiable. However, contingency fees are prohibited. Generally, compensation is based on a statutory fee schedule for legal services and a set of professional rules governing the fees that lawyers may charge. Within this system, a lawyer's fee is based on the "amount in dispute" (*Streitwert*) — *e.g.*, the amount of the damages claim or the consideration in a transaction — and the length of the procedure.

Similar to the German system, separate "fees" are earned in various stages of the proceedings, *e.g.*, the drafting of a contract is compensated with 1% of the value of its subject matter. Within litigation, separate fees are paid for consultation, drafting, and filing a complaint, trial, settlement or adjudication, appeals, and so forth.

These statutory fees apply for the reimbursement of costs from the opponent as well. Like most continental European states, Liechtenstein follows the "loser-pays" system, according to which the losing party of a litigation has to bear the costs of the opponent, as well as the court fees. These costs are calculated according to the statutory fees.

Within the context of *pro bono* opportunities and benefits, it is also noteworthy that regular forms of advertisement for legal services are strongly restricted in Liechtenstein. According to the Lawyers Professional Code, lawyers may only "inform" potential clients about the services they offer. The information provided must be correct, objective, and within the interest of the potential client.

A. Legal Aid

Although, in principle, fees are freely negotiable, in reality, they are commonly based on the statutory fee schedule. Therefore, access to legal services by those who are unable to fully afford them is ensured by a system of legal aid. General legal advice can be obtained by governmental and nongovernmental organizations. Within the course of litigation, legal aid is granted by a court-administered system.

All natural persons are eligible for legal aid, which is granted based on two requirements: (i) the party has to prove its indigence, *i.e.*, the applicant must disclose his income and assets to determine whether to grant full or partial aid, or a deferment of fees (payment in installments); and (ii) the claim or defense upheld must not be obviously willful or hopeless, the standard for this being whether a reasonable person would actually enforce the claim or defense at hand.

If legal aid is granted for all legal costs, the state will waive the court fees and pay the scheduled statutory fees to the attorney chosen by the President of the Liechtenstein Bar

Association. Depending on the applicant's financial situation, the state may also decide to grant legal aid only for part of the costs or part of the procedure (*Teilverfahrenshilfe*). In such cases, the decision sets out the extent of the aid, and may further allow additional time for payment or allow payment by installments. Due to the "loser-pays" system, the state will be reimbursed if the applicant prevails in the litigation, as the other party will have to pay all of the applicant's attorneys' and court fees. If the applicant loses, however, he will have to bear the costs of his opponent (and his counsel). Such costs are not covered by the Liechtenstein legal aid system.

II. *Pro Bono Opportunities in Liechtenstein*

Although Liechtenstein is the fourth smallest country in Europe (around 35,000 inhabitants), it may offer interesting *pro bono* opportunities. Liechtenstein is one of the few countries with more registered companies than inhabitants. It has the highest GDP per inhabitant worldwide (roughly \$120,000 in 2007). In addition, the financial sector is highly developed and comparably large-scale. Fifteen financial institutions are located in Liechtenstein, with balance sheets totaling approximately 55 billion Swiss francs (roughly \$57 billion), and client assets of approximately 125 billion Swiss francs (roughly \$130 billion). Due to some very advantageous characteristics in the law on foundations, and the fact that foundations are generally only subject to a capital duty of 1‰ of the newly contributed/invested capital per year, Liechtenstein is the registered office of numerous foundations, holding in trust great amounts of assets. Another particularity of Liechtenstein law requires bankers to maintain a high level of secrecy concerning their clients' details and assets. Therefore many high-net-worth individuals manage their fortunes in Liechtenstein. In recent years it has also become apparent that Liechtenstein is a good place to issue funds. Finally, the country is famous for its well-established art collections and outstanding exhibitions.

III. *Conclusion*

Although Latham & Watkins LLP has no office in Liechtenstein, cross-border offering of legal services would be possible with a manageable administrative effort. Moreover, the legal framework, especially the fact that lawyers' fees are freely negotiable, allows *pro bono* representations within all contexts. However, an indirect restriction arises due to the "loserpays" system, because the client has to bear the costs of the opponent if he loses in litigation.

That being said, Liechtenstein is an extraordinarily wealthy country, so there may not be an exceeding demand for *pro bono* work as far as indigent natural persons are concerned. It should also be taken into consideration that the well-established system of legal aid minimizes the need for such efforts. In addition, it creates competition between lawyers, even as far as indigent clients are concerned

However, *pro bono* activities could still be worth pursuing, considering the fact that regular forms of advertisement are strongly limited in Liechtenstein, and despite its small size, the country presents a market that may especially interest an international law firm. *Pro bono* work in the fine arts field may provide the opportunity to catch the attention of high-net-worth individuals, which could generate business with them, as they could afford the legal services of an international law firm. The same can be said about corporations owned by such persons and registered in Liechtenstein. The other interesting market is the financial sector. *Pro bono* work in this environment may grant access to the numerous Liechtenstein-seated financial institutions and private equity funds issuing from Liechtenstein.