INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,
ADVISORY OPINIONS AND ORDERS

CASE CONCERNING CERTAIN PROPERTY

(LIECHTENSTEIN *v.* GERMANY)

PRELIMINARY OBJECTIONS

JUDGMENT OF 10 FEBRUARY 2005

2005

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,
AVIS CONSULTATIFS ET ORDONNANCES

AFFAIRE RELATIVE À CERTAINS BIENS

(LIECHTENSTEIN c. ALLEMAGNE)

EXCEPTIONS PRÉLIMINAIRES

ARRÊT DU 10 FÉVRIER 2005

Official citation:
Certain Property (Liechtenstein v. *Germany),*
Preliminary Objections, Judgment, I.C.J. Reports 2005, p. 6

Mode officiel de citation:
Certains biens (Liechtenstein c. Allemagne),
exceptions préliminaires, arrêt, C.I.J. Recueil 2005, p. 6

ISSN 0074-4441
ISBN 92-1-071007-X

Sales number
N° de vente: 896

10 FEBRUARY 2005

JUDGMENT

CERTAIN PROPERTY
(LIECHTENSTEIN *v.* GERMANY)
PRELIMINARY OBJECTIONS

CERTAINS BIENS
(LIECHTENSTEIN c. ALLEMAGNE)
EXCEPTIONS PRÉLIMINAIRES

10 FÉVRIER 2005

ARRÊT

INTERNATIONAL COURT OF JUSTICE

2005
10 February
General List
No. 123

YEAR 2005

10 February 2005

CASE CONCERNING CERTAIN PROPERTY

(LIECHTENSTEIN *v.* GERMANY)

PRELIMINARY OBJECTIONS

Historical background — Confiscation by Czechoslovakia in 1945 under the Beneš Decrees of property belonging to Prince Franz Josef II of Liechtenstein — Special régime with regard to German external assets and other property seized in connection with the Second World War — Article 3, paragraphs 1 and 3, of Chapter Six of the Settlement Convention — Final Settlement with respect to Germany.

Pieter van Laer painting confiscated under the Beneš Decrees — Claim by Prince Hans-Adam II of Liechtenstein for the return of the painting dismissed by German courts in 1990s on the basis of Article 3, Chapter Six, of the Settlement Convention — Claim brought by Prince Hans-Adam II of Liechtenstein before the European Court of Human Rights dismissed.

* *

Jurisdiction of the Court based on Article 1 of the European Convention for the Peaceful Settlement of Disputes — Limitation ratione temporis *contained in Article 27* (a) *of that Convention.*

Six preliminary objections to the jurisdiction of the Court and the admissibility of the Application raised by Germany.

*

Germany's first preliminary objection.

Contention by Germany that there is no dispute between the Parties — No "change of position" with regard to Germany's treatment of Liechtenstein property confiscated in connection with the Second World War said to have occurred — Germany has never accepted the validity of the Beneš confiscations — German courts have consistently held that they are barred by the Settlement Convention from adjudicating on the lawfulness of confiscation

measures resulting from the Second World War — According to Germany, the only dispute is one between Liechtenstein and the successor States of former Czechoslovakia.

Contention by Liechtenstein that there is a dispute between the Parties — Germany said to have allowed, for the first time in 1995, Liechtenstein assets to be treated as German external assets for purposes of the Settlement Convention — Existence of a separate dispute between Liechtenstein and the Czech Republic does not negate the existence of a dispute between Liechtenstein and Germany — According to Liechtenstein, Germany has itself acknowledged the existence of the dispute — Germany denies any such acknowledgment.

Jurisprudence of the Court and its predecessor regarding the question of the existence of a dispute — Complaints of fact and law formulated by Liechtenstein against Germany denied by the latter — A legal dispute exists between the Parties — Germany's position in course of bilateral consultations has evidentiary value in this regard — Subject-matter of the dispute — First preliminary objection dismissed.

*

Germany's second preliminary objection.

Contention by Germany that the Court lacks jurisdiction ratione temporis *on the basis of Article 27* (a) *of the European Convention for the Peaceful Settlement of Disputes — Were the Court to find that there exists a dispute it would, according to Germany, relate to the Settlement Convention and the Beneš Decrees, which predate the critical date, i.e. the entry into force of the European Convention for the Peaceful Settlement of Disputes as between Liechtenstein and Germany (18 February 1980) — German courts said to have consistently held that they lacked jurisdiction under the Settlement Convention to evaluate the lawfulness of confiscations effected in connection with the Second World War.*

Contention by Liechtenstein that the Court has jurisdiction ratione temporis *— Allegation that until the decisions in the* Pieter van Laer Painting *case, it was understood between the Parties that Liechtenstein property confiscated pursuant to the Beneš Decrees could not be deemed to have been covered by the Settlement Convention —* Pieter van Laer Painting *case and position taken by the German Government after 1995 said to have triggered the dispute.*

Parties' interpretation of jurisprudence of the Court and its predecessor regarding the legal test for temporal jurisdiction.

Need for the Court to determine whether the dispute relates to facts or situations that arose before or after the critical date — Phosphates in Morocco *case —* Electricity Company of Sofia and Bulgaria *case —* Right of Passage *case — Text of Article 27* (a) *of the European Convention for the Peaceful Settlement of Disputes does not differ in substance from temporal jurisdiction limitations dealt with in those cases — Test of finding the source or real cause of the dispute used in previous case law equally applicable in current instance — No common understanding between Liechtenstein and Germany that the Settlement Convention did not apply to Liechtenstein property — German courts have con-*

sistently held that the Settlement Convention deprived them of jurisdiction to address the legality of any confiscation of property treated as German property by the confiscating State — German courts did not face any "new situation" when dealing for the first time with a case concerning the confiscation of Liechtenstein property as a result of the Second World War — Inextricable link to the Settlement Convention and the Beneš Decrees — The Settlement Convention and the Beneš Decrees are the real cause of the dispute — In light of the provisions of Article 27 (a) *of the European Convention for the Peaceful Settlement of Disputes, the second preliminary objection has to be upheld — Court not required to consider Germany's other preliminary objections — No jurisdiction to entertain the case.*

JUDGMENT

Present: *President* SHI; *Vice-President* RANJEVA; *Judges* GUILLAUME, KOROMA, VERESHCHETIN, HIGGINS, PARRA-ARANGUREN, KOOIJMANS, REZEK, AL-KHASAWNEH, BUERGENTHAL, ELARABY, OWADA, TOMKA; *Judges* ad hoc FLEISCHHAUER, Sir Franklin BERMAN; *Registrar* COUVREUR.

In the case concerning certain property,

between

the Principality of Liechtenstein,

represented by

H.E. Mr. Alexander Goepfert, Freshfields Bruckhaus Deringer, Düsseldorf, Special Commissioner of the Principality of Liechtenstein,

as Agent;

H.E. Mr. Roland Marxer, Ambassador, Director of the Office for Foreign Affairs of the Principality of Liechtenstein,

as Advocate;

Mr. Dieter Blumenwitz, Professor of Public International Law, Universities of Würzburg and Munich,

Mr. Thomas Bruha, Professor of Public Law, University of Hamburg,

Mr. James Crawford, S.C., Whewell Professor of International Law, University of Cambridge, member of the English and Australian Bars, Member of the Institute of International Law,

Mr. Gerhard Hafner, Professor of Public International Law, University of Vienna, Associate Member of the Institute of International Law,

Mr. Alain Pellet, Professor of International Law, University of Paris X-Nanterre, member and former Chairman of the International Law Commission,

as Counsel and Advocates;

Mr. Malcolm Forster, Professor of International Law, University College, London, Freshfields Bruckhaus Deringer, London,
Ms Juliane Hilf, member of the Chamber of Lawyers of Germany, Freshfields Bruckhaus Deringer, Cologne,
Ms Lucy Reed, member of the State Bar of New York, Freshfields Bruckhaus Deringer, New York,

as Advocates;

Mr. Daniel Müller, temporary Lecturer and Research Assistant, University of Paris X-Nanterre,
Mr. Stephan Wittich, Assistant Professor, University of Vienna,

as Advisers;

Ms Nadine Heider, Freshfields Bruckhaus Deringer, Cologne,
Ms Gabriele Klein, Freshfields Bruckhaus Deringer, Düsseldorf,

as Assistants;

Mr. Thomas Dillmann, ECC Kohtes Klewes,
Mr. Thomas Pütz, ECC Kohtes Klewes,

as Information Officers,

and

the Federal Republic of Germany,

represented by

Mr. Thomas Läufer, Director General for Legal Affairs and Legal Adviser, Federal Foreign Office,
H.E. Mr. Edmund Duckwitz, Ambassador of the Federal Republic of Germany to the Kingdom of the Netherlands,

as Agents;

Mr. Jochen Frowein, Director Emeritus of the Max Planck Institute for Comparative Public Law and International Law, Heidelberg, Professor of Public International Law, University of Heidelberg,
Mr. Christian Tomuschat, Professor of Public International Law, Humboldt University, Berlin,
Mr. Pierre-Marie Dupuy, Professor of Public International Law, University of Paris (Panthéon-Assas) and the European University Institute, Florence,

as Counsel;

Mr. Daniel Erasmus Khan, Privatdozent, Visiting Professor, Bayreuth University,
Mr. Andreas Paulus, University of Munich,
Ms Karin Oellers-Frahm, Max Planck Institute for Comparative Public Law and International Law, Heidelberg,
Ms Susanne Wasum-Rainer, Head of the Public International Law Division, Federal Foreign Office,
Mr. Reinhard Hassenpflug, Federal Foreign Office,
Mr. Götz Reimann, Embassy of the Federal Republic of Germany in The Hague,

as Advisers;

Ms Fiona Sneddon,

as Assistant,

THE COURT,

composed as above,

after deliberation,

delivers the following Judgment:

1. On 1 June 2001, the Principality of Liechtenstein (hereinafter referred to as "Liechtenstein") filed in the Registry of the Court an Application instituting proceedings against the Federal Republic of Germany (hereinafter referred to as "Germany") relating to a dispute concerning

> "decisions of Germany, in and after 1998, to treat certain property of Liechtenstein nationals as German assets having been 'seized for the purposes of reparation or restitution, or as a result of the state of war' — i.e., as a consequence of World War II —, without ensuring any compensation for the loss of that property to its owners, and to the detriment of Liechtenstein itself".

In order to found the jurisdiction of the Court, the Application relied on Article 1 of the European Convention for the Peaceful Settlement of Disputes of 29 April 1957, which entered into force between Liechtenstein and Germany on 18 February 1980.

2. Pursuant to Article 40, paragraph 2, of the Statute, the Application was immediately communicated to the German Government by the Registrar; and, in accordance with paragraph 3 of that Article, all States entitled to appear before the Court were notified of the Application.

3. By an Order of 28 June 2001, the Court fixed 28 March 2002 as the time-limit for the filing of the Memorial of Liechtenstein and 27 December 2002 for the filing of the Counter-Memorial of Germany, the latter time-limit being fixed without prejudice to the possible application of Article 79, paragraph 1, of the Rules of Court, in their revised version applicable with effect from 1 February 2001. On 28 March 2002, within the time-limit thus prescribed, Liechtenstein filed in the Registry its Memorial.

4. Since the Court included upon the Bench no judge of the nationality of Liechtenstein, Liechtenstein exercised its right under Article 31, paragraph 2, of the Statute to choose a judge *ad hoc* to sit in the case. It first chose Mr. Ian Brownlie, who resigned on 25 April 2002, and subsequently Sir Franklin Berman.

5. By a Note Verbale of 29 April 2002, the Republic of Austria requested the Court to furnish it with a copy of the Memorial of Liechtenstein. Having ascertained the views of the Parties pursuant to Article 53, paragraph 1, of the Rules of Court, the Court decided that it was not appropriate to grant that request. The Registrar communicated that decision to Austria and to the Parties by letters dated 18 July 2002.

6. On 27 June 2002, within the time-limit prescribed in Article 79, paragraph 1, of the Rules of Court, Germany raised preliminary objections relating to the jurisdiction of the Court to entertain the case and to the admissibility of the Application submitted by Liechtenstein. The President of the Court, noting that, by virtue of Article 79, paragraph 5, of the Rules of Court, the proceedings on the merits were suspended, and having ascertained the views of the Parties at a meeting held with their Agents, by an Order dated 12 July 2002, fixed 15 November 2002 as the time-limit within which Liechtenstein might present a written statement of its observations and submissions on the prelimi-

nary objections raised by Germany. Liechtenstein filed such a statement within the time-limit so fixed, and the case thereupon became ready for hearing in respect of the preliminary objections.

7. By letters dated 13 March 2003, the Registrar informed the Parties that Judge Simma, of German nationality, had indicated to the Court that he would not be able to participate in the decision of the case in view of the provisions of Article 17, paragraph 2, of the Statute. In accordance with Article 31, paragraph 3, of the Statute and Article 37, paragraph 1, of the Rules of Court, Germany chose Mr. Carl-August Fleischhauer to sit as judge *ad hoc* in the case.

8. Pursuant to Article 53, paragraph 2, of its Rules, the Court, having ascertained the views of the Parties, decided that copies of the pleadings and documents annexed would be made accessible to the public on the opening of the oral proceedings.

9. Public hearings were held on 14, 16, 17 and 18 June 2004, during which the Court heard the oral arguments and replies of:

For Germany: Mr. Thomas Läufer,
Mr. Jochen Frowein,
Mr. Christian Tomuschat,
Mr. Pierre-Marie Dupuy.

For Liechtenstein: H.E. Mr. Alexander Goepfert,
H.E. Mr. M. Roland Marxer,
Mr. James Crawford,
Mr. Dieter Blumenwitz,
Mr. Thomas Bruha,
Mr. Gerhard Hafner,
Mr. Alain Pellet.

10. In its Application, the following requests were made by Liechtenstein:

> "For these reasons, each of which is pleaded in the alternative, Liechtenstein, reserving the right to supplement or to amend this Application and subject to the presentation to the Court of the relevant evidence and legal argument, requests the Court to adjudge and declare that Germany has incurred international legal responsibility and is bound to make appropriate reparation to Liechtenstein for the damage and prejudice suffered. Liechtenstein further requests that the nature and amount of such reparation should, in the absence of agreement between the Parties, be assessed and determined by the Court, if necessary, in a separate phase of the proceedings."

11. In the written proceedings, the following submissions were presented by the Parties:

On behalf of the Government of Liechtenstein,

in the Memorial:

> "1. For the reasons set out above, and reserving the right to amend these submissions in the light of further evidence and argument, the Principality of Liechtenstein requests the Court to adjudge and declare that:
>
> *(a)* by its conduct with respect to Liechtenstein and the Liechtenstein property, Germany has failed to respect the sovereignty and neutral-

ity of Liechtenstein and the legal rights of Liechtenstein and its nationals with respect to the property;

(b) by its failure to make compensation for losses suffered by Liechtenstein and its nationals, Germany is in breach of the rules of international law;

(c) consequently Germany has incurred international legal responsibility and is bound to provide appropriate assurances and guarantees of non-repetition, and to make appropriate reparation to Liechtenstein for the damage and prejudice suffered.

2. Liechtenstein further requests that the amount of compensation should, in the absence of agreement between the Parties, be assessed and determined by the Court in a separate phase of the proceedings."

On behalf of the Government of Germany,

in the Preliminary Objections:

"On the basis of the preceding Submissions, Germany summarizes its Preliminary Objections as follows:

(1) The case is outside the jurisdiction of the Court since

(a) there exists no dispute as between Liechtenstein and Germany in the sense required by the Statute of the Court and Article 27 of the European Convention for the Peaceful Settlement of Disputes of 29 April 1957;

(b) all the relevant facts occurred before the entry into force of the European Convention as between the Parties;

(c) the occurrences on which Liechtenstein bases its claims fall within the domestic jurisdiction of Germany.

(2) Liechtenstein's Application is furthermore inadmissible since

(a) Liechtenstein's claims have not been sufficiently substantiated;

(b) adjudication of Liechtenstein's claims would require the Court to pass judgment on rights and obligations of the successor States of former Czechoslovakia, in particular the Czech Republic, in their absence and without their consent;

(c) the alleged Liechtenstein victims of the measures of confiscation carried out by Czechoslovakia have failed to exhaust the available local remedies.

For the reasons advanced, Germany requests the Court to adjudge and declare that:

— it lacks jurisdiction over the claims brought against Germany by the Principality of Liechtenstein, referred to it by the Application of Liechtenstein of 30 May 2001,

and/or that

— the claims brought against Germany by the Principality of Liechtenstein are inadmissible to the extent specified in the present Preliminary Objections."

On behalf of the Government of Liechtenstein,

in the Written Statement of its observations and submissions on the preliminary objections raised by Germany:

"For all these reasons, and reserving the right of the Principality of Liechtenstein to supplement them in view of any further German arguments, it is respectfully submitted:

(a) that the Court has jurisdiction over the claims presented in the Application of the Principality of Liechtenstein, and that they are admissible;

and correspondingly

(b) that the Preliminary Objections of Germany be rejected in their entirety."

12. At the oral proceedings, the following submissions were presented by the Parties:

On behalf of the Government of Germany,

at the hearing of 17 June 2004:

"Germany requests the Court to adjudge and declare that:

— it lacks jurisdiction over the claims brought against Germany by the Principality of Liechtenstein, referred to it by the Application of Liechtenstein of 30 May 2001,

and that

— the claims brought against Germany by the Principality of Liechtenstein are inadmissible to the extent specified in its Preliminary Objections."

On behalf of the Government of Liechtenstein,

at the hearing of 18 June 2004:

"For the reasons set out in its Written Observations and during the oral proceedings, the Principality of Liechtenstein respectfully requests the Court:

(a) to adjudge and declare that the Court has jurisdiction over the claims presented in its Application and that they are admissible;

and accordingly,

(b) to reject the Preliminary Objections of Germany in their entirety."

* * *

13. During the Second World War Czechoslovakia was an allied country and a belligerent in the war against Germany. In 1945, it adopted a series of decrees (the "Beneš Decrees"), among them Decree No. 12 of 21 June 1945, under which "agricultural property" of "all persons belonging to the German and Hungarian people, regardless of their nationality" was confiscated. Under the terms of this Decree, "agricultural property" included, *inter alia*, buildings, installations and movable property pertaining thereto. The properties confiscated under Decree No. 12 comprised some owned by Liechtenstein nationals, including Prince Franz Josef II of Liechtenstein. These measures were contested by

Prince Franz Josef II in his personal capacity before the Administrative Court in Bratislava. On 21 November 1951, it held that the confiscations of the property of the Prince of Liechtenstein were lawful under the law of Czechoslovakia.

14. Following earlier Allied enactments concerning a reparations régime in general and German external assets and other property seized in connection with the Second World War in particular, a special régime dealing with the latter subject was created by Chapter Six of the Convention on the Settlement of Matters Arising out of the War and the Occupation, signed by the United States of America, the United Kingdom, France and the Federal Republic of Germany, at Bonn on 26 May 1952 (as amended by Schedule IV to the Protocol on the Termination of the Occupation Régime in the Federal Republic of Germany, signed at Paris on 23 October 1954) (hereinafter referred to as the "Settlement Convention"). This Convention entered into force on 5 May 1955.

Article 3 of Chapter Six of the Settlement Convention read as follows:

> "1. The Federal Republic shall in the future raise no objections against the measures which have been, or will be, carried out with regard to German external assets or other property, seized for the purpose of reparation or restitution, or as a result of the state of war, or on the basis of agreements concluded, or to be concluded, by the Three Powers with other Allied countries, neutral countries or former allies of Germany.
>
> . . . . . .
>
> 3. No claim or action shall be admissible against persons who shall have acquired or transferred title to property on the basis of the measures referred to in paragraph 1 and 2 of this Article, or against international organizations, foreign governments or persons who have acted upon instructions of such organizations or governments."

Article 5 of Chapter Six of the Settlement Convention provided that:

> "The Federal Republic shall ensure that the former owners of property seized pursuant to the measures referred to in Articles 2 and 3 of this Chapter shall be compensated."

15. The régime of the Settlement Convention was intended to be temporary until the problem of reparation was finally settled "by the peace treaty between Germany and its former enemies or by earlier agreements concerning this matter" (Article 1 of Chapter Six). A final settlement was brought about through the conclusion in 1990 of the Treaty on the Final Settlement with respect to Germany (signed at Moscow on 12 September 1990 and entered into force on 15 March 1991). The parties to this Treaty were the four former Occupying Powers, the Federal Republic of Germany and the German Democratic Republic. On 27 and 28 Septem-

ber 1990, an Exchange of Notes was executed between the three Western Powers and the Government of the Federal Republic of Germany (the parties to the Settlement Convention) under which that Convention would terminate simultaneously with the entry into force of the Treaty. Whereas that Exchange of Notes terminated the Settlement Convention itself, including Article 5 of Chapter Six (relating to compensation by Germany), it provided that paragraphs 1 and 3 of Article 3, Chapter Six, "shall, however, remain in force".

16. In 1991, a painting by the seventeenth-century Dutch artist Pieter van Laer was lent by a museum in Brno (Czechoslovakia) to a museum in Cologne (Germany) for inclusion in an exhibition. This painting had been the property of the family of the Reigning Prince of Liechtenstein since the eighteenth century; it was confiscated in 1945 by Czechoslovakia under the Beneš Decrees. The Administrative Court of Bratislava in 1951 dismissed the appeal by Prince Franz Josef II of Liechtenstein against the measures of confiscation pursuant to which his property, including the Pieter van Laer painting, had been seized (see paragraph 13 above). In 1991, Prince Hans-Adam II of Liechtenstein filed a lawsuit in the German courts in his personal capacity to have the painting sequestered and returned to him as his property (hereinafter referred to as the "*Pieter van Laer Painting* case"). The claim was dismissed by the Cologne Regional Court on 10 October 1995, by the Cologne Court of Appeal on 9 July 1996, by the Federal Court of Justice on 25 September 1997, and by the Federal Constitutional Court on 28 January 1998, on the basis that, under Article 3, Chapter Six, of the Settlement Convention, no claim or action in connection with measures taken against German external assets in the aftermath of the Second World War was admissible in German courts.

17. In 1998 Prince Hans-Adam II of Liechtenstein instituted proceedings before the European Court of Human Rights against Germany, claiming that the above decisions of the German courts violated his rights under Articles 6, paragraph 1, and 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe, as well as Article 1 of Protocol No. 1 to that Convention. That Court, on 12 July 2001, held that there had been no violation of the Articles invoked by the Applicant.

* * *

18. It is recalled that in the present proceedings, Liechtenstein based the Court's jurisdiction on Article 1 of the European Convention for the Peaceful Settlement of Disputes which provides that:

> "The High Contracting Parties shall submit to the judgement of the International Court of Justice all international legal disputes

which may arise between them including, in particular, those concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation."

Article 27 *(a)* of the European Convention for the Peaceful Settlement of Disputes reads as follows:

"The provisions of this Convention shall not apply to:

(a) disputes relating to facts or situations prior to the entry into force of this Convention as between the parties to the dispute."

19. Germany has raised six preliminary objections to the jurisdiction of the Court and to the admissibility of Liechtenstein's Application. According to the first objection put forward by Germany, there exists no dispute between Liechtenstein and Germany within the meaning of the Statute of the Court and Article 27 of the European Convention for the Peaceful Settlement of Disputes. In its second objection, Germany argues that all the relevant facts occurred before the entry into force of the European Convention for the Peaceful Settlement of Disputes as between the Parties. Germany contends in its third objection that the European Convention for the Peaceful Settlement of Disputes has no application because the acts on which Liechtenstein bases its claims fall within the domestic jurisdiction of Germany. In its fourth objection, Germany submits that Liechtenstein's claims have not been sufficiently substantiated as required by Article 40, paragraph 1, of the Statute of the Court and Article 38, paragraph 2, of the Rules of Court. Germany argues in its fifth objection that adjudication of Liechtenstein's claims would require the Court to pass judgment on rights and obligations of the successor States of the former Czechoslovakia, in particular the Czech Republic, in their absence and without their consent. Finally, according to Germany's sixth objection, the alleged Liechtenstein victims of the measures of confiscation carried out by Czechoslovakia have failed to exhaust the available local remedies.

In its written observations and final submissions during the oral proceedings, Liechtenstein requested the Court to reject Germany's preliminary objections in their entirety.

* *

20. The Court will now consider Germany's first objection that there is no dispute between itself and Liechtenstein.

*

21. Germany argues that there is no dispute between the Parties. Germany in particular observes that even though the facts that are at the core of the dispute lie in Czechoslovakia's seizure of certain Liechtenstein property under the Beneš Decrees of 1945, Liechtenstein bases its claims before the Court on an alleged "change of position" by Germany in the 1990s as to the need to apply the Settlement Convention to that property, whilst Germany contends that such a change has never occurred. Germany maintains that a distinction is to be made between the issue of the lawfulness of the Czechoslovak expropriations and that of the jurisdiction of the German courts regarding this matter. Germany contends that on neither issue has it changed its position either before or after 1995: as to the first, it has never accepted the validity of the relevant Czechoslovak measures against Liechtenstein property; as to the second, the German courts have always held that they are barred by the Settlement Convention from adjudicating on the lawfulness of confiscation measures, and for the purposes of the application of Article 3 of Chapter Six of the Settlement Convention, they have always relied on the assessment of the expropriating State.

Germany further claims that it is not German acts related to Czechoslovak confiscations but the lawfulness of the Czechoslovak measures as such and the resulting obligations of compensation on the part of the successor States to the former Czechoslovakia that are in question. Even if all the factual statements by Liechtenstein were correct, they would not justify a claim to compensation against Germany; "[i]ssues of compensation are to be decided between the State confiscating foreign property and the State victim of such measures".

Germany therefore concludes that the only dispute which exists is one between Liechtenstein and the successor States of the former Czechoslovakia.

22. Liechtenstein maintains that its dispute with Germany concerns Germany's position, whereby for the first time in 1995 it began to treat Liechtenstein assets as German external assets for purposes of the Settlement Convention, thus infringing Liechtenstein's neutrality and sovereignty. Liechtenstein also asserts that on numerous occasions since 1995 it has made its legal position known to the German Government, and on each occasion has met with opposition. This opposition, and the opposition of views on the question of whether or not there has been a change of position by the German Government with regard to Liechtenstein property, itself clearly evidences a dispute.

Liechtenstein recognizes the existence of another dispute, one between itself and the Czech Republic, but observes that this does not negate the existence of a separate dispute between itself and Germany, based on Germany's unlawful conduct in relation to Liechtenstein.

23. Liechtenstein contends further that Germany itself acknowledged the existence of the dispute between them. Liechtenstein thus submits that Germany recognized the existence of the Liechtenstein claims and a divergence of legal opinions over these claims, both in the course of bilateral consultations held in July 1998 and June 1999, and in a letter from the German Minister for Foreign Affairs to his Liechtenstein counterpart dated 20 January 2000. This letter stated that "[i]t [was] known that the German Government [did] not share the legal opinion" of the Government of Liechtenstein and "[did] not see a possibility to make compensation payments to the Principality of Liechtenstein for losses of property suffered as a result of post-war expropriations in former Czechoslovakia" as those measures "[could not] be attributed to Germany on a constructive legal basis".

For its part, Germany denies that it acknowledged the existence of a dispute by participating in diplomatic consultations at the request of Liechtenstein. It argues that a discussion of divergent legal opinions should not be considered as evidence of the existence of a dispute in the sense of the Court's Statute "before it reaches a certain threshold".

*

24. According to the consistent jurisprudence of the Court and the Permanent Court of International Justice, a dispute is a disagreement on a point of law or fact, a conflict of legal views or interests between parties (see *Mavrommatis Palestine Concessions, Judgment No. 2, 1924, P.C.I.J., Series A, No. 2*, p. 11; *Northern Cameroons, Preliminary Objections, Judgment, I.C.J. Reports 1963*, p. 27; *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947, Advisory Opinion, I.C.J. Reports 1988*, p. 27, para. 35; *East Timor (Portugal* v. *Australia), Judgment, I.C.J. Reports 1995*, pp. 99-100, para. 22). Moreover, for the purposes of verifying the existence of a legal dispute it falls to the Court to determine whether "the claim of one party is positively opposed by the other" (*South West Africa, Preliminary Objections, Judgment, I.C.J. Reports 1962*, p. 328).

25. The Court recalls that Liechtenstein has characterized its dispute with Germany as involving the violation of its sovereignty and neutrality by the Respondent, which, for the first time in 1995, treated Liechtenstein property confiscated under the Beneš Decrees as German external assets for the purposes of the Settlement Convention, notwithstanding Liechtenstein's status as a neutral State. Germany for its part denies altogether the existence of a dispute with Liechtenstein. It asserts instead that "the subject-matter of this case" is the confiscation by Czechoslovakia in 1945

of Liechtenstein property without compensation; Germany considers further that, in the case of Liechtenstein, German courts simply applied their consistent case law to what were deemed German external assets under the Settlement Convention. The Court thus finds that in the present proceedings complaints of fact and law formulated by Liechtenstein against Germany are denied by the latter. In conformity with well-established jurisprudence (see paragraph 24 above), the Court concludes that "[b]y virtue of this denial, there is a legal dispute" between Liechtenstein and Germany (*East Timor (Portugal* v. *Australia), Judgment, I.C.J. Reports 1995*, p. 100, para. 22; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide, Preliminary Objections, Judgment, I.C.J. Reports 1996*, p. 615, para. 29). The Court further notes that Germany's position taken in the course of bilateral consultations and in the letter by the Minister for Foreign Affairs of 20 January 2000 has evidentiary value in support of the proposition that Liechtenstein's claims were positively opposed by Germany and that this was recognized by the latter.

26. It remains for the Court to identify the subject-matter of the dispute before it. Upon examination of the case file, the Court finds that the subject-matter of the dispute is whether, by applying Article 3, Chapter Six, of the Settlement Convention to Liechtenstein property that had been confiscated in Czechoslovakia under the Beneš Decrees in 1945, Germany was in breach of the international obligations it owed to Liechtenstein and, if so, what is Germany's international responsibility.

27. Having established the existence of a dispute between Liechtenstein and Germany and identified its subject-matter, the Court concludes that the first preliminary objection of Germany must be dismissed.

* *

28. The Court will now examine Germany's second preliminary objection that Liechtenstein's Application should be rejected on the grounds that the Court lacks jurisdiction *ratione temporis* to decide the present dispute.

*

29. Germany asserts that were the Court to find that there exists a dispute, it would nevertheless fall outside the jurisdiction of the Court by virtue of Article 27 *(a)* of the European Convention for the Peaceful Settlement of Disputes (see paragraph 18 above). In its view, such a dispute would relate to facts or situations prior to 18 February 1980, the date when the European Convention for the Peaceful Settlement of Disputes entered into force between Germany and Liechtenstein. In Germany's view, the Application should therefore be rejected.

30. Germany contends that the key issue for the purpose of applying Article 27 *(a)* is not the date when this dispute arose, but whether the dispute relates to facts or situations that arose before or after the critical date. Only if these facts or situations took place after the critical date, that is after 1980, would the Court have jurisdiction *ratione temporis* under Article 27 *(a)*. But since, in Germany's view, this dispute relates to facts and situations that predate 1980, the Court lacks the requisite jurisdiction.

31. Germany claims that the property of Prince Franz Joseph II of Liechtenstein, including the painting by Pieter van Laer, as well as property belonging to other Liechtenstein nationals, was seized in Czechoslovakia pursuant to the Beneš Decrees. The Settlement Convention required Germany to bar any action in its courts that sought to challenge the legality of such confiscations. In Germany's view, the lawsuit brought by Prince Hans-Adam II of Liechtenstein to recover the Pieter van Laer painting was governed by the provisions of the Settlement Convention. The dismissal of the lawsuit by various German courts, beginning with the decision of the Cologne Regional Court in 1995, acting in compliance with the provisions of that Convention, was in conformity with earlier decisions of German courts. According to Germany, its courts have consistently held that they lacked jurisdiction to evaluate the lawfulness of such confiscations. The dispute which arose in the 1990s with regard to the Pieter van Laer painting was directly related to the Settlement Convention and the Beneš Decrees; it had its real source, according to Germany, in facts and situations existing prior to the 1980 critical date.

32. Liechtenstein contends that until the decisions of the German courts in the *Pieter van Laer Painting* case, it was understood between Germany and Liechtenstein that Liechtenstein property confiscated pursuant to the Beneš Decrees could not be deemed to have been covered by the Settlement Convention because of Liechtenstein's neutrality. German courts would therefore not be barred by that Convention from passing on the lawfulness of these confiscations. In Liechtenstein's view, the decisions of the German courts in the 1990s with regard to the painting made clear that Germany no longer adhered to that shared view, and thus amounted to a change of position. It mattered not, according to Liechtenstein, whether the decisions in that case marked a change as such in Germany's position or whether Germany was now applying its earlier case law to a new situation.

33. Liechtenstein maintains, *inter alia*, that, in so far as there was a change of position by Germany, the decisions of the German courts in the *Pieter van Laer Painting* case and the "positions taken by the German Government, in the period after 1995" gave rise to the present dispute. In these decisions and positions, Germany made clear for the first

time that it regarded Liechtenstein property as coming within the scope of the reparations régime of the Settlement Convention (see paragraph 14 above). These were the facts with regard to which the dispute arose. Prior thereto there was no dispute between Liechtenstein and Germany. The facts that triggered the present dispute were therefore not the Settlement Convention or the Beneš Decrees, but Germany's decision in 1995 to apply the Settlement Convention to Liechtenstein property.

34. The foregoing conclusion, Liechtenstein argues, accords with the legal test for temporal jurisdiction applied by the Permanent Court of International Justice and by this Court, which is relevant to the interpretation of Article 27 *(a)* of the European Convention for the Peaceful Settlement of Disputes in this case. In Liechtenstein's view, the *Phosphates in Morocco* case makes clear that the limits of temporal jurisdiction are to be construed not by looking at the source of the obligation said to have been violated or at the surrounding factual situation, but by focusing on the fact with regard to which the dispute arose, that is, the "fait générateur" of the dispute. According to Liechtenstein, the Permanent Court of International Justice adopted that same approach in the *Electricity Company of Sofia and Bulgaria* case, where it "distinguish[ed] between the source of the rights relied on by the Claimant and the source of the dispute; what matters is the point at which the rights are denied". Liechtenstein further contends that, as the *Right of Passage* case indicates, it is only when the "parties 'adopt clearly-defined legal positions' that the dispute arises, and it arises *in relation to* the triggering event, not the whole legal and factual matrix against the background of which the event is to be understood".

35. Germany submits that, contrary to Liechtenstein's allegations, there was "no change of position" by Germany because the judicial decisions in the 1990s did not depart from prior German case law on the subject. In Germany's view, there are thus no facts or legal situations that took place subsequent to the entry into force between the parties of the European Convention for the Peaceful Settlement of Disputes to which Liechtenstein can point to establish the jurisdiction of the Court.

36. Germany also suggests that the distinction between the source of the rights claimed by one of the parties and the source of the dispute, referred to by the Permanent Court of International Justice in the *Electricity Company of Sofia and Bulgaria* case and by the International Court of Justice in the *Right of Passage* case, is of no relevance to the present case. This is so, Germany submits, because none of the legal and factual situations "which are the real cause of the alleged dispute" can be attributed to or involve acts or decisions taken after 1980; rather, they

relate entirely to the legal situation created in the aftermath of the Second World War and, in particular, to "the confiscation of Liechtenstein property by Czechoslovakia in 1945 and thereafter and possible legal consequences of these confiscations".

37. A further difference, according to Germany, between the *Electricity Company of Sofia and Bulgaria* and the *Right of Passage* cases, on the one hand, and the present case, on the other, is that in those two cases, the legal situation existing between the parties had been fully recognized by both sides before the act or omission by one party gave rise to the dispute. In the present case, by contrast, there was prior to 1995 no similar recognition of the legal situation existing between the two States. On the contrary, Germany considers that the present case and the *Phosphates in Morocco* case fall into the same category. In the *Phosphates* case, "the Court could not look into the matter because the legal situation had been exactly the same since long before the jurisdictional clause applied and no separable facts or legal situations were at issue". According to Germany, that is also the situation in the present case. Here the legal régime applied by "German courts in 1995 and later was a legal régime applicable for Germany since 1955" by virtue of the Settlement Convention.

38. Liechtenstein disagrees with Germany's interpretation of the jurisprudence applicable to this case. It argues that the temporal limitation expressed in Article 27 *(a)* of the European Convention for the Peaceful Settlement of Disputes "refers to the generating fact . . . which triggers the dispute". In its view, the dispute was triggered neither by the Settlement Convention nor by the Beneš Decrees because, prior to the 1990s, that Convention had never been applied to neutral assets and thus gave rise to no dispute with neutral Liechtenstein. In Liechtenstein's view, Germany's decisions in the years from 1995 onwards were the origin and are at the heart of the present dispute. They are the facts to which the dispute relates.

*

39. Germany's second preliminary objection requires the Court to decide whether, applying the provisions of Article 27 *(a)* of the European Convention for the Peaceful Settlement of Disputes, the present dispute relates to facts or situations that arose before or after the 1980 critical date.

40. As recalled by the Parties (see paragraphs 34 and 36 to 38 above), this Court and the Permanent Court of International Justice have dealt with a comparable issue in a number of cases. Thus, in the *Phosphates in Morocco* case, the French declaration accepting the Permanent Court of

International Justice's jurisdiction spoke of "disputes which may arise after the ratification of the present declaration with regard to situations or facts subsequent to this ratification" (*Judgment, 1938, P.C.I.J., Series A/B, No. 74*, p. 22). While the parties in that case agreed that the dispute arose subsequent to the date of the French declaration, the issue that divided them concerned the date of the "situations or facts" with regard to which the dispute arose, that is, whether it was prior or subsequent to the declaration. The Court found that the subject of the dispute was the so-called "monopolization of the Moroccan phosphates" (*ibid.*, p. 25) and the inconsistency of that monopoly régime with earlier French treaty obligations. This régime was established by legislation adopted before the critical date. It was that legislation, the Court ruled, with regard to which the dispute arose.

41. In the *Electricity Company of Sofia and Bulgaria* case, the wording of the Belgian limitation *ratione temporis* was identical to the relevant language of the French declaration in the *Phosphates in Morocco* case. Here, too, the parties agreed that the dispute arose after the critical date, but they disagreed as to whether the "facts or situations" with regard to which the dispute arose were prior or subsequent to that date. In the *Electricity Company* case, Bulgaria argued that the awards of the Belgo-Bulgarian Mixed Arbitral Tribunal, which predated the critical date, had to be treated as the "situations" that gave rise to the dispute. The Permanent Court of International Justice rejected this argument and held that, while these awards constituted the source of the rights claimed by Belgium, they were not the source of the dispute because the parties had been in agreement throughout regarding their binding character. The Court explained this conclusion as follows:

> "A situation or fact in regard to which a dispute is said to have arisen must be the real cause of the dispute. In the present case it is the subsequent acts with which the Belgian Government reproaches the Bulgarian authorities with regard to a particular application of the formula — which in itself has never been disputed — which form the centre point of the argument and must be regarded as constituting the facts with regard to which the dispute arose." (*Electricity Company of Sofia and Bulgaria, Judgment, 1939, P.C.I.J., Series A/B, No. 77*, p. 82.)

Since these facts all took place after the critical date, the Court rejected the Bulgarian preliminary objection to its jurisdiction.

42. In the *Right of Passage* case, this Court had to deal with India's preliminary objection *ratione temporis*. The objection was based on its declaration accepting the Court's jurisdiction "over all disputes arising after 5 February 1930, with regard to situations or facts subsequent to

the same date". Here the Court first found that the dispute arose in 1954, when India interfered with Portugal's alleged right of passage over Indian territory to certain Portuguese enclaves. The Court turned next to the question of the date of the situations or facts with regard to which the dispute arose. Relying on the holding of the Permanent Court of International Justice in the *Electricity Company of Sofia and Bulgaria* case, the Court emphasized that in determining the facts or situations with regard to which a dispute has arisen, only those facts or situations are relevant that can be considered as being the source of the dispute, that is, its real cause. It then made the following finding:

> "Up to 1954 the situation of those territories may have given rise to a few minor incidents, but passage had been effected without any controversy as to the title under which it was effected. It was only in 1954 that such a controversy arose and the dispute relates both to the existence of a right of passage to go into the enclaved territories and to India's failure to comply with obligations which, according to Portugal, were binding upon it in this connection. It was from all of this that the dispute referred to the Court arose; it is with regard to all of this that the dispute exists. This whole, whatever may have been the earlier origin of one of its parts, came into existence only after 5 February 1930." (*Right of Passage over Indian Territory, Merits, Judgment, I.C.J. Reports 1960*, p. 35.)

43. The text of Article 27 *(a)* of the European Convention for the Peaceful Settlement of Disputes (see paragraph 18 above) does not differ in substance from the temporal jurisdiction limitations dealt with in those cases. In particular, no consequence can be drawn from the use of the expressions "with regard to" or "relating to" which have been employed indifferently in the various texts in question. The Court notes further that in the *Phosphates in Morocco* case, the *Electricity Company in Sofia and Bulgaria* case and the *Right of Passage* case, the Permanent Court of International Justice and this Court were called upon to interpret unilateral declarations accepting the Court's jurisdiction under its Statute, whereas, in the present case, the Court has to interpret a multilateral Convention. Without pronouncing in any more general sense upon the extent to which such instruments are to be treated comparably, the Court finds no reason on this ground to interpret differently the phrase in issue. Nor have the Parties suggested otherwise.

Accordingly, the Court finds its previous jurisprudence on temporal limitations of relevance in the present case.

44. In interpreting the latter *ratione temporis* limitations, this Court and the Permanent Court of International Justice before it emphasized that

> "[t]he facts or situations to which regard must be had . . . are those with regard to which the dispute has arisen or, in other words, as was said by the Permanent Court in the case concerning the *Electricity Company of Sofia and Bulgaria*, only 'those which must be considered as being the source of the dispute', those which are its 'real cause'" (*Right of Passage over Indian Territory, Merits, Judgment, I.C.J. Reports 1960*, p. 35).

45. Thus in the *Phosphates in Morocco* case, the facts with regard to which the dispute arose were found to be legislative measures that predated the critical date. The objection *ratione temporis* was accordingly upheld. In the *Electricity Company of Sofia and Bulgaria* and the *Right of Passage* cases, the disputes were found to have had their source in facts or situations subsequent to the critical date and thus the objections *ratione temporis* were rejected.

46. The Court considers that, in so far as it has to determine the facts or situations to which this dispute relates, the foregoing test of finding the source or real cause of the dispute is equally applicable to this case.

47. The Court will now consider whether the present dispute has its source or real cause in the facts or situations which occurred in the 1990s in Germany and, particularly, in the decisions by the German courts in the *Pieter van Laer Painting* case, or whether its source or real cause is the Beneš Decrees under which the painting was confiscated and the Settlement Convention which the German courts invoked as ground for declaring themselves without jurisdiction to hear that case.

48. The Court observes that it is not contested that the present dispute was triggered by the decisions of the German courts in the aforementioned case. This conclusion does not, however, dispose of the question the Court is called upon to decide, for under Article 27 *(a)* of the European Convention for the Peaceful Settlement of Disputes, the critical issue is not the date when the dispute arose, but the date of the facts or situations in relation to which the dispute arose.

49. In the Court's view, the present dispute could only relate to the events that transpired in the 1990s if, as argued by Liechtenstein, in this period, Germany either departed from a previous common position that the Settlement Convention did not apply to Liechtenstein property, or if German courts, by applying their earlier case law under the Settlement Convention for the first time to Liechtenstein property, applied that Convention "to a new situation" after the critical date.

50. With regard to the first alternative, the Court has no basis for concluding that prior to the decisions of the German courts in the *Pieter van Laer Painting* case, there existed a common understanding or agreement between Liechtenstein and Germany that the Settlement Con-

vention did not apply to the Liechtenstein property seized abroad as "German external assets" for the purpose of reparation or as a result of the war. The issue whether or not the Settlement Convention applied to Liechtenstein property had not previously arisen before German courts, nor had it been dealt with prior thereto in intergovernmental talks between Germany and Liechtenstein. Moreover, German courts have consistently held that the Settlement Convention deprived them of jurisdiction to address the legality of any confiscation of property treated as German property by the confiscating State (see Judgment of the German Federal Court of Justice (Bundesgerichtshof) of 11 April 1960, II ZR 64/58; see also Judgment of the German Federal Court of Justice (Bundesgerichtshof) of 13 December 1956 (*AKU* case), II ZR 86/54). In the *Pieter van Laer Painting* case, the German courts confined themselves to stating that the Settlement Convention was applicable in cases of confiscation under Decree No. 12, as with the other Beneš Decrees, and that, consequently, it was also applicable to the confiscation of the painting. Liechtenstein's contention regarding the existence of a prior agreement or common understanding and an alleged "change of position" by Germany cannot therefore be upheld.

51. As to Liechtenstein's contention that the dispute relates to the application, for the first time, of pre-1990 German jurisprudence to Liechtenstein property in the 1990s, the Court points out that German courts did not face any "new situation" when dealing for the first time with a case concerning the confiscation of Liechtenstein property as a result of the Second World War. The Court finds that this case, like previous ones on the confiscation of German external assets, was inextricably linked to the Settlement Convention. The Court further finds that the decisions of the German courts in the *Pieter van Laer Painting* case cannot be separated from the Settlement Convention and the Beneš Decrees, and that these decisions cannot consequently be considered as the source or real cause of the dispute between Liechtenstein and Germany.

52. The Court concludes that, although these proceedings were instituted by Liechtenstein as a result of decisions by German courts regarding a painting by Pieter van Laer, these events have their source in specific measures taken by Czechoslovakia in 1945, which led to the confiscation of property owned by some Liechtenstein nationals, including Prince Franz Jozef II of Liechtenstein, as well as in the special régime created by the Settlement Convention. The decisions of the German courts in the 1990s dismissing the claim filed by Prince Hans-Adam II of Liechtenstein for the return of the painting to him were taken on the basis of Article 3, Chapter Six, of the Settlement Convention. While these decisions triggered the dispute between Liechtenstein and Germany, the

source or real cause of the dispute is to be found in the Settlement Convention and the Beneš Decrees. In light of the provisions of Article 27 *(a)* of the European Convention for the Peaceful Settlement of Disputes, Germany's second preliminary objection must therefore be upheld.

* * *

53. Having dismissed the first preliminary objection of Germany, but upheld its second, the Court finds that it is not required to consider Germany's other objections and that it cannot rule on Liechtenstein's claims on the merits.

* * *

54. For these reasons,

THE COURT,

(1) *(a)* by fifteen votes to one,

Rejects the preliminary objection that there is no dispute between Liechtenstein and Germany;

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; *Judge* ad hoc Sir Franklin Berman;

AGAINST: *Judge* ad hoc Fleischhauer;

(b) by twelve votes to four,

Upholds the preliminary objection that Liechtenstein's Application should be rejected on the grounds that the Court lacks jurisdiction *ratione temporis* to decide the dispute;

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Rezek, Al-Khasawneh, Buergenthal, Tomka; *Judge* ad hoc Fleischhauer;

AGAINST: *Judges* Kooijmans, Elaraby, Owada; *Judge* ad hoc Sir Franklin Berman;

(2) by twelve votes to four,

Finds that it has no jurisdiction to entertain the Application filed by Liechtenstein on 1 June 2001.

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Rezek, Al-Khasawneh, Buergenthal, Tomka; *Judge* ad hoc Fleischhauer;

AGAINST: *Judges* Kooijmans, Elaraby, Owada; *Judge* ad hoc Sir Franklin Berman.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this tenth day of February, two thousand and five, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Principality of Liechtenstein and the Government of the Federal Republic of Germany, respectively.

(Signed) SHI Jiuyong,
President.

(Signed) Philippe COUVREUR,
Registrar.

Judges KOOIJMANS, ELARABY and OWADA append dissenting opinions to the Judgment of the Court; Judge *ad hoc* FLEISCHHAUER appends a declaration to the Judgment of the Court; Judge *ad hoc* Sir Franklin BERMAN appends a dissenting opinion to the Judgment of the Court.

(Initialled) J.Y.S.
(Initialled) Ph.C.