

International Comparative Legal Guides

Business Crime 2026

A practical cross-border resource to inform legal minds

16th Edition

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1 General Criminal Law Enforcement

1.1 What authorities can prosecute business crimes, and are there different enforcement authorities at the national and regional levels?

According to Section 21 of the Code of Criminal Procedure (StPO), the Liechtenstein Public Prosecutor’s Office is responsible for prosecuting all offences that are prosecuted *ex officio* (such as assault, coercion, fraud, etc.) that come to its attention. In Liechtenstein, the Public Prosecutor’s Office has a monopoly on prosecution. According to Art. 2 of the Public Prosecutor’s Office Act, the Public Prosecutor’s Office is called upon to protect the interests of the country in the administration of justice, particularly in criminal justice. It is responsible for public prosecution and judicial prosecution in criminal proceedings (this includes proceedings reported by private individuals as well as criminal offences that are offences on complaint; see questions 8.5 and 8.6 below). There is only one Public Prosecutor’s Office in Liechtenstein, which represents the prosecution in all instances.

A key limitation on the Public Prosecutor’s Office’s monopoly is subsidiary prosecution. If criminal proceedings are not initiated or are discontinued as a result of the public prosecutor’s decision not to prosecute or to request that the case be discontinued, the private party has the right, pursuant to Section 173 StPO, to continue the criminal prosecution in place of the public prosecutor as a subsidiary prosecutor by filing a motion for the initiation or continuation of the investigation or by filing the indictment with the district court within 14 days of being notified.

Pursuant to Section 9 StPO, the state police (*Landespolizei*) assists in the investigation and prosecution of criminal offences in accordance with the provisions of the StPO. It investigates *ex officio* on the basis of a complaint. The state police must comply with orders issued by the Public Prosecutor’s Office and the court.

There are no different enforcement authorities at the national and regional levels. In addition to the state police, there is the municipal police, but its primary tasks include traffic control and advice on traffic matters, and patrol duties.

1.2 If there is more than one set of enforcement agencies, how are decisions made regarding the body that will investigate and prosecute a matter?

This is not applicable in Liechtenstein.

1.3 Can multiple authorities investigate and enforce simultaneously?

No, they cannot.

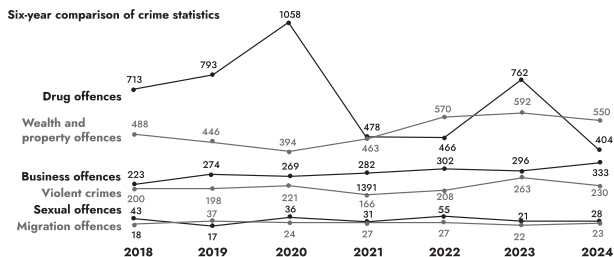
1.4 Is there any civil or administrative enforcement against business crimes? If so, what agencies enforce the laws civilly and which crimes do they combat?

In addition to the district court, which adjudicates criminal and civil matters, the Liechtenstein Financial Market Authority may impose administrative sanctions – including fines, prohibitions on professional practice, or proceedings to withdraw licences or authorisations – if the laws and regulations are breached.

The Financial Intelligence Unit (SFIU) also plays a central role in tracing incriminating assets. If the suspicion is substantiated after analysis, the SFIU will submit an analysis report to the Public Prosecutor’s Office.

1.5 What are the major business crime cases in your jurisdiction in the past year?

In total, in Liechtenstein there were 3,089 criminal cases against known and unknown perpetrators in 2024. The number of business crime cases (fraud, embezzlement, bankruptcy offences, money laundering, corruption, insider trading, cybercrime) increased by 13% to 333 offences in 2024 (2023: 296). As in the previous year, most cases were committed in the fraud/embezzlement category.¹



2 Organisation of the Courts

2.1 How are the criminal courts in your jurisdiction structured? Are there specialised criminal courts for particular crimes?

The criminal courts generally consist of three instances for

proceedings on the merits. The district court acts as the court of first instance. As the only court of first instance, the district court always has local jurisdiction pursuant to Section 12 para. 1 StPO. The district court is also materially competent for crimes, offences and contraventions (Section 13 StPO).

Pursuant to Section 5 of the Court Organisation Act (GOG), the district court administers justice through the district court with single judges, the criminal court or its chairperson, the juvenile court or its chairperson and the officer of justice (*Rechtspfleger*) in criminal matters.

The criminal court is competent for the criminal offences described in Section 15 para. 2 StPO (primarily criminal offences punishable by more than three years' imprisonment). Cases are decided by a chamber consisting of a district judge as chairperson, a district judge as assessor and three criminal judges (Art. 7 GOG).

In juvenile criminal offences regarding the Juvenile Justice Act, the juvenile court has exclusive jurisdiction. Decisions are made by a chamber consisting of a district judge as chairperson and two juvenile judges (Art. 9 GOG). The juvenile court is only properly constituted if a juvenile judge is of the same gender as the accused.

Officers of justice are responsible for proceedings for the issuance of penalty orders in cases of contraventions (Section 328 StPO), including the rejection of late appeals.

In the second instance, the Court of Appeal decides through chambers or through the three-chamber chairpersons (Art. 19 GOG). The Supreme Court decides as the third and final instance through two chambers or the chamber chairpersons (Art. 23 GOG).²

In addition to the ordinary courts, there is also the State Constitutional Court (StGH). Among other things, it protects constitutionally guaranteed fundamental rights and reviews the constitutionality of laws and regulations. The StGH is therefore not a "fourth instance" against every decision made by a court but specifically reviews questions of constitutional law. In practice, the ordinary courts must be exhausted before constitutional complaints can be brought before the StGH.

2.2 Is there a right to a jury in business crime trials?

In Liechtenstein, there is no right to a jury trial (as in the Anglo-American legal system). Consequently, the often complex rules governing jury trials that exist in other jurisdictions do not apply in Liechtenstein criminal proceedings.

2.3 Where juries exist, are they composed of citizens members alone or also professional jurists?

This is not applicable in Liechtenstein.

3 Particular Statutes and Crimes

3.1 Please describe the statutes that are commonly used in your jurisdiction to prosecute business crimes, including the elements of the crimes and the requisite mental state of the accused.

• Securities fraud

Liechtenstein law does not explicitly stipulate a criminal offence in regard to securities fraud or accounting fraud. These would have to be subsumed under the general offence of fraud pursuant to Section 146 StGB.

The objective element of the offence is fulfilled by any person who deceives another person about facts and therefore causes such other person to do, acquiesce in or omit an act that causes damage to the assets of such other person or of a third

person. The subjective element of the offence is fulfilled when the person has the intent of unlawfully enriching themselves or a third party through said conduct as a result of the conduct of the deceived person.

• Accounting fraud

See above.

• Insider trading

The prohibition of insider trading was formerly governed in Section 122a StGB. Insider trading is now regulated by Implementing Regulation (EU) No. 596/2014 on market abuse. Conduct such as insider dealing, unlawful disclosure of inside information and market manipulation is prohibited. Insiders who, even if only through gross negligence, trade financial instruments or auction items based on emission allowances using insider information, change or cancel orders placed in advance, or submit, change or withdraw auction bids are guilty of a criminal offence.

• Embezzlement

This offence is specified in Section 133 StGB. The objective element of the offence is fulfilled when a person appropriates for himself or for a third party any goods that has been entrusted to him. The subjective element of the offence is fulfilled when the person has the intent to unjustly enrich himself or a third party.

• Bribery of government officials

This offence is specified in Section 307 StGB. The objective element of this offence is fulfilled when a person offers, promises or provides to an office holder or arbitrator a benefit to be granted to such office holder or arbitrator or to a third party in return for any execution or omission of official duties in violation of such duties.

Any person shall be punished likewise who offers, promises or provides to an expert a benefit for such expert or a third party in return for the provision of a false finding or a false opinion.

Objects of this offence are public officials, arbitrators and experts appointed by a court or other authority for a specific procedure.

The subjective element of the offence is fulfilled when persons at least seriously consider it possible and accept that they are offering, promising or granting an advantage to a public official, arbitrator or expert for themselves or a third party in return for the breach of duty or omission of an official act.

• Criminal anti-competition

There is no single provision governing criminal anti-competition. Instead, there is a specific law, the Law Against Unfair Competition. The intention of the law is to protect the proper functioning of competition, competitors, consumers and the public from misleading, aggressive or otherwise unfair commercial practices. It prohibits, in particular, misleading and comparative advertising, aggressive sales methods, covert or bait-and-switch advertising, the exploitation of another's trade or business secrets and other forms of anti-competitive conduct.

• Cartels and other competition offences

Liechtenstein has no national cartel law or merger control law. Competition offences are governed in the Law Against Unfair Competition.

• Tax crimes

Tax fraud is regulated in Art. 140 of the Tax Act (SteG) and

Art. 88 of the VAT Act (MWSTG). The objective element of the offence is fulfilled if tax is evaded through the use of false, falsified or untrue business records or other documents. As a subjective element of the offence, there must be conditional intent. Tax fraud differs from “simple” tax evasion in that it is committed using qualified means (documents).

The objective element of the offence of Art. 87 MWSTG, tax evasion, is fulfilled when someone reduces the tax liability of the state by failing to declare all income, declaring too much income from tax-exempt services, failing to declare all expenses subject to withholding tax or declaring expenses that are too high for input tax deduction, or obtaining an unlawful refund or obtains an unjustified tax waiver. On the subjective element, this offence can be committed with conditional intent.

The objective element of the offence of Art. 89 MWSTG, qualified tax evasion, is fulfilled when tax evasion is committed under aggravating circumstances. Aggravating circumstances include recruiting one or more persons to commit tax evasion or committing tax evasion on a commercial basis. On the subjective element, this offence can be committed intentionally or negligently.

The objective element of the offence of Art. 90 MWSTG is fulfilled if someone acquires, accepts as a gift, takes as collateral or otherwise takes into custody, conceals, helps to dispose of or places in circulation items that have evaded tax. On the subjective element, this offence can be committed when the person knows or must assume that the items are subject to import tax that has been deliberately evaded.

• Government-contracting fraud

The provisions on fraud apply (see Section 146 StGB).

• Environmental crimes

The Criminal Code contains a comprehensive framework for prosecuting environmental offences. These include intentional and negligent acts that harm or endanger the environment, such as the improper treatment, disposal or shipment of waste, and the hazardous operation of industrial plants. The Sections of the Criminal Code differentiate between intentional and negligent conduct, with penalties increasing where there is deliberate harm or a significant risk to public health or the ecosystem.

• Campaign-finance/election law

The Criminal Code criminalises various forms of unlawful conduct in connection with elections and referendums. These offences generally require intent, although certain lesser infringements may also be punishable if committed negligently.

• Market manipulation in connection with the sale of derivatives

See above explanation to Implementing Regulation (EU) No. 596/2014 on market abuse.

• Money laundering or wire fraud

This offence is specified in Section 165 StGB and is certainly one of the most important offences in Liechtenstein. The offence is committed when a person hides asset components originating from an act carrying a penalty of more than one year or a misdemeanour (also Art. 140 StG or under Art. 88 or 89 MWSTG), or conceals their origin, in particular by providing false information in legal transactions concerning the origin or the true nature of the ownership or other rights pertaining to the power of disposal over, the transfer of or the location of such asset components.

Money laundering involves assets that the perpetrator has obtained through a crime or that he has received for a crime. It depends on the identity of the economic value that the perpetrator obtained from the crime. In Section 165 para. 1 and para. 2 StGB (object-related or predicate offence-related money laundering), the object of the offence is a financial advantage derived from a predicate offence.

In Section 165 para. 3 StGB (subject-related or organisation-related money laundering), the object of the offence is an asset that is subject to the power of disposal of a criminal organisation or a terrorist group.

In principle, conditional intent is sufficient. The perpetrator must seriously consider it possible and accept that the asset derives from a predicate offence (Section 165 para. 1 and para. 2 StGB) or that the asset is under the control of a criminal organisation or terrorist group and that he is acting on their behalf or in their interest (Section 165 para. 3 StGB).

• Cybersecurity and data protection law

Liechtenstein has not defined cybercrime offences in a separate law but has incorporated them into the Criminal Code. The Criminal Code thus covers both attacks on the confidentiality, integrity and availability of IT systems and the preparatory actions for such attacks. The offences must be committed with intent.

The Data Protection Act also regulates typical data protection offences under Liechtenstein criminal law.

• Trade sanctions and export control violations

Liechtenstein has a customs union with Switzerland. This means that Liechtenstein is part of the Swiss customs territory and the same customs regulations apply as in Switzerland. The corresponding penalties and ancillary offences are specified in this law.

The International Sanctions Enforcement Act (ISG) forms the central legal basis in Liechtenstein for the implementation and control of trade, financial and personal sanctions, such as those imposed by the United Nations, the EU or important trading partners. It obliges companies and private individuals to comply with the prohibitions and restrictions laid down in the ISG, for example when exporting certain goods, providing services or carrying out financial transactions. Violations of these provisions, including circumvention, may be punished as criminal offences.

In cases of negligence, the law provides for reduced penalties.

• Any other crime of particular interest in your jurisdiction

Pursuant to Section 153 StGB, criminal breach of trust is also relevant in Liechtenstein. The objective element of the offence is fulfilled when a person abuses their authorisation to make dispositions in respect of assets belonging to another person or to bind such other person and thereby cause damage to the assets of such other person. A person abuses their authorisation if they violate rules which serve to protect the beneficial owner's assets without any justification. The subjective element of the offence is fulfilled when the person acts with conditional intent and the intent also extends to the associated caused damage.

The offence of criminal insolvency (Sections 156–159 StGB), which covers criminal acts in connection with a debtor's insolvency or excessive indebtedness, mostly in the area of bankruptcy, is also relevant. This offence is intended to protect creditors. This offence can be committed either intentionally or through negligence.

3.2 Is there liability for inchoate crimes in your jurisdiction? Can a person be liable for attempting to commit a crime, whether or not the attempted crime is completed? Can a person be liable for “misprision” by helping another avoid being located or discovered?

Liechtenstein criminal law explicitly stipulates the criminalisation of attempted offences in Section 15 *et seq.* of the Criminal Code. The penalties provided for intentional acts shall not only apply to a completed offence, but also for any attempt or participation in an attempt. However, there is no liability for attempted negligent offences. Additionally, the perpetrator shall not be punished for an attempt or participation therein if he voluntarily desists from the execution or, if several people are involved in the act, voluntarily prevents it from being carried out.

The intent of an attempt and, if applicable, extended intent must correspond to the elements of the given attempted offence. Therefore, the perpetrator must have the unconditional will to commit the offence. With regard to intent under Section 5 StGB, a person acts with intent if they want to bring about the facts of the offence—it is sufficient that they seriously believe that these are achievable and accept this. Purposeful action (purposefully) is when the perpetrator intends to achieve the consequence or circumstance required by law. Knowingly means that the perpetrator not only considers the relevant fact or consequence to be possible but also considers its existence or occurrence to be certain.

According to Section 299 of the Criminal Code, anyone who deliberately prevents another person who has committed a punishable offence from being prosecuted or from serving their sentence, or from preventive measures being taken against them, shall be punished. This offence is completed under the circumstances that the criminal prosecution or enforcement of punishment has at least been postponed or slowed down (the prosecution being impaired permanently is not required).

4 Corporate Criminal Liability

4.1 Is there entity liability for criminal offences? If so, under what circumstances will an employee’s conduct be imputed to the entity? Are there ways in which an entity can avoid criminal liability for the acts of its employees or agents?

According to Section 74a StGB, entities may be held liable for misdemeanours and crimes committed in an unlawful and culpable manner by their managers in the course of their business activities and within the scope of the legal entity’s purpose.

Furthermore, the legal entity shall be held liable for acts that have been committed by their employees, even if not in a culpable manner, given that the commission of the act was made possible or was significantly facilitated due to the failure of persons within a position of authority to take the necessary and reasonable measures to prevent such underlying acts.

Therefore, a legal entity cannot be held criminally liable for acts committed solely in the interest of a manager or subordinate, or against the legal entity itself.

It is important that appropriate governance is in place in an entity and that there is always a “four-eyes principle” at management level to ensure that no offences can be committed.

4.2 Is there personal liability for managers, officers, and directors if the entity becomes liable for a crime? Under what circumstances?

The liability of the legal entity for an offence and the criminal liability of managers or employees for the same act are not mutually exclusive (Section 74a para. 5 StGB). Therefore, both the legal entity and the given individual can be found guilty of the same offence. Criminal liability of managers cannot be excluded either contractually or with statutes.

4.3 Where there is entity liability and personal liability, do the authorities have a policy or preference as to when to pursue an entity, when to pursue an individual, or both? Has the preference changed in recent years? How so?

It is common practice in Liechtenstein that both the legal entity and individual are prosecuted. This is due to the fact that a large number of holding structures, as well as foundations and trusts without active or operational business activities, are registered in Liechtenstein.

4.4 In a merger or acquisition context, can successor liability apply to the successor entity? When does successor liability apply? When does it not apply?

If the rights and obligations of the legal entity are transferred to another legal entity by way of universal succession, the legal consequences provided for in the Criminal Code or the StPO shall apply to the legal successor in accordance with Section 74d StGB. Personal criminal responsibility is not transferred and remains with the individual. In the event of a merger, the original individual responsibility remains independent.

5 Statutes of Limitations

5.1 How are enforcement-limitations periods calculated, and when does a limitations period begin running?

In general, a difference must be made between the statute of limitations for criminal liability (Section 57 StGB) and the statute of limitations for enforceability (Section 59 StGB).

The limitation period begins as soon as the criminal activity has been completed, or the criminal behaviour has ended.

Criminal offences punishable by life imprisonment, imprisonment for a term of 10 to 20 years or genocide, crimes against humanity and war crimes are not subject to the statute of limitations under the provisions of Section 57 StGB. However, after a period of 20 years, the threatened life imprisonment is replaced by imprisonment of 10 to 20 years, which means that criminal liability may expire due to the corresponding statute of limitations. Section 57 StGB determines the statute of limitations for other offences.

5.2 Can crimes occurring outside the limitations period be prosecuted if they are part of a pattern or practice, or ongoing conspiracy?

The Criminal Code stipulates an extension of the limitation period in certain cases (Section 58 StGB).

If a result pertaining to the offence only occurs after the punishable act has been completed or the punishable conduct

has ceased, the limitation period shall not expire before either the result has occurred or before one-and-a-half times the duration of the limitation period, and at least three years, have elapsed.

Furthermore, if, during the limitation period, the offender commits another punishable act based on the same harmful act, the limitation period shall not expire until the limitation period for this act also expires.

5.3 Can the limitations period be tolled? If so, how?

Section 58 para. 1 and para. 2 StGB regulate the suspension of the limitation period. Para. 3 regulates the continuation of the limitation period.

In the case of suspension pursuant to para. 1 and para. 2, the limitation period continues to apply beyond its fictitious end (see question 5.2 above). If these conditions are met when the relevant limitation period has already expired, the offence is immediately time-barred. In the event of suspension, the period does not start to run again.

In the case of a continued suspension, the limitation period is suspended:

- Because prosecution cannot be initiated or continued due to laws.
- While criminal proceedings against the perpetrator are pending in court.
- During the period until the victim of a criminal offence against life and limb, against liberty or against sexual integrity and self-determination reaches the age of 28, not including the period during which the victim was a minor at the time of the offence.

6 Initiation of Investigations

6.1 Do enforcement agencies have jurisdiction to enforce their authority outside your jurisdiction's territory for certain business crimes? If so, which laws can be enforced extraterritorially and what are the jurisdictional grounds that allow such enforcement? How frequently do enforcement agencies rely on extraterritorial jurisdiction to prosecute business crimes?

Section 62 StGB stipulates that only if a criminal offence is subject to Liechtenstein criminal law will the Liechtenstein criminal prosecution authorities have jurisdiction. Therefore, Liechtenstein criminal law generally only applies to acts that have been committed in Liechtenstein.

Certain offences, however, are punished under Liechtenstein law regardless of the laws of the foreign country in which the crime was committed, in view of the fact that they directly violate important Liechtenstein interests, especially those of the financial sector and trust industry (Section 64 StGB includes, for example, high treason, offences committed against a Liechtenstein official, violation of a business or trade secret, etc.).

6.2 How are investigations initiated? Are there any rules or guidelines governing the government's initiation of any investigation? Can third parties learn how the investigation began or obtain the initial file documents? If so, please describe them.

Pursuant to Section 41 StPO, the Public Prosecutor's Office may apply to the investigating judge for an investigation to be

conducted as soon as a specific person is suspected of having committed a specific criminal offence (this can be initiated on the basis of a criminal complaint by a third party, injured party, supervisory authority or a judge). The investigating judge decides on the request by means of a ruling, which can be appealed by the Public Prosecutor's Office and the accused to the Court of Appeal.

The investigation initiated is conducted by the investigating judge. In principle, the principle of *ex officio* investigation of the material truth applies. However, the parties may submit requests to the investigating judge pursuant to Section 43 para. 1 StPO.

Third parties may obtain access to the files if they can demonstrate a legitimate legal interest and there are no overriding public or private interests to the contrary (Section 39 StPO).

6.3 Do the criminal authorities in your jurisdiction have formal and/or informal mechanisms for cooperating with foreign enforcement authorities? Do they cooperate with foreign enforcement authorities?

Liechtenstein's criminal authorities have both formal and informal mechanisms for cooperating with foreign law enforcement authorities, especially through international and bilateral treaties and agreements regarding mutual legal assistance and cross-border cooperation. These include, among others, the European Convention on Mutual Assistance in Criminal Matters (concluded in 1959 and entered into force in Liechtenstein on 26 January 1970), the International Convention against the Taking of Hostages, the European Convention on Extradition and the United Nations Convention against Corruption.

Furthermore, Liechtenstein is part of various bilateral agreements, predominantly regarding neighbouring countries such as Austria and Switzerland.

7 Procedures for Gathering Information from a Company

7.1 What powers does the government have generally to gather information when investigating business crimes?

Liechtenstein investigative authorities (due to the separation of powers, not the government) generally have extensive powers to gather information and documents relating to business crimes, the most relevant of which are the freezing of assets, examination of suspects and witnesses, seizure of evidence and house searches.

Document Gathering:

7.2 Under what circumstances can the government demand that a company under investigation produce documents to the government, and under what circumstances can the government raid a company under investigation and seize documents?

Seizing evidence and securing orders (Section 96 StPO) must be issued by the district court at the request of the Public Prosecutor's Office. Such a measure is also possible on the basis of a request for legal assistance. The search of company premises and seizure of documents is permissible if, based on established facts, it is probable that the evidence sought can be found by the given means of taking evidence and is proportionate.

7.3 Are there any protections against production or seizure that the company can assert for any types of documents? For example, does your jurisdiction recognise any privileges protecting documents prepared by in-house attorneys or external counsel, or corporate communications with in-house attorneys or external counsel?

The most significant practical consequence is the prohibition on seizing lawyers' correspondence. The StGH has ruled that all lawyers' correspondence (not only in criminal proceedings) may not be seized. Trustee secrecy or trade secrets could also prevent seizure. The court must always weigh up the interests involved in such cases.

7.4 Are there any labour or privacy laws in your jurisdiction (such as the General Data Protection Regulation in the European Union) that may impact the collection, processing, or transfer of employees' personal data, even if located in company files? Does your jurisdiction have blocking statutes or other domestic laws that may impede cross-border disclosure?

Since 20 July 2018, the GDPR has been applicable in the EEA and thus also in Liechtenstein for all companies or other data processing entities that collect or process personal data within the EU or EEA.

Furthermore, there is a national data protection law in Liechtenstein. However, this does not affect the seizing of documents or have restrictions on the execution of requests for legal assistance (in Liechtenstein, however, the principle of trust in legal assistance does not apply to states that are categorised as precarious countries (e.g. Russia)).

7.5 Under what circumstances can the government demand that a company employee produce documents to the government, or raid the home or office of an employee and seize documents?

Pursuant to Section 95 StPO, searches of premises shall always be carried out whilst avoiding any unnecessary attention and any avoidable and unnecessary harassment or inconvenience of the persons concerned, with the best possible protection of their reputation and of their private secrets that are not connected with the subject of the investigation and with the most diligent preservation of morals and decency.

A company employee may be searched or required to hand over documents if there is sufficient suspicion that they were involved in the preparation or execution of the offence.

7.6 Under what circumstances can the government demand that a third person or entity produce documents to the government, or raid the home or office of a third person or entity and seize documents?

Third parties or entities may also be searched or required to hand over documents if there is sufficient suspicion that they were involved in the preparation or execution of the offence.

Questioning of Individuals:

7.7 Under what circumstances can the government demand that an employee, officer, or director of a company under investigation submit to questioning? In what forum can the questioning take place?

The circumstances of an examination depend on the position of the given individual in the proceeding.

Employees, officers or directors of the company who are suspected of having committed the offence are questioned as suspects in the proceedings against the company. If the employee is not subject to prosecution, they shall be questioned as a witness as described below.

This difference is important because suspects may remain silent and are not obliged to tell the truth, whereas witnesses are generally required to testify and tell the truth, unless they are legally entitled to refuse the questioning (Section 105 StPO).

7.8 Under what circumstances can the government demand that a third person submit to questioning? In what forum can the questioning take place?

Under certain circumstances, a third person may be examined as a witness. Witnesses are persons other than the defendant who may have obtained facts that are essential to the clarification of the offence or otherwise relevant to the subject matter of the proceedings. Anyone summoned as a witness generally must comply and testify on what they know about the subject or investigation. With regard to the right to refuse to testify, see question 15.1 below.

The interrogation of a witness may either be conducted by the investigating judge or by the state police. However, witnesses are permitted to have a trusted person present.

A witness or a defendant can also be questioned by way of mutual legal assistance at the request of a foreign authority.

7.9 What protections can a person assert upon being questioned by the government? Is there a right to be represented by an attorney during questioning? Is there a right or privilege against self-incrimination that may be asserted? If a right to assert the privilege against self-incrimination exists, can the assertion of the right result in an inference of guilt at trial?

The accused has the right to be assisted by a defence attorney during questioning and must be informed of the charges against him. According to the *nemo tenetur* principle, the accused has the right to stay silent and must be advised about the said right. Should the accused refer to this principle, this may not result in any disadvantage for him. The assertion of the privilege against self-incrimination alone cannot result in an inference of guilt. Furthermore, the accused has no legal obligation to tell the truth.

8 Initiation of Prosecutions / Deferred Prosecution / Civil Dispositions

8.1 How are criminal cases initiated?

Liechtenstein applies the principle of indictment. Therefore, criminal proceedings can only be initiated if the prosecutor or, in certain circumstances, the injured party (private prosecutor or civil claimant) requests or demands prosecution.

Anyone who becomes aware of a criminal offence is entitled to report the said crime. The Public Prosecutor's Office is primarily responsible for receiving these reports. However, they may also be received by the state police or investigating judge, which consequently must forward the complaint to the Public Prosecutor's Office.

In addition, authorities (*Behörden*) are required to report to the Public Prosecutor's Office or the state police if they become aware of a suspected criminal offence that falls within their legal jurisdiction and is subject to prosecution *ex officio*. In particular, this obligation to report also applies to the administrative and civil courts.

8.2 What rules or guidelines govern the government's decision to charge an entity or individual with a crime?

A key requirement for filing charges is that the facts of the case have been sufficiently clarified. This means that all facts, both incriminating and exonerating, that are relevant to the assessment of the defendant's actions must have been carefully investigated. In addition, based on the facts established, a conviction must be likely (probability of conviction). The probability must exceed 50%, whereby an objective standard must be applied.

8.3 Can a defendant and the government agree to resolve a criminal investigation through pretrial diversion or an agreement to defer prosecution? If so, please describe any rules or guidelines governing whether pretrial diversion or deferred prosecution agreements are available to dispose of criminal investigations.

The StPO allows the withdrawal of prosecution (diversionary measures) for misdemeanours and other minor offences punishable by no more than three years in prison, provided that the suspect's culpability is not deemed serious, the facts are clear, there are no grounds for prevention of a conviction and the offence did not result in death. If these conditions are met, criminal proceedings may be discontinued in return for the payment of a certain sum of money, an out-of-court settlement with the victim or the performance of community service.

8.4 If deferred prosecution or non-prosecution agreements are available to dispose of criminal investigations in your jurisdiction, must any aspects of these agreements be judicially approved? If so, please describe the factors that courts consider when reviewing deferred prosecution or non-prosecution agreements.

There are no deferred prosecution agreements or non-prosecution agreements provided by Liechtenstein law. Should such agreements be concluded, they would be invalid.

8.5 In addition to, or instead of, any criminal disposition to an investigation, can a defendant be subject to any civil penalties or remedies? If so, please describe the circumstances under which civil penalties or remedies may apply.

In addition to criminal proceedings, there are civil law recourse options. Damaged parties can sue for damages under civil law. The requirement is that the civil claimant (*Privatbeteiligter*)

has a legal interest in pursuing the claim. For instance, they may have suffered financial or other losses. Upon conclusion of the trial, the criminal judge may award the civil claim to the civil claimant in the judgment. The application as a civil claimant must be made before or at the latest during the main hearing.

The facts of the case must be examined to determine whether the charges underlying the criminal proceedings and the civil claim by the injured party can be conclusively derived from them.

8.6 Can an individual or corporate commence a private prosecution? If so, can they privately prosecute business crime offences?

Liechtenstein has a private prosecution procedure. Private prosecutors must file a request for prosecution within six weeks of becoming aware of the criminal acts (Section 31 para. 1 StPO). Only the following criminal offences (in relation to business crimes) are related to private prosecution: breach of a business or trade secret under Section 122; and spying on a business or trade secret under Section 123 StGB. The standard business crime offences mentioned in these Sections cannot be prosecuted by private or corporate persons.

9 Burden of Proof

9.1 For each element of the business crimes identified above in section 3, which party has the burden of proof? Which party has the burden of proof with respect to any affirmative defences?

In Liechtenstein criminal law, the prosecution carries the burden of proof and therefore must prove that the accused is guilty of the crime committed. In this context, the burden of proof must cover both the objective and subjective elements of the offence, as well as intent and negligence. The accused does not have to prove their innocence.

9.2 What is the standard of proof that the party with the burden must satisfy?

Liechtenstein criminal law applies the principle *in dubio pro reo*, i.e., in case of doubt, the defendant must be acquitted. In order to convict the defendant, the court must be certain beyond reasonable doubt regarding the perpetrator's guilt.

9.3 In a criminal trial, who is the arbiter of fact? Who determines whether the party has satisfied its burden of proof? If a jury or group of juries determine the outcome, must they do so unanimously?

Liechtenstein criminal law stipulates the principle of free evaluation of evidence in Section 205 para. 2 StPO. Therefore, the court generally is not bound by fixed rules of evidence but rather decides according to its own free conviction. However, the court must carefully examine the evidence resulting from the proceedings and set out its considerations, justify them convincingly and proceed in accordance with the laws of logic. Ultimately, the decision lies with the court alone.

10 Conspiracy / Aiding and Abetting

10.1 Can a person who conspires with or assists another to commit a business crime be liable? If so, what is the nature of the liability and what are the elements of the offence?

Section 12 StGB stipulates that all participants of an act shall be treated as perpetrators. Therefore, not only the immediate perpetrator shall be deemed to have committed the act, but also every person who directs another person to carry out the offence or who contributes to the offence in any other way in the widest sense.

11 Common Defences

11.1 Is it a defence to a criminal charge that the defendant did not have the requisite intent to commit the crime? If so, who has the burden of proof with respect to intent?

Not meeting the required intent and therefore not meeting the subjective elements of an offence can pose a viable defence to a criminal charge.

In most cases, it is sufficient that the defendant seriously believes and accepts that the risk of committing the offence is possible (so-called *dolus eventualis*). For certain other offences however, the defendant must have had an increased degree of intent and therefore acted intentionally or knowingly (Section 5 StGB). In the case of conditional intent, it must also be proven that the perpetrator seriously considers the realisation of the act to be possible and is willing to accept it.

Whether the requirement of intent is met is decided by the court according to its free conviction on the basis of the evidence.

11.2 Is it a defence to a criminal charge that the defendant was ignorant of the law, i.e., that he did not know that his conduct was unlawful? If so, what are the elements of this defence, and who has the burden of proof with respect to the defendant's knowledge of the law?

Firstly, it is important to clarify the difference between a mistake of fact and a mistake of law. A mistake of fact occurs when the perpetrator misunderstands the actual circumstances relevant to fulfilling the statutory elements of the offence. A mistake of law, on the other hand, involves ignorance of, or misunderstanding about, the legal situation itself. Pursuant to Section 9 StGB (mistake of law), any person who does not recognise the wrongfulness of the act because of a mistake of the law shall not be deemed to act culpably if such a person cannot be blamed for the mistake.

However, the perpetrator shall be held responsible for the mistake of law if the wrongfulness was as easily recognisable for the perpetrator as for anyone else or if the perpetrator did not acquaint himself with the relevant provisions, even though he would have been obliged to do so in light of his profession, occupation or other circumstances. The practical relevance and success of such defence is very limited.

11.3 Is it a defence to a criminal charge that the defendant was ignorant of the facts, i.e., that he did not know that he had engaged in conduct that was

unlawful? If so, what are the elements of this defence, and who has the burden of proof with respect to the defendant's knowledge of the facts?

A perpetrator that does not realise that he had engaged in a conduct that was unlawful might have acted without intent and therefore could not have committed an intentional offence. However, the perpetrator could be convicted of a possible offence of negligence.

Negligence is given if the perpetrator disregards the care which they are obliged to take under the circumstances which they would have been able to according to their subjective abilities.

However, the defence strategy must be carefully considered on a case-by-case basis.

12 Voluntary Disclosure Obligations

12.1 If a person or entity becomes aware that a crime has been committed, must the person or entity report the crime to the government? Can the person or entity be liable for failing to report the crime to the government? Can the person or entity receive leniency or "credit" for voluntary disclosure?

Liechtenstein criminal law does not stipulate a general obligation for individuals or entities to report a crime. However, voluntary disclosures can pose mitigation factors. This is in contrast to public authorities and their officials (see question 8.1 above).

13 Cooperation Provisions / Leniency

13.1 If a person or entity voluntarily discloses criminal conduct to the government or cooperates in a government criminal investigation of the person or entity, can the person or entity request leniency or "credit" from the government? If so, what rules or guidelines govern the government's ability to offer leniency or "credit" in exchange for voluntary disclosures or cooperation?

Section 34 StGB provides an extraordinary mitigation of penalty in the case the perpetrator has turned himself in, even though he could easily have escaped or it was likely that he would have remained undetected, has made a remorseful confession or has made a significant contribution to establishing the truth through his statement.

Liechtenstein criminal law does not generally provide for leniency above this extent.

13.2 Describe the extent of cooperation, including the steps that an entity would take, that is generally required of entities seeking leniency in your jurisdiction, and describe the favourable treatment generally received.

See above.

14 Plea Bargaining

14.1 Can a defendant voluntarily decline to contest criminal charges in exchange for a conviction on reduced charges, or in exchange for an agreed-upon sentence?

Deferred prosecution agreements, non-prosecution agreements

and plea bargains are not stipulated under Liechtenstein criminal law. Diversionary measures are explained in question 8.3 above.

14.2 Please describe any rules or guidelines governing the government's ability to plea bargain with a defendant. Must any aspects of the plea bargain be approved by the court?

This is not applicable in Liechtenstein.

15 Sealing

15.1 Are there instances where the court proceedings or investigation files are protected as confidential or sealed?

In alignment with the European Convention on Human Rights (ECHR), court hearings are generally open to the public. In certain exceptional cases, the public and press may be excluded from all or part of the proceedings, e.g. if this is in the interest of morals, public order, private life of the parties or if a public hearing would prejudice the interests of justice.

If documents or data carriers are seized during a house search, they must be sealed under certain conditions. For example, if this would otherwise constitute a circumvention of the right to refuse to give evidence (which includes close relatives, spouses and lawyers, as stipulated in Section 108 StGB).

16 Elements of a Corporate Sentence

16.1 After the court determines that a defendant is guilty of a crime, are there any rules or guidelines governing the court's imposition of a sentence on the defendant? Please describe the sentencing process.

The grounds for the decision contain the facts of the case, the evaluation of evidence, the legal assessment and the reasons for the sentence. The reasons for the sentence are divided into aggravating and mitigating factors and reasons for determining the daily rate in the case of a fine.

The special aggravating circumstances are listed in Section 33 StGB and the special mitigating circumstances are listed in Section 34 StGB.

16.2 Before imposing a sentence on a corporation, must the court determine whether the sentence satisfies any elements? If so, please describe those elements.

If a legal entity is convicted, the penalty is imposed as a corporate fine (Section 74b StGB). This is determined in daily rates: the daily rate is calculated based on the legal entity's earnings situation, taking into account its other economic capacity.

16.3 Do victims have an opportunity to be heard before or during sentencing? Are victims ever required to be heard? Can victims obtain financial restitution or damages from the convicted party?

The right to a fair hearing and thus the right to testify or express oneself in court is one of the most important and fundamental principles of Liechtenstein procedural law. This is guaranteed

in particular by Art. 6 ECHR, which has also been in force in Liechtenstein since 1982. This provision is also repeated in Art. 33 of the Liechtenstein Constitution.

Generally, victims can claim damages from the convicted party. The general provisions governing damages are set out in Sections 1293 *et seq.* of the Liechtenstein Civil Code, which must also be fulfilled in criminal proceedings in order for a claim to be valid. Apart from that, however, compensation can already be claimed during the criminal proceedings.

17 Appeals

17.1 Is a guilty or a non-guilty verdict appealable by either the defendant or the government?

In principle, verdicts can be challenged by an appeal.

The defendant may lodge an appeal on his own behalf. To the detriment of the defendant, an appeal can only be lodged by the public prosecutor or the private prosecutor; in the case of the private prosecutor, only with the restriction that appeals may only relate to decisions on civil law claims and the associated costs (see Section 218 StPO).

Due to the separation of powers, only the Public Prosecutor's Office can lodge an appeal and not the government.

17.2 Is a criminal sentence following a guilty verdict appealable? If so, which party may appeal?

The criminal sentence is pronounced at the same time as the verdict and may be appealed as described in question 17.1 above.

17.3 What is the appellate court's standard of review?

Due to a violation of principles of criminal procedure, procedural grounds for nullity must be examined accordingly (Section 220 StPO) and, due to incorrect application or violation of the Criminal Code or a secondary criminal law, substantive grounds for nullity must be examined accordingly (Section 221 StPO). Furthermore, on an appeal against the decision on guilt, the Court of Appeal will review the factual findings that underpin the conviction or acquittal. In an appeal against the sentence, the Court of Appeal will furthermore examine whether the sentence imposed is manifestly unreasonable in light of the sentencing discretion accorded to the trial court.

17.4 If the appellate court upholds the appeal, what powers does it have to remedy any injustice by the trial court?

If the Court of Appeal upholds the appeal, it may set aside the proceedings and judgment of the trial court and, depending on the circumstances, refer the case back to the court of first instance for a new hearing and decision, or decide on the matter itself (Section 231 StPO).

No further powers to "remedy injustices" are provided for. These must be asserted in a separate proceeding.

Endnotes

- 2024 Annual Report of the Liechtenstein National Police, p. 26, <https://www.landespolizei.li/ueber-uns/jahresberichte>
- Ungerank in *Brandstätter/Nagel/Öhri/Ungarenk*, Handbook of Liechtenstein Criminal Procedure Law (2021) mn. 2.9.



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Schwärzler Attorneys at Law has been serving its clients in Liechtenstein and Switzerland since 2005. Schwärzler Attorneys at Law stands for comprehensive legal advice and representation before all courts and authorities. The firm's goal is to simplify access to justice for all. In terms of content, the firm positions itself as a litigation boutique on the claims side. In doing so, the firm explores the full potential for enforcing claims efficiently and optimally.

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Firm Milestones

2022 – Groundbreaking decision for the Liechtenstein financial market: State Court confirms decision of the Supreme Court on retrocessions. Retrocessions must be paid out to the clients.

2019 – Change of practice by Liechtenstein authorities in the case of revocation of a residence permit of a third-country national due to previous divorce proceedings.

2017 – Class action on behalf of around 6,000 injured parties in the Volkswagen scandal in cooperation with the Swiss Consumer Protection Agency at the Commercial Court in Zurich.

2016 – Representation of a large number of injured parties in the fraud case of the former trustee and lawyer, Harry G.

2016 – Representation of affected parties in a dispute over retrocessions adding up to billions.

2015 – Breakthrough in the Swiss Life case: decision by the Princely Supreme Court – justice for the injured parties (representation of over 50 cases).

2008 – Representation of those affected in the LGT data theft.

2005 – Foundation of Schwärzler Attorneys at Law by Helmut Schwärzler.

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