

just like international law in general – has direct effect in the Principality of Liechtenstein. i.e. it is effective as international law on a national level from the time of taking effect without any special national act of transformation." ³

Apart from this obligation directly resulting from international law, Art. 3 EEAA states that the Contracting Parties shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of the Agreement.

One must also mention Protocol 35 on the implementation of EEA rules, according to which the EFTA countries are obliged to introduce, if necessary, a legal provision stating that EEA law prevails in cases where there is a conflict between implemented EEA rules and other legal rules. However, there was no need to introduce such an explicit legal rule in Liechtenstein, since it is the practice of the State Court that EEA law prevails over any Liechtenstein law contradicting it⁴, unless "fundamental principles and core elements of the fundamental rights laid down in the Liechtenstein Constitution" are violated.⁵ However, it is the opinion of the State Court that such a constellation is conceivable only in stark exceptional cases, so that the constitutionality of a decision of the EFTA Court or of an EEA rule need not be examined in practice.⁶

In addition, the obligation to apply EEA law is not limited to the EEAA itself but in particular also extends to its Annexes, which are adapted to the development of the European Union's body of law by resolutions of the EEA Joint Committee as far as is relevant for the EEA.⁷

³ StGH 1995/14, cons. 1.4 = LES 1996, p. 119 (122).

⁴ StGH 1995/14, cons. 1.4 = LES 1996, p. 119 (122); cf. also Herbert Wille, Das Abkommen über den Europäischen Wirtschaftsraum und seine Auswirkungen auf das liechtensteinische Verfassungs- und Verwaltungsrecht, in: Bruha/Pallinger/Quaderer (ed.), Liechtenstein – 10 Jahre im EWR. Bilanz, Herausforderungen, Perspektiven, LPS 40 (2005), p. 108 – 148 (114).

⁵ StGH 1998/61, cons. 3.1. = LES 2001, p. 126 et sqq. (p. 130). The State Court (StGH) has confirmed this practice in many other decisions since then (recently e.g. StGH 2011/200, www.gerichtsentscheide.li, cons. 3.2 with reference to StGH 2008/36, cons. 2.1). See also Bussjäger, Rechtsfragen, p. 141.

⁶ See the considerations of the State Court in StGH 1998/61, cons. 6.1 = LES 2001, p. 130.

⁷ Wille, Abkommen, p. 115.