

(3)(c) ECHR. Therefore, the right (only) goes as far as is necessary in the interests of the administration of justice and the accused or defendant is unable to pay for a defence counsel from his own pocket.<sup>50</sup>

Another example of the State Court referring to the ECHR and to its interpretation by the ECtHR can be found in the State Court's practice that the right to defence applies in criminal proceedings but not in proceedings for mutual legal assistance in criminal matters.<sup>51</sup> In StGH 2008/37, the State Court makes reference to "the Strasbourg practice" in this context".<sup>52</sup> In fact, this practice refers to an extradition case<sup>53</sup>, on the basis of which one can argue *a fortiori* that if there is no right of defence even in the case of extradition, there is no right of defence even less in other measures of mutual legal assistance that come with much less interference with personal rights. In view of the dynamic development of proceedings for official and legal assistance in Europe and of the necessity to observe the fairness of criminal proceedings "as a whole"<sup>54</sup>, this example in particular leads to the question to what extent this practice will be subject to change sooner or later, be it either by the ECtHR or the State Court.<sup>55</sup>

#### *Summary:*

The examples presented are to illustrate the influence of the ECHR on Liechtenstein doctrine on fundamental rights: as a result of ECHR-friendly practice of the State Court, the Liechtenstein fundamental rights are interpreted in the light of the comparable rules of the ECHR. The extensive limits contained in the fundamental rights laid down in the Liechtenstein Constitution are substantially restricted by interpretation oriented at the practice of the ECtHR.

On the other hand, the more extensive guarantees of the Liechtenstein charter of fundamental rights are not given up; rather, the ECHR forms a minimum standard for the protection of

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<sup>50</sup> StGH 2010/23.

<sup>51</sup> More detailed: Wille, *Verteidigung*, p. 442 with further references.

<sup>52</sup> StGH 2008/37, [www.gerichtsentscheide.li](http://www.gerichtsentscheide.li), cons. 4.1. Also see in this context: StGH 2006/95, cons. 2.1, which decision is referred to in StGH 2008/37.

<sup>53</sup> Cf. Villiger, *Menschenrechtskonvention*, p. 255 margin no. 401, which is referred to in StGH 2006/61, cons. 2.1. Cf. also Wille, *Verteidigung*, p. 443; Theo Vogler, Art. 6 EMRK, in: Katharina Pabel/Stefanie Schmahl (ed.), *Internationaler Kommentar zur Europäischen Menschenrechtskonvention (1986)*, margin no. 247.

<sup>54</sup> The term "as a whole" is based on constant practice (cf. Hans-Heiner Kühne, Art. 6 EMRK, in: Katharina Pabel/Stefanie Schmahl (ed.), *Internationaler Kommentar zur Europäischen Menschenrechtskonvention (2009)*, margin no. 361 with further references).

<sup>55</sup> Cf. also Wille, *Verteidigung*, p. 443 f.