

although the practice of the Liechtenstein courts adheres to the interpretation of EEA law by the EFTA Court.⁷⁴

4. Is the jurisprudence of the constitutional court influenced in practice by the jurisprudence of European courts of justice?

As has been explained (2. a), the guarantees of the ECHR are interpreted in the light of the jurisprudence of the ECtHR. In addition to this, the Liechtenstein fundamental rights are applied in orientation at comparable rules of the ECHR and its interpretation by the ECtHR. On the other hand, however, any 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 fundamental rights that is in many cases exceeded by the Liechtenstein charter of fundamental rights.⁷⁵

As far as the practice of the ECJ and the ECtHR mutually influence each other⁷⁶, this also affects the jurisprudence of the State Court through the interpretation of the ECHR.

As has been mentioned, the practice of the EFTA Court also plays a role. In terms of constitutional law it is less the interpretation of secondary EEA⁷⁷ law by the EFTA Court that is relevant but rather the latter's interpretation of the fundamental freedoms laid down in the EEA.⁷⁸

The Charter of Fundamental Rights of the European Union might also influence EEA law through the practice of the EFTA Court. Such developments would also be relevant for the State Court where it has to apply EEA law directly or in the implementation of EEA law.

⁷⁴ See also Herbert Wille, EWR-Abkommen, p. 129 et seq.

⁷⁵ Pursuant to Art. 53 ECHR, the Convention must not be interpreted to limit or inhibit human rights and fundamental freedoms that are recognised in the laws of a Member State or in another treaty to which it is a party. This rule provides the constitutions of Member States with room to guarantee a higher level of protection than that of the ECHR (cf. Christoph Grabenwarter/Katharina Pabel, Europäische Menschenrechtskonvention, p. 13 margin no. 14).

⁷⁶ Cf. in this context e.g.: Walter Berka, Grundrechtsschutz durch EuGH und EGMR – Konkurrenz oder Kooperation?, ÖJZ 2006, p. 876 et sqq.; illustrative also: Theo Öhlinger, Perspektiven des Grundrechtsschutzes in Europa: Das Zusammenspiel von EGMR, EuGH und VfGH im Lichte des Verfassungsentwurfs der Europäischen Union, in: Wolfram Karl (ed.), Internationale Gerichtshöfe und nationale Rechtsordnung (2005), p. 123 et sqq.

⁷⁷ The primary EEA law is the law contained in the main Agreement and in the corresponding Protocols. The secondary EEA law essentially consists in the regulations, directives, and other acts of the EU, which have been declared in the Annexes to be part of the EEAA (Art. 119 EEAA). Add to this the acts accepted into the EEA after the EEAA entered into force (cf. Wille, EWR-Abkommen, p. 112).

⁷⁸ In this context also: Carl Baudenbacher, Grundfreiheiten und Grundrechte im EWR-Recht, in: Kley/Vallender (ed.), Grundrechtspraxis in Liechtenstein, LPS 52 (2012), p. 775 – 853.