

ECtHR when assessing the adequacy of the duration of proceedings, these criteria being the importance of the proceedings for the complaining party, the complexity of the case, the conduct of the complaining party, and the handling by the relevant authorities.⁸⁴ The same applies *mutatis mutandis* to the aspect of due process of law, where the State Court demands that as a matter of principle, the parties must be notified of every single written submission from a participant in the proceedings, no matter whether or not the court considers the submission to be relevant for the proceedings.⁸⁵

As another example, one might mention that in its interpretation of the prohibition of "ne bis in idem" pursuant to Art. 4 of Protocol No. 7 to the ECHR, the State Court used the jurisprudence of the ECtHR in "Müller v. Austria"⁸⁶ as orientation for its own decision.⁸⁷ The State Court also considers the jurisprudence of the ECtHR in the application of Art. 8 ECHR in the field of migration law⁸⁸ or family law.⁸⁹

6. Are there any examples of divergences in decisions taken by the constitutional court and the European courts of justice?

No substantial divergences weakening the protection of fundamental rights could be found. However, sometimes there is a dialogue between various court levels, as will be illustrated in the examples below:

Application of the favourability principle

By applying the favourability principle laid down in Art. 53 ECHR, the total standard of protection is increased where a national constitutional court applies stricter standards than the ECHR or the ECtHR.

In the above-mentioned judgment StGH 2012/198 (see above under 2.a), the State Court reviewed the challenged rule not just on the basis of the practice of the ECtHR on Art. 6 ECHR and the demanded cognisance and power of review but also on the basis of the right of

⁸⁴ Cf. StGH 2012/24, cons. 4.1.

⁸⁵ Cf. StGH 2012/33, cons. 4.1 with reference to StGH 2003/90, cons. 2.3 und Hugo Vogt, Anspruch auf rechtliches Gehör, in: Kley/Vallender (ed.), Grundrechtspraxis in Liechtenstein, LPS 52 (2012), p. 583 et seq.

⁸⁶ ECtHR, 18 September 2008, no. 28034/04.

⁸⁷ StGH 2012/100, www.gerichtsentscheide.li, cons. 4.1.

⁸⁸ Cf. StGH 2012/190, cons. 3.1; StGH 2012/176, www.gerichtsentscheide.li, cons. 3.3 to 4.2.

⁸⁹ Cf. StGH 2012/163, www.gerichtsentscheide.li, cons. 3.2 to 3.4 with reference to "Sporer v. Austria" Application no. 35637/03 and "Zaunegger vs. Germany", Application no. 22028/04.