

complaint (Art. 43 LV). The StGH noted with reference to earlier practice⁹⁰ that both Art. 43 LV and Art. 6 ECHR required full power of review of the courts both as a factual and a legal instance⁹¹. Despite this obvious convergence of the substantive content of the right of complaint pursuant to Art. 43 LV with Art. 6 ECHR, the former provides the more extensive claim, since it is not limited to "civil rights and obligations" and "criminal charges" in terms of Art. 6 (1) ECHR.

Confiscatory measures as punishment?

Assessing the question whether a forfeiture rule pursuant to § 20b (2) *Strafgesetzbuch* (StGB, Penal Code) qualifies as a sentencing rule and therefore makes the fundamental right "nulla poene sine lege" (Art. 7 (1) ECHR) applicable, the State Court applied the criteria developed by the ECtHR and came to a different result than the latter concerning the UK forfeiture clauses that applied in the leading case *Welch v. United Kingdom*⁹²; the State Court considered this guarantee of the ECHR not to apply. The State Court considered the pivotal difference to lie in the fact that in the UK forfeiture proceedings, the court had discretion in assessing the amount subject to forfeiture depending on the type and extent of the defendant's fault, and that the court had the option of imposing imprisonment as an alternative where the person obliged to pay refused to do so.⁹³ The correctness of this decision, which deviated from the original practice of the ECtHR, was then confirmed by the ECtHR in the decision "*Dassa v. Liechtenstein*".⁹⁴

Dialogue EFTA Court / State Court in the question of security deposits for legal costs

A dialogue of jurisprudence also took place between the State Court and the EFTA Court in a case that was about the payment of a security deposit for legal costs pursuant to § 57 of the *Liechtenstein Zivilprozessordnung* (ZPO, Code of Civil Procedure) to be paid by plaintiffs with a place of residence abroad.

⁹⁰ StGH 2010/145, cons. 2.2; StGH 2009/93, www.gerichtsentscheide.li, cons. 7.1; see also Tobias Michael Wille, *Beschwerderecht*, in: Andreas Kley/Klaus A. Vallender (ed.), *Grundrechtspraxis in Liechtenstein*, LPS 52 (2012), p. 518 et seq. with references to other decisions.

⁹¹ StGH 2012/198, cons. 3.1.

⁹² ECtHR 09.02.1995, Application no. 17440/90; cf. also Jochen Abr. Frowein/Wolfgang Peukert, *EMRK-Kommentar*, 2nd ed. (1995), p. 325 margin no. 4.

⁹³ StGH 2003/44, www.stgh.li.

⁹⁴ ECtHR of 10 Jul 2007, Application no. 696/05; cf. in this context also StGH 2012/126, www.gerichtsentscheide.li, cons. 2.3.