

In addition, numerous bodies of law of the Liechtenstein legal system have been adopted from Austria and from Switzerland. Therefore, the practice of the Austrian Constitutional Court on the constitutionality of rules that also apply in Liechtenstein is taken into consideration¹¹⁰, although this need not mean that the assessment of the Austrian Constitutional Court is taken over by the State Court as well.

As an example, we refer to StGH 2010/80¹¹¹, where the State Court had to review the constitutionality of the rule of § 57 (3) of the Liechtenstein ZPO, according to which a court had to obtain a statement from the government (which statement was then binding for the court) where there were doubts concerning the applicability of an international treaty or concerning the enforceability of a decision on legal costs. The Austrian Constitutional Court had annulled the identical provision of the Austrian ZPO as unconstitutional on the grounds of a violation of the separation of powers.¹¹² The State Court dismissed this view, referring to different understandings of the principle of the separation of powers in Liechtenstein and in Austria. However, it still annulled the provision as unconstitutional because it did not permit the person concerned to provide evidence to the contrary.

Furthermore, the State Court regularly considers the judgments of the Swiss Federal Court of Justice (*Bundesgericht*) concerning questions of fundamental rights¹¹³ and concerning the interpretation of legal provisions adopted from Switzerland, such as in the field of social insurance law.¹¹⁴

¹¹⁰ In StGH 2005/87, www.gerichtsentscheide.li, the State Court considered the provision of Art. 38 *Konkursordnung* (KO, Bankruptcy Act), which Liechtenstein had adopted from Austria, to be unconstitutional with reference to the decision of the Austrian Constitutional Court in VfSlg 13.498/1993 on the then provision of § 25 of the Austrian Bankruptcy Act because there was no objective justification for refusing damages for the premature termination of employment by the receiver (cons. 5.4).

In StGH 2012/163, www.gerichtsentscheide.li, the State Court annulled a passage in § 167 of the *Allgemeines Bürgerliches Gesetzbuch* (ABGB, General Civil Code) that concerned the right of custody as unconstitutional, orienting itself also at the jurisprudence of the Austrian Constitutional Court concerning a similar provision of Austrian law (VfSlg 19.653/2012).

In StGH 2007/122, www.gerichtsentscheide.li, the State Court also followed the view of the Austrian Constitutional Court (VfSlg 13.581/1993) concerning the Austrian provision adopted in Liechtenstein as § 219 (2) ZPO, pursuant to which view there is no objective reason to entrust the decision on an application to inspect the files to another authority than the judge competent in the pending civil case.

¹¹¹ See StGH 2010/80, www.gerichtsentscheide.li, cons. 2.1 – 2.3.

¹¹² VfSlg 9560/1982.

¹¹³ In this context, reference can be made to the practice of the State Court in matters of official and legal assistance, cf. StGH 2008/37, www.gerichtsentscheide.li und 2008/55, both cons. 5.5; StGH 2012/49, cons. 4 and many more.

¹¹⁴ Cf. StGH 2012/132, www.gerichtsentscheide.li, cons. 4.1; StGH 2011/136, www.gerichtsentscheide.li, cons. 3.1 and many more.