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Judgment in Case E-14/22 *the Liechtenstein Chamber of Lawyers v Dr Alexander Amann*

ARTICLE 24(1) OF THE SERVICES DIRECTIVE PRECLUDES GENERAL PROHIBITIONS ON MEMBERS OF A REGULATED PROFESSION FROM ENGAGING IN PROACTIVE ADVERTISEMENT

In a judgment delivered today, the Court answered questions referred to it by the Princely Court of Appeal (*Fürstliches Obergericht*) regarding the interpretation of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (“the Services Directive”), and in particular its Article 24.

The main proceedings concern disciplinary proceedings initiated by the Liechtenstein Chamber of Lawyers against Dr Amann, contending that Dr Amann had infringed Paragraph 35(1)(c) of the Chamber of Lawyers’ Professional Guidelines, which lays down a prohibition against targeted proactive advertising by lawyers. By judgment of 28 June 2022, the Constitutional Court of the Principality of Liechtenstein (*Staatsgerichtshof*) found Paragraph 35(1)(c) of the Professional Guidelines to be neither unlawful nor unconstitutional.

The Court held that a prohibition on targeted proactive advertising such as that at issue, must be regarded as a total prohibition of commercial communications contrary to Article 24(1) of the Services Directive, which cannot be justified under Article 24(2). Thus, the Court found that Article 24(1) of the Services Directive must be interpreted as precluding national legislation, such as that in the main proceedings, which in general prohibits the members of a regulated profession, such as the profession of lawyers, from engaging in proactive advertising, where they offer their services to selected (groups of) people who have not themselves expressed an interest in those services.

The Court underlined that such a conclusion did not necessarily entail that other forms of regulation concerning targeted proactive advertising by lawyers would constitute a total prohibition under Article 24(1) of the Services Directive. To the extent that a national regulation of such targeted proactive advertising does not constitute a total prohibition, the rules governing such advertising would have to be non-discriminatory, justified by an overriding reason relating to the public interest and proportionate as stipulated in Article 24(2).

The full text of the judgment may be found on the Court’s website: www.eftacourt.int.

This press release is an unofficial document and is not binding upon the Court.