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Judgment in Case E-2/19 D and E

SECTORAL ADAPTATIONS DO NOT PREVENT FAMILY REUNIFICATION WITH AN EEA NATIONAL RECIDING IN LIECHTENSTEIN

In a judgment delivered today, the Court answered a question referred by the Administrative Court of the Principality of Liechtenstein (*Verwaltungsgerichtshof des Fürstentums Liechtenstein*). The Court held that the sectoral adaptations to Annexes V and VIII to the EEA Agreement do not deprive a family member of an EEA national, who has a valid residence permit and is residing in Liechtenstein, of the right to accompany or join the EEA national there. The fact that the residence permit was not granted on the basis of the system provided for in the sectoral adaptations did not alter that conclusion.

The case concerned an application made by D, a German national, for permission for her daughter, E, to join her in Liechtenstein within the framework of family reunification. D married a Turkish national in 2017, who is resident in Liechtenstein, and who had been issued with a residence permit there. D's application was rejected by the Liechtenstein authorities, on the grounds that her residence permit had been issued on the basis of national law, related to the status of her husband.

Regarding EEA nationals, Liechtenstein is under the sectoral adaptations entitled to maintain a system of prior authorisation for the taking up of residence as well as to set annual quantitative limits. This is due to Liechtenstein's specific geographical situation. It was undisputed that D is an EEA national who satisfies the conditions laid down in Article 7(1)(a) of the Residence Directive (Directive 2004/38/EC) as a worker. Consequently, the question was whether the sectoral adaptations provided for a different conclusion.

The Court noted that Liechtenstein is not obliged pursuant to EEA law to grant a residence permit to an EEA national outside the sectoral adaptations. However, the adaptations cannot be interpreted as precluding the EEA rights of an EEA national to whom Liechtenstein has granted a residence permit on other grounds and who resides there.

Consequently, the Court held that the sectoral adaptations to Annexes V and VIII to the EEA Agreement do not deprive the family member of an EEA national, who has a valid residence permit and is residing in Liechtenstein, of the right to accompany or join the EEA national in Liechtenstein on the basis of Article 7(1)(d) of the Residence Directive.

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.