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Judgment in Case E-6/19 *Criminal proceedings against H and I*

THE EFTA COURT DELIVERS AN ADVISORY OPINION ON THE SCOPE OF AN EXCEPTION FOR SPECIALISED VEHICLES TRANSPORTING MONEY AND/OR VALUABLES

In a judgment delivered today, the Court answered questions referred by the Princely Court of Appeal (*Fürstliches Obergericht*) regarding the interpretation of Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport (“the Regulation”).

H and I are employed by a Liechtenstein company providing security services. The company transports money and/or valuables and has a fleet of armoured vehicles. Following checks in June 2018 by the Liechtenstein police, charges were brought against H and I for infringements of the Liechtenstein provisions on rest periods and control. H and I were acquitted by the first instance court. However, an appeal against the acquittal was brought before referring court.

The referring court has requested the Court’s interpretation of the exception provided for specialised vehicles transporting money and/or valuables in Article 13(1)(m) of the Regulation, including whether the exception applies to empty journeys and escort vehicles, whether penalties under Article 19 are necessary or proportionate if the journeys were undertaken on the territory of an EEA State that has granted such an exception; and whether a driver is required to record any time spent as detailed in Article 4(e) and time spent driving such specialised vehicles as ‘other work’ under Article 6(5), if an exception is granted.

The Court held that the exception in Article 13(1)(m) of the Regulation applies to both empty journeys and escort vehicles, provided that the escort vehicle falls within the scope of the Regulation and forms an integral and necessary part of the specialised vehicle’s transport of money and/or valuables.

Furthermore, the Court held that if the journeys were undertaken on the territory other EEA States where those EEA States have granted an exception under Article 13(1)(m) of the Regulation, and any individual conditions to such an exception are complied with, penalties under Article 19 of the Regulation may neither be imposed, nor are necessary or proportionate, as no infringement has taken place.

The Court also found that the Regulation does not require a driver of a specialised vehicle transporting money and/or valuables to record time spent as detailed in Article 4(e) and time spent driving such specialised vehicles as “other work”, where the EEA State has granted an exception under Article 13(1)(m).

The full text of the judgment may be found on the internet at: www.eftacourt.int.

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