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Judgment in Case E-24/15 *Walter Waller v Liechtensteinische Invalidenversicherung*

MEDICAL FINDINGS AND SOCIAL SECURITY BENEFITS IN ADMINISTRATIVE AND COURT PROCEEDINGS

In a judgment delivered today, the Court answered two questions referred by the Princely Court of Appeal (*Fürstliches Obergericht*), on the interpretation of Article 87(2) of Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (“the Regulation”).

Mr Walter Waller, a resident of Germany, is in receipt of an invalidity pension from the Liechtenstein Invalidity Insurance Fund (*Liechtensteinische Invalidenversicherung*) (“the Fund”). A medical examination of Mr Waller by a doctor appointed by the German statutory pension scheme found that although Mr Waller’s condition had improved, his ability to work was still reduced. His work capacity was thus deemed to be less than three hours per day.

After considering the medical report and information from Mr Waller’s general practitioner stating that he was no longer capable of working, the Fund decided to reduce his invalidity pension from 100% to 50%, based on its view that his degree of invalidity was 59%.

After his administrative complaint against that decision was rejected, Mr Waller appealed the Fund’s decision to the Princely Court of Appeal. It referred two questions to the Court concerning the binding effect of Article 87(2) of the Regulation on the debtor institution of medical findings of the institution of the place of stay or residence. The first question was whether the debtor institution is precluded from challenging such findings in an administrative proceeding. The second question was whether that binding effect also applies in subsequent court proceedings.

As to the first question, the Court held that Article 87(2) precludes the debtor institution from challenging such medical findings. It is implicit in the coordination scheme that requests for medical examinations shall be exchanged between competent authorities in the EEA States as a matter of mutual trust. The binding effect of medical findings provided for in Article 87(2) applies as long as the debtor institution has not invoked its right to have the beneficiary examined by a doctor of its choice. However, the Fund did not invoke this right.

As to the second question, the Court held that this binding effect also applies in court proceedings following an administrative proceeding.

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.