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Judgment in Joined Cases E-11/07 and E-1/08

Olga Rindal and Therese Slinning v The Norwegian State, represented by the Board of Exemptions and Appeals for Treatment Abroad

PATIENT MOBILITY WITH LIMITS

In a judgment delivered today, the EFTA Court gave an advisory opinion on questions referred to it by Borgarting Court of Appeal and Oslo District Court, Norway, regarding the interpretation of the rules on free movement of services. It ruled that under certain conditions, EEA States may limit patients' rights to coverage of costs for hospital treatment abroad.

The plaintiffs in the originating proceedings, Olga Rindal and Therese Slinning, both Norwegian residents, travelled to other EEA States in order to receive hospital treatment there. Ms. Rindal suffers from chronic neck and back pain after a car accident. Ms. Slinning, also a victim of a car accident, had sustained a serious brain injury and required specialised rehabilitation treatment. The lawsuits concern the refusal of the Norwegian State to cover the costs for the treatments abroad.

In both cases, the Norwegian State argues in the national proceedings that the treatments received abroad were not recognised in medical science, i.e. that they had to be considered as experimental or test treatment. The national courts asked the EFTA Court whether it is compatible with EEA law to refuse coverage of costs for non-recognised treatment abroad when there is no entitlement to such treatment in the home State.

The EFTA Court answered this question in the affirmative. This applies if the treatment is not provided by the State, or if the State provides it only in the form of research projects or, exceptionally, on a case by case basis. The assessment of whether or not a treatment is recognised must be based on international medical science.

Furthermore, the Board of Exemptions and Appeals for Treatment Abroad had refused coverage on the ground that adequate treatment had been available in Norway. In that regard, the Court held that if the patient is otherwise entitled to the treatment in question, it constitutes a restriction on the free movement of services to prioritise treatment from the national public health service. However, this restriction is justifiable by the objective of maintaining a balanced medical and hospital service open to all, as long as the State provides the treatment within a medically justifiable time limit, and under the condition that the domestic treatment is equally effective as the treatment which the patient seeks abroad.

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

This press release is not an official document. Please note that the Court may not comment on the case.