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Judgment in Case E-4/11 *Arnulf Clauder*

**FAMILY REUNIFICATION AND RIGHT OF RESIDENCE**

In a judgment delivered today, the EFTA Court gave an Advisory Opinion on questions referred to it by the Administrative Court of the Principality of Liechtenstein (“Verwaltungsgerichtshof des Fürstentums Liechtenstein”) concerning the Residence Directive (Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States).

According to Article 16 of the Directive, EEA nationals who have resided legally for a continuous period of five years in an EEA State shall have the right of permanent residence there. This right is not subject to a condition to have sufficient resources. The questions referred to the EFTA Court essentially concerned whether an EEA national with a right of permanent residence, who is a pensioner and in receipt of social welfare benefits in the host EEA State, may claim the right to family reunification even if the family member will also be claiming social welfare benefits.

The complainant before the national court is a German national who has a right to permanent residence in Liechtenstein. After the complainant married a German national, he applied for a family reunification permit. The application was rejected, on the basis that he could not prove that he had sufficient financial resources for himself and his wife without having recourse to social welfare benefits.

In the proceedings before the national court, the complainant has contested the rejection. He argued that under the Directive he did not need to demonstrate sufficient means of subsistence in order for his wife to be able to reside with him in Liechtenstein.

The Court found that the right to permanent residence under Article 16(1) of the Directive must be interpreted such that an EEA national with a right of permanent residence, who is a pensioner and in receipt of social welfare benefits in the host EEA State, may claim the right to family reunification even if the family member will also be claiming social welfare benefits..

The full text of the judgment may be found on the Internet at: [www.eftacourt.int](http://www.eftacourt.int).

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