# DECISION OF THE EEA JOINT COMMITTEE

## No 191/1999

## of 17 December 1999

## amending Annexes VIII (Right of establishment) and V (Free movement of workers) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as adjusted by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) The EEA Council of 10 March 1995 adopted a Declaration on free movement of persons [1].

(2) The joint review, which was undertaken in accordance with Article 9(2) of Protocol 15 at the end of the transitional period, concluded that the specific geographical situation of Liechtenstein still justifies the maintenance of certain conditions on the right of taking up residence in that country. This Decision is based on the findings of that review.

(3) Annexes VIII and V to the Agreement were both amended by Decision No 7/94 of the EEA Joint Committee of 21 March 1994 amending Protocol 47 and certain Annexes to the EEA Agreement [2],

HAS DECIDED AS FOLLOWS:

*Article 1*

The following text shall be added to the SECTORAL ADAPTATIONS of Annex VIII to the Agreement:

'The following adaptations shall apply to Liechtenstein until 31 December 2006. Before that date, the Joint Committee shall undertake a review on the basis of which it may, duly taking into account the specific geographical situation of Liechtenstein and to the extent strictly necessary, decide to maintain such measures that may be deemed appropriate.

I

Nationals of Iceland, Norway and the EU Member States may take up residence in Liechtenstein only after having received a permit from the Liechtenstein authorities. They have the right to obtain this permit, subject only to the restrictions specified below. No such residence permit shall be necessary for a period less than three months per year, provided no employment or other permanent economic activity is taken up, nor for persons providing cross-border services in Liechtenstein.

The conditions concerning nationals of Iceland, Norway and the EU Member States cannot be more restrictive than those which apply to third country nationals.

[1] OJ L 86, 20.4.1995, p. 80.
[2] OJ L 160, 28.6.1994, p. 1.

II

1. The number of residence permits available annually for nationals of Iceland, Norway or an EU Member State exercising an economic activity in Liechtenstein shall be determined in such a way that the yearly net increase from the previous year in the number of economically active nationals of those countries resident in Liechtenstein is not less than 1,75% of their number on 1 January 1998. Residence permits to persons naturalised in the course of a year shall be deducted from the basis on which the increase for the next year is calculated. Residence permits granted in excess of the minimum number shall not be counted against the increase due the following year.

2. The Liechtenstein authorities shall grant residence permits in a way that is not discriminatory and does not distort competition. Half of the net increase in the permits available shall be granted in accordance with a procedure that gives an equal chance to all applicants.

3. Residents who have a short-term permit and who exercise an economic activity shall be included in the quota. Such persons may remain in Liechtenstein under the conditions difined in the Agreement after the expiry of the permit, within the quota under which they entered the country. The permit under the quota shall be re-attributed when the person to whom it was attributed changes his residence to another country. The number of short-term permits available for the purposes of exercising an economic activity shall not deviate by more than 10% from what it was in 1997.

III

Family members of nationals of Iceland, Norway and EU Member States residing lawfully in Liechtenstein shall have the right to obtain a permit of the same validity as that of the person on whom they depend. They shall have the right to take up an economic activity, in which case they will be included in the number of permits granted to economically active persons. However, the conditions in point II may not be invoked to refuse them a permit in the event that the annual number of permits available to economically active persons is filled.

Persons giving up their economic activity may remain in Liechtenstein under conditions defined in Commission Regulation (EEC) No 1251/70 of 29 June 1970 on the right of workers to remain in the territory of a Member State after having been employed in that State [1] and in Council Directive 75/34/EEC of 17 December 1974 concerning the right of nationals of a Member State to remain in the territory of another Member State after having pursued therein an activity in a self-employed capacity [2]: they will no longer be counted in the number of permits available to economically active persons nor will they be included in the quota defined in point IV.

IV

A supplementary annual quota of 0,5% of the basis referred to in point II shall be available for persons who wish to take up residence on the basis of rights defined in Council Directive 90/364/EEC of 28 June 1990 on the right of residence [3], Council Directive 90/365/EEC of 28 June 1990 on the right of residence for employees, and self-employed persons who have ceased their occupational activity [4] and Council Directive 93/96/EEC of 29 October 1993 on the right of residence for students [5].

Point II shall apply *mutatis mutandis*.

V

1. Liechtenstein may maintain in force for five years national provisions obliging seasonal workers and members of their family to leave the territory of Liechtenstein for at least three months at the expiry of their seasonal permit. Such persons may not be subject to any further restrictions. The

[1] OJ L 142, 30.6.1970, p. 24.
[2] OJ L 14, 20.1.1975, p. 10.
[3] OJ L 180, 13.7.1990, p. 26.
[4] OJ L 180, 13.7.1990, p. 28.
[5] OJ L 317, 18.12.1993, p. 59.

seasonal permits shall be automatically renewed for seasonal workers holding a work contract on their return to Liechtenstein. The number of permits available to seasonal workers having the nationality of Iceland, Norway or an EU Member State shall not be less than the number of permits granted in 1997 less the number of permits for persons benefiting from the liberalisation in accordance with the following paragraph.

2. The number of persons exempted from the obligation to leave the territory of Liechtenstein annually shall be determined as the number of outstanding permits divided by the number of years remaining until the end of the transitional period for seasonal workers. The order of persons to benefit from the liberalisation shall be determined by the number of consecutive renewals of seasonal permits and by the date of issue of the first such permit within this sequence.

3. Persons who have benefited from the liberalisation in accordance with the preceding paragraph shall not occupy a place under the quotas in accordance with points II and IV. Such persons will however be counted in the case of family members taking up economic activity in accordance with point III.

VI

Applicants for a residence permit shall receive a written reply by the end of the third month from the date of application. Rejected applicants shall have the right to a reasoned refusal in writing. They shall have the same legal remedies as Liechtenstein citizens as regards administrative decisions.

VII

A person employed in but whose residence is not in Liechtenstein (a frontier worker) shall return daily to his country of residence.

VIII

Liechtenstein shall provide the other Contracting Parties and the EFTA Surveillance Authority with all such information as may be necessary to control compliance with this Annex.'

*Article 2*

The following text shall be added to the SECTORAL ADAPTATIONS of Annex V to the Agreement:

'The provisions in the SECTORAL ADAPTATIONS in Annex VIII concerning Liechtenstein shall apply, as appropriate, to this Annex.'

*Article 3*

This Decision shall enter into force on 1 January 2000, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee.

*Article 4*

This Decision shall be published in the EEA section of, and in the EEA Supplement to, the *Official Journal of the European Communities*.

Done at Brussels, 17 December 1999.

*For the EEA Joint Committee*

*The President*

N. v. LIECHTENSTEIN