

Case handler: Ruta Janeckaite
Tel: (+32)(0)2 286 1 862
rja@eftasurv.int

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EFTA SURVEILLANCE
AUTHORITY

EEA Coordination Unit
Europark
Austrasse 79
FL-9490 Vaduz
Liechtenstein

Dear Dr. Entner-Koch,

Subject: Implementation of the right of permanent residence in Liechtenstein

1 Introduction

We are writing to you regarding our concerns with the relevant rules implementing the right of permanent residence in Liechtenstein according to the Free Movement and Residence Directive 2004/38/EC¹ (“Directive 2004/38/EC”).

In particular, it seems that Liechtenstein is restricting the right of permanent residence by requiring EEA nationals and their family members who have acquired the right of permanent residence according to Directive 2004/38/EC to apply for a residence permit which has a constitutive character, and by providing that only the residence permit issued in such instances (“*Daueraufenthaltsbewilligung*” or “the permanent residence permit”) provides entitlement to reside in Liechtenstein.

Moreover, it seems that Liechtenstein is restricting the right of permanent residence in certain other aspects. In particular, first, it provides that the permanent residence permit expires also in cases other than those foreseen in Directive 2004/38/EC for the loss of the right of permanent residence and makes the permanent residents subject to additional requirements for the continued enjoyment of their rights. Second, it limits the entitlement of the family members of EEA nationals to the right of permanent residence by allowing them to stay abroad only up to three months per year before the continuity of their residence is affected and restricts their permitted absences for important reasons. Third, Liechtenstein does not provide for the right of permanent residence for EEA nationals in the situations covered by Article 17(1)(c) of Directive 2004/38/EC and for the exceptions to the conditions relating to the length of residence and employment laid down in Articles 17(1)(a) and 17(1)(b) of Directive 2004/38/EC in cases where the spouse of the worker or self-employed person has Liechtenstein nationality. Finally, Liechtenstein restricts students from enjoying

¹ Act referred to at point 3 of Annex VIII to the EEA Agreement (*Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC*), as adapted to the EEA Agreement by Protocol 1 thereto.

their right of permanent residence in Liechtenstein after five years of residence by requiring them to possess a residence permit issued on another basis.

The EFTA Surveillance Authority's ("the Authority") Internal Market Affairs Directorate ("the Directorate") has decided to assess the potential problems discussed below concerning the implementation of the right of permanent residence in Liechtenstein in a separate own initiative case opened on 23 February 2015.

2 Liechtenstein law

According to the Form 1 and the table of correspondence submitted by the Liechtenstein Government on 21 April 2010 (Doc. No 554468 and 554438 in Case 63750), Directive 2004/38/EC is implemented into the Liechtenstein legal order by, *inter alia*, the Act of 20 November 2009 on the right of EEA and Swiss citizens to free movement and residence² ("the PFZG") and the Ordinance of 15 December 2009 on the right of EEA citizens to free movement and residence³ ("the PFZV").

As regards the right of permanent residence Article 24 of the PFZG provides:

- "1) *On request, EEA citizens are granted a permanent residence permit subject to Art. 43 and 46, if:*
- a) *they have continuously resided in Liechtenstein for a period of five years; and*
 - b) *there is no reason for revocation or expulsion.*
- 2) *The permanent residence permit entitles the person concerned to reside in Liechtenstein on an indefinite basis. Conditions may not be attached to the permit.*
- 2a) *The Immigration and Passport Office may at any time verify the actual presence in the country.*
- 3) *The residence identity card has to be presented for the extension two weeks before the expiry of its validity.*
- 4) *The granting of a permanent residence permit to students is determined by the conditions of the special solution for the movement of persons for Liechtenstein.*
- 5) *Temporary stays abroad according to Art. 23 are to be considered with duration of no longer than one year. The completion of military or civilian service is considered completely.*
- 6) *The government regulates further details by means of an ordinance."*

Article 25 of the PFZG, headed "Special cases" provides:

- "1) *EEA citizens with a residence permit for the exercise of a profession in Liechtenstein are entitled to a permanent residence prior to the expiry date according to Art. 24 Para. 1, if they:*
- a) *have reached the age laid down by the Liechtenstein legislation for the claim of an old-age pension at the time of giving up their employment, or have given up employment to take early retirement, and were employed in*

² Gesetz vom 20. November 2009 über die Freizügigkeit von EWR- und Schweizer Staatsangehörigen, Personenfreizügigkeitgesetz, PFZG, LR 152.2, as last amended (the last amendments notified to the Authority were made by LGBl. 2014 Nr. 14).

³ Verordnung vom 15. Dezember 2009 über die Freizügigkeit von EWR- und Schweizer Staatsangehörigen, Personenfreizügigkeitsverordnung, PFZV, LR 152.21, as last amended (the last amendments notified to the Authority were made by LGBl. 2014 Nr. 60).

- Liechtenstein in the last twelve months and have continuously resided in Liechtenstein for at least three years with a valid residence permit;*
- b) *have given up an employment as a result of permanent invalidity have continuously resided in Liechtenstein for at least the last two years; or*
 - c) *have permanently become unable to work due to an occupational accident or an occupational disease and are thus entitled to a pension of a Liechtenstein insurance carrier.*
- 2) *Additionally, EEA citizens are entitled to stay in the country after the termination of employment according to Para. 1a and 1b whose spouse has lost the Liechtenstein citizenship due to marriage, independent of the duration of residence and the employment.*
- 3) *The interruption of employment as a result of illness or accident, the time period of involuntary unemployment as confirmed by the Office of National Economy and the involuntary interruption of employment of the self-employed are considered as periods of employment.*
- 4) *For the achievement of the permanent residence according to Para. 1a and 1b, the periods of employment completed in another EEA member state or in Switzerland are considered as fulfilled in Liechtenstein.”*

Article 26 of the PFZG, headed “*Restoring and maintaining the permanent residence permit*” states:

- “1) *On request, foreign persons can be granted a permanent residence permit without a previous residence permit, if they:*
- a) *have already been in possession of a permanent residence permit for at least ten years;*
 - b) *did not have their residency in a foreign country after losing the permanent residence permit for longer than three years;*
 - c) *can prove that they have remained closely connected with Liechtenstein; and*
 - d) *can prove that they are in permanent subsistence-level employment or dispose of sufficient financial means for the costs of living, so that social welfare does not have to be made use of. <...>”*

According to Article 45(1) of the PFZG family members of an EEA citizen that have continuously resided in Liechtenstein for a period of five years, receive a permanent residence permit. Article 24 of the PFZG apply to them *mutatis mutandis*.

Article 45(5) of the PFZG provides that a “*temporary stay abroad of up to three months per year as well as the stay abroad to perform military or civilian service do not lead to an interruption of residence in terms of Para. 1, 2 and 4a.*”

Article 51 of the PFZG, headed “*Reasons for expiry*”, states:

- “1) *A permit expires:*
- a) *with a personal notice of departure into a foreign country;*
 - b) *if the permit’s period of validity has elapsed and a request for extension has not been filed in due time;*
 - c) *upon the interruption or termination of the course of studies (Art. 17 Para. 4);*
or
 - d) *due to expulsion according to Art. 54.*
- 2) *Furthermore, the permit expires in the case of a stay abroad:*

- a) *of more than six months in the case of a residence permit or a permanent residence permit, provided that its maintaining was not approved; or*
- b) *of more than two years in the case of a permanent residence permit.*
- 3) *The time limits according to Para. 2 are not interrupted through stays in the country for business purposes or for the purpose of a visit.”*

Article 15 of the PFZV “*Granting of the permanent residence permit for students*” provides that students can only be granted a permanent residence permit if they were already granted a residence permit according to Articles 20, 22 or 37 of the PFZG.

3 Relevant EEA law

Directive 2004/38/EC

Chapter IV of Directive 2004/38/EC, headed “*Right of permanent residence*”, provides in Articles 16, 17, 19 and 20:

“Article 16

General rule for Union citizens and their family members

1. *Union citizens who have resided legally for a continuous period of five years in the host Member State shall have the right of permanent residence there. This right shall not be subject to the conditions provided for in Chapter III.*
2. *Paragraph 1 shall apply also to family members who are not nationals of a Member State and have legally resided with the Union citizen in the host Member State for a continuous period of five years.*
3. *Continuity of residence shall not be affected by temporary absences not exceeding a total of six months a year, or by absences of a longer duration for compulsory military service, or by one absence of a maximum of twelve consecutive months for important reasons such as pregnancy and childbirth, serious illness, study or vocational training, or a posting in another Member State or a third country.*
4. *Once acquired, the right of permanent residence shall be lost only through absence from the host Member State for a period exceeding two consecutive years.*

Article 17

Exemptions for persons no longer working in the host Member State and their family members

1. *By way of derogation from Article 16, the right of permanent residence in the host Member State shall be enjoyed before completion of a continuous period of five years of residence by:*
 - (a) *workers or self-employed persons who, at the time they stop working, have reached the age laid down by the law of that Member State for entitlement to an old age pension or workers who cease paid employment to take early retirement, provided that they have been working in that Member State for at least the preceding twelve months and have resided there continuously for more than three years. <...>*
 - (b) *workers or self-employed persons who have resided continuously in the host Member State for more than two years and stop working there as a result of permanent incapacity to work. If such incapacity is the result of an accident at work or an occupational disease entitling the person concerned to a benefit payable in full or in part by an institution in the host Member State, no condition shall be imposed as to length of residence;*
 - (c) *workers or self-employed persons who, after three years of continuous employment and residence in the host Member State, work in an employed or self-*

employed capacity in another Member State, while retaining their place of residence in the host Member State, to which they return, as a rule, each day or at least once a week.

For the purposes of entitlement to the rights referred to in points (a) and (b), periods of employment spent in the Member State in which the person concerned is working shall be regarded as having been spent in the host Member State.

Periods of involuntary unemployment duly recorded by the relevant employment office, periods not worked for reasons not of the person's own making and absences from work or cessation of work due to illness or accident shall be regarded as periods of employment.

2. The conditions as to length of residence and employment laid down in point (a) of paragraph 1 and the condition as to length of residence laid down in point (b) of paragraph 1 shall not apply if the worker's or the self-employed person's spouse or partner as referred to in point 2(b) of Article 2 is a national of the host Member State or has lost the nationality of that Member State by marriage to that worker or self-employed person.

3. Irrespective of nationality, the family members of a worker or a self-employed person who are residing with him in the territory of the host Member State shall have the right of permanent residence in that Member State, if the worker or self-employed person has acquired himself the right of permanent residence in that Member State on the basis of paragraph 1. <...>

Article 19

Document certifying permanent residence for Union citizens

1. Upon application Member States shall issue Union citizens entitled to permanent residence, after having verified duration of residence, with a document certifying permanent residence.

2. The document certifying permanent residence shall be issued as soon as possible.

Article 20

Permanent residence card for family members who are not nationals of a Member State

1. Member States shall issue family members who are not nationals of a Member State entitled to permanent residence with a permanent residence card within six months of the submission of the application. The permanent residence card shall be renewable automatically every ten years.

2. The application for a permanent residence card shall be submitted before the residence card expires. Failure to comply with the requirement to apply for a permanent residence card may render the person concerned liable to proportionate and non-discriminatory sanctions.

3. Interruption in residence not exceeding two consecutive years shall not affect the validity of the permanent residence card."

Article 25 of Directive 2004/38/EC, headed "General provisions concerning residence documents", states:

"Article 25

1. Possession of a registration certificate as referred to in Article 8, of a document certifying permanent residence, of a certificate attesting submission of an application for a family member residence card, of a residence card or of a permanent residence card, may under no circumstances be made a precondition for the exercise of a right or the completion of an administrative formality, as entitlement to rights may be attested by any other means of proof. <...>"

Sectoral adaptations

Pursuant to Joint Committee Decision (“JCD”) No 191/1999 of 17 December 1999⁴ Liechtenstein is permitted to maintain certain measures when applying Annex VIII (Right of establishment) and Annex V (Free movement of workers) to the EEA Agreement (“the sectoral adaptations”). These measures are detailed in points I to VIII of the sectoral adaptations.

According to point I of the sectoral adaptations, EEA nationals wishing to take up residence in Liechtenstein, either as economically active persons or non-economically active persons, must apply for a permit from the Liechtenstein authorities. However, the number of residence permits which Liechtenstein is required to issue to EEA nationals is limited on the basis of annual quotas specified in points II to V⁵.

4 The Directorate’s assessment

4.1 The right of permanent residence

As cited before, Article 16(1) of Directive 2004/38/EC provides that EEA nationals who have resided legally for a continuous period of five years in the host EEA State shall have the right of permanent residence there. This right shall not be subject to any other conditions.

According to Article 16(2) of Directive 2004/38/EC, this right shall apply also to third country national family members who have legally resided with the EEA national in the host EEA State for a continuous period of five years.

Under Articles 19 and 20 of Directive 2004/38/EC, upon application, EEA nationals who are entitled to permanent residence shall be issued with a document certifying permanent residence and third country family members of EEA nationals who are entitled to permanent residence shall be issued with a permanent residence card renewable automatically every ten years.

Once acquired, the right of permanent residence (in case of EEA nationals) shall be lost only through absence from the host EEA State for a period exceeding two consecutive years. As regards third country national family members of EEA nationals, Directive 2004/38/EC specifies that the validity of the permanent residence card shall not be affected by interruption in residence not exceeding two consecutive years.

Furthermore, as might be seen from Articles 20(2) and 25(1) of Directive 2004/38/EC, possession of a document certifying permanent residence or of a permanent residence card, may under no circumstances be made a precondition for the exercise of a right or the completion of an administrative formality, as entitlement to rights may be attested by any other means of proof. In the case the application for a permanent residence card is submitted

⁴ 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, subsequently replaced by the Agreement on the Participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area.

⁵ The main rule with regard to economically active EEA nationals is that the annual number of residence permits is to be fixed in such a way that in comparison with the previous year, a net increase of at least 1,75% above the level on 1 January 1998 results. The main rule with regard to non-economically active EEA nationals, including students, is that they are accorded a supplementary annual quota of 0,5 % of the basis on which the number of residence permits for economically active EEA nationals is calculated.

after the residence card expires a person may be rendered liable to proportionate and non-discriminatory sanctions.

Therefore, it is obvious from the provisions described above that the right of permanent residence of EEA nationals and their third country national family members under Directive 2004/38/EC does not depend on the possession of a residence permit. As the Court of Justice of the European Union has held on numerous occasions, the grant of a residence permit to a national of an EEA State according to the legal instruments subsequently replaced by Directive 2004/38/EC was to be regarded, not as a measure giving rise to rights, but as a measure by an EEA State serving to prove the individual position of a national of another EEA State with regard to provisions of EEA law⁶. In other words, the residence permits issued according to those instruments had a declaratory, as opposed to a constitutive, character in regard to rights. The same is, *a fortiori*, true as regards Directive 2004/38/EC.

According to Directive 2004/38/EC, EEA nationals *may* apply for a document *certifying their right of permanent residence*. Third country national family members are normally issued with a permanent residence card. However, their failure to apply for such a card does not result in the non-acquisition or the loss of their right of permanent residence. On the contrary, in the case they do not apply in due time for a permanent residence card they may only be rendered liable to proportionate and non-discriminatory sanctions.

However, it seems that, according to the Liechtenstein national law, both EEA nationals and their third country national family members who have acquired permanent residence under Directive 2004/38/EC must apply, in accordance with the requirements of Article 24(1) of the PFZG for the issuance of a permanent residence permit (“*Daueraufenthaltsbewilligung*”) which, under Article 24(2), *entitles* the person concerned to reside in Liechtenstein on an indefinite basis.

Furthermore, Article 51 of the PFZG shows that the validity of the permanent residence permit expires not only in case of a stay abroad for more than two consecutive years (Article 51(2)(b)), as provided under Article 16(4) of Directive 2004/38/EC, but also in other cases. In particular, if an EEA national who has acquired the right of permanent residence under Directive 2004/38/EC and who subsequently informed the Liechtenstein authorities about the departure from Liechtenstein (under Article 51(1)(a) of the PFZG) returns to Liechtenstein before the lapse of a two years’ period since his departure, he is no longer entitled to continued enjoyment of his right of permanent residence in Liechtenstein. Article 51(1)(a) of the PFZG not only makes it clear that he loses his residence permit upon notification of his departure from Liechtenstein, but that he is also required to re-apply for such a permanent residence permit according to Article 26 of the PFZG, while at the same time imposing additional cumulative requirements that are not compatible with Directive 2004/38/EC. More specifically, a ten years prior permanent residency requirement is imposed (Article 26(1)(a)), as well as a requirement to prove a continued close relationship with Liechtenstein (Article 26(1)(c)) and proof of existence of a permanent employment relationship or other means ensuring economic subsistence (Article 26(1)(d)).

The Directorate notes that the sectoral adaptations on the basis of JCD No 191/1999 do not justify the restrictions to the right of permanent residence described above.

⁶ See judgment in *Dias*, C-325/09, EU:C:2011:498, paragraph 51 and case-law cited.

First, JCD No 191/1999 does not provide for any adaptations as regards the right of permanent residence. Therefore, in the Directorate's view, the provisions of Directive 2004/38/EC regarding the right of permanent residence apply to Liechtenstein in full.

Second, although Liechtenstein is allowed to maintain a permit system concerning the right of (first) residence of EEA nationals and their family members, this does not justify a permit system concerning permanent residence. Once a person has acquired the right of permanent residence in Liechtenstein on the basis of valid residence permits issued according to Directive 2004/38/EC and taking into account the sectoral adaptations, the enjoyment of that right cannot be restricted by imposing additional requirements such as a requirement to possess a permanent residence permit nor by imposing requirements for the continued enjoyment of the right of permanent residence in Liechtenstein, such as the ones set out above.

The Directorate does not see any need nor justification for having a permit system concerning the permanent residence in place in order to prevent circumvention of the quota system on residence permits laid down in the sectoral adaptations. On the contrary, as Liechtenstein is permitted to maintain a permit system for the taking up of (first) residence by EEA nationals and their family members, the national institutions have a better overview over the cases of persons acquiring the right of permanent residence compared to the other EEA States, as they possess the information about the validity of the residence permits issued to a particular person and, therefore, the information whether this person has acquired the right of permanent residence.

Moreover, it also seems to the Directorate that a document which certifies the right of permanent residence of an EEA national and which, according to Article 19(2) of Directive 2004/38/EC, should be issued as soon as possible, could be issued by the Liechtenstein authorities within shorter deadlines than the general deadlines for the issuance of residence permits provided for in Article 34 of the PFZG and, in any case, within shorter deadlines than the permanent residence cards for third country national family members of EEA nationals.

4.2 Periods taken into account for the purposes of calculating whether the person has acquired the right of permanent residence

As cited before, according to Article 16(3) of Directive 2004/38/EC continuity of residence for the purposes of calculating whether the person has acquired the right of permanent residence shall not be affected by temporary absences not exceeding a total of six months a year, or by absences of a longer duration for compulsory military service, or by one absence of a maximum of twelve consecutive months for important reasons such as pregnancy and childbirth, serious illness, study or vocational training, or a posting in another EEA State or a third country.

However, Article 45(5) of the PFZG provides that only a temporary stay abroad of *up to three months per year* of a family member of an EEA national as well as their stay abroad to perform military or civilian service do not lead to an interruption of residence for the purposes of calculating the five years period entitling to a permanent residence permit under Article 45(1) of the PFZG.

Therefore, it appears that Article 45(5) of the PFZG limits the entitlement of the family members of EEA nationals to the right of permanent residence, as they are only allowed to stay abroad up to three months per year before the continuity of residence is affected, whereas the Directive provides for the six months per year term. Also, the same provision

appears to unduly restrict permitted absences of a maximum of twelve consecutive months for important reasons such as pregnancy and childbirth, serious illness, study or vocational training, or a posting in another EEA State or a third country.

4.3 Implementation of Article 17 of Directive 2004/38/EC

By way of derogation from Article 16, Article 17 of Directive 2004/38/EC provides for the right of permanent residence of persons no longer working in the host EEA State and their family members before completion of a continuous period of five years.

In the Directorate's view, Article 17(1)(c) of the Directive is not adequately implemented. This Article provides for the right to permanent residence for workers or self-employed persons who, after three years of continuous employment and residence in the host EEA State, work in an employed or self-employed capacity in another EEA State, while retaining their place of residence in the host EEA State, to which they return, as a rule, each day or at least once a week.

In the table of correspondence submitted by the Liechtenstein Government, Article 20(2) of the PFZG is indicated as transposing Article 17(1)(c) of Directive 2004/38/EC. However, Article 20(2) of the PFZG refers rather to the right to take up employment in another EEA State after three years of continuous employment and regular residence in Liechtenstein and not to the right of permanent residence⁷. The grouping of Article 20 of the PFZG as *litera (b)* under the common heading of residence permit ("*Aufenthaltsbewilligung*") after Article 19 of the PFZG also appears to suggest that that provision only applies to regular residence permits and not to permanent residence permits.

The Directorate is not aware of any other provisions in the Liechtenstein national law which could be considered as providing for the right of permanent residence for EEA nationals in the situations covered by Article 17(1)(c) of Directive 2004/38/EC.

Furthermore, according to Article 17(2) of Directive 2004/38/EC, the respective conditions as to the length of residence and employment laid down in Articles 17(1)(a) and 17(1)(b) shall not apply where the spouse of the worker or the self-employed person *is a national* of the host EEA State (*i. e.* Liechtenstein) or *has lost the nationality* of that EEA State by marriage to that worker or self-employed person.

The provision of the Directive is implemented into the Liechtenstein legal order by Article 25(2) of the PFZG. However, that Article only foresees exceptions to the conditions relating to the length of residence and employment in cases where the spouse of the worker or self-employed person has lost the Liechtenstein citizenship due to the marriage. Therefore, the view of the Directorate is that Article 17(2) of Directive 2004/38/EC is not implemented fully as regards spouses of the worker or self-employed person having the Liechtenstein nationality.

4.4 The right of permanent residence for students

The provisions of Directive 2004/38/EC concerning the right of permanent residence do not distinguish on the grounds on which EEA nationals have been accorded residence in the host EEA State (workers, self-employed persons, persons having sufficient resources for themselves and their family members, students).

⁷ The restriction to take up an employment before completion of the three years period is contested by the Authority in the reasoned opinion issued to Liechtenstein on 18 February 2015 in Case No 67929 (Doc. No 731051). Liechtenstein has undertaken to amend Article 20 PFZG to meet the Authority's concerns.

The sectoral adaptations also do not contain any specific arrangements regarding students, apart from the fact that, as may be seen from point IV, students are included in the supplementary quota for non-economically active persons.

However, it seems that under Liechtenstein law, students are restricted from enjoying their right of permanent residence in Liechtenstein after five years of residence, as under Article 15 of the PFZV they can only be granted a permanent residence permit if they were already granted a residence permit according to Articles 20, 22 or 37 of the PFZG, *i. e.* as economically active persons, non-employed persons or persons to whom a residence permit is granted in accordance with a drawing procedure.

5 Conclusions by the Directorate

Accordingly, the Directorate takes the preliminary view that:

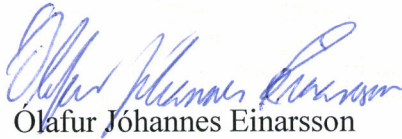
- 1) by requiring EEA nationals and their third country national family members who have acquired the right to permanent residence under Directive 2004/38/EC to apply for the issuance of a permanent residence permit, which under Article 24(2) of the PFZG entitles the person concerned to reside in Liechtenstein indefinitely, by providing that this permit expires also in cases other than those foreseen in Article 16(4) of Directive 2004/38/EC and by subjecting the permanent residents to the additional requirements, such as the requirements in Article 26 of the PFZG,
 - 2) by limiting in Article 45(5) of the PFZG the entitlement of the family members of EEA nationals to the right of permanent residence by allowing them to stay abroad only up to three months per year before continuity of residence is affected and by restricting their permitted absences for important reasons provided for in Article 16(3) of Directive 2004/38/EC,
 - 3) by not providing for the right of permanent residence for EEA nationals in the situations covered by Article 17(1)(c) of Directive 2004/38/EC,
 - 4) by not providing for the exceptions to the conditions as to the length of residence and employment laid down in Articles 17(1)(a) and 17(1)(b) of Directive 2004/38/EC in cases where the spouse of the worker or self-employed person has Liechtenstein nationality,
- and
- 5) by restricting students from enjoying their right of permanent residence in Liechtenstein after five years of residence, *i. e.* by requiring them to hold a residence permit issued on another basis to make use of their right of permanent residence,

Liechtenstein fails to fulfil its obligations under Articles 16, 17(1)(c), 17(2) and Article 16 in conjunction with Article 7(1)(c) of Directive 2004/38/EC.

In light of the above, the Liechtenstein Government is invited to submit its observations on the content of this letter by **10 April 2015**. After that date, the Authority will consider, in light of any observations received from the Liechtenstein Government, whether to initiate

infringement proceedings in accordance with Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and Court of Justice.

Yours faithfully,



Ólafur Jóhannes Einarsson

Director

Internal Market Affairs Directorate