

Case C-476/10

projektart Errichtungsgesellschaft mbH and Others

(Reference for a preliminary ruling
from the Unabhängiger Verwaltungssenat des Landes Vorarlberg)

(First subparagraph of Article 104(3) of the Rules of Procedure — Free movement of capital — Article 40 of the EEA Agreement and Annex XII thereto — Purchase by nationals of the Principality of Liechtenstein of a secondary residence in the Land of Vorarlberg (Austria) — Procedure of prior authorisation — Admissibility)

Order of the Court (Eighth Chamber), 24 June 2011 I - 5617

Summary of the Order

International agreements — Agreement on the European Economic Area — Free movement of capital — Restrictions

(Article 40 of the EEA Agreement and Annex XII thereto; Council Directive 88/361, Art 6(4))

I - 5615

Article 40 of the Agreement on the European Economic Area (EEA), of 2 May 1992, must be interpreted as precluding national legislation which, on the basis of Article 6(4) of Directive 88/361 for the implementation of Article 67 (repealed by the Treaty of Amsterdam) of the Treaty, prohibits a national of the Principality of Liechtenstein from purchasing a secondary residence situated in a Member State of the European Union, and, therefore, a national authority must disregard that national legislation.

Principality of Liechtenstein, and in the areas covered by that agreement, Member States may claim and rely on legislation restricting the freedom of movement of capital in respect of the Principality of Liechtenstein only if, pursuant to European Union law, that legislation can be applied in respect of other Member States of the European Union.

Since 1 May 1995, the date of the entry into force of the EEA Agreement in respect of the

(see paras 39, 51, operative part)