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Judgment in Case E-4/07 *Gildi*

SOCIAL SECURITY – INVALIDITY BENEFITS BASED ON PROJECTED RIGHTS IN ICELANDIC PENSION FUNDS – REGULATION 1408/71

In a judgment delivered today, the EFTA Court gave an advisory opinion on three questions referred to it by Reykjavík District Court in Iceland, relating to a case pending before that court between Mr. Jón Gunnar Þorkelsson and Gildi Pension Fund.

Mr. Jón Gunnar Þorkelsson, a mariner, moved from Iceland to Denmark and later suffered an accident at work there, causing his invalidity. At the time of the accident, he had for a while been paying contributions to a Danish pension fund and not anymore to Gildi, where he had been a member while residing in Iceland. He has received an invalidity pension from Gildi, but calculated only in accordance with his previously accrued pension points. On the grounds of not having paid contributions for at least six of the 12 months preceding the accident, he has not been considered entitled to have his pension calculated on the basis of projected points, i.e. points that he would have accrued with Gildi, had he remained a member there and continued working until reaching the age of retirement.

The first question dealt with by the Court was essentially whether invalidity pensions based on projected rights fall under Regulation (EEC) 1408/71 when they are based on a pension fund scheme such as the Icelandic one. This was answered in the affirmative.

The second question concerned whether it would be compatible with the Regulation to exclude contributions paid into social security systems in other EEA States when assessing whether a person fulfils a criterion such as that of having paid contributions to a pension fund belonging to a certain group of funds for a specific period preceding an accident. The EFTA Court found that this question must be answered in the negative.

On the third question, the Court stated that although persons shall present their claims in the State where they were resident and had social security entitlements at the time of their injury, the lodging of a claim with the relevant institution of another EEA State is without prejudice to the right to benefits under Regulation (EEC) 1408/71.

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

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