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Judgment in Case E-8/07 *Celina Nguyen v The Norwegian State, represented by Justis- og politidepartementet* (the Ministry of Justice and the Police)

Norwegian rules excepting redress for non-economic injury (“pain and suffering”) from compulsory insurance coverage breach the Motor Vehicle Insurance Directives

In a judgment delivered today, the EFTA Court gave an advisory opinion concerning questions referred to it by *Oslo tingrett* in Norway.

The Plaintiff in the proceedings before *Oslo tingrett* lost her husband and two children in a road traffic accident. The Plaintiff herself was only slightly injured physically, but has suffered from psychological afflictions since the accident. In criminal proceedings against the driver of the car that caused the accident the Plaintiff was awarded redress of NOK 400 000. The person having caused the injury has not paid the redress and it cannot be claimed from the insurance company covering that person since Norwegian Automobile Liability Act explicitly excepts redress from the compulsory insurance coverage. In light of these circumstances, the Plaintiff filed a lawsuit before *Oslo tingrett* against the Norwegian State with a claim for compensation for incorrect implementation of the First, Second and the Third Motor Vehicle Insurance Directives, referred to in Annex IX to the EEA Agreement.

The questions referred to the Court by *Oslo tingrett* concerned in essence whether rules excepting redress for non-economic injury (“pain and suffering”) from compulsory insurance coverage are contrary to the Motor Vehicle Insurance Directives, and if so, whether such rules constitute sufficiently serious breach of EEA law to be able to entail State liability.

The Court held that the Directives must be interpreted as covering both economic loss and non-economic injury such as pain and suffering and that redress, such as the one at issue, constitutes a form of civil liability. Further, the Court based its findings on its established case law and the case law of the Court of Justice of the European Communities according to which all civil liability in respect of the use of motor vehicles is to be covered by compulsory insurance, irrespective of whether the liability is based on fault or on risk. The Court also found that maintaining rules excepting redress from the compulsory insurance coverage constitutes a sufficiently serious breach of EEA law to entail State liability, provided that the other conditions for State liability as laid down in the Court’s case law are fulfilled.

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

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