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**Judgment in Case E-3/05 *EFTA Surveillance Authority v The Kingdom of Norway***

**Regional residence requirement for a supplement to family benefits justified on grounds of promoting sustainable settlement.**

In a judgment delivered today, the EFTA Court dismissed an application by the EFTA Surveillance Authority (“ESA”) for a declaration that the Kingdom of Norway has failed to fulfil its obligations pursuant to the rules of the EEA Agreement on free movement of workers and their right to social security.

The case concerns Norwegian law on family allowances. According to the law, parents living together with their children up to the age of 18 are entitled to family allowances. A supplement to these family allowances (“the Finnmark supplement”) is granted to parents residing with their children in the county of Finnmark or in one of seven municipalities in the county of Troms, adjacent to Finnmark. The Finnmark supplement was introduced in the late 1980’s in order to promote settlement in the area.

ESA’s action before the Court originated from a complaint brought by a person working in Finnmark but residing in Finland with her child. Through her employment in Norway she was entitled to, and granted, Norwegian family allowances in respect of her child, but her application for the Finnmark supplement was turned down because she did not reside in the area.

The dispute before the Court mainly concerned the question of whether the Finnmark supplement was in breach of Article 73 of Council Regulation EEC 1408/71 on the application of social security schemes to employed persons, to self employed persons and to members of their families moving within the Community, listed in Annex VI to the EEA Agreement. ESA argued essentially that Article 73 of Regulation 1408/71 precludes an EEA State from making the entitlement to or the amount of a given family benefit dependent on residence, and that this applies both to national and regional residence requirements.

The Court did not concur with ESA’s interpretation of Article 73 of Regulation 1408/71, and found that it does not contain a prohibition against a regional requirement such as the one at issue in the case, which is linked to a regional supplement to a family benefit, and that Regulation 1408/71 only prohibits such a measure if it is found to entail unjustified discrimination against migrant workers.

The Court held that the regional residence requirement at issue was indirectly discriminatory, since it was liable to operate to a particular disadvantage for migrant workers, but that it is objectively justified on grounds of promoting sustainable settlement in an area which had experienced depopulation due to inter alia harsh climate and vast distances. The Court found that promoting settlement in the area could in principle be considered a legitimate aim, and that granting a family benefit to families with children in the area is a measure capable of motivating them to maintain residence there. The Court also found that Norway had sufficiently shown that other equally

efficient but less restrictive means to reach the aim do not exist. Therefore the Court dismissed the application as unfounded.

The full text of the judgment may be found on the Internet at: [www.eftacourt.lu](http://www.eftacourt.lu)

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