COURT PROCEEDINGS

EFTA COURT

JUDGMENT OF THE COURT

of 27 June 2014

in Case E-26/13

The Icelandic State v Atli Gunnarsson

(Free movement of persons — Article 28 EEA — Directive 2004/38/EC — Directive 90/365/EEC — Right of residence — Right to move from the home State — Less favourable tax treatment)

(2015/C 68/03)

In Case E-26/13, The Icelandic State v Atli Gunnarsson — REQUEST to the Court under Article 34 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice from the Supreme Court of Iceland (*Hæstiréttur Íslands*) concerning the interpretation of Article 28 of the EEA Agreement and Article 7 of 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, the Court, composed of Carl Baudenbacher, President, Per Christiansen (Judge-Rapporteur) and Páll Hreinsson, Judges, gave judgment on 27 June 2014, the operative part of which is as follows:

It is not compatible with Article 1 of Directive 90/365/EEC and Article 7(1)(b) and (d) of Directive 2004/38/EC that an EEA State does not give spouses who have moved to another EEA State the option of pooling their personal tax credits in connection with the assessment of income tax, whereas they would be entitled to pool their personal tax credits if they lived in the home State, in a situation where one of them receives a pension from the home State, and that pension constitutes all or nearly all of that person's income, while the other spouse has no income.