



Main Office	AGEG c/o EUREGIO	Enscheder Str. 362	48599 Gronau (Germany)
Project Office	AEBR c/o BISDN	Körnerstraße 7	10785 Berlin (Germany)
AEBR Antenna in the EU	Office of Extremadura in Brussels	Av. De Cortenbergh 87-89	1000 Brussels (Belgium)
AEBR Info Centre in the Balkans	Institute for International and CBC	Terazije 14/14	11000 Belgrade (Serbia)
AEBR Info Centre in Ukraine	Univ. Simon Kuznets (KhNUE)	pr. Lenina, 9a	61001 Charkiw (Ukraine)



## FINAL REPORT BY THE EXPERT

**Advice case title:** The Danish Survivor's Pension in a Cross Border Context

**Full official name of the advised entity:** Region Sønderjylland-Schleswig,  
Regionskontor & Infocenter

**Name of the expert contracted for the advice case:** Ph.D. Martine Stagelund  
Hvidt

**Date:** 04-07-2025

## 1 Executive summary

According to Section 48 of the Danish Pension Act, the payment of a survivor's pension requires that both spouses receive a social pension.

This report identifies an administrative barrier affecting cross-border workers in Region Sønderjylland-Schleswig. Surviving spouses are denied the Danish survivor's pension if they receive a foreign (e.g. German) pension, despite meeting other requirements. This contradicts EU regulation on equal treatment and recognition of equivalent social benefits among member states (Regulations 883/2004 and 492/2011).

Consequently, Udbetaling Danmark's practice discriminates against mobile EU citizens and restricts free movement.

The report proposes short-term/midterm and long-term solutions:

A short-term solution would be a policy adjustment by Udbetaling Danmark to recognize foreign pensions from EU/EEA countries as equivalent. A long-term solution requires amending the wording in the Danish Social Pensions Act to ensure full compliance with EU law and recognition of equivalent pensions, thereby safeguarding the rights of cross-border families.

## 2 Description of the obstacle with indication of the legal/administrative provisions causing the obstacle, including an explanation of the obstacle's origin, nature and impact and an illustration of a situation in which the obstacle arises

This report addresses a cross-border issue reported by Region Sønderjylland-Schleswig, Regionskontor & Infocenter, which is an office of the Region Sønderjylland-Schleswig.

The office guides cross-border workers, businesses in the provision of services, and individuals exercising their right to free movement within the EU.

### 2.1 Demographics in the Region Sønderjylland-Schleswig

Region Sønderjylland-Schleswig spans the northernmost part of Germany and the southernmost part of Jutland (Denmark). It covers an area of 7.748,91 km<sup>2</sup> and has a population of approximately 693.625 (September 2024)<sup>1</sup>, with 469.059 residents in Germany and about 224.566 in Denmark.

The region consists of seven municipalities:

Denmark: Tønder, Aabenraa, Sønderborg, and Haderslev

Germany: Kreis Schleswig-Flensburg, Kreis Nordfriesland, and Stadt Flensburg.

In 2024, there were a total of 12.612 cross-border workers. Among them, 12.026 commuted from Germany to Denmark and 586 from Denmark to Germany.<sup>2</sup>

---

<sup>1</sup> [https://region.de/region/dk/ueber\\_uns/region/DatenundFaktenRegionSjSl\\_dk.php](https://region.de/region/dk/ueber_uns/region/DatenundFaktenRegionSjSl_dk.php)

<sup>2</sup> 25 Press release 02 Padborg 2025-02-27 The number of cross-border commuters is relatively stable

The Regionskontor & Infocenter is located in the city of Padborg, Denmark.

## 2.2 Description of the obstacle with indication of the legal/administrative provisions causing the obstacle

The reported issue concerns an administrative interpretation of the Danish state pension.

Denmark's pension system has three pillars:

- State pension (funded by general tax-revenue)
- Occupational pensions (agreed between employers and employees)
- Private pension savings (voluntary and tax subsidized)

This report focuses on Danish state pensions and survivor's pension from the state pension as regulated in the Danish Social Pensions Act.<sup>3</sup>

The amount of a state pension is calculated based on periods of residence in Denmark or periods of employment in Denmark, the latter without the requirement of Danish residence. However, the Danish state pension is typically not earned/paid for periods during which a foreign pension is earned.

### 2.2.1 Detailed description of the obstacle

In section 48 in the Danish Social Pensions Act it is stated:

“§ 48. If one of two cohabiting spouses or cohabiting partners who both receive a social pension dies, payment of the pensioners' combined pensions (survivor's pension) continues for a period corresponding to three months from the day after the death. Payment of the survivor's pension, cf. section 33(9), is made to the surviving pensioner.”

In practice, this provision has been interpreted by Udbetaling Danmark (the competent authority) to mean that both partners must have been receiving a Danish state pension in order for the survivor to qualify.

This interpretation leads to the denial of benefits in cases where:

One spouse received a Danish state pension, and the other spouse received a German state pension. The surviving spouse (receiving the German pension) is then denied the Danish survivor's pension.

This issue is especially relevant in the Region Sønderjylland-Schleswig, where such cross-border pension arrangements are common. A case from July 2024<sup>4</sup> confirmed this in practice when a German citizen was denied survivor's benefits after the death of their Danish spouse solely because the surviving spouse did not receive a Danish pension.

---

<sup>3</sup> Act No. 1123 of 21/10/2024 Announcement of the Act on Social Pensions

<sup>4</sup> A case from the National Appeals Board (Ankestyrelsen), 10 July 2024

The official LifeinDenmark.dk website outlines eligibility for survivor benefits, including:<sup>5</sup>

“You can apply for survivor benefits if your spouse or cohabitant passes away and you:

- Having lived together in Denmark or an EU/EEA country, Switzerland or the United Kingdom for the past three years before the partners death
- are covered by Danish social security
- are a pensioner who receives medical care covered by the Danish social security
- are a co-insured family member, who together with your now deceased spouse, receives medical assistance covered by the Danish social security
- do not receive or have previously received survivors’ pension, i.e. you have not received your spouse's or cohabitant's early or state pension for three months after his or her death
- earn less than DKK 429,080 (2025) per year including wealth supplement.”

These criteria seem to be cumulative, but it is not further developed on the website. However, this guidance does not explicitly require both partners to receive Danish pensions, creating a conflict between official guidance, Udbetaling Danmark’s practice, EU law, and national law.

#### 2.4 Analysis of the obstacle with indication of the legal/administrative provisions causing the obstacle

The description above identifies two barriers:

- 1) Equal treatment of benefits, income, facts or events under Regulation (EC) No. 883/2004, Article 5, and
- 2) Employment and equality of treatment under Regulation (EC) No. 492/2011, Article 7

These two barriers will be further analyzed in the following.

##### 1) Equal treatment of benefits, income, facts or events under Regulation (EC) No. 883/2004 article 5

Article 5 of Regulation (EC) No. 883/2004<sup>6</sup> ensures that citizens moving within the EU receive equal treatment under national social security laws; it specifically calls for equivalence of benefits and events.

In this case, the German pension should be recognized as equivalent to the Danish pension, as both are classified under regulation 883/2004 as old-age benefits.<sup>7</sup>

---

<sup>5</sup> <https://lifeindenmark.borger.dk/healthcare/death-and-funerals/survivor-benefits>

<sup>6</sup> Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland), OJ L 166, 30.4.2004, p. 1–123 1

<sup>7</sup> The German “Rentenversicherung” and the Danish “Folkepension”.

Denying the survivor's pension solely because the surviving spouse receives a German pension violates the principle of equivalence and non-discrimination.

In case C-55/00 (Gottardo)<sup>8</sup> the Court required Italy to recognize foreign insurance periods from Switzerland and France when calculating eligibility for an Italian pension. This demonstrates that foreign benefits or insurance periods must be considered if they serve the same social purpose, emphasizing the principle of equivalence and non-discrimination..

In the recent case C-7/24 (Deutsche Rentenversicherung Nord), the ECJ clarified the standard for functional equivalence. While this case does not interpret Article 5, it has supporting relevance. The ECJ ruled that a social benefit need not be identical in form to be considered "sufficiently compatible" for the purpose of Article 85 of Regulation 883/2004, which concerns reimbursement of social security benefits between Member States.

By analogy, case C-7/24 (Deutsche Rentenversicherung Nord) strengthens the interpretation that a foreign pension may be treated as equivalent if it serves the same function, even if administratively different.

Both cases support the view that denying a survivor's pension based solely on the origin of the spouse's pension contradicts EU law.

## 2) Employment and equality of treatment under Regulation (EC) No. 492/2011 article 7

Article 7 of Regulation (EU) No. 492/2011<sup>9</sup> (former Regulation 1612/68) on the free movement of workers within the Union states that migrant workers and their families must receive the same social and tax benefits as nationals.

In case C-32/75 (Cristini)<sup>10</sup>, an Italian widow of an Italian migrant worker who worked in France could invoke article 7(2) of Regulation (EU) No.1612/68 to bypass the nationality requirement for social advantages while residing in France.

In C-212/05 (Hartmann)<sup>11</sup>, the ECJ confirmed that a cross-border worker cannot be denied a social benefit based on residence. The ruling reinforced that social advantages linked to employment must also apply to the worker's family members, supporting equal treatment across borders under Article 7(2) Regulation 1612/68.

These cases support that refusing the Danish survivor's pension based on the origin of the spouse's pension hinders free movement and discriminates against cross-

---

<sup>8</sup> Elide Gottardo v Istituto nazionale della previdenza sociale (INPS), Judgment of the Court of 15 January 2002, Case C-55/00, [2002] ECR I-413, ECLI:EU:C:2002:16

<sup>9</sup> Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (Text with EEA relevance), OJ L 141, 27.5.2011, p. 1–12 2

<sup>10</sup> Anita Cristini v Société nationale des chemins de fer français, Judgment of the Court of 30 September 1975, Case C-32/75, [1975] ECR 01085, ECLI:EU:C:1975:120

<sup>11</sup> Gertraud Hartmann v Freistaat Bayern, Judgment of the Court (Grand Chamber) of 18 July 2007, Case C-212/05, [2007] ECR I-06303, ECLI:EU:C:2007:437

border retirees and their families.

The practice of Udbetaling Danmark is inconsistent with both EU primary law on free movement and secondary legislation (Regulations 883/2004 and 492/2011).

A change in interpretation or amendment to Section 48 is thus required to ensure compliance with binding EU legal principles.

### 3. A roadmap toward possible short, medium, and long-term solutions

#### 3.1 Short and medium-term solutions for the barriers

A temporary administrative policy could clarify that survivors' pensions are also available when the surviving spouse receives an equivalent pension from another EU/EEA country. This would ensure alignment with Article 5 of Regulation (EC) No. 883/2004 and Article 7 of Regulation (EU) No. 492/2011. Such a policy would help the affected individuals immediately while a permanent legal amendment is developed.

This temporary administrative policy should be issued by the Ministry of Employment, since this is the resort ministry.

#### 3.2 Long-term solutions for the barriers

This report has two main long-term proposals:

1. *Amend Section 48 of the Pension Act to clarify that pensions from other EU/EEA countries are equivalent to the Danish Social Pension.*  
This should be an amendment in the wording of the paragraph. This would ensure consistency within EU law, and it would provide legal certainty to cross-border workers and their families. To amend Section 48 of the Pension Act, a legislative change by the Folketing would be necessary. The decision to amend the law is influenced by various factors, such as public support, alignment with government priorities, economic considerations, and the views of stakeholders. However, ensuring that the law is consistent with EU regulations can also encourage politicians to take action.
2. *Improve training for staff at Udbetaling Danmark and related authorities.*  
Training would equip staff with a stronger understanding of EU coordination rules and prevent misinterpretations that result in wrongful benefits denial. Improvement of training staff would not require legislative action from the Folketing. This can be implemented administratively by the Ministry of Employment, without needing a formal amendment to the law.

#### 4. An indication of the entities to be involved in the possible solution(s)

The advised entity (Region Sønderjylland-Schleswig, Regionskontor & Infocenter) has had an e-mail correspondence with Udbetaling Danmark (the Danish authority responsible for managing and disbursing various public benefits).

Correspondence with Udbetaling Danmark in English (my translation):

“To whom it may concern,

As the advisory institution for cross-border issues in the Southern Jutland-Schleswig Region and the Fehmarnbelt Region, we advise cross-border commuters, migrant workers and other citizens exercising their right to free movement.

In recent months, we have received a number of inquiries from citizens living in Germany who have lost their spouse or cohabiting partner who received a Danish social pension. In this connection, they have applied for a lump sum payment from ATP and a survivor's pension in Denmark. Now, we have experienced that some survivors are getting a rejection of the survivor's pension. We have the following questions on this topic, which we hope you will answer:

1. When a person who receives a social pension from Germany loses their spouse/cohabiting partner who received a social pension from Denmark, are they entitled to a survivor's pension from Denmark?

The right to a survivor's pension is conditional on both spouses and cohabitants receiving a social pension, cf. section 48 of the Pension Act. As a social pension from Germany is equivalent to a Danish social pension, cf. Article 5 on the principle of equivalence and Article 7 on the principle of equal treatment in the basic Regulation (EC) No 883/2004, the survivor's pension should also be paid to survivors who receive a social pension from another EU/EEA country. Furthermore, Article 7 of Regulation (EU) No 492/2011 on the free movement of workers within the Union should also be taken into account in this context.

We look forward to hearing from you and thank you in advance.

With kind regards / Mit freundlichen Grüßen

----- New e-mail -----

Dear [X],

The Ministry of Employment has asked Udbetaling Danmark to reply to the email below - the reply is attached:

Dear [X]

Thank you for your question, which we understand concerns the right to the short transitional benefit - survivor's pension - paid under section 48 of the Danish Pensions Act.

The benefit payable under section 48 of the Pension Act is the total amount that two cohabiting recipients of Danish social pension received/should have received immediately before the death. Thus, no benefit will be paid under section 48 of the Pension Act if no Danish social pension has been paid to both cohabitants prior to the death.

Sincerely yours,

----- New e-mail -----

Dear [X]

Thank you for your reply from May 17. We hope that you will answer some follow-up questions.

As described in the previous email, the law on social pensions is coordinated through the basic regulation (EC) No 883/2004, and a Danish social pension should thus be equated with a social pension from Germany, cf. Article 5 on equality of conditions and Article 7 on the principle of equal treatment. According to Denmark's declaration made pursuant to Article 9, the Social Pension Act is covered and coordinated without restrictions.

We are therefore puzzled by the fact that a survivor's pension can only be paid under section 48 of the Pension Act if a Danish social pension has been paid to both



cohabitants. Is this not contrary to the above-mentioned principles and applicable Regulations (EC) No 883/2004 and (EU) No 492/2011, in particular Article 7(2) of the Regulation?

Yours sincerely / Mit freundlichen Grüßen

----- New e-mail -----

Dear [X],

It is Udbetaling Danmark's assessment that since the short transitional benefit, survivor's pension, consists of the total Danish social pension that was paid to the two cohabitants/spouses immediately before the death, survivor's pension can only be paid if both cohabitants/spouses received Danish social pension before the death.

Sincerely yours,"

----- End of e-mail correspondence -----

The correspondence indicates that the critical criterion for Udbetaling Danmark is whether both cohabitants received a Danish social pension prior to the death of one of them.

The criterion is interpreted by Udbetaling Danmark as an ultimate requirement, which this report contests, as it appears to hinder free movement.

There have been cases concerning this specific barrier before the Appeals Board where the Board has upheld Udbetaling Danmark's interpretation of section 48.<sup>12</sup> There are currently no cases before the Danish courts concerning this.

5. A full list of all laws and executive acts relevant to the case indicating the place and date of publication of the legal texts with the correct citation<sup>13</sup> both in original language and in English

---

<sup>12</sup> Case from the National Appeals Board (Ankestyrelsen), 10 July 2024

<sup>13</sup> For reference, see the [b-solutions: Solving Border Obstacles. A Compendium 2023-2024-2021, p 210 – 218](#). Here is an example for an EU regulation "Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European personal pension product (PEPP), OJ L 198, 25.07.2019, p. 1".

Europa-Parlamentets og Rådets forordning (EF) nr. 883/2004 af 29. april 2004 om koordinering af de sociale sikringsordninger (Tekst af relevans for EØS og for Schweiz), OJ L 166, 30.4.2004, p. 1–123 1

Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland), OJ L 166, 30.4.2004, p. 1–123 1

Europa-Parlamentets og Rådets forordning (EU) nr. 492/2011 af 5. april 2011 om arbejdskraftens frie bevægelighed inden for Unionen (Tekst med EØS-relevans), OJ L 141, 27.5.2011, p. 1–12 2

Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (Text with EEA relevance), OJ L 141, 27.5.2011, p. 1–12 2

LBK nr 1123 af 21/10/2024 Bekendtgørelse af lov om social pension

Executive Order no 1123 of 21/10/2024 Executive Order of the Social Pension Act

BEK nr 647 af 13/04/2021 Bekendtgørelse om Nemkontoordningen

Executive Order No. 647 of 13/04/2021 on the Nemkonto

## [6. Other relevant aspects to this case if relevant](#)

### **Automation in the disbursement of survivor's pension.**

If the surviving spouse is entitled to a survivor's pension, it will be directly deposited into their designated bank account, known as a 'NemKonto.' In Denmark, every citizen over the age of 15 is required to have a NemKonto to facilitate the receipt of payments from public institutions.

However, this automated system may present challenges for non-Danish citizens, as they may not have a NemKonto established. Consequently, they might not receive the pension payments automatically, potentially causing delays or complications in accessing their entitled benefits.

It is important to consider this as public welfare systems, including the Danish system, continue to advance in their digitalization efforts. The increasing reliance on digital systems and automated processes can present opportunities and challenges. Ensuring that all citizens, including non-Danish residents, can seamlessly access

---

Here is an example for a national law: “Federal Act of 30 November 1973 on the implementation of intergovernmental agreements on the surveying and marking of the state border and on the regulation of certain matters of the state border (State Border Act), Federal Law Gazette, No 9/1974”.

their entitled benefits is crucial in maintaining the effectiveness and inclusivity of these systems.

## 7. References

Allen, Frances, and others, 'Regulation (EU) No. 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (codification): Regulation (EU) No. 492/2011 (Freedom of Movement for Workers) (Text with EEA relevance)', *Immigration Law Handbook*, 11th edn (Oxford, 2023; online edn, Oxford Academic, 24 Aug. 2023), <https://doi.org/10.1093/oso/9780192896292.003.0080>

Eleanor Spaventa, Nicolas Rennuy, Paul Minderhoud, *The legal status and rights of the family members of EU mobile workers*, European Commission, Directorate-General for Employment Social Affairs and Inclusion, Directorate E – Labour Mobility and International Affairs, 2021

Helle Krunke, *Pensionsreform – Berettigede forventninger. Generationsfordeling*. Demokrati, Jurist- og Økonomforbundets Forlag, 2011

Kirsten Ketscher, *Socialret. Principper. Rettigheder. Værdier*, 4. Udgave, Karnov Group, 2014

Pennings, F., Otto, M., & Peters, S. Fundamental Social Rights in European Union Law. In F. Pennings, T. Jaspers, & S. Peters (Eds.), *European Labour Law* (2nd ed., pp. 105-162). Intersentia, 2024.

Martine Stagelund Hvidt, *Danske sociale pensioner i EU-retlig og ligestillingsretlig belysning*, Jurist- og økonomforbundets Forlag, 2016

Nicolas Rennuy, The general principles of Regulation 883/2004 and their outer limits in Pennings, F., & Vonk, G., *Research Handbook on European Social Security Law*. Cheltenham, UK: Edward Elgar Publishing, Published: 24 Nov 2023, p.204–224, DOI: <https://doi.org/10.4337/9781800886353.00018>

Nic Shuibhne, N 2018, 'Reconnecting free movement of workers and equal treatment in an unequal Europe', *European Law Review*, vol. 43, no. 4, pp. 477-510

### Cases:

Gertraud Hartmann v Freistaat Bayern, Judgment of the Court (Grand Chamber) of 18 July 2007, Case C-212/05, [2007] ECR I-06303, ECLI:EU:C:2007:437

Elide Gottardo v Istituto nazionale della previdenza sociale (INPS), Judgment of the Court of 15 January 2002, Case C-55/00, [2002] ECR I-413, ECLI:EU:C:2002:16

Anita Cristini v Société nationale des chemins de fer français, Judgment of the Court of 30 September 1975, Case C-32/75, [1975] ECR 01085, ECLI:EU:C:1975:120

Deutsche Rentenversicherung Nord and BG Verkehr v Gjensidige Forsikring, dansk filial af Gjensidige Forsikring ASA, Norge, Judgment of the Court of 12 June 2025, Case C-7/24, [2025] ECR, ECLI:EU:C:2025:007

Case from the National Appeals Board (Ankestyrelsen), 10 July 2024

Links:

[https://region.de/region/dk/ueber\\_uns/region/DatenundFaktenRegionSjSl\\_dk.php](https://region.de/region/dk/ueber_uns/region/DatenundFaktenRegionSjSl_dk.php)

[https://www.region.de/region/de/presse/aktuelles-view.php?we\\_objectID=4214](https://www.region.de/region/de/presse/aktuelles-view.php?we_objectID=4214)

All Answers Ltd, 'Free Movement Of Workers In The EU' (Lawteacher.net, March 2025) <<https://www.lawteacher.net/international-conventions/free-movement-of-workers-regulation-492-2011.php?vref=1>> accessed 10 March 2025

### Annex 1:

#### **Correspondance with Udbetaling Danmark in Danish from section 4:**

”

Til rette vedkommende

Som den vejledende institution vedrørende grænseoverskridende spørgsmål i Region Sønderjylland-Schleswig samt i Femern Bælt Regionen vejleder vi grænsependlere, vandrende arbejdstagere og andre borgere, der udnytter deres ret til fri bevægelighed.

Inden for de seneste måneder har vi haft nogle henvendelser fra borgere, der er bosat i Tyskland og har mistet deres ægtefælle eller samlever, som fik udbetalt en dansk social pension. De har i den forbindelse søgt om udbetaling af engangsbeløb fra ATP samt efterlevelsespension i Danmark. Nu har vi oplevet at nogle efterlevende får et afslag på efterlevelsespensionen. Vi har følgende spørgsmål til dette emne, som vi håber I vil svare på:

1. Når en person, som selv modtager en social pension fra Tyskland, mister sin ægtefælle/samlever, der modtog en social pension fra Danmark, har vedkommende så ret til efterlevelsespension fra Danmark?

Retten til efterlevelsespensionen er jf. Pensionslovens § 48 betinget af at begge ægtefæller eller samlever modtager en social pension. Idet en social pension fra Tyskland er ligestillet med en dansk social pension, jf. artikel 5 om ligestilling af

forhold (ækvivalensprincippet) samt artikel 7 om princippet om ligebehandling i grundforordningen (EF) nr. 883/2004, burde efterlevelsespensionen også udbetales til efterlevende, som modtager en social pension fra et andet EU/EØS-land. Endvidere burde der i denne sammenhæng også tages højde for artikel 7 i forordningen (EU) nr. 492/2011 om arbejdskraftens frie bevægelighed inden for Unionen.

Vi ser frem til at høre fra jer og siger mange tak på forhånd.

Med venlig hilsen / Mit freundlichen Grüßen

----- Ny e-mail -----

Kære [X],

Beskæftigelsesministeriet har bedt Udbetaling Danmark svare dig på nedenstående mail – svaret følger hermed:

Kære [X]

Tak for dit spørgsmål, som vi har forstået, vedrører retten til den korte overgangsydelse – efterlevelsespension – der udbetales efter pensionslovens § 48.

Den ydelse, der kan udbetales efter pensionslovens § 48 er det samlede beløb, som to samlevende modtagere af dansk social pension modtog/burde have modtaget umiddelbart inden dødsfaldet. Dermed udbetales der ikke efter pensionslovens § 48, hvis der ikke forinden dødsfaldet har været udbetalt dansk social pension til begge de samlevende.

Venlig hilsen

----- Ny e-mail -----

Kære [X]

tak for dit svar fra d. 17 maj. Vi håber, at I vil besvare nogle opfølgende spørgsmål hertil.

Som beskrevet i den tidligere mail er loven om social pension koordineret igennem grundforordningen (EF) nr. 883/2004 og en dansk social pension bør dermed ligestilles med en social pension fra Tyskland, jf. artikel 5 om ligestilling af forhold samt artikel 7 om princippet om ligebehandling. Ifølge Danmarks erklæring afgivet i henhold til artikel 9 er Lov om social pension omfattet og koordineret uden indskrænkninger.

Vi stiller os dermed undrende overfor, at der kun kan betales efterlevelsespension efter pensionslovens § 48, hvis der har været udbetalt dansk social pension til begge de samlevende. Strider dette ikke imod de ovennævnte principper og gældende forordninger (EF) nr. 883/2004 samt (EU) nr. 492/2011, herunder især forordningens artikel 7, stk. 2?

Med venlig hilsen / Mit freundlichen Grüßen

----- Ny e-mail -----

Kære [X],

Det er Udbetaling Danmarks vurdering, at da den korte overgangsydelse, efterlevelsespension, består af den samlede danske sociale pension, der blev udbetalt til de to samlevende/gifte umiddelbart inden dødsfaldet, kan der alene udbetales efterlevelsespension, hvis begge de samlevende/gifte modtog dansk social pension inden dødsfaldet.

Det er samtidigt Udbetaling Danmarks vurdering, at denne praksis er i overensstemmelse med EU-retten, herunder ligebehandlingsprincippet.

Venlig hilsen"

----- afslutning af e-mail korrespondance-----