

## EFTA COURT

### **Request for an Advisory Opinion from the EFTA Court by Trygderetten in the case of O v Arbeids- og velferdsdirektoratet**

**(Case E-13/20)**

A request has been made to the EFTA Court dated 9 September 2020 from *Trygderetten* (National Insurance Court), which was received at the Court Registry on 10 September 2020, for an Advisory Opinion in the case of O v Arbeids- og velferdsdirektoratet on the following questions:

- (1) Is it compatible with the provisions of Regulation (EC) No 883/2004, including Article 5(b), for entitlement to a cash benefit in the event of unemployment to be subject to the condition that the unemployed person stay in the competent State in cases where Articles 64, 65 or 65a are not applicable?**
- (2) Does Article 36 of the EEA Agreement apply in the case of temporary stays in another EEA State as described in this case?**
- (3) Does a condition as described in question 1 constitute a restriction on the right of free movement under Article 31 or Article 36 of the EEA Agreement?**
- (4) If so, can the restriction be justified on the ground that:**
  - a stay in the competent State provides the unemployed person with better incentive and opportunities for seeking and finding employment?
  - a stay in the competent State ensures that the unemployed person is available for the employment services, so that they (the employment services) are able to monitor whether the unemployed person fulfils the requirements for the unemployment benefit?
  - a stay in the competent State provides the employment services with better opportunities in assessing whether the unemployed person is being followed up in a suitable manner?
  - the requirement of a stay ensures the economic equilibrium of the social security scheme?
- (5) If the condition can be justified, is it compatible with Articles 31 and 36 of the EEA Agreement that a person who has had a stay in another EEA State than the competent State without complying with the obligation to inform the competent institution about the stay may be ordered to repay the benefit, which was thus received unlawfully under national law? If so, is it**

**compatible with Articles 31 and 36 of the EEA Agreement for an interest surcharge of 10 per cent to be levied on the person concerned?**

- (6) If question 3 is answered in the negative, does Article 4, 6 or 7 of Directive 2004/38/EC apply in a situation where an unemployed person has a temporary stay in another EEA State? If Article 4, 6 or 7 applies and may be relied on as against the home State, the same questions as in questions 3 to 5 are put in as far as applicable.**