



Luxembourg, 29 July 2022

PRESS RELEASE 05/2022

Judgment in Case E-2/22 A v *the Labour and Welfare Directorate*

TRANSITIONAL BENEFIT CONSTITUTES FAMILY BENEFIT

In a judgment delivered today, the Court answered questions referred to it by the Norwegian National Insurance Court (*Trygderetten*) regarding the application of Regulation (EC) No 883/2004 on the coordination of social security systems (“the Regulation”) to the Norwegian ‘transitional benefit’.

The case in the main proceedings concerns a decision by the Norwegian Labour and Welfare Administration (*NAV*) to reject the grant of transitional benefit to A. A is a Swedish national and was expecting a child. The basis for the rejection was that the National Insurance Act required three years’ prior membership in Norway’s the social security system. At the time, A had only been a member for just under two years.

By its first question, the National Insurance Court asked whether a benefit such as the transitional benefit constitutes a family benefit within the meaning of point (j) of Article 3(1) of the Regulation, or a non-contributory cash benefit within the meaning of Article 3(3), read in conjunction with Article 70. The Court observed that there is a close link between family expenses and a benefit such as in the main proceedings. Such a benefit alleviates the financial burden involved in the maintenance of one or more children by a single parent and mitigates the financial disadvantages in giving up income from occupational activity. The Court therefore found that a benefit such as the transitional benefit constitutes a family benefit under point (j) of Article 3(1).

The Court further found that the transitional benefit is not a non-contributory cash benefit under Article 3(3) read in conjunction with Article 70. Such benefits are those solely listed in Annex X to the Regulation and the transitional benefit does not appear in that annex.

By its second question, the National Insurance Court asked whether it is relevant for the assessment that there is a requirement of occupational activity for continued entitlement to the benefit from when the youngest child turns one year old. The Court observed that the fact that a benefit may also have other functions, for example to encourage employment and education necessary for entry into the job market by means of an occupational activity requirement, does not remove such a benefit from the scope of the Regulation, as long as it covers at least one or more of the risks listed in Article 3(1). Thus, the Court found that such a requirement of occupational activity is not relevant for the assessment.

The full text of the judgment may be found on the Court’s website: www.eftacourt.int.

This press release is an unofficial document and is not binding upon the Court.