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Judgment in Case E-3/23 A v *Arbeids- og velferdsdirektoratet*

MINIMUM BENEFITS UNDER ARTICLE 58 OF REGULATION (EC) 883/2004

In a judgment delivered today, the Court answered a question referred to it by the National Insurance Court (*Trygderetten*) concerning the interpretation of Article 58 of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (“the Regulation”).

A, the claimant in the main proceedings, is a Norwegian national. A resided in Ireland from May 2006 until February 2014, after which he moved back to Norway. In May 2018, A submitted a claim for invalidity benefits. Since A had been insured in both Ireland and Norway, the NAV Employment and Benefits Office (*NAV Arbeid og ytelser*) calculated his benefits on a *pro rata* basis by aggregating Norwegian and Irish periods of insurance. Before the National Insurance Court, A argued that he was entitled to a supplement benefit pursuant to Article 58 of the Regulation, since the total of his *pro rata* benefits was lower than the minimum benefit under the second paragraph of Section 12-13 Norwegian Insurance Act (“NIA”).

By its request for an advisory opinion, registered at the Court on 23 May 2023, the National Insurance Court sought guidance on the interpretation of Article 58 of the Regulation in order to establish whether the benefit in the second paragraph of Section 12-13 NIA constitutes a minimum benefit within the meaning of Article 58. In particular, the referring court queried the significance of the fact that the national benefit is expressed in specific amounts that are proportionally reduced in the event of a period of insurance shorter than 40 years.

The Court found that the wording of Article 58(1) of the Regulation explicitly refers to a minimum benefit fixed by the applicable legislation for a period of insurance or residence equal to all the periods taken into account under Article 52, and, thus, Article 58(1) gives effect to the principle of aggregation in the particular context of minimum benefits. The purpose of that reference period is essentially to address a situation where the amount of the minimum benefit under national legislation varies according to the period of insurance or residence completed. Accordingly, the Court held that there is a minimum benefit within the meaning of Article 58 where the national legislation of an EEA State includes a specific guarantee the object of which is to ensure recipients of social security benefits a minimum income which is in excess of the amount of benefit which they may claim solely on the basis of their periods of insurance and their contributions. To the extent that national legislation provides for such a specific guarantee, it is without significance that the benefit may be proportionally reduced based on periods of insurance. Any other interpretation would have the effect that periods completed under the legislation of other EEA States would not be taken into

account for establishing a qualification for minimum benefit and as such be liable to impede the right to free movement of persons by placing them at a disadvantage in their State of origin solely for having exercised that right.

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.