

SUMMARY

ECJ 12 October 2023, case C-45/22 (Service fédéral des Pensions), Social Insurance

HK – v – Service fédéral des Pensions, Belgian case

Summary

When national rules against overlapping with regard to independent benefits are applicable, it is allowed for a Member State to provide, in its legal system, for the purpose of calculating the amount of benefit to be paid, either that the total amount of income taken into account by those national rules must be divided by the number of benefits concerned or that it is appropriate to divide by that same number the proportion of income which exceeds the ceiling in respect of overlapping laid down by those national rules.

Question

Must Article 55(1)(a) of Regulation No 883/2004 be interpreted as meaning that, where the receipt of benefits of a different kind entails the application of national rules against overlapping with regard to independent benefits, it requires each Member State to provide that, in order to calculate the amount of the benefit to be paid, it is necessary to divide the total amount of income taken into account by those national rules by the number of benefits concerned or whether that provision of EU law requires them to provide that, for the purpose of the calculation, it is necessary to divide by that same number the proportion of income which exceeds the ceiling in respect of overlapping laid down by those national rules?

Ruling

Article 55(1)(a) of Regulation No 883/2004 must be interpreted as meaning that, where the receipt of benefits of a different kind or of other income entails the application of national rules against overlapping with regard to independent benefits, it allows each Member State

concerned to provide, in its legal system, for the purpose of calculating the amount of benefit to be paid, either that the total amount of income taken into account by those national rules must be divided by the number of benefits concerned or that it is appropriate to divide by that same number the proportion of income which exceeds the ceiling in respect of overlapping laid down by those national rules.

Creator: European Court of Justice (ECJ)

Verdict at: 2023-10-12

Case number: C-45/22