



Vastuvõtmise kuupäev : 30/07/2025

Case C-397/25***Summary of the request for a preliminary ruling pursuant to Article 98(1) of the Rules of Procedure of the Court of Justice****Date lodged:**

13 June 2025

Referring court:

Symvoulío tis Epikrateias (Greece)

Date of the decision to refer:

19 May 2025

Appellant:

EM

Respondent:

Elektronikos Ethnikos Foreas Koinonikis Asfalisis (e-EFKA)

Subject matter of the main proceedings

Appeal on a point of law concerning the procedure for determining the pension benefit of a person who has completed periods of insurance in two EU Member States. The judgment under appeal dismissed the appellant's appeal against a judgment dismissing the action at first instance. The applicant had brought an action against a decision of an insurance body granting her a reduced old-age pension pursuant to Article 58 of Regulation (EC) No 883/2004.

Subject matter and legal basis of the request

Interpretation of the concept of minimum benefit under Article 58 of Regulation (EC) No 883/2004 – Interpretation of Articles 4, 9 and 52(1) of Regulation (EC) No 883/2004, in conjunction with Articles 45 and 48 TFEU – National provisions laying down minimum pension thresholds and a specific amount as a minimum

* Language of the case: Greek.

benefit within the meaning of Article 58 of Regulation No 883/2004 – Article 267 TFEU

Questions referred for a preliminary ruling

(1) Must Article 58 of Regulation No 883/2004 be interpreted as meaning that ‘minimum benefits’ include pension amounts which, although provided for as minimum pension thresholds by national provisions – since they are awarded to insured persons whose pension, based on their period of insurance and the contributions paid, is lower than those thresholds – are not established in order to ensure a guaranteed minimum income but in order to implement the principle of social solidarity between members of the public insurance institutions who have contributed throughout their working lives to the formation of the insurance capital by paying contributions to that institution, and which furthermore vary depending on the insurance institution, the category to which the insured person belongs depending on the time when he or she joined the scheme (before or after 31 December 1992), and his or her family status and age, namely criteria that are also applied under the usual method of calculating pensions?

(2) Do the provisions of Article 45 TFEU and Article 4 of Regulation No 883/2004 preclude national legislation which fixes a certain sum of money as a minimum benefit within the meaning of Article 58 of Regulation No 883/2004 where, pursuant to that legislation, migrant workers receive as a minimum benefit (under Article 58) an amount lower than that provided for by other national provisions for persons insured by public insurance bodies who have completed their entire period of insurance in Greece, as an expression of the principle of social solidarity between persons insured by insurance institutions who contribute to the formation of their insurance capital, an amount which varies depending on the insurance institution, the category to which the insured person depending on the length of his or her affiliation, his or her family status and his or her age?

Provisions relied on

National law

Syntagma tis Elladas (Constitution of Greece): Articles 2(1), 4(5), 22(5) and 25(1)(d).

Anagkastikos nomos 1846/1951 peri koinonikon asfaliseon (Emergency Law No 1846/1951 on social security) (FEK A’ 179/1.8.1951): Article 28(3)(d), as replaced by Article 144(1) of Nomos 3655/2008 (Law No 3655/2008), which lays down, inter alia, the conditions for granting an old-age pension to insured mothers with children who are minors.

Article 29(1) of Emergency Law No 1846/1951 provides that the amount of the monthly old-age pension awarded by the Idryma Koinonikon Asfaliseon (Social

Security Agency; ‘IKA’) shall be the basic amount, fixed at 25 times the notional daily wage for the insurance class in which the insured person is classified in accordance with Article 37 of that law. The table set out in Article 29 provides for that percentage to be graduated according to the insurance class in which the worker is classified on the basis of his or her earnings.

Pursuant to Article 29(3) (as replaced by Article 29(4) of Nomos 3518/2006 (Law No 3518/2006)), the amount of the old-age pension is increased under certain conditions and that increase, once granted, constitutes part of the total amount of the pension paid and is adjusted thereafter by the rate of increase in the pensions of the Idryma Koinonikon Asfaliseon – Eniaio Tameio Asfalisis Misthoton (Social Security Body – General Insurance Fund for Employees; ‘IKA-ETAM’).

Pursuant to Article 29(14)(a) (as supplemented by Article 5(6) of Nomos 825/1978 (Law No 825/1978)), the minimum amount of pensions paid under IKA is to be equal, in the case of old-age pensions, to the total of 15 days’ minimum wage for an unskilled worker as at the given time, reduced by the percentage by which the pensioner receives a reduced pension. That provision was subsequently replaced, with effect from 1 January 1991, by Article 29(3) of Nomos 1902/1990 (Law No 1902/1990) in the following terms:

‘(a) The minimum pension amounts are set at the amounts as they stood at 30 September 1990 for each category of beneficiary. Those minimum amounts shall henceforth be adjusted in accordance with paragraph 9 of this Article by the same percentage and from the same date. [...] (c) The minimum pension amounts shall be reduced in all cases where the pensioner receives a reduced pension and, in that case, subparagraph (a) of this paragraph shall also apply. (d) Pensioners [...] who also receive another pension from the State or [legal persons governed by public law], IKA or another primary insurance institution shall not be entitled to the minimum pension amounts referred to in this paragraph unless the sum of those pensions is less than the minimum pension, full or reduced, to which the pensioner would have been entitled from IKA, increased by 25%, in which case the difference shall be paid by IKA. The relevant check shall be carried out at the time when the pension is awarded, when any new pension benefit is awarded [...]’.

Nomos 1976/1991 (Law No 976/1991) (FEK A’ 184/4.12.1991): Article 9, which provides for the award of a pension on the basis of the statutory provisions of each fund as in force at the time.

Nomos 2084/1992 (Law No 2084/1992) (FEK A’ 165/7.10.1992): Articles 24(6), 51 and 66, which laid down stricter pension conditions for mothers of minors.

Nomos 2606/1998 (Law No 2606/1998) (FEK A’ 89/22.4.1998): Article 19, which provided for increases in pensions and minimum thresholds.

Nomos 3029/2002 (Law No 3029/2002 (FEK A’ 160/11.7.2002), Article 3(4), which is worded as follows:

‘A. The minimum amount awarded by IKA [...] as a monthly old-age pension [...] shall be equal to 70% of the minimum wage of a married person in full-time employment, as determined by the 2002 [National General Labour Agreement, ‘the national collective agreement’]. From 1 January 2003 onwards, the above amount shall be adjusted by the rate of increase of pensions in accordance with the income policy determined from time to time. B. The lower limit provided for in the above provision shall be reduced in all cases where the pensioner receives a reduced pension.’

Nomos 3863/2010 (Law No 3863/2010) (FEK A’ 115/15.7.2010): Articles 1 to 4 and Article 10(17). That law established, for those receiving a pension from 1 January 2015, a pension consisting, on the one hand, of the ‘basic’ pension financed by the State budget and, on the other hand, of a ‘proportional’ pension calculated on the basis of the years of insurance and the contributions paid. Article 2 of that law provided for a basic pension of EUR 360.

Nomos 3996/2011 (Law No 3996/2011) (FEK A’ 170/5.8.2011): Article 34(1), which added a new paragraph 11 to Article 20 of Nomos 2434/1996 (Law No 2434/1996) (FEK A’ 188/20.8.1996), as follows:

‘The minimum benefit within the meaning of Article 58 of Regulation (EC) No 883/2004 is the amount of the basic pension referred to in Article 2 of Law No 3863/2010, as amended from time to time. The provisions of this paragraph shall apply from the date of publication of this Law. Pending pension applications shall be evaluated in accordance with the above provisions.’

Nomos 4093/2012 (Law No 4093/2012) (FEK A’ 222/12.11.2012): Article 1 paragraph IA, subparagraph (11)(3), establishing a statutory minimum wage.

Nomos 4387/2016 (Law No 4387/2016) (FEK A’ 85/12.5.2016): in particular Articles 14, 27(4) and 92(4). That law repealed Article 2 of Law No 3863/2010 and reintroduced a pension consisting of two parts, namely the State pension, financed by the State budget, and the contributory pension, the amount of which is determined by the period of insurance and the contributions paid by the pensioner during his or her working life. It also provided for a new method for calculating pensions for those retiring after the entry into force of the law – but no longer laying down a minimum threshold for old-age pensions – and a recalculation of pensions already awarded, that is to say also pensions calculated at the level of the minimum thresholds applicable prior to Law No 4387/2016.

Provisions of European Union law

Articles 45 and 48 TFEU

Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004 L 166, p. 1), applicable as of 1 May 2010, pursuant to Article 91 of that regulation, read

in conjunction with Article 97 of Regulation (EC) No 987/2009 (OJ 2009 L 284, p. 1, and corrigendum OJ 2010 L 108, p. 356): Articles 4, 9, 52(1) and 58.

Case-law of the Court of Justice relied on

Judgments of 29 November 1977, *Beerens* (35/77, EU:C:1977:194); of 17 December 1981, *Browning* (22/81, EU:C:1981:316); of 18 April 2002, *Duchon* (C-290/00, EU:C:2002:234); of 1 October 2009, *Leyman* (C-3/08, EU:C:2009:595); of 22 June 2011, *Landtová* (C-399/09, EU:C:2011:415); of 22 February 2013, *Salgado González* (C-282/2011, EU:C:2013:86); of 7 December 2017, *Dybeck* (C-189/16, EU:C:2017:946); of 14 March 2019, *Vester* (C-134/18, EU:C:2019:212); and of 5 December 2019, *Bocero Torrico and Bode* (C-398/18 and C-428/18, EU:C:2019:1050).

Succinct presentation of the facts and procedure in the main proceedings

- 1 The appellant, who was born on 21 November 1957 and is of Bulgarian nationality, became a member of the IKA – ETAM insurance scheme after settling permanently in Greece, and accrued 1 026 days of insurance during the period from March 1997 to March 2005. On 30 December 2010 the appellant applied to IKA-ETAM for a primary old-age pension on the basis of the retirement conditions for a mother with a minor child, informing the insurance institution that she had also completed periods of insurance with a social security institution in Bulgaria.
- 2 Her pension case was forwarded to the competent Bulgarian social security institution, which completed the relevant E001 and E205 forms and confirmed that the appellant: (a) had worked for 5 419 days during the period from 1 October 1977 to 25 February 1997 with insurance coverage from the Bulgarian institution, (b) had withdrawn her application for a pension from a Bulgarian institution, and (c) was not in receipt of a pension from Bulgaria.
- 3 The director of the IKA-ETAM Thessaloniki regional branch issued a decision on 27 March 2013, finding that the appellant did not have an independent right to an old-age pension from IKA-ETAM, and awarding her a reduced primary old-age pension from 30 December 2010 in accordance with the provisions laying down the conditions for the retirement of mothers with a minor child, taking into account the days of insurance completed by the appellant in both Greece and Bulgaria, as provided for in Regulation No 883/2004. The amount of the pension was set at EUR 81.38. In the same decision, a reservation was expressed as to whether the appellant could be granted a supplementary benefit in accordance with Article 58 of Regulation No 883/2004, provided that it were established that the legal conditions for eligibility were met.
- 4 On 23 December 2015 the director of IKA-ETAM issued a fresh decision, under which, in view of the abovementioned forms sent by the Bulgarian insurance

institution and in view of the fact that the appellant was not receiving a pension from any insurance institution in Greece or in another State, amended the institution's previous decision and reassessed the amount of the pension benefit awarded to the appellant, it being accepted that the conditions for the application of Article 58 of Regulation No 883/2004 were met. Specifically, that new 2015 decision awarded the appellant a primary old-age pension of EUR 318.60, after taking into account the provisions of Article 34(1) of Law No 3996/2011, which provide for an amount of EUR 360 as a minimum benefit for the purposes of the application of Article 58 of Regulation No 883/2004 and after reducing the amount of EUR 360 by 23/200 on the ground that, at the time of the pension application, the appellant had not reached the age of 55, which is the minimum age for the award of a full pension under the provisions governing the retirement of mothers with minor children. In the same decision, it was decided that the appellant would receive that pension amount from 30 December 2010 to 30 November 2017, subject to a review of the amount should she be awarded a pension by another insurance institution or should her place of residence change.

- 5 The appellant brought an action against that decision before the Dioikitiko Protodikeio Thessalonikis (Administrative Court of First Instance, Thessaloniki). She argued that, when calculating the benefit supplement provided for in Article 58 of Regulation No 883/2004, the amount of EUR 486.84 should have been taken as the minimum benefit, that amount being provided for at the time she had submitted her pension application under the general provisions of IKA-ETAM, referred in in Circular 41/21.6.2011 issued by that insurance institution.
- 6 The appellant's action was dismissed as unfounded in 2018 by a judgment of the Administrative Court of First Instance, Thessaloniki, which found that the minimum benefit of EUR 360 provided for in Article 34(1) of Law No 3996/2011 had been lawfully taken into account for the purposes of determining the amount of her pension.
- 7 The appellant appealed against the judgment at first instance, and her action was dismissed by the judgment under appeal, delivered in 2020. The Dioikitiko Efeteio (Administrative Court of Appeal) held that the provisions of Articles 50 to 59 of Regulation No 883/2004 were applicable in the present case, according to which:
- 8 (a) In the case of an insured person who is a citizen of a European Union Member State and who has completed periods of insurance in more than one Member State without satisfying the conditions for the award of a pension independently in any one of them, as laid down in the relevant national legislation, the insurance institution of the Member State of residence is to count all the periods of insurance completed in all the Member States towards the time required for entitlement to a pension under national legislation and is then to calculate, on the one hand, the theoretical amount of the pension corresponding to that period and, on the other hand, the actual amount of the pension ultimately due to him or her, by multiplying the above theoretical amount by the ratio of days worked under its

insurance system to the total number of working days completed in all Member States.

- 9 (b) The pension paid may not be less than the minimum pension, as defined in each case by the national legislation in question, and any difference between the actual amount referred to above and the minimum pension shall be awarded to the pensioner in the form of a supplement.
- 10 (c) If the amount of that minimum benefit changes, the amount of pension awarded may be adjusted.
- 11 (d) The provisions of Article 34(1) of Law No 3996/2011, applicable from the date of publication of that law on 5 August 2011, but which also cover pending pension claims, specifically lay down the amount paid as a minimum benefit within the meaning of Article 58 of Regulation No 883/2004, by reference to Article 2 of Law No 3863/2010, which provides for a basic pension of EUR 360 and was repealed by Article 27(4) of Law No 4387/2016.
- 12 (e) According to the explanatory memorandum to Law No 3996/2011, Article 34(1) was adopted in order to harmonise Greek legislation with the Community approach to the concept of minimum benefit within the meaning of Article 58 of Regulation No 883/2004. That was because ‘Greek social security legislation does not provide for a minimum benefit paid’ and because, for a number of years, following a broad interpretation of the provisions of the law, the minimum benefit was the same as the minimum paid by each insurance institution, which led to problems of interpretation in the application of Article 58 of Regulation No 883/2004 and financial consequences for the national insurance system.
- 13 (f) Article 34(1) of Law No 3996/2011 is not contrary to the constitutional provisions, since that provision did not introduce less favourable legislation than in the past with regard to the calculation of the supplementary benefit, nor did it reduce the pension awarded to the appellant, but rather established for the first time the minimum benefit on the basis of which the supplementary benefit is calculated and, for the first time, the amount of the pension.
- 14 (g) The adjustment of the amount of pensions in the event of an amendment to national legislation is expressly permitted by Article 59 of Regulation No 883/2004 and, in any event, there is nothing to prevent the legislature from regulating the relevant matters by assessing the requirements of the public interest shaped by constantly changing circumstances, in particular where, as in the present case, a law has been adopted by means of general legislation designed to harmonise national legislation with Community legislation.
- 15 (h) Pursuant to Article 28(3)(d) of Law No 1846/1951, as replaced by Article 144(1) of Law No 3655/2008, insured mothers with minor children who complete a 5 500-day insurance period and who do not receive a pension from IKA-ETAM, the State, legal persons governed by public law or another primary

insurance institution, are entitled to a full old-age pension on reaching the age of 55 and a reduced pension on reaching the age of 50, and, if they receive a reduced pension, the amount of that pension may not be lower than the minimum pension threshold as established from time to time.

- 16 The judgment of the Administrative Court of Appeal was the subject of an appeal on a point of law before the Symvoulío tis Epikrateias (Council of State), which is the referring court.

The essential arguments of the parties in the main proceedings

- 17 The appellant alleges, *inter alia*, misapplication of Article 34(1) of Law No 3996/2011, under which she received the sum of EUR 318.60 by way of the minimum benefit provided for in Article 58 of Regulation No 883/2004, instead of the amount payable under the provisions of the IKA-ETAM legislation, namely Article 29(14) of Emergency Law No 1846/1951 and Article 3 of Law No 3029/2002, which provide for higher minimum pension amounts starting from EUR 486.84, since, in her view, a correct interpretation of the provisions of the abovementioned regulation require the latter amount to be taken into consideration. That ground of appeal is, in the view of the referring court, admissible since it is accompanied by a well-founded plea based on the absence of case-law on the point of law raised in the present case.
- 18 The respondent contends that the appeal on a point of law should be dismissed. Although the insurance institution in question had originally adopted Circular No 41/2011 providing for the award of a supplementary benefit pursuant to Article 58 of Regulation No 883/2004 up to the basic (full or reduced) minimum pension threshold, that was not the case after the publication of Law No 3996/2011. Under its new Circular No 9/6.2.2012, the concept of ‘minimum benefit’ within the meaning of Article 58 was decoupled from the case-by-case minimum pension amounts for pensioners who acquire a right to a pension taking into account periods of insurance elsewhere in the Community, and who are permanently resident in Greece. According to the respondent, the amount of the basic pension referred to in Article 2 of Law No 3863/2010, as it is established from time to time, is now regarded as the minimum benefit.

Succinct presentation of the reasoning in the request for a preliminary ruling

- 19 The referring court refers to the Court’s case-law on the interpretation of Article 58 of Regulation No 883/2004 (and previously of Regulation No 1408/1971), namely the judgment of 17 December 1981, *Browning* (22/81, EU:C:1981:316, paragraphs 10, 11 and 13 to 15), according to which the minimum benefit is a minimum threshold resulting from a specific guarantee, provided for by national legislation, of receiving a minimum benefit intended to provide recipients with a guaranteed minimum income, and not minimum amounts, on a case-by-case basis, resulting from the application of the usual

method of calculating pensions, based on periods of insurance completed and contributions paid. That minimum benefit differs from the ‘theoretical amount’ referred to in Article 52 of the Regulation, which is not the amount of the pension payable, but serves as the basis of the calculation used in applying the rules on aggregation and pro rata apportionment. Therefore, a minimum benefit exists only if the legislation of the State of residence of the person concerned guarantees recipients of social security benefits a minimum income higher than the level of benefits which they would be entitled to claim solely on the basis of their insurance periods and contributions. The national court further notes, referring to the case-law of the Court on the subject, that the fact that a Member State has declared that it has adopted provisions providing for a ‘minimum benefit’ must be regarded as proof that the benefits provided for by those national provisions fall within the meaning of Article 58.

- 20 The Council of State also describes in detail the historical development of Greek social security legislation, making the following observations.

Prior to the reform of the social security system by Law No 4387/2016, there were several insurance institutions, each of which was governed by its own regime and calculated the pensions it awarded in a different way. Further differences in the amount of pensions also existed between members insured under the ‘old’ and ‘new’ regimes, namely those who were insured before or after 31 December 1992, respectively. For persons insured under the ‘new’ regime, common rules have been put in place for many insurance issues, including minimum pension thresholds, while for those insured under the ‘old’ regime, the fragmentation of legal systems has been maintained. In the context of the unification of the insurance systems with regard to persons insured under the ‘new’ regime, common minimum thresholds were introduced for IKA-ETAM and other special funds, those thresholds being close to the minimum pension thresholds laid down in the IKA-ETAM legislation for persons insured under the ‘old’ regime, without, however, being completely identical to them. Furthermore, the minimum pension thresholds differ according to whether or not the pensioner is entitled to family status increments, that is to say, additional amounts based on whether he or she is single or married and whether he or she has children. In particular, under the abovementioned legislative regime involving multiple sets of rules and differentiation between the insured persons of the various insurance institutions, for persons insured under the ‘old’ IKA-ETAM regime the minimum pension, excluding family status increments, is determined on the basis of 20 times the daily wage of an unskilled worker as set on 30 September 1990, together with the increases applied to that amount up to 2008. For persons insured under the ‘new’ IKA-ETAM regime and by other insurance institutions, the minimum pension, again excluding family status increments, is determined on the basis of 70% of the minimum wage of a married worker under the 2002 national collective agreement, together with the increases applied to that amount up to 2008. Following the pension increase granted for the year 2008, with effect from 1 October 2008 the minimum old-age pension thresholds for IKA-ETAM started at EUR 486.84 for persons insured under the old regime (in the case of an unmarried person without

children), and at EUR 495.74 for persons insured under the new regime (in the case of an unmarried person or a married person without children). For subsequent years, it was decided not to increase pensions, with the result that the minimum pension thresholds remained at the level at which they had been set on 1 October 2008.

The referring court also notes that the age limits were redefined with effect from 1 January 2011 and that similar, but stricter, retirement conditions were introduced for mothers of minor children falling within the category of newly insured members.

- 21 The Council of State also explains that, under the provisions of Article 29(14) of Emergency Law No 1846/1951 and of Article 3 of Law No 3029/2002, which were in force at the time when the appellant submitted her pension application to IKA-ETAM, combining periods of insurance completed in Bulgaria (a member of the European Union since 1 January 2007) and in Greece, as well as at the time when the contested pension decision was issued, the institution of the minimum pension was provided as a mechanism for giving effect to the principle of social solidarity among persons insured by public social security institutions who have contributed to the formation of the insurance fund through the payment of contributions. That mechanism functions on a redistributive basis, to support economically weaker members of the scheme by awarding them a higher pension than that they would have been entitled to on the basis of their period of insurance and age alone. The purpose is to guarantee them a more satisfactory standard of living than they would have had with a pension based on their period of insurance and the contributions which they had paid.
- 22 In addition, the referring court notes that it is not apparent from any statutory provision or preparatory act of the social security legislation that the minimum pension thresholds in force at the material time constituted the guaranteed minimum income for pensioners as assessed by the legislature. The amount of the minimum pensions provided for in those provisions, which are calculated on the basis of the daily wage of an unskilled worker, is determined using criteria also applied in the usual calculation of pensions (criteria relating to family status and age), which is why there is not a single minimum amount but several.
- 23 Initially, the minimum pension amounts provided in each case were considered to be a ‘minimum benefit’ within the meaning of Article 50 of Regulation No 1408/1971, which is why a declaration to that effect was made under Article 5 of that regulation. However, that was not repeated with respect to Regulation No 883/2004. Next, Article 34 of Law No 3996/2011 provided, specifically for the purposes of applying Article 58 of Regulation No 883/2004, for a ‘minimum benefit’ of EUR 360, which was linked to the ‘basic pension’ provided for under Law No 3863/2010, although, as the referring court points out, that amount of EUR 360 corresponds not to an established minimum pension amount but to a part of the single pension which was to be granted to those who were to retire from 1 January 2015 onwards under the provisions of Law No 3863/2010, but was

never granted because those provisions were repealed by Law No 4387/2016 without ever being implemented. Specifically, the referring court observes that the full basic pension amount of EUR 360, which is granted if the pensioner satisfies the length-of-service and other eligibility conditions for that pension (and otherwise is awarded a reduced pension), is not identical to the minimum pension provided for by the same law.

- 24 Moreover, the appellant received EUR 318.60 as a minimum benefit under Article 58 of Regulation No 883/2004. That amount reflects the benefit provided for in Article 34 of Law No 3996/2011, reduced by 23/200 on account of her early retirement. The Administrative Court of Appeal which issued the judgment held that the contested pension decision awarding her that amount was lawful, reasoning that Article 34 did not introduce less favourable legislation compared to the previous rules on calculating the supplementary benefit. Rather, it established, for the first time, the definition of a minimum benefit in accordance with EU legislation.
- 25 The appeal on a point of law pending before the referring court challenges the lawfulness of that judgment and submits, in essence, that the award of a pension lower than that which would have resulted from the minimum pension under the IKA-ETAM regime (EUR 486.84 and so forth) is unlawful, because it is contrary to the provisions of Regulation No 883/2004, as it discriminates against the appellant as a worker moving within the European Union compared to those who have worked exclusively in Greece. According to the referring court, the review of the lawfulness of that assessment hinges primarily on whether the concept of a minimum benefit under Article 58 of Regulation No 883/2004 is broad enough to include minimum pensions such as those provided for in Article 29(14) of Emergency Law No 1846/1951 and Article 3 of Law No 3029/2002.
- 26 However, given that the minimum pensions thresholds provided for in the abovementioned provisions of social security legislation vary according to the category to which the insured person belongs (covered by the ‘old’ or ‘new’ regime), as well as his or her family status and age, and considering further that those minimum thresholds do not appear to correspond to a legislatively determined guaranteed minimum income, but rather constitute a method of calculating pensions based on the principle of social solidarity between insured persons, the referring court considers that any determination of the question, which is directly linked to the interpretation of Article 58 of Regulation No 883/2004, is subject to doubt.
- 27 Furthermore, in the event of an affirmative answer to the question of whether the minimum pension thresholds with the abovementioned characteristics are to be regarded as a minimum benefit within the meaning of Article 58 of Regulation No 883/2004, the Council of State takes the view, referring to the Court’s settled case-law on freedom of movement and equal treatment of migrant workers, that Article 34 of Law No 3996/2011, which provides, specifically for the purposes of the application of Article 58 of Regulation No 883/2004, for a benefit below those

thresholds (by more than EUR 125 per month), thereby placing migrant workers in a less favourable position than those who have worked only in Greece, is contrary to Article 4 of that regulation and to Article 45 TFEU.