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Judgment of the Court in Case C-27/23 | [Hocinx]ⁱ

Equal treatment: frontier workers must enjoy the same social advantages as resident workers

A Belgian national works in Luxembourg and lives in Belgium. As a frontier worker, he depends on the Luxembourg system for family allowances, which he received for several years for a child placed in his household by a court order. In 2017, the Luxembourg Caisse pour l'avenir des enfants (CAE) (Children's Future Fund) nevertheless withdrew that family allowance. According to the CAE, family allowances are paid only to children who have a direct parent-child relationship with the frontier worker (legitimate, natural or adopted children). By contrast, children who live in Luxembourg and are placed in care under a court order are entitled to receive a family allowance, which is paid to the natural or legal person who has custody of them.

The Luxembourg Court of Cassation queries whether, by applying different conditions for award of the allowance, depending on whether the worker is resident or not, the rules of the Luxembourg Social Security Code constitute indirect discrimination.

In its judgment, the Court of Justice notes that frontier workers contribute to the financing of the social policies of the host Member State, in view of the tax and social security contributions which they pay in that State by virtue of their employment there. Accordingly, they must be able to enjoy family benefits and social and tax advantages under the same conditions as national workers.

The Court considers that legislation such as that at issue gives rise to a **difference in treatment** and is **contrary to EU law**.

Legislation of a Member State under which, unlike resident workers, non-resident workers are not entitled to receive a social advantage in respect of children who are placed in their household, of whom they have custody, who are officially resident with them and who actually live with them on a continuous basis, constitutes **indirect discrimination on the ground of nationality**. The fact that the placement decision is issued by a court of a Member State other than the host Member State of the worker concerned cannot have any bearing on that conclusion.

Likewise, the question whether the **frontier** worker provides for the upkeep of the child placed in his or her household cannot have any relevance if the same condition is not also applied to a **resident** worker with whom a child has been placed.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the

ⁱ The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on "[Europe by Satellite](#)" ☎ (+32) 2 2964106.

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