

Anonymised version

Translation

C-299/24 – 1

Case C-299/24 [Hicindt]ⁱ

Request for a preliminary ruling

Date lodged:

26 April 2024

Referring court:

Cour de cassation (Luxembourg)

Referring court:

25 April 2024

Appellants:

OP

TD

Respondent:

Caisse pour l'avenir des enfants

Facts specific to the present case (C-299/24):

The appellants, the mother and stepfather of a child for whom the application for a family allowance was rejected pursuant to Articles 269 and 270 of the Code de la sécurité sociale luxembourgeois (Luxembourg Social Security Code), as amended by the Law of 23 July 2016, live together in Belgium.

The grounds of appeal based on EU law are identical in Cases C-297/24 to C-306/24.

The questions for a preliminary ruling are identical in Cases C-296/24 to C-307/24.

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

The grounds of the order for reference (entitled ‘Response of the Court’) are identical in Cases C-296/24 to C-307/24 except for the passage concerning the judgment under appeal which, here, in Case C-299/24, reads as follows (pages 6 and 7 of the order for reference):

‘Applying that criterion, the appeal judges, in order to justify the decision to withdraw the family allowance,

- stated implicitly, but necessarily, that evidence of the existence of a marriage between the frontier worker and the children’s mother and of the existence of a joint household shared by the frontier worker, his spouse and the child, that evidence, taken in isolation or together, did not establish that the condition was fulfilled,
- held that the two biological parents had the means to contribute to the child’s maintenance, when the mother was pursuing a professional activity, that the biological father had been ordered to pay maintenance for his son and that it was not apparent from the evidence of the case that the biological father was failing to pay that maintenance, in order to conclude that *‘the biological parents assume the whole cost of the child’s maintenance’*,
- stated that *‘that finding is not called into question by the payments made by OP relating to the repayment of the mortgage loan for the family home, the payment of an additional insurance or purchases at Cora, since those payments were not made from OP’s personal account, but from the joint account which he holds with his wife without there being any evidence that the account is funded solely by him’*,
- stated that *‘evidence that the stepfather contributes to the costs of [the child’s] maintenance has not been provided to the required legal standard’*.