

Anonymised version

Translation

C-306/24 – 1

Case C-306/24 [Gonre]ⁱ

Request for a preliminary ruling

Date lodged:

26 April 2024

Referring court:

Cour de cassation (Luxembourg)

Date of the decision to refer:

25 April 2024

Appellants:

KN

PE

Respondent:

Caisse pour l'avenir des enfants

Facts specific to the present case (C-306/24):

The appellants, the mother and stepfather of the two children for whom entitlement to the family allowance was withdrawn pursuant to Articles 269 and 270 of the Code de la sécurité sociale luxembourgeois (Luxembourg Social Security Code), as amended by the Law of 23 July 2016,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 France.

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-306/24, reads as follows (page 8 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 did not establish that the condition was fulfilled,
- found that the biological parents had agreed alternate residence for the children and that neither of the parents paid maintenance to the other parent as a contribution to the education and maintenance of the children,
- held that both biological parents had the means to contribute to the maintenance of the two children, when they were both pursuing a professional activity, in order to conclude that ‘*the biological parents assume the whole cost of their children’s maintenance*’,
- stated that that finding was *not called into question by the items paid by KN*, in the absence of evidence that PE’s own income was insufficient to support her children or that she had asked the biological father for maintenance support to overcome that lack of sufficient income,
- held that ‘*the mere fact that KN may establish that he has paid for some household expenditure cannot suffice as evidence that he contributes to the maintenance of his stepdaughters, since the items paid by [the appellant on a point of law] do not cover the whole of the household expenses and it is not established that PE does not contribute her share of those expenses*’.