

Anonymised version

Translation

C-301/24 – 1

Case C-301/24 [Pailvier]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:

AH

CJ

Respondent:

Caisse pour l'avenir des enfants

Facts specific to the present case (C-301/24):

The appellants, the mother and stepfather of two children for whom entitlement to the 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 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 to those 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-301/24, reads as follows (pages 7 and 8 of the order for reference):

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

- stated implicitly, but necessarily, that evidence of the existence of a registered partnership between the frontier worker and the children’s mother and of the existence of a joint household shared by the frontier worker, his partner and the children, that evidence, taken in isolation or together, did not establish that the condition was fulfilled,
- stated that the evidence concerning the award of a study grant to one of the children did not establish that the condition was fulfilled, when that grant was paid on the basis of criteria other than that of supporting the child,
- held that the two biological parents contributed to the children’s maintenance, when the mother was pursuing a professional activity even though she had received daily allowances for an extended period from her health insurance and when the father was paying index-linked maintenance for the children and had extended accommodation and visiting rights,
- stated that the evidence concerning payments made by the appellants in the appeal on a point of law in the interests of the reconstituted family (relating to the visit of an animal park, a stay in an amusement park, the repayment of the mortgage loan and car hire costs), constituting in part leisure expenditure and in part normal household expenditure, did not demonstrate that AH was having to support the children,
- stated that the biological father’s mere statement concerning the financial aid provided by AH was irrelevant, when it was for the social courts to determine, on the basis of the facts submitted to them, which of the biological parents or stepfather supported the children’.