

Anonymised version

Translation

C-304/24 – 1

Case C-304/24 [Barloup]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

Appellant:

LH

Respondent:

Caisse pour l'avenir des enfants

Facts specific to the present case (C-304/24):

The applicant, stepfather of the child for whom entitlement to the family allowance was withdrawn pursuant to Articles 269 and 270 of the Code de la sécurité sociale luxembourgeois (Luxembourg Social Security Code), as amended by the Law of 23 July 2016, lives 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-304/24, 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 cross-border worker and the child’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 were pursuing a professional activity providing them with an income and that the mother received index-linked monthly maintenance of EUR 150 for the child, regarding which it must be considered ‘*that the biological father, at one time or another, [has] honoured his financial commitments to the satisfaction of the parties concerned*’, that the father had normal visiting and accommodation rights and that the reconstituted family lived in the house which had been allocated to the spouse,
- held that the fact that the spouses’ joint account was funded by both spouses and that the salary of LH was higher than that of his spouse, did not mean that he had to support his stepdaughter, since the biological father was paying maintenance,
- stated that the other items paid ‘*constitute either normal household expenditure which the couple must make or expenditure where there is no evidence that LH has assumed responsibility for the support of [the child], including in particular taking out an extended third-party insurance policy for the car*’,
- inferred from their analysis that ‘*the finding that the biological parents provided for [the child’s] maintenance costs is not called into question by the items paid, from which it must be concluded that evidence that LH supports his stepdaughter ... has not been shown*’.