

Anonymised version

Translation

C-305/24 – 1

Case C-305/24 [Choinquand] 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:

TB

MV

Respondent:

Caisse pour l'avenir des enfants

Facts specific to the present case (C-305/24):

The appellants, the mother and stepfather of the child for whom entitlement to the family allowance was withdrawn pursuant to Articles 269 and 270 of the Code de la sécurité sociale luxembourgeois (Luxembourg Social Security Code), as amended by the Law of 23 July 2016, 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-305/24, reads as follows (page 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 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 had the means to contribute to the child’s maintenance, since, at the time of the withdrawal decision, both of them were pursuing a professional activity and contributing to the child’s maintenance, with the father paying maintenance of EUR 280, in order to conclude that ‘the biological parents assume the whole cost of that child’s maintenance’,
- stated that ‘the mere fact that TB is the owner of the family home and that he repays the mortgage loan in order to finance his own property does not establish to the required legal standard, in the absence of other evidence, that he supported the child’ and that ‘the joint bank account statements of the spouses TB-MV for the end of 2022 and the beginning of 2023 giving details of the payment of household expenses and the tax notice for 2021 are not conclusive, since they reflect the current situation which is different from that at the time of withdrawal of the benefit at issue, as MV currently no longer pursues a professional activity’.