

**Request for a preliminary ruling from the Conseil supérieur de la Sécurité sociale (Luxembourg)
lodged on 19 December 2018 — Caisse pour l'avenir des enfants v FV, GW**

(Case C-802/18)

(2019/C 82/15)

Language of the case: French

Referring court

Conseil supérieur de la Sécurité sociale

Parties to the main proceedings

Appellant: Caisse pour l'avenir des enfants

Respondents: FV, GW

Questions referred

1. Must Luxembourg family allowances awarded pursuant to Articles 269 and 270 of the Code de la sécurité sociale (Social Security Code) be treated as a social advantage within the meaning of Article 45 TFEU and Article 7(2) of Regulation 492/2011 on freedom of movement for workers within the Union? ⁽¹⁾
2. If they are so treated, the definition of member of the family applicable under Article 1(i) of Regulation 883/2004 ⁽²⁾ is at odds with the broader definition of family member in Article 2(2) of Directive 2004/38/EC of the European Parliament and of the Council ⁽³⁾ when the latter excludes, contrary to what is established by the Coordination Regulation, all autonomy of the Member State in defining a member of the family, and excludes any, subsidiary, concept of a person who is mainly dependent. Must the definition of member of the family under Article 1(i) of Regulation 883/2004 prevail given its specificity in the context of the coordination of social security systems and, above all, does the Member State retain competence to define members of the family who are entitled to family allowances?
3. If Article 2(2) of Directive 2004/38/EC of the European Parliament and of the Council is applicable to family benefits and more precisely to Luxembourg family allowances, can the exclusion of the child of a spouse from the definition of a member of the family be considered indirect discrimination that is justified in view of the domestic objective of the Member State of safeguarding the personal right of the child and the need to protect the authorities of the Member State of employment when extension of the personal field of application amounts to an unreasonable burden for the Luxembourg family benefits system, which, in particular, exports almost 48 % of its family benefits?

⁽¹⁾ Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (OJ 2011 L 141, p. 1).

⁽²⁾ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004 L 166, p. 1).

⁽³⁾ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, p. 77).

**Request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas (Lithuania) lodged on
20 December 2018 — AAS BALTA v UAB GRIFS AG**

(Case C-803/18)

(2019/C 82/16)

Language of the case: Lithuanian

Referring court

Lietuvos Aukščiausiasis Teismas