



C/2024/5066

26.8.2024

**Request for a preliminary ruling from the Cour de cassation du Grand-Duché de Luxembourg
(Luxembourg) lodged on 26 April 2024 – TB, MV v Caisse pour l'avenir des enfants**

(Case C-305/24, Choinquand) ⁽¹⁾

(C/2024/5066)

Language of the case: French

Referring court

Cour de cassation du Grand-Duché de Luxembourg

Parties to the main proceedings

Applicants: TB, MV

Defendant: Caisse pour l'avenir des enfants

Questions referred

1. (a) Is the condition of 'supporting' a child, from which is derived the status of family member within the meaning of the provisions of EU law, as applied by the case-law of the Court of Justice in the context of the free movement of workers and of the receipt by a frontier worker of a social advantage linked to the pursuit, by that worker, of an activity as an employed person in a Member State, for the child of his or her spouse or registered partner, with whom the worker has no child-parent relationship, read alone or in conjunction with the principle that the provisions intended to ensure the free movement of workers must be construed broadly, to be interpreted as being fulfilled, and therefore as conferring entitlement to the receipt of the social advantage,
 - merely by reason of the marriage or registered partnership between the frontier and one of the child's parents
 - merely by reason of a joint home or household shared by the frontier worker and the child
 - merely by reason of the frontier worker's assumption, in general, of expenditure of whatever kind for the benefit of the child, even when
 - it covers needs other than essential or maintenance needs
 - it is made to a third party and benefits the child only indirectly
 - it is not made in the exclusive or specific interest of the child, but benefits the whole household
 - it is only occasional
 - it is less than that of the parents
 - it is merely insignificant in the light of the child's needs
 - merely by reason of the fact that the expenditure is made from a joint account held by the frontier worker and his or her spouse or registered partner, who is a parent of the child, without regard to the origin of the funds present in the account
 - merely by reason of the fact that the child is under 21 years of age?
- (b) If the answer to Question 1 is in the negative, is the condition of 'support' to be interpreted as being fulfilled, and therefore as conferring entitlement to the receipt of the social advantage, where two or more of those circumstances are present?

⁽¹⁾ The name of the present case is a fictitious name. It does not correspond to the name of any party to the proceedings.

2. Is the condition of ‘supporting’ a child, from which is derived the status of family member within the meaning of the provisions of EU law, as applied by the case-law of the Court of Justice in the context of the free movement of workers and of the receipt by a frontier worker of a social advantage linked to the pursuit, by that worker, of an activity as an employed person in a Member State, for the child of his or her spouse or registered partner, with whom the worker has no child-parent relationship, read alone or in conjunction with the principle that the provisions intended to ensure the free movement of workers must be construed broadly, to be interpreted as not being fulfilled, and therefore as excluding the right to receive the social advantage,
- merely by reason of the existence of a maintenance obligation imposed on the child’s parents, irrespective
 - of whether the amount of the maintenance claim is fixed by judicial or conventional means
 - of the amount at which that maintenance claim was fixed
 - of whether the debtor actually pays that maintenance debt
 - of whether the frontier worker’s contribution remedies the failure to pay of one of the child’s parents
 - merely by reason of the fact that the child lives periodically, in the context of exercising visiting and accommodation rights or alternate residence or another arrangement, with the other parent?
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