

Judgment of the Court (Sixth Chamber) of 2 April 2020 (request for a preliminary ruling from the Conseil supérieur de la Sécurité sociale — Luxembourg) — Caisse pour l'avenir des enfants v FV, GW

(Case C-802/18) ⁽¹⁾

(Reference for a preliminary ruling — Article 45 TFEU — Social security for migrant workers — Regulation (EC) No 883/2004 — Article 1(i) — Freedom of movement for workers — Equal treatment — Social advantages — Directive 2004/38/EC — Article 2(2) — Regulation (EU) No 492/2011 — Article 7(2) — Family allowance — Concept of ‘family members’ — Exclusion of children of spouses of non-resident workers — Difference in treatment vis-à-vis children of spouses of resident workers — Justification)

(2020/C 222/15)

Language of the case: French

Referring court

Conseil supérieur de la Sécurité sociale

Parties to the main proceedings

Applicant: Caisse pour l'avenir des enfants

Defendants: FV, GW

Operative part

- 1) Article 45 TFEU and Article 7(2) of 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 must be interpreted as meaning that a family allowance linked to the pursuit, by a frontier worker, of an activity as an employed person in a Member State constitutes a social advantage within the meaning of those provisions.
- 2) Articles 1(i) and 67 of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, read in conjunction with Article 7(2) of Regulation No 492/2011 and Article 2(2) of 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 must be interpreted as precluding provisions of a Member State under which frontier workers may receive a family allowance linked to the exercise by them of an activity as an employed person in that Member State only in respect of their own children, excluding those of their spouse with whom they have no parent-child relationship but for whose maintenance they provide, whereas all children residing in that Member State are entitled to receive that allowance.

⁽¹⁾ OJ C 82, 4.3.2019