

EN

E-002137/2026

Answer given by Executive Vice-President Mînzatu
on behalf of the European Commission
(6.7.2026)

1. In its judgment of 16 June 2022¹, the Court of Justice of the European Union (CJEU) stated that national legislation establishing a mechanism for adjusting the amount of family benefits granted to EU mobile workers, who or whose children are residing in another Member State, to the cost of living in the latter State, is not compatible with Article 45 of the Treaty on the Functioning of the EU (TFEU), Article 7(2) of Regulation (EU) No 492/2011 and Articles 4 and 67 of Regulation (EC) No 883/2004. The CJEU confirmed this case-law in its judgment of 16 April 2026². Consequently, the Commission is of the opinion that Member States do not maintain any leeway to differentiate the amount of family benefits paid depending on the cost of living in the State of residence of EU mobile workers and/or their children.

2. In this case-law, the CJEU relied on the principles of equal treatment and of exportability of family benefits and confirmed that mobile workers, who contribute to the financing of the social policies of the host Member State through the tax and social security benefits they pay in that State by virtue of their employment, must be able to benefit from them under the same conditions as national workers³. Hence, the Commission does not consider it required to investigate the fiscal consequences of exportability of family-related benefits for individual Member States.

3. The provisional agreement to amend EU social security coordination Regulations⁴, reached by the co-legislators on 22 April 2026, includes amendments to the coordination rules on family benefits. However, these changes do not provide for the possibility to adjust the amount of family benefits to the cost of living in the Member State of residence, which the CJEU considered incompatible with Article 45 TFEU⁵ and the secondary legislation, as referred-to above.

¹ Case C-328/20, Commission v Austria, EU :C :2022 :468 - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62020CJ0328>.

² Case C-642/24, Commission v Germany, EU:C:2026:303 - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62024CJ0642>.

³ Case C-642/24, Commission v Germany, EU:C:2026:303, para. 43.

⁴ Regulation(EC) No 883/2004 <https://eur-lex.europa.eu/eli/reg/2004/883/oj/eng> and its implementing Regulation (EC) No 987/2009 - <https://eur-lex.europa.eu/eli/reg/2009/987/oj/eng>.

⁵ Case C-328/20, Commission v Austria, EU :C :2022 :468, para 57.