



Effects of the new Law on the Financial Support for Families with Children in Serbia

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LJILJANA PEJIN STOKIĆ AND JURIJ BAJEC – EUROPEAN SOCIAL POLICY NETWORK

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On 14 December 2017, the Serbian Parliament adopted the amendments to the Law on Financial Support for Families with Children. The purpose of the amendments is to address the shortcomings in implementation of the 2009 Law in the area of maternity leave pay and leave of absence payments for the special care of a child. The potential impact of the new provisions might be detrimental to the well-being of mothers and children.

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Description

Under the present Labour Law, maternity leave can last up to one year (52 weeks). The present Law on Financial Support for Families with Children (enforced in 2009) regulates the following financial supports: child benefits, parental payments, maternity leave pay and leave of absence payments for the special care of a child up to 5 years of age. All outlays are financed from the national budget. Under the 2009 Law, the maternity leave pay for employed and self-employed women is based on the earnings in the last 12 months prior to the commencement of the maternity leave. The benefit is equal to the sum of the past earnings divided by 12 and is constant for the entire period. When employment duration is less than 12 months, for the months spent outside employment 50% of the average wage is imputed as the calculated earnings. The compensation level varies according to the employment's duration in the following way: 100% compensation for six months or more of employment, 60% for three to six months, and 30% for less than three months. A guaranteed minimum pay, at the level of the official minimum wage, is applied when employment lasts for six months or more. The imposed ceiling is equal to five times the national average wage.

The new Law will be enforced from 1 July 2018, and the key amendments relate to maternity leave pay. For employed and self-employed women, the calculation of the benefit will be based on the earnings in the last 18 months; the pay will be equal to the sum of the past earnings divided by 18. If an employee has been employed for less than 18 months there will be no assignment of 50% of the average wage for the months outside employment, as was the case previously. The guaranteed minimum will be secured for employment duration of six months or more, while the ceiling will be lowered to three times the national average wage. The maternity leave right will be extended to women engaged in non-statutory work with the same formula for maternity leave pay; however, these women will not be entitled to the guaranteed minimum.

The Ministry of Labour, Employment, Veterans and Social Affairs proposed the above changes on the grounds that the previous provisions allowed for the potential manipulation of the maternity benefits. In the justification part of the proposal, the Ministry stated that since the implementation of the 2009 Law started a negative practice had been observed. The practice relates to the unjustified significant increase of earnings of employed women once the

pregnancy has been confirmed. It was also observed that such increased earnings were returned to the former level after the maternity leave ended. There were also cases where a pregnant woman would enter employment within the six-month period prior to childbirth, in order to secure maternity leave pay.

Another manipulation observed concerns the right of an employed parent to take a leave of absence, immediately upon the conclusion of maternity leave, for a special care of a child diagnosed with a high degree of psycho-physical disabilities (up to 5 years of age). For this leave of absence, in the 2009 Law the parent is entitled to the same benefits as for the maternity leave. The Ministry stated that in a high number of the reviewed cases the health status of a child did not meet the required medical conditions. The data provided by the Ministry show that between 2010 and 2015 the outlays for these benefits increased by 48%. In the new Law, the medical arbitration of this right will be transferred from the municipal "Commission for examination of children with development problems" to the Commission that works within the Pension and Invalidity Fund.

Outlook & commentary

Serbia has a rather generous maternity leave scheme of 52 weeks, which is well above the EU average of 23 weeks (2015). Such a scheme contributes to high budget expenditures.

The amendments introduced by the new Law were justified by the law makers' intention to prevent the observed manipulation of

maternity leave rights. The new formula secures benefits equal to two thirds of the previous earnings, as recommended by the International Labour Office Maternity Protection Convention 183 (ratified by Serbia in 2010), only for women who were employed during at least 12 months (i.e. two thirds of 18 months). The women who will be most affected by the new Law are those with less than 6 months of employment history, as they will no longer be entitled to the guaranteed minimum. If the provisions were to be applied today, those women who received an average wage, or less, in the past five months would receive a benefit of RSD 13,000 (€110), which is lower than the 2016 national at-risk-of-poverty threshold of RSD 15,416 (€130.6) for a single-person household (authors' computation based on EU-SILC data); some of them would be also eligible for the financial social assistance - for example, the eligibility threshold for a single mother with one child is RSD 12,744 (€108). This situation will most probably arise once the new Law becomes enforceable; this might have a negative effect on mothers' and children's standard of living.

The purpose of this benefit is the protection of the well-being of mothers and children. By focusing on prevention of potential misuses the new provisions will not accomplish the main goal of the new Law. A guaranteed minimum for all is a more appropriate solution that corresponds to the main objective of this benefit. New comprehensive and realistic provisions are essential to ensure just and sustainable implementation of the new Law.

Further reading

Zakon o finansijskoj podršci porodici sa decom [Law on Financial support to families with children]:

<http://www.parlament.gov.rs/uplo/ad/archive/files/lat/pdf/zakoni/2017/3743-17%20lat.pdf>

ILO, C183 - Maternity Protection Convention, 2000 (No. 183):

(http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C183)

European Parliament, Directorate-General for Internal Policies (2015), Maternity, paternity and parental leave: Data related to duration and compensation rates in the European Union:

[http://www.europarl.europa.eu/RegData/etudes/STUD/2015/509999/IPOL_STU\(2015\)509999_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/509999/IPOL_STU(2015)509999_EN.pdf)

Authors

[Ljiljana Pejin Stokić](#) (Economics Institute) and [Jurij Bajec](#) (University of Belgrade)