

Luxembourg: the Government announces a rise in child benefits

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In meetings of the Parliamentary committee in charge of family policy held in January and February 2021, the Luxembourgish Government made two important announcements: an indexation mechanism for child benefits will be reintroduced and the law on child benefits will be amended to bring it into line with a 2020 judgment of the Court of Justice of the European Union. Possible solutions were discussed with Parliamentarians. However, no draft law has been presented so far.



Description

Luxembourg has an automatic wage and salary adjustment system which is activated as soon as cumulative inflation reaches 2.5% of the cost of living index (consumer prices). This automatic indexation mechanism used to be applied to all income (including pensions and other social transfers). In 2006, however, following a meeting between the government, the employers' representatives and the trade unions to agree on measures to consolidate public finances, all family benefits were excluded from this mechanism (GDL 2006). Family benefits include family allowances (these are: allowances for children's future [also called child benefits], additional special allowances, back-to-school allowances and childbirth allowances) and parental leave allowances (IGSS 2020). In an agreement concluded in 2014 with the trade unions (Gouvernement luxembourgeois 2014), the government undertook to propose to reintroduce the indexation of family benefits. Parental leave allowances were reformed in 2016 (GDL 2016b, Chd 2015) and from then on were again subject to automatic indexation. Child benefits were also reformed in 2016 (GDL 2016a, Chd 2015), but without an indexation mechanism. A draft law on this was tabled in parliament on 20 June 2016 (Chd 2016), but was then withdrawn on 8 October 2019.

The government programme of 2018 announced the introduction of a new indexation mechanism by the end of the current legislature, i.e. by October 2023.

In April 2019, an opposition politician submitted a draft bill to parliament (Chd 2019). The Minister for Family Affairs has announced in the meetings of the Parliamentary committee in charge of family policy held in January and February 2021, that such a mechanism will be implemented as of 1 January 2022 (RTL 2021).

Another problem arose with the above-mentioned reform of child benefits in 2016 - in particular following a judgment of the Court of Justice of the European Union rendered on 2 April 2020 (CJEU 2020). The reform excludes from entitlement to child benefits a child who belongs to a household with one or more cross-border workers if the child is not related to any of these workers. This is typically the case in a stepfamily with one cross-border worker whose partner has one or several children from a previous union; any of these children who is not related to the cross-border worker (i.e. those who are neither the cross-border worker's children nor his/her adopted children) will not be entitled to child benefits. As this provision did not apply to Luxembourg residents, the CJEU concluded that it was discriminatory. The Ministry for Family Affairs is therefore currently preparing an amendment to the law to bring it into line with the CJEU judgment.

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Outlook and commentary

Regarding indexation of child benefits, the trade unions and especially the Chamber of Employees (*Chambre des Salariés Luxembourg - CSL*) have repeatedly pushed for the reintroduction of an automatic indexation mechanism. Now, with the impact of the COVID-19 pandemic, in particular on families, calls for such a mechanism have grown louder. While the government is likely to provide a mechanism from 2022, and will provide for regular adjustments from then on, the unions are also demanding compensation for the adjustments that have not been made since 2014, when the agreement was made with the government. According to calculations by the CSL, this would require an adjustment of 7.7% (CSL 2020).

Concerning the CJEU's discrimination judgment, a comment made by the child benefit fund does not refer to any proposals (CAE 2021). At the above-mentioned meetings of the Parliamentary committee, a proposal was discussed whereby any working parent, resident or living across the border, may only be entitled to child benefits if he/she is affiliated to the Luxembourg social security system. This would lead to some residents also being excluded from child benefit, thereby eliminating discrimination. However, for residents a transition mechanism would be implemented. Whether this proposal would convince the Luxembourg trade unions on the one hand and the EU judges on the other cannot yet be assessed. To date, however, no draft law has been submitted to Parliament.

Further reading

CAE - Caisse pour l'avenir des enfants (2021), [UPDATE: Enfant du conjoint: arrêt de la Cour de Justice du 2 avril 2020](#) (retrieved 16 February 2021).

CJEU - Court of Justice of the European Union (2020), [Judgment C-802/18 of the Court of Justice of the European Union](#), Judgment rendered on 2 April 2020 (retrieved 16 February 2021).

Chd - Chambre des Députés (2015, 2016, 2019), Projets de loi N° 6832, 6935 and 7003, Proposition de loi N° 7437, Luxembourg.

CSL - Chambre des salariés Luxembourg (2020), [Proposition de loi concernant la revalorisation des prestations familiales](#) (retrieved 16 February 2021).

Gouvernement luxembourgeois (2018), Accord de coalition 2018-2023, Luxembourg.

Gouvernement luxembourgeois 2014, [Accord entre le Gouvernement et la CGFP, l'OGBL et le LCGB à l'issue des discussions du 28 novembre 2014](#) (retrieved 16 February 2020).

GDL - Grand-Duché de Luxembourg (2006), Loi du 27 juin 2006, Mémorial A114, Parliamentary document No. 5580.

GDL - Grand-Duché de Luxembourg (2016a), Loi du 23 juillet 2016, Mémorial A138, Parliamentary document No. 6832.

GDL - Grand-Duché de Luxembourg (2016b), Loi du 3 novembre 2016, Mémorial A224, Parliamentary document No. 6935.

IGSS - Inspection générale de la sécurité sociale (2020), [Droit de la sécurité sociale, Titre 7 : La compensation des charges familiales](#), Luxembourg (retrieved 16 February 2021).

RTL Radio Télé Luxembourg (2021), [Kannergeld gétt vun 2022 un nees un den Index gebonnen](#) [Child benefits will be linked to the index again from 2022 onwards] (retrieved at 16 February 2021).

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