

Serbia: New Law on Financial Support for Families with Children

ESPN Flash Report 2021/52

LJILJANA PEJIN STOKIĆ – EUROPEAN SOCIAL POLICY NETWORK

JULY 2021

The Law on Financial Support for Families with Children (2017) imposed a number of restrictions on maternity, paternity and parental rights to cash benefits. Civil society organisations have challenged the legitimacy of the restrictions, and in December 2020 the Constitutional Court ruled that they are unconstitutional. Following this ruling the Serbian government prepared a proposal for a new law, which was adopted by the parliament on 30 June 2021.

LEGAL NOTICE

This document has been prepared for the European Commission. However, it reflects the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

Description

The Serbian Labour Law defines three forms of paid leave of absence from work on the grounds of childbirth and care of the same child. Maternity leave starts 28 days before birth and ends three months after (the father is entitled to this leave if the mother is not present or is unable to take care of the baby). When Maternity leave ends, one of the parents is entitled to “Leave for the care of a child”, which finishes 365 days after the start of Maternity leave. After this period one of the parents is entitled to “Leave for special care of a child” if the child has a high degree of mental disorders or physical disabilities; the leave may last up to the child’s fifth birthday. The 2017 Law on Financial Support for Families with Children regulates the computation and administration of all the related cash benefits. All outlays are funded by the central budget. This Law imposed a number of restrictions on maternity, paternity and parental rights to cash benefits. For instance, it provides a guaranteed minimum Maternity leave benefit only to mothers who have been employed continuously for at least six months before childbirth (the benefit is equal to the national minimum wage).

Prior to the 2017 Law, only persons who were at work (on a permanent or fixed term contracts, or as self-employed) were entitled to paid benefits, defined as “Wage or income compensation”. The 2017 Law introduced a new category of maternal cash benefits referred to as “Other compensations on the grounds of

childbirth, child care and special child care”. Under the 2017 Law, all new mothers who have paid social insurance contributions in the last eighteen months prior to childbirth have the right to claim the benefit (the father is eligible if the mother is not present or is unable to care for the child). The entitled categories include all unemployed women who have been previously employed, self-employed or engaged in non-standard seasonal work and those currently engaged in non-standard work, including women farmers. The 2017 Law altered the calculation of the benefit, which became equal to the sum of previous earnings divided by 18, regardless of the number of months for which contributions were paid. This formula substantially reduces the amount of benefit received by persons employed or self-employed for less than 18 months before the birth of the child. Another amendment restricted the right to benefit for “Special care of a child” to children who are not in receipt of carers’ benefits (monthly allowances for care of a dependent person with disabilities).

In February 2019 the Association “Mums Rule” filed a petition to the Constitutional Court to appeal against some of the changes introduced by the 2017 Law. The appeal was against the following three premises: (a) restriction of the guaranteed minimum benefit for Maternity leave only to employed women with at least six months of continuous social insurance contributions; (b) the eligibility restrictions for the “Special care of a child” benefit; and (c) the different contribution history required for women farmers (24 months), compared to other

women in non-standard work arrangements (18 months). According to statements by Tatjana Macura, President of the Association and Member of Parliament, one third of women eligible for Maternity leave benefits received less than the guaranteed minimum benefit in 2018, while some of them received only around 300 RSD (€3) per month (the guaranteed 2018 minimum wage was around 25,000 RSD, i.e. €213). Later in 2019, several NGOs and the Commissioner for Protection of Equality also filed a similar petition with the Constitutional Court. In December 2020, the Court ruled that the disputed amendments were unconstitutional.

In the second half of 2020, the Ministry for Labour, Employment, Veterans and Social Policies started work on the new law; later on, the responsibility was transferred to the newly established Ministry for Family Care and Demographics. A public debate on a draft proposal was held from 8 March to 2 April 2021. On 3 June 2021 the government endorsed the proposal, and the law was adopted by the parliament on 30 June. The amendments follow the rulings of the Constitutional Court and three disputed elements have been amended. Specifically: (a) all employed women will now be entitled to the guaranteed minimum Maternity leave benefit; (b) all parents of children with disabilities will be entitled to cash benefits, regardless of whether they are recipients of carers' benefit; and (c) the contribution history for women farmers has been reduced from 24 to 18 months. The estimated costs of the new measures are 1.12 billion RSD (€9.56 million) per annum, a 1.8% increase in the total funds planned for social protection of families with children in 2021.



Outlook and commentary

The new (2021) Law restores the legitimacy of the 2017 Law. However, it does not resolve the issue of the very low benefits for mothers with a contribution history of less than 18 months. Such low cash benefits clearly do not provide sufficient financial means for mothers and babies, and the lawmaker should revise the law further in order to secure adequate financial assistance for the most vulnerable families.

In 2020, all family cash benefits only made up an estimated 1.2% of GDP. This amount is expected to increase by only 1.8% as a result of the new law. As Serbia is faced with a falling population and negative demographic trends, the government is advocating pro-natal policies; consequently, adequate statutory support should be secured for all parents.

Further reading

Association "Mums rule" [official website](#)

Constitutional Court, [Announcements IV3-216/2018, IV3-247/2018](#)

ESPN Flash Report 2018/3, Serbia, "[Effects of the new Law on the Financial Support for Families with Children in Serbia](#)"

ESPN Flash Report 2018/63, Serbia, "[Disputes concerning the impact of the latest Law on Financial Support for Families with Children in Serbia](#)"

RS Government, 2021, "[Law on Amendments and Additions to the Law on Financial Support to Families with Children](#)"

Author

[Ljiljana Pejin Stokić](#) (Economics Institute, Belgrade)

The Flash Reports are produced by the European Social Policy Network (ESPN) established in 2014 to provide the European Commission with independent information, analysis and expertise on social policies in 35 European countries. The topics covered are identified by ESPN experts in the light of significant developments in their countries, or in some cases suggested by the Commission or the Flash Reports' editorial team (Eric Marlier and Slavina Spasova). The ESPN is managed by LISER (Luxembourg Institute of Socio-Economic Research), APPLICA and the OSE (European Social Observatory). More information on the ESPN: <http://ec.europa.eu/social/main.jsp?catId=1135&langId=en>.

Quoting this report: Pejin Stokić, L. (2021). *Serbia: New Law on Financial Support for Families with Children*, ESPN Flash Report 2021/52, European Social Policy Network (ESPN), Brussels: European Commission.