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Luxembourg: Wage guarantee in case of insolvency

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Luxembourg

Phase:

Management

Type:

Wage guarantee in case of insolvency

Last modified: 21 June, 2021

Native name: Code du travail; Code civil

English name: Labour code; Civil code

Article

L.126-1 of the Labour code- modified by law 12 April 2019; Art. 2101 of the Civil code

Description

The Employment Fund (*Fonds pour l'Emploi*) guarantees the payment to the employees of any financial claims arising from their contract of employment should the employer become insolvent.

The entitlement is not subject to a minimum period of employment and this provision also covers apprentices and domestic servants as well as part-time and fixed-term contracts. The Employment Fund guarantees payment of any remuneration or other compensation and indemnities due to the employee arising from the final six months of their employment prior to the court's declaration of the employer's bankruptcy. This includes any payments due as a consequence of the termination of employment. The guarantee applies to the final six months of employment of the employees concerned, irrespective of the date on which court proceedings begin or whether the six-month reference period is situated immediately before the decision of the court. The maximum amount that can be claimed is six times the monthly adult minimum wage for an unskilled employee (in January 2021 equivalent to a total of €13,200).

According to the civil code (art.2101), payments to workers have to be paid before all other debts.

Comments

A draft bill is, as of July 2019, still under consideration at the parliament to modernise the legislation about bankruptcy (Projet de loi relative à la préservation des entreprises et portant modernisation du droit de la faillite). The initial draft has been revised in 2018 with a new rapporteur and government amendements. At the time of revising this instrument, the parliament was still waiting for the assessment by the state council. As of April 2021, the draft legislation has not yet been enforced.

Cost covered by

National government

Involved actors other than national government

Employer organisation

Trade union

Other



Involvement others

Fonds pour l'Emploi

Thresholds

No, applicable in all circumstances

Sources

-  [Labour code](#)
-  [Civil code](#)
-  [Annual Report 2018, Ministry of Labour, Employment and the Social and Solidarity Economy](#)
-  [Projet de loi relative à la préservation des entreprises et portant modernisation du droit de la faillite](#)
-  [ERM database on support instruments](#)
-  [Loi 12 Avril 2019](#)
-  [Luxembourg Times \(2020\) ,Minimum wage to rise by 2.8% from next year, 12 December.](#)

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