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Factsheet for case **LU-2020-12/475**

Family care leave

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Country	Luxembourg, applies nationwide
Time period	Temporary, started on 18 March 2020
Type	Legislation or other statutory regulation
Category	Measures to prevent social hardship – Protection of vulnerable groups (beyond employment support)
Case created	10 April 2020 (updated 28 April 2020)

Background Information

To limit the spread of the coronavirus, the government introduced a paid family support leave to assist private-sector employees and the self-employed who are obliged to stop working while an approved facility for persons with disabilities or the elderly is closed in order to care for a disabled adult or a dependent elderly person living in their household.

The legal backgrounds are: the declaration of a state of crisis by the "Loi du 24 mars 2020 portant prorogation de l'état de crise déclaré par le règlement grand-ducal du 18 mars 2020 portant introduction d'une série de mesures dans le cadre de la lutte contre le Covid-19. Mémorial A 178 du 24 mars 2020. Grand-Ducal regulation of 18 March 2020 introducing a series of measures to combat COVID-19 (Règlement grand-ducal du 18 mars 2020 portant introduction d'une série de mesures dans le cadre de la lutte contre le Covid-19. Mémorial A 178 du 24 mars 2020)

Content of measure

The measure applies to employees in the private sector or self-employed persons if they have no other options for caring for a disabled or elderly adult. The following measures should be fulfilled:

- the approved structure, which in normal circumstances takes care of the adult person with a disability or the elderly person, has notified the Minister of the cessation of its activities or part of its activities in the context of the state of crisis ;
- the private-sector employee or the self-employed person takes care in the home of the person concerned with whom he resides ;

- the applicant does not fall under the partial unemployment scheme during the period for which the leave is requested and no other means of care is available. If several people live in the same home as the disabled or elderly person, they may alternate family support leave. The household member who is not engaged in a strategically important activity in the current situation (e.g. health professional), should take the family support leave. The leave may be divided among the members of a household but may not be taken into charge by the sickness assurance.

Use of measure

No information are available.

Actors, target groups and funding

Actors	Target groups	Funding
National government	Employees Self-employed Solo-self-employed	National funds

Social partners

Role of social partners	No involvement
Form of involvement	No involvement

In general, the trade union OGBL welcomes the measure. However, the OGBL emphasizes also that the decision of the government to transfer the financial burden of the pecuniary indemnity for the first 77 days of the Employeur's Mutuality ("Mutualité des employeurs") to the sickness and maternity insurance, retroactively to April 1 and potentially until June 30, 2020. Nevertheless, in the same time, it denounces the government's decision to provide, at the level of the sectors defined as "essential", that not only can the employer refuse requests for leave (as has been the case since March 18), but that he can now even cancel any leave already granted to the employee. This is contrary to all relevant case law as well as to the principle of mutual agreements between employer and employees

Sectors and occupations

This case is not sector-specific.

This case is not occupation-specific.

Sources

- 03 April 2020: Covid-19: Introduction d'un congé pour soutien familia (gouvernement.lu)

- 06 April 2020: The good, the bad and the ugly – L'OGBL prend position par rapport aux décisions du Conseil de gouvernement du 3 avril 202 (www.ogbl.lu)