

11 THE INSTITUTIONAL CONTEXT

11.1 CHANGES IN THE REGULATORY ENVIRONMENT AFFECTING FEMALE EMPLOYMENT

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This paper summarises the main changes to the regulatory environment affecting women's employment which have taken place in the past ten years, including child benefits, changes in the tax and pension systems as well as the various labour market policy instruments.

Child benefits

As a result of the cost cutting measures of the government in 2009, the upper age limit of granting a family allowance for children studying at school was reduced from age 23 to age 20 and its amount was frozen. As none of the ensuing governments have raised the amount since then, the amount of the family allowance has been unchanged since 2008 (see *Table 11.1.1*) (see Act LXXXIV of 1998).

Table 11.1.1: The monthly amount of the family allowance per child, since 2008 (HUF)

	Two parents	Single parent
One-child family	12,200	13,700
Two-child family	13,300	14,800
Family with three or more children	16,000	17,000
Family with a permanently ill or disabled child	23,300	25,900

Source: Act LXXXIV of 1998.

In 2009, the duration of the universal extended parental leave (*gyes*) and the parental leave (*gyed*) previously paid for the first three years of a child equaling the minimum old-age pension was maximised at two years in the case of children born after 30 April 2010 (Act LXXIX of 2009). Additionally, in order to be eligible for the pregnancy and confinement benefit (*tyvás*) and the parental leave (*gyed*), women should have been insured for 365 days instead of an earlier 180 days. In December 2010 the new government extended the duration of parental leave (*gyed*) for three years again. The law was effective retrospectively, and in this way women who gave birth between April and December 2010 were also eligible for the benefit for three years. The new regulation granted the benefit for mothers after their return to employment only when they worked part-time for four hours a day (previously, after the child turned one year old, mothers were able to work full time and claim the extended parental leave [*gyes*]). By amending the family support law (Act LXVI

of 2010) the government introduced the category of extended parental leave for adoptive parents, which enabled all adoptive parents adopting a child younger than ten years to claim extended parental leave for six months. (Previously it was only possible when adopting children aged three or younger.)

In accordance with Act CCXXIV of 2013, the so-called '*gyed* extra', since 1 January 2014 after the first birthday of their child parents can pursue an economic activity without any limitation on the time worked, while continuing to receive *gyed* or *gyes*. (Pursuant to the earlier regulation, it was not possible to work at all while receiving *gyed* and work part-time while receiving *gyes*.) If a family has another child born on or after 1 January 2014 while still receiving one of the child benefits for their previous child/children, they can now receive both benefits. As mentioned, restrictions on work while receiving *gyes* or *gyed* after the first birthday of the child have been abolished. The same Act introduced the childcare fee (*gyed*) for students in higher education. This makes full-time higher education students and those within a year after graduation eligible for *gyed* until the first birthday of their child.¹

The name of the pregnancy and confinement benefit (*tygás*) was changed to baby-care allowance (*csed*) on 1 January 2015, retaining the same eligibility conditions (*NHIF*, 2015). Since 1 January 2016, the law has enabled full time work while receiving childcare benefits after the child reached 6 months of age (*NHIF*, 2016). On 1 January 2018 the duration of *gyed* for students was extended from one year to two years (*HST*, undated).

Mothers paying back a student loan, with children born after 1 January 2018, are able to request suspension of the repayment after the third month of pregnancy. Half of the debt of women with a student loan giving birth to their second child after 1 January 2018 was waived as a form of non-refundable interest subsidy. Upon giving birth to their third child (or further children), all of their debt is written off.²

Tax regime

The government significantly increased the extent of family tax credits in 2010. Act CXVII of 1995 on the personal income tax was amended by Act CXXIII of 2010, enacting the new tax regime on 1 January 2011. As opposed to earlier legislation, this includes tax credits for families with one or two children although to a smaller extent than that for families with three or more children. The family tax credit can only be claimed once for each child and may be shared among parents or partners living in the same household (*Kormány.hu*, 2011). A government decision in 2014 gradually increased the tax credit of families with two children from 10,000 to 20,000 HUF between 2016 and 2019 (the amounts are included in *Table 11.1.2*) (*NTCA*, 2017).

After amending Act LXXXIV of 1998, children placed in temporary care at the request of, or approval by their parents must be regarded as children

¹ Act CCXXIV of 2013.

² Preferential treatment related to Student Loans.

raised in the household as of 1 January 2018, and thus may be taken into account for the family tax credit (*NTCA*, 2017).

Table 11.1.2: The monthly amount of family tax credit per child, 2011–2018 (HUF)

	One-child family	Two-child family	Families with three or more children
2011–2015	10,000	10,000	33,000
2016	10,000	12,500	33,000
2017	10,000	15,000	33,000
2018	10,000	17,500	33,000

Source: National Tax and Customs Administration (*NTCA*, 2017).

Pension system

As of 1 January 2011, women have been entitled to preferential retirement regardless of the retirement age, which is regulated by Act CLXX of 2010. Irrespective of their age, they are entitled to full old-age pension if they have at least forty year of insurance and they are not insured from the day starting their retirement. In terms of pension, insured periods include periods of economic activity and the periods of receiving childcare benefits.

Labour market policy instruments

Development of nurseries³

Pursuant to the amendment of Act XXXI of 1997 on child protection by Act IX of 2002, it is obligatory to provide nursery care in all settlements with a population of at least ten thousand persons from 1 January 2005 onwards.

The most recent amendment of the Act in 2015 (Act CCXXIII of 2015) provides that from 1 January 2017 it is compulsory to organise nursery care not only in settlements with a population of at least ten thousand but also where there is a demand for it by at least five children or the number of residents of the settlement below three years of age exceeds 40 persons. The deadline for fulfilling the obligation was 31 December 2018.

The same amendment introduced three forms of provision in addition to the (classic) nursery: the mini nursery, the workplace nursery and the family nursery. At the same time, it abolished the family day care centre as of 1 January 2017. Family day care centres used to provide care for children aged 20 weeks to 14 years old but from 2017 onwards they have been only able to provide care for children younger than three years and operate under the name family nursery. Meeting these requirements, they continue to be eligible for per capita state funding. Care for children older than three years is provided by for-profit child day care centres, which are not granted state funding.

As of 1 January 2016, Act CCXXIII of 2015 extended the teacher career scheme to include nursery staff with a higher education qualification. This entitles nursery staff with a higher education degree, employed in a pedagogic

³ The author hereby wishes to thank *Ágota Scharle* for her assistance with the section ‘Development of nurseries’.

position to a wage supplement. In line with Government decree 416/2015. (XII. 23.), the national budget allocates funding for nursery operators for the wages of early childhood education staff with a higher education degree.

The state contributes to the operation of nurseries in the form of per capita funding specified in the budget act, amounting to 494,100 HUF/person annually, which did not change between 2010 and 2017 (CSO, 2014). Since the per capita funding does not cover the operational and maintenance costs of the institutions and the provision for children, a 2011 amendment of the child protection law [government decree 328/2011. (XII. 29.)] allows municipality-operated nurseries to collect, in addition to the costs of meals, so-called usage fees for the care from 1 January 2012 onwards. This must not exceed 25 per cent of the net income per family member of the families subject to a fee (CSO, 2013). On 1 January 2018 the per capita funding of nurseries and mini nurseries was replaced by task-based funding (Act C of 2017). The national budget in this way provides funding based on the average wage for the municipalities operating nurseries to contribute to wages and social security contributions. Additional operational costs are born by municipalities based on their tax collection capacities.

Protection from dismissal

Act XXII of 1992 on the Labour Code provided that employers cannot terminate employment by regular notice during pregnancy, in the six months following giving birth and during the unpaid leave received for childcare purposes.

Act I of 2012 on the Labour Code, effective from 1 July 2012, also states that employers cannot terminate employment by regular notice during pregnancy, on maternal leave, in the six months following giving birth and during the unpaid leave received for childcare purposes and during assisted reproductive treatment. However, employees can only base their claims on these grounds if they informed the employer prior to their communicating the dismissal. The Constitutional Court in 2015 ruled that the requirement 'prior to communicating the dismissal' is unconstitutional and annulled it.⁴ Therefore the law currently in effect states that the employee is entitled to base her claim on pregnancy if she has informed the employer and in fifteen days of receiving this information the employer is entitled to revoke the dismissal in writing.

Atypical forms of employment

The stipulation of the Act I of 2012 on the Labour Code supports the return of women with children to employment, whereby parents with a child should be employed part-time at their request until the child is three years old or until the youngest child turns five years old in the case of having three or more children. The employer in this case must amend the employment contract to part-

⁴ On protection of pregnant mothers from dismissal.

time employment equalling half of the overall full day employment but they must only accept an offer for a four-hour work day and may consider accepting a six-hour work day. Pursuant to the law, upon agreement of the employer and employee, part-time or flexible working hours may be applied at any time.

Preferential treatment for employing members of disadvantaged groups in the labour market

Based on Act CXXXIII of 2004, parents returning to employment within a year of the end of the childcare benefit or after their child turned one year old (while receiving *gyes*) were entitled to a Start Plus card between 2007 and 2013. The employer employing the holder of such a card was entitled to paying reduced social security contribution. Start Cards cannot be requested since 1 January 2013. The incentive system related to the employment of disadvantaged labour market groups was integrated in the job protection scheme provided by Act CLVI of 2011, which took effect on 1 January 2013. Under the job protection scheme, employers are able to pay reduced social security tax and vocational training contribution after employees with young children during or following entitlement to child benefits.

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- Act CXXIII of 2004 on the Promotion of Employing Entrant Youth, the Unemployed above the Age of 50, Persons Seeking Jobs Following Care-giving for Children or Family Members, and Scholarship Holders.
- Act LXXIX of 2009 on the Amendment of Act XXXI of 1997 on the Protection of Children and the Administration of Guardianship and on the Amendment of Certain Acts on Social Welfare.
- Act CLXX of 2010 on the Amendment of Certain Acts on Retirement and Other Related Acts.
- Act CXXIII of 2010 on the Amendment of Certain Acts Concerning Taxes and Mandatory Contributions, the Accounting Act, the Act on the Hungarian Chamber of Auditors and Other Acts on Taxation and Customs Ensuring Harmonisation with Community Law.
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