The Commission finalised its assessment of the German Baukindergeld scheme on the basis of additional information provided by the German authorities in their letters of 31 January 2020 and of a letter of 17 August 2021 following a meeting between the Commission services and the German authorities on 20 May 2021.

The Commission concluded that the Baukindergeld cannot be considered as family benefit covered by Article 3(j) of Regulation (EC) No 883/2004.

The Baukindergeld scheme could be qualified as a social advantage or housing benefit under Article 7 and 10 of Regulation (EU) No 492/2011. In that regard, the condition of the Baukindergeld scheme to limit financing to housing located in Germany and the requirement to move the main residence to Germany would have an indirect discriminatory effect for frontier workers.

Based on the information provided by Germany, such a condition serves to increase the very low rate of home ownership among young families in Germany compared with elsewhere in Europe. Whether this justification can be considered as an overriding reason of public interest that is capable of justifying such a national measure could have been open to judicial examination. However, the Commission decided not to pursue the case since the scheme was discontinued in March 2021, and it is not possible to pursue an infringement of Union law, which concerns a national measure that has ceased to be in force.