

Chapter 24

Migrants' Access to Social Protection in Romania



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24.1 Introduction

This chapter aims to provide a general overview of the main features of the social security system in Romania and the nexus with the main migration patterns. It illustrates how social benefits have been transposed in the national legislation to cover different groups of individuals living in, moving to or moving out of Romania. In doing so, the chapter pays particular attention to the eligibility conditions for these different groups in order to identify potential differences in terms of access to social benefits between resident nationals, non-resident nationals, and non-national residents. The chapter is divided in three parts. The first part discusses the main developments in the field of social policy and migration in Romania. It starts from the early 1990s' logic of adaptation to internal pressures aiming to prevent large-scale protests (Vanhuysse 2009; Pop 2013) and continues with the development of the national welfare system during the 2000s. We then examine the features of the legal framework regulating access to social benefits and services across five policy areas: unemployment, health care, pensions, family benefits and guaranteed minimum resources. Finally, we draw some analytical conclusions arguing that the post-crisis renewal of the legal framework induced a redirection of core principles towards a

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more liberal perspective. However, despite regular amendments, Romanian policy-makers still tend to focus more on ensuring the social protection of the general category of residents, regardless of their nationality.

24.2 Overview of the Welfare System and Main Migration Features in Romania

Over the last decade, Romania has become one of the fastest-growing economies in the world (Vasilescu 2018), while also being one of the European Union (EU) Member States with the lowest levels of Gross Domestic Product (GDP) per capita.¹ Despite constant improvement in terms of macroeconomic indicators and social policy reforms, there have been limited changes with regards to social inequality (i.e. maintained poverty risk especially for residents of rural areas, Roma, and disabled people – see Schraad-Tischler et al. 2018). Social security spending remained limited (Vintila and Lafleur in this volume) and in certain areas such as health care, Romania has the lowest expenditure per capita at the European level.² Furthermore, the country counts with a large rural population (46% of the total population in 2015³); and important rural-urban disparities in terms of development and poverty can still be observed. Rural areas have also experienced a high concentration of in-work poverty, particularly among those working in the subsistence agriculture (Vasilescu 2018). While the regions of Bucharest Ilfov, North-West, Centre and West are the most dynamic areas in terms of economy with a younger population, the Southern part of Romania is still characterised by lower levels of socio-economic development and increasingly ageing demographical structures.⁴ Employment growth remains extremely unbalanced, with significant regional disparities and low employment rates for young people, women, individuals with low educational levels, especially those originating from rural areas (Vasilescu 2018).

The demographic decline adds further complexity to this issue by challenging the coverage, efficiency and limits of the Romanian welfare system. Since the early 1990s, Romania was included in the group of countries with the steepest decline in population, together with Lithuania, Ukraine, Bulgaria, and Hungary (Schubert et al. 2016). Additionally, sizeable migration outflows openly challenged the sustainability of the Romanian welfare system, in particular with regard to the pension

¹Eurostat (2019). *Real GDP per capita* [SDG_08_10], <http://ec.europa.eu/eurostat/data/database>. Accessed 19 March 2020.

²OECD (2017). *Romania Country Health Profile 2017*. <https://doi.org/10.1787/9789264283534-en>. Accessed 19 March 2020.

³National Institute of Statistics (2017). *Repere economice și sociale regionale: Statistică teritorială*, http://www.insse.ro/cms/files/Publicatii_2017/82.Repere_economice_si_sociale_regionale_Statistica_teritoriala/Repere_economice_si_sociale_regionale_Statistica_teritoriala_2017.pdf. Accessed 19 March 2020.

⁴National Institute of Statistics (2017). See footnote 3.

system (Popescu et al. 2016). The increased stocks of emigrants mostly include active and qualified people, a major challenge for the domestic labour supply and a growing social problem (i.e. the negative by-effects on children left behind or the difficult socio-psychological and economic reintegration of returnees).

24.2.1 Main Characteristics of the National Social Security System

Communist Romania had a social protection system based on pensions, health care and sickness insurance provided on universal basis (Pop 2013). The system provided limited resources for non-state employees and did not acknowledge unemployment. Given the emphasis on family and female active occupational status, child allowances were also provided. This system was rapidly put under severe pressures by the negative economic consequences emerged during the transition period, among which the diffused risks of unemployment and marginalisation. Post-communist social policy reforms were implemented slowly and produced scattered regulations (Sotiropoulos and Pop 2007). During the early 1990s, adjustments were rather *ad hoc* sectoral responses aiming to consolidate democracy, while also preventing the protests of specific professional categories such as miners (Sotiropoulos and Pop 2007; Cerami and Stanescu 2009; Vanhuyse 2006, 2009). In this context, political parties rapidly imposed themselves as the main managers of social policy-making, with limited involvement from welfare-focused societal actors such as workers, trade unions or Non-Governmental Organizations (NGOs) (Sotiropoulos and Pop 2007; Pop 2013). This was further facilitated by the diffusion of governing via governmental ordinances, bypassing both Parliament and public debates. The result was that the post-communist social agenda was co-drafted by parties and a wide range of international actors (the World Bank, the International Monetary Fund, the EU or the International Labour Organization) (Sotiropoulos and Pop 2007; Popescu et al. 2016).

Given the drastic reduction of the productive capacity of the national economy and the limited financial resources available, Romanian policy-makers introduced embryonic social safety nets (i.e. unemployment insurance (1991) and social assistance (1995)), coupled with the expansion of early retirement incentives (Cerami and Stanescu 2009). This reform was meant to control the risk of poverty explosion due to the privatization process (Pop 2013). At the end of the 1990s, the imperative of structural adjustments to the market economy induced a complex welfare state restructuring that targeted, almost simultaneously, the health care system, family-related policies, pensions, unemployment, the fiscal decentralization of locally delivered social benefits and the guaranteed minimum income (Sotiropoulos and Pop 2007; Pop 2013). Many of these reforms were inspired by Western European welfare systems, but their results remained rather poor (Popescu et al. 2016). The infrastructure for their implementation at the central and local level in Romania

remained under-financed, with inadequate human and logistic resources. Not surprisingly, these reforms did not suffice to limit a pervasive poverty and social exclusion (Raț 2009). Strong political and social cleavages between rural and urban areas resulted in policy blockages at the local level and inconsistent legislation (Sotiropoulos and Pop 2007; Cerami and Stanescu 2009). Meanwhile, in response to increased emigration and demographic challenges, different policies were implemented with the explicit aim of preventing increased brain drain or countering demographic decline.⁵

After the uptrend of economic development, Romania registered a negative growth rate in 2010. The implementation of an austerity package brought important cuts in terms of social benefits and, more generally, a neoliberal turn in Romanian labour and health policies (Stoiciu 2012). In this context, the 2011 reform of the social security system was openly designed to diminish the welfare state and to encourage work by reducing welfare payments (Stoiciu 2012). The level of unemployment benefits has abruptly decreased since then (i.e. in August 2017, only 18.9% of all unemployed were registered with the public employment service as recipients of unemployment benefits⁶).

Currently, the Romanian welfare system is based on contributory benefits (old-age pensions, unemployment benefits, health insurance, maternity leave and allowance, parental benefits, among others) and non-contributory benefits (state allowance for children and families, emergency benefits and financial aid, disability allowance, guaranteed minimum income or the guaranteed social pension). According to the legislative reform implemented in January 2018,⁷ the social charges payable by employers become the liability of employees, as follows: 25% for social insurance contributions, 10% for health insurance contributions and 2.25% on work insurance. Romania has a flat-tax rate of 10% and its fiscal policy has been criticized for not being equally favourable for all social groups.⁸ Since 2007, the country has introduced the pillar model endorsed by the World Bank and experimented by other post-communist countries (Cerami and Vanhuysen 2009; Popescu et al. 2016).

Despite the fact that Romania follows the general Central and Eastern European trend in terms of GDP evolution, social indicators, and adjustment of the national context to the *acquis communautaire*, the risk of destabilizing factors is still very high, thus leading to a rather “hybrid” form of welfare state not entirely sustained by real economic progress (Schipor and Frecea 2018).

⁵This is the case for the generous flat-rate benefit for childcare or the grant for the first marriages (Popescu et al. 2016).

⁶OECD (2018). *Key policies to promote longer working lives: Country note 2007 to 2017 Romania*, https://www.oecd.org/countries/romania/Romania_Key%20policies_Final.pdf. Accessed 19 March 2020.

⁷Government Emergency Ordinance no. 79/2017 for amending and completing Law no. 227/2015 regarding the Fiscal Code. https://static.anaf.ro/static/10/Anaf/legislatie/OUG_79_2017.pdf. Accessed 19 March 2020.

⁸<http://business-review.eu/news/world-bank-chief-economist-said-that-romania-should-change-the-whole-social-protection-system-and-gave-up-the-flat-tax-188277>. Accessed 19 March 2020.

24.2.2 Migration History and Key Policy Developments

Population decline, population aging and emigration can briefly summarize the main demographic trends in Romania after 1990. According to the National Institute of Statistics,⁹ the demographic challenge that Romania is facing is the result of natural decline (i.e. fertility rates below the replacement level), migration, and the difficult socio-economic conditions of post-communism. After 2002, when EU Member States agreed to lift visa requirements for Romanians, the intensity of migration outflows rapidly increased, while the destination countries diversified (Vintila and Soare 2018). Rapidly, Romania has become one of the main migrant sending countries in the region (Zaharia et al. 2017).¹⁰

Figure 24.1 shows the evolution of the number of long-term emigrants from Romania since 2008, with more than 2,3 million individuals having left Romania. The vast majority of them moved to other EU countries. From a longitudinal perspective, long-term emigration peaked between 2002 and 2008, although it decreased from 2008 to 2013, in parallel with the most critical years of the

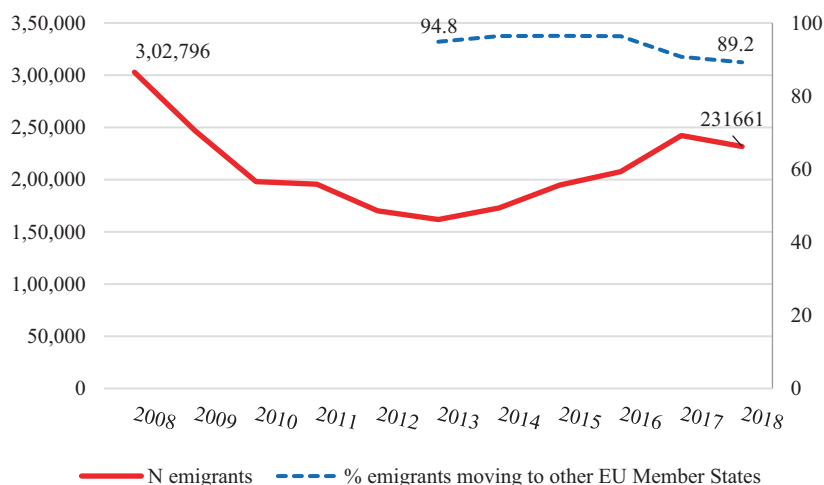


Fig. 24.1 Long-term emigrants from Romania (during the year of reference, 2008–2018). (Source: Vintila and Soare (2018), updated based on Eurostat (2019): *emigration by age group, sex and citizenship* [migr_emi1ctz]. Available at: <http://ec.europa.eu/eurostat/data/database> (Accessed 19 March 2020))

⁹National Institute of Statistics (2017). *Proiectarea populației României în profil teritorial la orizontul anului 2060*. http://www.insse.ro/cms/sites/default/files/field/publicatii/proiectarea_populatiei_romaniei_in_profil_teritorial_la_orizontul_2060.pdf. Accessed 19 March 2020.

¹⁰See also: International Organization for Migration (2018). *World Migration Report 2018*, <https://www.iom.int/wmr/world-migration-report-2018>. Accessed 19 March 2020.

economic crisis. According to Eurostat data,¹¹ by 2019, more than 3,5 million Romanians were living in other EU Member States, with Italy hosting the largest population of Romanian emigrants (1,2 million in 2019), followed by Spain (around 670,000). Over time, the corridors involving Italy and Spain were maintained by migration networks established during the early 1990s, the availability of jobs, and language similarities (Vasilescu 2018). High numbers of Romanians also took up residence in Germany, the United Kingdom (UK) and France (Vintila and Soare 2018).

Long-term emigration increased especially among young people, as over 65% of non-resident Romanians are between 18 and 39 years old (Zaharia et al. 2017). Thus, Romania has become the EU country with the highest emigration rate of active labour market participants (Vasilescu 2018). Among highly qualified emigrants, there are IT specialists, doctors and students whose main reasons for emigrating are linked to job search and studies, while corruption, political instability or the poor quality of public service are the main reasons for not returning to Romania (Vasilescu 2018). The large number of young emigrants also led to diminishing fertility rates, as the decision to migrate is positively correlated with the decision to postpone or even renounce to having children (Popescu et al. 2016).

Compared to the sizeable Romanian diaspora, the number of foreigners residing in Romania is very limited. Figure 24.2 shows that the total number of foreigners

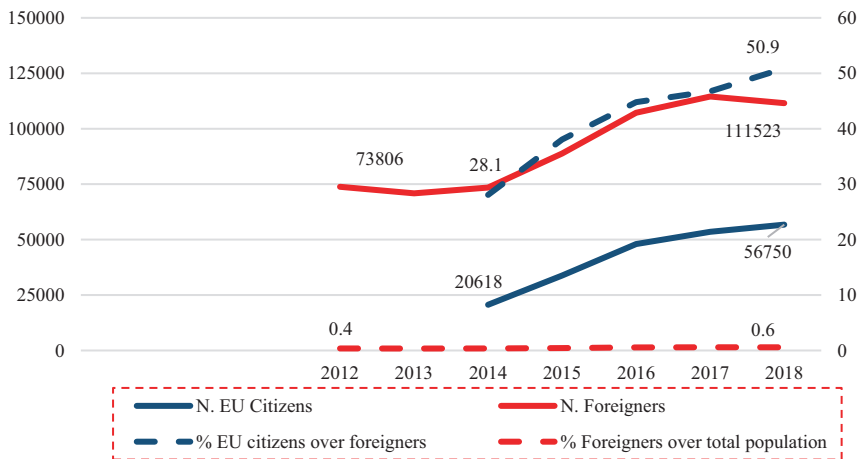


Fig. 24.2 Stock of non-national residents in Romania (total numbers and %) (2012–2018). (Source: Vintila and Soare (2018), updated based on Eurostat (2019): *population on 1 January by age group, sex and citizenship* [migr_pop1ctz]. Available at: <http://ec.europa.eu/eurostat/data/database>. (Accessed 19 March 2020). “EU citizens” refer to non-national EU citizens residing in Romania)

¹¹ Eurostat (2019). *Population on 1 January by age group, sex and citizenship* [migr_pop1ctz], <http://ec.europa.eu/eurostat/data/database>. Accessed 19 March 2020.

residing in Romania has generally increased during the last years. Yet, their share over the total population remains very low (around 0.5%). Until 2017, most non-national residents were third-country nationals, mainly coming from the Republic of Moldova, Turkey, China and Syria (Zaharia et al. 2017). However, by 2018, mobile EU citizens accounted for almost a half of the foreign population in Romania, with most of them originating from Italy, France, and Germany (Vintila and Soare 2018). The majority (60%) of foreigners living in Romania are male and around 1/5th of them moved to Romania for studies. Only a small share (5%) have a small business in Romania. Therefore, as a labour force or economic potential, immigration to Romania does not present a large potential due to its reduced number and type of immigration (Zaharia et al. 2017).

In response to these demographic changes, Romania's migration policy has started to crystalize in recent years, being shaped by different factors. Until 1989, Romania was a closed country in which many people lived as temporary internal migrants in cities, coming from villages and not having the possibility of getting a permanent residence, especially in larger cities (Sandu et al. 2004). Around 100,000 Germans (who did not have the possibility to leave the country before 1989) left Romania for permanent residence in Germany. After 1992, the rate of external migration registered a sharp decline, with a second decrease of external migration being observed after 1998. Within this context, the Romanian institutions developed different programmes and initiatives to incentivize the return of Romanian emigrants. As for immigrants, the main legislative documents regulating the rights of EU citizens in Romania have been adapted to the European legislation after the country's accession to the EU. In recent years, Romania also adopted the National Immigration Strategy for the period 2015–2018,¹² which established as policy priorities the need to attract highly skilled workers, to cooperate with third countries, and to combat illegal immigration and human trafficking. Maintaining national safety and keeping investors in Romania were also priorities of this strategy that aimed to encourage the immigration of third-country nationals wishing to develop businesses in Romania. Overall, when it comes to immigration, Romania scores well with respect to anti-discrimination of immigrants, although it lacks a functioning integration system (Wagner et al. 2018).

¹²Apart from the Strategy on immigration and the Labour Code, there are several specific laws applicable only to foreigners, mainly concerning their access to employment in Romania: Government Ordinance no. 25/2014 on employment and detachment of foreigners (<http://legislatie.just.ro/Public/DetaliiDocument/160962>); Government Ordinance no. 44/2004 on the social integration of foreigners (<http://legislatie.just.ro/Public/DetaliiDocument/49507>) and its Methodological Norms; Law no. 122 of 4 May 2006 on asylum in Romania (<http://legislatie.just.ro/Public/DetaliiDocument/71808>); Government Emergency Ordinance no. 194 of 12 December 2002 on the regime of foreigners in Romania (https://www.mae.ro/sites/default/files/file/anul_2016/2016_pdf/2016.11.01_anexa_4_oug_194-2002.pdf). All links were accessed on 19 March 2020.

24.3 Migration and Social Protection in Romania

After joining the EU, Romania adopted the social security coordination Regulation 883/2004¹³ and Regulation 492/2011 on freedom of movement for workers¹⁴ that enables equal treatment of non-national EU citizens living in Romania with Romanian nationals on aspects such as eligibility for employment, remuneration, conditions of work or dismissal, access to housing, family benefits, etc. Similarly, Romanian citizens enjoy equal rights while residing in other EU countries. Overall, access of citizens and non-citizens to social benefits in Romania is strongly related to their residence, past contributions and specific elements characterizing individual cases.

The social protection rights of Romanians residing in non-EU countries and of third-country nationals residing in Romania – groups that are less sizeable when compared to the intra-EU mobility from and to Romania – are mainly regulated via bilateral social security agreements signed with third countries. These agreements are negotiated at high-level social security administration and they vary substantially in terms of coverage, depending on the needs of the population residing in each country and the available budget. Currently, social security agreements are in place with the Russian Federation (1960), Algeria (1982), Peru (1982), Morocco (1983), Libya (1977), Turkey (2002), Macedonia (2007), Canada (2009), the Republic of Korea (2009), the Republic of Moldova (2010), Israel (2011), Albania (2015), Quebec (2015) and Serbia (2016). Moreover, a series of bilateral health agreements and conventions¹⁵ were signed to protect Romanian citizens residing in non-EU countries and third-country nationals living in Romania. Yet, the coverage of these agreements is quite asymmetrical. For example, the agreement with Israel covers invalidity insurance and pensions, while the one with Canada does not. Similarly, the agreement with Moldova covers more than 11 types of benefits.

¹³ Regulation (EC) 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02004R0883-20140101>. Accessed 19 March 2020.

¹⁴ Regulation (EU) 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011R0492>). Accessed 19 March 2020.

¹⁵ List of bilateral agreements available at: <http://www.cnas.ro/media/pageFiles/List%C4%83%20%20acordurilor,%20conven%C5%A3iilor%20%C5%9Fi%20%C3%AEen%C5%A3elegerilor%20bilaterale%20%C3%AEcheiate%20la%20nivel%20de%20stat%20%C5%9Fi%20de.pdf>. Accessed 19 March 2020.

24.3.1 Unemployment

In 2019, the unemployment rate in Romania reached one of the lowest levels (3,9%) during the last 20 years.¹⁶ The Government Emergency Ordinance (GEO) 126/2008¹⁷ made a first step in eliminating the connection between unemployment benefits (*indemnizație de șomaj*)¹⁸ and the level of the guaranteed minimum wage. This means that those applying for unemployment benefits are jobless, have no income, or have a lower income than the value of the reference social indicator. A special category of unemployment benefits (*venitul lunar de completare*) concerns the persons belonging to collective dismissal in the defense production and state-owned companies (GEO 36/2013).¹⁹

Unemployment benefits are available to national and non-national employees and self-employed who are over 16 years of age and have contributed to the Romanian National Agency of Employment (*Agenția Națională pentru Ocuparea Forței de Muncă – ANOFM*) for at least 12 months in the last 24 months prior to their application. The duration of unemployment benefit depends on the completed period of contributions: 6 months (for persons with a contribution period of at least 1 year), 9 months (for those who have contributed for at least 5 years) and 12 months (for persons with a contribution period of more than 10 years). Graduates who do not find a job within 60 days after graduation receive unemployment benefits for 6 months. The law²⁰ also distinguishes between categories of residents who are compulsory insured for unemployment benefits (i.e. civil servants, elected office holders, etc.) and persons who can voluntarily insure themselves for unemployment benefits. Among these, there is an explicit reference to the eligibility to be insured for unemployment benefits for Romanian citizens working abroad, foreign citizens or stateless persons who are employed or have earnings.

To access unemployment benefits, one needs to prove a paid legal contract. However, having resided in an EU country makes one eligible for totalization of all contribution periods collected in Romania and other EU Member States and paid by the last country of employment. When based in another EU Member State, one can

¹⁶ Eurostat (2019). *Total unemployment rate* [TPS00203], <http://ec.europa.eu/eurostat/data/data-base>. Accessed 19 March 2020.

¹⁷ Government Emergency Ordinance no. 126 of 8 October 2008 on the modification and completion of some normative acts in order to eliminate the links between the level of the rights granted from the unemployment insurance budget and the level of the minimum gross basic salary in the country and to establish the measures for applying some community regulations. <http://legislatie.just.ro/Public/DetaliuDocumentAfis/98026>, Accessed 19 March 2020.

¹⁸ Romania does not have a special unemployment assistance scheme.

¹⁹ GEO no. 36 of 30 April 2013 on the application in the period 2013–2018 of social protection measures granted to the persons belonging to collective dismissal. <http://legislatie.just.ro/Public/DetaliuDocument/160962>. Accessed 19 March 2020.

²⁰ Law no. 76 of 16 January 2002 regarding the unemployment insurance system and the stimulation of employment. http://www.mmuncii.ro/pub/imagemanager/images/file/Legislatie/LEGI/L76-2002_act.pdf. Accessed 19 March 2020.

send the request for totalization to the National Agency for Employment Directorate for International Relations. When moving to another EU country, a Romanian citizen who becomes unemployed in the EU country where he/she last worked will receive cash benefits due to activity as an employed or self-employed. In this case, the citizen will remain subject to the legislation of the country in which he/she was last insured while working. If the Romanian citizen is a non-active person, he/she is subject to the legislation of the country of residence. Lastly, if a Romanian/EU citizen cannot find a job in Romania, he/she can move to another EU country to search for work for 3 months (with the possibility of extension up to a maximum of 6 months). In this case, individuals must inform the Romanian authorities and the authorities of the EU Member State where one searches for work. Those who are not able to find work after 3 months will have to return to Romania and inform national authorities about their return.

24.3.2 Health Care

The public health care system in Romania is financed mainly through contributions (Law no. 95/2006²¹). The low value of the contribution and the shrinking of the working population negatively affects the health expenditure per capita and becomes a fertile breeding ground for corruption (Popescu et al. 2016). Health benefits in-kind are available for those who contribute to the medical system, prove disability status or long-term care eligibility. Inspired by the UK health system model, insured people can access a basic package of medical services free of charge.²² They have to pay for medicines if not hospitalized and they can register on the patient list of a family doctor (general practitioner). Uninsured individuals can only access a minimal package of medical services in cases of urgent surgery, birth, tuberculosis or other epidemic diseases.²³ Except for the minimal package of healthcare, uninsured persons have to pay the full cost of the medical treatment.²⁴ Some categories of citizens are insured without paying contributions, whereas others can benefit from contributions paid on their behalf by a third party.

²¹ Law no. 95 of 28 August 2015 on the reform in the health field. <https://lege5.ro/Gratuit/g42tmn-jsgi/legea-nr-95-2006-privind-reforma-in-domeniul-sanatatii?d=12.05.2019>. Accessed 19 March 2020.

²² For more details: <http://www.cnas.ro/page/drepturile-si-obligatiile-asiguratilor.html#>. Accessed 19 March 2020.

²³ Decision no. 140 of 21 March 2018 for the approval of the packages of services packages and the Framework Contract that regulates the conditions of medical assistance, medicines and medical devices in the social insurance system for the years 2018–2019. <http://www.casan.ro/casalba/media/postFiles/HG%20140-CONTRACT%20CADRU%202018-2019.pdf>. Accessed 19 March 2020.

²⁴ For more details: <http://www.cnas.ro/page/pachetul-minimal-de-servicii-medicale-in-asistentamedicala-ambulatorie-de-specialitate-pentru-specialitatile-clinice.html>. Accessed 19 March 2020.

In terms of migrants' access to the public health care system, one challenging aspect for authorities is to trace the number of immigrants residing in Romania who are medically insured or have access to a family doctor. Despite the small size of the foreign population, authorities still find it hard to identify the number of insured migrants and the type of insurance they benefit from. The insured status and the insurance rights are lost when foreigners lose the right to reside in Romania. Undocumented migrants are particularly vulnerable given the strong barriers they face for accessing basic medical services, emergency and basic social protection in Romania (Alexe and Paunescu 2011). Similar to other EU countries, Romania also counts with a high decentralisation and autonomy in the administration of the Health Insurance Fund. This is the reason why, in cases of mobility within or outside the EU, the regional and local insurance institutions need to be informed of the context and duration of the stay abroad, so that they can issue all necessary documents and communicate with the health insurance institutions in the country of destination.

Sickness benefits in cash require claimants to prove the incapacity for work due to sickness certified by a doctor, a medical certificate issued from the first day of incapacity and a notification of the employer within 3 days. Access to sickness benefits is conditioned by a period of at least 6 months of contributions within the last 12 months. The legal framework refers to the general category of "insured people" without explicit reference to a nationality criterion. GEO 158/2015²⁵ distinguishes between different types of medical leave (*concediu medical*) and associated cash benefits (*indemnizație*) covering: (a) temporary incapacity to work due to illness or accidents outside the workplace; (b) incapacities due to accidents at work and occupational diseases; (c) maternity; (d) childcare and; (e) risks linked to maternity. Family physicians can prescribe up to 14 days leave and the legal framework guarantees an extension up to 90 calendar days per year upon the recommendation of specialists or hospital doctors. The maximum duration for a sick leave is 180 calendar days per year.

Disability benefits are available to national and foreign residents insured under the public pension system who have lost at least half of their capacity to work as certified by the social insurance medical expert. Once they have obtained a disability pension, recipients must undergo periodic medical checks at intervals of between 1 and 3 years until they reach the standard retirement age. Failing to attend this medical assessment leads to the suspension of the disability pension. Both Romanian and foreign citizens can export their invalidity pension from Romania in case they decide to move abroad.

²⁵GEO no. 158 of 17 November 2005 regarding holidays and social health insurance benefits. [http://www.cnas.ro/cascluj/theme/cnas/js/ckeditor/filemanager/userfiles/Anunturi_Medici_2016/ OUG_\(A\)_158-2005_CM_actual_ian_2018.pdf](http://www.cnas.ro/cascluj/theme/cnas/js/ckeditor/filemanager/userfiles/Anunturi_Medici_2016/ OUG_(A)_158-2005_CM_actual_ian_2018.pdf). Accessed 19 March 2020.

24.3.3 Pensions

The Romanian public pension scheme is regulated by Law no. 263/2010.²⁶ Eligibility for a contributory pension is evaluated based on claimants' age and prior contribution to the pension scheme. To qualify for an old-age pension (*pensie pentru limită de vârstă*), claimants must have reached the standard retirement age (65 years for men and 60 years and 9 months for women, to increase gradually to 63 years by January 2030) and have contributed to the pension scheme for at least 15 years (the full contribution period is 35 years for men and 30 years and 9 months for women, to be increased to 35 years by January 2030). Lower age requirements apply to persons employed in arduous work and certain categories of individuals with disabilities. Eligible claimants can also receive an early retirement pension without penalties (*pensie anticipată*) granted up to 5 years before the standard retirement age to those who have contributed for at least 8 years longer than the full contribution period. They can also apply for a partial early retirement pension with penalties (*pensie anticipată parțială*) granted up to 5 years before the standard retirement age to those having completed the full contribution period and those having exceeded by up to 8 years the full contribution period.

The law also foresees the possibility for nationals residing abroad to access and export pensions from Romania. The criteria of nationality and residence are finetuned. Article 5 of the law specifies that "(1) The contributors to the public pension system may be Romanian citizens, citizens of other states or stateless persons, while they have, according to the law, their domicile or residence in Romania. (2) The public pension system can insure also Romanian citizens, citizens of other states and stateless persons who do not have their domicile or residence in Romania, under the conditions provided by the legal instruments of international character to which Romania belongs". Furthermore, foreigners who have worked in Romania can also benefit from the public contributory pensions although they no longer reside in Romania (GEO 194/2002, with amendments).

Contributors are subject to a public pay-as-you-go pension scheme. Contributions are compulsory for employers, employees, and self-employed and the total contribution rate differs depending on working conditions. The pension funding system of the first pillar witnessed some changes in 2018. As mentioned, the contribution rates for pensions increased to 25% and it is entirely up to the employee only to pay the premiums. These contributions are paid by all those residing and working in Romania.

In addition to the public contributory pension, the social allowance for pensioners (*indemnizația socială pentru pensionari*) is a non-contributory benefit available to pensioners residing in Romania whose pension amount is below the

²⁶Law no. 263 of 16 December 2010 regarding the unitary system of public pensions. <http://www.mmuncii.ro/pub/imagemanager/images/file/Legislatie/LEGI/L263-2010.pdf>. Accessed 19 March 2020.

guaranteed minimum social pension.²⁷ This allowance is granted upon three criteria: be a pensioner of the public pension system, irrespective of the retirement date; have a domicile in Romania; have a pension of less than 400 RON. No forms of exclusions based on claimants' nationality are mentioned in the text of the law.

24.3.4 Family Benefits

There are several types of family-related benefits in Romania. The maternity leave and allowance (*concediu medical și indemnizația pentru maternitate*) are granted to women who are legally residing in Romania and have contributed for at least 6 months to the social insurance system during the last 12 months prior to the maternity leave. No explicit form of exclusion based on citizenship is mentioned in the text of the law. The maternity leave period consists of 63 days before birth and 63 days of postnatal leave. This is a compulsory social insurance scheme for all inhabitants financed mainly by contributions for employees and self-employed, providing an earnings-related benefit. No membership on a voluntary basis is allowed. If moving to another EU country, social security coordination foresees that the country of insurance is responsible for paying maternity or paternity benefits to Romanian citizens according to the national rules.

The paternity leave (*concediu paternal*) lasts 5 days, conditional to extension up to 10 days if special fatherhood training is carried out. EU and non-EU citizens are eligible to claim this benefit under the same conditions as Romanian citizens. The paternity leave is granted only if the father is an employee and the amount received equals the salary corresponding to the respective working days.

Parental benefit is a replacement income and a contributory benefit intended to provide an income source for parents unable to work due to child-care responsibilities. The benefit is paid upon the criterion of residing in Romania, irrespective of claimants' nationality. Romania grants a child-raising leave (*concediu pentru creșterea copilului*) and benefit (*indemnizație pentru creșterea copilului*) to natural parents, individuals who hold the temporary custody of a child and legal guardians, upon the criterion of residence in Romania. There is no exclusion from access to these benefits based on citizenship and the child-raising leave and benefit are granted until the child's second birthday (or for the first 3 years for disabled children, with a possible extension up to 7 years).

Finally, the state allowance for children (*alocație de stat pentru copii*) is a cash benefit granted to children aged up to 18 who are legally residing in Romania. The allowance is extended to young persons aged over 18 attending secondary or vocational education courses. According to the dispositions of Law no. 61/1993, all Romanian, foreign or stateless children living in Romania are entitled to receive the state allowance.

²⁷Law no. 118 of 30 June 2010 regarding some necessary measures to restore the budget balance. [https://www.protectiacopilului6.ro/Files/legislatie/2010/L118-2010%20\(30%20iunie%202010\).pdf](https://www.protectiacopilului6.ro/Files/legislatie/2010/L118-2010%20(30%20iunie%202010).pdf). Accessed 19 March 2020.

24.3.5 *Guaranteed Minimum Resources*

Currently, Romania guarantees three types of social aids for people with low income²⁸: the guaranteed minimum income (*venitul minim garantat*), the family support allowance (*alocația pentru susținerea familiei*) and the aid for heating the house (*ajutorul de încălzire*). The guaranteed minimum income has been designed as a targeted response to the risks of poverty and exclusion, by guaranteeing both subsistence and incentives to work. It can be received for an unlimited duration and it is designed as a supplement to the applicant's net income. The guaranteed minimum income scheme was implemented as a means-tested programme in 1995, reformed in 2001, and adjusted on a regular basis since then. To qualify for social aid, both families and single persons aged over 18 whose net monthly income is below the guaranteed minimum income must not own certain goods or properties. Recipients who are able to work and are not in full-time education must perform monthly community service at the request of the mayor of the municipality of residence or domicile.

The family support allowance (*alocație pentru susținerea familiei*) targets families with low income who raise and look after children aged up to 18. The legal criteria for accessing this scheme refer to residence in Romania. The criteria of calculation of the amount take into account the income and number of children. The maximum income limits up to 370 RON per family member. The eligibility is explicitly extended from families whose members are Romanian citizens residing in Romania to families whose members do not hold the Romanian nationality, but reside in Romania (i.e. both EU and non-EU foreigners).

24.4 Conclusions

This chapter examined to what extent the Romanian welfare system covers its resident citizens compared to foreigners residing in Romania and Romanians residing abroad. In doing so, it aimed to elucidate the role of the welfare state in the entire migration landscape of the country, by addressing niche policy questions. It examined the coverage of the national welfare system when it comes to a variety of risks at different life-cycle stages, such as unemployment, poverty, sickness, and old age.

Despite regular back-and-forth in the definition of social policies, the current Romanian social protection system has a comparable design with other Western European welfare states with regard to family and social insurance benefits, although lower health expenditure and investment in employment services (Pop 2013). The EU membership has induced policy-makers to adapt the welfare system with a view to allow EU citizens to benefit from national provisions in this field (Popescu et al.

²⁸For more details: <http://www.mmuncii.ro/pub/imagemanager/images/file/Legislatie/LEGI/L416-2001.pdf>. Accessed 19 March 2020.

2016). Non-EU citizens with a residence permit were also included among the beneficiaries. Overall, our findings indicate that the Romanian welfare state is open towards its residents, regardless of their nationality, thus providing everyone equal grounds for accessing social benefits. This is particularly the case for residents contributing to social security taxes and active age workers. In terms of access to the social benefits analysed in this chapter, there are no particular distinctions between resident citizens and (EU or non-EU) foreigners living in Romania. However, the Romanian legislation specifically links access to certain benefits to the requirement of having one's residence or domicile in Romania. Consequently, nationals residing abroad are often excluded as potential beneficiaries of certain welfare entitlements when compared to their resident counterparts. Yet, specific benefits such as the contributory old-age pension or the invalidity pension can be exported in case recipients decide to move abroad. Moreover, the EU social security coordination framework also guarantees for a short-term exportability of unemployment benefits for Romanian citizens who decide to move to other EU Member States in search for a job.

The post-communist regulatory framework of the Romanian social protection system has been rather unstable, witnessing numerous changes and amendments. Over the last decade, the challenges faced by the welfare system – economic constraints, demographic decline, changes at the household structure, migration – have been progressively contrasted by scaling back the state. The post-2010 neoliberal turn was a direct by-effect of the emergency situation created by the negative GDP growth in 2009 and the increasing deficit. Beyond these contextual stimuli and the relevance of the fiscal constraints under economic crisis, the literature laid emphasis on political power-related explanations. It is the case of the negative a priori for social spending among politicians that culminated with the proposal of president Bănescu to eliminate Article 47 from the Constitution (Popescu et al. 2016). Referring to the state's obligation to guarantee social protection and a decent living standard for its citizens, Article 47(2) lists the main social rights guaranteed to citizens (i.e. the right to pensions, paid maternity leave, medical care in public health centres, unemployment benefits, etc.). The criminalization of the poor sapped public confidence, welfare recipients increasingly being suspected of making fraudulent claims or insufficient efforts to support themselves autonomously. Despite alternation in Government, the politics of retrenchment has been maintained. The quest to deregulate labor relations and the maintenance of low social costs have become generally shared and despite long periods of economic growth, the quality of life, poverty and social inequality indicators do not illustrate major improvements.

Within this context, while globalization has increased migration flows across Europe, Romania clearly reports more emigration than immigration. As such, the country registers one of the lowest share of (EU and non-EU) non-national residents (see Vintila and Lafleur *in this volume*). Confronted with a limited number of potential foreign participants to the welfare provisions, the legal framework does not mention forms of implicit or explicit exclusion. The criterion of residence on the Romanian soil is, however, prevalent, and relatively few provisions are extended to non-resident Romanian citizens. Considering the size of the Romanian diaspora,

increased coordination is needed to guarantee a full access to the social rights guaranteed by the Constitution. On the long run, the (slow) growing non-EU migration remains a challenge for the welfare state, requiring increasingly targeted social assistance and education policies to enhance social integration and cohesion. This is an element still to be developed by the Romanian social system.

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