Chapter 22

Access to Social Protection by Immigrants, Emigrants and Resident Nationals in Tunisia

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22.1 Overview of the Welfare System and Main Migration Features in Tunisia

22.1.1 *Main Characteristics of the National Social Security System*

The first modern type¹ social security scheme appeared in Tunisia in 1898 under the French protectorate. It was exclusively reserved for civil servants and mainly designed for pensions management. A family allowance scheme was created in 1918 and a long-term sickness scheme was set up in 1951. Family allowances were further extended in 1944 and a pension scheme was introduced for the banking sector in 1949 (Chaabane 2002). However, the most important social security reforms took place after independence, during the 1960s (for healthcare and family allowances) and 1970s (for old-age and disability pensions). Social security covered independent workers since 1982, low-income workers (maids, craftsmen, etc.), intellectuals and artists since 2002.

Tunisia has signed bilateral social security conventions with 14 European and North African countries in the attempt to protect the social rights of Tunisian

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¹What existed before could be considered as a charities, although in some cases there were some rules for taxes collection and allowances to the poorest.

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emigrants, mainly the transferability of benefits. A voluntary contributory system was created in 1989 for emigrants in other regions (Gulf, North America), which allows mainly to cover the families remaining in the country.² This scheme covers health, pensions, invalidity and death.

Currently, the Tunisian social security system includes several categories of contributory benefits such as family allowances, cash benefits (sickness, maternity and death), health care, old-age, disability and survival pensions, death benefits and compensations for accidents at work and occupational illnesses. The specific procedures for accessing these benefits vary substantially across workers. For example, non-wage earners in the agricultural sector are not entitled to benefit from family allowances. The beneficiaries are the contributors themselves, their spouses, children until 20 years and ascendants above 60 who are in the care of the contributor. To benefit from health and maternity, the contributor needs to prove 50 days of work during the last two quarters, or 80 days of work during the last four quarters.³

The state manages the social security system through two funds: the National Social Security Fund (CNSS) for the private sector and the National Pensions and Contingency Fund (CNRPS) covering civil servants. Health benefits are managed by the National Health Insurance Fund (CNAM) created in 2004. In 2013, CNSS affiliates represented 75% of all affiliates in the country and they were covered by seven different regimes according to their professional category (Ben Othman and Marouani 2016). The most important regime is the RSNA (*Régime des salariés non agricoles*) for non-agricultural employees, which represented 53% of all contributors to the CNSS in 2013. Agricultural employees with low revenues contribute to the RSA regime (*Régime des salariés agricoles*), whereas those with higher revenues are covered via the RSAA regime (*Régime des salariés agricoles amélioré*). Self-employed contribute to the RTNS regime (*Régime des travailleurs non salariés*) and, since 2002, two additional regimes were introduced in the CNSS: RACI (*Régime des artistes, créateurs et intellectuels*), for artists and intellectuals and RTFR (*Régime des travailleurs à faibles revenus*) for low wage employees (Ben Othman and Marouani 2016).

There are two categories of CNSS affiliates: wage-earners and independent workers. Table 22.1 summarizes the contributions rates for each social security branch and the respective shares paid by employers and employees. Table 22.2 describes the amounts of contributions for independent workers.

Old-age, health and maternity are automatically included in independent workers' contributions. They can voluntarily cover themselves against professional accidents (0.4–4%). The contribution rate is 14.71% computed on the declared income, or on a lump-sum basis for the lowest income groups. Low-income people not covered by the social security contributory scheme can benefit from specific social

²<http://www.social.gov.tn/index.php?id=49&L=0>

³CLEISS (2018). Le régime tunisien de sécurité sociale (salariés). <http://www.cleiss.fr/>. Accessed 01 August 2018.

Table 22.1 Contributions for wage-earners

ITEM	Employer (%)	Employee (%)	Total (%)
Old-age, disability and survival	7,76	4,74	12,5
Health, maternity	5,08	3,17	8,25
Family allowances	2,21	0,89	3,10
Professional accidents and illnesses	0,4 to 4	–	0,4 to 4
Government special fund	1,52	0,38	1,90
TOTAL	16,97 - 20,57	9,18	26,15 - 29,75

Source: <http://www.cleiss.fr/docs/cotisations/tunisie.html>

Table 22.2 Contributions for independent workers

Quarterly amounts of contributions		
Income group	Contribution base	Amount of contributions (TND)
1	975,00	143,423
2	1462,50	215,134
3	1950,00	286,845
4	2925,00	430,268
5	3900,00	573,690
6	5850,00	860,535
7	8775,00	1 290,803
8	11,700,00	1 721,070
9	14,625,00	2 151,338
10	17,550,00	2 581,605

Source: <http://www.cleiss.fr/docs/cotisations/tunisie.html>

assistance programs. The program for families in need (PNAFN, see below) is the main instrument of social assistance in Tunisia. It covers around 240,000 families by providing them cash transfers (110 TND per month, around 40 EUR) and a card for subsidized health care at public health centres.⁴ Involuntarily unemployed, temporary workers and unemployed graduates have also a renewable one-year health coverage. Most casual agricultural workers, domestic employees and non-eligible unemployed do not have access to health coverage.

⁴UNICEF (2014). Evaluation of the Education Benefit Program of PNAFN in Tunisia. *Evaluation Report*.

22.1.2 *Migration History and Key Policy Developments*

According to Seklani (1974), Italians constituted the bulk of the foreign population in Tunisia at the end of the nineteenth century (80,000). They were mainly from Sicily and worked as fishermen, craftsmen and farmers. At the end of World War II, the number of foreigners reached 350,000, dominated by French citizens, as a result of a deliberate policy to reduce Italian influence in Tunisia. Libyans and Algerians were also present, but most of them left after the discovery of oil in Libya and Algeria's independence. The Bizerte crisis in 1961 and the nationalization of agricultural land in 1964 led 70% of foreigners to leave the country (Seklani 1974). The 2014 census showed that immigration was relatively low in recent years, foreigners representing around 0.5% of the population. This number does not include Libyans visiting Tunisia for long periods, sometimes exceeding 6 months since the deterioration of the security situation in Libya. 1,8 million entered Tunisia and 1,4 million left in 2014.⁵ Although to a lesser extent than Morocco and Libya, Tunisia has also become a transit country for sub-Saharan migrants and refugees (Natter 2015).

The emigration of Tunisian nationals did not start significantly before independence. Recruitment was organized in cooperation with European countries as Tunisia signed agreements with France (1963), Germany (1965), Belgium (1969), and the Netherlands (1971). In 1967, the Government created a directorate within the Ministry of Social Affairs to manage the flows of migrants to Europe (mainly to France and, to a much lesser extent, also to Germany). This directorate seemed effective in training Tunisians to the growing demand of booming Europe. The 1973 oil crisis led to a significant reduction in emigration flows to Europe and the emergence of Libya as a new significant destination, overtaking even France in the mid-1970s (Natter 2015). An agreement was signed in 1971 to organize these migration flows, although the Libyan regime did not hesitate to resort to mass expulsions of Tunisians on the occasion of major diplomatic disagreements. The other important country for Tunisia's emigration history is Italy, which became a significant destination in the 1980s. Migration to Italy was mainly seasonal or temporary, but it became increasingly permanent after the implementation of a visa for Tunisians in 1990.

More than 1,2 million Tunisians (around one tenth of the population) were registered with Tunisian consulates in 2012.⁶ More than half reside in France (55%), 15% in Italy and 7% in Germany. The rest are based in Arab countries (15% between Libya, the United Arab Emirates and Saudi Arabia) or in North America (3%). The educational level of emigrants increased significantly over the four last decades, reflecting an increase of the share of student migration (David

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⁵World Bank (2017). Impact of the Libya crisis on the Tunisian economy. Washington D.C.: World Bank.

⁶Office des Tunisiens à l'Etranger (2012). *Répartition de la Communauté tunisienne à l'étranger* 2012.

and Marouani 2018). More educated workers tend to settle more permanently (Boughzala and Kouni 2010).

The pressure of European countries on Tunisia to tighten its control of illegal migration led the Government to adopt a law in 2004 which sanctions heavily smugglers and any individual which contributes to illegal migration. Despite this law, bilateral negotiations with the two main host countries continued. In 2008, for example, France and Tunisia signed an agreement allowing more skilled migration to France in exchange of tighter controls and more readmissions of undocumented migrants in Tunisia. The agreement was only partly implemented (Natter 2015). Finally, the security void following the 2011 revolution led to a surge of illegal migration (Boubakri 2013), although this hike was temporary as border controls in cooperation with European partners was reintroduced quickly.

22.2 Migration and Social Protection in Tunisia

Two interlinked factors determine the regularity of the residence status of foreigners in Tunisia: respecting the rules for residence and having a work contract (for which non-nationals should get a permit). This work permit is generally granted under rather restrictive conditions (economic needs tests, etc.) for a maximum period of 1 year. Students, spouses of foreign residents and citizens from Maghreb countries can have residence permits without an authorization to work. Refugees registered with the United Nations High Commissioner for Refugees (UNHCR) have softened residence conditions, but they are not allowed to work (Hanafi 2017).

Once the legal residence requirement is met, there is no specific element in the Tunisian social security law that could discriminate between national and foreign residents in terms of accessing social benefits. Furthermore, according to the Ministry of Social Affairs,⁷ bilateral social security agreements have been signed with 14 countries: France, Belgium, the Netherlands, the Luxembourg, Germany, Italy, Austria, Libya, Morocco, Algeria, Egypt, Mauritania, Spain and Portugal. All these conventions establish the principles of equal treatment with nationals of the country of employment and free transfer of benefits to the country of origin, with some exceptions such as the transfer of family allowances for children remaining in the home country that Austria, Switzerland and Luxembourg do not allow (Maddouri 2011). Moreover, the Euro-Mediterranean Agreement signed between Tunisia and the European Union (EU) in 1995 includes a component for regional coordination of social security agreements. This component is based on five principles (Maddouri 2011). Firstly, Tunisian workers and their family members residing with them benefit from a system characterized by the absence of any nationality-based discrimination. Secondly, social security covers sickness

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⁷ *Ministère des Affaires sociales* (2018). <http://www.social.gov.tn>. Accessed 1 August 2018.

and maternity benefits, invalidity, old-age and survivors' benefits, industrial accident and occupational disease death benefits, unemployment benefits and family benefits. Thirdly, the aggregation of the periods of insurance, employment or residence completed in the various Member States with regard to pensions and old-age pensions, invalidity and survivors' benefits, family benefits, sickness and maternity benefits and health care for themselves and their families residing within the EU. Fourth, the export of family benefits within the EU. Fifthly, free transfer to Tunisia of pensions and old-age pensions, survival and accident at work or occupational disease and invalidity. 12 years after the entry into force of the Euro-Med Association Agreement in 1998, the European Commission presented its first proposal of implementation of this component.

There is a specific regime for Tunisian residents in countries that have not concluded social security agreements with Tunisia (Gulf, North America, Eastern Europe, etc.). The management of this regime is entrusted to the institutions of the Ministry at the Office of Tunisians Abroad (OTE) and the National Social Security Fund (CNSS). Contributors have access to the same benefits in Tunisia, but their health expenses in the host country are not covered. According to Maddouri (2011), the affiliation to this regime is very low, which led the Government to think about ways to increase information, simplify procedures and give more incentives to increase the coverage among the target population.

22.2.1 *Unemployment*

In Tunisia, unemployment benefits are granted to individuals with an open-ended contract who become involuntarily unemployed due to economic or technological reasons. The Tunisian unemployment scheme combines elements of unemployment insurance and unemployment assistance. They can be considered as unemployment insurance because the worker needs to contribute for three successive years to the CNSS within a given company to be eligible. However, the scheme also has some elements of unemployment assistance, as the upper limit of the unemployment benefit is the minimum wage and its maximum duration is of 12 months, independently on the length of individual contributions (once it is more than 3 years). There is no nationality criteria specified in the unemployment scheme.

Severance payments and legal rights are also taken in charge by the CNSS for workers who lose their jobs for economic or technological reasons. The indemnities and rights related to dismissal must be judged by a Court.⁸ Severance payments and legal rights cover unpaid wages and accessories, unpaid leave with pay, severance indemnities and the end-of-service bonus fixed by the Labour Code. Employees who have lost their jobs can also benefit from the maintenance of family allowances

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⁸CLEISS (2018). *Le régime tunisien de sécurité sociale (salariés)*. <http://www.cleiss.fr/>. Accessed 1 August 2018.

and health benefits. Independent workers do not benefit from this scheme and there is no possibility to join the scheme voluntarily.

22.2.2 Health Care

Health-related benefits are managed by the National Health Insurance Fund (CNAM). Foreign workers and their families can access these benefits under the same conditions as Tunisian nationals. For Tunisians employed in countries not linked to Tunisia by a social security agreement, a voluntary insurance system was set up in 1989 covering health care for the worker and the family members remaining in Tunisia. This voluntary contribution to the CNSS gives the same entitlements as the traditional scheme.

Workers who contribute to the CNSS and CNRPS and their families benefit from the CNAM system, which allows for reimbursements of medical costs or partial costs directly paid by the health fund. The beneficiary can choose between three systems: a) a public health care system where the patient benefits from services provided in public health structures and social security clinics; b) a contract doctor chosen by the patient and paid directly by CNAM) or; c) the reimbursement of costs in the two public and private sectors covered by the agreement, payment of the resulting costs by the social insured and subsequent reimbursement by the fund within the limits of the reimbursement rates relating to care benefits granted under the basic scheme. The third scheme is generally chosen by better-off households, as some doctors do not adhere to the CNAM contractual scheme for various reasons.

Insured individuals who wish to change the scheme must inform the fund at least 3 months before the end of the calendar year. Some specific groups are also exempted from paying the CNSS contribution: students, trainees, maids, laborers, farmers, fishermen, etc. Foreign students, nationals of a country that has a bilateral social security agreement with Tunisia for students or those receiving a scholarship from the Tunisian Government also benefit from the same advantages as Tunisian students.

It is estimated that between 10 and 20% of the vulnerable population in Tunisia does not benefit from any health coverage (Jaouadi 2016). Regular migrants who are not covered through a work contract in Tunisia can be affiliated to private insurance schemes (national or foreign) if they want to access the Tunisian health care system. Access to health care is also covered by some bilateral social security agreements signed by Tunisia (such as the one with Libya- see Jaouadi 2016). However, undocumented migrants face serious difficulties in accessing health facilities in Tunisia. Some of them benefit from the assistance of NGOs and humanitarian organizations. Although they do not have a guaranteed access to public health facilities, some are treated on a case-by-case basis by managers who try to find organizations to cover their medical treatment (NGOs, international organizations, embassies, etc.).

Cash benefits in case of sickness are paid under certain conditions: the insured needs to justify 50 days worked in the two last quarters or 80 days in the preceding year. The compensation is paid during 180 days, ceiling which can be increased in case of long-term illness. Foreigners who contribute to the social security system have the same health entitlements as Tunisians.

22.2.3 Pensions

The Tunisian pension system is a pay-as-you-go system. A rapid demographic transition led to a structural deficit of the old-age funds since 2000 for the CNRPS and, since 2002, for the CNSS. According to the Tunisian National Statistical Institute (2009), the share of retirees is expected to increase from 10% in 2010 to 20% in 2034, mainly due to the rapid aging of the Tunisian population. The increase in the dependency rate puts a heavy pressure on the financial viability of the social security system (Ben Othman and Marouani 2016). Moreover, the Government plans to increase the statutory retirement age from 60 to 62 years in 2020, although this measure cannot guarantee the equilibrium of the funds' budgets.

The contribution to the pension system is compulsory and linked to obtaining a formal work contract. When a worker is affiliated to CNSS or CNRPS, a percentage from his/her income is automatically levied on employers and employees for pensions (total of 12.5% for pensions) and a percentage for health (8.25%). This conditional access to the health system is an incentive for workers to contribute to the social security system given that their behavior towards health risks is not impacted by time preference (Ben Braham and Marouani 2019).

Foreigners can access the contributory pension from Tunisia under the same eligibility criteria as Tunisian nationals. The residence criteria is compulsory at the time of claiming an old-age pension in Tunisia. However, this restriction does not apply for nationals from countries linked to Tunisia by bilateral social security agreements who can accumulate rights if they work in different countries and benefit from an old-age pension independently of their decision to remain or not in Tunisia (Maddouri 2011). The pension is paid "pro rata temporis". Each institution compares the amount of the national pension and that of the prorated pension and pays the more advantageous of the two. The debtor fund pays the pension directly, which is reversible to the beneficiaries. Tunisian workers residing abroad who benefit from the special social protection scheme that Tunisia has implemented for them also have access to an old-age pension from their country of nationality.

22.2.4 *Family Benefits*

Maternity benefits are currently equal to 2/3 of the average daily wage, capped at twice the minimum wage during the maternity leave period (4 weeks in the private sector and 10 weeks in the public administration).⁹ There are also parliamentary discussions for extending the maternity leave period to 14 weeks for mothers in both sectors and 15 days for fathers instead of two currently. The objective is to adapt the Tunisian law to the Convention 183 of the International Labor Organization (ILO) on the protection of maternity in accordance with the new Tunisian Constitution. A scheme for paternity benefits is currently being discussed. Child benefits are granted to all contributors to the Social Security Funds for their three first children aged under 16 (or under 18 for those who are apprentices and receive less than 75% of the minimum wage, under 21 years if they are pursuing studies, or without any age limit for those with a disability or handicap).

Foreign residents who contribute to the Tunisian social security system are entitled to the same family-related benefits as national residents. However, Maddouri (2011) raises the issue of the transferability of child benefits when the children remain in the country of origin. Most bilateral agreements signed by Tunisia allow for the exportability of family allowances, except for the more recent agreements signed with Austria, Luxemburg and Switzerland.

22.2.5 *Guaranteed Minimum Resources*

Tunisia does not have a guaranteed minimum resources program, although there is an assistance scheme for the most vulnerable families since 2007 (*Programme National d'Aide aux Familles Nécessiteuses*, PNAFN¹⁰). Beneficiaries of PNAFN are also eligible for free medical assistance under the Free Medical Assistance Programme (AMG). This cash-transfers program targets households which have a lower income than the poverty line; have members with disabilities and/or chronically ill; lack a head of the family or there are no means to sustain the family. Household eligibility is reviewed every 2 years. Beneficiaries must visit the social welfare office every year and get a stamp on their free health care card. The card and PNAFN status can be revoked if the social worker deems that the household is no longer eligible.

230,000 households are currently covered by this program, thus receiving around 150 Tunisian Dinars (50 EUR) per month.¹¹ Although this is not specifically

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⁹ CLEISS (2018). *Le régime tunisien de sécurité sociale (salariés)*. <http://www.cleiss.fr/>. Accessed 1 August 2018.

¹⁰ <https://socialprotection.org>. Accessed 1 August 2018.

¹¹ CRES (2017). *Évaluation de la performance des programmes d'assistance sociale en Tunisie*. Ministère des affaires sociales de Tunisie et Banque africaine de développement

stipulated as such in the legislation, this program is *de facto* reserved only for national residents, as foreigners must generally hold a work contract in order to obtain their residence permit in Tunisia (except students, spouses, etc.). Tunisian residents abroad do not qualify for this program.

Overall, except for some special categories (students, spouses of legal foreign residents, Maghreb countries' nationals), the main obstacle in terms of accessing social benefits for foreigners is to have a work contract which is a *sine qua non* condition to have legal residence in Tunisia. Thus, the access to social security by foreigners depends mainly on being affiliated with the social security fund through the work of the family head.

22.3 Conclusions

Tunisia has invested heavily in its social security system since the independence and kept reforming the legislation to improve the coverage of the system. Unemployment insurance is probably the main issue that has not been tackled yet, although many international institutions studies pointed the need of such a mechanism.¹² The pension system suffers also from the rapid demographic transition and the absence of reforms.

The first category of beneficiaries of the Tunisian social security system are the contributors who access the system through their formal work status. The second category is composed of students and families in need. Informal workers cannot access the social security system, except if they are beneficiaries of the programs for vulnerable families. Migrants who have a work contract benefit from equal access to social benefits as Tunisian workers. However, the residence criteria is compulsory at the time of claiming an old-age pension. This restriction does not apply for nationals from countries linked to Tunisia by bilateral social security agreements. They have also the possibility to transfer their old-age pensions abroad and to benefit from family allowances, including in some cases when their children stay in the home country. It is important to notice that Tunisia signed these agreements mainly with countries where it has an important emigrant population such as France, Italy, Libya, etc. Some agreements, such as the one with Mauritania, cover only students.

Migrants from countries not covered by a social security agreement with Tunisia have the possibility to use the voluntary contribution scheme. However, the coverage of this system is still low due probably to low incentives. Moreover, temporary migrants and undocumented ones are almost not covered in terms of social security, which increases their vulnerability. Although non-discriminatory in principle, the Tunisian social security excludes those who do not have formal work contracts. Given that the access of foreigners to work contracts is hard, it means that the access

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¹² See, for instance, <http://www.worldbank.org/en/news/feature/2016/05/20/tunisia-moves-to-modernize-its-social-protection>. Accessed 1 August 2018.

to the social security system is also hard. If we consider health more specifically, the access is not easy for irregular migrants, although some solutions are found through NGOs or international organizations. As for the assistance components (such as the PNAFN cash transfer program), although not formally excluding foreigners, they seem de facto dedicated to nationals.

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