Chapter 22

Migrants' Access to Social Protection in Poland

Agnieszka Chłoń-Domińczak

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

The main objective of this chapter is to discuss the Polish social security system, with particular focus on the access of national residents, non-national residents and non-resident nationals to its different components in the light of key migration developments.

22.1.1 *Main Characteristics of the Polish Social Security System*

In 2016, the social protection in Poland comprised 20.3% of the Gross Domestic Product (GDP), which was below the European Union (EU) average (28.2%). The financing of the Polish social protection system relies on social contributions, which finance more than two thirds of social benefits and transfers. This, together with the high degree of decommodification, places Poland among the countries characterised as a conservative-corporatist model of welfare state regime (Esping-Andersen 1990), but with gradual shift towards a liberal regime after the reforms introduced in the past.

A. Chłoń-Domińczak (✉)
SGH Warsaw School of Economics, Warsaw, Poland
e-mail: achlon@sgh.waw.pl

The social security system covers benefits in the area of unemployment, health care, pensions, family benefits and social assistance. The organisational structure of the Polish social security system is relatively complex, involving institutions at central level and different levels of regional authorities (Table 22.1).

According to Law of 4 September 1997 on governmental administration sections, the “social security” section in Poland covers social insurance and social security; old-age pension funds; social assistance; government programmes for social assistance; social benefits, employment, social and vocational rehabilitation of people with disabilities; support combatants and persecuted persons; the coordination of the social security systems and public benefit activity.¹ The “social security” section falls predominantly under the competence of the Minister of Family, Labour and Social Policy, whereas the section health is managed by the Minister of Health. Benefits administration for unemployment, social assistance and family benefits is conducted at the regional and local level. As depicted in Table 22.1, the overall coordination of regional labour market and social policies is conducted at the regional level, by specialised Voivodship Labour Offices (for unemployment) and Regional Social Policy Centres and Social Policy Divisions of Voivodship offices.

There are two major sources of financing of the Polish social security system: taxes and social insurance contributions. Social insurance contributions finance around two thirds of total social protection expenditure (ESSPROS database). Family benefits and social assistance are financed from taxes, while unemployment, pensions, sickness, maternity and health care benefits are financed from social insurance contributions. The type of financing also determines access to benefits. For benefits financed by social insurance contributions, the eligibility criteria are related to contribution payments, whereas for tax-financed programmes, the benefits depend on household situation or level of income.

In recent years, the most important changes in the Polish social protection system were in the area of family benefits. The new benefit for bringing up children (“Family 500+”) was introduced in 2016 as a universal benefit. Consequently, the family benefit expenditure in Poland rose by more than 1% of GDP and the overall family spending exceeded the EU average. This change led to the reduction of poverty risk for families with children, but it also had important labour market outcomes with reduced participation of young women on the labour market (Magda et al. 2018).

22.1.2 Migration History and Key Policy Developments

From the middle of the nineteenth century, the international movement of persons played an important role in Poland’s demographic and labour market development (Kaczmarczyk and Okólski 2008). Many Poles migrated, particularly to Germany,

¹ (Journal of Laws of 2015 Text 812, as amended)

Table 22.1 Organisational structure of social security in Poland

	Ministry of Family, Labour and Social Policy			Ministry of Family, Labour and Social Policy	Ministry of Agriculture and Rural Development	Ministry of Health
	Unemployment	Family Benefits	Social Assistance	Old-age and other pensions, accidents at work and occupational diseases as well as sickness and maternity		
Central				For employees and those deemed employees	For farmers	Health care
Regional	Voivodeship (Provincial) Labour Office (16)	Social Policy Divisions of Voivodeship Offices (16)		The Polish Social Insurance Institution (ZUS)	Agricultural Social Insurance Fund (KRUS)	National Health Fund (NFZ)
		Regional Social Policy Centres (16)	Social Policy Divisions of Voivodeship Offices (16) Regional Social Policy Centres (16)	Branches (43)	Regional branches (16)	NFZ Voivodeship branches (16)
Powiat	Powiat (district) (Urban) Labour Offices (341)		Powiat (district) Centres of Family Assistance (380)	Inspectorates (210)	Local units (256)	Voivodeship branch representatives

(continued)

Table 22.1 (continued)

	Ministry of Family, Labour and Social Policy		Ministry of Family, Labour and Social Policy	Ministry of Family, Labour and Social Policy	Ministry of Agriculture and Rural Development	Ministry of Health
	Unemployment	Family Benefits	Social Assistance	Old-age and other pensions, accidents at work and occupational diseases as well as sickness and maternity		
Commuine		Appropriate organs (local/city council offices or centres for social assistance/benefit or other organisational units of territorial local government) (2497)	Social assistance/benefit centres (2497)	For employees and those deemed employees Local offices (70)	For farmers	Health care
Financing	Labour Fund contribution from employers (2.45% of company wage bill ^a)	Taxes/state budget	Taxes/state budget	Contributions for social insurance/state budget subsidy 19.52% for old-age pensions, 11% for disability, 2.45% for sickness and variable contribution for work injury	Contributions for social insurance/state budget subsidy	Health care contributions: 9.72%

Source: (Social Insurance Institution 2017)

^aLabour Fund contribution is not paid for parents returning from parental leaves as well as recently hired people who were unemployed and are older than 50 years

in the 1970s and 1980s, when the estimated long-term outflow of people amounted to between 1.1 million and 1.3 million (3% of the total population) and short-term migration added another 1 million (Ibid). The outflows accelerated significantly after the EU accession. The initial large-scale movement of Polish workers between 2004 and 2007 slowed down after the economic crisis, but accelerated again in recent years, albeit at a slower pace. According to estimates, the outflow of workers had a positive impact on the Polish labour market on the short-run, by reducing the unemployment level and moderately increasing the wages. However, recent demographic projections point towards a quickly shrinking labour force, mainly caused by low fertility levels since early 1990s. Thus, the economic growth potential in the long-run is expected to be more hampered, compared to the short-run (Chłoń-Domińczak 2018). The long-term challenge of declining and ageing labour force, caused by the demographic developments leading to fast population ageing, is becoming visible.

Some of the losses on the labour market are mitigated by increased employment of immigrants. Gradzewicz et al. (2016) highlight that the share of companies that declared employment of at least one foreigner increased from 5% in 2010 to 13% in 2016 and further to 30% in 2018 (National Bank of Poland 2018). The share of migrants in total employment and covered by mandatory social insurance also increased (Buchholtz et al. 2017). However, the available data indicates that significant share of migrants in Poland might work in the informal market or on contracts that do not give access to social security, this increasing their exposure to social risks.

Measuring the scale of migration in Poland, both inflows and outflows, is a difficult challenge. Permanent migration is measured by the registers of residents. Statistics Poland data on main directions of immigration and emigration for permanent residence indicate that, between 2004 and 2014, the outflows were higher than the inflows. Right after the economic crisis, the net outcome was close to zero, due to the reduced flow of emigrants, but in 2013–2014 the level increased again, leading to an increased negative balance.

The source of information on permanent changes related to emigration is the register of permanent residents. However, many Poles migrating to another country do not inform the register, so the official numbers are underestimated. In the Polish statistics, permanent residents who stay abroad for more than 3 months are called temporary migrants. The size of this group is estimated on the combination of data from population censuses (in 2002 and 2011) and the Polish Labour Force Survey (LFS) data (Kaczmarczyk and Okólski 2008; Statistics Poland 2016; Chłoń-Domińczak 2018).

Estimates of the scale of migration from Poland since 2004 are made by Statistics Poland. These are people who remain permanent residents in Poland but have lived abroad, sometimes for many years. The stock of residents of Poland abroad after the EU accession more than doubled, mainly due to the increased migration to EU countries. The share of Polish nationals residing in other EU countries increased from 75% in 2004 to more than 83% in 2016. The top two destinations are the United Kingdom (UK, 788,000 people in 2016) and Germany (687,000). This also means that the majority of Polish nationals abroad are covered by the social security based on the EU regulations.

According to the Office for Foreigners, the number of foreigners with residence permits increased from 175,000 in January 2014 to 325,000 in January 2018. More than half of these permits were issued for temporary stay. Most residence permits are linked to the right to employment, which in some cases need to be additionally confirmed by work permits or declarations of employers. Until the end of 2017, two types of documents were issued: (i) work permits for foreigners issued by voivods and (ii) declarations of intent to entrust work to a foreigner (for seasonal work), which employers placed in the poviát labour office, which could be used for selected nationalities. In 2017, there were more than 235,000 issued work permits, which is almost 6.5 times higher compared to 2010. Furthermore, there were more than 1.8 million declarations of intent to hire foreigners issued in 2017, that is ten times more than in 2010. More than 90% of declarations concerned foreigners from Ukraine, followed by former soviet countries (Belarus, Moldova, Georgia, Armenia) and Russia.

From January 2018, short-term work may be performed based on the so-called “new” statement on entrusting work to a foreigner and a permit for seasonal work. Citizens of Armenia, Belarus, Georgia, Moldova, Russia and Ukraine are still entitled to work in connection with the declaration, while seasonal work permits apply to citizens of all third countries. This shows the continuous high interest of foreigners to work in Poland and the high demand of Polish companies to hire foreigners, due to shortages on the Polish labour market caused by the emigration and population ageing.

22.2 Migration and Social Protection in Poland

The overall regulations related to the conditions of entry, transfer, residence and exit of foreigners on the Polish territory are defined by Law of 12 December 2013 on foreigners.² The Law regulates important provisions related to the right to social benefits, but also specifies conditions related to work permits depending on foreigners’ coverage of selected social security provisions. Article 114 specifies that the foreigner may receive a temporary residence and work permit (*zezwolenie na pobyt czasowy i pracę*) under several conditions. One of them is being covered by health insurance in the national health care system or having a private health insurance covering the cost of medical treatment in Poland. Another condition is having sufficient income to cover the cost of living of the migrant and his/her family in Poland, understood as the monthly income that exceeds the income threshold for benefits from social assistance for the migrant and dependant family members. The latter condition is also applicable for temporary residence permits for delegated workers

² Ustawa z dnia 12 grudnia 2013 r. o cudzoziemcach, 2013 <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20130001650>

(article 139a). Similar conditions also apply for temporary residence permits in order to use long-term mobility (article 139o and 139 s). The conditions related to access to health insurance and income above the social assistance thresholds also hold for temporary residence permits to study in higher education institutions or conduct scientific research (articles 144, 151, and 187). In the case of the temporary residence to connect with the family, the condition related to access to health-care coverage applies.

The access to social protection of immigrants in Poland is further specified in legal acts defining the accessibility to social security benefits. For benefits related to contributions, the main eligibility criterion is the payment of contributions. Therefore, foreigners who work in Poland are covered by these types of schemes. For benefits that are means-tested or depend on the family status, the eligibility depends on the legal status of the immigrant and his/her residence in Poland.

Based on the EU Treaty, the legal framework in Poland also recognises the rights of non-national EU citizens in the same way as the rights of the Polish citizens. As explained below, this leads to some differences in access to benefits between migrants from the EU and non-EU countries.

Access to specific benefits is depends on employment status. The regulations on the employment of foreigners in Poland and of Polish workers abroad are included in Chap. 16 of the Law from 20 April 2004 on employment promotion and labour market institutions.³ Foreigners who are employed by the employment agency in Poland need to have a contract with the institution, who employs them as temporary workers, including specification of social insurance coverage. The Law enumerates foreigners who have a right to work in Poland, including EU/European Economic Area (EEA) citizens or citizens of other countries who have a right to free movement according to the agreement with the European Community and its Member States as well as their family members. For non-EU citizens, it applies to refugees and people receiving protection in Poland, those having permanent residence permit or long-term EU resident permit in Poland, foreigners having residence permit due to humanitarian reasons, those with temporary residence permits that allows taking up employment in Poland or those holding a residence document issued according to article 1, section 2, letter a of the Council Directive no 1030/2002.⁴ The work permit is required for third-country nationals, unless the foreigner fulfils additional conditions specified in the Law.

The access of foreigners to social security is thus based on rules of social security coordination that covers EU and European Free Trade Association (EFTA) countries and bilateral social security agreements with non-EU countries. The following social security agreements are currently in force: Yugoslavia (covering currently

³ *Ustawa z dnia 20 kwietnia 2004 r. o promocji zatrudnienia i instytucjach rynku pracy*, (Journal of Laws from 2004, No 99, Item 1001)

⁴ The requirement to have the employment permit does not apply to foreigners with temporary residence permits for studies or research and family members of Polish citizens or refugees and other people staying in Poland receiving protection

Bosnia and Herzegovina, Serbia and Montenegro),⁵ the Republic of North Macedonia,⁶ the United States of America (USA),⁷ Canada,⁸ the Republic of Korea,⁹ Australia,¹⁰ Ukraine,¹¹ Moldova¹² and Belarus.¹³

22.2.1 *Unemployment*

The access to unemployment benefits and active labour market policies is regulated by Law of 20 April 2004 on employment promotion and labour market institutions. All unemployment-related policies and instruments are financed from the Labour Fund. This is a public fund, financed from employers' contributions amounting to 2.45% of the wage bill (Table 22.1).

Unemployment benefits are granted to unemployed people who have worked for at least a year in the past 18 months and earned at least minimum wage. The benefit does not depend on earnings. The basic amount is paid to the unemployed with 5–20 years of employment record and varies depending on the unemployment period (higher for the first 3 months of unemployment and lower for subsequent months). Those with shorter employment records (below 5 years) receive 80% of the basic unemployment benefit, while those who worked longer than 20 year receive 120% of the benefit.

As mentioned, the Law on employment promotion and labour market institutions enumerates the groups of foreigners eligible to work (who can subsequently receive unemployment benefits) in Poland. These include: EU/EEA citizens and those with similar status and their family members, those with residence permits (permanent or temporary) in Poland or long-term EU residents and their family members, refugees, those who have permission to stay in Poland due to humanitarian reasons or covered by temporary protection.

In the case of registration of non-nationals in the unemployment office, the *starorsta* informs the Border Guards or the voivod about the registration. Foreigners with temporary residence permits for studies, family members, victims of human trafficking and other reasons not related to employment have access to active labour market services, but not unemployment benefits and stipends paid during the period of training or post-diploma studies.

⁵Agreement of January 16, 1958 (Journal of Laws 1959, item 1914).

⁶Agreement of April 6, 2006 (Journal of Laws from 2007, No. 229, item 1686).

⁷Agreement of April 2, 2008.

⁸Agreement of April 2, 2008.

⁹Agreement of February 25, 2009.

¹⁰Agreement of October 7, 2009.

¹¹Agreement of May 18, 2012.

¹²Agreement of September 9, 2013.

¹³Agreement signed in February 2019.

The Law also specifies the periods counted as eligibility for unemployment benefits, which include employment in Poland or an EU country, as well as employment abroad in non-EU countries only if the person paid a contribution to a Labour Fund amounting to 9.75% of the average wage for each month of employment. The condition to pay supplementary contribution does not apply for repatriates.

The payment of unemployment benefits is conditional on the residence in Poland. Unemployed people who are staying abroad for less than 10 days per calendar year maintain the right to the unemployment benefit if they inform the poviatt labour office. This does not apply to the unemployed who seeks employment in other EU countries. In this case, the benefit is paid up to 3 months of staying abroad (it can be extended up to 6 months).

22.2.2 *Health Care*

The access to health-care benefits is defined in the Law of 27 August 2004 on Health Care Services financed from Public Means.¹⁴ Article 2 of the Law specifies that access to in-kind benefits is granted to all people who are covered by health care insurance. There is no requirement of period of paying contribution before becoming eligible for in-kind benefits (including primary care, specialised ambulatory care and hospital services).

Insured non-nationals who pay health care contributions based, inter alia, on their employment, or on the voluntary basis have access to benefits in kind. The Law lists all types of insured people, including Polish/EU/EFTA citizens, nationals of other countries who hold relevant residence permits and persons who have been granted refugee status or subsidiary protection in Poland; as long as they pay contributions on mandatory or voluntary basis. For insured people, there is no difference in access to health care services depending on the nationality – Polish citizens and foreigners enjoy the same rights. There are also several categories of people who are not insured, but still eligible for health care services (those who meet the social assistance income criterion). Health care services are also guaranteed for children below age 18, Polish citizens and foreigners who obtained refugee status or subsidiary protection, or a temporary residence permit granted for family reunification.

In-kind benefits are provided on the Polish territory. However, all insured people based on the European Health Insurance Card have access to medically necessary, state-provided health care during a temporary stay in other EU countries, Iceland, Liechtenstein, Norway and Switzerland, under the same conditions and at the same cost as people insured in those countries. Similarly, Polish nationals residing in the EU countries have access to medical services in Poland. Polish citizens residing in

¹⁴ Ustawa z dnia 27 sierpnia 2004 r. o świadczeniach opieki zdrowotnej finansowanych ze środków publicznych, <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20042102135>

non-EU countries do not have access to in-kind services in Poland. They can receive emergency treatment, but they are obliged to finance it from their own sources.

The access to sickness benefits in cash is based on the social insurance principle and the only requirement relates to the payment of the contribution which is mandatory for all salaried workers and people performing their job based on employment contracts. The contribution rate for sickness insurance is 2.45% of the gross salary paid by the employee, or in the case of self-employed – declared income not lower than 60% of average wage. The contribution for disability pensions is mandatory for all groups of insured and it is 8% of salary (6.5% paid by the employer and 1.5% paid by the employee). Disability pensions are paid upon the assessment of long-term full or partial incapacity to work.

The Laws regulating access to health benefits in cash do not refer specifically to nationality with regards to access to benefits (Law of 13 October 1998 on Social Insurance System,¹⁵ the Law of 25 June 1999 on cash benefits in the case of sickness and maternity¹⁶ and the Law of 17 December 1998 on pensions from Social Insurance Fund¹⁷). The Law on Social Insurance indicates that the Social Insurance Institution provides Border Guards and State Employment Inspection with information on the insured foreigners and their employers.

The short-term sickness benefits (in principle, 80% of salary) are granted after the waiting period of 30 days. Self-employed people are covered by the sickness insurance on a voluntary basis with longer working period (90 days). Prior to receiving sickness benefits, employees receive salaries from their employers (generally for the first 33 days of sickness). The sickness benefit is payable upon the sick leave issued by a doctor. Short-term sickness benefits are in general paid out in Poland. In case of travel abroad, the benefit may be suspended only if the doctors' prescription does not allow the sick person to travel or recommends the stay at home.

Disability pensions are paid in case of long-term permanent or temporary incapacity to work, assessed by social security doctors. As a rule, disability pensions are granted for maximum 36 months and they are re-assessed afterwards. Disability pensions are calculated according to the defined-benefit pension formula specified in Law on pensions from Social Insurance Fund. Partial disability pension amounts to the 75% of the full disability pension. To claim a disability pension, a person needs to be covered by social insurance at least for 5 years (this period is shorter for people younger than 30). For EU/EEA nationals and non-EU nationals from countries covered by bilateral agreements, this periods also includes periods of social insurance in the foreign country. The main qualifying condition for claiming the disability pension is the coverage by the social insurance system in Poland, regardless on the nationality. Disability pensions can also be paid in another country: in

¹⁵ Ustawa z dnia 13 października 1998 r. o systemie ubezpieczeń społecznych, <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19981370887>

¹⁶ Ustawa z dnia 25 czerwca 1999 r. o świadczeniach pieniężnych w razie choroby i macierzyństwa, <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19990600636>

¹⁷ Ustawa z dnia 17 grudnia 1998 r. o emeryturach i rentach z Funduszu Ubezpieczeń Społecznych, <http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19981621118>

the case of EU countries, based on the Directives of social security coordination and for non-EU countries, based on bilateral social security agreements.

22.2.3 *Pensions*

Old-age pensions are a part of the contribution-based social insurance system, covering employees and self-employed. The old-age pension contribution is equal to 19.52% of salary, equally split between employee and employer. To claim old-age pension, one has to reach legal retirement age (60 years for women and 65 years for men). For the minimum pension guarantee, there is a minimum insurance period equal to 20 years for women and 25 years for men. There is no general non-contributory pension scheme in Poland.¹⁸ After the change of pension system in 1999, the old-age pensions are paid according to defined contribution formula and depend on lifetime contributions and life expectancy at retirement age.

The access to benefits depends on the previous social insurance record. There is no reference to nationality in the Law on social insurance system and the Law on Pensions from Social Insurance Fund. The access of migrants to pensions is an issue mainly in the case of providing benefits for those that combine work experience from more than one country (i.e. Poland and other country). Following the EU accession, these issues are covered by the coordination of social security systems. Pensions accrued in Poland and any of the EU countries can be transferred to pensioner's EU country of residence. Their periods of insurance in Member States also accumulate for the assessment of pension benefits. As for non-EU countries, old-age pensions are also covered by all bilateral social security agreements that are currently in force in Poland. This means that their benefits can be exported to their countries of residence. Polish nationals who reside in a non-EU country that is not covered by a bilateral agreement can receive their pensions on their bank account in Poland.

The share of pensions paid on the basis of international agreements in Poland is small. In 2017, 1.3% of total cash benefits paid by the Social Insurance Institution were due to the implementation of international agreements (Social Insurance Institution 2018). The number of pensions paid out as a result of these agreements were around 154,000, including around 100,000 pensions paid in Poland and almost 54,000 pensions transferred to other countries. In the latter group, almost 38,000 pensions were transferred to EU countries (of which: 17,500 to Germany, 4400 to France, 3100 to Sweden), which reflect the past migration trends from Poland.

¹⁸ Soldiers, police and other military forces as well as judges and prosecutors receive benefits from non-contributory pension schemes.

22.2.4 Family Benefits

There are different types of family benefits in Poland. Upon child birth, the parents are eligible to maternity, paternity and childcare benefits (financed from social insurance based on the Law on Social Insurance Cash Benefits in Cases of Sickness and Maternity) or parental benefits (tax-financed flat-rate paid to non-employed parents for first 12 months after the child birth, based on the Law of 28 November 2003 on Family Benefits).¹⁹

For those covered by social insurance, maternity benefit (*zasilek macierzyński*) is paid for 20 weeks of maternity leave (*urlop macierzyński*) (up to 6 weeks can be taken before the childbirth). The amount equals 100% of salary (80% if the mother declares taking up 52 weeks of combined maternity and childcare leave). After maternity leave, a mother or a father can claim childcare leave for 32 weeks, with the maternity benefit equal to 60% of the salary (or 80% if the maternity benefit was lowered to 80%). For fathers only, there are also two weeks of paternity benefit (*zasilek ojcowski*) that can be claimed during the first 24 months after childbirth.

Parents who are not covered by the social insurance receive the parental benefit (*zasilek rodzicielski*) that is flat rate (equal to 1000 zł/220 EUR) paid for 52 weeks after childbirth. These benefits are tax-financed.

Since 2016, families receive benefits for bringing-up children (the so-called “Family 500+ benefits”). These benefits are tax-financed, universal (except for the income-tested benefit paid for the first child) and their distribution is organised by local governments on grounds of the Law of 11 February 2016 on State support in bringing up children.²⁰ Families with lower income also can receive family benefits that are tax-financed and income tested.

The sources of financing determine the access of foreigners to benefits and their availability. Maternity, paternity and childcare leaves are paid to people who are covered by social insurance for sickness and maternity, regardless the country of nationality, provided that the parent claiming the benefit was insured in Poland. These benefits can be paid when a beneficiary remains temporarily abroad, in agreement with the Social Insurance Institution. In case of long-term stay, the benefits are subject to the coordination of social security systems (for EU countries) or bilateral agreements (for non-EU countries). Benefits cannot be exported to non-EU countries not covered by the social security agreement (they can be still received in Poland).

The tax-finance parental benefits are paid to Polish nationals and (EU and non-EU) foreigners residing in Poland, as well as refugees who have the right to work in Poland. The Laws enumerate foreign citizens eligible for tax-financed family benefits and benefits for bringing up children, on the same conditions as Polish

¹⁹ Ustawa z dnia 28 listopada 2003 r. o świadczeniach rodzinnych, <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20032282255>

²⁰ Ustawa z dnia 11 lutego 2016 r. o pomocy państwa w wychowywaniu dzieci, <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20160000195>

nationals. This includes EU nationals, foreigners coming from countries that have signed bilateral social security agreements binding in Poland, those holding permanent or temporary residence permits,²¹ foreigners with a long-term EU residence permit, or those holding residence cards with the entry 'access to the labor market'.²² This means that the access to tax-financed benefits to foreigners from non-EU countries is limited to selected reasons related to receiving residence permits.

Family benefits and benefits for bringing up children are granted to families if they reside in Poland while receiving the benefits, unless otherwise allowed by the coordination of social security systems. For those residing in another EU country, the coordination of social security systems means that families have a right to a supplementary allowance, i.e. difference between the benefit received in the other EU country and Poland. Thus, those living in Poland can receive a supplement up to the level of the benefit eligible in the country of origin, while Polish nationals living abroad can receive a supplement up to the level of the Polish benefit. Currently, the bilateral social security agreements signed by Poland do not cover family benefits or benefits for bringing up children. Therefore, non-EU citizens have the right to these benefits only if they reside in Poland. Similarly, Polish nationals residing in non-EU countries do not have access to the Polish family benefits in the country of residence.

22.2.5 *Guaranteed Minimum Resources*

There are three types of social assistance benefits in Poland that comprise the guarantee of minimum resources, paid based on the Law of 12 March 2004 on social assistance.²³ These are: (a) the Periodic Allowance (*zasilek okresowy*) due to long-term illness, disability, unemployment, inability to maintain or acquire entitlement to benefits from other social security systems for a period of time depending on the decision of the social assistance center; (b) the Permanent Allowance (*zasilek stały*) granted to people with permanent disability or those who not able to work due to their age; and (c) the Special Needs Allowance (*zasilek specjalny/celowy*) granted to cover the cost of purchase of necessary goods or services.

All benefits are payable to individuals or households whose income is below the social assistance threshold. The foreigners eligible for benefits include those that are residing or staying on the territory of Poland: (a) EU/EFTA nationals and their

²¹ Granted to work in a profession requiring high qualifications or due to other conditions specified in Article 186 of the Law on Foreigners (*inter alia*: migrant workers, children of foreigners born in Poland, has a long-term stay permit from other EU country) or in connection with obtaining refugee status or subsidiary protection in Poland, if they live with family members in Poland.

²² Excluding third-country nationals authorized to work in an EU Member State for a period not exceeding six months, those admitted for study or seasonal work, or those having the right to work based on a visa.

²³ *Ustawa z dnia 12 marca 2004 r. o pomocy społecznej*

family members with the right to stay or the right of permanent residence in Poland; (b) on the basis of a permanent residence permit, a long-term EU residence permit granted in Poland or in other EU country or a temporary residence permit granted due to the refugee status or subsidiary protection or in connection with obtaining in Poland the refugee status or subsidiary protection; and (c) in connection with obtaining consent in Poland for humanitarian reasons or consent for tolerated stay. These groups have the same conditions of access to benefits as Polish citizens.

Furthermore, the right to benefits in the form of crisis intervention, shelter, meal, necessary clothing and special purpose allowance is granted to foreigners staying in Poland on the basis of the certificate confirming assumption that they have been victims of human trafficking or they have temporary residence permits as victims of human trafficking. Moreover, as indicated in the introduction to this section, one of the conditions to be granted residence permits in Poland is the proof that the level of income of applicants exceeds the minimum income criteria specified for social assistance. This means that the risk of claiming social assistance benefits by foreigners is limited.

22.2.6 *Obstacles and Sanctions*

As discussed, the eligibility of foreigners to social protection benefits depends on the sources of their financing. In the case of social-insurance financed benefits (old-age, disability pensions, sickness benefits and maternity benefits), the access to benefits is the same for Polish nationals, EU citizens and third-country nationals covered by the respective social insurance. In the case of tax-financed benefits (family benefits, social assistance benefits) and unemployment benefits (financed from the Labour Fund), EU nationals have the right to those benefits on the same rules as Polish citizens. The access of non-EU nationals to these benefits is conditioned by holding permanent or temporary resident permits. To receive the resident permit, third-country nationals need to prove that they have an income exceeding the social assistance threshold, in order to limit the risk of claiming the benefits related to guaranteed minimum resources.

For each type of benefit, the list of eligible foreigners is formulated differently. The access to unemployment benefits is regulated in the most detailed manner, which is also related to the fact that the Law on employment promotion and labour market institutions also regulates various types of work permits for foreigners. The other acts have less detailed, but still different, specification of foreigners who can access social benefits. Thus, the set of regulations related to the availability of social security to foreign nationals in Poland is quite complex and not easy to follow, which may create difficulties in access to social security benefits.

The bilateral agreements currently in force in Poland (with Yugoslavia, the Republic of North Macedonia, USA, Canada, the Republic of Korea, Australia, Ukraine, Moldova and Belarus) cover old-age, disability and survivor pensions, and sickness benefits. Family benefits are covered only in the agreements with Yugoslavia

and the Republic of North Macedonia. The bilateral agreements follow the following principles: equal treatment, applying one legislation, summing insurance periods and retaining acquired rights. Hence, they offer easier access to claiming benefits (due to summing insurance periods and applying one legislation), as well as receiving benefits (due to the retaining of acquired rights and export of benefits).

The rising inflow of migrants to Poland leads to increasing share of foreigners covered by the Polish social insurance system. Those employed on the work contract or commission contract (the so-called *umowa-zlecenie*) are covered by the mandatory social insurance. Data from the Social Insurance Institution (ZUS) indicates that between the first quarter of 2012 to the second quarter of 2018, the number of foreigners covered by the pension social insurance in Poland increased more than 6 times: from 87,500 to 541,200. This is mostly due to the increased number of Ukrainian workers, whose number of insured in mid-2018 was almost 15 times higher compared to 2012. By mid-2018, the share of foreigners among all insured people exceeded 3%, compared to around 0.6% in 2012.

Accumulation of pension rights by foreigners in Poland can lead to different outcomes with regards to their future access to benefits, depending on the country of origin and respective arrangement on social security agreements between countries. The majority of non-EU nationals working in Poland are covered by bilateral social security agreements (Fig. 22.1), with the prominent share of Ukrainian workers. However, the number of workers from countries that are not covered by such agreements is also sizeable, which concerns particularly Belarusian, Vietnamese and Russian citizens (Fig. 22.2). Signing the bilateral agreement with Belarus is an important step to cover this gap. These workers in the future might have limited access to their pension incomes at retirement, due to the lack of solutions related to portability of their pensions. In particular, if their insurance record in Poland is below 25 years (men) or 20 years (women), they will not have a right to the minimum pension. According to the Polish legislation, they would receive a benefit that is directly linked to the value of their accumulated contributions, divided by life expectancy at retirement age.

Fig. 22.1 Insured foreigners by type of international social security arrangements. (Source: Own elaboration based on data of Social Insurance Institution (www.zus.pl))

Fig. 22.2 Number of workers (by nationality) most frequently covered by social insurance from non-EU countries without bilateral agreements. (Source: Own elaboration based on data of Social Insurance Institution (www.zus.pl))

The data from social insurance shows that the number of insured foreigners in Poland is lower than the number of statements related to the intentions to hire foreign workers or the statements on hiring foreign workers that are reported to the labour offices. This might indicate that there is a large number of foreign workers who are working based on informal agreements, which do not give them a social protection coverage.

In December 2017, there were almost 3500 foreigners registered as unemployed, which constituted around 0.32% of all registered unemployed (MRPiPS 2018). This share is much smaller than the share of foreigners in employment, which indicates that existing policies related to the requirement to confirm the employment in order to receive the residence permit are effective. There is a slight increase in the share of unemployed registered at labour offices. In 2016, there were also around 3500 foreigners registered, constituting 0.26% of the total number of unemployed- compared to 0.24% at the end of 2015 and 0.21% in 2014, respectively. However, this rising trend is also linked to the lower number of unemployed in Poland, the drop being related to lower numbers of Polish citizens unemployed. At the end of 2017, the largest group among registered unemployed foreigners were citizens of Ukraine (around 35%), Russia (around 15%) and Belarus (around 8%). 61% of unemployed foreigners were women and 49% were long-term unemployed. Only 7% of all foreigners registered as unemployed had a right to unemployment benefit at the end of 2017. In the case of Polish citizens, the percentage was around 15%. This difference probably results from limitations in access to unemployment benefits, related to required work experience necessary to claim them.

Similar differences in access to benefits exist also in the area of family benefits. According to the data from the Ministry of Family, Labour and Social Policy, in 2017, only 0.2% of the payments of benefits for bringing up children were paid to foreign citizens.²⁴

²⁴ <https://finanse.wp.pl/500-plus-takze-dla-dzieci-obcokrajowcow-dostaly-35-mln-zlotych-6277810971388033a>

22.3 Conclusions

The migration landscape in Poland has been changing, particularly in recent years. While in the past, the most important tendency was the relatively large wave of emigration, particularly after the EU accession, during the last few years, Poland has started to witness a dynamically rising share of foreign workers originating mainly from Ukraine and other non-EU countries. This means that the issue of foreigners' access to social security in Poland becomes an increasingly important topic for social policy.

The provision of social security benefits in Poland are based on insurance-financed or tax-financed rules. In the first case, the access of foreigners to benefits is similar as for Polish citizens, as it is determined by paying relevant social insurance or health insurance contributions. The access to tax-financed benefits (family benefits, social assistance, health care benefits financed from taxes) and unemployment benefits is limited to selected categories of foreigners, which is a narrower group (European Migration Network 2014).

From May 2014, the changes in eligibility rules for social security benefits (following amendments to the Act on social pension, the Act on family benefits and the Act on Employment Promotion and Labour Market Institutions) extended the category of people entitled to unemployment benefits, family benefits and social pension to foreigners holding time-bound residence permits. There are also some loopholes in the legislation. For example, the Children Ombudsman in 2017 indicated that there are problems in access to family benefits for families with children that have Polish citizenship, but parents do not (for example, the Polish parent died, and the child remains under the custody of foreign parents).²⁵

The share of foreigners, particularly from Ukraine, participating in social insurance in Poland has increased. Most foreigners are covered by the relevant solutions in the area of coordination of social security, either based on the EU regulations or bilateral agreements. However, a sizeable share is not covered by such agreements, which may hamper their access to old-age pensions. It is also worth noting the significant share of foreign residents (mainly from Ukraine) who work in the informal economy in Poland, without access to social insurance. This can be an increasingly important issue in the coming years.

Lastly, Polish nationals residing abroad have access to benefits according to the principle of acquired rights, in the case of EU countries (coordination of social security systems) or in non-EU countries which have bilateral agreements with Poland. Non-resident nationals cannot claim new benefits if they are tax financed and when they are not covered by the Polish social insurance.

²⁵http://brpd.gov.pl/sites/default/files/wyst_2017_04_04_mrpips.pdf

Acknowledgements This chapter is part of the project “Migration and Transnational Social Protection in (Post) Crisis Europe (MiTSopro)” that has received funding from the European Research Council (ERC) under the European Union’s Horizon 2020 research and innovation programme (Grant agreement No. 680014). In addition to this chapter, readers can find a series of indicators comparing national social protection and diaspora policies across 40 countries on the following website: <http://labos.ulg.ac.be/socialprotection/>.

References

- Buchholtz, S., Chłoń-Domińczak, A., & Góra, M. (2017, October). *Implementing non-financial defined contribution pensions in Poland* (1–30).
- Chłoń-Domińczak, A. (2018). *Labour market policy thematic review 2018: An in-depth analysis of the emigration of skilled labour. Poland*. European Centre of Expertise (ECE) in the field of labour law, employment and labour market policy.
- Esping-Andersen, G. (1990). *The three worlds of welfare capitalism*. Princeton University Press.
- European Migration Network. (2014). *Migrant access to social security in Poland*.
- Gradzewicz, M., Saczuk, K., Strzelecki, P., Tyrowicz, J., & Wyszynski, R. (2016). *Badanie Ankietowe Rynku Pracy. Raport 2016*.
- Kaczmarczyk, P., & Okólski, M. (2008). Demographic and labour-market impacts of migration on Poland. *Oxford Review of Economic Policy*, 24(3), 600–662. <https://doi.org/10.1093/oxrep/grn029>.
- Magda, I., Kielczewska, A., & Brandt, N. (2018). The “family 500+” child allowance and female labour supply in Poland. *IBS Working Paper, 01*.
- MRPiPS. (2018). *Zatrudnianie cudzoziemców VII 2018 r* [Employment of foreigners, July 2018]. Warsaw: Ministry of Family, Labour and Social Policy, Labour Market Department.
- National Bank of Poland. (2018). *Analiza sytuacji sektora przedsiębiorstw. Szybki Monitoring NBP* [Analysis of the situation of the enterprise sector. Quick monitoring]. Warsaw.
- Social Insurance Institution. (2017). *Social security in Poland*. Warsaw.
- Social Insurance Institution. (2018). *Informacja o świadczeniach pieniężnych z Funduszu Ubezpieczeń Społecznych oraz niektórych świadczeniach z zabezpieczenia społecznego. IV kwartał 2017* [Information on cash benefits from social insurance fund and about selected benefits from social security]. Warsaw.
- Statistics Poland. (2016). *Informacja o rozmiarach i kierunkach czasowej emigracji z Polski w latach 2004–2015* (pp. 1–5). http://stat.gov.pl/files/gfx/portalinformacyjny/pl/defaultaktualnosci/5471/1/1/1/szacunek_emigracji_z_polski_w_latach_2004-2014.pdf.

Open Access This chapter is licensed under the terms of the Creative Commons Attribution 4.0 International License (<http://creativecommons.org/licenses/by/4.0/>), which permits use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter’s Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter’s Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.