Chapter 27

Migrants' Access to Social Protection in Spain

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27.1 Overview of the Welfare System and Main Migration Features in Spain

27.1.1 *Main Characteristics of the Spanish Social Security System*

The Spanish social protection system is generally categorised as belonging to the “Mediterranean” type (Ferrera 1996), and it occupies an intermediary position on the “decommodification” scale (Esping-Andersen 1990). The main characteristics of this system are the combination of social insurance programs (typical of the “conservative-corporatist” model) with universalist schemes (of the “social-democratic” type), its strong reliance on families for the provision of care (for children, the disable or the elderly), the high level of decentralization in the design, management and, financing of social protection schemes, as well as the relatively low level of social expenditure compared to the rest of Western European countries.

Today’s Spanish welfare state was founded upon the inadequate corporatist system developed under Franco’s authoritarian regime (a variant of the conservative-corporatist model in place in continental Europe). From the late 1970s, the democratically elected governments did not radically restructure the pre-existing social protection programmes, but rather attempted to achieve a higher degree of universalization and coverage for these same programmes (Moreno 2002).

Just like in other Southern European countries, and up to recently, public authorities practically took for granted the self-sufficiency of households regarding the provision of care and material support for their members, so families remained a

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central part of social policy in Spain (Flaquer 2000). This situation, which reinforced the exploitation of female members of the family, faces the challenge of the growing incorporation of women into the labour market, as well as the gradual decline in expectations of solidarity within the family.

Also characteristic of the Spanish welfare regime is the high degree of decentralization of social policy decision-making and programme management. With the exceptions of pensions and unemployment insurance, which remain in the hands of the central government, social protection schemes are fundamentally run by the autonomous regional governments and by municipal authorities. In this context, the responsibility of the central government lies in the development of basic legislation applicable nationwide, as well as in specific financial transfers of a conditional nature to cover a share of the costs of certain social protection programmes. The autonomous communities have, as a result, emerged as central political actors in the development of systems of social assistance, care, education, and social services. This means that social rights end up taking significantly distinct forms within different regions, depending on the priorities established by the autonomous governments, as well as on the resources that each region may mobilize to finance such policies (Marí-Klose and Moreno-Fuentes 2013).

The Spanish welfare state is also characterized by its relatively low level of social spending, among the lowest of all Western European countries. A detailed analysis of the disaggregated data on social spending shows that a relatively significant financial effort is put into paying for pensions (as in the rest of Southern Europe). Similarly, unemployment benefits absorb a significant fraction of the financial resources dedicated to social protection due to the particular sensitivity of the Spanish labour market to the fluctuations of the economic cycle, while the provision of housing, or schemes to support families are extremely weak.

27.1.2 Migration History and Key Policy Developments

Spain, a traditional country of emigration (at the times of the colonial expansion, to the Americas, later on as economic migrants left for Latin America, Africa and some of the most developed Western European countries), became a net receiver of migrants over the last two decades. This shift of position in the international migration system was determined by the large economic and political changes experienced by Spain over this period. While in 1999 the foreign population represented roughly 2% of the Spanish population, by 2011 foreigners constituted more than 12% of the Census (more than 5.7 million persons), the second highest number of foreigners in the European Union (EU-27) after Germany. This figure included both EU nationals residing in Spain (both as retirees and students, and as workers, notably from the new Eastern European member states), and economic migrants from Latin America, North-Africa, Eastern Europe and Asia. The relatively rapid annual growth in the number of foreign residents of the late 1990s accelerated after 2000, with average annual increases superior to 40%. Both the scale and the speed at

which this immigration trend occurred were quite remarkable. Since 2000, the pace of foreigners settling in Spain accelerated sharply, above all in the years 2000–2005, period during which the annual intensity of settlement reached 16.8 foreigners per 1000 inhabitants (Izquierdo 2006). Starting in 2005, the volume of migration flows to Spain decreased significantly, but remained, nevertheless, higher than the European average. As a result of this process between 1990 and 2005 Spain became one of the primary destination countries for immigration in the world, joining countries with a long tradition as receivers of migration flows.

Between 1996 and 2007, the Spanish economy created almost 8 million jobs, expanding from 12.6 million employed in 1996, to 20.5 million in the second quarter of 2007. Many of those jobs were occupied by foreigners, which contributed to the introduction of flexibility in the Spanish labour market (in terms of hiring, working conditions, salaries and geographic and functional mobility), particularly in certain sectors and employment niches. While at the end of 2001, around 600,000 foreign workers were affiliated to the social security system (a little less than 4% of the total workforce), by the end of 2007 they were almost 2 million (10.3% of the total number of affiliates). After this peak, the economic crisis led to the destruction of more than 2 million jobs, many of them occupied by immigrant workers. Nevertheless, and despite the economic crisis that affected foreign workers with particular intensity, the number of foreigners affiliated to the social security system continued being close to 1.9 million people (around 10.5% of affiliated workers) at the beginning of 2010.

The main regulatory framework for those migration flows has been the 4/2000 Spanish Immigration Law, which establishes the main principles under which foreigners can enter and settle in the country, while defining the basic set of rights and obligations of those foreign residents. This regulation, amended in different aspects by the successive governments, aims at striking a complex balance between a strict logic of border closure, and the need to respond to the demands from different sectors of the economy favourable to the arrival of foreign workers, as well as to the requirements of the migratory projects of those foreigners settled in Spain.

The economic crisis experienced by Spain between 2008 and 2013 made migration flows affecting this country significantly more complex. While immigration and emigration coexisted, immigration flows considerably decreased, and out-migration significantly expanded. At the same time, the profiles of people coming to Spain and those leaving the country became more heterogeneous, combining foreign immigrants, naturalised foreigners, and native-born Spanish citizens in multiple manners (González-Ferrer and Moreno Fuentes 2017). This re-emergence of emigration flows was perceived as an indicator of Spain's structural weaknesses. The socio-economic shock produced by the crisis pushed a large spectrum of Spanish workers to consider emigration as a way out of the situation of unemployment, and/or sub-employment. The incentives for migrating were there for a higher number of segments of the Spanish population (including some of the immigrants that had arrived in Spain in previous years, many of which had already acquired Spanish citizenship), producing a relatively large-scale out-migration flow. This flow was directed towards other EU countries, but also towards the countries of

origin of some of the groups that had arrived in previous years. The position currently occupied by Spain in the World Migration System (Bakewell 2012) has become more complex, with significant out-migration flows combined with immigration (fundamentally through family reunification, but also some labour migration), with a net balance that is difficult to ascertain.

27.2 Migration and Social Protection in Spain

In basic terms, foreigners can access Spanish social protection schemes through a mix of two basic entitlement patterns: their participation in the labour market (for programs based on social insurance), and their residence in Spanish territory (for schemes based on a universalistic logic).

Access to welfare schemes included under the umbrella of the Social Security system (unemployment benefits and assistance, sickness and disability benefits, retirement pensions, as well as some family benefits) is essentially based on a contributory logic, and the basic eligibility criteria is having previously contributed to the system for a certain period via labor market participation. Nationality, per se, does not play any role in the definition of entitlements to benefits from the National Social Security Institute (*Instituto Nacional de la Seguridad Social*, INSS). Autochthonous workers and regularly employed foreign workers with valid work permits can access these schemes in equal terms.

The significant role of the underground economy in the Spanish productive system conditions access to social insurance programs for the most precarious categories of workers.¹ Participation in informal sectors of the economy is the only possibility to hold a job for undocumented migrants. Autochthonous and immigrant workers with working permits who cannot find a job in the formal economy may also have to rely on the underground economy to find employment. This situation prevents workers from accessing the protection of contributory social insurance schemes.

A second group of welfare policies, such as healthcare, education, social assistance and personal social services, operate under a residence criterion. For these programs, any person registered as a resident in a Spanish municipality is eligible, regardless of their nationality, or the regularity of their residence status. Access to these social protection programs is grounded on the eligibility criteria established by the 4/2000 Spanish Immigration Law, which states the universality of access to education and healthcare in Spain without any concern for the legal status of the

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¹By their very nature, the precise size of economic activities outside of the State's regulation and taxation is unknown. Recent estimates quantify the average underground economy in Spain in the period 2004–2015 to have been around 24.5% of the GDP (Medina and Schneider 2018). The underground economic is concentrated in the construction, agriculture and particularly in the services sector (cleaning, domestic service, and care tasks) where migrant labor has their main labor market niches (Baldwin-Edwards and Arango 1999).

person. This Law also established that legal foreign residents are entitled to the same social assistance services and benefits than Spaniards, while immigrants in an irregular administrative situation can access a limited package of social assistance and personal social services benefits. Due to the strongly decentralized character of the Spanish welfare regime, each autonomous community has a large room of maneuver for deciding its own policy regarding access of undocumented migrants to social services in their territory. Thus, in some regions requirements to access mainstreaming social services schemes are relatively flexible, while in other semi-public targeted schemes, generally run by third-sector organisations, have been established to attend undocumented immigrants.

The dual nature of the welfare system conditions to some extent the eligibility of Spanish nationals residing abroad to the different social protection schemes as well. In general terms, those domains of social protection based on a social assistance logic, or on a universalistic entitlement linked to residence in the country, exclude those nationals who do not reside in Spain. On the other hand, some programs based on a social insurance logic (notably pensions, although not unemployment benefits) grant entitlements to Spanish nationals abroad to the extent that they contributed to them previously to leaving the country.

The economic crisis started in 2008 opened a window of opportunity for the introduction of austerity policies, and for a significant reduction of social rights in Spain (Pavolini et al. 2015). Although the economy gradually recovered its pulse over the last years, and with it, the public finances necessary to provide public services, welfare programs and entitlements were significantly affected by fiscal consolidation measures.

27.2.1 Unemployment

The social security system constitutes the core and foundation of the Spanish welfare state. Financed through the contributions of employers and employees, it is comprised of a series of insurance schemes to respond to specific social risks linked to citizens' work life including unemployment, work related accidents, disability and retirement.

The contributory nature of these insurance programmes implies that the basic criterion defining the right to access most of the programmes managed by the National Social Security Institute or by other agencies linked to it, such as the Public Employment Service (*Servicio Público de Empleo*, SPE), is affiliation to social security via participation in the labour market during a specified period. Thus, to receive unemployment benefits, a worker must have contributed for a number of months (specific to each insurance scheme), and the benefits he/she will receive will be proportional to the duration and quantity of his/her contribution. These insurance schemes operate under a pay-as-you-go logic (not a capitalization system), so each worker contributes to a common fund from which resources are extracted to pay for the benefits that must be assumed by the system at any specific point time. Nationality

does not play a significant role in the criteria defining the right to access INSS benefits, as both Spanish citizens and foreigners with work permits and employment in the formal economy have access to these systems under equal conditions. The contributory nature of social security benefits explains the fact that immigrants' access to social insurance schemes is rarely contested in the public or political debates.

Remaining employed in the formal economy, and contributing to the social security system, are central conditions to access the benefits and subsidies administered by the INSS. The high rates of temporality among immigrants, as well as the shorter duration of their labour careers, explain the relatively low rate of unemployment benefits and subsidies coverage among these groups. Maintaining employment is key for immigrants because in many cases the renewal of work and residency permits depends on having held a job during the previous months. In this regard, entering into a situation of irregularity constitutes one of the risks threatening immigrants' entitlement to the benefits of the social insurance system. Thus, the important role played by the underground economy in the Spanish production system constitutes an important obstacle for immigrants' access to the social insurance system.

The amount and duration of unemployment benefits received by workers, both national and foreigner, are directly tied to their previous trajectory of contributions. Once the contributory benefits are exhausted, unemployed workers may receive an unemployment social assistance subsidy for a limited period, provided they comply with a series of specific requirements. Unemployment assistance protection consists, in fact, of a series of means-tested programmes, including unemployment assistance benefits,² the agrarian unemployment subsidy,³ the Active Integration Income (RAI), the Professional Requalification Programme (PREPARA) and the Employment Activation Programme (PAE). These schemes have been gradually integrated into the social security unemployment protection system at various stages of the different labour market reforms implemented in Spain over the years. The result is a layering of segmented programmes with different eligibility criteria and variable duration of protection, depending on previous contributions, family responsibilities and specific social conditions (disability, being the victim of gender violence, being a returning migrant, or being over 45). These schemes are available to foreign residents with a regularized administrative situation as well, and they constitute transitory programs for situations of socio-economic distress.

Both Spaniards and foreign nationals entitled to unemployment benefits and assistance schemes need to reside in the country to have access to these benefits, and in case of establishing their residence abroad they lose their entitlements to these programs.

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²Unemployed workers older than 45 access the Unemployment Assistance Benefits scheme with less demanding requirements, and they do so for a longer period. In the case of those unemployed over 52 who fulfil all the other conditions for retirement, the duration of unemployment benefits is extended until the age of retirement.

³The working of the Agrarian Unemployment Subsidy and Income Scheme is restricted to the Autonomous Communities of Andalusia and Extremadura, where it plays a very significant role in the protection of landless peasants who only find work during certain periods of the year in the tasks associated with the harvesting of specific crops.

27.2.2 Health Care

The Spanish public healthcare system initiated the convergence toward a universalistic scheme with the passing of the 14/1986 General Health Law (*Ley General de Sanidad*, LGS), which established the Spanish National Health System (*Sistema Nacional de Salud*, SNS), inspired in the British National Health Service. This move implied the decoupling of in kind healthcare services (which moved towards a universalistic scheme financed through general taxation), from sickness benefits (which remained anchored within the social security system, therefore strictly dependent on a contributory logic).

The relative lack of legislative clarity regarding the rights of foreigners implied that the extension of in kind healthcare coverage promoted by this Law and based on residence criteria initially referred only to Spaniards. Citizens of other EU countries could access the SNS through the mutual recognition of healthcare coverage within the EU, while access for immigrants remained conditioned by their links with the social security system. Healthcare coverage for immigrants was later granted by the Organic Law 4/2000 on the rights and liberties of foreigners in Spain and their integration into society (*Ley Orgánica sobre Derechos y Libertades de los Extranjeros en España y su integración social*). This regulation expanded healthcare coverage to all persons that could prove residence in Spain and lacked resources to cover for the cost of their healthcare. The mechanism chosen to link healthcare coverage with the criterion of residency was enrolment in the municipal population register and a certificate of lack of means by municipal social services. This formula prevented the use of the public healthcare system by short-term visitors to the country (tourists, etc.).

The process of gradual universalization of its coverage to reach 100% of the population residing in Spain, regardless of their nationality, wealth or administrative status, was completed in January 2012, with the implementation of the 33/2011 Public Health Law (*Ley General de Salud Pública*, LGSP). Shortly after the achievement of the complete universalization of the SNS, and justified by the crisis and the deterioration of public finances, the Royal Decree 16/2012 on “urgent measures to guarantee the sustainability of the National Health System and improve the quality and safety of its benefits”, was approved in April 2012. This regulation cancelled the universal entitlement to the national healthcare system based on residence criteria. This Decree re-introduced the logic of social insurance by establishing the categories of “insured persons” (workers, pensioners, unemployed persons receiving benefits, and job seekers), and “beneficiaries” (spouses and siblings of “insured” persons younger than 26). Undocumented migrants were left out of the SNS, entitled to care only in case of emergency or infectious diseases.⁴ Spaniards with resources not contributing to the Social Security system (who had been included in

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⁴With the exception of pregnant women, those affected by infectious diseases and those in need of urgent treatments. At that time it was estimated that 160,000 undocumented immigrants would lose their health card.

the SNS only in January 2012 through the Public Health Law), jobless people without benefits older than 26 (later re-introduced in the system under the condition of proving lack of means), and those unemployed without benefits who leave the country for more than 90 days, were also excluded from the SNS (Rodríguez Cabrero et al. 2018).⁵

Non-resident EU citizens were referred to EU cross-border healthcare regulations, so to receive treatment in the SNS they should produce a European Health Insurance Card for unforeseen medical treatment, have the authorization of their country of origin's health authority in case of planned treatment, or show a certification of lack of healthcare entitlement in the country of origin and lack of financial resources.⁶

This radical change in the eligibility criteria to access the SNS adopted by the central government was supposed to limit the range of coverage of the 17 Regional Health Services (SRS) composing the SNS.⁷ The complex articulation of political and financial responsibilities in this policy area meant a substantially unequal application of the provisions adopted in that regulation: it was explicitly ignored by some autonomous governments (Andalusia and Asturias); other regions established specific programs to assist undocumented migrants without resources (Aragon, the Basque Country, the Canary Islands, Cantabria, Catalonia, Extremadura, Galicia, Navarre, and Valencia); a third group introduced some exceptions in the exclusion of undocumented immigrants from their health systems, for example, in the case of those affected by chronic diseases (Madrid, Balears, Castilla y León, Murcia and Rioja); while a fourth group literally translated the guidelines of the decrees to their regulation, cancelling health cards issued to undocumented immigrants (Castilla-La Mancha) (Moreno Fuentes 2015).

In 2015, the Minister of Health publicly recognized the considerably negative side effects derived from the expulsion of undocumented migrants from the SNS, pointing in the direction of returning the right to primary care to undocumented immigrants, but without specifying how this measure would be applied. In July 2018, the incoming social-democratic government approved the Royal Decree 7/2018 to return to the universalistic philosophy of the SNS. The current eligibility regulation means a return to a universal entitlement to healthcare based on residence (registration in a municipality) in the country.

Access to sickness cash benefits remained firmly linked to the social security system, so eligibility to this scheme directly depends on previous contributions related to formal participation in the labour market, and may benefit both Spanish

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⁵In July 2016, the Constitutional Court issued a ruling cancelling these limitation (STC 139/2016), and therefore granting access to the SNS again to every Spanish and EU citizen legally residing in Spain.

⁶In September 2012, some 873,000 healthcare cards belonging to foreigners were cancelled.

⁷The SNS is as a profoundly decentralized system, made of 17 SRS run by each of the Autonomous Regions. The central government is responsible for the basic legislation on healthcare, while regional health authorities are in charge of the deployment of that basic legislation within their own territories, with a very large degree of autonomy in the way they structure their respective SRS.

nationals and foreign residents with working permits alike. This scheme aims at guaranteeing income to workers in case of illness (if they contributed for at least 180 days during the five previous years) or work related accident (no requirement of minimum period of contribution). In the event of an accident at work or an occupational disease, sickness benefits are paid from the day following the leave of work. In case of a common illness or a non-work accident, the subsidy is paid as of the fourth day of leave up to a maximum of 18 months.⁸

27.2.3 *Pensions*

Pension schemes constitute the core of the Spanish social security system, and they absorb a very significant share of the total social spending in this country. As social insurance programs, they are financed with the contributions of employers and employees. The main schemes included under this category are income maintenance programs to respond to work related accidents, disability and most notably retirement.

Access to contributory pension schemes is based on previous contributions to the system for a certain period via labor market participation. Nationality does not play any role in the definition of entitlements to receive a contributory pension. What matters is having paid social insurance contributions for the established period, although that means, of course, having held a valid work permit in the case of foreign workers. Despite the existence of a great variation in the specific circumstances that may affect workers when opting to a pension (due to their particular labour market trajectories, the sector of activity, the moment when the worker may actually retire, etc.), in 2019, the general rule established the age of retirement at 67 (or a period of contribution of at least 36 years and 9 months to retire at 65) and a minimum of 15 years of contributions.⁹ Workers entitled to a contributory pension (regardless of their nationality), may receive their pensions abroad provided they follow the required procedures of proof of life.

The Multilateral Ibero-American Social Security Agreement (ratified by Spain as well as by Portugal, Argentina, Bolivia, Brasil, Chile, El Salvador, Ecuador, Paraguay, Peru, and Uruguay) implies that nationals of these countries may use the periods of contribution to the social security systems of any those countries for the calculation of the total number of years of contributions in order to qualify for a pension in Spain.

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⁸The temporary incapacity may be extended to 24 if those 6 extra months are considered necessary for the full recovery of the worker and there was no expectation of him/her having to be considered in a situation of invalidity.

⁹For the first 15 years of contributions, 50% of the regulatory basis is received, with an extra 0.21% for each additional month of contribution for the 163 months following, with an extra 0.19% added in the remaining months.

In recent years, and despite the crisis, the percentage of foreigners among INSS affiliates remained practically stable (between 10 and 11% of the total workforce in the case of men, and around 10% among women). Thus, foreign workers continued to help to balance the social security budget given the fact that this population is still relatively young, and is therefore a net contributor to the system, claiming relatively few benefits compared to autochthonous workers. This is particularly true regarding retirement pensions, which constitute the largest expense in the social protection system. Currently, only around 1% of the recipients of pensions in Spain are foreigners (of which more than half are EU citizens). The comparison of the demographic pyramids shows how the majorities of foreigners settled in Spain are in the age group between 20 and 50, clearly over-represented in the population of working age. Economic immigration has contributed to the rejuvenation of the Spanish workforce, constituting a net contribution to the INSS coffers, something that should continue to be the case in the next decades (Moreno Fuentes and Bruquetas-Callejo 2011).

In addition to contributory pension programs, there is also a non-contributory pensions system for persons older than 65, or for those who have a recognised disability. These means-tested schemes, providing relatively limited benefits, cover both Spanish nationals and foreigners legally residing in Spain who have not made social security contributions during the legally stipulated period, and who meet all the conditions for applying for these benefits (age or degree of recognized disability). In both cases, beneficiaries must prove that they do not have sufficient economic resources (less than €5136.6 per year in 2015)¹⁰ and that they are not entitled to a contributory pension. The amount of the non-contributory pension varies according to family circumstances and the income level of the household. This system is financed through general taxation. Similarly, those Spanish nationals residing abroad beyond the age of retirement, or who cannot work due to an illness, who do not receive a contributory pension from Spain or their country of residence may apply for a means-tested non-contributory pension to the Spanish authorities. The main characteristics of these pensions are the same as non-contributory pension schemes in Spanish territory, but their amount is adjusted to the specific conditions of the country of residence of the beneficiary.

27.2.4 *Family Benefits*

The social expenditure devoted to families and children in Spain has traditionally been very low when compared to the rest of Europe (5.3% of total social expenditure, compared to an 8.4% average for the EU28).¹¹ The most important program in

¹⁰The income threshold rises if the pension holder lives with a spouse and/or dependent children.

¹¹<https://www.comisionadopobrezainfantil.gob.es/es/gasto-en-familias-e-infancia-en-la-uni%C3%B3n-europea-2016-respecto-al-total-del-gasto-social>

this area is a non-contributory cash transfer scheme for low-income families with underage children (291€ a year in 2016), as well as for families with disabled children older than 18.¹² These benefits are targeted at families whose income in 2016 did not exceed the threshold of 11,576.83€ per year (plus 15% per additional child). This scheme is complemented by a set of one-time payments for cases of multiple birth, large families, single parents or disabled mothers, as well as a universal cash benefit/tax relief for working mothers of children aged 0–3.

The core of maternity/paternity leave benefits is based on a contributory scheme linked to pregnancy and parenthood covering the salaries of workers on leave following the birth of a child. Both Maternity (ML) and Paternity Leaves (PL) are contributory social insurance schemes financed for a short period with a high level of protection (100% of the salary). Employed mothers are entitled to 16 weeks of ML (of which up to 10 can be transferred to their partner), while employed fathers are entitled to an 12 weeks PL (to be gradually extended to 16 weeks by 2021). Since 2009, non-eligible employed mothers are also entitled to a flat-rate non-contributory maternity allowance for 42 days.

Child benefits at birth in Spain are limited to a means-tested single payment (1000€) for the birth or adoption of a child in the case of large families (with three or more children), single parent households, or handicapped mothers, as well as a scheme in the event of multiple births.¹³ In addition to that, a means-tested child benefit scheme for low-income families,¹⁴ or children with disabilities exist as well.

Although the origin of the funds to cover for these family benefits varies (child benefits for low-income families is paid with general taxes, while both ML and PL are financed through social insurance contributions), they are all run by the social security system administration. This means that the basic eligibility is determined by conditions related to the regularity of residency in the country, both of the parents and the children (regardless of their nationality), and additionally by participation in the labour market (in the case of parental leaves). Thus, the national origin of the applicant is not a key variable when determining actual eligibility, although holding a residence permit appears as a *sine qua non* condition for all of them (including the children generating the entitlement for the benefit), and actually, working legally appears as an additional requirement for parental leaves. Spanish nationals residing abroad are not entitled to any of these schemes since they do not fulfil the requirement of residency in the country.

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¹² 1000€ per year in the case of disability under 33%, 4414.8€ if the disability was between 65 and 75%, and 6622.8€ if the disability was over 75%.

¹³ 3200€ in case of two children born at once, 7200€ in case of three, and 10,800€ in case of 4 or more.

¹⁴ In case of a single child the threshold of family income to receive this benefit is established at 11,954€ (with 15% increase for each additional child). Since April 2019, this benefit is established at 341€ per year for the first child. A new category of severely poor has been also created (referring to families with income below 4680€ per year) which will receive 588€ per year per child instead.

27.2.5 *Guaranteed Minimum Resources*

There is not a basic legal framework at the central government level to define the fundamental traits of programmes to guarantee minimum resources to populations in need in Spain. The Autonomous Communities' minimum income schemes (MIS) constitute the last-resort social protection safety net in Spain, and they were created within the framework of the regions' exclusive powers on social assistance and social services. All 17 Autonomous Communities, plus the two autonomous cities of Ceuta and Melilla, have implemented their own MIS, for which they have full responsibility regarding regulation, planning, financing, implementation and evaluation. The MIS in Spain constitutes, therefore, a group of unconnected schemes, which nonetheless share certain basic features: they combine a cash transfer programme (to guarantee some minimum monetary resources) with labour market activation and/or social insertion programmes, all with a relatively low intensity of protection.

Although the design of these regional schemes has been strongly influenced by horizontal emulation and policy learning among the Autonomous Communities, there is a high degree of diversity between the different regional MIS programmes. This variability is reflected in every aspect of the design and implementation of these programmes (from delivery arrangements, to eligibility requirements, including the level of benefits). The central government tries to facilitate the exchange of information and the sharing of experiences and good practices among the Autonomous Communities.

In addition to means-tested criteria, eligibility conditions for regional MIS include age requirements, on how long the household has been living together, as well as conditions of residency and duration of registration in the municipality.¹⁵ According to the 4/2000 Spanish Immigration Law, foreigners with a residence and/or working permit are entitled to the same services and benefits from social services as Spaniards, while immigrants with an irregular administrative status can only access basic services and benefits. This distinction is not based on a clear legal definition regarding the content of basic and specialised services. As a result, each Autonomous Community has resolved in its own way the issue of undocumented immigrants' access to its social services network: in some regions, requirements are flexible in order to facilitate access, in others, semi-public schemes have been established to service undocumented immigrants, often run by third-sector organisations. Although Spanish nationality is not a condition for access to MIS benefits (except in Andalusia),¹⁶ a certain period of residence in the specific Autonomous Community is demanded in all programmes (Laparra 2014). Requirements vary from 6 months

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¹⁵As a consequence of this residency requirement, Spanish nationals residing abroad are not entitled to benefits from MIS.

¹⁶Article 3.3 of the 2/1999 Decree that regulates the Andalusian MIS (<http://goo.gl/V4nVOx>) establishes that non-EU third-country nationals cannot apply to this scheme.

(the Balearic Islands and Galicia) to 36 months (the Canary Islands, the Basque Country, and Valencia), with an extreme case of 5 years in the region of Murcia.

In 2008, immigrants accounted for 11.2% of the beneficiaries of Minimum Income Schemes (MIS) in Spain, showing a clear underrepresentation of this group considering that they constituted a larger proportion of the population at risk of social exclusion. The economic crisis and its severe effects on the incomes of the most vulnerable immigrant populations had increased this percentage to 27.5% by the end of 2017 (MSSSI 2017).

The intensity of protection varies quite considerably across the different regional MIS. The basic amount guaranteed for a one-person household ranges from EUR 300/month (Murcia or Ceuta) to something over double that figure (EUR 620/month in the Basque Country). This heterogeneity is also present in the case of supplements for additional household members, although, in general terms, the increases in benefits for larger households are quite modest, and certainly far removed from the scales of equivalence used in poverty measurement (in no region does a household of four members get near to double the basic amount for a single-person household: the most generous case increases that basic standard by only 60% for three additional household members).

The unequal coverage of MIS in the Autonomous Communities bears little relation to the situations of poverty, social exclusion or need in each of those regions. Many potential obstacles to actual access to those benefits are linked to institutional factors regarding the actual administration of the programmes, which are designed as comprehensive but tend towards a logic of social control, and which are poorly endowed with the human and material resources required for their functioning, leaving a wide margin for bureaucratic discretion, and the development of (subjective) morally loaded practices of behavioural control (Ayala 2014).

27.3 Conclusions

As a clear example of the “Mediterranean” welfare regime type, the Spanish social protection system is characterized by a combination of social insurance programs (with eligibility criteria grounded on social contributions linked to participation in the labour market), and universalist schemes (with entitlements based on residency—in some cases irrespective of administrative status-). This combination of mechanisms to define access to social programs has a clear effect on the rights to access social schemes by foreigners.

The eligibility rights of Spanish nationals to the different social protection schemes when they reside abroad is also obviously affected by this state of affairs: they have an easier access to those schemes based on previous contributions (pensions), than to universalistic programs based on a logic of residency (in kind health-care services), or to social assistance schemes (MIS).

While the key variable to determine access for social insurance schemes is not nationality, but participation in the labour market (therefore strongly conditioned by

holding an authorisation to work), social protection programs based on residency may have a more selective impact depending on the nationality of the potential user.

The nature of the international agreements ratified by Spain appears as a key aspect as well in determining welfare entitlements for foreigners. This is quite obvious in the case of nationals of other EU member states, but also for nationals from Latin American countries with which the Spanish State has signed an agreement for the coordination of their social security systems.

Right before the economic crisis initiated in 2008, the Spanish welfare regime was in a process of “expansive recalibration”, aimed at increasing the salience of policies addressing new social risks through the expansion of child-care services, parental leaves, increasing support for working mothers, and developing long-term care services for dependant people (del Pino and Pavolini 2015). The fiscal consolidation measures applied after 2010 implied both a clear “welfare retrenchment”, with the significant cut of budgets allocated to most welfare programs (particularly in the domains of healthcare, education, and social services), and a “restrictive recalibration” of the system with the reduction of welfare entitlements (notably, the elimination of universality of healthcare access), the redefinition of State’s responsibilities in the domain of welfare (decreasing role of public provision of services, expansion of copayments, etc.), and the unequal impact of these measures in the different social groups.

The contributory logic of access to the social security system increased the vulnerability of immigrant populations due to the serious deterioration of their employment situation (Bruquetas Callejo and Moreno Fuentes 2015). As their limited entitlements to contributive programs were relatively fast drained, immigrants were left in a situation of severe economic and social distress. Residential vulnerability further impacted on these groups due to the financial burdens linked to increasing housing costs, leading to a quick and intense decapitalization of immigrant households.

Mediterranean welfare states that rely strongly on contributive schemes and have large informal economies offer relatively weak protection to immigrants, since these groups are most likely to work in the deregulated sector, and their rights to welfare are largely conditional upon their participation in the regular labour market. The crisis reinforced the important role of the informal economy, and this created institutional inertia hindering the access of immigrants to insurance programmes. While immigrants’ need for social protection increased as a consequence of the crisis, the actual welfare take-up by this group decreased as a result of their more limited access to the formal labor market, and more restrictive conditions of targeted programs.

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