

Chapter 5

Migrants' Access to Social Protection in Croatia



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5.1 Overview of the Welfare System and Main Migration Features in Croatia

The main objective of this chapter is to discuss the social protection system applicable to resident nationals, EU citizens and third country nationals residing in Croatia, as well as non-resident citizens. The chapter provides a comparative analysis of five different branches of social protection – unemployment, health care, guaranteed minimum resources, pensions, and family-related benefits – with a special focus on constraints linked to applicants' residence status or nationality towards their access to social benefits.

5.1.1 *Main Characteristics of the National Social Security System*

Croatian social security policy started to evolve from late nineteenth century under the rule of the Austrian-Hungarian Empire with establishment of charities, followed by the adoption of the first social laws and regulations after World War I (Puljiz et al. 2008). After World War II, Croatia was a federal republic within the Socialist Federative Republic Yugoslavia, being thus marked by the socialist approach to social rights with universal coverage, the introduction of exclusive state competencies regarding social protection and extensive social legislation guaranteeing all social rights (Puljiz et al. 2008). After gaining independence in early 1990s, Croatia

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J.-M. Laffleur, D. Vintila (eds.), *Migration and Social Protection in Europe and Beyond (Volume 1)*, IMISCOE Research Series,
https://doi.org/10.1007/978-3-030-51241-5_5

initially started to struggle with social policies aimed at minimizing the consequences of the war for independence. In this period, the main priorities were the social rights of displaced population and war veterans, the reparation of war damages and the economic crisis. Consequently, Croatia initiated a tripartite social dialogue and embarked on a reform of the health insurance system and the pension insurance system. During the period 2000–2007, the country adopted more comprehensive reforms and harmonized its social policies to the EU standards, in preparation for full European Union (EU) membership (Croatia became a candidate country in 2004 and a full EU Member State in 2013).

In the mainstream typologies of welfare regimes, Croatia could be classified as a southern welfare state as its cash benefits are highly fragmented and very dualistic, with a clear opposition between overprotected insiders (public employees, white-collar labour force, employees of state companies) and outsiders (migrants, women, irregular workers), substantive informal economy, and a strongly gendered labour market (Martin 2015). The current social protection system is mainly based on employment status and on family links between the social security holder and dependant family members. Most social rights are based on contributions and mainly financed from obligatory social contributions of workers. However, social welfare benefits and child allowance are needs-based and means-tested.

During the past years, there were two main changes in the Croatian social protection legislation. The first one was the introduction of the EU legislation on portability of social benefits (due to Croatia's accession to the EU) and the inclusion of EU nationals in the social security legislation, on equal footing as nationals. However, after 7 years of EU membership, national laws have not fully been aligned to the EU *acquis communautaire*, such as the case of the Social Welfare Act explained below. The second change refers to the expansion of the entitlement to certain social benefits beyond traditional concepts of family members to include same-sex partners (in accordance with the new Law on Life Partnership of Persons of the Same Gender¹). However, the extension of the scope of social rights to third country nationals has not been discussed so far in the context of the reform of the Croatian social security legislation.

5.1.2 Migration History and Key Policy Developments

The history of migration in Croatia can be divided into four phases: (a) emigration for work and to escape conflict (from the fifteenth century until 1990); (b) involuntary migration to and from Croatia (1991–1995); (c) increase in legal and irregular immigration to Croatia (1995–2012); and (d) the development of migration policies aligned with the EU *acquis*.

¹ *Zakon o životnom partnerstvu osoba istog spola*. Official Gazzette 92/14. <https://www.zakon.hr/z/732/Zakon-o-%C5%BEivotnom-partnerstvu-osoba-istog-spola> Accessed 15 November 2018.

During the first period, Croatia experienced various migration patterns resulting from the country's dynamic political history and its strategic position. It is estimated that over 200,000 people left the region as a result of the Ottoman conquest and frequent wars between the Ottomans and the Habsburgs from the fifteenth to the eighteenth century (Mlinaric 2009). Between 1890 and 1939, there was massive overseas labour migration from Croatia to the Americas and Australia, with an estimated number of 550,000–650,000 emigrants causing serious depopulation of certain parts of the country, particularly the islands (Mlinaric 2009). Emigration further increased after World War II, although it was not voluntary. According to the estimations, approximately 250,000 individuals involuntarily emigrated from Croatia (Nejašmić 1991). In the post-war phase, the Yugoslav government concluded bilateral recruitment agreements which facilitated the labour emigration to European countries. In 1971, 671,908 Yugoslav citizens were working abroad, and Croatia had the highest emigration rate of all Yugoslav republics (Mlinaric 2009).

The domestic war in 1991–1995 caused another wave of mass, involuntary migration, coupled with labour migration. Around 450,000 persons emigrated from Croatia during those years (Mlinaric 2009). In that period, Croatia developed legal instruments for humanitarian protection of refugees and internally displaced persons, and the overarching needs of forced migrants dominated all migration policy approaches. At the same time, strategies for encouraging the Croatian diaspora to return were at the centre of all migration discussions (Gregurovic and Mlinaric 2011).

From 2000 to 2009, Croatia experienced positive net migration, although this pattern changed after 2009 when the country started to witness negative net migration. Since the EU membership, an estimated number of 200,000 Croatians have migrated to other EU Member States. Between 2015 and 2017, approximately 138,000 Croatians have moved out of Croatia according to OECD data. Ireland hits the record of an increase of 431% immigration rate of Croatians, with the majority of migrants being in the working age 25–50, and one third being highly educated.²

In 2017, the government approved the issuance of 5211 work permits for the employment of migrant workers within the quotas, while 5960 work permits were issued during the same year.³ In 2018, the Decision on work quotas was changed and the Government approved the issuance of 31,000 work permits. In 2019, a record number of 65,100 work permits were approved, out of which 15,000 existing permits can be extended and 41,810 new permits can be issued for the employment of migrant workers.

At the end of December 2017, 2645 EU nationals had their temporary residence in Croatia approved, while 7882 third country nationals were residing in Croatia. The main non-EU nationalities are from the neighbouring countries – Bosnia and Herzegovina and Serbia, along with Kosovo.⁴

² According to data cited in: <http://www.novolist.hr/Vijesti/Hrvatska/UBRZAVA-SE-ISELJAVANJE-IZ-LIJEPE-NASE-U-dvije-godine-iz-Hrvatske-odselilo-138-tisuca-ljudi>

³ Decision on Determination of Labour Migration Quotas for Employment of Foreigners (2018). Ministry of Interior (2018).

⁴ Official statistics of the Ministry of Interior, www.mup.hr Accessed 1 May 2019.

The history of emigration from Croatia has had a significant impact on current migration policies. The system of labour quotas for migrants is still in place despite its deficiencies and inefficacy. The last Migration Policy (valid between 2013 and 2015) and the current Foreigners Act deal in large part with combating irregular migration, and there are very few concrete measures aimed at attracting and facilitating migration of highly skilled foreigners other than EU nationals. The country's emigration history is clearly linked to the problem of restricted access to a number of social rights, which has resulted in ad hoc measures dealing with a small number of immigrants. However, due to changes in migration patterns, the accession to the EU – one of the external borders of which is in Croatia – and the need for a skilled labour force, the national migration policy will have to be adjusted to reflect new realities.

5.2 Migration and Social Protection in Croatia

This section closely examines the eligibility conditions for accessing social benefits across five core policy areas. In Croatia, unemployment insurance benefits are available for all employed and self-employed persons with a qualifying period of insurance of at least 9 months. Health care coverage is universal and the public health care system includes cash sickness benefits, but also maternity, paternity and parental benefits. The qualifying period for maternity leave is 12 months of consecutive insurance (or 18 months with interruptions during the last 2 years). The eligibility criteria for maternity exemption from work is the prior permanent residence of at least 3 years, compulsory Croatian health insurance and/or registration as unemployed for at least nine uninterrupted months or 12 months with interruptions in the last 2 years prior to the child birth. The eligibility criteria for maternity benefits is the permanent residence for at least 5 years.

Regarding pension benefits, Croatia has a mix of a contributory universal insurance scheme and a tax-financed universal scheme. Foreigners are obliged to contribute to the state funded and managed pension insurance scheme if they are legally employed in Croatia, although in absence of a bilateral social security agreement, pension contributions cannot be aggregated for foreigners. EU nationals enjoy exportability of pension contributions. Finally, the Law on Social Welfare has not still been harmonized with the EU legislation and currently it still stipulates only two categories of beneficiaries – nationals and foreigners, thus including EU nationals in the general category of foreigners. The conditions of access to social welfare are the same for all categories and they are needs-based with a means-test which has to prove whether requirements for social welfare are fulfilled.

The legal provisions stipulating the conditions for granting permanent residence in Croatia include an approved temporary residence permit for an uninterrupted period of 5 years prior to the submission of the application, including foreigners who were absent from Croatia on multiple occasions of up to 10 months in total within a 5-year period, or up to 6 months in the case of a one-time absence,

excluding any period of stay based on a work permit issued to seasonal workers, daily migrant workers and service providers on behalf of a foreign employer, and the time spent serving a prison sentence (Articles 92 and 93 of Foreigners Act). Three categories of foreigners can also apply for permanent residence under special circumstances. These include persons who, at the time of the application, had at least 3 years of uninterrupted temporary stay, and at least 10 years under refugee status, as demonstrated by a certificate of the competent state body for refugees. On the one hand, the beneficiaries of the programme of return, reconstruction or housing care include foreigners who are residents of Croatia since 8 October 1991, as demonstrated by a certificate of the competent state body for refugees, and those who can establish that they returned to Croatia with the intention to live there permanently by that date. Beneficiaries also include children whose two parents held permanent residence at the time of their birth or children of a single parent with a permanent stay (as specified in Article 94 of Foreigners Act). In addition to those requirements, foreigners wishing to establish permanent residence in Croatia must have valid travel documents, means of support, health insurance, sufficient command of the Croatian language and the Latin script, familiarity with the Croatian culture and social system (which is separately tested), and must not pose a threat to public policy, public health or national security.

The Foreigners Act lays down the rights of foreigners with permanent residence, which include the right to work and self-employment, vocational training, education and scholarships, social welfare, the rights to pension, health insurance, child benefits, maternity and parental support, tax benefits, freedom of association and connection and membership in organisations that represent workers or employers, or in professional associations.

5.2.1 Unemployment

Unemployment rights are regulated by the Labour Market Law.⁵ The institution responsible for the implementation of unemployment benefits in Croatia is the Croatian Employment Office, which has competencies over labour market regulations, while also implementing the bilateral agreements on social security that contain clauses on the aggregation of employment insurance specifying entitlement to unemployment benefits. The Office also provides advisory support to the Government in the area of labour mobility of migrants- for instance, for setting annual labour quotas- and job search counselling service for the general population (including migrants who qualify for such services).

The organization of the unemployment benefits system in Croatia is based on social insurance of employed workers and the contribution that all employees pay from their monthly salaries. The unemployment scheme is financed primarily by

⁵Official Gazette Number 118/18.

social insurance of employed and self-employed persons.⁶ There is no special scheme of unemployment assistance in the country. Resident nationals and non-national EU citizens can access unemployment benefits under the same eligibility conditions. Third country nationals are generally excluded from accessing this benefit in Croatia, except for those originating from countries that have signed a bilateral social security agreement with Croatia covering unemployment benefits.

Claimants must comply with a qualifying period of insurance of at least 9 months. Prior residence in the country is not a requirement for accessing unemployment benefits, but rather periods of mandatory pension insurance linked to either work or one of the specially regulated situations that are equal as periods of employment. Registration with the national Employment Office, active job search and availability for work are legal requirements for receipt of unemployment benefits. The amount of unemployment benefits is linked to previous earnings in a way that it equals the average of 3 months gross salary prior to the submission of the claim. The total duration of the benefit is proportional to the previously completed employment period, up to a maximum of 450 days.

Export of unemployment benefits by national citizens is possible only within the European Union, if they register with the Croatian Employment Office at least 4 weeks prior to departure from Croatia, register with the national employment service in the other Member State within 7 days of arrival, and regularly participate in activities of the employment office in the destination country. Croatia has also signed international social insurance agreements that include unemployment insurance with Bosnia and Herzegovina, the Republic of North Macedonia, Serbia and Montenegro which are the main countries of origin of foreigners residing in Croatia, as well as important destination countries for Croatians residing abroad. Subsequently, nationals residing in those four countries have access to unemployment entitlements in Croatia on the basis of the reciprocity principle.

5.2.2 *Health Care*

The Croatian health care system is regulated by an extensive body of legislation, including the Compulsory Health Care Insurance Act,⁷ the Health Care Act,⁸ the Voluntary Health Insurance Act⁹ and the Compulsory Health Insurance and Health Care of Foreigners in the Republic of Croatia Act.¹⁰ Croatia has a compulsory social insurance scheme with universal health care coverage (95% of citizens are covered

⁶While other sources of financing include assistance of international bodies and EU, income of the Employment Office according to special regulations, donations and own income of Employment Office.

⁷Official Gazette Number 80/13,137/13.

⁸Official Gazette Number 154/14, 70/16, 131/17.

⁹Official Gazette Number 85/06, 150/08, 71/10.

¹⁰Official Gazette Number 80/13.

by national, public health care). In general, the public health care scheme is mainly financed by contributions, but one part of the public health care is financed by the state budget (combined system of Bismarck and Beveridge models of health care financing). The health care system covers 80% of the health care costs, while beneficiaries cover the remaining 20%.

Beneficiaries of health care system are all employed and self-employed persons and dependent family members, as well as several categories of unemployed persons who have obligatory health insurance according to the Compulsory Health Care Insurance Act. The periods of insurance and residence are not preconditions for accessing benefits in kind after the payment of the first health insurance contribution. All the costs of health care services are directly paid by the social security, except a small portion paid by the beneficiary. If nationals have a full health care coverage,¹¹ all costs are fully covered by the social security system.

As the main condition for accessing health benefits in kind is either employment or permanent residence status, all EU and non-EU nationals have access to these benefits if they fulfil one of the qualifying conditions. Croatian nationals residing abroad have access only to cross-border health care services in other EU Member States if they fulfil the conditions stipulated in Articles 26–32 of the Law on Compulsory Health Insurance.

Regarding cash sickness benefits, they are paid instead of salary, but they are aligned with the salary amount. This is applicable to Croatian nationals, EU nationals and non-EU nationals under the compulsory health insurance scheme. General practitioner doctors need to issue an incapacity for work certificate in order for the patient to become eligible to claim sickness benefits. There are no specific conditions of prior contribution or residence for accessing sickness benefits in Croatia. Furthermore, these benefits can be granted for an unlimited duration. The employer covers the first 42 days of sickness, and the Croatian Health Insurance Fund covers the rest. While receiving sickness benefits, individuals cannot leave the country as the Croatian Health Fund can conduct inspections to check their health condition. Foreigners have access to these benefits under the same conditions as resident nationals if they are compulsory insured.

The right to cash benefits based on invalidity is regulated by the Pension Insurance Act as any loss, damage or incapacity of certain organ or body part more than 30%, which resulted from professional illness or injury at work. All employed and self-employed residents who are paying social security contributions regardless of their nationality and independently of the period of contribution are eligible to claim invalidity benefits. Re-examination is possible at any given moment within the period of 3 years following decision on the status by the specialised medical board. National citizens residing abroad can access invalidity benefits from Croatia in accordance with the European social coordination rules.

¹¹ Consisting of obligatory health care coverage for basic services and additional health care coverage for full health care costs, including hospitalisation costs, complex medical treatment, specialist tertiary care costs, costs of all basic medications, etc.

All EU and non-EU citizens foreigners who are permanent residents legally employed in Croatia have compulsory health insurance in the same way as Croatian citizens. All beneficiaries have the option of paying additional health insurance, which then covers all costs 100% (this applies for nationals and non-nationals alike). The situation is different for third country nationals. The scope of the social rights of migrants in Croatia depends on their residence status and employment. European Economic Area (EEA) nationals and permanent residents enjoy certain social rights comparable to Croatian nationals, while other categories of migrant workers enjoy the right to compulsory health and pension insurance applicable to all categories of legally employed migrant workers, regardless of their nationality. For the past several years, the Council of Europe's European Committee on Social Rights has been warning Croatia that the situation regarding the access to health care for migrants is not in line with Article 13§4 of the European Social Charter. The Committee has noted that it has not been established that all legally and unlawfully foreign residents in need are entitled to emergency medical and social assistance.¹²

In general, all compulsorily insured migrant workers have access to health care, except temporary residents (those residing less than 5 years) whose health insurance contributions have not been paid for 30 days or longer. In that case, they are eligible to use only emergency healthcare (Article 8. paras. 1 and 2 of the Compulsory Health Insurance Act). In 1998, the Constitutional Court decided that limitations to emergency health care for insured nationals who have not paid health care contributions are unconstitutional and in violation of fundamental rights.¹³ This decision is in line with international human rights standards and should be equally applicable to all categories of insured persons, regardless of nationality.

The Compulsory Health Insurance Act and the Act on the Health Protection of Foreigners in the Republic of Croatia stipulate that all migrants on short and temporary stay, as well as undocumented migrants who are not accommodated in a pre-deportation centre, should cover all health care costs, including emergency health care services. The European Committee of Social Rights has emphasised that all categories of foreigners in Croatia should be entitled to emergency health care and that this should not be linked to their pre-deportation or residence status.¹⁴

Furthermore, pregnant migrant women cannot derive their health care rights from any applicable laws, unless they are obligatorily insured in Croatia. The Act on Compulsory Health Care Insurance does not regulate the health care of female migrants, including ante- and postnatal care, nor does it regulate health care rights of new-born migrant children. Ante- and postnatal care is not clearly classified, so it

¹²European Committee of Social Rights, Conclusions XIX-2 (2009), (CROATIA), January 2010, Articles 11, 13 and 14 of the Charter. European Committee of Social Rights, Conclusions XX-2 (2013), (CROATIA), Articles 11, 13 and 14 of the 1961 Charter.

¹³Constitutional Court of Republic of Croatia, U-I-222/1995, O.G. 150/98.

¹⁴European Committee of Social Rights, Conclusions XIX-2 (2009), (CROATIA), January 2010, Articles 11, 13 and 14 of the Charter. European Committee of Social Rights, Conclusions XX-2 (2013), (CROATIA), Articles 11, 13 and 14 of the 1961 Charter.

is difficult to assess whether delivery would be considered an emergency health service and whether it should be paid for. According to the Regulation on the conditions, organisation and working arrangements of out-of-hospital emergency health care, emergency delivery outside the hospital conducted by the competent emergency staff is considered an emergency health service. Another issue is that the scope of health care rights for migrant children is not specifically regulated, so it is unclear whether they enjoy the same scope of health protection as Croatian nationals. Without proper legislation, it is difficult to assess whether access to health services for migrant children is in accordance with international human rights instruments. Thus, children of undocumented migrants outside a pre-deportation centre might be denied access to health care (Spadina 2015).

The bilateral social security agreements that Croatia has concluded with Bosnia and Herzegovina and Serbia regulate the same scope of health care rights for nationals of these countries, including cash benefits for sickness and invalidity due to professional sickness or injury at work. The agreement concluded with the Republic of North Macedonia stipulates the same scope of health care rights as the agreement with Bosnia and Herzegovina, with a small difference that this agreement specifically includes invalidity cash benefits.

5.2.3 Pensions

Pension rights in Croatia are regulated by the Pension Insurance Act.¹⁵ Croatia has a mix of a contributory universal insurance scheme and a tax-financed universal scheme.¹⁶ The finance scheme of the pension fund is based on contributions from beneficiaries, capitalized contributions, state budget, own income of the Pension Fund, and other income. The pension insurance is obligatory for all employed and self-employed persons, regardless of their nationality. To access an old-age contributory pension, applicants must prove a minimum period of contributions of 15 years and a qualifying minimum age of 65 years (with on-going extension up to the age of 67 from 2038). There are several categories of persons who are insured within the pension insurance system even if they are out of the labour market. This includes young persons during internships and on-job trainings, parents during the first year of the child, the caretakers of war veterans, unemployed individuals and high-achieving athletes. The amount of the pension is based on earnings over the whole career.

Non-national EU citizens and non-resident nationals can access contributory pensions from Croatia under the same conditions as national residents. However, non-EU foreigners are not entitled to claim contributory pensions in Croatia, except

¹⁵ Official Gazette Number 157/13, 151/14, 33/15, 93/15, 120/16.

¹⁶ Non-contributory pensions do not exist in Croatia, but certain categories of persons have beneficial access to pension rights (war veterans, members of the Parliament, and similar categories).

for those originating from countries that have signed bilateral social security agreements with Croatia covering entitlement to the pension scheme. Some bilateral agreements signed by Croatia (such as the ones with the Republic of North Macedonia and Australia) do offer a facilitated access to public contributory pensions. If a national citizen was employed in one of the seven non-EU countries with which Croatia has concluded bilateral social agreements, aggregation would take place and periods of insurance would be recognized according to the provisions of those agreements.

5.2.4 Family Benefits

Family benefits in Croatia are regulated by the Maternity and Parental Entitlements Act¹⁷ and the Child Allowance Act.¹⁸ The whole area of family benefits is a non-contributory, tax-financed scheme. The institutions responsible for the management of family-related benefits are the Croatian National Health Insurance Authority (for maternity and paternity benefits) and the Croatian National Pension Fund (for child benefits).

Maternity and paternity benefits are available to employed and self-employed persons, regardless of their nationality. It is possible to voluntarily join the national health insurance which then gives the right to access maternity and paternity benefits, but it is not possible to voluntarily join the maternity and paternity benefits scheme only. The Law also includes several categories of unemployed persons who are obligatory health insured into the maternity benefits scheme. The only difference between employed and non-employed persons is the requirement for uninterrupted residence of at least 3 years for non-employed persons. EU and non-EU foreign residents can access these benefits under exactly the same conditions as resident nationals.

Maternity benefits are dependent on previous earnings and can be paid for a maximum of 28 weeks. After this period, they can be replaced by parental benefits paid for up to 32 weeks. Each parent is entitled to use 16 weeks of paid parental leave if they share the parental leave entitlement, or 32 weeks of parental leave if only one parent uses it. If a parent has less than 12 uninterrupted months of employment prior to the activation of cash benefits, she/he receives 70% of the statutory amount of parental benefit, whereas for the rest, the benefit is paid 100%. The Law does not regulate the matter of where the child is born or resides; nor does it regulate the exportability of parental rights or the possibility that the parents move abroad while receiving the benefits.

Child benefits are available to a parent of a child who has uninterrupted residence in Croatia of at least 3 years prior to the application for the child allowance (this

¹⁷Official Gazette Numbers: 85/08, 110/08, 34/11, 54/13, 152/14, 59/17.

¹⁸Official Gazette Numbers: 94/01, 138/06, 107/07, 37/08, 61/11, 112/12, 82/15.

applies independently if the beneficiary- i.e. the parent- is a Croatian national or a foreign resident). The child who is abroad for more than 3 months loses the right to child allowance, except if the beneficiary is an EU national (in this case, the rule does not apply due to the EU social security coordination) or if bilateral agreements with non-EU countries regulate differently. Beneficiaries can be non-EU citizens who have permanent residence in Croatia of at least 3 years, recognized refugees and persons under subsidiary protection. The benefit can be received until the child reaches the age of 15 years old, extended for those who continue a formal education. Child benefits are limited only to those parents whose income is below a certain income threshold. Child allowance is exportable only to other EU Member States. Out of all seven social security bilateral agreements signed by Croatia, only the agreement with the Republic of North Macedonia offers facilitated access to the child allowance scheme.

5.2.5 Guaranteed Minimum Resources

The Social Welfare Act¹⁹ regulates social welfare. The institution responsible for this area is the Ministry of Demography, Family, Youth and Social Policy. Social assistance is a non-contributory benefit, organized centrally and available to all resident nationals and certain categories of foreigners who are in need. The eligibility criteria include income/means-test and ownership of property test for all applicants. Length of residence is not a precondition for national residents. The situation is different for foreigners as, in order to access this benefit, they should either have permanent residence in Croatia (the permanent residence is granted after 5 years, which has been criticised as an excessive residence length²⁰) or belong to particularly vulnerable groups like asylum seekers, refugees, persons under subsidiary or temporary protection (or members of their families), unaccompanied minors or victims of human trafficking. For all those particularly vulnerable categories, the length of residence is not a precondition for claiming social welfare assistance. National citizens residing abroad are not eligible to claim these benefits from Croatia.

Claimants of social assistance must have exhausted all legal duty of maintenance that is regulated by the Family Act (which regulates not only duty of parents to support minor children, but also a legal duty of adults to support aging parents). Beneficiaries of the social welfare assistance are obliged to actively seek employment if they are able to work. They are also obliged to participate in community work of minimum 30 h and maximum 90 h per month. If the beneficiary does not

¹⁹Official Gazette Number 157/13.

²⁰Human Rights Council, Working Group on the Universal Periodic Review. Geneva, 1–12 November 2010, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the Annex to Human Rights Council Resolution 5/1, Summary of 11 stakeholders' submissions¹ to the Universal Periodic Review. A/HRC/WG.6/9/HRV/3, page 8, point 52.

actively seek work, his/her right to social welfare can be revoked. The same applies if the beneficiary leaves Croatia for more than 15 days.

Welfare allowance in Croatia is a flat-rate benefit per household member if all of them qualify for social assistance. The benefit can be received for an unlimited duration (i.e. until the end of a need). However, the amount of this welfare allowance per person is insufficient to allow for a dignified living (the average amount is only 105.00 EUR per month). Another significant obstacle for accessing the benefit is related to the complex requirement for submitting at some instances as many as 23 supporting documents,²¹ plus three statements of the claimant (related to the right of the Centre for Social Welfare to make remarks in the property records, to check all bank accounts of the claimant, and to use and check the information acquired in procedure). Moreover, none of the seven bilateral social security agreements that Croatia has signed with the main non-EU countries of destination for Croatian nationals and with the main countries of origin of non-EU foreigners residing in Croatia cover the area of social assistance.

5.3 Conclusions

When we analyse the scope of social rights applicable to Croatian nationals as compared to EU nationals and third country nationals in Croatia, it is important to highlight that access to social rights is often very difficult to nationals due to overly complicated statutory provisions and excessive requirements for supporting documents. Looking into the scope of social rights of EU nationals, unfortunately, even several years after Croatia's accession to the EU, social legislation has not been fully harmonized to allow the unrestricted access to all social rights as compared to Croatian nationals. Example for this is Law on Social Welfare stipulating the right to social welfare for the general category of "foreigners" without specifically distinguishing EU nationals as a category *per se*, even after the latest amendment of the Law in 2020. Thus, we cannot speak about full equality in access to social rights.

Non-EU nationals, on the other hand, have limited access to social rights, linked to the employment or permanent residence status. They do not enjoy the full scope of family benefits, the right to social housing or other specific social rights, including unemployment benefits and contributory pensions. The social security legislation has not recently expanded the scope of social rights of third country nationals. In addition, exportability of their social rights depends only upon the existence of bilateral social security agreements. According to Article 68 of new Law on Labour Market, a Croatian national who was employed abroad has access to unemployment rights in accordance with bilateral social security agreements. In the absence of such agreements, nationals have the right to unemployment benefits from Croatia if

²¹ See the list of documents here: <http://czss-osijek.hr/zahtjev-zmn/>. Accessed 01 Sep 2018.

they contributed to the Croatian Employment Fund for 9 months during the last 24 months since their employment abroad was terminated.

Two main changes marked the development of the Croatian social legislation in recent years. The first one was the introduction of portability of social benefits to the EU (due to the accession of Croatia to the EU). Another significant change is the expansion of entitlements of certain social benefits beyond traditional concepts of family members to include same-sex partners (in accordance with the new Law on Life Partnership). There are no significant attempts to modernize this currently outdated system of social protection. Procedures to apply for social benefits are overly complicated and unnecessarily burdened by high number of supporting documents. This is often impossible to navigate even for nationals, and particularly so for foreigners. In fact, there is no social benefit for which the application can be submitted online.

There is an ongoing discussion about the reform of the Croatian social welfare system, potential changes of the entitlement to the national pension for those who do not have 15 years of pension contributions and reform of family benefits to include higher number of children entitled to receive child allowance and raise of the maternity cash benefits. However, there are no discussions on the possibility to extend the access of foreigners or nationals residing abroad to social benefits.

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/>.

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