

22. Romania

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Equality is one of the key principles of the Romanian social security system. Third-country nationals with temporary residence permits for employment purposes are entitled to social security; they are also entitled to social assistance and protection (except for seasonal workers and posted workers). Posted ICT workers enjoy the same rights as citizens of EU Member States posted to Romania. As a general rule, proof of medical insurance is required for the issue of a Romanian visa.

Box 1 Sector-specific variations of social security rules

The social security system is established on a uniform basis. There are no sector-specific variations of social security rules. One exception is the construction sector, in which there are some tax exemptions. Also, the employer has to pay a supplementary contribution rate to the pensions scheme if working conditions entail a higher risk to workers' health and safety.

Table 1.22 Overview of the relationship between form of migration and entitlement to a particular social security service

Third-country-national categories	Social security categories					
	Health insurance	Pension contributions	Unemployment insurance	Basic security (social assistance)	Insurance against accidents at work	Child benefits*
Posted workers	No	No	No	No	No	Yes
Intra-corporate transfers	No	No	No	No	No	Yes
Seasonal workers	Yes	Yes	Yes	No	Yes	Yes
Temporary agency workers**	Yes	Yes	Yes	Yes	Yes	Yes
High-level professionals	Yes	Yes	Yes	Yes	Yes	Yes
Self-employed***	Yes	Yes	Yes	Yes	Yes	Yes

Notes: * Provided that the child lives in Romania; ** if not posted; *** only if their fiscal residence is established in Romania.

Source: Author's analysis, 2022.

Box 2 Changes during the Covid-19 pandemic

There were no particular issues concerning social security rights of short-term third-country-national migrant workers during the Covid-19 pandemic. In Romania, medical care is provided free of charge in case of contagious diseases. The major general change concerned paid quarantine leave,¹ as the minimal contribution period (six months) was eliminated.

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1. Paid quarantine leave existed in Romania even before Covid-19 in the case of contagious disease. It is paid to workers who are not sick, but who have to stay at home in order to prevent the spread of a contagious disease. During Covid, the minimum contribution period (six month) was eliminated in order to enable all workers to benefit from the leave, if necessary.

Description of the Romanian system

1. Overview of social security rights of short-term third-country-national migrant workers

Until 2018, social security regulations provided insurance for third-country nationals only for workplace accidents, occupational diseases and unemployment benefits. Health insurance and pensions were not usually covered for short-term workers. The regulations provided that only foreigners whose residence or domicile is in Romania may benefit from social protection measures, parental leave, health insurance, paid medical leave and pensions under the same conditions as Romanian citizens. OUG No. 194/2002 on the legal regime of foreigners in Romania establishes the principle of equal treatment with Romanian citizens only for holders of the right of long-term residence² with regard to social security, assistance and social protection, and public health care.

The regulation was amended by Law No. 247/2018, establishing equal treatment with Romanian citizens for foreigners with the right of temporary residence, who are employed, registered unemployed or researchers with regard to employment and working conditions, access to education and vocational training, social security, social assistance and protection (except for seasonal workers and posted workers), public health care, global income tax deductions and tax exemptions, access to public goods and services, freedom of association, and employment agency services. Foreigners who have been employed in Romania or their descendants have the right to an old-age pension, invalidity pension and survivor benefits, even if they no longer live in Romania, under the same conditions as Romanian citizens or their descendants who no longer live in Romania.

Thus third-country-national holders of a temporary residence permit for employment purposes are entitled to social security, as well as social assistance and protection (except for seasonal workers and posted workers). Third-country-national posted and ICT workers enjoy the same rights as citizens of an EU Member State posted to Romania.

As a general rule, for a Romanian visa to be issued, third-country nationals must prove they have medical insurance.

To pursue professional activities in Romania (in the so-called 'liberal' professions) or economic activities – for example, small businesses (regulated by special laws) – a long-stay visa is issued, provided that (among other conditions) the third-country national has medical insurance for the duration of validity of the visa.

2. The right to long-term residence is granted to foreigners residing in Romania continuously for the past five years prior to the submission of the application.

Self-employed people have to register and to pay taxes and contributions only if their fiscal residence is established in Romania, according to guidelines issued by the Romanian Tax Authority (Agenția Națională de Administrare Fiscală 2021).

2. Differences in social security rights of different categories of short-term third-country-national migrant workers

(i) **Third-country-national seasonal workers**

Seasonal workers enjoy all the employment and social security rights associated with employee status. Romanian workers can perform seasonal work as daily labourers, who are not employees and enjoy only limited rights (related to minimum wage, working hours and workplace health and safety). This regime is applicable only to local workers – seasonal third-country-national workers work on the basis of full-time fixed-term employment contracts. Social assistance and protection are not granted to seasonal workers; if they ask for social assistance, their temporary residence permit will be revoked, provided that they were previously informed about this consequence.

(ii) **Third-country-national posted workers**

Posted third-country-national workers are bound by an employment contract prior to and during their posting with the posting undertaking; they do not have any employment relationship with the Romanian beneficiary of services ('host entity'). Therefore, as a general rule, the social security regime of their country of origin is applicable to third-country-national posted workers. Proof of medical insurance is mandatory.

Posted workers do not enjoy social assistance and protection in Romania; ICT workers asking for social assistance have their temporary residence permit revoked, provided that they were previously informed about this consequence.

(iii) **Third-country-national temporary agency workers**

The principle of equal treatment with the local workforce applies.

3. Conditions for obtaining different social security rights

Work is usually performed by third-country nationals in Romania as employees; the employer must retain mandatory taxes and social security contributions and pass them on. The contribution rate for health insurance is 10 per cent and for pensions 25 per cent, for employees and self-employed. There is mandatory insurance for employees for workplace accidents, occupational diseases, paid medical leave, maternity leave and unemployment benefits; the employer must pay a 2.25 per cent contribution rate calculated on the workers' gross wages. For health insurance, there must be at least six months' contributions in the 12 calendar months before incapacity occurred. No qualifying conditions apply

for emergency surgery, contagious diseases and in cases of tuberculosis or AIDS, however. At least 1 month of contributions confer the right to maternity benefits. Unemployment benefits are paid to registered unemployed persons who contributed for 12 months during the 24 months preceding their application.

4. Portability of benefits between host country and country of origin

Posted workers normally fall under the scope of EU Regulation 883/2004, as extended by EU Regulation 1231 of 2010.

There are bilateral agreements (Casa Națională de Asigurări de Sănătate (n.d.)) on free health assistance with Albania, Belarus, Bosnia and Herzegovina, Cuba, Israel, Korea, Lebanon, Macedonia, Moldova, Mongolia, Russia, Serbia, Syria and Turkey, and on social security with Albania, Armenia, Algeria, Canada, Korea, Israel, Quebec, Lebanon, Moldova, Russia, Turkey and Ukraine.

5. Social security rights of short-term third-country-national migrant workers during the Covid-19 pandemic

There were no particular issues related to this topic. In Romania, medical care is provided free of charge in case of contagious diseases. The major general change concerned paid quarantine leave, as the minimal contribution period (six months) was eliminated.

6. Overview of enforcement and monitoring

The checks and formalities for short-term migrant workers are the same as for the local workforce.