

Romania¹

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For comparisons with other countries in this review on leave provision and early childhood education and care services please see the cross-country tables at the front of the review (also available individually on the Leave Network website). To contact authors of country notes, see the members page on the Leave Network website.

1. Current leave and other employment-related policies to support parents

a. Maternity leave (concediul de maternitate) (responsibility of the Ministry of Work, Family, Social Protection and Elderly People)

Length of leave

- According to the Government Ordinance 158/2005 the length of the leave is 18 weeks (126 calendar days). This is made up of Birth leave ('concediul de sarcină') given prenatally, and Confinement leave ('concediul de lăuzie') given postnatally.
- Birth leave is given for a period of maximum nine weeks (63 days) before the birth, exclusively for pregnancy and not for any other ailments which can happen during pregnancy, or are unrelated to the pregnancy.
- Mothers can take nine weeks before birth and nine weeks after, or the entire period of 126 days after the birth. The two periods can be compensated between one another according to the medical advice or to the beneficiary's preferences.

Payment and funding

- There is no ceiling for Maternity leave. Maternity benefits are calculated at 85 per cent of the mean monthly gross income obtained in the last six months before the date the Maternity leave is taken, and on which individual contributions towards social insurance have been established (in the previous 12 months which comprise the yearly benefits stage).
- Maternity benefits are not taxed. The only thing which is retained from maternity benefits is the individual contribution towards social insurance (also known as CAS), including pension credits. Maternity benefits are integrally supported from the state's budget for social insurance.

Flexibility in use

- Mothers are required by law to take six weeks (42 days) of post-natal leave, out of the available eighteen weeks of Maternity leave. The remaining 12 weeks (84 days) can be renounced, if not needed.

¹ Please cite as: Macht A., and Popescu R. (2017) 'Romania Country note', in: Blum S., Koslowski A., and Moss P. (eds.) International Review of Leave Policies and Research 2017. Available at: http://www.leavenetwork.org/lp_and_r_reports/

- Birth leave and confinement leave can complement each other, according to the recommendations of the family doctor, the beneficiaries' choice and to individual circumstances (i.e., giving birth at a different date than expected). For the protection of the mother's and the baby's health, employers are forbidden to allow their employees to take up their previous employment, in less than the 42 days which determine the compulsory postnatal leave.
- The leave is determined according to the legislation in the Code of Work from 2012 (updated in 2015), and is prescribed on request by the family physician according to a medical letter received from the gynaecologist, during the present calendar month.
- In the situation where the mother dies during birth or during her post-natal leave, the remainder of the leave is transferable to the father of the child.

Eligibility

- Maternity leave is given to women who are Romanian or EU citizens and have their residency in Romania and contribute to the social security system, no matter of the occupational status (employees; self-employed; unemployed; workers on short-term contracts).
- There are several stages for which mothers can opt for paid leave, supported by the social security system, such as medical leave, Maternity leave, Parental leave, temporary disability leave, invalidity pension, or if the mother is formally enrolled in higher education.
- In addition, maternity leave is also given to pregnant women who have stopped their social insurance contributions for objective reasons, beyond their control, but who are giving birth in the preceding 9 months from the date they have stopped contributing towards social insurance.

Variation in leave due to child or family reasons (e.g. multiple or premature births; poor health or disability of child or mother; lone parent); or delegation of leave to person other than the parents

- Mothers with disabilities are covered by the social insurance benefit, upon request of maternity leave beginning from the sixth month of pregnancy.
- If the child is born dead, or if the child dies during the confinement leave, the maternity benefit is for the entire duration of the leave.
- According to Law 25 from 2004, in the Code of Work, pregnant women and mothers can also take Maternal risk leave for the protection of their own and their child's health and safety. The Maternal risk benefit is completely supported with funds from the Unique National Fund of Health Insurances (F.N.U.S.S). Benefit is 75 per cent of the average insured gross earnings over the last six months. The maternal risk leave is complementary to maternity leave (the mother can take both).

b. Paternity leave (concediul de paternitate) (responsibility of the Ministry of Work, Family, Social Protection and Elderly People)

Length of leave

- Five to ten working days, with the possibility to reach 15 working days if the father has completed an infant care course.
- There isn't a ceiling on payment. The father is paid according to his wage and the leave is granted on the same basis as a rest leave ('concediu de odihnă').
- This is an individual and specific entitlement for the father, which is non-transferable to the mother.

Payment and funding

- Paternity leave benefit is paid from the employment fund of the professional unit, and is equal to the wage equivalent to the period taken. This benefit is also available to self-employed fathers if they paid the contribution to the corresponding fund.
- The father can choose from a legal benefit equal to that of the mother's postnatal leave, or can gain a benefit calculated according to his basic pay and his seniority bonus pay, offered by the professional unit where the father is employed. This is dependent on the father's place of work, whether it is in the public or private sector.

Flexibility in use

- Leave can be taken at any time during a defined period after birth.
- There is additional time for multiple births.

Eligibility

- The beneficiary needs to be insured within the state system of social insurance. This applies to self-employed fathers too, as long as they are paying social insurance. Paternity leave is granted upon request, during the first eight weeks from the child's birth, and after the beneficiary presents the child's birth certificate, which stipulates his role as the child's father.
- Men who are undergoing compulsory military training at the time of their child's birth, are entitled to two extra days leave (a total of seven days).
- If the father has gained a certificate upon completion of an infant care course, demonstrating basic care knowledge, the length of the Paternity leave is increased with 10 days; the father can benefit from this increase only once. The course and certificate are prepared by the family physician, in maternity wards or by other health state services or private consultancies which are recognized by the state. The condition of implementing the uptake of an infant care course to complement a Paternity leave, tries to increase the father's knowledge and involvement in caring for the infant, since fathers are expected by policy makers to be less skilled in infant care. However, the usual practice is for couples to take these courses together, and men's participation is increasing especially in urban areas.

c. Parental leave (concediul parental/pentru creșterea copilului) (responsibility of the Ministry of Work and Social Justice)

Length of leave

- Up to 24 months paid leave (or a total of three years of leave for a child with a disability).

Payment and funding

- Parents receive a monthly benefit of 85 per cent from the mean of their net income in the last 12 months of the last two years, but no less than 85 per cent of the basic minimum wage in the country. The minimum amount is in present RON1063[€231]². There is no maximum amount.

Flexibility in use

- The Parental leave law nr. 210 from 1999, was adopted as a compensating necessity for fathers, who do not receive the same rights, benefits and leave as mothers, except for special circumstances in which they can substitute them. According to amendment

² Conversion of currency undertaken on 21st June 2017, using: <http://www.xe.com/currencyconverter/convert/>

nr. 57 from 2012, for children born on or after 1 March 2012, at least a month from the total Parental leave available, will be granted to the parent who has not solicited the right to leave. For example, if the mother is the one who has requested Parental leave, a month out of this period, will be given to the father (being deducted from the mother's leave). In the time during which the father is on his compulsory Parental leave, the mother can either return to work or can opt for unpaid leave.

- If the father does not take the compulsory month of Parental leave, then the mother is entitled to only 11 months of Parental leave, which makes the payment of the insertion incentive to be conditioned by mother returning to work before the child is 11 months old (if the mother exceeds this time limit she will not receive an insertion incentive).
- Since LGBT rights are not recognized in Romania, there is no provision for same sex parents.
- Mothers who return to work from Parental leave, cannot be dismissed in the first 6 months (this is also known as 'the grace period'); the 'grace period' can only be revoked if the mother engages in illegal behaviours (i.e. fraud).
- In the case in which both parents are entitled to Parental leave, it is compulsory that the parent who has not requested the right to leave, to undergo at least one month of leave out of the total period of leave. This law applies similarly to adoptive parents, from 1 March 2012. The law is in accordance with EU regulation nr. 2010/18/UE, and aims to improve work-life balance and to promote gender equality.

Eligibility

- The Parental leave benefit is awarded if the parent fulfils the following criteria: is a Romanian citizen; or a foreign citizen, with a residency in Romania; is living together with the child/ren; does not have state-incurred debts in the local budget for any of the goods owned in his/her property.
- The Parental leave benefit for the month that can be given to the other partner is calculated according to which parent takes the leave: so if the mother takes the month of leave, then it is calculated according to the father's salary; if the father takes the leave then it is calculated according to the mother's salary.
- Parental leave and parental leave benefit is given for each birth, on a case-by-case basis, for each of the situations mentioned (adoption, placement, guardianship etc.). This can be taken by both parents, so either the mother or the father. The only leave exclusively given to the mother is pregnancy leave and confinement leave (the latter of which is issued for up to 126 days).

Variation in leave due to child or family reasons (e.g. multiple or premature births; poor health or disability of child or mother; lone parent); or delegation of leave to person other than the parents

- Leave for the care of a chronically sick child is an entitlement for parents until the child is seven years old; if the child is disabled; it is up until the child is 18 years old. Parents can choose between them, which one can receive the leave, as long as the parent who chooses to care for the child fulfils all of the eligibility criteria. Adoptive parents, foster parents and legally-named guardians can also apply for leave and receive the leave benefit.
- The Leave benefit is paid at 85 per cent of the earned income, and is awarded for 45 days per year for one child; if there are surgical complications or additional health problems, the extent of the medical leave can be prolonged at the discretion of the child's respective doctor. The benefit is awarded on the basis of a certificate received from the family doctor (the equivalent of a GP) alongside with the child's birth certificate.

d. Childcare Leave or career breaks (concediul de odihnă) (responsibility of the Ministry of Work and Social Justice)

Currently in Romania, there are three types of paid leave: Rest leave³ (Paternity leave is included here), Professional Qualification leave and Medical leave (Maternity leave is included here). An annual Rest leave is guaranteed to all employees; of a minimum length of 20 working days according to the Code of Work, or 21 working days according to the applicable collective work contract; for disabled employees there is an additional three days on top of the 21 days allocated. During leave, the employee receives a leave benefit, which cannot be less than the basic wage, or less than the permanent benefits and bonuses for that respective period, which are mentioned in the individual work contract. The benefit for Rest leave is paid by the employer with at least five working days before the commencement of the leave. According to the Code of Work, paid free days – which are not included in the rest leave period – are given in the case of special family circumstances agreed through the law and through the collective work contract; these days include: employee's own marriage (five days), the marriage of the employee's adult child (two days), the birth of the employee's child (five days; or prolonged to ten days if the employee participated in an infant care course), the death of the employee's partner, the child's, the parents' or parents-in-law (three days); the death of the employee's grandparents, brother or sister (one day), and for change of employee's work within the same professional unit and having to move residency to another town (five days).

Professional qualification leave can be taken in a paid or unpaid capacity, if agreed with the employer. Medical leave and social insurance health benefits given to ensured employees include: medical leave and benefit towards temporary work incapacity, caused by unusual diseases or accidents outside of the workplace; medical leave and benefit towards the prevention of sickness and recuperating work capacity, as a result of situations resulting from work-place accidents or professional diseases; medical leave and benefit for maternity, for the care of a sick child, and maternal risk leave and benefit. For any other personal problems, employees are entitled to unpaid leave.

e. Other employment-related measures

Labour market insertion incentive: This applies to both parents, and is given to whoever is taking Parental leave. If the father is taking Parental leave and returns to work with at least 60 days before the child is two years-old, then the insertion incentive is RON650 [€141] per month until the child is three years-old (or four years-old in the case of children with a disability) receive an incentive of RON531 [€115] (representing 50 per cent of the national gross minimum wage) for the re-insertion on the labour force. The same amount will be received by those who have not contributed to the social security fund before birth, but have been enrolled in the labour force before the child reaches two years-old.

There is a supplementary benefit RON232.5 [€50] (representing 85 per cent of the national gross minimum wage) for twins, triplets or multiple pregnancy or for situations of more than one child in care (if the mother give birth before the age of two of the previous child). Benefits are paid to the parent who has taken the leave. Benefits are government-funded and the payments and leave requests are the responsibility of respective local Agencies for Payment and Social Inspection.

Adoption leave and pay

- Same as for Parental leave; although Adoption leave does not equate Maternity leave, since the mother has not given birth to the child. The benefit begins from the day in which the adoption was legally accepted.

Time off for the care of dependants

³ 'Rest leave' is equivalent to 'annual leave' or 'vacation leave' in other systems.

- See section 1d.

Flexible working

- None.

Specific provision for (breast-)feeding

- According to the decree nr. OUG 96 (art. 10, alin 2, lit. b) adopted in 2003, mothers who are breastfeeding can take 120 working days of maternal risk leave, given at the end of the postnatal leave, as a continuation. The process entails undergoing an examination by a doctor working in occupational medicine within the CRM who delivers a “Report of evaluation of the potential risks in the workplace”. Once this report is finished the mother then delivers this to the GP to officially approve the breast-feeding leave request. This provision can follow after the mother finished the Parental leave.

2. Relationship between leave policy and early childhood education and care policy

The maximum period of post-natal leave available in Romania is two years (or three years for a child born with a disability). Considering the strong option of the Romanian Policy for parents to stay at home until the child is two years-old, the public system services for the new-born and up to two years-old group is underdeveloped, the additional support being predominantly informal, provided by grandparents and other relatives. Only 12.4 per cent of the children under the age of two are enrolled in crèches or kindergartens, but 41.5 per cent use informal care at this age. For the children aged three to five years the enrolment in formal care rises up to 84.2 per cent and the enrolment in informal care lessen at 58,63 per cent⁴.

Without sufficient coverage of childcare services for small children, there is a clear deficit of possibilities for parents to plan for their respective balance of work and family tasks. In many cases, children are staying at home with their parents, grandparents or other relatives, as an alternative to the lack of resources and services. Levels of attendance at formal services are above the average for the countries included in this review and OECD countries, both for children under and over three years. For actual attendance levels, see ‘relationship between leave and ECEC entitlements’ on cross-country comparisons page.

3. Changes in policy since April 2016 (including proposals currently under discussion)

A new legislation was implemented, which came into effect from 1 July 2016 (Law nr.66/2016, Government Decision 449/2016). Changes include:

- discarding the former pay ceiling for the paid leave and the two different options of payment, if the parent have one year of leave or two years of leave. Currently the conditions are the same, indifferent of the length of leave and there is no ceiling for the amount paid.
- eliminating the former Social Index of Reference ISR of RON500[€108] and basing all the calculations on the national gross minimum wage. Since April 2016 there were two increases of the minimum wage: from 1 May 2016 it went up to RON1,250[€272] and from 1 February 2017 it stands at RON1,450[€315].

These increases of the minimum wage generated also two changes in the quantum of the benefits: raising the minimum parental indemnity to RON1,063[€231] and then to

⁴ OECD Family Database.

RON1,232[€268] (85 per cent of the national gross minimum wage); raising the incentive for work to 531 lei and then to RON650[€141] (50 per cent of the national gross minimum wage). The law was applied to mothers who have given birth after 1 July 2016 or mothers who find themselves on parental leave at that moment, until the child reaches two years of age.

A new legislation rectifying adoption leave was implemented on 12 August 2016. Parents who adopt are given an 'accommodation leave' the length of which is maximum one year, including the custody period and is paid with an amount of RON1,700[€369] (3.4 x the social indicator of reference of RON500[€108]) per month. The leave is given in the case of an adoption of a child older than two years of age (for younger children, the usual Parental leave applies). In addition, people who want to adopt a child will have the right to take time-off from work in the time-limit of 40 hours per year – this can be used for attending administrative evaluations and obtaining the required adoption certificate. For international adoptions, children will be declared eligible for residency in Romania, after one year from when the adoption procedure begins, and not after two years as the previous legislation mentioned.

4. Take-up of leave

a. Maternity leave

Since the first 42 days (post-birth) of Maternity leave are compulsory, all employed women should take up this leave.

b. Paternity leave

Statistical data released by the Ministry of Work⁵ show an increase in the number of fathers taking up paid leave and incentive for work, from 26,517 in 2012 to 30,335 in 2015 in the context of a constant fertility rate (1.5 new-borns per woman). The increase is also evident in the percentages represented by the total number of leave beneficiaries, which for fathers has increased from 16.6 per cent to 17.6 per cent.

c. Parental leave

It is compulsory for parents to share 1 month out of the 24 months allowed; if this month is not taken up by the other parent, the Parental leave is shortened, with a loss of benefit payment for that months.

d. Other employment-related measures

None reported.

5. Research and publications on leave and other employment-related policies since April 2016

Please be aware that this is not intended to be a comprehensive list of all publications or research in this area for this country. If you are aware of a publication or research that

⁵ Ministry of Labor (2008-2014), Rapoarte statistice privind activitatea în domeniul asistenței sociale [Statistical reports of activities in the social work area]. Available at: <http://www.mmuncii.ro/j33/index.php/ro/2014-domenii/familie/politici-familiale-incluziune-si-asistenta-sociala/725>

could be listed in this section, please contact the country note author(s) so that they can include it for the following year.

a. General overview

There seems to be scarce academic research published, apart from the data released by the Ministry of Work and the National Institute of Statistics. From the point of view of the legislation, the situation is at the moment in a state of fluctuation, with a number of governmental revisions aiming to improve the system of social services in Romania.

b. Selected recent publications

Crusman O., Kohler I. (2016) Gender Mainstreaming and Work-Family Reconciliation. An Analysis of Family Policies in Romania and Germany, *The Romanian Journal of Society and Politics*, Vol.11, No. 2, pp. 49-74.

The paper investigates the role of gender mainstreaming in Romanian and German policies aimed at achieving work-family reconciliation, by using concepts from feminist policy analysis. The analysis shows that pre-existing policies and discourses on the economic situation, as well as the states' relationships with the EU have shaped and impeded the implementation process of gender mainstreaming in both countries. While Germany slowly moves towards more egalitarian policies, gender mainstreaming as a label and strategy did not reach successful outcomes. In Romania, gender mainstreaming has impacted work and family reconciliation strategies only indirectly, with the help of EU legislation support.

Avram S., Militaru E. (2016) Interactions between Policy Effects, Population Characteristics and the Tax-Benefit System: An Illustration Using Child Poverty and Child Related Policies in Romania and the Czech Republic, *Social Indicators Research*, Volume 128, Issue 3, pp. 1365–1385.

The paper investigates the impact of the Romanian and Czech family policy systems on the poverty risk of families with children. It focuses on separating out the effects of the policy design itself and the size of the benefits from the interaction between the policies and each population's characteristics. The authors find that the interactions between population characteristics, the wider tax benefit system and child related policies are pervasive and large. It is both the characteristics of the population and the wider tax-benefit environment that can dramatically alter the anti-poverty effect of a given set of policies.

c. Ongoing research

Nothing reported.