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Intra-EU Mobility and Portability of Social Security Rights between Bulgaria and Germany:

Formal Regulations and Barriers to Mobile Bulgarians

by Jana Fingarova

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Abstract

Intra-European mobility is directly connected to the transfer of social security rights for mobile EU citizens within the framework of the EU's social security coordination system. In fact, the portability of social security is a central factor in enabling and guaranteeing free movement between mobility-sending countries and mobility-receiving countries and thus contributes to the realization of a European labour market. Portability of social security rights involves the recognition and transfer of entitlements, which, rather than being a straightforward process, creates barriers for mobile EU citizens who are required to meet complex regulatory and institutional conditions. The goal of the TRANSWEL project was to analyse the portability of social security rights with regard to its regulations, practices and limitations by comparing patterns of post-enlargement labour mobility between four EU country pairs: Hungary–Austria, Bulgaria–Germany, Poland–United Kingdom and Estonia–Sweden. Focusing on the transitional state of Bulgaria and the conservative welfare state of Germany, this paper presents an analysis of institutional regulations with respect to the portability of social security rights in four areas: unemployment, family-related rights, healthcare and pensions. Building on interpretative policy analysis and expert interviews, the research revealed that the portability of benefits concerning statutory pensions and healthcare is to a large extent clearly regulated, whereas regulations in the areas of unemployment and family-related benefits remain largely obscure. In sum, the analysis identified three most significant barriers to portability: a high level of discretion in some policy fields, differences between national security systems and the organization of information exchange between countries.

1. Introduction

This working paper provides overview about the results of an interpretative policy analysis of political regulations regarding the access and portability of social security rights within the EU with the specific focus on the mobility of Bulgarian citizens between Bulgaria (as the sending country) and Germany (as the receiving country). This research was conducted within the framework of the large-scale international comparative project TRANSWEL¹, which focuses on the nexus between European social security and labour mobility between the new and the old EU member states, such as Hungary-Austria, Bulgaria-Germany, Estonia-Sweden and Poland-UK. This working paper provides insights into how the interplay between the Bulgarian and German social security systems affects mobile Bulgarians' realization of access and portability of their social security rights. In doing so, it also reveals the interplay of the supranational and national levels of social security governance and discusses the implications for mobile EU citizens. Because these implications are related to high degrees of conditionality and discretion, they can limit these citizens' access to and transfer of entitlements (Amelina et al., 2016).

As a strategy to organise mobile workers' social protection through bilateral inter-country agreements, the notion portability of social rights is a concept as old as the concept of social security itself (Carmel et al., 2016). Social security rights' portability is highly relevant in the EU context, not only because of the increase in intra-European mobility but also because it is linked directly to the directives designed to ensure equal social protection for all (economically-active) EU citizens. The European social security coordination system, which guarantees that the social security rights vested in one European country will be maintained and not lost during the mobility process, can be considered as a relatively favourable regime for porting social security rights (Holzmann and Koettl, 2011, p. 4). The regulations on social protection that apply to portability on the supranational (EU) level (e.g. Regulations [EC] 883/2004 and [EC] 987/2009) are of constitutive significance to the principle of free movement of workers within the EU.

When people move from one to another EU country, they should be able “preserve, maintain and transfer vested social security rights [...], independent of profession, nationality and country of *residence*” (Holzmann and Koettl, 2011, p. 15). Thus, EU's social security coordination system is designed to allow mobile EU citizens to enjoy “indiscriminate access to social services in their host countries” (Holzmann and Koettl, 2011, p. 4). Although the

¹TRANSWEL is the part of the NORFACE-programme “Welfare State Futures”, see for details www.transwel.de

usefulness of European social security coordination is evident at the EU level of regulations, there have been no studies of how the institutional practices are implemented and exercised on the national level. In their recent article on the portability of social protection, Moriarty et al. (2016) referred to a case study of Polish migration to Ireland, observing that, despite the EU regulations, many old member states have implemented “selective ‘restriction’ policies” against the citizens from the new member states as a way of avoiding the imagined ‘burdens’ placed on their national welfare systems (Moriarty et al., 2016, p. 201). One reason for this concern is greater EU mobility: “EU nationals are changing jobs more frequently than they did in the past, are more likely to go through periods of unemployment, and are more likely to work part time or to be self-employed” (Holzman and Koettl 2011, p. 2, as cited in Moriarty et al., 2016, p. 204). By doing so, these mobile Europeans are able to use their entitlements in a different EU country from the one in which they were vested. This creates tension among the member states that try to “‘adjust’ access to what often continues to be deemed ‘national’ entitlements” (Moriarty et al., 2016, p. 204).

Since December 2004, when the negotiations over Bulgaria’s accession to the EU were concluded, the mobility from Bulgaria to Germany has been highly dynamic. Between 2004 and 2013, the number of Bulgarian nationals in Germany nearly quadrupled (by 275%) (Hanganu et al., 2014) – a predictable trend, given that Germany was poised to open fully in 2014. As of May 2014, 161,656 Bulgarian citizens had officially registered with the Germany authorities; by December 2015, this number had risen to 226,926 (Statistisches Bundesamt, 2015).

Analysing mobile Bulgarians access and portability of social security in the context of their mobility between Bulgaria and Germany, four areas of social security rights were differentiated – unemployment, family-related benefits, healthcare and pensions. The results consider the complex interrelations between European regulations and national legislations and suggest that mobile Europeans’ access to and transfer of social security rights may have a number of disadvantages:

- Mobile individuals’ porting of *unemployment benefits* from Bulgaria to Germany and their access to unemployment benefits in Germany are highly conditional and also discretionary. The *ALG II (Arbeitslosengeld, unemployment benefit II)* is strictly regulated and is not portable from Germany to Bulgaria.
- Most types of German *family benefits* are not portable from Germany to Bulgaria, because formal residence registration or a work contract is necessary in order to claim

them. The Bulgarian and German family benefit systems are not aligned, so decisions regarding entitlement cannot be made when each of the two countries has incomplete information. For families who are separated and when the children live with one of their parents, determining which country is the competent state is a long process.

- The analysis of the relevant regulations on the EU level and on the two national levels shows that in some cases specific aspects of the Bulgarian *healthcare* system may contradict the EU regulations, which in practice can result in double health insurance. Although the portability of healthcare benefits in both directions is clear, the main problem, according to experts, is the number of mobile EU citizens from Bulgaria who do not have health insurance in either Bulgaria or Germany.
- Both Bulgaria and Germany are special cases, being countries with a history of developed and well-established institutional collaboration that facilitates the successful portability of retirement benefits (*pensions*) in both directions. Here too, however, differences between the two systems, such as the earlier retirement age in Bulgaria or the lack of digital data, could slow down the process of granting entitlement.

Before elaborating on these results, the next section will provide some background regarding Bulgarian mobility in the context of intra-European migration. A discussion on Bulgarian migration² both from a historical perspective and in terms of the current characteristics of Bulgarian mobile citizens in Germany is presented.

2. Patterns of migration and mobility between Bulgaria and Germany

2.1 Mobility from Bulgaria after the EU enlargement

Despite the increased mobility from the Eastern European countries to the old member states of the EU, internal EU mobility remains at about the same level on a global scale as the estimated rate of international migration – 1 per cent annually of the active labour population (EC, 2006, as cited in Verwiebe et al., 2014, p. 127). On the other hand, Bulgaria alone experienced significant outmigration to Germany even before it joined the EU in 2007. In Germany, which is the immigration country for many international migrants and one of the main destination countries for Bulgarians, the current public and media debates concerning

²In the context of EU enlargement, the EU considers internal movements not as ‘migration’ but as ‘mobility’. With the exception of the section on history, this term will be used in this Working Paper.

what has been referred to as ‘benefit tourism’ are exclusively related to two of the new member states, Bulgaria and Romania (designated EU-2). It was not until January 2014 that Bulgarians, as citizens of an EU member state since 2007, were given full employment opportunities in the German labour market. Historically, too, Bulgarian mobility to Germany is not new: during the 19th century, Bulgarian tertiary-level students were the largest group of foreign nationals in German universities (Kolev 2005, p. 343).

In the Bulgarian scientific literature, two types of migratory movements are mentioned: the first type involves the Bulgarian ‘diasporic communities’ that exist outside the present-day Republic of Bulgaria. These Bulgarian communities were separated as a result of long and complex historical processes. The second type of migration is, for economic and political reasons, divided into ‘old emigration’ (that took place up until the early 1990s) and the more recent ‘new emigration’ (Kolev, 2005; Senior expert on Migration, 2015). This section will present the ‘new’ Bulgarian emigration in the context of the intra-European mobility processes that have taken place since 1989.

According to the chairman of the Agency for Bulgarians Abroad (1998–2002), the estimated number of Bulgarians outside Bulgaria today (including those with or without Bulgarian citizenship) is between 3.5 and 4 million, about 1 million of whom had Bulgarian citizenship in 1998 (Kolev, 2005, p. 17). The scale of emigration among Bulgarian nationals has caused an unprecedented “brain drain” (Markova, 2010) and demographic crisis. The population of Bulgaria decreased from 7,928,901 in 2001 to 7,364,570 in 2011 (“Census 2011,” 2016b), with a further decrease to about 7,153,000 in 2015 (Census 2011, 2016a). Based on recent statistical data obtained from the national statistical institutes of various countries, more than 200,000 Bulgarian citizens are currently residing in Greece and in Germany respectively (Bulgarian Ministry of Labour and Social Policy, 2015; Statistisches Bundesamt, 2015). These totals are followed by 150,878 in Spain as of 2011, representing an increase of 471.7 per cent since 2001 (Instituto Nacional de Estadística, 2012); 69,000 in the United Kingdom (i.e. Bulgarians by country of birth) (Migration Watch UK, 2015); and 58,001 in Italy (ISTAT, 2015).

The proportion of citizens living in another EU country that is not their home is 2.1 per cent for Germany and only 0.05 per cent for Bulgaria (Eurostat, 2012, as cited in Verwiebe et al., 2014, p. 128). These numbers indicate major differences in the extent of mobility within the EU member states. Researchers are coming to the conclusion that the changing patterns of intra-European mobility are causing inequalities in the mobility processes. Verwiebe et al. (2014) further state that the differences in the mobility process between European and non-EU citizens

have increased in terms of the gradual promotion of EU internal mobility and, to the contrary, more restrictive conditions for non-EU citizens coming to the EU (Verwiebe et al., 2014, p. 129). Among the EU citizens moving from new to old member states, differences that lead to inequalities are being recognized in the research, because mobile citizens from new member states are subject to much greater grade deskilling than are EU-15 citizens, who tend to be better ‘integrated’ both economically and socially (Verwiebe et al., 2014, p. 134). This is confirmed in the research of Amelina and Vasilache (2014), who note that the new forms of inequalities caused by the enlargement of the EU contradict the official rhetoric that promotes a wealthier and more prosperous Europe through internal mobility (Amelina and Vasilache, 2014, p. 110).

2.2. A brief history of Bulgarian migration to Germany

Social scientists have provided similar definitions for the periods of Bulgarian migration over time. Regarding Bulgarian migration to Germany, Kovacheva (2014) and Liakova (2014) agree on the following five successive periods:

The Cold War period (1946–1989): Many Bulgarian citizens emigrated to East Germany with the aim of staying as temporary migrant workers, students or political migrants, and permanent migration to this country was the exception. West Germany made no bilateral agreements with Bulgaria, so labour migration could not take place, but political refugees were welcomed (Kovacheva, 2014, p. 174).

The transition period (1989–1993): This period coincides with the opening of the German borders after the Cold War ended. Many Bulgarians came to Germany as refugees, making use of the right to asylum as an individually enforceable right, a gateway provided by German legislation (Liakova, 2014, p. 18). The number of refugees rose drastically from 427 applications in 1989 to 22,547 in 1993 – a total of about 96,000 arrivals during this five-year period. Most of the applications were not approved, but the immigrants could work on a regular or irregular basis while their application was being processed (one to three years).

The visa requirement period (1993–2001): The flow of migration was restricted through implementation of the ‘refugee reform’ of 1993,³ when Bulgaria was declared a safe country. After this time, the number of applications dropped abruptly to 761 in 1997 and to 61 in 2001, as did the number of migrants who stayed for more than a year, because it became difficult to find legal ways of remaining in Germany (Liakova, 2014, p. 19). Permanent settlement was

³ *Gesetz zur Änderung asylverfahrens-, ausländer- und staatsangehörigkeitsrechtlicher Vorschriften vom 30. Juni 1993* [Act amending asylum procedures, foreigners’ and nationality laws], *Bundesgesetzblatt. Teil I*, 1993, p. 1070.

also restricted through the unusual decision by the Justice and Home Affairs Ministers of the European Community to put Bulgaria on the visa blacklist of the Schengen countries (Kovacheva, 2014, p. 175). Thus, in contrast to the drop in permanent migration, which remained predominantly student and marriage migration, temporary migration intensified. Many Bulgarians used tourist visas to enter Germany and to work irregularly as car dealers and as au pairs and on a temporary basis (Ibid., Liakova, 2014, p. 19). Labour migration was regulated by a number of bilateral agreements between Germany and Bulgaria that enabled mainly temporary employment of posted and seasonal workers and workers in the hospitality industry and allowed them to further their professional and language education (OECD, 2000, p. 128). The contingent quotas were reduced between 1992 and 1995 for many sending countries, including Bulgaria (Sieveking et al., 1997, pp. 46, 56). Between 1993 and 2001, studying in Germany remained one of the major migration channels for Bulgarians; the number of Bulgarian students at German universities increased from 991 in 1993 to 7,321 in 2001 (Kovacheva, 2014, p. 176).

The EU pre-accession period (2001–2006): In 2001, Bulgaria was removed from the Schengen visa blacklist, enabling Bulgarian citizens to enter all Schengen countries for up to three months without a visa. During this period, the number of Bulgarians who entered Germany as tourists but then started working in the shadow economy increased dramatically (Haug and Swiaczny, 2005, p. 141; Kovacheva, 2014, p. 176). At the same time, skilled IT workers from Bulgaria benefited from the German Green Card programme, which was introduced to attract professionals. The pre-accession period continued to be dominated by student migration, with the number of tertiary-level students entering Germany from Bulgaria making Bulgaria the second largest of the sending countries in 2006 (Kovacheva, 2014, p. 176).

The EU post-accession period (2007–present): During this period, Bulgarian citizens obtained EU citizenship status. This allowed them free movement in and out of Germany, but their access to the German labour market was restricted for the following seven years. A work permit was required if a Bulgarian citizen wanted to work in Germany as an employed or self-employed service provider in construction, building, cleaning, and so on. In 2012, the rules were liberalized for skilled workers with a university degree, seasonal workers and trainees. Two years later, all restrictions on access to the German labour market for Bulgarian citizens were lifted (Kovacheva, 2014, pp. 176–177).

2.3. Current dynamics of Bulgarian mobility to Germany

According to a report of the Federal Office for Migration and Refugees (BAMF), the economic asymmetries in Bulgaria, compared with other EU countries, is the main reason Bulgarian citizens leave their country of origin (BAMF, 2014). By the end of 2015, a total of 226,926 Bulgarian nationals were living in Germany (123,779 men, 103,147 women) (Statistisches Bundesamt, 2016), representing 43,670 more citizens than there were in 2014 – an enormous increase. Bulgarians in Germany are a young, predominantly male group of mobile citizens. The average age of the Bulgarians in Germany is lower than the average age of the German population (33.3 years for men and 30.1 years for women), and about 95 per cent of those newly arrived from Bulgaria are of working age (BAMF, 2014). Two thirds of the newcomers in 2011 and 2012 were men (Kovacheva, 2014). A point worth mentioning is that mobile Bulgarians stay in Germany for much shorter lengths of time (average: 5.1 years), as compared with all other EU citizens in Germany, whose average length of stay in 2014 was 18.3 years. The tendency to stay for shorter periods is confirmed by the fact that in 2014 a total of 4,914 Bulgarians received a pension from the German Pension Insurance (*Deutsche Rentenversicherung*). Of these retirement benefits, 2,697 were paid in Bulgaria and 2,151 were paid in Germany (Deutsche Rentenversicherung, 2014). Moreover, as reflected in the statistical data for 2008–2015, mobile Bulgarians increasingly hold dual citizenship. The most recent data show that about 16,000 Bulgarians hold dual citizenship, acquired within the past ten years since Germany changed its legislation⁴ in 2007 to allow dual citizenship for naturalised EU and Swiss nationals. In 2015, a total of 1,619 Bulgarians with an average age of 33.4 years and an average stay of 11.2 years acquired German citizenship, with women outnumbering men two to one. Only 39 gave up their Bulgarian citizenship (Statistisches Bundesamt, 2015).

As regards qualifications, Bulgarians in Germany characteristically have medium to high levels of education. In 2010, 43 per cent had a medium level of education and 34 per cent were highly educated. The report issued by the BAMF highlights the finding that Bulgarian employees who came to Germany before 2007 were more highly educated than were those employed in 2011 (BAMF, 2014). The percentage of university graduates among Bulgarians between the ages of 25 and 44 was lower in 2011 than in 2007 (21% vs. 24%), but was higher than the percentage of German graduates in the same age group (18% in 2011). To sum up, mobile Bulgarians are

⁴ The Nationality Act (Staatsangehörigkeitsgesetz) from 1 January 2000 was revised with the entry into force of the main part of the Immigration Act (Zuwanderungsgesetz) on 1 January 2005 and its further provisions on 28 August 2007.

young and well educated and prefer to stay for shorter periods of time relative to comparable groups of EU migrants (Hanganu et al., 2014).

Available sources of data on the employment situation of Bulgarians in Germany provide a varied picture. On the one hand, scholars state that Bulgarians, despite their high qualifications, often take jobs that require lower qualification levels – that is, they experience deskilling (Jobelius, 2015, p. 4). The fact that until the end of July 2014, a total of 12,212 Bulgarians were marginally employed supports this statement. On the other hand, other empirical studies highlight that in comparison to other EU member states, Bulgarians in Germany were employed only slightly below their qualification levels (Holland et al., 2011, p. 17); however, Holland et al. obtained their data before the full opening of the labour market in 2014, after which labour mobility was no longer controlled in the previous sense, and these new conditions may lead to greater deskilling. The main sectors affected by the mobility of Bulgarian citizens are agriculture/forestry, services and hospitality, and healthcare (Bundesagentur für Arbeit, 2014; Hanganu et al., 2014). Apart from the large group of employed migrants who have to pay social insurance, the number of Bulgarian citizens involved in seasonal work has risen rapidly, from 1,290 in 2006 to 7,750 in 2012 (Bundesregierung, 2014; Kovacheva, 2014).

What is also important is that the number of Bulgarian nationals who are employed in Germany and have to pay social insurance increased by more than 100 per cent in the period between 2007 and 2014 (Hanganu et al., 2014). Interestingly, after the restrictions on the Germany labour market had been lifted, the number of Bulgarian nationals who pay into the social security system rose further (to 94,019 in September 2016), indicating a 21.6 per cent increase compared with 2015 (Hartmann and Reimer, 2016). Together with the growing numbers of Bulgarian employees who pay social insurance in Germany, the number of those registered as unemployed has risen as well. In 2014, 23,839 Bulgarians were registered as jobseekers, and 10,843 Bulgarians out of the total jobseekers were jobless (Hanganu et al., 2014); often these jobseekers were women between the ages of 25 and 50. Two years later, in 2016, there were 50,384 Bulgarians registered as jobseekers, 22,638 of whom were jobless. The increase from the previous year was 18.6 per cent (more registered as jobseekers), and 20.6 per cent more were jobless (Hartmann and Reimer, 2016).

In 2011, a total of 8,433 Bulgarians were receiving basic provision for jobseekers,⁵ and this number reached 35,164 in 2014 (Hanganu et al., 2014). As compared with the total number of

⁵ In German, it is known as *ALG II* and those entitled to it are known as *SGB-II-Empfänger*.

people receiving basic provision for jobseekers in Germany (4,354,239 in 2014) (Statista, 2017), the number of Bulgarians remains very low and includes claimants of supplementary benefits who are employed or self-employed but in need of social assistance.⁶ In April 2014, reportedly 12.9 per cent of all Bulgarians in Germany were counted in this group (higher than the average percentage of all registered migrants in Germany, which is 9.4%) (Brücker et al., 2014). In 2016, the number of all Bulgarians who were capable of working and were entitled basic provision for jobseekers reached 51,510 (Hartmann and Reimer, 2016), or 22.7 per cent⁷ of all Bulgarians in Germany in that year. The total number of individuals⁸ who were entitled to receive basic provision for jobseekers in Germany in November 2016 was 4,279,982 (Bundesagentur für Arbeit, 2016). With reference to all the media debates focused on preventing abuse of social support, a senior expert on unemployment reported that abuse of social support cannot be confirmed (Senior expert on unemployment, Bundesagentur für Arbeit 2016).

3. The analysis of formal regulations of access and portability of social security for mobile Bulgarians

3.1 Comparing schemes of social protection of sending and receiving countries as an initial approach

The project focused on two research questions: How are mobile Europeans' social security rights structured transnationally in regulations (in EU regulations and between the migration-sending and migration-receiving countries)? And how do welfare systems' conditionalities organize and impose limitations on the acquisition and portability of social security rights?

The following section discusses the access and portability of social security entitlements in Germany and Bulgaria that are crucial to the situation of mobile Bulgarians and their social security rights. This study focused on a contribution-based or tax-funded cash benefit system of social security in the areas of unemployment, family-related benefits, health insurance and retirement benefits. Because this project is designed to concentrate on public policy, private schemes of social protection are not included.⁹

⁶ Those who receive 'supplementary unemployment benefit II' (*ALG II – Ergänzend*).

⁷ Authors' calculations.

⁸ Beneficiaries who are fit to work (*erwerbsfähige Leistungsberechtigte*).

⁹ Mobile EU citizens' informal practices of social protection are considered in forthcoming publications.

Concerning methodology, the analysed legal frameworks for social protection were based on using interpretative policy analysis of relevant welfare policy documents of the mobility-sending and the mobility-receiving countries (Yanow, 2000), and clarifications were obtained from policy experts and policymakers. Interviews with eleven experts informed our analysis of national and European regulations. Covering issues of policy and administration, eight expert interviews were conducted in the Bulgarian–German context (see, appendix). This methodology allowed an integrative and contextual explanation of the results.

Using the example of mobile Bulgarians in Germany, an analysis of the existing regulations was made in order to elucidate the chances of and barriers to the portability of social security rights. It was sought to be determined (1) how both the German and the Bulgarian welfare systems apply EU regulations, (2) how the supranational regulations on portability interfere with national specificities (conservative vs. post-communist system) and (3) how the interaction between these two welfare systems affects implementation of the supranational regulations.

As Carmel et al. (2016) show, the German social security model is conservative–corporatist, in that it is characterized by contribution-based benefits and services. It is dependent on employment and occupations, with emphases on maintaining income during periods of vulnerability (old age, unemployment), supporting families with children and providing supplementary needs-based, tax-funded benefits. Access to social security in Germany is provided by what might be called ‘Bismarckian’ policy mechanisms (contribution-based) for pensions, unemployment and healthcare but mixed mechanisms (tax-based) for family benefits (Carmel et al., 2016, p. 27).

The Bulgarian social security model is defined in the literature as post-communist and is characterized by contribution-based benefits, distributed at very low levels and with a limited, low-level ‘safety net’. However, in essence, the system is ‘Bismarckian’ and, with regard to accessing social security, is similar to the German model – that is, ‘Bismarckian’, with contribution-based policy mechanisms for pensions, unemployment and healthcare but mixed mechanisms for family benefits (Carmel et al., 2016, pp. 26–27). This is important for the analysis, because it was expected that through social security systems based on contributions and employment and through EU’ social security, also based on the same ‘Bismarckian’ mechanisms, the access to and portability of social security rights would be less complex in the context of mobility within the Bulgarian–German context. Indeed, the analysis of access and portability of social security rights between Bulgaria and Germany have proved that the contribution-based systems (pensions) are “more straightforward”, whereas in mixed systems

(family benefits and unemployment assistance), “a less good ‘institutional fit’ ” (Carmel et al., 2016, p. 38).

The social security system in Germany consists of five statutory branches (health insurance, long-term care insurance, pension insurance, accident insurance and unemployment insurance). It is based on insurance contributions paid by employees and employers and on general tax revenues (European Union, 2013, p. 8). Scholars structure state benefits according to three pillars of the welfare state in Germany¹⁰: state social security, social compensation benefits and social assistance (Schubert and Klein, 2016). Compulsory social security has five pillars: statutory health insurance, pension insurance, accident insurance, unemployment insurance and long-term care insurance. For the purpose of this study, the ordinary unemployment benefit (unemployment benefit type I, or *ALG I*), pension, and statutory health insurance are taken into consideration, along with some social compensation benefits such as child benefits (*Kindergeld*), child supplement (*Kinderzuschlag*), parental benefit (*Elterngeld*) and basic provision for jobseekers (unemployment benefit type II, or *ALG II*).

Bulgarian social security includes contributory social insurance, non-contributory social security and social assistance. The non-contributory social security and the social assistance programmes are funded by the state. The public social insurance plans provide cash benefits and pensions against the social risks of sickness, invalidity, maternity and paternity leaves, occupational disease and accidents at work, old age, unemployment and death. Protection against the risk of poverty (a guarantee of sufficient resources) and the provision of family benefits are provided by the system of social assistance (European Commission, 2013a, p. 5). The social security system is funded by national insurance contributions paid by employers, employees, self-employed individuals and in part by the state’s budget, whereas the social assistance system is funded by the state budget alone (European Commission, 2013a, p. 6).

The following table illustrates from a comparative perspective the social security entitlements in both countries. It is a result of an analytical process during the interpretative policy analysis in the TRANSWEL project, developed as a strategy to compare the different types of entitlements both within each country pair and across country pairs. The similar purposes and

¹⁰ 1) *Gesetzliche Sozialversicherung* (compulsory social insurance, such as health, pension, unemployment and care insurance), 2) *soziale Versorgung* (social benefits such as child, child-rearing and housing benefits) and 3) *Sozialfürsorge* (social care/social assistance, such as *ALG II* and welfare benefits).

functions of the different types of entitlements in both countries are understood here as functional equivalents in respect to meeting specific welfare opportunities of the citizens.

Table 1. Functional equivalents of social security rights by policy area for the country pair Bulgaria–Germany (TRANSWEL research 2015/5)

Types of entitlements	Germany	Bulgaria
Unemployment insurance [contributions-based]	<i>Arbeitslosengeld I (ALG I)</i> (unemployment benefit type I)	<i>Обезщетение за безработица</i> (unemployment benefit)
Unemployment assistance	<i>Arbeitslosengeld II (ALG II)</i> (unemployment benefit type II)	<i>Месечни социални помощи за безработни по чл. 9</i> (Monthly social assistance for unemployed according to Art. 9)
Sickness insurance benefit [contributions-based]	<i>Krankengeld</i> (sick pay)	<i>Парични обезщетения по болест</i> (Sum benefits in case of sickness)
Health insurance	<i>Gesetzliche Krankenversicherung</i> (statutory health insurance)	<i>Задължително здравно осигуряване</i> (Compulsory health insurance)
Old-age pension [contributions-based]	<i>Gesetzliche Altersrente</i> (statutory old-age pension)	<i>Пенсия за стаж и възраст</i> (Pension for periods of experience and age)
Maternity benefits [leave]	<i>Mutterschaftsgeld</i> (maternity benefits)	<p><i>Еднократна парична помощ за раждане</i> (One-off benefit for child-rearing for uninsured)</p> <p><i>Еднократна парична помощ за бременност</i> (One-off benefit for pregnancy for uninsured)</p> <p><i>Обезщетение за бременност и раждане (за работещи на трудов договор)</i> (Benefit for pregnancy and child-rearing – insurance-based)</p> <p><i>Еднократна парична помощ за майка студентка</i> (One-off benefit for mothers who are students – for uninsured mothers only since 1 July 2015)</p> <p><i>Еднократна парична на близнаци до навършване на една година</i> (One-off benefit for twins until one year of age)</p>

Parental leave plus associated benefits	<i>Elterngeld</i> (parental benefit) <i>Elterngeld+</i> (parental benefit) <i>Minimum-Elterngeld</i> (minimum parental benefit)	<p><i>Месечни обезщетения за отглеждане на дете до 1-годишната му възраст</i> (similar to <i>Minimum-Elterngeld</i> – monthly benefit for childcare until one year of age, for uninsured, means tested)</p> <p><i>Парично обезщетение за раждане за 15 дни на бащата</i> (One-off benefit for the father for 15 days)</p> <p><i>Обезщетение за отглеждане на малко дете до навършване на 2 годишна възраст</i> (similar to <i>Elterngeld</i> for working parents with work contracts, insured)</p> <p><i>Обезщетение при осиновяване на дете от 2 до 5 годишна възраст</i> (Benefit for adoption of a child between two and five years of age)</p>
Parental allowance [Child rearing benefit]	<i>Betreuungsgeld</i> (child-rearing benefit) (now defunct)	<p>No equivalent</p>
Child benefit	<i>Kindergeld</i> (child benefit) <i>Kinderzuschlag</i> (child supplement) (means-tested) <i>Kinderzulage</i> (child supplement)	<p><i>Месечно обезщетение за отглеждане на дете до завършване на средно образование, но не повече от 20-годишна възраст</i> (means-tested – monthly benefit for childcare until finishing secondary education, but no more than 20 years of age)</p>

3.2 Analysing access and portability of unemployment benefits between Bulgaria and Germany: The dominance of restrictions and high degree of conditionality towards mobile Bulgarians

3.2.1 Portability of unemployment insurance

In essence, the main finding of the document analysis indicates that mobile individuals who are entitled to unemployment benefits in the country where the entitlements were vested wish to move to another country to seek employment; they must meet a variety of conditions imposed by both the sending country and the destination country in order to port unemployment benefits. However, analysing the portability of the unemployment insurance from Bulgaria to Germany, or vice versa, the project identifies that even if all conditions are met, the duration of the entitlement in the destination country will in most cases be much shorter, because they also depend on single-case proof – that is, they are discretionary):

As a general rule, unlike pension entitlements, unemployment benefits can't be exported. Unemployment benefits can be exported only in exceptional cases, and only for three months (legal entitlement), and in some cases for an additional six months. Discretionary provisions are different in each member state. Here in Germany, we decide on a case-by-case basis (Senior expert on portability of unemployment benefits, Bundesagentur für Arbeit 2016).

In our case, both Bulgaria and Germany have insurance-based unemployment insurance systems, which enables mobile EU citizens to transfer their social rights from one country to another, according to Regulation (EC) 883/2004 (Regulation [EC] 883/, 2004). The portability of insurance-based unemployment benefits is limited by European regulations for up to three months, with a possible extension of up to six months. Claimants must be registered as jobseekers for at least four weeks in the country where the entitlement was granted and then apply using the U2 form from the national institution and submit it to the unemployment offices in the new destination country within a seven-day period (Ibid.: Art. 64). However, these conditions might be regarded as barriers to portability. For example, according to Bulgarian legislation, if individuals from Bulgaria do not return within the allotted three months, they will lose their entitlements. Upon arrival in Germany, the mobile individual must register with the Federal Employment Agency (*Bundesagentur für Arbeit*) within seven days in order to meet all requirements and not lose part of the benefit (NSSI, n.d.). However, owing to the high degree of conditionality when one is applying to port unemployment benefits, European Regulations (EC) No. 883/2004 and No. 987/2009 ensure that periods of contributions for unemployment in another EU country (or countries) are taken into consideration (Regulation [EC] 987/, 2009).¹¹ This enables mobile citizens with contributions in more than one EU country to claim their unemployment benefits even if they have not spent the requisite period of time in which to qualify in only one of the countries; in this case, they use the principle of aggregation of periods (Ibid.: Ch. 5). Thus, given that mobile citizens must meet all the requirements and the tight deadlines, it would seem that the portability of entitlements to unemployment benefits in both directions can be regarded as rather limited.

The TRANSWEL Project does not look closely at the regulations concerning self-employed EU citizens (Carmel et al., 2016). For a better description of this field it is worth mentioning

¹¹ Regulation (EC) No. 987/2009 is laying down the procedure for implementing Regulation (EC) No. 883/2004 on the coordination of social security systems.

that self-employed individuals are excluded from unemployment insurance schemes in Bulgaria. In contrast, self-employed individuals in Germany can pay contributions voluntarily to improve their insurance status. Thus, self-employed individuals in Bulgaria are at a disadvantage if they wish to move to Germany – that is, they cannot port any unemployment benefits because the national system prevents this particular option. Nevertheless, if they were already self-employed in Germany and have contributed, they can, for example, port benefits back to Bulgaria.

3.2.2 Discretionary access to and no portability of tax-based unemployment benefits

In Germany, unlike the insurance-based entitlements (*ALG I*),¹² the duration of which depends on the contributions paid, the non-insurance-based basic provision for jobseekers (*ALG II*) lasts as long as the need exists. The legislation on social assistance includes several areas of support for individuals who cannot maintain themselves through resources of their own; one of these is the basic provision for those who are capable of work and are between 16 and 64 years of age (European Commission, 2013b, p. 28; MISSOC, 2016a).

Access to unemployment benefits and assistance for EU-movers has been one of the most controversial issues of public debate in Germany since the EU enlargement, as described by this senior expert:

... in the area of Social Code Book II,¹³ you're dealing with major political issues, because it's about benefits, because it's necessary to protect access to benefits somehow – or otherwise real migration waves might start heading for those countries that offer better benefits. It's a complex problem that doesn't exist in the area of insurance benefits (Senior expert on portability of unemployment benefits 2016).

Between 2011 and 2014, the proportion of Bulgarians in Germany who were receiving the basic provision for jobseekers (*ALG II*) increased from 9 per cent to 22 per cent (BAMF, 2014). However, when compared with the total number of those receiving the basic provision for

¹² The insurance-based entitlements (*ALG I*) vary according to salary, the fiscal category mentioned on the tax card and whether or not the workers have children. The duration of benefits depends on the age and the length of the period during which one has paid contributions, with a maximum duration of 24 months. The unemployment insurance scheme pays sickness insurance contributions and contributions to long-term care insurance.

¹³ The Sozialgesetzbuch – Zweites Buch (SGB II) is the law that regulates the basic provision for jobseekers, as part of the tax-based social support system.

jobseekers, this number is fairly low (see Section 2.3). Despite this increasing proportion, our research shows that access to the basic provision for jobseekers is subject to intense scrutiny by the employment agencies. EU citizens may claim *ALG II* in Germany if they have not found any formal employment by the time their regular unemployment benefits have expired. The group of eligible individuals also includes those who have not contributed to unemployment insurance for the prescribed minimum period of twelve months or who cannot cover their needs while employed, in which latter case, supplementary basic provision for jobseekers (*ALG II – Ergänzend*) is provided. If the unemployment benefit type I (*ALG I*) was ported from Bulgaria to Germany, the mobile individual would not be entitled to *ALG II*, because the condition of previously having made contributions in Germany would not be met. First-time movers and movers with no previous work experience in Germany are not eligible to receive *ALG II* during the first three months of their stay in Germany;¹⁴ only those with permanent residence status can receive *ALG II* without having to wait.

Employment agencies review each case individually and may reject the applications of claimants who do not show willingness to participate in the German labour market. In addition, *ALG II* is considered a special non-contributory cash benefit according to Article 70 of Regulation (EC) 883/2004 and cannot be transferred from Germany to Bulgaria because of the administrative requirements, including the residence principle and the principle that registered jobseekers must be permanently available (Arbeitsagentur, 2016). A high degree of discretion and strict national regulation on entitlement characterize the policies concerning this type of entitlement. Bulgarian social assistance for the unemployed (see Table 1) is not the central focus of TRANSWEL because it is a tax-based poverty measure and therefore is not part of the EU regulations on social security.

3.3 System mismatch as a barrier to portability of family-related entitlements for mobile Bulgarians

3.3.1 Bulgarian and German family-related systems of social protection

Before addressing the challenges of access to and portability of family-related benefits by mobile Bulgarians, the brief overview below provides insights into of the Bulgarian and German family benefits systems. In Bulgaria, family-related social support falls under different social protection areas. The social insurance contributory scheme provides earnings-related cash benefits for pregnancy and childbirth and a flat-rate benefit for raising a young child (up

¹⁴ This will change if a new proposal is adopted that provides for a change in German legislation to introduce a five-year waiting period for *ALG II* eligibility.

to two years of age) for economically active individuals (i.e. for employees who are able to contribute for certain periods of time). Family benefits fall under the Bulgarian social assistance system (tax-funded), so the government pays the total cost. The following are some of these family benefits: a monthly child benefit (BGN 35); a child-rearing allowance until the child is one year of age (BGN 100); one-off benefits such as the pregnancy grant (a lump-sum allowance for pregnancy [BGN 150] for permanent residents who are not entitled to the insurance-based maternity benefits); and a birth grant (a lump-sum allowance for birth [BGN 250] and for the first and the second child [BGN 600]) (see Table 1). Benefits that are not part of our study include benefits in kind, which are part of the tax-funded system, and a compulsory social insurance system in Bulgaria for Bulgarian nationals and permanent residents (MISSOC, 2014; National Social Security Institute, 2015a; Social Security Administration, 2014, p. 56).

In Germany, maternity benefits are affiliated with statutory health insurance. All women who are entitled to sickness benefits in kind are also entitled to benefits in kind during pregnancy and after delivery (European Union, 2013, p. 16; MuSchG, n.d., p. § 13). The second pillar of the German social security system consists of a separate, tax-funded system and includes benefits such as cash benefits for war victims and victims of violence, as well as for family benefits, such as a child allowance (*Kindergeld*), a child care benefit (*Betreuungsgeld*), a supplementary child allowance (*Kinderzuschlag*), a parental allowance (*Elterngeld*), a housing allowance (*Wohngeld*) and financial aid for students (*Bafög*). How these differences reflect portability will now be explained in more detail.

3.3.2 Mismatch of family benefit systems between Germany and Bulgaria

Our study shows that most of the German family benefits are not portable but are accessible by mobile EU citizens who live and/or work in Germany. Currently, mobile Bulgarians are entitled to receive the child benefit in Germany (*Kindergeld*, €190), even if their children are living in Bulgaria, if the parents live, work and/or pay taxes in Germany. In 2013, a total of 24,736 Bulgarian nationals were receiving the child allowance even though only 3.9 per cent of the beneficiaries' children were living abroad (Hanganu et al., 2014, p. 97).

As mentioned above, difficulties arise because the national family benefit regulations of Bulgaria and Germany differ and because the exchange of information between family benefit agencies in the two countries is far from optimal. Experts interviewed for the project explain that the long-awaited electronic exchange of data regarding social security within EU has still not been implemented, but once it is in place, the application process should speed up and

become more efficient. However, the differences in the national legislations will make such an exchange difficult to launch (Senior experts, Council of Ministers, 2016; Senior experts, National Social Security Institute, 2015). For example, the monthly child benefit in Bulgaria is means-tested (except in the case of one parent's death), and the income of mobile citizens is crucial in determining entitlement. The family benefit offices in Germany, on the other hand, do not collect data on claimants' income, because the child benefit is not a means-tested family benefit (Senior experts on Family Benefits, 2015). Thus, information is lacking about the incomes of mobile Bulgarians who return to Bulgaria and claim family benefits there (Expert ASA 2015). In addition, differences in the legal definitions of what constitutes a family member and a household vary throughout the EU, which leads, according to experts, to difficulties in determining whether individuals are entitled to receive family benefits in the receiving country or in the sending country (i.e. to define the competent state). For example, as recently as 2015, Bulgaria changed its law and started treating non-married couples registered at the same address as 'family', thus taking into account their accumulated income for the decision concerning the monthly child benefit. Biological, adopted and foster children are considered part of the family until they reach 18 years of age, or age 20 if they are students, but not if they are married (Family Allowances Act, 2002). In addition, Bulgaria introduced benefits in kind instead of cash for mothers under the age of 18 (Ibid.). While they are in Germany, parents are entitled to *Kindergeld* (until children are 18 years old, or age 25 if they are students) even if the children are married or are parents (Familienkasse, 2016a; "Kindergeld für verheiratete Kinder," n.d.).

According to the German legislation, child benefits is paid to the parent who takes care of the child, but according to the EU regulations, residence should not be an obstacle. Still, interviewed experts report that Regulation (EC) 883/2004 leads to complications for families across borders. In an actual case (reported by an interviewed expert), a father who worked in Germany wanted to apply for child benefits, although the mother stayed with the children in Bulgaria. The application was denied by the German institution when the father first filed it; the mother in Bulgaria should have applied for the German benefit, because she is the one who takes care of the children. In practice, the parent who works in Germany cannot apply for the child benefit on behalf of the parent in Bulgaria even though entitlement to this benefit is based on the income of the parent who works in Germany (Senior experts on social policy and European regulations, 2016, p. 13).

Not only do national differences in legislation have consequences for the mobile citizens' application for family benefits, they also contribute the potential complexities of every single

case that concerns the portability of family benefits. Regulation (EC) 883/2004 does not define who should receive the child benefit when there is more than one eligible party, so this decision is made according to the national legislation (Familienkasse, 2016b). For this reason Germany processes the cross-border cases of Bulgarian nationals at the Bayern Nord Family Benefit Department in Nuremberg. Such centralization is also intended to facilitate communication between the institutions. However, when it comes to personal communication with these institutions, mobile Bulgarians' options throughout the country are limited to using service hotlines or providing briefs. In addition, tax-based benefits such as the parental allowance or the supplementary child allowance are not portable from Germany to Bulgaria because they are linked to a residence or work contract in Germany, so mobile Bulgarians who are irregularly employed could be at a disadvantage in terms of entitlements, because they would be unable to submit the required documents.

In summary, the lack of information resulting from differences in the two countries' legal requirements for granting benefits, as well as the mismatch between the German and the Bulgarian family benefit systems, can pose barriers to the implementation of supranational regulations on the portability of family-related social security rights.

3.4 Encountering complexity: Mobile Bulgarians' access and portability of health-related social security rights

3.4.1 The Bulgarian and German healthcare systems: Differences that lead to conflict with EU regulations

Compared with Central and Eastern European (CEE) countries, Bulgaria was late in transitioning to compulsory social health insurance in 1998, enacting a package of laws designed to shift from a tax-based, centralized healthcare system to one that was contribution-based (Vitkova et al., 2009, p. 52). The Law on Health Insurance (1998) has been changed more than 20 times in the past ten years (Antoniya Dimova et al., 2012, p. 18). The Law on Health, enacted on 1 January 2005, replaced the previous Public Health Act as a major step towards harmonizing the Bulgarian legislation with the Community acquis. Since 1 January 2007, medical assistance payments have been in effect in accordance with the rules on the coordination of social security systems within the EU (Vitkova et al., 2009, p. 68). Efforts to reduce the number of uninsured individuals and to ensure the system's financial stability – mainly by raising the health insurance contribution from 6 per cent to 8 per cent – have not been effective. Public health expenditures as a share of GDP represent about 4 per cent, as compared with an average of 7 per cent for the rest of the EU countries. About 1.2 million

Bulgarians do not pay the mandatory health insurance contributions. The state has been gradually withdrawing from funding the healthcare system by transferring the costs for prevention, control and promotion of public health to the National Health Insurance Fund (NHIF) budget – from 31.8 per cent in 2010 to 40.4 per cent in 2012 (Bulgarian Industrial Association, 2014, pp. 4–5).

In Germany, the entire population must be insured in the event of sickness or the need for long-term care. All waged and salaried workers with an annual income of up to €50,850, pensioners, students, individuals with disabilities, apprentices and unemployed individuals are required to pay contributions for statutory health insurance (*Gesetzliche Krankenversicherung*) (SGB V, 1988, p. § 6; Social Security Administration, 2012). Spouses, civil partners and children of members covered by the statutory health insurance policy are co-insured (subject to certain conditions) through the family insurance plan without having to pay contributions themselves (Bundesregierung, 2014, p. 81; European Union, 2013). Voluntary coverage is available for waged and salaried workers who earn more than €50,850 a year, who may opt for private health insurance instead.

The total contribution to the health insurance scheme currently represents 15.5 per cent of one's earnings up to an amount determined on an annual basis (with a ceiling for this calculation set at €47,250 annually), 7.3 per cent of which is borne by the employer. The statutory sickness insurance is in the hands of 134 insurance funds, some of which operate regionally (e.g. local health insurance funds, the *Ortskrankenkassen*) and some of which operate at the national level (e.g. substitute funds, the *Ersatzkassen*). These funds are open to all members regardless of occupation or employment in a company (with the exception of the sickness insurance fund for farmers) (European Union, 2013, p. 8).

In order to better clarify the differences between the two countries' systems in relation to the supranational level of EU regulation, expert interviews were conducted. Experts' explanations complemented the analysis of documents with regard to individuals seeking to port their rights from Bulgaria to Germany, or vice versa. Because every Bulgarian citizen has mandatory statutory health insurance, Bulgarian citizens who move to another EU country are considered to be in breach of the Bulgarian health system irrespective of the fact that they are insured there (Senior experts, Council of Ministers 2016). In order to re-establish their Bulgarian health insurance entitlements, citizens returning to Bulgaria who cancel their insurance in the receiving country must submit form E104, which contains information about their periods of insurance, employment and residence (Decision N 88/, 1973). According to the experts, the

situation is different in practice: Many Bulgarian citizens who return to Bulgaria during their breaks or for shorter periods bring the E104 forms with them to reinstate their full health insurance entitlements in Bulgaria according to the Bulgarian legislation on mandatory coverage. The Bulgarian Health Insurance Fund then pays for their medical treatments, whereas in fact the other country is also obligated to cover such treatments. According to the experts, “In fact, the Bulgarian state throws all this money away for nothing, but there is no mechanism to prevent it” (Senior experts, Council of Ministers 2016, p. 4). Similarly minors are practically double insured until they reach the age of 18 (or 25, if they are students), because they have a Bulgarian health coverage based on their Bulgarian nationality regardless of their place of residence. Thus, in practice, a Bulgarian citizen appears to be insured in two countries at the same time, which contradicts the EU regulation.

Another challenge for mobile Bulgarian citizens returning to Bulgaria is the need to prove that they are insured by means of the portable form E104, which, again, relates to the specifics in the national system concerning mandatory health insurance. According to the Bulgarian experts, EU countries cannot understand why it is so important for a Bulgarian citizen to present form E104 upon their return to Bulgaria, but without this form, they cannot use the health system in Bulgaria and “actually for the individual it is a matter of life and death, because he returns and cannot receive medical treatment here” (Senior experts, Council of Ministers 2016, p. 3).

The next section elaborates on the portability of health insurance rights and the possible implications for EU citizens who cross national borders.

3.4.2 Clear regulations but barriers to portability of healthcare

Projects’ findings on healthcare benefits reveal that the portability rules regarding health insurance are strictly regulated and in most cases clearly defined. During the first three months of their stay in another EU country, mobile Bulgarians may use the European Health Insurance Card (EHIC) in cases of medical necessity. The EHIC was introduced in 2003, replacing the E111 and E111B, and is issued by the citizen’s national health insurance provider. It permits access to state-provided healthcare during a temporary stay in any of the 28 EU countries, and insured citizens of the EU who travel to another EU country are entitled to healthcare while staying in a member state other than the competent state or the state of residence. How long this card is valid is decided at the national level (Decision N 191/, 2003). In Bulgaria, an individual must apply separately for the card, which is valid for one year, whereas in Germany, the EHIC

is printed on the back of the German health insurance card, which insured policy holders receive automatically.

It is also possible to use EU form S1, a certificate of entitlement to healthcare in the receiving country for mobile individuals who remain insured in the sending country (European Commission, n.d.). This possibility is open to posted workers, pensioners, civil servants and their dependents that move their habitual residence to another country. In such cases, Bulgarian citizens would transfer their Bulgarian health insurance, but owing to the different costs for medication and other healthcare services in Bulgaria and Germany, they might have to pay the difference. Because health insurance is mandatory in Germany, Bulgarian citizens who are not covered in Bulgaria and stay in Germany for more than three months must buy a health insurance plan from a German private or public health insurance. The data obtained from our expert interviews, as well as quantitative survey within the framework of the TRANSWEL project (Zabransky and Amelina, 2017) indicate that although health insurance is mandatory in Bulgaria, many mobile Bulgarian citizens do not have coverage in either Germany or Bulgaria, or they do not bring the EHIC card with them to Germany, causing considerable difficulties for those who require emergency or intensive care in Germany. Although there are no official statistics indicating the actual numbers of uninsured Bulgarians, our expert interviewees estimate that Bulgaria must deal with many complicated emergency situations in which severely injured Bulgarian construction workers are completely uninsured (Expert on labour and social policy 2015a). On the one hand, clear formal regulations concerning the portability of healthcare benefits are observed; on the other hand, differences between the national healthcare systems (including cost differences) or mobile EU citizens' inability to prove coverage may function as potential barriers and may affect their healthcare status.

3.5 Clear regulations on pensions and institutional collaboration but potential limitations for mobile Bulgarians

3.5.1 An overview about German and Bulgarian pension systems

The project's analysis of the formal regulations with regard to differences and similarities in national pension systems revealed institutional collaboration but also possible disadvantages for the mobile Bulgarians. The statutory old-age insurance system in Germany comprises the statutory pension insurance, the civil servants' scheme, the occupational pension schemes and old-age insurance for farmers. Every employee is required to pay contributions according to

one of these public compulsory schemes in addition to certain categories for the self-employed. In this regard, the worker's nationality or the employer's place of business is irrelevant. In general, self-employed German citizens are not subject to compulsory old-age insurance but can become affiliated with the statutory pension insurance voluntarily or by mandate. For general pension insurance, the total cost is 18.7 per cent of earnings up to the contribution ceiling (€6,200 per month in the old federal states and €5,400 per month in the new federal states). In general, half the contribution is covered by the employer (MISSOC, 2016b).

As for the minimum contribution periods required for a citizen to be entitled to an old-age pension, the systems in Bulgaria and Germany differ. In Bulgaria, claimants must have made contributions for at least 15 years and must be 65 years of age to receive an early but reduced state pension, whereas in Germany the requisite contribution period is only 5 years. Therefore, a Bulgarian migrant with no previous work experience would fulfil the pension requirement three times faster in Germany than in Bulgaria.

3.5.2 Historically rooted collaboration between Bulgarian and German institutions: Possible disadvantages related to differences between the two national pension systems

Projects' findings show that, compared with the basic provision for jobseekers or family benefits, the system allowing retirement benefits to be transferred between Bulgaria and Germany is clear and functions better than in other areas of social protection (i.e. unemployment, family benefits, health). The reason for this is that the institutionalized organizational collaboration between Germany and Bulgaria emerged long before Bulgaria became a member of the EU. The German State Pension Insurance has established offices in Halle and Erfurt, where a specially trained staff handles issues concerning the portability of retirement benefits between Bulgaria and Germany (Expert Interviews with Deutsche Rentenversicherung; National Social Security Institute Bulgaria, 2015). Bulgarian citizens may claim their pensions in Germany if they live there, have reached retirement age and have paid contributions. In accordance with the EU portability regulations, and with the advantage of long contribution periods, contribution periods in different EU countries are credited to claimants' accounts to ensure that people who work on a regular basis but are temporarily employed are not put at a disadvantage. For example, in Germany workers must make contributions for a minimum of five years (and have reached a certain age) to be eligible for the statutory pension; however,

workers who have contributed only one year in Germany and four years in Bulgaria or in some other EU country would receive a partial German pension for that year, and Germany will recognize the four years in Bulgaria as an insurance period. Working periods in other EU countries are always taken into consideration in both the sending and receiving countries. If an individual has contributed for less than one year in Germany, those months will be added to that individual's Bulgarian insurance times and will be calculated as if they had been served in Bulgaria once the individual meets the conditions of age and insurance periods in Bulgaria (Expert interview, National Social Security Institute, 2015).

Of interest, the retirement ages differ between these two countries – that is, the national legislative systems could result in limitations for the mobile Bulgarians in Germany but could also lead to opportunities. In Bulgaria, the right to a pension is acquired when women reach the age of 60 years and 10 months and when men reach the age of 63 years and 10 months¹⁵ (National Social Security Institute, 2015b); in Germany, the age for both men and women is 65 years and 5 months¹⁶ (Deutsche Rentenversicherung, 2016a). These stipulations lead to a situation in which the German employer of a Bulgarian pensioner who starts working in Germany is not obligated to pay contributions because that employee is already a pensioner in Bulgaria (Senior expert, Deutsche Rentenversicherung 2015). In this case, the Bulgarian employee cannot acquire contribution periods in order to claim the German pension. According to the experts, the best solution to this problem would be that individuals who intend to work in Germany should not claim the Bulgarian pension upon reaching the Bulgarian retirement age; instead, they should work and contribute in Germany and then claim both pensions when they reach the German retirement age (Expert interview, National Social Security Institute, 2015). Experts think that the decisions made by mobile EU citizens could be influenced by this opportunity for Bulgarian pensioners who are working in Germany to increase their Bulgarian pension by adding some German contribution periods. But such a strategy would require detailed knowledge of both the German legislation and the EU regulations regarding social protection. Even if the future mobile individual were aware of this possibility, this approach would lead to a 'temporary' lack of financial sources at a time when they are most needed. With the new rules in Germany concerning pensions,¹⁷ the situation would change, because beginning in January 2017 it will be possible for working pensioners, including those who

¹⁵ The age is gradually adjusted by two months every year until 2037, when both men and women reach 65 years of age, so women should have made 37 years of contributions and men 40 years of contributions.

¹⁶ The age is gradually adjusted by one month until 2023 and thereafter by two months per year until one reaches age 67 in 2029.

¹⁷ For more information on the recent changes, see the Deutsche Rentenversicherung website.

postponed retirement, to continue to contribute to their pension; this would result in an increase in benefits, which are indexed on a yearly basis (Deutsche Rentenversicherung, 2016b).

According to experts from both countries, the portability of pension benefits may face other obstacles for historical reasons (Expert interviews with the National Social Security Institute of Bulgaria and Deutsche Rentenversicherung). It may be difficult to prove insurance periods in Bulgaria and Germany if the claimant has in the past lived in the other country for a long time. For example, the National Social Security Institute of Bulgaria has digitized data obtained after 1997 (Expert interview, National Social Security Institute, 2015). If an individual worked in Bulgaria before 1997 but the employer no longer exists, finding the necessary documents might be difficult both for the movers and for the national institutions. The same problem occurs when old documents are lacking for German companies in East Germany prior to unification (Senior experts on pensions and EU regulations, Deutsche Rentenversicherung, 2015).

Because there is no minimum pension in Germany, individuals with retirement benefits below the social minimum must rely on social assistance support, which is adjusted according to their income. As part of the social assistance programme (*Grundsicherung*), such support is not subject to the EU regulations concerning social protection and is therefore not portable. Pensioners with old-age retirement benefits that are estimated to be less than the social minimum must have their habitual residence (*gewöhnlicher Aufenthalt*) in Germany in order to receive complementary social assistance (Senior experts interview, National Social Security Institute, 2015).

In conclusion, the portability of retirement entitlements has been well coordinated institutionally between Germany and Bulgaria since before the EU accession, and both national systems are in the process of improving the information exchange. Experts from both countries work closely together on individual cases. Possible disadvantages regarding reduced retirement benefits may ensue if older mobile citizens worked in Bulgaria prior to 1997 or in Germany before the unification, because the lack of digital data might mean that they must obtain the necessary information themselves. A clear understanding not only of the national regulations but also of the portability procedures is required if mobile citizens hope to transfer their social rights successfully once they reach retirement age, and experts from both countries have organized information panels in various cities in Bulgaria and Germany. Although time did not permit focussing on the portability of private pensions, this topic might be an important consideration when analysing the insurance status of mobile Bulgarians in Germany.

4. Conclusions

Although the portability of social rights within the EU is considered the most favourable regime when compared with the transfer of rights between any other countries, our analysis of access to and portability of social security rights in the context of mobile Bulgarians mobility between Bulgaria and Germany shows that in order to understand the complexity of European social security, one has to reflect the interplay between EU regulations, national differences in legislation and their respective applications. The main outcome of the document analysis and expert interviews indicates that mobile citizens are likely to encounter many obstacles in the process of accessing and porting their social security rights. Furthermore, in some cases it is difficult to separate the portability of and access to social security benefits from the benefits that are available through the national welfare systems. For example, as explained in 3.2, if one aims to port unemployment benefits (the equivalent to ALG I) from Bulgaria to Germany, he or she would not be entitled to a complimentary unemployment benefit (ALG II) compared to someone, who used to work in Germany and did not port, because the condition of previously having made contributions in Germany would not be met. Our findings reveal differences in the portability of social security rights in Germany and in Bulgaria, as well as institutional constraints on portability, particularly in the areas of unemployment and family benefits.

Interviewed experts acknowledge that the most complex area of portability is the field of unemployment benefits. The regulations define strict time conditions that mobile EU citizens must meet, and portability is actually partial (limited to three months) and discretionary. In considering every individual case more closely, the time could be extended up to six months regardless of how long the originally accumulated entitlement was in the sending country. In addition, access to unemployment benefits for long-term unemployment (the basic provision for jobseekers, or *ALG II*) is highly restricted in Germany. Thus, movers who cannot find work would not be entitled to *ALG II*.¹⁸ More transparent information is needed concerning administrative decisions with respect to unemployment assistance (*ALG II*), especially for mobile citizens who have decided to live in Germany.

In the case of family benefits, it is clear that the differences between national legislations, as well as the complex conditions spelled out in the EU regulations, can create barriers for mobile Bulgarians, especially for families with a multi-local lifestyle, such as when the children live in Bulgaria and one or both parents live in Germany. Residence status is still an important

¹⁸ In Germany, new legislation is about to be passed that will restrict the option of social assistance after the three-months-stay and make it five years for EU-citizens who have never worked in Germany.

condition and can be a disadvantage for mobile Bulgarians and their families. In the long run, ways of adapting national social security systems must be identified to improve portability procedures between the EU countries, especially in the field of family benefits for mobile citizens.

System mismatch is also evident in the area of healthcare. Peculiarities of the Bulgarian system contradict the EU regulations, resulting in situations in which mobile Bulgarians are insured in both the sending and the receiving countries. Another barrier to portability of benefits is the need to validate insurance periods; if form E104 is not issued on time, Bulgarian returnees will be ineligible to use Bulgarian health services (unless they have private insurance coverage) or the care will be expensive. Informal barriers exist as well, which experts consider the most problematic. Because many Bulgarians do not have health insurance both in Bulgaria and in Germany, they face greater health risks and limited access to healthcare services. Policymakers should consider measures that would decrease the number of mobile EU citizens who are without health insurance.

The area of pensions is the least problematic. Bulgarian and German institutions had a history of good collaboration even before the EU accession. Reforms in both systems have gradually reduced the differences between the two national legislations with respect to the portability of and access to retirement benefits. Some barriers to portability may still arise for Bulgarian mobile citizens whose insurance periods predated 1997, because these early data are not available in digital form and it becomes the citizens' responsibility to obtain the necessary documents to qualify for benefits; in addition, data collected prior to the unification of Germany are difficult to access.

List of expert interviews

1. Senior expert on migration, 2015. Bulgarian Migration to Germany. Agency for Bulgarians Abroad (ABA), Sofia, Bulgaria
2. Expert on labour and social policy, 2015a. Bulgarian Ministry of Labour and Social Policy, remote office, Bulgarian Embassy, Austria.
3. Expert on labour and social policy, 2015b. Bulgarian Ministry of Labour and Social Policy, remote office, Bulgarian Embassy, Germany.

4. Senior experts on social policy and European regulations, 2015. Implementing European Regulations on Social Protection. National Social Security Institute (NSSI), Sofia, Bulgaria.
5. Senior experts on social policy and European regulations, 2016. European Regulations and Bulgarian Social System. Council of Ministers, Sofia, Bulgaria.
6. Senior expert, 2016. Bulgarian Labour Migration. Bulgarian Employment Agency at the Ministry of Labour and Social Policy, Sofia, Bulgaria.
7. Senior experts on pensions and EU regulations, 2015. Deutsche Rentenversicherung, Halle, Germany.
8. Senior experts on EU regulations concerning maternity and family benefits, 2015. Familienkasse, Nürnberg, Germany.
9. Senior expert on unemployment, 2016. Bundesagentur für Arbeit. Germany.
10. Senior expert on portability of unemployment benefits, 2016. Bundesagentur für Arbeit. Germany.
11. Expert on family benefits, 2015. Agency for Social Assistance (ASA), Sofia, Bulgaria.

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