

# Parental Leave Provision in Romania between Inherited Tendencies and Legislative Adjustments

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**Abstract:** This article seeks to identify and analyse the most significant changes regarding parental leave provision in post-communist Romania, as well as the extent to which its legal adjustments that took place after 1990 reveal both old trends inherited from the former political regime as well as new tendencies influenced by EU norms and directives. Consequently, this article has a twofold structure. First, a brief overview of the main concepts and theoretical approaches to parental leave will allow us to proceed to a proper understanding of the epistemological tools underpinning this research object. Second, this article tackles the numerous legislative changes concerning parental leave that occurred after the fall of the communist regime. Although limited to a single category of research sources, this inquiry is indispensable for analysing the extent to which childcare and the gendered division of parental responsibilities have become real political struggles within the post-communist public agenda in Romania.

**Keywords:** childcare provision, Central and Eastern European countries (CEECs), family policies, parental leave, Romania.

In the context of the political, social and economic shift from the former communist regime to a 'new' democratic system including the liberalisation of the labour market, public childcare provision in Romania has also been reshaped, revealing a specific domestic mixture between old political principles and institutional settings and new tendencies. For instance, family allowance was reconceptualised in terms of children's rights, although it has remained linked to the pursuit of universality despite the drastic downgrading of its value (Inglot et al. 2011). Day-care services for pre-school children have been reorganised and placed either under the authority of the Ministry of Education or under the authority of the local municipalities, revealing "institutional tensions" (Saxonberg 2011) as a still visible legacy of the former communist regime. Whenever intergenerational family support is not an available option, families often choose to make use of childminders' services, at least in urban areas (Băluță and Dohotariu 2013), an aspect that is highly significant for the local *familialism* visible at every level of social life in Romania. More importantly, the legislation regarding parental leave provision changed unceasingly between 1990 and 2017, suggesting that "the government is interested in promoting the image of gender sensitive incentives, while in fact, it pursues its financial

interests, seeking to decrease public expenditures on parental leave” (Dohotariu 2015a, 129).

Despite these significant changes, family policies instruments in Romania, including parental leave provision, remain insufficiently researched. Different analyses have aimed at understanding the differences and similarities that characterise welfare states and social protection systems in Central and Eastern European countries (CEECs), including also approaches focusing on the transversal issue of gender. For instance, some studies interrogated the *refamilialisation* trend that could be more or less identified and observed across the post-communist family policies systems (Hantrais 2004; Pascall and Lewis 2004). In turn, others sought to reveal the prevalence of the *diversity* of instruments (Fodor et al. 2002; Saxonberg 2014; Szelewa and Polakowski 2008). Yet, some other studies proceeded to an in-depth analysis of the *Europeanization* process that affected the social protection systems and parental leave schemes within the post-communist countries that have joined the European Union. Nevertheless, beside the fact that this literature often privileges a regime-type perspective based on the correlation between women’s labour market participation, the labour market’s dynamics, and the related social provisions – thus undertheorising the micro-logic of human behaviour –, it also rarely includes Romania as a relevant Central and Eastern European case. More precisely, in spite of the research carried out on different themes connected to the issue of parental leave provision – such as childcare (Băluță 2014; Kovács 2015), family policies (Dohotariu 2015a; Fodor *et al.* 2002; Inglot *et al.* 2011), work-life balance (Crușmac and Köhler 2016; Dohotariu 2015b), or the social construction of gender (Răducu 2016), yet systemised and exhaustive research on parental leave as part of the broader social protection system in Romania is still lacking.

Thus, this article seeks to identify and analyse the most significant legislative shifts regarding parental leave provision in post-communist Romania, as well as the extent to which these legal adjustments reveal both old trends inherited from the former political regime as well as new tendencies influenced by EU norms and directives. Consequently, the article has a twofold structure. First, a brief overview of the main concepts and theoretical approaches to parental leave will allow us to proceed to a proper understanding of the epistemological tools underpinning this research object. Second, this article tackles the numerous legislative changes concerning parental leave which occurred after the fall of the communist regime in Romania. Although limited to a single category of research sources, this inquiry is indispensable for analysing the extent to which childcare and the gendered division of parental responsibilities have become political struggles within the post-communist public agenda. Furthermore, this investigation is also necessary in order to reach a proper understanding of the domestic political approach to childcare and the gendered division of parental responsibilities, as well as of their correlation with

global commodification drifts and Central and Eastern European re-familialisation tendencies.

### **Theoretical Approaches and Concepts Related to Parental Leave Provision**

The scientific literature reminds us that it is only since the 1970s that one can talk about *parental leave* as a strand of social policy that has been implemented across most industrialised countries (Kammerman and Moss 2011). However, its design still remains very heterogeneous across Europe, especially if one considers all differences between *maternity*, *paternity* and *parental leave*. While *maternity leave* and *paternity leave* are generally available to mothers or to fathers only, usually being understood as a health and welfare measure, *parental leave* in return is, by definition, a care measure that has been shaped for both working parents, women as well as men. Furthermore, *parental leave* can be supplemented by an additional period of leave, such as *childcare leave* or *home care leave* – i.e. a care measure that follows the end of parental leave and that can be granted in certain circumstances<sup>1</sup>. In addition, leave entitlements are sometimes considered individual rights and other times family rights – that partners can share –, or even “mixed rights,” like in Romania (Moss 2013, 2).

According to Blum, Koslowski and Moss (2017, 8-9), two approaches related to maternity leave and parental leave policy have been emerging recently. The first of them is related to a more traditional concept of maternity leave, conceived mostly as a health and welfare measure designed only for women during pregnancy or around childbirth, including the first months of motherhood. Under this approach, parental leave is an additional measure that is usually designed for either women or men. Consequently, this traditional perspective is more auspicious for women, as they may be entitled to more overall leave than their partners. The second approach related to maternity leave is more recent. It consists of a shift either towards a birth-related leave for women that can be transferred to fathers under certain circumstances, or towards a generic parental leave covering periods for ‘mothers only’ and ‘fathers only.’ In Norway for example, there is not any statutory, designed and paid ‘maternity leave’ entitlement. More precisely, the Norwegian legislation refers to ‘parental leave,’ part of which is for mothers, part for fathers, and part to be shared by parents, either simultaneously or in a consecutive way (Kvande and Brandth 2017, 30).

Overall, forms of parental leave differ widely across Europe, in terms of length, payment and eligibility criteria. For instance, Sweden was the first country in the world to introduce parental leave for both parents in 1974. In return, Hungary is the only Central and eastern European country that has offered, since 1982, a form of “flat-rated parental leave” designed not only for

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<sup>1</sup> For an exhaustive overview on maternity, paternity and parental leaves, as well as on leave to care for sick children and early childhood education and care policy, see Blum, Koslowski, and Moss 2017.

mothers, but also for fathers (Kispeter 2009). Later, in the context of recent political and economic changes registered at the international level (migration, increase in unemployment, political and economical crisis, transformations of the labour market, family life and demographic metamorphosis, etc.), continuity of employment has become an indispensable factor for the implementation of Europe's strategy for growth and development (Reysz 2010). Subsequently, EU parental leave policies are nowadays at the heart of the nested relationship between the recent redesign of the welfare state and social protection systems aimed at encouraging employment of both women and men, and the contemporary changes regarding *care* arrangements and gendered parental negotiations.

Despite the fact that all EU countries provide different forms of childcare leave entitlements, a very important diversity in policies concerning *parental leave* – understood as one of the main instruments of family policies – is evident across EU member states. This diversity has been addressed, in a more or less explicit manner, by numerous inquiries based on different theoretical and methodological approaches. In a nutshell, the literature in the field can be structured along two main axes. On the one hand, *social policy research* focuses on policy outcomes and outputs and creates typologies that permit comparison between countries (Esping-Andersen 2007). On the other hand, *historical-institutional and cultural-institutional perspectives* focus on the diachronic dynamics of cultural norms and institutions, having thus the major advantage of being able to emphasise the critical historical shifts from one socio-political context to another (Palier 2010). At the same time, regardless of the preference for the typological or for the historical-institutional appraisal, three intertwined transversal criteria inform the literature on parental leave and family policies in the European context. The first one is the degree to which research attends to or ignores the gendered dimension of work (paid or unpaid), of care, and of social care work. The second one classifies the scientific literature from the point of view of the geographical area of its research object – e.g. inquiries dedicated to western social protection systems, or to the recently reshaped CEE ones. Finally, the third criterion allows us to distinguish the research on the topic in terms of the arguments and findings related to the *convergence* or *divergence* characterising national social protection systems along the lines of the complex process of *Europeanization* and/or *democratisation* (Bonnet 2015; Lombardo and Forest 2012).

For instance, social policy analyses, as well as the literature on welfare state regimes, focus mainly on the correlation between social protection and the dynamics of the labour market, in order to reveal the ways in which social policies diminish or contribute to increasing social wellbeing and (in)equalities. According to Esping-Andersen's famous typology of welfare states, social equality and welfare depend directly on the degree of *decommodification* and *defamilialisation* of the social protection systems. In other words, the more the

social protection system is developed and efficient, the more individuals do not depend either on the market, or on their families in order to maintain a certain standard of living while out of employment (Esping-Andersen 2007). However, feminist literature underlines the limits of this approach whenever it ignores the gendered division of labour, as well as the (in)equalities between women and men in paid and unpaid work. More specifically, research focused on ‘women friendly welfare states’ (Orloff 1993; Sainsbury 1994) draws attention to the intertwined correlation between social rights and benefits, *care* responsibilities, and politically legitimated gender relationships (Lewis 1993).

Furthermore, scholarship on public childcare facilities as one of the most important family policy instruments in CEECs often refers to the processes of *familialisation*, *defamilialisation* (Esping-Andersen 2007, 2009) or *re-familialisation* in order to understand the extent to which domestic social policies contribute to diminishing, or on the contrary increasing wellbeing and social equality. More precisely, these processes are frequently cited whenever scholars seek to explain the withdrawal of the state and the occurrence of the market-liberal policies that have been taking place after the 1990s in CEECs. For example, Sonja Blum analyses family policies in post-socialist welfare states and underlines that:

“ [...] the post-socialist welfare states have come from very different starting points. They repeatedly reached fundamental junctures and experienced dramatic institutional shifts: before World War II the Central European countries, in particular, were based on a conservative Bismarckian model. Following an employment-centred, universal welfare provision during the socialist era, the restructuring since the 1990s has included both path-dependent and path-shifting decisions. Case studies have shown that *all* former communist countries – to different degrees – quit the path of de-familialization and ‘tried to reintroduce the traditional familialization regime [...] as they move back toward the path of re-familialization’ (Saxonberg and Sirovatka, 2006: 186).” (Blum 2016, 21-22).

However, some scholars consider that, although applicable to care policies, the concepts of *familialisation* or *defamilialisation* remain too narrow when applied to the analyses of all types of social policies. For instance, Saxonberg states that it is not clear whether parental leave as social provision is rather ‘familializing’ – because it encourages family members to take care of their toddlers –, or ‘defamilializing’ – because it increases women’s financial autonomy (Saxonberg 2013, 3-4).

Moreover, scholarship on family, gender and social protection in CEECs has also developed the theoretical concept of domestic *familialism*, related to social policies implemented during the former communist regimes. Nevertheless, on the one hand, some authors state that *familialism* cannot be associated to the processes of *familialisation*, *defamilialisation* or *re-familialisation*: domestic *familialism* exceeds social policies regarding family life, reflecting certain cultural meanings and values, as well as a specific relation between the state and the

'ideal' family (Szikra and Szelewa 2009, 89). On the other hand, other scholars describe *familialist policies* within CEECs as public mechanisms that encourage families above all to undertake the main responsibility for care for children and other dependent members of the family. For instance, Szelewa and Polakowski (2008) have analysed parental leave and childcare facilities in eight post-communist countries that gained EU membership at the same time, and have identified four clusters of childcare policy: *explicit familialism* (in the Czech Republic, Slovakia and Slovenia), *implicit familialism* (in Poland), *female mobilising* (in Estonia and Latvia) and *comprehensive support* models (in Lithuania and Hungary). However, these analyses could be further developed by including the Romanian case, regarding both parental leave and other childcare facilities.

In light of all these theoretical considerations, a closer look at the various ways in which maternity, paternity and parental leave legislation has been reshaped in post-communist Romania would allow us not only to identify the main changes that occurred after 1990, but also to understand them in relation to the local familialism as well as to the Europeanization process. Hence, the following preliminary questions are the starting point for the next part of this article: do these legal changes reveal a completely new approach regarding parental leave schemes, or do they simply prolong, under different forms, old principles related to childcare? And to what extent does this legislation reveal any domestic political will to reduce the gendered asymmetric parental responsibilities that mothers and fathers have to share?

### **Maternity Leave: the Legacy of the Past**

In Romania, all forms of parental leave, either inherited from the communist regime or redefined afterwards, are closer to a more traditional approach to childcare<sup>2</sup>. Before the fall of the former political regime, *maternity leave*<sup>3</sup> was designed exclusively for mothers – i.e. as a non-transferable right – who were employed prior to the pregnancy (Doboş 2010, 248-252). According to Chapter 3 of the Decision of the Council of Ministers (H.C.M.) 880/1965 (Art. 13-17), the length of maternity leave could not exceed 112 days – i.e. 52 days before birth and 60 days afterwards. As for the payment and eligibility criteria, mothers

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<sup>2</sup> Some other details regarding maternity leave as part of the social protection system in Romania before HCM 880/1965 are available in Dohotariu (2015c: 203-204).

<sup>3</sup> During the former political regime, *maternity leave* was regulated by H.C.M. 880/1965, available at: [http://www.cdep.ro/pls/legis/legis\\_pck.http\\_act\\_text?id=1503](http://www.cdep.ro/pls/legis/legis_pck.http_act_text?id=1503), last consulted in April 2018. One year later, Art. 15 of this Decision was amended by the Decision of the Council of Ministers and of the Central Council of the General Union of Trade Unions (Hotărârea Consiliului de Miniştri şi a Consiliului Central al Uniunii Generale a Sindicatelor) n° 2489/1966 (Doboş 2010, 248). Moreover, maternity leave was also regulated by Art. 155 of the *RSR Labour Code*, 1<sup>st</sup> Part, no. 140, 1<sup>st</sup> of December 1972: [http://www.cdep.ro/pls/legis/legis\\_pck.http\\_act\\_text?id=10038](http://www.cdep.ro/pls/legis/legis_pck.http_act_text?id=10038), last consulted in April 2018.

received 90% of their monthly salary if they had had at least 12 months of uninterrupted employment prior to the child's birth, 70% for a working period varying between 6 and 12 months, and only 50% for a period of less than 6 working months prior to the birth (H.C.M. 880/1965, Art. 15). Furthermore, in 1966 the legislation became somewhat more generous for any mother who gave birth three times or more, who would thus be receiving 100% of her previous monthly salary irrespective of the duration of her working experience prior to the birth (Doboş 2010, 248). The legislation of that time also stipulated that mothers could not be laid off during maternity leave (H.C.M. 880/1965, Art. 16). More significantly, before the fall of the former political regime there was not any kind of *parental leave* for fathers or for mothers (other than *maternity leave*), although Art. 17 of the same H.C.M. 880/1965 mentioned the mothers' right to benefit from a *leave for care for sick children under two years old*, as long as they had had a tenured working position. Finally, in 1967 another Decision of the Council of Ministers stipulated that mothers with children under 7 years old were legally allowed to employment on a part-time basis (Doboş 2010, 250)<sup>4</sup>. However, this legislative norm cannot be understood either as a childcare mechanism or as a work-life balance incentive for mothers, as long as it was designed mainly for "all industrial branches and activities that registered periods with very high production" (Doboş 2010, 251). More specifically, this law suggests that the political will of the time sought rather to increase the industrial workforce – thus hiring mothers of preschool children – than to ensure the wellbeing of toddlers and of their family members. This assumption is also corroborated by the fact that the Labour Code adopted in 1972 stipulated that mothers with children under 6 years old were allowed to work on a part-time basis only if their toddlers were not enrolled into nursery schools<sup>5</sup>.

After the fall of the communist regime the most important change related to the length of *maternity leave* occurred in 2000, when the Law 19/2000<sup>6</sup> regarding the public pension system and other social security rights (Dohotariu 2015, 204-205) increased the duration of this entitlement from 112 to 126 days (63 days before and after birth, or offset depending on mothers' options). More specifically, Law 19/2000 stipulated that the maternity allowance was fully covered by the state social insurance budget, and calculated at 85% of the

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<sup>4</sup> Corina Doboş mentions the Decision of the Council of Ministers on part-time employment of women with children under 7, (Hotărârea Consiliului de Miniştri n° 54/1967 cu privire la încadrarea în muncă cu jumătate de normă a femeilor cu copii sub 7 ani), *Buletinul Oficial al RSR*, Partea I, n° 7, 23.01.1967.

<sup>5</sup> *Labour Code*, 1972, Art. 158:

[http://www.cdep.ro/pls/legis/legis\\_pck.htp\\_act\\_text?id=10038](http://www.cdep.ro/pls/legis/legis_pck.htp_act_text?id=10038)

<sup>6</sup> Law 19/2000 was abrogated when another law regarding the public pension and insurance system entered into force (Law 263/2010). While the former law explicitly regulated maternity leave and benefits (Law 19/2000, Art. 118-120), the latter refers strictly to "the unitary public pensions system" and to the related public institutions – i.e. The National House of Public Pensions and "the sectorial pension houses".

mother's monthly-insured income (Art. 120). Only a few years later, the conditions imposed by the EU accession led to an urge to adapt the legislation in force to the newly defined social protection and work safety policies of the time (2005-2008). Consequently, O.U.G. 96/2003 regarding maternity protection and workplace-related risks (as well as its subsequent modifications introduced by Law 25/2004) provided not only for 42 days of compulsory postnatal-leave, but also for a newly introduced *maternity risk leave* for either pregnant or breastfeeding female employees, which consisted of a total amount of 120 days of leave that could not be granted simultaneously with any other type of leave (Art. 10, par. 2), and which was paid at a rate of 75% of the average monthly income obtained during the 10 months prior to the birth (Art. 11, par. 2). Finally, the O.U.G. 158/2005 repealed all previous legal provisions related to maternity leave and provided for "health insurance leaves and benefits," among which medical leaves and benefits for temporary work-incapacity and work-related accidents, maternity leave and benefits, care leave for sick children under 7 or for disabled children under 18, as well as *maternity risk leave* for either pregnant or breastfeeding female employees. Despite the fact that it has been modified many times since its adoption, O.U.G. 158/2005 has remained the main legal provision that determines the length – i.e. 126 days, including 42 days of compulsory postnatal leave, and the payment criteria for *maternity leave*. More specifically, although maternity leave entitlements have not been drastically altered for almost 20 years, they nevertheless have remained defined as mainly health insurance benefits that are fully covered by the "Sole National Health Insurance Fund," as if maternity benefits were by definition a health issue that had no connection with family policies, as well as if maternity could be reduced to women's biological needs.

### **Parental Leave: between Changes and Continuities**

After 1990, some significant changes occurred at the national level. First of all, the Decree-Law n° 31/1990 introduced *parental leave* as an extension of *maternity leave*. More precisely, apart from the 112 days of *maternity leave*, only working mothers could also benefit from a *parental care leave* up to the first anniversary of the child, paid at 65% of their previous monthly wage. This law remained in force until July 1997, when it was replaced by Law 120/1997, which increased not only the duration of *parental leave* – i.e. until the child reaches the age of 2, but also the payment, established at 85% of the insured income for military and other employed mothers, or 80% of the insured income for women working in agriculture. Nevertheless, three years later parental leave entitlements were being redesigned again, once Law 19/2000 redefined the entire social insurance system of the time (Dohotariu 2015c, 204-205). Besides *maternity leave*, the law also regulated *parental leave* for all children under two years old, as well as under three years old when disabled, and under seven when sick (Art. 121), for a monthly allowance established at a rate of 85% of the

employee's regular insured income (Art. 125). Law 19/2000 also stipulated that parental leave benefits were covered by the "state's social insurance budget" (Art. 121, par. 2), and, more importantly, it introduced *for the first time in Romania* a father's right to take parental leave: according to Art. 122, "One of the two parents may benefit from either the parental leave allowance or the leave for care for the sick child allowance," only if the applicant – the mother *or* the father of the newborn child – fulfilled the eligibility criteria related to the compulsory period of contributions prior to the child's birth. Hence, one can observe that, while in Hungary fathers could also benefit from a certain form of parental leave starting from 1982 (Kispeter 2009), in Romania parental leave for fathers became regulated only as late as 2000<sup>7</sup>.

A few years later, the legislation changed again. In 2003, several governmental decisions (for instance O.U.G. 9/2003, or O.U.G. 23/2003) introduced different changes, with the parental leave allowance being calculated as based either on the net income or on the gross income. More importantly, in the context of the pre-accession to the European Union, O.U.G. 148/2005 stipulated that parental benefits were no longer financially supported by the national social insurance system, being taken over by the state budget (Art. 19), in line with the 2005-2008 Government Programme. Nevertheless, this change did not follow the universality principle, meaning that work experience remained the main eligibility criterion allowing mothers or fathers to take parental leave. More precisely, O.U.G. 148/2005 referred to the "family support for child-rearing" and stipulated that parental leave benefits do not, in fact, refer to a "social risk" (Chauchard 2010), and therefore they cannot be treated as a social insurance right. Moreover, O.U.G. 148/2005 stipulated that, starting with 2007, the parental leave allowance was being standardized to 600 RON (i.e. approx. €189<sup>8</sup>) for all parents who had worked during the 12 months that had preceded the child's birth. This money was also supplemented by the 200 RON (i.e. approx. €63) representing the allowance for children under two, meaning that the amount of all benefits received during parental leave was almost comparable to the average net salary of the time<sup>9</sup>. Consequently, demographers estimate that this governmental measure led to a temporary increase of birth rates, especially among women with a lower level of education (Ghețău 2007). In addition, O.U.G. 148/2005 also provided for a "back to work bonus" for parents

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<sup>7</sup> Before 2000, Law 120/1997 was ambiguous: on the one hand, it regulated parental leave for women, as a provision following maternity leave (Art. 1 and 2). On the other hand, it stipulated that "any of the two parents of the child" was allowed to take the parental leave (Art. 6).

<sup>8</sup> The local currency exchange rate is available at: <https://www.cursbnr.ro/arhiva-curs-bnr-2007-08-01>, last consulted in May 2018.

<sup>9</sup> The table with the average salary in Romania, since 1991, is available at: <http://www.insse.ro/cms/ro/content/castiguri-salariale-din-1991-serie-lunara>, last consulted in May 2018.

who decided to give up their paid leave and return to work. In 2007 this “back to work bonus” was 100 RON (i.e. approx. €31).

The subsequent legislative changes regarding all forms of parental leave remain closely connected to the economic depression and its resulting dynamics that affected Romania around 2008. For instance, Law 257/2008 stipulated that, starting with January 1<sup>st</sup> 2009, any parent that had worked for at least 12 months prior to the birth of her or his child was entitled to a parental leave allowance of 600 RON (i.e. approx. €143) or, optionally, calculated at 85% of the average earnings for the 12 months prior to the child’s birth, until the toddler became 2 years old (or 3 years old, if disabled). At the same time, O.U.G. 226/2008 invoked EU recommendations and stipulated that any parental leave allowance calculated at 85% of previous earnings has to be limited to a maximum amount of 4000 RON (i.e. approx. €956) (Art. 12). However, in 2010 Law 118/2010 reduced not only salaries of employees in the public system by 25%, but also diminished by 15% the parental leave allowance (not less than 600 RON per month, i.e. approx. €138 per month).

Other major changes regarding parental leave are regulated through O.U.G. 111/2010, which entered into force as part of a “comprehensive anti-crisis program supported by the International Monetary Fund, the European Union and the World Bank” that was meant to lead to “the normalization of the financial conditions and the preparation of the economic recovery” (O.U.G. 111/2010). More precisely, starting from January 2011, any of the two parents had the possibility to choose between one or two years long parental leave, or a three years long parental leave if the child was disabled. In the first and third case, the parental leave allowance could not exceed 75% of the average net income obtained during the 12 months prior to the child’s birth, calculated thus at a variable amount between 600 RON (i.e. approx. €145) and 3.400 RON (i.e. approx. €825) per month. In the second case, the parental leave allowance could vary between 600 and 1.200 RON (i.e. approx. €291) per month (Art. 2). At the same time, parents who opted for a one year long paid leave (or three years long leave for a disabled child) and yet decided to give up their paid leave and return to work were entitled to a monthly 500 RON (i.e. approx. €121) “back-to-work” bonus until the end of the parental leave period (Art. 7)<sup>10</sup>.

Although it has not been abrogated yet, O.U.G. 111/2010<sup>11</sup> has a tremendously long legislative trajectory, meaning that it has been modified more than a dozen of times since its adoption. For instance, according to Law 66/2016, parental leave eligibility criteria consist of a compulsory period of 12 months of gainful employment undertaken during the two years prior to the child’s birth. Moreover, Law 66/2016 withdraws the two-option system regulated by O.U.G. 111/2010 – i.e. until the child turns one or two years old. Furthermore, parental

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<sup>10</sup> In 2017, the value of the “back-to-work” bonus is 650 RON (i.e. approx. €145).

<sup>11</sup> The legislative trajectory of O.U.G. 111/2010 is available at: [http://www.cdep.ro/pls/legis/legis\\_pck.htm\\_act?ida=100481](http://www.cdep.ro/pls/legis/legis_pck.htm_act?ida=100481), last consulted in May 2018.

leave can be taken until the child becomes two years old, and, more importantly, the upper limit of the parental leave allowance – i.e. 85% of the average previously monthly earnings –, is lifted entirely. Nevertheless, Law 66/2016 did not produce the full range of its legal effects for too long. According to O.U.G. 55/2017 and to O.U.G. 82/2017, which are the last modifications related to O.U.G. 111/2010, parental leave allowance is being covered by the national budget, and has to be indexed with the national social benchmark<sup>12</sup>. More precisely, parental leave allowance is currently being calculated at 85% “of the average net income for the last 12 months of the last two years preceding the child’s birth”, and its value cannot be less than 2.5 multiplied with the social benchmark’s value, nor more than 8.500 RON (i.e. approx. €1847) per month. Although it is, by definition, a social assistance benefit, parental leave remains however conditioned upon gainful employment, which implicitly makes it unavailable for parents who do not work.

Last but not least, due to directive 2010/18/UE, in 2012, domestic legislation introduced ‘the other parent’s’ quota (H.G. 57/2012), consisting of at least one month of non-transferable parental leave designed for the parent (usually the father) who did not choose to benefit from the parental leave entitlements. In other words, the parent who chooses to take parental leave has the obligation to cede one month of leave to the other parent of the child, which, once again, proves that parental leave in Romania is not an individual non-transferable right, but rather designed as a social assistance benefit limited to only legally working parents.

### **Paternity Leave: a Real Political Concern for Fathering?**

As mentioned above, *parental leave*, *maternity leave* and *paternity leave* are three distinct measures relevant for the extent to which the hegemonic political interest supports the gendered specific a-symmetrical involvement in different childcare activities, which is also coherent with the fact that parental leave legislation does not explicitly focus either on the wellbeing of the two parents, or on the interests of the child. Although *maternity leave* has not drastically changed after the fall of the former political regime, all related legislation adopted after 1990 reveal a special political attention paid to *health* features related to pregnancy and motherhood, as if childcare could be considered a public concern only under a health perspective. *Paternity leave* in return is conceived as an optional childcare measure. Introduced in 1999 (Law 210/1999), it provides for only 5 days of paternity leave, irrespective of the contractual nature of the parents’ relationship (i.e. legally married or not). Furthermore, if fathers can prove that they attended a “childcare course”, they can benefit from another 10 days of paternity leave (H.G. 244/2000). Unlike parental leave, paternity leave

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<sup>12</sup> The social benchmark’s value is regulated by Law 76/2002 regarding “the unemployment insurance system and the employment stimulation”.

Anca Dohotariu

has remained the same ever since its adoption. It is thus relevant for the dominant cultural meaning (incorporated at the political level too) according to which, unlike mothers who are 'natural' carers, fathers have to learn how to take care of their newborn children.

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In a nutshell, the analysis focusing on the length, the payment and the eligibility criteria related to all forms of parental leave in post-communist Romania reveals at least two main remarks. First, the ways in which legislation on parental leave has changed over the last decades suggest that financial interests are the first and foremost driver of the hegemonic political interest related to childcare. Providing parental leave benefits is definitively a less expensive option than developing the public childcare infrastructure (nursery schools, after-school services, etc.). At the same time, the state's choice to increase parental leave in terms of length and payment is not only perfectly compatible with the domestic familialism incorporated at the social and political levels, but it also suggests that there is no commodification tendency related to this family policy instrument. Second, the legislation in force suggests that there is no political will to reduce the gendered asymmetric parental responsibilities related to childcare. On the contrary, the legal changes to parental leave seem to prolong, under different forms, old principles related to childcare, mothering and fathering. For instance, maternity leave is still conceived mainly as a health issue, revealing also the persistence of old tensions between health and care aspects related to childcare for toddlers under three. Among others, this tension could be interpreted as one of the main factors that hindered the development of local early childhood education and care provision (ECEC), in spite of the political awareness related to EU incentives in this field.

Nevertheless, at least two research directions could further develop this analysis. First, an in-depth study concerning all post-communist programmatic documents (i.e. strategies and government programmes) could definitively contribute to a more nuanced understanding of the political discourse related to all forms of parental leave. Second, an inquiry on the social practices, values and cultural meanings related to parental leave would also lead to a better understanding of the key mechanisms underpinning domestic familialism in post-communist Romania.

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