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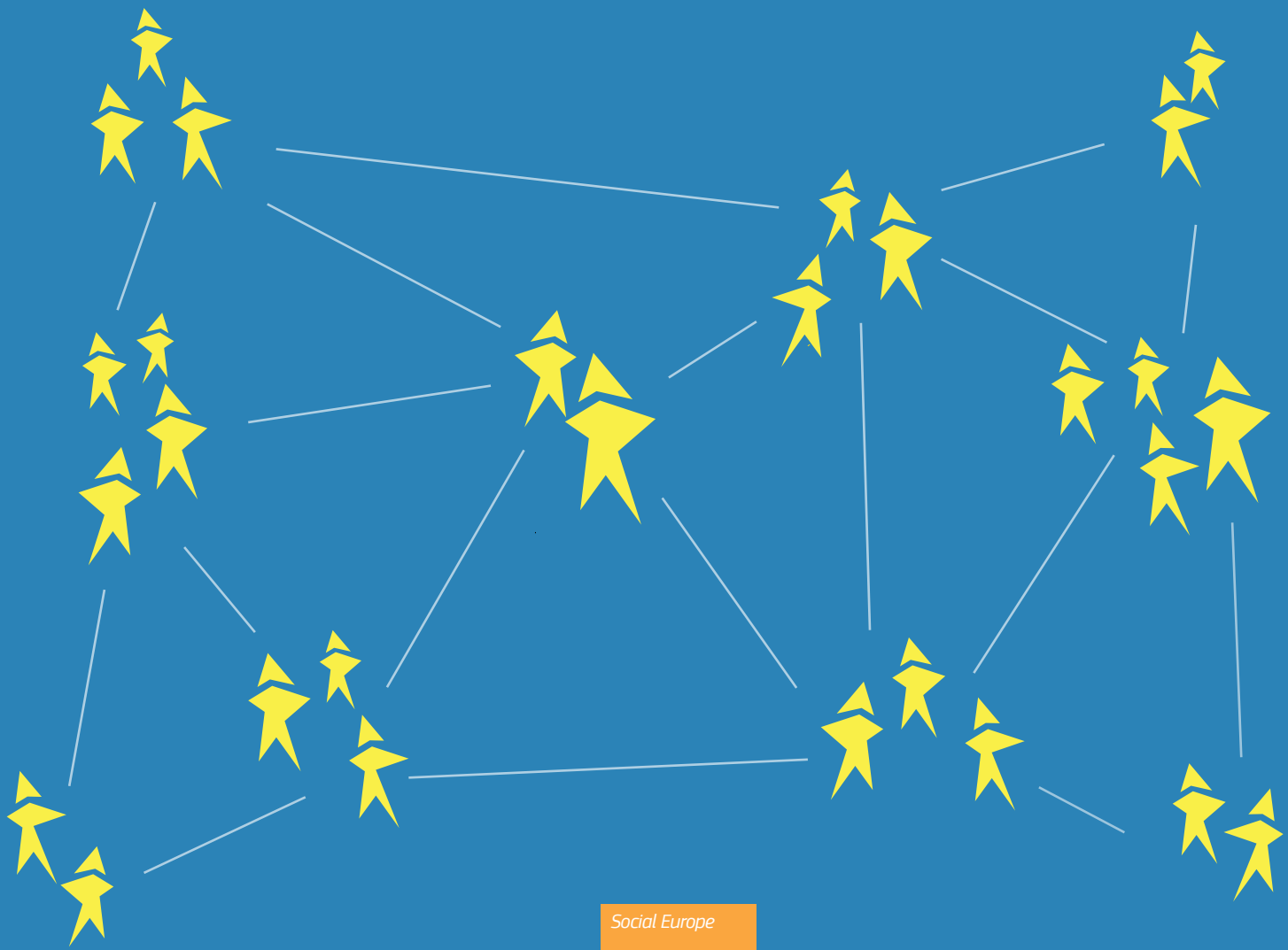
EUROPEAN SOCIAL POLICY NETWORK (ESPN)

Social protection for people with disabilities

Romania

Luana Pop



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ESPN Thematic Report on Social protection for people with disabilities

Romania

2022

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Directorate-General for Employment, Social Affairs and Inclusion

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The European Social Policy Network (ESPN) was established in July 2014 on the initiative of the European Commission to provide high-quality and timely independent information, advice, analysis and expertise on social policy issues in the European Union and neighbouring countries.

The ESPN brings together into a single network the work that used to be carried out by the European Network of Independent Experts on Social Inclusion, the Network for the Analytical Support on the Socio-Economic Impact of Social Protection Reforms (ASISP) and the MISSOC (Mutual Information Systems on Social Protection) secretariat.

The ESPN is managed by the Luxembourg Institute of Socio-Economic Research (LISER) and APPLICA, together with the European Social Observatory (OSE).

For more information on the ESPN, see: http:ec.europa.eusocialmain.jsp?catId=1135&langId=en

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CONTENTS

Summary

This report analyses some important cash and in-kind social protection provisions available to adults with disabilities (i.e. aged 18 or above). There are other important provisions available to them in other areas not covered in this report. In line with Article 1 of the UN Convention on the Rights of Persons with Disabilities, "people with disabilities" should be understood as "*those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others*".

Romania has in place four assessment frameworks addressing long-term impairments (disability, invalidity, Eastern Co-operative Oncology Group dependency, and functional dependency of older people), scattered among different sectors. This imposes costs on working-age people with disabilities and even more so on older people. For working-age people this multiplicity of assessment frameworks creates additional barriers to employment policies; but older people are even more directly affected, as it imposes high costs on them for access to community care and rehabilitation services, which are anyway in low supply and largely unavailable in many communities. In addition, the disability assessment framework, while in principle also focusing on the social inclusion dimension, remains, in practice, highly medicalised.

Overall, disability-related income support benefits are: (a) addressed mainly at people with severe and marked disabilities, and only marginally at people with average or mild disabilities; (b) differentiated according to the disability degree and not according to the specific needs of the individual; (c) inadequate in terms of support to those outside the labour market; (d) an obstacle to access to other means-tested benefits at the same time; and (e) disregarded as income for access to bank credit. Furthermore, employment is not encouraged by the benefit system, and, under some circumstances, it is even discouraged.

The *Pensie de invaliditate* (invalidity pension) system provides weak financial support, as well as inadequate and ineffective rehabilitation services. Furthermore, even though 48% of non-institutionalised people with disabilities are 65 or over, there is no income support benefit addressed at older people with disabilities who do not benefit from social insurance pensions. Older people are the most affected by a fractured health and care services support system, and the overlapping entitlements result in confusion and increased costs.

Personal care provision, to which all people with severe disabilities are entitled, is threatened by the design of the system, which encourages people to choose cash benefits over the hire of a personal assistant. Personal assistants, who are predominantly family members, therefore end up in loosing social protection entitlements, while people with disabilities end up being exposed to abusive treatment or precarious care practices.

Although healthcare services and assistive technology are in principle free to all people with disabilities, serious problems exist. The problems are mainly related to accessibility, the poor supply of primary and specialised services, a lack of preventive services, and discrimination. Access to assistive devices is limited, due to the small number of contracted providers and the limited scope of the list of approved devices (compared with the recommendations of the World Health Organization). Housing adaptation support is limited to bank credit with subsidised interest, and this measure fails to provide effective support.

Finally, although the disability system has been under revision for the last few years, it requires a thorough legislative and institutional reform to correct inequalities and to offer effective support to people with disabilities, at the same time as encouraging physical and decision-making autonomy and labour market inclusion. The increased availability of regular and specialised healthcare and rehabilitation services, combined with the provision of an adequate income support system that incentivised work, would both protect the fundamental rights of people with disabilities and support the reforms initiated regarding deinstitutionalisation and the consolidation of autonomous living.

1 Access to disability-specific income support

Cash benefits granted to working-age[1] adults or older people with disabilities are limited to a few flat-rate benefits and a contributory pension for invalidity. Only one of the non-contributory cash benefits is strictly an income support benefit (Section 1.1.4), while all the others are addressed at specific disability-related needs: care support and autonomy (Section 1.1.2 and 1.1.3); the costs of TV/radio/phone subscriptions (Section 1.1.4); or nutrition (Section 1.1.5). As a rule, benefits are granted according to the degree or type of disability and only to those who are not in residential care.

Besides cash benefits, there is a series of measures addressed at people with disabilities in different areas, such as: taxation (e.g. income tax waiver); transport (free public transport, including an annual number of long-distance train tickets); culture (free tickets to cultural events and museums etc.); employment (e.g. professional training, and counselling); and the acquisition of adapted means of transport (interest-free credit for the purchase of adapted cars or motor vehicles).

1.1 Disability-specific benefits/pensions available to working-age people

1.1.1 *Pensie de invaliditate* (Invalidity pension)

The *Pensie de invaliditate* (invalidity pension) is granted to insured people[2] (in the public social insurance system), with long-term partial or full work incapacity. The pension law (Law 263/2010) provides the legal framework and norms for assessing invalidity and determining the type of benefits for different categories of invalidity (Articles 68 to 82).

a) Eligibility conditions

Disability-related qualifying criteria: People who have lost at least half of their work capacity are eligible for the invalidity pension. Three main categories of events that lead to invalidity are defined by the law: (a) work accidents and professional diseases; (b) neoplasia, schizophrenia and AIDS; and (c) other diseases and accidents not related to work. Apprentices and students are eligible only if the invalidity occurs as a result of professional training. In addition, previously insured people who lost at least half of their work capacity during the events of the 1989 revolution are eligible for the invalidity pension, on a similar basis to those who had work accidents. If invalidity is determined by diseases and accidents not related to work, eligibility is conditional on a certain minimum contributory period, as shown below.

Age: The pension law does not specify a minimum age which entitles the insured person to an invalidity pension. However, the labour code (Law 53/2002, Article 13) specifies that individual work contracts can be signed by a person aged 16, and, under special conditions, aged 15. Apprentices and students in upper secondary education are also entitled under certain circumstances. Finally, the invalidity pension is only granted to those who have not reached the standard pensionable age, as defined by the pension law.

However, the pension law establishes, for people with disabilities acquired prior to being insured under the social insurance system, a lowering of the standard pensionable age as follows: (a) by 15 years, for people with severe disabilities who completed at least

[1] The minimum legal working age is 16; under special circumstances this can be lowered to 15.

[2] Insured people are also beneficiaries of sick leave, and registered unemployed people are beneficiaries of unemployment benefits, for which contributions are paid, by default, to the social health insurance fund and unemployment fund respectively.

one third of the complete contributory period[3]; (b) by 10 years, for people with marked disabilities who completed at least two thirds of the complete contributory period; and (c) by 10 years for people with medium (average) disabilities who completed the entire complete contributory period[4]. Finally, blind people who completed one third of the complete contributory period are directly eligible for the *Pensia de vârstă* (old-age pension), regardless of their age.

Nationality and/or residency: Insured people under the public social insurance system can be Romanian citizens, citizens of other countries, or stateless people, who are lawful residents in Romania. People who are not residing in Romania, regardless of their citizenship, can also be insured according to international legislation to which Romania adheres.

Waiting period: No waiting period is specified. People entitled to the pension, as a result of the assessment of work capacity, will receive it from the point when they initiated the assessment process.

Contributory history: Eligibility is conditional upon being insured. An exception is made for apprentices and students, for whom training periods are treated as work periods. Thus, the following categories are, in principle eligible for invalidity pension: (a) employed people holding a work contract; (b) self-employed people who pay social insurance contributions; (c) people who voluntarily enter a social insurance contract with the National Public Pension House (NPPH); (d) unemployed people who receive unemployment benefits; (e) employed people who are on sick leave; and (f) apprentices and students in vocational upper secondary education or tertiary education[5]. People in the above categories of insured people who have certified disabilities (not just work incapacity) are also entitled to the invalidity pension.

No minimum contributory period is required for those who lost at least half of their work capacity as a result of work accidents and professional diseases, or neoplasia, schizophrenia and AIDS – including apprentices and students, as well as those who took part in events during the December 1989 revolution (Law 263/2010 with subsequent amendments, Article 74).

However, those who lost their work capacity due to diseases/accidents that were not a direct result of work activities, and are not classified as having neoplasia, schizophrenia or AIDS, are eligible only if they have fulfilled a minimum contribution period (Law 263/2010 with subsequent amendments, Article 73). The required contribution period ranges between one year (if the loss occurs before age 20) and 27 years (if it occurs over age 60).

Level of financial resources: None (i.e. the benefit is not means-tested).

Other: Eligibility is conditional upon: (a) a periodical medical reassessment, carried out by medical work capacity experts, every one to three years depending on the type of disability; and (b) attendance at all prescribed rehabilitation programmes. These conditions do not apply to those for whom work capacity is assessed as irrecoverable, those who have reached the standard pensionable age and those who have less than five years before reaching the standard pensionable age and have a complete contributory period.

[3] Under the pension law (Law 263/2010) the length of a complete contributory period is converging for men and women, and being progressively increased to 35 years. Thus, all women born after 1967 and all men born after 1950 are required, in order to obtain a full old-age pension, to have a contributory period of 35 years.

[4] Until 2018, the pension law used to differentiate between people with disabilities acquired before insured status was obtained, and those whose disabilities occurred during the period when they were insured. In 2018 the differentiation was deemed discriminatory, and as such unconstitutional. The differentiation is not consistent with Article 14 of the UN Human Rights Convention, as a disability condition is treated differently according to the time of occurrence relative to the time when becoming insured under the social insurance system.

[5] If these lost at least half of their work capacity due to work accidents or diseases that occurred during and due to their professional training.

Gaps and/or obstacles: No evidence (reports, papers…) was identified on gaps/obstacles related to this benefit.

b) Disability assessment framework

Type of assessment: GD 155/2011 (amending GD 400/2001) provides the criteria and norms for clinical diagnosis, functional diagnosis and assessment of work capacity (see also Table A1 in the Annex). For a more detailed analysis, see Totoliciu (2018). Based on these norms, claimants are assessed and grouped in three categories: (a) first-degree invalidity, for those who have lost their work capacity and living autonomy entirely; (b) second-degree invalidity, for those who have lost their work capacity entirely but are able to look after themselves and live autonomously; and (c) third-degree invalidity for those who have lost at least half of their work capacity, and are able to work for half of the normal working time for a full-time employee.

Responsible authorities: The NPPH, along with the National Institute for Work Expertise and Rehabilitation of Work Capacity (NIWERWC) are responsible for the assessment procedures and certification.

Method: A person can apply from the very beginning of the invalidity, if it is clearly leading to a loss of the work capacity. Work capacity is assessed based on the medical condition and the person's skills or employment type. The employer initiates the process. After the medical examination performed by the treating physician, the applicant will be transferred to the specialised medical experts from the NIWERWC. These will schedule an examination with the applicant and take a decision based on all the relevant investigations. Both documentary evidence and personal interaction are therefore taken into account in the decision. The decision is issued within 45 days from its request and communicated within five days after its issuance. During this period the applicant can benefit from sick leave. The applicant can contest the decision within 30 days from its communication, in which case it is reassessed by a specialised contestation commission under the NIWERWC. The decision can also be challenged in court on a point of law.

Supporting evidence: Supporting evidence includes records of medical investigations and diagnoses, work history and qualifications, and a social inquiry carried out by a social worker if this is relevant to the issue leading to the diagnosis or supports the diagnosis.

Assessor: The assessment is carried out by specialised physicians (i.e. work capacity medical experts) in the social insurance healthcare network.

Decision-maker: The medical experts within the social insurance system make the final decision, based on an examination of the patient and the medical history, documented by specific investigations, according to each individual case.

Critical analysis: No critical analysis of the process has been published. However, the ongoing "competition" between assessing invalidity and disability for similar conditions sheds light on the pitfalls of each assessment framework. Whereas the disability assessment procedure is supposed to assess limitations from a social integration and individual autonomy perspective, the assessment of invalidity is focused on work capacity. However, work capacity is assessed as a permanent or temporary condition, and the possibilities for regaining work capacity, other than by ameliorating the underlying condition, are largely overlooked.

c) Benefit entitlements

Level of the benefit: The pension is calculated in a similar way to old-age pension benefits, by considering the income of the person throughout their work history (resulting in an average number of pension points) and the value of the pension point, announced annually by the NPPH. For 2022 the value of a pension point was 1,586 Lei (i.e. €321).

The pension level will therefore vary according to the number of years worked by the person until the occurrence of the invalidity, as well as its severity (first-degree to third-degree). There are no specified minimum and maximum pension levels.

Duration of the benefit: The invalidity pension is granted for as long as the invalidity persists, or until the person reaches the standard pensionable age, when it is converted into an old-age pension.

Interaction with other income or income-related benefits: The invalidity pension is taken into account when calculating eligibility for means-tested benefits. It entitles people with first-degree invalidity to a supplemental indemnity for companions. However, the latter can be dropped in favour of a personal assistant or the equivalent indemnity, if the invalidity pensioner is also certified with a severe disability. In addition, the invalidity pension does not permit people with disability to benefit from dedicated employment programmes.

Challenges: In January 2022, 414,611 people, about 9% of all pensioners, were receiving the invalidity pension. No data are available regarding the proportion of these who were also certified with a disability. In terms of adequacy, the average invalidity pension benefit was, in January 2022, 809 Lei (€164) per month, representing 47% of the average pension benefit and 42% of the average old-age pension benefit. Its average value was also below the minimum social pension benefit, which was set, for January 2022, at 1,000 Lei (€202) per month. Many invalidity pensioners are therefore recipients of a minimum social pension benefit. Furthermore, the average pension is even lower for first-degree invalidity pensioners; in January 2022 it was 683 Lei (€138) per month.

Apart from anecdotal evidence suggesting that, over the last decade, discretionary decisions of the assessment commissions have sometimes led to an abusive overuse of the invalidity pension system, there is no evidence regarding obstacles in take-up resulting from eligibility conditions or testing procedures.

Studies show (WB, 2021) that rehabilitation programmes, aimed at reintegrating invalidity pension beneficiaries into the labour market, are weak and their effectiveness questionable.

1.1.2 *Indemnizație pentru însoțitor pentru pensionarii de invaliditate de gradul I* (Indemnity for the companion of a first-degree invalidity pensioner)

The *Indemnizație pentru însoțitor pentru pensionarii de invaliditate de gradul I* (indemnity for the companion of a first-degree invalidity pensioner) is regulated by the pension law (Law 263/2010 with subsequent amendments). Although the benefit is paid only to those insured under the social insurance system, the benefit is not paid from the social insurance fund but supported from the state budget.

a) Eligibility conditions

Disability-related qualifying criteria: The indemnity is a flat-rate monthly benefit granted only to first-degree invalidity pensioners. However, pensioners certified with a severe disability can choose whether to receive the indemnity (under the pension law) or to benefit from a personal assistant (or alternative indemnity), under the law regarding the protection of rights of people with disabilities (Law 448/2006 with its subsequent amendments). The choice has been available since 2017 (GEO 51/2017). The latter benefit represents a basic gross salary for a personal assistant, and the alternative indemnity is the value of the net basic salary for a personal assistant in the public sector. In 2022 the gross salary for a personal assistant was 2,535 Lei (€509), and the alternative indemnity was 1,515 Lei (€306). The latter is therefore higher than the indemnity granted through the social insurance system.

Age: None (i.e. there are no age requirements for accessing this benefit). Eligibility is conditional upon being a first-degree invalidity pensioner, and therefore the indemnity implicitly targets people of working age.

Nationality and/or residency: Insured people under the public social insurance system can be Romanian citizens, citizens of other countries, or stateless people, who are lawful residents in Romania. People who are not residing in Romania, regardless of their citizenship, can also be insured according to international legislation to which Romania adheres. Eligibility is therefore conditional on enrolment in the public social insurance system.

Waiting period: No waiting period is specified. People can opt to receive the indemnity from the point when they initiated the assessment process.

Contributory history: Eligibility rules for the invalidity pension apply. No additional requirements are specified for the indemnity.

Level of financial resources: None (i.e. the benefit is not means-tested).

Other: Conditionalities that apply to all invalidity pensioners, regarding periodical reassessments and participation in rehabilitation programmes.

Gaps and/or obstacles: No evidence (reports, papers…) was identified on gaps/obstacles related to this benefit.

b) Disability assessment framework

The same as the framework for the invalidity pension, regulated by the pension law (Law 263/2010 with subsequent amendments); please see Section 1.1.1.

c) Benefit entitlements

Benefit level: The indemnity is calculated as 80% of the pension point value. The pension point value, updated on an annual basis, was 1,586 Lei (€321) in 2022, meaning that the monthly indemnity was 1,269 Lei (€257).

Duration of benefit: The indemnity is granted for as long as the person continues to be classified as having first-degree invalidity, until pensionable age.

Interaction with other income or income-related benefits: The indemnity can be replaced by a personal assistant or the equivalent indemnity if the person becomes certified with a severe disability. The income is not considered when eligibility for a minimum social pension is assessed, but it is considered for the *Venitul minim garantat* (guaranteed minimum income – GMI) or other means-tested social assistance benefits.

Challenges: In January 2022, only 44,500 people, representing 11% of all invalidity pensioners, were first-degree invalidity pensioners. The indemnity for companions granted to these people is lower than the equivalent benefit granted to people with severe disabilities (subject to equivalent conditions and/or with equivalent functional limitations). Even though invalidity pensioners can choose between the two benefits, most opt for the lower benefit granted through the social insurance system, due to its greater predictability and financial sustainability compared with that granted through the disability system.

1.1.3 *Indemnizația lunară pentru adulții cu handicap grav sau accentuat* (Monthly indemnity for adults with severe or marked disabilities)

A non-contributory *Indemnizația lunară pentru adulții cu handicap grav sau accentuat* (monthly indemnity for adults with severe or marked disabilities) is granted to all adults with a severe or marked certified disability, regardless of their level of income, employment status or age. The indemnity is considered a means to equalise life chances, ensure autonomy and favour social inclusion. It is regulated through the law regarding the protection of rights of people with disabilities (Law 448/2006 and its subsequent amendments). It is the main disability assistance benefit and it is paid from the state budget, through the county-level agencies for payment and social inspection.

a) Eligibility conditions

Disability-related qualifying criteria: Adults with certified severe or marked disabilities.

Age: 18 and over.

Nationality and/or residency: Legal residency[6] is required in order to be certified with a severe or marked disability.

Waiting period: None. It is granted once the disability is certified.

Contributory history: The indemnity is non-contributory, and is not conditional upon employment status.

Level of financial resources: None (i.e. the benefit is not means-tested).

Other: People with severe or marked disabilities who are under temporary police arrest or serving sentences in penitentiaries are not eligible. People with severe disabilities living in residential care, for which the costs are supported entirely from public sources, are also not eligible. Furthermore, those who are in the care of a professional personal assistant paid from public sources (such as maternal assistants) are not eligible if the assistant is formally employed.

Gaps and/or obstacles: No evidence (reports, papers…) was identified on gaps/obstacles related to this benefit.

b) Disability assessment framework

The legislation regulating the protection of the rights of people with disabilities defined a "person with handicap"[7] as a person who has no or limited access to social life, due to the lack of adjustment of their social environment to their physical, sensory, psychic or intellectual disabilities (Order of the Ministry of Labour and Social Protection 2298/2012).

Type of assessment: The criteria used to assess disability (i.e. handicap in the national legislation) is a mix of medical, psychological, physiological, and functional (social) criteria, established through a common order of the Ministry of Labour and Social Protection and the Ministry of Health (Order 741/577/2019, amending the Order 762/1992/2007). The assessment relies on medical and functional parameters and provides an overview of the medical condition and related functional abilities and limitations of the applicant. The functional assessment does not assess work capacity, but rather the ability to care for oneself and engage in the life of the community. Four degrees of disability are established: severe, marked, medium/average, and mild. 10 types of disabilities are distinguished: physical, visual, hearing impairments, deaf-blindness, somatic, mental, psychic, AIDS/HIV, associated, and rare diseases (Law 448/2006, Article 86).

[6] These conditions apply to EU and non-EU nationals as well as to people with refugee status.

[7] The legislation continues to use the term "handicap" instead of disability, despite the growing awareness about the usage of the term and its implications.

Responsible authorities: The county council (regional elected body) is responsible for the organisation of a department of complex assessment (*Serviciul de evaluare complexă*) and the setting up a specialised assessment commission (*Comisia de evaluare*). The commission takes decisions regarding the type and degree of disability, and the department carries out support activities for the commission and for people with disabilities (further assessments, case management, individual plans etc.) The National Authority for the Rights of People with Disabilities (NARPD), under the Ministry of Labour and Social Protection, approves the members of the county-level commissions. Within the NARPD a superior commission for assessing people with disability is set up, which is in charge of the methodological co-ordination of the county-level commissions and is involved in any reassessment resulting from appeals against the decisions of the county-level commissions. The activity of the assessment commission is regulated through government decisions and is, methodologically, co-ordinated by the NARPD.

Method: The framework procedure for the assessment (Order of the Ministry of Labour and Social Protection 2298/2012) is based on a social model of understanding and addressing disability, and it requires an assessment of a variety of elements and their integration into individualised activity plans and recommendations. The complex assessment is carried out by the department for complex assessment, and includes: (a) a social assessment, carried out by social workers; (b) a medical evaluation by a specialised physician; (c) a psychological evaluation, led by psychologists; (d) a vocational and professional abilities assessment, carried out by psycho-pedagogues or remedial pedagogues; (e) an assessment of the level of education, by psycho-pedagogues, instructors or remedial pedagogues; and finally (f) an assessment of the abilities and level of social integration, carried out by psychologists, psycho-pedagogues, remedial pedagogues or social workers. Each county-level department for complex assessment includes at least a social worker with higher education, a specialist medical doctor, a psychologist, a psycho-pedagogue, a kineto-therapist, an educational instructor and a remedial pedagogue.

The assessment is carried out at the department's office or at the person's home, depending on specific circumstances. The department prepares a report for each person and recommends the certification of a certain type and degree of disability and the measures to be taken. The individualised plan, established by the case manager, is approved by the department.

The certification can be issued on a temporary basis, with the need for periodical reassessment (established according to the situation), or permanent. The person for whom a temporary certification has been issued will receive, 20 days prior to the expiry of the certification, an invitation to an in-person reassessment. If the person does not attend, the certification will be suspended. However, if the person attends within three months after the expiry, and they are recertified, the rights associated with certification will be restored for the suspended period.

Supporting evidence: The application must be submitted to the local social assistance service of the city hall or at the directorate for social assistance and child protection at the county level (Order of the Ministry of Labour and Social Protection 2298/2012). The application must be supported by the following documents: (a) a completed request form for complex assessment; (b) proof of ID; (c) medical records (from a specialised medical doctor and the primary care physician, copies of any hospitalisation records, other para-clinical investigations required by the department for complex assessment); (d) a social inquiry carried out by the local social assistance services; and (e) proof of employment status, if the applicant is either employed under a work contract or is a pensioner.

Assessor: The assessment commission is comprised of: (a) a president (a medical doctor specialising in work capacity, internal medicine, family medicine, or general medicine, who has completed training in socio-medical management); (b) a medical doctor with similar specialisations, proposed by the county-level public health

directorate; (c) a representative of the non-governmental sector, who is active in the field of protecting the rights of people with disabilities; (d) a psychologist; and (e) a social worker.

Decision-maker: the final decision lies with the assessment commission at the county level. If the decision is contested, the supreme commission, at the level of the NARPD, reopens the case and, along with the county-level commission, takes the final decision. Applicants also have the right to appeal to a court if they think the supreme commission decision is contrary to law.

Critical analysis: The World Bank (WB) report on the situation of people with disabilities (2021) documented the fact that the assessment procedure is strongly biased towards a medical approach and does not give proper weight to the social inquiries conducted by professional social workers and the social needs and social inclusion limitations of the applicant. The report recommends the revision of the assessment procedure.

c) Benefit entitlements

Level of the benefit: The indemnity is a flat-rate benefit but differentiated according to the degree of the certified disability. Since July 2018, the monthly indemnity for people with severe disabilities has been 70% of the social reference indicator (SRI)[8] and the monthly indemnity for people with marked disability has been 53% of the SRI. Since 2008 the value of the SRI has remained constant, at 500 Lei (€101), and was expected to increase in April 2022. In 2022 the indemnity was 350 Lei (€71) monthly for people with severe disabilities and 265 Lei (€54) monthly for people with marked disabilities. However, some big cities have decided to increase these amounts, by supplementing them from local budgets.

Duration of the benefit: The indemnity is granted for as long as the person is certified with the eligible degree of disability.

Interaction with other income or other income-related benefits: The indemnity is compatible with income from work, but is taken into account when eligibility for means-tested social assistance benefits – the *Ajutorul pentru încălzire pentru lunile de iarnă* (seasonal heating assistance), GMI, and *Alocația pentru susținerea familiei* (family support allowance) – is assessed. Thus, despite of its rather low level, receipt of the indemnity leads, in most cases, to non-eligibility for the GMI. In January 2021, 682,753[9] people with disabilities received the indemnity, of whom 43% had severe disabilities and 57% marked disabilities. Overall, 90% of all adults with disabilities had severe and marked disabilities.

Challenges: Adequacy challenges related to the indemnity are related to the way in which its level is expressed (i.e. as a proportion of the SRI). The fact that the SRI has not been increased since 2008, and only started in April 2022 to be adjusted in line with the inflation rate, represents a significant challenge to the adequacy of the benefit. The indemnity fell from 70% of the gross statutory wage in 2008 to 14% in 2022.

1.1.4 *Bugetul personal complementar lunar pentru adulții cu handicap grav, accentuat și mediu* (Monthly complementary personal budget for adults with severe, marked or average disability)

The *Bugetul personal complementar lunar pentru adulții cu handicap grav, accentuat și mediu* (monthly complementary personal budget for adults with severe, marked or average disability) – a non-contributory disability assistance benefit – is granted to people with severe, marked or average certified disabilities, or to the legal guardian of these categories

[8] The SRI is defined by the law regarding unemployment and employment policies (Law 76/2002, with subsequent amendments). Its value has remained constant since 2008, but is now expected to grow annually with the inflation rate (Law 225/2021).

[9] Data source: the National Agency for Payments and Social Inspection, https://www.mmanpis.ro/informatii-de-interes-public/plati-efectuate-de-anpis/indemnizatie-lunara-acordata-persoanei-cu-handicap-accentuat/.

of people, regardless of their level of income. The budget is thought to cover, partially, the expenditure of people with disabilities on TV/radio taxes, phone subscriptions and the basic fees for electricity contracts. The benefit is regulated by the law regarding the protection of rights of people with disabilities (Law 448/2006 with its subsequent amendments).

a) Eligibility conditions

Disability-related qualifying criteria: Adults with certified severe, marked or average disabilities.

Age: 18 and over.

Nationality and/or residency: Legal residency[10] is required for disability certification.

Waiting period: None. It is granted once the disability is certified.

Contributory history: The benefit is non-contributory, and is not conditional on employment status.

Level of financial resources: None (i.e. the benefit is not means-tested).

Other: People with disabilities who are temporarily under police arrest or serving sentences in penitentiaries are not eligible. The benefit is not granted to people with severe disabilities who are employed (regardless of whether they are living in their own family or with a professional personal assistant). People with disabilities living in residential care, for whom the costs are supported entirely from public sources, are not eligible.

Gaps and/or obstacles: No evidence (reports, papers…) was identified on gaps/obstacles related to this benefit.

b) Disability assessment framework

The framework for assessing and certifying the type and degree of disability is set through an order of the Ministry of Labour and Social Protection (Order 2298/2012). For details see Section 1.1.3.

c) Benefit entitlements

Level of the benefit: The benefit level is a flat-rate benefit, but differentiated according to the degree of certified disability. Since July 2018 the value of the personal complementary budget has been: (a) 30% of the SRI for people with severe disabilities; (b) 22% of the SRI for people with marked disabilities; and (c) 12% of the SRI for people with average disabilities. In 2022 the SRI was 500 Lei (€101), and the benefit therefore ranged from 60 Lei (€12) to 150 Lei (€30) per month.

Duration of the benefit: The benefit is granted for as long as the person is certified with the eligible degree of disability.

Interaction with other income or other income-related benefits: The benefit is not considered when eligibility for means-tested social assistance benefits (seasonal heating assistance, GMI, family support allowance) is assessed.

Challenges: The benefit level is relatively low in the context of increasing housing expenditure during the last two years. The level of the benefit does not reflect actual expenditure, and is only differentiated according to degree of disability. In January 2022, 754,278 people received the benefit, representing 98% of all people with disabilities.

[10] These conditions apply to EU and non-EU nationals as well as to people with refugee status.

1.1.5 *Indemnizaţia lunară de hrană cuvenită persoanelor cu HIV/SIDA și tuberculoză, tratate în ambulatoriu* (Monthly food indemnity for people with HIV/AIDS, and for people with tuberculosis treated in ambulatory care)

The *Indemnizaţia lunară de hrană cuvenită persoanelor cu HIV/SIDA și tuberculoză, tratate în ambulatoriu* (monthly food indemnity for people with HIV/AIDS, and for people with tuberculosis (TB) who are treated in ambulatory care) represents a non-contributory, disability-specific cash support for food expenditure by people with HIV/AIDS or TB. The indemnity is regulated through special laws (Law 584/2002, regarding prevention of HIV/AIDS and the social protection of infected people; GD 1177/2003 regulating the benefits for children and adults with HIV/AIDS; Order 223/2006 regarding the methodology for implementation of the indemnity; Law 302/2018 regarding the control measures for TB; and GD 884/2020 regarding food indemnities). The indemnity is granted from the state budget, through the county-level payment and social inspection agencies (AJPISs).

a) Eligibility conditions

Disability-related qualifying criteria: Children and adults with HIV/AIDS or TB.

Age: None (i.e. there are no age requirements for accessing the indemnity).

Nationality and/or residency: No specific criteria regarding nationality or residency. The applicant has to be a legal resident[11].

Waiting period: None. The indemnity is granted immediately after the assessment of the condition, and starts from the month the condition began.

Contributory history: The indemnity is non-contributory, and is not conditional upon employment status.

Level of financial resources: None (i.e. the indemnity is not means-tested).

Other: The indemnity is granted to all people with HIV/AIDS, but only to those with TB who are in ambulatory care.

Gaps and/or obstacles: No evidence (reports, papers…) was identified on gaps/obstacles related to the indemnity.

b) Disability assessment framework

The framework for the assessing and certifying the type and degree of disability is set through an order of the Ministry of Labour and Social Protection (Order 2298/2012). For details, see Section 1.1.3.

c) Benefit entitlements

Benefit level: Since April 2021, the level of the indemnity has been set, in accordance with the cost standards for food in residential institutions, at 17.60 Lei (€3.60) per day per person.

Benefit duration: The indemnity is granted permanently to HIV/AIDS patients, and until the treatment ends for TB patients.

Interaction with other benefits: The indemnity is not considered when assessing the income of the household for other benefits.

During January and September 2021 an average of 11,468 adults with HIV/AIDS, and 3,727 people with TB, received the indemnity.

Challenges: No evidence (reports, papers…) was identified on adequacy challenges related to the indemnity.

[11] These conditions apply to EU and non-EU nationals as well as to people with refugee status.

1.2 Disability-specific old-age pension schemes

The pension law provides special circumstances for people with disabilities to access old-age pension benefits (Law 263/2010), explicitly promoting an equalisation of chances between working adults with and without a disability. This will be discussed in Section 2.1.

However, there is no other non-contributory old-age benefit addressed at people with disabilities. The support for dependent older people is regulated by Law 17/2000 regarding community services for older people. Socio-medically dependent older people living at home are entitled to in-home care services; but no cash benefit is in place to replace, complement or supplement regular pension benefits.

1.3 Income support aimed at covering disability-related healthcare and housing expenses

The costs of healthcare services are addressed only indirectly, through the fact that people with disabilities are by default covered by healthcare insurance. Costs related to housing – accessibility adjustments or other types of expenditure – are not covered, either partially or totally, by any type of benefit. The only measure in place regarding housing is the coverage of interest payments on credits for home adjustments (see Section 1.3.2).

1.3.1 Healthcare

1.3.1.1 *Asigurări sociale de sănătate* (Social healthcare insurance)

a) Brief description

Beyond a minimal healthcare package, to which all legal residents are entitled, services are conditional upon being insured. In Romania, some categories of people are covered by healthcare insurance by default, including people with disabilities. Additional medical services for people with disabilities – such as those required when applying for a disability certification, other specialised services, rehabilitation services and balneary treatments or medical spa centres – are supported from the state budget and the National Health Insurance House (NHIH). People with disabilities are not required to pay any healthcare insurance contributions, as long as they are not working. People with disabilities who work are required to pay the same contribution as any other working person (i.e. 10% of gross income).

Healthcare insurance covers, partially or entirely, drugs and assistive devices and medical devices, free medical devices in out-patient healthcare services, free meals and accommodation in hospitals or medical spas for the personal assistants of people with severe or marked disabilities, and annual free tickets for balneary treatments (based on the rehabilitation plan suggested by specialists). The range and type of services, drugs and medical/assistive devices covered, and the limits to which these are covered, are re-evaluated annually (in July) through the framework contract, and the methodological norms for its implementation adopted by the government.

By law people with disabilities are entitled to a series of disability-specific healthcare services and, further, to support for access to these services. Some disability-specific rehabilitation services are provided through the social insurance system, others are provided by local authorities, while others fall entirely under the healthcare system.

b) Main gaps/obstacles

People with certified disabilities are covered, by default, by healthcare insurance. However, even for people with certified disabilities, there are some legislative gaps and obstacles in terms of accessing these services.

First, preventive medical services are *weak in terms of the early diagnosis and prevention of disability*, especially among adults. No specific preventive and screening

programmes are defined and set in place that are aimed at detecting the early stages of conditions leading to disability.

Second, *curative medical services and medical facilities are not prepared to facilitate easy access for most people with disabilities*. A lack of accessible services and transport to medical facilities poses, in many situations, real challenges for people with disabilities. Although medical facilities are required to provide information and physical access for patients with disabilities, this is not in fact done in many cases, including hospitals[12].

Third, the *health insurance system fails to provide adequate coverage by services for a large segment of people with disabilities* (WB, 2021, p.277). The WB report regarding the situation of people with disabilities published in 2021 shows that healthcare is not in fact 100% free of charge for this segment, as many specialists trained to provide customized medical care to persons with disabilities are not in a contractual relationship with the NHIH.

Fourth, *some disability-related services are unavailable* in many communities/regions, as these are under the responsibility of local authorities. *Some others,* such as balneary and medical spa treatments, are mainly developed and supported by the social insurance system, and *principally target pensioners, including invalidity pensioners.* Access to these services for people with disabilities is therefore limited by a mix of unavailability and shortage of actual demand from social insurance beneficiaries.

Fifth, some other benefits lack a proper legislative framework, such as the *right of people with severe and marked disabilities to be accompanied* in hospitals and medical spas by their personal assistants, free of charge. As a result, personal assistants are given fake medical diagnoses so that they can be hospitalised as regular patients.

Finally, prevention and education regarding sexual and reproductive health is entirely absent for people with disabilities, who are mostly excluded from accessing free family planning services and for whom preventive screenings are largely unavailable (see WB, 2021).

c) Main adequacy challenges

The entitlement to free healthcare services for all people with certified disabilities is incompatible with the requirement for people with disabilities who are employed to pay contributions. The fact that health insurance contributions are levied on employed people with disabilities penalises them compared with people with disabilities who do not work. Further, this arrangement does not support the government's efforts to encourage people with disabilities to enter the labour market and to facilitate their transition to financial autonomy. The results of all the challenges described above are reflected in the inequality and barriers of access to healthcare (see Annex, Table A3).

1.3.2 Housing

Compensation for increased disability-related housing costs for people with disabilities is limited to the complementary budget for people with certified severe, marked or average disabilities (see Section 1.1.5). This is thought to cover subscriptions for radio, TV and telephone, thus targeting housing costs only if these are understood in a very broad way. The benefit has therefore been treated as a general cash disability-related benefit, rather than as a housing support benefit.

The only measure in place that explicitly targets disability-related housing costs is the entitlement of people with disability to interest-free credit for housing adaptations, which

[12] Medical facilities have entered an accreditation process carried out by the National Authority for Management of Quality in Health. The process is still ongoing; for example, in 2020, only 228 out of 731 hospitals were assessed (WB, 2021, p. 278), and many not only could not provide access to certain people with disabilities but had no means of creating physical accessibility due to old and inadequate buildings.

is not presented here as it is not a cash benefit. The effectiveness of this measure is low, as access to credit is seriously limited (since disability-specific benefits are not considered when credit eligibility is assessed).

2 Access to some key general social protection cash benefits

2.1 Old-age benefits

The main old-age benefit is the old-age pension, regulated through the pension law (263/2010). The law stipulates special equalising conditions to access the benefit for people with disabilities. However, no non-contributory cash benefits for old age are in place.

2.1.1 *Pensia de vârstă* (Old-age pension)

The old-age pension is a contributory benefit, resulting from enrolment in the social insurance system (Law 263/2010).

a) Eligibility conditions

The pension is granted to those who have reached the standard pensionable age and have a complete contributory period (of up to 35 years). However, people who have disabilities that existed prior to enrolment in the social insurance system benefit from a lowering of the standard pensionable age according to the degree of disability by: (a) 15 years, for people with severe disabilities, if they have completed at least one third of the complete contributory period; (b) 10 years, for people with marked disabilities, if they have completed at least two thirds of the complete contributory period; and (c) 10 years, for people with disabilities with average disabilities, if they have fulfilled the complete contributory period.

The concept of a pre-existing disability has been contested and was deemed unconstitutional in 2018 (see below). The constitutional court reached a similar decision regarding the law on the public social insurance system for lawyers.

b) Additional amount/compensation

Pension benefits are calculated according to the same formula, regardless of the presence of a disability.

c) Gaps/obstacles

The concept of a pre-existing disability resulted in unequal treatment as between people with disabilities that arose prior to entering the social insurance system and those who acquired a disability, with no significant loss of the work capacity, after entering the social insurance system. The constitutional court decided that the formulation was unconstitutional (Decision 632/2018); however, the law has not been amended accordingly.

In addition, low employment rates among people with disabilities create a significant barrier to this, the only old-age cash benefit. According to the WB report on the situation of people with disabilities, in 2018 the employment rate among people with some disabilities (aged 20-64) in Romania was 51%, compared with 74% among the active population without disabilities. However, the employment rate among people with severe disabilities was only 12%, the lowest rate among all EU Member States (WB, 2021).

2.2 Unemployment benefits

Romania has only one benefit for unemployed people, regulated by the law on unemployment and employment policies (Law 76/2002): the *Ajutorul de șomaj* (unemployment indemnity).

2.2.1 *Ajutorul de șomaj* (Unemployment indemnity)

The unemployment indemnity, a contributory benefit supported from the unemployment fund, is granted to short-term unemployed people or fresh graduates. The benefit applies to people with disabilities, under the same conditions as for all working people or fresh graduates.

a) Eligibility conditions

The indemnity is granted to unemployed people with at least one year of employment history during the previous two years, and an income not higher than one SRI – currently 500 Lei (€101) per month – and to fresh graduates, regardless of the certification of a disability.

b) Additional amount/compensation

No additional amount or any other type of compensation is available specifically for people with disabilities.

c) Gaps/obstacles

Although in principle access to the indemnity is not restricted, in fact the indemnity only reaches a few people with disabilities, as employment rates among these are low, and because the indemnity is only targeted at short-term unemployed people. Furthermore, people with severe disabilities receive additional non-contributory benefits, which may increase their income above the eligibility threshold for the unemployment indemnity.

2.3 Guaranteed minimum income schemes and other social assistance benefits

Three important means-tested benefits are in place in Romania – the GMI, the family support allowance, and the seasonal heating assistance. All three benefits have similar means-testing procedures and none grants any additional benefits or compensation to people with disabilities.

These benefits are significant, due to the higher incidence of poverty among people with disabilities, and especially among people with severe disabilities. In 2018, the risk of poverty among people with severe disabilities, after all social protection benefits, was estimated at 32%, compared with 21% among people without disabilities (WB, 2021, p. 171).

2.3.1 *Venitul minim garantat* (Guaranteed minimum income)

The GMI is regulated by the Law 461/2001 with its subsequent amendments.

a) Eligibility conditions

The GMI is a means-tested benefit targeted at all people or families with an income below a set threshold[13], regardless of the presence of people with disabilities in the family. The benefit represents the difference between the threshold and the income of the single person or family.

Eligibility is tested by considering most of the income of the person/family and some income-generated assets. In principle, people with disabilities are not given any special rights or entitlements in regard to the GMI. In fact, they are put at a disadvantage compared with people without a disability, as both eligibility and benefit levels are negatively affected by the fact that the main disability-specific indemnity for people

[13] The threshold is not updated systematically; its last update was in 2014. In February 2022, the value of the threshold varied between 142 Lei (€29) per month for a single person and 527 Lei (€107) per month for a family of five, with 37 Lei per additional person.

with a severe or marked disability (see Section 1.1.4) is considered when testing eligibility – unlike the personal complementary budget for people with severe, marked or average disabilities (see Section 1.1.5).

b) Additional amount/compensation

No additional benefit/compensation is granted to people with disabilities. These, if found unfit to work, will be exempted from the requirement to check in on a regular basis with the employment offices; but no further benefits are associated with disability.

c) Gaps/obstacles

The main obstacle to accessing the indemnity, even though poverty rates are higher among people with disabilities (WB, 2021), is the fact that some disability-specific benefits are taken into account when eligibility is tested. This is especially the case with the GMI, for which the threshold set has depreciated since 2014.

2.3.2 *Alocația pentru susținerea familiei* (Family support allowance)

The family support allowance (Law 227/2010) is granted to families with an income per family member falling under one of two income brackets, regardless of the presence of a member with a disability. The benefit level is differentiated according to the income level per family member, type of family (two-parent or single-parent family) and number of children in the family. The allowance is the same for all, regardless of the presence of a disability among children or parents. It ranges from 75 Lei (€15) per month for one child in a two-parent family with an income in the higher income bracket, to 302 Lei (€61) per month for a single-parent family with four or more children in the lowest income bracket.

a) Eligibility conditions

The benefit is means-tested, in a similar way to the GMI, but the eligibility thresholds are higher than for the GMI. Two eligibility income brackets are defined[14], regardless of the presence of a child or parent with disability. Eligibility-testing procedures consider all the income of family members, with the exception of the complementary budget (Section 1.1.5), and the child-rearing indemnity (Section 2.3.4) – which is granted for a longer time to parents with disabilities or the parents of children with disabilities.

b) Additional amount/compensation

No additional benefit/compensation is granted to people with disabilities.

c) Gaps/obstacles

Not only do parents with disabilities have no additional benefits, but the means test for the allowance takes into consideration all benefits granted to people with disabilities (except the complementary budget). Thus, parents with disabilities have restricted access to the benefit. No data are available regarding the proportion/number of beneficiaries with a disability.

[14] The thresholds for these were last updated in 2015 and their current values are 200 Lei (€40) per person per month and 530 Lei (€107) per person per month.

2.3.3 *Ajutorul pentru încălzire pentru lunile de iarnă* (Seasonal heating assistance)

The seasonal heating assistance, and also the energy supplement, have been regulated since November 2021 by Law 226/2020. These are means-tested benefits, using 11 income brackets to test eligibility for the total or partial reimbursement of heating costs during the cold season. Eligibility thresholds and benefit levels are the same for all people, regardless of their age or the presence of a certified disability.

a) Eligibility conditions

Eligibility is tested based on the family's monetary income and other sources of income, similar to the GMI. Thus, although 11 income brackets are considered, and the highest income levels are at the level of the statutory minimum wage, the number of benefits granted is low. Similar to the benefits described in Sections 2.3.1 and 2.3.2, most of the income from disability-specific support benefits is taken into account when assessing eligibility, thus putting people with disabilities at a disadvantage.

b) Additional amount/compensation

No additional benefit/compensation is granted to people with disabilities.

c) Gaps/obstacles

The main obstacles faced by people with disabilities are exclusion from the benefit, and a reduced benefit level due to considering disability-specific support when assessing eligibility. In addition, there is no specific additional support to guide people with disabilities through the necessary information and application procedures. However, the National Agency for Payment and Social Inspection website provides good, up-to-date information on procedures and how forms need to be filled out; an itinerant caravan was organised for this purpose during the cold season 2021-2022.

2.3.4 *Indemnizația și concediul pentru creșterea copilului* (Child-rearing leave and indemnity)

The *Indemnizația și concediul pentru creșterea copilului* (child-rearing leave and indemnity) is regulated by a GEO 111/2010, with all subsequent amendments. The benefits associated with this measure – the child-rearing indemnity[15] and the insertion stimulus[16] – are considered social assistance benefits (and payable from the state budget), but eligibility is conditional upon previous employment. However, a series of exceptions accommodate a variety of labour market-related situations, especially for parents with disabilities.

A flat-rate *childcare indemnity* is granted to those parents who are not eligible for child-rearing indemnity/leave or the insertion stimulus, who either have a child with disabilities or have a severe or marked disability themselves. The childcare indemnity is granted until the child reaches 7, and its level is differentiated according to the age of the child and the particular situation (parents with children with disabilities, people with severe or marked disabilities with children with disabilities, or people with severe or marked disabilities with children without disabilities).

[15] Child-rearing leave and indemnity is granted until the child is 2, or 3 in the case of children with disabilities. The benefit varies between a minimum of 2.5 times the SRI, currently 1,250 Lei (€253) per month and a maximum of 8,500 Lei (1,719) per month, and is calculated as 85% of the net average income over the previous 12 months in employment or related situations.

[16] If parents start work at least 60 days before the end of child-rearing leave, they are entitled to an insertion stimulus, until the child is 3, or 4 in the case of children with disabilities. The insertion stimulus is a flat-rate benefit, of either: (a) three times the SRI, equivalent in 2021 to 1,500 Lei (€303) per month if the parent enters the labour market before the child reaches 6 months, or 1 year for children with disabilities; or (b) half of the minimum child-rearing indemnity, of 1.25 SRI, equivalent to 650 Lei (€131) per month, otherwise.

a) Eligibility conditions

Eligibility for the benefits is restricted to those parents who worked for at least 12 months[17] during the 24 months prior to applying. This also holds true for parents with disabilities. An exception is made for ineligible parents with a child with disability, and ineligible parents with severe or marked disabilities with children.

b) Additional amount/compensation

Parents with disabilities with a previous employment history are entitled to the same benefits, without any additional amount or special compensation. However, parents with disabilities without a work history are entitled to a *childcare indemnity* equal to 45% of the minimum child-rearing indemnity until the child is 2 or 3 in the case of children with disabilities; in 2021, the indemnity was 563 Lei (€114) per month. After the age of 2 (or 3 in the case of children with disabilities) and until the child turns 7, this is replaced by an indemnity which is calculated as 35% of the minimum child-rearing indemnity (2021: 438 Lei (€89) per month) for a child with disabilities and 15% of the minimum child-rearing indemnity (2021: 188 Lei (€35) per month) for a child without disabilities. The childcare benefit for a parent with severe or marked disability with a child without disability is the same as for a parent without disability but with a child with disabilities.

c) Gaps/obstacles

Employment rates among people with disabilities are low (see also Section 2.1.1). The childcare indemnity therefore represents, for most parents with severe or marked disabilities, the only support for child-rearing and care. The indemnity is substantially lower than for those with a previous employment history, thus leading to significant gaps between parents with disabilities with an employment history and those without. In addition, the indemnity leaves out those parents with mild or average disabilities who are not integrated in the labour market.

3 Provision of assistive technology and personal assistance

3.1 Assistive technology

People with disabilities are entitled to free assistive devices and technology (Law 448/2006). The costs of assistive technology are supported from the NHIH, as part of the health insurance system. The government adjusts, on an annual basis, the framework contract which regulates the contractual relations between healthcare-providers and the NHIH, and the type of services provided in the field of medical care, drugs and assistive technology. In June 2021 the framework contract for 2021-2022 was approved (GD 696/2021). The contract established the terms under which a provider of assistive devices is evaluated and certified, and thus able to enter into a contractual relation with the NHIH. Following the adoption of the framework contract, a methodology was issued by the NHIH for 2022 (Order 887/2021) for setting the reference prices for the acquisition or leasing of assistive equipment. The methodology provides also a list of all devices supported from the NHIH.

People with disabilities, based on a medical recommendation, can choose among different providers in a contractual relationship with NHIH. The devices are free of charge, as long as their cost does not exceed the set reference prices, regardless of the level of the income of people with disabilities. The sums are reimbursed from the NHIH to providers, and the beneficiary pays only the difference, if any, between the reference price and the actual price of the device.

[17] Periods assimilated with work are specified, including invalidity pension, sick leave or short-term unemployment.

However, according to the WB survey, in 2020 around 50% of the people in need of assistive devices did not use these, of which a significant proportion due to not being able to afford them. For example, 33% of the people in need of prostheses did not use them and 77% of those not using them claimed that they could not afford them (WB, 2021, p.178, Figure 22). The main reasons were: (a) the inadequacy of the list of devices established by the NHIH; (b) the long waiting lists, which created pressure on the allocated funds; and, finally, (c) the small number of providers of equipment.

The analysis of the WB of the list of devices covered by the NHIH shows that this includes less than one third of the 50 categories of devices recommended in 2016 by the WB (WB, 2021). Long waiting lists led to the adoption of some prioritising criteria, which vary regionally across counties and are set by the county-level health insurance houses. The criteria, based on a decision of the NHIH, vary from under-defined criteria as "importance" for the autonomy of the individual, to age, the existence of substitute products, or the generic "ensuring social inclusion". Criteria used by different counties are mostly underdefined and generic, representing more of a guide to the allocation of scarce funds, rather than an effective means of prioritising expenditure. Lastly, the small number of providers leads to shortages products, and there is no national policy in place to stimulate and support this sector (WB, 2021).

A programme on the labour market insertion of people with disabilities[18] (adopted in 2018, and financed with EU funds), managed by the NARPD, provides vouchers to working-age people with disabilities who are actively in search of work. The programme provides vouchers for different types of assistive devices, with priority given to those devices which are suited for a smoother adjustment to a working life[19]. A list of providers is published on the NARPD website, and vouchers are granted according to individual needs (based on medical recommendations) and type of disability.

The programme only targets those people who register as unemployed. This excludes all those who benefit from an invalidity pension and who would be willing to increase their employability, but do not want to risk their status as invalidity pensioners unless they find a suitable and adequate job. The existence of different systems assessing disability and work capacity, and the fact that both assessment systems are biased towards a medical approach, and especially the assessment framework for work capacity, result in confusing and sometimes contradictory measures, with a negative impact on the labour market insertion of people with disabilities. According to the WB, there is no co-ordination system between the invalidity pension system and the social assistance system, and no measure to stimulate the labour market reinsertion of invalidity pensioners, based on a periodical evaluation of the impact of rehabilitation programmes (WB, 2021).

In Romania, in September 2021, the number of working-age adults with disabilities was 401,400, representing 52% of the total number of non-institutionalised adults with disabilities, and the number of invalidity pensioners was 421,000. There is some overlap between the two figures, but there are no data available in this respect.

3.2 Personal assistance

The main measures addressing the right to personal assistance are: (a) the entitlement to personal assistance for people with severe disabilities or first-degree invalidity; (b) the entitlement to a professional personal assistant as an alternative to deinstitutionalisation and other forms of community-type care (such as protected dwellings or family-like community residencies), similar to the system of maternal assistants for children in family care; (c) in-home care for older people with a degree of dependency or people with

[18] Programme MySMIS 1301643, see details at http://anpd.gov.ro/web/tehnologie-asistiva/.

[19] The methodology for distributing the vouchers is established through the Order of the Ministry of Labour and Social Protection 1263/2019.

disabilities; (d) day centres for people with disabilities; and finally (e) the right to assisted employment.

The programme regarding the choice of a personal assistant, or support for personal assistance, for people with first-degree degree invalidity has been discussed above (see also Annex, Table A2). In Romania, in September 2021, 16,700 adults with disabilities were in residential care (institutionalised or community care) and 343,500 adults with severe disabilities were entitled to a personal assistant.

3.2.1 Professional personal assistants

People with disabilities who do not have a family to live with (e.g. those who became homeless on exiting residential institutions for children, or even those who are currently in residential care), and who do not have a work-related income at or above the statutory minimum wage, are entitled to a professional personal assistant, according to the law (Law 448/2006). According to this system, the person with disability is cared for by a professional personal assistant in the home of the latter; the person with disability lives in the family of the personal assistant, and residence and service are therefore integrated. Professional personal assistants are employees of the county-level general directorates for social assistance, and the costs are supported, similar to those for personal assistants, by transfers from the state budget to county budgets. Professional personal assistants must undergo training and certification and cannot be a direct relative of the person with disabilities.

However, the 2020 WB study shows that, in 16 counties, out of the 238 positions for professional personal assistants advertised by the county-level general directorates for social assistance and child protection, only 21 had been filled, due to lack of demand or funding (WB, 2021). The periodical training that should be offered to these personal assistants is barely organised and the number of people undergoing training is very low. In addition, as the WB report emphasises, the system itself is in contradiction with the UN Convention on the Rights of Persons with Disabilities (CRPD), which underlines the need to separate residency from the services offered, to support the transition from institutionalisation to community living (WB, 2021). Although the stated aim of professional personal assistants is to provide the person with disability with decision-making autonomy, the result is a limitation of this autonomy, as all support benefits are directly transferred to and managed by the assistant.

3.2.2 Personal assistant or equivalent indemnity for people with severe disabilities

Adults certified with severe disabilities (living in the family and not in public residential care) have the right to either a personal assistant or alternatively an equivalent indemnity for a companion. The first option results in the hiring, by the local authorities, of a personal assistant, while the second option results in the payment of a cash benefit to the person with severe disability. The benefit is regulated by the law on the protection of the rights of people with disabilities (Law 448/2006). The benefit is non-contributory, which has been granted, since 2018, from the state budget. However, local authorities are responsible for hiring the personal assistants. Once the costs associated with the salaries for the personal assistants or indemnities for a companion have been calculated, local authorities can request a transfer from the state budget.

An exception is made for people with severe visual impairment. For these, benefits are supported from the state budget and directly paid through the county-level AJPISs under the Ministry of Labour and Social Protection. Finally, parents with children with severe visual impairment must hire a personal assistant and are not given an alternative.

Personal assistants are granted a basic gross salary established for a personal assistant (Law 153/2015), and the level of an alternative indemnity is the net basic salary for a personal assistant in the public sector. The amount of the indemnity was, in 2021, 1,386 Lei (€280) per month. In 2022, the gross salary for a personal assistant was 2,535 Lei

(€509) per month, and the alternative indemnity was 1,515 Lei (€306) monthly. Thus, the latter is higher than the indemnity granted through the social insurance system. The benefit is non-contributory and is not dependent on the financial resources of the person with disabilities.

However, conditionalities apply to personal assistants. Personal assistants, hired by the local authorities under an individual work contract, must be at least 18, without a criminal record and in good health (certified by a primary care physician), and have completed at least the general compulsory education (relatives up to the fourth degree, including spouses, are exempted from this requirement). People who are on child-rearing leave (in the case of children up to age 2, or 7 for children with disabilities) cannot be hired as personal assistants. In addition, the personal assistant must: (a) attend, every two years, training sessions organised by the employer; (b) sign an additional form to the contract, taking legal responsibility for fulfilling the individual service/rehabilitation plan set up by the specialised county-level services for the person with severe disabilities; (c) treat the person with empathy, good will and respect; and (d) communicate to the general directorate for social assistance and child protection (county-level), within 48 hours, any change in the physical, mental or social status of the assisted person.

One of the main challenges faced by people with disabilities who opt for the alternative indemnity is that the cash benefit is considered when assessing eligibility for means-tested benefits (Pop, 2018). However, it is not considered as income when assessing eligibility for accessing bank credit, thus limiting access to interest-free credit for disability-specific needs. The challenges and adequacy issues raised by the benefit are described in the Annex, Table A2.

4 National debates, reforms and recommendations

4.1 National debates

Although there are no significant ongoing public debates regarding the rights of people with disabilities, many debates among NGOs, associations of people with disabilities and public authorities have been ignited by the consultations regarding the national strategy for the protection of the rights of people with disabilities (2013-2014 and 2019-2020). Most of these debates concern: (a) the legislative framework (Law 448/2006), considered by most service-providers as obsolete and inadequate; and (b) the legislative and institutional arrangements, which create obstacles to contractual relations with local and county-level authorities. Most NGOs complain about inadequate co-operation with the NARPD (e.g. regarding the input for the national strategies on disabilities, work on common projects and programme implementation, but also institutional co-operation). Interviews with the NGOs and confederations in the area of the protection of the rights of people with disabilities (as part of the WB's assessment of the previous national strategy in the field of disability[20]) point to the ineffectiveness of institutional arrangements, and a weak and in many respects inadequate legislative framework. Most significant problems related to these institutional arrangements refer to: (a) the lack of involvement by the NARPD in the offer of support and co-operation to NGOs and county-level authorities in charge of service-provision; (b) the weak professionalisation of the county-level directorates for social assistance; and (c) an inadequate legal framework, allowing county-level authorities to subcontract specialised services.

[20] Most of these were presented in the diagnosis of the situation of people with disabilities published by the WB and the Romanian NARPD (see bibliography: WB, 2021).

4.2 Recent reforms and reforms currently in the pipeline

An institutional reform is underway in the area of disabilities. The institutionally weak position of the NARPD (lack of control over services for people with disabilities, and role limited to "methodological control" over decentralised services without any legal leverage) led to its disbandment in 2019 and the establishment of a specialised department, along with that for the protection of children's rights, under a single national authority. The rationale behind this was the need to create a unified approach to disability, able to smooth the transition from childhood to adulthood of people with disabilities. Recently, in November 2021, the NARPD has been re-established (GEO 121/2021) and more recently, in February 2022, its organisational structure has been approved. Although the re-establishment of a national authority might be welcomed, a legal redefinition of its roles in monitoring and co-ordinating cross-sectoral policies, along with a thorough revision of the legislative framework on disability, is essential.

In terms of policies and programmes, since 2017 the most important reforms have been: (a) the financial recentralisation, in 2018, of the expenditure on personal assistants or the equivalent indemnity; (b) the amendment of the legislation that abolished protected enterprises (abolished in 2017 and re-established in 2021); and (c) the adoption of a national programme for the deinstitutionalisation of people with disabilities.

The process of deinstitutionalisation has been slow, especially as the transition to an autonomous life requires a variety of community-based services, which are either largely missing or insufficient. Alternatives to institutionalisation proved expensive and hard to develop without co-operation with the non-government sector, and thus the process resulted mainly in a reorganisation of the old institutions (Totoliciu and Johari, 2019a and 2019b). The reforms are ongoing but were slowed down by the COVID-19 pandemic. The development of community-based services, to support deinstitutionalisation and prevent institutionalisation, was put on hold during the pandemic.

Finally, a failed attempt to unify two of the main assessment frameworks – for disability and invalidity – was made in 2016, so as to comply with the UN CRPD and the international functional framework, and to create a synergy between increased labour market participation and effective social inclusion for people with disabilities. In 2019, another programme for modernising the disability assessment framework, and aligning it with the requirements of the UN CRPD, was put in place. It is aimed at shifting the legislative focus, supported by greater administrative capacity, towards a social integrated assessment (Modernisation project of the evaluation system of disability, EU-funded project within the Operational Programme regarding the increase of administrative capacity, with a projected budget of 14,585,048 Lei (€2.9 million).

Overall, reforms of residential care and of the legislative framework have been slowed by the pandemic and by the changes in institutional accountability. During the pandemic a priority has been to protect, test and immunise people with disabilities living in residential care.

4.3 Good practice and recommendations on how to tackle gaps and obstacles

An assessment of the former national strategy on disability (for 2016-2020) reveals many policy inconsistencies and flaws. First, social protection measures on disability are scattered among different sectors. Second, social measures are not able to address the needs of all people with disabilities. Third, income support measures are inadequate and insufficient, while specialised services are largely missing and, where available, remain scarce and underdeveloped. Many NGOs and some local communities (mainly big cities) have developed support and rehabilitation services, which can be regarded as good practice and are worth mainstreaming. However, these remain isolated measures, hard to replicate as a result of an ineffective financial decentralisation of disability-specific social services.

While policies on disability must be radically reformed, some priorities need to be set. The new national strategy regarding the rights of people with disabilities for 2021-2027, drafted in April 2021 and still under discussion, proposes a series of measures to address some of the access problems encountered by people with disabilities, and the inadequacy of benefits and services. However, further legislative and institutional reform is necessary in order to address the most important gaps.

The need for reliable and comprehensive data on disability and people with disabilities is therefore crucial. Currently, due to the fact that eligibility assessments and services are decentralised, data regarding specific needs, access to social services and participation in the labour market of people with disabilities are largely missing. Thus, in line with Article 31 (statistics and data collection) of the UN CRPD, systematic data-collection – providing an adequate basis for policy-making, monitoring, and evaluation – should be considered among the most important priorities.

Although the accessibility and availability of services represents a priority, adequate disability-related income support is also crucial. This is especially true regarding older people with disabilities, for whom there is no available targeted support. Their access to means-tested income support is limited; in addition, the uncertainty regarding disability-specific care support (delayed payment of the indemnity for a personal assistant, and informal care eluding any professional scrutiny), along with confusing and inadequate community care and rehabilitation services, leaves this segment largely unprotected.

Furthermore, the monetary income support for working-age adults is largely targeted at those with severe or marked disabilities, leaving those with mild or average disabilities unprotected. The benefit system for disability is not able to compensate adequately for the disability-related expenditure by individuals, and creates barriers to accessing means-tested benefits and bank credit. This is amplified by the low employment rate among people with disabilities, largely the result of an ineffective policy regarding labour market integration.

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Annex

Table A1. Current frameworks for assessing long-term impairments

Romania currently has four legal frameworks, associated with different sectors of social protection, that assess long-term impairments (Pop, 2016).

1. The **disability assessment framework** (*evaluarea tipului și gradului de handicap*), established within the field of disability and regulated by the law regarding the rights of people with disabilities (Law 448/2006). The assessment framework is based in theory on a functional, medical and social evaluation; but in fact it is a medicalised approach to disability. This is described in Section 1.1.3. The framework grants eligibility for all social benefits and services targeting people with disabilities in Romania.
2. The **invalidity assessment framework** (*evaluare a gradului de invaliditate*) is regulated through the law on pensions and managed through the social insurance system. The framework is described in Section 1.1.1 and assessments, while relying on a medical approach, focus on the work capacity of the person, based on their skills, professional training and work/education history. The invalidity assessment framework grants access to social insurance benefits, such as the invalidity pension.
3. The **dependency of older people** is regulated by the law on social assistance of older people (Law 17/2000) and is defined as "*a result of the loss of autonomy due to physical, psychical or mental causes which require significant help/assistance to perform basic day-to-day activities*" (GD 886/2000 for the approval of the national evaluation test). The assessment is therefore related to care needs. Local authorities have the responsibility to set up a commission to assess both the medical condition and the income level of older people. The commission is composed of at least one medical doctor specialising in gerontology and two social workers, but it can (and is recommended to) include representatives of NGOs that provide services to older people, and representatives of religious charitable organisations.
4. Finally, the health insurance system evaluates **health performance status based on the Eastern Co-operative Oncology Group (ECOG) scale**, in view of the provision of in-home healthcare services. According to this assessment frame, ECOG 3 health performance status is attributed to a person who is unable to perform household activities, is immobilised over 50% of the time in bed or a wheelchair, and needs support for basic personal care (hygiene, eating and/or standing up); and ECOG 4 health performance status describes a person who is completely immobilised in bed or a wheelchair, and totally dependent on another person for basic personal care (hygiene, eating, standing up). Thus, the assessment is focused on the need for support services, including medical services.

Table A2. Main challenges to the support for personal assistants granted to people with severe disabilities

All people with disabilities can choose between a personal assistant and an equivalent indemnity paid directly to the beneficiary (the indemnity for the companion of a person with severe disabilities). This includes the parents of children with severe disabilities, except in the case of children with severe visual impairments, for which a personal assistant must be hired. In principle, the choice is welcomed. But the institutional and financial arrangements for the benefit lead, in many cases, to a constrained decision.

- The personal assistant becomes, according to the law, an employee of the city hall. Until 2018, the salary of the personal assistant was supported from the local budget, and so was the alternative indemnity, without consistent support from the state budget. Although transfers from the state budget to local budgets took into account the level of expenditure envisaged by local budgets, there was no explicit requirement for the government to cover this expenditure. For most local administrative units, and especially those in rural areas and small towns, the expenditure on additional salaries was unbearable. Many people with disabilities therefore chose the indemnity over the personal assistant, either under pressure from the local authorities or due to long delays in the payment of salaries. Some city halls did not pay the personal assistants, others were not willing to hire them at all, and other city halls delayed paying the salaries for months. In 2020, according to the WB report, the proportion of people entitled to a personal assistant who opted for an equivalent support indemnity was about 78%, indicating a distortion towards cash benefits. Data indicate that, in fact, the choice is less the result of the preferences of the person with disabilities but more the result of the pressures put on the beneficiaries by local authorities. For example, there are communities where there is no personal assistant or a very limited number of personal assistants, whereas in other communities their numbers are extremely high (WB, 2021, p.224).
- Since 2018, the government has been required to provide funding (of at least 90% of the expenditure), by transferring, upon request, the funds for the payment of the salaries of personal assistants or for the companionship indemnities. Although the situation improved significantly due to this amendment, the transfers depend on the planning of this expenditure by local authorities. Budgetary planning is not based on a current needs-assessment, but on previous expenditure, thus sometimes leaving much unexpected or variable expenditure uncovered.
- Furthermore, local authorities, which are responsible for organising regular training for personal assistants, do not have the capacity to do so; case managers, who are supposed to closely monitor them to ensure that individualised activity plans are followed, are insufficient and based in the county city.
- In addition, almost all personal assistants are family members, due to: (a) the low level of salaries of personal assistants (i.e. at the level of the minimum statutory wage); (b) the partial time covered by the salary (eight hours per day, five days per week); and (c) the many legal responsibilities and requirements for personal assistants who are not relatives (up to the fourth degree). Becoming a personal assistant represents, for most family members who were anyway catering to the needs of the person with disability, the only way to get out of informality, get back into the labour market and benefit from social and health insurance.
- The current institutional arrangements therefore have a negative impact on: (a) care-givers (who are mostly family members), as people with disabilities are constrained, by lack of funding and lack of predictability regarding salary payments, to choose the indemnity over the hiring of a care-giver; and (b) people with disabilities, who do not benefit from adequate professional support and care, as care-givers do not benefit from any formal training if an indemnity is chosen instead.
- In March 2020, according to a diagnosis of the situation of people with disabilities in Romania (WB, 2021, p.217), 74,186 people with severe disabilities were benefiting from a personal assistant; this represented only 22% of all people with severe disabilities living in the family. Of all personal assistants, only 2% had been offered professional training since 2019.
- Not only does the institutional design of the benefit lead to regional or rural/urban disparities, due to the variable financial and administrative capacity of local authorities, but the design of the benefit also allows for discrimination between different categories of people with severe

disabilities. First, the indemnity and salaries for personal assistants of people with severe visual impairments are supported, and directly paid, from the state budget. This makes benefits more reliable and predictable. Second, invalidity pensioners must choose between the indemnity for a companion granted through the social insurance system and the personal assistant or equivalent indemnity granted as part of the legislation on the protection of people with disabilities. Although the social insurance indemnity has historically been lower than that offered as part of the general protection of people with disabilities, the former was more stable, without unexpected delays and regularly paid. Thus, invalidity pensioners have to choose between a more generous benefit and a more stable and predictable one.

Table A3. Healthcare needs and challenges faced by people with disabilities

Although in principle people with certified disabilities are fully covered by healthcare insurance, and thus entitled to all services, their access is limited compared with the rest of the population. A comparative analysis of the needs and challenges faced by people with disabilities, compared with the rest of the population, reveals that:

- 42% of all people with severe disabilities, and 18% of all people with some disabilities, reported unmet medical needs during 2018, compared with only 2% of those without disabilities; the percentage of unmet medical needs among people with severe disabilities was, in 2018, the highest across the EU Member States (WB, 2021, p.271);
- 26% of women with disabilities considered it was their decision to use contraceptive measures, compared with 36% of women without disabilities (WB, 2021, p.283, based on the WB survey of women aged 15-49);
- 25% of women with disabilities considered they did not have the choice to reject sexual contact with their partner, compared with 14% of the women without disabilities (WB, 2021, p. 283, based on the WB survey of women aged 15-49); and
- 17% of people with some disabilities, and 31% of people with severe disabilities, considered, in 2020, that during the previous 12 months they had been discriminated against or harassed when using healthcare services (WB, 2021, p.291).

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