



# Outcomes of the EMN Study

## *Migrant access to social security and healthcare: policies and practice*

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## Presentation will cover six items:

1. Background to the study
2. Objectives of the study
3. Rationale of the study
4. Relevant EU competences
5. Study's key findings
6. Conclusions

# Objectives of the study

- 1) Outline the formal EU and national rules that shape entitlements to social security and healthcare for TCNs.
- 2) Examine how these entitlements compare to the entitlements of MS nationals.
- 3) Investigate the administrative practices that determine how the formal rules on eligibility are applied in concrete cases (especially rules that have a discretionary element like the ‘habitual residence test’)
- 4) Identify the guidance provided to government officials to ensure the discretionary criteria are applied consistently;
- 5) Review the bi-lateral agreements that exist between EU MS and third countries that affect social security entitlements.

# MISSOC branches of social security

- **Healthcare**
- **Sickness cash benefits**
- **Maternity and paternity benefits**
- **Invalidity benefits**
- **Old-age pensions and benefits**
- **Survivors' benefits**
- **Benefits in respect of accidents at work and occupational diseases**
- **Family benefits**
- **Unemployment benefits**
- **Guaranteed minimum resources**
- **Long-term care benefits.**

# What the study does not cover

- Does not assess the take-up by migrants of the various social security payments, nor compare take-up by nationality
  - However background statistics on take-up have been included
- Does not cover certain groups of third-country nationals:
  - Mobile TCNs (including cross-border workers and posted workers)
  - Students
  - Asylum-seekers, refugees, persons who have been trafficked
  - Tourists and other kinds of visitors
  - EEA nationals and MS nationals (only as backdrop for the comparison)

# Take-up of social security by migrants

- Explaining variations in take-up in the literature:
  - *individual socio-economic characteristics;*
  - *immigrant-specific effects;*
  - *characteristics of the welfare regime*
  
- Findings based on national statistics on take-up;
  - *TCN have higher take-up rates than nationals in some Member States, but not in others;*
  - *Intensity of TCN welfare consumption compared to nationals varies depending on type of welfare benefits;*
  - *On balance, taking all benefits into account and all MS together, TCNs tend to be less intensive users of welfare relative to nationals (Barrett and Maitre, 2011)*

# EC legal competences: EU citizens

- EU competences are limited to the coordination of social security systems between Member States (Regulation 883/2004, as amended by Regulation 465/2012) → *Member States are free to regulate their own social security systems.*
- Aim of EU social security coordination is to ensure that citizens of the EU do not lose social security rights when exercising their right to free movement in the EU
- Based on four principles:
  - Principle of equal treatment
  - EU citizens only pay social security contributions in one country
  - Aggregation principle
  - Principle of exportability

# Social security provisions in EU Migration Directives: TCNs

- **Long-term residents Directive** (2003/109/EC) provides that third-country nationals holding EU long-term residence permits shall enjoy “**equal treatment**” with nationals of the MS as regards social security, social assistance and social protection as defined by national law.
- Similar provisions are found in:
  - **Researchers Directive** (2005/71/EC)
  - **Blue Card Directive** (2009/50/EC)
  - **Single Permit Directive** (2011/98/EU)
  - **Seasonal Workers Directives** (2014/36/EU)
  - **Intra-corporate transferees Directives** (political agreement 2014)



## **Key finding 1: EU Migration Directives appear to have influenced social security rights of TCNs in MS that have adopted these (DK, IE and UK have opted out)**

- LTRs have access to the same social security benefits as MS nationals in almost all MS;
- Blue Card holders also have a stronger set of social security rights than other short-term residence permit holders;
- Evidence of legislative changes in a number of MS in response to Single Permit directive;

## Key finding 2: There appears to be some connection between the type of financing mechanism and the ‘openness’ of social security benefits to TCNs

- While LTRs have access to all benefits across all MISSOC categories, TCNs holding fixed-term residence permits have more restricted access, especially to benefits financed through general taxation.
- Benefits under the 11 branches of MISSOC can be categorised in terms of the predominant method used by MS to finance them (see next slide).

## Key finding 2 (continued)



- A. Majority of MS rely on **contributions** to finance sickness cash benefits, invalidity benefits, old-age pensions, survivors benefits, benefits in respect of accidents at work → *equal treatment extends to TCN workers in most MS regardless of type of residence permit.*
- B. Majority of MS rely on **general taxation** to finance family benefits, guaranteed minimum resources (i.e. social assistance) and long-term benefits → *Restrictions to equal treatment for TCN workers on fixed term residence permits tend to apply.*
- C. Majority of MS rely on **mixed mechanisms** to finance public healthcare, maternity and paternity benefits and unemployment benefits → *equal treatment extends to TCN workers regardless of type of residence permit in most MS, except where role of taxation is important.*



### Old-age pensions (Group A – mostly contributory)

- Nine MS (CZ, DE, HU, LV, LT, SK, SI, ES): contributions are sole source of financing → access for all legally resident TCNs who fulfil conditions re employment contributions.
- Nine MS (AT, BE, BG, CY, EL, FR, LU, MT, NL) finance their statutory old-age pension schemes through mix of contributions and compulsory state participation → access for all legally resident TCNs who fulfil conditions re employment contributions.
- Seven MS (EE, FI, IE, IT, PL, PT, SE, UK) have ‘dual pension schemes’ i.e. earnings-related pensions alongside state-financed supplementary pension schemes → supplementary schemes restricted to LTRs (IT, UK) or to TCNs who fulfil length of residence conditions (EE, FI, IE, PT, SE).



### Family benefits (Group B – mostly tax-based)

- Vast majority of MS (20, including PL) rely on general taxation to finance family benefits
  - in eight of these, only TCNs with long-term residence permits (or EU Blue Cards) have access to family benefits
  - in ten of these TCNs with fixed-term residence have access, but must meet additional conditions (length of residence)
- Three MS (AT, BE, FR) use mixed financing mechanisms
  - access for all TCNs who contribute and meet residence conditions
- Two MS (EL, IT) rely on contributions from employees/employers
  - in IT, only TCNs with long-term residence have access; in EL, all TCN workers who make contributions



### Healthcare (in kind) (Group C – mostly mixed)

- Eight MS (FI, IE, IT, LV, PT, ES, SE, UK) finance public healthcare through general taxation → TCNs with fixed term residence permits have access as long as meet residence conditions (FI, SE, IE, UK); pay surcharge (IT); have no access (LV).
- Five MS (AT, DE, HU, LT, SK) finance public healthcare through contributions made by employee and/or employer → TCNs with fixed term permits have access if make contributions (except LT).
- Ten MS (BE, BG, CY, EE, EL, FR, MT, NL, PL, SI) finance public healthcare through mix of contributions and general taxation → TCNs with fixed term permits have access if they meet residence or contribution-based requirements (with some exceptions e.g. MT and SI access only to contributory benefits).

## Key finding 3: Member States use four legislative mechanisms to ‘control’ access of TCNs to social security benefits:

### 1. Migrant specific conditions:

- Especially required to hold long-term residence permits;
- Employment requirements to take up family benefits (AT, DE, IE)
- Specific work permits to take up unemployment benefits (IT)

### 2. Minimum residence periods

1. Old-age pensions (6 MS: FI, IT, LV, PT, SE, UK);
2. Unemployment benefits (3 MS: FR, DE, PL);
3. Guaranteed Minimum Resources (all MS except CZ, EE, EL, FI, FR, IE, NL, SK, SE, UK)



## 3. Restrictions on exportability of benefits:

- Maternity and paternity benefits (all except CZ, HU, LT, LU, PL, SK, SI);
- Family benefits (all except **PL**, SE);
- Unemployment benefits (all except LU, BE, MT)
- Guaranteed Minimum resources (all MS)

## 4. Minimum employment (or contribution) periods:

- Healthcare (only in FR, LT and LU for certain categories of TCN)
- Sickness cash benefits (all except CZ and FI)
- Old-age pensions (all, except BE, NL, **PL**; also not in EE and FI for guaranteed state pensions)
- Family benefits (only in EL, HU, IE and LU)

→ *The last three apply to TCNs and MS nationals alike, but may affect access to TCNs to a greater extent.*



## Key finding 4: Administrative practices advertently or inadvertently affect access of TCNs to social security

Three types of administrative practices in particular:

1. Use of discretion on the part of deciding officers e.g. when assessing residence status of TCNs (11 MS); or when applying a means-test (8 MS). Usually applied in the case of means-tested and non-contributory benefits only.
2. Claiming benefits (especially social assistance) can affect ability of TCNs to renew their residence permits (11 MS); apply for family reunification (14 MS); apply for naturalisation (9 MS)
3. Provision of translation and interpretation services

## Key finding 5: Bi-lateral agreements can help migrants from certain third countries qualify for social security benefits that they would not otherwise be eligible for

- All MS have concluded bi-lateral agreements, but there is wide variations in their material scope (i.e. benefits that are covered).
- Most bilateral agreements grant **equal treatment** between TCNs of contracting state and MS nationals; **right to export benefits**; and principle of **aggregation of periods of contributions**.
- Benefits covered are mostly contributory or mixed, in particular, old-age benefits and healthcare. Fewer bilateral agreements cover benefits that are predominantly financed through general taxation (especially social assistance and family benefits).

## Conclusions

1. Eligibility rules attached to social security benefits for TCNs vary significantly across MS.
2. Influence of equal treatment provisions in EU Migration Directives is significant, but these cover certain categories of TCN only.
3. There appears to be some connection between the financing mechanisms of specific benefit types and their openness to TCNs.
4. Administrative practices (especially use of discretion) can represent a greater hurdle for TCNs, even if they are applied equally to TCNs and MS nationals.
5. Bilateral agreements can extend access to social security for TCNs, but significant variation in their coverage means many TCNs may continue to lose acquired rights when they move out of the EU.



**Thank you!**

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