

Access of Migrants to Social Benefits in Hungary

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Basic notions

- Hungary follows the classifications prevailing within the European Union with regard to social benefits and the organisational framework of their administration. The following categories are used: social protection, social security, social insurance and social assistance.
- Insured persons pay social insurance contributions, employers welfare contribution tax to the social Funds. If necessary, the state provides for supplementary financial resources for these Funds.
- Hungary is not among the main receiving countries in terms of migration tendencies.

Main rule as regards migrants

- Access to social insurance benefits is a corollary to the exercise of **economic activity**.
- Access to social security benefits (family benefits and for the inactive persons also health care and unemployment benefits) and social assistance benefits (guaranteed income and long-term benefits) for those third-country nationals who are **not pursuing economic activity** is, as a main rule, subject to the effective registration of residence and possession of the EU Blue Card residence permit or permanent residence document.

Time-bound residence permit holders

- Persons with time-bound residence permits if they are workers or self-employed are entitled to insurance-based benefits: healthcare, sickness and maternity, invalidity, old-age, survivor's benefits, accident at work benefits, insurance-based family benefits.
- Persons with time-bound residence permits if they are not workers or self-employed are not entitled to social benefits in Hungary except in certain cases:
 - irregular child protection is extended to children of foreign nationals whose country of origin (nationality) has ratified the European Social Charter and who stay lawfully within the territory of Hungary.
 - Temporary social assistance is due to the same persons.

Long-term residents

- Entitled persons are, as a main rule:
 - third-country nationals holding long-term residence permits (*both in terms of Directive 2003/109/EC and as defined by national legislation*)
- They enjoy equal treatment with Hungarian nationals.
- If economically inactive, these persons are entitled to healthcare, family benefit and guaranteed income benefits and long-term care in the same ways as Hungarians.

Minimum preliminary periods

- There are requirements as regards minimum periods for entitlement in Hungarian law.
- Each migrant is regarded on his/her own right (there are no ,family' schemes, ,dependants' rights")
- These preliminary periods are different based on
 - The status of the migrant (fixed-term permit or long-term residence permit)
 - The concrete benefit in question.

The preliminary period can be attached to residence or employment (insurance).

Preliminary residence

- Social insurance benefits are not subject to minimum residence period if the person is economically active (health care, sickness, maternity and paternity, invalidity and old-age benefits is included).
- Economically inactive long-term residents can access every social protection scheme (family benefits, social assistance benefits) if they are registered in the address register.
- Economically inactive fixed-term residence permit holders are only entitled to two types of irregular benefits (for handling temporary difficulties).
- The residence condition is also set for Hungarian nationals (family benefits, healthcare, social assistance benefits).

Preliminary employment

- There are so-called qualifying periods in Hungary.
- There are maternity and family benefits, job-seeker allowance, benefits for persons with reduced capacity for work and old-age benefits where qualifying periods are existent – periods performed in Hungary.
- There is equal treatment between Hungarian nationals and third-country nationals.
- This issue is different from
 - The export of benefits and
 - The taking into account of benefits performed in other states.

Discretionary criteria

- The exercise of discretionary power as such within the social protection administration is strictly limited to means-tested benefits. In a process about granting a benefit for persons of active age or health assistance, for example, the clerk investigates the personal circumstances of the applicant (may be his/her family), whether s/he has **appropriate means of subsistence**.
- The deciding officer has little scope of margin, and it relates only to the judgement of the financial situation of the applicant. Other discretionary element is not existent in Hungarian social law.

Forms of support

- **Translation:** cases that are initiated by the third-country national by submitting an application do not entail the obligation of the administrative authority to order interpretation and cover the costs (the possibility exists of course). In *ex officio* proceedings, however, it is the administrative authority that covers the costs of translation, interpretation or sign language interpreter.
- **Certificates** issued in a Member State of the European Union – at any official languages – evidencing medical status, educational status or employment status can be accepted, certificates at any other languages can only be accepted if translated into Hungarian language.

Importance of information

- To help third-country nationals *separate forms* have been elaborated for them to apply for the benefits in English, German or French.
- There are in all cases *information leaflets* about the benefits, mostly in English. Due to projects funded by the European Integration Fund information was available in other languages as well.
- Provision of information in time is crucial hence benefits can be applied for retroactively in a limited manner. For example family benefits can be applied for only with a two-months long retroactivity. Healthcare insurance benefits can be applied for with a six-months long retroactivity, calculated from the day of submitting the application. Similarly, social insurance pensions can be applied for with a six-months long retroactivity, calculated from the day of submitting the application.

Extent of application of bilateral agreements

- Hungary has several bilateral agreements.
- The most extensively concerned field is the field of pensions.
- There are several thousand beneficiaries to whom the competent institution exports the benefit (almost 3000 only to the USA). These numbers show the eminent importance of these agreements in the field of pensions.
- Healthcare is the other field concerned. Here, only a couple of hundred cases were registered.

Single permit directive 2011/98/EU

- Article 12(2): [...] Member States may decide that point (e) of paragraph 1 with regard to family benefits shall not apply to third-country nationals who have been authorised to work in the territory of a Member State for a period not exceeding six months, to third-country nationals who have been admitted for the purpose of study, or to third-country nationals who are allowed to work on the basis of a visa.
- Third-country nationals possessing single permit and residing lawfully within the territory of Hungary will have access, from 1 January 2014 to non-contributory old age allowance, disability allowance and to all family benefits being enumerated in Act LXXXIV of 1998 on the support of families, **provided that the third-country national has been authorised to work in the territory of a Hungary for a period exceeding six months.**

Link between general immigration rules and social benefits

- On the one hand, permission and extension of residence is important, as according to related acts, one of the conditions of entry and residence exceeding three months is that a third-country national is required to be insured for full health care coverage or that s/he is capable of covering his/her health care costs, and
- to what extent can the various social benefits can be taken into account as part of financial resources, or, inverting the question, if a third-country national applies for social benefits, can it be regarded as an indication that the person concerned does not have adequate financial resources (and thereby his/her residence can be deemed unlawful)

Concerns

- Based on the information gained in the course of the research, third-country nationals usually avail themselves of a certificate about Hungarian social security legal relationship when the residence is being extended. This allows me to come to the conclusion that at the time of entry and during the first months of residence they do not affiliate (or not right away) to the Hungarian health care scheme, however, later they still resort to it either in a compulsory or a voluntary way.
- There is no such provision in Hungarian law, according to which the application for certain social protection benefits would result in the negative consequence, that the adequate financial resources could not be regarded as verified. Based on the information gained in the course of the research, in the immigration authority's practice examples have already occurred that when extending their residence permit, third-country family members referred to the fact that they received family allowance and/or child-care fee. The authority – together with other supplementary sources, acting in its discretionary power – regarded these benefits as parts of financial resources, and did not attach negative legal consequences to it.
- It is important to put adequate emphasis on this last statement.

**Thank you for your
attention.**