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A Comparative Analysis of the Portability of Social Security Rights within the European Union. Hungary-Austria case study

AT A GLANCE/KEY FINDINGS

- **Regulatory and institutional complexity contribute to uncertain and opaque decision-making and difficulties for migrants and decision-makers in most policy areas.**
- **The strict application of diverse residency requirements in Austria may generate inequalities in migrants' access to and portability of benefits.**
- **System differences and complexity create knowledge-gaps for migrants and uncertainty in decision-making, presenting barriers to access and portability especially in health, unemployment and some family benefits.**
- **Significant differences between Austria and Hungary in the treatment of residency may make it more straightforward for migrants to access their social security entitlements in Hungary.**

research by Professor Elisabeth Scheibelhofer, Dr Eszter Balogh and Nóra Regös (University of Vienna) shows that in the case of Hungary to Austria migration, ambiguity in practice, high levels of discretion, and some differences in approach between the two countries can create important barriers to the access and portability of social rights. With the exception of pensions, the restrictive residency requirements in Austria mean that residency is a prerequisite for accessing social benefits, and thus also for portability of social security rights.

RESEARCH FINDINGS IN CONTEXT

According to Statistik Austria, 1,146,078 foreign citizens lived in Austria on 1 January 2015, amounting to 13.3% of the total population. Just under half this number were from other EU member states, while 329,067 people were from the 13 member states which acceded since 2004. Austria is a federal state, historically dominated by contributions-based social protection. Individual provinces and autonomous social security institutions have high degrees of autonomy in relation to health insurance, which also affects some family benefits. In contrast, the Hungarian structure of social security institutions and regulations are more centralised. Key characteristics of its social security system are incentives for labour market participation and support for children. According to Eurostat (2015), per capita spending on social protection in Hungary is below the EU average, and levels of benefit are low, while in Austria, expenditure

THE TRANSWEL PROJECT

The TRANSWEL project analyses the regulations, practices and limitations of portability by comparing experiences of post-EU enlargement labour migration between four country pairs: Hungary–Austria, Bulgaria–Germany, Poland–UK and Estonia–Sweden. This



per capita is well above the EU average.

Overall, EU migrants' social protection in Austria is strongly shaped by residency requirements and their implementation. Expert interviews with NGO representatives indicate that the strict application of diverse and complex residency requirements in Austria has significant impact on EU migrants' social protection. Making contributions is a necessary but insufficient condition for migrant workers to access benefits. Meeting stringent residence requirements creates significant barriers to portability as it can make it difficult for migrants to generate entitlement to social benefits, particularly so for those migrants in temporary employment or who are highly mobile between the two countries.

Overall, and in comparison to other case studies, the institutional complexity of the Austrian system impedes portability and can generate inequalities. Our research found that individual migrants face uncertainty regarding their rights. This uncertainty is caused by the combined effects of complexities of the legal and bureaucratic system, and the high degree of discretion in decision-making. There are some contradictory interpretations of entitlement among Austrian and Hungarian experts, especially in relation to family and unemployment benefits. This indicates that in some cases it is not obvious whether the EU or the national regulation should be applied, nor which country's regulations should be invoked. This complexity is likely to favour educated migrants who can master the system more easily, as well as wealthy migrants who can pay for expert aid, and disadvantage those with poor access to information, lower language skills, in temporary or short term employment, and more mobile migrants who move more frequently between the two countries.

Social security system differences and complexity create knowledge-gaps and uncertainty in decision-making especially in health and some family benefits. In Austria, there are a high number of social security institutions and different welfare regulations that apply in the nine provinces, especially for health insurance and some family benefits. In Hungary the welfare institutions and welfare regulations are more centralised and hierarchical. This system difference can create problems of communication and co-ope-

ration between institutions of the two countries. Combined with the allowance of administrative discretion, this presents barriers for migrants to understand and secure their rights, especially those who are more mobile.

Significant system differences in the treatment of residency can affect access to social protection. Restrictiveness of access and portability vary between Austria and Hungary, due to the different conceptualisations and interpretations of residency, in all areas except pensions. In Austria, eligibility for benefits is heavily dependent on documentation of residency, for which the criteria are complex and differ by welfare branches. In Hungary, the documentation, registration and inspection systems for residence are being developed, which may make accessing social security rights in the Hungarian welfare system more straightforward for migrants.

POLICY IMPLICATIONS

The outcome of this research has a number of implications for policy makers:

- Portability of social security between Austria and Hungary in practice is shaped by regulatory and institutional complexity, especially with respect to residency in Austria.
- Transparency and efficacy of decision-making for both countries requires enhanced support for decision-makers, for example by a dedicated office with specialised support personnel and decision-making powers.
- New strategies to institutionalise communication between administrative and legal experts in Austria and Hungary would facilitate entitlement, access, and portability procedures between EU countries especially for more mobile migrants.
- Both EU and national authorities should facilitate access to NGOs and specialised legal support services for EU migrants.

METHODOLOGY

The research used an innovative methodology to generate and synthesise diverse data sources for



interpretive policy analysis. Each transnational country-pair was treated as a 'case' when assessing the regulatory frameworks of entitlement and portability. A common comparative framework was developed and applied to all country-pair cases. Data generation and analysis involved a) interrogation and analysis of legal frameworks, b) observations and clarifications from key informants on a regular basis, c) in-depth interviews with policy experts and policy makers, and d) integration, contextualisation, explanation of results in each country-pair case, and comparatively. In the Hungary-Austria country-pair case, seven in-depth policy expert interviews were conducted, and two in-depth interviews with legal aid experts, supplemented by ongoing consultations with administrative experts and advisors.

SOURCES

Eurostat (2015) Expenditure on social protection in PPS per inhabitant, 2012 (PPS) YB15.png, [http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Expenditure_on_social_protection_in_PPS_per_inhabitant,_2012_\(PPS\)_YB15.png](http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Expenditure_on_social_protection_in_PPS_per_inhabitant,_2012_(PPS)_YB15.png) Office for National Statistics

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