



## **EMN Ad-Hoc Query on 2019.7 Access conditions of TCNs to social benefits and grants**

Requested by Christelle CAPORALI-PETIT on 22 January 2019

### **Protection**

Responses from EMN NCP Germany, EMN NCP Latvia , Adolfo SOMMARRIBAS, EMN NCP Sweden, Viviana CAPRA, EMN NCP Hungary, EMN NCP Lithuania (7 in total)

#### **Disclaimer:**

*The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.*



## **Background information:**

The Directorate of Immigration of the General Directorate for Foreign Nationals in France (DGEF) within the French Ministry of the Interior has been requested by the Ministry to elaborate an overview of the conditions of access for TCNs to social benefits and allowances. The EMN NCPs drafted late 2018 an Inform on "social benefits and rights for beneficiaries of international protection". Consequently this AHQ applies to other categories of TCNs. We will use the responses provided for the Inform regarding the beneficiaries of international protection. You can complete the attached chart if this is more useful for you.

## **Questions**

- 1. Please detail the different types of grants and social benefits available to legally residing TCNs in your Member States (for example medical coverage, minimum income, benefit for disability, housing grant, family benefits, other)**
- 2. What are the conditions to benefit from these benefits and grants?**  
for example Length of regular residence, duration of a professional activity, family links, other
- 3. Are the conditions of access different depending on the type of residence permit issued?**
- 4. Can TCNs in irregular situation benefit from social benefits and grants in your Member State ? if yes which one?**

## **Responses**

### **EMN NCP Germany**

Wider Dissemination: Yes

*Heiko HECHT, EMN NCP Germany*

1. Lawfully resident foreigners are fundamentally entitled to basic security benefits for job seekers or - if they are unable to work - social security benefits. There is a general obligation to provide statutory health insurance. They are also eligible for housing allowances and family-related benefits, such as child allowances and educational grants.
2. Prerequisites for entitlement to benefits are that the foreigners must be lawfully resident in Germany and their permanent place of residence must be in Germany. The purpose and duration of their stay may affect the entitlement to individual benefits. Foreigners who are not employees or self-employed persons in Germany do not receive any basic security benefits for job seekers in the first three months of their stay, for example. Equally, these benefits are not available to persons whose right of residence is based solely on the purpose of seeking employment. The entitlement to child allowance applies only to specific purposes of residence which, in turn, require certain lengths of residence in some instances. Educational grants are conditional upon varying lengths of residence, depending on the purpose of residence. As a general principle, recipients of benefits in accordance with the Act on Benefits for Asylum Seekers (see answers to 3. and 4.)

receive only these benefits; they may additionally be entitled to educational grants, however. The requirements pertaining to specific benefits are further dependent on the purpose of the benefit concerned, e.g. support in taking up employment or family support.

3. Yes. Holders of a permanent residence title receive the same social security benefits as German nationals. The same also applies to holders of certain temporary residence permits, depending on the grounds for issuing such residence permits, one example being the residence permits which are issued to persons qualifying for international protection. In contrast, holders of humanitarian residence permits, which are issued from the outset for a temporary purpose of residence only, are granted the same benefits as persons who are obliged to leave the federal territory (see answer to 4.).

4. In accordance with the Act on Benefits for Asylum Seekers, persons who are obliged to leave the federal territory receive benefits to cover their necessities with regard to food, accommodation, heating, clothing, healthcare, consumer goods and daily commodities. In addition, necessary medical and dental treatment is granted for acute illnesses and painful conditions. The same applies to treatment and care relating to pregnancy and birth and benefits to cover special needs of children. After fifteen months' residence, the benefits are granted according to the same provisions of social legislation as apply to German nationals, provided that the foreigner has not abused their legal rights in influencing the duration of their stay.

## **EMN NCP Latvia**

Wider Dissemination: Yes

*Kitija KURSA-GARKAKLE, EU Member State Officials*

1. In Latvia there are two types of social allowances: state social benefits and state social insurance services. State social benefits are available only to TCN who has received permanent residence permit. Comparatively all TCNs who are employed and pay taxes are available state social insurance services which amount is depended on the amount of salary, from which social insurance contributions have been paid. Social benefits include: family state benefit, allowance to the family state benefit for a child with disabilities, allowance for child care, extra bonus assigned to the basic amount of the child care benefit of parent's benefit for the care of twins or several children born at a single delivery, disabled child benefit, child birth benefit, state social security benefit, allowance to compensate transport expenses of persons with mobility disabilities, benefit for a disabled person in need of care, state support for children suffering from celiac disease. More detailed information could be found online: [http://www.beglis.lv/uploads/files/pabalsti\\_patveruma\\_mekletajiem\\_eng.pdf](http://www.beglis.lv/uploads/files/pabalsti_patveruma_mekletajiem_eng.pdf) State social insurance services are: unemployment benefit, sickness benefit, maternity benefit, paternity benefit, parental allowance, old age pension, disability pension, survivor's pension granted to children of the deceased, insurance indemnity related to accident at work or occupational disease, funeral allowances. More detailed information is available <http://www.integration.lv/uploads/files/informativie-materiali/2018/vsaa-infografika-soc-apdr-en.pdf>

2. State social benefits are available only to TCN who has received permanent residence permit. Comparatively all TCNs who are employed and pay taxes are available state social insurance services which amount is depended on the amount of salary, from which social insurance contributions have been paid.

3. Yes. State social benefits are available to TCN who has received permanent residence permit. TCN holding temporary residence permits do not receive state social benefits. But in the case if TCN holding temporary residence permit works legally, he/ she can receive state social insurance services.

4. Irregularly staying persons cannot receive any social benefits mentioned before.

## **Adolfo SOMMARRIBAS**

Wider Dissemination: Yes

*Adolfo SOMMARRIBAS, EMN statelessness platform*

1. See attached table.

Clarification:

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2. See attached table to Q.1

3. The general access conditions apply to every third-country national legally residing in Luxembourg, as you can see for the attached table. Several types of residence permits because of their temporary nature limit the access to them (i.e. students). Also family benefits for students and seasonal workers are excluded as they do not have the right to family reunification.

4. No. The only possibility is if there is a postponement of removal for reasons that are not his/her making (article 125bis (2) of the amended law of 29 August 2008 on free movement of persons – Immigration Law) or postponement of removal for medical reasons (article 130 of the Immigration Law). These measures are not residence permits but they allow access to medical coverage (in the conditions indicated before) and will receive humanitarian relief aid (article 27 of the amended law of 18 December 2008 on social aid).

## **EMN NCP Sweden**

Wider Dissemination: Yes

*Marie BENGTTSSON, EMN NCP Sweden*

1. In Sweden everyone with a residence permit with a duration of more than one year is entitled to being registered in the population registry. Once registered there the person has the same social rights as everyone else living in the country.

2. A residence permit with a duration of more than one year.

3. No

4. Children are allowed to go to school. Emergency health care.

## **Viviana CAPRA**

Wider Dissemination: Yes

*Viviana CAPRA, EMN NCP Italy*

1. 1) Social benefits provided by Italian law are: - Maternity allowance for unemployed woman (art. 74 Law 151/2001): the amount of the allowance and the upper limit of income to enjoying this measure are established every year by the National Insurance System (INPS). The application has to be sent by the woman within 6 months of the birth of the child or of the effective entrance of the adopted son in the family. - Maternity benefit for employed mother with minimum funding requirements (art. 75 Law 151/2001). - Benefit for large families (art. 65 L. 488/98), with at least 3 children, on the basis of income levels. - C.d Bonus Bebè (birth grants, art. 1, comma 125 Law 23.12.14 n.190 - DPCM 27.2.15): for family with a child born or adopted after 1 January 2015 and with an income no more than

25.000,00 euro. - SIA – support for active inclusion (DM 26.5.2016 as modified by DM 29.4.2017): maximum of income no more than euro 3.000. The family has to adhere a personalized plan of social and working activation, planned by the municipalities. In practice, this is a credit card that allow the purchase of essential goods. - Income of Inclusion (law n.147/2017): instrument to combat poverty and social exclusion. The recognition of the benefit is conditioned to a preventive multilevel assessment of the need (elements taken into account: vulnerability of the family unit, personal and social conditions, job situation and housing conditions) as a result of which a personalized project has been elaborated. Also in this case, a certain limits of income have to be respected. - Shopping Card (art. 81, comma 32 law 133/08) with the aim to support families in economic hardship in which there are a component with more than 70 years old or a minor under three years old. - Award to the birth (cd. Bonus mamma domani) (art. 1 comma 353 law. 11.12. 2016 n. 232): 800 euro una tantum for all mothers seven months pregnant, without requisite of income or depending on residence permit. - Bonus day care (art.1 comma 355 L.11.12. 2016 n. 232): an annual voucher (1000 euro) provided by INPS after that a parent has submitted the documentation certifying the registration and the tuition payment to a public or private institutions. - Allowance to family unit (art. 2 L. 153/1988): economic support for workers in relation with their family composition. - Social allowance (art. 3 comma 6 L. 335/1995): for people over 66 years old, with an income lower than the minimum threshold annually provided by law. 2) Art. 34 of Law 286/1998 establishes the duty of registration to National Insurance System (SSN), the equal treatment and the full equality in the enjoyment of rights and duties compared to Italian citizens with regard to the medical assistance and the obligation to contribute, for all foreigners that reside legally in Italy for work and family purposes, for asylum, for subsidiary protection, for special cases (art. 18, 18 bis, 22 para. 12 quarter of Law 286/1998), for special protection (art. 19, co. 1 e 1.1 Law 286/1998), for medical care (art. 19, para. 2, lett d-bis Law 286/1998), for asylum application, for acquisition of citizenship. Moreover, this provision includes unaccompanied minor and dependent family members legally residing. 3) Foreigners - legally residing in Italy for at least 2 years or owner of a EU long term residence permit - who regularly work, have the right to access to public housing, to financial intermediation services to facilitate access to housing rental, to credit in the field of purchase and lease of the first house, at the same conditions of nationals (art. 40 para. 6 law 286/1998, art. 29 para. 3 Law 251/2007).

2. Each benefit has different conditions of access, depending on the type of measures and the objective pursued, such as described above (see Q.1). Article 41 of Law 286/1998, article 2 comma 1 of Law 328/2000 (framework law for the realization of the integrated system of social measures and services) and article 27 of Law n. 251/2007, with regard to the enjoyment of grants and social benefits, enshrine the principle of full equality between Italian citizen and those TCNs who have an EU long term residence permit or at least for one years. In practise, this regulation excludes only seasonal workers with short residence permits.

3. The possession of a certain type of residence permit is a precondition to the access to social benefits and grants. So, once verifying the eligibility of the residence permit to the access of a specific benefit, the conditions to enjoy that measure are the same for all the beneficiaries (such as number of children, level of income, etc.). In addition to nationals and EU citizens, social benefits and grants are guaranteed to foreigners as described in the table attached .

Clarification:

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4. In general, TCNs in irregular situation can't benefit from social benefits and grants, but with regard to the fundamental right to health (art.32 of Italian Constitution), article 35 para. 3 of Law 286/1998 extends the access to healthcare also to irregular foreigners. In particular, the law guarantees equal treatment as nationals in the field of the protection of: the pregnancy and maternity, the minor's health, vaccination, prophylaxis, diagnosis and treatment of infecting diseases. Moreover, the TCNs right to health care is strengthened by the provision that the access of an irregular foreign to an health facility should not lead to any kind of advisory to the Authority, except cases where a medical report is mandatory.

## EMN NCP Hungary

Wider Dissemination: Yes

### *Gabor Veto, EU Member State Officials*

1. Legally and permanently residing TCNs Legally and permanently residing TCNs are eligible for certain social security and other social benefits according to Act III of 1993 on social administration and social benefits; and Act LXXX of 1997 on the eligibility for social security benefits, private pensions and the funding of these services. If a TCN lodges an application for residence permit, according to the Act II on the admission and right of residence of third-country nationals, the applicant shall provide proof of having access to comprehensive health insurance services (in particular on the basis of specific other legislation on the social security system, international agreement, or under specific agreement), or that he/she has the necessary financial resources to cover the costs of such services. Refugees, beneficiaries of subsidiary protection As mentioned in section 1) paragraph 10 of the Act LXXX of 2007 on Asylum: unless a rule of law or government decree expressly provides otherwise, a refugee shall have the rights and obligations of a Hungarian citizen with exceptions set out in Subsections (2) and (3). As mentioned in section 1) paragraph 17 of the Act LXXX of 2007 on Asylum – except as set out in sections (2)–(4) –, unless a law or government decree expressly provides otherwise, a beneficiary of subsidiary protection shall have the rights and obligations of a refugee. Refugees, beneficiaries of subsidiary protection and admitted persons are entitled to stay in a reception facility for 30 days after their recognition. During this time, the social workers of the Immigration and Asylum Office help to get the personal documents and they contribute to finding accommodation opportunity as well. Unaccompanied minors who gained refugee or beneficiary of subsidiary protection status are accommodated in a children protection facility, so they fall under the child protection law. Aftercare support continues until the age of 25, in case the young adults are enrolled in education or if their cost of living is not guaranteed. Based on the Act LXXX of 2007 on Asylum Government Decree 301/2007 (XI.9.) if the refugee or beneficiary of subsidiary protection is not covered by any social security system, s/he is entitled to health care services, in accordance with Sections 26-28, for six months from the date the decision on his/her recognition becomes legally final. It means the following health care services: • basic health care services according to a special regulation, examinations and medical treatments by general practitioners • examinations and medical treatment for ambulant patients in case of emergencies, medicines, and bandages used in the course of treatment • hospital care in case of emergencies, the relating medical treatment ordered by the doctor – including operations, and medicaments and prosthetic means • after the ambulant or the hospital treatment, the asylum seeker shall be entitled to the required examination and medical treatment till his/her illness is cured or till the patient's condition is stabilized • according to a separate regulation they are entitled to medicaments and medical appliances that can be ordered free of charge or by 90 percent or 100 percent social assurance support for those entitled to public health care and cannot be substituted by any other means, • other medical appliances prescribed • dental care and dental treatment • prenatal care and obstetrics, abortion in accordance with the conditions defined in the Act on the Protection of Life of Embryos • compulsory vaccinations according to different ages Education for school-aged refugees and beneficiary of subsidiary protection children is provided in Hungary. Access to vocational training is granted on the same terms as for Hungarian citizens. Ministry of Human Capacities deals with – among others – with accreditation of foreign diplomas and certificates, and with the conditions of getting into the primary, secondary and tertiary education for refugees and beneficiaries of subsidiary protection. So it is possible to recognize qualifications obtained abroad, but for this, the original physical documentation has to be provided, a photocopy is not enough. Refugees and beneficiaries of subsidiary protection have access to accommodation opportunities labour market and social services as well. In these fields, assistance is provided by NGOs in cooperation with Family Support Service and Employment Affairs Centres. For instance, Baptist Integration Centre hosts refugee and beneficiary of subsidiary protection families, – including single mothers with children –, in the temporary home for families. Further information regarding the different supports and services (for example maternity allowance, child benefit) for refugees and beneficiaries of subsidiary protection are defined in the Social management and social benefits Act III. of 1993.

2. Legally and permanently residing TCNs TNCs are the beneficiaries of these benefits if they hold a valid residence permit for permanent residence (i.e. national permanent residence permit, EC permanent residence permit, interim permanent residence permit). Refugees, beneficiaries of subsidiary protection As mentioned above, refugees, beneficiaries of subsidiary protection and admitted persons are entitled to stay in a reception facility for 30 days after their recognition. Refugee or beneficiary of subsidiary protection is not covered by any social security system, s/he is entitled to health care services for six months from the date the decision on his/her recognition becomes legally final.

3. The following legally residing TCNs can access the benefits: • those who have a 'resident' status holding one of the aforementioned permits • those who have an 'immigrant' status • recognized refugees • TCNs who are victims of trafficking in human beings

4. Illegally staying TCNs are beneficiaries of emergency medical treatment only.

## EMN NCP Lithuania

Wider Dissemination: Yes

*Vytautas EŽERSKIS, EMN NCP Lithuania*

1. As regards to social security, third-country nationals (TCNs) holding a permanent residence permit have the same rights as LT citizens, therefore, they can receive the same benefits, such as unemployment benefits, support for a pregnant woman, reimbursement of the costs of permanent care, vocational rehabilitation allowance for disabled persons, retirement pension, etc. Holders of a temporary residence permit can only claim social security benefits based on contributions if they have worked for in the Law specified time. The following benefits and social services are available for such TCNs: sickness benefit, maternity (paternity) benefit, survivor's pension, benefits in case of accident at work or occupational disease. Foreigners who have been granted permanent residence permit in Lithuania start to participate in the Lithuanian Compulsory Health Insurance (CHI) system from the date of entry into the labor force and are obliged to pay PSD (compulsory health insurance fee) monthly. If they fall into a state-secured PSD group (e.g. students, persons who lost their job and registered at the labor exchange), the CHI is paid by the state. Foreigners holding a temporary residence permit who are not employed must have a private insurance or pay for any medical series.

2. Permanent residents can assess all services in the same manner as nationals. For temporary residents the duration of employment and contributions to social security system is taken into account. For example, unemployment social insurance benefits can be paid to persons who have worked in Lithuania under employment contracts for at least 12 months in the last 30 months. Maternity and paternity benefits and childcare allowance are granted to TCNs who have permanent residence permit in Lithuania, if they are employed for a minimum of 12 months in the last 24 months period. Child allowance is paid to parents who have a permanent residence permit, who arrived to Lithuania as highly qualified workers, who have a temporary resident permit and have worked for at least 6 months. Third-country nationals holding a temporary or permanent residence permit in Lithuania may be entitled to sickness benefits if they have been employed for at least 3/6 months during the last 12/24 months period. As regards to health care, TCNs holding temporary residence permit are entitled to state-funded health services only if they are employed. The state health insurance of such persons is valid for the entire period of their employment, if the contributions are paid in an orderly manner.

3. Yes, social benefits to third-country nationals depend on their legal status. TCNs holding a permanent residence permit in Lithuania have the same access as the citizens of the Republic of Lithuania in the field of social security. Foreigners holding temporary residence permits in most cases can only qualify for social security benefits that are based on contributions.

4. In general, social benefits and grants are not provided to TCNs in irregular situation.