



Social benefits and rights of citizens and non-citizens

Last 18 December 2015, the Swedish Riksdag submitted a request on "Social benefits and rights of citizens and non-citizens" to a number of National Parliaments through the ECPRD network (request 3007). The request specifically intended to highlight whether the countries' legislations distinguish between citizens and non-citizens when it comes to access to social benefits (e.g. healthcare, sickness cash benefits, unemployment benefits, old-age pensions, parental benefits, etc.). The request further investigated if there were other areas where the national legislations distinguished between citizens and non-citizens' rights. Ten National Parliaments (eight of them from EU Member States) replied to the request of the Riksdag. The outcome shows that social rights in almost all cases except for Denmark are not related to the citizenship but rather to the status of permanent resident. What follows is a summary of the individual replies of the responding National Parliaments

Austria: Social rights are based on legal residence in the country. The social security covers all workers who finance the system by their contributions. If the statutory requirements are met, all residents will be covered regardless of their citizenship. Also in the case of the unemployment insurance, the unemployment benefit and the unemployment assistance, nationality and citizenship are no prerequisites. A valid residence permit allowing the individual to take paid employment is. For that reason seasonal workers for example are excluded from these benefits. Needs-oriented guaranteed minimum income, which is paid to individuals who do not have adequate own funds to cover their needs, is available for individuals who are willing to work, regardless of their nationality. EU/EEA and Swiss citizens who have been legally residing in Austria more than five years are entitled to it. The same thing applies to third country nationals with permanent residence in the EU, to recognised refugees and to beneficiaries of subsidiary protection. Care allowance, which has the purpose to help support nursing-related additional expenses, is available provided that an individual needs permanent care and assistance, has a continuous need of more than 65 hours per month and has habitual residence in Austria to Austrian citizens and to individuals who are entitled to permanently reside in Austria and to their family members. Subsidies for disabled people are available to individuals who have domicile or habitual residence in the country and a degree of disability of at least 50 %. As far as social compensations are concerned, some of them are only for Austrian citizens (mainly war related pensions), others are available also to other nationals under certain circumstances.

Canada: Permanent residents in Canada have access to the majority of social benefits available to Canadian citizens, as long as they meet the specific eligibility requirements. These benefits include health care, employment insurance, parental and maternity benefits, child tax benefits, old age security, and the Canada Pension Plan. Only Canadian citizens can vote, run for office in elections, and be appointed as Senators. Non-citizens cannot hold some jobs that need a high-level security clearance.

Denmark: According to the reply from the Danish Parliament, there is a difference between citizens and non-citizens in Denmark, when it comes to the access to social benefits. Foreigners with a permission to stay who have not been resident in Denmark for an adequate amount of time and who cannot obtain the status of a migrant worker or a self-employed person in accordance with EU-law are granted integration benefits which are lower than the social benefits granted to Danish Citizens¹. Only Danish citizens may vote at the parliamentary elections and be elected. Only Danish citizens can be police officers. Differences in conditions of employment exist for civil servants depending on the citizenship.

Finland: Eligibility for Finnish social security is mostly based on permanent residence in Finland or on working. Besides, Finland has Social Security Agreements with several countries (the Nordic countries, the USA, Canada and Quebec, Chile, Israel, Australia, India). On the other hand only Finnish citizens can have an unconditional right to live and work in Finland, have right to vote in national elections and referendums and to be candidates in national elections (candidates for President of the Republic must be native-born Finnish citizens). Only Finnish citizens have right to sign and submit a Citizens' initiative for the enactment of an Act to the Parliament, Members of the Government (Ministers), can become police or military officers. There are also some other professions (e.g. judges) and civil service posts (e.g. the Secretary-General of Parliament, the Chancellor of Justice etc.) that are reserved for Finnish citizens only.

France: Social benefits in France are not linked to the citizenship but to the status of regular resident. Citizenship implies differences as far as electoral rights are concerned (the right of vote and to be elected).

Germany: Social legislation in Germany distinguishes to a certain extent between Germans, non-German EU citizens and non-EU citizens. In principle, non-German EU citizens have the same rights as Germans. This equality in principle also applies in most areas of social legislation for non-EU citizens with a permanent residence permit. According to the German Basic Law (constitution) the basic rights apply to everybody (e.g. human dignity, general freedom of action, freedom of faith, conscience and speech). Basic rights for Germans (e.g. freedom of assembly, freedom of association, freedom to choose an occupation), due to European integration, apply to nationals of EU Member States. Only Germans have the right to vote and stand as candidates in elections to the German Bundestag and the Land parliaments and the right to sign petitions or vote in referendums in the federal Länder. German nationality is also one of the requirements for becoming a member of the other organs of state (Federal President, Federal Constitutional Court). In the counties (Kreise) and municipalities (Gemeinden), non-German EU citizens are also in principle entitled to vote and to stand for election. The status of "federal civil servant" in Germany (e.g. to work for the Federal Police or for a federal ministry) is open to Germans, non-German EU citizens and also to a very limited degree to other non-Germans on the basis of various agreements. Only German citizens can become judges.

¹ People who are granted the status of permanent residents though receive social benefits equal to those of Danish Citizens

Hungary: The legislation entitles to health care (medical services and sickness benefits) and social benefits (unemployment benefits, old-age pensions, parental benefits) all those residents who are subject to social security coverage: EU citizens (family, employees), dual citizens, persons with permanent residential permit, persons with temporary residential permit (employed, students), refugees and protected persons (subsidiary protection status, tolerated status²), stateless persons. The legislation excludes from the health care benefits: “diplomatic and consular staff, foreign (non-EU) firms employees, persons with residence permit for official purpose (posting), foreign (non-EU) pensioners”. Only Hungarian citizens can vote in parliamentary elections and be elected. Citizenship is also a requirement for the highest public positions (President of the Republic, Prime Minister, Speaker of the Parliament, Ministers etc.). Only a Hungarian citizen can become police officer, civil servant, public security guard (ranger, hunter, public area inspector etc.), judge or prosecutor.

Netherlands: The rules regarding social security benefits apply to anyone who legally lives and/or works in the Netherlands. Citizens of a country that belongs to the European Union (EU) or of Liechtenstein, Norway, Iceland or Switzerland do not need a residence permit to live or work in the Netherlands. Citizens of other countries need to request a residence permit. Only citizens with Dutch nationality may vote and only citizens with Dutch nationality can be elected as members of the Dutch parliament. Only Dutch nationals can become police or military officers. The same applies to become a judge or a public prosecutor.

Norway: Access to welfare benefits in Norway are regulated by the membership of the National Insurance Scheme and not by nationality. A resident whose stay is intended to last or has lasted at least 12 months will be covered by the National Insurance Scheme (NAV). The National Insurance will cover all residing in Norway, regardless of whether they are gainfully employed or not. It may require a certain period of residence in Norway to acquire the right to benefits such as pensions. Citizenship gives the right to unconditional stay in the country, the right to vote in general elections, and the right to stand for election as Member of Parliament. State offices also require the Norwegian nationality. The same applies for some positions in the administration of Justice, for example judges. Seconded foreign officials and sent administrative personnel, police officers, military personnel serving in international operations must have the Norwegian Citizenship. Citizenship can affect the access to support from the State Educational Loan Fund. Furthermore, citizenship impacts the right to represent Norway in sports.

United-Kingdom: Eligibility for social security benefits in the United Kingdom is not generally determined by citizenship. Whether or not a person can claim benefits can depend on their nationality, immigration status, residence situation, and on their personal circumstances and family situation. Access to means-tested benefits and tax credits, to Child Benefit and to housing assistance is dependent on the claimant having a “right to reside” in the Common Travel Area (the UK, Channel Islands, Isle of Man or Republic of Ireland). European Economic Area (EEA) nationals satisfy the requirement if they have a right of residence under EU law (eg as a worker, self-employed person, or a person with a permanent right of residence. Claimants must be “habitually resident” in the Common Travel area before they can receive means-tested benefits, disability or carer’s benefits. For some

² A protection status based on a more general (not individualised) risk of harm in the country of origin. This status is valid for 1 year. People under this status get a humanitarian residence permit.

benefits – disability benefits, Carer’s Allowance and income-based Jobseeker’s Allowance – a set period of actual residence before the claim may also be required. A person’s entitlement to a UK state pension depends on their National Insurance (NI) contribution record while they were of working age. Access to free healthcare from the NHS is generally determined by residence. There is no citizenship test for foreign nationals applying to attend a state-funded school. There is no automatic entitlement to social housing (for example, provided by local authorities) for anyone in England, including British citizens.

Only British Citizens have the automatic right to live and work in the UK free of any immigration controls. Voting in parliamentary elections is restricted to British citizens and those citizens of the Republic of Ireland and qualifying citizens of Commonwealth countries who are resident in the UK. The same citizenship rules apply for candidates in parliamentary elections. To join the UK armed forces a person must be a British, Irish or Commonwealth citizen and should have been a UK resident for at least five years immediately before their application to join. To join the police a person must be a British Citizen, a citizen of the EU or other state in the EEA, or a Commonwealth citizen or foreign national with indefinite leave to remain in the UK. Only nationals from the following countries (or associations of countries) are generally eligible for employment in the Civil Service: United Kingdom, Republic of Ireland, Commonwealth, European Economic Area (EEA), Switzerland and Turkey (certain family members of EEA, Swiss and Turkish nationals are also eligible regardless of their nationality). Posts in the security and intelligence service are reserved for UK Nationals only. Appointments to the judiciary are open only to citizens (including those holding dual nationality) of the United Kingdom, the Republic of Ireland or a Commonwealth country.

British nationality is not a requirement for magistrates³, but a person must be willing to take an Oath of Allegiance to the Crown.

Directorate Relations with National Parliaments - Institutional
Co-operation Unit

www.europarl.europa.eu/relnatparl

Author, contact: Paolo Atzori, paolo.atzori@ep.europa.eu



³ Magistrates are volunteer judicial office holders who serve in magistrates’ courts throughout England and Wales. These courts normally handle less serious cases such as motoring offences, minor criminal damage or being drunk and disorderly, but they can also deal with some more serious offences like burglary and drugs offences.