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An International Comparison of Health, Social Care and Welfare Legislation and its Effect on Older British Nationals' Mobility in the European Union: A Summary Report

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INTRODUCTION

In May 2008, the European & International Unit for Age Concern England (ACE), supported by The Royal British Legion (TRBL) invited tenders for a mapped analysis of statutory health, social care & welfare provision in four Member States: Cyprus, France, Germany & Portugal. The research was to identify the rights of older British migrants in relation to the rights of nationals in these four countries & contribute to ACE's evidence-base through identifying where gaps in rights' occur following retirement migration. Dr Keleigh Coldron & Charlotte O'Brien successfully tendered for the work which started in June 2008. ACE & TRBL identified four key objectives that the research was to address: **(1)** to identify the rights to statutory health, social care & welfare provision that are lost on migrating from the UK. The health, social care & welfare services we are specifically concerned with are: all primary & secondary care health services, all social care appropriate to older people including community care & help with residential care & financial benefits that are available for older people; **(2)** to identify the statutory health, social care & welfare provision available for a retirement migrant in Cyprus, France, Germany & Portugal; **(3)** to identify if & where gaps exist between statutory provision in the UK & statutory provision in the host country & identify whether there is a disparity between the entitlements of a retirement migrant & the entitlements of a local national & if so, the reasons for this disparity; & **(4)** to provide some assertions as to whether retirement migrants are specifically disadvantaged or other migrants are equally disadvantaged.

Supported by country experts - Heloisa Perista & Alexandra Silva (Portugal), Dr Sam Scott (France) & Felix Pause (Germany) - the research has four main strands of analysis:

- A summation of the European legal background to benefit claiming as a migrant retiree, including a review of the material & personal scope of EC coordinating legislation & of equal treatment case law;
- A grounded analysis of the benefits & services older British citizens might retain or lose on migrating from the UK, through utilising domestic rules established to implement Community coordinating rules;
- Individual synopses on the health, welfare & social care benefits & services available to older British migrants in each of the four nations under consideration, & identify any possible problems our hypothetical retirement migrants might face in securing access to such services;
- Data synthesis as we attempt to pull these different strands together to unpack some broader questions about the implications of moving as an older British national.

This summary report outlines some of the key findings to emerge from that work - a full report is available on request.

A NOTE ON METHOD

Our approach to comparing the statutory health, welfare & social care benefits & services that are available for older British nationals in five Member States - the UK, Portugal, France, Germany & Cyprus - was guided by a method developed by Bradshaw & Finch (2002) in their comparative analysis of child benefit packages across 22 countries*. They proposed a series of 'hypothetical families' & appointed national informants who completed a policy questionnaire on child benefits & related services that were available in the particular countries. We selected three country experts to provide information on the benefits & services four different 'types' of older British nationals might be entitled to if they moved to those Member States. Our hypothetical cases were devised so that our experts could assess whether different personal circumstances - such as whether migrants retired early, or whether they had dual residences - shapes eligibility to benefits & services within each Member State. The cases we posed to our country experts were:

1. A married couple who took retirement in the UK at 65 & moved abroad immediately;
2. A married couple who took early retirement at 55, continued to reside in the UK for 10 years, & then moved to another MS;
3. A married couple who took early retirement at 55 & moved abroad immediately;
4. A married retired couple who spend six months in one MS & six months back in the UK residing with their children.

Previous research notes how the concept of 'retirement migrant' conflates a wide variety of different personal circumstances which shape eligibility to statutory health, social care & welfare schemes across the EU (Ackers & Dwyer, 2002; Dwyer & Papadimitriou, 2006). In posing these four different scenarios, we hoped to illuminate some of the different ways in which age & residence impacted on older British nationals' access to statutory benefits & services.

EUROPEAN UNION CITIZENSHIP & RETIREMENT MIGRANTS: A LEGAL ANALYSIS

Community coordination of social security is aimed at facilitating the integration of the economically inactive into host Member States. Post retirement migrants are treated as *economically inactive*: such migrants could claim equal treatment on the basis of citizenship, but this could jeopardise their residence rights. While this may not lead to expulsion, it may well lead them to be treated as ineligible for the benefits claimed. With regard to health care, post retirement migrants are not entitled to full assimilation with the host state public health system: rather they are eligible, if they fall within one of two categories, for NHS-funded treatment within the host state's public health sector. Social services may be capable of constituting social advantages, to which migrant workers are entitled on an equal basis with nationals, but even if they can be so categorised, that offers little reassurance to post-retirement migrants, who thus do not derive an entitlement to either host state social services, or to export national funding for social services, from EC law.

UK STATUTORY HEALTH, SOCIAL CARE & WELFARE PROVISION

A number of benefits are capable of being exported, however, several 'exportability gaps' were revealed. Contributory benefits are more easily exported than benefits which include an element of 'social assistance'. The exportability of Carer's Allowance, Disability Living Allowance & Attendance Allowance is under review, though it is already clear that such exportability is limited, with benefits related to mobility being considered non-exportable. Exportability usually depends on a claim already existing in the UK before moving or, in the case of a Winter Fuel Payment, on a previous receipt of the benefit. The state retirement pension, categories A & B, is an exception here, so long as the migrant is eligible the claim can be started, suspended (should the claimant wish to exercise the option to 'deretire') & restarted while in the EEA. Generally, however, there is difficulty asserting new claims, especially for the 'partly exportable' benefits, after having moved abroad. The only family benefits that are covered by Regulation 1408/71 as regards pensioners are family allowances, so child benefit would be covered & is exportable, but not child tax credit. Pensioners reliant on pension credit & who care for another adult may find themselves ineligible for a care related benefit, as those on a state retirement pension will not get Carer's Allowance - rather they may be eligible for a Carer's Addition to the non-exportable Pension Credit. As regards health, the biggest gap will be experienced by early retirees whose initial NHS coverage runs out before they are entitled to claim their state retirement pensions & get permanent coverage. Social care, including direct payments, is non-exportable.

COUNTRY CASE STUDIES

The research identified & described the statutory health, social care & welfare provision available for our 4 hypothetical retirement migrants in the four case study locations - France, Germany, Portugal & Cyprus - so that gaps in benefits & service provision for older British nationals who moved to those countries could be documented.

FRANCE: France is an especially interesting country case study given the increasing number of permanently resident Britons in France and, more controversially, the French government's u-turn on its decision to revoke access to state health care from early retired EU migrants resident in France:

- **Healthcare** - Inactive British residents in France are obliged by law to have health insurance if they are not covered by the state. Cover for non-working British nationals is by virtue of: them being a French citizen (after five years of residency); possessing a valid E121 or E106 form; or through being a dependent of a person legally entitled to state healthcare. The system is based on reimbursement. Private health insurance is likely to cost €2,000 per annum.
- **Social Care** - There is mixed provision for social services in France: unsurprisingly, very few services are wholly state funded & the void has been filled predominately by the voluntary sector, with partial funding from local health insurance boards. Assessments are means-tested & it is unlikely our hypothetical retirement migrants would qualify without invalidating their right to residency (through the 'sufficient resources' qualification).
- **Welfare benefits** - France does have a competent welfare system but most of its benefits are contributory & earnings-related. Our four hypothetical retirement migrants do not have a contributions record in France nor are they engaging in any paid employment whilst resident there which prevents them from accessing any benefits available to home nationals.

GERMANY: Recent data from the DWP suggests that over 33,000 UK state pensioners reside in Germany (Srkandarajah & Drew, 2006).

- **Healthcare** - There is a compulsory statutory health insurance programme - Krankenkassen - for almost all German residents who must join one of the 300+ insurance companies. Expect to pay around 14% of your total yearly income, regardless of whether or not you are a pensioner.
- **Social Care** - State-funded residential care services, home-care, respite care, home help, home adaptations, direct payments & meals (only if the recipient is over 65) are available to EU migrants in Germany. They are needs-assessed but, importantly, there is no contribution record required for these services - it is a universal right to all permanent residents of Germany.
- **Welfare Benefits** - Germany has a comprehensive system of welfare benefits for older citizens. The German system is not contributory so our four hypothetical retirement migrants are in a stronger position here to qualify for welfare benefits & services, but are means-tested & needs-assessed.

PORTUGAL: Portugal has the sixth highest number of British pensioners claiming a UK state pension in Europe (Srkandarajah & Drew, 2006).

- **Healthcare** - Portugal established a National Health Service in 1979 that guaranteed a universal right to healthcare (mostly free at the point of use) for all citizens. British nationals already 65 years of age & in receipt of state pension can have immediate access to the NHS. Younger retired British nationals will require private health insurance if they are not in paid employment.
- **Social Care** - There are scant state-provided social care services in Portugal. The services that are available - temporary & permanent accommodation, home care support services, & night care services - are strictly means-tested, & it is unlikely our hypothetical retirement migrants would qualify without invalidating the 'sufficient resources' qualification of their residency.
- **Welfare Benefits** - Two welfare schemes operate in Portugal: (1) a contributory social insurance scheme that requires contributions; & (2) a non-contributory but means-tested welfare assistance scheme that grants cash benefits (that are comparable to the UK's attendance allowance, pension credit, death grants, invalidity pensions & one-off

Christmas bonuses). In principle, EU retirement migrants would be eligible for these benefits, but the total household income would have to be lower than €4,800 per year for a single claimant.

CYPRUS: Cyprus is an increasingly significant receiver of older British migrants.

- **Healthcare** - Cyprus's National Health System is expected to be completed in early 2009, but the current system is mixed. There is a means-tested public health care system in Cyprus: free healthcare is guaranteed to individual Cypriot residents with an income of less than €15,459.
- **Social Care** - State-funded home-care services, day-care services & residential care services are delivered locally & are means-tested - applicants need to complete a Public Assistance application form & submit it to their District Social Welfare Services Office.
- **Welfare Benefits** - The Cypriot social security system is contributions-based - even though they are ordinarily resident in Cyprus, our hypothetical retirement migrants would be unable to claim funeral grants, sickness benefit, invalidity pensions, old age pension, widow's pensions and/or death payments. Cyprus's welfare system is about to undergo a major overhaul so this picture may change in the coming years.

CONCLUSIONS

The research uncovered some very real 'losses' retirement migrants would face should they move to another Member State - it is important that British retirement migrants are aware of these risks since their ability to fund their lives abroad may be severely hampered even before an imminent health or social care crisis occurs. We also feel that the available resources as to what UK benefits & services are exportable may serve to confuse people. Some may get confused about benefits being 'partly exportable' & not realise that for some of them that just means for temporary absence; it does not mean that they can continue to receive child benefit, for instance, for eight weeks after they move—because it is an intended permanent absence. It is the intention to make the move permanent which in fact renders some benefits un-exportable (like pension credit, also).

The project also explored the statutory health, welfare & social care benefits & services available to older British nationals in Cyprus, France, Germany & Portugal & revealed some worrying gaps: the contributory nature of most welfare systems (barring Germany) effectively means that our hypothetical retirement migrants who are without contributions records in their host Member States are ineligible to claim certain benefits & services that might be vitally important should their personal circumstances change whilst abroad. Moreover, it identified a possible conflict between the criteria for residency rights (possessing "sufficient resources") versus the social rights delivered through EU citizenship that grant access to health, welfare & social care benefits & services through means-testing (a declaration of "insufficient resources"). For retirement migrants, they are truly caught between a rock & a hard place: in order to secure their residency, they need to prove they have sufficient resources so not to be a burden on that Member State, at the same time, having those funds makes them ineligible for much social assistance should they need it. Nationals do not need to satisfy the 'sufficient resources' criteria so are not caught in the same situation. This is something the European Commission should explore further - the situation effectively disadvantages older retirement migrants seeking to move and reside freely within the EU.

REFERENCES & NOTES

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* We should point out our findings only provide a summary of individual services & benefits older British migrants might be entitled to in the particular Member States - it is not a reflection of practice in that it cannot give details of the 'packages' of different types of treatment under three different service headings (health, welfare & social care) for several different claimants in four different countries. Further information on this can be found in the full report.

FURTHER DETAILS

The full report - *An International Comparison of Health, Social Care & Welfare Legislation & its Effects on Older British Nationals' Mobility within the European Union* - is available on request from:

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