



REPUBLIKA SLOVENIJA  
MINISTRSTVO ZA NOTRANJE ZADEVE



## **EMN FOCUSED STUDY 2013**

# **Migrant access to social security and healthcare: policies and practice**

## **Slovene national contribution**

**January 2014**

**Authors:**

**Janez Pirc**, PhD, Institute for Ethnic Studies

**Romana Bešter**, PhD, Institute for Ethnic Studies



INŠTITUT ZA NARODNOSTNA VPRAŠANJA  
INSTITUTE FOR ETHNIC STUDIES

in cooperation with the Ministry of Interior of Republic of Slovenia

*Note: This study was harmonized with the competent representatives from the Ministry of Interior and the Ministry of Labour, Family, Social Affairs and Equal Opportunities of the Republic of Slovenia. It was completed on 29 January 2014 and it presents the situation on this date.*

## SUMMARY

The study represents a synthesized survey of structure, legal system, and partly also the practice of regulation and management of the social security system in Slovenia. The first chapter brings a short overview of objectives and methodology of the study as well as the definitions of some of the applied terms. It is followed by a brief presentation of the Slovene social security system in relation to non-EU citizens (NEC), encompassing social insurance (old-age and invalidity benefits, healthcare, unemployment benefits, maternity and paternity benefits), family benefits, the system of social assistance and subsidies in the field of education. Insurances are mandatory for all employed and self-employed persons. The social insurance system is mostly financed by social security contributions, paid by employed persons and employers; the other fields of social security are state-budget financed.

The Slovene social security system is also presented in a table embracing categories of social security, each of them exposing all the belonging programs and benefits, financial mechanisms and accessibility to NEC. Most benefits and programs, which are contributory financed, are available to NEC regardless of their residence status in Slovenia. Family benefits, minimum resources and partly long-term care are mostly only accessible to NEC with long-term residence permit and with registered permanent residence in the Republic of Slovenia (RS). This is related to the fact that these benefits are state-budget financed.

The third chapter brings a detailed analysis of seven categories of social security: healthcare, sickness cash benefits, maternity and paternity benefits, old-age pensions and benefits, family benefits, unemployment benefits and minimum resources. It brings a detailed presentation of the requirements NEC are obliged to comply with to be entitled to programs and benefits related to these categories. The focus is above all on:

- differences in requirements between NEC residing in Slovenia, with long-term and temporary residence permit;
- possible differences in requirements for NEC and citizens of the RS.

As for the healthcare, NEC with officially recognized status of foreigner in Slovenia should as a rule have mandatory health insurance, be they employed, self-employed or unemployed, meaning that their healthcare access rights are the same as those pertaining to Slovene citizens.

Conditions for the unemployment benefit during temporary absence from work in Slovenia are likewise related to the payments of contributions for mandatory health insurance, regardless of respective person's citizenship status.

NEC with employment status in the RS that are insured by the Parental Protection and Family

Benefits Act are entitled to parental leave, the same as Slovene citizens. The same applies to family allowance in the period of this leave if parents were insured before the start of the leave; one of parents is also entitled to part-time work until the child's third year.

NEC are entitled to invalidity pensions and benefits under the same conditions as RS citizens, provided they are insured by the Pension and Disability Insurance Act.

The right to old-age pension and benefits in Slovenia is tied to mandatory pension and invalidity insurance. Insurance is mandatory for all individuals employed in the RS or engaged in any profitable or other allowed business as self-employed. This right is related to minimum insurance period which should amount to 15 years at least for an individual to be entitled to old-age pension at age 65. The complex of these rights also includes the right to partial pension and yearly supplement for the retired. All these rights are exportable if a NEC moves back to his country of origin.

The situation, however, is different in the field of family benefits. As family benefits are state-budget financed, most of the six family benefits are only accessible to foreigners with registered permanent residence in the RS; two of them (parental allowance and partial payment for loss of income) are only accessible to citizens of Slovenia and citizens of the EU member states with registered permanent residence in the RS. However, with the anticipated change of legislation, in future these two benefits are expected to be accessible also to the NEC with registered permanent residence in Slovenia actually residing here.

Foreigners working in the territory of Slovenia are included into mandatory insurance for the case of unemployment. Conditions for the entitlement to unemployment benefits are tied to the length of payment of insurance contributions. However, NEC are restricted in the very conditions for the acquirement of the status of unemployed person which entitles one to the rights related to this insurance.

As the rights to guaranteed minimum resources are state-budget financed, they are tied to the RS citizenship and the sort of NEC's residence permit. Only those with long-term residence permit and registered permanent residence in Slovenia are entitled to financial social assistance. The same applies to cases of entitlement to supplementary allowance.

The fourth chapter of the study is focused on different administrative practices which – deliberately or undeliberately – affect the NEC's decision to apply for a certain benefit from the field of social security, as well as the efficiency of his claim. The study in this part focuses on presentation of cases where state officials have certain discretionary rights in the finding of NEC's entitlement to benefits in seven fields of social security, presented in the third chapter. This chapter of the study also clarifies the impact of benefit entitlement or application for individual benefits from social protection on NEC's options for acquirement or prolongation of residence permit or access to citizenship.

The fifth chapter focuses upon individual aspects of bilateral agreements on coordination of the field of social security, concluded by Slovenia with non-EU countries (among them Croatia which in the meantime has already become EU member). Agreements with Argentina, Australia, Canada and Quebec only refer to the field of pension and invalidity insurance, while agreements with other states (successors of the former Yugoslavia) also deal with other fields of social security. Agreements anticipate the possibility of adding up insurance periods in both contractor states if this is necessary to satisfy the conditions for acquirement of the right to a certain benefit in concrete field of social security. It is also foreseen that migrant workers working in one state are subject for up to 24 months to legislation of another state, in which they are employed or which is the seat of their employer. Agreements with the successor states of the former Yugoslavia also include different kinds of reciprocal measures from the field of healthcare, valid for insured persons and their family members. All the agreements anticipate the options of payment of certain benefits (pensions, parental allowance) pertaining to their fields in territories of other states.

With the purpose of better understanding of entitlement and access of NEC to social security benefits the sixth chapter of the study brings analyses of three case studies of different hypothetical situations referring to the NEC, who applied for some of these benefits in different fields of social protection. Some of the situations bring several different scenarios with regard to the rights NEC could be entitled to, and to the ways in which these rights can be put into effect.

The final part of the study brings a survey of accessible statistics for NEC residing in Slovenia, aged 15 years or more, according to status of employment and state of citizenship, with the objective of gaining insight into the current structure of employment and unemployment on the part of NEC in our country.

## 1. INTRODUCTION: OBJECTIVES, METHODOLOGY AND DEFINITIONS

### 1.1 Objectives

The present study strives to present – in a systematic and concise way – the system of social security in Slovenia in theory and practice in relation to programs and benefits that is accessible to non-EU citizens (NEC). It also presents legal grounds for the functioning of the system and its supporting financial mechanisms, thereby showing which groups of NEC are entitled to individual benefits and programs, particularly with regard to their status of residing in the Republic of Slovenia (RS). The study at the same time highlights the cases where NEC's rights are equalled to those of the citizens of Slovenia and the European Union (EU). It has to be added here, that the term *non-EU citizens* substitutes until now in the context of the EU established term *third-country nationals*.

The specificity and added value of the study is that – proceeding from selected practical cases – it presents the possibilities of access to individual social benefits for NEC living in Slovenia. The study is prepared for expert public (representatives of relevant state institutions) as for scholars and students engaged in the field of social security and insurance. It is especially useful because it considers departments of different ministries (healthcare, pensions and invalidity field, unemployment, parental protection, family benefits and social assistance) in charge of social security in the RS that are mutually intertwined in theory, yet often insufficiently coordinated in practice.

### 1.2 Methodology

The present National Report is based on the analysis of the Slovene system of social security, especially through studies of national and the EU legislation, as well as other related official documents concerning the RS. Especially helpful in the initial phase of the work was the European Commission brochure (2012), titled *Your Social Security Rights in Slovenia*<sup>1</sup>, bringing a brief description of the structure, extent and functioning of the Slovene system of social security. Some of the main branches of this system were further studied in detail on the basis of the analysis of legislation and other legal acts.

Also analysed were the websites of some state institutions, which are competent for individual branches of social security; moreover, within these, practical procedures of the assessment of applicants' entitlement to certain social benefits were studied (with focus on NEC). Analysed in this

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<sup>1</sup> It has to be pointed out that this brochure - although published in 2012 – is already out-of-date at some points, for the reason that some legal provisions were no longer valid at the time or were changed in the year the publication was issued.

way were the websites of the Employment Service of Slovenia, Health Insurance Institute of Slovenia and of the Ministry of the Interior. With the purpose of gaining insight into user's or rightful claimant's perspective regarding benefits from the sphere of social security – in our case NEC – we also analysed the informative websites, available to foreign citizens in relation to different fields, rights and duties, as well as conditions for residence in the RS:

- *Infotujci – Information for foreigners*. Ministry of the Interior, <http://www.infotujci.si>;
- *Social Security*. Slovenia.si, <http://www.slovenia.si>;
- *Entry and residence in Slovenia*. Employment Service of Slovenia, [http://english.ess.gov.si/the\\_info\\_point\\_for\\_foreigners/entry\\_and\\_residence\\_in\\_slovenia](http://english.ess.gov.si/the_info_point_for_foreigners/entry_and_residence_in_slovenia);
- *The Rights of Foreigners in Slovenia* (booklet). Employment Service of Slovenia, [http://www.ess.gov.si/\\_files/644/zlozenka-praviceANG.pdf](http://www.ess.gov.si/_files/644/zlozenka-praviceANG.pdf);
- *Compulsory Health Insurance*. Health Insurance Institute of Slovenia, <http://www.zzzs.si/>.

Also analysed and mutually compared were the bilateral agreements of Slovenia with eight other states for the field of social insurance. With regard to potential deviations from or to reconciliation of Slovene legislation and practice with the regulations of EU in the field of social security we also analysed the European provisions and directives, relevant for this field. Also studied were some comparative studies of international organizations and institutions, as well as some expert papers, listed in Annex 2 of the EMN study documentation. They were not found useful for foreign citizens in Slovenia with regard to social security as they do not even mention Slovenia.<sup>2</sup>

As to different conceptual issues, we contacted the competent officials at the Ministry of Labour, Family, Social Affairs and Equal Opportunities, which is in charge of the major part of the implementation of social legislation in Slovenia. Moreover, representatives of some other competent institutions (Ministry of Health, Pension and Invalidity Insurance Institute of Slovenia, Health Insurance Institute of Slovenia, Community of Centres for Social Work and Centre for Social Work Ljubljana Bežigrad) were contacted for information. To acquire data for the 7<sup>th</sup> item of the study we also contacted the Statistical Office of the Republic of Slovenia. The latter was only able to provide statistical data for the period 2011/12, and not for the prior four years. This is due to the different and more complicated methodology of data collecting and processing in the respected period.

The present report can be understood as the most recent synthesized survey of structure, legal regulation, and partly also the practice of regulation and management of the social security system in Slovenia. As the major part of the most important relevant laws has been subject to changes since the beginning of 2010 – so due to the changing socio-economic situation in the state as due to the adaptations to standards and demands of the EU – this document is all the more important; not only does it take all these changes into account, it also points at the anticipated legislation changes in the near future. It is also a useful instrument for the resolution of different cases of practical (hypothetical) situations of NEC, as indicated in case studies in the 6<sup>th</sup> chapter of the study.

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<sup>2</sup> Exceptions – like the OECD Report *Pensions at a Glance* (2011) – are rare.

### 1.3 Definitions

**Long-term residence permit** is a permit a foreign national can acquire after a five-year uninterrupted habitation in the Republic of Slovenia, if he/she fulfils the conditions stipulated in the Aliens Act. The permit is issued without limitations regarding duration and purpose of living in the Republic of Slovenia.

**Actual residence** is the residence where a person actually lives (regardless of his/her registered permanent or short-term residence).

**Non-EU citizen (NEC)** – this term replaces in the EU context up to now established term *third-country national*.

**(Social) benefit** can be a certain financial income or other form of assistance on the part of state (municipality) with the purpose of improving applicant's social status.



## 2. OVERVIEW OF THE SLOVENE SOCIAL SECURITY SYSTEM AND HOW IT APPLIES TO MIGRANTS FROM NON-EU COUNTRIES

### 2.1. Overview of social security benefits and programmes and their financing mechanisms

**2.1.1. Please provide a narrative overview of the social security system in Slovenia, including a description of the institutional framework, key institutions involved, their main responsibilities and how they are coordinated.<sup>3</sup>**

#### **Organization of the social security system**

The social security system in Slovenia includes social insurance, family benefits, social assistance and subsidies in the field of education.

#### **I. Social insurance system**

The social security system encompasses mandatory pension and disability insurance, mandatory health insurance, unemployment insurance and parental protection insurance. Insurances are obligatory for all employed and self-employed persons. The social insurance system is mostly financed from social security contributions, paid by employees and employers; the other two branches (family benefits and social assistance) are state-budget financed.

##### **a) *Mandatory pension and invalidity insurance***

Mandatory pension and invalidity insurance covers insurance cases for age, invalidity, assistance and attendance allowance, disability and death. It is mandatory for employed persons, self-employed persons, farmers and certain other categories of persons engaged in specific activities. This insurance is administered by the Pension and Insurance Institute of Slovenia, which operates through a central office in Ljubljana, regional units and local branch offices. Its board of directors includes representatives of government, trade unions, employers' associations, pensioners, representative of persons disabled in work accidents and employees of the Institute itself. In Slovenia this field of insurance is formally regulated by the Pension and Disabilities Insurance Act (ZPIZ-2).

##### **b) *Mandatory health insurance***

Persons insured under mandatory health insurance are entitled to medical benefits (healthcare)

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<sup>3</sup> If not otherwise stated the overview of social security system in Slovenia is quoted from the publication *Your Social Security Rights in Slovenia* (2013, 4-5).

and monetary benefits, including sickness cash benefit and reimbursement of costs for medical treatment outside Slovenia. The system covers employed persons, self-employed persons, farmers, social security benefits recipients (including pensioners), and other persons residing in Slovenia as well as their family members. The Health Insurance Institute of Slovenia is the only provider of mandatory health insurance. It operates through regional units and local branch offices. Its board of directors is made up of employers' and insured persons' representatives. There is a possibility of voluntary supplementary health insurance (insurance for co-payments) for medical benefits not fully covered by the mandatory insurance. In Slovenia this field of insurance is formally regulated by the Health Care and Health Insurance Act.

**c) *Unemployment insurance***

The unemployment insurance scheme guarantees the payment of unemployment benefits. The competent body for this field is the Employment Service of Slovenia, which operates through a network of regional units and offices. Its board of directors comprises representatives of employers' organizations, trade unions and those employed at the Employment Service and government. Unemployment insurance also guarantees coverage of mandatory social insurance as well as pension and invalidity insurance (one year before the fulfilment of minimum conditions for the acquirement of the right to old-age pension according to pension and invalidity insurance). These rights are exercised in conformity with regulations concerning individual branches of social insurance (Art. 58 of the Labour Market Regulation Act); generally, this field is covered by the Labour Market Regulation Act.

**d) *Parental protection insurance***

Parental protection insurance comprises parental leave (maternity, childcare, paternity and adoption leave), parental benefits (maternity benefit, childcare benefit, paternity benefit, adoption benefit), the right of part-time work and coverage of social security contributions for employed persons, self-employed persons, farmers and some other categories of persons in the territory of the Republic of Slovenia (Art. 6 and 7 of the Parental Protection and Family Benefits Act (ZSDP). The rights are implemented in 62 regional centres for social work, their formal regulation being covered by the ZSDP.

**II. Family benefits**

Family benefits are cash benefits comprising: parental allowance, childbirth grant, child benefit, large family allowance, special childcare allowance and partial payment for loss of income. Parental allowance is financial assistance to parents who are not entitled to parental benefits after childbirth. Childbirth grant is a one-time cash benefit for the purchase of necessities for a newborn. Child benefit is a supplementary benefit intended for maintenance and education of a child. Parents or children are entitled to this benefit, provided their income per family member does not exceed the upper limit of the income class. Large family allowance is an annual benefit for families with several children. Special childcare benefit is a cash benefit for a child requiring special care

intended to cover increased costs arising from care for such child. Partial payment for loss of income is a personal income, received by one of parents who has ceased or reduced work to care for a child with a severe mental or physical disability (Parental Protection and Family Benefits Act).

According to current laws, the non-EU citizens can access to four types of family benefits: childbirth grant, large family allowance and childcare benefits are available to aliens who have long-term residence permit in the Republic of Slovenia and registered permanent residence there. The right to child benefit is available to one parent of a child with registered residence in Slovenia. This sphere is formally regulated by Parental Protection and Family Benefits Act.

### **III. Social assistance**

The Slovene social security system also provides different forms of assistance to persons finding themselves in unfavourable social situation:

#### ***a) Financial social assistance***

Financial social assistance is intended for satisfaction of minimum survival needs for the time of residing in RS in the amount providing for survival, in principle for definite time and depending on the amount of income, number of family members, property, savings, guaranteed care and possible guilt reason. It is the last kind of assistance allotted to an individual only after all possibilities of gaining means for living have been exhausted. Entitled to financial social assistance are those foreigners with long-term residence permit and registered permanent residence in RS, as well as persons with recognized international protection and their family members who acquired residence permit in the RS on the basis of family reunification and have registered permanent or temporary residence in the RS. This field is regulated by the Social Protection Benefits Act and the Exercise of Rights to Public Funds Act.

As a special form of financial assistance extra financial social assistance can be allotted too if it turns out that a person (or family) for reasons, which could or cannot be influenced, becomes materially threatened or proves extra living costs which cannot be covered by person's or family's own income. Also entitled to extra financial social assistance can be those foreigners with long-term residence permit and registered permanent residence in the RS, as well as persons with recognized international protection and their family members, who acquired residence permit in the RS on the basis of family reunification right, and have registered permanent or temporary residence in the RS. The field is regulated by the Social Protection Benefits Act and the Exercise of Rights to Public Funds Act.

#### ***b) Supplementary allowance***

Supplementary allowance for the period of residing in the RS ensures means for covering the living costs arising through sustained time period (lodging maintenance, replacing of consumer durables ...), which are not costs of the assurance of minimum life needs. Supplementary

allowance is meant for persons who cannot provide for their own material security due to circumstances beyond their scope of influence. Entitled to supplementary allowance are foreigners with long-term residence permit and registered permanent residence in the RS who are no longer economically active, are permanently incapable of work or permanently unemployable. The field is regulated by the Social Protection Benefits Act and the Exercise of Rights to Public Funds Act.

**c) Coverage of mandatory health insurance contribution**

Entitled to coverage of mandatory health insurance contribution are foreigners with long-term residence permit and registered permanent residence in the RS, and are also entitled to financial social assistance or fulfil the conditions for financial social assistance (regardless of guilt reason), and are not insured from any other source, defined by the law regulating health insurance. This field is regulated by the Exercise of Rights to Public Funds Act as well as by Health Care and Health Insurance Act.

**d) Coverage of difference to full value of healthcare treatment**

Entitled to the coverage of difference to full value of health treatment are foreigners with long-term residence permit and registered permanent residence in the RS, who are entitled to financial social assistance or fulfil conditions for financial social assistance, without being insured from any other source, defined by the law regulating health insurance. This field is regulated by the Exercise of Rights to Public Funds Act as well as by Health Care and Health Insurance Act.

**e) Municipal one-time social assistance**

This field is regulated by local communities and their legal acts. As a rule, entitled are residents of the municipality providing the assistance, if claimant has registered permanent residence in the territory of the municipality, urgently needs help due to momentarily unfavourable financial situation, and has already exhausted all legal options for the solutions of his social problem.

## **VI. Subsidies in the field of education**

**a) Reduced payment of kindergarten programmes**

Reduced payment of kindergarten for children can be claimed by parents (RS citizens and foreigners with registered permanent or temporary residence in the RS) if at least one parent is liable to taxation in Slovenia. In determining the amount of kindergarten costs parents' income and property are taken into account, defined by the Exercise of Rights to Public Funds Act or with regard to classification into adequate income group, respectively. The benefit is allotted for the period of one calendar year or until the change of facts and circumstances, affecting the recognition of the right. In exceptional cases when kindergarten programme payment could threaten person's social security or for other important reasons, centre for social work can stipulate reduced price of kindergarten. The field is regulated by the Kindergarten Act and Exercise of Rights to Public Funds Act.

**b) Subsidized meals for pupils and secondary-school students**

Entitled to fully subsidized meals are pupils and students, originating from families, where average monthly income (set in the Child Benefit Decree) per person does not exceed 53 % and 42 %, respectively, of net average salary in the RS. Students originating from families with average monthly income per person between 42 to 53% of net average salary are entitled to the subvention in the amount of 70 % and to 40 % if average monthly income ranges between 53 to 64 % of net average salary. This field is regulated by the School Meals Act, Social Protection Benefits Act and the Exercise of Rights to Public Funds Act.

**c) Subsidized lunches for pupils**

Pupils originating from families where average monthly income (set in the Child Benefit Decree) does not exceed 18 % of net average salary, are entitled to subventions in the amount of lunch price. The field is regulated by the School Meals Act, Social Protection Benefits Act and the Exercise of Rights to Public Funds Act.

**Competent institutions in the field of social security**

Ministry of Labour, Family, Social Affairs and Equal Opportunities supervises activities of the Pension and Invalidity Insurance Institute of Slovenia, Employment Service of Slovenia and centres for social work. Ministry of Health together with the Health Insurance Institute of Slovenia prepares programmes of health services for insured persons.

Family benefits, financial social assistance (extra financial social assistance), supplementary allowance and social services are provided by competent local centres for social work. Their supervision is in charge of the Ministry of Labour, Family, Social Affairs and Equal Opportunities which, if necessary, prepares internal instructions (also in relation to the use of discretionary right) and education, helping officials to provide claimants of these rights with consistent implementation of legal provisions.

**Financing**

The social insurance schemes in Slovenia are financed by social insurance contributions from insured persons and employers. The state takes care for the operation of different schemes of social insurance under the Art. 50 of the Constitution of the Republic of Slovenia. Unemployment and parental protection insurance are mostly state-budget financed. Family benefits, financial social assistance and supplementary allowance are entirely state-budget financed.

Most benefits which are contributory financed are accessible to NEC regardless of their residence status in Slovenia. Family benefits, minimum resources and partly long-term care benefits are mostly only accessible to NEC with long-term residence permit and with registered permanent residence in Slovenia. This is related to the fact that these benefits are state-budget financed.

**Table 2.1. Overview of the Slovene social security system in the MISSOC national guides as it applies to non-EU citizens (available benefits and programmes, financing mechanisms and accessibility).**

| ‘Branch’ of social security | Benefits and programmes included in each branch   | Financing mechanisms <sup>4</sup>  | Accessibility by non-EU citizens  |
|-----------------------------|---|--|---|
| I. Healthcare               | Urgent healthcare <sup>5</sup>  | Budget financing   | Yes   |
|                             | Access to medical treatment and (selected) medicines and medical aids, <sup>6</sup> covered by mandatory health insurance | Contributory financing   | Yes   |
|                             | Access to medical treatment and (selected) medicines and medical aids, <sup>7</sup> covered by voluntary health insurance | Contributory financing   | Yes   |
|                             | Contribution for mandatory health insurance   | Budget financing   | Yes (only NEC with long-term residence permit and registered permanent residence in RS) |
|                             | Coverage of the difference to full cost of medical treatment  | Budget financing   | Yes (only NEC with long-term residence permit and registered permanent residence in RS) |
| II. Sickness cash benefits  | Compensation of temporary loss of working capacity of economically active insured persons                                 | Contributory financing: up to 30 days of absence from work is usually paid by employer, from 30 days to 1 year is usually paid by the Health Insurance Institute of Slovenia | Yes   |

<sup>4</sup> If not stated otherwise the data source is the publication *Your Social Security Rights in Slovenia* (2012).

<sup>5</sup> Art. 7 of Health Care and Health Insurance Act.

<sup>6</sup> *Obvezno zdravstveno zavarovanje* (2013).

<sup>7</sup> *Obvezno zdravstveno zavarovanje* (2013).

|   |   |                               |   |
|---|---|-------------------------------|---|
| III. Maternity and paternity benefits         | Parental leave  | Mixed financing <sup>8</sup>  | Yes   |
|   | Parental benefits (during parental leave)   | Mixed financing <sup>9</sup>  | Yes   |
|   | Right of part-time work due to parenthood   | Mixed financing <sup>10</sup> | Yes   |
| IV. Invalidation benefits                     | Invalidity pension  | Contributory financing        | Yes   |
|   | Invalidity benefits (invalidity benefit, partial invalidity pension, disability allowance, occupational rehabilitation) | Contributory financing        | Yes   |
| V. Old-age pensions and benefits              | Old-age pension   | Contributory financing        | Yes   |
|   | Partial pension   | Contributory financing        | Yes   |
|   | Yearly supplement   | Contributory financing        | Yes   |
| VI. Survivors' benefits <sup>11</sup>         | Extra financial social assistance after a death of a family member  | Budget financing              | Yes (only NEC with long-term residence permit and registered permanent residence in RS) |
|   | Extra financial social assistance as an assistance for funeral expenses   | Budget financing              | Yes (only NEC with long-term residence permit and registered permanent residence in RS) |
|   | Widow's pension   | Contributory financing        | Yes   |
|   | Family pension  | Contributory financing        | Yes   |
|   |   |                               |   |
| VII. Benefits in respect of accidents at work | Work accidents benefits   | Contributory financing        | Yes   |

<sup>8</sup> Information was given by the Ministry of Labour, Family, Social Affairs and Equal Opportunities by e-mail on 7 November 2013.

<sup>9</sup> Same as the previous note.

<sup>10</sup> Same as the previous note.

<sup>11</sup> Publication *Your social security rights in Slovenia* (2012, 17) mentions the rights to indemnity and maintenance grant as survivors' benefits, yet this is no longer valid as these two rights are not included into the most recent legislation (Pension and Disability Insurance Act - ZPIZ-2). Indemnity and maintenance grant are only paid to those claimants to whom they were recognized before this law was put into effect (ZPIZ-2, Art. 402).

|                                 |                                    |                        |   |
|---------------------------------|------------------------------------|------------------------|---|
| and occupational diseases       |                                    |                        |   |
|                                 | Occupational diseases benefits     | Contributory financing | Yes   |
| VIII. Family benefits           | Parental allowance                 | Budget financing       | No <sup>12</sup>  |
|                                 | Childbirth grant                   | Budget financing       | Yes (only NEC with registered permanent residence in RS)  |
|                                 | Child benefit                      | Budget financing       | Yes (a child must have registered permanent or temporary residence in RS)   |
|                                 | Large family allowance             | Budget financing       | Yes (only NEC with registered permanent residence in RS)  |
|                                 | Special childcare allowance        | Budget financing       | Yes (only NEC with registered permanent residence in RS)  |
|                                 | Partial payment for loss of income | Budget financing       | No <sup>13</sup>  |
| IX. Unemployment benefits       | Unemployment benefit               | Mixed financing        | Yes   |
| X. Guaranteed minimum resources | Financial social assistance        | Budget financing       | Yes<br>- NEC with long-term residence permit and registered permanent residence in RS;<br>- Persons who can exercise this right on the basis of international instruments which bind RS |
|                                 | Supplementary allowance            | Budget financing       | Yes<br>- NEC with long-   |

<sup>12</sup> The expected modification of Parental Protection and Family Benefits Act should widen this allowance also to NEC with registered permanent residence in Slovenia who habitually reside here as well.

<sup>13</sup> The expected modification of Parental Protection and Family Benefits Act should widen this allowance also to NEC with registered permanent residence in Slovenia who habitually reside there as well.



|                    |   |                              |  |
|--------------------|---|------------------------------|--|
|                    |   |                              | term residence permit and registered permanent residence in RS;<br>- Persons who can exercise this right on the basis of international instruments which bind RS |
| XI. Long-term care | Assistance and attendance allowance                             | Contributory financing       | Yes (only NEC with registered permanent residence in RS)   |
|                    | Invalidity benefit  | Contributory financing       | Yes  |
|                    | Supplement for care and assistance                              | Contributory financing       | Yes (only NEC with registered permanent residence in RS)   |
|                    | Special childcare allowance                                     | Budget financing             | Yes (only NEC with registered permanent residence in RS) <sup>14</sup>   |
|                    | Choice of home care assistant                                   | Budget financing (municipal) | Yes (only NEC with long-term residence permit)   |
|                    | Partial payment for loss of income                              | Budget financing             | No <sup>15</sup>   |
|                    | Access to medical treatment (i.e. prolonged hospital treatment) | Contributory financing       | Yes  |

<sup>14</sup> A child must have registered permanent residence in the RS.

<sup>15</sup> The expected modification of Parental Protection and Family Benefits Act should widen this allowance also to NEC with registered permanent residence in Slovenia who habitually reside there as well.

**2.1.2. Additional social security benefits that are not included in the MISSOC national guide.**

| 'Branch' of social security | Benefits and programmes included in each branch           | Financing mechanisms         | Accessibility by non-EU citizens |
|-----------------------------|---|------------------------------|----------------------------------|
| Subsidies                   | Reduced payment for kindergarten                          | Budget financing (municipal) | Yes                              |
|                             | Subsidy for meals for primary and secondary school pupils | Budget financing             | Yes                              |
|                             | Subsidy for lunch for primary school pupils               | Budget financing             | Yes                              |

**2.2. Have creators of policy in Slovenia established link between policies of social security and immigration?** (i.e. is migrants' access to social security explicitly related to Slovenian integration policy? Is migrants' access to social security explicitly related to the Slovene policy of attracting highly trained immigrants?)

No.

**2.3. Are there any recent/planned changes of provisions regarding entitlement to benefits from the title of social security and programmes, stated in the second column of the above table which could affect the accessibility of these to non-EU citizens?**

Changes of certain laws from the field of social security are expected for the year 2014, which are changing or will change the regulation of some aforementioned benefits and programmes for all citizens of Slovenia, not only the NEC.

In accordance with the Act Amending and Supplementing the Social Protection Benefits Act (ZSVarPre) adopted on 21 November 2013, the rights of death grant and reimbursement of funeral expenses from the Health Care and Health Insurance Act are to be abolished. They will be substituted by new special forms of extra financial social assistance within ZSVarPre (Art. 24).

In accordance with the Act Amending and Supplementing the Social Protection Benefits Act (ZSVarPre) which was passed on 21 November 2013 and will be put into effect on 1 September 2014, the rights of death grant and reimbursement of funeral expenses from the Health Care and Health Insurance Act are to be abolished; they will be substituted by new special forms of extra financial social assistance within ZSVarPre-C; these are one-time extra financial assistance after family member's death and extra financial assistance as assistance with funeral expenses reimbursement (ZSVarPre-C, Article 24).

The Act Amending the Exercise of Rights to Public Funds Act (ZUPJS-C) which was passed on 21

November 2013 and was put into effect on 1 January 2014, brings expansion of entitlement to coverage of mandatory health insurance contributions also on foreigners with long-term residence permit, if they are entitled to financial social assistance or if they fulfil conditions for acquirement of financial social assistance and have registered permanent residence in the Republic of Slovenia (ZUPJS-C, Article 13).

Changes are also expected in the field of family benefits. For all kinds of these benefits the implementation of which so far depended upon NEC's registered permanent residence in Slovenia, an additional requirement will be put into effect according to the new draft of the Parental Protection and Family Benefits Act, i.e. the condition habitual residence of potential claimant – in most cases one of parents and/or child. Those in charge of habitual residence tests would be centres for social work; as to the procedure of implementation of this process, the draft only states that centres for social work will be able to »verify actual state also outside its working hours within provisions of the law regulating general administrative procedure, valid for invitations and handing. Visit can also be made without prior notice«. Especially important for NEC in the category of family benefits is that the proposed new variant of the Parental Protection and Family Benefits Act expands entitlement to parental allowance and partial payment for loss of income also with regard to NEC, as citizenship of Slovenia and the EU are no longer necessary for the acquirement of these benefits (Proposal of the Parental Protection and Family Benefits Act, 2013).

### 3. NATIONAL RULES ON ACCESS TO SOCIAL SECURITY BY NON-EU CITIZENS

*The previous section identified benefits in all branches of social security that are accessible to non-EU citizens in Slovenia; this section requires a more in-depth analysis of the conditions that apply to non-EU citizens in order to qualify for the benefits falling under the following specific »categories« of social security:<sup>16</sup>*

- I. Healthcare;*
- II. Sickness cash benefits;*
- III. Maternity and paternity benefits;*
- V. Old-age pensions and benefits;*
- VIII. Family benefits;*
- IX. Unemployment;*
- X. Guaranteed minimum resources.*

#### **3.1. Is a minimum residence period attached to any of the benefits that are accessible to non-EU citizens under the seven categories listed above?**

*Yes/No*

*If yes, please indicate:*

- *what is the minimum residence period in respect to each of the benefits. (If this minimum residence period varies for each category of migrants identified in Table 2.1 please state this is the case, and identify the minimum residence period for each category in respect of each of the benefits);*
- *whether the minimum residence period applies to non-EU citizens only, or also to nationals of Slovenia. (If the minimum residence period applies to nationals of Slovenia too, please state what the minimum residence period is for nationals in respect to each of the benefits).*

#### **3.2. Are any of the benefits from the above listed categories that are accessible to non-EU citizens exportable once the non-EU citizen returns to the country of origin?**

*Yes/No*

*If yes, please indicate:*

<sup>16</sup> These seven »branches« of social security were selected for in-depth analysis in this (and next section) of the study because of their particular relevance for migrants.

- *which benefits are exportable once non-EU citizens returns to his/her country of origin. (If the 'exportability' of the benefit varies for each category of migrant identified in Table 2.1, please state this is the case and describe which categories of migrant can benefit from this right in respect of each of the benefits);*
- *whether the rules regarding the 'exportability' of the benefits are the same for nationals of Slovenia who move to a non-EU country. (If the rules regarding the 'exportability' of the benefits vary between non-EU citizens and nationals of Slovenia, please specify what the rules are for nationals of your Member State in respect of each of the benefits).*

**3.3. Is a minimum employment period/ minimum contribution period attached to any of the benefits that are accessible to non-EU citizen under the seven categories listed above?**

Yes/No

*If yes, please indicate:*

- *what the minimum employment period / minimum period of insurance contributions is in respect of each of the benefits. (If the minimum employment period / minimum period of insurance varies for each category of migrants identified in Table 2.1, please state this is the case, and identify the minimum employment period/minimum period of insurance contributions for each category in respect of each of the benefits).*
- *whether the minimum employment period / minimum period of insurance contributions applies to non-EU citizens only, or also to nationals of your (Member) State. (If a minimum employment period / minimum period of insurance contributions applies to nationals of your (Member) State as well, please specify what the minimum employment period / minimum period of insurance contributions is for nationals in respect of each of the benefits).*

**3.4. Are migration-specific conditions (e.g. requirement to hold a particular residence permit, authorisation of stay or visa, a fixed domicile, requirement to participate in an integration course, etc.) attached to any of the benefits from the seven above listed categories, accessible to non-EU citizens?**

Yes/No

*If yes, please indicate:*

- *what the migration-specific conditions are in respect to each of the benefits. (If the migration-specific conditions vary for each category of migrant identified in Table 2.1, please state this is the case and identify the migration-specific conditions for each category of non-EU citizen with respect to each of the benefits).*

**3.5. Are there any other conditions (not already listed above), e.g. minimum or maximum age, means-tests, etc., attached to any of the benefits that are accessible to non-EU citizens under the seven categories listed above? In this question, please only identify any other conditions that are applied to non-EU citizens (and not to nationals of Slovenia).**

Yes/No

If yes, please indicate:

- *what the additional conditions are with respect to each of the benefits and specify whether the additional conditions vary for each category of migrants identified in Table 2.1.*

This chapter brings a detailed presentation of conditions (i.e. permanent/temporary residence in the RS, duration of employment, payment of contributions, minimum age, etc.) which have to be fulfilled by non-EU citizens (NEC) to be entitled to benefits in certain branches of social security in Slovenia. If conditions differ with respect to individual categories of NEC (persons with long-term residence permit, persons with temporary residence permit, employed, unemployed, family members), this is specifically indicated. It is also specifically indicated if conditions for NEC differ from conditions related to citizens of Slovenia. It is also indicated which rights and benefits from social security apply to NEC even in case they move back to their state of origin.

## **- I. Healthcare**

Access to services of public healthcare system in the RS depends on the fact whether individual is insured in accordance with the Health Care and Health Insurance Act (ZZVZZ). Non-EU citizens with legally regulated status of alien as a rule have mandatory health insurance as employed, self-employed, students or unemployed persons. Their family members are insured if they have registered permanent residence in Slovenia unless differently provided by international agreement (Art. 20 of ZZVZZ). According to the RS Government's standpoint from 1995, close family members of foreigners are insured as family members even in cases of holding only temporary residence permit in Slovenia, but only for the period of duration of this permit, and if all other conditions for the acquirement of this right are fulfilled.<sup>17</sup> Aliens with mandatory health insurance have the same access to healthcare as Slovene citizens. The Health Insurance Institute of Slovenia also guarantees payment of medical treatment to aliens who are not insured in accordance with the Health Care and Health Insurance Act if this is provided by international agreement (Art. 27 of ZZVZZ). Other aliens<sup>18</sup> are only entitled to free urgent treatment (Art. 7, ZZVZZ) which comprises "urgent acts of reanimation, preservation of life and prevention of aggravation of the injured or diseased person's health. The urgency of treatment is decided upon by personal physician or competent medical commission in conformity with the general act of the Institute" (Art. 25, ZZVZZ).

In case non-EU citizen with registered permanent residence in Slovenia is entitled to financial social

<sup>17</sup> The answer of the Health Insurance Institute of Slovenia to the question, posed through e-administration on 17 September 2009.

<sup>18</sup> These are aliens from states with which Slovenia has not concluded international agreements and aliens temporarily residing in the Republic of Slovenia or are travelling through the country and could not be provided coverage of medical treatment (ZZVZZ, Art. 7).

assistance or fulfils conditions for acquirement of financial social assistant, without having any other insurance, stipulated by the law regulating health insurance, his mandatory health insurance contributions are covered by the municipality of his permanent residence (Art. 13 of the Act Amending the Exercise of Rights to Public Funds Act (ZUPJS-C), which came into force on 1 January 2014; prior to this date this option was only guaranteed to RS citizens). The right of coverage of mandatory health insurance contributions is only allotted for a certain period of time. This period is defined with respect to circumstances which are the basis for the allotment of the amount of the financial social assistance. If a person already has recognized right of financial social assistance, in case of cessation of mandatory health insurance on other legal ground, he/she is entitled to this right from the first day following the expiry of health insurance on other legal basis. It is the centre for social work that by official duty decides upon this right at the filing of application for financial social assistance unless the applicant explicitly states he does not wish this right (ZUPJS, Art. 30, item 3). The right of mandatory health insurance contributions coverage is only allotted for the period, for which financial social assistance can be allotted (ZUPJS, Art. 30, item 5).

Non-EU citizens with long-term residence permit and registered permanent residence in Slovenia, receiving financial social assistance or fulfilling conditions for the acquirement of financial social assistance (provided the stated rights are not wholly guaranteed from mandatory health insurance or any other source), along with family members, insured after them, have – according to Article 29 of ZUPJS – the right of coverage of the difference to full value of health treatment (otherwise covered by voluntary health insurance). The difference to full costs of health treatment provides the RS from budget funds (ZZVZZ, Art. 24). The purpose of this measure is to wholly provide for the health care of insured persons, who do not have enough funds for the payment of voluntary health insurance, and are not wholly entitled to rights from mandatory health insurance on the basis of Health Care and Health Insurance Act. They are only entitled to coverage of the difference to full costs of health treatment for the period of receiving financial social assistance (Art. 29 ZUPJS). The coverage of health treatment is wholly provided to military and civil war invalids, with the difference above the level of mandatory health insurance guaranteed by the RS from state budget funds (ZZVZZ, Art. 24). Children are also entitled to wholly guaranteed rights from mandatory health insurance (ZZVZZ, Art. 23). It is the centre for social work that by official duty decides upon this right at the filing of application for financial social assistance unless the applicant explicitly states he does not wish this right. A centre for social work passes the information on the recognition of the mentioned right to the Health Insurance Institute of Slovenia and to the insurance company of the insured person's voluntary health insurance (ZUPJS, Art. 29).

## **- II. Sickness cash benefits**

Conditions for the acquirement of the right of compensation during temporary absence from work in Slovenia are linked to the payment of mandatory health insurance contributions and do not differ with regard to the citizenship of Slovenia. This field is regulated by the Health Care and Health Insurance Act (ZZVZZ).

The right of compensation during temporary absence from work belongs to (ZZVZZ, Art. 28):

1. persons employed in the Republic of Slovenia (RS);
2. persons in working relationship with employer with seat in the RS, sent to work or professional training abroad, having no mandatory health insurance in the state to which they were sent;
3. persons employed in foreign or international organizations and institutions, foreign consulates and embassies centred in the RS, unless differently stipulated by international agreement;
4. persons with registered permanent residence in the RS, working for foreign employers, without mandatory insurance with foreign holder of health insurance;
5. self-employed persons in the territory of the RS, engaged in economic or vocational activity as their only and chief profession;
6. persons owning private enterprises in the RS, having no insurance from other source;
7. farmers, their household members and other persons, engaged in farming activity in the RS as their only and chief profession, paying contributions based on the lump-sum amount, stipulated for pension and invalidity insurance.
8. top-level sportsmen and chess-players – members of sports and chess organizations in the RS, having no insurance from other source.

### - III. Maternity and paternity benefits

The rights from parental protection insurance in Slovenia comprise: the right to parental leave, the right to parental benefit in the period of parental leave and the right to part-time work due to parenthood.

Non-EU citizens (same as Slovene citizens) are entitled to parental leave if they are insured by the Parental Protection and Family Benefits Act (ZSDP). This is valid in the following cases (ZSDP, Art. 6):

1. if they are employed in the Republic of Slovenia (RS);
2. if they are in working relationship with employer seated in the RS, sent to work or professional training abroad, having no mandatory insurance in the country they are sent to;
3. if they are persons employed in foreign or international organizations and institutions, foreign consulates and embassies centred in the RS, unless differently stipulated by international agreement;
4. if they are self-employed persons in the territory of the RS, engaged in economic or vocational activity as their only and chief profession;
5. if they are managers of economic companies or directors of private institutions in the RS, having no other insurance;
6. if they are farmers, their household members and other persons, engaged in farming activity in the RS as their only and chief profession, having mandatory pension and invalidity insurance;



7. if they are unemployed, receiving unemployment benefit or monetary assistance from the Employment Service of Slovenia in conformity with regulations of unemployment insurance;
8. if after termination of employment they receive temporary absence from work allowance from the Health Insurance Institute of Slovenia in conformity with regulations of health insurance;
9. if they are receivers of parental benefit and are not insured on any other basis;
10. if they are entitled to social security contributions on the basis of part-time work due to parenthood;
11. if they are entitled to partial compensation of loss of income;
12. if they are unemployed, participating in public works.

Non-EU citizens (the same as RS citizens) are entitled to parental benefit in case they are entitled to parental leave and were insured by the Parental Protection and Family Benefits Act before the day of commencement of the respective type of parental leave. The right of parental benefit also belongs to persons without the right of parental leave if they were insured by this law at least 12 months in the three years before the implementation of the right of parental benefit (ZSDP, Art. 39). Calculation basis for the respective type of parental benefit is the average basis from which parental protection contributions in the last 12 months before the filing of the first parental leave application were deducted (ZSDP, Art. 41).

The right of part-time work which has to include at least half-weekly working obligation belongs (regardless of citizenship) to one of parents, who nurses and looks after the child until his third year (in cases of severe physical and mental impairment this right can be prolonged to child's 18<sup>th</sup> year of age). The worker enjoying the right of part-time work is guaranteed salary on the basis of actual working obligation by his employer, while the RS guarantees the coverage of social security contributions from the proportional part of minimum wage until the commencement of full working obligation. The RS pays for employer's and insured person's mandatory pension and invalidity insurance contributions, unemployment insurance contributions, parental protection contributions; as for the health insurance, the state pays contributions for the cases of sickness and injuries outside work, for the rights to medical treatment, and reimbursement of travel expenses (ZSDP, Art. 48).

#### **- V. Old-age pensions and benefits**

Entitlement to old-age pension and benefits in the RS relates to mandatory pension and invalidity insurance (obligatory insurance) (Pension and Disability Insurance Act - ZPIZ-2, Art. 3). Compulsory insurance applies to all individuals employed in the RS or engaged as self-employed into any profitable or other allowed activity (ZPIZ-2, Art. 14, 15).

This right does not directly relate to minimum residence period in the state, but to minimum insurance period. According to the ZPIZ-2) insured person qualifies for the entitlement to old-age

pension at age of 65 with at least 15 years of insurance period (ZPIZ-2, Art. 27).<sup>19</sup> There are no other specific conditions relating only to foreign citizens or non-EU citizens with this right. Qualifying conditions for partial pension are linked to entitlement to old-age pension (ZPIZ-2, Art. 40), the same applies to the yearly supplement pensioners are entitled to (ZPIZ-2, Art. 95).

The payment of these pensions and related rights abroad is provided for by the article 120 of ZPIZ-2:

1. Person qualifying for these rights who moves abroad permanently as a foreign citizen is paid the pension in foreign country, provided Slovenia concluded international agreement with this country, or if the respective country recognizes such right to Slovene citizens.
2. Person qualifying for these rights, citizen of the Republic of Slovenia, who moves abroad permanently, is paid the pension in the respective country.
3. In cases from the first and second paragraph of this article the person is obliged to provide to the Institute official habitation confirmation at least once in every calendar year. Confirmation should also be submitted by receiver of pension with permanent residence abroad whose pension is paid in the Republic of Slovenia.
4. The entitled person not acting in conformity with provision from the previous paragraph is temporarily terminated payment by the Institute. After submission of the claimed confirmation the payment is resumed, whereby all due non-paid amounts are paid with the first money order.

According to the Ministry of Labour, Family, Social Affairs and Equal Opportunities the RS nevertheless allows for the possibility of payment abroad even for states with no bilateral agreements, “if the situation makes it possible”.<sup>20</sup>

## **- VIII. Family benefits**

Family benefits in the RS comprise six kinds of cash benefits, most of which are only accessible to foreigners with long-term residence permit and registered permanent residence in RS. If the Government’s proposal on the changes of the Parental Protection and Family Benefits Act - ZSDP (which in the time of preparation of this study was in the parliamentary proceedings) will be adopted, every claimant of family benefits in future will be obliged to have actual residence in Slovenia.

According to the present regulations, two of the family benefits – parental allowance and partial payment for loss of income - are only available to parent and his child with the EU citizenship and registered permanent residence in the RS (Art. 59 and 85 of ZSDP and Art. 29 of ZSDP-A). The

<sup>19</sup> Regardless of this according to the article 27/2 ZPIZ-2 insured person (woman) in the period 2013-15 qualifies for old-age pension at the age of 63,5 or 65 years respectively.

<sup>20</sup> The information was given by Ministry of Labour, Family, Social Affairs and Equal Opportunities by e-mail on 21 October 2013.

proposed novel of the ZSDP expands the entitlement to parental allowance and partial payment for loss of income also to NEC, as Slovene or EU citizenship should no longer be qualifying conditions for these benefits (Proposal of the Parental Protection and Family Benefits Act, 2013).

All the other family benefits are available to individuals with registered permanent residence in Slovenia (in conformity with the proposed novel of the ZSDP in future actual residence in the RS will also be a qualifying condition):

- childbirth grant: one of the parents should have registered permanent residence in the RS (ZSDP, Art. 64);
- large family allowance: one of the parents together with children should have registered permanent residence in the RS (ZSDP, Art. 77);
- special childcare allowance: child should have registered permanent residence in the RS (ZSDP, Art. 81).

The only exception is child benefit to which parents are entitled if the child has registered permanent or short-term residence in the RS (ZSDP, Art. 67). The proposal of changes of the ZSDP anticipates, however, actual habitation of the child in the RS.

All the mentioned restrictions referring to registered permanent residence are based on the fact that rights of family benefits are budget-, not contributory financed. There are no other restrictions and conditions in the field of family benefits, referring specifically or exclusively to non-EU citizens.

## **- IX. Unemployment benefits**

Qualifying conditions for unemployment benefits in RS are tied to the payment of insurance contributions for the risk of unemployment. This field is regulated by the Labour Market Regulation Act (ZUTD) and the Employment and Work of Aliens Act (ZZDT-1). In conformity with ZUTD (Art. 54/1) foreigners, employed in Slovenia, are included into mandatory unemployment insurance. Non-EU citizens can only acquire the status of unemployed person in the following cases (Art. 8 of ZUTD and Art. 8 of ZZDT-1):

- if they have personal work permit with validity of three years or indefinite time;<sup>21</sup>
- if they are entitled to this right on the basis of concluded international agreement or with respect of the reciprocity principle;
- if they have free access to the Slovene labour market;<sup>22</sup>

<sup>21</sup> According to the new Employment and Work of Aliens Act (ZZDT-1) the category of personal work permit for indefinite time does not exist anymore.

<sup>22</sup> Free access to Slovene labour market is available to non-EU citizens who: are family members of the citizens of RS or other EU member state, EGP or Swiss confederation, having temporary residence permit for family member or visa for long-term stay in RS, proving their right of free access to labour market; have long-term residence permit in RS; have the status of long-term resident in other EU member state, after one year of residing in RS, until they have valid temporary residence permit in RS, which proves their right to free access to labour

- if they are victims of human trafficking or illegal employment;
- if they are EU Blue Card holders.

Job seeker can only acquire the status of unemployed person, entitling him to unemployment insurance benefits with registration at the Employment Service of Slovenia (ZUTD, Art. 10). Additional condition for unemployed person to assert these rights is at least 9 months of insurance period in the last 24 months before the commencement of unemployment (ZUTD, Art. 59). This condition applies to all persons, including RS citizens. Unemployment benefit is only paid to persons, residing in the RS territory, and to persons with long-term residence permit in RS, moving to other EU member state, in conformity with conditions from Regulation (EC) no. 883/2004 (Art. 64, 65).

#### **- IX. Minimum resources**

As the entitlement to minimum resources is budget-financed, it is linked to the RS citizenship or to the long-term residence permit, as well as to registered permanent residence in RS and actual habitation in RS. Claimants of monetary social assistance can only be those non-EU citizens with long-term residence permit and registered permanent residence in RS, which is regulated by the Financial Social Assistance Act (ZSVarPre, Art. 3) and by the Exercise of Rights to Public Funds Act. The same applies to entitlement to supplementary allowance (ZSVarPre, Art. 3). Entitled to financial social assistance and supplementary allowance can also be those persons who can claim these two social protection benefits on the basis of international acts obligating RS. Momentarily no such international act exists.

#### ***Financial social assistance***

Financial social assistance is intended for satisfying minimum existential needs in the period of residing in RS, in the amount which provides survival (ZSVarPre Art. 4); in principle it is given for limited time, depending on income, number of family members, property, savings, guaranteed care and possible guilt cause (i.e. non-registration at the Employment Service of Slovenia, imprisonment ...) It is the last assistance in the line that can only be allotted to individual after all options of acquirement survival funds have been exhausted. Entitled to financial social assistance can be (ZSVarPre, Art. 3):

- citizens of the Republic of Slovenia with registered permanent residence in RS,
- foreigners with long-term residence permit in the Republic of Slovenia and registered permanent residence in RS;
- persons with recognized international protection and their family members who on the basis of the right to family reunification were granted residence permit in the RS, and have registered permanent or temporary residence in the RS;
- persons who are entitled to claim financial social assistance and supplementary allowance on

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market; are of Slovene birth origin up to third generation in straight line, proving their right of free access to labour market with permit for temporary residence for foreigners of Slovene origin (ZZDT-1, Art. 9).

the basis of international acts obligating RS (these do not exist), if they do not have sufficient funds for living, property or savings, which could enable their survival, and are actively engaged in seeking solutions for their social problems.

Extra financial social assistance as a special form of financial assistance can also be allotted if it turns out that a person (or family) for reasons beyond his/her/its influence, becomes materially endangered or is faced with extra living costs, which cannot be covered by the respective person's or family's own income (ZSVarPre, Art. 33). Entitlement to extra financial social assistance depends on free assessment of the competent centre for social work official.

### ***Supplementary allowance***

Claimants entitled to supplementary allowance for the time of their habitation in the RS are guaranteed means for the coverage of existential costs arising through prolonged period (lodging maintenance costs, replacement of consumer durables ...), which are not costs for the coverage of minimum existential needs (ZSVarPre, Art. 4). Supplementary allowance is reserved for persons who due to objective reasons are not capable of providing for their own material security (ZSVarPre, Art. 2). Supplementary allowance can be claimed by (ZSVarPre, Art. 3):

- citizens of the RS with registered permanent residence in RS,
- foreigners with long-term residence permit in RS and registered permanent residence in RS,
- persons with recognized international protection and their family members who on the basis of the right to family reunification were granted residence permit in the RS, and have registered permanent or temporary residence in the RS,
- persons who are entitled to claim financial social assistance and supplementary allowance on the basis of international acts obligating the Republic of Slovenia, and are (ZSVarPre, Art. 49):
  - permanently unemployable or permanently incapable of work, older than 63 years (women) or 65 years (men), and are not economically active, and
  - are or could be entitled to financial social assistance or
  - their own or their family's income exceeds the census for financial social assistance but does not exceed the supplementary allowance census.

### ***One-time municipal social assistance***

This field is regulated by local communities and their legal acts. Entitled persons are inhabitants of the municipality providing the assistance, if claimant has registered permanent residence in its territory, and due to momentarily endangered material security (serious illness, incapacity of profitable work, elementary disasters and other specific circumstances threatening individual's or family's survival) urgently needs help of municipality, having exhausted all legal options for the solution of his/her social distress.

## 4. ADMINISTRATIVE PRACTICES AFFECTING NON-EU CITIZENS' ACCESS TO SOCIAL SECURITY

### **4.1. Are discretionary criteria applied within the administrative law / rules when assessing an individual claim for social security in any of the seven branches of social security in Slovenia? (for example a habitual residence test)?**

Parental protection insurance rights, family benefits rights, healthcare and health insurance rights and social protection rights are within discretion of competent officials in conformity with the General Administrative Procedure Act (ZUP), stipulating in Article 10 that facts, which are to be considered proven, are within discretion of official, in charge of procedure or in charge of deciding in administrative matter according to his/her own opinion, on the basis of scrupolous and thorough judgement of every separate piece of evidence and of all evidence together, as well as on the basis of the success of the entire procedure.

Competent officials in RS have certain discretionary rights in deciding upon claimants' entitlement to financial social assistance, extra financial social assistance and supplementary allowance.

Officials in centres for social work have the legal possibility to take the initiative to introduce the process of determining the habitual residence of an individual from the grounds and in the manner determined in the article 8 of the Residence Registration Act. This matter was pointed out to the centres for social work by the Ministry of Labour, Family, Social Affairs and Equal Opportunities' Circular no. 0075-25/2013 from 9 July 2013.<sup>23</sup>

In October 2013 the RS government proposed a change of the Parental Protection and Family Benefits Act, entitling centres for social work to certain discretionary rights in actual habitation tests in decision procedures of claimants' entitlement to family benefits.

### **4.2. Please identify the factors which a deciding officer must take into account when judging whether an applicant has met the above-listed discretionary criteria (e.g. habitually residence test). If these factors differ for individual benefits, please specify.**

In deciding upon entitlement to financial social assistance it is momentarily within free discretion of competent centre for social work official whether claimant is wholly or partially guaranteed assistance in the amount of minimum wage, because:

1. his property, taken into account in conformity with the Exercise of Rights to Public Funds

<sup>23</sup> This information was provided by the Social Work Centre Bežigrad, e-mail on 29 January 2014.

- Act (ZSVarPre), does not reach property value in the amount of 13.780 Euros (ZSVarPre, Art. 31, and ZSVarPre-C, item 6 of Art. 36<sup>24</sup>).
2. he is hospitalized for at least 30 days or is staying in another institution with guaranteed all-day care, and is not bound to payment or is not bound to payment of all, but only partial costs (ZSVarPre, Art. 31).
  3. lives with persons or is supported by persons, who are not family members by this law or has other means of survival (ZSVarPre, Art. 31).

If this is the case, financial social assistance to which a claimant could be entitled, is allotted in lower amount or is not allotted at all (depending upon monthly basic care or on value of property, whereby 1/3 of property value is deducted). On the basis of changed article 27 of the Social Protection Benefits Act, which will come into force on 1 September 2014, competent centre for social work official will be free to take or not take into account real estate, not inhabited by individual, which temporarily cannot provide for his survival due to circumstances beyond his influence (i.e. violence in family, against which legal procedure has been initiated in accordance with stipulations regulating family violence, initiated procedure of alienation or disassociation of real estate with the purpose of acquiring survival means, not lasting over 24 months) (ZSVarPre-C, Art. 18).

Regarding entitlement to extra financial social assistance, defined in Article 33 ZSVarPre, it is within discretion of the deciding officer whether claimant for extra financial assistance for a certain extra amount (which has to be stated in the application) due to objective reasons found himself materially endangered or faced with extra existential costs, which cannot be covered by his own or family's income.

Regarding entitlement to supplementary allowance, provisions in force for assessment of entitlement to financial social assistance in conformity with Financial Social Assistance Act (ZsvarPre, Art. 52) are applied for everything related to examination of family, family members, personal income, property, allotment, reduction, payment and increase of assistance and attendance allowance, adjustment of the amount of allotted supplementary care, prohibition of alienation or encumbrance of real estate, the owner of which is entitled to supplementary allowance, to the benefit of RS, competence of officials, finding reasons for non-allotment or non-entitlement.

As already mentioned, there is a legislation change proposal in parliamentary procedure which anticipates, regarding habitual residence tests - from now on a qualifying condition for family benefits - centres for social work to be verifying actual situation even outside their working time within provisions of the law, regulating general administrative procedure, valid for invitations and handing. Examinations will also be made without prior notice (Proposal of the Family Protection and Family Benefits Act, 2013). Detailed instructions with regard to decision making of centres for social work in these procedures are not made yet.

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<sup>24</sup> This provision of ZSVarPre-C will apply from 1 September 2014.

**4.3. Please describe any written circulars or guidelines that deciding officers receive in order to ensure the consistent implementation of the discretionary criteria (e.g. ‘habitual residence test’) to individual claimants in Slovenia. Please also state whether deciding officers receive specific training to support their work.**

If necessary, the Ministry of Family, Labour, Social Affairs and Equal Opportunities prepares internal instructions (including with regard to the use of discretion rights) and trainings to help officials to ensure consistent implementation of legal provisions to applicants for social security benefits.<sup>25</sup>

**4.4 Might claiming social security affect a non-EU citizen’s access to a residence permit renewal, application for naturalization, or for family reunification, where these aspects are dependent on an individual’s ability to be self-supporting?**

Applications for implementation of rights from the social security system or acquirement of benefits from this system do not have direct (negative) impact upon the options of non-EU citizens for residence permit renewal, naturalization or family reunification. Family and social protection benefits can even help non-EU citizens in proving sufficient funds for supporting family members in case of implementation of the right to family reunification. The current Aliens Act (ZTuj-2) stipulates in the third paragraph of article 33 that an alien may prove the fulfilment of requirement of sufficient means of subsistence by means which are provided by him-/herself with employment or rights from employment or insurance, with income from property, income from capital and from other sources or with the assistance from those who are obliged to maintain him/her, with the contract under which natural or legal person pays a certain amount for maintenance to alien<sup>26</sup> or in any other way. More specifics about fulfilling the condition of sufficient means of subsistence are determined in the Rules on the Method of Checking the Condition of Sufficient Means of Subsistence in the Process of Issuing Residence Permits. Article 9 of the Rules provides that in determining the means of subsistence, all the assets of the above article 33 received or held by aliens and their family members are taken into account. This means that the procedure for issuing residence permits for family members also takes into account the funding to which aliens and their family members are entitled under the law governing parental care or other means, to which an alien is entitled under the law governing enforcement of benefits from public funds.

In cases when receiving of certain social security benefits due to unemployment or incapacity for work lowers personal income of a non-EU citizen to the degree that the person no longer achieves the census of sufficient self-support funds, which is the qualifying condition for acquirement or renewal of residence permit, naturalization or family reunification, this of course indirectly affects the mentioned rights. According to the Aliens Act with regard to acquirement or temporary

<sup>25</sup> The information was provided by the Ministry of Labour, Social Affairs and Equal Opportunities .

<sup>26</sup> The new Aliens Act which is scheduled for autumn 2014 will cancel this contract. This information was provided by the Ministry of the Interior.



residence permit renewal, as well as acquirement of long-term residence permit in the RS, an alien has to prove sufficient self-support funds for the period of residing in the state or any other guarantee of support, monthly at least to the amount of basic minimum wage in the RS.

In case of loss of employment, unemployment benefit during the period of unemployment can be useful for a non-EU citizen in the naturalization procedure, as the demanded two-year period of continuous receiving of income is not interrupted in this way, this being the qualifying condition of material and social security from item 4 of the first paragraph of article 10 of the Citizenship of the Republic of Slovenia Act, required by the Decree on Criteria and Circumstances Establishing Conditions for Acquiring the Citizenship of the Republic of Slovenia through Naturalisation (Art. 3).

**4.5. Please indicate whether translation, interpretation or other forms of support are available to non-EU citizens wishing to access a social security benefit or programme in Slovenia.**

The rights from insurance for parental protection, the rights of family benefits, the rights from healthcare and health insurance and social security rights are decided upon by competent officials in conformity with the General Administrative Procedure Act, the article 62 (item 7) of which stipulates that clients and other procedure participants who have no command of the language of the procedure or cannot use it due to invalidity are entitled to follow the course of the procedure through interpreter. Officials are obliged to inform them about this possibility. However, the search of interpreter and coverage of costs of interpreting is their own expense.

Non-EU citizens with registered permanent or temporary residence in Slovenia facing social problems due to judiciary procedure costs and legal assistance costs are entitled to free legal assistance. This is only valid in cases when their monthly income or monthly average income per member of their family does not exceed the double amount of minimum wage (Free Legal Aid Act - ZBPP, Art. 13). To be entitled to free legal assistance claimant has to fill in application in prescribed form and submit it together with all necessary evidence to competent court or to district court of his permanent or temporary residence (ZBPP, Art. 34). After the application has been approved the claimant receives a special note for a lawyer. Lawyer can be chosen from the list of pro bono lawyers or among organizations with concession for offering free legal assistance (Smerokaz 2013, 92-93).

## 5. EXTERNAL DIMENSION OF SOCIAL SECURITY

*This section explores the bi-lateral agreements reached by Slovenia with non-EU countries for the specific purpose of co-ordinating social security.*

### **5.1. Have bi-lateral agreements on the co-ordination of social security been reached by Slovenia with any non-EU countries?**

Slovenia concluded bilateral agreements on social security with the following countries:

1. Croatia (signed 28 April 1997; ratification date: 28 October 1997; publication date: 21 November 1997; date of beginning of validity: 22 November 1997 – Uradni list RS, no. 71/1997 – MP (no. 21/1997); the agreement expired with Croatia's entry into EU on 1 July 2013.
2. Canada and Quebec (Canada signed 17 May 1998; Quebec signed 11 May 2000; - Uradni list RS, no. 80/2000 – MP (no. 21/2000).
3. Macedonia (signed 13 July 1998; ratification date: 23 March 2000; publication date: 21 April 2000; date of beginning of validity: 22 April 2000 – Uradni list RS, no. 35/2000 – MP (no. 10/2000).
4. Australia: (signed 19 February 2002; ratification date: 27 March 2003; publication date: 16 April 2003; date of beginning of validity: 17 April 2003 – Uradni list RS, no. 36/2003 – MP (no. 9/2003).
5. Bosnia and Herzegovina (signed 19 February 2007; ratification date: 2 April 2008; publication date: 15 April 2008; date of beginning of validity: 1 August 2008 – Uradni list RS, no. 37/2008 – MP (no. 10/2008); change Uradni list RS-MP, no. 3/2011).
6. Argentina (date of beginning of validity: 1 August 2009 – Uradni list RS, no. 37/2008 – MP (no. 10/2008).
7. Serbia (signed 29 September 2009; ratification date: 26 March 2010; publication date: 13 April 2010; date of beginning of validity: 1 November 2010 – Uradni list RS, no. 30/2010 – MP (no. 5/2010).
8. Montenegro (signed 8 October 2010; ratification date: 15 July 2011; publication date: 22 August 2011; date of beginning of validity: 1 January 2012 – Uradni list RS, no. 66/2011 – MP (no. 9/2011).

### **5.2. Please provide more information about the bi-lateral social security agreements that have been concluded by Slovenia, indicating whether the agreements:**

- i) allow a worker from a non-EU country to work in Slovenia while remaining subject to the social security legislation of the sending state;

Yes, almost all<sup>27</sup> bilateral social agreements include stipulations on posted workers which anticipate that posted workers from a non-EU country working in Slovenia can up to 24 months<sup>28</sup> be subject to legislation of non-EU country in which they work or where their employer is seated. In exceptional cases this period can be prolonged.

**ii) guarantee equal treatment in the system of the host state in respect of particular benefits (e.g. reciprocal healthcare arrangements);**

Agreements with Bosnia and Herzegovina (BIH) and Macedonia contain reciprocal measures in the field of health according to which insured persons from one contractor state with permanent residence in another contractor state are provided access to health treatment of the holder in place of residence by legislation, valid for this holder and to the burden of competent holder from the first state (Art. 12/3 in both agreements). This also applies to their family members (Art. 12/6 in both agreements). According to agreement with Macedonia (Art. 12/1) insured person having insurance in one contractor state has the right of medical treatment even during temporary residence in another contractor state if due to delayed treatment until return to the first state his/her life and health would be severely endangered. The agreement with BIH includes no such provision, yet all workers with temporary residence in another contractor state, having health insurance with competent holder in the first contractor state, are only entitled to urgent medical treatment in the second contractor state (Art. 12/1).

Agreements with Serbia and Montenegro provide for access to medical treatment in conformity with legislation of the second state and to the burden of competent holders from the first contractor state to the following categories of posted workers (Art. 12/3 in both agreements) regardless of their permanent or temporary residence: to workers, posted to another contractor state by employer seated in the first contractor state; to self-employed in the first contractor state, carrying out their activity in the second contractor state for a brief period; to posted workers working in state administration and to other public officials; to posted workers, employed in embassies and consulates. As for expensive medical treatment (orthopaedic and other aids, longer hospitalization), prior consent of competent holder is necessary unless delayed treatment would endanger life and health of insured person (Art. 12/4 in both agreements). Other persons with health insurance in the first contractor state are only entitled to urgent medical treatment during temporary residence in the second contractor state (Art. 12/1). Family members with health insurance with competent holder of one contractor state are entitled to treatment in another contractor state to his debt if they have registered permanent residence there. The extent, kind and manner of enforcement of services are defined on the basis of legal provisions of the holder in the place of permanent residence, while duration of rights and circle of family members are defined according to legal provisions of competent holder (Art. 12/8 of the agreement with Serbia and Art. 13 of the agreement with Montenegro).

<sup>27</sup> The only exception is the agreement with Australia.

<sup>28</sup> 60 months at the most (Art. 6/2) according to the agreement with Canada and Quebec. Time period is not foreseen in the agreement with Argentina.

**iii) allow social security benefits (e.g. state pensions) to be exported to the territory of another state;**

In conformity with bilateral agreements Slovenia exports pensions to which a person is entitled according to Slovene legislation to other states. Slovenia also pays pensions to the states with which it has no concluded bilateral agreements if situation allows for this.<sup>29</sup> All bilateral agreements allow for adding up of insurance periods in the field of pension insurance.

The right of monetary allowance for the time of maternity leave or parental benefits to person moving to another state is included in bilateral agreements Slovenia concluded with Serbia, Macedonia, BIH and Montenegro. These agreements also result in the right of adding up of insurance periods in both contractor states in the case of the right of monetary allowance for the time of maternity leave or to parental benefits. In calculating the preceding salary upon which the amount of parental benefits depends, only the salary, the claimant received in the contractor state ensuring the right of parental benefits is taken into account. According to the agreement with Macedonia the persons concerned are only entitled to monetary allowance for the period of maternity leave (Art. 19); according to the agreements with BIH, Serbia and Montenegro the persons concerned are also entitled to other types of parental benefits. Apart from maternity benefit, parental benefits in Slovenia also include paternity benefit, childcare benefit and adoption benefit (Parental Protection and Family Benefits Act - ZSDP, Art. 38).

Bilateral agreements with BIH, Macedonia, Serbia and Montenegro also provide for the adding up of insurance periods in both contractor states in case of rights deriving from health insurance and in the case of entitlement to unemployment benefit.

The allowances Slovenia does not pay to other states because the concerning rights can only be implemented in the territory of Slovenia, if the claimant has registered permanent (or in some cases short-term) residence in RS, are:

1. according to the agreement with Australia (Art. 7):
  - supplementary allowance,
  - assistance and attendance allowance,
  - monetary compensations related to invalidity, paid acc. to the Slovene legislation,
  - any other benefit not paid outside Slovenia acc. to Slovene legislation,
2. according to the agreements with Argentina (Art. 12), Canada (Art. 14) and Quebec (Art. 5):
  - supplementary allowance,
  - assistance and attendance allowance,
  - state pension,
  - monetary compensations related to invalidity according to Slovene legislation,

<sup>29</sup> Information was provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities by e-mail on 21 October 2013.

3. according to the agreement with BIH (Art. 5):

- unemployment benefits,
- reimbursement of funeral expenses,
- death grant,

4. according to the agreement with Montenegro (Art. 5):

- supplementary allowance,
- assistance and attendance allowance,
- invalidity benefits,
- state pension
- maintenance grant,
- invalidity benefit,
- reimbursement of funeral expenses,
- death grant and
- unemployment benefit,

5. according to the agreement with Macedonia (Art. 5):

- minimum pension,
- supplementary allowance,
- assistance and attendance allowance,
- invalidity and unemployment benefits,
- child benefit,

6. according to the agreement with Serbia (Art. 5):

- assistance and attendance allowance,
- invalidity related monetary compensation,
- state pension
- maintenance grant,
- invalidity benefit,
- reimbursement of funeral expenses,
- death grant and
- unemployment benefit.

**iv) contain any other provisions of relevance to the coordination of social security systems with non-EU countries.**

No.

**5.3. Please provide any information available on the extent to which no-EU citizens have invoked their rights under the bi-lateral social security agreements reached between Slovenia and non-EU countries.**

The data concerning pension and invalidity insurance as well as social security are not collected in Slovenia.

The available data for the branch of health insurance are presented in the table 5.3.<sup>30</sup> These are data on carried out urgent medical services insured persons from the states Slovenia has concluded agreements with, during their short-term stay in Slovenia claimed from the health treatment bearers who have contract with the Health Insurance Institute of Slovenia. As to Croatia, only cases registered up to 1 July 2013 are included, because the agreement was only valid till that date, which is the date of Croatia's entry into EU.

**Table 5.3: The number of the carried out urgent medical services insured persons from the states Slovenia has concluded agreements with, during their short-term stay in Slovenia claimed from the health treatment bearers who have contract with the Health Insurance Institute of Slovenia.**

| Year         | BIH        | Croatia    | Macedonia  | Serbia     | Montenegro <sup>31</sup> |
|--------------|------------|------------|------------|------------|--------------------------|
| 2011         | 33         | 147        | 67         | 30         | /                        |
| 2012         | 68         | 173        | 118        | 66         | /                        |
| 30. 9. 2013  | 42         | 122        | 81         | 51         | 16                       |
| <b>TOTAL</b> | <b>143</b> | <b>442</b> | <b>266</b> | <b>147</b> | <b>16</b>                |

Source: Health Insurance Institute of Slovenia

<sup>30</sup> The data were provided by the Health Insurance Institute of Slovenia on 7 November 2013.

<sup>31</sup> The Agreement with Montenegro only became valid in 2011.

## 6. CASE STUDIES

*In order to better understand the entitlements and access to social security by non-EU citizens arriving for the first time to Slovenia, for each of the case-studies below, please describe the decision making procedure, and whether the social security claims made by the non-EU citizens concerned would ultimately be successful in Slovenia. It is recognised that, in order to determine eligibility for the specific benefits in accordance with the rules of Slovenia, additional information about the particular circumstances of each case may be required. EMN NCPs are asked to identify the circumstances that would make it possible for the individuals concerned to access the benefits.*

**Case-study 1:** Tho and Lien, a married couple holding Vietnamese citizenship, aged 28 and 30, moved to Slovenia 10 years ago. They both hold long-term residence permits. Tho has worked in a car manufacturing company for the last 8 years, paying obligatory insurance contributions throughout this time. Lien has worked as a chef in the restaurant of a large hotel, also paying obligatory insurance contributions, for the last 2 years. Tho and Lien are expecting the birth of their first child in 6 weeks' time. Last week, the car manufacturing company where Tho works announced that they were making him redundant. Faced with the loss of Tho's income at a time when Lien would need to take time off work, following the birth of their child, Tho decided to apply for unemployment benefits while Lien applied for maternity benefits.

Lien as a non-EU citizen who was employed for the last 2 years and is now expecting a baby is entitled to parental leave and parental benefit. This branch is regulated by the Parental Protection and Family Benefits Act (ZSDP). According to article 6/1 Lien as a person in working relationship in the RS is insured for parental protection and thus entitled to parental leave (ZSDP, Art. 14).

Lien as a future mother is first entitled to maternity leave from the ZSDP; it lasts 105 calendar days, starting 28 days before the expected confinement date, set by gynaecologist (ZSDP, Art. 17, 19). It is used without interruption in the form of full absence from work (ZSDP, Art. 19). In the case study 1 it is mentioned that Lien and her husband expect their baby to be born in 6 weeks. In the implementation of the right to maternity leave it is important that worker – in this case Lien – informs employer about the intention of taking the leave 30 days prior to its commencement (ZSDP, Art. 16) or 58 days before the anticipated childbirth.<sup>32</sup> We can only assume that Lien already informed her employer as there are less than 58 days to the childbirth. In RS all these rights are put into force in competent centres for social work where the intention of starting the leave should also be announced 30 days before (*Starševski dopust* 2013). In the course of maternity leave the Vietnamese citizen is entitled to parental or concretely maternity benefit as she was employed and insured in the prior 2 years. Entitled to the benefit are persons who were insured by ZSDP before

<sup>32</sup> It is not stated anywhere in the law what consequences suffers the claimant if the information on the use of maternity leave is given to employer in less than 30 days before the planned commencement of the leave.

the start of parental leave or if they had at least 12 months of insurance age in the last 3 years (ZSDP, Art. 38, 39). Right after the expiry of maternity leave one of parents is entitled to 260 days of childcare leave and thus also to childcare benefit (ZSDP, Art. 26, 38, 39).

Tho as non-EU citizen with long-term residence permit in the RS and with 8 years of employment with the same employer is entitled to the right of registering at the Employment Service of the Republic of Slovenia as an unemployed person. This is stipulated by the Employment and Work of Aliens Act (ZZDT-1) stating in the article 9/2 that foreigners holding long-term residence permit in the RS are entitled to free access to labour market. This means that the concerned person can work in Slovenia without working permit, and according to article 8/1 such persons can be treated as unemployed.<sup>33</sup> According to the article 10 of the Labour Market Regulation Act (ZUTD) a person registered at the Employment Service is considered unemployed. Tho as a person in working relationship had to have compulsory unemployment insurance (ZUTD, Art. 54/1). The acquirement of this right is based exclusively on the payment of contributions (ZUTD, Art. 59/2). To implement these rights a person should have at least nine months of insurance period in the last 24 months before unemployment (ZUTD, Art. 59/1), so Tho who had been insured for the last eight years, is also entitled to these rights.

According to article 58/1 of ZUTD the following rights are based on mandatory and voluntary unemployment insurance:

- the right of monetary benefit for the case of unemployment;
- the right of coverage of contributions for mandatory social insurances;
- the right of the coverage of pension and invalidity insurance contributions one year before the fulfilment of qualifying conditions for old-age pension according to pension and invalidity insurance regulations.

Tho is entitled to six months of monetary benefit payment, valid for persons, whose insurance lasted from 5 to 15 years before the start of unemployment (ZUTD, Art. 60). According to article 119/1 of the Labour Market Regulation Act, an insured person is entitled to financial compensation with the first day following the expiry of legal relationship which served as the basis for mandatory and voluntary unemployment insurance, if the person registers at the Employment Service and files application for monetary compensation within 30 days after the expiry of insurance. If he/she applies for compensation after this time limit, the total duration of monetary compensation shortens for the calendar days following the 31st day after the expiry of mandatory or voluntary insurance to the day of filing the application.

<sup>33</sup> The possibility of implementation of status of unemployed person for non-EU citizens in RS is regulated so by the Employment and Work of Aliens Act (ZZDT-1, Art. 8, 9) as the Labour Market Regulation Act (ZUTD, Art. 8/2).



Case study 2: Jasmine is a single parent, aged 29, holding Filipino citizenship, who moved to Slovenia 2 and a half years ago. She has a 2-year old child (also holding Filipino citizenship) that lives with her and another child aged five that lives in the Philippines with Jasmine's mother. She holds a temporary/salaried worker residence permit that has been renewed once. Jasmine has worked as a nurse in a residential day-care unit in Slovenia for 2 and a half years. She sends a small amount of money every month to the Philippines to help support her daughter. Last month, Jasmine's employer announced significant cuts in staff salaries in response to budget reductions. Faced with a significantly reduced income, Jasmine has moved into a hostel as she can no longer afford to rent private accommodation. She has also been forced to halve the amount of money she sends to her family in the Philippines every month. She has decided to apply for family benefits and guaranteed minimum resources.

If Jasmine has lived and worked in Slovenia for two years and a half, her work permit should have been renewed twice (not just once as written in the text), as this form of work permit is issued for 12 months at the most in Slovenia (Aliens Act-2, Art. 25, 28). After two years of working in Slovenia Jasmine could have applied for personal work permit with validity of three years, which in case of employment loss would enable her to register at the Employment Service and would also entitle her to three months of unemployment benefit (Labour Market Regulation Act - ZUTD, Art. 8, item 2, and Art. 60).

On the basis of described situation Jasmine is only entitled to one kind of family benefit, i.e. child benefit for the child living with her in Slovenia with registered residence in Slovenia (in accordance with article 67 of ZSDP). She is not entitled to the child benefit for her daughter living in the Philippines. Unless she decided, based on the right of family reunification and family integrity (ZTuj-2, Paragraph 3 of Art. 47), to apply for a residence permit for her daughter as well and responsible authority, in this case administrative unit, issued a residence permit. The child benefit application should be filed at the local centre for social work. The centre decides on this right on the basis of applicant's and her family member's income. Jasmine being a single parent she is entitled to exceptionally high amount of child benefit. If her younger child (or both children) is not attending kindergarten she is entitled to exceptionally high amount of child benefit for a pre-school child who is not subject to pre-school education (according to the article 15 of the Family Benefits Application Procedure Act).

Jasmine is not entitled to guaranteed minimum resources, i.e. monetary social assistance, because she does not have registered permanent residence in Slovenia (Art. 5 of ZSV-UPB2 and Art. 3 of ZSVarPre).

**Case study 3:** Senghor is a high-skilled worker from Senegal. He arrived to Slovenia six years ago with a temporary residence permit arranged through the IT company that employed him. Senghor is single and does not have children, but has recently succeeded in bringing his elderly mother to the country on the basis of family reunification. Aged 80, his mother is entirely dependent on Senghor's income. Last week, Senghor suffered an accident at work that left him incapable of carrying out the work for which he was employed for a period of 3 years. He decided to apply for invalidity benefits, sickness benefits, family benefits.

It is evident from the described case that Senghor arrived to Slovenia six years ago on the basis of temporary residence permit. According to Slovene legislation he could already have applied for long-term residence permit after five years of living in Slovenia, yet we do not know if he has already acquired long-term residence permit. If he has this permit he is entitled to wider spectrum of rights than in the case of temporary residence permit.

The Aliens Act (ZTuj-2, Paragraph 3 of Art. 47) defines which family members of an alien shall be entitled to family reunification and the right of family integrity. In accordance with this, the ZTuj-2 does not allow family reunification for the parents of an adult alien who holds a valid residence permit in the RS. The competent authority may exceptionally consider other relatives of an alien as family members if the specific circumstances are in favour of family reunification in the RS (ZTuj-2, Paragraph 4 of the Art. 47). On this basis, we can assume that the competent authority issued a residence permit also for Senghor's mother on the ground of specific circumstances although it must be emphasized that such judgements are rare in practice.<sup>34</sup> The alien must, among other conditions also demonstrate that he/she has sufficient means of maintaining his/her family member – in this case his elderly mother.

As Senghor worked in Slovenia in the past years, he was subject to the Slovene mandatory health, pension and invalidity insurance system. He is therefore entitled so to rights from mandatory health insurance as to invalidity insurance rights. However, it is not possible to tell on the basis of the described case what exactly he is entitled to, as this depends on the degree of his injury and recognized invalidity degree, as well as on his age.

According to the Health Care and Health Insurance Act (ZZVZZ, Art. 23) Senghor, who was employed and subject to mandatory health insurance before the injury, is entitled to coverage of all costs of treatment and rehabilitation due to work-related injury. Likewise he is entitled to reimbursement of travel expenses if he has to visit a doctor or healthcare centre in another place, because there is no adequate physician or centre in the place of his employment or permanent

<sup>34</sup> The information was provided by the Ministry of the Interior.

residence, and also if he is referred or summoned to a place outside his permanent residence or employment place by personal physician, healthcare centre or medical board (ZZVZZ, Art. 40). If Senghor's injury prevents him from temporarily performing his work, he is entitled to allowance during temporary absence from work to the amount of 100 % of average monthly salary or of average contribution payment basis in the calendar year before the year of temporary absence from work (ZZVZZ, Art. 31). Personal physician or medical board can refer him to invalidity commission if his working capacity is not expected to be resumed (ZZVZZ, Art. 34).

If Senghor would be recognized a certain degree of invalidity due to injury, he would be entitled to invalidity insurance benefits. According to the described case he would probably be entitled to invalidity pension. His mother's age leads us to assume he could already be about 60 years old, maybe even 65, and at this age he could be receiving invalidity pension regardless of invalidity degree. According to article 41 of the Pension and Disability Insurance Act the right of invalidity pension belongs to:

- insured person with category I invalidity;
- insured person with category II invalidity who is not capable of full-time work without occupational rehabilitation to which he is not entitled as he is over 55 years old;
- insured person with category II invalidity who is not capable of at least four-hour part-time work without occupational rehabilitation to which he is not entitled because he is over 50 years old;
- insured person with category II or III invalidity who is not guaranteed adequate employment because he is already 65 years old.

If due to his injury Senghor is permanently unemployable or incapable of work, he could be entitled to supplementary allowance according to the Financial Social Assistance Act (ZSVarPre, Art. 7) if he has long-term residence permit and permanently resides in Slovenia. By supplementary allowance entitled person is provided means for the coverage of life expenses in the time of residing in the RS, which arise through a longer period (lodging maintenance costs, replacement of lasting consumer goods, etc.) and are not costs for the satisfaction of minimum life needs (ZSVarPre, Art. 4).

In case Senghor still has working capacity (Pension and Disability Insurance Act - ZPIZ-2, Art. 64) he can acquire the following rights from invalidity insurance according to his invalidity category and age: the right of occupational rehabilitation, the right of relocation, the right of part-time work at least 4 hours daily, the right of temporary allowance, the right of invalidity benefit, the right of partial benefit.

Senghor can claim the invalidity insurance rights at the Pension and Invalidity Institute of Slovenia. The procedure for the implementation of rights from invalidity insurance can begin at Senghor's proposal, but also upon the proposal of his personal physician or appointed physician. In consent with personal physician the procedure can also begin upon the proposal of occupational medicine representative. The claim for the start of the procedure can be given by written application or orally

(with minutes) at any regional unit of the institute. The procedure of the implementation of invalidity insurance rights is initiated when the institute receives application with complete working documentation of the insured person, along with medical documentation of his health and work capacity (ZPIZ-2, Art. 178).

As for the possible benefits Senghor could apply for due to his mother, it has to be mentioned that family benefits in Slovenia only include benefits related to parenthood or applicant's children. They are, however, not foreseen for the maintenance of applicant's parents, so Senghor and his mother are not entitled to any benefits from this source.

In case Senghor could not guarantee means in the amount of minimum income for himself and his mother with benefits, based on pension, invalidity and health insurance, he could be entitled to monetary social assistance according to article 6 of Financial Social Assistance Act, provided he has long-term residence permit and permanently resides in Slovenia. By monetary social assistance applicant is provided with means for satisfying basic needs in the amount which enables him to survive during the time of stay in the RS. If Senghor does not have long-term residence permit in Slovenia he is not entitled to monetary social assistance.

## 7. STATISTICS ON SOCIAL SECURITY PAYMENTS RELATED TO MIGRATION

*NCPs are requested to provide any available statistics referred to in section 7.1 below for the years 2007-2012 using the standardised tables provided in Annex 1.*

**7.1. Please present any available statistics on numbers of non-EU citizens employed, unemployed and inactive by national affiliation.**

**Table 7.1.1: Non-EU citizens, aged 15 or more, according to activity status and state of citizenship, Slovenia, 1 January 2011** (Source: Statistical Office of the Republic of Slovenia)

|   | Total        | Employed     | Unemployed  | Inactive     |
|---|--------------|--------------|-------------|--------------|
| <b>Citizens of non-EU countries - TOTAL</b> | <b>70926</b> | <b>48568</b> | <b>5597</b> | <b>16761</b> |
| Bosnia in Herzegovina                       | 36277        | 26623        | 2874        | 6780         |
| Kosovo                                      | 7576         | 5162         | 550         | 1864         |
| Macedonia                                   | 7554         | 4666         | 498         | 2390         |
| Croatia                                     | 7539         | 4443         | 622         | 2474         |
| Serbia                                      | 7138         | 4716         | 608         | 1814         |
| Ukraine                                     | 1126         | 691          | 139         | 296          |
| China                                       | 703          | 564          | 6           | 133          |
| Russian Federation                          | 558          | 317          | 44          | 197          |
| Montenegro                                  | 524          | 314          | 50          | 160          |
| Moldova, Republic of                        | 231          | 154          | 12          | 65           |
| USA   | 202          | 91           | 8           | 103          |
| Thailand                                    | 177          | 135          | 12          | 30           |
| Dominican Republic                          | 142          | 119          | 4           | 19           |
| Switzerland                                 | 81           | 17           | 1           | 63           |
| Turkey                                      | 77           | 47           | 4           | 26           |
| India                                       | 59           | 37           | 6           | 16           |
| Belarus                                     | 57           | 33           | 8           | 16           |
| Australia                                   | 57           | 23           | 3           | 31           |
| Albania                                     | 56           | 36           | 6           | 14           |
| Philippines                                 | 52           | 30           | 6           | 16           |
| Brazil                                      | 51           | 21           | 3           | 27           |
| Canada                                      | 45           | 23           | 2           | 20           |
| Japan                                       | 43           | 23           | 1           | 19           |
| Cuba  | 40           | 20           | 11          | 9            |
| Egypt                                       | 38           | 15           | 14          | 9            |
| Tunisia                                     | 33           | 15           | 7           | 11           |
| Iran (Islamic Republic)                     | 30           | 13           | 10          | 7            |
| Other non-EU countries                      | 460          | 220          | 88          | 152          |

**Table 7.1.2: Non-EU citizens, aged 15 or more, according to activity status and state of citizenship, Slovenia, 1 January 2012** (Source: Statistical Office of the Republic of Slovenia)

|   | Total        | Employed     | Unemployed  | Inactive     |
|---|--------------|--------------|-------------|--------------|
| <b>Citizens of non-EU countries - TOTAL</b> | <b>72112</b> | <b>46762</b> | <b>7398</b> | <b>17952</b> |
| Bosnia in Herzegovina                       | 36298        | 25521        | 3666        | 7111         |
| Kosovo                                      | 8343         | 4970         | 1071        | 2302         |
| Croatia                                     | 7761         | 4266         | 811         | 2684         |
| Macedonia                                   | 7710         | 4500         | 683         | 2527         |
| Serbia                                      | 6866         | 4538         | 605         | 1723         |
| Ukraine                                     | 1170         | 703          | 155         | 312          |
| China                                       | 691          | 541          | 9           | 141          |
| Russian Federation                          | 637          | 356          | 67          | 214          |
| Montenegro                                  | 568          | 322          | 75          | 171          |
| Moldova, Republic of                        | 225          | 147          | 24          | 54           |
| USA   | 208          | 81           | 13          | 114          |
| Thailand                                    | 186          | 139          | 8           | 39           |
| Dominican Republic                          | 139          | 104          | 6           | 29           |
| Switzerland                                 | 80           | 12           | 1           | 67           |
| Turkey                                      | 78           | 42           | 7           | 29           |
| Philippines                                 | 69           | 36           | 12          | 21           |
| India                                       | 67           | 44           | 5           | 18           |
| Belarus                                     | 65           | 36           | 7           | 22           |
| Australia                                   | 57           | 19           | 2           | 36           |
| Brazil                                      | 55           | 26           | 2           | 27           |
| Canada                                      | 53           | 21           | 5           | 27           |
| Japan                                       | 50           | 28           | 0           | 22           |
| Albania                                     | 48           | 24           | 8           | 16           |
| Cuba  | 47           | 21           | 16          | 10           |
| Tunisia                                     | 40           | 12           | 13          | 15           |
| Egypt                                       | 37           | 16           | 10          | 11           |
| Iran (Islamic Republic)                     | 33           | 13           | 8           | 12           |
| Nigeria                                     | 31           | 8            | 14          | 9            |
| Mexico                                      | 30           | 16           | 4           | 10           |
| other non-EU countries                      | 470          | 200          | 91          | 179          |

**7.2. Statistics/research on the take up of social security benefits among non-EU citizens (by type of payment by national group, duration in country, age, sex, for last five years)?** (To be collected by the Service Provider if available at EU level; EMN NCPs do not need to provide these statistics).

**7.3. The costs to Slovenia of providing social security benefits including healthcare to non-EU**

**citizens** (To be collected by the Service Provider if available at EU level; EMN NCPs do not need to provide these statistics).

## 8. KEY FINDINGS

The study describes in a systematic and concise way the social security system in Slovenia in theory and practice, relating to programs and benefits, accessible to non-EU citizens. The concrete analysis is mainly focused on the question which groups of non-EU citizens are entitled to individual benefits and programmes, and in which cases their rights are equal to those of Slovene or European Union (EU) citizens. It was with this purpose that the relevant legislation of the RS and partly EU was studied, apart from other official documents concerning Slovene social security system regulation.

Due to easier international comparability the study is structured according to pre-prepared division upon 11 categories of social security. The social security system in Slovenia which also includes non-EU citizens comprises social insurance, family benefits, social assistance system and subsidies in the field of education. Relating to non-EU citizens, the Slovene social security system is essentially divided in two clusters:

- a) Rights based on contributions payment. In this case the rights of non-EU citizens are as a rule equalled to those of Slovene and EU citizens. Usually these rights are linked to the fact that non-EU citizen has to have at certain period of employment and therefore paid mandatory insurance of several kinds (pension, invalidity, health, unemployment, parental protection). Most of the benefits and social programmes belong to this group. This frame also includes family members' insurance in the field of healthcare. Possible losses of the social insurance schemes have to be covered by the state.
- b) Rights, based on residence status. In this case non-EU citizens have to be holders of long-term residence permit and must have registered permanent residence in Slovenia. These rights are budget-financed, including two social security categories in principle: family benefits and guaranteed minimum resources.

However, the division of programmes and benefits within social security system into 11 categories, which was prescribed for the present study, does not include the right to subsidies in the field of education. Therefore, these were additionally analysed in the special table in the Chapter 2.1.2.

In future changes are expected in the Slovene social legislation which will also affect the accessibility of some social benefits to non-EU citizens. In the draft changes of the Parental Protection and Family Benefits Act, the novelty of the instrument of actual habitation of potential claimant of social benefits is foreseen. State officials in this field are expected to be given certain discretionary rights in the assessment of claimants' entitlement to family benefits. These changes are

also expected to bring the expansion of accessibility to family benefits for non-EU citizens with long-term residence permit, as non-EU citizens in future should also be entitled to parental benefit and partial payment of loss of income, which momentarily are only accessible to citizens of Slovenia or EU.

According to the results of the analysis of bilateral agreements on the coordination of social security, concluded by Slovenia with non-EU states, most of the potential social benefits in the RS are available to citizens of those non-EU states, from which the largest number of foreign workers in RS originate – Bosnia and Herzegovina, Serbia and Montenegro. Until recently Croatia was an important country of origin, but since its entry into EU on 1 July 2013, its citizens are no longer registered as non-EU citizens. Agreements with Argentina, Australia, Canada and Quebec only refer to the pension and invalidity insurance, while the agreements with other states, aforementioned successors of the former Yugoslavia, also deal with other branches of social security. Considering the high proportion of foreign citizens or non-EU citizens originating from Kosovo in Slovenia it might be well-founded to consider in the future also concluding some form of bilateral social security agreement between Slovenia and Kosovo.

In the concluding part of the study three cases of hypothetical practical situations of non-EU citizens who applied for benefits in certain branches of social security, are analyzed. All the three cases present the circumstances and procedures which would lead to positive solutions of the respective applications.

As the Slovene social legislation has been subject to supplements and changes in most key fields over the last few years, it is necessary to point out at the end that this national report is all the more important because it pays attention to the respective changes and points out the anticipated legislation changes in the near future.



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