



## **Ad-Hoc Query on social aid for beneficiaries of a “temporary residence permit”**

**Requested by LU EMN NCP on 26 September 2014**

**Compilation produced on 7 November 2014**

**Responses from Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom plus Norway (23 in Total)**

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### **1. Background Information**

In Luxembourg article 130 of the modified Law of 29 August 2008 on free movement of persons and immigration foresees that a TCN cannot be removed from the territory if s/he proves:

- a) with a medical certificate that his/her health condition requires appropriate healthcare and that the lack of treatment could bring exceptionally serious consequences to his/her health status
- b) that s/he cannot obtain the appropriate medical treatment in the country to which s/he is going to be removed.

According to article 131 (1) s/he can obtain a postponement of removal for a maximum duration of 6 months. This postponement can be renewed up to a duration of 2 years. This decision does not grant to the beneficiary a legal basis for stay. If at the end of 2 years, the TCN proves that his /her health

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condition persists, s/he can obtain an authorisation to stay for medical reasons for the duration of the treatment which cannot be longer than one year. At the end of this period this authorisation can be renewed after re-examining the case.

The law of 18 December 2009 organizing social aid which entered into force 1 January 2011 creates the right to social aid for people in need . This aid aims to allow these people to have a life with dignity. Any person residing legally in the Grand-Duchy of Luxembourg, in principle has the right to this social aid. Social aid is handled by the social offices of the municipalities. However, article 4 excludes any material aid in cash for persons who are granted temporary residence in Luxembourg.

The Law of 16 December 2008 on the reception and integration of foreigners in the Grand Duchy of Luxembourg establishes in article 5 that in duly exceptional and duly motivated cases the Luxembourg Reception and Integration Agency (OLAI) can provide punctual assistance to foreigners who do not have right to any kind of aid.



In a recent case of a TCN who has been residing for more than two years and has been granted an authorization of stay for medical reasons (which has been renewed) has generated a legal argument between a social office of a municipality and the OLAI in regards to which is the competent authority to provide material aid to this person because of the lack of a legal definition of “temporary residence” permit.

The OLAI will like to ask the following questions:


1. Does your MS have a definition of “temporary residence permit”?
2. In your MS is there any kind of aid (medical, housing, in-cash) for beneficiaries of a “temporary residence permit”? Yes. If yes, can you detail the type of aid they are entitled and please indicate which is the responsible authority (if possible can you provide the contact details)?

We would very much appreciate your responses by **24<sup>th</sup> October2014**.




## **2. Responses**

	<b>Austria</b>	<b>Yes</b>	<p>1. In Austria, there is no legal definition as such for “temporary residence permit”. However, the Settlement and Residence Act provides that temporary residence permits shall, in general, be issued for a period of 12 months (Art. 20 Settlement and Residence Act).</p> <p>2. In Austria, individuals who hold a “temporary residence permit” cannot access the needs-oriented guaranteed minimum resources (Art. 4 para 3 Agreement on Needs-Oriented Guaranteed Minimum Resources). However, depending on their social security status and other criteria, they may be able to access medical, housing or other support, also depending on the legislation and practice in the respective Federal Province of Austria.</p>
	<b>Belgium</b>	<b>Yes</b>	<p>1. Does your MS have a definition of “temporary residence permit”?</p>

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			<p>No</p> <p>2. In your MS is there any kind of aid (medical, housing, in-cash) for beneficiaries of a “temporary residence permit”? Yes. If yes, can you detail the type of aid they are entitled and please indicate which is the responsible authority (if possible can you provide the contact details)?</p> <p>CONTEXT: The foreigner who suffers from ‘an illness which poses a real threat to his life or physical integrity or which implies a real risk of an inhuman or degrading treatment when there is no adequate treatment in his country of origin or residence’ can request authorization to stay. This application is possible for both illegal and legal residents in Belgium and needs to be directed to the Immigration Office by registered letter. The Immigration Office can declare the application admissible and provide the person concerned with a Certificate of Matriculation, model A (=orange card). This Certificate of Matriculation (validity of 3 months) will be extended until a decision on the principle has been taken. There is no specified term for the Immigration Office to take a decision. When the authorization is granted, one receives a Proof of Registration in the Foreigners register (white card or electronic A or B card), valid for at least 1 year. When the period of validity of the residence card is nearly expired and the applicant still meets the conditions, an application for renewal of the white card or electronic A or B card can be submitted to the municipality.</p> <p>When the medical grounds which the Proof of Registration in the Foreigners register is based on are no longer applicable, the Immigration Office can revoke this legal residency and issue an order to leave the territory. This revocation will only take place if the improvement of the physical condition is substantial and sustained. A temporary or limited improvement is not sufficient to revoke the legal residency. It is possible to lodge an appeal.</p> <p>5 years after the application, the applicant receives a permanent white card or electronic A or B card. There are no medical conditions linked to this. The applicant must, however, apply for a renewal of this card between the 45th and the 30th day before the expiration of the validity of the card.</p> <p>AID: In case the person whose request for authorization to stay on medical reasons is admissible and has an ongoing procedure to obtain international protection (asylum seeker), he is allowed to stay in the reception facility, where material aid (medical, housing, a small allowance,) is provided. He can also decide to leave the reception facility. When he is destitute, he is allowed to financial aid provided by the Public Centres for Social Welfare (PCSW). In case authorization to stay on medical reasons is granted while the demand for internal protection is still running, the person has to leave the reception facility after a transition period of two months. When he is destitute, he is allowed to financial aid provided by the Public Centres for Social Welfare.</p> <p>Depending on the situation of the person concerned this financial aid consist of a ‘minimum wage’, to enable the person to live a life in dignity.</p> <p>The PCSW can also (partially) intervene financially in case of major costs for medicinal products and medical care.</p> <p>The PCSW can also intervene in the rent by means of granting a rent bonus. In some cases the PCSW also pays the rent guarantee or gives an advance on this deposit.</p>
	<b>Bulgaria</b>	<b>Yes</b>	<p>1. Yes, according to the Foreigners in the Republic of Bulgaria Act “temporary residence permit” may refer to a permit for residence on prolonged basis, as described in:</p> <p>Article 23 (Supplemented, SG No. 52/2007, amended, SG No. 9/2011)</p>

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			<p>(1) Foreigners shall reside in the Republic of Bulgaria:</p> <ol style="list-style-type: none"> <li>1. (amended and supplemented, SG No. 23/2013) on a short-term basis - for up to three months within any six-month period from the date of entry into Bulgaria; the term of a short stay based on an issued visa may be prolonged once by the foreigners administrative control services for reasons of a humanitarian nature or for reasons related to extraordinary circumstances or for serious personal reasons;</li> <li>2. on a prolonged basis - where the period authorized is up to one year;</li> <li>3. on a long-term basis - where the initial period authorized is 5 years, with a possibility of renewal after the submission of an application;</li> <li>4. on a permanent basis - where the period authorized is unlimited.</li> </ol> <p>2. No, according to the Foreigners in the Republic of Bulgaria Act, Article 24, (2) (Amended, SG No. 9/2011, amended and supplemented, SG No. 23/2013): To obtain a prolonged-stay permit, persons shall have a residence secured, mandatory health insurance, means of subsistence sufficient not to resort to the national social assistance system and amounting to at least the minimum national monthly salary, the minimum scholarship or the minimum national pension under the laws of the Republic of Bulgaria for the period of stay. Upon the initial submission of a residence permit application, persons aged 18 or more, except for those holding no citizenship, shall also present a certificate of previous convictions issued by the state whose citizens they are or by their country of usual residence.</p>
	<b>Czech Republic</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Estonia</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Yes, according to <a href="#">Aliens Act § 112</a> - A temporary residence permit is a permit issued to an alien for settling and living in Estonia in compliance with the conditions provided for in this Act and specified with the residence permit.</li> <li>2. Yes, according to <a href="#">Social Welfare Act</a> § 4 (1) p 2 foreigners residing in Estonia on the basis of residence permits or right of residence have the right to receive social services, social benefits and other assistance. The entire Estonian social security system can be divided between the executive agencies in the administrative field of the Ministry of Social Affairs: <ul style="list-style-type: none"> <li>➤ the Estonian Health Insurance Fund manages monetary sickness benefits and health insurance;</li> <li>➤ the Estonian Unemployment Insurance Fund that pays unemployment benefits;</li> <li>➤ The Social Insurance Board coordinates the paying of old-age pensions, invalidity benefits, survivor's benefits, and family benefits. Local governments support the system in the area of social welfare.</li> </ul> </li> </ol>
	<b>Finland</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Does your MS have a definition of “temporary residence permit”? Yes. According to Section 33 of the Finnish Aliens Act, residence permits are either fixed-term or permanent. Fixed-term residence permits are issued for a residence of temporary nature (temporary residence permit) or of continuous nature (continuous residence permit). Permit authorities decide on the purpose of residence, taking account of the information given by the alien on the purpose of his or her entry into the country. (Residence permit means a permit issued to an alien for a purpose other than tourism or a comparable short-term residence entitling the alien to enter the country repeatedly and stay in the country.)</li> </ol>

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			<p>2. In your MS is there any kind of aid (medical, housing, in-cash) for beneficiaries of a “temporary residence permit”? Yes. If yes, can you detail the type of aid they are entitled and please indicate which is the responsible authority (if possible can you provide the contact details)?</p> <p>A significant proportion of Finnish social security is residence-based, meaning that a person is entitled to social security benefits and services if he or she is considered to be resident in Finland. Residence entitling a person to social security is defined differently in different legislation. Residence-based social security includes benefits administered by Kela (the Social Insurance Institution of Finland) as well as public healthcare and social services arranged by municipalities. Strictly employment based social security in Finland is represented by the earnings-related pension system, accident insurance and unemployment security pursuant to the Finnish Unemployment Allowances Act. Earnings-related pension insurance applies to all work performed in an employment relationship, and pension accrues based on the employee’s earnings. An employee is covered by accident insurance from the start of employment. The earnings-related pension is ultimately paid to pensioners irrespective of their nationality or country of residence. The same applies to accident insurance benefits.</p> <p>Benefits administered by Kela  <a href="http://www.kela.fi/web/en/centre-for-international-affairs">http://www.kela.fi/web/en/centre-for-international-affairs</a>,  <a href="http://www.kela.fi/web/en/contact-information">http://www.kela.fi/web/en/contact-information</a>,  the customer service number for issues related to migration +358 ( 0)20 634 0200</p> <p>Residence-based social security administered by Kela includes: benefits for families with children, sickness insurance, rehabilitation, basic security for the unemployed, housing allowance, student financial aid and minimum pensions. Kela also handles benefits to people with disabilities and conscript’s allowances.</p> <p>Kela generally determines on a case-by-case basis whether a person is resident in Finland, and is therefore covered by residence-based social security, on the basis of the Act on the implementation of residence-based social security legislation (1573/1993). Kela also gives a separate appealable decision concerning this determination. Consequently, subject to satisfying benefit-specific conditions, the person would be entitled to the above mentioned residence-based social security benefits administered by Kela.</p> <p>Social security legislation may apply to a person moving to Finland from the date of arrival in the country if the person intends to move to Finland on a permanent basis and he or she also has a valid one-year residence permit. The decision is based on overall consideration of the person’s residence and potential employment in Finland. It should be noted that the type of the residence permit is only one factor considered by Kela in determining whether the person is resident in Finland on a permanent basis: a continuous (A) residence permit indicates that residence is of permanent nature while a temporary (B) residence permit indicates that residence is of temporary nature. Other factors considered are e.g. family ties to a person residing permanently in Finland and the details of a possible employment contract for work carried out in Finland. Furthermore, residence/employment that is initially considered temporary can later become permanent, resulting in a change to the previously issued decision. In certain situations the person may also be covered from the start of the employment contract in case the contract has a duration of at least four months and if the employment fulfills the requirements on regular working hours and pay.</p> <p>A self-employed person (to whom EU rules do not apply) may be entitled to certain social security benefits based on self-employment even if he or she is not considered to be a resident of Finland pursuant to the Act on the implementation of residence-based social security legislation. Pursuant to Section 2, Paragraph 2 of the Finnish Sickness Insurance Act, a self-employed person is insured from the start of self-employment if he or she has been continuously self-employed for a minimum of four months. Benefits administered by Kela that a person may be entitled to on the basis of this are: compensation for private healthcare costs; compensation for transportation costs for public healthcare; sickness allowance and rehabilitation allowance.</p>
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			<p>Health care and social services for which municipalities are responsible  <a href="http://www.localfinland.fi/en/Pages/default.aspx">http://www.localfinland.fi/en/Pages/default.aspx</a></p> <p>In order to be covered by public health care and social services arranged by municipalities, a third-country national must as a rule have a municipality of residence in Finland. However, urgent medical care is universally provided, and the provision of social services may, in urgent cases or other special circumstances, also be extended to third-country nationals who do not have a municipality of residence in Finland.</p> <p>The municipality of residence is registered in the Population Information System by the local register office upon application (<a href="http://www.vrk.fi/default.aspx?site=4">http://www.vrk.fi/default.aspx?site=4</a>, <a href="http://www.maistraatti.fi/en/">http://www.maistraatti.fi/en/</a>). The type of the residence permit is significant when registering a municipality of residence for a person: a person who has been issued with a continuous residence permit is immediately registered with a municipality of residence according to the Municipality of Residence Act. If a person were issued with a temporary residence permit only, the registration of a municipality of residence would remain dependent on whether a fact supporting permanence of residence as referred to in Section 4, Subsection 2 of the Municipality of Residence Act could be found. The provision in question lists the following as examples: 1) being of Finnish origin; 2) having previously had a municipality of residence in Finland as referred to in this Act; 3) having a valid employment contract or comparable proof of work or studying in Finland for a period of at least two years; or 4) having had a temporary place of residence in Finland continuously for at least one year after entering the country. A person who has been issued with a continuous residence permit may immediately be registered with a municipality of residence, and the same is true for a person issued with a temporary residence permit who can prove that one of the facts referred to in Section 4, Subsection 2(1–3) of the Municipality of Residence Act applies to him/her. However, if the only tie to Finland of a person issued with a temporary residence permit is temporary residence referred to in Section 4, Subsection 2(4) mentioned above, a municipality of residence can be registered in a year from the entry into the country at the earliest.</p> <p>It should also be noted that EU Blue Card holders and their family members are treated in the same manner as persons with a registered municipality of residence regardless of their residence permit type, even if they are not registered for a municipality of residence in Finland, and they are entitled to all public healthcare services in Finland in exchange for the municipal resident’s client fee. The EU Blue Card holders and their family members also become covered under the Finnish national health insurance (Act on the implementation of residence-based social security legislation, Paragraph 3 a) which means that they are eligible for reimbursement from Kela for the expenses of prescription drugs and fees charged by the private health care for example.</p> <p>Also certain other workers coming to Finland from third-countries are entitled to all public health care services in Finland in exchange for the municipal resident’s client fee even if they are not registered for a municipality of residence in Finland. This entitlement is based on the nationally implemented directive on a single application procedure for a single permit for third-country nationals (2011/98/EU). This entitlement does not cover the family members of the worker. It is defined in the national legislation that in order to receive all public health care, the worker shall have a certain work permit and employment contract. It is Kela that defines this entitlement in each individual case. If the worker becomes covered under the Finnish national health insurance, she/he is eligible for reimbursement from Kela for the expenses of prescription drugs and fees charged by the private health care for example.</p> <p>The situation of third-country students is peculiar in that, in accordance with the Finnish Aliens Act Section 46, issuing a residence permit requires that the student has taken out insurance with a solvent and reliable company or institution covering health care services. If the estimated duration of the course of study is at least two years, it is sufficient for the insurance to cover the costs of medicines. According to the interpretation of the Ministry of Social Affairs and Health, such a student is also entitled to student healthcare services arranged by municipalities (see Section 17 of the Finnish Health Care Act).</p>
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			<p>Social assistance for which municipalities are responsible</p> <p>Social assistance is a means-tested form of last resort assistance. The Finnish Act on Social Assistance is part of the implementation of Section 19, Paragraph 1 of the Constitution of Finland, which concerns the right to social security. It states that those who cannot obtain the means necessary for a life of dignity have the right to receive indispensable subsistence and care. This basic right is intended to apply to all persons in the sphere of Finnish law, regardless of nationality. Social assistance is granted by the municipality of which the person lives regularly. Emergency social assistance can also be granted to a person living in a municipality on a temporary basis. A person holding a temporary residence permit may be granted social assistance pursuant to the Finnish Act on Social Assistance, but this generally applies only to essential or urgent social assistance for the purpose of securing the person's means of support until he or she returns to his or her country of origin or otherwise leaves Finland.</p>
	<b>France</b>	<b>Yes</b>	<p>1. Yes, articles R313-1 to R313-38 of the Code on Entry and Residence of Foreigners and Right of Asylum (Code de l'entrée et du séjour des étrangers et du droit d'asile – CESEDA) give a definition of “temporary residence permit”. The “temporary residence permit” is issued for a duration of one year maximum, with the possibility of renewal. It bears a label mentioning the purpose of the stay in France. The long-stay visa (visa long séjour valant titre de séjour) is another kind of “temporary residence permit”: the potential beneficiaries of this type of visa are defined in article R.311-3 of the CESEDA. The duration of the stay is of more than three months up to one year.</p> <p>2. In France, persons holding a (temporary or permanent) residence permit are entitled to most social benefits (medical, housing...) granted to French citizens, although they have to fulfil certain conditions. For instance, article L. 115-6 of the Social Security Code states that: “foreign nationals can only be affiliated to the compulsory social security regime if they are legally resident and working in France or if they hold a receipt of request for renewal of a resident permit”.</p>
	<b>Germany</b>	<b>Yes</b>	<p>1. If the alien cannot obtain any or an appropriate medical treatment in the country to which he or she is going to be removed which as a consequence would put him or her at risk, something which results in the prohibition of removal in accordance with section 60 (7) sentence 1 of the Aufenthaltsgesetz (AufenthG) [German Residence Act] (national prohibition of removal), he or she shall be given a residence permit in accordance with section 25 (3) sentence 1 of the AufenthG.</p> <p>The legal definition of this (general) residence document in the [German] Residence Act is as follows:  “Section 7 Residence permit.</p> <p>(1) The residence permit shall be a temporary residence title. It shall be issued for the purposes of residence stated in the following Parts of this Act. In justified cases, a residence permit may also be issued for a purpose of residence which is not covered by this Act.</p> <p>(2) The residence permit shall be subject to a time limit which takes due account of the intended purpose of residence. Should a vital prerequisite for issuance, extension or the duration of validity cease to apply, it shall also be possible to subsequently reduce the length of validity. “</p> <p>2. The holder of a residence permit in accordance with section 25 (3) sentence 1 of the AufenthG is in general entitled to receive general social benefits (such as a basic social care for persons seeking work and/or social welfare benefits), which also include health care benefits, in so far as there is as an exception no right to claim payments from the compulsory sickness insurance scheme. The competent</p>

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			bodies are the local offices for the payment of such benefits (such as the Sozialamt [social welfare office] and / or the Jobcenter [job office]) and the compulsory sickness insurance schemes.
	<b>Greece</b>	<b>Yes</b>	<p>1. Does your MS have a definition of “temporary residence permit”?</p> <p>There is no individual definition of the term “temporary residence permit”. But, there is such type of residence permit of a third country national in our national legislation. Article 18 of Law 4251/2014 "Migration and Integration Code" provides all the types of temporary residence of a TCN in our territory:</p> <ul style="list-style-type: none"> <li>a) Seasonal work of third country nationals (Seasonal work of a third country national is his occupation in Greece for a time period up to six months, per calendar year, in a field of activity related to temporary occupation of seasonal nature).</li> <li>b) fishery workers</li> <li>c) residence permits for members of artistic groups</li> <li>d) residence permit for third country nationals who move from a company established in a member-state of the European Union or the European Economic Area, in order to provide services (A third country national, who is legally employed in a company established in a member-state of the European Union or the European Economic Area and has to move to Greece in order to provide specific services, within the framework of the relevant agreement between the above company and the counterpart, who exercises his activities in Greece). [Directive 1971/96/EU].</li> <li>e) residence permit for third country nationals who move from a company established in a third country in order to provide services (A third country national, who is employed as specialized personnel in a company, which is established in a third country, and for whom the rendering of specific services is provided, within the framework of a service contract, between the above company and the respective company that exercise its activity in Greece). [This category will be included to the relevant provisions of Directive 2014/66/EU, when this will be integrated to our national law]</li> <li>f) residence permits for Tour Leaders</li> <li>g) residence permit for athletes and trainers</li> <li>h) TCN's students of high educational degree, participating in special programs (Third country nationals, who participate in exchange programs within the framework of intrastate agreements, or in cooperation programs financed by the European Union, as well as scholars of ministries, organizations, institutions of public benefit and State Scholarship Foundation “IKY”, are accepted for residence in Greece).</li> </ul> <p>2. In your MS is there any kind of aid (medical, housing, in-cash) for beneficiaries of a “temporary residence permit”? Yes. If yes, can you detail the type of aid they are entitled and please indicate which is the responsible authority (if possible can you provide the contact details)?</p> <p>Article 21 of Law 4251/2014 "Migration and Integration Code" sets all the common rights of TCN's who reside in our territory. In that notion, third country nationals who live in Greece are insured by the relevant social security institutions and enjoy the same rights as natives. In that case, all the types of “temporary residence permit” have the same rights as the other relevant types of TCN's in Greece (health care / social security insurance). For example, as for the fishery workers, health care insurance is provided after their entrance to our territory and during the beginning of their occupation. As for the seasonal workers, the implementation of the Directive 2014/36/EU, on the conditions</p>







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			<p>of entry and stay of third-country nationals for the purpose of employment as seasonal workers, into our national law, is on going and provides specific beneficiaries (implementation of Article 22 &amp; 23 of the above mentioned Directive).</p> <p>The responsible authority of the implementation of this Directive is the Hellenic Ministry of Interior (GR EMN NCP: <a href="mailto:emn@ypes.gr">emn@ypes.gr</a>) which is the competent authority for legal immigration issues (entry and stay of TCN's in Greece). Furthermore, the national immigration legislation is implemented to a regional level (Decentralized Authorities). The healthcare and social security issues for the TCN's are in the competence of the Ministries of Health (<a href="mailto:gedypy@yyka.gov.gr">gedypy@yyka.gov.gr</a>) as well as the Employment - Social Security and Welfare (<a href="mailto:apasxolisi@ypakp.gr">apasxolisi@ypakp.gr</a>). The Ministry of Foreign (<a href="mailto:sec.gen@mfa.gr">sec.gen@mfa.gr</a>) Affairs (the embassies of Greece in the origin countries of TCN's) has the competence of issuing visas to TCN's entering our territory for one of the above mentioned reasons (types of “temporary residence”).</p>
	<b>Hungary</b>	<b>Yes</b>	<p>1. Yes, there is temporary residence permit in Hungary. The period of validity of the temporary residence permit is 1 year and it cannot be renewed.</p> <p>2. As regards access to social insurance benefits (health care, sickness, maternity, old-age and invalidity), third-country nationals holding long-term residence permits (both in terms of Directive 2003/109/EC and as defined by national legislation) and third-country nationals holding time-bound residence permits if they are workers or self-employed are entitled to healthcare, sickness and maternity, invalidity, old-age, survivor's benefits, accident at work benefits, family benefit, unemployment and guaranteed income benefits. Long-term care is the only sphere where only long-term residents are beneficiaries.</p> <p>It is usual that social administration authorities provide support in several ways aimed at helping non-Hungarian applicants (most importantly applicants who do not speak Hungarian). To help third-country nationals separate forms have been elaborated for them to apply for the benefits. Lots of information is available in languages other than Hungarian. Provision of information in time is crucial hence benefits can be applied for retroactively in a limited manner, with a two-months long retroactivity (family benefits) or with a six-months long retroactivity (sickness benefits and social insurance pensions), calculated from the day of submitting the application.</p> <p>Social insurance benefits, universal benefits and special, non-contributory benefits fall within the concept of social security. Social insurance is compulsory in Hungary, based on the fundamental principle of solidarity and insurance (such as health insurance, pension insurance and unemployment insurance). A person is eligible for social insurance benefits if he is insured or has insured status in Hungary (employees, self-employed persons, etc.). Universal benefits (e.g. family benefits) are provided to all who comply with requirements laid down in legislation, irrespective of previous insurance. Special, non-contribution-based benefits are provided, for example, to the elderly and the disabled.</p> <p>Social assistance covers welfare services and assistance essentially provided to those in need, beyond social security. Financial assistance involves temporary subsidy, regular social assistance or nursing costs. Accommodation in various institutions (for children, the elderly, addicts and the homeless) and home care constitute welfare services.</p>
	<b>Italy</b>	<b>Yes</b>	<p>1. and 2.</p> <p>Yes, as specified below. Legislative Decree No 85/2003, implementing Directive 2001/55/EC, defines temporary protection «as a procedure of exceptional character that, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin, guarantee immediate and temporary protection to the displaced persons, in particular if there is a risk that the asylum system will be unable to tackle such influx» (Article 2). “Displaced persons” means «third-country nationals or stateless</p>


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			<p>persons who had to leave their country or region of origin or were evacuated, in particular in response to an appeal by international organizations, and whose repatriation is currently unfeasible in safe and stable conditions because of the situation in that country, also within the scope of Article 1(a) of the Geneva Convention [...] ».</p> <p>Temporary protection is collective in nature, so the concerned people are not required to prove they face an individual danger. However, in the case of subsidiary and humanitarian protection (and right to asylum), we are dealing with a subjective right; in the case of temporary protection, the TCN is entitled to an expectation of protection, which can give rise to an actual right only if the protection is assigned by a regulatory act.</p> <p>The instrument of temporary protection may be applied only when there is a mass influx, which is formally established by a decision of the Council of Ministers of the European Union (Directive 2001/55/EC, Article 5), adopted by a qualified majority, followed (in Italy) by the adoption of a Decree by the President of the Council of Ministers, specifying the general requirements for granting protection (Legislative Decree 85/2003, Articles 3 and 4). Temporary protection is a time-limited scheme by definition; it comes to an end at the expiration of the period decided by the Council of the European Union, but it may be extended for six months at a time, for a maximum length of three years. Admission to temporary protection measures gives right to a residence permit on the ground of temporary protection, and allows the beneficiary to exercise the right to family reunification according to the same terms provided for refugees (Legislative Decree 85/2003, Article 6). Moreover, the beneficiary of temporary protection has the right to education and may work, but he/she cannot leave Italian territory, except in the cases specifically provided for (Legislative Decree 85/2003, Article 10).</p> <p>In addition to what has been outlined above, temporary residence permits are also granted in Italy in the following cases:</p> <p>a) for medical treatments, in favour of female TCNs who are in Italy illegally if pregnant or in the six months following the birth of their child (Presidential Decree No 394/1999, Article 28; Consolidated Act on Immigration, Article 19(2d)). In this case, the power of deportation cannot be exercised and, as a result of Ruling No 376/2000 of the Constitutional Court, such power is also temporarily suspended with respect to the husband living with the woman.</p> <p>b) for asylum seekers (in the period between the submission of the asylum application and the decision of the authority, including the ascertainment of the competent State under the Dublin procedure). This temporary residence permit gives right to the asylum seekers who do not have means of subsistence or hospitality in Italy to obtain economic support by local authorities and an early assistance benefit by the Ministry of the Interior.</p> <p>c) for the victims of human trafficking. The Consolidated Act on Immigration establishes that a residence permit may be granted to the victims of human trafficking for them to escape the influence of the criminal organization and join an assistance and social integration programme. In this case, the residence permit allows access to assistance services, education and employment; it is valid for six months and may be renewed for one year, or longer if needed for reasons of justice.</p>
	<b>Latvia</b>	<b>Yes</b>	<p>1. Yes</p> <p>2. In the Social Services and Social Assistance Law is not enshrined any kind of social aid for TCN with temporary residence permit. However, municipalities and NGO's in exceptional cases provide shelter and food for TCN who are in illegal situation or with temporary residence permit.</p>




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	<b>Lithuania</b>	<b>Yes</b>	<p>Article 40 (1)(11) of the Law of the Republic of Lithuania on the Legal Status of Aliens (hereinafter - the Law) stipulates that a temporary residence permit may be issued or renewed to an alien if the alien is unable to depart due to a dangerous health condition and requires urgent basic medical aid.</p> <p>If an alien cannot be expelled from the Republic of Lithuania (the alien is in need of basic medical aid, the necessity of which is confirmed by an consulting panel of a health care institution; the foreign country to which the alien can be expelled refuses to accept him; the alien cannot be expelled due to objective reasons), (s)he is issued a temporary residence permit, as provided for in Article 40(1)(8) of the Law, until the grounds on which the alien cannot be expelled disappear.</p> <p>1. Lithuania issues/replaces a temporary residence permit for various grounds specified in the Law (e.g. students, family members, workers, beneficiaries of subsidiary protection, etc.). The general definition is provided in Article 2 (14) of the Law: “Temporary residence permit in the Republic of Lithuania” (hereinafter – a “temporary residence permit”) means a document granting an alien the right for temporary residence in the Republic of Lithuania for a period specified therein.”</p> <p>2. No.</p>
	<b>Luxembourg</b>	<b>Yes</b>	<p>1. No.</p> <p>2. a. Yes. b. In duly exceptional and duly motivated cases the Luxembourg Reception and Integration Agency (OLAI) can provide punctual assistance to foreigners who do not have right to any kind of aid. The responsible authority is the Luxembourg Reception and Integration Agency, Social Department (Service Social. Address: 7-9, avenue Victor Hugo L-1750 – Luxembourg.</p>
	<b>Netherlands</b>	<b>Yes</b>	<p>1. Yes. The definition of which type of the residence permit could be seen as “temporary” is to find in article 3.5 of Aliens Decree. As a general rule one could say that a temporary residence permit is issued to foreigners who are not intending to stay permanently in the Netherlands, for example: in the case of following a study or during a medical treatment in the Netherlands, or even in the case of a victim of human trafficking. Just like in Luxembourg the Netherlands is familiar with the procedure regarding a postponement of removal in case of “medical emergency”. The same goes for example a postponement in case of “reflection period”. In both cases the decision does not grant a legal basis for stay.</p> <p>2. Yes. I would refer to footnote 5 for more information about the type of aid in case of victims of human trafficking.</p>
	<b>Poland</b>	<b>Yes</b>	<p>1. Yes.</p> <p>2. Yes. Social assistance:</p>




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			<p>With regard to time-bound residence permits, this solely applies to foreigners:</p> <ul style="list-style-type: none"> <li>- granted a long-term EU-resident's status in one of the EU countries and on the basis of this they were granted a temporary residence permit in Poland,</li> <li>- reunited (and granted temporary residence permit for the purpose of family reunification) with a foreigner granted a refugee status or subsidiary protection in Poland.</li> </ul> <p>Both groups of foreigners are entitled to apply for social assistance which is granted if one fulfils two criteria: the first one is income criterion and the other criterion involves a person or a family suffering from one of 15 social risks, as listed in the Act on social assistance of 12 March 2004.</p> <p>The responsible authority is the Department of Social Assistance and Integration at the Ministry of Labour and Social Policy (<a href="mailto:sekretariat.dps@mpips.gov.pl">sekretariat.dps@mpips.gov.pl</a>) but the majority of social assistance services are provided by <a href="#">social assistance centres</a> and <a href="#">powiat centres for family support</a>. They are responsible for payment of cash benefits as well as non-financial assistance (see <a href="#">more</a>).</p> <p>Family benefits:</p> <p>Foreigners who hold temporary residence permit issued for the purpose of employment of high skilled workers and to those who hold temporary residence permit and are entitled to work in Poland or not required to have a work permit, except for those who:</p> <ul style="list-style-type: none"> <li>• have been granted a permit to work in an EU Member State for not longer than 6 months,</li> <li>• have been enrolled at the university.</li> </ul> <p>The responsible authority is the Department of Family Benefits at the Ministry of Labour and Social Policy (<a href="mailto:sekretariat.dsr@mpips.gov.pl">sekretariat.dsr@mpips.gov.pl</a>).</p> <p>Unemployment benefits:</p> <p>Foreigners who hold temporary residence and work permit (including for the purpose of working in Poland), temporary residence permit issued for the purpose of employment of high skilled workers, temporary residence permit for the purpose of carrying out scientific research can access the benefits if they fulfil the requirements.</p> <p>The responsible authority is the Department of Labour Market at the Ministry of Labour and Social Policy (<a href="mailto:sekretariat.drp@mpips.gov.pl">sekretariat.drp@mpips.gov.pl</a>).</p> <p>Contributory social security benefits (i.e. healthcare, sickness cash benefits, invalidity and survivors' benefits):</p> <p>All insured foreigners can access those benefits (with regard to sickness cash benefits Minimum employment period / minimum contribution is required).</p> <p>The responsible authority is the Department of Social Insurance at the Ministry of Labour and Social Policy (<a href="mailto:sekretariat.dus@mpips.gov.pl">sekretariat.dus@mpips.gov.pl</a>), the Department of Health Insurance at the Ministry of Health (tel: 0048 22 53 00 297).</p>
	<b>Portugal</b>	<b>Yes</b>	<p>1. Yes. The definition of “temporary residence permit” is a legal instrument on the Portuguese immigration framework. According to the Act no. 29/2012, of 9th August and under the article 75° “Temporary residence permit”.</p> <p>2. The same Act considers in the article 83.° “Rights of a residence permit holder” n.ºs 1 and 2 that without prejudice to the application of special stipulations and other rights established in the law, or in international conventions that Portugal is a Party to, the holder of residence permit is entitled, without need to obtain any special authorization on grounds of being a foreigner, to</p> <ul style="list-style-type: none"> <li>a) Education and tuition;</li> <li>b) Engaging in a subordinated professional activity;</li> <li>c) Engaging in independent professional activity;</li> </ul>

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			<p>d) Professional guidance, training, improvement and rehabilitation;  e) Health care;  f) Law and Courts.  2- The application of stipulations that guarantee equal treatment to foreign citizens is guaranteed, specifically in what concerns social security, fiscal benefits, participating in workers unions, recognition of diplomas, certificates and other professional credentials or documents that grant them access to goods and services at the public's service, as well as the application of stipulations that grant the special rights.</p>
	<b>Slovak Republic</b>	<b>Yes</b>	<p>1. In the Slovak republic, tolerated stay can be considered to a certain extent as an equivalent to the “temporary residence permit for medical reasons” granted by the Luxembourg authorities. According to the Article 58 (1) (b) of the Act No 404/2011 Coll. on Residence of Aliens and Amendment and Supplementation of Certain Acts, a third country national without an authorization to stay in the Slovak Republic can be granted tolerated stay, if his/her departure is not possible and his/her detention is not reasonable. This can be applied in practice also to those cases when the health condition of the third country national does not allow him/her to leave the country, or more precisely, his/her health condition does not allow to carry out the administrative or judicial expulsion decision.</p> <p>2. Persons with granted tolerated stay are not provided accommodation, neither a financial subsistence. They have to pay for the costs related to their stay in the Slovak Republic on their own. They are not included in the public insurance system, they are however entitled to the commercial insurance. They can apply for an aid in material need according to the conditions set by the law. However, they are not allowed to work, neither to carry out business activities.  Current Integration Policy of the Slovak Republic suggests changes regarding the public insurance system, particularly to include into the system the most vulnerable groups - children of migrants without health insurance and foreigners with granted tolerated stay due to the existence of obstacles to administrative expulsion.</p>
	<b>Slovenia</b>	<b>Yes</b>	<p>1. No. A Principle of non-refoulement referred also in case that TNC cannot be removed from the territory upon medical advises that immediate deportation is avoided due to the health condition of the TNC (Article 72, 73 (2)). Permission to stay is granted by the Police at the request of alien or ex officio for a period of 6 months with possibility of extension for as long as the condition referred to. Permission to stay is issued as "personal card" evidencing that the alien has permission to stay in the Republic of Slovenia.</p> <p>2. Yes. TNC to whom has been issued a "personal card" have the right to health insurance and to basic treatment, while TNC's minor schoolchildren shall also have the right to basic education. The right to basic treatment means the right to an allowance granted in the amount and manner specified for financial social assistance. Resources for the payment of the allowance shall be provided by the Alien Centre. The Police may determine the alien's place of residence at a specific address. (Article 74, 75).</p>
	<b>Spain</b>	<b>Yes</b>	<p>According to Article 126.2 of Royal Decree 557/2011, approving the Regulation of the Organic Law 4/2000 on the rights and freedoms of foreigners in Spain and their social integration, may be granted a residence permit on humanitarian grounds to aliens who have suffered a supervening serious disease, which requires specialized care not available in your country of origin, and that the fact of being interrupted or not receive pose a serious risk to the health or life.  Exceptionally, it is not required that the disease is supervening in case of necessity to prolong the stay of a foreign child who is</p>

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			temporarily in Spain for the purposes of medical treatment, after exhausting the possibility of extending the stay situation and provided that such continuation is essential for continued treatment. The renewal of such authorizations will be linked to the minimum time necessary to complete the treatment.
	<b>Sweden</b>	<b>Yes</b>	<p>Aliens Law Chapter 5; Section 9  A residence permit that is granted pursuant to Section 6 on grounds of sickness shall be for a limited time if the alien’s sickness or need of care in Sweden is of a temporary nature.  Aliens Law Chapter 5 Section 6:  If a residence permit cannot be awarded on other grounds, a permit may be granted to an alien if on an overall assessment of the alien’s situation there are found to be such exceptionally distressing circumstances that he or she should be allowed to stay in Sweden. In making this assessment, particular attention shall be paid to the alien’s state of health, his or her adaptation to Sweden and his or her situation in the country of origin.  Children may be granted residence permits under this Section even if the circumstances that come to light do not have the same seriousness and weight that is required for a permit to be granted to adults.  2b No. It’s within the general medical care system</p>
	<b>United Kingdom</b>	<b>Yes</b>	<p>1. No – The UK does not have a definition of “temporary residence permit” but we do have various short term visas. See: <a href="https://www.gov.uk/browse/visas-immigration/tourist-short-stay-visas">https://www.gov.uk/browse/visas-immigration/tourist-short-stay-visas</a></p> <p>2. Yes – Primary medical healthcare in GP surgeries is provided to all migrants regardless of whether they are classed as a temporary migrant. However, non EEA migrants who come to the UK for less than six months are liable for the full costs of their hospital treatment, subject to a number of exceptions such as treatment in an Accident and Emergency Department or for public health reasons.  Recent legislative changes are currently been implemented where a non EEA temporary migrant residing in the UK for more than six months will be required to pay a surcharge for healthcare. Temporary non EEA migrants generally will not be given access to non-contributory benefits or social housing. However there are exceptions where they may be given access to public funds; for example if they are family members of an EEA national or the UK has bilateral agreements regarding particular benefits with their country of origin.</p>
	<b>Norway</b>	<b>Yes</b>	<p>1. Norway’s Immigration Act operates with a concept of a “temporary residence permit”, but we don’t have a definition per se. Every residence permit that is issued under this category (Norwegian Immigration Act § 60) states that “A first-time residence permit is issued as a temporary residence permit for a period of up to three years.” This applies to (i) permits which later give the right to permanent residence (and are considered as the right to permanent residence without the need to renew), and (ii) limited permits which do not form the basis for permanent residence.  This is perhaps not the answer LU is looking for, but Norway does not have a clear black and white definition. These kinds of permits, as well as other kinds of residence permits are regulated in a somewhat fragmented manner.</p> <p>2. If a person is granted a temporary residence permit based on an asylum application, that person would be allowed to live in a reception center and receive the kinds of benefits allowed under those circumstances, (this would include necessary health care, room and board),</p>



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			<p>until a decision in their case leads either to settlement in a municipality, or return to the country of origin. Only persons with the kind of temporary permit that leads to a permanent permit are actually settled into municipalities. For more details about this, consult with Marit Sjaastad (masj@udi.no). Once any other classification of foreigner is granted a temporary residence permit, they become a member of the National Health Insurance Program, for as long as the permit is valid. All taxpayers get deducted for this membership. Children granted a temporary residence permit can attend school. There may have been 1-2 highly rare and exceptional cases of children in dire need of medical attention receiving it, but we know of no concrete examples. We include the link to a research report “No way in No way out” about irregular migrants which discusses degree of access to health services for this group. <a href="http://www.udi.no/en/statistics-and-analysis/research-and-development-reports/no-way-in-no-way-out-a-study-of-living-conditions-of-irregular-migrants-in-norway-2011/">http://www.udi.no/en/statistics-and-analysis/research-and-development-reports/no-way-in-no-way-out-a-study-of-living-conditions-of-irregular-migrants-in-norway-2011/</a></p> <p>The Norwegian Directorate of Integration and Diversity (IMDi) might be able to provide further information about benefits for persons who are not asylum seekers. Contact Halwan Ibrahim +47 24 16 88 00.</p>
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