

## **Bilateral Social Security Agreements WP 4**

### **Hungary**

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## **I. International pension transactions**

The arrangement of international pension transactions includes pension cases of individuals falling under the scope of the coordination regulations of the European Union and the European Economic Area (EEA) and the bilateral social policy and social security agreements as well as of those living in third countries.

As of May 1, 2004, Hungary has been a member of the EU and EEA.

From the date of accession, the bilateral social policy and social security agreements Hungary had concluded in the past with Member States and countries that joined the EU along with Hungary (special Hungarian-German, Hungarian-Dutch, Hungarian-Austrian, Hungarian-Polish, Hungarian-Czechoslovakian bilateral agreements and, in respect of Slovenia, the Hungarian-Yugoslavian agreement) have been replaced by the coordination regulations of the Community.

These regulations must be applied also with respect to the three countries of the EEA (Iceland, Liechtenstein and Norway) and, as of 1 April 2006, also to Switzerland, as the provisions of the Hungarian-Swiss agreement were also replaced by the social security regulations of the Community from this date on.

On January 1, 2007, Romania and Bulgaria also became members of the EU, thus the coordination regulations must be applied also in respect of these countries, instead of the Hungarian-Romanian and the Hungarian-Bulgarian social security agreements.

## **II. Changes in pension regulations related to EU membership**

There are significant differences between the social security systems, including pension insurance systems, of the EU Member States in respect of individuals obliged to take an insurance, eligibility conditions and services provided. The law harmonization of the internal systems of the Member States is not a Community objective at the moment. This means that the regulation of the pension system falls into a national competence, so Hungarian pension regulations do not need to be changed because of the accession to the European Union. In this field, the Member States have a coordination obligation. With the objective of eliminating all disadvantages arise from the differences of rights and insurance obligations within prevailing within one Member States for employees and individual entrepreneurs moving between Member States. These mandatory coordination rules are contained

- **Council Regulation (EEC) No. 1408/71** on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, and
- **Council Regulation (EEC) No. 574/72** laying down the procedure for implementing Regulation (EEC) No 1408/71.

The EU/EEA countries covered by these Regulations are: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Latvia, Lithuania, Malta, Norway, Portugal, Poland, Romania, Spain, Sweden, Switzerland, Slovakia, Slovenia, Netherlands, and the United Kingdom (including the Channel Islands and the Isle of Man.)

EU/EEA Regulations relating to social security generally apply to the following people:

- Nationals of the countries covered by the Regulations.
- People with the status of stateless people or refugees who are living permanently in any of the countries covered by the Regulations and their dependants or survivors.

These coordination regulations apply the following four basic principles:

1. Equality of treatment, according to which citizens of Member States, irrespective of their citizenship, shall be subject to the same obligations and enjoy the same benefits in the social security systems of individual Member States as the citizens of that particular Member State.
2. The principle of being subject to the sovereignty of one Member State, according to which no parallel multiple insurance obligations (overlaps) can occur concurrently.

The legislation of the Member State in which employment takes place is applicable as the main rule.

3. Principle of aggregation of insurance periods, in order to protect the rights obtained in several Member States.
4. Principle of unlimited exportability of benefits, which enables individuals to enjoy their benefits, recognized once without any limitation.

The administration agencies and national courts responsible for social security and pension insurance tasks in the various Member States are obliged to apply the rules of coordination in their procedures.

The coordination regulations deal with provisions offered within the framework of the statutory social security system, that is, with sickness and maternity benefits, invalidity benefits, old-age pensions, pensions due to survivors, provisions available upon industrial injuries and occupation-related diseases, death, unemployment benefits and family benefits.

In accordance with the provisions of the coordination regulations, applications for the various benefits must be filed with the competent institution of Member State of residence. This Member State institution will send the forms filled in according to the application, along with the certificate proving the service/insurance time acquired in the given Member State, to the competent institution(s) of the Member State(s), in which he or she has met the eligibility criteria. In the case of claims for old-age pension, the postponement of the settlement of claims may be requested from the institution of the Member State in which applicant would otherwise be eligible for the benefits. In this case, or, if one would become entitled to benefits in another Member State only at a later date, a new applicant must be submitted.

The competent institution of each Member State evaluates applicants in accordance with its own internal laws and the provisions of the coordination regulations. If an applicant is eligible for benefits on his or her own right in line with the internal regulations of a given Member State, the benefits must be calculated according to a so-called double settlement procedure.

### **III. Bilateral agreements**

Over the last decades, Hungary concluded bilateral social policy and social security agreements with several countries, a number of which has been replaced by the application of the EU coordination regulations.

The agreements can be divided in 3 parts:

#### Territorial-based social political agreements

(Hungarian-Romanian, Hungarian-Soviet Union agreements)

The essence of the agreement is that claims are settled by the competent institution of the state in which the applicant resides on the basis of the service/insurance time acquired in both countries.

The Hungary-Romanian Treaty was in force from 25 November 1961 to 31 October 2006, had been based on a similar principle. It was replaced by the new type Hungarian-Romanian agreement on social security, which in turn has been replaced by the EU/EEA coordination regulations as of January 1, 2007.

The Hungary-Soviet Union Treaty can't apply to Latvia, Estonia, Lithuania, and Uzbekistan.

#### Time-proportionate agreements on social policy

(Hungarian-Polish, Hungarian-Czechoslovakian, Hungarian-Bulgarian, Hungarian-Yugoslavian agreements)

The core concept of the agreements founded on the principle of time-proportionate assumption of burdens is that the service time acquired in the two countries is added up in all cases, however the competent organs of each country only establish and disburse the pension part appropriate to the ratio of the service time acquired in the given country to the total service time.

With respect to the successor countries (Serbia, Montenegro, Macedonia, Bosnia-Herzegovina, Croatia) the provisions of the Hungarian-Yugoslavian agreement must be applied with the following exceptions:

- As regards Slovenia, the EU coordination regulations shall apply as of May 1, 2004
- In respect of Croatia, the provisions of the Hungarian- Croatian agreement on social security must be applied as of March 1, 2006.

The Hungary-Bulgaria Social Political Agreement was in force from 1 January 1962 to 30 June 2006, after this date the Hungary-Bulgaria Social Security Treaty was applicable, and as of January 1, 2007 the EU coordination regulation applies.

#### Agreements on social security

(Hungarian-German, Hungarian-Austrian, Hungarian-Swiss, Hungarian-Canadian, Hungarian-Croatian, Hungarian-Bulgarian, Hungarian-Romanian, Hungary-Quebec, Hungarian-Korean agreements)

The main point of these agreements is that one is eligible for provision under the national law of the given country, and then it is national entitlement that will be established. If an applicant is not eligible on his or her own right for national benefits, the service time acquired two countries will be added up and pension portion appropriate to the ratio service time acquired in the given country to the total service time will be established and disbursed.

The Hungary-Bulgaria and Hungary-Romania Social Security Agreements can't apply from 1 January 2007.

#### **IV. Agreements applicable**

- Canadian-Hungarian Agreement on social security (LXIX Act of 2003)
- Croatian-Hungarian Agreement on social security (CXXV Act of 2005)
- Dutch-Hungarian Agreement on social security (VII Act of 2002)
- Quebec-Hungarian Agreement on social security (XVII Act of 2006)
- Korean-Hungarian Agreement on social security (LXXIX Act of 2006)

#### **V. The content of the bilateral social security agreements**

In the case of Canadian-Hungarian Agreement on social security we describe in a more elaborate manner the content of agreements and the condition of different benefits. The other agreements work on a similar principle, therefore we only emphasize their main viewpoints.

*Agreement on social security between Canada and the Republic of Hungary*

Material scope

- a. Old age security
- b. Retirement
- c. Survivor's benefit
- d. Surviving Child's benefit
- e. Death benefit

Personal scope

This Agreement shall apply to:

- a) Any person who is or who has been subject to the legislation of one or both of the Contracting Parties, and
- b) Other persons to the extent they derive rights under the applicable legislation from persons described in sub-paragraph a).

Minimum period to be totalized

Notwithstanding any other provision of this Agreement, if the total duration of the creditable periods accumulated by a person under the legislation of a Contracting Party is less than one year and if, taking into account only those periods, no right to a benefit exists under the legislation of that Contracting Party, the competent institution of that Contracting Party shall not be required to pay a benefit to that person in respect of those periods by virtue of this Agreement.

*Benefits under the legislation of Canada*

The competent institution of Canada shall calculate the amount of the pension or allowance payable to that person in conformity with the provisions of the Old Age Security Act governing the payment of a partial pension or an allowance, exclusively on the basis of the periods of residence in Canada which may be considered under that Act.

- a) the earnings-related portion of the benefit shall be determined in conformity with the provisions of the Canada Pension Plan, exclusively on the basis of the pensionable earnings under that Plan;
- b) the flat-rate portion of the benefit shall be determined by multiplying:
  - i. the amount of the flat-rate portion of the benefit determined in conformity with the provisions of the Canada Pension Plan by
  - ii. The fraction which represents the ratio of the periods of contributions to the Canada Pension Plan in relation to the minimum qualifying period required under that Plan to establish eligibility for that benefit, but in no case shall that fraction exceed the value of one.

*Benefits under the legislation of the Republic of Hungary*

The competent institution of the Republic of Hungary:

- a) shall calculate the theoretical amount of the benefit which would be paid if the totalized creditable periods accumulated under the legislation of both Contracting Parties had been accumulated under the legislation of the Republic of Hungary alone; and
- b) On the basis of the theoretical amount calculated in accordance with sub-paragraph a), shall determine the actual amount of benefit payable by applying the ratio of the length of the creditable periods accumulated under the legislation of the Republic of Hungary to the total creditable periods accumulated under the legislation of both Contracting Parties.

Payment of Benefits

1. The competent institution of a Contracting Party shall discharge its obligations under this Agreement in the currency of that Contracting Party.
2. Benefits shall be paid to beneficiaries free from any deduction for administrative expenses that may be incurred in paying the benefits.
3. In the event that a Contracting Party imposes currency controls or other similar measures that restrict payments, remittances or transfers of funds or financial instruments to persons who are outside its territory, that Contracting Party shall, without delay, take suitable measures to ensure the payment of any amount that must be paid in accordance

with this Agreement to persons described in Article III who reside in the territory of the other Contracting Party.

### Claim pension

If the person resides in Hungary and wishes to apply for benefit, he/she must complete an application form. The form is available on the website (Human Resources Development Canada) and in the social security office.

#### **1. The Old Age Security Pension**

The person may qualify for an Old Age Security Pension if he/she

- has reached age 65, and
- was a Canadian citizen or legal resident of Canada at the time of his/her departure; and
- Has resided in Canada since reaching age 18 and has creditable periods under the legislation of Hungary for a total of at least 20 years.

#### **2. Canada Pension Plan Retirement pension**

The person may qualify for a Canada Pension Plan Retirement pension if he/she

- has contributed to Canada Pension Plan anytime since the start of the Plan in 1966; and
- if the person has reached the age 60 but has not yet reached age 65; and
  - is no longer contributing to Canada or Quebec Pension Plan (regardless of whether you are still contributing to the social security scheme of Hungary); or
  - is still contributing to the Canada Pension Plan but has nonetheless substantially ceased working

#### **3. Canada Pension Plan Survivor's pension**

The person may qualify for a Canada Pension Plan Survivor's pension if his/her spouse or common-law partner:

- is deceased; and
- has contributed to Canada Pension Plan anytime since the start of the Plan in 1966
- had contributed to the Canada Pension Plan or the social security scheme of Hungary for a minimum period (which can vary between 3 and 10 years, depending on the spouse's or common-law partner's age at the time of death); and
- if the person
  - had reached age 35 at the time of spouse's or common-law partner's death; and
  - had not yet reached age 35 at the time of the spouse's or common-law partner's death but
    - § is disabled; or
    - § was caring for a dependent child at this time

Survivor's pensions are payable under the same conditions to widows and widowers. Pensions are payable even if the person remarries.

#### **4. *Canada Pension Plan Surviving Child's benefit***

A dependent child (including an adopted child) of a deceased person may qualify for a Surviving Child's benefit if he or she is

- under age 18; or
- between ages of 18 and 25 and in full-time attendance at school or university; and
- if the deceased parent:
  - had contributed to Canada Pension Plan anytime since the start of the Plan in 1966
  - had contributed to the Canada Pension Plan or the social security scheme of Hungary for a minimum period (which can vary between 3 and 10 years, depending on the parent's age at the time of death);

#### **5. *Canada Pension Plan Death benefit***

A single-payment death benefit may be paid to the estate of a deceased person, or, in the absence of an estate, to the person responsible for the funeral expenses, the surviving spouse or common-law partner, or the next of kin, if the deceased person:

- had contributed to Canada Pension Plan anytime since the start of the Plan in 1966
- had contributed to the Canada Pension Plan or the social security scheme of Hungary for a minimum period (which can vary between 3 and 10 years, depending on the spouse's or common-law partner's age at the time of death);

#### **6. *Canada Pension Plan Disability pension***

The person may qualify for a Canada Pension Plan Disability pension if he/she

- has become disabled; and
- has not yet reached age 65; and
- has contributed to Canada Pension Plan anytime since the start of the Plan in 1966
- has contributed to the Canada Pension Plan or the social security scheme of Hungary during four of the six years immediately prior to his/her disablement

In order to be considered disabled under the Canada Pension Plan, the person must have a physical or mental disability which is severe or prolonged.

#### **7. *Canada Pension Plan Disabled Contributor's Child's benefit***

If the person qualifies for a Disability pension and if he/she cares for a dependent child (including an adopted child), the child may qualify for a Disabled Contributor's Child's benefit if he or she is:

- under age 18; or
- between ages of 18 and 25 and in full-time attendance at school or university;

#### **Necessary documents**

- Birth or baptismal certificate for the person, the deceased and any children declared in the application

- Proof of the deceased's date(s) of entry into and departure(s) from Canada (such as: Immigration 1000, passport, visa, ship or airline tickets, etc.)
- Proof of current citizenship for both the person and the deceased
- Document containing the guardian's name and address (only in Old Age/Disability Pension)
- Marriage certificate (if applicable)
- Death certificate
- Document containing signature
- Documents supporting the full-time attendance at college or university (such as, registration book or college/university certificate)
- Documents supporting the vocational training under a training contract
- Documents supporting the employment in Hungary (such as, employment books, social insurance certificate, servant's license, journeyman's certificate, apprenticeship contract, document certifying time spent as an industrial apprentice, skilled worker's certificate, service certificate, OMBI book, stamp sheet, insurance certificate, letter of appointment, etc.) where available)
- Official certificates issued to the deceased by the Central Adjustment Office of Hungary (where available)
- Documents supporting the military or civil service, including time spent in forced labour, in captivity or in a detention camp (such as, soldier's certificate, certificate issued by the Central Archives of the Ministry of Defence or certificate issued by the recruiting centre [of Hungary], certificate issued by the National Representation of Hungarian Israelites, discharge card, soldier's pay book, postcard from a military camp, certification of captivity or reliable testimony on the part of witnesses, etc.) (where available)
- Medical specialist's certificate not older than three months in the case of a sick child

*Agreement on social security between Croatia and the Republic of Hungary*

Material scope

This Agreement shall apply:

1. With respect to the Republic of Hungary, to the legislation of Hungary concerning pension benefits under the social insurance pension scheme:

- a) sickness and maternity benefits;
- b) accident annuity;
- c) pensions;
- d) unemployment benefit

2. With respect to the Croatia, to the legislation concerning the following branches of social security:

- a) statutory medical insurance and health care
- b) statutory pension fund and disablement benefits
- c) unemployment benefit

#### Personal scope

Unless otherwise provided in this Agreement, this Agreement shall apply to any beneficiary as well as to members of his family insofar as they reside or stay in the territory of the Contracting Parties.

*Agreement between the Kingdom of the Netherlands and the Republic of Hungary on co-operation related to the export of social security benefits*

#### Material scope

This Agreement shall apply:

1. With respect to the Kingdom of the Netherlands, to the Netherlands' legislation concerning the following branches of social security:

- a) Sickness and maternity benefits;
- b) Disablement benefits for employed persons;

- c) Disablement benefits for self-employed persons;
- d) Old age pensions;
- e) Survivors' benefits;
- f) Child benefits.

2. With respect to the Republic of Hungary, to the legislation of Hungary concerning

- a) The following social insurance benefits:
  - aa) pension benefits under the social insurance pension scheme (old age pension, disability pension, accident disability pension, widows' and widowers' pension, orphans' benefit, parental pension, accident survivors' pension) and other benefits treated as pension benefits under the social insurance pension scheme for the purposes of payment,
  - ab) accident annuity;
- b) The collection of social insurance contributions.

#### Personal scope

Unless otherwise provided in this Agreement, this Agreement shall apply to any beneficiary as well as to members of his family insofar as they reside or stay in the territory of the Contracting Parties.

#### Export of benefits

1. Unless otherwise provided for in this Agreement, any legislation of a Contracting Party which restricts payment of a benefit solely because the beneficiary or a member of his family resides or stays outside the territory of this Contracting Party shall not be applicable with respect to beneficiaries or to members of their families who reside or stay in the territory of the other Contracting Party.
2. The provision of paragraph 1 shall not apply to benefits provided by virtue of a bilateral agreement concluded between the Republic of Hungary and a third State on the basis of the territorial principle.

Verification concerning application for and payment of benefits

1. With regard to an application for or the legitimacy of payment of benefits, the competent institution of a Contracting Party shall, at the request of the competent institution of the other Contracting Party, provide data and information - with the required collaboration of the agencies and the beneficiary - in order to verify the entitlement to a benefit or the legitimacy of payment of a benefit. The competent institution shall forward a statement of verification concerning the beneficiary along with authenticated copies of the relevant documents to the competent institution of the other Contracting Party.

*Agreement on social security between Québec and the Republic of Hungary*

Material scope

This Agreement shall apply:

- a) to the statutes of Québec respecting the Québec Pension Plan ; and
- b) To the statutes of the Republic of Hungary concerning the payment of contributions to the social insurance system and social insurance benefits.
- c) The Agreement shall also apply to the statutes of one Contracting Party which extends the existing systems to new classes of beneficiaries or to new benefits; notwithstanding the preceding, that Contracting Party may, within three months of the date of the official publication of the statutes, notify the other Contracting Party that the Agreement does not apply.

Personal scope

Unless otherwise provided, the Agreement shall apply

- a) to the persons who are or who have been subject to the statutes of one Contracting Party or to the statutes of both Contracting Parties ; and

b) To the persons who derive rights from persons described in subparagraph (a).

#### Principle of totalisation

When persons have completed periods of insurance under the statutes of both Contracting Parties and are not eligible for benefits by virtue of the periods of insurance completed solely under the statutes of one Contracting Party, the competent institution of that Contracting Party shall totalize, to the extent necessary for the entitlement to benefits under the statutes applied by it, the periods of insurance completed under the statutes of each of the Contracting Parties, provided that the overlapping periods are counted only once.

#### Minimum period to be totalized

Unless otherwise provided in the Agreement, if the total duration of the periods of insurance completed by a person under the statutes of a Contracting Party is less than one year and if, taking into account only those periods, no right to a benefit is acquired under the statutes of that Contracting Party, the competent institution of that Contracting Party shall not be required to pay a benefit to that person in respect of those periods under the Agreement.

### *Agreement on social security between the Republic of Hungary and Republic of Korea*

#### Material scope

This Agreement shall apply:

1. With respect to the Republic of Korea
  - a) national pension law
  - b) employment insurance policy (only with respect to II. part)
2. With respect to the Republic of Hungary

to the legislation of Hungary concerning the following social insurance benefits:

- a) social security contribution
- b) pension benefits under the social insurance pension scheme
- c) law of unemployment benefit (only with respect to II.part)

#### Persons to Whom the Agreement Applies

This Agreement shall apply to:

- a) any person who is or who has been subject to the legislation of one or both of the Contracting Parties, and
- b) Other persons to the extent they derive rights under the applicable legislation from persons described in sub-paragraph a).

## **VI. Challenges in applying bilateral social security agreements**

**Pensionable age:** The pensionable age varies according to the different countries. For example, in some States, you get your pension at 60, in others at 65 and in some at 67. Therefore an intermediary solution was found:

#### *Example*

A person was first insured for 35 years in State A where pensionable age is 67 and then for 10 years in State B where pensionable age is 60. At the age of 60, this person will have to stop working in State B and will be entitled to a small pension from this State, corresponding to the length of insurance periods completed in that State (10/45). He has then to wait seven more years before he becomes entitled to the relatively high pension from State A (35/45). In some cases, the pension drawn from State B is so low that the person concerned has to rely on social assistance.

**Exchange rates:** If you receive a pension from another country, it normally has to be converted into the currency of your country of residence which may result in relatively high bank transaction costs.

**Postal and bank charges:** If your pension is paid to you from another country, postal and bank charges may be deducted. In exceptional cases, where the amount of your pension is very small (e.g. a pension corresponding to one year of insurance abroad), the deduction of these charges may mean a considerable reduction in your pension.

**Queuing slow administration** might cause inconveniences for the pension claimants also from a financial point of view, since there is a high possibility of having to wait for several months until first pension rates arrive.

## VII. Conclusions

Hungary has negotiated bilateral social security agreements to enhance the cooperation between the social security authorities of the other countries involved and to ensure the adequate portability of contributions and entitlements for migrant workers and their families. Nevertheless, not all bilateral social security agreements cover all benefits, so the degree of portability may vary.

Most agreements refer to long-term benefits like old-age, disability, survivor pensions, and other annuities. The provisions ensure that periods of contribution to these pensions that have been paid in either of the two states are totalized and payment of pensions can be obtained in either country.

The most bilateral social security agreements include the so-called non-discrimination clause. This means that nationals of the signatory states of the agreement are treated equally in the two countries with respect to social law. Since nationals of migrant - receiving countries can easily enjoy their pension residing in any other country in the world without suffering any reduction in their pensions, any national of a country with which an agreement has been concluded enjoys the same right.

Finally, none of the current bilateral social security agreements envision an export of pensions by a transfer of contributions between the social security institutions of the home and the host country. In fact, the agreements specifically aim at avoiding such transfers. Instead, all pensions are paid directly from the various social security institutions to the migrant. The aim of bilateral social security agreements — and in case of the EU, multilateral

agreements — is to coordinate national social security law, not to create any form of supranational social security system.

For pension benefits, the key element for portability is totalization of contribution periods and amounts in order to avoid disadvantages in eligibility and replacement rate.

Such bilateral negotiations are likely to be difficult, in particular if the benefits systems between Hungary and other countries are very different.