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## **Any Transnational Social Security Out There?**

**Hungarian mobile citizens and their experiences with (transnational) social security access in Austria**

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# *Any transnational social security out there?*

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# 1. INTRODUCTION

Within the European Union (EU), it is common consensus that there should be no tension between the freedom of mobility and the freedom of welfare. The free movement of citizens is one of the constitutive elements of the supranational formation in which the set of regulations are merely consistent. Whereas the principles of access and portability<sup>1</sup> of social security rights variegates (Boswell, Geddes, & Scholten, 2011; Kogan, Gebel, & Noelke, 2008), equal treatment is generally embedded in the principle of portability of social security rights (Avato, Koettl, & Sabates-Wheeler, 2010; Cantillon, Verschueren, & Ploscar, 2012).

Limitations to portability, which mobile EU citizens may experience, can cause the loss of certain benefits. Limited portability of social security rights therefore involves financial and non-financial disadvantages for mobile individuals (e.g., discriminatory experiences).

The main questions we addressed and will illustrate in this working paper were whether free and equal access and portability of social benefits are guaranteed in practice, what experiences Hungarian mobile citizens<sup>2</sup> in Austria gain when attempting to access their social security rights transnationally and what coping strategies they and their significant others<sup>3</sup> use to deal with upcoming barriers.

The research is set within the framework of “Mobile Welfare in a Transnational Europe: An Analysis of Portability Regimes of Social Security Rights” (TRANSWEL), an international research project funded by New Opportunities for Research Funding Agency Cooperation in Europe (NORFACE)<sup>4</sup>. The project focused on the portability of social security rights in the enlarged EU in four work packages: regulations on the portability of social security rights, practices of portability, discourses of belonging and inequality experiences resulting from possible limitations to portability. The project further involved a comparative analysis, tracing the experiences of regularly and irregularly employed EU migrants and their family members and their access to and portability of social security rights between four pairs of countries (Hungary-Austria, Bulgaria-Germany, Poland-United Kingdom and Estonia-Sweden) in four policy areas (unemployment, health, family and pension). It involved four teams of researchers, respectively based at Frankfurt University/Brandenburg University of Technology Cottbus-

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<sup>1</sup> See explanation in chapter 3.5 EU social security regulation.

<sup>2</sup> The terms mobile citizens and migrants will be used as synonyms in this working paper.

<sup>3</sup> Significant others included the interviewees’ family members, friends or colleagues who had remained in the country of origin (in our case Hungary).

<sup>4</sup> For details on the project, see [www.transwel.org](http://www.transwel.org)

Senftenberg (Anna Amelina, overall project lead), University of Vienna (Elisabeth Scheibelhofer), Södertörn University (Ann Runfors) and the University of Bath (Emma Carmel). The herewith presented results are thus embedded in a much wider research context that generates right now a number of publications and presentations. Authors of this working paper have focussed elsewhere especially on the level of comparing migrant experiences across the four country-pairs mentioned as well as on the specifics of the country-pair Hungary-Austria only (see for example Scheibelhofer & Holzinger, to be published in 2018; Scheibelhofer, Holzinger, & Regös, to be published).

In this paper, the focus will be on the country pair Hungary-Austria and the respective outcome of the qualitative research analysis. In the following, Hungarian migrants' experiences with their access to and portability of (transnational<sup>5</sup>) social rights will thus be elaborated in detail. In order to contextualise the results concerning Hungarian migrants' experiences, the paper first provides a brief description of the historical and migration backgrounds in Hungary and Austria. It further introduces legal regulations around social security in both countries and provides information about social security coordination in the EU. The research design and methodology we used in this qualitative part of the study is then presented more in detail.

For this working paper, we will focus on Hungarian mobile citizens' experiences with possible limitations to portability in the greater border region. Due to the near border context, many Hungarians are commuters, which is also specific for this case. The empirical basis of this working paper were twenty problem-centred interviews with Hungarian migrants in Austria and five problem-centred interviews with some of their significant others (e.g., family members) in Hungary (Witzel, 2000). In order to receive valuable results, we also included participant observations in the research process. Analysing the interviews, we applied the methodology of constructive Grounded Theory (Charmaz, 2006). Biographical case boxes are integrated in the chapters in order to exemplify our findings and receive a better impression of the migrants' case histories. In the next chapter, we will present main results of our research findings. The first case will describe various obstacles Hungarian mobile citizens experience within non-transparent bureaucracy procedures between Austria and Hungary. György Tulipán's<sup>6</sup> experiences and strategies within an application process for family benefits will be portrayed. His and other Hungarian mobile citizens' cases will also illustrate the difficult

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<sup>5</sup> Transnational means in this respect everyday life practices and bureaucratic procedures across the country of origin and/or the country of destination.

<sup>6</sup> All names and specifics of the cases have been changed in order to ensure our interview partners' anonymity.

searching process in terms of relevant authorities as well as the complexity of long administrative procedures. We will show further mobile Hungarians' cases who have struggled with the management of declaring and cancelling social insurance. The following chapter, elaborating on the case of Ferenc Nagy, will show why it is problematic to prove one's centre of vital interests/habitual residency in times of (transnational) migration. In addition to negative experiences in the area of unemployment insurance, positive experiences will be also described in order to highlight the high level of discretionary power and the leeway of decision-making that mark individual officials at specific institutions. The case study of Norbert Szabó will finally illustrate exemplarily how mobile Hungarian citizens transnationally ensure their health coverage. Providing some examples how Hungarian migrants attempt to obtain health insurance transnationally, this chapter would also point to the need/wish of Hungarian migrants to access (transnational) health care in this border region and to which creative strategies they apply to realise their plans. We will close this working paper with a summary of the most important aspects identified throughout our analysis as decisive for the limitation of Hungarian migrants' access to (transnational) social rights in practice.

## 2. THEORY AND METHODOLOGY

The main research perspective we used in our research was constructivist Grounded Theory, which guided the entire research process (Charmaz, 2006). Grounded Theory is in general a research approach to systematically collect and interpret qualitative data with the goal of generating theory. The emphasis is on constructing theories in close relation with social reality. One of the key elements of Grounded Theory is that the phase of data gathering is not separated from the phase of the analyses. Rather, the empirical material guides the analysis (in a reflecting way) and the ongoing results of the analysis influence the additional data collection (principle of 'theoretical sampling'). The accompanying writing of memos serves the systematic development of theory as well as reflection and quality assurance (Strauss & Corbin, 1994). We pursued in our project a constructivist approach to Grounded Theory (Charmaz, 2006) and attached special importance to critical reflection of the role and the social positioning of ourselves as researchers. In Grounded Theory, data collection is a substantive issue. Data collection includes three types of work in Grounded Theory: data collection (e.g., interviews), writing memos, and writing research diaries. In accordance with Grounded Theory, we analysed our material by identifying and creating codes, grouping them then around emerging central themes.

Based on our choice on Grounded Theory method, our sampling strategy was theoretical sampling. This means that we were jointly collecting and analysing data and decided, on the basis of our preliminary findings, what data to collect next in order to develop an emerging theory. In other words, we employed strategies of theoretical sampling by analysing the first interviews right after their recording. According to first reflections and results, we selected the subsequent interview participants so that we could gain more information a specific category had been saturated.

The knowledge goals of the comparative analysis of migrants' experiences were:

- (Transnational) experiences of access and portability of social security rights
- Barriers of accessing and porting social security rights
- Inequality experiences of mobile individuals and significant others related to these barriers
- (Transnational) coping strategies of dealing with these barriers

Our original sampling criteria were thus as follows:

- Persons with Hungarian nationality and country of birth in Hungary
- Persons who migrated to Austria after the EU accession 2004<sup>7</sup>
- Persons who stay longer than five days in the town studied – or nearby in the surroundings and work in town studied<sup>8</sup>
- Persons with portability issues
- Regularly and irregularly employed migrants
- Temporary and permanent employed migrants

Concerning data collection, first, we established contacts with interview participants in November 2015 after an information workshop about access to social security rights for mobile migrants. Other interview partners were recruited by approaching people on the street or in our everyday social environment (e.g., at the kindergarten). A further source of contacts was a Hungarian website run by Hungarians and providing other Hungarian migrants with various information, for example about job seeking, ridesharing opportunities or experiences shared about accessing social benefits in Vienna<sup>9</sup>. Some of the participants were also identified via similar online social platforms. When noticing that female migrants dominated our sample, we shifted our focus of interest to how portability experiences looked like from a male perspective. Therefore, we started to look for male Hungarians. The same was true for the employment sector. In order to reach migrants with lower education levels, we started to look for workers in construction companies and in gastronomy. Nevertheless, it turned out that, regardless of the employment sector, most of the migrants in our sample had a secondary or tertiary level education (see table 1). Finally, we also used the snowball method to find further interview partners, asking interview partners whether we could conduct an interview with their family members, acquaintances or friends. Fortunately, most interview partners provided further contacts so the snowball method worked very well and was unproblematic. We could reach all the given contacts who then agreed to an interview. Therefore, we experienced no problems identifying interview partners. Rather, we could choose our interview partners in order to find cases that contrasted the ones previously analysed (for example, as already mentioned in terms of gender, employment status but also in regard to living and working arrangements or

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<sup>7</sup> We departed from this criteria once in Daniel's case.

<sup>8</sup> These criteria had to be changed after the first research cycle as it turned out that it is difficult to determine how long Hungarian citizens stay in Austria given the proximity between the two countries.

<sup>9</sup> [www.wungarn.at](http://www.wungarn.at)

migratory patterns) as well as extreme cases (e.g., especially vulnerable migrants with undocumented work and living conditions).

We looked for interview partners who migrated to or started to work in Austria after 2004, the year of Hungarian accession to the EU since we perceive this date as crucial for the living conditions in terms of our research interest. Yet, we decided to also include one mobile citizen, Dániel, who migrated before 2004. The reason for this was that this interview participant brought up topics which were crucial for our research interest as, for example, changes regarding access to social benefits in the transitional period of Hungary joining the EU. We included in our sample one-time movers, circular movers who work and live in Vienna for longer periods, commuters who spend at least five days per week in Austria and returnees.

The interviews were carried out between December 2015 and April 2017. Most of the interviews were conducted in Hungarian, two interviews were conducted in German and one in English.

**Table 1: Socio-economic data of the interviewed Hungarian mobile citizens**

Table 1 Socio-economic data of the interviewed Hungarian migrants					
No.	Anonymised name	Gender	Age	Education	Marital status
1	Tulipán György	male	32	university degree	married
2	Tóth István	male	29	university degree	engaged
3	Takács Melinda	female	40	university degree	married
4	Bodnárné Kis Virág	female	63	vocational school	widow
5	Bodnár Emilia	female	39	university degree	in a relationship
6	Molnár Dorina	female	27	university degree	in a relationship
7	Hegedüs Mária	female	40	university degree	married
8	Galambos Èva	female	52	university degree	married
9	Galambos József (s.o.)	male	52	secondary school	married
10	Hidi Béla	male	48	vocational school	married
11	Szalai János (s.o.)	male	55	vocational school	married
12	Szalai Erzsi	female	48	vocational school	married
13	Bánkuti Lajos	male	49	vocational school	married
14	Bánkuti Renáta (s.o.)	female	44	university degree	married
15	Gáspár Klaudia	female	56	university degree	divorced
16	Fekete Rozália	female	48	vocational school	married
17	Nagyné Szép Veronika (s.o.)	female	50	university degrees	married
18	Szabó Norbert	male	26	university degree	in a relationship
19	Szöcs Dániel	male	45	secondary school	married
20	Nagy Ferenc	male	46	primary school	married
21	Szöcs Kinga (s.o.)	female	44	secondary school	married
22	Jakab Teréz	female	44	university degree	divorced
23	Németh Szabolcs	male	27	university degree	in a relationship
24	Kovács Anita	female	28	university degree	in a relationship
25	Szilágyi Réka	female	28	university degree	in a relationship
<b>'s.o.' stands for: significant other<sup>10</sup></b>					

<sup>10</sup> Significant others included the interview participants' family members, friends or colleagues who had remained in the country of origin (in our case Hungary).

Table 1 summarises the basic characteristic of the interviewed Hungarian citizens and their significant others. The overall empirical work was also based on continued discussion (online and offline) among members of the international research team of all four country-pairs. Methodology was developed and reformulated along the way in order to have a consistent yet flexible research process according to Grounded Theory (Scheibelhofer, 2019; Scheibelhofer, Holzinger, Regös, & Balogh, 2016).

More interviews were conducted with female participants (fifteen) than with male participants (ten). The interviewees were aged between 26 and 63 years. Most (fifteen) of the interviews were conducted with Hungarian migrants who had a university degree or an equivalent diploma, six interview participants visited vocational training school, three graduated from secondary school and one participant visited primary school. Most of our interview participants were married, the second largest group in terms of marital status was unmarried partners in a relationship. One female participant was divorced and one other a widow. At the time of the interview, most participants were regularly employed (fifteen), received the Austrian unemployment benefits and one participant was employed illicitly. Three female participants were at home with their children and two participants were self-employed. One interview participant was already retired in Hungary but worked both legally and illegally in Austria at the time of our interview.

All interviews were conducted face-to-face and were recorded. The length of most (nine) of the interviews was an hour. The duration of six interviews took two hours or more, four interviews took between 30 minutes to 45 minutes and three interviews took one and a half hours. One interview was done together with the interview participant and his significant other, which took more than two hours.

After being invited to go to welfare institutions by interview partners, we started to gather data by way of participant observation and tried to accompany migrants more often. In total, three participant observations were carried out, one at the Chamber of Labour, one at the Public Employment Service and at the Police Station. Interview partners appeared in all cases happy to have this support, especially as we could assist by translating linguistically or culturally. We were prepared to disclose our identities, yet we were never asked to do so. Officials from relevant social institutions seemed to be barely interested in our presence. We also collected

forms and other official documents concerning (trans)national bureaucratic issues. In exchange, we helped with and provided support to Hungarian migrants with administrative processes.

After conducting the interviews, we began to analyse them immediately and put our reflections in memos. Based on such a research cycle, the next two to three interviews were selected (this was the theoretical sampling moment) and a new research cycle began.

Besides making interviews, the most significant element of our research quality was to accompany the thinking process by constantly writing memos and a research diary. Memo writing is the fundamental process of data engagement in the Grounded Theory and the place where theoretical sampling happens as well. In order to ensure the interviewees' anonymity, names and places were changed. The basic rule was to remove any personal information that could reveal the interviewees' identities.

As interview methods, we used the problem-centred interview (Witzel, 2000). More specifically, we opted for an open entry stimulus (Scheibelhofer, 2008) and then focussed on the main areas of social security at hand. Due to the initial results within the empirical work, we included in the course of the research process also participant observations which had turned out to provide valuable insights. After each interview, interview protocols were written. After coding the interview, interview summaries on each case provided a broader overview of the case: this included a chronological case description from the perspective of the interviewee, a dossier where we sum up our interpretative uncertainties, special features of the case, unusual events and methodical errors. Finally, a chapter on case-specific main topics were written – this was the room where we could collect our thematically oriented ideas of interpretations.

### **3. BACKGROUND INFORMATION REGARDING THE HUNGARIAN AND AUSTRIAN WELFARE STATES, SOCIAL SECURITY SYSTEMS AND EU REGULATIONS**

In this part, first Hungarian migration towards Austria will be shortly described. Afterwards, a brief introduction to the Austrian and Hungarian welfare states and their key benefits will be given in two separate chapters. The collected information in this chapter are based on the internal country context briefing paper about Austria by Clara Holzinger (2015) and a comparative-policy paper written by Emma Carmel, Bozena Sojka and Kinga Papiez (2016), further on the submitted individual book chapter written by Regös, Holzinger, and Scheibelhofer (to be published).

#### **3.1. OUTLINE HUNGARIAN MIGRATION TO AUSTRIA**

Hungarians are recognised as an ethnic minority in the border province of Burgenland (since 1976) and in the capital of Vienna (since 1992) (Gruber 2013). According to Statistik Austria, the number of Hungarians who live in Austria has risen from 13.069 in 2002 to 77.174 in 2018. Most Hungarians live in the eastern regions of the country and their numbers have risen the most after the EU accession and the opening of the labour market in Austria in 2011. In 2018, the number of Hungarian nationals employed in Austria (namely 90.994) was higher than the number of Hungarians residing in the country because many of them are cross-border workers and are commuting (BALI, 2018). Most employed female migrants from Hungary work in the service sector (gastronomy, tourism and commerce) while many Hungarian men work in construction and in the production of goods (Gruber, 2013).

#### **3.2. THE WELFARE SYSTEM IN AUSTRIA**

In the following, the Austrian welfare system will be illustrated by showing in three separate sub-chapters its history, its key pillars, and residency requirements for EU citizens.

### 3.2.1. A BRIEF INSIGHT INTO THE HISTORY OF THE AUSTRIAN WELFARE SYSTEM

Austria's welfare system was built when work accident and sickness insurance were introduced against the background of a powerful labour movement on the one side and the German example (introduction of a social insurance model under Bismarck) on the other side, back in the 1880s. According to Österle und Heitzmann 2009 the fundamental principles of the Austrian social insurance model were established at this time, namely obligatory insurance, self-administration and close employment links (Österle & Heitzmann, 2009). The General Social Security Act<sup>11</sup>, which was set up 1955, still constitutes the legal basis for social insurance in Austria. The welfare system is built on three main pillars which are the social insurance, the universal state support which mostly concerns care related benefits and social assistance (BMASK, 2014; Österle & Heitzmann, 2009; SV, 2013). The social insurance principle is very dominant in pension, health, work accident and unemployment schemes. The access to health care can be described as universal while the benefit-contribution relationship is strong in pension, work accident and unemployment structures. The social insurance structures are related to employment and family (e.g., non-contributory benefits for family members in health and pension). Also self-administered social insurance funds play an important role in the Austria welfare system (Holzinger, 2015, pp. 2, 5, 6).

### 3.2.2. THE KEY PILLARS OF THE AUSTRIAN WELFARE STATE

Let us here illustrate the key pillars of the Austrian welfare state (cf. SV 2013 and BMASK 2014):

- Social insurance (compulsory, finances mainly by contributions)
  - Social insurance in a narrow sense (pension, health and accident insurance)
  - Unemployment insurance
- Universal state support (non-contributory state support, finances by general taxation)
  - Family allowance, childcare allowance, long-term care benefits
- Social assistance (non-contributory, subsistence minimum, finances by general taxation)

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<sup>11</sup> In German: Allgemeine Sozialversicherungsgesetz

- Means-tested benefits (including minimum income scheme, disability benefits, retirement and care homes) (Holzinger, 2015, p. 6)

Employees (and also their family members) are covered by the compulsory insurance system. Those employees who earn under the minimum wage are only covered by accident insurance and can opt for health and pension insurance voluntarily. Beneficiaries of means-tested minimum income scheme, childcare allowance, unemployment benefits and old-age pension are also covered by social insurance.

Social insurance is financed primarily by contributions paid by the insured and their employers. Additionally, tax-contributions are used. Contribution rate depends on income.

The institutional structure is decentralised with 22 social insurance institutions united under an umbrella organisation (Hauptverband der Österreichischen Sozialversicherungsträger). These are organised according to occupational groups, regional and field activity. Unemployment insurance is not managed by the social insurance organisations but by the public employment service (Holzinger, 2015, p. 6).

### 3.2.3. STEPS FOR EU CITIZENS BY MOVING TO AUSTRIA

When EU citizens intend to move and to establish their residence in Austria they have to register to the responsible registration authority within three days of arrival. EU citizens do not require a visa and have a right to residence for a period of three months (but must be in possession of a valid passport or identity card). According to Union law EU citizens (and their family members who are EU citizens themselves) may reside in Austria for more than three months if they are employed or self-employed in Austria. Applicants who are not employed or self-employed need to account for sufficient means of life and sufficient health insurance coverage for themselves and their family members.<sup>12</sup> The relevant authorities must be notified within a four-month period starting from the arrival in Austria and then issue a registration certificate<sup>13</sup>.

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<sup>12</sup> According to EU regulations, no indicative rates may be set. In practice, though, EU citizens must prove that they dispose of a monthly income (or equivalent accumulated capital) above the equalisation supplement reference rates (Ausgleichszulagenrichtsätze).

The Federal Ministry of the Interior states on its webpage: Equalisation supplement reference rates 2018: €09,42 (single person/month), €1363,52 (married or registered couples/month), + €140,32 (child bonus) [http://www.bmi.v.at/cms/BMI\_Niederlassung/Allgemeine\_Informati/Beilage\_Unterhaltsbroschuere\_2015.pdf, last retrieval:09/04/2018]

<sup>13</sup> In German: Anmeldebescheinigung

After a five-year period of continuous legal residence in Austria, EU citizens can apply for a document certifying permanent residence<sup>14</sup>. Registration for social insurance is the responsibility of the employer. New residents will receive a social insurance number and an E-card. Minimally employed workers, ‘new self-employed’ persons and self-employed persons are in charge of registering themselves and their family members at the relevant social insurance office (Holzinger, 2015, pp. 6,7).

### 3.3. THE WELFARE SYSTEM IN HUNGARY

In a similar vein to the chapter on the Austrian welfare system, the following chapter will first shortly describe the brief history of the development of the Hungarian welfare system. As a next step, it will give an overview on the organisation of the welfare system.<sup>15</sup>

#### 3.3.1. A BRIEF INSIGHT INTO THE HISTORY OF THE HUNGARIAN WELFARE SYSTEM

As Regös, Holzinger, and Scheibelhofer (to be published) sum up, the development of the Hungarian welfare system began in the late 19<sup>th</sup> century, influenced strongly by the Austro-Hungarian Empire (Aspalter, Jinsoo, & Sojeung, 2009). Under the communist regime, social security was served primarily through the concept of full employment. Social insurance existed however: by the 1970s, almost the whole population was entitled to health services and old age pensions (Tausz, 2009). The authors further highlight the influence the economic crisis in 2004 had on the Hungarian welfare state: the economic crisis hit Hungary especially hard due to the country’s high external debt and the internal tensions following the 2004 EU accession. This instigated a massive welfare retrenchment: Hungary has been one of the few EU countries to see a significant decrease in real social spending between 2008 and 2012 (Lendvai & Stubbs, 2015; Szikra, 2014).

Szikra (2014) argues that fundamental change has been implemented in a very short period of time through the elimination of barriers from the way of the executive power. In a fragile social security system in which hardly any opposition existed due to the weakness of trade unions and other organisations (Tausz, 2009). According to Szikra (2014) and Lendvai and Stubbs (2015), the newly implemented reforms have contributed decisively to the polarisation of society and

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<sup>14</sup> In German: Bescheinigung des Daueraufenthalts

<sup>15</sup> As the residency requirement for EU citizens turned out in our discourse analysis to be not crucial for Hungary, there is no separate chapter on this topic.

augmented poverty: in 2012, 33 per cent of adults were at risk of poverty (Eurostat 2013, cited in Lendvai and Stubbs 2015, 456). Furthermore, poverty has an increasingly ‘ethnic’ face, with around 90 per cent of Roma Hungarians living in severely deprived circumstances (Szikra, 2014). Another consequence of the low employment rate and the decrease in social protection is the boost of emigration, noticeable especially among middle-aged skilled men (Sik 2012, cited in Szikra 2014).

According to Tausz, the new social security system has “a tendency to overlook the least well off member of the population” (Tausz, 2009, p. 257), as it is marked by very low levels of provision, the granting of local discretion and the decentralisation of the state’s welfare responsibilities<sup>16</sup> as well as by the privatisation of social insurance schemes.

In sum, we can conclude that the Hungarian welfare system can still be described as a “hybrid model”, such as it was described in Esping-Andersen’s typology (Tausz, 2009, p. 258).

### 3.3.2. SOCIAL SECURITY ORGANISATION IN HUNGARY

The Hungarian social security system is structured by five branches. These branches are pension, health, unemployment insurance, family support and social assistance. The Ministry of National Economy<sup>i</sup>, is responsible for unemployment insurance and the Ministry of Human Capacities<sup>ii</sup> is managing the other branches (MISSOC, 2016).

While Austria is a federal state where individual provinces and autonomous social security institutions have high degrees of autonomy, the Hungarian structure of social security is more centralised. Differences can also be stated in regard to per capita spending on social protection which in Hungary is below and in Austria well above the EU average (Eurostat, 2016a).

### 3.4. KEY BENEFITS AND THEIR PORTABILITY IN HUNGARY AND AUSTRIA

In order to provide an overview of the crucial conditions and administrative steps to eligibility of social benefits in Hungary and in Austria, the key benefits will be illustrated briefly. The

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<sup>16</sup>This decentralisation resulted in a strong correlation of danger of poverty and unemployment with the place of residence (Tausz, 2009).

focus still remains on the overall four policy areas chosen by the overall TRANSWEL project: unemployment, family benefits, health and pension.

#### 3.4.1. UNEMPLOYMENT INSURANCE

The unemployment scheme in Hungary is a social insurance system (MISSOC, 2016). However, profound reforms have been implemented after 2010, replacing active labour market policies with a public work programme, reducing the receipt of unemployment benefit to a maximum of three months (currently the shortest period within the EU) and its amount to the minimum wage. The amount of social assistance received thereafter has also been cut significantly and both benefits have been linked to the strict acceptance of employment opportunities. If there are no employment opportunities, recipients are obliged to join the public works programme (European Commission, 2015; Szikra, 2014).

In Austria, beneficiaries of unemployment benefit must be available to the labour market and have been subject to mandatory insurance for a specified minimum duration, which can be accumulated from different EU member states. The rate of benefit depends on the previous income and is paid for up to 52 weeks. On expiry, unemployment assistance can be granted combining the principles of social insurance (rate is calculated on the basis of the received unemployment benefit) and welfare (means-tested) (AMS, 2018). Commuters with habitual residency in another EU member states are not eligible for the unemployment benefit in Austria (see connected Hungarian migrants' discriminatory experiences when applying the unemployment benefit in chapter 4. 3).

#### 3.4.2. FAMILY BENEFITS

Access to family benefits in Hungary is predominantly related to contributions: maternity leave<sup>iii</sup> and child benefit<sup>iv</sup> require a minimum of 365 insured days in the last 2 years. Parental leave plus associated benefits<sup>v</sup> and parental allowance<sup>vi</sup> are universal provisions, supplemented by a tax credit system which benefits mainly wealthier working families (Lendvai & Stubbs, 2015; Szikra, 2014).

In Austria, family benefits are predominantly universal but also partly contribution-related. Insured women are entitled to maternity cash benefit<sup>vii</sup> during the statutory maternity leave. All parents are entitled to child raising allowance<sup>viii</sup>. Length and amount of this allowance depend on the chosen payment scheme (flat-rate [universal] or income related [insurance-based]).

Compulsory examinations during pregnancy and after birth have to be completed. Family allowance<sup>ix</sup> is universal and supplemented by a uniform tax credit.

### 3.4.3. HEALTH INSURANCE

The administration of the statutory health insurance in Hungary is carried out by the National Health Insurance Fund (OEP<sup>x</sup>)<sup>17</sup>, the Capital and County Government's Office<sup>xi</sup> and the workplace-based social insurance offices (MISSOC, 2016). Employees are automatically affiliated, contributions are paid by employers and employees (European Commission, 2015). Entitled to healthcare benefits are also various groups of people who are not gainfully employed (minors, students, pensioners, recipients of benefits, etc.) (MISSOC, 2016). Persons without social insurance (e.g., self-employed, dependent family members, etc.) need to pay healthcare contributions if residing in Hungary for a year or longer. Insured persons are eligible for sickness benefits, paid up to one year. The amount of this benefit depends on previous insurance periods.

As health insurance in Austria covers automatically all employees over the minimum income level, dependent family members and most recipients of social benefits, the vast majority of the Austrian population is insured<sup>18</sup>. Residents without mandatory insurance are entitled to be insured on a voluntary basis, but may claim medical benefits only after an insurance period of six months. Compulsorily insured persons are entitled to sickness benefit (up to one year) and rehabilitation benefit (the minimum amount thereby is the equalisation supplement reference rate if the beneficiary resides in Austria) (BMASK, 2014).

Concerning (transnational) healthcare, EU migrants have the possibility to apply for the so-called S1 form (former E106, E109 und E121), if they aim to be insured in both countries, country of employment and country of residency. The purpose of the form is to allow cross-border workers with residency in Hungary but working in Austria full health coverage in Hungary as well as in Austria.

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<sup>17</sup> Tasks of the National Health Insurance Fund of Hungary (Hungarian acronym: OEP). The name of the institution has recently changed.

<sup>18</sup> More than 99% of Austrian citizens are covered, but according to estimations of NGOs, around 1.25% of all residents do not have health insurance (AmberMed, 2015; Habl, 2014).

#### 3.4.4. STATUTORY PENSION INSURANCE

Hungary has seen important reforms in the pension system in recent years. After privatisation in the 1990s, the Hungarian government nationalised private pension assets in 2012 and returned to a two-pillar pension system, based on compulsory social insurance on the one hand and voluntary savings on the other (MISSOC, 2016; Szikra, 2014). The minimum age to receive old-age pensions is usually 65. Exempted are only women with at least 40 years of contributions and those who were born before 1957. The recent reform for women with 40 working years can be seen as “a novel attempt to link pro-natalist family policy aims with the old-age pension system” (Szikra, 2014, p. 490). Former early retirement pensions have been transformed into social benefits<sup>xii</sup> (MISSOC, 2016).

In Austria, the mandatory pension scheme is, like in Hungary, the major system for retirement income provision. Eligibility criteria are age and a minimum level of contributory months. The statutory retirement age for women is 60 years, for men 65<sup>19</sup>. Benefits are calculated on the basis of an average contributory income. Tax-financed compensation supplement<sup>xiii</sup> can be provided if the amount is under a certain level.

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<sup>19</sup>By 2033, the age at which women are eligible for retiring on an old-age pension will approach that of men.

### 3.5. EU SOCIAL SECURITY REGULATIONS

In both Hungary and Austria, the EU-regulation 883/2004 regarding the harmonisation of social security applies and constitutes the formal basis for the portability of social benefits. Portability can be defined as “the ability to preserve, maintain, and transfer vested social security rights (or rights in the process of being vested), independent of profession, nationality, and country of residency” (Holzmann and Koettl 2014:14 cited in Carmel et al 2016, p.9) or “the possibility of acquiring and keeping social benefits’ entitlements and/or social rights in the event of mobility for work reasons” (d’Addio and Cavalleri 2014:1 cited in Carmel et al 2016, p. 9).

Social security regulations in the EU build on the principle of non-discrimination of mobile citizens. The key message within the Directive 2004/38<sup>20</sup> is that “EU citizens who are employed, self-employed, self-sufficient or who are a family member of an EU citizen who is, are entitled to equal treatment to nationals.” (Carmel et al., 2016, p. 16) In the first working paper of project TRANSWEL within the method of policy analyses Carmel et al. (2016) elaborated and summarised relevant regulations according to EU coordination system more in detail.

Carmel et al. (2016) found out in their policy analyses that there are “contradictory positions” within the Regulation. They describe that: “On the one hand, EU citizens’ social security rights are not to be dependent on residence within a specific member state. Yet at the same time, social security itself is conceptualised as fully ‘bounded’ in the specific national welfare systems of member states, with their embedded rules and norms. The Regulations require the determination of the – single - ‘competent’ member state; this in turn, requires the determination of “(habitual) residence” in only one member state (see especially 987/2009, Art. 11).” (Carmel et al., 2016, p. 17) In this respect, they also discovered that some of the benefits are very exceptional “too nationally-embedded” so that it is not possible to port them.

With this centering remarks we would like to go on and show experiences of Hungarian mobile citizens with inter alia the portability of their social security rights as well as the barriers they

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<sup>20</sup>Within the EU legal regulation, under the “secondary legislation (law developed from Treaty provision)” the Directives are “(in-principle, legal specifications of minimum requirements, to be transposed into national legislation) & key associated case law.” “Directive 2004/38 on the right of citizens of the Union and their family member to reside freely within the territory of the Member States. OJ 2004, L158/77,” (Carmel, Sojka, & Papiez, 2016, p. 15)

have to face and the strategies they come up with when it comes to access their social security right.

## **4. HUNGARIAN CITIZENS' EXPERIENCES WITH (TRANSNATIONAL) SOCIAL RIGHTS**

The aim of this chapter is to illustrate a selection of main results of the qualitative problem-centred interviews we conducted with Hungarian mobile citizens who work and or live in the great boarder region to Austria. In particular, we exemplify their main experiences with (transnational) bureaucracy procedures within the social security system in Hungary and in Austria. In our study, we found a wide range of challenges Hungarian mobile citizens were confronted with when they had to deal with the bureaucracy apparatus of two different social security systems. Further, we would like to demonstrate various strategies Hungarian migrants have to come up with in order to secure their rights based access to welfare. This part is based on the intern comparative grid (Regös & Bakonyi, 2016), on 13 interview summaries written and on regular team work with interpretative sessions within the Austrian team.

### **4.1. '[...] I did not know and they directed me from one place to another.' – navigating in a non-transparent bureaucracy system**

Györgys' case illustrates very well not just the migrants' struggling process of gathering information about right based access to social rights but also the duration of long bureaucratic procedures until a case is solved and also the different strategies migrants use in order to get rights based access to family benefits. With the case of György we cover three main topics we found in our research as most important. These are the difficult process of finding the relevant authority, the long-bureaucratic procedures and the complexity Hungarian migrants face when navigating in a non-transparent (transnational) bureaucratic system.

## BIOGRAPHICAL CASE BOX: GYÖRGY<sup>21</sup>

György is 32 years old and has been living in Hungary with his wife and his three-year-old daughter. He has been working as a key account manager since the beginning of 2015. In the beginning, György used to have an apartment in Mödling, which was his second main residence between 2013 and 2015. In 2015, he moved to Vienna, which he named as his secondary residence. Being able to earn a reasonable salary was the main motivation for moving to Austria. In addition, he wanted to learn German and gather experiences abroad. György found a way to deal with being separated from his family but mentioned that it was not easy. He wanted to avoid commuting in future also because his wife was expecting their second child. György and his family's intention was to move to Austria before their second child was born and before he found another job where he would not be restricted to working on projects. His wife did not plan on going back to work in Budapest but instead planned to take care of their children and search for a job in Vienna when their second child is older.

From the beginning of the interview, György was comparing the Hungarian family benefit system to the Austrian one. This comparison (on the eligibility to and amount of respective benefit) seems to build the basis for the decision whether the family moves from Hungary to Austria or not. To inform himself, he was searching for some information on the Internet and also asked a couple of friends which family benefits his wife was entitled to receive.

György seemed to know the basic conditions about family benefits in both countries but was sometimes confused by the conceptions of the family benefit system. After longer hesitation and careful thought, they decided that his wife would give birth to their child in Hungary and move to Austria a couple of months later. For the future, György wants the family to be together.

After reading on the Internet that one can apply for marginal payment of child benefits<sup>22</sup> in Austria, György went to the Hungarian State Treasury in Budapest in person and asked an official how to access it. He only knew that he also needed a certificate about the amount of child benefits in Hungary. György told in the interview that they could hardly help him and did not know about the (transnational) case. As a solution, the official and György had a look at a sample translation from the Internet, filled out the application forms together and the official in Budapest sent the documents to the Local State Treasury (LST) responsible for Austrian-Hungarian cases concerning portability of family benefits. After six months of receiving no information, György went to his municipal authority in Austria and asked about his case. He was told that they received no documents from Hungary, highlighting that this would have been

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<sup>21</sup> All names and specifics of the cases have been changed in order to ensure anonymity for the interview partners.

<sup>22</sup> See table 2 type of benefits and functional equivalents for entitlement in the annex.

strange in any case because it is the municipal authority in Austria who should have sent application forms for marginal payment to the LST and not vice versa. He then asked the State Treasury in Budapest for the completed application forms, however, the answer was that these had already been sent to the LST. As it turned out, the LST ignored these documents and his case entirely without informing György about this. After a while, György contacted the authorities in question and asked them why he was not informed about the application forms they had received. The officer told him over the phone that they '*[...] were not allowed to deal with the case because there was no stamp on it from Mödling*<sup>23</sup>.' (György, age 32, Hungary). However, at the end, after waiting for one and half years, György received the child benefit. Our interpretation is that a mistake such as initiating the application process at the wrong institution can have tremendous consequences for migrants and even hinder their (transnational) access to benefits, also because it is difficult to find the responsible authority in specific cases. Furthermore, György's case shows that street-level bureaucrats (Lipsky, 2010) can decide to stop dealing with a case without notifying the applicant. If the migrant is not active himself/herself, the process (and access) stops there.

When György informed himself in Hungary about the portability of maternity benefits, the officer at the National Health Insurance Fund of Hungary (OEP) told him that, if he and his family moved to Austria, they would need to pay health insurance in Austria and would not be allowed to have insurance in both countries at the same time. Thus, he would be excluded from his current Hungarian insurance. He was also told that, even if his wife was pregnant and delivered their child in Austria, she would not be entitled to maternity benefits there because she had never worked there. To ensure that he got the right information, György also asked his regional health insurance fund in Austria where the official told him the same: they were entitled to child benefits in Austria only after the child is born but they would not receive maternity benefits because his wife has never worked in Austria. György's main concern was that, if his wife moved to Austria right away, they would lose their current entitlement to maternity benefits in Hungary. Moreover, she would not be eligible for the Austrian maternity benefits either, despite coinsurance, as she had not worked in the country. His deep concern and negative assumptions are best depicted in the following citation:

'... she is not allowed to have two insurances, and this law will be valid here as well. And from home [Hungary] we do not get anything from this point on. But because here she didn't have any

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<sup>23</sup> Mödling is an anonymised name here.

salary, what should the insurance pay for? [...] I think we won't get anything here and the Regional Health Insurance Fund didn't know any better.' (György, age 32, Hungary).

From György's point of view, if they had decided to move to Austria his wife would not receive any maternity benefits or functional equivalent benefits during maternity leave from Austria or from Hungary. György describes this to be a 'grey zone'<sup>24</sup> because of a possible loss of maternity benefits in both countries by moving from Hungary to Austria where his wife had never worked. With this loophole that he called 'grey zone' he intends to express that, in the end, his wife could be left without any entitlements if she was to move to Austria at the wrong point in time.

'Our first problems appeared right here: if we moved (to Austria) before delivery, for instance, then, because she was employed in Hungary, she would be on sick leave and would get some money according to her salary. [but not in Austria] [...] This [the amount of maternity benefits in Hungary] would be 75% to 80% of her [the wife's] salary. So we should move while she is still pregnant but then she would lose this benefit [in Hungary]. Which she would be entitled to receive, because she actually worked for it.' (György, age 32, Hungary).

To summarise, György and his wife were afraid of losing family benefits in Hungary. We assume that the fear of losing family benefits plays a decisive role in the decision-making process regarding family's international relocation. Although he and his wife wanted to move while she was pregnant, the information they had received on the non-portability of maternity benefits hindered their migration to Austria.

Interesting in this respect was that, during our desk research, we received different information concerning the portability of maternity benefits. Trying to find out which (transnational) social security regulations were actually in place, one of our researchers (who also interviewed György) got the following information from an expert during a phone conversation: portability of maternity benefits from Hungary to Austria is possible but the benefits will be transferred to a bank account registered in Hungary. During the interview, the interviewer told György that the expert on the phone told her that the Hungarian state will not control the main residence of the receiver of the benefit. Thus, György and the interviewer received contradicting information from the responsible officers. We consider, however, that, given the fact that the account number needs to be in Hungary, we cannot speak about portability of benefits.

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<sup>24</sup> In Hungarian he uses the term "egy szürke folt" – "a grey spot", analogous a "grey zone".

György informed himself about steps he needs to take via the Internet. Then, György went to the authority in person in Hungary he thought is responsible for his case. Probably, György wanted to solve his problem fast and in the best possible way. He used a strategy of personal contact with the officials. The officials and the authority, on the other hand, could not give proper information and were not able to hand out information materials. According to György, he carried out his administrative duties with extraordinary consciousness, making himself a role model for the bureaucracy in his unquestioning obedience to the state. We can see that György felt left alone in confusing situations within complex administrative regulations and received wrong information which had effects on his personal life. In György's and his wife's case, they both decided against moving because of a fear of a financial loss. During the interview, it was noticeable that György felt very desperate and disappointed about his complicated situation.

The following case will illustrate that another interview partner also found it difficult to identify the competent authority when it came to manage (transnational) social protection. Réka<sup>25</sup> encountered substantial problems when she tried to identify who was the competent institution in her concern.

'And the procedure was extremely difficult, but it was difficult because it is made difficult in Hungary. So they directed me from one institution to another. Nobody wanted to assume the responsibility that belongs to their competences. And I don't know, but then I went to the Government Windows [Kormányablak], where it theoretically should be managed nowadays. What do they call it today, the Hungarian Insurance...? [...] INT: Hungarian National Health Insurance Fund? [...] IP: Hungarian National Health Insurance Fund. Yes, thank you. So, I tried to send my rejection form to them, but I finally sent the envelope everywhere (to all institutions) and I was waiting who would react.' (Réka, age 28, Hungary).

She said that the purpose of the rejection was a legal proceeding because in Réka's understanding, she could not have health insurance in two countries. Réka further emphasised that the procedure was complicated. She explained the following:

'[...] I didn't know and they directed me from one place to another. And then I went directly to the National Health Insurance Fund (INT helped her), thanks, and there they told me that it is not the one. So I went to a Government Window where they said they couldn't. Then, I went to another Government Window in [...]. Maybe they would give me more information there. But that I could

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<sup>25</sup> See brief information about the interview participants whose case dealt as further example for this working paper in the annex.

not manage it directly anywhere when I travelled home extra because of this reason, when administrative offices are open [...] ‘And this is when I decided that I am not going to waste time any longer since I already had the form which I had to complete. So I sent it attached with an explanation letter that I want to renounce my health insurance.’ (Réka, age 28, Hungary).

Since the procedure proved to be extremely complicated, Réka decided to send the renunciation of her Hungarian health insurance to two different institutions in Hungary and to one in Austria. She argued that the reason for her act was that she did not know which one would be the relevant authority. Consequently, she completed the S1<sup>26</sup> application form. She said that there were two different forms which specified whether she was a commuter or not. She said that people who live permanently in Austria should complete the S1 form. She said that she was only afraid because she was not insured actively for a period and because health insurance is compulsory in Hungary. This is why she sent the explanation letter so they would understand her situation.

‘[...] I think that I attached an explanation letter too, so it was not only the rejection form. And in the letter, I basically asked the authorities to communicate amongst each other because I sent this form to all of them, so they know that it was everything I could have done (laughs) [...] I didn’t want to leave it to chance because I was already so nervous about this topic, that how many times I tried to manage and I never succeeded.’ (Réka, age 28, Hungary).

Réka received the confirmation from the Hungarian National Social Insurance Institution that they had finalised the administration process and that her Hungarian health care insurance was cancelled, finally. She believed that the administration took so long in Hungary because there were certain changes in the management and the different authorities did not know which was competent in this case.

‘[...] It was so new for them, therefore they could not manage it. So it was typically because of lack of knowledge, so they rather said that it is not their task because they did not have enough information and they were afraid. And then, there was a guy who similarly did not manage anything but at least told me how I should do it. It was at the Government Window and finally he and one of

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<sup>26</sup> S1 form (former E106, E109 und E121 certificate of entitlement to healthcare if you do not live in the country where you are insured. Useful for posted workers, cross-border workers, pensioners and civil servants and their dependants. The purpose of the form is to allow cross-border workers with residency in Hungary but working in Austria full health coverage in Hungary as well as in Austria. Therefore, the Hungarian health care insurance can be valid again. With the option of using the E106 form, Hungarian migrants can not only avoid paying the potential fine [(ranging from 10,000 Ft (ca. Euro 30) to 100,000 Ft (ca. Euro 300)) – in case of missing cancellation/declaration of health insurance in the new/old member state] but can also receive reimbursement in retrospect for the periods of double insurance. [https://europa.eu/youreurope/citizens/work/social-security-forms/index\\_en.htm](https://europa.eu/youreurope/citizens/work/social-security-forms/index_en.htm), last retrieval 03/01/2018, [http://neak.gov.hu/felso\\_menu/lakossagnak/ellatas\\_kulfoldon/kulfoldon\\_munkat\\_vallalok\\_bejelentese](http://neak.gov.hu/felso_menu/lakossagnak/ellatas_kulfoldon/kulfoldon_munkat_vallalok_bejelentese), 10/04/2018

my colleagues helped me who could manage it much more easily in [...] than I in Budapest. (she laughs)' (Réka, age 28, Hungary).

In sum, the registration process to access health insurance in Hungarian mobile citizens' country of destination and therefore cancel health insurance in their country of origin seems to be a problem they have to deal with. In addition to Réka's negative experience, our interview participant Melinda also points to these difficulties. The Austrian health care insurance asked her to cancel her health insurance in Hungary. However, the Hungarian health care system made it compulsory to have the health insurance in Austria first before de-registering from health care in Hungary. The result was that she could not manage to pre-register in a chosen hospital for childbirth in Austria. Moreover, she had to pay for healthcare privately. When she tried to de-register from Hungarian healthcare, she was even invited by an official to speak up about her case and she portrayed the following:

'The office manager came to me and she said that she would now tell me something in private only. She said that I am not the only one who is in this situation but there are MANY OF US. She recommended me to go to the Consulate in Vienna and bring up the topic. I would help these people a lot. My answer was that I am not a revolutionary and I do not want to change the system. Wouldn't there be any other solution to the problem? But their only suggestion was to go to the Consulate because their experience was that if I would go there often, they would give it to me some day.'

(Melinda, age 40, Hungary).

The examples of Réka and Melinda demonstrate how challenging the processes are when migrants try to manage health insurance transnationally. Still, the strategies to deal with such challenges differ. While Réka contacted three different institutions in order to find the institution to cancel her health insurance in Hungary and to acquire access to health insurance in Austria, Melinda paid for health insurance privately and wanted her problem to be solved by itself, declining the possibility to make this issue "public". We identified these strategies as both self-efficient and resigned.

## **4.2.‘(...) It took almost one and a half years’ - experiencing lengthy bureaucratic procedures**

Another obstacle György and also other Hungarian migrants have to deal with concerning the rights based access to welfare are long waiting periods. György emphasised that it took him one and a half years until the application process for marginal payment of child benefits for his first child was accepted. This caused him great confusion and uncertainty.

Klaudia, another interviewee, reported similar experiences with barriers concerning application processes for family benefits. She also faced some difficulties when applying for Austrian child benefits. Klaudia was convinced that the administration management took long because Hungarian authorities responded too slowly to the Austrian authorities’ requests, thus creating an obstacle for Hungarian migrants:

‘[...] I received the information from a colleague who went through the whole torture, so she knew exactly which documents had to be handed in. So she told me what was necessary: birth certificate, school attendance form, blah blah blah, the E111 and the E114 or 401 or 411, whatever, so all the application forms, thus she knew everything exactly [...] so I handed it in and finally I received the benefit but it took almost one and a half years.’ (Klaudia, age 56, Hungary).

In essence, the administrative unit took so long because the Austrian authorities required verification from the Hungarian authorities about Klaudias’ status in Hungary. She said that there was a slight misunderstanding with the authorities because they believed that Klaudia received the child benefit from Hungary. Thus, they initially only wanted to pay her the supplement. She stated the following:

‘[...] because amongst others, they required a verification that I do not receive child benefits from Hungary. And they didn’t care that according to Hungarian law, over 18 years eligibility ceases, thus it is not necessary to wait for a document that I do not receive anything because I cannot get anything anyway. And this certificate which comes from Hungary takes supposedly very long.’ (Klaudia, age 56, Hungary).

In a similar vein, Éva also told us that in her case, the entire administrative procedure for the marginal payment of child benefits took more than six months because all documents needed to be sent to Budapest first. Like György, Éva also complained about the long bureaucratic procedure until her application was accepted.

Lajos, one of our interview partners working in Austria as a tiler and commuting to Hungary on a weekly basis, where his wife Renata and their two children were living, pointed out that applying for child benefits was quite difficult for the first time. He and his wife Renáta did not know what kind of documents were required, but after a while, they were able to handle the application. He even compared Hungarian authorities to those in Austria and highlighted that, even though many documents were needed, going through the bureaucratic procedures for receiving the benefits was much faster in Austria than in Hungary.

Dániel and his wife Kinga also referred to initial administration difficulties when applying for child benefits. However, they both highlighted (independently in two separate interviews) that, once one gets used to the bureaucratic structure of the (transnational) body (and as Dániel put it: ‘once you know how office workers think’), you will get the rights you are entitled to. An immense barrier they mentioned were the long periods while waiting for the decision, usually about six to eight months. Kinga, Dániel’s wife, highlighted that the month before the interview, they had applied for child benefits via the Internet for the first time and had been very surprised that they would receive payment within thirteen days. They concluded that the electronic form of application seemed a good strategy to accelerate the procedure significantly. Despite initial difficulties with the complexity in applying for child benefits, several interview partners said that they had learnt over time which documents were required and which authorities they needed to turn to in order to speed up the application procedure later on.

### **4.3. ‘I shall prove that I am living in Austria, habitually...’ – the importance of the centre of vital interest for the entitlement**

In the interviews, and when accompanying our interviewees to various institutions, intense scrutiny and high levels of discretion could be identified. In the following, this will be illustrated in the sector of unemployment administration. In particular, it turned out problematic to provide the information requested to define the so-called centre of vital interest/habitual residency<sup>27</sup>. Let us demonstrate this with the example of Ferenc’.<sup>28</sup>

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<sup>27</sup> ‘Residence’ is defined according to EU law as ‘the place where a person habitually resides’ (Regulation 883/2004, Art. 1(j)). As Carmel etc. highlight, although in theory EU citizens’ social security rights are not to be dependent on residence within a specific member state, ‘social security itself is conceptualised as fully “bounded” in the specific national welfare systems of member states, with their embedded rules and norms. The Regulations require the determination of the – single – “competent” member state; this in turn, requires the determination of “(habitual) residence” in only one member state (see especially 987/2009, Art. 11)’ (Carmel et al., 2016, p. 17). From now on, we regard the two terms ‘habitual residency’ and ‘centre of vital interests’ as synonyms as most Austrian authorities use them as synonymous.

<sup>28</sup> Chapter 4.3 and 4.4 were completely written by Nora Regös.

## BIOGRAPHICAL CASE BOX: FERENC

Ferenc was 46 years old at the time of the interview, and had been working as a plumber after completing compulsory schooling in Hungary. He moved to Austria in 2012, started to work here as a plumber with a construction company and since then has been travelling on a regular basis<sup>29</sup> to Hungary where his wife, Veronika, and her youngest child (seventeen years old) live. Even though his working conditions have decisively improved since migrating, as he himself puts it, he has still been exposed to regular periods of seasonal unemployment. Until now, he has been able to overcome these periods of unemployment with the help of the Austrian unemployment benefit. However, the time and effort required in order to receive the benefit have considerably increased over the last two years. According to him and his wife, his habitual residency has been checked over time with more and more rigorously.

In the first two years after migrating to Austria, Ferenc had no difficulties when applying for and receiving unemployment benefits he was officially entitled to. According to him, things changed in 2015 when the authorities at the Austrian Public Employment Service (AMS) turned down his request for the first time. On top of that, he did not receive notice of this decision. The following statement shows the problems it caused to Ferenc:

‘I was unemployed as usual, applied for the unemployment benefit as always, and then logged out of the system when I started to work again. It was only conspicuous that the money didn’t arrive. So, THEY NOT EVEN TOLD ME, they not even rejected me, they did not do anything, only the money did not arrive.’ (Ferenc, age 46, Hungary).

Only after calling the authorities, he found out that his case was rejected because his habitual residency was deemed to be in Hungary. Therefore, the Austrian authorities saw the Hungarian unemployment service to be in charge. Ferenc’s confusion concerning the criteria of habitual residency is well depicted in the following where he describes his phone call with the AMS officer:

‘The money has not arrived, because “I shall prove that I am living in Austria, habitually...” Whereupon I answered that “I work from Monday until Friday from morning ‘til almost evening. How should I be more habitually living in Austria?”’ (Ferenc, age 46, Hungary).

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<sup>29</sup> Unfortunately, it is not possible to exactly determine how often (on a weekly basis or every second week) Ferenc travels home because he provided different information during the interview.

After using receipts from groceries and phone bills to prove that he spends the end of his working days in Vienna, a strategy that he already heard from other Hungarians applying for Austrian unemployment benefits, his case could be successfully solved.

At the end of 2015, a new application was again rejected. This time, the AMS officer stated that he is not deregistered from his company so he has no eligibility for the unemployment benefit. As a coping strategy, his wife Veronika contacted the company's accountant:

'I already knew exactly who was the company's accountant and I asked her for the commencement and termination of employment documents. And with this we could clarify that "sorry, he was deregistered from this company and registered at this company, and therefore, indeed, he is entitled to the unemployment benefit". And thus, he finally received it, but this was already the second appeal, and this takes time, time.' (Veronika (s.o.), age 50, Hungary).

In 2016, both of his applications were denied again with a reasoning that Ferenc is a commuter, having his centre of vital interests in Hungary. After Ferenc filed appeals against the decision, the AMS even forwarded these appeals to the Federal Supreme Court to decide. The litigation process lasted almost one year, including several further obstacles, such as a police hearing to investigate whether Ferenc had forged the signature of the owner of the flat he is living in. In both cases, Ferenc, with the consistent support of his wife, could successfully appeal against the AMS decisions.

For his latest application in 2017, Ferenc and his wife asked one of our research colleagues (a German native speaker) to accompany Ferenc to the AMS. At the very end of his appointment, Ferenc was asked to fill out a form called 'Decision on the responsibility of AMS<sup>30</sup>' and to hand it in with the application form. When leaving the AMS office, Veronika told our research colleague that this is the form that caused the problems last time. Although they asked a German teacher to help them to fill out the form, she did not understand the questions either. Our research colleague also agreed that the questionnaire is formulated in a quite misleading way and is unsure how to respond, for example to the following question: 'During my last employment in Austria I returned to my country of residence / home country': daily, weekly, monthly, within one year ca. ... Distance for the journey home: ...'. Since 'country of residence' and 'home country' are two different concepts, multiple answers could be possible—

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<sup>30</sup> In German: "Fragen zur Zuständigkeit des AMS"

which the questionnaire, however, does not allow. The questionnaire becomes even more confusing and inconsistent when, in one question, the term ‘country of origin’ comes into play.

Moreover, the questionnaire includes questions concerning the applicant’s family situation (where the family members live) and voluntary activities (whether the applicant has any memberships in voluntary organisations and bodies such as the fire brigade, rescue organisation, music society, sport clubs, etc.) Concerning how such strict investigation can influence individuals’ life trajectories, in Ferenc’ case it is important to look at his coping strategy. In order to avoid being rejected for not being able to prove his ‘social integration’ in Austria, Ferenc registered himself at an association of Hungarian students (VUS) in Vienna. Further strategies they chose in order to avoid potential problems with the application procedure was to get married at the end of 2016 and register Veronika in Vienna. Both strategies aim to prove that Ferenc has his centre of vital interests in the country of employment, and so fulfil two more criteria listed in the EU social security coordination (Regulation 987/2009, Art. 11) which the questionnaire developed by the AMS aims to check. Veronika sums up the final outcome of the application in 2017:

‘So when Clara [one researcher in the TRANSWEL project] helped us to fill out this, this questionnaire, we attached to this the registration certificate of both of us and also the marriage certificate, and from that point on there was no question, they paid out the unemployment benefit without hesitation [using slang in Hungarian]. So THIS IS A JOKE, but seriously.’ (Veronika (s.o.), age 50, Hungary).

In other words, although having troubles completing the questionnaire, Ferenc has been able to access the Austrian unemployment benefit after his latest application without any delay, denial or further obstacles. This is mainly because Ferenc and his wife have learnt over the years which criteria the AMS emphasises and adjusted their circumstances accordingly.

To summarise, Ferenc was not only uninformed that, from 2015, he needed to prove that his centre of vital interests was in Austria, but he was also not informed that his application for unemployment was denied in all four instances. Without any notification, the usual unemployment benefit, which Ferenc had normally received shortly after applying, simply did not arrive. He had to be active and call the relevant office to inform himself about his case. Only then it turned out that his case was rejected on the grounds that Ferenc’ habitual residency was in Hungary and that he was considered to be a frontier worker. Through a very long litigation process and creative counter strategies, such as collecting receipts and phone bills in Austria,

attaching marriage certificate and residence certificate of his wife to the application form, and becoming a member of a Hungarian association in Austria, Ferenc could prove that he is a frontier worker who travels less than once a week to Hungary and he is thus eligible for the unemployment benefit in Austria. Both Ferenc and his wife believed that the application procedure was very difficult and complex and that it is impossible to follow how decision-making processes take place, especially compared to the smooth application procedure before 2015. Veronika concludes:

'So how can something like this happen, that once they decide yes and afterwards they decide no? And then now, with December 2016 – January 2017 there was no problem. Imagine. Obviously the court decision had a great influence on this, and obviously your help to fill in this questionnaire well because it was easy to be misunderstood.' (Veronika (s.o.), age 50, Hungary).

If we bear in mind that employment in the construction sector is usually one of the most precarious employments, it is highly problematic that the AMS does not inform those who often receive unemployment benefits about the long decision-making procedure and about the possibility that their request might be rejected. Especially people who have their habitual residency in Austria but AMS decides for their case that there is insufficient evidence to prove this, can be easily excluded from the system despite eligibility.

Similarly to Ferenc, many of our interview partners knew from relatives and/or friends about the newly introduced questionnaire at the AMS or even gathered own experiences when applying for Austrian unemployment benefits<sup>31</sup>. The present section will concentrate on Hungarian migrants' own experiences with limitations accessing Austrian unemployment benefits. First negative and then positive experiences will be shown and contrasted with each other in order to demonstrate the discretionary power of the individual AMS officer during the decision-making procedure.

After depicting migrants' perceptions on the restriction for people living a (transnational) lifestyle with more than one places of habitual residency and exclusion for people with residency status only in Hungary, we will now turn our attention to those migrants who gathered their own experiences with the restriction based on the residency status.

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<sup>31</sup> While Ferenc used the general term *habitual residency*, all other interview partners refer to the term *centre of vital interests*. As stated above, we will regard both terms as synonyms to avoid confusion.

When Dorina registered herself as unemployed, she had to repeatedly state that she is not a commuter only based on her Hungarian descent: despite living and working for over six years in Austria, the official at the AMS seemed to want Dorina to confess that she has her centre of vital interests in Hungary, suggesting that she went there quite often (according to Dorina she went only once a month).

'... when we came to the point where my centre of vital interests is, I naturally said immediately: In Vienna, I have the apartment here, insurance and so on... Uhm and I think that the advisor didn't want to believe that somehow or that she wanted to convince me somehow that I actually go quite often to Hungary but of course, once a month shouldn't be too often.' (Dorina, age 27, Hungary).

If Dorina would not have argued so much in line with the (hidden) guidelines of AMS (renting, having insurance, stating the few travels) and if she would have given some information suggesting that her place of residence could be defined as being in fact in Hungary, she would probably have been labelled a commuter and both length and amount of her unemployment benefit would thus have been diminished substantially, as she would then have been entitled to the significantly lower Hungarian unemployment benefit only instead of receiving the Austrian benefit.

Dorina gained access to Austrian benefits after answering repeatedly and clearly that her centre of vital interests was in Austria. She did not receive the questionnaire on habitual residency. The question regarding the centre of vital interests turned out to be crucial again when she aimed to port her benefits to Germany. Her request for portability was denied with a reasoning that she had no family bonds in the country of destination, although there is no legal basis for this argument. Thus, as we see, family situation also plays a role for the decision on portability of unemployment benefits, and not only regarding access to it.

Lajos experienced highly discriminatory treatment by an AMS officer when applying for Austrian unemployment benefits. In his first visit to the AMS office, he was sent away and was told that he was not eligible for Austrian benefits. Then he asked his sister for help and went back to the AMS together with her. Again, they were sent away, according to Lajos, in quite a discriminatory way. He sums up:

'There were the people who deal with customers and the first one went like that – pfeh ungarische [Hungarians]– my documents were thrown down there [Lajos shows how the official threw his documents on the table]. And she was kind of a racist. And then my sister asked her “are you a racist”, and this and that and guest workers and then she (the official) said, “we don’t want you!”’ (Lajos, age 50, Hungary).

Later on, they were sent to another official who treated them more professionally and Lajos was granted Austrian unemployment benefits. When Lajos and his sister told the second officer about the negative experiences described above, the officer just stated that they should ‘let it be’. A further interesting aspect in his case is that, although his application was in 2015, he was not confronted with the questionnaire which Ferenc had to complete twice by then.

In our sample, apart from Ferenc, we have two other interview partners who collected experiences with the questionnaire used by the AMS to deny (Teréz) or approve (Szabolcs) their requests for Austrian benefits. As in Ferenc’s case, neither Szabolcs nor Teréz have been informed why they needed to fill out this form.

Teréz’s application for unemployment benefits was denied on the grounds that, according to the completed questionnaire, she was a commuter and thus not entitled to claim Austrian benefits. For her, it was difficult to understand why she was labelled as a commuter as her permanent residency (in legal terms she refers here to her main residency, and not to the permanent one) as well as her employment in Austria, travelling only once a month to Hungary.<sup>32</sup>

[...] when I have permanent residence and I was working here. The other thing is that a ‘Grenzgängerin’ [commuter] crosses the border every day and does not have a residence in Austria, moreover I live far away that I could not come to work here. Well, I live 265 km away from Austria and I go home only from time to time. Hm, to Hungary. So it is not possible for me to travel this distance every day. Or weekly.’ (Teréz, age 44, Hungary).

In order to show that the AMS has no legal reason to classify her as a commuter, she highlights that she did not write in the questionnaire that she commuted on a daily basis:

‘So, *I did not even fill in* that I travel home every day. Even though I stated clearly in the form [mentioned above] that I travel home monthly or ten/twelve times a year it does not mean that I am

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<sup>32</sup> Interesting in this respect is that Teréz’s understanding on what is a commuter differs from the official definition (weekly or daily commuting).

a commuter. So, I absolutely do not understand. But the thing is that it was their decision. Afterwards, we went back and the torture started.’ (Teréz, age 44, Hungary).

By ‘torture’ Teréz means the period of almost one year during which she had to fight for her right using the help of her Austrian partner and the Austrian Chamber of Labour (AK Wien). After writing a complaint letter with the help of the AK Wien, the appealed AMS decision was overturned and she received the benefit.

Szabolcs was confronted with a gradual increase of careful scrutiny. When applying for unemployment benefits after a long-term employment in a well-known company, it was granted without any problem. When he applied again a year later having worked as a project employee with a limited work contract at the university, he had to fulfil two more requirements which were not asked for in the first application. He needed to complete a questionnaire similar to the one Ferenc and Teréz described. In addition, he had to send in his registration certificate, which was one further criteria to define residency status. As he remembers, this was the first time for him after his migration to Austria where he experienced inequality of treatment, which felt very humiliating:

‘They gave me a document about how often do I travel to Hungary, whether I have a Hungarian car, ahm how many days do I spend here, whether I have a flat in Hungary, which of my relatives live in Hungary, and I, in this situation, I felt that NOBODY EVER asked me these questions. And this was the first moment when I felt that damn it I am a miserable East-European (he is knocking) in the administrator’s eye.’ (Szabolcs, age 27, Hungary).

While reflecting on his own experience, Szabolcs tried to find reasons for the different treatment between his first and second applications:

‘And I still cannot decide whether it was a personal difference between the administrators at the same institute, or whether something has changed in their programme that everybody has to be checked because they have to cut their spending. I don’t know but it was very humiliating.’ (Szabolcs, age 27, Hungary).

His problem was, however, solved when, during his next appointment at the AMS, his previous administrator was on leave. The new officer established that the other colleague had made several mistakes when filling in the AMS online mask, for example, not taking into account that Szabolcs registered himself before his work contract ended. According to Szabolcs, the

new administrator explained everything in detail, treating him with respect and as someone who needs social support rather than as someone aiming to abuse the welfare state.

Concerning his attitude towards the AMS, he sums up:

'Afterwards, I turned to AMS with less general confidence when I had to send in the documents. I was prepared that they occasionally can pick at you. Or to what I have to pay attention to.'  
(Szabolcs, age 27, Hungary).

Therefore, we can state that Szabolcs' experience with different officers made him more critical, cautious and prepared when it comes to his social rights.

#### **4.4. 'Summarising, I did not have any bad experience...' – Leeway of decision-making**

However, not all of our interview partners have been confronted with the importance of habitual residency/centre of vital interests. The case of Rozália is a prime example. She applied three times for Austrian unemployment benefits and describes all of her experiences as highly positive: '*I had never any problems with the AMS [emphasised]. I can say this with absolute certainty.*' (Rozália, age 48, Hungary). In her first application in 2014, she applied for the benefit after a long-term sick leave [she had cancer, was operated and was on sick leave five to six months – she could not remember exactly]. The transition from the sickness benefit to the unemployment benefit she describes as uncomplicated: '*When my sickness benefit ended, I was automatically transferred to the unemployment service.*' (Rozália, age 48, Hungary). In her first month of unemployment when her benefits should have started, she decided to take rehabilitation upon her doctor's recommendation. Although the recommendation was to go to a quiet place, for example to a forest in Austria, she decided to spend one month in Miami with her friend. Thus, she told her AMS officer honestly her plan and that she would like to pause the payment until she is back again. This also went without a problem. The AMS officer even made a joke saying that he would like to be a fly now in the pocket of Rozália to be able to travel with her: '*He was very kind.*' (Rozália, age 48, Hungary), as she sums up. Rozália's case can be further regarded as a success story as she had in all her AMS applications the same – and as we see very kind – AMS officer. They were able to build trust between each other over the years. For example, when the former employer of Rozália contacted AMS (in January 2017)

to inform them that Rozália moved back to Hungary and they need not send the unemployment benefits to her, the AMS officer talked to Rozália in their next appointment in a way a family man would speak with his daughter:

'He [the AMS officer] said "you are always right when you say that you tell the truth, now why do you do that?" "Why?" - I [Rozália] say – "well it would have been the correct one to say I am very sorry that I chose another firm, but I was not correct." This is my fault, I said "Es ist meine Schuld." (snaps her fingers)' (Rozália, age 48, Hungary).

What Rozália meant is that she lied to her former employer (the owner of a restaurant) by telling him that she moved back to Hungary because she could not work at the restaurant anymore. Thereupon, the AMS terminated payment for one month. After the appointment at the AMS, Rozália's case was easily solved. The follow-up actions the AMS officer took demonstrate again the friendly and very honest and trustful relationship between the two:

'Afterwards okay, he made a phone call, said that I will get my unemployment benefit, and I got my unemployment payment three days afterwards on my bank account. Yes, so, yes, it had been solved.' (Rozália, age 48, Hungary).

There are several possible reasons why Rozália has been treated differently to other interview partners. It might be due to the AMS officer and mutual sympathy between them. Concerning the circumstances, the year of the first application could also be regarded as decisive. It was 2014, which was prior to the strict investigation including the questionnaire on habitual residency. It is still interesting, however, that Ferenc and Szabolcs experienced different treatment afterwards, while Rozália did not. This might lay in the fact that her case was always assigned to the same AMS officer. It would be thus important to know whether also those who are already included in the system of AMS have now to undergo again the strict investigation concerning habitual residency or if only new applicants are exposed to such scrutiny. In addition, Rozália fitted exactly the category of a Hungarian migrant with habitual residency in Hungary: she commutes on a weekly basis to Hungary where her children live and where she has – as she puts – everything: *'There is my family, there we have our house, everything.'* (Rozália, age 48, Hungary). Especially for those Hungarian migrants having to go through stricter investigation, Rozália's easy access to benefits could appear as highly unfair. As Ferenc and Veronika know Rozália very well<sup>33</sup>, they also compare their experiences to those of

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<sup>33</sup> Rozália travels every weekend with Ferenc from Hungary to Vienna and is also the one who offered Veronika to stay in her place when she was searching for a job in Vienna.

Rozália, stating that the Austrian welfare state does not support those who are really in need but rather the opposite. As the couple highlights, they met severe difficulties while applying for Austrian unemployment benefits, while Rozália “*does not really want to work (laughing). And the Austrian system does not throw the kind of Rozi [Rozália] out, you know.*” (Veronika (s.o.), age 48, Hungary).

The cases of Ferenc and Rozália have great similarities though. Both are commuters who travel on a weekly basis to Hungary, even in the same car, where their families live and their homes are, they are both registered with secondary residency in Austria where they have been living and working for more than five years, and both of them can speak only little German. Thus, the question could be asked why Hungarian migrant workers with such similar circumstances experience such different treatment by the AMS. After comparing these two highly similar cases with each other, it seems to be obvious that the decision-making power of the individual AMS officers might play a huge role, either at the local or at the organisational level. Concerning the organisational level, unfortunately we do not get access to the disguised AMS guidelines that might entail information about who should fill out the questionnaire and who should not. Hence, concerning further research it would be highly interesting to know more about the disguised guidelines of the AMS and how much discretionary power the AMS officer has in this issue.

In addition to Rozália’s case, Réka’s experience also shows that not all migrants face difficulties when applying for unemployment benefits. Réka could even port her insurance times from Hungary in order to fulfil the minimum contribution period necessary to receive the Austrian benefit: *’Yes, so I could port one and a half years what I worked in an Hungarian University, because they paid normally the contributions for me, etc.’* (Réka, age 27, Hungary). She also argued that the AMS works quite well because the administrators are flexible, pointing out at the same time that the AMS officer she had could not provide her with helpful job placement during the job-seeking period:

’... so in my opinion AMS works well in the sense that they are flexible but they do not really help you to find a job. But there are different opinions: someone told me that she had a very firm supervisor and that he helped a lot. It wasn’t my case. But I guess that there are always some people whom they cannot help. Summarising, I did not have any bad experience. (Réka, age 27, Hungary).

Similarly to Rozália, Réka was not asked concerning her habitual residency status, although she

applied for the unemployment benefit also in 2015.

To summarise, in the present chapter 4.3 and 4.4 Hungarian migrants' experiences with access to the unemployment benefit in Austria have been presented in detail. As it turned out, the decision on exclusion or inclusion happens through opaque and non-transparent decision-making procedures where the term habitual residency and the status of frontier worker are subject to interpretation. It seems, however, that not all Hungarian mobile citizens with habitual residency in another member states and/or commuter status have to face discrimination. Those Hungarian mobile citizens who were already registered as unemployed in the system of the AMS before 2015 might not realise the change, as Rozália's case suggests. We also met Hungarian migrants, Réka and Lajos, who were not confronted with the questionnaire either although they applied for the benefit in 2015. A possible reason for the different treatment here could be that the questionnaire was only implemented in the first year (2015) as a pilot survey, as we concluded in an interview later on. Thus, the AMS officer could decide individually who should fill out the form and who should not. In contrast, new applicants or former applicants after a shorter period of employment (such as in Ferenc and Szabolcs' case) have been, and will be confronted in the future, with increasing scrutiny and more or less helpful assistance by the AMS officer. Hence, migrants with strong (transnational) life style and with earlier short-term or seasonal job positions (will) experience particular discrimination.

A further aspect important to look at in this context is how migrants change their living circumstances and attitudes towards AMS. To enforce a positive decision, migrants seem to learn over time how to adjust to the criteria of the AMS questionnaire to fulfil as many criteria as possible (Ferenc, Szabolcs): they become members of associations in Austria, apply for the residence certificate, get used to the administration jargon and learn how to answer the misleading questions in the questionnaire. In the case of some of our interviewees (mostly young and highly educated migrants such as Dorina, Szabolcs, and Réka), the way they viewed AMS changed considerably over time. Instead of expecting helpful support in the job-seeking period, they learned to be more critical and prepared to defend themselves against potential offensive questions by the AMS. Furthermore, a broad spectrum of strategies migrants use to overcome potential challenges could be identified. For some migrants it was enough to claim repeatedly and eloquently that one has his or her centre of vital interests in Austria and sooner (Dorina) or later (Szabolcs) they received Austrian benefits. Others could get access to benefits and solve the problem internally after providing evidence such as receipts from groceries and

phone calls from Austria to Hungary (Ferenc). Finally, two of our interview partners (Ferenc and Teréz) even had to write a complaint letter with the help of their relatives, acquaintances or of the Austrian Chamber of Labour and file an appeal to get the benefit.

Finally, one should also highlight that, even though some cases might become a success story, there are several obstacles, high costs and great uncertainties when living for months without employment or state support (e.g., health insurance and unemployment benefit).

#### **4.5. Paying health insurance in two countries ‘just to be on the safe side’ - Creative strategies to manage health coverage**

In our final core chapter, we will introduce the case of Norbert, which will highlight how (transnational) migrants might manage their health coverage in a creative manner.

##### **BIOGRAPHICAL CASE BOX: NORBERT**

Norbert is 26 years old and moved to Austria four years prior to the interview (in 2013). According to Norbert’s narration, he had no intention to migrate and would probably have stayed in Hungary. Yet, his girlfriend decided to move to Austria in order to study and thus he decided to come along. In Hungary, Norbert had a full-time job as a swim trainer and besides that finished his study of recreation at the university. When he arrived to Austria he started a 3-week German language course. Norbert’s proactive behavior helped him find a job in a restaurant as a dishwasher. After six months of working in this position, his boss opened a new restaurant where he started to work as a waiter. Usually, he and his girlfriend travel to Hungary every other week. Norbert stated that, at the moment, his current main residence is in Hungary and his secondary residence in Austria.

Before his migration to Austria, Norbert quit his job in Hungary and decided to pay then the Euro 33<sup>34</sup> flat-rate contribution for health insurance in Hungary. He did so, as he explained in the interview, because he felt that he would have more security if he maintained his health insurance in Hungary (HU). At that time, he only knew for sure that he would attend a German

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<sup>34</sup> This is the so-called ‘egészségügyi szolgáltatási járulék’, which means ‘contribution to health care service’

class but was not employed in Austria. Thus, in order to deal with this insecure situation in terms of access to health insurance, he paid the Hungarian health insurance by himself.

'I had a job [in HU] but when I quit my job at the Wellness Centre I immediately went there [to the Health Insurance Fund, OEP in Hungary] to make sure I was insured that particular month [after quitting his job] just in case, who knows when I will be able to find a job [in Austria] (INT: aha) so I did this voluntary thing [paying contributions for health insurance in HU] then I came to Austria, and I paid it [contributions in HU], actually I paid it for one or one and a half years.' (Norbert, age 26, Hungary).

During the interview, Norbert even pointed out that, to his knowledge, being insured in two countries at the same time is not legal in the EU. However, the regulations about being insured in two countries at the same time are based on a different legal framework, we heard very often from other Hungarian mobile citizens during our interviews that they assume that two insurances in two countries at the same time are not allowed. These assumptions are partly based on word of mouth but we also found that officials in Hungarian authorities use to give the information of illegal double insurance when Hungarian migrants ask them. Nevertheless, Norbert still maintained his Hungarian insurance, according to his telling, for one or one and a half year also after being employed as a dishwasher in Austria again as a safeguard. At that point he was not sure how long this employment might last. Therefore, he decided to continue having double insurance.

After living in Austria for some time, Norbert heard from friends and acquaintances about the E106 form used to get reimbursement for the Hungarian Health Insurance Fund and decided to exercise this right. He described the administrative procedure as unproblematic but taking a lot of efforts. First, he had to ask his health insurance fund in Austria to give him the E106 form. They initially refused his request since Norbert's residency status was titled as a main/primary one in Austria. He then decided to use the opportunity, he heard from acquaintances, to change main residency to secondary residency in order to get access to the form. The Austrian registration office changed his residency status without any inquiries. Hence, some days later when he went back to the health insurance fund in Austria as a mobile citizen with secondary residency he could successfully receive the E106 form.

'[...] and to be honest that was the reason why I had to have the secondary residency here in ... because while I had the main residency here they [the AT health insurance fund] wouldn't have given me this form [the E106]. Well, and then I only had to go there [registration office in AT] and

change my residency into a secondary one and afterwards I had to go to the health insurance fund in Austria and then they handed it out or rather sent it.' (Norbert, age 26, Hungary).

Norbert perceived the administrative way as rather uncomplicated. After he received the form, he forwarded it to the Hungarian health insurance fund and received a few days later per post the form signed by the Hungarian health insurance fund to his address in Hungary. Since Norbert has also an address in Hungary we assume that this address is on the status of a primary residence as well. Therefore, from this moment he was able to access both national health care systems. Norbert finally sent in the signed form also to the Hungarian tax authorities to prove that he has been insured in Austria.

Norbert wanted to use the right, he heard by word of mouth advertisement, being able to get reimbursed for the entire period of maintained double health insurance. It seems that he used the paid contributions as a saving account and it took about two months until he received the reimbursement.

During the period he was reimbursed for, Norbert had had doctor's appointments in Hungary. When applying for the form E106, which is according to regulation 883/2004 for cross-border workers since recently migrants (have to) admit with a signature that they cross the border and visit Hungary on a regular basis. From our interview material, we cannot decide whether he was aware of the fact that applying for the E106 form means to declare oneself as a commuter/cross-border worker. Nevertheless, from Norbert's case we can see how easily migrants can change their residency status from primary to secondary in order to have access to health services in both countries without being an ordinary commuter. According to Norbert's narration, many of his friends and acquaintances use the strategy of changing their primary residence to secondary and vice versa to become reimbursed for the Hungarian health insurance in case of double insurance.

'No, to be honest, I just wanted to add that one has no temporary residency anymore in fact. I mean that one changes the primary and the secondary residency back and forth.' (Norbert, age 26, Hungary).

Norbert believes that nowadays the place of residence can be changed flexibly so one can use the residence she/he needs and seems to act as a broker between the two health insurance systems to turn the case to his advantage. It seems, on one hand that Norbert uses the E106 certificate as a saving-account in order to get the contributions back he used to pay to the

Hungarian state. On the other hand, as Norbert is not a frontier worker, in the terms of the regulation 883/2004, and further that he also uses to go to doctoral visits in Hungary, his strategy might not comply with the regulation according to the real meaning of the E106 certificate. However, Norbert seems to play with the ‘system’ as a broker, he tries to manage his (transnational) health coverage by changing residencies and he succeeds at the first trial. Once the insurance fund gets the E106 certificate, they seem to accept this and reimburse the person in question as soon as possible.

As we see, Norbert came up with an inventive strategy in order to have access to medical care in two countries. Norbert’s case thus highlights migrants’ experiences with the management of (transnational) health insurance. People sometimes even act as brokers of ideas between different systems of education, work or health. Horizons of comparison crossing national border are thus constantly in the making (Faist & Bilecen, 2015). Which means that they switch between ideas and options in order to find the best strategy according to the access of social benefits.

Another strategy is to pay health insurance in both countries in order to have (transnational) social security. Éva and Virág, for example, paid insurance in both Hungary and Austria ‘just to be on the safe side’ when an accident happens in one or in the other country. These different strategies will be described in detail below.

Éva<sup>35</sup> used the double insurance strategy when she left Hungary for the second time to work in Austria. In order to be on the safe side, she continued paying contributions for six months also in Hungary until she received a notification from the Hungarian Health Insurance Fund about Évas’ insurance in Austria. To her understanding, the contributions she paid for the health insurance in Hungary will remain, according to her words ‘in the system’, in the public treasury in Hungary. It seems that Éva sees her payments in a similar way as payments for a saving-account and she imagines that she would be able to profit from the saved contributions in the future. Even though Éva commutes every second week, she did not hear about the reimbursement option with the E106 form.

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<sup>35</sup> Éva is commuting every second week to Hungary and has a secondary residence in Austria.

Virág, 62 years old when we met her, explained that, for the past seventeen years during which she has been living in Vienna, she has been paying the health insurance in Hungary as well. Similarly to Éva, she mentions that she feels better having double health insurance.

'I paid (the double insurance in Hungary also) because this is a security, if something happens you should have it.' (Virág, age 63, Hungary).

Since retiring in Hungary, she became automatically insured in Hungary and no longer needs to pay separate contributions for her health insurance. She assumes that the Health Insurance Fund in Hungary subtracts it from her old-age pension.

Our interview participant Béla also had difficulties managing his health insurance transnationally. After he had quit his last job in Hungary, Béla started to pay health insurance by himself. He was paying in Hungary because he did not know that he cannot have health insurance at the same time in two countries within the EU. Béla had to pay a fine, as he had not told the Hungarian authorities about his leave, that he was employed and had social insurance abroad. According to his perception, this also was an indicator for the illegality of double insurance. He said that the logic of state bureaucracy in Hungary was very subjective. Decisions are made based on personal opinions and not according to the laws. In Hungary, a similar experience always left a bad taste in his mouth. He said that “[...] *everything is more difficult.*” (Béla, age 48, Hungary).

Anita, a cross-border commuter, told us that she had paid the contributions in Hungary while already being insured in Austria. Norbert and Ferenc saw advantages in using the E106 health certificate form. As explained in detail above, Norbert made use of the possibility of the E106 certificate to obtain reimbursement for the health insurance contributions paid in both countries by changing his residency status without being a cross-border commuter. Ferenc applied via this form every year immediately after he had started to work again in order to enjoy health insurance in both countries. Dániel and his wife were insured in Austria and still able to use their Hungarian health insurance cards (TAJ-kártya) in Hungary even though they did not have the E106 health certificate and were not paying insurance in Hungary.

Thus, we can conclude that migrants have a broad spectrum of strategies when it comes to (transnational) health coverage.

## 5. CONCLUSION

We started this paper with a brief introduction into the foundations of the TRANSWEL project and the comparative analysis of this paper. We thereby highlighted that the main focus of our research interest was on Hungarian mobile citizens' who live and/or work in Austria and their experiences with (transnational) social security in practice. In a next step, we presented our research design, including its methodology (constructive Grounded Theory after Charmaz 2006), its interview method (problem-centred interview after Witzel 2000) as well as a short description of our sample. In chapter 3, we briefly outlined Hungarian migration towards Austria, described the Austrian and Hungarian welfare states separately and illustrated the different types of benefits (unemployment, family, health, and pension) in both countries. Then we came to a short introduction of the EU regulations, in which we emphasised the complexity of these regulations.

The main results in terms of experiences of Hungarian citizens trying to access (transnational) social security in Vienna as presented are, in a nutshell: a non-transparent bureaucracy system, lengthy administrative procedures, the importance of the centre of vital interest, leeway of decision-making and creative strategies to manage health coverage. These issues are thus the main barriers the interview partners encountered.

György, the first case described above and drawn from our empirical analysis concentrated on opacity within the (transnational) bureaucracy system and demonstrated how difficult it is for migrants to discern which authority is responsible for dealing with their cases. In all four policy areas we analysed, migrants face issues of non-transparency and uncertainty. Providing some examples, chapter 4.1 exemplified how difficult it is to establish who may be the authority responsible for administering (transnational) health care coverage and family benefits. Chapter 4.2 pointed to the existing lengthy waiting periods and connected uncertainties for the applicants. Chapter 4.3 illustrated Hungarian mobile citizens' experiences with the newly introduced questionnaire on habitual residency and its influence on individual life chances. In Chapter 4.4, we focused attention on the leeway of decision-making in the area of unemployment benefits: Decisions with impacts on exclusion or inclusion happens through opaque and non-transparent decision-making procedures, in which the term habitual residency is subject to interpretation of the different institutional bodies on the one side and street-level bureaucrats on the other. In Chapter 4.5, we finally illustrated the importance of Hungarian migrants to secure their health coverage transnationally. To this aim, they apply diverse

strategies, starting from paying contributions in both countries to creatively using the form E106 that is designed to be used by the authorities themselves in their transnational exchanges.

Summing up, we depicted a wide range not only of obstacles but also of (transnational) practices on how migrants secure their rights in the complex and long-lasting social security system while being mobile. Elsewhere, we explored the idea of the migrants needing to navigate labyrinths in order to manage (transnational) social security (Scheibelhofer et al., to be published). The difficulties, twists and turns migrants cannot possibly foresee or prepare themselves for – mainly due to the opacity of the welfare regimes at hand as described for Hungary and Austria above. We therefore suggest in another forthcoming publication that migrants need to engage in what we called in our Grounded Theory analysis “welfare learning” (Scheibelhofer & Holzinger, to be published in 2018). Concerning the coping strategies, we concur with Regös (2017) that three different types can be identified as to how to act when it comes to social security: There are some who rather comply with the rules and acquiesce in the decision that they are excluded from portability or access to certain social benefits (the compliant migrant). Others highlight their independence, claiming not to rely on state assistance (the independent migrant). However, most of our interview partners turned out to be very active, to stand up for and successfully gain access to their rights (the active migrant).

According to our analyses of interview and participant observation material, migrants use various means which we may also refer to as different types of support to overcome the difficulties. Individuals regularly use the help of other family members, co-ethnic friends or acquaintances to establish what kind of (transnational) rights they are entitled to, which authorities they have to turn to and which forms they need to submit. They also asked family members or friends to collect and translate documents, write a complaint letter, contact relevant authorities or even accompany them to appointments. They were grateful that researchers accompanied them to the relevant authorities, helped them fill out the questionnaires and translated if necessary. Furthermore, as briefly already mentioned, language also played a substantial role in successful applications. Applicants not only have to master the German language, but they have to gain an understanding of the legal jargon and administrative way of thinking (Holzinger, to be published). Hence, it is evident that many migrants only comprehend the requirements they have to fulfil over time. At the beginning, they do not have such know-how, either because no sufficient information is publicly available or because (transnational) cases are often solved case-by-case, meaning that information and the necessary documents concerning entitlement may only be obtained at the local level of administration. Our analyses

also indicate that many of the Hungarian mobile citizens also felt left behind and were already desperate at the end of their administrative procedures. Finally, the findings also show the urge of inventing creative strategies by using loopholes and bypassing the existing regulative framework: it turned out to be necessary to use such inventive strategies when migrants aimed to overcome the barriers within the (transnational) bureaucracy procedures and above all to access social security rights. Overall, this working paper gave detailed insights into the experiences of EU internal migrants when trying to access social security (transnationally). Experiences with accessing social security of Hungarians in Austria (as one example for EU citizens when mobile within the European Union) can thus be described as frustrating, often discriminating and endangering their social well-being in many ways.

## 6. ANNEX

**Table 2: Types of benefits - Functional equivalents of entitlements for TRANSWEL ATHU country pair**

EN	HU	AT
<b>UNEMPLOYMENT</b>		
<b>Unemployment insurance [contributions based]</b>	Álláskeresői járadék	Arbeitslosengeld
<b>Unemployment assistance</b>	Foglalkoztatást helyettesítő támogatás	Notstandshilfe
<b>HEALTH INSURANCE</b>		
<b>Sickness insurance benefit</b>	Táppénz	Krankengeld
<b>Health insurance</b>	<u>Egészségügyi szolgáltatási járulék</u>	Krankenversicherung
<b>PENSION</b>		
<b>Old age pension</b>	Öregségi nyugdíj	Gesetzliche Pensionsversicherung
<b>FAMILY BENEFITS</b>		
<b>Maternity benefits [leave]</b>	Terhességi-gyermekágyi segély (TGYÁS)	<i>Wochengeld</i>
<b>Parental leave plus associated benefits</b>	Gyermekgondozási díj	N/A
<b>Parental allowance [Child rearing benefit]</b>	Gyermekgondozási segély	Kindesbetreuungsgeld Einkommensabhängiges Kinderbetreuungsgeld
<b>Child benefit</b>	Családi pótlék	Familienbeihilfe

## **Interview partners (anonymised names):**

**Dániel** is 45 years old and has been living for 23 years in Vienna. After finishing his secondary school as a cook and working for some months in gastronomy in Hungary, he moved to Austria for better work conditions. He commutes to his family at least once a week.

**Dorina**, a 27 years old woman, was born in Budapest and moved to Austria in 2009 to study art history. She finished her studies within four years. After several attempts to find a job that corresponded to her education, without any success, she decided to work for a well-known company as an office worker. As her aim was to find a job according to her qualification, she quit her job after two years of working there and applied for unemployment benefits.

**Erzsi** is 48 years old and she first came to Vienna in 2014. She is a circular migrant. She always returned when she was given the possibility to work. She lives in Hungary with her husband and her youngest son. Their two older children, daughter and son, live separately. Erzsi is working as a chambermaid in Vienna and is commuting every second week to Hungary.

**Éva** is 52 years old and is working in Austria as a chambermaid with a BA diploma from Hungary. She is commuting every second week to Hungary. She is living in Hungary with her husband and their youngest son (17 years old). Her main residence is in Hungary.

**Ferenc**, 46 years old, has been working since his primary education as a plumber. He moved in 2012 to Austria. Since the plumber industry is dependent on weather conditions, he is exposed to periods of unemployment at least once a year. He travels on a regular basis to Hungary where his wife, Veronika, and her youngest child (17 years old) live.

**György** is 32 years old and is working as a software engineer in Vienna. He is living with his wife and his daughter in Budapest and has an apartment in Vienna as well. He has two center of vital interests as he spends 3 nights and 4 days in Vienna and 4 nights and 3 days in Budapest.

**József** (s.o.) is 52 years old and is Éva's husband. They have two children, two boys and a girl. József used to have own businesses his entire life and he only worked a few days as an employee. The last business the couple had did not run well and now he is at home unemployed.

**Kinga** (s.o.), Daniel's wife, is 44 years old, moved to Vienna twice, and has returned to Hungary in 2010. Since then, she has been living a (transnational) lifestyle with her husband because Daniel commutes every week to Hungary, but sometimes, especially when children have holidays, Kinga also travels with the children to Austria.

**Klaudia** is 56 and a single parent who works as a self-employed nurse in Austria. She came to Austria in 2011 and is commuting every second week to Hungary. She has a 23-year-old daughter. Klaudia used to work for 22 years in Hungarian hotels, most of the time as a receptionist.

**Lajos** is 50 years old and works as a tiler in Vienna. He went to vocational school in Hungary. Lajos lives with his wife (Renáta) and two children, in Hungary. Lajos' official secondary residence is at his sisters' place in Vienna, but he is away on jobs most of the time in the surrounding area of Vienna. Usually these jobs pay for the accommodation. He works from Monday until Thursday and used to travel back to Hungary every Thursday evening.

**Melinda** is 40 years old, and came with her husband to Austria three years ago. At the moment Melinda is at home with their little child. Both have tertiary education. She used to work in marketing for an IT

company for twelve years in Hungary and her husband has been working in banking for 24 years in Hungary when he was fired. Now he took a position at a lower level in Vienna.

**Norbert** is 26 years old, has a BA diploma from a Hungarian university and works as waiter in a restaurant in Vienna. He lives with his partner and visits his family every second weekend in Hungary, where the couple also have a flat.

**Réka** is a 28 years old woman with tertiary education who came to Vienna in 2014 on an Erasmus Exchange Programme, originally for one semester. However, she met her boyfriend during her stay and decided to look for job possibilities in Austria. She now works as an assistant in a cultural organisation for Hungarians in Vienna.

**Renáta** (s.o.) lives in Hungary and is the wife of Lajos. She is 44 years old, has a diploma degree and works as a secretary in a company dealing with the support of plans, projects and promotion of new and innovative ideas in the regional area. The family lives with their two children in a house in Hungary.

**Szabolcs**, 27 years old, moved to Vienna in 2012 after finishing his BA diploma in Economy and Management at a university in Hungary. He worked for several years in the same telecommunication company, first in Hungary, then in Austria. As his aim was to study further and become a professional in academics, he quit his job. He has a girlfriend in Hungary, they visit each other every weekend.

**Teréz** is 44 years old, has tertiary education, and had been working as teacher in a primary school in Budapest for many years. She moved for private and financial reasons to Vienna. First she worked as an assistant in a small company. However, her employment was no longer profitable and she became unemployed.

**Veronika** (s.o.) is the wife of Ferenc. She is 50 years old, has two diplomas and works as a government official in Hungary. She moved once to Austria for financial reasons, where she worked as a chambermaid. As her employer could not provide her with the required full-time contract she decided to return to Hungary. Since then, Veronika has been travelling on a regular basis to Vienna, whenever her husband needs her help.

**Béla** is 48 years old and came to Vienna in 2009. First, he moved to Austria alone, his family followed him one year later. Béla worked in Austria before and he was commuting for a half a year, back then. Béla works as a plumber as he finished vocational school in Hungary. He and his wife have two adult sons.

**Anita**, a commuter, is 28 years old and works in hospitality industry in Vienna. Before she moved to Vienna she was living in London for 3.5 years. She has a BA diploma, which she earned at the Budapest Business School in Hungary. Anita has a boyfriend who also works in Austria.

**István** is 29 years old and works as a wine seller in Vienna. Before, István lived three years in London. István finished his BA diploma at the Budapest Business School. He and his fiancé moved to Austria at the beginning of 2016.

**Virág** is 64 years old and lives in Vienna. Virág moved to Austria in 1999. She has two adult children. Virág used to work as a cleaning lady, most of the time on an irregular basis. Virág has a flat in Hungary and at the beginning of her stay she commuted very often between Hungary and Austria. Virág is retired in Hungary already but not yet in Austria.

**Rozália** is 55 years old and lives in Austria. She came here 2007 the first time for work but she is currently unemployed. She used to work in hotels as a chambermaid or as restaurant staff. Rozália has two adult children.

We conducted three more Interviews with Emilia, Mária and János who have not dealt with examples for this working paper.

## Abbreviations

### **Functional equivalents of entitlements for Austrian-Hungarian country pair:**

Child benefit: Familienbeihilfe / Családi pótlék  
Decision on the responsibility of AMS: Entscheidung über die Zuständigkeit des AMS  
Former early retirement pensions: Frühpension / Korhatár előtti ellátás  
Health insurance: Krankenversicherung / Egészségügyi szolgáltatási járulék  
Marginal payment for child benefits: Differenzzahlung für Familienbeihilfe  
Marginal employment: geringfügige Beschäftigung  
Maternity leave: Wochengeld / Terhességi-gyermekágyi segély (TGYÁS)  
Old-age pension: gesetzliche Pensionsversicherung / Öregségi nyugdíj  
Parental allowance (child-rearing benefits): Kinderbetreuungsgeld / Gyermekgondozási segély (GYES)  
Parental leave plus associated benefits: - / Gyermekgondozási díj  
Registration certificate: Anmeldebescheinigung  
Unemployment insurance: Arbeitslosengeld / Álláskeresői járadék  
Unemployment assistance: Notstandshilfe / Foglalkoztatást helyettesítő támogatás  
Sickness insurance benefit: Krankengeld / Táppénz  
Compensatory allowance for old-age pension: Ausgleichszulage (AZ)

### **Functional equivalents of English terms for Austrian-Hungarian country pair:**

AMAPED: Ausztriai Magyar Pedagógusok Egyesülete - Verein für ungarische Pädagogen und Pädagoginnen in Österreich  
Austrian Health Insurance Card: Ecard  
European Health Insurance Card: EHIC card  
Chamber of Labour: Arbeiterkammer (AK)  
Hungarian Health Insurance Card: TAJ-kártya  
Local State Treasury: Magyar Államkincstár (LST)  
Hungarian Health Insurance Fund: Országos Egészségbiztosítási Pénztár (OEP)  
Pension Insurance Institution: Pensionsversicherungsanstalt (PVA)  
Public Employment Service: Arbeitsmarktservice Österreich (AMS)  
Significant others: (s.o.)  
VUS: Verein Ungarischer Studenten

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<sup>i</sup> Nemzetgazdasági Minisztérium

<sup>ii</sup> Emberi Erőforrások Minisztériuma

<sup>iii</sup> CSED

<sup>iv</sup> Gyermekgondozási díj

<sup>v</sup> Családi pótlék

<sup>vi</sup> Gyermekgondozási segély

<sup>vii</sup> Wochengeld

<sup>viii</sup> Kinderbetreuungsgeld

<sup>ix</sup> Familienbeihilfe

<sup>x</sup> Országos Egészségbiztosítási Pénztár

<sup>xi</sup> Megyei/Fővárosi Kormányhivatal

<sup>xii</sup> korhatár előtti ellátás

<sup>xiii</sup> Ausgleichszulage