



Accessibility of Social Welfare System by EU Migrants: Checklist



FLAC has partnered with the AIRE Centre in London, and a legal consultant in Amsterdam, in an EU Commission funded Tri-City project on EU migrants' access to special non-contributory benefits. The overall aim of this project is to improve the information that EU migrants in Amsterdam, Dublin and London have about their right to access special non-contributory benefits.

As part of the project, FLAC is required to monitor cases to determine whether EU migrants are unable to access special non-contributory benefits to which they might be entitled. Below we have set out a list of questions which we hope will help you to establish whether your client falls within the scope of the project. We would be grateful if you could fill out this questionnaire and return it to FLAC. If you think that FLAC can assist you with the query then please contact us directly and do not fill out any personal details of the client on the form. If it is not possible for you to fill out forms for each individual client then combined figures would still be helpful (e.g. "12 EEA nationals asked for advice on JSA"). Please find a list of relevant definitions overleaf for your information.

Questions

1. What is your client's gender?

- Male Female

2. Which of the following best describes your client? (Tick all relevant boxes)

- | | |
|---|---|
| <input type="checkbox"/> EU national | <input type="checkbox"/> Spouse of EU migrant worker |
| <input type="checkbox"/> A2 national (Romanian/Bulgarian) | <input type="checkbox"/> Parent of an Irish citizen child |
| <input type="checkbox"/> EEA national | <input type="checkbox"/> Primary carer of an EU citizen child |
| <input type="checkbox"/> Third country national | |

3. Did your client apply for any of the following payments?

- | | |
|--|---|
| <input type="checkbox"/> Jobseekers' allowance | <input type="checkbox"/> Disability allowance |
| <input type="checkbox"/> State pension (non-contributory) | <input type="checkbox"/> Blind Pension |
| <input type="checkbox"/> Widow/er's (non-contributory) pension | <input type="checkbox"/> Mobility allowance |

4. How long did it take for your client's application to be processed (i.e. between the claim being made and either awarded or refused)? _____

5. If your client was refused payment, what reasons were given? (Tick all relevant boxes)

- Does not have a right to reside in Ireland
- Due to Habitual Residence Condition
- Centre of interest not in Ireland
- Future intention to remain uncertain
- No pattern of employment in Ireland
- Has not been in Ireland for a set time period
- Has been absent from the State
- Application was not accepted
- Other (please specify) _____

6. Did your client appeal this decision and, if so, what was the outcome of the appeal?

- Allowed Partially allowed Disallowed Ongoing

7. How long did it take for the appeal to be processed? _____

Any other comments or relevant information:



Definitions

Special Non-contributory Benefits (SNCBs) are payments which are non-exportable from one Member State to another. They are defined in Article 70 of EC Regulation 883/04/EC which coordinates the social security systems of Member States. There is a list attached to the regulation which lists all of the payments which are considered to be SNCBs. In Ireland, these payments include: Jobseekers' allowance; State pension (non-contributory); Widow/er's (non-contributory) pension; Disability allowance; Mobility allowance and Blind Pension.

EU citizen means any person having the nationality of an EU Member State. The EU currently has 27 Member States which include: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

EEA national includes an EU citizen or someone with the nationality of one of the three following countries: Iceland, Liechtenstein or Norway.

A2 national means any person having the nationality of Bulgaria or Romania.

Third country national is a person who holds the nationality of a country other than an EU Member State (see list above), Iceland, Liechtenstein or Norway.

EU/EEA migrant worker means an EU/EEA national who has entered the labour market or undertaken any activity which would be treated as 'real and genuine' employment for the purposes of the social security legislation of the EU Member State. This also includes self-employed persons. A person may continue to be defined as a 'worker' under EU law even if they become involuntarily unemployed (made redundant) or incapacitated. The length of time the worker status lasts will depend on how long the person was employed in the State.

EU jobseeker EU law recognises that EU/EEA nationals may require a period of time during which to find work in the host state. EU/EEA national job seekers may legally reside in the host State as long as they continue to seek employment and have a genuine prospect of finding work, e.g. attending interviews.

Family member of EU national include a spouse, legally registered partner, children or dependants (under the age of 21) or direct relatives who are dependent on the spouse or partner. EU law also refers to the family in a broader sense and states that the host Member State should examine any relationships under its own legislation to determine whether someone should be considered a dependent family member. [For information see section 2 of the 'Citizen's Directive' (Directive 2004/88/EC)].

Some third country nationals will retain a right to reside in the host Member State in their own right which they previously had on the basis of their spouse, partner or child's status as an EU national exercising EU freedom of movement. Such situations may arise where:

- the person had to leave a situation of domestic abuse during the marriage
- the person has been granted a divorce or annulment where the marriage lasted at least three years before the proceedings began and one year was spent in Ireland
- the person has custody of the EU national's children
- access to a child is restricted by court order to access in Ireland or
- the person is the primary carer of an EU citizen dependent child.