

Agreement between Australia and the Republic of Hungary on Social Security (Gödöllő – 7 June 2011)

Introduction

- 4.1 This treaty action, the *Agreement between Australia and the Republic of Hungary on Social Security* done at Gödöllő on 7 June 2011 (the Agreement) is the latest in a number of similar bilateral social security agreements entered into by Australia to close the gap in social security coverage for people who migrate between Australia and countries that possess similar levels of social security coverage.¹
- 4.2 The agreements are intended to overcome barriers to pension payments, such as citizenship requirements, minimum contribution periods, and current country of residence.²
- 4.3 Recent agreements have centred on Eastern European countries, from which Australia accepted a significant number of refugees in the decades following the Second World War.³ The countries have included:
- The Slovak Republic (examined by the Committee in *Report 117*);
 - Austria (see *Report 115*);
 - The Czech Republic (see *Report 112*);

1 *National Interest Analysis (NIA) [2011] ATNIA 19, Agreement between Australia and the Republic of Hungary on Social Security [2011] ATNIF 12, para. 3.*

2 NIA, para. 3.

3 Mr Peter Hutchinson, Section Manager, Agreements, International Branch, Department of Families, Housing, community Services and Indigenous Affairs, *Committee Hansard*, 12 September 2011, p. 6.

- the Former Yugoslav Republic of Macedonia (see *Report 112*); and
 - Poland (see *Report 108* and *Report 110*).
- 4.4 The Agreement under consideration here provides for access to Australian and Hungarian retirement benefits, and greater portability of these benefits between the two countries. People moving between Hungary and Australia will have their entitlement to benefits recognised in both countries.⁴
- 4.5 According to the National Interest Analysis (NIA), the Agreement will have the additional benefit of ensuring employers and employees who travel between the two countries do not have double liability in respect of the same work of an employee. The NIA argues that the Agreement will bring economic and social benefits to Australia and facilitate business links between the two countries by reducing costs.⁵
- 4.6 The Agreement will apply to the Australian aged pension and the Hungarian age, disability and survivor's benefit.⁶
- 4.7 Because of the migration flows between Hungary and Australia, the Agreement will provide substantial benefits in net pension flows to Australia. The Department of Families, Housing, Community Services and Indigenous Affairs estimates that approximately 5,000 people living in Australia will be able claim a Hungarian pension to which they had no previous entitlement. This will increase ongoing Hungarian pension flows into Australia by around \$5 million per year.⁷
- 4.8 Conversely, around 40 people in Hungary will be able claim an Australian pension, increasing ongoing Australian pension flows into Hungary by approximately \$320,000 per year.⁸

Operation of the Agreement

- 4.9 Once in place, the Agreement will require that Australia:
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4 NIA, para. 4.

5 NIA, para. 5.

6 NIA, para. 4.

7 Mr Peter Hutchinson, Section Manager, Agreements, International Branch, Department of Families, Housing, community Services and Indigenous Affairs, *Committee Hansard*, 12 September 2011, p. 6.

8 Mr Peter Hutchinson, Section Manager, Agreements, International Branch, Department of Families, Housing, community Services and Indigenous Affairs, *Committee Hansard*, 12 September 2011, p. 6.

- regard residents of Hungary who have been Australian residents at some time, and Australian residents who are temporarily in Hungary, as Australian residents for the purpose of claiming the Australian age pension;⁹
- regard periods of contributions or their equivalent in Hungary as periods of residence in Australia for the purpose of meeting the 10 year residence qualifying period for Australian age pension;¹⁰ and
- calculate the rate of Australian age pension as required under the Agreement.¹¹

4.10 Hungary will be required to:

- regard residents of Australia who have been residents of Hungary at some time, and Hungarian residents who are temporarily in Australia, as Hungarian residents for the purpose of claiming the Hungarian age, disability and survivor's benefit;¹²
- regard periods of contributions or their equivalent in Australia as periods of residence in Hungary for the purpose of meeting the 15 year residence qualifying period for the Hungarian age, disability and survivor's benefit;¹³ and
- calculate the rate of the Hungarian age, disability and survivor's benefit according to their creditable period and pensionable earnings.¹⁴

4.11 The Agreement contains a number of administrative provisions designed to ensure its' smooth operation, including:

- each country regarding the date of claim lodgement in one country as the date of lodgement in the other country and, where relevant, to regard a claim for pension from one country as a claim for the equivalent payment from the other country;
- guaranteeing payment of benefits in the event that currency controls are imposed by either country;

9 *Agreement between Australia and the Republic of Hungary on Social Security*, Article 12.

10 *Agreement between Australia and the Republic of Hungary on Social Security*, Article 13.

11 *Agreement between Australia and the Republic of Hungary on Social Security*, Article 14.

12 *Agreement between Australia and the Republic of Hungary on Social Security*, Article 15.

13 Mr Peter Hutchinson, Section Manager, Agreements, International Branch, Department of Families, Housing, community Services and Indigenous Affairs, *Committee Hansard*, 12 September 2011, p. 8.

14 *Agreement between Australia and the Republic of Hungary on Social Security*, Article 19.

- guaranteeing the payment of benefits without deductions for government fees or charges;
- permitting each country to conclude an administrative arrangement to designate liaison bodies to implement and administer the Agreement;
- allowing for the exchange of information and for generally assisting each other in implementing the Agreement;
- providing confidentiality for exchanged information; and
- resolving disputes and reviewing the Agreement upon request by either country.¹⁵

4.12 Each country applies its own standards, such as requirements for documentary proof of entitlement, in relation to the process for applying for a benefit. The Department of Families, Housing, Community Services and Indigenous Affairs indicated that these requirements can occasionally cause problems for people who came to Australia as refugees from Eastern Europe with little or no documentary evidence of their place and time of birth and their previous country of residence.¹⁶

4.13 The Department advised that in these instances Centrelink provides as much assistance as possible, and can negotiate with the corresponding agency in the other country to overcome such difficulties.¹⁷

Implementing the Agreement

4.14 The *Social Security (International Agreements) Act 1999* gives effect in domestic law to relevant provisions of social security agreements that are scheduled to the Act. A new Schedule containing the full text of the Agreement will be added pursuant to sections 8 and 25 of the Act.¹⁸

4.15 Provisions of social security agreements relating to double superannuation coverage are automatically given effect in domestic law once agreements are scheduled to the *Social Security (International Agreements) Act 1999*.

15 NIA, para. 15.

16 Mr Peter Hutchinson, Section Manager, Agreements, International Branch, Department of Families, Housing, community Services and Indigenous Affairs, *Committee Hansard*, 12 September 2011, p. 7.

17 Mr Peter Hutchinson, Section Manager, Agreements, International Branch, Department of Families, Housing, community Services and Indigenous Affairs, *Committee Hansard*, 12 September 2011, p. 8.

18 NIA, para. 17.

This happens pursuant to paragraph 27(1)(e) of the *Superannuation Guarantee (Administration) Act 1992* and regulation 7AC of the *Superannuation Guarantee (Administration) Regulations 1993*, which together provide that payment of salary or wages to an employee who has been sent temporarily to work in Australia will not give rise to a superannuation guarantee obligation for the overseas employer, provided that a scheduled social security agreement is in place.¹⁹

Cost

- 4.16 The Agreement was funded in the 2011-12 Budget at a cost of \$3.8 million over the forward estimates period. It is expected to reduce ongoing pension outlays by around \$1.3 million in the first full year. Departmental costs incurred by the Department of Families, Housing, Community Services and Indigenous Affairs, Centrelink and the Australian Taxation Office, total \$5.1 million over the forward estimates period, and are primarily one-off set up costs.²⁰
- 4.17 The Department estimates that incoming pension payments should cover the set up costs within a period of ten years, after which Australia will be a net beneficiary of the Agreement.²¹

Conclusion

- 4.18 This Agreement will bring a significant benefit to a large number of Australian Hungarians. Like previous agreements of this sort, it is one of the few treaties to bring a direct benefit to a group of Australians. The Committee is happy to support this Agreement.

19 NIA, paras. 17-18.

20 NIA, para. 19.

21 Mr Peter Hutchinson, Section Manager, Agreements, International Branch, Department of Families, Housing, community Services and Indigenous Affairs, *Committee Hansard*, 12 September 2011, p. 8.

Recommendation 9

The Committee supports the *Agreement between Australia and the Republic of Hungary on Social Security* and recommends that binding treaty action be taken.

Senator Simon Birmingham

Acting Chair