

## 2.2 Working Group on “the Legal Status of Accompanying Parents”

Chair: Poland

Working group members: Czech Republic, France and Hungary

### Legal Status of the Accompanying Parents

This topic was chosen at the Budapest conference by the incoming Polish EUFASA Chair. Members of the Working group (WG) have been: Czech Republic, France, Hungary and Poland.

The care for elderly parents is a growing problem of transferable officers of European Ministries of Foreign Affairs (MFA's).

### Reasons

As the retirement age of civil servants reaches the age of 65 or even 67 in many EU countries, it is obvious that at the end of their professional career the officers or their partners have parents who are dependent on them. There are also additional demographic reasons: the growing average age of the population and the decreasing number of children who can care for their elderly parents.

### Approaches

There are two possible approaches of transferable officers to handle this phenomenon: on a *private level* or *with the assistance of the state (MFA)*. In many cases the solution can be found within the family, e.g. the partner of the officer stays at home or there are other family members who can take over the responsibility. Other officers wish or must take their parents with them on their posting abroad. Therefore they need the approval and (as far as possible) the support of their MFA.

### Questionnaire

To investigate the situation the WG sent a short questionnaire and received answers from 20 (of a total number of 24 associations<sup>1</sup>) Austria, Belgium, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Lithuania, The Netherlands, Poland, Portugal, Spain, Sweden, Switzerland and United Kingdom. Many thanks to everybody for their participation.

The questionnaire involved the following questions.

1. *Did your association ever made any proposal towards your MFA concerning parents as accompanying persons?*
2. *Does your MFA accept parents of an officer or his/her partner as an accompanying person?*
  - 2.1 *If yes, what are the conditions, especially concerning the health insurance or reimbursement of the health treatment costs abroad?*
  - 2.2 *If yes, do the accompanying parents obtain a diplomatic passport?*
3. *Any comments on how the members of your association deal with the problem or your suggestions on what EUFASA should do?*

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<sup>1</sup> Latvia has not been yet EUFASA member at the time when the questionnaire had been sent out.

**1. Did your association ever make any proposal towards your MFA concerning parents as accompanying persons?**

Most of the associations 16 (Austria, Belgium, Cyprus, Czech R., Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Lithuania, The Netherlands, Portugal, Spain, Sweden, Switzerland) answered “No”. However some added that it is a discussion topic among association members (Austria) and the reason for not making an official proposal is the conviction that the MFA would not support any change, mainly for financial reasons (Czech Republic). In some countries (Estonia) it is clearly and strictly defined by the law (Foreign service law or Family law) who is a family member.

Anyway, 2 associations have made an official proposal concerning parents as accompanying persons. UK has approached their MFA on behalf of both single officers and association’ members. Poland has sent a letter to the Minister of Foreign Affairs and to the Director of Personnel Department proposing some changes in the Law of the Diplomatic Service concerning elderly parents as well as studying children, living in the same household and being dependent upon a diplomatic agent.

We will hear more about the Polish attempt in Anna Kaszuba's presentation.

**2. Does your MFA accept parents of an officer or his/her partner as an accompanying person?**

11 associations (Austria, Belgium, Cyprus, Czech R., Estonia, Finland, Hungary, Iceland, The Netherlands, Sweden, Switzerland) answered “No”.

In 9 countries (France, Germany, Greece, Italy, Lithuania, Poland, Portugal, Spain, UK) the MFA accepts parents as accompanying persons, however in most cases only if dependent on officer and/or sharing the household with him (France, Italy, Lithuania, Poland, Spain, UK).

**2.1 If yes, what are the conditions, especially concerning the health insurance or reimbursement of the health treatment costs abroad?**

Although accepted as accompanying persons in 5 countries (France, Germany, Greece, Portugal, UK) the MFA does not cover or reimburses the medical treatment of the parents.

In the remaining 4 countries (Italy, Lithuania, Poland, Spain) accompanying parents can benefit from MFA’s health insurance if they possess a legal status as a dependent person (Italy), if they share the household with the officer (Spain) or if they fulfill both conditions at the same time (Lithuania, Poland)<sup>2</sup>.

**2.2 If yes, do the accompanying parents obtain a diplomatic passport?**

Three associations (Italy, Germany and Greece) answered “No”. German association gave the following comment: “In practice, the Federal Foreign Office issues diplomatic passports to such persons only in individual cases if necessary for them to obtain an entry or residence permit. In our experience, the issue of official passports in such cases may also be counterproductive, because the host country misunderstands this as a

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<sup>2</sup> They may be regarded as members of family when they prove that they reside in the officer’s house and that they are disabled and therefore dependent or they are people whose guardian or custodian the diplomat has been appointed in accordance with the procedure laid down by law.

request for the granting of privileges, which may delay the issue of a visa or even cause problems with registration in the host country.”

In 5 countries the MFA issues diplomatic passports for accompanying parents: France, Lithuania, Poland, Portugal and Spain. In France, Lithuania, Poland and Spain the legal dependence or/and sharing household is the necessary qualification.

### **3. Any comments on how the members of your association deal with the problem or your suggestions what EUFASA should do?**

France, Germany, Italy and Poland made suggestions on how to deal with the problem of elderly parents. Germany and France stressed the importance of information and communication. EUFASA should make this topic public – what we do with this presentation- and to encourage the associations to communicate the problem with the MFA if it is not yet done. In particular it will be helpful if the MFAs and/or the associations inform officers and dependents of their rights concerning accompanying parents. Germany also asked the WG to describe the best practices in this report.

Germany further wonders if it is useful to take parents abroad and to fight for that as in many postings the medical care does not have the same standard as back home. Poland adds that elderly people are often afraid and reluctant to move far away, especially when they are not in a good health and a host country cannot guarantee proper medical treatment or when they do not speak foreign languages.

For Poland and Germany it is important that the MFAs permits the employees, their spouses and children on posting to travel to their seriously ill close relatives (parents, grandparents) or to a funeral of close relatives. It should be possible to claim the travel allowance. In Germany some of those ideas have already been carried out as will be demonstrated in “Best practices”.

Italy assumes that it could be helpful to take decisions on a case by case rule.

#### **Best practices**

- If the parents of a transferable officer or his/her spouse/partner are recognized by the MFA as legally dependent then they can be issued with or take advantage of the following rights:
  - a) a diplomatic passport
  - b) removal allowances
  - c) airline travel costs to and from posting (FRANCE)
- If the long term care of a close or elderly parent is necessary the officer is entitled to take up to 6 months unpaid leave of absence. Their partners and children on posting can equally benefit from the possibility of a travel allowance to visit their seriously ill close relatives (parents, grandparents) (GERMANY)
- According to MFA, if dependents are persons (irrespective of age) residing with the officer and whose guardian or custodian the diplomat has been legally

appointed then they benefit from the same rights as the other family members including health treatment and cover. (LITHUANIA)

### **Recommendations**

- Associations should inform their members as well as respective MFA officers on best practices concerning elderly parents of transferable officers in other European countries.
- In collaboration with MFAs associations should inform officers and their families of their own rights concerning accompanying parents and/or other dependents.
- Associations (maybe in collaboration with MFA trade unions) should initiate a broad discussion on the type of measures which would be suitable for officers and their families. In particular the German and Lithuanian model which could be used as a way of demonstrating two different approaches, although a combination of both is not impossible.

Additional comments and suggestions made during the discussion:

- Accompanying parents are not always elderly people who cannot live on their own. In Portugal, there are many cases of parents who accompany single (separated) diplomats in order to help them take care of their children, for example.
- Each association check the situation in their countries. MFAs have to follow the law implemented on the national level.
- The key issue is providing health insurance for the accompanying parents. In Finland, for example, it is not possible to subscribe to a private health insurance after the age of 65.
- Not only should we check national laws, but EU as well. The Italian association has obtained a private insurance for absolutely all members of family, no matter how old family members are.
- More countries should consider subscribing to private insurances. The Polish MFA is negotiating special life insurances for officers. Maybe more associations could cooperate with each other, so that the system becomes more effective. It is difficult to seek the support from MFAs since the measures have financial implications. In Poland, for example, officers can only travel home once every two years and we must fight to improve this situation - it is difficult for officers to be separated from aging family members who need their support
- The mobility of people is decreasing, because officers would rather stay at home in order to take care of their parents. It is also very important to find out what happens if a parent dies while the officer is abroad.