



## **Social Security Co-ordination and Social Security Reforms**

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### **CLOSED SPEAKING DAYS ON SOCIAL SECURITY CO-ORDINATION BETWEEN BOSNIA & HERZEGOVINA AND CROATIA**

**4-5 September 2008**

**Hotel Vucko, Jahorina  
Bosnia and Herzegovina**

**FINAL REPORT**

In the framework of the IPA “Social Security Coordination and Social Security Reforms” (SSCSSR) Joint Programme (Council of Europe and European Commission), a first Speaking Days between Bosnia & Herzegovina and Croatia was organised on 4/5 September in Jahorina (Bosnia & Herzegovina). The purpose of the meeting was notably to solve long-term pending cases concerning health insurance rights based on the existing Social Security Agreement between Bosnia & Herzegovina and Croatia. The meeting also served to identify possible legal, administrative and/or procedural shortcomings in the Beneficiary parties to this meeting and, the case need to be, decide whether, under the SSCSSR Programme, further activities could be organised to assist the Beneficiary parties in solving existing barriers in the coordination of social security rights between the two countries.

The Delegations of both countries were represented by experts and high level administrative officials from the health insurance area (see Annex 1 - List of participants).

### **1<sup>st</sup> Session, Thursday, 4 September 2008**

The first item on the agenda was the examination of pending individual complaints lodged by pensioners from Bosnia & Herzegovina residing at present in Croatia who are not able to transfer their rights to health insurance, as regulated in the Agreement signed by both countries and also general principles of social security co-ordination.

From a total of 138 pending cases, the Croatian delegation brought relevant information in respect of 80 of them.

The meeting started with the introductory speech of ***Ms. Ana Brzović***, Head of the Department for International Health Insurance of the Croatian Institute for Health Insurance. According to her, the existing Social Security Agreement between both parties is perfectly valid on the merits. The difficulty lies in the problems encountered in the implementation of the provisions included in the Agreement.

According to Ms Brzović, all the pending cases relate to negative conflict of jurisdiction between two entities in Bosnia & Herzegovina (the Republic of Srpska and the Federation of Bosnia & Herzegovina). Neither of the entities wants to issue a certificate of entitlement to benefits in kind for pensioners of Bosnia & Herzegovina and their dependants residing in Croatia (also known as Form BH/HR 5 which proves a right to health insurance).

She recalled that the list of all the pending cases was given to the representatives of Bosnia & Herzegovina already in 2005, but almost none of these cases were solved so far. She hoped that at least some of them could be solved/completed during the Speaking Days.

An additional 10 cases concerned pensioners of two different countries, residing in a third country.

In response to the above statement, Ms. Suada Kovačević, representative from the Federal Fund for Health Insurance (Bosnia & Herzegovina,) confirmed that their delegation is aware of the problem, and concurred with Ms. Brzović that it is the obligation of Bosnia & Herzegovina to find a satisfactory solution to the issue. However, she clarified that the Federal Fund for Health Insurance has only co-ordinating powers. In fact, the Health Insurance Institution has not been granted the mandate to solve those pending cases. The mandate for this lays in the hands of each of the 10 Health Insurance Funds at Canton level, or the HIF of Republika Srpska. The Federal Fund for Health Insurance can give them only recommendations.

She indicated that the Federal HIF had been trying to solve this problem by drafting the criteria that should be applicable where the conflict of interest is the case. Those criteria are agreed by the Cantonal HIF's Directors, however their implementation is postponed as they are expecting logistical and financial support from the Ministry of Civil Affairs.

Mr. Ilijas Omerović and Dr. Šerifa Godinjak, both representing the Ministry of Civil Affairs, indicated that although their Ministry was aware of the problem, they recalled that the Ministry has no mandate/competence on this particular issue. They indicated that Bosnia & Herzegovina should, however, do the utmost to respect and implement the bilateral agreements signed. Finally, they were of the opinion that in order to find a valid solution to the existing problem, the issue should be raised at a higher level, probably a political one, and potentially be brought before their Ministerial Co-ordination (similar to a Council of Ministers, composed by 2 Ministers for Health Care, each from one entity, one Minister from the District of Brčko, and the Minister of Civil Affairs). They confirmed that the problem lies in the inner state co-ordination of social security rights, which then causes problems at regional co-ordination level.

In relation to the examination of the concrete cases brought to Jahorina by the Croatian delegation, the representatives of Bosnia & Herzegovina felt that the solution of those cases could not be reached neither on the spot nor afterwards. They confirmed that these and other potential cases could only be solved once a final applicable formula/criteria is found and strictly applied at national level. Although the conclusions of the Speaking Days would be reported to their authorities, they suggested that the Council of Europe, in the framework of the SSCSSR Programme, could also bring the issue to the attention of higher authorities in Bosnia & Herzegovina.

To finish the 1<sup>st</sup> Session, Ms. Suada Kovačević agreed to take over 37 cases in total (28 cases concerning negative conflict of jurisdiction and 9 cases concerning beneficiaries of two pensions residing in a third country) to examine whether, at least for those cases, progress could be made.

Ms. Ljiljana Sukara took over 1 case concerning beneficiaries of two pensions residing in a third country.

As a conclusion of the 1<sup>st</sup> Session, representatives of both parties agreed to request the participation of the Manager of the SSCSSR Programme during the 2<sup>nd</sup> Session of the Speaking Days to discuss, notably, to what extent the Council of Europe could assist the Beneficiary parties on this issue with a view to streamline the procedures to be followed for the proper coordination of social security benefits between the two countries.

### **2<sup>nd</sup> Session, Friday, 5 September 2008**

As requested by the Delegations of the two Beneficiary parties to the Speaking Days, the Council of Europe was represented at the 2<sup>nd</sup> Session by Mr. Sixto Molina (SSCSSR Programme Manager) and Mr. Alexander Kostanyan (SSCSSR Coordinator). The Local Programme Officer for Bosnia & Herzegovina, Ms Jadranka Baric, was also present and acted as translator. The 2<sup>nd</sup> Session, contrary to the first one, was conducted in English and the two national languages and, as indicated above, simultaneous translation was provided.

The Representatives of both Beneficiary parties made a short summary of the subjects discussed during the 1<sup>st</sup> Session and the conclusions reached.

**Mr Sixto Molina** indicated that, in the light of the information received, it was clear that the first objective of the meeting, notably the solution of pending individual complaints on coordination of benefits, could not be met at this meeting.

As to the second objective, clear identification of existing barrier for the proper implementation of social security coordination principles between both Beneficiary parties, he was of the opinion that the Speaking Days meeting report should contain the different elements provided by the two Delegations and that the report should then be transmitted to the relevant authorities in each country.

He was of the opinion that coordination of social security benefits could only be possible if both countries agreed first on the national criteria to be followed. In this respect, and on the basis of the information submitted by both parties, he suggested that, first, a national event could be organised in Bosnia & Herzegovina to invite all national stakeholders to discuss the issue. Depending on the outcome of that meeting, and if requested by the authorities of Bosnia & Herzegovina, specific technical assistance could be provided through the SSCSSR Programme or through any other national project to be created to that effect.

**Ms. Ana Brzović** recalled that the reason for the organisation of this particular Speaking Days between Bosnia & Herzegovina and Croatia was the persisting problem in the implementation of the Social Security Agreement (relating to pensioners of Bosnia & Herzegovina who reside in Croatia, and their inability to obtain health insurance rights based on their pensions) signed between both countries.

According to her, the main problem stems from a negative conflict of law between two entities in Bosnia & Herzegovina, since each Health Insurance Fund declines to issue a certificate of entitlement to benefits in kind for pensioners of Bosnia & Herzegovina and their dependants residing in Croatia, claiming that the other entity is competent.

The second problem raised during the Speaking Days is of financial matter. The Republic of Srpska, to this date, has not covered even one part of her debt to Croatia, while the Federation of Bosnia & Herzegovina also owes a substantial sum.

Consequently, Ms Brzović indicated that the problem is two-fold: for some beneficiaries certificates were not issued, and for those for whom it was issued costs are not being covered.

She finished by recalling that when the Social Security Agreement came into force, Croatia had about 2000 to 3000 such cases. That being said, since a good number of them concerned elderly persons (who have now died) and the fact that others felt within the social security system of Croatia (currently insured either as family members or through social assistance schemes), the number have been drastically reduced.

On behalf of the Croatian delegation, she expressed her disappointment that none of the 138 cases presented were examined during the Speaking Days. She further indicated that the issue (social security coordination) was periodically discussed in meetings of liaison bodies, where a systematic solution has never been found. She finished by indicating that the Croatian Ministry of Health and Social Welfare was informed of the problem, as were the Minister of Health Care in the Federation of Bosnia & Herzegovina, the Minister of Health Care in the Republic of Srpska and director of the Federal Fund for Health Insurance, Ms. Novka Agić. So far, no progress has been made.

*Dr. Šerifa Godinjak* stated that she was involved in this project since the very beginning in 2004. Already at that time, it was clear that co-ordination of social security rights would be a problem. Bosnia & Herzegovina has signed numerous bilateral agreements. The competence for their implementation, within the Federation of Bosnia & Herzegovina, was handed over to Cantons, while in the Republic of Srpska this is not the case. Bosnia & Herzegovina, within the Stabilisation and Association Agreement, is obliged to introduce changes in national legislation in order to fulfill its obligations stemming from multilateral and bilateral agreements. Bosnia & Herzegovina has an additional specificity in relation to other transitional countries, and that is its constitutional competence and complicated inner-state structure, which disables flow of entitlements within Bosnia & Herzegovina, and also outside of it. The European Union should recognise this problem and focus on it, because it represents a long and complicated process.

*Ms. Suada Kovačević*, currently working in the Liaison Body of the Federation of Bosnia & Herzegovina, although fully acknowledging the problems raised by the

Croatian Delegation, reiterated that the 138 cases could only be solved if a clear national criteria is adopted within Bosnia & Herzegovina. She also confirmed that the current problem is known for the past seven years and that the Liaison body has asked for assistance to the Ministry of Civil Affairs and Ministries within the Entities. She indicated that the Federal Fund for Health Insurance is constantly working on solving the problematic cases, but because of its co-ordinating role, without having a proper mandate and with the finance question delegated from the state itself, until now it was unable to find a satisfactory solution. The view of the Federal Fund is that the directors from cantonal funds for health insurance should agree on common criteria and that a systematic solution should be found, with the support of the Ministry of Civil Affairs.

Furthermore, Ms. Kovačević explained the reason why this particular problem persists. All the beneficiaries have earned their pension in the territory of one country but, after the war, three separate Pension Funds were created (two Funds in the Federation of Bosnia & Herzegovina and one in the Republic of Srpska). All the pensioners were “divided” between these Funds, and Funds have in the year 2000 agreed on a formula to distribute the beneficiaries among themselves. However, this was done without the participation of the Health Insurance Funds and this is precisely what is creating now problems.

According to Law on Health Insurance, health care is provided based on the place of residence, and contributions covered from pension funds. Since the Republic of Srpska has a centralised system, they do not have problems. But, within the Federation, pension funds were united and now there is a centralized pension fund, while health insurance is divided between 10 Cantons. When a pensioner applies for transfer of his/her entitlement to health care, and has had a last residence in Republic of Srpska but pension is paid by the Pension Fund in the Federation, the problem occurs of who is obligated to issue a Certificate (which one out of 10 existing Cantonal HIF's).

According to her, the Federation of Bosnia & Herzegovina needs assistance, both financial and technical, in such cases.

**Mr Ilijas Omerović** from the Ministry of Civil Affairs accented that the main obstacle to solving the issue is the constitutional structure of Bosnia & Herzegovina. In December 2007, the Ministry informed the Conference of Ministers about this problem.

He suggested that, since the Conference of Ministers has a good predisposition to solve the above mentioned issues, a meeting of the Conference with the directors of cantonal health insurance funds, and cantonal ministers of health care, could be organised, with the assistance of the Council of Europe, to further discuss the issue and, potentially, to come up with clear decisions on the exact criteria to follow.

To conclude the meeting, and in the light of the discussions held during the meeting, **Mr. Sixto Molina** indicated that the Secretariat would be preparing a meeting report which would be sent to the representatives to the Speaking Days for approval. In parallel, he suggested that a letter be forwarded to the relevant authorities in Bosnia &

Herzegovina, to inform them of the outcome of this meeting and to propose the organisation of a national event to further discuss, with all national stakeholders, potential solutions to the existing problems.

He suggested to postpone the organisation of the new Speaking Days between the two parties until an answer to the letter to be addressed to the Bosnian authorities, inviting them to organised, with the assistance of the Council of Europe, a national event (in whatever format considered appropriate) is received in the Secretariat.

The representatives of both parties agreed with the proposals made by the Programme Manager.

**LIST OF PARTICIPANTS**

**CLOSED SPEAKING DAYS ON SOCIAL SECURITY CO-ORDINATION  
BETWEEN BOSNIA & HERZEGOVINA AND CROATIA**

**4-5 September 2008**

**BOSNIA AND HERZEGOVINA**

**Ms Suada KOVAČEVIĆ**

Head of Department for International Health Insurance  
Federal Fund for Health Insurance

**Mr Ilijaz OMEROVIĆ**

Head of Department for Planning, Human Resources and Information Systems  
Sector for Health  
Ministry of Civil Affairs of Bosnia and Herzegovina

**Mr Ermin TERKO**

Senior Expert  
Sector for Labour, Employment, Social Protection and Pensions  
Ministry of Civil Affairs of Bosnia and Herzegovina

**Dr Šerifa GODINJAK**

Head of Department for European Integration and International Co-operation  
Sector for Health  
Ministry of Civil Affairs of Bosnia and Herzegovina

**Ms Ljiljana SUKARA**

Head of Department for International Health Insurance  
Fund for Health Insurance of Republika Srpska

**Ms Aleksandra TUCIĆ**

Director  
Health insurance Fund – Brcko District

**CROATIA**

**Ms Božica ŠARIĆ**

Head of Department for European Integration  
Directorate for Legal Affairs  
Department for European Integration  
Ministry of Health and Social Welfare

**Ms Ana BRZOVIĆ**

Head of the Department for International Health Insurance  
Department for International Insurance  
Croatian Institute for Health Insurance

**Ms Sandra ŠPOLJAR**

Senior Inspector for Legal Affairs  
Department for International Health Insurance  
Croatian Institute for Health Insurance

**Ms Kristina HERCEG**

Senior Expert Adviser for Legal Affairs  
Department for International Health Insurance  
Croatian Institute for Health Insurance - Branch office Zagreb

**SECRETARIAT**

**Council of Europe – DG III Social Cohesion**

**Mr Sixto MOLINA**

Co-ordinator of Co-operation and Technical Assistance Programmes  
Central Division  
Directorate General III - Social Cohesion

**Mr Alexander KOSTANYAN**

Regional Programme Co-ordinator  
Social Security Coordination and Social Security Reforms  
Council of Europe Regional Office in Skopje

**Ms Tatjana KOSTOVSKA**

Programme Officer  
Regional Programme Office