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Social Security Coordination and Social Security Reforms

REPORT ON THE REGIONAL MEETING ON THE CO-ORDINATION OF DISABILITY PENSION SCHEMES

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1. INTRODUCTION

The meeting was held under the auspices of the IPA Social Security Co-ordination and Social Security Reforms **Joint Programme between the European Commission and the Council of Europe**. This programme provides support for the beneficiary parties in South-East Europe in further enhancing the regional coordination of the social security systems and facilitating institutional, legislative and administrative reforms in the field of social protection according to Council of Europe and EU standards.

In addition to presentations made by representatives of the administrations involved in the beneficiary parties, the Conference also received input from an expert from the Council of Europe and the Netherlands and also from an independent expert who spoke on the EU co-ordination rules for disability benefits.

The following report is based on detailed submissions made by the respective speakers. For reasons of space their input has been edited so as to cover only the main points.

The report opens with the a short summary of the inputs from Mr Thorsten Afflerbach from the Council of Europe and Mr Derek Coulthard, formerly of the International Pension Centre of the UK Department for Work and Pensions.

2. THE COUNCIL OF EUROPE ACTION PLAN

Social Protection of People with Disabilities according to the Council of Europe Disability Action Plan. Mr Thorsten Afflerbach, DG III Social Affairs and Health, Council of Europe.

Council of Europe Recommendation Rec(2006) 5, adopted by the Committee of Ministers on 5th April 2006 comprises the Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society - improving the quality of life of people with disabilities in Europe 2006 – 2015.

Attention was drawn in particular to:

- Key Action line 11 – Social protection

The objectives In this action line are:

- To provide equal access to social protection for people with disabilities
- To promote policies which progress the shift from financial dependency towards, where possible, employment and independence.

Ten specific actions are addressed to member states so as to further the achievement of these objectives. These are not all detailed here other than the first such action:

“To ensure a coherent balance between social protection measures and active employment oriented policies in order to discourage inactive benefit dependency.”

Subsequent presentations on the part of the beneficiary parties made clear that the challenge of securing this “balance” was recognised as of fundamental importance and was being addressed in the details of the schemes presented, along of course with other stated “actions”.

3. THE EUROPEAN UNION CO-ORDINATION RULES

EU Social Security Regulations – Provisions for the Co-ordination of Disability Pensions. Mr Derek Coulthard UK

3.1 INTRODUCTION

Provisions for the co-ordination of the social security schemes of EU Member States are to be found in Regulation 883/2004 and its implementing Regulation 987/09. The Regulations which entered into force on 1st May 2010 are founded on Articles 45 and 48 of the Treaty of the Functioning of the European Union (TEFU).

These Regulations replaced the former Regulations 1408/71 and 574/72 although the latter remain in force in respect of situations concerning the EEA states and Switzerland pending the conclusion of negotiations between the EU and those countries.

3.2 INVALIDITY BENEFITS

The Regulations do not as such refer to “disability benefits”, but instead to as “invalidity benefits”.

Regulation 883/2004 Article 3.1(c) provides that “*The Regulation shall apply to all legislation concerning..... invalidity benefits*”

However , in the context of EU law a distinction should be noted between Invalidity Benefits and the so-called “special non-contributory benefits” (SNCB), which may be paid as a supplement to the disabled.

The significance of this distinction is the important one that SNCB are non-exportable, that is they are only payable in the state of residence.

3.3 SPECIAL NON-CONTRIBUTORY BENEFITS

Regulation 883/2004 Article 3.3 provides that the Regulation shall apply to SNCB and Article 70 refers to SNCBs as:

Benefits.....which are provided under legislation which because of its personal scope, objectives and/or conditions for entitlement, has characteristics both of the social security legislation referred to in Article 3.1 and of social assistance.

SNCB include those which provide.....

- *specific protection for the disabled, closely linked to the said person's social environment in the Member State concerned.*

Member states declare in Annex X to Regulation 883/2004 which of their benefits are to be treated as SNCB. There has been a significant number of cases before the Court of Justice

where the nature of a purported SNCB has been in question, in particular whether it should instead be classed as a sickness or invalidity benefit (and is therefore, in principle,) exportable.

3.4 INVALIDITY BENEFITS – PROVISIONS IN REGULATION 883/2004

These provisions are to be found in Chapter 4, Articles 44- 49 of the Regulation but these contain cross references to Chapter 5 Old age and Survivors benefits, especially as regards calculation of the amount payable.

TYPE A AND TYPE B INVALIDITY BENEFITS

Regulation 883/2004 Article 44 draws a distinction between “Type A” and “Type B” legislation

- “*Type A legislation*” means any legislation under which the amount of invalidity benefit is independent of the periods of insurance and which is expressly included by the Member State in Annex VI to the Regulation¹
- “*Type B legislation*” is any other legislation.

PERSONS SUBJECT ONLY TO TYPE A LEGISLATION - ARTICLE 44

Invalidity benefit is paid by the Member State whose legislation was applicable at the time when the incapacity for work followed by invalidity occurred.

Example:

- A person working in Ireland comes to work in the UK and is subject to UK legislation.
- He falls sick in the UK followed by invalidity.
- He receives invalidity benefit from the UK.

REGULATION 883/2004 ARTICLE 46

This Article concerns persons who have been subject only to Type B or to Type A *and* Type B legislations:

- Invalidity benefit is paid by each state in which the person was insured, calculated on the same (pro-rata) basis as for old age and survivors pensions.

However, if the person previously subject to Type B suffers incapacity for work leading to invalidity while subject to Type A, he will receive benefits in accordance with Article 44, provided thathe does not have recourse to aggregation of periods completed under a Type B scheme.

¹ Czech Republic, Estonia, Ireland, Greece, Latvia, Finland, Sweden and the UK have declared Type A schemes.

EXAMPLES OF ARTICLE 46

A person was insured in the UK (Type A) and moves to Germany (Type B). He suffers incapacity for work leading to invalidity in Germany.

- He receives a pro-rata invalidity pension from Germany and UK.

A person was insured in Germany and moves to the UK. He suffers incapacity for work leading to invalidity in the UK.

- He receives only the Type A benefit from the UK.

Same as in the previous example but entitlement to invalidity pension in the UK depends on aggregation from Germany. (For example he fell sick shortly after becoming subject to UK legislation).

- He receives a pro-rata benefit from the UK and Germany as at 1 above.

3.5 REGULATION 883/2004 ARTICLE 46.3

CONCORDANCE ON MEDICAL ASSESSMENT

A decision by an institution in a Member State concerning the degree of invalidity....shall be binding....on other institutions involved.....provided that the concordance.....is acknowledged in Annex VII.

Member States listed in Annex VII

- Belgium
- France
- Italy
- Luxembourg

NO CONCORDANCE

Where there is no “concordance” each state assesses the degree of invalidity according to its own rules. This follows from the fact that the national social security systems are not harmonized, but only coordinated by the EU provisions, so each country has its own rules.

3.6 PROCESSES FOR OLD AGE, SURVIVORS PENSIONS AND TYPE B INVALIDITY BENEFITS

REGULATION 9897/09 ART 45 - SUBMISSION OF CLAIM

For Type A benefits, claim to be submitted to:

- Institution of last insurance, or
- Institution in state of residence, which shall forward the claim to the above

For Type B benefits, claim to be submitted to:

- Institution in place of residence, or
- Institution of the last Member State whose legislation was applicable

NB If the person was not at any time subject to the legislation of the state of residence, that institution shall forward the claim to the institution of the last Member State whose legislation was applicable

REGULATION 987/09 - ARTICLE 47 CONTACT INSTITUTION

The Institution to which the claim submitted is known as the “contact institution”.

(But not the institution in the state of residence if the person has never been insured there)

In addition to investigating the claim under its own legislation the contact institution shall promote:

- the exchange of data
- the communication of decisions
- the operations necessary for the investigations of the claim
- supply the claimant upon request with any information relevant to the Community aspects of the investigation

REGULATION 987/09 ARTICLE 48 – NOTIFICATION

Each institution shall notify the claimant of the decision in his case.

Notification to specify remedies and appeal rights

When the contact institution has received notification of all decisions it shall provide a summary of the decisions to the claimant (Portable document P1)

Where it appears to the claimant that his rights have been adversely affected by the interaction of two or more decisions he can ask for a review of the relevant decisions.

3.7 MEDICAL EXAMINATIONS

REGULATION 883/2004 ARTICLE 49.3

Where Article 46(3) of the basic Regulation is not applicable, each institution shall, in accordance with its legislation, have the possibility of having the claimant examined by a medical doctor or other expert of its choice to determine the degree of invalidity. However, the institution of a Member State shall take into consideration documents, medical reports and administrative information collected by the institution of any other Member State as if they had been drawn up in its own Member State.

REGULATION 987/09 ARTICLE 87 (SUMMARY)

The Competent institution can request institution in state of residence to carry out the examination on its behalf.

The competent institution shall reserve the right to have the beneficiary examined by a doctor of its choice. However, the beneficiary may be asked to return to the Member State of the debtor institution only if he or she is able to make the journey without prejudice to his health and the cost of travel and accommodation is paid for by the debtor institution.

As an exception to the principle of free-of-charge mutual administrative cooperation in Regulation 883 /04Article 76(2), the effective amount of the expenses of the checks referred to in above shall be refunded to the institution which was requested to carry them out by the debtor institution which requested them.

REGULATION 987/09 ARTICLE 87.5

The competent authorities or competent institutions of two or more Member States may agree specific provisions and procedures to improve fully or partly the labour-market readiness of claimants and recipients and their participation in any schemes or programmes available in the Member State of stay or residence for that purpose.

(Note: The synergy between this provision and the reference in the Council of Europe Recommendation concerning active steps to discourage inactive benefit dependency can be noted).

3.8 BENEFITS FOR ACCIDENTS AT WORK OR IN RESPECT OF OCCUPATIONAL DISEASES

In Regulation 883/2004 benefits for accidents at work and occupational diseases are subject to a separate co-ordination regime than that for invalidity benefits. It is clear however that in many of the schemes presented at this seminar benefits for accidents at work and occupational diseases are treated as a “sub-set” of disability benefits. Further work would need to be done so

as to respect any necessary changes in approach on the coordination of such benefits if the beneficiary parties were to be subject to the EU acquis.

4. SUMMARY OF THE DISABILITY BENEFIT PROVISIONS IN THE BENEFICIARY PARTIES

4.1 DISABILITY INSURANCE SYSTEM IN MONTENEGRO. MR JOVO PAJOVIC, MINISTRY OF LABOUR AND SOCIAL WELFARE.

INTRODUCTION

A comprehensive legislative framework comprising primary and secondary legislation provides for pension and disability insurance in Montenegro.

Rights from pension and disability insurance are provided to the insured persons when the insured events, or insurance risks occur. Those risks are: old-age, disability, death and physical impairment caused by an injury at work or an occupational disease.

In the event of disability, the rights acquired on this basis are:

- entitlement to full disability pension; or
- entitlement to partial disability pension.

In the event of occurrence of physical impairment caused by an injury at work or an occupational disease entitlement to cash benefit for physical impairment is provided.

Apart from the entitlement to disability pension (full and partial) and the entitlement to cash benefit for physical impairment there are no other entitlements arising from disability insurance provided for in the system for pension and disability insurance of Montenegro.

DISABILITY

The basic principle for becoming entitled to disability pension is that an insured person has suffered disability pursuant to the regulations on pension and disability insurance.

Disability pursuant to the regulation on pension and disability insurance is deemed to exist when the insured person suffers a complete loss of working capacity due to changes in the health condition, which cannot be removed by treatment or medical rehabilitation. Disability is also deemed to exist when an insured person suffers from a partial loss of working capacity of 75% due to changes in health condition, which cannot be removed through treatment or medical rehabilitation.

The cause of disability may be: an injury at work, an occupational disease, an injury outside work or a disease. The cause of disability is important because the conditions for becoming entitled to disability pension, as well as the level of disability pension, depend on it.

FULL AND PARTIAL DISABILITY PENSION

Entitlement to full disability pension is acquired by an insured person who suffers from a complete loss of working capacity.

Entitlement to partial disability pension is acquired by an insured person who suffers from a partial loss of working capacity of 75%. Partial pension amounts 75% of full disability pension.

The level of disability (full or partial loss of working capacity) affects whether the insured person will become entitled to full or partial disability pension, while the other conditions for becoming entitled are the same for both types of disability pensions and depend on the cause of disability.

CONDITIONS FOR BECOMING ENTITLED TO DISABILITY PENSION

Conditions vary as to whether

- the disability is caused by an injury at work or an occupational disease
- the disability is caused by an injury outside work or a disease

(NB – Special rules concerning the length of the “working life” apply in the case of insured persons below the ages of 30 and 20 respectively)

DETERMINING THE LEVEL OF DISABILITY PENSION

DETERMINING OF THE LEVEL OF FULL DISABILITY PENSION

a) Application of point system

Determining of the amount of full disability pension is done, as well as for old-age pension, with application of point system. Pension (P) is calculated by multiplying the personal points of the insured person (PP) by the value of pension for one personal point on the day of becoming entitled to it (VPPP).

Personal points (PP) are determined by multiplying the personal coefficient of the insured person (PC) and his/her pension service (PS).

The personal coefficient of the insured person is determined by dividing the sum of annual personal coefficients with the period which they are calculated for.

b) Determining of the level of full disability pension when disability was caused by an injury at work or an occupational disease

Disability pension due to complete loss of working ability, caused by an injury at work or an occupational disease, is determined by the amount of the old-age pension that would belong to the insured person for 40 years of pension service.

c) Determining of the level of full disability pension when disability was caused by an injury outside work or a disease

If the complete loss of working capacity was caused by an injury outside work or a disease, in determining the amount of disability pension when determining personal points, if the insured person has not reached the age of 60, his/her pension service period is added pension service – for more favourable pension calculation.

d) Determining of the level of full disability pension when disability was caused partially by an injury at work or an occupational disease, and partially by an injury outside work or a disease

An insured person meeting conditions for becoming entitled to disability pension regarding pension service where disability is caused partially by an injury at work or a occupational disease, and partially by an injury outside work or a disease will receive one disability pension consisting of proportional parts determined based on an injury at work or a occupational disease.

DETERMINING THE AMOUNT OF PARTIAL DISABILITY PENSION

Disability pension due to partial loss of working capacity (partial disability pension) is determined in the amount of 75% of disability pension due to complete loss of working capacity.

CONTROL CHECK-UP OF DISABILITY PENSION BENEFICIARY.

Procedures are in place to provide for compulsory control check-up of the beneficiary, within three years from the day of determining the disability except in certain specified cases (e.g. in the event of serious illness or injury).

Control check-up is, also, not conducted when the cause of complete loss of working capacity, fully or partially, is an occupational disease or an injury at work.

EXPERT BODIES IN THE PROCEDURE OF EXERCISING THEIR RIGHTS FROM DISABILITY INSURANCE.

When it is necessary in order to decide on entitlement to determine the existence of disability, physical impairment, cause of disability and physical impairment, the Pension and Disability Insurance Fund of Montenegro determines those facts based on findings, assessment and opinion of the First Instance Disability Commission which is Fund's expert body.

Complaints and appeals are dealt with by a separate body.

4.2 MEDICAL ASSESSMENT SERVICES IN SLOVENIA. MR DEAN PREMIK, PENSION AND INVALIDITY INSURANCE INSTITUTE

The Slovenian Pension and Disability Insurance Institute (ZPIZ) was established in 1992. Legal reform commenced in 1996 with new legislation published in 1999 and with a new Act in force since the 1st January 2000, implemented from 1st January 2003.

The Institute itself is organized in the following manner:

- Council
- Managing Director
- Divisions
- Regional Units (9)

The separate Divisions comprise:

- Pensions and Disability Insurance Division
- Medical Assessment Division
- Financial Division
- Development and Organisation Division
- IT Division
- Legal and General Affairs Division
- Division for Payment of Pensions.

From the 1st January 2006 a new Assessment Division was established comprising:

- Management Board
- Medical Assessment Service I
- Medical Assessment Service II

Within the Assessor bodies are to be found:

- Team of assessors
- Medical assessor
- Other expert institutions.

The Assessor's work is regulated by a number of statutes and rules.

Assessors are appointed by the Council of the Institute on the proposal of the Managing Director of the Institute. The President of the Board of Assessors is as a rule a specialist in occupational traffic and sports medicine employed at the Institute.

Three categories of Disability are recognised:

- I. Impaired General Capability for Work
- II. Capacity for work in one's own profession is reduced
- III. Insured person cannot perform the work to which they are assigned.

Causes of disability are as follows:

- **Employment Injury - 3.2%**
- **Occupational disease - 0.3%**
- **Illness – 89.8%**
- **Non-work related injury – 5.7%**
- **Combination of the above – 1%.**

Main objectives for future development include:

- **Unification of the work of the assessor bodies of the Institute**
- **Improving working conditions**
- **Criteria for assessing disability**
- **Introduction of a positive diction in expert reports (ie what the person is capable of)**
- **Co-operation with employers, disability organisations and related institutions etc.**
- **Co-operation with international institutions**

Further planned activities include:

- **Continuation of endeavours to improve working conditions and implement a friendlier approach to insured persons**
- **Reorganisation of the Expert Assessment in the Welfare Field**
- **Popularisation of assessment service also at the academic level**
- **Education of assessors – also the 2nd International Congress of Medical Assessors in 2011 (Maribor)**

4.3 DISABILITY DOMAIN IN ALBANIA. MS DAJANA BERISHA, MINISTRY OF LABOR, SOCIAL AFFAIRS AND EQUAL OPPORTUNITIES

The philosophy of the national social care policies in Albania aims at building a payment system of services seeking to improve household and individual welfare by providing benefits and appropriate services for a life with dignity, to ensure their inclusion and integration, improve quality of life of individuals and groups in need.

The NE (economic aid) program alongside with the disability payments comprises the two main schemes of social protection in Albania targeting poverty

Expenses for disability benefits increased from 0.4% of GDP in 2000 to 0.9% of GDP in 2008, coming both from an increase in the number of certified beneficiaries as well as by an increase in the amount of benefits.

Economic and social developments listed in the years 2009-2010, were considered as complex processes that in addition to economic growth were accompanied by a development or strengthening of national policies for poverty reduction, and social inclusion, etc.

Within the framework of social services reforming the State Social Service will establish and administer a national electronic registry of persons who apply for financial aid, payment of disability and social care services, which will facilitate the work of different government agencies at the local level, increase data accuracy and in time will realize the exchange of information for determining the real status of poverty of households applying.

FUNDAMENTAL PRINCIPLES OF THE STRATEGY

- The Principle of Civil Rights,
- The Principle of Self-Determination
- The Principles of Inclusion, Participation and Equal Opportunities
- The principles of Free Access and Barrier Free Environments
- The Principles of Prevention, Early Detection and Early Intervention
- The Principle of Rehabilitation
- The Principle of Finality

4.4 THE SYSTEM OF PENSIONS AND DISABILITY INSURANCE. MR ADJIN EMIR, FEDERAL FUND FOR PENSION AND DISABILITY INSURANCE, FEDERATION OF BOSNIA AND HERZEGOVINA

The system of disability pensions in the Federation of Bosnia and Herzegovina is regulated by the Law on Pension and Disability Insurance.

Rights from the pension and disability insurance are acquired for the case of old-age, disability, death, and a physical disability.

The Participants with identified and defined disabilities, depending on changes in work capacity, are classified in two categories of disability:

- Disability category I – the Participants with a complete loss of work ability.
- Disability category II – the Participants with altered work abilities.

Disability pensions are determined by the average monthly salary of the Participant gained in any consecutive 15 years of pension service found most rewarding for the Participant as of the January 1, 1966.

When a disability pension is acquired through the insurance period of less than 15 years, the pension base is determined on the average salary for the entire duration of insurance.

Disability pensions in event of disability caused by illness or injury away from work is determined by the percentage of pension service, depending on the length of pension coverage of years of lifetime pension.

SUBSIDY FOR A PHYSICAL IMPAIRMENT

Physical impairment is deemed to exist when the Participant experiences a loss, a severe injury or a considerable disability of certain organs or parts of the body, making the normal activity of the body difficult and requiring more effort in realizing living needs, regardless of the fact whether it causes disability or not.

THE RIGHTS OF DISABLED (II CATEGORY OF DISABILITY)

A Participant, who has been identified with the second category of disability, is entitled to be assigned to other, more suitable position, i.e. is entitled an adequate employment, re training, or additional training, as well as the right subsidy linked to the exercise of the given rights.

The Participant is entitled to be either deployed, assigned to an adequate position or to be retrained, if he or she is under 55 years of age.

ACQUISITION, EXERCISE AND TERMINATION OF THE RIGHTS

In case when a settlement on the right to the pension and disability insurance for a disability at work is to be determined, the insuring body/ fund makes a decision on the rights based on the facts established through findings, assessments, and opinions of the Institute for Medical Expertise.

Against the decision, a participant and/or pensioner, or their relevant family members as beneficiaries can appeal to the second degree insurance body.

Based on the final settlement, parties are obliged to ensure the exercise and realization of the respective rights.

CONCLUSION

There are many factors that influence the system of PDI in the Federation of Bosnia and Herzegovina.

The reform of pension and disability system, imposed by the Federation as a necessity is not only important because of long-term crisis in it, but also because it is one of the essential prerequisites for entry into the European Union and European integration. To achieve the reform, it will be necessary to use the experiences of other countries that have implemented reform of the pension and disability system, adjust it to the local context, objectives, requirements and opportunities and consequently apply it in the Federation.

4.5 DISABILITY PENSION. MR ZORAN MASTILO, PENSION AND DISABILITY INSURANCE FUND, REPUBLIKA SRPSKA, BOSNIA AND HERZEGOVINA

INTRODUCTION

The legislative framework of the Pension System of RS is **ANNEX 4** of the **DAYTON PEACE AGREEMENT** on Bosnia and Herzegovina, the Constitution of RS, and the **LAW ON PENSION AND DISABILITY INSURANCE**.

The Pension System of the Republic of Srpska is based on the **INTERGENERATIONAL SOLIDARITY (PAY AS YOU GO – PAYG)**.

The Reform of Pension System of the Republic of Srpska started in 2000, when, by adopting a new law, significant paradigmatic reforms were carried out which resulted in reduction of type and scope of rights in the framework of the Pension System. Despite the reforms, current state of Pension System is not satisfactory, which is confirmed by the analysis and other indicators within the Strategy. Certain tendencies are negative to the extent that the need for consideration of other reform directions are imposed.

DEFINITION OF DISABILITY AND THE ENTITLEMENT TO DISABILITY PENSION IN THE REPUBLIC OF SRPSKA

The law on Pension and Disability Insurance regulates the definition of the term “disability” for insured who are employed, insured who perform entrepreneurial activity and insured religious officials.

Disability of insured persons exists when it has been established that, due to permanent changes in medical conditions caused by injury on work, occupational disease, injury outside the work or disease, which cannot be cured by treatment or by medical rehabilitation, appeared loss or reduction of working ability at working place at which the person was employed on the day when the working ability was assessed.

Reduction of working ability exists when an insured person with his/her work effort which does not endanger his/her health condition is able, with or without retraining and qualification, to work at some other full-time job.

Loss of working ability exists when an insured person is not permanently able for his/her job or for any other full-time job, with or without retraining and qualification.

For every category of insured person, it is precisely regulated by law when there is working ability and when there is loss of working ability.

THE RIGHTS ON THE BASIS OF DISABILITY ARE THE RIGHTS ON THE BASIS OF REMAINING WORKING ABILITY AND THE RIGHT TO DISABILITY PENSION.

An insured person, for whom it has been established remaining working ability, has the following rights.

- the right to suitable job position, that is, the right on adequate employment
- the right to retraining and qualification,
- the right to monetary compensation in compliance with the law

WORKING ABILITY ASSESSMENT PROCEDURE

Working ability assessment is done by authorised expertise body of Pension and Disability Insurance Fund in compliance with methods and procedures regulated by Rulebook on Working Ability Assessment in Pension and Disability Insurance.

RECOMMENDATIONS AND SUGGESTIONS FOR UPGRADE OF EXISTING INTERGENERATIONAL SOLIDARITY SYSTEM -RESUME

Bearing in mind completed analysis of segments of existing pension and disability system of RS based on intergenerational solidarity principle, Strategy of pension system reform of RS offers recommendation as and suggestions for further upgrade of disability insurance system:

- Exercising of the rights on disability insurance should be improved in the direction of greater efficiency and introducing of control mechanisms in every phase of working ability assessment
- Consider the need for redefining definition of disability, which would include general inability, reduced or limited ability for doing business activity, when compared to any other kind of organized economic activity at some other job position which is suitable for qualification of insured or to the possibility of retraining through professional rehabilitation, with full or part time.
- Consider the need for distinguishing the procedure of expertise for working ability assessment from Pension and Disability Insurance Fund, in general or only in the second instance, that is to form institute for working ability assessment or expertise.

A new law on Pension and Disability Insurance is being drafted and will include adjustment of some solutions with social partners.

4.6 CROATIAN DISABILITY, PENSION BENEFITS AND CO-ORDINATION. MRS VANDA CRNJAC PAUKOVIC, CROATIAN PENSION INSURANCE INSTITUTION

Croatia applies a mixed private–public system introduced by a 1999 – 2002 pension reform, based upon three-pillars:

- I. **Pillar I** pay-as-you-go compulsory system, it covers risks of old age (including anticipation and deferment), disability (including the occupational and non-occupational risks), and death – survivors' benefits (including occupational risks).
- II. **Pillar II** is the system of individual capitalization system - compulsory pension system of saving for old-age, but with the exceptional possibility of entitlement also to disability and survivors' benefits, and
- III. **Pillar III** of individual capitalization system is the voluntary system of saving only for old-age (the latter is not related to the subject of the seminar).

Disability benefits are financed together with all other pension benefits by general contribution of employees and self-employed persons, as well as by special employer's contribution for persons engaged in arduous or unhealthy occupations, under the solidarity principle.

Pension Benefits in the 1st Pillar. Risks covered in the I. pillar: Old-age, death, invalidity, physical damage (including work injury / occupational disease). Benefits are not conditional upon residence or citizenship. Disability pensions depend also on the degree of disability (total or partial). Benefits are calculated by the point pension formula based upon wages/salaries (or pension bases for self-contributors) during the work history. Pensions are guaranteed in the amount of minimum pension and limited to the amount of maximum pension.

Definition of invalidity. General incapacity for work (total) is the permanent loss of the ability to work due to changes in health which cannot be cured. Occupational incapacity for work (partial) is the permanent reduction of the capacity to work for more than one half (51% or more) as compared to physically and mentally healthy person of the same or similar education and capacity, caused by changes in health that cannot be cured.

Invalidity Pension for Non-occupational Risks. The coverage of 1/3 of the working life is required. Working life period is counted after age 20 until the contingency (after age 23 for persons with post-secondary education, after age 26 for persons with university degree). Pension formula is based on wages/salaries earned during the work history. Hypothetical additional periods may also apply.

Benefits for Occupational Risks. Same kinds of invalidity benefits as for non-occupational risks are granted (also same names of benefits) but they are determined in more favourable amounts, minimum as for 40 years of insurance period.

Occupational rehabilitation is the only benefit in kind provided for under the pension system and it is accompanied with cash benefit.

Physical Damage is loss or a serious injury of an organ or a body part, regardless of the fact whether it led to disability or not. .

Minimum pension is granted if the person's regularly determined pension (old-age, disability or survivors) is lower than the amount of minimum pension.

Maximum pension is based on the limitation of the **average value point** for pension (old-age, disability or survivors) to 3.8 by the 1999 Act.

In April 2011, there were 23% of beneficiaries of disability benefits in relation to the beneficiaries of all pension benefits in Croatia.

Medical assessment is performed by designated medical experts of the Croatian Pension Insurance Institute.

Co-ordination of Disability Benefits: Croatia co-ordinates the social security system with 24 States and one Province in total, of which 16 are EU Member States, 1 EEA country - Norway and also Switzerland, that apply EU regulations, so 18 bilateral agreements in total will be replaced by EU regulations.

As invalidity pension based upon the general incapacity to work is not paid to beneficiaries in Croatia while they are engaged in employment or self-employment, the same applies if the beneficiary lives in the territory of the other Contracting State engaged in employment or self-employment in that State (assimilation of facts).

EU Co-ordination. Croatian invalidity pensions are all type B (entitlement depends on periods completed), except pensions based upon work injury or occupational disease that are type A pensions and therefore Croatia included them in Annex VI of the Regulation 883/04. Expenses of medical examinations are borne by the Contracting State that requires the medical examination but there is no refund if the medical examination was undertaken in the interest of both Contracting States.

4.7 DISABILITY INSURANCE SYSTEM IN SERBIA. MS IVANA MILINKOVIC, MINISTRY OF LABOUR AND SOCIAL POLICY, SERBIA

PENSION AND DISABILITY SYSTEM REFORM

Four stages of reform of the mandatory pension and disability insurance system in Serbia took place over the last ten years by amending the pension and disability insurance regulations (primarily the Law on Pension and Disability Insurance), namely:

Stage 1 in 2002 – Federal Law on Pension and Disability Insurance was amended. The main modifications included: (i) **change of indexation method**; (ii) **one-time increase of retirement age** (iii) **a single lowest pension level**

Stage 2 in 2003 – new national legislation – the new law brought the following changes: (i) **new benefit calculation method** introducing “personal points” and tying benefit levels to salaries from 1970 onwards instead of the calculation based on the best successive 10 years of insurance; (ii) suppressed access to disability benefits for people with reduced work capacity (2nd and 3rd category of disability) **and a restrictive definition of disability as a complete loss of capacity for any kind of work**, and (iii) **extended scope of mandatory insurance to cover the people who provide services under copyright contracts, for a fee, etc.**

Stage 3 in 2005 – amended Law on Pension and Disability Insurance introducing the following changes: (i) Modified eligibility requirements: lower age limit for old-age retirement was gradually raised between 2008 and 2011 (to 60 years for women and 65 years for men); (ii) **modified indexation method and periods**: instead of quarterly adjustments, **benefits indexed twice a year to the cost of living**; (iii) **gradual consolidation of the three pension funds** (for the employed, self-employed and farmers).

In 2005, the Law on Voluntary Pension Funds and Pension Schemes was enacted, introducing voluntary pension insurance by means of individual membership contracts or pension schemes in which the pension scheme organiser (employer, trade union) takes charge of contribution payment to a voluntary pension fund on behalf and for the account of the employee, in accordance with the membership contract concluded by the employee with a voluntary pension fund management company.

Stage 4 in 2010 – amended Law on Pension and Disability Insurance, stipulating: (i) gradual increase of minimal period of insurance for women (under the “full service” category) from 35 to 38 years by 4 months between 2013 and 2021; (ii) gradual increase of lower retirement age limit (under the “full service” category) for both men and women from 53 to 58 years of age, also gradually between 2011 and 2022; (iii) inclusion of the employees in military service and military beneficiaries in the consolidated pension and disability insurance system.

DISABILITY BENEFITS

ELIGIBILITY CRITERIA

Disability is understood to mean complete loss of work capacity or, in case of professionals in armed forces, complete loss of capacity to engage in professional military service as a result of a changed health condition caused by a workplace injury, occupational disease, an injury sustained outside of work or an illness that cannot be remedied by medical treatment or rehabilitation.

DISABILITY BENEFIT LEVEL

Disability benefit level is calculated pursuant to a determined **formula**, which is the same as the formula applied for calculation of old-age benefits, although in the case of disability benefits it also takes into account the years of insurance.

A beneficiary who qualifies for disability benefit is entitled to the minimum benefit level if the disability benefit granted to him/her is lower than the legal minimum.

The minimum benefit level is a social category.

In March 2011, the lowest disability benefit arising from the insurance of the employed and self-employed was RSD 11,448 or approximately € 115, and RSD 9,000 or approximately € 90 for farmers.

Note: The maximum benefit level is set by taking into account that the personal coefficient cannot exceed 3.8.

SOCIAL INSURANCE COORDINATION

The Republic of Serbia has concluded social insurance agreements with 27 countries, namely: Austria, Belgium, Bulgaria, Czech Republic, Slovakia, Denmark, France, Italy, Luxembourg, Hungary, the Netherlands, Norway, Poland, Germany, Sweden, Switzerland, United Kingdom and Ireland, Lybia, Cyprus, Egypt, Panama and Romania, as well as with the former Yugoslav republics: Macedonia, Croatia, Bosnia and Herzegovina, Montenegro and Slovenia.

FUTURE STEPS

Notwithstanding all the reform measures taken between 2002 and 2010, Serbia's mandatory PDI system requires further reforms to ensure its long-term financial sustainability and social security in case of disability. The future reform agenda includes: the start of the Central Registry operations, strengthening mechanisms for increased compliance in terms of contribution payment, streamlining pension administration and reducing the informal economy. Other systemic actions are also necessary to effectively respond to challenges of ageing population.

Considering all the above, further reform of PDI system is necessary to secure long-term economic sustainability which would guarantee social security of the present and future generations of pensioners, in line with the Constitution of the Republic of Serbia.

4.8 DISABILITY PENSION IN MACEDONIA. MS IRENA RISTESKA, MINISTRY OF LABOUR AND SOCIAL POLICY “THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”

The current Macedonian pension system is three pillar:

- I pillar Mandatory pension and disability pension insurance –pay-as-you-go
- II pillar Mandatory fully funded pension insurance
- III pillar Voluntary fully funded pension insurance

I pillar is based on the DB principle – the pension is calculated on predefined formula and provides the following rights:

- Old age pension
- Disability pension
- Survivors pension
- Minimal pension

II pillar is based on DC formula and provides old age pension

From 1991, up to 2004, the definition of disability remained unchanged. Even in the 2004 Law, no material change was made.

In the 2007 Law the definition for disability is changes and reads:

“Disability exists when, due to a change in the health status that cannot be remedied through treatment, the working capacity of the insured person has been permanently diminished by more than half in comparison to a physically and psychologically healthy insured person with similar or identical education and capacity (professional work incapacitation).

Disability also exists when, due to a change in the health status that cannot be remedied through treatment, the working capacity of the insured person has been permanently lost (general work incapacitation).

The disability within the meaning of paragraphs 1 and 2 of this article can occur due to illness, non-occupational injury, injury at work or occupational illnesses.

The activities for which the working capacity of an insured person is being assessed shall include all activities that correspond to his/her physical and psychological abilities and have corresponded to his/hers past activities.

The activities for which the working capacity of an individual farmer is being assessed shall include the activities which formed the basis for the mandatory insurance of such an individual farmer in accordance with this law.”

An insured person that shall acquire a disability before reaching 50 years of age shall have the right to professional rehabilitation provided that, in accordance with the remaining work capacity, he/she can be trained to perform other work full time.

ORGANISATION

The organisation, composition and method of operation of the **Commission for assessment of working capability** is regulated with the Rulebook on organisation, composition and method of operation of the Commission for assessment of working capability, which is brought by the Managing board of the Fund, with prior approval given by the Minister of labor and social policy. The **Commission for determining the orderliness and completeness of documentation** works within the Department for assessment of working capability, and its composition and method of operation is regulated with the Rulebook on composition and method of operation of the Commission for determining the orderliness and completeness of documentation (“Official Gazette of the Republic of Macedonia” No. 88/04

In accordance with article 135, part 5 of the Law on pensions and disability insurance a mandatory control review is conducted by a **Commission for mandatory control review** that is composed of specialist doctors that are employed within an organ or institution determined by the Minister of labor and social policy.

Article 139-a of the Law on pensions and disability insurance determines that audit over every finding, evaluation and opinion that determines disability is conducted on a mandatory basis by the **Commission for audits of findings, evaluations and opinions that determine disability or incapability to work**. This Commission began to function on January 1st, 2006 with the primary aim of giving an independent evaluation of working capability, and with an Opinion can approve the finding of the Commission for assessment of working capability, while it can also can change the finding, or request additional information.

Republic of Macedonia as an independent state has concluded 16 bilateral agreements on social security with provisions for disability pension, realization of the right of disability pension, assesment of working capacity, exports of the benefit , e.t.c

4.9 INVALIDITY PENSION IN TURKEY. MS BIRSEN BENLI, SOCIAL SECURITY INSTITUTION, TURKEY

INTRODUCTION TO THE TURKISH SOCIAL SECURITY SYSTEM

SOCIAL SECURITY REFORM IN TURKEY

Works on the social security reform, which primarily aims to accomplish a social security system, which is fair, easy to access, aims to provide uniformity in norms and standards, ensures effective protection against poverty, and is financially sustainable, started in November 2002.

Reform works are composed of four components:

- I. The first component is to establish a Universal Health Insurance, which finances provisioning of adequate, fair, preventive, healthcare services in a good quality to the general public.
- II. The second is to establish a single pension regime, which comprises short and long term insurance branches, except healthcare services.
- III. The third component is to consolidation of non-contributory benefits and social assistance payments based on objective eligibility criteria and accessible by those who are in need of these assistance.
- IV. The fourth component is Institutional transformation

CHARACTERISTICS OF TURKISH SOCIAL INSURANCE SCHEMES

The social insurance system in Turkey is a premium based which mainly comprise of income replacement benefit schemes in case of short and long term incapacity for work due to sickness, maternity, invalidity, old age, decease, work accidents and professional diseases. Some cost covering cash benefit schemes are in place as well like the birth, marriage and funeral grants and some family benefits for civil servants. The 'universal' health insurance scheme covers the costs of medical care, medicines and medical appliances and is organised as a third-party payment system with user's charges.

INVALIDITY INSURANCE IN TURKEY

Invalidity and *disability* are in the text of the Turkish legislation sometimes used as interchangeable concepts or synonyms. Law 5510 defines an insured person to be disabled when she/he has lost working capacity or earning capacity. The law refers to periods of disability but also invalidity and to degrees or the status of invalidity or disability under the relevant provisions concerned with the invalidity pensions.

DEFINITION

An insured person is deemed to be invalid if he/she lost least 60% of his/her working power or earning capacity in profession. A person who already has 60% of disability before starting working is not considered invalid. The provisions for these persons are different.

DETERMINATION OF INVALIDITY LEVEL

The level of invalidity will be determined based on reports produced by SSI authorised health care service providers and provided to the Health Committees of the SSI.

INVALIDITY BENEFITS

ENTITLEMENT

- First registration to the insurance of a person should be least 10 years before the application date.
- Least 1800 days of contribution to the system.
- For the self-employed no insurance related debt to the SSI

If a person is in need of permanent care of another person, the insurance record period is not taken into consideration but 1800 days of contribution

MATERIAL SCOPE

- Invalidity Pension In case the insured person is deceased, survivors benefit is provided to his/her dependants
- Medical costs
- In case the insured person starts working, the invalidity pension is suspended.

CALCULATION

The amount of the invalidity pension is the *average monthly earning multiplied with the replacement rate*. The average monthly earning is 30 times the average daily earning. The average daily earning is determined by making the sum of the insured earnings subject to social contributions, the past earnings being updated by applying an update coefficient for every year between the year concerned and year in which the application was made, divided by the total number of premium days.

In what regards the premium days that are taken into account, 9,000 is used as the reference for civil servants and self-employed whereas for employees, this is 7,200 paid premium days.

MEDICAL REVIEW

An insured person who is receiving invalidity pension might be requested to go through medical review with a view to monitor the invalidity level.

INVALIDITY INSURANCE IN TERMS OF COORDINATION OF SOCIAL SECURITY

- Turkey has signed 22 bilateral agreements.
- All of these agreements include long term insurance branches (old age, invalidity and survivors)
- Thirteen of these agreements include short term insurance branches (sickness, maternity, occupational disease and accident at work)

4.10 DISABILITY PENSION SCHEME. MR EDMOND MURATI, MINISTRY OF LABOUR AND SOCIAL WELFARE, KOSOVO²

PENSIONS SYSTEM IN THE REPUBLIC OF KOSOVO

After the war in Kosovo, particularly from 01 July 2002 begins to be applied the reformed pension system based on three Pillars.

- **FIRST PILLAR:**

Basic pensions, and other special schemes, funded from the state budget revenues,

- **THE SECOND PILLAR:**

is mandatory pension savings of 5% and 5% employer.

- **THIRD PILLAR:**

Supplementary voluntary (fulfill the first and second pillar) Private Voluntary Pension organized on an individual basis or by enterprises themselves - stimulated by the state to tax relief.

PENSION SCHEME OF PEOPLE WITH DISABILITIES

In Kosovo this category is treated in the first pillar pension system, and is funded by the state budget.

It aims to care by the state for financial assistance to persons which are permanent physical disability, mental and psychological and incapable of any type of work.

Families with Disabled children - is a new scheme which started at beginning of the year (2009), and it will cover a category of people with permanent disabilities who until now have not had good care and materials from the State.

Beneficiaries of this scheme will be families who care for children with permanent

DISABILITY PENSION

This means a benefit - a pension that is paid to persons with disabilities, and managed by the Ministry of Labour and Social Welfare.

Financial support to persons which are totally and Permanently Disabilities, and incapable of any type of work.

BASIC REQUIREMENTS

The person needs to:

² All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nation Security Council 1244 and without prejudice to the status of Kosovo

- be permanent resident of the Republic of Kosovo
- demonstrate the inability of full and permanent for any type of work, estimated by the expert committee of the medical fields
- be aged 18 - 65 years

ADMINISTRATIVE PROCEDURES

- Acceptance of applications
- Verification and registration of claims in the database

THE MEDICAL-EXAMINATION PROCEDURES

Medical Committee means - a group compound by medical experts specialized in the field of medicine appointed by the Respective Institution

THE RIGHT TO APPEAL

The party dissatisfied with the decision of first instance based on legal dispositions is entitled to appeal in the second level.

REVALUATION

Based on the disposition of Law 2003/23, the Commission of medical experts will determine permanent and fully disability physical and mental sets a deadline of reevaluation. Beneficiary of the disability pension must undergo medical re-evaluation committee after 1 year, 3 years and maximum 5 years.

REVALUATION: means review procedures of the commission examination by medical experts, where the right to disability pension may be terminated or extended depending on the health situation during the reassessment

INTEGRATED INFORMATION SYSTEM (I.I.S) OF MINISTRY OF LABOUR AND SOCIAL WELFARE

I.I.S enables the extension of decision-making through 7 Regional Centres of Department of administration Pension in Kosovo and 30 municipalities Registration of different type of requests, approval of decisions, and approved payments through Regional Centres of Department of administration Pension in Kosovo.

MEDICAL EXAMINATION BY THE COMMISSION AND PROCEDURES DECISION

- Registration of claims in database of Integrated Information System
- Examination of the Medical Commission
- Data entry as estimated on the basis of the Medical Commission,
- Integrated Information System I.I.S

- Approval and printout of decisions (positive or negative depending on the medical assess committee)
- Checking of decisions for payments ,
- Approval and placement in payment depending on status
- Processing, monthly payments, maintenance of data on the database of Integrated Information System

BENEFITS

- Payments are monthly
- Payments are transferred through commercial banks in individual pension accounts.
- The amount of monthly pension is currently € 45 euro, and is monthly linear

5. DISABILITY BENEFITS IN THE NETHERLANDS. MR MARCO VAN DAL, MINISTRY OF SOCIAL AFFAIRS AND EMPLOYMENT, NETHERLANDS

A short introduction on the history of disability benefits in the Netherlands was given, with particular emphasis on the past 10 years.

By the early 1990s the inflow of people into disability benefits was much higher than expected. Numbers were inflated by older employees looking for “early retirement” and by the fact that it was worthwhile for both employees and employers that disability benefits should be claimed rather than unemployment benefit. Since that time a number of new policy initiatives have been introduced, including:

- A focus on prevention and rehabilitation
- Large financial incentives for employers
- A benefit structure which focuses on the use of remaining earning capacity.

Reference was made to:

- The Pemba Act 1998 - This introduced incentives to employers to prevent disability:
- Employer contributions to disability pension are related to risk to the individual employee
- Employers may “opt out” of the public system and bear their own risk through private insurance

THE GATEKEEPER IMPROVEMENT ACT 2002

This placed obligations on the employer and employee to prevent long term sickness and provided for the continued payment by the employer during the first year of sickness curing which steps must be taken to reintegrate the employee. Sanctions are applied if these steps are not satisfactory

The Enduring Wage Act of 2004 and a new Disability Act 2006 reinforce these changes. The latter draws a distinction between the fully/permanently disabled, the partly disabled (at least 35% loss of earning capacity) and those less than 35% disabled. For those in the latter two categories the focus is on the use of remaining earning capacity and suitable work.

Overall these policies have reduced in significant reductions in the number of disability pensions paid and has had a positive effect on the labour market.

6. CONCLUSIONS

All the presentations from the representatives of beneficiary parties illustrated disability insurance schemes which had either recently been reformed, or were still in the process of reform.

Generally varying degrees of disability are recognised both in terms of their assessments and in the level of benefits payable. Given that assessment of disability can be a contentious matter at times it was noted that all parties had in place rigorous professional assessment procedures with rights of appeal.

In relation to those who are not fully disabled the importance of rehabilitation and support so as to enable reintegration into the labour market was recognised as of vital importance.

Certainly it was demonstrated clearly that all beneficiary parties are familiar with the terms of Council of Europe Recommendation Rec(2006)5 and aim to ensure that their disability insurance is consistent with Action Line 11 – Social Protection – of that Recommendation.

At the same time disability insurance is not immune from the challenges facing pension insurance in general in terms of demographic changes and longer life expectancies.