REPORT
on the PRESENT STATE and FUTURE
of SOCIAL SECURITY
in SERBIA AND MONTENEGRO

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INTRODUCTION

Social security, nor social security rights are not explicitly mentioned in the Constitutional Chart of State Union of Serbia and Montenegro (Ustavna povelja državne zajednice Srbija i Crna Gora). On the other hand, Constitution of Republic of Serbia (Ustav Republike Srbije), as well as Constitution of Republic of Montenegro (Ustav Republike Crne Gore), does incorporate provisions regarding this area.

Since the Constitutional Chart of Serbia and Montenegro came into the force (February 4th, 2003) these two republics have completely separate legislation in the field of social security, although a few federal laws in this area (laws of the Federal Republic of Yugoslavia) remain in force and are (still) implemented by one of the republics or by both of them – for example Law on the Basic Rights of Veterans, Disabled Veterans and Families of Fallen Veterans (Zakon o osnovnim pravima boraca, vojnih invalida i porodica palih boraca), Law on Protection of Citizens of Federal Republic of Yugoslavia Working Abroad (Zakon o zaštiti gradjana Savezne Republike Jugoslavije na radu u inostranstvu) and Law on Health Protection of Foreigners in Federal Republic of Yugoslavia (Zakon o zdravstvenoj zaštiti stranaca u Saveznoj Republici Jugoslaviji). In certain areas of social insurance one republic was implementing federal legislation longer than the other (in the filed of pension and invalidity insurance, for example, Republic of Montenegro implemented federal law till January 01st, 2004 and Republic of Serbia till April 10th, 2003) and that fact opens practical problems concerning recognition of insurance periods, entitlement to benefits, export of acquired benefits, health insurance while residing or during temporary stay in the territory of other republic. These facts create, in general, severe problems in implementation of existing republican legislation.

Having in mind that both republics were the parts of the same state and have shared the same legal system since the end of the World War I it is easy to conclude that they have the same starting point when it comes to the legislation in general and, specially, within legislation regarding social insurance (security). As the consequence of that, the legislation in force in two republics is very close related (similar definitions, legal institutes, eligibility conditions, personal scope, benefits, even similar wording).

On the other hand, present situation is:
- two separate legal systems;
- legislation of Republic of Serbia and respectively of Republic of Montenegro is applied only within the territories of these republics;
- different currencies - Dinar and EUR – producing difficulties in aspects of transfer of benefits;
- different eligibility conditions are prescribed for certain risks;
- lack of coordination instruments between two legal systems.

Due to the facts mentioned above it is quite obvious that this report must and will deal with each of the republics separately, no matter how much certain laws and other legislative instruments are similar or, sometimes, even the same.

Coordination instruments on social security (multilateral and bilateral agreements, conventions, charts, recommendations etc.) are still in competency of Serbia and Montenegro as one international legal subject, one legal personality.
REPUBLIC OF SERBIA

1. CONCEPT AND SOURCES OF SOCIAL SECURITY LAW

Concept of social security is, in general, a consequence of historical heritage although, in some moments political situation can play significant role in changing the existing concept. Beginnings of social security in Serbia can be found in 19th century. Regulations from that period were dealing only with a certain risks and only for a few categories of economically active persons. After World War I in Kingdom of Yugoslavia first law on social insurance was made.

Influence of European i.e. Austrian legislation was very obvious in all aspects of social insurance system (definitions, pay as you go financing, contributions and insurance periods).

Constitution of Republic of Serbia incorporates a number of provisions regarding social security and social insurance. Constitution prescribes that:

- Everybody is entitled to health protection. Children, pregnant women and old persons are entitled to health protection financed from public revenues if they are not entitled by they own right, and other persons under conditions prescribed by law.
- Right to material security during temporary unemployment is guaranteed, under conditions prescribed by law.
- State provides social security for citizens who are incapable for work and who don’t have means to support themselves.
- Through compulsory insurance employed persons are providing for themselves right to health protection and other rights in case of sickness, pregnancy, giving birth, loss of work capacity, unemployment and old-age and rights to other forms of social insurance and for their family members – right to health protection, survivor’s pension as well as other rights on basis of social insurance.
- Financial means for compulsory social insurance (including unemployment insurance) are provided by insured persons and employers through competent institution.
- Financing of constitutional right in field of health, social, veterans and invalidity protection, social care for children and other forms of social security, prescribed by law, is responsibility of the budget.

Concept of the system of social security in Serbia is very similar to the definition in ILO Convention nr. 102 – covering same risks. Generally it can be said that social security system (sistem socijalne sigurnosti) of Serbia encompasses: social insurance (socijalno osiguranje), social assistance (socijalna pomoć), family and child assistance (familija zaštita) and veteran’s protection (boračka zaštita).

Within the social insurance scheme there are: pension and invalidity insurance (penzijsko i invalidsko osiguranje), health insurance and health protection (zdravstveno osiguranje i zdravstvena zaštita), and unemployment insurance (osiguranje za slučaj nezaposlenosti).

Social assistance scheme is prescribed by Law on Social Protection and Providing Social Security of Citizens (Zakon o socijalnoj zaštiti i obezbeđivanju socijalne sigurnosti građana) encompasses both cash benefits and benefits in kind. Within this scheme family and child assistance and protection are provided as well as assistance and protection for persons who are incapable to take care of themselves.

Veteran’s protection scheme is covering war veterans as well as civil victims of war and members of their families providing both cash benefits and benefits in kind. This area is regulated by Law on the Basic Rights of Veterans, Disabled Veterans and Families of Fallen Veterans (Zakon o osnovnim pravima boraca, vojnih invalida i porodica palih boraca) - which is still in force although it is the law of Federal Republic of Yugoslavia - and Law on Rights of Veterans, Disabled Veterans and Their Family Members (Zakon o pravima boraca, vojnih invalida i članova njihovih porodica) – which is the law of Republic of Serbia. Benefits within this scheme
are: disability benefits (disability allowances for the family of fallen veteran), health care, allowance for orthopaedic appliance etc. All war veterans are classified in ten invalidity groups (from 20% to 100% of the physical or physiological impairments) while the war-disabled civilians are classified in seven groups (from 50% to 100% of the physical or physiological impairments). The basis for calculation of all payments (cash benefits) is the average wage in the Republic of Serbia increased for 80%.

Veterans protection scheme provides following benefits for family members of fallen veterans and family members of deceased disabled veterans: family invalidity benefit (porodična invalidnina); increased family invalidity benefit; monthly cash benefit; supplementary family invalidity benefit; family supplement; care supplement; compensation of accommodation costs in institutions of social protection; death grant; reimbursement of funeral expenses. For family members of deceased war-disabled civilians are provided monthly cash benefit and compensation of funeral expenses.

Pension and invalidity insurance scheme covers the following social insurance risks: old age (starost); invalidity (invalidnost) - permanent incapacity for work; death (smrt) - survivorship. Within this scheme there are two additional benefits - cash compensations for: body damage (telesno oštećenje) and help and care of the other person (pomoć i nega drugog lica).

Health insurance scheme covers the risk of sickness and provides medical care and compensation of wage (earnings) in case of temporary incapacity for work due to sickness (bolest), maternity (materinstvo) and other cases prescribed by law. In health protection (zdravstvena zaštitba) scheme medical services are provided to persons who are not health insured.

Within unemployment insurance scheme persons are entitled to: cash compensation, health insurance (medical care), pension and invalidity insurance during the period of receiving cash compensation for unemployment and other rights in line with the law and the Statute of National Office for Employment.

Work injury and professional disease (povreda na radu i profesionalna bolest) are covered both in pension and invalidity insurance scheme from which long-term benefits are provided as well as in health insurance scheme from which short-term benefits are provided.

Legislation in the filed of social security encompasses laws, by-laws, regulations, rules, statutes etc. Competent ministers and institutions responsible for certain branches of social security scheme can issue binding regulations.

Competency within the field of social security is defined as the competency of the republic (social protection involving the rights of common interest) while other rights are in competency of local community. Regarding Autonomous Province of Vojvodina (Autonomna pokrajina Vojvodina) system of social security is functioning according to the republican legislation. However, AP Vojvodina is competent for establishing Provincial Fund for Health Insurance, Provincial Fund for Pension and Invalidity Insurance (separate funds for employed, self-employed and farmers) and Provincial Office for Employment. These institutions are organized as part of respective republican institutions i.e. as their organizational parts. In the field of health and social protection AP Vojvodina is competent for organizing health (medical) institutions and social protection institutions for accommodation of beneficiaries, within the territory of Vojvodina. Scope of social protection benefits can be larger than prescribed by republican law, provided that financial means are provided in the budget of AP Vojvodina. Within the schemes for family and child protection as well as for veteran’s protection AP Vojvodina is competent for organizing functioning of these schemes and for control of legal and financial aspects.

Protection of the acquired rights is guaranteed by Constitution and provisions of adequate laws (on pension and invalidity insurance, health insurance etc).
2. ADMINISTRATIVE ORGANISATION

National legislation in the field of social security is, within their competencies, created by the People’s Assembly of Republic of Serbia (Narodna skupština Republike Srbije). Competent ministries - Ministry of Labour, Employment and Social Policy (Ministarstvo rada, zapošljavanja i socijalne politike), Ministry of Health (Ministarstvo zdravlja) and Ministry of Finance (Ministarstvo financija) are preparing and submitting to Parliament proposals of laws.


Ministry of Labour, Employment and Social Policy is responsible for the social security system of Serbia (including veterans protection scheme) except for the health insurance and health protection, which is in the competence of Ministry of Health.

Ministry of Finance is competent for the legislation regarding collection of contributions for compulsory social insurance - Law on contributions for compulsory social insurance (Zakon o doprinosima za obavezno socijalno osiguranje) - and social assistance revenues and revenues for veterans protection scheme, which are financed from the budget.

The administration of social security schemes is entrusted to non-government institutions under public law. They are functionally and territorially decentralised, having regional units and branch offices which are constituent parts of these institutions.

These institutions have their own legal personality and are not included in state administration. The governing bodies of these institutions are organised according to the bipartite or tripartite principle (employers, employees, beneficiaries and government representatives-representatives from competent ministries).

Republican Fund for Pension and Invalidity Insurance of Employed (Republički fond za penzijsko i invalidsko osiguranje zaposlenih) is responsible for implementation and administration of pension and invalidity insurance for employed persons. It is self-governed by the representatives of insured persons (trade unions), beneficiaries (pensioners organizations) and employers (employers associations). The Government appoints two representatives from employers group.

Republican Fund for Pension and Invalidity Insurance of Self-employed (Republički fond za penzijsko i invalidsko osiguranje samostalnih delatnosti) is responsible for implementation and administration of pension and invalidity insurance for self-employed persons. It is self-governed by the representatives of insured persons (employers associations) and beneficiaries (pensioners organizations).

Republican Fund for Pension and Invalidity Insurance of Farmers (Republički fond za penzijsko i invalidsko osiguranje poljoprivrednika) is responsible for implementation and administration of pension and invalidity insurance for farmers. It is self-governed by the representatives of insured persons (farmers associations) and beneficiaries (pensioners organizations).

Republican Institute for Health Insurance (Republički zavod za zdravstveno osiguranje) is responsible for implementation and administration of health insurance and health protection. It is self-governed by the representatives who are nominated by the Government. They are nominated at the suggestion of: trade union (representatives of insured persons-employed), pensioners association (representatives of insured persons-pensioners), farmers association (representatives of insured persons-farmers), Socio-economical Council (representatives of insured persons-self-employed) and Director of Institute (representatives of employed in Institute).

National Office for Employment (Nacionalna služba za zapošljavanje) is responsible for implementation and administration of unemployment insurance. It is managed by the
representatives of: Government, Union of Employers of Serbia, associations of unemployed persons and associations of educational institutions. Furthermore National Office for Employment performs the following activities: realization of the rights on the grounds of insurance, employment abroad, issuing work permits to a foreigners and stateless persons and organizing of further education and training. National Office for Employment conducts and performs other programs for employment of some other (special) categories of unemployed.

Fund for Social Insurance of Military Insured (Fond za socijalno osiguranje vojnih osiguranika) is responsible for implementation and administration of social insurance of military persons – Army of Serbia and Montenegro. This fund is competent for both pension and invalidity insurance scheme and health insurance scheme for this category of insured persons. Social insurance of these persons is regulated by Law on Army of Federal Republic of Yugoslavia (Zakon o vojsci Savezne Republike Jugoslavije). Figures in Annex 6. – Statistical data do not include this category of insured persons. However, civil persons employed in the Army of Serbia and Montenegro are insured as all other employees who are working according to the contract of employment (in Republican Fund for Pension and Invalidity Insurance of Employed, Republican Institute for Health Insurance and National Office for Employment).

Centers for social work (Centri za socijalni rad) are responsible for implementation and administration of social assistance (protection) scheme. Through this network rights in the field of social protection are provided (centers for social work are deciding upon claims and providing services of social work and family protection). Social protection was decentralized back in 1992 when legislative and financial competency and responsibility were transferred from the federal level (Federal Republic of Yugoslavia) to the competency of republics (Republic of Serbia and Republic of Montenegro). In competency of local administration remained only benefits like services of clubs and daily centres, help in the house and cash benefits, which are paid only once (financing of these benefits is, also, in competency of local community). These benefits are provided by local community institutions which are not linked to the centers for social work.

Collection of the contributions for social insurance scheme is centrally organised through Tax Office (Poreska uprava) and Public Payment Office (Uprava za javna plaćanja). Tax Office is responsible for calculation of contributions, collection and control of contributions for self-employed and farmers. Tax Office is also responsible for control of calculation and payment of contributions for employed.

3. PERSONAL SCOPE OF APPLICATION

Due to already mentioned heritage Bismarck system was a source of existing system of social insurance in Serbia which can be described as general professional scheme based on economical activity. Personal scope covers all professionally active people and their dependants. All professionally active persons (employed, self-employed and farmers) are compulsory insured within the systems of social insurance: pension and invalidity insurance, health insurance and unemployment insurance. Persons who are not professionally (economically) active and thus uninsured can, within Republican Fund for Pension and Invalidity Insurance of Employed, join into compulsory insurance scheme on voluntary basis.

While on one hand social insurance scheme covers all professionally active persons regardless of their citizenship or residence, social assistance, on other hand, is provided to the persons who have residence in Republic of Serbia and citizenship (nationality) of Serbia.

Certain differences in equality of treatment are obvious in certain schemes of social security. For example within the social insurance system (pension and invalidity insurance scheme, health insurance scheme and unemployment insurance scheme) entering into the insurance, granting the benefits, export of benefits etc. in not conditional upon nationality (citizenship) or residence. This principle applies to refugees, stateless persons and internally displaced persons. On the other hand social assistance system differs in someway because, for some benefits, nationality (citizenship) and residence are required.
Employed persons are defined as persons working, according to the contract of employment, for an employer. Besides them as employed persons are also insured: civil persons employed in the Army of Serbia and Montenegro, workers posted abroad, citizens of Serbia employed abroad in the country in which does not exists system of social insurance (pension and invalidity insurance, health insurance and unemployment insurance) or such system exists but export of benefits is not provided, persons engaged in temporary jobs and persons who are receiving unemployment cash benefit (compensation) and who became unemployed because of bankruptcy or liquidation of their employer.

Self-employed are defined as persons who are performing self-employing economic or other activity (artistic, cultural, medical, legal etc.), owners of enterprises, entrepreneurs, persons who are performing work according to the authors contract and other contracts (except contract of employment), priests and persons who stopped with self-employing activity and are receiving unemployment cash benefit.

Farmers are defined as persons who are performing agricultural activity (farmers, farmers household members) providing that they are not employed, self-employed, pensioners or at school or university. In one household at least one person is compulsory insured within the pension and invalidity insurance scheme. Other family members (working as farmers) can be voluntarily insured within the same scheme.

Compulsory health insurance is prescribed for all persons economically active (all above mentioned and defined categories: employed, self-employed and farmers), pensioners and persons receiving unemployment cash benefit. Within this scheme are also insured family members of the mentioned categories who are not insured on the other basis (on their own right). Health protection scheme regulates medical care for persons who are not insured, refugees internally displaced persons, veterans, disabled veterans, war-disabled civilians and members of their families.

Unemployment insurance is compulsory for employed and self-employed person. Farmers are not covered by this scheme of insurance and thus not entitled to benefits. Farmers, as well as other persons who are not insured for the case of unemployment can enter this insurance on voluntary basis.

Periods of insurance completed in different pension and invalidity insurance funds are aggregated and benefits are calculated taking into the account all periods of insurance as well as all earnings and contribution basis.

Three funds for pension and invalidity insurance compensate to each other costs for the part of benefit corresponding to the periods of insurance completed within each of them.

Within the veterans protection scheme are covered: veterans of war, disabled veterans, war-disabled civilians (from the period of World War II, clashes during disintegration of Yugoslavia and NATO intervention in the Federal Republic of Yugoslavia in 1999) and members of their families.

4. RISKS AND BENEFITS

All rights (benefits) from compulsory social insurance are personal rights and cannot be transferred to other person(s) nor inherited. However, amounts of cash benefits that were due for payment can be inherited.

Claims for benefits are submitted to institution of compulsory social insurance (funds and institute - their regional and branch offices), centres for social work (for social protection benefits) and Ministry of Labour, Employment and Social Policy (for veteran’s protection).

Claims for benefits from pension and invalidity insurance scheme are submitted and decided upon within the pension and invalidity insurance fund where person completed last insurance period(s). As an exemption, decision upon the claim can be in the competency of the pension and invalidity insurance fund where person had completed major part of his insurance
periods. Insured person can opt for the competency of the fund within he had completed major part of insurance periods only once.

Pensions and all other benefits from pension and invalidity insurance scheme are adjusted every three months (in January, April, July and October) with costs of living and wages (according to official statistical data). Indexation is calculated according to so called Swiss model – as percentage, which represents sum of one half of percentage of growth (or decrease) of costs of living and one half of percentage of growth (or decrease) of wages.

If a person is entitled to two or more pensions in Republic of Serbia he can benefit only one of them according to his own choice.

4.1. Old age

Compulsory old-age insurance is regulated by Law on Pension and Invalidity Insurance (Zakon o penzijskom i invalidskom osiguranju) that came into force on April 10th, 2003.

This law has changed method of calculation of pension - pension point system was implemented. All earnings from whole period of insurance (starting from 1970) are taken into the account, compared with average earnings in every of these years and than multiplied with number of pensionable years and financial value of point. Personal maximum earnings for a certain year, taken into account for calculation of benefit, cannot exceed four times average earnings in that year (see below - maximum pension).

Entitlement conditions for old-age pension are: age of 63 (men) and 58 (women) and 20 years of pensionable periods (penzijski staž) or 65 (men) and 60 (women) and 15 years of insurance periods. Pensionable periods are periods of insurance (contribution periods) as well as special periods (poseban staž) recognised as such or equalled (periods without contribution, for example periods spent in resistance movement during the World War II).

Third possibility for acquiring old-age pension is linked to long periods of insurance. According to law provision entitlement conditions are age of 53 (both men and women) and 40 (men) or 35 (women) years of insurance periods.

In principle gender equality exists as more favourable access to benefits for women. For example in pension and invalidity insurance scheme women have five years lower age limit for entitlement for all benefits conditional upon age and maximum insurance period is also five years lower (40 for men and 35 for women). Pension for women is calculated in different way so, as the final result, the amount of pension for men and women with same earnings is equal regardless of five-year difference. Finally women who gave a birth to three children are entitled to two additional years of pensionable ages, as special periods (poseban staž).

For persons working in occupations which are dangerous, difficult and harmful to health (mines, chemical industry, oil production etc.) or occupations in which after attaining certain age they can not perform successfully (pilots, opera singers etc.) every year of insurance periods is calculated as a longer period (periods of insurance which is calculated in increased duration – period osiguranja koji se računa sa uvećanim trajanjem). Minister of Labour, Employment and Social policy has prescribed Regulation on Work Positions and Occupations in which Period of Insurance is Calculated in Increased Duration (Pravilnik o radnim mestima, odnosno poslovima na kojima se staž osiguranja računa sa uvećanim trajanjem). This Regulation is prescribed at proposal of pension and invalidity insurance funds and deals in details with this legal institute. For every year of insurance in such occupations, depending upon the profession, two, three, four or six months of insurance periods are added. The additional contribution rates for such periods are prescribed and paid by employers (not the employee) and self-employed persons.

Insurance periods are calculated in increased duration (adding three months for every year) for the following categories: persons with body damage of 70% and higher; persons with military invalidity from I to VI group; blind persons; persons with muscular dystrophy or similar muscular or neuromuscular diseases, paraplegia, cerebral or child paralysis and sclerosis multiplex.
Insurance periods are also calculated in increased duration (adding four months for every year) for the employees on certain duties in interior and foreign affairs and tax police.

Age eligibility conditions for all insured persons whose insurance periods are calculated in longer duration are proportionally lowered for one year for every six, five, four or three years spent in such occupation depending on the degree of increase of insurance periods.

For obtaining an old-age pension insured person must stop with economical activity (leave insurance), but, on the other hand, after getting a pension person can start with professional activity again (get employed, start self-employment activity etc). Pensioner who completes more than 12 months of insurance periods on basis of such activity is entitled to recalculation of old-age pension. For the recalculation of pension all periods of insurance and all earnings will be taken into the account. If a pensioner enters the pension and invalidity insurance system abroad as employed or self-employed payment of his pension is suspended for that period, unless otherwise provided by bilateral (multilateral) agreement.

Beneficiaries of old-age or invalidity pension are entitled to minimum amount of pension (najniži iznos penzije) which is prescribed as the amount of lowest pension in Republican Fund for Pension and Invalidity Insurance of Employed at the moment when the law came into force. Since this amount has been indexed, as all other benefits, according to the law provision. According to the federal law (not in force since April 10th, 2003) this amount was defined as 20% of average monthly wage in previous year.

Limitation of maximum pension amount is achieved by limitation of personal points for every year. A maximum pension point for every year is 4. That means that earnings higher than four times average earning for particular year will not be taken into account.

All pensioners are insured in health insurance and health protection scheme as well as members of their families who are not insured on other basis (on their own right).

Reimbursement of funeral expenses is payable to the person who arranged (paid for) the funeral. Reimbursement is paid for all pensioners (old-age, invalidity survivor) and it is not conditional upon any census or means test of the deceased or a person who arranged the funeral. Amount of this reimbursement is different from one to another pension and invalidity insurance fund and the law defines it as 1.5 of average pension paid in previous quarter of the year.

4.2. Death (survivorship)

Family members of deceased pensioner or insured person are entitled to survivor’s pension. According to the Law on Pension and Invalidity Insurance following persons are considered as family members: surviving spouse (widow or widower); children regardless if they are legitimate, illegitimate, adopted, stepchildren if they were maintained by deceased; grandchildren, brothers and sisters and other children without parents or children with one or both parents permanently incapable for work who were maintained by the deceased; parents (mother, father, step mother/father) if they were maintained by the deceased. Divorced spouse is entitled to survivor’s pension if, by the court decision, deceased had obligation to maintain her/him.

Survivor’s pension is granted if deceased has completed at least 5 years of insurance periods, or if she/he was already a pensioner receiving old-age or invalidity pension. No insurance periods are needed if the death occurred as the consequence of work injury or professional disease.

Surviving spouse is entitled to survivor’s pension if: in the moment of spouse’s death was older than 48 (women) or 53 (men); she/he was permanently incapable for work before spouse’s death or became permanently incapable for work in one year time from the spouse’s death; after the spouse’s death there is a child entitled to survivor’s pension and surviving spouse is taking care of that child.

Women who was younger than 48, but older that 43 at the time of the spouse’s death is entitled to survivor’s pension when she reaches age of 48.
Children are entitled to survivor’s pension till the age of 15 and after that till the end of education i.e. till the following age: 20 if in high school; 23 if in advanced school; 26 if on university. If education is interrupted because of the sickness of child entitlement to survivor’s pension is prolonged for the period of duration of sickness. Children that are permanently incapable for work are entitled to survivor’s pension if: such incapability occurred before age of 15, 20, 23 or 26; such incapability occurred after that age but before the death of a parent providing that she/he maintained them.

Parents (mother, father, step mother/father) maintained by the deceased are entitled to survivor’s pension if in the moment of her/his death have fulfilled these conditions: 63 (men) or 58 (women) years of age and permanently incapable for work.

Person who caused, intentionally or with utmost negligence, the death of insured person or beneficiary (pensioner) is not entitled to survivor’s pension.

Survivor’s pension is calculated on the basis of old-age or invalidity pension (whichever is more favourable) of deceased insured person or from a pension deceased pensioner was receiving.

One beneficiary of survivor’s pension is entitled to 70% of a pension of deceased, two are entitled to 80%, three to 90% and four and more to 100%.

The lowest basis for determining amount of survivor’s pension is old age pension of deceased insured person for 20 years of pensionable periods.

Double orphan is entitled to a survivor’s pension from both parents and that amount cannot be higher than maximum pension prescribed by law.

Beneficiaries of survivor’s pension are not entitled to work or to receive another pension (old-age or invalidity). In such cases payment of a pension is suspended i.e. person can opt for one of the pensions she/he is entitled to.

Regarding health insurance situation is the same as described in 4.1. Old age.

Reimbursement of funeral expenses and amount of this reimbursement were already mentioned in 4.1. Old-age.

4.3. Incapacity for work (temporary and permanent)

Risks of temporary incapacity for work are covered by health insurance scheme - short-term benefits. Pension and invalidity insurance scheme covers permanent incapacity for work - long-term benefits.

Employed and self-employed persons are entitled to cash benefit (wage or earning compensation for temporary incapacity for work - naknada zarade zbog privremene nesposobnosti za rad) if they are temporary incapacitated for work due to: sickness, work injury, professional disease, medical examination, tissue and organ donating, maintaining pregnancy, maternity leave, escorting another sick person or staying with that person in hospital and nursing an immediate family member. Farmers are not entitled to this benefit.

There is no minimum insurance period required for obtaining this benefit (compensation).

Compensation is paid from the first day of incapacity for work. For the first 30 days of incapacity employer pays compensation and after that, if incapacity for work still exists, Republican Institute for Health Insurance pays compensation. In some cases Republican Institute for Health Insurance pays compensation from the first day of incapacity (due to tissue and organ donating, maintaining pregnancy etc).

The amount of compensation for employed is calculated as 65% of the wage employed person would earn in the month for which compensation is paid and can not be lower than minimum wage. For cases of work injury, professional disease, tissue and organ donating, maintaining pregnancy and maternity leave compensation is calculated as 100% of the wage employed person would earn in the month for which compensation is paid and can not be lower than minimum wage. For self-employed persons this compensation is calculated as not more than 65% of his average contribution basis in previous six calendar months and respectively not more
than 100% of his average contribution basis in previous six calendar months for cases of work injury, professional disease, tissue and organ donating, maintaining pregnancy and maternity leave.

Persons covered by health insurance scheme are also entitled to compensation of travel expenses in regard with the utilization of medical care.

Reimbursement of funeral expenses from health insurance scheme is prescribed for employed persons, persons receiving unemployment cash benefits and pensioners as well as members of their families. In practical terms this means that self-employed and farmers are excluded from this right within health insurance scheme. This reimbursement is payable to the person who arranged (paid for) the funeral and it is not conditional upon any census or means test of the deceased or a person who arranged the funeral. Amount of this reimbursement is defined as 50% of average monthly wage in Republic of Serbia in previous month. If deceased is transported for funeral in other place for more than 100 km this reimbursement is raised for 50% and if transported from or to another country for 100%. Reimbursement of funeral expenses from health insurance scheme is completely separate from the same benefit within pension and invalidity insurance scheme and benefits from both schemes can be granted to the same person.

If temporary incapacity for work lasts for longer period, at latest after one year of incapacity, Republican Institute for Health Insurance is obligated to direct such person, with necessary medical documentation, to competent fund for pension and invalidity insurance for a decision on his eventual invalidity (complete loss of work capability) i.e. entitlement to invalidity pension.

Permanent incapacity for work (invalidity) gives entitlement to invalidity pension according to the Law on Pension and Invalidity Insurance. Since April 10th, 2003, when this law came into force, the definition of invalidity has changed. Law prescribes that insured person is entitled to invalidity pension if he has suffered complete loss of work capability (for any work) due to health status changes (as consequence of work injury, professional disease, accident or sickness) and cannot be improved by medical treatment or rehabilitation.

Work injury is defined as injury that has occurred in connection (space, time and cause) with work and caused by immediate and short mechanical, physical or chemical influence, sudden changes in body position, sudden burden on the body or other changes in physiological state of organism. In addition work injury is defined as injury suffered on the regular trip to the place of work and back home as well as injury caused by accident or a higher force, in connection with work.

Professional disease is defined as the disease that has occurred during the insurance caused by long influence of processes and conditions at work. These diseases are prescribed by Minister of Labour, Employment and Social Policy and Minister of Health in Regulation on Establishing Professional Diseases (Pravilnik o utvrđivanju profesionalnih bolesti). Pension and invalidity insurance funds are competent for submitting a proposal for this regulation.

Apart from work injury and professional disease entitlement to invalidity pension is conditional upon completing 5 years of insurance periods and not reaching the age requirements for entitlement to an old-age pension.

There is special provision for person who became permanently incapable for work before 30 years of age. Up to 20 years of age, one year of insurance period is required, up to 25 years of age, two years of insurance periods are required and up to 30 years of age, three years of insurance periods are required.

Calculation of benefit is different in case when invalidity is a consequence of work injury or professional disease and other cases. If cause of invalidity is work injury or professional disease pension is calculated as if insured person has fulfilled maximum years of insurance. In other cases certain amount of insurance periods is added depending on person’s years of age at the moment invalidity has occurred and afterwards pension is calculated in the same manner as old-age pension (implementing pension points system). This adding is “gender sensitive” – it is more favourable for women.
Reimbursement of funeral expenses and amount of this reimbursement were already mentioned under 4.1. Old-age.

Although there is no direct connection between invalidity (permanent incapacity for work) and two additional benefits from pension and invalidity insurance scheme these benefits will be mentioned here.

4.3.1. Cash compensation for body damage (novčana naknada za telesno oštećenje)

Insured person is entitled to a cash compensation for body damage according to the Regulation on Establishing Body Damages (Pravilnik o utvrdjivanju telesnih oštećenja) provided that body damage is 30% or higher and that it is consequence of work injury or professional disease. Regulation is prescribed by Minister of Labour, Employment and Social Policy and Minister of Health. Pension and invalidity insurance funds are competent for submitting a proposal for this regulation.

Body damage is defined as loss, essential damage, or substantial incapacity of certain organs or parts of the body which makes normal activities more difficult and requires more effort in fulfilling everyday life necessities, regardless do they produce permanent incapacity for work (invalidity) or not.

Amount of this benefit is calculated from the existing basis of benefit in Republican Fund for Pension and Invalidity Insurance of Employed at the moment the law came into force. Since than this basis has been indexed, as all other benefits, according to the law provisions.

4.3.2. Cash compensation for help and care of other person (novčana naknada za pomoć i negu drugog lica)

This cash compensation exists within pension and invalidity insurance scheme, social assistance scheme and war veterans’ scheme, but receiving compensation from one scheme excludes receiving, at the same time, the compensation from the other.

In pension and invalidity insurance scheme this compensation is defined in transitional provisions of Law on Pension and Invalidity Insurance. Law stipulates that this benefit can be obtained according to the legislation that was in force before this law come into force till the new legislation on this benefit is prescribed. Benefit is granted to a person who is incapable of fulfilling basic life functions (necessities) - cannot dress, feed, walk without help of the other person.

Amount of this benefit is calculated as the existing amount of benefit in Republican Fund for Pension and Invalidity Insurance of Employed at the moment the law came into force. Since than this amount has been indexed, as all other benefits, according to the law provisions.

This benefit is transferred to the social protection institution for old persons if beneficiary is accommodated in such institution.

4.3.3. Veterans protection scheme provides for veterans, disabled veterans (war military invalids-ratni vojni invalidi) and peace military invalids following benefits: veterans supplement; personal invalidity benefit (lična invalidnina); supplement for help and care of other person; orthopedic supplement; monthly cash benefit; supplementary personal invalidity benefit; care supplement; professional rehabilitation and cash compensation during rehabilitation; compensation of accommodation costs in social protection institutions; death grant; reimbursement of funeral expenses. War-disabled civilians are entitled to: personal invalidity benefit (lična invalidnina); supplement for help and care of other person; orthopedic supplement; monthly cash benefit; supplementary personal invalidity benefit and compensation of funeral expenses.
4.4. Unemployment benefits

Within this insurance scheme insured person is entitled to: cash compensation in case of unemployment (novčana naknada za slučaj nezaposlenosti) if that person became involuntarily unemployed (without his will or fault); pension and invalidity insurance for the period he is entitled to cash compensation; health insurance according to the law provisions.

If unemployed person wants to start self-employment activity cash assistance (one payment) can be provided as well as subvention for starting such activity, which is defined through the contract between that person and National Office for Employment.

The unemployment cash compensation is granted, according to Law on Employment and Insurance in Case of Unemployment (Zakon o zaposljivanju i osiguranju za slučaj nezaposlenosti), providing that person has been continuously insured for at least 12 months or for 18 months with brakes (interruptions). Maximum prescribed duration of these interruptions is one month.

Unemployed person is entitled to cash benefit (cash compensation) in case of: cessation of need for his work (so called “technological surplus”), bankruptcy, liquidation and all other cases of the termination of the employer’s activities and failure to achieve forecasted results of work.

To cash compensation is also entitled the unemployed person who has been temporarily employed or performed occasional and temporary work.

The unemployed person is not entitled to this benefit if employment has been terminated (in written form) on the employee’s initiative, dismissal of contract of employment and similar.

Basis for determination of the amount is the average wage paid to that person in last six months before the month when he became unemployed. Cash compensation amount is calculated as 60% of the basis. Prescribed lowest amount of cash benefit is minimum wage in the month for which the benefit is paid. Maximum benefit is equal to average wage in the month for which the benefit is paid.

Entitlement to cash compensation lasts: three months if person has completed one to five years of insurance; six months for five to 15 years of insurance; nine months for 15 to 20 years of insurance; 12 months for more that 20 years of insurance; 24 months for more than 20 years of insurance and 61 (men) or 56 (women) years of age; 24 months for 38 (men) or 33 (women) years of insurance and 51 years of age.

Cash compensation benefit is not granted any more if: a person receiving cash compensation refuses adequate employment; doesn't report, in prescribed time limit, to National Office for Employment; fulfills entitlement conditions for old-age, survivor's or invalidity pension; starts with economical activity.

Veterans protection scheme provides for veterans, disabled veterans (war military invalids - ratni vojni invalidi) and peace military invalids cash compensation during unemployment and cash assistance (one payment) if they are not entitled to unemployment cash compensation on other basis.

4.5. Health care (health insurance and medical care)

Medical care - benefits in kind are provided within health insurance scheme according to Law on Health Insurance (Zakon o zdravstvenom osiguranju). Law doesn’t prescribe any minimum insurance period required for obtaining medical treatment.

Medical care is provided to all persons defined under 3. Personal Scope of Application meaning insured persons and their family members as well as persons who are entitled to permanent cash benefits from social protection scheme. Besides medical care these persons are entitled to dental care; medicines; medical rehabilitation in medical institutions and in spas; prosthesis, orthopaedic aids and other helping devices; cash compensation of travelling cost linked with utilization of medical treatment.
For several years Republican Institute for Health Insurance has prescribed co-payment (participation) by the beneficiaries of particular public health services. These revenues are not recorded in the business books of Republican Institute for Health Insurance, but directly used by public health institutions. Participation fees are insignificant and therefore, they are not relevant income for public health institutions.

Health protection scheme regulates medical care for persons who are not insured, refugees, internally displaced persons and their family members.

Within veterans protection scheme medical care is provided to veterans, disabled civilians, peace military invalids and families of fallen veterans and deceased veterans. They are health insured only in the case that they are not insured on other basis (on their own right).

In Republic of Serbia also exists a private health sector, but in considerably less proportion to the public health sector. Private sector is not included in the system of health insurance. Under the conditions of outdated and ruined equipment and premises of public health institutions, lack of means for purchase of medicines, medical supplies and standard nutritional structure of patients in the institutions that provide in-patient treatment, the health services provided by majority of public health institutions are at rather low level. In some cases these institutions are even not able to provide a certain service to the insured. That is way the patients are frequently made to pay for services in private health sector and that is a considerable burden.

4.6. Family (benefits)

4.6.1 Benefits in the field of children protection:

4.6.1.1. Wage compensation during: maternity leave; absence from work because of care for a child; absence from work because of special care of a child.

The classical measure of financial family support is aiming to coordinate work and parentship. Compensation is calculated as 100% of wage (providing that it doesn’t exceed five average wages) if a person was, prior to exercising the right, continuously employed or self-employed for, at least, six months.

4.6.1.2. Parental supplement

This benefit is an instrument of population policy. It can be obtained by a mother who is citizen of Serbia and Montenegro (with residence in Serbia), health insured in Serbia and caring for the child. A benefit is paid in the amount of 70,967 Dinars for the second child; 127,735 Dinars for the third child; 170,311 Dinars for the fourth child. Additional eligibility conditions are that children are not accommodated in social protection institution, or other family or given to adoption.

4.6.1.3. Child allowance

To this benefit are entitled: one of the parents, adopter, trustee or sustainer who is citizen of Serbia and Montenegro (with residence in Serbia), health insured in Serbia and caring for the child. Benefit is paid for first four children (not for fifth and so on). Children must be younger than 19 years of age and at school within the system of education in Republic of Serbia. Benefit is conditional upon census - monthly income per member of family. This census is more favourable - higher monthly income per member of family is prescribed - for self-supported parent, trustee, sustainer or parent of handicapped child as well as for parents (adopter, trustee or sustainer) who are farmers.

4.6.1.4. Compensation of kindergarten costs for children without parental care

Trustee, sustainer or adopter can obtain this benefit with same eligibility conditions as for child allowance.
Children who are accommodated in the institution for social protection are entitled to this benefit without any conditions.

4.6.1.5. Compensation of kindergarten costs for handicapped children.
This is a special protection measure designed for children with special needs and families with such children. The aim is to support life of handicapped children within their own family. There are no special entitlement conditions apart from the fact that the child is handicapped (has special needs) which is established by competent medical institution.

4.7. Need (social assistance benefits)

Benefits from social assistance scheme are: financial support; compensation of costs for help and care of other person; assistance in training for work; help in the house; accommodation in the social protection institution or other family; temporary accommodation in shelter house; social work services; cash assistance.

4.7.1. To financial support are entitled persons (living alone) or families with monthly income below minimum level of social security, as prescribed by law, or without property or real estate that can be source of existence. This minimum level of social security was defined (in September 2004) as 16% (for a single person) up to 32% (for family with five or more members) of average monthly wage in Republic of Serbia in second quarter of that year (2004). Since that moment it is indexed, on monthly basis, with costs of living. Persons capable for work or families with majority of work capable members are entitled to this benefit for the period of nine months per year. Checking the fulfilment of entitlement conditions is performed every three months for work capable persons and family members i.e. once a year for persons (and family members) who are incapable for work.

4.7.2. To compensation of costs for help and care of other person are entitled persons whose state of health necessitates help and care provided by other person in performing basic life necessities regardless of their financial situation and providing that this benefit cannot be granted from other schemes of social security. This benefit is granted according to medical criteria for this benefit as prescribed in pension and invalidity insurance scheme to persons who reside in Serbia.

The amount of benefit is same for all beneficiaries and indexed, on monthly basis with costs of living.

4.7.3. Assistance in training for work is provided to handicapped children and young people as well as to invalid persons (grown-ups) who reside in Serbia and can be trained for certain work and are not entitled to this benefit on other grounds. This benefit covers costs of training, financial support, accommodation and transportation.

4.7.4. Services of social protection institutions are accommodation in such institution or in other family as well as in, so called, "open protection institutions" like clubs, daily accommodation facilities etc.

Accommodation in social protection institution is granted to children without parental care, handicapped children (mentally or physically), children with problems in social behaviour, single mothers with child up to one year of age, grown-up invalid persons, pensioners and other persons who are, due to their age, incapable for work (women older than 60 and men older than 65).

Costs are paid by the beneficiary, members of the family or budget.
4.7.5. Temporary accommodation in shelter house and help in the house are in the competency of community, which establishes means and conditions for realisation of this benefits.

4.7.6. All citizens have right to social work services such are preventative activities, diagnostic, treatment and advisory therapeutical work in all institutions of social protection. The aim of these benefits is prevention of social problems and minimizing consequences of existing ones. This benefits is financed by the state budget.

4.7.7. Cash assistance can be obtained by the citizens who find themselves suddenly (at one moment) in situation of social need. This assistance sometimes can be provided as assistance in kind. Eligibility conditions as well as financing of this benefit are in competency of local community.

Besides these benefits prescribed by the law community, city or autonomus province can, by their decisions, establish other rights if they can provide financial means (for example subventions for monthly payment of costs for energy, rent, phone or other household costs).

5. FINANCING

Social insurance system is, as a rule, financed from contributions. Amounts paid for contribution for compulsory social insurance are not taxable, which means that these amounts are deducted from taxable income (wages and earnings).

Law on Contributions for Compulsory Social Insurance prescribes that contributions provide financial resources for pension and invalidity insurance, health insurance and unemployment insurance.

Amount of collected revenues depends on basis of the contribution and contribution rate. There are prescribed limits of income to which contribution rates apply. Lowest contribution basis is 40% of average monthly wage in Republic of Serbia paid in previous quarter of the year and maximum contribution basis is five times average monthly wage in Republic of Serbia according to the data of Republican Institute for Statistics (Republički zavod za statistiku).

Basis of contributions are: for employed – wage and compensation of the wage in case when they are temporarily incapable for work and receiving such benefit; for unemployed – unemployment cash benefit they are receiving; for pensioners – pension; for self-employed – taxable profit or income defined as lump-sum; for priests – average monthly wage in Republic of Serbia paid in last quarter of previous year; for farmers – taxable income from agricultural activity.

For pension and invalidity insurance scheme contribution rate is 22% for all categories of insured persons. For employed persons employer pays 11% and employee 11%. Self-employed persons as well as farmers pay 22% by themselves.

Additional contribution rates, for insurance periods calculated in longer duration, are paid by employer only, or self-employed by himself. These rates are: 3,7% (in case two months added for every year); 5,5% (in case three months added for every year); 7,3% (in case four months added for every year) and 11% (in case six months added for every year).

If a person has an income based on two or more economical activities (as employed, self-employed, authors contract etc.) contributions for pension and invalidity insurance are, up to the prescribed maximum contribution basis, paid to all these earnings. If such a person has, at the same time, income from agriculture that part of the income is contribution-free.

For health insurance scheme contribution rate is 12,3% for all categories of insured persons from which 6,15% is paid by employer and 6,15% by employee. Self-employed persons as well as farmers pay 12,3% by themselves.
Because contributions for health insurance, including the patients participation (co-payment), are insufficient to provide means for covering benefits (both in cash and in kind), the budget intervenes through subsides.

For unemployment insurance scheme contribution rate is 1.5% from which 0.75% is paid by employer and 0.75% by employee. Self-employed persons pay 1.5% by themselves. Framers are not insured for this risk so they don’t pay this contribution.

Employer who employs a person older that 50 or 45 years of age (at the moment when contract of employment is signed) has certain privileges. Providing that that person was receiving unemployment benefit or was unemployed at least one year without interruption employer, for the period of two years, does not pay his part of contribution or pays only 20% of prescribed contribution rate.

System of pension and invalidity insurance is financed as others “pay as you go” systems in the world. Due to the fact that efficiency of collection of contributions is inadequate and that dependency ratio is very unfavourable in Republican Fund for Pension and Invalidity Insurance of Employed (1:1.27) and in Republican Fund for Pension and Invalidity Insurance of Farmers (1:1.6) pensions and other benefits paid by these institutions are subsidised by budget. Dependency ratio in Republican Fund for Pension and Invalidity Insurance of Self-employed is much better (1:5.72) so state budget does not subsidies this institution. It must be mentioned that besides the subsidies from the budget the state has financial obligation, prescribed by law, for covering benefits provided, under more favourable conditions, to some categories of insured persons (certain employees in police forces, tax police etc.) and for coverage of special pensionable periods (for example periods spent in resistance movement during World War II).

Republican budget is financing health protection (emergency medical care) for certain categories of persons (namely uninsured persons, refugees, internally displaced persons, and foreign citizens).

Social protection is financed from the budget. Revenues coming from local level are, as a rule, insufficient so greater part of financing comes from republican budget.

Budget is completely financing health protection scheme for persons who are not health insured, refugees, internally displaced persons, veterans, war-disabled civilians and members of their families.

It should be mentioned that budget subsidies monthly payment of pensions for employed and farmers because these two funds lack contributions revenues for regular payment of benefits.

Revenues in the field of social protection are obtained within the budget of Republic of Serbia (for benefits - rights - of public interest) and for other benefits in budget of community, city or autonomous province.

6. JUDICAL REVIEW

For all benefits from social security system person must submit a claim (request). Legislation prescribes two-level procedure (protection) in decision making process and legal (court) protection. Within prescribed administrative procedure competent institution are making decisions upon the claims for benefits in social insurance system. All decisions are subject to internal review. Any person who is not satisfied with decision upon his right to a benefit can make an official complain. Upon that complain final decision is made on higher level within the same institution (central office or director). Ministry for Labour, Employment and Social Policy is competent for decisions in the second degree regarding benefits from social assistance scheme. Unsatisfied person can make appeal i.e. take final decision to district court and, in the second degree of court protection, to a Supreme Court of Republic of Serbia, as the court of last resort.

There is no special social court, so social security cases are in competency of general jurisdiction courts. Court decisions are not treated as source of law (precedent), but more like guidelines for law interpretation and adequate administrative procedures.
According to the provision of Constitution of Republic of Serbia every person or institution (legal personality) can make initiative to Constitutional court of Republic of Serbia (Ustavni sud Republike Srbije) for the procedure of establishing of constitutionality and legality (of laws, statutes, other regulations, collective agreements).
ANNEX 3 & ANNEX 4


FOREIGN AND INTERNATIONAL INFORMATION AND EVALUATIONS OF THE
SOCIAL SECURITY SYSTEM
and
INFORMATION CONCERNING THE POSSIBLE FUTURE OF THE SOCIAL
SECURITY SYSTEM
(as it is by 01. 01. 2005)

In this inventory documentation is classified by the authors who have been:
A) dealing only with Serbia
B) dealing with several countries of the region
C) dealing with all countries of European or international organization
and these authors being:

an international public law organization

1.1. UNO

A1/34
Strategy, practice and plans for solving the problem of displaced persons, refugees and returnees (Strategija, praksa i planovi za rešavanje problema raseljenih lica, izbeglica i povratnika), UNHCR, Representative for Serbia and Montenegro, 2004, 52 pages;

A2/35
Analysis of situation of internally displaced persons from Kosovo in Serbia and Montenegro: Law and practice (Analiza situacije interno raseljenih lica sa Kosova u Srbiji i Crnoj Gori: Zakon i praksa), UNHCR with collaboration of UNDP, OSCE, NRC, DRC, IFRC, UNOCHA, OHCHR and NGO “Group 484”, December 2004, 98 pages;

B1/36
Pension and Disability Insurance within and between Bosnia and Herzegovina, Republic of Croatia and Federal Republic of Yugoslavia in the Context of the Return Refugees and Displaced Persons (Pensijsko i invalidsko osiguranje u i izmedju Bosne i Hercegovine, Republike Hrvatske i Savezne Republike Jugoslavije u kontekstu povratka izbeglica i raseljenih lica), UNHCR, Sarajevo, October 2001, 21 pages;

1.2. ILO

1.3. World Bank/IBRD

A3/37
Analysis of Consolidation of Pension Funds (Analiza konsolidacije penzijskih fondova), Rhoda M. G. Davis, WB expert, June 2003, 28 pages;
1.4. IMF
A4/38

1.5. other on world level

1.6. Council of Europe
B2/39

A5/40

1.7. OSCE

1.8. European Union/EC
A6/41
CARDS Social Sector Strategic Study, Final Report, Will Bartlett, Marija Kolin and Merita Xhumari, January 2005, 81 pages;

A7/42

A8/43

3.1. US Gvt./USAID/other USA public agencies
A9/44
Pension Reform in Serbia (Penzijska reforma u Srbiji), Rosa Chippe, Jean-Noel Martineau, Ana Djelovic and Aleksandar Mihajlovic, USAID/Bearing Point, October 2004, 33 pages;

3.2. UK
3.3. German
3.4. French
3.5. Other European Union member states
3.6. Other CoE states
3.7. Other countries outside CoE

a national private organization of another country
a national public law organization of Serbia

5.1. The Government:

A10/45
- Poverty Reduction Strategy Paper (Dokument o strategiji smanjivanja siromaštva), Belgrade, 2003, 132 pages;

A11/46
- National plan of action for children (Nacionalni plan akcije za decu);

A12/47
- National Strategy of Serbia for Accession of Serbia and Montenegro to EU, Belgrade, 2005, 207 pages;

A13/48

5.2. A single minister:

A14/49
Draft Staregy for the Integration and Empowerment of the Roma (Nacrt strategije za integraciju i poboljšanje položaja roma) – Ministry for Human and Minority Rights of Serbia and Montenegro, Belgrade, 2002, 112 pages;

5.3. The social security administration(s)
5.4. Regional/local authorities
5.5. Other public bodies

6. a national private organization of Serbia

6.1. A political party
6.2. A religious or philosophical group
6.3. A trade union of workers
6.4. A employer organisation
6.5. Another NGO/civic society group
6.6. A pro profit organisation (company)

All documents collected will be given a letter (A-C) and 1 or 2 number(s) code, plus an own identification number. All documents will be collected at the national focal point, and as far as feasible copied electronically and transmitted.

The inventory is electronically and contains the double code and identification number, the author and the title of the document, the editing place and organisation, the date and number of pages as well as title translated into English.
ANNEX 5

DESCRIPTION OF THE RIGHTS OF MIGRANT PERSONS TO ACCESS SOCIAL SECURITY PROTECTION

1. Introduction

Social security system in Serbia encompasses social insurance and social assistance. Social insurance scheme covers all economically active persons – employed, self-employed and farmers. All persons are insured on the basis of their professional activity regardless of the duration of such activity, which means that they are compulsory insured even if their professional activity is temporary (for a short period).

Social insurance system encompasses pension and invalidity insurance scheme, health insurance scheme and unemployment insurance scheme. Within these schemes a person is compulsory insured for the following risks: entitlement to:

- benefits in case of sickness and maternity;
- benefits in case of old-age, invalidity and death;
- benefits in case of work injury and professional disease (which are covered by both insurance schemes - pension and invalidity insurance and health insurance); and
- benefits in case of unemployment (not for farmers).

Social assistance scheme provides child benefit, family benefits and benefits in case of need.

Registration

Registration procedure is compulsory regardless of duration of work.

Foreign citizen before starting professional activity must obtain work permit and establish residence or temporary stay status.

After signing the contract of employment employer will, within 8 days, register employee (through application of insurance) in competent institutions for all above-mentioned risks in the scheme of social insurance. Pension and invalidity insurance fund will issue personal (insurance) number under which all data regarding persons insurance are recorded (periods, contributions, earnings, contribution basis etc.). Insured person will also receive a copy of application of insurance as a proof of registration.

For self-employed and farmers other provisions apply concerning registration so, for these details, person should contact competent pension and invalidity insurance fund (separate for self-employed and for farmers).

Certain differences in equality of treatment are obvious in certain schemes of social security. For example within the social insurance system (pension and invalidity insurance scheme, health insurance scheme and unemployment insurance scheme) entering into the insurance, granting the benefits, export of benefits etc. in not conditional upon nationality (citizenship) or residence. This principle applies to refugees, stateless persons and internally displaced persons. On the other hand social assistance system differs in some way because, for some benefits, nationality (citizenship) and residence are required.

Contributions

Employed, self-employed and farmers have obligation to pay contributions for pension and invalidity insurance, health insurance and unemployment. Only exemption is that farmers are not insured for the case of unemployment and thus not obliged to pay that contribution. All three categories of insured persons pay same rate of contributions and they are:
- 22% for pension and invalidity insurance;
- 12,3% for health insurance and
- 1,5% for unemployment.

Person has to pay contributions on all earnings up to prescribed contribution maximum regardless the source of those earnings (employment, self-employment activity, temporary work, authors contract etc). This maximum is defined as five times average monthly wage in Serbia. There is prescribed minimum contribution basis, which is defined as 40% of average monthly wage in Serbia in previous quarter of the year.

For employed persons employer pays half of contributions and is responsible for calculation and making payments of whole contribution. Employer is deducting contribution from wage or salary.

Self-employed persons and farmers pay whole contribution by themselves.

Export of benefits

All pensions (old-age, survivor’s and invalidity), reimbursement for funeral expenses and child benefit are exportable if there exists bilateral or multilateral agreement on social insurance (security), which prescribes such export, or in case of reciprocity. Health insurance benefits in cash, providing incapability for work has occurred abroad, as well as health insurance benefits in kind are also exportable. Provisions of bilateral agreements, of course, also apply in this field. As a rule, unemployment cash benefits and social assistance benefits are not exported. Regarding the unemployment cash benefit law prescribes that if unemployed person is outside of country due to the fact that his spouse is posted abroad within international technical, educational or cultural cooperation or to diplomatic mission or consular post, rights and obligations from this insurance scheme rest.

Benefits from pension and invalidity insurance scheme are exported to these countries: Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, France, Germany, Hungary, Italy, Libya, Luxembourg, Macedonia, Netherlands, Norway, Poland, Romania, Slovakia, Sweden, Swiss, UK and USA.

Health care is exported abroad for emergency cases only and all health insured persons are entitled to medical care in case of emergency while temporary, as tourists, staying abroad up to 30 days in one calendar year.

Health care benefits are also exported, according to bilateral agreements, to the following countries: Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, France, Germany, Hungary, Italy, Luxembourg, Macedonia, Netherlands, Poland, Romania, Slovakia, and UK.

Institutions competent for export are:
- for benefits from pension and invalidity insurance scheme - Republican Fund for Pension and Invalidity Insurance of Employed (Republički fond za penzijsko i invalidsko osiguranje zaposlenih); Republican Fund for Pension and Invalidity Insurance of Self-employed (Republički fond za penzijsko i invalidsko osiguranje samostalnih delatnosti) and Republican Fund for Pension and Invalidity Insurance of Farmers (Republički fond za penzijsko i invalidsko osiguranje poljoprivrednika);
- for benefits from health insurance scheme - Republican Institute for Health Insurance (Republički zavod za zdravstveno osiguranje) Republican Institute for Health Insurance (Republički zavod za zdravstveno osiguranje) and
- for child benefit - Ministry of Labour, Employment and Social Policy (Ministarstvo rada, zapošljavanja i sociojalne politike).
**Legal procedures**

For all benefits from social security system person must submit a claim (request). Legislation prescribes two-level procedure (protection) in decision making process and legal (court) protection. Within prescribed administrative procedure competent institution are making decisions upon the claims for benefits in social insurance system. All decisions are subject to internal review. Any person who is not satisfied with decision upon his right to a benefit can make an official complain. Upon that complain final decision is made on higher level within the same institution (central office or director). Ministry for Labour, Employment and Social Policy is competent for decisions in the second degree regarding benefits from social assistance scheme. Unsatisfied person can make appeal i.e. take final decision to district court and, in the second degree of court protection, to a Supreme Court of Republic of Serbia, as the court of last resort.

There is no special social court, so social security cases are in competency of general jurisdiction courts.

**2. Social security institutions**

Following institutions are responsible for social security branches. They are, at the same time, liaison bodies for implementation and enforcement of bilateral agreements on social insurance (security) that Serbia and Montenegro (Federal Republic of Yugoslavia and Socialist Federal Republic of Yugoslavia) has concluded. That means that they are competent for questions regarding social insurance in Serbia and another country(ies).

**Health insurance (sickness and maternity)**

All three categories of insured persons (employed, self-employed and farmers) are health insured in Republican Institute for Health Insurance (Republički zavod za zdravstveno osiguranje). Besides these persons in this Institute are health insured also their family members who are not insured on the other basis (on their own right).

**Work injury and professional disease**

This risk, as already mentioned, is covered within pension and invalidity insurance scheme and health insurance scheme. Short-term benefits in case of work injury and professional disease are provided by health insurance scheme and long-term benefits are provided by pension and invalidity insurance scheme.

**Pension and invalidity insurance**

There are three funds for pension and invalidity insurance which are covering the risks of old-age, invalidity, death, body damage and help and care of other person:

- for employed - Republican Fund for Pension and Invalidity Insurance of Employed (Republički fond za penzijsko i invalidsko osiguranje zaposlenih);
- for self-employed - Republican Fund for Pension and Invalidity Insurance of Self-employed (Republički fond za penzijsko i invalidsko osiguranje samostalnih delatnosti) and
- for farmers - Republican Fund for Pension and Invalidity Insurance of Farmers (Republički fond za penzijsko i invalidsko osiguranje poljoprivrednika).
Unemployment insurance

Unemployment insurance benefits are administered by National Office for Employment (Nacionalna služba za zapošljavanje).

Social assistance

Social assistance benefits are administered by Ministry of Labour, Employment and Social Policy (Ministarstvo rada, zapošljavanja i socijalne politike) trough centers for social work (centri za socijalni rad).

3. Sickness and maternity

Health insurance provides to insured person and his family members these benefits:
- benefits in kind: health care (medical care), medicines, medical examination, dental prevention and healing, medical rehabilitation, prosthesis, orthopedic and other helping devices;
- cash benefits: wage (earnings) compensation for temporary incapacity for work caused by illness, work injury or professional disease and in case of maternity; compensation for travel expenses in connection with the utilisation of medical care; reimbursement of funeral expenses from health insurance scheme (only for employed persons, persons receiving unemployment cash benefits and pensioners as well as members of their families).

Health insurance is compulsory for employed, self-employed, farmers, pensioners and persons receiving unemployment cash benefit.

Posted workers and their family members are entitled to medical care while abroad. If they are posted up to six months - only for the case of emergency and if they are posted for longer period - within the scope provided to insured person in Republic of Serbia.

Insured persons (and members of their families) are entitled to medical treatment abroad if that sickness cannot be cured in Serbia and there is a possibility of successful treatment in other country. Medical criteria for this benefit are prescribed by Republican Institute for Health Insurance.

Members of family

Beside insured person his family members are also health insured provided that they are not insured on other basis (on their own right) and that they reside in Serbia. They have same entitlement to benefits in kind and benefits in cash except wage (earnings) compensation in case of incapacity for work.

Family members residing or temporary staying outside Serbia, but in the country with which Serbia and Montenegro has bilateral agreement on social insurance (including health insurance) are entitled to health insurance benefits. Procedure for such cases is carried out in regional unit or branch office of Republican Institute for Health Insurance.
A) Benefits in kind

Preventive examination

This means entitlement to examinations and all other medical measures and procedures for prevention and early detection of diseases and other health disorders, especially for children up to 26 years of age and women (maternity).

Medical care

The legislation doesn’t prescribe any minimum insurance period required for obtaining medical treatment. In practice this means that person (as well as family members) is entitled to medical care from the very first day of insurance.

Insured persons and their family members are entitled to medical services by general practitioner, specialist and dentist.

For such benefits person is obliged to present certificate of health insurance – health book (zdravstvena knjižica). In emergency cases treatment will be provided even without this certificate. Person may choose the doctor and dentist. Medical care is provided by medical institutions that have contract with Republican Institute for Health Insurance. As a general rule these are public health institutions.

If general practitioner considers it necessary to send a patient to a specialist, hospital, clinic or similar institution he will issue doctors order (uput) for such exam or treatment. Insured person and his family members, if their state of health requires, are entitled to hospital treatment such as examinations, surgery, transplantation etc.

Preventive dental and surgical treatment of mouth and dental diseases are covered by health insurance, but there is prescribed co-payment for certain dental services, while some categories of persons are freed from paying this balance.

Medicines are prescribed by chosen doctor and can be obtained in pharmacy with which Institute has contract.

Benefits in kind such as spectacles, prosthesis, orthopedic and other helping devices are also provided.

For certain medical services, medicines and aids (devices) Institute has prescribed co-payment (participation) while some categories of persons are free from this co-payment.

Within medical care there is entitlement to medical rehabilitation.

B) Benefits in cash

Employed and self-employed persons are entitled to cash benefit (wage compensation for temporary incapacity for work - naknada zarade zbog privremene nesposobnosti za rad) if they are temporary incapacitated for work due to: sickness, work injury, professional disease, medical examination, tissue and organ donating, escorting another sick person or staying with that person in hospital and nursing an immediate family member. Farmers are not entitled to this benefit.

There is not minimum insurance period required for obtaining this compensation.

This benefit is paid from the first day of incapacity for work. Employer pays compensation for the first 30 days of incapacity and after that, if incapacity for work still exists, compensation is paid by Republican Institute for Health Insurance.

The amount of compensation for employed is calculated as 65% of the wage employed person would earn in the month for which compensation is paid and can not be less than minimum wage. For self-employed this compensation is calculated as not more that 65% of his average contribution basis in previous six calendar months.

When insured person is staying outside the country foreign doctor makes the assessment i.e. establishes the date of beginning of temporary incapacity for work.
For the calculation of the benefit income earned in other countries is not taken into account.

Persons covered are also entitled to compensation of travel expenses in connection with the utilisation of medical care and compensation of funeral expenses.

Reimbursement of funeral expenses from health insurance scheme is prescribed for employed persons and persons receiving unemployment cash benefits as well as members of their families. This reimbursement is payable to the person who arranged (paid for) the funeral and it is not conditional upon any census or means test of the deceased or a person who arranged the funeral. Amount of this reimbursement is defined as 50% of average wage in Republic of Serbia in previous month. If deceased is transported for funeral in other place for more than 100 km this reimbursement is raised for 50% and if transported from or to another country for 100%.

If temporary incapacity for work lasts for longer period, at latest after one year of incapacity, Republican Institute for Health Insurance is obligated to direct such person, with necessary medical documentation, to competent fund for pension and invalidity insurance for a decision on his eventual invalidity (complete loss of work capability) i.e. entitlement to invalidity pension.

C) Maternity benefits

Women are entitled to benefits in kind as described under A) in reference with pregnancy and giving birth.

Besides that employed and self-employed women are entitled to cash benefit – wage or earning compensation while maintaining pregnancy and on maternity leave. This compensation is calculated as 100% of the wage employed person would earn in the month for which compensation is paid and can not be lower than minimum wage and for self-employed persons not more than 100% of her average contribution basis in previous six calendar months.

4. Work injury and professional disease

Benefits in case of work injury and professional disease are prescribed in pension and invalidity insurance scheme and in health insurance scheme.

There are benefits in kind as described under A) in reference with work injury and professional disease which are provided to employed, self-employed and farmers (only for work injury because there are no professional diseases prescribed for farmers).

Employed and self-employed persons (not farmers) are also entitled to cash benefits in reference with work injury and professional disease from health insurance scheme - wage or earnings compensation for temporary incapacity for work. Amount of this compensation is calculated as 100% of the wage employed person would earn in the month for which compensation is paid and can not be lower than minimum wage and for self-employed persons not more than 100% of his average contribution basis in previous six calendar months.

Benefits from pension and invalidity insurance scheme in reference with work injury and professional disease are described under 5.

5. Invalidity pension

Pension and invalidity insurance scheme prescribes entitlement to invalidity pension if insured person is permanently incapable for work due to accident, disease, work injury or professional disease.

Apart from work injury and professional disease entitlement to invalidity pension is conditional upon completing 5 years of insurance periods and not reaching the age requirements for entitlement to an old-age pension. For person who became permanently incapable for work before 30 years of age requirements regarding insurance period are: up to 20 years of age -
insurance period of one year; up to 25 years of age - insurance period of two years; up to 30 years of age - insurance period of three years.

Work injury is defined as injury that has occurred in connection (space, time and cause) with work as well as injury that occurs on the way to or from work.

Professional disease is disease that has occurred during the insurance caused by long influence of processes and conditions at work.

Calculation of benefit is different in case when invalidity is a consequence of work injury or professional disease and other cases. If cause of invalidity is work injury or professional disease pension is calculated as if insured person has fulfilled maximum years of insurance. In other cases certain amount of insurance periods is added depending on person’s years of age at the moment invalidity has occurred and afterwards pension is calculated in same manner as old-age pension.

Reimbursement of funeral expenses is payable to the person who arranged (paid for) the funeral. Reimbursement is paid for all pensioners (old-age, invalidity, survivor’s) and it is not conditional upon any census or means test of the deceased or a person who arranged the funeral.

Amount of this reimbursement is different from one to another pension and invalidity insurance fund and the law defines it as 1.5 of average pension paid in previous quarter of the year.

There are two additional benefits from pension and invalidity insurance scheme, which have no direct connection with invalidity (permanent incapacity for work).

5.1. Cash compensation for body damage (novčana naknada za telesno oštećenje)

Insured person is entitled to a cash compensation for body damage provided that body damage is 30% or higher and that it is a consequence of work injury or professional disease.

Body damage is defined as loss, essential damage, or substantial incapacity of certain organs or parts of the body which makes normal activities more difficult and requires more effort in fulfilling everyday life necessities, regardless do they produce permanent incapacity for work (invalidity) or not.

Amount of this benefit is calculated from the existing basis of benefit in Republican Fund for Pension and Invalidity Insurance of Employed at the moment the law came into force (since than this basis has been indexed as prescribed by the law).

5.2. Cash compensation for help and care of other person (novčana naknada za pomoć i negu drugog lica)

This cash compensation exists within pension and invalidity insurance scheme and social assistance scheme, but receiving one compensation excludes receiving the other one. According to the provisions of existing bilateral agreements on social security export of this benefit is not possible.

Benefit is granted to a person who is incapable of fulfilling basic life functions (necessities) - cannot dress, feed, walk without help of the other person.

Amount of this benefit is calculated as the existing amount of benefit in Republican Fund for Pension and Invalidity Insurance of Employed at the moment the law came into force (since than this amount has been indexed as prescribed by the law).

This benefit is transferred to the social protection institution for old persons if beneficiary is put to such institution.
6. Old-age pension

Entitlement conditions for old-age pension are:
- age of 63 (men) and 58 (women) and 20 years of pensionable periods (penzijski staž) or
- age of 65 (men) and 60 (women) and 15 years of insurance periods.

Pensionable periods are periods of insurance (contribution periods) as well as special periods (poseban staž) recognised as such or equalled (periods without contribution, for example periods spent in resistance movement in World War II).

Periods of insurance completed in a country with which exists a bilateral agreement on social insurance (security) are also taken into account, provided that they do not overlap. However, periods of insurance completed in Republic of Montenegro after the date Law on Pension and Invalidity Insurance came into force (April 10th, 2003) are not taken into the account for entitlement to benefit nor for calculation of benefit.

Third possibility for acquiring old-age pension is linked to long periods of insurance. Entitlement conditions are age of 53 (both men and women) and 40 (men) or 35 (women) years of insurance periods.

For persons working in occupations or on work position which are dangerous, difficult and harmful to health (mines, chemical industry, oil production etc.) or occupations in which after attaining certain age they can not perform successfully (pilots, opera singers etc.) every year of insurance periods is calculated as a longer period (periods of insurance which is calculated in increased duration – period osiguranja koji se računa sa uvećanim trajanjem). For every year of insurance in such occupations, depending upon the profession, two, three, four or six months of insurance periods are added. The additional contribution rates for such periods are prescribed and paid by employers (not the employee) and self-employed persons. If periods on such work positions or occupations are completed abroad (in country with which there is bilateral agreement on social security) they are taken into account for fulfilling entitlement conditions only in effective duration.

Insurance periods are calculated in increased duration (adding three months for every year) for the following categories: persons with body damage of 70% and higher; persons with military invalidity from I to VI group; blind persons; persons with muscular dystrophy or similar muscular or neuromuscular diseases, paraplegia, cerebral or child paralysis and sclerosis multiplex. Insurance periods are also calculated in increased duration (adding four months for every year) for the employees on certain duties in interior and foreign affairs and tax police.

Age eligibility conditions for all insured persons who’s insurance periods are calculated in longer duration are proportionally lowered for one year for every six, five, four or three years spent in such occupation depending on the degree of increasment of insurance periods.

For obtaining an old-age pension insured person must stop with economical activity, but, on the other hand, after getting a pension can start with professional activity again (get employed, start self-employment activity etc). Pensioner who completes more that 12 months of insurance periods on basis of such activity is entitled to recalculation of old-age pension. For the recalculation all periods of insurance and all earnings will be taken into the account. If a pensioner enters the insurance system abroad as employed or self-employed his pension is suspended for that period, unless otherwise provided by bilateral (or multilateral) agreement.

For calculation of old-age benefit (as well as other pensions) all earnings from all years of insurance are taken into the account and compared with average earnings in every of these years (pension points system). Earnings from abroad are not taken into account

Beneficiaries of old-age or invalidity pension are entitled to lowest amount of pension (najniži iznos penzije) which is prescribed as the amount of lowest pension in Republican Fund for Pension and Invalidity Insurance of Employed at the moment law came into force (since than this amount is, of course, indexed as prescribed by the law).
Limitation of maximum pension amount is achieved by limitation of personal points for every year. A maximum pension point for every year is 4. That means that earnings higher than four times average earning for particular year will not be taken into account.

Reimbursement of funeral expenses was explained under 5.

7. Survivor’s pension

Following family members of deceased person are considered as family members and, as such, entitled to survivor’s pension: surviving spouse (widow or widower); children regardless if they are legitimate, illegitimate, recognised, adopted, stepchildren if they were maintained by deceased; grandchildren, brothers and sisters and other children without parents or children with one or both parents permanently incapable for work who were maintained by the deceased; parents (mother, father, step mother/father) if maintained by the deceased. Divorced spouse is entitled to survivor’s pension if, by the court decision, deceased had obligation to maintain her/him.

Survivor’s pension is granted if deceased has completed at least 5 years of insurance periods, or if she/he was already a pensioner receiving old-age or invalidity pension. No insurance periods are needed if the death occurred as the consequence of work injury or professional disease.

Surviving spouse is entitled to survivor’s pension if: in the moment of spouse’s death was older than 48 (women) or 53 (men); she/he was permanently incapable for work at the time of spouse’s death or became permanently incapable for work in one year time from the spouse’s death; after the spouse’s death there is a child entitled to survivor’s pension and surviving spouse is taking care of that child.

Women who was younger than 48, but older that 43 at the time of the spouse’s death is entitled to survivor’s pension when she reaches age of 48.

Children are entitled to survivor’s pension till the age of 15 and after that till the end of education i.e. till the following age: 20 if in high school; 23 if in advanced school; 26 if on university. If education is interrupted because of the sickness of child entitlement to survivor’s pension is prolonged for the period of duration of sickness. Children that are permanently incapable for work are entitled to survivor’s pension if such incapability occurred before age of 15, 20, 23 or 26 or after that age, but before the death of a parent providing that she/he maintained them.

Parents (mother, father, step mother/father) maintained by the deceased are entitled to survivor’s pension if in the moment of her/his death have fulfilled these conditions: 63 (men) or 58 (women) years of age and permanently incapable for work.

Amount of survivor’s pension is calculated on the basis of old-age or invalidity pension (whichever is more favourable) of deceased insured person or from a pension deceased pensioner was receiving. One recipient of survivor’s pension is entitled to 70% of a pension, two are entitled to 80%, three to 90% and four and more to 100%.

The lowest basis for determining survivor’s pension is old age pension of deceased insured person for 20 years of pensionable periods.

Double orphan is entitled to a survivor’s pension from both parents and that amount cannot be higher than maximum pension prescribed by the law.

Beneficiaries of survivor’s pension are not entitled to work or to receive another pension (old-age or invalidity). In such cases payment of a pension is suspended i.e. person can opt for one of the pensions she/he is entitled to.
8. Unemployment

A person who becomes involuntarily unemployed (without his will or fault is entitled to cash benefit in case of unemployment (novčana naknada za slučaj nezaposlenosti). As farmers are not compulsory insured for the case of unemployment they are not entitled to benefits from this social insurance scheme.

This benefit is granted, according to Law on Employment and Insurance in Case of Unemployment (Zakon o zapošljavanju i osiguranju za slučaj nezaposlenosti), providing that person has been continuously insured for at least 12 months or for 18 months with brakes (interruptions). Interruptions cannot last longer than one month. Foreign insurance periods (completed in the countries with which there is bilateral agreement on social security) are taken into the account in order to fulfill the qualifying conditions.

Unemployed person is entitled to cash benefit (cash compensation) in case of: cessation of need for his work (so called “technological surplus”), bankruptcy, liquidation and all other cases of the termination of the employer’s activities and failure to achieve forecasted results of work.

Cash compensation is also granted to the unemployed who has been temporarily employed or performed occasional and temporary work.

The unemployed person is not entitled to this benefit if employment has been terminated (in written form) on the employee’s initiative, dismissal of contract of employment and similar.

Basis for determination of the amount of benefit is the average wage paid to that person in last six months before the month in which he became unemployed. Amount of cash compensation is calculated as 60% of the basis. Lowest amount of cash benefit is minimum wage in the month for which the benefit is paid. Maximum benefit is equal to average wage in the month for which the benefit is paid.

Entitlement to cash compensation lasts: three months if person has completed one to five years of insurance; six months - for five to 15 years of insurance; nine months - for 15 to 20 years of insurance; 12 months - for more that 20 years of insurance; 24 months - for more than 20 years of insurance and 61 (men) or 56 (women) years of age; 24 months - for 38 (men) or 33 (women) years of insurance and 51 years of age.

Cash compensation benefit is not granted any more if: a person receiving cash compensation refuses adequate employment; doesn't report, in prescribed time limit, to National Office for Employment; fulfills entitlement conditions for old-age, survivor’s or invalidity pension; starts with economical activity. Person has to present himself to branch office of National Office for Employment who checks voluntary/involuntary character of unemployment and controls (on regular basis) the status of that person.

10. Social assistance

Benefits from social assistance scheme are: financial support; compensation of costs for help and care of other person; help in training for work; help in the house; accommodation in the social protection institution or other family; temporary accommodation in shelter house; social work services; cash help.

All social assistance benefits are granted to persons who reside in Serbia and are citizen (nationals) of republic of Serbia.

To financial support are entitled persons (living alone) or families with monthly income below minimum level of social security, as prescribed by law, or without property or real estate that can be source of existence. This minimum level of social security was defined (in September 2004) as 16% (for a single person) up to 32% (for family with five or more members) of average monthly wage in Republic of Serbia in second quarter of that year. Since that moment it is indexed, on monthly basis, with costs of living. Persons capable for work or families with majority of work capable members are entitled to this benefit for the period of nine months per
year. Checking entitlement conditions is performed every three months for work capable persons and family members i.e. once a year for persons (and family members) who are incapable for work.

To compensation of costs for help and care of other person are entitled persons whose state of health necessitates help and care provided by other person in performing basic life necessities regardless of financial situation and providing that this benefit cannot be granted from other schemes of social security. This benefit is granted according to medical criteria for this benefit as prescribed in pension and invalidity insurance scheme.

Help in training for work is provided to handicapped children and young people as well as to invalid persons (grown-ups) who can be trained for certain work and are not entitled to this benefit on other grounds. This benefit covers costs of training, financial support, accommodation and transportation.

Accommodation in social protection institution is granted to children without parental care, handicapped children (mentally or physically), children with problems in social behaviour, single mothers with child up to one year of age, grown-up invalid persons, pensioners and other persons who are, due to their age, incapable for work (women of 60 and men of 65).

Temporary accommodation in shelter house and help in the house are provided on the level of community that establishes means and conditions for realisation of this benefits.

All citizens have right to social work services such are preventative activities, diagnostic, treatment and advisory therapeutical work in all institutions of social protection. The aim of these benefits is prevention of social problems and minimizing consequences of existing ones. This benefits is financed by the state budget.

Cash help can be obtained by the citizens who find themselves suddenly (at one moment) in situation of social need. This help can be in cash or in kind. Eligibility conditions for this benefit are in competency of local community.

11. Further informations

Further informations are available from social insurance and social assistance administration listed below.

<table>
<thead>
<tr>
<th>Social insurance</th>
<th>Institutions</th>
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<tr>
<td>Pension and invalidity insurance of employed</td>
<td>Republički fond za penzijsko i invalidsko osiguranje zaposlenih, dr A. Kostića 9, 11000 Beograd, tel: (+381 11) 2645-022; e-mail: <a href="mailto:mmirkov@pioz.org.yu">mmirkov@pioz.org.yu</a></td>
</tr>
<tr>
<td>Pension and invalidity insurance of self-employed</td>
<td>Republički fond za penzijsko i invalidsko osiguranje samostalnih delatnosti, Bulevar umetnosti 10, 11070 Beograd, tel: (+381 11) 2134-300; e-mail: <a href="mailto:rfpiosd@eunet.yu">rfpiosd@eunet.yu</a>; web site: rfpiosd.org.yu</td>
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<tr>
<td>Pension and invalidity insurance of farmers</td>
<td>Republički fond za penzijsko i invalidsko osiguranje poljoprivrednika, Bulevar umetnosti 10, 11070 Beograd, tel: (+381 11) 2134-300 ; e-mail: <a href="mailto:rfpiozem@eunet.yu">rfpiozem@eunet.yu</a></td>
</tr>
<tr>
<td>Health insurance</td>
<td>Republički zavod za zdravstveno osiguranje, dr A. Kostića 9, 11000 Beograd, tel: (+381 11) 26-44-072; e-mail: <a href="mailto:rzzsr@rzzo.sr.gov.yu">rzzsr@rzzo.sr.gov.yu</a></td>
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<tr>
<td>Unemployment</td>
<td>Nacionalna služba za zapošljavanje, Gundulićev venac 8, 11000 Beograd, tel: (+381 11) 33-07-904; e-mail: <a href="mailto:vubovic@rztr.co.yu">vubovic@rztr.co.yu</a></td>
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<tr>
<td>Social assistance</td>
<td>Institutions</td>
</tr>
<tr>
<td>Child and family benefits, need</td>
<td>Ministarstvo rada, zapošljavanja i socijalne politike, Nemanjina 22-26, 11000 Beograd, tel: (+381 11) 33-45-109; e-mail: <a href="mailto:boba.radojko@minrzs.sr.gov.yu">boba.radojko@minrzs.sr.gov.yu</a></td>
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ANNEX 6
(for Republic of Serbia only)

STATISTICAL DATA

All statistical data – January 1st, 2005 (unless otherwise emphasized). Sources: Republican Institute for Statistics (Republički zavod za statistiku) and competent insurance institutions and social security authorities. All financial data are expressed in Dinars (currency ratio in May, 2005 was 80,15 Dinars for 1€).

1. Population, work and social insurance (This data are from year 2002 when last official statistical research for the territory of Republic of Serbia was performed by Republican Institute for Statistics)

a) -total population legally staying in Serbia: 7.498.001
b) -number of citizens of Serbia: 7.272.923
c) -number of citizens of Serbia staying in Serbia: 7.272.923
d) -number of persons with the citizenship of a presently existing foreign state legally staying in Serbia: 73.448 (Albania, Austria, Belgium, Bosna and Herzegovina – 21.004, Bulgaria, Greece, Denmark, Italy, Luxemburg, Hungary, Germany, Norway, Romania – 2.046, Russia - 776, Slovak Republic, UK, France, Netherlands, Czech Republic, Swiss, Sweden, Canada USA, Croatia – 36.275, Argentina, China, Macedonia – 1.930, Slovenia)
e) -number of persons with the citizenship of a state not existing anymore, legally staying in Serbia: none
f) -number of persons without the citizenship of any state (stateless persons): 103.551
g) -number of recognised political refugees legally staying in Serbia: (if applicable make a distinction between refugees who are in the application procedure and those who already acquired the status of political refugee)
h) -number of other categories of people not illegally staying in Serbia:
i) -estimated number of persons staying in the country without legal entitlement to be there; specify how many belong to a category of persons when identified, would be expelled from the territory and how many are simply tolerated in the country:

Data and estimations regarding number of citizens of Republic of Serbia working abroad vary from 400.000 to 2 million persons. Majority of them in West Europe.

Of all these groups the following number works:
- as wage earners: 1.580.140
- as self-employed: 251.747
- in other capacities: 368.207 (farmers)
- without declaring they are working (black economy):

These persons are registered with social insurance authorities as being insured against the eventuality of:
- old age: 1.465.046 (employed) + 248.878 (self employed) + 270.576 (farmers) = 1.984.500
- sickness:
- invalidity: 1.465.046 (employed) + 248.878 (self employed) + 270.576 (farmers) = 1.984.500
- maternity:
- survivorship: 1.465.046 (employed) + 248.878 (self employed) + 270.576 (farmers) = 1,984,500
- employment injury (work injury and professional diseases): 1.465.046 (employed) + 248.878 (self employed) + 270.576 (farmers) = 1,984,500 in pension and invalidity insurance
- unemployment: 1.465.046 (employed) + 248.878 (self employed) = 1,693,547
- medical care: cca. 6,500,000 (according to data used for calculation of average costs of medical care for implementation of bilateral agreements on social insurance – reimbursement of costs)
- family (children):

Number of persons registered in the social assistance offices:

1.2. Total social security budget: financial input from social security categories

1.2.1. Total social security budget:
social insurance (pension and invalidity; health; unemployment): 273,28 billion Dinars
social assistance: 3,08 billion Dinars (children benefits; family benefits; financial support; compensation of costs for help and care of other person only)

1.2.2. Percentage generated directly from insured persons
wage earners, self-employed and farmers: 72% (196,33 billion Dinars)

1.2.3. Remaining part is financed from:
budget of the Republic of Serbia: 28% (76,95 billion Dinars)
other sources:

2. Social risks and covered persons

2.1. Old age and survivorship

2.1.1. Of each of the groups listed under 1.

a) old age/retirement
1. the total number of persons having reached pensionable age or who are behind this age:
2. the total number of persons receiving an old age pension: 559,899 (employed) 15,883 (self-employed) and 182,874 (farmers) = 758,656

b) early retirement: no early retirement

c) survivorship - total number of persons receiving survivorship benefit/pension (surviving wife/husband, surviving orphan and surviving relative/family member): 310,200 (employed), 12,881 (self employed) and 20,367 (farmers) = 343,448

2.1.2. Total pension budget

Old age, survivorship and invalidity pensions and other benefits from pension and invalidity insurance scheme: 182,12 billion Dinars (168,26 billion - employed; 5,65 billion - self-employed; 8,2 billion – farmers)
2.1.3. Of the total budget paid for pension and invalidity insurance:

- 63% of resources coming from contributions of professionally active persons (in fund for employed 63% of revenues are coming from contribution; in fund for farmers 15% of revenues are coming from contribution; in fund for self-employed all revenues are coming from contribution);
- 37% of the resources coming from the general budget (69% for farmers and 31% for employed). In this percentage are included financial obligation of the state for covering benefits provided, under more favourable conditions, to some categories of insured persons (certain employees in police forces, tax police etc.) and for coverage of special pensionable periods (for example periods spent in resistance movement during World War II);
- % other financial resources.

2.2. Incapacity to work

Of each of the groups listed under 1.

2.2.1. Total number of persons who are handicapped and/or suffering work incapacity:

a) 397,498 persons receiving invalidity pension;

b) cca. 75,000 veterans of war, disabled veterans, war disabled civilians (invalids) and members of their families.

2.2.2. Total number of persons receiving work incapacity benefit:

- short-term work incapacity (sickness):
  Differentiate if necessary regular sickness benefit and labour accident/prof. disease benefit
- maternity:
- labour accident/prof. disease benefit:
- benefit from other scheme (social assistance...):

2.2.3. Total budget spent for work incapacity:

- Sickness:
- Invalidity:
- Maternity:
- Labour accidents/professional diseases:

2.2.4. Of the total budget paid for work incapacity:

- % of the resources coming from contributions of professionally active persons;
- % of the resources coming from the general budget;
- % other financial resources.

2.3. Unemployment

Of each of the groups listed under 1

2.3.1. Total number of unemployed persons: 859,728 persons (from that figure 466,988 are women);
2.3.2. Total number of unemployed persons receiving an unemployment cash benefit: 76,584 persons;

2.3.3. Total unemployment benefit budget: for 2004 it was planned in the amount of 7,652 billion Dinars, but realisation was 7,373 billion Dinars. Besides that, amount of 1,096 billion Dinars was planned for temporary wage compensation for internally displaced persons who were employed in Autonomous Province of Kosovo and Metohija, but realisation was higher – 1,192 billion Dinars.

2.3.4. Of the total budget paid for unemployment benefits:
- % of the resources coming from contributions of professionally active persons;
- % of the resources coming from the general budget;
- % other financial resources.

2.4. Health care

2.4.1. Total number of:
Medical doctors: 20,134
General practice doctors: 3297; Doctors on specialisation: 2127; Specialists: 14,710
Ratio medical doctors/population: 408 general practice doctors per 100,000 persons.

Hospital beds: 45,336
Ratio hospital beds/population: 592 hospital beds per 100,000 persons

Dentists: 3,327
Ratio dentists/population: 45 dentists per 100,000 persons

Pharmacists: 1,876
Ratio pharmacists/population: 25 pharmacists per 100,000 persons

2.4.2. Number of persons having (free) access to the health care infrastructure:

2.4.3. Total budget spent on health care: 8,5 billion Dinars

2.4.4. Of the total budget spent on health care:
- 91,24 % of the resources coming from contributions of professionally active persons (employed 64,42%; self-employed 4,81%; farmers 0,93 pensioners 19,56%; unemployed 0,95);
- 6,71 % of the resources coming from the general budget;
- 2,05 % other financial resources (participations 1,29% and extra revenues 0,76%).

2.5. Children and family benefit scheme

2.5.1. Total number of children (up to 18 years): 1,589,192
a) staying legally: 1,589,192
b) citizens and residing:
c) citizens and not residing:
d) foreign citizens and staying legally:
e) staying illegally:
2.5.2. Total number of children for whom benefits are granted: 476,547

2.5.2.1. Total number of beneficiaries of parental supplement: 8,800

2.5.3. Total amount spent on family benefits:

2.5.4.
   a) In case a means or income test is being applied, indicate the maximum amount of earnings or income up to which family benefits are granted:

   b) In case the amount of family benefits is diversified alongside the level of income indicate the different family benefits amounts paid for each income level:

2.5.5. Average number of children per family: 1.62

2.6. Need (social assistance)

2.6.1. How many persons, of the under 1. listed categories, receive some form of medical and/or social assistance by public authorities? (universal assistance, categorical assistance, emergency assistance..):

   364,474 persons are beneficiaries of some kind of social or family protection measures (financial support – 112,688; compensation of costs for help and care of other person – 23,572; help in training for work – 5,891; help in the house - 2,856; accommodation in the social protection institution or other family – 19,284 + 3,027; assistance in kind – 42,389; cash assistance – 55,312 etc).

2.6.2. How many of these persons receive some form of medical and/or social assistance by international or private institutions? Which.

3. Income and earnings in the country

3.1. Average income

   a) Average earnings on the basis of professional activities in the country: Average gross wage in Serbia (January 1st, 2005) was 25,392 Dinars and net wage (excluding taxes and contributions) was 17,346 Dinars.

   b) Average earnings of a person working in sector of mechanical engineering:
      31,667 Dinars (gross wage); 21,672 Dinars (net wage)
      Relative share of the workers in the sector of mechanical engineering in the total amount of professionally active persons.

   c) Average earnings of a person working in sector of the manufacturing (non electronically) machinery:
      16,957 Dinars (gross wage); 11,638 Dinars (net wage)
      Relative share of the workers in the sector of manufacturing machinery in the total amount of professionally active persons.

   d) Average earnings of a person working in the industrial sector employing the largest amount of workers:
3.2. Minimum and maximum amounts

a) Minimum wage: 5,960 Dinars (monthly)

b) Minimum wage paid in the biggest industrial sector:

c) Minimum subsistence level (poverty level): 4,970 Dinars (data from 2003)
   as applied by legislation:
   as indicated by (social science) research:

d) Minimum benefits for:
   - old age: 3.973 Dinars
   - survivorship: 3.973 Dinars
   - sickness:
   - invalidity: 3.973 Dinars
   - maternity:
   - employment injury (labour accidents and professional diseases):
   - unemployment:
   - family (children): children benefit – 1.222 Dinars (for one child)
   - need: 3.362 Dinars (for a single person)

e) Maximum benefits for:
   - old age: 48.703 Dinars
   - survivorship: 48.703 Dinars
   - sickness:
   - invalidity: 48.703. Dinars
   - maternity:
   - employment injury (labour accidents and professional diseases):
   - unemployment:
   - family (children): children benefit – 1.588 Dinars (for one child for a single parent)
   - need: 6.722 Dinars (for a five member family)

f) Average of months of delay for paying out social security benefits for:
   - old age: for self-employed on time (first in the month for previous month); for employed two months delay and for farmers 21 months delay
   - survivorship: for self-employed on time (first in the month for previous month); for employed two months delay and for farmers 21 months delay
   - sickness:
   - invalidity: for self-employed on time (first in the month for previous month); for employed two months delay and for farmers 21 months delay
   - maternity:
   - employment injury (labour accidents and professional diseases):
   - unemployment: 6 months
   - family (children): on time (in current month for previous month)
   - need: on time (in current month for previous month)

g) Persons with low income

   - Amount of persons with an income below the minimum wage (if possible differentiate between persons over pensionable age and below that age)
- Amount of persons with an income below the minimum subsistence level: 10.5% of whole population

- Amount of persons with an income below 60% of the average earnings (if possible differentiate between persons over pensionable age and below that age)

- Amount of unemployed persons with an income below 60% of the average earnings

h) Total GDP: 1.333.6 billion Dinars

i) % of GDP spent on (if possibly differentiate between the relative shares of public and private programmes):

- Pensions (old age, survivorship and invalidity) and other benefits from pension and invalidity insurance scheme: 5.2%
- Health Care: 5.3% (for year 2003)
- Poverty programmes:
- Incapacity for work benefits:
- Unemployment benefits:

4. Administrative facts

4.1. Institutions involved in the administration of social security (collection of funds and provision of benefits)

Republican Fund for Pension and Invalidity Insurance of Employed
Republički fond za penzijsko i invalidsko osiguranje zaposlenih,
Goran Lončar, director
dr A. Kostića 9, 11000 Beograd, tel: (+381 11) 2645-022; e-mail: mmirkov@pioz.org.yu

Republican Fund for Pension and Invalidity Insurance of Self-employed
Republički fond za penzijsko i invalidsko osiguranje samostalnih delatnosti,
Milenko Milutinović, director
Bulevar umetnosti 10, 11070 Beograd, tel: (+381 11) 2134-300; e-mail: rfpiosd@eunet.yu;
web site: rfpiosd.org.yu

Republican Fund for Pension and Invalidity Insurance of Farmers
Republički fond za penzijsko i invalidsko osiguranje poljoprivrednika,
Vladimir Janković, director
Bulevar umetnosti 10, 11070 Beograd, tel: (+381 11) 2134-300; e-mail: rfpiozem@eunet.yu

Republican Institute for Health Insurance
Republički zavod za zdravstveno osiguranje,
Svetlana Vukajlović, director
dr A. Kostića 9, 11000 Beograd, tel: (+381 11) 26-44-072; e-mail: rzzsr@rzzo.sr.gov.yu

National Office for Employment
Nacionalna služba za zapošljavanje,
Radovan Ristanović, director
Kralja Milutina 8, 11000 Beograd, tel: (+381 11) 33-07-90; e-mail: vubovic@rztr.co.yu
All above-mentioned institutions (except Tax Office) are involved in coordination cases. They have a role as liaison bodies defined as such by the provisions of international agreements on social insurance. They are preparing administrative arrangements for the implementation of international agreements on social insurance. At the same time they are competent insurance institutions and responsible for implementation of these agreements and arrangements. Claims for benefits are submitted to these institutions trough their regional units and branch offices. Claims from abroad are also submitted, directly, to the central offices of the same (above mentioned) institutions. As a general rule decisions upon social security rights according to the provisions on international agreements are made in central office of these institutions.

Social assistance benefits are in competention of:
Ministry of Labour, Employment and Social Policy
Ministarstvo rada, zapošljavanja i socijalne politike,
Slobodan Lalović, minister
Nemanjina 22-26, 11000 Beograd, tel: (+381 11) 36-16-253;
e-mail: kabinet@minrzs.sr.gov.yu

4.2. Trade unions and employer unions

Privredan komora Srbije
(Chambre of Commerce and Industry of Serbia)
Ljubiša Dimitrijević, Director

11000 Beograd, Resavska 13 -15
tel: (+381 11) 330-09-09
e-mail: ljubisa.dimitrijevic@pks.co.yu

Unija poslodavaca Srbije
(Union of Employers of Serbia)
Mr Rato Ninkovic, President
Stevana Markovica 8, 11080 Zemun
tel: (+ 381 11) 3160 248
fax: (+ 381 11) 610 988
e-mail: info@poslodavci.org.yu

Ujedinjeni granski sindikati “Nezavisnost”
(Trade Union Confederation “Idenpendens”)
Branislav Canak, President

Nusiceva 4/5, 11000 Beograd
tel: (+381 11) 3239-003; 3238-226
4.3. Associations representing social insured persons (associations of pensioners, of handicapped persons...)

Savez penzionera Srbije
(Association of Pensioners of Serbia)
Jovan Krkobabic, President
Svetozara Markovica 32, 11000 Beograd
tel: (+381 11) 32-31-487; 32-44-975

t Savez distrofičara Srbije
Association of Persons with muscular dystrophy
Vladan Stanojevic, President
Dimitrija Tucovica 23, 11000 Beograd
4.4. NGO’s and other associations involved in the social service delivery/care provisions.

Balkan Centre for Migration and Humanitarian Activities (BCM)
Goran Basta, director, mobile phone tel (+381 63) 72-000-50,
Cirila i Metodija 2a, 11000 Belgrade, tel./fax: (+381 11) 42-46-02;
e - mail: bcm_bgd@yahoo.com

Mreža humanitarnih pravnih kancelarija
Net of Humanitarian Legal Officicies
Branislav Ćubrilo, Director
Simina 19, 11000 Beograd
tel: (+381 11) 26-20-499 and 26-22-877

**Extended list of NGO’s is available within SISP Hub office in Skopje**

5. **Export of benefits**

5.1. Number of insured persons residing outside the territory of Serbia and receiving social security benefits for:
- old age: 8.248 (employed) + 197 (self-employed and farmers) = 8.445
- survivorship: 6.027 (employed) + 267 (self-employed and farmers) = 6.294
- sickness:
- invalidity: 5.093 (employed +121 (self-employed and farmers) = 5.214
- maternity:
- employment injury (labour accidents and professional diseases);
- unemployment: benefits from unemployment insurance are not exported.
- family (children):
- medical care:
- need:
REPUBLIC OF MONTENEGRO

1. CONCEPT AND SOURCES OF SOCIAL SECURITY LAW

Constitution of Republic of Montenegro incorporates number or articles regarding social security and social insurance. These provisions prescribe that:

- Everybody is entitled to work and protection in case of unemployment.
- Young, women and invalid persons are entitled to special protection at work.
- Through compulsory insurance employed persons are providing for themselves as well as to members of their family all forms of social insurance.
- State provides material security to the citizen who is incapable for work and doesn't have means for life, as well as to the citizen who doesn't have means for life.
- Invalid persons are entitled to special protection.
- Everybody is entitled to health protection.
- Children, pregnant women and old persons are entitled to health protection from public revenues, unless they are entitled to that right on other basis.
- Family has special protection.

Pension and invalidity insurance is prescribed by Law on Pension and Invalidity Insurance (Zakon o penzijskom i invalidskom osiguranju). This scheme covers the following risks: old-age; death - survivorship; invalidity (permanent incapacity for work); cash compensation for body damage; reimbursement of funeral expenses.

Health insurance and health protection are prescribed by Law on Health Insurance (Zakon o zdravstvenom osiguranju) and Law on Health Protection (Zakon o zdravstvenoj zaštiti). The first scheme covers the risk of sickness and provides medical care and compensation of wage (earnings) in case of sickness and maternity and within the second one - health protection (zdravstvena zaštita) - medical services are provided to persons who are not health insured.

Unemployment insurance is prescribed by Law on Employment (Zakon o zapošljavanju). This scheme covers the risk of unemployment.

Social assistance scheme is prescribed by Law on Social and Child Protection (Zakon o socijalnoj i dječjoj zaštiti).

Veteran protection scheme is prescribed by Law on Veteran and Invalidity Protection (Zakon o boračkoj i invalidskoj zaštiti).

2. ADMINISTRATIVE ORGANISATION

Legislation in the field of social security is, within their competencies, created by the People’s Assembly of Republic of Montenegro (Narodna skupština Republike Crne Gore). Competent ministries - Ministry of Labour and Social Protection (Ministarstvo rada i socijalnog zaštita), Ministry of Health (Ministarstvo zdravlja) and Ministry of Finance (Ministarstvo finansija) are preparing and submitting to Parliament proposals of laws.

Ministry of Labour and Social Protection is responsible for the social security system of Montenegro (including veterans protection scheme) except for the health insurance and health protection, which is in the competence of Ministry of Health.

Ministry of Finance is competent for social assistance revenues and revenues for veterans protection scheme, which are financed from budget.

The administration of social security schemes is entrusted to non-government institutions under public law. They are functionally and territorially decentralised, having regional units and branch offices. These institutions have their own legal personality and are not included in state administration. The governing bodies of these institutions are organised according to the bipartite or tripartite principle (employers, employees, beneficiaries and government representatives-representatives from competent ministries).
Republican Fund for Pension and Invalidity Insurance (Republički fond za penzijsko i invalidsko osiguranje) is responsible for implementation and administration of pension and invalidity insurance for employed persons, self-employed and farmers. It is self-governed by the representatives of insured persons (trade unions), beneficiaries (pensioners organizations) and employers (employers associations).

Republican Fund for Health Insurance (Republički fond za zdravstveno osiguranje) is responsible for implementation and administration of health insurance and health protection. It is also self-governed.

Institute for Employment (Zavod za zapošljavanje) is responsible for implementation and administration of unemployment insurance. It is also self-governed.

Social protection is financed from the budget. Budget is also financing health protection scheme for persons who are not health insured, refugees, internally displaced persons, veterans, war-disabled civilians and their family members.

3. PERSONAL SCOPE OF APPLICATION

Personal scope - system is covering all economically active persons general professional system. All professionally active persons (employed, self-employed and farmers) are compulsory insured within the systems of social insurance: pension and invalidity insurance, health insurance and unemployment insurance.

Compulsory health insurance is prescribed for all persons economically active (all above mentioned and defined categories: employed, self-employed and farmers), pensioners and persons receiving unemployment cash benefit. Within this scheme are also insured family members of the mentioned categories who are not insured on the other basis (on their own right). Health protection scheme regulates medical care for persons who are not insured, refugees internally displaced persons, veterans, disabled veterans, war-disabled civilians and their family members.

Unemployment insurance is compulsory for employed and self-employed person. Farmers are not covered by this scheme of insurance and thus not entitled to benefits. People employed abroad can insure themselves for case of unemployment provided that they are not insured for this risk according to the provisions of international agreement.

Social and child protection scheme provides benefits to: persons incapable for work and with no means for life, children without parental care, handicapped children, abused children, persons with handicap, old person and persons and families who, due to special circumstances, need social protection.

Periods of insurance completed in a country with which exists a bilateral agreement on social insurance (security) are also taken into account. However, periods of insurance completed in Republic of Serbia after the date Law on Pension and Invalidity Insurance came into force (January 1st, 2003) are not taken into the account for entitlement to benefit nor for calculation of benefit.

Within the veterans protection scheme are covered: veterans of war, disabled veterans, war-disabled civilians and their family members.

4. RISKS AND BENEFITS

All rights (benefits) from compulsory social insurance are personal rights and cannot be transferred to other person(s) nor inherited. Amounts of cash benefits that were due for payment can be inherited.

Claim for benefits are submitted to institution of compulsory social insurance (funds and institute - their regional and branch offices), centres for social work (for social protection benefits) and Ministry of Labour and Social Protection (for veteran’s protection).
Pensions and all other benefits from pension and invalidity insurance scheme are adjusted with costs of living and wages (according to official statistical data). Indexation is calculated according to so called Swiss model – as percentage, which represents sum of one half of percentage of inflation and one half of percentage of growth of wages.

All pensions (old-age, survivor’s and invalidity), reimbursement for funeral expenses and child benefit are exportable if there exists bilateral or multilateral agreement on social insurance (security), which prescribes such export, or in case of reciprocity. Health insurance benefits in cash, providing incapability for work has occurred abroad, as well as health insurance benefits in kind are also exportable. Provisions of bilateral agreements, of course, also apply in this field. As a rule, unemployment cash benefits and social assistance benefits are not exported.

4.1. Old age

Compulsory old-age insurance is regulated by Law on Pension and Invalidity Insurance (Zakon o penzijskom i invalidskom osiguranju), which came into force on January 01st, 2004.

This law has changed method of calculation of benefits. For calculation of benefits pension point system was implemented. Benefit is calculated by multiplying personal point with number of pensionable years and financial value of point expressed in €. One personal point is 1,42% of average gross wage for December 2003 and indexed every six months. For calculation of benefit instead of earnings in 10 consecutive most favourable years into the account will be taken earning from all periods of insurance. This will enter into force gradually - every year earnings from two more years will be taken into the account till the maximum prescribed insurance period (40 for men and 35 for women).

Law also has raised age conditions for entitlement to old-age pension: for women from 55 to 60 years of age and for men from 60 to 65 years of age. This will enter into force gradually - every year (starting from 2004 till 2014) age limit will be six months higher.

At this moment entitlement conditions for old-age pension are:
- age of 61 (men) and 56 (women) and 20 years of pensionable periods (penzijski staž);
- age of 65 (men) and 60 (women) and 15 years of insurance periods;
- age of 55 (both men and women) and 40 (men) or 35 (women) years of insurance periods.

Beneficiaries of old-age or invalidity pension are entitled to minimum amount of pension (najniži iznos penzije) which is 40 €.

Limitation of maximum pension amount is achieved by limitation of personal points for every year. Maximum pension points for every year are 4. That means that earnings higher than four times average earning for particular year will not be taken into account.

All pensioners are insured in health insurance and health protection scheme as well as members of their families who are not insured on other basis (on their own right).

4.2. Death (survivorship)

Family members of deceased are entitled to survivor’s pension. Survivor’s pension is granted if deceased had at least 5 years of insurance periods, or 10 years of pensionable periods, or if he was already a pensioner receiving old-age or invalidity pension. No insurance or pensionable periods are needed if the death occurred as the consequence of work injury or professional disease.

Following persons are entitled to survivor’s pension: surviving spouse; children regardless if they are legitimate, illegitimate, adopted, stepchildren if they were maintained by deceased; divorced spouse if, by the court decision, deceased had obligation to maintain her/him.

One recipient of survivor’s pension is entitled to 70% of a pension, two are entitled to 80%, three to 90% and four and more to 100%.
Reimbursement of funeral expenses is payable to the person who arranged (paid for) the funeral of pensioner (old-age, invalidity, survivor). Amount of this reimbursement is three average pensions in Republic of Montenegro paid in previous month.

4.3. Incapacity for work (temporary and permanent)

Risks of temporary incapacity for work are covered by health insurance - short-term benefits. Pension and invalidity insurance scheme covers permanent incapacity for work - long-term benefits.

Employed persons are entitled to cash benefit (wage or earning compensation for temporary incapacity for work - naknada zarade zbog privremene nesposobnosti za rad) if they are temporary incapacitated for work due to: sickness, work injury, professional disease, medical examination, tissue and organ donating, maintaining pregnancy, maternity leave, escorting another sick person or staying with that person in hospital and nursing an immediate family member.

Insured person is not entitled to cash benefit if: he deliberately caused incapability; incapability was caused by abuse of alcohol or psychoactive substances; he is performing economical activity during incapability period; he is deliberately preventing healing; he doesn’t submits to control medical examination.

Compensation is paid from the first day of incapacity for work. For the first 60 days of incapacity employer pays compensation and after that, if incapacity for work still exists, Republican Fund for Health Insurance pays compensation.

The amount of compensation for employed is calculated as 70% of the basis for compensation.

Persons covered are also entitled to compensation of travel expenses in connection with the utilisation of medical care and funeral expenses.

Permanent incapacity for work (invalidity) gives entitlement to invalidity pension according to the Law on Pension and Invalidity Insurance. Law prescribes that insured person is entitled to invalidity pension if he has suffered complete loss of work capability (for any work). There are two categories of invalidity – complete invalidity (loss of complete work capability) and partial invalidity (loss of 75% of work capability).

Medical control is prescribed every three years exept for cases where such control is not medicaIy justified.

Invalidity can be consequence of work injury, professional disease, sickness or injury without connection with work.

Calculation of benefit is different in case when invalidity is a consequence of work injury or professional disease and other cases. If cause of invalidity is work injury or professional disease pension is granted regardless of pensionable years and in other cases under condition that insured person has at least 1/3 of working years covered by pensionable ages.

4.3.1. Cash compensation for body damage (novčana naknada za telesno oštećenje)

Insured person is entitIeld to a cash compensation for body damage provided that body damage is 50% or higher and that it is consequence of work injury or professional disease. Body damage is defined as loss, essential damage, or basic incapacity of certain organs or parts of the body regardless do they produce invalidity or not.

Body damage is divided in six degrees of damage: from 50% to 100%.

4.3.2. Since January 1st, 2004 when Law on Veteran an Invalidity Protection (Zakon o boračkoj i invalidskoj zaštiti) came into force Republic of Montenegro is not implementing legislation of FR Yugoslavia in this area. According to the Law on Veteran an Invalidity Protection the following benefits are provided for veterans, disabled veterans (war military
invalids-ratni vojni invalidi), war-disabled civilians and peace military invalids, as well as for their family members: personal disability benefit; cash compensation for help and care of other person; orthopedic supplement; family disability benefit; increased family disability benefit; family financial protection (cash benefit); health insurance.

4.4. Unemployment benefits

Unemployment insurance is regulated by Law on Employment (Zakon o zapošljavanju). Unemployed person is defined as person between 15 and 65 years of age registered within Institute for Employment. Foreign citizens and stateless persons are, under same conditions considered as unemployed, provided that they have residence in Republic of Montenegro. This scheme provides cash compensation; health insurance; pension and invalidity insurance during the period of receiving cash compensation for unemployment; cash assistance.

Insured person is entitled to cash compensation in case of unemployment (novčana naknada za slučaj nezaposlenosti) if that person became involuntarily unemployed (without his will or fault). Cash compensation is granted if the person has been continuously insured for at least 9 months or for 12 months with brakes (interruptions) within the period of last 18 months. This benefit is calculated as 60% of minimum wage (30 €).

Unemployed person is also entitled to cash assistance during professional education or specialization in the amount of 60% of minimum wage.

4.5. Health care (health insurance and medical care)

Benefits provided through health insurance scheme are: medical care and compensation of travel expenses in regard of utilizing medical care.

Insured persons as well as their family members (who are not insured on other basis – on their own right) are entitled to medical care benefits: medical examinations, medical treatment (by general practitioner or specialist), medicines, medical treatment abroad, dental prevention; dental healing (children up to 15 years of age, pregnant women and persons above 65 years of age), medical rehabilitation, prosthesis, orthopaedic and other helping devices.

Compensation of travel expenses in regard of utilizing medical care is provided to insured persons and their family members as well as to accompanying person

Persons who are not compulsory insured can, in compliance with law provisions, voluntarily insure themselves and members of their families within health insurance scheme. Through voluntary insurance person can be entitled to higher quality of medical care or to the right that are not prescribed through compulsory insurance scheme. Employers can insure their employee’s within this insurance. Competent institution for this type of insurance is Republican Fund for Health Insurance. Financial means for this insurance are separated from means for compulsory insurance scheme.

4.6. Family and need (family and child benefits)

4.6.1. The family protection scheme provides the following benefits: financial protection of family; personal disability benefit; cash compensation for help and care of other person; accommodation into the institution or within other family; help for professional rehabilitation; health protection; compensation of funeral expenses; cash assistance.

Financial protection of family is subject to means and earnings test of all family members. Benefit is granted provided that: income is under prescribed level (between 50€ and 95€ depending on number of person within family); no real estate above prescribed maximum; no land (for agriculture production) above prescribed maximum etc. The amount of benefit is between 50 € and 95 € per month (depending on numbers of persons within family).
To **personal disability benefit** are entitled persons who became incapable for independant life and work before age of 18. This incapability is established according to Regulation on Medical Indications for Obtaining Rights on Social and Child Protection (Pravilnik o medicinskim indikacijama za ostvarivanje prava iz socijalne i dečije zaštite). Amount of this benefit is 50€ per month.

To **cash compensation for help and care of other person** are entitled: persons who need (due to physical or mental impairments, old-age, or state of health) constant care and help provided by other person; beneficiary of personal disability benefit. Entitlement condition and amount of benefit are the same as for personal disability benefit.

To **accomodation into social protection institution** are entitled: children with problems in development and behaviour (due to family circumstances, mental problems, autism etc.); grow-ups and old persons. This benefit is granted providing that there are no other possibilities for their social protection. Accomodation is provided as daily, temporary, or permanent.

To **accomodation into other family**, besides above mentioned, are entitled: pregnant women and single parent with a child (up to three years of age) who, due to social circumstances, need such accomodation.

To **assistance for professional rehabilitation and work education** are entitled: children and young persons. This benefit covers expenses of: accomodation into social protection institution; accomodation into other family and travel expenses.

**Health protection** is provided to beneficiary of: financial protection of family; personal disability benefit; accomodation into social protection institution or other family, provided they are not entitled to this right on other basis (on their own right).

To **reimbursement of funeral expenses** are entitled beneficiaries of: financial protection of family; personal disability benefit; accomodation into social protection institution or other family. The amount of this benefit is 300 €.

To **cash assistance** are entitled: person or family who are, due to special circumstances (financial, medical or other) in state of need.

4.6.2. The child protection scheme covers these benefits: baby package, child allowances, maternity leave wage compensation etc.

Parent is entitled to **baby package** in the amount of 100 €.

**Child allowance** is provided for: children of beneficiary of financial protection of family; children with difficulties in development; children without parental care. Benefit is provided for the first three children up to 18 years of age, or till the end of secondary school education. Amount of this benefit is between 15€ and 25€ per month.

**Maternity leave wage compensation** is provided to employed, registered unemployed and regular student. Beneficiaries are entitled to this benefit for period of 12 months. Self-employed are obtaining this benefit within centers for social work. Amount of benefit for employed is wage which he would receive if he worked and can not be lower than minimum wage. Maximum is 100% of the wage and minimum 70% of the wage. For self-employed benefit is expressed in the amount of contribution basis. Amount of benefit for unemployed is 25 €.
4.6.3. To **services of social work** are entitled all citizens.

These services are provided by social work centers and institutions for accomodation of: children and young; grow-up disabled persons; old persons. Institutions can be public or private.

Revenues for basic rights in social and child protection are provided by the budget. Institutions for accomodation are financed by the founder.

5. **FINANCING**

Social insurance system is, as a rule, financed from contributions. Amounts for contribution for compulsory social insurance are not taxable, which means that these amounts are deducted from income (wages and earnings).

Basis of contributions are: for employed – wage and compensation of the wage in case when they are temporarily incapable for work and receiving such benefit; for unemployed – unemployment cash benefit they are receiving; for pensioners – pension; for self-employed – taxable profit or income; for farmers – taxable income from agricultural activity.

For pension and invalidity insurance scheme contribution rate is 21.6% for all categories of insured persons. For employed persons employer pays 9.6% and employee 12%. Self-employed persons as well as farmers pay 21.6% by themselves.

Additional contribution rates, for insurance periods calculated in longer duration, are paid by employer only, or self-employed by himself. These rates are: 6% (in case two months added for every year); 9% (in case three months added for every year); 12% (in case four months added for every year) and 18% (in case six months added for every year).

Revenues in the field of social and children protection are obtained within the budget of Republic of Montenegro.

6. **JUDICAL REVIEW**

For all benefits from social security system person must submit a claim (request). In decision making process and legal (court) protection legislation prescribes two-level procedure (protection). Within prescribed administrative procedure competent institution are making decisions upon the claims for benefits in social insurance system. Any person who is not satisfied with decision upon his right to a benefit can make an official complain. Ministry of Labour and Social Protection has competency for final decision upon such claims (for pension and invalidity insurance scheme as well as for social protection scheme) and Ministry of Health for final decision upon claims within health insurance scheme. Unsatisfied person can make appeal i.e. take final decision to the competent court and, in the second degree, to a Supreme Court of Republic of Montenegro, as the court of last resort.

There is no special social court thus social insurance cases are decided upon in general jurisdiction courts. Court decisions are not treated as source of law (precedent), but more like guidelines for law interpretation and adequate administrative procedures.
BILATERAL AND MULTILATERAL TREATIES

Due to the fact that State Union of Serbia and Montenegro has one international legal personality all bilateral, as well as multilateral treaties, are concluded for Serbia and Montenegro as a whole. All these instruments are signed on behalf of Serbia and Montenegro and ratified by Parliament of Serbia and Montenegro.

1. Bilateral treaties and agreements concluded by Serbia and Montenegro (Federal Republic of Yugoslavia) and relevant for the issues discussed

<table>
<thead>
<tr>
<th>Country</th>
<th>Title of agreement</th>
<th>Date</th>
<th>S</th>
<th>R</th>
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<tbody>
<tr>
<td>Austria</td>
<td>Agreement between FR of Yugoslavia and R of Austria on Social Insurance</td>
<td>May 01, 2002</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td>Republic of Macedonia</td>
<td>Agreement between FR of Yugoslavia and R of Macedonia on Social Insurance</td>
<td>April 01, 2002</td>
<td>*</td>
<td>*</td>
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<tr>
<td>Czech Republic</td>
<td>Agreement between FR of Yugoslavia and Czech Republic on Social Insurance</td>
<td>December 01, 2002</td>
<td>*</td>
<td>*</td>
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<td>Republic of Bulgaria</td>
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<td>Great Dukedom of Luxembourg</td>
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Please find in Attachment 1. texts of the agreements on social insurance between Serbia and Montenegro and: Bosnia and Herzegovina, Croatia and Macedonia, in English language.

2. Multilateral treaties and agreements concluded:

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**Revised Code of Social Security, 1990**

**Revised European Social Charter, 1996**

**Other relevant international instruments (Specify)**

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*2Bis. Succession by Serbia and Montenegro in the rights and duties deriving from bilateral and multilateral treaties concluded by Yugoslavia*

**-bilateral treaties:**

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<tr>
<th>Country</th>
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