



“SOCIAL INSTITUTIONS SUPPORT PROGRAMME”

REPORT
on the PRESENT STATE and FUTURE
of SOCIAL SECURITY
in Bosnia and Herzegovina

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ANNEX 1

I Bosnia and Herzegovina

1. Introduction: concept and sources of social security law

The Dayton Peace Agreement which put an end at the 1992 – 1995 war and which served as well for the enactment of the BiH – constitution, established Bosnia and Herzegovina as a state consisting of two entities: the Federation of Bosnia and Herzegovina (F BiH), administratively divided on 10 cantons, and the Republic of Srpska (RS); later to this composition the Brčko District (DB) has been added as a single administrative unit under the sovereignty of Bosnia and Herzegovina.

Social security system (sistem socijalne sigurnosti) in Bosnia and Herzegovina encompasses: social insurance (socijalno osiguranje), social assistance (socijalna pomoć), family and child assistance (porodična i dječija 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 security system in Bosnia and Herzegovina is fragmented and decentralized due to the specific constitutional framework of the country. State level competencies for social policy (socijalna politika) and social protection (socijalna zaštita) are rather limited in comparison with the Entities. In RS, the main competency for social policy is at the level of the entity, while in the F BiH the situation is more complicated due to the shared competency for social policy between the F BiH and the cantons. Due to such constitutional framework, apart of the F BiH Law on social protection (Zakon o socijalnoj zaštiti F BiH) we have eight additional laws on social protection. The only major difference between the entity Laws on Social Protection is arising from different constitutional competencies defined in the RS and F BiH Constitutions which are establishing different governmental and administrative structures. Although we have number of laws regulating social protection, substantially, the laws are very similar and more or less include similar criteria for eligibility for social protection and similar procedure in which such rights can be obtained.

Bosnia and Herzegovina, according to the Constitution, does not have explicit competency for social policy, rather such competency was given to the entities. The right on social protection as basic human rights is guaranteed by the Constitution of the F BiH (Ustav F BiH). According to the F BiH constitution (III, Article 2) both the Federation Government (Vlada Federacije BiH) and the Cantons are responsible for implementation of social policy and provision of social protection services (III Article 4 (j)).

Federation of Bosnia and Herzegovina

In the F BiH, social protection is regulated by the Law on the Basic Social Protection (Zakon o osnovnoj socijalnoj zaštiti), Protection of Civilian War Victims and Families with Children. (OG F BiH 36/99).

This Law regulates social protection of citizens and their families, protection rights and beneficiaries of social protection rights; establishment and functioning of social protection institutions and associations of invalids; rights of civilian victims of war and members of their families; protection of families with children; financing and other issues important for the realization of rights to social protection, protection of civilian victims of war and protection of families with children in the F BiH.

Competent Cantonal authorities, in accordance with the Constitution and this Law can regulate in more detail the activities of social protection, protection of civil war victims and families with children. Furthermore, the Cantons adopted additional legislation for this Law to be implemented. The F BiH Law is not applicable unless the Cantons pass additional legislation which should regulate the following: amount of financial and other support; procedure for the acquisition of right prescribed by this Law; method and procedure for identifying and assessing capabilities, categories and keeping record on mentally and

physically handicapped children; work and composition of the expert composition of the expert commission that prepare finding and report with regard to capabilities and categories of mentally and physically handicapped children; work and composition of the medical commission that prepare finding and report regarding to the incapability of work, financing of social protection, etc .The social protection in the Federation BiH is organised to provide social assistance to its citizens and their families in the situation of a social need.

Social need (Article 11) is considered to be a permanent or temporary situation of citizens or a family caused by war events, natural disasters, general economic crises, psycho – physical conditions of individuals or other reasons which cannot be eliminated without a support of community.

Republic of Srpska

In the Republic of Srpska, social protection is regulated by the Law on Social Protection, RS OG 5/93, 15/96, 110/03 (Zakon o socijalnoj zaštiti Republike Srpske), which regulates rights from the social protection, basic institutions of the social protection, financing of the social protection activities. Social protection is an organized activity aimed at prevention and elimination of the causes and consequences of the condition of social need in all areas of social life. A person or family in situation of social need, needs assistance in order to overcome social difficulties and secure living necessities (Articles 1 and 2). Social protection is provided to persons who are unable to work, who do not have sufficient means for living and do not have relatives who are by law obliged and able to support beneficiary. The social protection serves persons who due to special circumstances are in need for social protection (Article 3).

Brčko District

The Law on Social Protection (Zakon o socijalnoj zaštiti) – «Official Gazette of BiH Brčko District», no. 1/2003, from 21st January 2003, shall regulate the principles of social care for elderly, infirm and indigent persons in need of social care services; the smallest scope of rights to individual forms of social care and preconditions for those rights to be exercised; basic institutions in the field of social care and financing of the activities of social care; and other issues of importance to the exercise of rights to social care on the part of residents of Brčko District (hereinafter: «The District»).

Social care, in the spirit of this Law, is an organised activity focused on prevention and removal of causes and consequences of the indigent status in all fields of social life, and on providing support to indigent persons and their family members when they are unable to meet their basic needs of life.

The indigent status is a state in which a citizen or a family needs assistance with overcoming adverse life circumstances and meeting the basic needs of life.

Social care shall be granted to residents of the District who are incapable to work; who have neither means for maintenance nor relatives responsible by law and able to provide them with maintenance; and to inhabitants and families who are not able to earn means for maintenance through work, income from their property or in any other way, and to meet their basic needs.

2. Administrative organisation

In the process of development and strengthening of the state level institutions and due to obligations the State of BiH, it was necessary to define competency for social protection at the state level. In 2003 a new **Ministry of Civil Affairs of Bosnia and Herzegovina** (Ministarstvo civilnih poslova Bosne i Hercegovine) was established at a state level which has a competence for civil affairs and is responsible for: carrying out tasks and discharging duties which are within the competence of BiH and relate to defining basic principles of coordination of activities plans of the Entity authorities and defining a strategy at the international level, among other in the fields of labour, employment, health , social protection and pensions.

The system of state employment agencies follows the organizational principle for BiH established by the Dayton Accords, meaning that the employment agencies are organized at the entity levels and cantons in the F BiH, while the RS Employment Agency is centralized institution with six regional branches and a number

of municipal offices. A BiH Agency for Labor and Employment has been established at the state level in 2004.

The state-level BiH Agency for Labor and Employment has authority in the domain of representing BiH internationally, signing and implementing international agreements regarding labor and employment, as well as regulating relationships with other states for the purpose of enabling our workers to seek work abroad. One of its important responsibilities is to manage compensation payments for returnees from Germany after the recent war.

Federation of Bosnia and Herzegovina

Federal Ministry of Labor and Social Policy (Federalno ministarstvo rada i socijalne politike) is responsible for administrative, professional and other tasks as laid down by the legislation related to the competencies of the Federation of Bosnia and Herzegovina in the areas of social policy, labor and employment policy; working relations and rights arising from working relations; industrial protection; pension and disability insurance; international conventions according to the BiH Constitution, agreements and bilateral agreements in area of employment; social welfare and solidarity, protection of the civil victims of war; family protection, children adoption and custody; social protection and other tasks by the legislation governing this field.

Federal Ministry of Displaced Persons and Refugees (Federalno ministarstvo za izbjegla i raseljena lica) performs administrative, professional and other tasks as laid down by the legislation related to the competencies of the Federation of Bosnia and Herzegovina in the areas of displaced persons, refugees and returnees, and particularly: gathering and processing data on refugees and displaced persons, coordination of reconstruction activities, together with registration and supervision of the NGOs; creation of conditions for return of displaced persons in their pre-war domiciles, including construction and reconstruction; recovery and repair of homes and other housing units for accommodation of the refugees and displaced persons, running of regional centres for assistance to those activities, as well as other tasks as laid down by the legislation governing this field.

Federal Ministry for Issues of the Veterans and Disabled Veterans of the Defensive - Liberation War (Federalno ministarstvo za pitanja boraca i invalida odbrambeno oslobodilačkog rata) executes the administrative, professional and other tasks related to: setting out a uniform policy and preparing of systems regulations setting out the fundamental welfare-status issues of disabled veterans, families of the killed soldiers and unemployed veterans; administrative and financial supervision of implementation of the regulations in the area of the veterans' disability protection; provides for financial funds aimed for funding the welfare rights; for construction; arrangement and maintenance of the memorial cemeteries of the killed soldiers and innocent war victims, as well as other tasks in the field of the veterans-disability protection.

Federal Ministry of Health (Federalno ministarstvo zdravlja) executes administrative, professional and other tasks as set out by the laws relating to the Federation's competence in the field of health. The Ministry is responsible for functions that cannot be executed at the Cantonal level: sanitary inspections at borders; developing legislation at federal level; developing health policy for the F BiH; planning of the health care facilities network; capacity building; health inspections; developing and regulating of compulsory health insurance; monitoring and evaluating the health status of the population.

Health ministries at the Cantonal level are in charge of Cantonal health legislation, advising on technical matters, implementing regulations, organising health care services and health policy planning mostly related to the Cantonal hospitals, the health centres (Dom Zdravlja – DZ), the ambulancias (basic outpatient unit within Dom Zdravlja), pharmacies and other Cantonal health institutions.

Cantonal ministries, i.e. administrations for veterans' issues, adopt regulations on additional rights of veterans' population members and, in the second instance, decide upon appeals filed on the first instance decisions of authorized municipal services, made on the basis of cantonal regulations. Cantonal ministries for veterans' issues and the municipal services for administration are not organizationally subordinate to the Federal Ministry of Veterans' and Invalids' Issues, but to the authorized cantonal and municipal bodies on the higher level, so that their organizations, rights, responsibilities and authorities are stipulated by cantonal and municipal regulations. The Federal Ministry has inheritances over the administrative and fiscal

supervision over the implementation and application of Federal regulations from the area of veterans' and invalids' protection in authorized municipal services.

In the Federation of BiH the Cantonal **Health Insurance Funds** (Fondovi zdravstvenog osiguranja) are responsible for financing the health services at the cantonal level. The **Federal Health Insurance and Reinsurance Fund** (Federalni zavod za osiguranje i reosiguranje) was established in January 2002 to address some of the problems associated with a highly decentralised system related to an unequal economic basis and lack of cross-canton health insurance coverage. The Federal Health Insurance and Reinsurance Fund is entitled to receive 8% of all contributions collected by the cantonal HIFs.

The basic financial function of the health care system in F BiH is placed within the cantons. Each of the 10 cantons has its own Health Insurance Fund responsible for the overall financing of the health care services. The majority of income for the Cantonal HIF comes from the health contributions. Health insurance contribution is based on gross salary and amounts to 17%. Cantons are authorised to define their own contribution rates within the upper ceiling of 17%.

Republic of Srpska

There are three Ministries responsible for social security issues in the **Republic of Srpska Government**:

Ministry of Health and Social Welfare (Ministarstvo zdravlja i socijalne zaštite) performs the activities of state management related to: preserved improvement of health of citizens and monitoring of health status and health needs of population, health care, organisation of health care in all conditions; expertise and specialization of health work inspection, organising of supervision on expert work of health institutions; health insurance and public health care from public incomes; production and trading of medicines, poisons and stupefying drugs; equipment and medical tools; health accuracy of food and subjects for general use; inspection supporting the sanitary field; pension and disability insurance for all forms of work, system of social care; social benefits for family and children; activity of social organizations and associations of citizens in social – humanitarian work well as other work put under its jurisdiction.

Ministry for Labour and Veterans (Ministarstvo za rad i boračka pitanja) performs administrative and other expert tasks such as: work relations of workers in all form of work except for workers employed as civil servants; wages and other equal work; employment; protection at work; pension – disabled welfare for all types of work; temporary employment of workers abroad in coordination with responsible Ministry of Bosnia and Herzegovina; international conventions; exercising of right arising from the work relation of workers temporary employed abroad, operations related to their return and employment in the country, protection of veterans, war and disabled persons from liberation war and members of families of died veterans; protection of civil war victims and civil war disabled; protection of family members of personal mandatory military exercise; arrangement and maintenance of veteran's monuments and graves; information via media and other types of informing on its work and perform other tasks in accordance to Law and other regulations of the Republic of Srpska and Bosnia and Herzegovina.

Ministry for Refugees and Displaced Persons (Ministarstvo za izbjegla i raseljena lica) is responsible for resolving of refugees, displaced persons and returnees and this responsibility is designated to this Ministry, Program for resolving of problems of refugees, displaced persons and returnees, passed by National Parliament of RS. Ministry operates through its 54 Departments in all towns in Republic of Srpska. The Ministry is also responsible for implementation of property laws from Dayton Peace Agreement, especially implementation of its Annex 7 (Agreement on Refugees and Displaced Persons). Priorities in its work, Ministry for Refugees and Displaced Persons protects the most – affected categories, such as families of killed soldiers from the category of refugees which property in F BiH is destroyed, war disabled persons from the category of refugees, etc.

The Health Insurance Fund of Republic of Srpska (Zavod za zdravstveno osiguranje Republike Srpske) has a main functions the collection of health insurance contribution (however this does not include contribution payment) and financing and contracting health care services. The organisational structure consists of eight regional offices and the head office of HIF in Banja Luka with four departments: Economy, Legal, Medical and Information Technology department.

Brčko District

The **Health Insurance Fund of Brčko District** (Zavod za zdravstveno osiguranje Distrikta Brčko) was established in 2003 under the Department of Health and Other Services. The Fund is at the moment establishing a Data Base covering all insured persons in Brčko. Before Brčko District gained its existing legal status, health care provisions in the municipality had been funded from the three different health insurance funds in Tuzla, Mostar and Banja Luka.

In the new situation, ethnic-territorial principle was dominant in realization of rights from pension disability insurance. Former **Public Fund of pension and disability insurance** (Javni zavod za penzijsko i invalidsko osiguranje) of Bosnia and Herzegovina was divided in three separate funds:

1. Public fund for PIO BiH (Penzijsko – invalidsko osiguranje BiH) – Fund in Sarajevo
2. Institute of pension and disability insurance Mostar – Institute in Mostar
3. Public fund for pension disability insurance RS – Fund RS.

By decision of the High Representative from November 2000, the Fund in Sarajevo and Institution in Mostar were merged into Federal institution for pension and disability insurance, which started working on 1st January 2002.

At the moment there is one pension fund in F BiH and one in RS, and all relevant legislation which is regulating issues concerning pension system is adopted on the level of entities.

Departments of the Agency of Employment at the entity level got united on 1 April 2004, performed by the Sector for Expertise and Administrative Duties of the Government of Brčko District. The **Bureau for Employment** was established on 2 December 2005.

3. Personal scope of application

Compulsory pension and invalidity insurance based on employment and notions of mutuality and solidarity includes the rights in the cases of: old age, impairment and loss of work capacity and death of an insured person, so as to secure social safety to the insured people and members of their families. Funds are secured by insured people, employers and the budget of Republic of Srpska and cantonal budgets in Federation BiH. Contributions are paid in the same percentage regardless on amount of incomes. All insured persons are: employed, self-employed, farmers and persons in religious services. There are no exemptions from compulsory social insurance; minimum insurance period is 20 years.

The persons entitled to survivor's pension are the surviving spouse (the widow or the widower), the divorced spouse, if awarded the support right by the Court, children born within or out of the wedlock, adopted, stepchildren supported by the insured, grandchildren, and other children without parents who were supported by the insured until his death.

The scheme for employment injuries and occupational diseases is based on compulsory pension and invalidity insurance and voluntary insurance. Only economically active persons are entitled to claim benefits.

Federation of Bosnia and Herzegovina

In the Federation BiH the basic principles on family benefits are based on a philosophy of social insurance (entitlement linked to economic activity and/or payment of contributions), financed from contributions of employers and or/employees, tax financed, budget. Economically active persons and their families are entitled to claim if fulfill conditions prescribed by law. The contributions are paid in fixed rate. The beneficiaries are employed parents, child without parent(s), families with handicapped child.

Republic of Srpska

The basic principle on maternity is based on social insurance philosophy to economic activity.

The cash benefits are provided to all employed women and the benefits in kind are an universal free health's coverage related to pregnancy, child delivery and child nursing.

The duration of receiving social assistance is as long as the need persist. The beneficiaries must have a permanent residence in the country. There are no age limits in the Federation BiH and Republika Srpska, but in Brčko District the beneficiary has to be an adult.

Bosnia and Herzegovina (BiH) is a State Party to the 1951 UN Convention Relating to the Status of Refugees. As a result, BiH must consider each application for asylum and grant asylum to anyone who is a refugee according to the Convention. Also, BiH Law on Movement and Stay of Aliens and Asylum regulates their rights.

Asylum seekers have the right to stay in BiH pending the completion of asylum procedure and shall be provided, on a needs basis, access to:

- a) primary health care
- b) accommodation in an Asylum/Reception Centre
- c) food
- d) primary education
- e) legal aid provided free of charge for issues related to the procedure
- f) social welfare
- g) clothes, footwear and hygienic items

Health care and long – term care:

Beneficiaries in the Republic of Srpska are:

- employed (insured/worker)
- self-employed
- engaged in religious ministration
- farmers
- Veterans, Military War Invalidity and the members of Families of Fallen Soldiers
- those made redundant, though receiving compensation in accordance with the regulations on labor relations;
- unemployed, with secondary, post – secondary and higher education, while registered with the Bureau of Employment;
- mature students, while registered with the Bureau for Employment
- those receiving pensions and compensation related to retaining or skill upgrading, and employment, and securing such benefits in accordance with the regulations on pension and Invalidity benefits
- citizens of Republic of Srpska wholly or in part deriving pensions or Invalidity benefits from foreign insurers while residing in the Republic, when not otherwise regulated by international treaty
- regular recipient of financial assistance, or the institutionalised, if not otherwise insured
- refugees and displaced persons, if not otherwise insured
- foreign citizens receiving education in Republic of Srpska, when this is not otherwise regulated by international treaty
- others for whom health insurance contributions are made

Beneficiaries in the Federation BiH are:

- persons in working relationship with enterprises, institutions, associations and other forms of

organisation

- persons in working relationship with a legal or physical person sent abroad to work or for the vocational training, and persons working in the household of the insurants working abroad, provided they are citizens of the Federation BiH
- persons selected or nominated for performing permanent duties in certain bodies of state or judiciary government or administration in the F BiH or canton, if receiving salary for their work
- citizens of the Federation BiH employed with foreign or international organisations and institutions, consulate or diplomatic missions with their offices within the Federation
- persons with their place of residence within the Federation territory, working abroad, employed with the foreign employer, who do not have the health insurance of the foreign institution / body competent for the health insurance implementation
- persons who serve compulsory practice, after education completed, if they work full time
- self – employed
- farmers
- pensioners and beneficiaries of rights to professional rehabilitation and employment
- beneficiaries of ordinary and Invalidity pensions with their place of residence within the territory of the Federation who realise that right from the foreign pension and Invalidity insurance body exclusively, if not determined otherwise by the international contract
- unemployed registered with the Unemployment Institute
- children of 15 years of age who have not completed their primary education, or who have not started working after the completion of the primary education, if they register with the Unemployment Institute within 30 days upon their fifteenth birthday or upon the school year termination
- persons who have lost their status of a pupil or a regular student or have ceased from the regular education, retain the right to health care for one year upon the day they ceased from education- if they register with Unemployment Institute within 30 days upon the day they have ceased from education and if they cannot realize their right to health care on any other basis
- persons with their place of residence within the Federation territory who have been recognized the status of a war
- peacetime or civil invalidity of war i.e. the status of the beneficiary of the family Invalidity allowance, in compliance with the positive regulations, if they are not insured on a different basis
- members of the Federation Army
- cantonal police officers
- those on vocational upgrading or postgraduate studies sent by the legal person
- persons who, prior to their employment with a legal person, have been sent by the said- as scholarship holders- for practical training or to another legal person for vocational training or upgrading
- persons sent abroad within the programs of educational, technical and cultural co-operation
- top sportsmen, if not insured on a different basis

In the Brčko District all personally insured are:

- workers
- farmers
- pensioners
- family members

There are no exemptions from compulsory insurance. The forms of health care and rights uncovered by the compulsory and supplementary health insurance, may be realised under the voluntary health insurance. The resources for the voluntary health insurance are provided by the citizens themselves, or through enterprises, institutions, or in some other way in which they decide to merge their resources for this form of insurance.

Eligible dependants of the insured beneficiaries are:

- spouse (wed or not, in compliance with the regulations on marriage and family relationships)
- children (legitimate, illegitimate, adopted or step-children) and other children without parents, if supported by insurant)
- parents (father, mother, step-father, step-mother, adopters, if supported by insurant)
- grandchildren, brothers, sisters, grandfather and grandmother if incapable to live and work independently, and if they do not have means to support themselves, therefore supported by insurant children (matrimonially, adopted and stepchildren)

- other family members if dependent upon insured person
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4. Risks and benefits

4.1. Old age

According to Annex 4 of the Dayton Peace Accord, which represents the Constitution of BiH, the system of pension and disability insurance is under the authority of entities. That means that each of the entities has its own separate regulations in the area of pension and disability insurance. The new Law on Ministries of BiH foresees a certain role of the state level, which will require some more precise definition in future.

In accordance with the new Law on the BiH Council of Ministers, the Ministry of Civil Affairs has certain jurisdiction with respect to coordination of the entity pension funds, as well as in resolving pension –related issues at the international law.

Compulsory pension and invalidity insurance based on employment and notions of mutuality and solidarity includes the rights in the cases of: old age, impairment and loss of work capacity and death of an insured person, so as to secure social safety to the insured people and members of their families. Funds are secured by insured people, employers and the budget of Republic of Srpska and cantonal budgets in Federation BiH. Contributions are paid in the same percentage regardless on amount of incomes. All insured persons are: employed, self-employed, farmers and persons in religious services. There are no exemptions from compulsory social insurance; minimum insurance period is 20 years.

A person who obtained a right to receive a pension can work, but in that case he/she loses the right to her old-age pension in full amount. There is no possibility for part – time work and receiving a pension.

Federation of Bosnia and Herzegovina

The Law on Pension and Disability Insurance, which took effect on July 30th 1998, is based on principles of reciprocity, solidarity between generations and obligatory pension and disability insurance. Citizens who do not have mandatory insurance can execute the entitlements from the area of pension and disability insurance only through voluntary insurance. According to this Law, certain entitlements of social character are no longer being executed (protective addition, pecuniary compensation for other person's assistance and care and pecuniary compensation for bodily damage). According to the Law on Contributions, the rate of contributions for pension and disability insurance amounts to 17% levied on the insured person and 7% levied on the employer, i.e. a total of 24% of net wages. The new F BiH Labor Law was passed in 2000.

In the F BiH conditions for drawing a full pension are 65 years of age and 40 years of working period, the legal retirement age for a standard pension is 65 years for all. In case of an early pension the legal retirement age is for men 60 years of age and 35 years of working period, for women 55 years of age and 30 years of working period.

The calculation method or calculation basis in the Federation BiH for an old-age pension is based on the average monthly salary which the socially insured person received in any consecutive 15 years of insurance, which are most favorable for the socially insured persons, beginning on January 1st, 1970. The salary achieved in the year in which the socially insured person acquires the right to the old-age pension is not taken into account for determining pension base. The salaries from the previous years are assessed according to the fluctuations of the average salaries of all employed persons in the Federation territory. The salary assessment from the previous years, which is used for determining is carried out according to the average salaries in the last calendar year, which proceeds the year in which the socially insured person acquired the right to the pension, or the pension fluctuations during the years when adjustments were not entirely executed according to the salary fluctuations of all employed persons.

The assessment coefficients from previous years is determined by the insurance carriers each year for all the wages on a uniform basis, according to the statistical information of wage fluctuations of all employed persons in the Federation territory.

The assessment coefficients are expressed as whole numbers, with three decimals. The assessments coefficients for each year are the same for all the wages regardless of their level.

The old-age pension is determined as a percentage of the pension base, according to the length of the service period: for 20 years of the pension service period, it is equal to 45% of the pension base, for each additional completed year, it is increased by 2% of the pension base, but cannot exceed 85% of the pension base. When the old-age pension, with all the additions, is being determined, it may not amount to more than the average wage paid in December of the previous year, multiplied by 2, and adjusted to the percentage of pension increase for the year in which the old-age pension is being determined.

In the Federation BiH holder of pension benefit pays 1,2% contribution for health insurance. The old age pension is adjusted every three months by a percentage up to the average wage growth in the year for which the adjustment is carried out, on the basis of the data of the Statistical Institute, and in accordance with the available resources of the insurance carrier. (Art. 51)

Republic of Srpska

In the RS, the Law on Pension and Disability Insurance establishes mandatory pension and disability insurance and determines the rights and responsibilities based on that insurance, as well as the options for persons who are not covered by mandatory insurance to get voluntary insurance. This Law, adopted on October 1st 2000, carried out the most important changes in the system of pension and disability insurance, i.e. eliminated the right to pecuniary compensation for bodily damage and pecuniary compensation for assistance and care of another person, made the conditions for acquiring the right to old age pension more strict, and stipulated that the determination of the pension base is executed in accordance with the average wage of the insured person.

Conditions for drawing a full pension are 65 years of age for men, 60 years for women and 40 years of working period for both. The legal retirement age for a standard pension is 65 years of age for men and 60 years for women. In case of an early pension there must be a minimum of 20 years of working period. Determining factors are duration of working period and the amount of previous earnings.

In the Republic of Srpska the calculation method or calculation basis is based on the average amount of net salaries of the insured person, that is the net basis for insurance, starting from January 1st 1970, until the day of realization of the right (the salaries and the insurance basis from 1992 – 1993 are not taken into consideration when determining the pension basis).

Salary = the average monthly net amount that a person receives in accordance with regulations and collective bargaining for full time work time, deducted by the amount of taxes and contributions.

Salary that is insurance basis from the year in which the insured person becomes eligible for pension is not taken into account for determination of pension basis.

Salaries are valorized in accordance with fluctuations of net salaries, and brought into the level of net salaries in the Republic of Srpska in the calendar year which is preceding the year in which insured person becomes eligible for pension.

Not-contributory periods credited or taken into consideration are in the case from absence from work, temporary inability to work, realizations of the remaining working capacity right and periods in military services. There is no supplement for dependants such as spouse and children and no special supplements.

In the Republic of Srpska is leveled with salary fluctuations on monthly basis: pensions will be decreased or increased in the amount of the percentage of decrease or increase of the average salary of the all employed people in the RS in the month preceding the month for which processing and payment of pensions is done, in accordance with the data determined and promulgated by the Bureau for Statistics (Art. 130)

In RS, there are more pensioners than insured persons – the ratio is 1:1,08. Because of that, even the extremely high contributions do not enable the payment of the average pensions which would be above 30%

of average income per inhabitant. The level of pensions in the RS is by one third lower than in F BiH, and the ratio between pensions and wages is 1:2. Regardless of that, the pension system in the RS is functioning only because of significant transfers from the entity budget, and it is still in a difficult position. In the early 2003, only pension payment coefficient of under 0,6 was achieved, so, due to poor collection of revenues, the pensions actually paid only 60% of the level of pensioners' entitlements.

Brčko District

In Brčko District both laws apply depending on employee's choice of location for contributions (either Republic of Srpska or Federation BiH).

4.2. Death

The compulsory social insurance system is financed by contributions from employers and employees and provides earnings related benefits linked to insurance period. Funds for pension and invalid insurance are secured by insured people, employers and the budget of Republic of Srpska and cantonal budgets in Federation BiH. The contributions are paid in the same percent regardless on amount of the incomes. In Brčko District both laws apply depending on location of the contributions.

The persons entitled to survivor's pension are the surviving spouse (the widow or the widower), the divorced spouse, if awarded the support right by the Court, children born within or out of the wedlock, adopted, stepchildren supported by the insured, grandchildren, and other children without parents who were supported by the insured until his death.

In Republic of Srpska the parents and stepfather and mother adopter of the insured person are also entitled. As a general condition for receiving survivor's pension, there are the requirements that apply in whole BiH:

- if on the day of death insured person fulfilled conditions for old-age or invalid pension rights
- if the deceased person was beneficiary of his/her own pension on the day he/she died
- none if death is a consequence of employment injury or occupational disease

The surviving spouse, a widow, is entitled if she is aged 45 or over, caring for children entitled to survivor's pension or if she is disabled. The widower is entitled in the case if he is aged 55 in Republic of Srpska and 60 in Federation of BiH, caring for children entitled to survivor's pension or if he is disabled.

In the case of remarriage, the widow aged less than 45 or widower less than 55 years in RS or 60 in F BiH will no longer be entitled to survivor's pension, unless totally incapable of work.

For surviving spouse the survivor's pension is defined according to the number of eligible family members, (including the spouse) and divided equally between all those entitled. The pension is based upon the general invalidity or old-age pension the deceased would have been entitled to at the time of death. The survivor's pension is calculated as a percentage of the pension to which the deceased would have been entitled, according to the number of eligible survivor's:

- one survivor: 70%
- two survivors: 80%
- three survivors: 90%
- four or more survivors: 100%

The children are entitled to survivor's pension are under the age of 15 years, for full – time students the age limit is 25 years and for disabled children there is no age limitation.

In Federation BiH other persons are not entitled. In Republic of Srpska there are the same conditions in terms of age, inability to live and work independently, as well as surviving spouse. If the average monthly income of a family household member in the year when the insured person died, did not exceed 25% of the average net salary in RS. Exceptions in the RS are if a mother and father were of a member of the Armed

Forces of who died while doing the national service between 17th August 1990 to 30th June 1996, will be entitled to family pension regardless of the family household income if they fulfill other criteria for family pension.

Protection of the disabled and family members of the killed

The data includes the beneficiaries of veterans' and invalids' protection who acquired these rights before the 1992 – 1995 war, i.e. on the basis of the participation in the 1941 – 1945 war of national defense.

There is a separate scheme for both categories (veterans and invalids) for the F BiH, RS and Brčko District.

Federation of Bosnia and Herzegovna

The fact that in F BiH, in practice, there are still two separate legal frameworks, which regulate the area of veteran's and invalid's protection in different ways, points to the necessity of adopting a unified Federal law on the rights of veterans and family members of killed soldiers, as soon as possible, which would provide adequate protection of the members of these categories of population, especially the most vulnerable ones, under the same conditions and in the same way, throughout the F BiH.

According to the proposals contained in the new law, the burden of funding veterans' and invalids' protection in the F BiH will be distributed, depending on the jurisdiction, between the Federal, cantonal and municipal budgets. Only the basic rights, i.e. the disability benefits (personal and family), would be financed from the F BiH Budget, while the additional rights would be financed from the cantonal budget (health care, professional rehabilitation, unemployment support, education, scholarships, exemptions from paying certain taxes, custom exemptions etc.).

According to the proposed new law, the rights to benefits of military disabled and families of killed soldiers need to be within the framework of realistic funding capacity of F BiH, and will be paid from the F BiH Budget, in keeping with the position of the IMF Mission for BiH. The provisions of the new law, it is expected, would not recognize the right to exceptional support payments.

There are two legal frameworks from the domain of veterans' and invalids' protection in F BiH: one is for the members of the F BiH Army and the other is for the members of HVO (Hrvatsko vijeće odbrane – Croat Council of Defense). There is a separate system of veterans' and invalids' protection functioning for the members of the HVO, which is based on the Law on Protection of Military Invalids and Families of Killed Soldiers.

In compliance with the existing regulations of F BiH, the right to personal and family disability benefit is, in the first instance, resolved by authorized municipality services. In the process of revision and in the process of deciding on appeals filed in regards to the first instance decisions, the Federal Ministry also decides on the right to extraordinary personal and family material benefit, in the first instance.

Republic of Srpska

Because of the inability to ensure resources for veterans' and invalids' protection over the amount envisaged by the RS budget, the Government of RS issued the Decree on Determination of Priorities in Payments Arising from the Law on Rights of Veterans, Military Invalids and Families of Killed Soldiers.

In compliance with this Decree, in 2001, resources were secured for funding the following rights:

- for military invalids: personal disability benefit, allowance for care and assistance, orthopedic allowance, contribution for health insurance, and subsidy for expenses for the purchase of orthopedic aids and for the costs of health care
- for family members of killed of missing soldiers – family disability benefit, family disability benefit supplement, family disability benefit complement, contributions for health insurance, subsidy for the costs of health care, while the subsidy for the cost for erecting gravestones for killed soldiers were paid subject to availability of funds.

In the RS, the forms and the scope of rights of veterans, military invalids and family members of killed

soldiers, as well as the conditions and the procedure for realization of these rights are stipulated by the Law on Rights of Veterans, Military Invalids and Families of Killed Soldiers.

In compliance with the existing regulations in RS, arising from the Law on Right of Veterans, Military Invalids and Families of Killed Soldiers and the Law on Protection of Civilian Victims of War, the first instance decisions are made by municipal administrative bodies. The decisions made in the first instance determine the level of military disability, the right to personal disability benefit, family assistance, orthopedic addition, health protection and the status of a veteran and the classification into the relevant category are subject to revision, which is conducted by the Ministry for Veterans' Issues, Victims of War and Labor.

4.3. Incapacity for work

The basic principles are based on social insurance philosophy linked to economic activity and payment of contributions. Only economically active persons are entitled to claim benefits.

A certificate from the General practitioner up to 30 days, beyond that certificate from the medical commission as a proof of incapacity is required. There are no qualifying and waiting periods. The benefits paid by employers are up to 120 days in Republic of Srpska, in the Federation BiH and Brčko District up to 42 days paid by employer, beyond that by Funds Insurance up to 1 year.

The amount of compensation is up to 80% of the last month salary and 100% if there was a work related injury. The duration of benefits is maximum 12 months. The death grant covers funeral costs and/or lump sum payment of 3 average monthly wage in entity.

The scheme for employment injuries and occupational diseases is based on compulsory pension and invalidity insurance and voluntary insurance. Only economically active persons are entitled to claim benefits. The contributions are paid in the same percent regardless on amount of the incomes. No distinctions are made between work related and non – work related incapacity, however those with work related incapacity are exempt from the condition relating to minimum qualifying periods.

In Brčko District both laws (F BiH or RS) apply depending on location of the contributions. A person, who has reached 15 years of age and is in good health, could be able to secure voluntary insurance. Full - time students and during the military service are not able to secure voluntary insurance. An injury at work is an injury to the socially insured person, caused by direct and brief mechanical, physical or chemical effect, by sudden changes in body position, sudden overexertion of the body, or other changes to the physiological state of the body, in such an injury is causally connected to performing the job. Generally, the travel between home and work is also included, such as:

- direct travel (regular route) from home to the place of work and or vice versa; work travel related to:
- the exercise of health care rights;
- to the exercise of the new or additional job training rights according to this law;
- in another job that he/she is executing in the interest of the firm and other legal entity, where he is employed;

There is no qualifying period for employment injuries and occupational diseases. The list of professional illnesses and jobs where those illnesses occur and criteria for their categorization as professional illnesses, is produced by the Ministry in charge according to consideration of professional and scientific organizations. The benefits are paid until the working capability is re-gained, or until the working capability or invalidity are finally certified, but not longer than 12 months. The salary compensation for the injury at work or occupational disease is 100% of net wage, calculated and paid from the own means of the legal/physical person with which the insurant is employed, for as long as he/she is incapable for work i.e. until the competent body decision on determining the insurant's invalidity takes effect, paid monthly. Fixing level of incapacity is as recommended by the Medical Expert Commission. There is a possibility for reviewing at a request of insured person or according to findings of the Medical Expert Commission. There are no supplements for dependants.

In Brčko District both laws apply depending on employee's choice of location for contributions (either Republic of Srpska or Federation BiH).

Invalidity category I: includes policy holders who experience loss of work capacity; Invalidity category II: includes policy holders with changed work capacity. The minimum level of incapacity for work is 20%, determined on the basis of findings, evaluation and opinions of professional agency. The period for which the cover is given is from the date of the onset of invalidity and there are no defined age limits. Minimum period of affiliation for entitlement is minimum 1 year of insurance.

Determining factors for the amount of benefits are:

- previous earnings
- period of employment
- degree of invalidity
- gender and the year in which the invalidity pension is realized (only in Republic of Srpska, Article 105)

The payments are made monthly, there are no supplements for a spouse or children. Invalidity pension may not be combined with other benefits and with other earnings.

The basic rights of the civilian victims of war, as specified under this law, and exercised at the level of F BiH, are the follows: personal disability pension, allowance care and assistance by another person, orthopedic allowance, family disability pension, and child allowance. In RS, the rights of the civilian victims of war have been regulated by the same law and in the way as the rights of disabled war veterans.

4.4. Unemployment

Labor ministries in both entities establish guidelines for the work of the employment agencies. As part of the traditional role of the employment agencies, the entity-level agencies provide cash payments to individuals as unemployment assistance, as well as payments to their healthcare and pension insurance schemes. Assistance in the form of cash payments is received only by those unemployed fulfilling certain criteria, most importantly that they were employed for a certain period of time and that their unemployment insurance was paid for them during this time.

In the area of active employment programs, the Federal Employment Bureau provides loans, while the RS Employment Bureau provides grants, as assistance to companies that submit programs for new jobs creation and organize or provide funding for the re-training of potential hires or continued education of employees. The Federation Employment Bureau is authorized to use its funds to assist cantons failing to collect sufficient contributions to fund cash assistance payments, as well as payments for health-care and pension insurance. Formally, the employment agencies are responsible for tracking/monitoring the situation in the labor market and have a brokerage role in finding employment. In practice, however, these activities are neglected.

The contributions in the Federation BiH are 0.5% from employers and 2% from employees. In Republic of Srpska and Brčko District the contributions from employees are 1%, after tax reduction. Main conditions, in both entities and Brčko District, are:

- involuntarily unemployed
- capable of working
- actively seeking employment
- registered as a person seeking employment
- does not perform any independent professional and economic activity
- is not a full-time student or a pensioner
- is 15 years and older

The insured person must have paid contributions for unemployment during period of minimum 8 months continually in the last 12 months or of minimum 8 months continually in the last 12 months or of minimum 8 months with interruptions in the last 18 months before unemployment. He/she is claimed to reach benefit max. 60 days after unemployment in F BiH, in the RS 30 days from the day of the employment relationship termination, unless he or she reports to the Employment Service after the expiry of such period in that case

the rights shall be derived from the day of reporting to the Employment Service. Cash benefit shall be determined depending on the number of unemployment insurance years and in relation to the rate of average salary earned in the past quarter and published by the Statistics Bureau. The waiting period is within 30 days after the claim being registered.

Determining factors are: involuntarily unemployed, duration of paying contributions, average monthly salary in the Canton / Republic of Srpska in past 3 months, registered in Unemployment Service. In the F BiH the benefits are not linked to the earnings, in the RS:

1. for the unemployed who has up to 10 years of insurance record – 35% of average salary earned by the unemployed in preceding three months of work
2. for the unemployment above 10 years of insurance record – 40% of average salary earned by the unemployed in preceding three months of work

The cash benefits could not be lower than 20% from average salary or higher than average salary.

In the Federation BiH the benefits are not linked to earnings, but linked to the average monthly salary in the Canton for past 3 months. The benefits are paid monthly. In Republic of Srpska the benefits are related to the earnings and they are paid monthly also. There are no family or other supplements. The minimum duration of the payment in RS is 3 months, in F BiH is 6 months. The maximum duration of the payment is 12 months.

In the Federation BiH:

- 6 months in the amount of 30% for the unemployment insurance period of 8 months to 10 years
- 9 months in the amount of 35% for the unemployment insurance period of 10 to 25 years
- 12 months in the amount of 40% for the unemployment insurance period over 25 years

In Republic of Srpska and Brčko District:

- 3 months for insurance service up to 5 years
- 6 months for insurance service of 5 to 15 years
- 9 months for insurance service of 15 to 25 years
- 12 months for insurance service over 25 years

If the unemployed person is employed, the benefit is suspended.

Departments of the Agency of Employment at the entity level got united on 1 April 2004, performed by the Sector for Expertise and Administrative Duties of the Government of Brčko District. The **Bureau for Employment** was established on 2 December 2005.

The Law on Employment and Rights During Unemployment was adapted and has been effective since 1 January 2005.

4.5. Health care

Under the BiH Constitution, the organization and management of the health care system in BiH are decentralized down to the level of the entities and Brčko District. In F BiH, the health care system is subject to a shared responsibility on the health authorities in the Federation and 10 cantons., in accordance with the F BiH Constitution.

The political commitment of Bosnia and Herzegovina is to establish “an uncompetitive region – based system of social health insurance”. Social health insurance implies a non-profit and public insurance system established by law and functioning under the auspices of the parliament and government. This system is not funded through general taxation, but through health insurance contributions. An uncompetitive system means the absence of competition among different social health insurance funds.

Entity / Canton / BD based means that 13 funds exist, so that citizens do not have the possibility to freely choose a health insurance fund, or the possibility to opt out of insurance, which is mandatory for all citizens.

In Republic of Srpska the funds for the health protection of the insured are secured by the Health Insurance Fund through contributions by the insured, payments by other contributors, and from other sources as determined by law.

In Federation BiH for compulsory health insurance funds are secured by the contributions based on which the compulsory health insurance funds are founded with the cantonal health insurance fund. For supplementary health insurance funds are provided from the additional contributions, in compliance with the cantonal regulations.

The above resources may be provided from other sources prescribed by the law and other regulations based on the law (taxes, donation, premiums, duties, cantonal and federal budget sources). For voluntary health insurance funds are provided by the citizens themselves, or through enterprises, institutions, or in some other way in which they decide to merge their resources for this form of insurance.

In Brčko District the funds for exercising the rights from compulsory health insurance are provided by contributions which constitute the Health Insurance Fund resources. Also, funds can be realized from the other sources provided by Law (taxes, merits, liabilities, funds from the District budget.) The funds for exercising the rights for extended health insurance are from additional contributions of the insureds, in accordance with this Law. For the voluntary health insurance by citizens themselves, or through enterprises, institutions, or in some other way in which they decide to merge this resources for insurance. The main costs are paid of medical treatment are paid by HIFs, with a small participation from the patient on the spot.

Beneficiaries in the Republic of Srpska are:

- employed (insured/worker)
- self-employed
- engaged in religious ministration
- farmers
- Veterans, Military War Invalidity and the members of Families of Fallen Soldiers
- those made redundant, though receiving compensation in accordance with the regulations on labor relations;
- unemployed, with secondary, post – secondary and higher education, while registered with the Bureau of Employment;
- mature students, while registered with the Bureau for Employment
- those receiving pensions and compensation related to retaining or skill upgrading, and employment, and securing such benefits in accordance with the regulations on pension and Invalidity benefits
- citizens of Republic of Srpska wholly or in part deriving pensions or Invalidity benefits from foreign insurers while residing in the Republic, when not otherwise regulated by international treaty
- regular recipient of financial assistance, or the institutionalised, if not otherwise insured
- refugees and displaced persons, if not otherwise insured
- foreign citizens receiving education in Republic of Srpska, when this is not otherwise regulated by international treaty
- others for whom health insurance contributions are made

Beneficiaries in the Federation BiH are:

- persons in working relationship with enterprises, institutions, associations and other forms of organisation
- persons in working relationship with a legal or physical person sent abroad to work or for the vocational

training, and persons working in the household of the insurants working abroad, provided they are citizens of the Federation BiH

- persons selected or nominated for performing permanent duties in certain bodies of state or judiciary government or administration in the F BiH or canton, if receiving salary for their work
- citizens of the Federation BiH employed with foreign or international organisations and institutions, consulate or diplomatic missions with their offices within the Federation
- persons with their place of residence within the Federation territory, working abroad, employed with the foreign employer, who do not have the health insurance of the foreign institution / body competent for the health insurance implementation
- persons who serve compulsory practice, after education completed, if they work full time
- self – employed
- farmers
- pensioners and beneficiaries of rights to professional rehabilitation and employment
- beneficiaries of ordinary and Invalidity pensions with their place of residence within the territory of the Federation who realize that right from the foreign pension and Invalidity insurance body exclusively, if not determined otherwise by the international contract
- unemployed registered with the Unemployment Institute
- children of 15 years of age who have not completed their primary education, or who have not started working after the completion of the primary education, if they register with the Unemployment Institute within 30 days upon their fifteenth birthday or upon the school year termination
- persons who have lost their status of a pupil or a regular student or have ceased from the regular education, retain the right to health care for one year upon the day they ceased from education- if they register with Unemployment Institute within 30 days upon the day they have ceased from education and if they cannot realize their right to health care on any other basis
- persons with their place of residence within the Federation territory who have been recognized the status of a war
- peacetime or civil invalidity of war i.e. the status of the beneficiary of the family Invalidity allowance, in compliance with the positive regulations, if they are not insured on a different basis
- members of the Federation Army
- cantonal police officers
- those on vocational upgrading or postgraduate studies sent by the legal person
- persons who, prior to their employment with a legal person, have been sent by the said- as scholarship holders- for practical training or to another legal person for vocational training or upgrading
- persons sent abroad within the programs of educational, technical and cultural co-operation
- top sportsmen, if not insured on a different basis

In the Brčko District all personally insured are:

- workers
- farmers
- pensioners
- family members

There are no exemptions from compulsory insurance. The forms of health care and rights uncovered by the compulsory and supplementary health insurance, may be realized under the voluntary health insurance. The resources for the voluntary health insurance are provided by the citizens themselves, or through enterprises, institutions, or in some other way in which they decide to merge their resources for this form of insurance.

Eligible dependants of the insured beneficiaries are:

- spouse (wed or not, in compliance with the regulations on marriage and family relationships)
- children (legitimate, illegitimate, adopted or step-children) and other children without parents, if supported by insurant)
- parents (father, mother, step-father, step-mother, adopters, if supported by insurant)
- grandchildren, brothers, sisters, grandfather and grandmother if incapable to live and work independently, and if they do not have means to support themselves, therefore supported by insurant children (matrimonially, adopted and stepchildren)
- other family members if dependent upon insured person

The duration period is during the illness. Health services for insured are offered only in public sector based on the certified health card they select Doctor in Primary Health care for the periods at least 1 year. The wage is fixed for doctors regardless of the number of services/patients. Hospitals are organised on regional and central level Health Insurance Fund's contract hospitals. Hospitals are funded through HIFs and patients participation. There is a free choice of doctor in Primary Health Care for the period of minimum 1 year. For the access to the specialists is required a referral from PHC doctor, or directly on own expenses. The payment of doctor is established on benefits in-kind system. Patient's participation in Republic of Srpska is for all health services, including hospitals, average participation is 10%.

Exemption or reduction of patient's participation is for:

- children up 15 of age
- women during pregnancy and up to 1 year after giving a birth
- over 65 of age recipients of certain benefits
- certain illnesses (diabetes, cancer, TBC, HIV /Aids, those on dialysis)
- blind people
- recipients of social benefits

Patients may only choose the hospital on the entity/canton where they are insured. In Republic of Srpska patients pay 10% for hotel costs + average 10% for medical services, in Brčko District up to 20% and in the Federation BiH varies according to canton laws, average up to 15%. The dental treatment is free for all holders of certified health card, the costs are paid by HIFs. Making of one dental prosthesis is free for all holders of certified health card with co-payments between 10 – 20%. Pharmaceutical products are covered by HIFs under the drugs definition on Essential Drugs List. The costs for prosthesis, spectacles and hearing aids are paid by the HIFs, with participation varies up to 20%. Other benefits are regular medical check-ups are provided for children and students, as well as for certain categories of profession and subsidised transport to and from med. Institutions for certain categories of medical treatment (e.g. dialysis, chemo and radiotherapy).

Long – term care is provided through the social protection legislation, grounded on the giving of social protection benefits and right is based on the need. Entity / Cantonal /BD organised are the amounts of benefits, censuses. The scheme on long – term care is financed from taxes and budget. Allowance for the assistance and care by another person could exercise invalids, persons impaired in their physical or mental development, elderly and inefficient persons with permanent changes in their health condition, who cannot procure sufficient sustenance to satisfy their existential needs. The home care includes food delivery, chare and other needed tasks and maintenance of personal hygiene of the beneficiary.

Institutions of social protection are taking care on persons in state of social need:

- persons with special needs
- children without parental care
- elder and exhausted people
- uncared children and neglected as regards their upbringing

4.6 Family benefits

In Republic of Srpska there is an universal system financed from contributions, donations, interests on fixed-ter deposits and other funds.

In Brčko District there is an universal system financed by the Budget of Brčko District by a flat rate benefit to all residents whose child(ren) reside(s) in Brčko District, should they fulfill conditions prescribed by law.

The beneficiaries in Brčko District and Republic of Srpska are the residents if they fulfill conditions prescribed by Law. The benefit is officially paid to the parent who submitted application.

Permanent residence of the child is required.

Other conditions in the Federation BiH are:

- number of family members
- employment status
- average earnings regulated on Cantonal level

In Republic of Srpska:

- employment status
- means test: monthly income per family member lower than 53,06KM

In Brčko District:

Means test – thresholds:

- if a total monthly income per a family member is not higher than 15% of average earnings in Brčko District
- if a cadastral income per a family member in the last year is not higher than 3% of average cadastral income per 1 ha of land

The age limit in the Federation BiH is:

- up to 18 years regularly
- up to 25 years if regular study (full-time study)

The age limit in Republic of Srpska is:

- up to 15 years regularly
- up to the 19 years (handicapped children and children in foster care)

In Brčko District:

- up to 15 years regularly
- up to 26 years if full-time student or handicapped

In the Federation BiH the basic amount of the family benefit does not vary with the age of the child or the income of the family, regulated on Cantonal level:

Example: Canton Sarajevo

- for one child if in regular working relationship = 28 KM
- for one child without both parents, handicapped child = 42 KM
- families with two children = 28 KM + 28 KM

In Brčko District the basic amount of the family benefit does not vary with the age of the child or the income of the family.

1. Child raising allowance: for 3 months in amount of 15% of average earnings in Brčko District
2. Child benefit in amount of 10% of average earnings in Brčko District. Regardless to proprietary conditions and income, right on increased child benefits (plus 50% on child benefits) belongs to child:
 - without both parents
 - with special necessities
 - who lives with one parent (self-supporting), and to
 - whose parent(s) is (are) invalid(s) over 60%

In Republic of Srpska the basic amount of the family benefit does not vary with the age of the child or the income of the family. The basic amount vary with child birth order:

- 1st child – no right
- 2nd child – 26,53 KM
- 3rd child – 56,85 KM
- 4th child – 26,53 KM
- 5th and more – has no right

Handicapped children and children in foster care receive basic amount of 56,85 KM (if not placed in social institutions)

Birth and adoption grants are different in both entities: in the Federation BiH there is one time payment made upon the birth or adoption of a child for the parents who are beneficiaries of child allowance. The amount varies between Cantons: from 199 KM to 100 KM.

In the Republic of Srpska there is one time benefit in kind – “baby package”

In Brčko District there is one time payment made upon the birth (not on adoption) of a child, apply to every born baby whose parents are resident of BD – amount of 25% of average earnings in BD, apply to every child – resident of BD, regardless to monthly earnings of the parents.

In both entities (Federation BiH and Republic of Srpska) there are no special provisions as an allowance for single parents. In Brčko District a single parent is entitled to the increased child benefits – 50% in relation to the basic child benefits. The special allowances for handicapped children are increased basic child benefits, the amount varies between Entities, Brčko District and Cantons.

In the Federation BiH the Centers for Social Work determine amount and conditions of the maintenance payments monthly, if not than the Court executes. In the Republic of Srpska it is maximum up to 50% of monthly income, in Brčko District the Court determines amount of the maintenance payments and executes decision on payments. Other allowances in F BiH depend on Cantonal decisions. In Republic of Srpska children placed in Social Protection Institutions have right for paid transport from Institution to home and back. In Brčko District the benefits are intended for accommodation in foster family – 150 KM per month. There is an entitlement on free transport of children to – from school for a distance of 3 and more km.

The basic principle on maternity is based on social insurance philosophy to economic activity, linked to taxes and contributions, budgets of Brčko District and of Republic of Srpska, Cantonal budgets in Federation BiH; a social insurance scheme financed by employer’s contributions that provides an earnings related benefit to all employees.

The cash benefits are provided to all employed women and the benefits in kind are an universal free health’s coverage related to pregnancy, child delivery and child nursing.

In the Federation BiH the cash benefits are paid for minimum 6 months (there are slight variations between cantons), 50 – 80% of salary (depending on financial capacity of cantons) for 1 year. In Republic of Srpska the benefits are paid for 12 months, 100% of salary up to 4 months, after that gradual reductions up to the 1 year.

The Law on Employment of Brčko District was changed on 1 January 2005. By the decision of the Mayor (01-014-001435/05) the maternity leave was extended to one year, instead of previous three months.

4.7. Need

The social protection and social need is the organized, financed and performed at Cantonal levels. Social need is considered to be a permanent or temporary situation of citizens or a family caused by war events, natural disasters, general economic crises, psycho – physical conditions of individuals or other reasons which cannot be eliminated without a support of community.

In the RS, social protection is regulated by the Law on Social Protection (RS OG 5/93, 15/96, 110/03), which regulates rights from the social protection, basic institutions of the social protection, financing of the social

protection activities. Social protection is an organized activity aimed at prevention and elimination of the causes and consequences of the condition of social need in all areas of social life. A person or family in situation of social need, needs assistance in order to overcome social difficulties and secure living necessities (Articles 1 and 2). Social protection is provided to persons who are unable to work, who do not have sufficient means for living and do not have relatives who are by law obliged and able to support beneficiary. The social protection serves persons who due to special circumstances are in need for social protection (Article 3).

The basic aim of the guaranteeing sufficient resources is to organise activities which are directed to restrain and resolve reasons and consequences of the status of social necessity as well as to provide assistance to the persons with such status.

Entitled persons (beneficiaries) are:

- residents
- disable for work
- without earnings
- without relatives obliged to support them

The duration of receiving social assistance is as long as the need persist. The beneficiaries must have a permanent residence in the country. There are no age limits in the Federation BiH and Republika Srpska, but in Brčko District the beneficiary has to be an adult.

5. Financing

In Bosnia and Herzegovina the social security system is financed from contributions, state/entity/district/cantons subsidies and other sources.

The compulsory social insurance system is financed by contributions from employers and employees and provides earnings related benefits linked to insurance period. Funds for pension and invalid insurance are secured by insured people, employers and the budget of Republic of Srpska and cantonal budgets in Federation BiH. The contributions are paid in the same percent regardless on amount of the incomes. In Brčko District both laws applies depending on location of the contributions.

The resources for financing the rights under the compulsory social security shall be provided from:

1. contributions from the salaries of workers employed with legal persons and entrepreneurs;
2. contributions of natural persons, owners – founders of legal persons and entrepreneurs;
3. contributions on pensions; disability pensions and other benefits from pension and disability insurance;
4. contributions for unemployed persons registred with the competent employment bureau;
5. contributions paid on permanent financial assistance and for the persons accommodated in social welfare institutions;
6. contributions from incomes in the show business, records, audio and video tapes publishing, tickets for sport events and other public performances;
7. contributions on incomes from copyrights, patents and technical improvements;
8. contributions on income from agriculture, or other incomes realized by engaging in agriculture as well as contributions on agricultural land lease;
9. compensations for health care of the family members of the insureds employed abroad and persons receiving pensions from abroad;
10. funds from the Brcko District budget, Federation of BiH, Republic of Srpska and BiH
11. individual participation of the insured persons in covering the health care costs;
12. donations, aid, interests, dividends, fees, and other types of incomes;
13. tax on alcohol and tobacco products

Neither of the entities has social protection benefits financed or supported from the entity budget, which is unsustainable. Pensions and health insurance are covered from the contributions, social assistance is covered out of budget. The Law on Distribution of Public Revenues and Financing of F BiH defines distribution of public

revenues between F BiH and the cantons. A significant part of revenues was ceded to the cantons. By their own regulations, the cantons are determining the type and the level of revenues they are giving to municipalities. Social protection is financed in the same way.

In case of an unemployment, the contributions are paid in the same percent regardless on amount of the incomes. A social insurance scheme in case of unemployment is financed by contributions of employers and employees that provide an earnings-related benefit, payment of contributions for health insurance and pension.

Employment agencies and their activities are financed through wage contributions paid by employers and employees. The rates and formal titles of these contributions are significantly different between the entities. In the RS, the rate of contribution is 1% of net wage and is called an employment contribution. This rate is also assessed against all benefits arising from employment (hot meal, vacation subsidy, holiday bonuses, so called "thirteenth salary" etc.). In the F BiH, the contribution rate is officially 2.5% and it is called an unemployment insurance contribution.

The benefits are paid only for employees and only for duration of sick-leave (employer bears costs for treatment of occupational accident and professional diseases, from first to last day of treatment). The beneficiaries are all employed persons and there are no exemptions from the compulsory insurance.

In Republic of Srpska there is no taxation for social security contributions from benefits, in Federation BiH and Brčko District the taxation of contributions are paid the same way as wages.

In the Federation BiH holder of pension benefit pays 1,2% contribution for health insurance. The old age pension is adjusted every three months by a percentage up to the average wage growth in the year for which the adjustment is carried out, on the basis of the data of the Statistical Institute, and in accordance with the available resources of the insurance carrier. (Art. 51)

A social insurance scheme in case of invalidity is financed by employer's contributions which provide an earning related benefit to all employed person. No distinction is made between the work related and non-work related incapacity, however those with work related incapacity are exempt from the condition relating to minimum qualifying periods. Insured persons are: employed, self – employed, farmers and persons in religious services. There are no exemptions from compulsory social insurance.

The basic principle on maternity is based on social insurance philosophy to economic activity, linked to taxes and contributions, budgets of Brčko District and of Republic of Srpska, Cantonal budgets in Federation BiH; a social insurance scheme financed by employer's contributions that provides an earnings related benefit to all employees.

In Republic of Srpska there is an universal system financed from contributions, donations, interests on fixed-term deposits and other funds. In Brčko District there is an universal system financed by the Budget of Brčko District by a flat rate benefit to all residents whose child(ren) reside(s) in Brčko District, should they fulfill conditions prescribed by law. The beneficiaries in Brčko District and Republic of Srpska are the residents if they fulfill conditions prescribed by Law. The benefit is officially paid to the parent who submitted application. Permanent residence of the child is required.

In the Federation BiH the basic principles for family benefits are based on a philosophy of social insurance (entitlement linked to economic activity and/or payment of contributions), financed from contributions of employers and or/employees, tax financed, budget. Economically active persons and their families are entitled to claim if fulfill conditions prescribed by law. The contributions are paid in fixed rate. The beneficiaries are employed parents, child without parent(s), families with handicapped child.

In Republic of Srpska the funds for the health protection of the insured are secured by the Health Insurance Fund through contributions by the insured, payments by other contributors, and from other sources as determined by law.

In Federation BiH for compulsory health insurance funds are secured by the contributions based on which the compulsory health insurance funds are founded with the cantonal health insurance fund. For supplementary health insurance funds are provided from the additional contributions, in compliance with the cantonal regulations.

The above resources may be provided from other sources prescribed by the law and other regulations based on the law (taxes, donation, premiums, duties, cantonal and federal budget sources). For voluntary health insurance funds are provided by the citizens themselves, or through enterprises, institutions, or in some other way in which they decide to merge their resources for this form of insurance.

In Brčko District the funds for exercising the rights from compulsory health insurance are provided by contributions which constitute the Health Insurance Fund resources. Also, funds can be realized from the other sources provided by Law (taxes, merits, liabilities, funds from the District budget.) The funds for exercising the rights for extended health insurance are from additional contributions of the insureds, in accordance with this Law. For the voluntary health insurance by citizens themselves, or through enterprises, institutions, or in some other way in which they decide to merge this resources for insurance.

The main costs of medical treatment are paid by HIFs, with a small participation from the patient on the spot.

6. Judicial review

Against the decision of authority in compulsory health insurance can appeal competent cantonal (Cantonal Court) institution, and against second decision this Court can take proceeding administration dispute to Supreme Court. After that decision of Supreme Court, he/she can appeal to the Constitutional Court of Federation of Bosnia and Herzegovina or Constitutional Court of Bosnia and Herzegovina, for infringe this/her Human Rights on the basis of Convention of Human Rights, 30 days after decision of Supreme Court.

Regarding unemployment benefits, which decisions brings the Service for Employment, a person can appeal after first decision to competent institution for work and employment (in F BiH in the Cantonal Institution for Work and Employment). After that is the same situation like appeal to compulsory health insurance.

Against the decision of authority in Social and Child protection can appeal to competent service for administration in municipality or entity level (Cantonal level in F BiH). In Republic of Srpska he/she can appeal first to the First Degree Court than to Second Degree Court and after decision of that court he/she can appeal administration dispute on Supreme Court of Republic of Srpska, after decision of that court he/she can appeal to Constitutional Court of Republic of Srpska or Constitutional Court of Bosnia and Herzegovina for infringe his/her Human Rights.