**GUIDING QUESTIONS FOR THE FOCUS AREAS OF THE X SESSION OF THE OPEN-ENDED WORKING GROUP ON AGEING:**

**Social protection and social security (including social protection floors)**

**National legal framework**

1. What are the legal provisions in your country that recognizes the right to social security and social protection, including non-contributory and contributory old-age benefits? Do they have a constitutional, legislative or executive foundation?

These rights are protected by the Constitution of the Republic of Serbia as well as by several specific laws: The Law on Amendments to the Law on Retirement and Disability Insurance (which came into force on 1st January 2011), The Law on Pension and Disability Insurance, The Law on Paying Contribution for Pension and Disability Pension for Certain Categories of Insured persons – Employees as well as several bylaws.

National Pension Fund

National Pension Fund manages the following payments: pensions, disability payments, survivors’ payments, health insurance (12.3% of gross pensions) and reimbursements of funeral costs and rehabilitation expenses.

According to the applicable legislation, in order to be eligible for old-age pension, an insured person should, simultaneously, meet the conditions regarding:

- The age, and

- The length of insurance coverage.[[1]](#footnote-1)

An insured person is eligible for old-age pension when:

− turning 65 (men), or 60 (women) and having the length of insurance coverage of at least 15 years, or

− having the length of insurance coverage of 40 years (men) and 38 years (women) and turning at least 58, or

− having the length of insurance coverage of 45 years (both men and women), regardless of the years of age.[[2]](#footnote-2)

This set of rules is to start its full enforcement as of 2023, since the law stipulates a transitory period during which the changed conditions are to be enforced gradually.

 Voluntary pension insurance

The bylaws related to the National Bank of Serbia that regulate the implementation of the Law on Voluntary Pension Funds came into force in April 2006, while the current Law on Voluntary Pension Funds and Pension Plans has been adopted in 2005 and amended in 2011. [[3]](#footnote-3)

**Availability**

1. What steps have been taken to guarantee universal coverage, ensuring that every older person has access to social security and social protection schemes including non-contributory, contributory and survivor old-age pensions, to ensure an adequate, standard of living in older age?

There are two pension schemes in Serbia. The main one is a statutory pension – pay as you go system – and all persons engaged in standard or non-standard employment as well as unemployed persons who receive unemployment benefits are legally obliged to pay pension insurance contributions. According to the 2011 national census data, the coverage of older people with pensions is 84%. Therefore, 16% of the population over the age limit (65 for men, 60 for women) has no pension income. As for the gender structure of the older population without this kind of income, it is obvious that women are much more exposed: more than 85% of this population are women.

As for the type of pensions, the august 2017 distribution was as follows: 61.9% old-age pensions, 17.5% disability pensions, and 20.6% survivors’ pensions.

The other pension scheme is voluntary pension insurance but this is still quite underdeveloped, with proportionally much lower coverage: in June 2017 9.4% of all employed persons were beneficiaries of voluntary pension funds.[[4]](#footnote-4)

The national budget of the republic of Serbia provided 40% of the national Pension Fund’s total revenues in 2013 but in 2017 this share was reduced by 10 percentage points, and a further decrease of 3.6 percentage points was agreed in the 2018 Financial Plan. Likewise, the pension expenditure as a share of Serbian GDP has been on the decline. In 2009 it was at 13.4% and in 2016 if fell to 11.6%.[[5]](#footnote-5)

At the moment the pension coverage in Serbia is relatively high. However, the question is what happens in the future, taking into consideration that less than 50% of the population between the ages of 20 and 65 is covered by pension insurance.

The effects of such current situation in the labour market will become visible in the pension system within 15-20 years’ time and they will result in very low pensions, large proportion of pensioners with minimal pensions and a significant number of those who can not qualify for pension. This also means that the expenditure for pensions in the insurance funds will decrease and it can also be expected that the significance of social pensions will increase in comparison with the current generation of older people.

1. What steps have been taken to ensure that every older person has access to social security and social protection schemes which guarantee them access to adequate and affordable health and care and support services for independent living in older age?

Older people are entitled to additional social services and benefits. According to the Law on Healthcare, persons aged 65 or over are exempted from payments for healthcare services from state-owned providers of healthcare. Pensioners with pension equal to or lower than the average are entitled, once every five years, to receive funding from the national Pension Fund for a ten-day stay in a rehabilitation center, or at the state-owned health spa.

Many municipal administrations provide additional social services for older people such as subsidized home day-care assistance; subsidized city bus fares; free use of recreational facilities; funding for ‘pensioner’s clubs’, which organize social events, educational workshops, and provide subsidized procurement of food items.[[6]](#footnote-6)

**Adequacy**

1. What steps have been taken to ensure the levels of social security and social protection payments are adequate for older persons to have access to an adequate standard of living, including adequate access to health care and social assistance?

In August 2017 61.1% of PPS pensioners, received pensions below €210.7 per month; 29% of pensioners received pensions below €126.5, while 18.6% received the guaranteed minimum of €115.7 (€90.7 for farmers).

As a comparison, the same month the cost of the average minimum consumer basket was €304.7 per month (for a three-member household), but with a large disparity between municipalities. For instance in the municipality Leskovac in the southern part of the country it was €268 while in Belgrade, the capital of Serbia it was €541. Therefore, it is obvious that almost one-third of pensioners had income below the standard adequate for living. Of course, due to the highest prices, the most affected were pensioners living in Belgrade (23% of all pensioners). [[7]](#footnote-7)

Also in 2017 the threshold to qualify for financial social assistance (FSA) was €68.9 for a single-person household and €103.3 for two adults; so the pensioners with the guaranteed minimum pension were not eligible for FSA despite the inadequate income level. [[8]](#footnote-8)

Additionally, the real value of pensions has been on the decline over the past ten years: the ratio of the average pension to the net average wage decreased from 0.624 in 2009 to 0.51 in 2016.[[9]](#footnote-9)

Almost 50% of the pensioners receiving minimum pensions worked for only 20 years and more than 85% of the pensioners receiving minimum pensions worked for 25 years or less. Therefore, in the majority of cases, the minimal pension is not a consequence of low salaries during the years of service, but of the low number of the years of service. [[10]](#footnote-10)

**Accessibility**

1. What steps have been taken to ensure older persons have adequate and accessible information on available social security and social protection schemes and how to claim their entitlements?

The share of older people among the beneficiaries of financial social assistance (FSA) is small: they make only for 4.6% of this population which is almost four times lower than their participation in the overall population (17.4%).[[11]](#footnote-11)

Among older people two of the most probable barriers to accessing financial social assistance are property over a piece of land larger than one hectare and/ or lower level of information and knowledge. Previous research has shown that a combination of a large number of conditions to fulfill leads to a lower number of potential beneficiaries of FSA. [[12]](#footnote-12)

As for land property, the criterion is oversimplified: there is no accounting for the market value of the land and the only decisive value is its size. Therefore, owning a piece of land with very low market value effectively bars the access to financial social assistance.

Arguably, even more important barrier than owning a piece of land is lack of knowledge in the household that the land can be mortgaged and that this can be a way to qualify for FSA: according to research, 94% of the interviewed population was unaware of this option. Not having information about the existence of FSA programmes and complexity of procedures for applying are both barriers for a significant number of poorer people.

There are also legal stipulations that obligate family members to provide care and support for their relatives unable to provide for themselves, even when they do not share the household. However, this creates another barrier for older people looking to apply for financial social support. The Law on Social Protection demands that a person applying for FSA submits proof that she or he has sued their relative for sustenance support in order to qualify for FSA. For older people this creates multiple problems. The first of them has to do with the general unwillingness of older people to sue their family members, especially in cases when they may be formally obliged to provide them with sustenance support but in reality not having this capacity (e.g. being formally employed but having irregular income). The second is that many older people, even if they consider going to court, end up discouraged due to often long and complex judicial process that they can not navigate without professional legal assistance, and the related expenses. These two factors significantly decrease the probability of an older person applying for financial social assistance.

According to the research done by magazine Blic in 2018, there are approximately 10,000 people over 65 in Serbia who receive financial social assistance every month. The amount of this assistance is 9,939 Serbian dinars (approximately 84 Euro) per month for a single older household, while the poverty line in Serbia was in 2016 defined at personal income of 15,416 Serbian dinars (approximately 130 Euro) per month. At the same time, approximately 105,000 pensioners receive pensions lower than 10,000 Serbian dinars (approximately 84 Euro) and another 371,000 receive pensions between 10,000 and 15,000 Serbian dinars (84 and 127 Euro respectively) meaning that 476,000 out of Serbia’s 1,714,634 pensioners receive pension below the poverty line threshold. [[13]](#footnote-13)

1. The design and implementation of normative and political framework related to social security and social protection benefits included an effective and meaningful participation of older persons?

Currently in Serbia there is a public discussion on the amendments to the Law on Social Protection. Representatives of the Red Cross of Serbia as well as the Commissioner for Protection of Equality participate in this discussion alongside the members of HumanaS Network of civil society organizations where older people have their representatives, with a view to ensuring better and more equitable access to social security measures for older people. In the current version of the legislation, older people in rural areas are especially affected by the land census that stipulates that a person owning a piece of land larger than one hectare can not apply for financial social assistance. As explained above, this is an oversimplified criterion that does not take into account market value of the land and treats equally those whose land is arable and can in fact create income and those whose property is essentially worthless in the current market. The current efforts of the civil society, including the representatives of organizations of older people is towards amending the Law so that it recognizes the market value of the land and its potential to create income for the owner in the process of deciding on application for FSA.

**Equality and non-discrimination**

1. Which are the measures adopted to ensure equitable access by older persons to social security and social protection, paying special attention to groups in vulnerable situation?

The existing legislation does in fact differentiate between older persons in relation to different living conditions and situation. For example, a guaranteed minimum amount is established for old-age and disability pensions. The minimum amount, for beneficiaries from the employed and self-employed categories, is 27% of the national average net wage for the previous year, while for farmers it is determined as a lump sum. Pensioners whose pensions fall below the minimum are entitled to receive the guaranteed minimum pension. [[14]](#footnote-14)

Survivors’ pensions are payable provided that at least five years of pension insurance have been achieved, or that the conditions for old-age, early or disability retirement have been met, or that the deceased person was a pensioner. In cases where the insured person died due to work-related conditions/injuries, family members are entitled to a survivors’ pension regardless of the number of years of insurance. Family members who are entitled to a survivors’ pension are: children, spouses, parents, and other dependent relatives. [[15]](#footnote-15)

On the other hand, there are still obvious instances of the criteria still being oversimplified and not taking into account important factors related to living conditions and accessibility of services. An example is the form of financial social assistance provided to people in need of physical assistance of another person (with daily life activities etc.). The applications are handled by the national Pension Fund (overwhelming majority of beneficiaries of this form of assistance are older people) and there are approximately 76,000 beneficiaries of this financial assistance at the moment. However, the amount of assistance is a flat rate of 17,164 Serbian dinars (approximately 145 Euro) per month regardless of any other form of income that the beneficiary might be receiving and without taking into account the availability of services that should be paid with these funds in the given community. [[16]](#footnote-16)

Similarly, since the threshold for qualifying for financial social assistance for two adults living together is 103.3 Euro, if one of them receives minimum guaranteed pension of 115.7 Euro, this disqualifies them from applying even if the other person has no income whatsoever, which in practice discriminates those with the lowest income by penalizing them for living together. [[17]](#footnote-17)

**Accountability**

1. What mechanisms are in place to ensure social security and social protection schemes are effective and accountable?

Older people have their representative in the national Pension Fund Governing Board. Out of the seven Board members, four represent the Government of the Republic Serbia, one represents the Serbian Association of Employers, one represents the Association of Independent Trade Unions (that includes the Pensioners’ Union) and one is the representative of the Pensioner Association of Serbia, representing older people directly. In the current setup of the Board, the Government has decisive influence on all the decisions. The Governing Board reports to the Ministry of Labour, Employment, Veteran and Social Affairs on the number of registered beneficiaries, and submits annual reports to the Government every April 30th, detailing the business and management over the past 12 months. [[18]](#footnote-18)

In an effort to encourage voluntary pension funds the Government of Serbia introduced tax breaks for contributions to voluntary pension funds and have increased the ceiling for the untaxable contributions in February 2018 to approximately 48.6 Euro per month. Thus, every amount below this threshold paid into voluntary pension funds is exempt of taxes and mandatory contributions to social security fund.

In September 2018 the Serbian National Assembly adopted the changes to the Law on Pension and Disability Insurance which brought several changes impacting the way pensions are paid. Arguably, the most important is that the austerity measures, introduced in 2014 have been canceled through abolition of the Law on Temporary Regulation of Pension Payments. Thus, for all pensions that have been reduced since introduction of the Law on Temporary Regulation of Pension Payments in 2014 (all pensions higher than 210 Euro per month) the reductions were annulled. [[19]](#footnote-19)

One of the changes introduced impact the process of harmonizing the amounts paid through pensions with the increase of the cost of living. The current version of the Law stipulates that pensions will be harmonized through legislation regulating the national budget, until the financial sustainability of the pension and disability insurance system is reached. In practice this does not provide sufficient clarity on how and when the pensions will be increased to follow the increased cost of living.

Other measures taken by the government over the past period address the disproportionally high ratio of disability pensions in the structure of the overall pensions paid from the national Pension Fund. This issue is addressed through refining the criteria for qualifying for disability pension and reviewing the decisions made in the past years to determine if the criteria has been met.

The measures have to also be taken to address some of the burning structural problems of the national Pension Fund in order to increase its effectiveness, such as the low number of employed persons contributing to the Fund in relation to the current number of pensioners. At the moment the Government strives to increase the number of contributions to the fund through increasing the employment rate and addressing the grey economy sector where formally employed persons do not pay proportionally adequate contributions to the Fund.

1. What judicial and non-judicial mechanisms are in place for older persons to complain and seek redress for denial of their right to social security and social protection?

The Law on Pension and Disability Insurance and the Law on Social Protection both stipulate the possibility to appeal the received first degree decision (related to, for example rejection of the application for financial social assistance) through a formal complaint within the 15 days of the decision. This is in line with the general stipulations of the umbrella Law on General Administrative Procedure that regulates such processes. However, even if the complaint is rejected it is further possible to initiate administrative dispute at the applicable court of law.[[20]](#footnote-20)

1. The Law on Pension and Disability Insurance of the Republic of Serbia: https://www.zavodsz.gov.rs/PDF/zakoni/Zakon%20o%20penzijskom%20i%20invalidskom%20osiguranju.pdf [↑](#footnote-ref-1)
2. Ibid. [↑](#footnote-ref-2)
3. https://www.nbs.rs/internet/latinica/20/zakoni/dpf\_dpfondovi.pdf [↑](#footnote-ref-3)
4. National Bank Serbia (2017), Report for the second quarter 2017, on the sector of the voluntary pension insurance funds. [↑](#footnote-ref-4)
5. http://pio.rs/images/dokumenta/statistike/Finansijskiplan/2018/Finansijski%20%20plan%202018.pdf [↑](#footnote-ref-5)
6. http://www.vladars.net/sr-SP-Cyrl/Vlada/Ministarstva/MZSZ/Documents/%D0%97%D0%B0%D0%BA%D0%BE%D0%BD\_%D0%BE\_%D0%B7%D0%B4%D1%80%D0%B0%D0%B2%D1%81%D1%82%D0%B2%D0%B5%D0%BD%D0%BE%D1%98\_%D0%B7%D0%B0%D1%88%D1%82%D0%B8%D1%82%D0%B8\_106\_09.pdf [↑](#footnote-ref-6)
7. National Bank Serbia (2017), Report for the second quarter 2017, on the sector of the voluntary pension insurance funds [↑](#footnote-ref-7)
8. RS Official Gazette, 39/2017 [↑](#footnote-ref-8)
9. PIO Fund (2017) Annual Bulletin, 2016 [↑](#footnote-ref-9)
10. Ibid. [↑](#footnote-ref-10)
11. Social Protection in Old Age: Long-Term Care and Social Pensions, G. Matkovic, K. Stanic, Social Inclusion and Poverty Reduction Unit, Government of the Republic of Serbia, Belgrade, 2014 [↑](#footnote-ref-11)
12. Law on Social protection: https://www.minrzs.gov.rs/sites/default/files/2018-11/Zakon%20o%20socijalnoj%20zastiti.pdf [↑](#footnote-ref-12)
13. https://www.blic.rs/vesti/drustvo/veliko-istrazivanje-blica-ako-zivite-u-srbiji-ova-nesrecna-sudbina-ceka-mnoge-od-vas/v97mzr1 [↑](#footnote-ref-13)
14. Law on Pension and Disability Insurance: https://www.zavodsz.gov.rs/PDF/zakoni/Zakon%20o%20penzijskom%20i%20invalidskom%20osiguranju.pdf [↑](#footnote-ref-14)
15. Ibid. [↑](#footnote-ref-15)
16. http://www.pio.rs/lat/novcane-naknade.html [↑](#footnote-ref-16)
17. Social Protection in Old Age: Long-Term Care and Social Pensions, G. Matkovic, K. Stanic, Social Inclusion and Poverty Reduction Unit, Government of the Republic of Serbia, Belgrade, 2014: <http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2014/06/sipru_DTNSC_web_jan.pdf> [↑](#footnote-ref-17)
18. https://www.pio.rs/cir/o-nama-rfpio/organi-upravljanja.html [↑](#footnote-ref-18)
19. http://www.parlament.gov.rs/upload/archive/files/lat/pdf/predlozi\_zakona/2018/2789-18%20-%20Lat..pdf [↑](#footnote-ref-19)
20. <http://www.zso.gov.rs/doc/dom-p/pio/Zakon%20o%20penzijskom%20i%20invalidskom%20osiguranju%2005092011.pdf>, <https://www.minrzs.gov.rs/sites/default/files/2018-11/Zakon%20o%20socijalnoj%20zastiti.pdf> [↑](#footnote-ref-20)