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PERMANENT MISSION OF MONTENEGRO TO THE UNITED NATIONS OFFICE AND OTHER INTERNATIONAL ORGANIZATIONS IN GENEVA  
Rue de Lausanne 147, 1202 Geneva

No: 25/OHCHR

The Permanent Mission of Montenegro to the United Nations Office and other International Organizations in Geneva presents its compliments to the United Nations High Commissioner for Human Rights and, concerning its letter Ref. Poverty 2009 ER, has the honour to convey the reply to the questionnaire of the competent Montenegrin authorities.

The Permanent Mission of Montenegro to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the United Nations High Commissioner for Human Rights the assurances of its highest consideration.



15 January, 2010

United Nations High Commissioner for Human Rights  
GENEVA

OHCHR REGISTRY

18 JAN. 2010

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**Questionnaire:****(I) The legal and institutional framework****1. Provide details of the legal framework by which the programme(s) is established:**

**(a) Please indicate the retirement age / eligibility age for the pension and if it takes into account the nature of the occupation (e.g. formal or informal employment) of the potential beneficiaries.**

**(b) Are there any restrictions, including a qualification period for receiving the pension?**

**(c) Please indicate whether it is a contributory or non-contributory programme.**

**(a) Answer:**

According to the Law on Pension and Disability Insurance («Official Gazette of Montenegro», no.54/03, 39/04, 79/04 and 47/07 and «Official Gazette of Montenegro», no. 79/08), the right to old age pension is acquired by an insured person upon reaching 65 (men) i.e. 60 (women) years of age and at least 15 years of pension record, or upon 40 (men) i.e. 35 (women) years of insurance record and at least 55 years of age. However, the mentioned conditions for acquiring the right to old-age pension will be fully applied from 1 January 2013, until when it is stipulated that the existing age limit will be gradually increased and the necessary pension record for acquiring the right to old-age pension will be reduced. Starting from 1 January 2004, in each calendar year, the previously determined age limit for acquiring the right to old-age pension (60 for men i.e. 55 years for women) is raised by six months each calendar year, while the necessary pension record is reduced by six months.

It is also envisaged to gradually raise the age limit as a condition for acquiring the right to old-age pension on the basis of completion of the insurance record of 40 years for men i.e. 35 years for women from 50 years of age to 55 years of age each calendar year, by six months, ending in 2013.

**(b) Answer:**

According to the provisions of Article 17 of the Law on Pension and Disability Insurance the right to old age pension is acquired by an insured person upon reaching 65 (men) i.e. 60 (women) years of age and at least 15 years of pension record (paragraph 1), or upon 40 (men) i.e. 35 (women) years of insurance record and at least 55 years of age (paragraph 2). Therefore, the right to old age pension is acquired by the insured person who cumulatively meets the requirements in terms of reached years of age and length of pension record, i.e. insurance record. Reached years of age and years of insurance record, as a condition for acquiring the right to old age pension, defined as the lower limit or minimum that must be fulfilled in every concrete case. The right to old age pension, as the fulfillment of the conditions of reached 65 (men), i.e. 60 (women) years of age and at least 15 years of pension record, it was established in order to protect older insured persons with lower insurance record in line with the provisions of Convention 102 of the International Labor Organization on minimum social security standards. Namely, in the Article 29 paragraph 2 of the Convention is stipulated that «the protected person who before the occurrence of insured cases reached, in line with prescribed rules, qualified period of 15 years of contribution payment or employment» provide benefits for the old age that must have the form of monthly payments.



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**(c) Answer:**

Mandatory pension and disability insurance on the basis of current financing covers the working population (the insured employed persons, insured persons engaged in individual business activity, and insured farmers), which is in line with the Convention 102 of the International Labour Organisation on minimum social security standards. This means that all that work and generate revenue, according to the principle of binding allocated, through contributions for pension and disability insurance, pension funds for financing the current user. The funds for pension and disability insurance on the basis of current financing are provided from the contributions paid by the insured persons and employers. In special cases and under the conditions stipulated by law, the funds for pension and disability insurance are provided by the state i.e. other payers. Consequently, pension and disability insurance based on the current financing is financed from contributions, the state budget and other sources, in accordance with the Law of Pension and Disability Insurance, and funds collected on that basis perform the income for Fund of Pension and Disability Insurance of Montenegro.

Contributions for the pension and disability insurance are:

- contributions of the insured persons;
- contributions of employers;
- additional contributions for insurance record calculated at an accelerated rate;
- contributions of other contribution payers determined by this law;
- contributions i.e. funds in the case of employment injury and occupational disease.

The state budget provided the funds for pensions, which are realized under more favorable conditions as well as distinction in the part between the funds collected under the contribution and the missing funds for pensions payment.

**2. In the event that the programme is not established by law, please provide details of the administrative regulations or other relevant programmatic documents available that are at the origin of its implementation.**

**Answer:**

The rights of compulsory pension and disability insurance on the basis of current financing are stipulated by the Law on Pension and Disability Insurance, specifically:

- in the event of old age, right to old age pension;
- in the event of disability, right to disability pension;
- in the event of death:
  - right to survivors' pension;
  - right to coverage of funeral expenses;
- in the event of bodily injury caused by employment injury or occupational disease, right to compensation for bodily injury.

These rights are acquired under the same conditions for all three types of insured persons (employed insured persons, self-employed insured persons, and insured farmers) with the exception that the law stipulates that certain categories of insured persons are entitled to old age and disability pension under special - more favorable conditions.

**3. Please describe the institutional framework used to implement the programmes:**



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**(a) Please indicate which governmental authorities, structures and mechanisms, including those at the federal, state / provincial, municipal and local level were involved in the design, implementation and monitoring of the programme(s).**

**(b) Were civil society organizations involved in the elaboration of the legal framework, the implementation and monitoring of the programme(s)? If yes, please describe their role.**

**(a) Answer:**

The body responsible for the application of regulations in the area of pension and disability insurance is the Fund of Pension and Disability Insurance, which is organized in all communities at the state territory in the nine regional departments. The Ministry of Labour and Social Welfare is the body of public administration, which creates a pension policy, proposes laws and by-laws, supervise and decide on appeals in the second instance and perform audit on the decision of the Fund.

Within the mandatory pension and disability insurance on the basis of current financing exist more types of supervision, as follows:

According to the Law on Pension and Disability Insurance supervision over the implementation of this law perform public administrative body in charge of pension and disability insurance (Ministry of Labour and Social Welfare) in accordance with the special law. Supervision over the legality and expediency of work in the Fund also perform the Ministry of Labour and Social Welfare, in accordance with the law.

Ministry of Labour and Social Welfare, as the appellate body in the process of settlement the rights on pension and disability insurance, settlement on appeals against the decisions of the Fund and perform the audit of first instance decisions.

Ministry of Finance through the Rulebook on the method of preparation, creation and submitting of financial reports of the budget, extra-budgetary funds and local government units („Official Gazette of Montenegro“, No. 3/06 of 24.01.2006) stipulated that all budget entities and state funds submit financial reports by the 15th of the month for the previous month and quarterly to the Ministry.

In this way the Ministry analyses the total receipts and expenditures for the given periods and the total consolidated public expenditure, and therefore also the operation of public funds.

**(b) Answer:**

When the adoption of the Law on Pension and Disability Insurance, broad public debate was conducted on issues that are regulated by that law, where could include all concerned subjects. In drafting of the reform Law on Pension and Disability Insurance were working 17 months. In its drafting were involved and trade unions, employers association and organization of pensioners. The Bill was published in all daily media in Montenegro, and invited all interested entities to submit their comments, opinions and suggestions that are appreciated when adopting the final text of the Law. Also there were organized public forums, television and radio shows, and daily newspapers are periodically published special pages on most significant legal regulation.

Also, the Law on Pension and Disability Insurance regulated that the Board of the Fund is management body of the Fund and this body is constituted on the basis of initiatives authorized proposers, subjects of social dialogue and on the proposal of the Confederation of Trade Unions of Montenegro, Union of Employers, Confederation of Pensioners Association of Montenegro and the ministry in charge of pension and disability insurance. This means that in the management on Fund PDI included representatives of workers (employees), employers (taxpayers pay contributions) and beneficiaries (pensioners).

**(II) Programme costs and coverage**



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**4. Please indicate the number of beneficiaries of the programme (annually)? If available, please provide details on their profile (eg. sex, age, ethnicity, origin ....)?**

**Answer:**

At the end of 2008 the total number of beneficiaries of pension benefits for which the Fund provide funds for the payment of rights, was 107.413, the following structures: old-age pensioners 44.001 or 40.96%, 24.991 disability or 23.27%, 28.024 families (survivors) or 26.09%, care and assistance of another person 1676, or 1.56%, user of subsidy for bodily injury to the 7081 or 6.59%, compensation to unemployed disabled persons in 2<sup>nd</sup> or 3<sup>rd</sup> category 1612 or 1.50% and compensation to employed disabled workers in 2<sup>nd</sup> or 3<sup>rd</sup> category 28 or 0.03%.

From the above mention data shows that the number of user rights in 2008 compared to 2007 increased by 0.37%, while in 2007 compared to 2006 increased by 2.51%, due to the inclusion in paying base of about 3,000 military retirees. From these data we can see the dominant share of old-age pensioners in the overall structure in relation to disability and family. Please note that the Fund from 01.01.2007 began payment of military pensions and users whose number of pension paid in December 2007 was 2889, and in December of 2008 was 2973 users.

In 2009, based on data from the month of July the total number of pensioners who are paid in Montenegro is 95,774 of which 43,636 old-age, invalidity 24,370 and 27,768 family (survivors) pensioners. Counting users who are paid out of Montenegro the total number of users pension is 101,891 while the other user rights from pension and disability insurance was about 5 500.

Of the total number of old age and disability pensioners, men is about 63% and 37% of women. Amongst the user of family or survivor pension can not express the gender structure because its users are family members of deceased insured or beneficiaries, and in master database data is recorded on the basis of names of persons who performed the right to family pension.

**5. Which geographical areas are covered by the programme in the country (national, regional, local)?**

**Answer:**

The entire system of pension and disability insurance institutionally is organized under the laws and it is implementing at the national level through the state authorities of the Ministry of Labour and Social Welfare and Fund of Pension and Disability Insurance. Ministry performs administrative and other tasks in the field of labour, the labour market and employment, pension and disability insurance and veterans disability protection, social and child protection and other activities that are in its authority.

Mandatory pension and disability insurance on the basis of current financing covers the working population (the insured employed persons, insured persons engaged in individual business activity, and insured farmers), which is in line with the Convention 102 of the International Labour Organisation on minimum social security standards.

Therefore, by the mandatory pension and disability insurance are covered all who meet the statutory requirements and are in employment, performing independent or agricultural activity. Membership in private pension funds is voluntary.

**6. What is the annual budget of the programme(s)? What is the percentage of the GDP does this constitute?**

**Answer:**

Total income and expenses of the Fund PIO in € million and their share in GDP



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Year	GDP	Total revenues of the pension system	Total expenditures of the pension system	Revenues in the name of PDI contribution (source income)	Amount of transfers (in mil. euros)	% share of total revenues in GDP	% share of total expenditures in GDP	% share of transfers in total revenues of the Fund
1999	n/a	55,20	60,66	31,55	18,90	n/a	n/a	n/a
2000	1.065,69	121,96	121,91	76,97	38,45	11,44	11,44	31,53
2001	1.295,11	141,25	132,96	73,68	56,15	10,91	10,27	39,75
2002	1.360,35	155,76	152,35	93,11	46,76	11,45	11,20	30,02
2003	1.510,13	166,35	161,43	105,85	38,61	11,02	10,69	23,21
2004	1.669,78	165,84	168,48	115,98	37,72	9,93	10,09	22,74
2005	1.814,99	185,31	180,86	118,33	44,14	10,21	9,96	23,82
2006	2.148,99	205,65	196,59	139,29	54,33	9,57	9,15	26,42
2007	2.540,00	250,33	235,48	173,88	61,16	9,86	9,27	24,43
2008	3.338,00	288,55	287,97	214,63	68,39	8,64	8,63	23,70

Total expenses of the Fund of Pension and Disability Insurance in 2008 amounted to 287.97 million euros, i.e. 8.63% of GDP while revenues from contributions amounted to 214.63 million euros, or 74.38% of the total revenues of the Fund.

In 2009 the total expenses of the Fund of Pension and Disability Insurance were planned in the amount of 373 million euros and their participation in the overall state budget amounted to 23.12% and 9.82% of GDP.

**7. Please give details and indicate the sources of funding utilised for the programme(s), and the main costs involved at the various stages of implementation. In particular, is the programme operated with national, regional, local public resources? Are external resources used for this program?**

**Answer:**

Pension and disability insurance based on the current financing is financed from contributions, the state budget and other sources, in accordance with the Law of Pension and Disability Insurance, and funds collected on that basis perform the income for Fund of Pension and Disability Insurance of Montenegro

Fund obligations for the provision of the rights within pension and disability insurance are guaranteed by the state.

Contributions for the pension and disability insurance are:

- contributions of the insured persons;
- contributions of employers;
- additional contributions for insurance record calculated at an accelerated rate;
- contributions of other contribution payers determined by this law;
- contributions i.e. funds in the case of employment injury and occupational disease.



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The state budget provided the funds for pensions, which are realized under more favorable conditions as well as distinction in the part between the funds collected under the contribution and the missing funds for pension payments.

Adoption of the Law on Pension and Disability Insurance in September 2003 and its application from 1 January 2004 represented the first step towards financial sustainability of this system and completed the first phase of the pension reform. Gradual raising of the age limit, changed pension formula, increase in the number of years included in the pension calculation, application of the new method of pension indexation and other reform measures, produced the results which justified medium-term projections and a mild decrease in the pension expenditure share in GDP.

Along with these reform measures, the reform of the pension administration was also concluded. Within the Pension and Disability Insurance Fund, certain inefficient operational functions were suspended, new contemporary operational processes were established (internal audit, public relation, personnel service, financial management), a new integrated information system and IT technology of the latest generation were implemented.

The implemented activities influenced an increase in the number of the insured within the pension and disability insurance i.e. integration of a growing number of persons into legal economy and creation of a more favourable pensioner structure, primarily the reduction in the number of disability pensioners, which is also a result of the new definition of disability which is now determined according to the concept of general disability as well as the introduction of regular audit of disability pensions.

The mentioned changes as well as the implemented measures and activities, with the aim of more efficient collection of contributions for the pension and disability insurance, through intensive and quality cooperation with the bodies in charge of control and collection of public revenues, have significantly influenced the increase in revenues of the Fund and contributed to a larger share of revenues from contributions in the total revenues.

**8. Please indicate approximately how many potential beneficiaries were not reached by the programme? Have studies been undertaken to assess the reasons for coverage gaps? Please provide details about their profile (eg: sex, age, ethnicity, origin, ...) if available.**

**Answer:**

The Law on Pension and Disability Insurance stipulates the basis of insurance (employment, performing independent or agricultural activity) which means that all persons meeting conditions for employment or performing independent or agricultural activity can be insured within pension and disability insurance. Therefore, the law does not explicitly determine the population groups that are excluded from the insurance system, but acquiring the status of an insured person is conditioned by meeting certain conditions. If those conditions are met, the status of an insured person is acquired by virtue of law i.e. insurance is mandatory; with termination of prescribed conditions, mandatory insurance ceases.

In the system of mandatory pension and disability insurance, equality is ensured for each individual regardless of sex or ethnic origin. An exception is the condition for acquiring the right to old-age pension for women, which is five years lower compared to insured men.

Equality in the system is ensured by:

- stipulating equal conditions for acquiring the status of an insured person;
- equal conditions for payment of contributions and equal contribution rates for all insured persons with the same status;



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- method for determining pension that ensures equal pension for the same salary and pension record regardless of sex;
- equal method for indexing pensions, regardless of the sex of the beneficiary and the basis for insurance that preceded the acquiring of the right;
- equal method for payment of pensions both in Montenegro and abroad.

Regulations in the area of work, prescribing the upper age limits to which employees can remain employed - 65 years of age and able employees who have the age of 65 years of age and not reached at least 15 years of pension insurance, can continue to work until the fulfillment of the conditions. Regulations in the area of employment stipulated the right to financial compensation that is unemployed if he stopped working outside of his will and if within 30 days report to the Employment Agency. Unemployed person which has more than 25 years of pension insurance has the right to this fee until new employment or until the conditions for retirement. Since these person are insured on pension and disability insurance for the time of receiving financial compensation within the Employment Agency which paid their contributions, the time during they are receiving benefits is account in pension insurance.

Basic characteristics of movement in the labor market are the following:

- decrease and stagnation of employment in the period 1990 - 2003 and employment growth after that period, so the data of MONSTAT at the end of 2008. year shows taht was 169,190 employees, which is at the level of employment from the 1990th year. In June 2009 was 178,839 employees;
- in this period there was a change in employment activities. In 1989 the most employees were in the industry (33% of registered employment in Montenegro), while in the field of trade were employed 12%. Until 2008 the number in the industry decreased to 20%, while in trade increased to 19% of the total number of employees;
- according to the records of the Employment Agency in the last few years was carried out intensive dynamics of employment: from 15,250 persons in 2004 to 40,575 in 2008;
- continuous reduction of unemployment, starting from 2003.

At the end of 2008 within the Employment Agency was 28,394 or 62.8% less unemployed persons than in 2002 (76,293). In mid of 2009 the records show that within Employment Agency was 27,011 unemployed person.

- The rate of registered unemployment at the end of 2002 was 28.1%, at the end of 2008 was 0.8%, while in the half of 2009 was 10.3%.
- Long-term unemployment is still high and the end of 2008 amounted to 55.5% but compared to 2004 was significantly reduced (70.3%).
- The participation of young people reduce up to 25 years in the total number of registered unemployed persons from 26.6% in 2004 to 15.5% in 2008, and increase the participation of over 50 age with 9.9% to 35.5%.
- Participation of female population in the total registered unemployment has been reduced from 52.4% in 2004 to 44.9% in 2008.

The global economic crisis is now affected and affects the business activities of a significant number of employers, but the result has not yet had a massive layoff and reduction of unemployment. The impact on such trends on the labor market had the previous



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government anticyclic consistent package of measures, and the fact that employers first decreased non-residential employment labor force, because the number of issued work permits to foreigners in the first half of this year, three times less than the number of residents who worked in the same period last year.

Condition and present trends in the labor market indicate that the main challenges and problems on this market, which should be dealt with in the coming period, are following:

- The trend of reduction in unemployment led to change the structure of unemployed persons. If long-term unemployment is 55.5% unemployment, if the 30.4% older than 50 years, if 37% has more than 20 years of pension insurance, and if 26.8% of unemployed is unqualified or semiquanlified - then it all has the character of the structural unemployment caused by the transition processes in the past. All these are, in general, hardly to employ persons whose employment must invest more funds through an active employment policy measures.
- Demographic trends show a reduction of the rate of natural changes, reducing the number of people under 15 years of age, with an increasing number of residents over 65 years, which will have the long term impact on the labor market in a similar way as in the EU countries (aging population, reducing the working contingent, etc.).
- Also, there is still lack of interest of employees and employers for the process of lifelong education and training, i.e., long-term investment in human capital development.
- Presence of regional differences in employment and unemployment indicate a need for continuity and intensification of measures that will mitigate the impact of these differences.
- The offer of education is not adequately adapted to the demands and challenges of the labor market, there is still a discrepancy between supply and demand of labor in the labor market, which imposes the need for continuous work on improving the quality of labor supply in Montenegro.

"The national employment strategy and human resources development for the period 2007 - 2011" essentially represent a response to these challenges and problems and with proposed measures and activities meet their solving.

**9. What is the average amount of the pensions in relation with the national average income or minimum salary? How is the pension calculated?**

**Answer:**

Law on Pension and Disability Insurance are stipulated that rights from pension and disability insurance should be conducted twice a year, from 1 January and 1 July of the current year, on the basis of statistical data, **with the development of costs of living and average salary** of the employed in the territory of the state in the previous half-year compared to the half-year prior to that one, **in the percentage representing the sum of the half of percentage of growth or decrease in the cost of living, and the half of percentage of growth or decrease in wages.**

In 2009 were made two indexation in January to 4.9% and the second in July to 2.45% which have caused that average pension amounted to 256.67 euros and the lowest 92.52 euros and to Montenegro be one of the few states that in 2009 conducted increasing of pensions by 7.35%. The average wage without taxes and contributions for November 2009 was 456 eur.



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On the basis of the Law on Pension and Disability Insurance rights from pension and disability insurance are achieved in the Fund which is obliged to ensure the effective implementation of those rights and to provide expert assistance to the insured persons and beneficiaries in the implementation process of the rights.

The management bodies of the Fund are Board and director who manage to the Fund in accordance with the law, Statute and other general acts of the Fund.

The Board is the managing body of the Fund and this body is constituted on the basis of the initiatives of authorized proponents, the subjects of social dialogue, which means that in the management of Fund of PDI are included representatives of workers (employees), employers (taxpayers pay contributions) and beneficiaries (pensioners).

The Board appoints and dismisses the Director of the Fund PDI, on the basis of the open competition, with prior approval of the Government, on the period four years.

### ***(III) Implementation procedures***

#### ***10. What procedures are utilized in order to pay the beneficiaries?***

##### **Answer:**

The Pension and Disability Insurance Fund performs distribution of pension allowances through commercial banks by cashless payment of pensions and through Montenegrin Post delivering the pension allowances to the address of the beneficiary. To this end, contracts on business cooperation i.e. contracts on payment of pensions and benefits to beneficiaries in the territory of Montenegro were concluded with commercial banks and Montenegrin Post, defining the business cooperation in payment of pensions and other benefits.

#### ***11. What procedures are utilized in order to inform beneficiaries about the programme? Is information made available in more than one language?***

##### **Answer:**

For the purpose of implementation of regulations, the Pension and Disability Insurance Fund prepared a brochure Guide for Acquiring Rights within Pension and Disability Insurance which was issued free of charge as a supplement to all Montenegrin daily newspapers. The Guide was also available to citizens free of charge in all organisational units of the Fund in Montenegro, and can also be found on the Fund website. Boxes for remarks, suggestions and potential complaints of the insured and beneficiaries were deployed in all organisational units of the Fund. Pension Bulletin, containing all relevant information from this field is regularly published in the daily newspaper "Pobjeda", weekly or every fifteen days, as needed.

Competent bodies for application of regulations from the pension and disability insurance are organised so that they are available to the public.

The activities have been undertaken in ensuring high quality services, including training for the principal and support staff. The beneficiary is the center of the organization and development of the system supports this approach that requires the appropriate mechanisms of control. This mode includes better information, better service, and modern office space in general, and pro-active approach in meeting the needs of beneficiaries.

Fund of PDI with its new IT system and new channels of voice communication put at the disposal to the beneficiaries via the contact (Call) Center. In practice, the party called the certain number and that call is directed to the call center where there are experts who deal with these calls.



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The function of receiving the request includes providing assistance to people who want to submit the request to PDI Fund to entitle the right to a pension or financial compensation. This work includes: providing information on compliance requirements, distribute the forms for application, admission requirements, verification of application forms, registration of requirements for entitlement to pension and issue certificates of receipt, update personal information about the applicant, forwarding properly completed application, and etc.

**12. Were other services (such as social work, subsidised services) provided to the beneficiaries in connection to the pension? If yes, please describe them.**

**Answer:**

The Government of Montenegro through the activities of the Ministry of Labor and Social Welfare creates a pension policy with aim which is financial sustainability of the system and regularity in payment of pensions and improving the financial position of pensioners. Despite the difficulties in ensuring the inflow of funds into the state budget, the Government or the ministry gave priority to the payment of pensions and regular legal indexation as well as the implementation of measures envisaged with social program in order to protect the standards of pensioners.

In 2009 was realized numerous activities from the Program of measures to improve the financial position of pensioners.

Certain categories of consumers of electricity, including pensioners, are included in the government Program of subsidizing electricity consumers, to the end of 2009.

In cooperation with the Ministry of Agriculture, Forestry and Water Management and Pension Fund, Ministry of Labour was implemented a program of procurement wintery under favorable conditions and with the Union of Associations of pensioners was implemented a program of rest and recovery pensioners. Also, distribution of an one-time financial assistance for about 10 000 socially vulnerable pensioners was implemented.

**13. Do beneficiaries of the programme access other public services at special conditions, a particular for health services?**

**Answer:**

System of mandatory health insurance provides:

- health care,
- right to compensation for travel expenses related to the use of health care,
- right to salary compensation during temporary incapacity for work.

Health care includes:

- medical measures and procedures for promotion of health, prevention, fighting and early detection of diseases;
- medical examinations and other types of medical assistance relating to monitoring and examining health condition;
- medical treatment of sick and injured persons;
- medical rehabilitation;
- medicines and medical equipment;
- medical-technical aids etc.

In providing health care the priority is given to children, persons over 65 years of age, women during pregnancy, delivery and maternity, handicapped persons, persons with infectious diseases, malign diseases, rheumatic fever, diabetes, kidney insufficiency, coronary, cerebral and vascular diseases, system auto-immune diseases, progressive neuromuscular diseases, cerebral paralysis, multiple sclerosis, cystic fibrosis, hemophilia,



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persons with mental disorders and persons with insufficient mental development regarding the health care for the mentioned diseases.

Health care at primary level is provided in public health centres, which provide health care through a selected doctor, support centres and units.

Health care at secondary level is provided in six general and three special hospitals, as well as in the Clinical Centre of Montenegro, which also provides tertiary level services.

For treatment of diseases, conditions and injuries which are not possible to be successfully treated in health care institutions of Montenegro, insured persons are referred to health care institutions outside Montenegro on the basis of concluded contracts on provision of health care services. The largest number of treatments are performed in the Republic of Serbia: diagnostic analyses, hospital treatment and control examinations.

Apart from the mentioned forms of health care, the following rights are provided to the expense of the funds of mandatory health insurance: the right to medical rehabilitation in health care institutions which perform specialised medical rehabilitation, right to medical technical aids: prosthetics and orthotic devices, additional aids for facilitating movement, seeing, hearing, aids for enabling speaking, dental aids and other aids, right to medicaments.

In exercising health care in health institutions outside the place of residence, insured persons are provided the right to compensation of travel expenses for the insured person and the companion, at the price of the cost for the transport determined by the referral for treatment, issued by the selected doctor, or Medical Commission.

During treatment abroad insured persons also obtain the right to expenses of the stay if they don't have accommodation provided in the health institution where they receive treatment. After the performed treatment, the insured person submits a request for payment of travel expenses with the prescribed documentation. Upon the request, the calculation is made and the payment of the travel expenses to the address of the insured person.

#### ***(IV) Monitoring mechanisms and complaints procedures***

***14. Please describe the monitoring procedures utilized in order to oversee the implementation of the programme(s) and the entities responsible for monitoring.***

#### **Answer:**

In the mandatory pension and disability insurance on the basis of the current financing there is a number of supervision types, namely:

According to the Law on Pension and Disability Insurance, supervising the exercise of this Law is conducted by the public administration body competent for the affairs of pension and disability insurance (Ministry of Labour and Social Welfare) in accordance with a special law. Supervision over legality and effectiveness of the work of the Fund is also conducted by the Ministry of Labour and Social Welfare, in accordance with the law.

Ministry of Labour and Social Welfare, as the second instance body in the procedure of deciding on the rights within pension and disability insurance decides on appeals to decisions of the Pension and Disability Insurance Fund and conducts the review of the first instance decisions.



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Ministry of Finance, through the Rulebook on the method of preparation, creation and submitting of financial reports of the budget, extra-budgetary funds and local government units (Official Gazette of the Republic of Montenegro 3/06 of 24 January 2006), stipulated that all budget entities and state funds submit financial reports by the 15th of the month for the previous month and quarterly to the Ministry, in the following forms:

- cash flow statement I economic classification,
- cash flow statement II functional classification,
- report on outstanding obligations and
- report on consolidated public expenditure.

In this way the Ministry analyses the total receipts and expenditures for the given periods and the total consolidated public expenditure, and therefore also the operation of public funds.

In its annual Audit Plans, the State Audit Institution includes audit of certain entities, including the Pension and Disability Insurance Fund as a public fund.

**15. Are there any complaints mechanisms or procedures attached to the programme, which are available to beneficiaries? If yes, please describe them.**

**Answer:**

Against the first instance of decision of the Fund of pension and disability insurance can be declare appeal to institution of state administration in charge of pension and disability insurance, or to the Ministry of Labor and Social Welfare within 15 days of day of receipt of the decision.

The decision on the appeal must be adopted and submitted to the client at the latest within two months from the date of the appeal.

In resolving the rights from pension and disability insurance appellate body acts according to the Law on General Administrative Procedure and the Law on pension and disability insurance.

**16. Have there been instances when any legal action was taken against the programme or those responsible for its implementation? If yes, what were the circumstances of the legal action and the basis for the complaint(s)?**

**Answer:**

Appellate authority may reject the appeal, revoke the decision in whole or in part or amend it.

Appellate authority shall dismiss the complaint if it confirms that the procedures that preceded the decision is properly implemented and that the decision is properly and based on law and the appeal is not reasonably.

Appellate authority will reject the complaint when it found that in the first instance procedures was any failures, and they could not influence the rededcision of administrative matters, and it is not a substantive violations of the rules of procedure.

If the appellate authority confirms that at first instance made irregularity that makes the the decision nullity will pronounce such a decision like null and void, and also that part of the procedure that was implemented after the irregularities.



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If the appellate authority determines that the first-made decision is designed by really incompetent authority, will abolish the decision, ex officio, and submit the case to the competent authority to decide.

If the appellate authority determines that there is essential violations of the relevant rules of procedure, will cancel the decision under the appeal, or ex officio, and the case back to the first instance authority to re-process.

The decision can be combat with appeal:

- 1) for violation of rules of procedure,
- 2) due to incomplete or incorrect set of facts,
- 3) due to incorrect application of substantive law.

The important violations of the rules of administrative procedure exist, if:

- 1) the decision made really incompetent authority,
- 2) person who was supposed to participate as a party or interested person was not given the opportunity to participate in the process,
- 3) if the party or interested person is not given the opportunity to comment on all the facts and circumstances that were relevant to the decision-making,
- 4) if party did not represented by legal representative, or if the assignee had no authorization,
- 5) if the provisions of this law on the use of languages in the procedures was violated;
- 6) If the conduct or decision-making process involved in a person who, under this law, should be exempt, or person which according to this or the special law is not eligible for the conduct of the procedures, or in the process of decision-making;
- 7) if the dispositive of decision is in contrary to the reasoning, so it is not possible to determine the legality of the appeal.

#### ***(V) Existing studies and evaluations of old age pensions***

***17. Please provide any studies, in particular needs assessments, utilized in order to develop the programme(s).***

**Answer:**

Implementation of the new Law on Pension and Disability Insurance began 1st January 2004. The new law, on the one hand, reforms the existing system of pension and disability insurance, and on the other hand, establishes a legal framework for comprehensive reform of the system through the three-pillar pension model implementation.

Above mentioned Law was designed in cooperation with representatives of USAID in the inter-working group composed of representatives of the Ministry of Labour and Social Welfare, Ministry of Finance, Institute for Strategic Studies, Trade Unions, The Chamber of Economy, representatives of pensioners association and others, by using the best international standards in this area and the experiences of countries that have already made reform of the pension system. This conceived law received very high assessment by the World Bank and International Monetary Fund.



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At the same time creating a new law initiated the activities on administration reform and the new organizational structure of the Fund of pension and disability insurance, which has meant the adoption of three strategic documents, as follows:

- Strategy for the Pension and Disability Insurance Reform in Montenegro
- Act on Internal Organisation and Systematisation of Work Positions
- IT Strategy Project of the PDI Fund.
- Financial Plan for Sustainability of Pension System in Montenegro for the Period 2005 – 2008.

**18. Please provide any studies, in particular impact assessments, developed to assess the implementation of the programme(s).**

**Answer:**

Regarding the administrative efficiency of the system, it is evidenced by the reports on the work of Pension and Disability Fund of Montenegro adopted by the Management Board composed of representatives of the insured persons from the trade Union, the employers' association, the pensioners' association and the representatives of the state. The Pension and Disability Fund of Montenegro reports on its work at least once a year to the Government.

Also, on the basis of the **Strategy of Media Campaign for the Pension Reform in Montenegro**, two researches were conducted prior to (2005) and after the campaign (2007), in order to make an overview and to check the results of the campaign, which primarily related to introduction of voluntary pension funds.

Research themes, among other, related to the confidence in the Pension and Disability Fund of Montenegro, the reform of the Fund – awareness and relation, confidence in the role of the Government of Montenegro in the reform of the pension system and willingness to invest into voluntary pension funds.

1. **Confidence in the Pension and Disability Fund of Montenegro.** More than one half of the citizens of Montenegro show confidence in the state pension fund. This is particularly shared by women, respondents under 30 years of age and those with college and higher education.
2. **Reform of the Fund – awareness and relation.** Awareness on the reform of the pension fund is relatively high – especially with men and those with higher education (who are also more interested in social-political themes). Observed by regions, highest awareness is present in the central part of Montenegro.
3. **Confidence in the role of the Government of Montenegro in the reform of the pension system.** Confidence in the intentions of the Montenegrin Government to increase the amount of future pensions through the Law on Voluntary Pension Funds is relatively high. Most citizens do not believe in any financial institution, and only the Ministry of Finance is stated as the highest authority in the field of finance.
4. **Willingness to invest into voluntary pension funds.** Most citizens state a positive opinion regarding the new Law on Voluntary Pension Funds. Most also believe that their pension will be higher (42%) or significantly higher (14%) if they invest money into voluntary pension funds. However, opinions are divided regarding the safety of their payment into voluntary pension funds. General disbelief in financial institutions and the safety of money as well as general financial dissatisfaction discourage



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citizens from this form of investment, which is also confirmed by the motives for payment (higher personal earnings and safer future).

**5. Trend: comparison with the results in 2005.**

- Comparison with the results of the first research enables us to make the conclusion that there was an increase in the awareness and familiarity of the citizens with the reform. A considerably larger share of citizens were informed about the reform of the pension system conducted by the Government of Montenegro than two years ago. This is probably a reflection of the campaign and stabilisation after Montenegro became independent.
- Although changes were not as visible as with the awareness on the reform, a mild improvement in the attitude towards the Law on Voluntary Pension Funds was noted, and the confidence in the state fund of Montenegro is somewhat higher.
- Expectations did not change much between the two researches regarding the influence of investment in voluntary pension funds on the amount of the future pension. Also, opinions on safety of payment into voluntary pension funds are still distinctively divided. The categories which are not likely to profit from this form of investment (housewives and pensioners) show most reserve and suspicion. The underlying reason is probably the general disbelief in financial institutions and personal social-economic dissatisfaction.
- Readiness to invest remains at the relatively similar level. While the number of citizens who do not see themselves as investors decreased, the number of those who do not have a specific opinion increased. This does not have to be negative data, as it can indicate a more serious consideration of this topic than two years ago. Also, the ones who are interested in investing into these funds are now more concrete regarding the annual amount they would allocate.
- The ones who believe that pension is still distant (at least in the sense of time), show a significantly more positive attitude towards the reform. The greatest readiness is shown by those younger than 30, followed by those between 30 and 50 years of age, and the category of the employed – so the ones who are the most open to this form of investment belong to the working and socially most active categories.

The results of the research show that it improved the level of information of the citizens of Montenegro, their awareness on the need for conducting reforms in the pension system, and that it is necessary to further work on developing confidence in financial institutions and capital market, since there is a good basis, with better general and financial situation, to motivate citizens to invest into voluntary pension funds in the following period.