



**Parliament of Montenegro  
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Research paper:

**Conditions for exercising the right to survivor's pension of the spouse  
upon the death of the participant - legal solutions in Bosnia and  
Herzegovina, Croatia, Slovenia and Serbia**

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*\*The contents of this document do not reflect the official views of the Parliament of Montenegro.*

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## Foreword

"Pension and disability insurance programs are the most important segment of the social security systems in nearly all countries. National social security systems depend on tradition, theoretical basis, maturity and objectives of the system and the level of industrial development."<sup>1</sup>

The systems of Bosnia and Herzegovina, Montenegro, Croatia, Slovenia and Serbia provide for the pension and disability insurance, whose laws on pension and disability insurance regulate: accrual, exercise and termination of rights arising from pension and disability insurance, eligibility to become a participant, the pension service, other issues related to pension and disability insurance, and ultimately the subject of this research - exercising the right to survivor's pension of the spouse upon the death of the participant.

In Montenegro, conditions for exercising the right to survivor's pension of the spouse upon the death of the participant are regulated by the Pension and Disability Insurance Law<sup>2</sup> which defines beneficiaries of survivor's pension, conditions concerning the deceased participant, and conditions a widower/widow must meet in order for him/her to accrue the right to this type of pension.

According to the Dayton Peace Agreement, pension and disability insurance in Bosnia and Herzegovina is regulated at the entity level, with no state-level pension and disability insurance.<sup>3</sup> In the Federation of Bosnia and Herzegovina, the conditions for accrual of the right to survivor's pension of the spouse upon the death of the participant are regulated by the Law on Pension and Disability Insurance of the Federation of Bosnia and Herzegovina<sup>4</sup>, while in the Republic of Srpska by the Law on Pension and Disability insurance of the Republic of Srpska<sup>5</sup>. Citizens of Brčko District are free to choose between the two entity funds, the Pension and Disability Insurance Fund of Federation of Bosnia and Herzegovina or the Pension and Disability Insurance Fund of the Republic of Srpska.

The paper provides legal solutions on the conditions for exercising the right to survivor's pension of the spouse upon the death of the participant in Bosnia and Herzegovina, Croatia, Slovenia and Serbia, *as envisaged by the law on pension and disability insurance (Federation of Bosnia and Herzegovina, Republic of Srpska, Slovenia<sup>6</sup>, Serbia<sup>7</sup>) and the Pension Insurance Act<sup>8</sup> (Croatia).*

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<sup>1</sup> Drenka Vuković, *Socijalan sigurnost*, Univerzitet u Beogradu - Fakultet političkih nauka, 2009.

<sup>2</sup> Zakon o penzijskom i invalidskom osiguranju („Sl. list RCG“, br. 54/03 od 29.09.2004, 39/04 od 09.06.2004, 61/04 od 07.10.2004, 79/04 od 23.12.2004, 81/04 od 30.12.2004, 29/05 od 09.05.2005, 14/07 od 12.03.2007, 47/07 od 07.08.2007, i "Sl. list Crne Gore", br. 12/07 od 14.12.2007, 13/07 od 18.12.2007, 79/08 od 23.12.2008, 14/10 od 17.03.2010, 73/10 od 10.12.2010, 78/10 od 29.12.2010, 34/11 od 12.07.2011, 39/11 od 04.08.2011, 40/11 od 08.08.2011, 66/12 od 31.12.2012, 36/13 od 26.07.2013, 38/13 od 02.08.2013, 61/13 od 30.12.2013, 06/14 od 04.02.2014, 60/14 od 31.12.2014, 60/14 od 31.12.2014, 10/15 od 10.03.2015)

<sup>3</sup> *Specijalni izvještaj o pravu na penziju u Bosni i Hercegovini*, Institucija ombudsmana za ljudska prava i slobode Bosne i Hercegovine, 2010, [http://www.ombudsmen.gov.ba/documents/obudsmen\\_doc2013020406261354bos.pdf](http://www.ombudsmen.gov.ba/documents/obudsmen_doc2013020406261354bos.pdf) (accessed on 5 June 2015)

<sup>4</sup> Zakon o penzijsko-invalidskom osiguranju FBiH, „Službene novine Federacije BiH“, br. 29/98, 49/00, 32/01, 73/05, 59/06, 4/09, 04/12

<sup>5</sup> Zakon o penzijsko-invalidskom osiguranju Republike Srpske, „Službeni list Republike Srpske“, br. 134/11, 82/13

<sup>6</sup> Zakon o pokojninskom i invalidskom osiguranju (ZPIZ-2), „Uredni list RS“, št. 96/2012, z dne 14.12.2002

<sup>7</sup> Zakon o penzijskom i invalidskom osiguranju, „Sl. glasnik RS“, br. 34/2003, 64/2004 - odluka USRS, 84/2004 - dr. zakon, 85/2005, 101/2005 - dr. zakon, 63/2006 - odluka USRS, 5/2009, 107/2009, 101/2010, 93/2012, 62/2013, 108/2013, 75/2014 i 142/2014)

<sup>8</sup> Zakon o mirovinskom osiguranju, „Narodne novine“, br. 157/13, 151/14, 33/15

The complete document in Montenegrin language can be found at:

<http://www.skupstina.me/images/dokumenti/biblioteka-i-istrazivanje/2015/13.pdf>