

Responses of the Republic of Serbia to the Questionnaire of the Office of the High Commissioner for Human Rights regarding Treaty Bodies

The Constitution of the Republic of Serbia¹, which entered into force on 8 November 2006, contains in its general and basic provisions several principled guarantees related to human rights and freedoms, including provisions which define the prerequisites for the exercising and direct application of individual human rights.

The direct implementation of human and minority rights guaranteed under the Constitution (Article 18, paragraph 1) implies that the proclaimed constitutional guarantees are sufficient for the exercising of guaranteed human and minority rights in practice. In Article 18, paragraph 2, it is additionally prescribed that the Constitution guarantees, and as such, directly implements human and minority rights guaranteed by the generally accepted rules of international law, ratified international treaties and laws. Moreover, in the same Article, in paragraph 3, it is stated that the provisions guaranteeing the human rights under the Constitution shall be interpreted to the benefit of promoting values of a democratic society, pursuant to valid international standards in respect of human and minority rights, as well as the practice of international institutions which supervise their implementation (protection of human and minority rights and freedoms, Article 22).

In accordance with Article 194, paragraph 5 of the Constitution, which refers to the hierarchy of domestic and legal acts, international treaties must not be in non-compliance with the Constitution, while laws and other general legal acts passed in the Republic of Serbia must not be in non-compliance with the ratified international treaties and generally accepted rules of international law.

The aforementioned law sources mean, *inter alia*, that international standards, customary legal rules in the field of human rights, have been transposed into the Constitution, as the highest legal act, while the international instruments ratified by the Republic of Serbia are directly implemented; therefore, all natural persons and legal entities may rely on them in proceedings before courts and other state bodies. According to the proclaimed judiciary principle (Article 142), courts shall perform their duties in accordance with the Constitution, law and other general acts, generally accepted rules of international law and ratified international treaties. Also, when interpreting provisions on human rights, the positions of international bodies for protection of human rights must be taken into account, thus contributing to the process of promoting human rights.

International treaties from the UN system that have been ratified or to which the Republic of Serbia has acceded (including as the successor of the SFRY based on the declaration of 2001):

- Law on the Ratification of the International Convention on the Elimination of All Forms of Racial Discrimination ("*Official Gazette of the SFRY*", No. 31/67)
- Law on the Ratification of the International Covenant on Civil and Political Rights ("*Official Gazette of the SFRY – International Treaties*", No. 7/71)

¹ "Official Gazette of the RS", No. 98/2006 and 115/2021

- Law on the Ratification of the Optional Protocol to the International Covenant on Civil and Political Rights ("*Official Gazette of the FRY – International Treaties*", No. 4/2001)
- Law on the Ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty ("*Official Gazette of the FRY – International Treaties*", No. 4/2001)
- Law on the Ratification of the International Covenant on Economic, Social and Cultural Rights ("*Official Gazette of the SFRY – International Treaties*", No. 7/71)
- Law on the Ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights ("*Official Gazette of the the RS – International Treaties*", No. 5/23)
- Convention on the Elimination of All Forms of Discrimination Against Women ("*Official Gazette of the SFRY – International Treaties*", No. 11/81)
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women ("*Official Gazette of the FRY – International Treaties*", No. 13/2002)
- Law on the Ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("*Official Gazette of the SFRY – International Treaties*", No. 9/91)
- Law on the Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("*Official Gazette of the SCG – International Treaties*", No. 16/2005, 2/2006 and "*Official Gazette of the RS – International Treaties*", No. 7/2011)
- Law on the Ratification of the Convention on the Rights of the Child ("*Official Gazette of the SFRY – International Treaties*", No. 15/90 and "*Official Gazette of the FRY - International Treaties*", No. 4/96 and 2/97)
- Law on the Ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict ("*Official Gazette of the FRY – International Treaties*", No. 7/2002)
- Law on the Ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography ("*Official Gazette of the FRY – International Treaties*", No. 7/2002)
- Law on the Ratification of the Convention on the Rights of Persons with Disabilities ("*Official Gazette of the RS – International Treaties*", No. 42/2009)
- Law on the Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance ("*Official Gazette of the RS – International Treaties*", No. 1/2011)

As previously stated, the international legal framework for the protection of economic, social and cultural rights has been completed with the adoption of the Law on the Ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (6 September 2023).

The Draft Law on the Ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure has been prepared (submitted to the Government for adoption in April 2023; adoption was postponed due to additional consultations). Ratification of the Optional Protocol is envisaged in the Government's work plan, and our country had accepted this recommendation in May as part of the UPR process.

The Republic of Serbia continuously reports to the United Nations on the implementation of international treaties in the field of human rights, participates in the Universal Periodic Review, and accepts the mandates of special procedures of the UN Human Rights Council, to which it regularly responds and accepts their visits. The concluding observations of the UN Treaty Bodies are publicly available at <https://www.minljmpdd.gov.rs/> and are immediately submitted to all competent institutions at the republic, provincial and local levels with the instructions to monitor the implementation of the recommendations, and to work with civil society works on the development of common criteria for the fulfilment of recommendations and conduct a dialogue on shadow reports.

The recommendations of the Human Rights Council and the UN Treaty Bodies for human rights, as well as the existing practice, are an incentive to improve standards in the field of human rights, but also to develop internal mechanisms for the application of international standards.

The Republic of Serbia had submitted the following to the UN Treaty Bodies:

- Report on the implementation of the four priority recommendations from the Concluding Observations of the Committee on Economic, Social and Cultural Rights regarding the Third Periodic Report on the Implementation of the International Covenant on Economic, Social and Cultural Rights - ICESCR (March 2024);
- Report of the Republic of Serbia within the Fourth Cycle of the UPR (February 2023);
- Fourth and Fifth Periodic Reports on the implementation of the Convention on the Rights of the Child-CRC (May 2022);
- Updated joint basic document on the Republic of Serbia submitted with the Fourth and Fifth Periodic Report on the Implementation of the Convention on the Rights of the Child-CRC (May 2022).
- Fourth Periodic Report on the implementation of the International Covenant on Civil and Political Rights - ICCPR (July 2021);
- Second Periodic Report on the implementation of the International Convention for the Protection of All Persons from Enforced Disappearance - CED (July 2021);
- Report on the implementation of the four priority recommendations from the Concluding Observations of the Committee on the Elimination of Discrimination Against Women in connection with the Fourth Periodic Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women - CEDAW (April 2021);
- Third Periodic Report on the implementation of the International Covenant on Economic, Social and Cultural Rights - E/C.12/SRB/3 (April 2019) and Responses to additional questions of the Committee (June 2020);
- The Sixth to Ninth Reports on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (June 2020);
- Mid-term (first voluntary) report of the Republic of Serbia within the Third Cycle of the Universal Periodical Review (February 2021);
- Third Periodic Report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - CAT/C/SRB/3 (May 2019).

- Fourth Periodic Report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (February 2019);
- Initial report on the implementation of the Convention on the Rights of Persons with Disabilities (April 2013)

In the past period, the Republic of Serbia had presented the following to the UN Treaty Bodies:

- Fourth Periodic Report of the Republic of Serbia on the Implementation of the International Covenant on Civil and Political Rights - ICCPR (March 2024);
- Report of the Republic of Serbia within the Fourth Cycle of the Universal Periodic Review - UPR (May 2023);
- Third Periodic Report on the implementation of the International Covenant on Economic, Social and Cultural Rights - ICESCR (online, February 2022);
- Third Periodic Report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - CAT (November 2021);
- The Fourth and Fifth Periodic Report of the Republic of Serbia on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination - CERD (November 2017)
- The Second and Third Periodic Report on the implementation of the Convention on the Rights of the Child - CRC (January 2017)
- Initial report on the implementation of the Convention on the Rights of Persons with Disabilities - CRPD (April 2016)
- Initial Report on the implementation of the International Convention for the Protection of All Persons from Enforced Disappearance - CED (February 2015)
- The Second and Third Periodic Reports on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women - CEDAW (July 2013)

Also, the Republic of Serbia acts upon the requests for recovery of maintenance claims in accordance with the Convention on the Recovery Abroad of Maintenance, based on the status of an intermediary body.

According to a simplified reporting procedure, the Republic of Serbia reports to the Committee against Torture - CAT, and in 2022 we declared that we accept this reporting system for all other confirmed international treaties.

Council for Monitoring the Implementation of the Recommendations of the United Nations Mechanism for Human Rights

The implementation of UN human rights recommendations has been monitored since 2014 by the *Government's Council for Monitoring the Implementation of the Recommendations of the United Nations Mechanism for Human Rights*, thus fulfilling the recommendations from the Second Cycle of the UPR. Institutionalized cooperation with the UN Mechanisms for Human

Rights, through the work of this Government body, with the continuous strong support of the national expert UN Human Rights Unit in Serbia (ceased its work in 2024) and the OSCE Mission in Serbia has gained in quality.

Also, Argentina and Belgium have provided support in the establishment of this mechanism with their expertise, after which a three-day seminar was organized in Belgrade with countries from the Western Balkan region, in order to exchange experiences and establish cooperation with the aim of improving the state of human rights.

The work of this mechanism and good practices were presented in 2019 on the sidelines of the session of the Human Rights Council, together with the embassies of Belgium and Argentina. Good practices from Serbia were also presented at the Seminar organized by the Office of the High Commissioner for Human Rights in May 2023.

The tasks of the Council are to consider and monitor the implementation of the recommendations that the Republic of Serbia receives in the process of the Universal Periodic Review of the Human Rights Council, recommendations of United Nations Treaty Bodies and special procedures; propose measures for the implementation and fulfilment of the received recommendations of United Nations Mechanism for Human Rights in accordance with the Plan for Monitoring the Implementation of the Recommendations of the United Nations Mechanism for Human Rights and the Methodology of the Council; provide opinions on the progress of human rights in the reporting period and provide expert explanations on the state of human rights and the results achieved by implementing the recommendations; prepare annual reports on the fulfilment of the recommendations of United Nations Mechanism for Human Rights.

The preparation of annual reports on the fulfilment of the recommendations of the United Nations Mechanism for Human Rights was introduced by the Council's Decision from 2023, which will, *inter alia*, facilitate the preparation of periodic reports submitted to the UN Treaty Bodies and the Human Rights Council, with the ultimate goal of more efficiently measuring the implementation of recommendations, using the early warning mechanism in the event of a deadlock in the implementation of certain recommendations and considering the areas in which the field of action should be reinforced.

The work of the Council is based on the principles of inclusiveness and transparency. Inclusiveness means that in addition to the executive authorities, the representatives of the Parliament, independent bodies, Civil Society Organizations, and other relevant actors are also involved in the work of the Council. The fact that the Council, together with the Parliament and Civil Society Organizations, organizes public hearings and conferences dedicated to the implementation of recommendations that Serbia receives from the UN speaks in favour of transparency.

In terms of the composition of the Council, significant improvements were achieved by including the Chamber of Commerce and Industry of Serbia, in addition to the line ministries, to the Council's membership in last year, in order to implement the recommendations related to

the development of the National Action Plan on Business and Human Rights, as well as the Standing Conference of Towns and Municipalities, for a more efficient and coordinated introduction of UN mechanisms and recommendations to Local Self-Government Units, bearing in mind that the majority of recommendations require implementation at the local level.

In order to more efficiently monitor the implementation of recommendations, at the initiative of the Council, and with the support of the OSCE Mission to Serbia and the UN Human Rights Unit in Serbia, the Platform of Organizations for Cooperation with UN Human Rights Mechanisms was created, which includes 26 Civil Society Organizations. The involvement of the Platform in the work of this body does not hinder their independence and the possibility of submitting shadow reports to human rights mechanisms. The Council sees the Platform as a partner for cooperation with the UN Mechanisms for Human Rights and continues, together with the OHCHR in Serbia, to provide support in its work. Platform representatives are provided with a permanent seat in the Council for two representatives.

The work of the Council was improved in 2023 by providing a permanent seat to the Platform of Organizations for Cooperation with UN Human Rights Mechanisms.

New practices were also introduced in the work of the Council:

- thematic sessions at the Platform's initiative;
- inclusion of CSO's views when preparing state reports on the fulfilment of recommendations;
- presenting alternative reports to members of the Council and the state delegation, which was recently exemplified with regard to the UPR process and the Human Rights Committee.

The Council has developed a Special Plan for the fulfilment of recommendations, which currently contains 481 received and accepted recommendations of UN Mechanisms for Human Rights and whose implementation we are working on, which is available at: <https://www.minljmpdd.gov.rs/savet-za-pracenje-un-preporuka.php>. The said Plan contains the text of each recommendation, the competent authority/institution for fulfilling the recommendations, the deadline, the status of the recommendation, indicators for monitoring the success of fulfilling the recommendations, and the connection with the Sustainable Development Goals. The specificity of the Recommendations Plan is that the results of fulfilment of the recommendations are measured through indicators. The Government and Civil Society Organizations work together in order to develop the said indicators.

Also, the work of the Council was further improved and strengthened thanks to the electronic database for monitoring the implementation of UN recommendations, which was provided to us by the OHCHR. A two-day training for the use of the aforementioned database was held for Council members and contact persons, with support provided by the OHCHR and the UN Human Rights Unit in Serbia. In accordance with the Government's Work Plan for the period 2023-2026, the Council shall prepare an annual report on the state of fulfilment of the recommendations of the UN Mechanisms, which will lead to an even more efficient fulfilment of the recommendations and improvement of the reporting process.

The Council represents a good platform for monitoring the future national human rights strategy, but also a mechanism that can connect the region through the exchange of good practices and experiences between a network of institutions, CSOs and the academic community, with the aim of all citizens enjoying their human rights to the fullest extent

With the support of the national expert UN Human Rights Unit in Serbia, Manuals on the Implementation of the International Covenant on Economic, Social and Cultural Rights and the Manual of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment have been prepared.

By creating the Manual on the Implementation of the International Covenant on Economic, Social and Cultural Rights, which was published in December of last year (available at the following link: <https://www.minljpdd.gov.rs/doc/publikacije/medjunarodni-pakt-o-ekonomskim-socijalnim-i-kulturnim-pravima.pdf>) a Member State of the United Nations has, for the first time ever, approached the interpretation of the provisions of the Covenant in such manner, which will be the basis for further education and sensitization of all stakeholders, from competent authorities and institutions for its application to the citizens of the Republic of Serbia.

As regards the current issues of connecting the business sector with human rights, the implementation of the recommendations of the Committee on Economic, Social and Cultural Rights and activities on the development of the National Action Plan on Business and Human Rights have commenced, through which cooperation and good practices in the region will be promoted, in cooperation with UNDP and the Belgrade Centre for Human Rights. As part of the programme marking the 75th anniversary of the Universal Declaration of Human Rights, an international conference was held at the House of the National Assembly of the Republic of Serbia on the topic "Business and Human Rights", in cooperation with the Chamber of Commerce and Industry of Serbia, UNDP, the OSCE Mission to Serbia, and the Belgrade Centre for Human Rights.

In the year marking the anniversary of the Universal Declaration of Human Rights, the Ministry for Human and Minority Rights and Social Dialogue had conducted more than 30 events with partners under the title "*75 days for 75 years of the Universal Declaration of Human Rights*", with the aim of promoting the values contained in the Universal Declaration of Human Rights, the culture of human rights, good practices that we have developed as a country, strengthening cooperation and coordinated work.

The first in a series of significant activities was the joint session of the two Government Councils – for youth and for monitoring the implementation of the recommendations of the UN Mechanisms for Human Rights, on the topic of culture of human rights and human rights of youth, at which all the recommendations of the UN Treaty Bodies and UPR recommendations relating to youth have been presented.

Other activities were organized throughout Serbia, in various formats and on numerous important topics in the field of implementation of international standards in the field of human rights, such as intergenerational solidarity, education, gender equality, environmental protection, interculturality, rights of persons with disabilities, etc. The potential of multiculturalism, as a wealth of our society and an important factor in building a culture of human rights, was highlighted. We also recalled that the Universal Declaration of Human Rights was created in response to all the horrors of the Holocaust and wars as the most

senseless form of human activity, by organizing gatherings dedicated to the Holocaust and the culture of remembrance in general. The days of activism were solemnly concluded on the International Human Rights Day – on 10 December 2023.

The Republic of Serbia was the first country to draft the UN Tool "Leave No One Behind" (LNOB) in 2022, with the aim of improving the quality of legal and strategic documents in the context of human rights, which provides decision-makers with clear guidelines in understanding and applying one of the basic principles of the 2030 Agenda for Sustainable Development (available at the following link: <https://www.minljmpdd.gov.rs/doc/publikacije/the-tool-for-the-introduction-of-the-lnob-principle-pbp.pdf>). The said Tool is intended for various actors who participate in the process of proposing, drafting, adopting, implementing and monitoring the application of legal and strategic documents at all levels. The Tool was promoted to authorities and institutions, as well as to the academic community, in order to ensure its application. Also, with the application of the Principles, dialogues have already been conducted about the homeless people, people being treated for addiction and people who were deprived of their freedom.

The Republic of Serbia actively cooperates with the Office of the UN High Commissioner for Human Rights, as well as with the special procedures of the United Nations in the field of human rights, to which it extended an open invitation for visits in 2005. Since the First Cycle of the UPR (in 2013), more than 400 requests from the Office of the UN High Commissioner for Human Rights and UN Special Rapporteurs on Human Rights have been answered. Serbia was visited by the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the former Yugoslavia (2001); Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (2004); Special Rapporteur on freedom of religion or belief (2009); UN High Commissioner for Human Rights (2013); UN Special Rapporteur on the human rights of internally displaced persons (2013 and 2016); Working Group on Enforced or Involuntary Disappearances (2014); Special Rapporteur on the right to adequate housing (May 2015); Special Rapporteur in the field of cultural rights (2016); Special Rapporteur on human rights defenders (2017); Special Rapporteur on torture (2017 and 2019); Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence (2022) and Special Rapporteur on freedom of opinion and expression (2023)

Reinforced and other institutional mechanisms for coordination

On 28 September 2023, the Government has established the Council for Development and Cooperation with Civil Society, the majority of whose members are the representatives of Civil Society Organizations appointed through direct elections by CSOs. We see this Council as a valuable resource for cooperation between the public authorities and Civil Society Organizations, which can contribute to more efficient monitoring and implementation of UN recommendations, as well as to the improvement of the position of human rights defenders. The willingness to cooperate is reflected in the formation of a publicly accessible Database of contact points for cooperation with civil society in public administration bodies, which currently contains 253 contact points.

The Republic of Serbia is aware of the existing challenges in the field of human rights and remains committed to further progress in the process of democratization, fulfilling international obligations and achieving the highest standards, especially in the field of human rights. We

remain committed to further strengthening full cooperation with the United Nations Mechanism for Human Rights.