

Charter on Human and Minority Rights and Civil Liberties

In the awareness of the fact that human rights are the cornerstone of any democratic community,

Being committed to democracy, peace, tolerance, respect for human rights, rule of law and social justice, the National Assembly of the Republic of Serbia, the Assembly of the Republic of Montenegro and the Federal Assembly, hereby adopt the following:

CHARTER ON HUMAN AND MINORITY RIGHTS AND CIVIL LIBERTIES

I GENERAL PROVISIONS

Human Dignity and Unrestricted Development of Personality

Article 1

Human dignity shall be inviolable. Everyone shall have the duty to protect it. Everyone shall have the right to unrestricted development of his/her personality, on condition that he/she does not infringe on the rights of others guaranteed under this Charter.

Respect for Human and Minority Rights

Article 2

Everyone shall have the duty to respect the human and minority rights of others.

The human and minority rights guaranteed under this Charter shall be directly applied in accordance with the Constitutional Charter of the State Union of Serbia and Montenegro.

The human and minority rights guaranteed under this Charter shall be directly regulated, secured and protected by the constitutions, laws and policies of the Member States.

Prohibition against Discrimination

Article 3

Everyone shall be equal before the law.

Everyone shall have the right to equal legal protection, without any discrimination.

Any direct or indirect discrimination on any grounds, including those relating to race, colour, sex, ethnic affiliation, social background, birth or similar status, religion, political or other convictions, financial standing, culture, language, age or mental or physical disability, shall be prohibited.

Special measures necessary for the achievement of equality, appropriate protection and progress of persons or groups of persons, with a view to



making it possible for them to fully enjoy human and minority rights on equal terms, may be taken on a temporary basis.

The special measures referred to in paragraph 4 of this Article may be applied only until the achievement of aims for which they are undertaken.

**Prohibition against
Abolition or Restriction of
Human and Minority Rights
Provided by this Charter**

Article 4

The provisions of this Charter may not be interpreted so as to imply the right of the State Union, its Member States, some group or individual to take action aimed at abolishing the rights guaranteed under this Charter or limiting them to an extent that is greater than that set by the Constitutional Charter of the State Union of Serbia and Montenegro, this Charter and constitutions of the Member States.

**Restrictions on Human
and Minority Rights**

Article 5

The guaranteed human and minority rights may be restricted only on the basis of the Constitutional Charter of the State Union of Serbia and Montenegro, this Charter and constitutions of the Member States, and the law that is generally applied and makes reference to a provision permitting the restriction.

The guaranteed human and minority rights may be restricted only to the extent necessary to fulfil in an open and free democratic society the purpose for which the restriction is permitted.

Restrictions may not be imposed for purposes other than those for which they have been placed.

In placing restrictions on human and minority rights and interpreting these restrictions, all state agencies, courts in particular, shall take into account the essence of the right subjected to restriction, importance of the purpose of restriction, nature and scope of restriction, relationship between the restriction and its purpose and whether there is a way of achieving the same purpose with a smaller restriction of rights.

Restrictions shall in no way go into the essence of the guaranteed right.

**Deviation from Human
and Minority Rights**

Article 6

Upon official declaration of a state of war or state of emergency, where a threat to survival of the State Union or a Member State is posed, measures deviating from the human and minority rights guaranteed under this Charter may be taken, though only to the extent necessitated by the given situation.

The measures of deviation may not result in any discrimination based on race, colour, sex, language, religion, ethnic affiliation or social background.

The measures of deviation from the human and minority rights in areas in the jurisdiction of the State Union institutions may be introduced prescribed only on the basis of general acts adopted by the Assembly of Serbia and Montenegro or the Council of Ministers, if the Assembly of Serbia and Montenegro is unable to convene. The decision on deviation from the human and minority rights in the case of declaration of a state of war shall be subject to the approval of the competent agencies of the Member States.

The measures of deviation from the human and minority rights in the fields of their competence shall be regulated by the Member States' constitutions and laws, in conformity with this Charter.

The measures of deviation from human and minority rights set by the Assembly of Serbia and Montenegro or the Council of Ministers shall be valid for 90 days, and upon the expiration of that period, their validity may be extended for additional 90-day periods.



The Council of Ministers shall submit its acts setting measures of deviation from human and minority rights to the Assembly of Serbia and Montenegro for approval as soon as it is able to convene. Otherwise, measures of deviation from human and minority rights shall cease to be valid at the end of the first session of the Assembly of Serbia and Montenegro held after declaration of the state of war.

The measures of deviation from human and minority rights shall cease to be valid upon the termination of the state of war or state of emergency.

During a state of war, the Court of Serbia and Montenegro shall carry on working. The status and powers of the Court of Serbia and Montenegro and its judges shall remain unchanged.

The measures of deviation from human and minority rights shall in no case be permitted with regard to the rights guaranteed under Articles 1, 11, 12, 13, 14, 17, 19, 20, 21, 25, 26, 35, 50 and 51 of this Charter.

**Human and Minority Rights
Guaranteed under
International Documents**

..... Article 7

The human and minority rights guaranteed under generally accepted rules of international law, as well as by international treaties in force in the State Union, shall be guaranteed under this Charter and be directly applicable.

**Prohibition against
Restriction of Human and
Minority Rights under the
Pretext of their not being
Guaranteed under this
Charter**

..... Article 8

It shall not be permissible to place restrictions on the human and minority rights guaranteed under generally accepted rules of international law, international treaties valid in the State Union and valid laws and regulations, on the pretext of their not being guaranteed under this Charter or being guaranteed to a smaller extent.

**Judicial Protection
and Elimination of the Con-
sequences of Violation of
Human and Minority Rights**

..... Article 9

Everyone shall have the right to beneficial judicial protection in the case of violation or denial of any human or minority right guaranteed under this charter, as well as the right to elimination of the consequences of such violation.

Anyone who is of the opinion that any of his/her rights guaranteed under this Charter has been violated or denied by an individual deed or action of a State Union institution, or a Member State agency or organisation exercising public powers, shall have the right to lodge a complaint with the Court of Serbia and Montenegro, unless other legal protection is provided in the Member State concerned, in accordance with the Constitutional Charter.

Decisions of international bodies shall be executed and cost thereof shall be borne by the State Union or the Member State concerned, depending on whether a State Union institution, Member State or an organisation exercising public powers has violated or denied any right guaranteed under an international treaty valid in the territory of Serbia and Montenegro.

**Interpretation of the
Provisions dealing with
Human and Minority Rights**

..... Article 10

The human and minority rights guaranteed under this Charter shall be interpreted in a manner that promotes the values of an open and free democratic society and in accordance with the valid international guarantees for human and minority rights and practices of international bodies supervising their implementation.

II HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Right to Life

..... Article 11

Human life shall be inviolable. Capital punishment shall not exist in the State Union of Serbia and Montenegro.

The cloning of human beings shall be prohibited.



Inviolability of Physical and Mental Integrity

Article 12

Everyone shall be entitled to inviolability of his/her physical and mental integrity.
No one may be subjected to torture, inhuman or humiliating treatment.
No one may be subjected to medical or scientific experiments without his/her freely given consent.

Prohibition against Slavery, Status akin to Slavery and Forced Labour

Article 13

No one may be kept as a slave or in a status akin to that of a slave. Trafficking in human beings in any form shall be prohibited.
Forced labour shall be prohibited. Sexual or economic abuse of any person in a disadvantageous position shall also be regarded as forced labour.
Forced labour shall not be understood to mean any work or service lawfully required of effectively convicted persons, persons doing their military service or in the case of emergency situations posing a threat to survival of the Union.

Right to Freedom and Security

Article 14

Everyone shall have the right to personal freedom and security.
No one may be arrested by somebody's own volition. Arrest shall be permissible only in the cases and the way determined by the State Union Law or laws of the Member States.
No one may be arrested only because of his/her inability to perform a contractual duty.
Any arrested person shall be notified forthwith, in the language he/she understands, of the reasons for his/her arrest or indictment, as well as of his/her rights.
Any arrested person shall have the right to inform promptly a person of his own choosing accordingly.
Any arrested person shall have the right to instigate proceedings by which the court shall examine by emergency procedure the lawfulness of the arrest and order his/her discharge if the arrest has been found to be unlawful.
Any arrested person shall be treated humanely and with due respect for his personality. Any violence against an arrested person and extortion of evidence shall be prohibited in particular.
Anyone who has been arrested unlawfully shall have a right to an indemnity.

Additional Guarantees in the case of Arrest for a Felony or Breach of Regulations

Article 15

Any arrested person shall be informed promptly that he/she has the right not to make any statement and the right to have a defence counsel of his/her own choice present at his/her examination.
Any arrested person shall be brought to the competent court promptly, no longer than within 48 hours. Otherwise, he/she shall be discharged.
Any person reasonably suspected of having committed a criminal act may be detained only by decision of the competent court, if so is necessary for the purposes of conducting the criminal proceedings.
The duration of detention shall not last longer than necessary under law, which shall be seen to by the competent court.

Special Guarantees

Article 16

Everyone shall have the right to be informed as soon as possible, thoroughly and in the language he/she understands, of the nature of and reasons for charges being brought against him/her, and the right to a trial without prolongation.



Everyone shall have the right to defence, including the right to take a defence counsel of his own choosing before the court or other authority competent for conducting proceedings, to undisturbed communication with his/her defence counsel and to have enough time and conditions for the preparation of his/her defence.

The cases in which the interests of fairness call for the accused to be given a court-assigned counsel, if he/she is unable to pay the defence counsel's fees, shall be determined in greater detail by law.

The accused shall have the right to be assisted by an interpreter if he/she does not understand or speak the language used in the proceedings.

No one who is accessible to the court or some other authority competent for the conduct of proceedings may be punished if it has not been made possible for him/her to be examined and to defend him/herself.

No one may be forced into testifying against him/herself or admitting his/her guilt.

Right to Fair Trial

..... Article 17

Everyone shall be guaranteed equal protection of rights in the proceedings before courts, other state authorities and holders of public powers.

Anyone shall have the right for his/her rights and duties, as well as the accusations made against him/her, to be decided on without any delay by independent, unbiased and lawfully established court.

Court decisions shall be pronounced in public, and court proceedings shall be public, with the exception of cases determined by law.

Right to Legal Remedy

..... Article 18

Everyone shall have the right to appeal or some other legal remedy against any decision on his/her rights, duties or legally founded interests.

Presumption of Innocence

..... Article 19

Everyone shall be presumed innocent until proven guilty of a criminal act by a court decision ready to be carried out.

Prohibition against Retroactivity, Punishment Administered only on the Basis of Law

..... Article 20

No one may be deemed guilty of or be punished for an act that prior to being committed was not determined as punishable by law.

Punishments shall be meted out in accordance with the law in force at the time when the act was committed, unless a subsequent law is more favourable for the perpetrator.

Ne Bis in Idem

..... Article 21

No one may be tried twice for one and the same punishable criminal act.

Right to Rehabilitation and Compensation for Error in Judgement in Criminal Proceedings

..... Article 22

Any person who has been sentenced unreasonably for a punishable act shall have the right to be rehabilitated and paid compensation by the State.

Right of Property

..... Article 23

The right of property and the right of inheritance shall be guaranteed. The use of property may be regulated by law in accordance with the common interest.

No one shall be deprived of his/her property, except when so is in public interest determined by law, and against a compensation that may not be lower than the market value, or in order to secure the payment of taxes or other contributions or fines.

A competent court shall settle any dispute over the amount of compensation.



**Right to Respect for
Private and Family Life**

Article 24

Everyone has the right to respect being shown for his/her private and family life, his/her home and confidentiality of his/her correspondence.

No one may enter somebody else's dwelling or other premises against the will of their holder, or search them, except on the basis of a court warrant. Somebody's dwelling or other premises may be entered and searched without a court warrant only if so is necessary for the purposes of directly arresting the perpetrator of a criminal act or for the purposes of eliminating a direct and serious threat to people or property, in the way determined by law.

The confidentiality of letters and other means of communication shall be inviolable. Deviations from this shall be permissible only for a definite period of time set by a court decision, if so is necessary for the purposes of conducting criminal proceedings or for national defence purposes, in the way determined by law.

The protection of personal data shall be guaranteed. Their collection, keeping and use shall be regulated by law. The use of personal data for purposes other than those for which they were collected shall be prohibited and punishable. Everyone shall have the right to be informed about the collected data on his person in accordance with the law.

Right to Marriage

Article 25

The right of spouses-to-be to enter into marriage on their freely given consent thereto shall be guaranteed. The entering into marriage, its duration and divorce shall be based on the equality of spouses.

Children born out of wedlock shall enjoy the same rights as children born in wedlock.

**Freedom of Thought,
Conscience and Religion**

Article 26

Everyone shall have the right to freedom of thought, conscience, conviction and religion; including to freedom to remain committed to one's belief or religion or to change them at one's own choosing.

No one shall be obliged to declare his religious and other convictions.

Everyone shall be free in private and public life to express his/her religion or conviction by practising a religion, performing rites, attending services and teaching, individually or together with others.

The freedom to express one's religion or conviction may be limited by law if so is necessary for the purpose of protecting public security, health, morality and rights of other persons.

Parents, as well as legal guardians, shall have the right to provide for their children the religious and moral education in accordance with their own convictions.

Religious Communities

Article 27

Religious communities shall have equal rights and be separate from the state.

Religious communities shall be free to independently regulate their internal organisation, religious activities and religious rites.

Religious communities shall have the right to establish religious schools and charity organisations, in accordance with the law.

Conscientious Objection

Article 28

Conscientious objection shall be recognised in the State Union of Serbia and Montenegro.

No one shall be obliged to perform military or other duties entailing the use of weapons contrary to his/her religion or conviction. Such a person



may be called to perform appropriate civil duties, in accordance with the law.

Freedom of Opinion and Expression

..... Article 29

Everyone shall have the right to freedom of opinion and expression. This right shall include freedom to seek, receive and disseminate information and ideas by speech, writing, and picture or in any other way.

Everyone shall have the right of access to data in possession of state authorities, in accordance with the law.

The right to freedom of expression may be restricted by law, if so is necessary towards protecting the rights and reputation of other people, preserving the authority and impartiality of courts, national security, public health or morality or public security.

Freedom of the Mass Media

..... Article 30

Any person may establish a newspaper or some other public media without a permit to do so. Television and radio stations may be established in conformity with the laws of the Member States.

There shall be no censorship in the State Union of Serbia and Montenegro.

Any person shall have the right to a correction of any published untrue, incomplete or incorrectly transmitted information that infringes on his/her rights or interests, in conformity with the law.

Any person shall have the right to receive a reply to information published in the media, in conformity with the law.

No one may prevent newsheets from being distributed or information and ideas from being disseminated through other mass media, unless it is established by court decision that so is necessary for the purpose of curbing the advocacy of war, incitement to direct violence or racial, national or ethnic hatred that stand for incitement to discrimination, hostility and violence.

Freedom of Assembly

..... Article 31

The freedom of peaceful assembly shall be guaranteed.

No prior permit or application shall be required for indoor assemblies.

The laws of the Member States may make it necessary for the organisers of outdoor assemblies and demonstrations to announce them to competent authorities.

The freedom of assembly may be restricted by the laws of Member States if so is necessary for reasons of public security, public health and morality, national security or protection of the rights other persons.

Freedom of Association

..... Article 32

Everyone has the right of free association, including also the right not to be a member of some organisation.

Political, trade union and other organisations may be formed without a prior permit, by being entered in the register kept by the competent authority.

The right of free association may be restricted by the laws of Member States, if so is necessary for reasons of public security, public health or morality, national security or protection of rights of others.

Organisations the activities of which are aimed at forcible destruction of the constitutional system, revocation of guaranteed human rights or pro-



voicing racial, ethnic or religious hatred, may be banned by decision of a competent court.

Right to Free Elections

Article 33

Citizens of the State Union of Serbia and Montenegro shall have the right to participate in decision-making on public affairs, either directly or through representatives elected freely by secret ballot, at general and periodical elections.

Any citizen of the State Union of Serbia and Montenegro over 18 years of age shall have the right to vote and to be elected to local self-government bodies, Member State bodies and State Union institutions, in accordance with the Constitutional Charter and laws of the Member States. The right to vote shall be universal and equal, by secret ballot.

Right of Petition

Article 34

Everyone shall have the right to address the government agencies individually or together with others, file petitions and other proposals with them and receive answers from them, if so requested. No one shall suffer any harmful consequences of exercising of this right.

Citizenship

Article 35

Any child born in the territory of Serbia and Montenegro shall have the right of citizenship, unless he holds another citizenship.

No citizen of the State Union of Serbia and Montenegro may be deprived of citizenship, expelled from the State Union of Serbia and Montenegro, or extradited outside its territory, if so is not in keeping with the international duties assumed by the Member States.

Legal Age

Article 36

Any person shall be deemed as being of legal age on reaching the age of 18 years.

Right to Freedom of Movement

Article 37

Everyone shall have the right to free movement and residence anywhere in the territory of the State Union of Serbia and Montenegro, as well as the right to depart therefrom and return thereto.

The freedom of movement and residence and the right to leave the territory of the State Union may be restricted by law, if so is necessary for the conduct of criminal proceedings, protection of public order and peace, preventing communicable diseases from spreading or for reasons of national defence.

Entry of aliens into the territory of Serbia and Montenegro and their stay therein shall be regulated by law. Any alien may be expelled from the territory of Serbia and Montenegro only on the basis of decision of competent authorities and by the procedure provided by law.

No expelled person may be sent to a place where he/she might be persecuted because of his/her race, religion, affiliation to a certain social group or political opinion, or where his/her rights guaranteed under this Charter might be violated seriously.

Right of Asylum in the State Union of Serbia and Montenegro

Article 38

Any alien who reasonably fears that he/she might be persecuted because of his/her race, colour, sex, language, religion, ethnic affiliation, membership of a group or political conviction, shall have the right of asylum in Serbia and Montenegro. The asylum granting procedure shall be determined by law.



Any person who has been forcibly displaced in the territory of Serbia and Montenegro shall have the right to an effective protection and assistance in accordance with laws and international obligations of Serbia and Montenegro.

**Special Protection
of Family, Mother and Child**

Article 39

Family, mother and child shall enjoy special protection afforded by society and the Member States.

The mother's right to the Member State's support and protection within a period prior to and after giving birth specified by law, shall be guaranteed.

Right to Work

Article 40

The right to work in conformity with law shall be guaranteed. The Member States shall create the conditions under which everyone can earn his/her living. Everyone shall have the right to a free choice of work.

Everyone has the right to fair and appropriate working conditions, and in particular to a fair compensation for his/her work.

Right to Go on Strike

Article 41

Employed persons shall have the right to go on strike in accordance with law.

**Social Welfare
and Social Security**

Article 42

Any person residing in the State Union of Serbia and Montenegro shall have the right to social welfare and social security, in accordance with law.

Right to Education

Article 43

Everyone shall have the right to education.

Elementary education shall be obligatory. The Member States shall provide for free elementary education.

Laws of the Member States shall regulate the establishment of schools and universities.

**Freedom of Creative
Scientific and Artistic Work**

Article 44

Everyone shall have the right to unrestricted creative scientific and artistic work.

The makers of works of science and art shall be guaranteed moral and material rights, in accordance with law.

Right to Health Care

Article 45

Everyone shall have the right to health care.

The Member States shall provide health care for children, mothers-to-be and elderly people, unless they are enjoying it on some other grounds.

Healthy Environment

Article 46

Everyone and the State Union and Member States in particular, shall be responsible for environmental protection.

Everyone shall have the right to a healthy environment and to receive timely and full information about its status.

Everyone shall be bound to protect and improve the environment.

III RIGHTS OF THE MEMBERS OF NATIONAL MINORITIES

**Grounds for and Frame
of the Rights of Members of
National Minorities**

Article 47

The rights of members of national minorities shall be exercised in accordance with provisions of international law dealing with the protection of human and minority rights.

Members of national minorities shall have individual and collective rights, rights that are exercised individually or together with others, in conformity with law and up to international standards.



Collective rights shall imply that members of national minorities may take part, directly or through their elected representatives, in the decision-making process or decide on issues related to their culture, education, information and the use of language and script, in accordance with law.

For the purpose of exercising their right to self-management in the fields of culture, education, information and official use of language and script, members of national minorities may elect their national councils, in accordance with law.

In addition to the term “national minorities”, other terms established by the constitutions and laws of the Member States may also be equally used.

**Freedom to Express
National Identity**

..... Article 48

The freedom to express ethnic affiliation shall be guaranteed. No one shall be bound to declare his/her ethnic affiliation.

**Prohibition against
Discrimination**

..... Article 49

Members of national minorities shall be guaranteed equality before the law and equal legal protection.

Any discrimination based on affiliation to a national minority shall be prohibited.

Such regulations, measures and actions as are aimed at securing the rights of members of national minorities, when they are in a position of inequality, allowing them to enjoy rights fully on equal terms, shall not be deemed discriminatory.

**Prohibition against
Forcible Assimilation**

..... Article 50

Forcible assimilation of members of national minorities shall be prohibited.

The Member States and the State Union of Serbia and Montenegro shall protect members of national minorities from any action aimed at such assimilation.

**Prohibition against
Provoking Racial, Ethnic
and Religious Hatred**

..... Article 51

Any provocation of and incitement to ethnic, racial, religious and other inequality, as well as provocation and stirring up of national, ethnic, racial, religious and other hatred and intolerance, shall be prohibited and punishable.

**Right to Preservation
of Identity**

..... Article 52

Members of national minorities shall have the following rights:

- to express, keep, cherish, develop and publicly manifest their national and ethnic, cultural and religious identity;
- to use their symbols at public places;
- to freely use their language and script;
- to proceedings being conducted by the authorities in the communities having a considerable minority population also in the language of the minority population concerned;
- to receive education in their language in state institutions;
- to establish private educational institutions at all levels;
- to use their own name and surname in their own language;
- to the traditional local names, names of streets and settlements, as well as topographic signs to be written also in the minority language;



- to a certain number of seats in the Assembly of the Member State concerned and in the Assembly of the State Union, based on the principle of direct representation, in accordance with the laws of the Member States;
 - to be adequately represented in public services, state authorities and local self-governance authorities;
 - to be fully and impartially informed in their own language, including the right to express, receive, send and exchange information and ideas;
 - to establish their own public media .
- The way of exercising these rights shall be provided by law.

Right to Association

..... Article 53

Members of national minorities shall have the right to establish educational and cultural organisations and associations, the financing of which is carried out voluntarily.

Organisations and associations of members of national minorities shall be recognised a special role in the exercise of rights of members of national minorities.

Co-operation with Compatriots in Other States

..... Article 54

Members of national minorities shall have the right to establish undisturbed relations and to co-operate with their compatriots living outside the territory of the State Union of Serbia and Montenegro.

Improvement of Living Conditions

..... Article 55

The Member States shall adopt, wherever necessary, appropriate measures towards advancing full and effective equality between members of national minorities and members of the majority, in all spheres of economic, social, political and cultural life.

When necessary, the measures referred to in the previous paragraph shall be geared to the elimination of strikingly unfavourable living conditions, particularly affecting members of a national minority.

The State Union of Serbia and Montenegro, acting within the competencies determined by the Constitutional Charter, and the Member States, shall guarantee to members of national minorities the right to manage public affairs, including the right to vote and be nominated for holders of public offices, on equal footing with other citizens.

Development of a Spirit of Tolerance

..... Article 56

The State Union of Serbia and Montenegro and the Member States shall encourage a spirit of tolerance and multicultural dialogue in the fields of education, culture and the media, and apply efficacious measures towards upgrading mutual respect and understanding and co-operation among all people living in its territory, irrespective of their ethnic, cultural, linguistic or religious identity.

Guarantee for Vested Rights

..... Article 57

The achieved level of human and minority rights, individual and collective, may not be reduced.

This Charter shall not revoke or alter the rights vested in members of national minorities by the regulations that were in force prior to the effective date of this Charter, as well as the rights acquired on the basis of international treaties to which the Federal Republic of Yugoslavia had acceded.

