



No. 128-1/2024.

The Permanent Mission of the Republic of Serbia to the United Nations Office and other International Organizations in Geneva presents its compliments to Office of the Ms. Tlaleng Mofokeng, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Office of the High Commissioner for Human Rights, and with regard to your letter OL SRB 3/2023 dated 26th December 2023, has the honour to herewith submit the response prepared by the relevant authorities of the Republic of Serbia

The Permanent Mission of the Republic of Serbia to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to Ms. Tlaleng Mofokeng, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Office of the High Commissioner for Human Rights, the assurances of its highest consideration. *ss*



Geneva, 9th February 2024

Ms. Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of
physical and mental health
Office of the High Commissioner for Human Rights
G E N E V A



**Republic of Serbia
MINISTRY FOR HUMAN
MINORITY RIGHTS AND SOCIAL DIALOGUE**

**Responses of the Republic of Serbia to the Questionnaire of the UN Special
Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable
Standard of Physical and Mental Health**

Dear Ms. Tlaleng Mofokeng,

With the respect to your willingness for future cooperation and technical support in the implementation of international norms and standards in the area of human rights of persons with mental disabilities in the Republic of Serbia, as well as the relevance of information at your disposal, we would like to inform you that the Draft Law on Amendments and Supplements of the Law on Protection of Persons with Mental Health Disabilities, which is the subject of your letter, was not a subject of determination of a bill by the Government of the Republic of Serbia, and since the Government has not debated nor passed this Draft Law, it has not been submitted to further procedure to the National Assembly.

On the behalf of the introducer of amendments and supplements of the Law on Protection of Persons with Mental Health Disabilities, the Ministry of Health, that was timely acquainted with your observations, we would like to emphasize the readiness for all recommendations of the UN system referred to the Republic of Serbia, as well as the existing standards and practices relating to the rights of persons with mental disabilities, especially children, to be carefully considered with all interested sides, including the independent republic bodies for human rights protection. Also, herewith we mention that, pursuant to the Law on Planning System, a legal obligation is prescribed for all introducers of the law to conduct procedures of public consultations and debates in which the participation of experts from area of children rights and mental health rights, as well as representatives of civil society, is enabled.

We indicate that the parliamentary and local elections in our country were held on December 17, 2023 and that the constitution of the National Assembly is progress, after which a new Government will be formed and thus all procedures of proposing public policy and laws documents repeated.

Considering the jurisdictions of the Ministry for Human and Minority Rights and Social Dialogue that, amongst other, refer to the monitoring of the application of international human rights standards, as well as to recommendations of treaty bodies of United, Universal Periodic Review, as well as Special procedures, including recommendations of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, we point out that the activities referring to obligations of the country with regard to the development of deinstitutionalization policy, the complete abolishment of institutional care for children, with the special focus on the elimination of institutionalization of toddlers with or without developmental disabilities, were undertaken with due diligence.

After great tragedies in which children and young people were killed (on May 2023), *the Working Team for Mental Health of the Ministry for Human and Minority Rights and Social Dialogue* grew into the Governmental Council for Prevention of Peer Violence. Besides the Council, the Working Group on Mental Health and Youth Safety Support and the Working Group on Children Online Safety were also formed.

Continuous work on the intersectoral connection and the coordination of activities is affirmed by the fact that *the Memorandum on Cooperation in the Field of Children and Youth Mental Health*, under the auspices of UNICEF, was signed by the six ministries on October 16, 2023. The operationalization of two-year goals from this Memorandum has been commenced with and the Ministers responsible for the fields of health and youth will co-chair the Working Group.

Observing on the international scale the Republic of Serbia is one of the countries with the lowest percentage of children in residential care facilities (below 100 per 100.000 children). The ban on the accommodation of children under the age of 3 is regulated by the law and the deinstitutionalization strategy increases the limit for accommodation to the ban on the accommodation of children up to 7 years old. Also, in the last ten years a significant progress was made in reducing the overall number of children placed in the social protection institutions. The number of children in foster care accommodation in the Republic of Serbia is significantly higher (88%) compared to the number of children in institutional care (12%) but it is lower when it comes to children with development disabilities due to which steps have been undertaken toward the development of specialized foster care with an intensive and additional support.

Efforts on the development of services of temporary foster care, applying for children with development or health difficulties that live in a biological family or a foster care family and that are being accommodated in another family for a short period for the purposes of a respite and preservation of foster i.e. biological family capacity for further care of a child and prevention of crisis situations possibly leading to a separation of the child from family and accommodation in an institution, are intensified.

Legal prohibition on the accommodation of children under the age of 3 in institutions is regulated since 2011. The law also clearly emphasizes the prevention of parents and children separation – when it is in the best interest of a child. At the end of 2021 *the Law on Rights of Users of Temporary Accommodation Services in Social Care* was passed which is a part of strategic solution for conducting a transition of a user from institutional care to life in community. The Law is to enable the protection of users rights through their training for independent living and social inclusion.

We regretfully state that the COVID-19 pandemic has slowed down our efforts regarding the process of deinstitutionalization, however, all relevant actors confirm their readiness for restoration and even significant acceleration and improvement of this process. This is also shown by the adopting of *the Strategy on Deinstitutionalization and Community-*

based Social Care Services Development in Social Care System for period 2022-2026 that represents a harmonized system of measures, conditions and instruments of public policy the Republic of Serbia is to conduct in order to prevent institutionalization i.e. reduce number of citizen using the services of residential institution placement. Also, the application of measures from the Strategy enables the development of community-based social care services that will contribute that users of social care system needing more intensive support satisfy most of their requirements in natural surroundings. It is primarily aimed toward persons with intellectual and mental difficulties that are at the highest risk of institutionalization and social exclusion. One of the leading breakthroughs of this strategic document is the fact that *the ban on the institutional accommodation of children under the age of seven* is prescribed. Taking into consideration the set goals, it is necessary to additionally strengthen the support system, secure additional financial funds, so that children and their families have an access to quality services in their place of residence.

With the aim of supporting the process of deinstitutionalization, the Ministry responsible for the social care field and the Standing Conference of Towns and Municipalities on January 16, 2023 officially commenced the realization of the project “*Support to sustainable community-based social services and inclusion policies at the local level*”.

The Strategy on Improvement of Position of Persons with Disabilities in the Republic of Serbia for the period 2020-2024, as some of its specific goals, prescribes increased social inclusion of persons with disabilities and rights of persons with disabilities to working capacity and family life on an equal basis with others and efficient protection from discrimination, violence and maltreatment. As one of the measures that contributes to the first specific goal (increased social inclusion of persons with disabilities), the Strategy prescribes the improvement on life quality of persons with disabilities and the adoption of deinstitutionalization program with the provision of adequate support for life in community and family, including the development of support services for independent life in community.

The Strategy on Development of Mental Health Protection and the Mental Health Protection Program in the Republic of Serbia for the period 2019-2026 emphasize the community-based health care as one of the principles.

The Strategy on Prevention and Protection Against Discrimination and the accompanying Action Plan in the section arranging the position of persons with disabilities prescribes general and specific goals directed toward changing of public policies in certain areas that might be “the source of discrimination”, especially in areas of work, employment and vocational training, personal status and family life, social and health care protection, provision of services, using of public spaces, affirmation of participation of persons with disabilities in political and public life, as well as access to justice for persons with disabilities.

Planned amendments and supplements of the Family Law prescribe the abolishment of the institute of complete deprivation of working capacity and introduce the principle of supported decision-making pursuant to the Convention on the Rights of Persons with Disabilities.

Relevant authorities in charge of the process of deinstitutionalization proceed from the fact that they should enable the users to satisfy their everyday needs in their own local communities with all the necessary help and support. From the standpoint of social care, the process is directed toward the prevention of institutional accommodation and the return of users from the accommodation facilities to natural surroundings that is accomplished through the development of services in a community, sustainable financing, respect of users rights to individual choice and participation in processes of decision-making.

In addition to all undeniable challenges, we consider that the Republic of Serbia has shown, together with strong commitment to the improvement of position of persons with mental difficulties, persons with disabilities and especially children, that in a partnership with all interested sides it has enabled measurable results that the accompanying action plans contribute to by showing achievements as well as shortcomings and indicating the necessity for more focus and dedication to further process of protection of the most vulnerable social groups. The Government of the Republic of Serbia will take your recommendations into account during the preparation and implementation of documents of public policies in the further process of reforms.