

- ▶ Convention Concerning the Protection of Workers against Occupational Hazards in the Working Environment Due to Air Pollution, Noise and Vibration;
- ▶ Convention Concerning Occupational Safety and Health and the Working Environment;
- ▶ Convention Concerning Occupational Health Services;
- ▶ Convention Concerning Safety in the Use of Asbestos;
- ▶ Protocol No 8. of the Convention for the Protection of Human Rights and Fundamental Freedoms;
- ▶ Protocol No 7. of the Convention for the Protection of Human Rights and Fundamental Freedoms;
- ▶ European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;
- ▶ Protocol No 1. to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;
- ▶ Protocol No 2. to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;
- ▶ Council of Europe Convention on Action against Trafficking in Human Beings.

The following treaties have been signed, but not ratified:

- ▶ Additional Protocol to the Convention on Human Rights and Biomedicine Concerning Transplantation of Organs and Tissues of Human Origin;
- ▶ Additional Protocol to the Convention on Human Rights and Biomedicine Concerning Biomedical Research;
- ▶ Protocol No 15 of the Convention for the Protection of Human rights and Fundamental Freedoms.

Additionally, Serbia has signed and ratified the majority of international and regional (European) legal instruments concerning health, biomedicine and human rights. For more information please refer to Chapter 1.

5.2. Status of Precedent

Since the Republic of Serbia belongs to the continental law system countries, a precedent, i.e. the case law, cannot be treated as formal legal source.

Despite precedent is not formal legal source, the jurisdiction of the Supreme Court of Cassation, established in 2010, was expanded by the amendments and supplements to the **Law on Organization of Courts**¹ and implemented on 21 May 2014. In order to ensure uniform application of law, the Court forms its jurisprudence presenting it through opinions expressed in its decisions, and through conclusions and sentences adopted at its departmental sessions and the session of all the Judges.

According to **Article 43** of the **Law on Organization of Courts**, the session of departments of the Supreme Court of Cassation deliberates issues from the scope of work of court departments. The session of departments shall also be convened due to incompatibilities between some chambers arising in respect of the application of regulations or if one chamber departs from a legal opinion adopted

¹ Official Gazette RS 16/2008, 104/2009, 101/2010, 31/2011, 78/2011, 101/2011 and 101/2013.

by its case law or a legal opinion accepted by all chambers. A legal opinion adopted at the session of departments is binding for all chambers comprising the departments.

Decisions of the Supreme Court of Cassation relevant to case law and all general legal views shall be published in a special collection of works.

5.3. Legal and Health System

LEGAL SYSTEM

The Republic of Serbia belongs to the continental law system countries according to its legal system structure. Legal norms are codified in relevant regulations, governing all aspects of social life. The Constitution of the Republic of Serbia, the most important and the supreme legal act, adopted in 2006², is based on the fundamental principle that the legal system is unique. It anticipates that all international and domestic regulations have to be in compliance with constitutional and law principles. According to Article 194 of the Constitution, all laws and other general acts enacted in the Republic of Serbia must be in compliance with the Constitution. Ratified international treaties also may not be in contradiction with the Constitution. The same article anticipates that laws and other general acts enacted in the Republic of Serbia may not be in contradiction with the ratified international treaties and generally accepted rules of the international laws, since they are also part of the Serbian legal system.

Article 195 of the Constitution specially regulates the hierarchy of domestic legal acts. This article anticipates that all of the following must be in compliance with the law: bylaws of the Republic of Serbia; general acts of organizations with delegated public powers; political parties, trade unions and civic associations and collective agreements; statutes, decisions and other general acts of autonomous provinces and local self-government units.. Article 197 of the Constitution, being in compliance with the principles of legal safety and the rule of law, explicitly forbids retroactive effects of laws and legal acts. The exceptions are allowed in special circumstances only, as established in the procedure of adopting the Law. Article 1 of the Constitution explicitly specifies that Serbia is a republic, based on constitutional principles, such as the rule of law (authority within the limits of the governmental power and distribution of authority); social justice (socially responsible state managing the politics of equality); principles of civil democracy (sovereign citizens exercise their will through free elections); human and minority rights and freedoms in compliance with generally accepted rules of international law; and commitment to European principles and values.

The government system power is divided among legislative, executive and judiciary authority. The National Assembly is the holder of legislative power, the President and the Government are holders of executive power, while courts of both general and special jurisdiction are holders of judiciary authority. Courts of general jurisdiction include basic courts, high courts, appellate courts and the Supreme Court of Cassation – the highest court in the country, and special jurisdiction courts include commercial courts, the Commercial Appellate Court, minor offences courts, the High Minor Offences Court, and the Administrative Court).

Organizational structure of the legal system in Serbia is shown on Scheme 1.

² Official Gazette of RS 98/2006.