

Serbia

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Serbia has ratified both the CRPD and its Optional Protocol in 2009. But, Serbia has not ratified the Hague Convention 2000 in this moment. Unfortunately, following the adoption of the CRPD, there has not been any reform of family law rules.

According to Family Act 2005, two decisions enable tailored-made incapacitation to some extent. The first one is a court decision on partial deprivation of legal capacity which determines the legal operations that a person partially deprived of legal capacity may /may not undertake independently.

The second one is the decision on placing someone under guardianship, which must include a guardianship plan, which is specific for each person.

In addition, relevant provisions of the Family Act are:

Prolongation of parental rights: if the child, due to illness or impediments in psychophysical development, is unable to take care of himself/herself and of the protection of his/her rights or interests, or if he/she endangers his/her own rights and interests by his/her actions.

Full legal capacity is obtained by reaching the age of majority (18) or by concluding a marriage with court permission before reaching the age of majority. The court may also permit a minor to obtain full legal capacity if he/she has reached sixteen years of age, has become a parent and has reached the physical and mental maturity to provide independently for his/her own personality, rights and interests.

A child who has not reached fourteen years of age (a young minor) may undertake legal operations whereby he/she acquires exclusively rights, legal operations whereby he/she does not acquire either rights or obligations and legal operations of small significance.

A child who has reached fourteen years of age (senior minor) may undertake, all other legal operations with the prior or subsequent consent of his/her parents, or the consent of the guardianship authority for some legal operations. A child who has reached the age of fifteen may undertake legal operations whereby he/she manages and disposes of his/her income or property acquired through his/her own work.

Guardianship: A child without parental care (a minor ward) or a person of age who is deprived of legal capacity (mature ward) is placed under guardianship.

Deprivation of Legal Capacity

Full Deprivation of Legal Capacity: A person of age who, due to illness or impediments in psychophysical development, is not able to reason normally and is thus unable to take care of himself/herself and to protect his/her rights or interests, may be fully deprived of legal capacity. The legal capacity of this person is equal to the legal capacity of a young minor.

Partial Deprivation of Legal Capacity: A person of age who, due to illness or impediments in psychophysical development, directly endangers his/her own rights and interests or the rights

and interests of other persons by his/her actions may be partially deprived of legal capacity. The legal capacity of this person is equal to the legal capacity of a senior minor.

The guardian may, but only with prior **consent of the guardianship authority**: decide on the education of the ward; decide on medical interventions on the ward; give consent to the undertaking of legal operations by a ward over fourteen years of age; undertake legal operations whereby he/she manages and disposes of the income acquired by a ward under 15 years of age; operations that exceed the regular management of the ward's property; dispose of the ward's property.

The authority for issuing of the *(pre) nuptial contract*, belongs to the notary public. According to the Act on Notary Public 2011 notary is obliged to explain the content and legal consequences of the contract to the parties. According to the amendments to the Family Act 2015 the form of (pre) nuptial contract is notarial solemnization of the legal document. The Act on Notary Public provides a mandatory form of a notary public record for the agreements on the division of the community property of spouses or cohabitants.

Partners manage and dispose their *common (joint) property* jointly and with mutual consent. It is to be considered that one of the partners always undertakes operations of regular management with the consent of the other one. This presumption does not exist for disposing of common property.

Family law protection from *domestic violence* was introduced in Serbia in the Family Act 2005. Serbia has ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence 2013 and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse 2010. The Act on preventing domestic violence was enacted 2016.