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COMMISSIONER FOR THE PROTECTION OF EQUALITY 2015 REGULAR ANNUAL REPORT

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Translation:

Introduction and **Summary:** *Institution of the Commissioner for the Protection of Equality*

From **About the Commissioner for the Protection of Equality** to the end of 2015 Regular Annual Report, including the **Table of Contents**:

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All the terms used in this Report in masculine grammatical gender encompass both masculine and feminine gender of the person they refer to.

INTRODUCTION

Esteemed Members of the National Assembly,

Dear readers,

This is the sixth Regular Annual Report of the Commissioner for the Protection of Equality but at the same time it is the first such report submitted by the new Commissioner for the Protection of Equality elected by the National Assembly on 27 May 2015 in her five year term of office.

The Commissioner for the Protection of Equality, an autonomous state body which is independent in performing its duties and obligations as defined by the Law on the Prohibition of Discrimination and specialized in the prevention of and protection from discrimination, performs its role in combating discrimination and striving towards reaching full equality for all members of our society, as the respect for human rights constitutes a fundamental value and a cornerstone of development for each and every country.

A steady rise in the number of filed complaints, our foremost instrument within our mandate, is encouraging as it demonstrates that an increasing number of citizens trust our institution. When compared to the previous year, the number of complaints has increased by almost 20 percent. This upward trend was particularly pronounced in the second half of 2015, which does not mean that our society was experiencing more instances of discrimination, but rather that, on the one hand, the institution itself has gained visibility and is working on suppressing discrimination more vigorously, while on the other hand it also means that discrimination is more easily detected and that an increasing number of citizens is willing to seek protection.

Institution's year in year out experience shows that the majority of complaints pertain to discrimination suffered in the process of employment or to workplace related discrimination. However, in terms of the grounds for discrimination, unlike in previous years, the majority of complaints filed in 2015 cited personal characteristics such as gender and sex, while the issue of gender equality dominated the public discourse. One of the reasons for the spike in the number of complaints alleging gender based discrimination was the adoption of the new Law on the Method of Determining the Maximum Number of Employees in the Public Sector, which has led to a large number of complaints filed by women and professional organizations. Due to discriminatory provisions of this piece of legislation, the Commissioner for the Protection of Equality and the Ombudsman have launched an initiative with the Constitutional Court of the Republic of Serbia to assess the conformity with the Constitution. The Constitutional Court found that the implementation of contentious provisions of the present law would lead to irreversible harmful consequences to persons concerned. With reference to the aforementioned,

the Constitutional Court has suspended, until the final decision, the enforcement of individual official decisions which would be passed on the basis of the contentious provisions of this Law.

The grim reality shows that in the last year alone, 34 women were killed as a result of domestic violence in Serbia. The bleak statistics only highlighted the need for the line institutions and professionals to tackle this burning issue in our society by taking action and adopting urgent measures geared towards protecting human rights and promoting life without violence. Bearing this in mind the Commissioner for the Protection of Equality has called upon the competent authorities to harmonize the legislative framework with the already ratified Istanbul Convention and to introduce urgent measures aimed at protecting women victims of violence.

The wider context and the timeline when the Commissioner for the Protection of Equality entered a new phase of its operation and implementation of its law-prescribed mandate, coincided with the alarming influx of migrants fleeing Middle East and North Africa, which has led to an increase in the number of complaints related to the discrimination of migrants. The Commissioner was present in the field and in reception centers where it was possible to see all the difficulties these people faced and detect on the spot potential cases of discrimination against migrants during their stay in Serbia.

Certain laws which are fundamentally important for the protection and strengthening of equality in certain areas were adopted during 2015. Although effective regulations offer solid legal framework for the protection against discrimination, the need for their alignment with the EU standards still persists. With this in mind, the Commissioner for the Protection of Equality found that two documents were of paramount importance for its operation: firstly, Serbia EU Integration Annual Progress Report and secondly, European Commission's Positive Opinion on the Action Plan for Chapter 23 in the process of accession negotiations. Serbia Progress Report states that further harmonization of the antidiscrimination legislative framework is necessary, namely with respect to the following: the scope of exemption from equal treatment principle, definition of indirect discrimination and employer's obligation to make reasonable modifications and adjustments for their employees with special needs. European Commission's Positive Opinion on the Action Plan for Chapter 23 in the process of accession negotiations found that all the hard work done by the Commissioner for the Protection of Equality has significantly contributed to awareness raising regarding discrimination but that further strengthening of this Institution's capacities in the upcoming period is needed so as to enable the Commissioner to continue with its efforts towards promoting the protection against and prevention of discrimination.

During the second half of 2015 particular emphasis was given to dealing with backlog of issues associated with financial and operational challenges, to those pertaining to implementing recommendations contained in the Report of the State Audit Institution as well as to finding new, more spacious office space as a precondition for Institution's functioning. By the end of the year new office premises were assigned to the Commissioner for the Protection of Equality which are currently being refurbished by the Administration for Joint Services of the Republic Bodies and relocation of the institution is planned for mid-2016.

The drafting of 2016 – 2020 Institution Development Strategy is an important prerequisite for further improvement of Institution's functioning and for a successful implementation of its vision and mission, since the Commissioner for the Protection of Equality is a key authority specialized in combatting all forms and shapes of discrimination. The vision of the Commissioner for the Protection of Equality sees Serbia as an open and tolerant society of equal people which offers equal opportunities to all of its citizens, while its mission is to eradicate all forms of discrimination and achieve full equality in all areas of social life. The evaluation of the first Institution Development Strategy was a good starting point for adopting the new strategy that will be made available to the public in April. Further efforts will continue towards strengthening institutional capacities, increasing institution's visibility and accessibility, improving the methodology for monitoring the implementation of recommendations, as well as towards promoting cooperation with civil society organizations, media, trade unions and national council of national minorities.

In order to improve the public's ability to detect discrimination as well as to strengthen institution's visibility and increase its presence, we have forged a strong partnership with our chief allies, the media. This is the reason the Commissioner for the Protection of Equality established in 2015 in cooperation with OSCE Mission to Serbia, the Annual Media Award whose main objective is to help create a climate of zero tolerance for discrimination in our society.

By pursuing activities within its legal domain and by adopting a proactive approach, the Commissioner for the Protection of Equality has been exerting every effort to protect and reinforce principles of equality, equal opportunities and tolerance and has used every means within its powers to do so. Discrimination is a basic and most common violation of the equality principle hence pursuing activities aimed at its elimination is of crucial importance for the development of a society and its each and every member.

The upcoming period is fraught with challenges which as a society we must strive to confront and overcome so as to have differences of every kind accepted. Having said this I would wish to share a quote by Hannah Arendt that would hopefully inspire everyone reading this Report to lead by example, thus helping Serbia become a more tolerant society: 'As citizens, we must prevent wrongdoing because the world in which we all live, wrong-doer, wrong sufferer and spectator, is at stake'. (Hannah Arendt)

The Commissioner for the Protection of Equality
Brankica Janković

SUMMARY

In 2015 the Commissioner for the Protection of Equality, within its statutory powers, continued with its activities aimed at combating all types, forms and instances of discrimination and geared towards promoting equality. This sixth Regular Annual Report of the Commissioner for the Protection of Equality is at the same time the first such report submitted by the new Commissioner for the Protection of Equality, Brankica Janković, who was elected by the National Assembly on 27 May 2015 in her five year term of office. It should be noted that in 2015 adequate office space was provided for operational needs of the Commissioner for the Protection of Equality, while institution's relocation is planned for mid-2016.

An upswing in the number of cases handled by the Commissioner for the Protection of Equality continued in 2015. In comparison to 884 cases in 2014, 2015 saw a total of 1040 finalized cases, which translates into a 20% increase. The overall visibility of the institution has also increased resulting in easier detection of discrimination and a larger number of individuals willing to seek protection against discrimination. The surge of complaints does not automatically mean that there were more instances of discrimination in our society, but rather that on the one hand, the institution was gaining visibility and was working more intensively towards eliminating discrimination in our country, while on the other hand, discrimination itself was becoming easier to detect and identify. In 2015 a total of 797 complaints were filed with the Commissioner for the Protection of Equality by citizens, civil society organizations, legal and other entities. In addition, by its other powers vested in the Commissioner for the Protection of Equality, the institution had issued a total of 215 recommendations containing measures for attaining equality, 17 opinions on draft laws and other acts of general nature; it has also filed criminal charges in one instance and one initiative to assess conformity with the Constitution, and has issued nine warnings and 35 statements. Recommendations pertaining to concrete cases of discrimination have also been almost entirely implemented i.e. in 89.1% of cases recommendations have been adhered to.

In terms of discrimination, an overwhelming number of complaints were filed by private entities. Similar to previous years, out of all complaints filed by private entities, men prevail with 55%, while women constitute 45% of all plaintiffs. The number of complaints filed by legal entities is also on the rise, in particular those filed by civil society organizations. Namely, in 2015, 121 complaints were filed by legal entities, out of which 101 were filed by civil society organizations. Geographically, the largest number of complaints originated from Belgrade Metropolitan Area (25.3%) while the least number of complaints came from South and East Serbia regions (9.5%) and from Kosovo and Metohija (0.2%).

In 2015 the largest number of complaints alleged gender based discrimination (22.1%), closely followed by those alleging discrimination based on national affiliation (18.4%), followed by complaints claiming discrimination on the grounds of disability (11.3%) and age based

discrimination (9.4%). As for areas in which discrimination is most commonly encountered, much like in previous years, most complaints alleged discrimination in the job recruitment process or workplace related discrimination (36.3%), this being an area where women prevail in the number of complaints filed, while men tend to dominate with the number of complaints in all other spheres of social life. These were followed by complaints claiming discrimination during procedures before public authorities (approximately 23%) and by complaints alleging discrimination in the process of public services provision or utilization of public spaces and facilities (8.3%). Similar to previous years, the largest number of complaints was filed against government bodies i.e. public authorities – a whopping 50%, followed by complaints against legal entities (around 28%), private entities, groups of individuals and lastly, organizations.

With reference to the aforesaid and bearing in mind the number of filed complaints, it would be safe to say that groups most exposed to discrimination in Serbia are women, people with disabilities, members of the Roma national minority, while women and children belonging to these marginalized groups are even worse off as they are frequently exposed to double or multiple discrimination. Women tend to be particularly vulnerable to discrimination on the labor market but gender based violence against women seems to be widespread too. The situation of Roma population is still deplorable and their members are exposed to discrimination in almost all areas of life, in particular in the field of education, labor and employment, social protection and healthcare services. Regarding persons with disabilities, obstacles to full social inclusion persist in the area of education and employment leading to further deterioration in their status due to the lack of support for independent living. Facilities and services remain difficult or impossible to access, with institutionalization risks looming large while their political engagement remains insignificant.

According to complaints filed claiming gender, national affiliation or ethnic origin and disability based discrimination, the most common are those alleging discrimination on the grounds of personal characteristics, namely: age, sexual orientation, marital or family status, health status, membership in political, trade union and other organization, as well as gender identity. One of the reasons for the spike in the number of complaints alleging gender based discrimination was the adoption of the new Law on the Method of Determining the Maximum Number of Employees in the Public Sector, which has led to a large number of complaints filed by women and professional organizations. Due to discriminatory provisions of this piece of legislation, the Commissioner for the Protection of Equality and the Ombudsman have launched an initiative with the Constitutional Court of the Republic of Serbia to assess the conformity with the Constitution. The Constitutional Court found that the implementation of contentious provisions of the present law would lead to irreversible harmful consequences to persons concerned. With reference to the aforementioned, the Constitutional Court has suspended, until the final decision, the enforcement of individual official decisions which would be passed on the basis of contentious provisions of this Law.

In 2015 the Commissioner for the Protection of Equality and staff members working in the Professional Services Department pursued activities aimed at boosting institution's visibility and promoting the principles of equality and prohibition of discrimination by taking part in various lectures and presentations, organizing different promotional event and attending conferences,

professional panel discussions and round tables. Cooperation with other independent state bodies, civil society organizations, international organizations, state authorities and institutions as well as the media has been strengthened.

The Commissioner for the Protection of Equality continues to maintain bilateral and multilateral cooperation with international partners both at home and abroad, focusing especially on international cooperation – partnerships and joint activities with foreign missions and country offices of international organizations, as well as regular and continuing activities associated with membership in the European Network of Equality Bodies (EQUINET).

In order to improve the public's ability to detect discrimination as well as to strengthen institution's visibility and increase its presence, we have forged a strong partnership with our chief allies, the media. This is the reason the Commissioner for the Protection of Equality in cooperation with OSCE Mission to Serbia established in 2015 the Annual Media Award whose main objective is creating a climate of zero tolerance for discrimination in our society.

Within the cooperation framework established between the institution and the European Roma Rights Centre (ERRC) from Budapest, a six-month internship program with the Professional Service of the Commissioner for the Protection of Equality was launched intended for young Roma interns who were thus able to acquire hands-on work experience in an independent institution, but also to gain a sense of empowerment, acquire practical knowledge by working in the institution on daily basis and broaden their knowledge on different aspects of equality policies aimed at Roma inclusion and at increasing public awareness on the need to include all minority groups in the functioning of public institutions.

A sum of 72,904,000 RSD was allocated to the Commissioner for the Protection of Equality in 2015, while 2016 Budget Law envisages a total of 81,255,000 RSD for the institution's budget. Out of the overall allocated sum in the budget of the Republic of Serbia for 2015, a total of 46,737,187 RSD was disbursed which amounts to 64% of funds.

2015 saw the implementation of certain recommendations that had been issued by the Commissioner for the Protection of Equality in its earlier Reports, however a substantial number of recommendations have either not been implemented or were implemented only partially. Taking into consideration previously issued recommendations, the majority of which are still pending and based on our review of complaints filed during 2015 and other relevant available data on challenges encountered in attaining equality, we hereby issue the following recommendations:

1. Establish and make fully operational a unified, centralized and standardized system for the collection, registration and analysis of discrimination related data and the functioning of the system for legal protection against discrimination.
2. Initiate without delay the development of strategic documents which ceased to be effective in 2015. New strategic documents should be based on evaluation results of previously effective

strategies taking into account the current situation and needs of concerned social groups. When preparing these strategic documents gender mainstreaming should be incorporated, objectives and activities should be realistically defined, sources of funding ensured and a far reaching consultation process to include all stakeholders should be implemented. In addition, drafting of all strategic documents expiring in 2016 should commence in a timely fashion.

3. Intensify activities aimed at implementing measures defined by national, provincial and local strategic documents and action plans. This should enable the attainment of full equality of underprivileged and marginalized social groups, including women and children belonging to these groups, so as to create conditions conducive to the implementation of their guaranteed rights without discrimination. Representatives of these marginalized groups should be included in these activities.

4. Regulations should make gender mainstreaming in all public policies mandatory which means that gender perspective must be integrated into public policies in order to eliminate all system-related and structural causes of gender inequality and create conditions for transposing gender equality, as one of European values, in a coherent and systematic way. Continue with efforts exerted towards integrating gender perspective in all decisions and policies at national, provincial and local levels. Ensure consistent implementation of rules on gender analysis of draft laws and other regulations, and analysis of their effects on women and men.

5. Impose on employers an obligation to: develop internal mechanisms for protection against and combating discrimination, pursue gender balanced human resources policy and manage national, ethnic, religious, language and other differences.

6. Introduce all the necessary measures so that the composition of employees working in government bodies, local self-government units and other public institutions corresponds to ethnic structure of the population in that particular territory. This can be achieved by increasing the number of employees belonging to national minorities as well as by providing them with job-related training and education.

7. Adopt the Law on Gender Equality in order to eliminate system related and structural causes of gender inequality and enable the implementation of all guaranteed rights in keeping with the principle of gender equality enshrined in the Constitution and the obligation to develop policies of equal opportunities.

8. Improve legislative framework governing the system of protection against domestic violence and other types of gender based violence, in accordance with standards defined by the ratified Istanbul Convention. In addition, all public authorities need to take all the necessary measures within their jurisdiction aimed at improving the efficiency and effectiveness of service provision in respect of family protection, legal assistance and criminal prosecution in cases of domestic violence and other types of gender based violence, while at the same time providing a coordinated and efficient response by the government institutions in terms of assistance and support to victims.

9. Develop without delay a Rulebook on Precise Criteria for Detecting Discrimination by staff members, students and third persons in education institutions and provide conditions for its implementation.
10. Adopt the Law on Free Legal Aid which would ensure an effective access to justice without discrimination on any grounds, including access to justice for victims of discrimination.
11. Amend, as soon as possible, regulations governing the deprivation of legal capacity, in accordance with modern social model of disability and pursuant to international standards in this area, so as to enable persons with disability to enjoy, with adequate support, their guaranteed rights on equal basis.
12. Improve the legal status of transgender persons, by passing a separate law or amending the existing legislation, so as to enable transgender individuals to fully integrate their new identity into their private and professional life, while at the same time respecting their right to privacy.
13. Pass regulations which would enable the registration of same sex couples and which would regulate the effects, legal consequences and termination of thus registered partnerships, in line with recommendations issued by the Council of Europe.
14. Amend the Law on Financial Support to Families with Children by explicitly stating that a father shall be entitled to parental allowance if the mother is not a Serbian citizen.
15. Pursue continuing antidiscrimination education and training of judges, public prosecutors, police officers, civil servants, educators, healthcare workers, social and welfare protection workers and employees working in labor inspectorates. This would enable them to interpret and implement antidiscrimination regulations uniformly and duly, in accordance with standards and practice of international institutions.
16. Take measures that would incorporate topics conducive to peace, tolerance, understanding and appreciation of differences, gender equality and non-discrimination into school curricula and syllabi. Remove from curricula and syllabi discriminatory content which breeds stereotypes and prejudice. Introduce health education on reproductive and sexual health topics into secondary education institutions.
17. Ensure equal opportunities in access to higher education to young people belonging to underrepresented groups, including persons with disability. This can be achieved by introducing special measures and amending accreditation standards for institutions of higher education in terms of spatial accessibility, providing assistive technologies and appropriate student support services. Initiate the adoption of internal rules of procedure in cases of discrimination in institutions of higher education.
18. Make the Republic of Serbia, as an employer of direct and indirect budget beneficiaries, equal with all other employers, in terms of mandatory employment of persons with disabilities.
19. In cooperation with the Commissioner for the Protection of Equality, amend the Law on the Prohibition of Discrimination, with a view to attaining full harmonization with the European Union Acquis, in particular in respect of the scope of exemptions from equal treatment principle and

employer's obligation to make reasonable modifications and adjustment for their employees with special needs. In addition, the amendments should define adequate instruments for overriding problems and difficulties detected in the course of implementation.

1. ABOUT THE COMMISSIONER FOR THE PROTECTION OF EQUALITY

The Commissioner for the Protection of Equality is an autonomous and independent state authority on the basis of the Law on the Prohibition of Discrimination,¹ with a broad scope of authority, by which it is the central national institution specialized for preventing and combating all forms and types of discrimination.

The Republic of Serbia stated clearly its decision to respect human and minority rights and combat all forms of discrimination in social relationships by adopting the Law on Prohibition of Discrimination and appointing the Commissioner for Protection of Equality. In doing so, it took a significant step towards the implementation of the international and anti-discrimination standards, so the authority of the Commissioner is also broadly defined, in accordance with the international standards, in order to enable it to efficiently and effectively prevent and protect from discrimination and contribute to achieving and improving equality.

In the period from 5 May, 2010 to 5 May, 2015 Professor Nevena Petrušić was the Commissioner for Protection of Equality. The National Assembly of the Republic of Serbia elected Brankica Janković as the new Commissioner for the Protection of Equality, on 27 May 2015. The Commissioner is a graduate of the Faculty of Law of the Belgrade University and is currently a PhD candidate at the Faculty of Security Studies. Brankica Janković's area of expertise is social protection, especially protection of the elderly. In accordance with the Constitution and laws, the Commissioner is responsible for its work to the National Assembly of the Republic of Serbia.

The autonomy and independence of the institution of the Commissioner represent the basic postulates and key prerequisites for the successful realization of its social role and mission. The Commissioner has no legislative or repressive authority, and it does not decide on the rights and responsibilities of legal persons, but it achieves its legal role by issuing recommendations, admonitions, warnings, reports, legislative initiatives etc.

One of the basic authorities of the Commissioner is to act upon complaint proceedings in cases of discrimination. A complaint can be submitted by every individual or a legal entity, a group of persons, as well as an organization dealing with protection of human rights. In the complaint proceedings, the Commissioner provides opinions if there is a violation of provisions of the Law on the Prohibition of Discrimination, and recommendations on the manners to eliminate violations of the rights and passes measures established by the law in case that a discriminator fails to implement the recommendations.

The Commissioner provides information to the person filing a complaint on the manners of protection of the right to non-discrimination, and is also authorized to recommend mediation if it assesses that the case as such.

¹"Official Gazette of the RS", No 22/09.

The Commissioner has the authorization to initiate strategic litigations of public interest to protect from discrimination, where the Commissioner alone selects the cases in which to seek the civil legal protection from discrimination before the court. Most frequently, these are the cases of frequent and widespread discrimination, as well as the cases which cause severe consequences with regard to members of marginalized social groups, and in regard of which there are good chances for success and a potential for achieving the goals of the strategic litigation. The Commissioner also has the authority to file misdemeanor and criminal charges, as well as proposals to assess the constitutionality and legality.

When performing its preventive role, the Commissioner is authorized and obliged to warn the public of the most frequent, typical and severe cases of discrimination, recommend measures to public authorities and other persons, monitor the implementation of laws and other regulations in the area of protection of equality and prohibition of discrimination, provide opinions on draft laws and other regulations and initiates the adoption of new regulations or amendments.

The Commissioner submits a regular annual report on the work to the National Assembly of the Republic of Serbia, which contains an evaluation of the situation concerning the protection of equality, and if there are particularly important reasons, at its own initiative or upon the request of the National Assembly, the Commissioner submits special reports as well. Each report contains recommendations for undertaking measures with the aim of overcoming the evident downfalls and preventing and suppressing discrimination more effectively.

Apart from regular annual reports, the Commissioner for Protection of Equality has submitted three reports to the National Assembly so far – on discrimination of the people with disabilities, on discrimination of children and discrimination of women.

An important part of the activities of the Commissioner is related to establishing and maintaining the cooperation with the authorities responsible for achieving equality and protection of human rights in the territory of the autonomous province and local self-government, which has been very successful so far.

1.1. Professional Service of the Commissioner

The last year was marked by further intensive work on the establishment and strengthening of the personnel capacities of the professional service of the Commissioner for Protection of Equality. The main limiting factor in its complete forming and work with the full capacity is the lack of adequate premises. The Commissioner for Protection of Equality, even six years after the establishment of the institution, has not fulfilled the level of 50% of workplaces occupancy yet.

Bearing in mind that business premises at Beogradska 70 in Belgrade, used by the Commissioner for Protection of Equality, does not meet the basic conditions for the reception of citizens, i.e. does not meet the conditions for preservation of their right to privacy and safety, the Commissioner is forced to organize the work of the reception office on another, physically

separate location, which fulfills the conditions for the reception of clients. Also, the separation of the receiving office and its functioning out of the central office, at the business premises used by the state authorities, significantly obstructs the organization of work of the Commissioner for Protection of Equality.

In spite of certain obstacles, there is a trend of a continual growing number of complaints and phone calls, which confirms that there is a great need of the citizens for direct contact, advice and help in cases when they feel discriminated, and it also illustrates that their trust in this state authority grows. In this year, a greater visibility, availability and recognition of the Commissioner for Protection of Equality have been achieved, and regular activities of the Commissioner and its employees in the professional service, good cooperation with media and other activities aimed at this direction in 2015 also contributed to this goal. Apart from the growing number of complaints, the citizens more often addressed the Commissioner in relation to specific pieces of information and advice. The number of these appeals (by phone or email) is quite great, over 1500 phone calls and a few hundreds of emails. However, the expected results were not achieved by the opening of the regional office of the Commissioner in Novi Pazar. The regional office in Novi Pazar should allow the people from that region of Serbia to contact the Commissioner directly and to learn about the jurisdiction and proceedings in case of discrimination, but the number of appeals of the local people, as well as the number of complaints from this part of Serbia is very small. This office is a great additional expense when compared to the expected results.

The Commissioner is dedicated to the continual improvement of the professional knowledge and skills of the employees through different forms of formal and informal education. In the last year, the employees attended a great number of workshops, training and professional courses, like for example: International Legal English Certificate course (ILEC) which will continue in 2016, a course for sign language, training for the authorized applicants to initiate legal proceedings, workshops for the promotion of work in proceedings related to complaints within the twinning project *Support to the advancement of human rights - zero tolerance to discrimination*, workshops on strategic planning, a course for the implementation of the strategy for the development of public procurement in accordance with changed legislation etc. Thanks to the membership in the European Network of Equality bodies (EQUINET), the employees are actively involved in the work of a few work groups of this network, which allows them to exchange experiences and gain an insight into anti-discrimination practice and the standards of working methods of other bodies for equality.

The achieved level of knowledge, professional skill and experience of the employees in the Commissioner's professional service allow them to continually hold trainings and courses in the area of anti-discrimination law for various professional groups and the broadest public. In the course of 2015, the employees held several courses for the holders of justice functions, employees in the public administration, for the students of Faculty of Law and Faculty of Political Sciences in Belgrade, representatives of the national councils of the national minorities and others.

Although the Commissioner for Protection of Equality successfully achieves its function and jurisdiction prescribed by the law and becomes more visible and accessible to the citizens, there is still a need for further strengthening of the capacity of the institution. This is particularly reflected in relation to space conditions for the work of the professional service, further advancement of the organization structure, filling up the remaining number of vacancies, further general and specific professional training and improvement of the procedures and achieved activity standards.

In November 2015, after five years of work and numerous requests for getting the adequate business premises, the Commission for the Allocation of Official Buildings and Business Premises of the Serbian Government allocated new business premises with an adequate number of offices to the Commissioner. The premises are still not functional and they are still in the process of adaptation through the Administration for Joint Services of the Republic Bodies which informed us that they would be enabled for moving into in the middle of 2016.

1.2. The strategy of the institution's development for 2016–2020

In 2012, the Commissioner for Protection of Equality adopted a strategy for the development of the Institution² for the period 2012-2015. The strategy came into existence as a result of the need for defining the priorities of the Commissioner's work, with the aim to improve its action and successfully accomplish the Commissioner's mission. The following were established as the key starting points and principles: independence, respecting diversity, professionalism and transparency, permanent education of the employees, accessibility and inclusivity. The Commissioner's vision is Serbia as an open and tolerant society of people with equal rights which provide everyone with equal opportunities, and the mission – eradicating all forms of discrimination and achieving full equality in all spheres of social life.

Having in mind the political, economic, social and other circumstances in which the Commissioner for the Protection of Equality acts, and especially taking into account the need for the widely spread and deeply rooted discrimination to be recognized and abolished, the Commissioner has established four priorities in the strategy for the development of the institution: a) efficient combating and protection from discrimination b) raising visibility and accessibility of the institution of the Commissioner c) raising awareness of the public on discrimination and d) an efficient and functional Commissioner's service. Social subjects with whom the cooperation should be established and who are expected to assist the prevention of discrimination in Serbia, as well as its suppression, in accordance with its authorization and the role in the society are mapped in the strategy.

Since the Commissioner's development strategy has been drawn up for a three-year period, i.e. it was valid until 31 December 2015, the activities on the creation of a new strategic document

²Strategy for the development of the institution of the Commissioner for Protection of Equality is available on: <http://www.ravnopravnost.gov.rs/lat/oNama.php>.

of the Commissioner for Protecting of Equality were timely started during November and December 2015. With full participation of the employees in the professional service, with support and help of the German organization for technical cooperation (GIZ) Serbia, the gathered results were analyzed in the context of projected goals and difficulties and challenges the Commissioner faced in its work, and the surrounding where the Commissioner works, and which is relevant to its work and activities, was also analyzed.

The evaluation of the previous strategy showed a certain level of implementation of the set of strategic goals and tasks and remarkable dedication of the employees toward the realization of the mission and vision of the Commissioner. Many planned activities which contributed to the realization of the Commissioner's triennial strategic priorities were realized. The lowest level of implementation was achieved in the area of organization and coordination of work and realization of goals in the General Business Sector, as evidenced by the report of the State Audit Institution.

In the period when the strategy was valid, the Commissioner was continually giving its opinion on draft laws and other regulations; it monitored and analyzed articles in printed and electronic media; gathered and analyzed relevant court decisions in anti-discrimination proceedings and criminal and violation proceedings, created and realized educational program for the carriers of the justice functions, employees in the public administration and local self-government; established the cooperation with the national council of national minorities; actively followed the process of creation of the strategy for combating discrimination; realized training and created the textbook for mediators for carrying out mediation in cases of discrimination; as well as training for the employees with the aim of recognizing mediation cases of discrimination; realized trainings for voluntary researchers of discrimination; created Communication strategy; determined the visual identity of the institution, redesigned internet presentation and initiated accounts on social networks Twitter and Facebook; organized promotional campaigns and gatherings on local level; organized guest appearances in TV shows; gave statements for the press, announcements and warnings to the public on the most severe, typical and difficult cases of discrimination; organized workshops and realized regional conference with the aim to raise awareness of media about the importance of the eradication of discrimination, created media handbook on anti-discrimination; established cooperation with UNICEF in order to organize common activities on eradicating the discrimination among children and young people; formed the Youth Panel - the so-called "Discrimination Basters", which went through several trainings on discrimination, and which were trained for the peer education program with the theme about tolerance and the prohibition of discrimination; created brochures for recognizing discrimination intended for young people and organized Summer School for the members of the Youth Panel; opened the reception office; continually worked on the promotion of organization and the manner of work of the professional service, training and professional specialization of the employees and the establishment and improvement of software for internal database and adequate processing of the information about subjects.

The evaluation of the strategy showed that certain strategic goals and tasks were set too broadly and ambitiously so it was not possible to realize them only by personal engagement, as it was the case with the planned task to create a proposal, establish, evaluate and improve discrimination monitoring system in Serbia. Specific goals and tasks were not possible to be

realized completely or within the set deadlines due to the lack of funds and insufficient capacities which could not be developed at a planned pace. Thus, it was not possible to create and realize trainings for the representatives of the employers and trade unions in the cooperation with the National Employment Service, and the annual award for the best newspaper text and article in electronic media was established not earlier than in 2015, with the support of the OSCE Mission in Serbia.

The Strategy also anticipated the monitoring of the creation and implementation of the general act on closer criteria for recognizing the form of discrimination by an employee, pupil or third person in the institution, which is, based on the provisions of the Law on the fundamentals of the education system, prescribed by the Minister authorized for the education area and the Minister authorized for the area of human rights. Non-adoption of this important act caused the situation where the realization of the strategic task of the Commissioner for Protection of Equality became impossible. It should be pointed out that during the period of realization of the strategy complete cancelation of certain tasks occurred. It was the case with the initiation of the amendments on the provision of Article 38 of the Law on the Prohibition of Discrimination by which the mediation would be feasible in all phases of the proceedings, because it was determined, based on the Commissioner practice, that it was necessary to amend several provisions of the Law on the Prohibition of Discrimination.

The evaluation of the first Development strategy of the Commissioner represents a good starting point for the development of the new strategy, which will be created during the first months of 2016. After the first meetings related to the evaluation of the previous strategy, during December 2015, all employees participated in a discussion about new strategic priorities of the Commissioner for Protection of Equality. Although the new strategic document has not been created until the end of the reporting period, it can be stated that there is a compliance around certain future strategic priorities: further strengthening of capacities of the institution; increasing visibility and accessibility; improvement of monitoring methodology of the implementation of recommendations; improvement of the cooperation with the Civil society organizations, the media, trade unions and national councils of the national minorities.

2. THE NORMATIVE FRAMEWORK FOR THE IMPLEMENTATION AND PROTECTION OF EQUALITY

2.1. Overview of the effective regulations

In the past years, understanding the importance of the respect for human rights and non-discrimination principles, the Republic of Serbia ratified the most important universal and regional agreements in the area of human rights and prohibition of discrimination. Apart from that, in the last ten years, it adopted valid anti-discrimination laws enabling a valid legal framework to be built.

Discrimination is prohibited by the Constitution of the Republic of Serbia,³ which, in Article 21 states that before the Constitution and law everyone is equal, that everyone has the right to equal legal protection, without discrimination, that any form of discrimination is forbidden, direct or indirect, on the basis of race, gender, national affiliation, social origin, birth, religion, political and any other belief, finances, culture, language, age and mental or physical disability. The Constitution further states that special measures that the Republic of Serbia could introduce in order to attain full equality of people or groups of people that are essentially unequal to the rest of the citizens are not to be perceived as discrimination.

General and special anti-discrimination laws were adopted: Law on Prohibition of Discrimination⁴, Law on Protection of Rights and Freedoms of National minorities,⁵ Law on Prevention of Discrimination against Persons with Disabilities,⁶ and Law on Gender Equality⁷. Prohibition of discrimination is present in many laws that establish certain areas of social relationships: The Labor Law⁸, Law on Professional Rehabilitation and Employment of Persons with Disabilities,⁹ Law on Health Protection,¹⁰ Law on the Foundations of Educational System,¹¹ Law on Primary education,¹² Law on Secondary and Higher Education,¹³ Law on Churches and Religious Communities,¹⁴ Law on the Rights of Patients,¹⁵ Law on Protection of Persons with Mental Disability,¹⁶ Law on Movement of visually impaired person with the help of a guide dog,¹⁷ Law on the use of Sign Language,¹⁸ and other laws.

Legal protection from discrimination is established by the Criminal code of the Republic of Serbia,¹⁹ which prescribes several criminal offenses pertaining to prohibition of discrimination. In addition, as the only obligatory aggravating circumstance by the provision of Article 54a of the Criminal code, hatred on the basis of race and religious beliefs, national and ethnic background, gender, sexual orientation or gender identity is prescribed, unless it is prescribed as a characteristic of the criminal offense.

A complete system of legal protection from discrimination was established. The system includes mechanisms of civil legal, criminal law and misdemeanor law protection, so these regulations offer a valid legal framework and adequate instruments for the protection from discrimination, its prevention and eradicating, in accordance with international and European standards.

³"Official Gazette RS", No 98/06.

⁴"Official Gazette RS", No 22/09

⁵"The Official Gazette SRJ", No 11/02, „The Official Gazette SM“, no 1/03 – Constitutional Charter and „Official Gazette RS“, no 72/09 – sec. law and 97/12-US.

⁶"Official Gazette RS", No 33/06.

⁷"Official Gazette RS", No 104/09.

⁸"Official Gazette RS", No 24/05, 61/05,54/09,32/13 and 75/14.

⁹"Official Gazette RS", No 36/09 and 32/13.

¹⁰"Official Gazette RS", No 107/05, 72/09 – sec. law, 88/10, 99/10, 57/11, 119/12, 45/13 – sec. law, 93/14, 96/15 and 106/15..

¹¹"Official Gazette RS", No 72/09, 58/11, 55/13, 35/15 and 68/15.

¹²"Official Gazette RS", No 55/13.

¹³"Official Gazette RS", No 55/13.

¹⁴"Official Gazette RS", No 36/06.

¹⁵"Official Gazette RS", No 45/13.

¹⁶"Official Gazette RS", No 45/13.

¹⁷"Official Gazette RS", No 29/15.

¹⁸"Official Gazette RS", No 38/15.

¹⁹"Official Gazette RS", No 85/05, 88/05 – cor. 107/05 – cor., 72/09, 111/09, 121/12, 104/13 and 108/14.

In the previous period, Government of the Republic of Serbia adopted several strategic documents which are important for more efficient implementation of anti-discrimination legislation: Strategy for Combating Poverty, Strategy for Development of Social Welfare,²⁰National Strategy on aging,²¹Strategy for Improving the Position of Persons with Disability in the Republic of Serbia for period 2007–2015,²²Strategy of Reintegration of the Returnees based on Readmission Agreement Equality,²³National Strategy for Improving of the position of Women and Promoting of Gender Equality,²⁴Strategy for Improving of the Position of Roma in the Republic of Serbia,²⁵Strategy for Migration Management,²⁶Strategy for Development of the System of Free Legal Aid in RS,²⁷Strategy on HIV Infection and AIDS,²⁸National Strategy for Preventing and Eradicating Violence against Women in Families and Partnerships,²⁹National Employment Strategy for Period 2011-2020,³⁰ Strategy for Development of Education in Serbia till 2020,³¹Strategy for Prevention and Protection against Discrimination,³²National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons for Period 2015-2020,³³ Strategy on Sports Development in the Republic of Serbia for period 2014-2018,³⁴ National Strategy for Young People for Period 2015-2025,³⁵ and other strategies.

One should bear in mind that some of these strategies have already exploited the reasons of their implementation or were adopted for specific periods which have expired, for example, Strategy for Combating Poverty, National Strategy on Aging (2006-2015), Strategy for Improving the Position of Roma people in the Republic of Serbia (2009-2015), Strategy for Improving the Position of Persons with Disability (2007-2015), Strategy of Development and Promotion of Socially Responsible Business in the Republic of Serbia (2010-2015),National Strategy for Prevention and Protection of Children from Violence until 2015, but these strategies played a significant role in our system. It is necessary to start with the creation of new strategic documents which should be based on the evaluation of previously valid strategies and with respect to the present condition and needs of the social groups.

As a candidate for EU membership, Serbia is in the process of the harmonization of legislation with the legal framework of the European Union. Anti-discrimination regulations which were adopted in previous years are mostly in line with the EU legislation, including the Charter on Fundamental Rights of the European Union from 2007, Directive 2000/43/EC implementing the principle of equal treatment between people irrespective of racial or ethnic origin, Directive 2000/78/EC establishing a general framework for equal treatment in employment and

²⁰ „Official GazetteRS”, No 18/05.

²¹ „Official GazetteRS”, No 76/06.

²² „Official Gazette RS”, No 1/07.

²³ „Official Gazette RS”, No 15/09.

²⁴ „Official Gazette RS”, No 15/09.

²⁵ „Official Gazette RS”, No 27/09.

²⁶ „Official Gazette RS”, No 59/09.

²⁷ „Official Gazette RS”, No 74/10.

²⁸ „Official Gazette RS”, No 26/11.

²⁹ „Official Gazette RS”, No 27/11.

³⁰ „Official Gazette RS”, No 37/11.

³¹ „Official Gazette RS”, No 107/12.

³² „Official Gazette RS”, No 60/13.

³³ „Official Gazette RS”, No 62/15.

³⁴ „Official Gazette RS”, No 1/15.

³⁵ „Official Gazette RS”, No 22/15.

occupation, Directive 2006/54/EC of the European parliament and the Council on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, Directive of the Council 2004/113/ EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services etc. However, there is a need for the national anti-discrimination regulations to be in complete accordance with the anti-discrimination regulations and standards of the European Union. It was pointed out in the 2015 Annual Progress Report of the European Commission for Serbia that this area requires further alignment regarding the scope of the exceptions from the principle of equal treatment, the definition of indirect discrimination and the obligation of reasonable adaptation of space for employees with disabilities.

For further development and improvement of anti-discrimination legislation and anti-discrimination policies, strategic documents of the EU are important – the documents which set the goals and priorities of EU action in certain areas: European Strategy for Persons with Disabilities (2010-2020), European Platform for Combating Poverty and Social Inclusion and Strategy for Equality between Men and Women (2010-2015) and other.

2.2. Normative Changes In 2015

Several laws, the laws that are significant for the protection from discrimination and promotion of equality in individual areas were adopted last year. Some laws were the subject of public discussions in which the Commissioner also participated, and upon the request of the proposer or self-initiatively. The Commissioner gave opinions on certain draft laws, which is stated in the respective parts of this report. The overview of relevant changes in the legislation during 2015 will be represented in further section.

In January 2015, the Law on Prevention and Diagnostics of Genetic Diseases, Genetically Caused Anomalies and Rare Diseases was adopted.³⁶ The rights, obligations and responsibilities of participants in medical treatments of prevention and diagnostics of genetic diseases, genetically caused anomalies and rare diseases are regulated by this law, and with the aim of protection of human health and dignity, and especially in the examinations and analysis of biological samples for identification of genetic characteristics which were inherited or acquired during the early prenatal development. According to the provisions of Article 9, it is prescribed that no one should be discriminated or brought into an unfavorable situation due to his/her genetic characteristics, genetic characteristics of the person related to him/her or due to undergoing or not undergoing the genetic examinations. For the first time, this law allowed implementation of additional diagnostic procedures in foreign health institutions for the patients for whom it was not possible to determine the diagnosis in the Republic of Serbia for longer than six months.

³⁶"Official Gazette RS", No 8/2015.

In March 2015, Law on Movement with the help of a guide dog was adopted.³⁷ This law represents the long awaited innovation in our legal system which allowed the realization of the basic principles related to the exercise of rights guaranteed by the Constitution, and especially to the prohibition of discrimination and introduction of special measures for achieving full equality of person with disabilities along with the rest of citizens. This law shall regulate the right of the persons with disabilities to move with the help of a guide dog in all means of public transport, at all objects for public uses and at the workspace. Persons who are moving with the help of a guide dog have the right on free access and stay on public spaces like traffic arteries, squares, green spaces and other spaces for moving and staying of persons, the right of access and stay at his or her workspace, as well as at every other space.

The equalization of opportunities, accessibility and implementation of rights in accordance with the need of the persons who are moving with the help of a guide dog are the main goals which are achieved by this law, in the sense of a more complete social inclusion of the persons with disabilities in all social flows. The implementation of this law will allow or facilitate the realization of many of their rights, because it will contribute, apart from the easier access to education, health and other services, to their employment and work. From the aspect of prohibition of discrimination and promotion of equality, positive effects of implementation of this law are not consisted only in the equalization of opportunities for the persons with disabilities, but also in the elimination of prejudices about persons with disability generally, the improvement of citizens' awareness on different ways of fulfilling the needs, and thus also in reducing discrimination of persons with disability in a society.

In April 2015, the Law on the Use of Sign Language was adopted³⁸ the aim of which is the equalization of opportunities, accessibility and implementation of rights of the deaf. This law contributes to the realization of different fundamental principles related to the exercise of rights of deaf people and to the prohibition of discrimination. Special measures are introduced by this law and the purpose is the achievement of full equality of the persons with disabilities with other citizens, as well as full inclusion of deaf people in making decisions related to the standardization and use of the sign language.

The law regulates the use of the sign language, i.e., the right to learn the sign language and the right to use the services of an interpreter for the sign language, the manner of using the services of an interpreter for the sign language, measures for promoting implementation and improvement in the use of the sign language through the information and education on the sign language and other issues significant for the use of the sign language.

Understanding that deaf people have limited possibilities due to the different way of communication is the result of obsolete and surpassed viewpoints and stereotypical attitudes and views, and it often represents the source of discriminatory behavior towards deaf people. In the explanation for the implementation of the Law on the Use of Sign Language it was specified that the full inclusion of all vulnerable groups and eradicating of discriminatory behavior will be realized, among other, by the realization of the right of every person to express his or her ideas, thoughts and emotions using the language which fulfils his or her communication needs in the

³⁷"Official Gazette RS", No 29/2015.

³⁸ "Official Gazette RS", No 29/2015.

best possible way. If anyone prohibits this freedom and prescribes the way in which that freedom is prohibited, then he or she denies the unalienable human right on communication.

The Law on the Protection of the Right to a Trial within Reasonable Time³⁹ was adopted in May 2015. The purpose of this law is ensuring of the court protection of the right to a trial within reasonable time with the aim to prevent violation of the right to a trial within reasonable time. The court protection of the right to a trial within reasonable time also includes an investigation conducted by the public prosecuting attorney. The right to a trial within reasonable time belongs to all parties in the court proceedings, enforcement proceedings, injured parties in criminal proceedings, private prosecutor and the injured as a prosecutor, if they pointed out a compensation claim.

The constitutional norm was elaborated by this law by which it was prescribed that everyone has the right that an independent, objective and law-established court, justly and within reasonable time, publicly disputes and decides on his rights and obligations, the reasonability of the doubt which was the cause for initiating the proceedings, as well as on the accusation against him.⁴⁰ This constitutional formulation basically reflects the formulation of the provision of Article 6 of the European Convention for the Protection of Human Rights and Basic Freedoms under the chapter *The Right to a Fair Trial*. It should be pointed out that the right to a trial within reasonable time is a very important right and that this law is the result of the necessity to prescribe and elaborate the way of protection of the constitutional right to a fair trial by the law, in order to improve its efficiency.

In May 2015, the Law on the Confirmation of Protocol no. 15 with the Convention for the Protection of Human Rights and Basic Freedoms was adopted.⁴¹ The European Convention for the Protection of Human Rights and Basic Human Freedoms is one of the most important documents which guarantees the rights and freedoms, and among the rest, prohibits discrimination and abuse of the right. According to the Convention, it is guaranteed that the members of the European Council will ensure basic civil and political rights, not only for its citizens, but for everyone under its jurisdiction. The Convention established the European Court of Human Rights whose work promotes Protocol 15. The Protocol was created in order to ensure the base for a more simple and efficient procedure before the European Court of Human Rights, as well as to amend certain provisions of the convention with the aim of its adjustment to the contemporary need and in that way contribute to the better protection of human rights and freedoms.

The dispute in relation to the Law on Supplements and Amendments to the law on the Police,⁴² adopted in July 2015, was the cause for the Commissioner to give an opinion to the proposer and suggest a whole spectrum of solutions relevant from the aspect of the implementation of gender equality and protection from violence. Apart other, the Commissioner gave an opinion that police officers should be authorized to issue urgent measures of separation from the residence address of a person who commits violence against members of his or her family for a minimum of 14 days, as well as a temporary prohibition of contacting the members of family in

³⁹ "Official Gazette RS", No 38/15.

⁴⁰ "Official Gazette RS" No 40/15.

⁴¹ Article 32, paragraph 1. of Constitution of RS. „Official Gazette RS – International Agreements", No10/15.

⁴² "Official Gazette RS" „Official Gazette RS – International Agreements", No 64/15.

order to further prevent violence, and that the issue of the ownership of the house must not influence the suggested measures. This would enable issuing “urgent measures of protection” to the victim of violence in the situation of direct danger, regardless of the initiation of the court proceedings which takes more time. The goal of such measures is to physically separate the doer of the violence from the place, namely, from the place of residence and eliminate the additional problem for searching the safe accommodation for the victim, who often is not alone, but with children. However, this opinion of the Commissioner was not accepted.

The reasons for amendments and supplements to the Law on the police are consisted in the evaluation of security risks in the Republic of Serbia which appear or change along with the change of risks on a global level in the region, as well as in the situation when there are indications that disturbing the public peace and order could occur in its wider scope. This law regulates activities of the police in condition of increased risk, and it is also very important that the legal ground is introduced so the police, in cases when the disappearance of person is already reported, can react and apply its authorizations with the goal to find a doer of crime and victim, using all available measures and activities, without delay.

At the end of July, the Law on Setting the Maximum Number of Employees in the public sector⁴³ was adopted, determining the manner of setting the maximum number of employees in the public sector, together with the extent and deadlines for reducing the number of employees up to reaching the maximum number of employees. The provision of Article 5, paragraph 1, point 2 of this law was the reason why the Commissioner was brought into a more inconvenient situation in relation to the previous condition, considering that the Law on Setting the Maximum Number of Employees in republic administration⁴⁴ was not implemented on the institution of the Commissioner. In the Commissioner’s opinion on the draft law, it was pointed out that determining maximum number of employees in the institution of the Commissioner for protection of equality should stay in direct jurisdiction of the National Assembly of the Republic of Serbia, which gives the consent to the act about the internal regulation and systematization of jobs, and not that this decision is made by the National Committee, or, that this decision is made at a lower level. However, this opinion of the Commissioner was not accepted. In addition, provision of Article 20, paragraph 1 of this law, which prescribes that “employment relationship for the employee in public sector stops during the implementation of this law when he or she reaches the age and pensionable service prescribed by the law for the age pension”, was the cause for the Commissioner to, together with the Protector of Citizens, submit the proposal for an assessment of constitutionality before the Constitutional Court of Serbia.

The analysis of this provision, together with the analysis of other relevant regulations, showed that employment relationship for the employee in public sector will be stopped by operation of law, with the acquisition of the right to the age pension, which means that by this provision, women are brought to an unequal position in relation to men employed in public sector.

Considering and analyzing the provisions of other laws which regulate the issue of retirement, it can be concluded that women employed in public sector are brought in an unequal position in

⁴³Official Gazette RS”, No 8/15.

⁴⁴Official Gazette RS”, No 104/09.

relation to men employed in this sector, because of the different conditions prescribed for the acquisition of the right to the age pension for women, namely, they acquire the right to the age pension earlier. Thus, employment relationship for women employed in the public sector will stop earlier than for men by the implementation of provisions of this law. Based on the common proposal of the Commissioner for Protection of Equality and the Protector of Citizens for an assessment of constitutionality, the Constitutional Court of Serbia brought the solution to stop the implementation of an individual act and action undertaken based on provisions of Article 20 of the Law on Setting the Maximum Number of Employees in the public sector,⁴⁵ until making a final decision.

The Law on Textbooks⁴⁶ was adopted at the end of July 2015. During the public dispute that lasted for several months, the Commissioner for Protection of Equality gave its opinion three times on different texts of the draft laws to the Ministry of Education, Science and Technological Development. Although certain recommendations and suggestions of the Commissioner were accepted, it should be pointed out that one of the most important remarks of the Commissioner for Protection of Equality was not accepted. Namely, by the Law on Textbooks a special category of textbooks was introduced – the textbook for the pupils with developmental disabilities and invalidity. However, as it was already pointed out in opinions of the Commissioner, there is no base or justification for the pupils with the disorders to use textbooks whose content is accommodated to their capabilities, needs and possibilities. The existence of special textbooks for the pupils with developmental disorders and disability is contrary to the anti-discrimination regulations which prohibit discrimination on the grounds of developmental disorders and disability. On the other hand, the existence of textbooks in other formats, like textbooks printed by Braille Alphabet, textbooks in audio format, with enlarged letters etc, does not represent discrimination but exactly its elimination, because in that way the specifics of certain pupils are respected, but these textbooks also do not need to be marked as the textbooks for children with developmental disorders and disability, but as textbooks in another format, which enable educational contents to become accessible.

The Law on Trade Shipping⁴⁷ regulates transport and access to the market, legal status of a ship and legal relations at a ship, responsibility and limitation of liability for the claims in the inland navigation and nautical claims, agreements, shipping accidents, authoritative law and exclusive legislation of the courts of the Republic Serbia for the disputes in area of shipping with a foreign element etc.

According to the provisions of Article 397 of this law, it is prescribed that a freight rate is determined by an agreement and that it will be paid on the occasion of issuing a travel card, and if a travel card is not issued, upon entering the ship, if not defined otherwise. Contractual terms or tariffs applied by a carrier or seller of travel cards are offered without direct or indirect discrimination based on the national affiliation of passengers or based on a central office of a carrier or a seller of travel cards. This law regulates the issue of availability or notification, so it

⁴⁵"Official Gazette RS", No 85/15.

⁴⁶"Official Gazette RS", No 68/15.

⁴⁷"Official Gazette RS", No 96/15.

prescribes that carriers and port operators, in cooperation with organizations representing the persons with disability or persons with reduced mobility, are responsible for establishing or introducing non-discriminatory conditions for access to transport for disabled persons and persons with reduced mobility and persons under escort.

The Law on Reconstruction after Natural and Other Disasters⁴⁸ was adopted in December in 2015 and it regulates the procedure of reconstructing and helping people and economic entities that have undergone a material damage due to elementary and other disasters. The principles of equality and prohibition of discrimination are strictly prescribed by this law. The provisions of Article 6, which regulate the principle of equality of citizens in realization of their rights to help, prescribe that every citizen realizes his or her right to assistance in a case of elementary or other disaster under the conditions and in the procedure prescribed by this law, equally with other citizens and without discrimination on any grounds, while the implementation of these measures prescribed by the law for the protection of especially vulnerable groups and citizens is not considered to be discrimination. It was also prescribed that the competent authorities will especially take care of the realization of the principle of the gender equality while performing activities from this law, and particularly will take care of any decision, measure or act not to induce or lead to an unfavorable position of women.

In December in 2015, another law with anti-discrimination provision was adopted, the law on Amendments and Supplements to the Law on the Right to Free Shares and Money Compensation which citizens realize in the privatization process.⁴⁹ This Law on the Right to Free Shares and Money Compensation which citizens realize in the privatization process was amended by the provisions of Article 7 of this law, because principles of publicity and non-discrimination during the process of selling shares were prescribed.

The Law on Cooperatives⁵⁰ regulates the legal status of cooperatives, their establishment, management and bodies of cooperatives, acquisition and cessation of the status of the members of cooperatives, property and business of cooperatives, funds, allocation of gain and loss settlement in cooperatives, cessation of a cooperative and other issues important for the work of a cooperative.

This law on cooperatives regulates that cooperatives perform different activities in order to realize social, economic and active inclusion, as well as the fulfillment of other similar needs of members of vulnerable social groups and common interest within a local society. Social goals of the social cooperative are defined closely by the cooperative regulations. Social cooperatives are obliged to invest at least half of their gain, namely, an excess of revenues over expenses realized through their activities, into promotion and realization of social goals they previously set. Members of vulnerable social groups, in the context of this law, are considered to be the persons who belong to those social groups which are in condition of social need in accordance with the law which regulates social protection and social security area and in accordance with the law which regulates the prohibition of discrimination.

⁴⁸"Official Gazette RS", No 112/15.

⁴⁹"Official Gazette RS", No 112/15.

⁵⁰"Official Gazette RS", No 112/15.

In December, the Law on amendments and supplementations to the law on scientific-research activity⁵¹ was adopted, which, among others, allows the adoption of the new strategy for scientific and technological development of the Republic Serbia for the time period of 10 years, the rationalization of the network of scientific-research organizations, as well as better cooperation of institutions. This law establishes that, during the nomination of the members of the parent scientific fields, one takes into account the equal representation of scientific branches and disciplines within scientific field, competence of the researchers for scientific field, branch or discipline, for which the Parent Scientific Committee has to be established, and gender equality, which is a new element which is very important from the aspect of gender equality improvement. Namely, gender equality and equal representation of all six scientific fields must be taken into account during the nomination of members of the National board from the group of representatives of organizations which perform scientific researches.

3. DESCRIPTION OF THE SITUATION REGARDING THE ACHIEVEMENT AND PROTECTION OF EQUALITY

Based on the previous annual records of the Commissioner for Protection of Equality, it can be stated that there are no unified data on the emersion of discrimination in Serbia, but it is evident that discrimination is widely spread in all areas of social life. Adequate response of the system to the emersion of discrimination means that there must be the existence of data about kinds, forms, bases, representations of discrimination and other data of all bodies and institutions which are dealing with prevention of discrimination in different ways. It is evident that there is the need for establishment of such unified centralized system of data gathering. Nonexistence of data complicates seeing the emergence of discrimination, the effect of the application of legal instruments for protection against discrimination as well as special measures that are undertaken in the aim of implementation of equality of individual marginalized and sensitive social groups. In that regard, it should be mentioned that although the Commissioner for Protection of Equality recommended already in 2011 that a unified and centralized system of data gathering should be created, relevant for tracking the emergence of discrimination and the manner in which the system of legal protection from discrimination functions, as one of the key conditions for an efficient battle against discrimination and promotion of equality in a society, this system has not been established yet.

With the aim of giving insight into the situation regarding the implementation and protection of equality, the reports and other relevant documents of international organizations will be presented in this part of the Report, followed by the results of researches and reports of domestic institutions and the non-governmental organizations conducted in the course of 2015. The description of the situation of implementation and protection of equality was completed with a short overview of the key issues in implementation and protection from discrimination, on the basis of the knowledge gathered in the complaint procedures and other sources. It should be

⁵¹"Official GazzeteRS", No 112/15.

kept in mind that we have strived to include all available and relevant sources, but there must be more reports and researches, of both international and national organizations and institutions, which were not included in the regular Annual Report of the Commissioner for Protection of Equality.

3.1. The reports of the EU, international organisations and treaty bodies

Even though there are evident steps forward of the Republic of Serbia in the plan on the prevention and suppression of discrimination, the need for further and more active action in this area is confirmed by the reports of the European Union, international organizations and contracting bodies.

In the report of the European Commission on the Advancement of the Republic of Serbia in the process of European integration in 2015, it is stated that promoting and protection of the most vulnerable and the most discriminated groups, including women, LGBT people, persons with disabilities as well as those living with HIV/AIDS, must be completely ensured. Investigations, prosecution and penalties for the crimes motivated by hate⁵² must be efficiently carried out. There is the need to strengthen the efforts directed towards the promotion of difficult life conditions and struggle against discrimination of Roma people and to improve the coordination of the Government within the politics of integration of Roma people. The special accent was placed on the additional effort which should be invested in children of unregistered parents in order to ensure them to be registered at once, as well as on respect of international standards in forced eviction and relocation, while the legalization of the informal Roma settlements should be considered as the way which will allow the organization of these settlements and their encompassing by urban plans. Apart from that, additional number of teaching assistants and health mediators are needed with the aim to resolve the problem which consists in a high rate of school dropout among Roma children, as well as poor access to the health care.

In the Report it is requested from Serbia to conduct a more efficient framework for the struggle against discrimination, promotion of equality as well as to ensure the integration of minorities, and persons belonging to the most vulnerable groups. As it is stated, Serbia's legislation is generally in accordance with European standards, but additional adjustment is necessary, especially concerning the range of exceptions from the rule of equal action, definition of indirect discrimination and the obligation to secure a reasonable adaptation in the workplace for persons with disabilities.⁵³

It was stated that Action Plan for the strategy for combating discrimination should be carried out, that the Commissioner has continued to raise awareness and promote mechanism of protection from discrimination, but that she still does not have adequate premises for work, so it will be necessary to strengthen capacities of the Commissioner. In the Report it was indicated that treatment of the persons with mental disabilities in the institutions, as well as the process of

⁵² The Report is available on:

http://www.seio.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/godinji_izvestaj_15_final.pdf.

⁵³ Repetead request from the previous Annual Report of ECon Serbia's advancement.

deprivation of legal capacity of persons with psycho-social difficulties should be harmonized with international standards, which was the point the Commissioner for Protection of Equality also pointed out in her previous reports.

Individual activities with the aim to promote rights of the LGBT were praised, among them were events where the host was the National Assembly, trainings for the police officers for work with victims of trans and homophobic violence, participation of Serbia and signing of Joint Statement of the ministers of region on IDAHO forum in Montenegro, as well as Pride March performed in Belgrade on 20 September 2015, second in a row without incidents. However, it was emphasized that LGBT persons and activists still face hate speech and threats, and in certain cases, even physical violence, and there is no centralized official data on number of crimes motivated by homophobia and transphobia. In the Report, the need for greater political dedication to the promotion of culture of respect for LGBT persons and prohibition of discrimination at the workplace, in the health sector and in the education system was stated. It is also necessary to abolish school textbooks that contain discriminatory contents and regulate procedure of legal admission of consequences of a sex change.

In September The European Committee has issued positive opinion on drafting of the Action Plan for chapter 23⁵⁴ which defines measures and deadlines for reforms that Serbia should undertake in the area of judicature, fundamental rights and a struggle against corruption with the aim of harmonization and standardization with regulations and standards of European Union.

In this document, among other things, it was stated that the Commissioner for Protection of Equality, thanks to her devoted work, considerably increased awareness of discrimination and that there is the need for strengthening her capacities in the next period with aim for further improvement of protection and prevention from discrimination.⁵⁵ Apart from that, the Action Plan anticipated amendments and supplements to the Criminal Code in 2016, in the part related to the amendment to a crime violation of the principle of equality from Article 128 and in that way that this crime can be committed in a case when the rights of a man and citizen⁵⁶ were denied due to sexual orientation or gender identity.

In November, the UN Committee for Human Rights considered the Third Periodic Report of the Republic of Serbia on implementation of the International Covenant on Civil and Political Rights. In a part of the Report in relation to non-discrimination, statistical data about work of the Commissioner for Protection of Equality from the establishment of the institution in 2010 were given, and area of work and employment was specified as the area where discrimination was the most common phenomenon.

In the Report of UN High Commissioner for Human Rights submitted to the Committee for Human Rights on discrimination and violence against individuals on the grounds of sexual

⁵⁴Final version available on the web-site of the Ministry of Justice of the Republic of Serbia, <http://www.mpravde.gov.rs/tekst/9849/finalna-verzija-akcionog-plana-za-pregovaranje-poglavlja-23-koja-je-usaglasena-sa-poslednjim-preporukama-i-potvrdjena-od-strane-evropske-komisije-u-briselu-.php>.

⁵⁵Point 3.6.1.11. Strengthening of capacity of the Commissioner for Protection of Equality In accordance with existing systematization of jobs. Continually, it starts from the first quarter 2016.

⁵⁶Besides, Action Plan also anticipated joint trainings for the judges, public prosecutors and police officers with the aim to improve the knowledge and skills, necessary for efficient prosecution of hate crime etc.

orientation and gender identity⁵⁷ Serbia was classified in the group of countries in which from 2011 steps forward were made by adoption of a new and revision of existing laws which sanction hate crimes, as well as by undertaking other measures which prevent homophobic and transphobic attacks and violence. The Commissioner pointed out that Serbia was among the countries which adopted the manuals and carried out trainings for members of the police force, the teaching staff and other public officers in this area, as well as in the areas where national campaigns with the aim to suppress homophobia and transphobia were carried out.

In the Concluding Observations on the Second Periodic Report of Serbia on its implementation of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, the UN Committee against Torture asked Serbia to publicly condemn threats and attacks against right defenders, journalists, LGBT people and members of Roma people, to hold back, through actions or missing out, from supporting these attacks, as well as to ensure fast, detailed and efficient investigation in all cases of threats and attacks against these groups, with guarantees that attackers will be condemned and punished in accordance with severity of attack.⁵⁸ Apart from that, the Committee against Torture warrants the state to carry out measures to raise awareness in order to eradicate prejudices and stereotypes, as well as to adopt policies for the struggle against hate crime and discrimination, especially on the grounds of sexual orientation, gender identity or ethnic origin.

In September 2015, in Geneva, alternative reports on the implementation of the Convention on the Rights of Persons with Disabilities were represented to the Committee on the Rights of Persons with Disabilities, which were submitted by the Coalition of organizations dealing with protection of the rights of the persons with disabilities in Serbia,⁵⁹ Mental Disability Rights Initiative MDRI-S, Disability Council International and the Protector of Citizens.⁶⁰

Alternative Reports were submitted to the Committee to the Initial Report on the implementation of the Convention on the Rights of Persons with Disabilities in the Republic of Serbia from 2012,⁶¹ after which in October 2015, the Committee for Human Rights of Persons with Disabilities addressed the list of question⁶² to the Government of the Republic of Serbia, which would be considered at the end of March 2016, with participation of the representatives of the civil society. The Committee asked for the information about definition of discrimination on the grounds of disability to be sent, as well as about procedure of protection and prescribed sanctions. Apart from that, the information on reasonable adjustment for persons with disabilities were asked, as well as on special measures for prevention of discrimination of persons with disabilities, especially regarding the Law on employment and insurance in a case

⁵⁷Document of the General Assembly A/HRC/29/23 from 4 May, 2015, available in English language on:

http://www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/29/23&referer=/english/&Lang=E.

⁵⁸Document is available on web-site of Un High Commissioner for Human Rights, on: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/112/60/PDF/G1511260.pdf?OpenElement>.

⁵⁹National Organization of Persons with Disabilities of Serbia (NOOIS) consisted of the net of 15 organizations on the national level, Center for Independent Living of PWDs Serbia and Center for Society Orientation –Regional Center for Monitoring of Rights of Persons with Disabilities in Europe.

⁶⁰Reports are available on: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=SRB&Lang=EN

⁶¹Available on http://www.ljudskaprava.gov.rs/images/konvencije/inicijalni_izvestaj_na_srpskom_jeziku.pdf.

⁶²The list of question is refer to the Initial Report on the Implementation of the Convention on the Rights of Persons with Disabilities, submitted by the State in 2012. This document is available in English language on: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/226/45/PDF/G1522645.pdf?OpenElement>.

of unemployment and the Law on the fundamentals of the education system. The information about legal measures in relation to the position of women with disabilities was also asked for. The information also included provisions of the criminal law, which protect women and girls with disabilities from sexual abuse and violence and which guarantee their chances for equal participation at labor market.

In the end of February, the Republic of Serbia delivered the Fourth Periodical Report on implementation of provisions of the Revised European Social Charter (RESC)⁶³, related to the thematic group “Children, Women and Migrants”,⁶⁴ to the European Committee of Social Rights of the Council of Europe. The Committee adopted the Conclusions after consideration on the meeting 4 December 2015⁶⁵ and determined non-compliance in implementation of several provisions of the RESC.⁶⁶ The Committee indicated that duration of daily and weekly working time for the employees younger than 16 years were unfairly long, invited the Republic of Serbia to offer additional information in relation to the implementation of provision related to the right of family to social, legal and economic protection, and noted that equal support from the area of family protection for foreign citizens wasn't ensured. The Committee concluded that situation in Serbia is not in compliance with the provision on rights of children and youth to social, legal and economic protection because physical punishment of children in family and institutions was not explicitly forbidden by laws. The non-compliance was determined in relation with the rights of migrant employees and their families to protection considering that independent right for the members of the family of migrant employee to stay in the country upon realization of right to gather their family again was not guaranteed. The migrant employee can be expelled from the country if the reasons for his stay were different from those he previously expressed as the main for his stay in Serbia.

The Committee requested from Serbia additional information for a larger number of the RESC provisions in relation to which decisions were made in order to estimate if the situation in the country was in compliance with these provisions, while compliance for others was confirmed.⁶⁷

The Report on the implementation of provisions from thematic group “Employment, trainings and equal opportunities”⁶⁸ of the RESC, Serbia should deliver till the end of October 2015. The Report among the rest should include information in relation to implementation of the conclusions of the European Committee for Social Rights for 2014, which are related to

⁶³In voluminous Report, among the rest, it is stated that in Serbia, after amendments in legislation 2013., sexual delicts toward children do not go out of law (Law of the special measures to prevent the commission of crimes of sexual abuse against juvenile, “Official Gazette RS”, No 32/2013). The Report is available in English language on:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680488938>.

⁶⁴The Report on use of RESC for period 1 January 2010 – 31 December 2013. in relation to the right of children and the youth to protection, right of employed women to protection of motherhood, right of family to social, legal and economic protection, right of children and youth to social, legal and economic protection and right of employed migrants and their families to protection and help.

⁶⁵The Report in English language is available on: http://www.coe.int/en/web/turin-european-social-charter/coming-events/-/asset_publisher/aRI58gE6cIPz/content/conclusions-2015-to-be-published-on-27-january.

⁶⁶Article 7, paragraph 4, Article 16, paragraph 17. Article 1, paragraph 19. pages 6, 8. and 10.

⁶⁷Text of the Charter is available on: http://www.socijalnoekonomskisavet.rs/doc/revidirana_evropska_socijalna_povelja.pdf.

⁶⁸The right to work, to professional orientation, professional training, the right of persons with disabilities to independence, social integration and participation in community life, the right to a lucrative business in the territory of the other Contracting Party, the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination based on sex, the right to protection in cases of termination of employment and the right of workers to protection of their claims in the event of insolvency of the employer.

thematic group “The rights in the employment relationship”. In the conclusions about fulfillment of certain obligations from the Charter for 2014 for Serbia which were announced in January 2015, non-compliance of the situation in relation to provisions of RESC was determined, and these provisions were in relation with dismissal period in a case of the termination of the employment relationship, if employee does not achieve good working results or does not have necessary knowledge's and capabilities for working activities, then in relation with the right to organization, in relation with census which is set for establishment of the Association of Employers, as well as in relation with the rights of employees to strike in a part related to minimum work process in activities that are of public interest. Regarding question 11, the Committee could not make a conclusion due to lack of information, so it concluded that Serbia violated reporting obligation by deprivation of information about specific questions.

At the meeting in January 2015 Special Report on provisions of the Charter was published but Serbia didn't accept⁶⁹ it after the meeting with representatives of relevant institutions in Belgrade, in November 2014. The Report is related to unaccepted provisions of thematic group “The rights in the employment relationship”.⁷⁰ In relation to the rights of workers with family obligations to equal opportunities and equal treatment, Serbia was generally given a positive grade considering that legal framework for equal opportunities and preventing of discrimination existed. However, the Committee will ask closer information about absence from work for childcare reasons, social welfare and rights stemming from pension insurance.

Based on data from the practice of courts, the Committee concluded that most non-compliance existed in relation to limited refunds based on termination of employment relationship and lack of adequate mechanisms of protection.

The Commissioner for human rights of the Council of Europe, Nils Muiznieks visited Serbia in period from 16 to 20 March 2015. In the report on his visit⁷¹ he pointed out the poor position of forced relocated persons, insufficient and inadequate approach to quality education and inhabitation for Roma people, the poor position of person with disabilities and especially persons with psycho social and intellectual disability, including children, placed at social protection institutions, great number of people with deprivation of legal capacity and dissatisfactory position of women, which are still discriminated in many areas, especially in employment, as well as violence against women.

In July 2015, the Committee of Ministers of the Council of Europe adopted Resolution CM/ResCMN(2015)8 on the implementation of the Framework Convention for the Protection of

⁶⁹The Republic of Serbia, as a signatory to the European Social Charter (ESP) is obliged to submit periodic reports on compliance to the provisions of the Charter. Profile of Serbia regarding the implementation of RESC is available on: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680483170>.

⁷⁰It covers segments of the right to fair working conditions, the right to professional training, the rights of migrant workers and their families to protection and assistance, the right of workers with family responsibilities to equal opportunities and equal treatment and the right to housing.

⁷¹The Council of Europe, the Commissioner for Human Rights, Report on the visit to Serbia 16-20 March 2015, available on: <https://wcd.coe.int/ViewDoc.jsp?id=2331051&Site=CommDH&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864>.

National Minorities in Serbia.⁷²As positive developmental trends, it was pointed out that Serbia continued to strengthen legal provisions which regulate rights of national minorities, that significant institutional development took place and that authorities put great efforts in development of comprehensive policies for stimulating equal opportunities for Roma people, especially in relation to activities directed towards the possible solution of problem such as acquiring personal documents. The Committee expressed worry because of insufficiently developed interethnic relationships, non-existence of comprehensive and strategic approach to integration of national minorities and non-existence of comprehensive data about equality, which complicated the creation of the concept for targeted and efficient policies for overcoming discrimination of national minorities. It is stated that the Commissioner for Protection of Equality still does not have conditions to hire enough staff, as well as that broad public does not sufficiently understand legislation on prohibition of discrimination. The Committee recommended Serbia to stop forced evictions and to proceed with efforts to introduce those provisions which guarantee the right to adequate inhabitation into the national law, and without eviction, to urgently consider approach of Roma people to health protection, to continue with efforts to eliminate segregation of Roma children in education and without delay, to create measures to improve approach to inclusive education and results of education for Roma children. Apart from that, stimulation of efficient participation of national minorities, including those not numerous minorities, in election process and taking measures in relation to insufficient participation of national minorities in government, especially on republic level was recommended. Serbia is invited to continue with the efforts to create multi-ethnic police forces and to revise the Law on national councils of national minorities, with continual consultation with representatives of all minorities and civil society, in order to ensure efficient participation of members of national minorities in solving all problems important for them.

In Reports of the leading international organizations for the protection of human rights Human Rights Watch (HRW) and Amnesty International (AI) in 2015 Serbia was mainly mentioned in the context of migrant crisis and international obligations of the state in relation to respect for migrants' human rights. Media in Serbia transmitted the news that in October Deputy Europe Director at Amnesty International during her conversation with the State Secretary at Serbian MIA pointed out: "although the focal point of the migration crisis is in the countries of European Union, Serbia demonstrates the greatest efficiency in treatment of migrants in the region, which AI, as international non-governmental organization which protects human rights, especially values".⁷³However, there are texts and reports on the web-site of this organization which are contrary to this statement. The Report from July 2015 with the title "Border countries of Europe – violation of the rights of migrants and refugees in Macedonia, Serbia and Hungary"⁷⁴ was based on more than a hundred interviews with migrants who passed through these three countries in the period from July 2014 to March 2015. Basic violations of the rights that were indicated were inadequate treatment, violence and "racketeering", as well as violent deterrence committed by the police service, and as fundamental system problems non-compliance of the

⁷²Document is available on: <http://www.ljudskaprava.gov.rs/index.php/nacionalne-manjine2/multilateralni-ugovori/okvirna-konvencija/treci-ciklus>.

⁷³„Amnesty: Serbia demonstrates the highest efficiency", RTS, 23 October, 2015. Available on: <http://www.rts.rs/page/stories/sr/story/125/Dru%C5%A1tvo/2080819/Amnesti%3A+Srbija+demonstrirala+naive%C4%87u+efikasnost.html>.

⁷⁴The Report is available in English language on: <https://www.amnesty.org/en/documents/eur70/1579/2015/en/>.

asylum-related regulations with international standards, as well as inconsistent application and dysfunctional asylum systems.⁷⁵

The HRW also referred to specific problems, which during the period November 2014 and January 2015 interviewed 81 asylum seekers, including 18 children at different locations in Serbia and Macedonia⁷⁶ and found a larger number of violations of rights.

In the Report from April 2015, three years after forced eviction of more than a hundred Roma families from the informal settlement at “Belvil”, it was pointed out that the project of the European Commission to ensure adequate accommodation for these families failed. Namely, in that way most of these families still live in racially segregated metal containers and around 50 families will maybe never be adequately housed.⁷⁷

In March 2015, UNICEF in Serbia published the final report on monitoring the situation and position of women and children in Serbia for 2014 – MICS 2014.⁷⁸ The research shows that, in spite of the fact that primary education is free and compulsory in Serbia, there is a difference in literacy in relation to a different group of women. Out of the women who don't have education, only 15% are literate, while among the women who have primary education, 88% are literate. Around 80% of young women in Roma settlements are literate, and great differences also exist in relation to financial standing – 51% of young women living in the poorest households are literate, comparing to 98% living in the richest households. Apart from that, worrisome is the fact that only 69% children from Roma settlements in Serbia, which are children in the age category to start to go to school, attend the first grade of primary school.

The research shows that even 43% of children aged 1–14 years were exposed at least to one type of psychological or corporal punishment by the members of the household in the previous month, and in the most cases combination of violent disciplinary practices were used. While 39% of children were exposed to psychological, around 17% were exposed to corporal punishment, whereby younger children were more exposed to certain type of physical disciplinary measures than older children: 25% of children at the age 1–2 years were exposed to corporal punishment, and in 8% of children at the age 10–14 years. The most visible difference regarding corporal punishment was that in those households where the person who was the owner of the household did not have education, a greater number of children (24%) were punished than in households where the owner of the household had higher education (13%).

The research results show that there is a problem of so called teen marriages, especially among the Roma population, which represent violations of human rights, and jeopardize development of girls and often lead to early pregnancy which does not allow them to finish school and

⁷⁵The same, page 6.

⁷⁶Available on: <https://www.hrw.org/news/2015/04/15/serbia-police-abusing-migrants-asylum-seekers>.

⁷⁷Text is available in English language on: <https://www.amnesty.org/en/latest/news/2015/04/serbia-forcibly-evicted-roma-still-awaiting-resettlement-despite-eu-millions/>.

⁷⁸Research of multiple indicators of position of women and children in Serbia 2014 and Research of multiple indicators of position of women and children in Roma settlements in Serbia 2014, Final Report, Statistical Office of the Republic of Serbia and UNICEF, Belgrade 2015, Publication is available on: https://mics-surveys-prod.s3.amazonaws.com/MICS5/Central%20and%20Eastern%20Europe%20and%20the%20Commonwealth%20of%20Independent%20States/Serbia%20%28Roma%20Settlements%29/2014/Final/Serbia%20%28National%20and%20Roma%20Settlements%29%202014%20MICS_Serbian.pdf.

contribute to their social isolation. Around 4% of young women from general population age 15–19 years are married now or they are in common law marriage, while in Roma communities this percent is much higher and reaches up to 43%.

Early marriage is directly related to education, in the general population 35% of women with primary education are married before the age of 18 and less than 1% of women with higher education, while in the Roma population 57% of women aged 20-49 years were married before age 18 years, with similar differences by level of education.

Part of this research was related to the attitudes of women about partner violence, and one of the questions was whether husbands/partners are justified in hitting or beating their wives/partners for different reasons. In Roma settlements, 37% of women believe that a husband/partner has a right to hit or beat his wife or partner from at least one of the five reasons offered, compared to 4% of women from general population. Almost one of three women from Roma settlements justifies violence in cases when a woman neglects her children, and one in five women justifies violence in cases when a woman shows her independence, for example, goes out without his knowledge or quarrels with him. It should be noted that the justification for violence is often present in women living in the poorest households, as well as in women with a low level of education.

3.1.1. The Practice of the European Court of Human Rights

In 2015, the European Court of Human Rights considered the existence of discrimination in several interesting cases.

The most significant judgment rendered in the case *Idetoba and others v Georgia (Idetoba and Others v. Georgia*, no. 73235/12, judgment of 12 May 2015), where the European Court for the first time admitted that hate crime that was committed against individuals on the basis of their sexual orientation leads to a violation of the European Convention, namely Article 3 (prohibition of torture), in conjunction with Article 14 (prohibition of discrimination). The European Court has found that the state has no discretion right in relation to the obligations arising from Article 3 of the European Convention, while Article 1 imposes an obligation on states to take positive measures to ensure that individuals, who are under the jurisdiction of the state, are protected against all forms of abuse, including the abuse carried out by private persons apart from official persons. This implies both preventive measures and undertaking an effective investigation. When examining the alleged abuse, States have an obligation to take all reasonable measures to investigate possible discriminatory motives. The European Court specifically took into account that the authorities knew or could have known of the risk that existed after the peaceful assembly of LGBT persons in this case. The Court emphasized that the treatment of violence and brutality with discriminatory intent in the same manner as in cases where this motive didn't

exist, meant ignoring the specific nature of acts that especially violated human rights.⁷⁹ This verdict sends a clear message that states have an obligation to adequately protect LGBT people from hate speech and serious threats, as well as physical abuse that comes from fear, anxiety and insecurity. This is the second time that the European Court found that treatment based on hatred towards the LGBT population constituted inhuman and degrading treatment.⁸⁰

In the case of *Oliari and Others v. Italy* (*Oliari and Others v. Italy*, Application nos. 18766/11 and 36030/11, judgment of 21 July 2015) The European Court did not discuss the existence of discrimination, but the case deserved attention because it was about applications of three homosexual couples who under Italian legislation did not have the possibility of entering into a marriage or registered partnership. The European Court found that a violation of Article 8 of the European Convention (right to privacy) occurred in this case because the current legal protection of same-sex partners did not provide essential needs of those who were in a stable relationship and it was not sufficiently reliable. The European Court has accepted that for same-sex partners, who are in the same situation as the applicants, the best way to legal recognition would be civil marriage or a registered civil partnership. The European Court has emphasized that there is a trend of recognizing same-sex unions in the member states of the Council of Europe (24 countries out of 47 member states of the Council of Europe), and that the Italian Constitutional Court repeatedly insisted on such protection and recognition. The Court took into account the fact that the majority of citizens in Italy supported the legal recognition of same-sex unions.

The position of people living with HIV again found itself before the European court. Thus, in the case against Greece (*Martzaklis and Others v. Greece*, no. 20378/13, judgment of 9 July 2015), the Court examined the conditions in which 13 people living with HIV were detained in a psychiatric compartment of prison and found that these conditions were inadequate, as well as that there were many irregularities in relation to medical treatment.

The physical and psychological suffering of the applicants were caused by these factors, in particular due to poor sanitation, overcrowded cells and accepting new patients suffering from infectious diseases, who were placed together with them. The applicants especially complained in relation to the fact that they were exposed to "ghettoization" in the special wing of the prison hospital, and in relation to the fact that authorities did not examine whether these conditions were appropriate to their health condition. The European Court emphasized that, according to the national legislation, those living with HIV had the right to be released to go home, and that the applicants did not get the remedy by which they could request examination of prison conditions or the possibility to be released for health reasons, which resulted in a violation of the European Convention.

Also, in 2015, the European Court discussed the cases in which the different treatment was based on the traditionally rooted attitudes towards a particular group. In 1974, the Council of Ministers introduced aid to displaced persons in the form of issuing refugee card that allowed them a variety of benefits, including assistance in securing housing. Children and women were able to be registered only on the basis of refugee cards of their fathers or husbands. On the

⁷⁹To the same conclusion in relation to the religious motivated attacks European Court came in the case *Milanovic against Serbia* (*Milanovic v. Serbia*, no. 44614/07, judgment of 14 December 2010).

⁸⁰For the first time, it happened in 2012 in a case concerning abuse of a prisoner who was a member of a sexual minority (*X. v. Turkey*, No. 24626/09, judgment of 9 October 2012).

other hand, children and men of displaced women have been explicitly excluded from the possibility of being registered as displaced persons. In the case of *Vrontou against Cyprus* (*Vrontou v. Cyprus*, no. 33631/06, judgment of 1 October 2015), the applicant was a citizen of Cyprus, whose mother had been a refugee since 1974. In 2002, she asked for a refugee card, based on her refugee status. This request was rejected because the applicant's father did not have the refugee status. The government has defended itself by the argument that during 70-ies of the last century, men had the primary role of breadwinner and that the children of displaced women were dependent on non-displaced fathers, and not the mothers of the displaced. The European Court found that a violation of Article 14 of the European Convention, together with Article 1 of the First Protocol (right to property) and Article 13 (right to an effective remedy) took place in this case. The European Court has stressed that all children have similar needs, so the distinction that is based on general assumptions, traditions and social attitudes neither has enough justification when it comes to different treatment based on sex, nor can it be justified by the need to direct funds towards priority groups.

In the cases against Lithuania (*Sidabras and Džiautas v. Lithuania*, Application no. 55480/00 and 59330/00, judgment of 27 July 2004; *Rainys and Gasparavičius v. Lithuania*, Application no. 70665/01 and 74345/01, judgment of 7 April 2005), former officers of the KGB (the tax inspector, prosecutor and lawyer in private telephone company) were dismissed on the basis of the Lithuanian Law on the KGB from 1999, by which it was forbidden for them to apply for a job in the public sector and in several places in the private sector. Considering the facts of the case, the European Court found that the applicants were in a different position from other persons in Lithuania who had not worked for the KGB, and that the ban on working in the private sector significantly affected the possibility of acquiring additional income sources, with obvious consequences for the enjoyment right to private life. The European Court especially emphasized the limiting possibilities of finding a job in a private company, because of lack of loyalty to the state, and it could not be justified in the same way as restrictions on employment in the public sector. Despite these judgments, the law on the KGB remained in force, which was the reason why these persons re-submitted the application to the European Court. Thus, in the case *Sidabras and Others v. Lithuania* (*Sidabras and Others v. Lithuania*, Application no. 50421/08, Judgment of 23 June 2015), The European Court found a violation of the European Convention, namely, Article 14 (prohibition of discrimination) in conjunction with Article 8 (right to privacy) in respect of the third applicant, the lawyer in a private telephone company, which could not be employed in the private sector even after an earlier judgment of the court. The European Court found that the domestic court's explicit reference to the law on the KGB because of which a person might not again get a job as a lawyer in a private telephone company, where he was dismissed in 2000, undoubtedly led to discrimination.

In *Qing v. Portugal* (*Qing v. Portugal*, Application no. 69861/11, judgment of November 5, 2015), the applicant is a Chinese citizen, married to a Portuguese citizen, who lives and works in Portugal. She was detained for a year and a half ago in a criminal proceeding in which she was accused of money laundering, forgery and assisting illegal immigration. Detention was ordered for her and it was based on reasonable suspicion that she committed all activities for which she was charged, and which were part of organized crime, and there was fear that she could affect the investigation or continue the criminal activity if released. The National Court also took into account several times that she was a foreign citizen and that there was a high probability that

she would flee the country in case when she was released. She complained of a violation of Article 5. Par.1 and 3 of the European Convention (right to liberty and security of person), claiming that the decision of her detention was discriminatory because it was based on her nationality. The European Court took into account that in this case six persons, members of criminal groups were accused, and five of them being of Chinese nationality. Of these six, three were held in custody, while three were detained persons, two of whom were Chinese nationals. The European Court with that concluded that the applicant did not prove that she was discriminated on the basis of her nationality. However, even if it can be assumed that the difference was made on the basis of the nationality of the applicant, the Court emphasized that it could not ignore the specific objectives of the detention and the existence of relevant grounds which could justify the different treatment of the applicant during the criminal proceedings. The European Court has already found that the risk of flight cannot be analyzed solely on the basis of severity of punishment, but also in relation to other relevant factors which may either confirm the existence of a risk or lead to a different conclusion. These circumstances include assessment of the character of the personality, her moral, property, association with the state where she is on trial, and international contacts (see *Bolech v. Switzerland*, application no. 30138/12, judgment of 29 October 2013). Taking into account the gravity of offenses for which the applicant was charged, her relations with international criminal groups and the agreement between Portugal and China, by which the extradition of nationals was prevented, the European Court found no violation of Article 14 in conjunction with Article 5, paragraph 1 point c) of the European Convention.

In the case of Romania (*Costel Gaciu v. Romania*, Application no.39633/10, Judgment of 23 June 2015) The European Court considered "other status", which is not explicitly stated in Article 14 of the European Convention. Namely, the applicant was arrested and held in custody, along with three other prisoners, in a small cell where there were no windows, no ventilation and he had no access to water, and the toilet could be used by a daily schedule. In addition to poor prison conditions, the applicant complained that visit of his spouse was not allowed to him during the detention period (one year and ten months) and only on the basis of the fact that he was not convicted. According to the national law, a person who is subject to pre-trial proceedings has no right to visit a spouse, regardless of the length of detention, unlike the prisoners who have that right. He especially argued that this treatment was not justified and that he, whose fault has not yet been determined, was exposed to more difficult measure than the prisoner which was convicted. He also argued that the ban ended his marriage, which had caused significant suffering, especially considering the fact that he had two children. Considering the facts of the case, the European Court used as a starting point the fact that the detention could be considered as putting an individual in a different legal situation, which affects his personal circumstances and the existence and it could be subsumed under "other status" according to Article 14 of the European Convention. However, in order to establish the existence of discrimination, it is necessary to examine whether the detainees are in an identical situation, which does not mean that certain differences that exist among the different groups that are deprived of their liberty prevent the application of this Article. According to the European Court, it is sufficient that the person shows its presence in a similar situation with others who are treated differently, which was the reason why the European Court accepted that these were two analogous groups. The European Court took into account that more than half of the Contracting

States recognized conjugal visits detainees, as well as that numerous international standards indicated the existence of obligations that visit had to be enabled for them. This measure applies to all detainees and does not have individual character, as in the present case, the crime for which the person was charged was not related to his family, nor his wife was a witness, north National Court possessed any information that she was involved in criminal activity. For this reason, the European Court did not find that there was a special reason to prevent a conjugal visit to the applicant. The Court especially indicated the fact that the Government defended itself by the existence of legal norms, without explaining why this restriction was necessary and justified in a particular case, so the Government acted in a discriminatory way, which was the reason why a violation of Article 14 in conjunction with Article 8 of the European Convention occurred.

In the case *Perincek v Switzerland* (*Perinçek v. Switzerland*, application no. 27510/08, judgment of the Grand Chamber of 15 October 2015), the question concerning the criminal conviction of Turkish politician who publicly stated that mass deportation and massacre of Armenians to which they were exposed to during the Ottoman Empire could not be considered genocide arose. Swiss courts held that the motives for this statement were racist and nationalistic, and that this statement has not contributed to the historical debate. The applicant considered that his conviction resulted in a violation of Article 10 (freedom of expression). The European Court concluded that in a democratic society it was not necessary to convict the applicant in order to protect the rights of the Armenian community. The Court specifically took into account the following facts: this statement was not calling for hatred and intolerance, the context in which it was filed was not marked as provoking tensions or special historical tons in Switzerland, it cannot be taken that statements affect the dignity of the members of the Armenian community to the extent that requires serious criminal response, and the Swiss courts censor the applicant only because he expresses his opinion on this issue which is different from the point of view of the majority opinion in Switzerland.

Finally, in *Delfi AS v Estonia* (*AS Delfi v. Estonia*, application no. 64569/09, Grand Chamber judgment of 16 June 2015) The European Court for the first time examined the responsibility for user comments on the website. The company of the applicant, which puts the news on the portal for commercial reasons, complained that it was not responsible for the offensive comments on an article left by readers. At the request of the company lawyer, comments were removed after six weeks. The European Court found that the conviction of the applicant company did not lead to a violation of Article 10 of the European Convention. The Court took into account that most controversial comments left by identified and anonymous users were of such a nature that it could be considered as illegal speech. The Court recognized that in all those cases when the comments were left on internet portals by third parties and when they represented a direct threat to the physical integrity of individuals, the Contracting States of the European Convention might be responsible if they did not take action to, without delay, remove clearly illegal comments, even without notice to victims or third party. Taking into account all of these specified criteria, especially the extreme nature of the comments, the fact that the messages were posted on the professional website as well as the inadequacy of measures to remove comments without delay, led to hate speech and speech that provoked violence.

3.2. Reports and research of domestic institutions and organisations

In April, the Serbian government adopted the Second and Third periodic report on the implementation of the Convention on the Rights of the Child, which also contained information on the implementation of both protocols with the Convention and submitted it to the Committee on the Rights of the Child with a delay.⁸¹ In this report, it was pointed out that the Youth Panel of the Commissioner for Protection of Equality so called "Discrimination Busters" was founded in 2012, which enabled the children to express their opinion on the phenomenon and causes of discrimination, as well as to suggest programs and activities which they considered to be the most effective among young people. The report also states that in 2013 the Commissioner prepared the Special report on discrimination against children, according to which children of Roma national minority and children with developmental disorders and disabilities were exposed to discrimination most frequently and that discrimination occurred most often at kindergartens and schools, while the reason why it happened so often was the lack of adequate preventive measures and the lack of timely reaction of responsible persons in situations where discrimination already happened, and that Roma children were more often victims of discriminatory peer behavior, and that children with developmental disabilities and disabilities were in a worse position in the process of deinstitutionalization.

During October - the month of the fight against digital violence, in response to the alarming number of young people who have faced or are facing digital violence, the SOS platform was activated for assistance to victims of digital violence. The application was created in the framework of the project *Prevention of digital violence*, which was implemented by the partnership of UNICEF, the Ministry of Education, Science and Technological Development and Telenor. It is available on the Facebook page "Choose Your Words –Stop Hate Speech" and allows victims and witnesses to report violence and prevent it in real-time, at the moment when it happens.⁸² A research⁸³ which showed that during the previous year 84% of secondary school students at least once exposed themselves to one of the risks on the internet was conducted within this project. Two thirds of interrogated secondary school students were victims of some form of digital violence, while 30% found themselves in a role of a witness of digital violence. Only one percent asked for help from the adults at school, but many more of them addressed their peers for the help. Namely, 18% of primary school students and 17% of secondary school students experienced harassment on social networks, and 12% of the secondary school students and 9% primary school students found themselves in a role of the victim who was recorded by the cell phone camera. It is very worrying that even 15% of the surveyed secondary school students accepted to meet with the person they have met over the Internet.

Evaluation of the implementation of the National Strategy on Ageing of the Republic of Serbia for the period 2006-2015⁸⁴ showed that some progress was achieved, but that the implementation

⁸¹The Report is available on:

http://www.ljudskaprava.gov.rs/images/konvencije/drugi_i_treci_periodicni_izvestaj_o_primeni_KPD_srb.pdf.

⁸²More information on: <http://www.unicef.rs/novosti/sos-aplikacija-za-podrsku-zrtvama-digitalnog-nasilja-599.html>.

⁸³On sample of 3876 students, 1379 teachers and 3078 parents.

⁸⁴Republic Institute for Social Protection, Ministry of Labor, Employment, Veteran and Social Affairs, UNFPA, UNDESA (2015), available in English on:

http://rs.one.un.org/content/dam/unct/serbia/docs/Publications/FINAL_Evaluation_of_the_National_Strategy_on_Ageing.pdf.

process progressed more slowly than expected and planned. Among other things, the evaluation showed that older women were not allowed to participate in the work of government institutions on an adequate scale, that they were disproportionately burdened with responsibilities of caring for the sick and infirm family members and generally disproportionately burdened with household chores and more often they were the victims of domestic violence. Also, the situation of older women in rural areas is highly endangered due to the shortcomings of the pension system in relation to the farmers.

The Office for Human and Minority Rights published the Analysis of the functioning of the Councils for Interethnic Relations,⁸⁵ as well as mechanisms which facilitate the participation of national minorities in public affairs, established in ethnically mixed local governments. The analysis states that, according to the criteria established by law 72, local governments are nationally mixed and have an obligation to set up the Council for Interethnic Relations, and that the acts by which the Council was established were brought by the representative bodies in only 53 local governments. Moreover, although the independent bodies for international relations were established in these local governments, these bodies are not active or their members rarely organize their meetings and only sporadically discuss various issues in relation to equality. The study indicated that these councils in ethnically mixed local governments have not become the bodies that would fully contribute to the realization, protection and promotion of national equality and inter-ethnic dialogue at the local level yet, while obtained information show that the practice is not uniform and that the councils have also considered the issues that cannot be classified in the issues related to the realization of national equality. As stated, the causes for this must be sought in the lack of a clear legal definition of the term "realization, protection and promotion of national equality", so by creation of more precise definition of that term, local governments would be able to define their scope of activities with the acts on establishing the Council in more close way, and that would allow the council to become a competent body in conducting the policy of national equality at the local level.

The Protector of Citizens published the publication "*The Prevention and Protection of Children from Sexual Abuse and Sexual Exploitation*", which is consisted of selected recommendations, opinions and initiatives for amending regulations of the Protector of Citizens with the text of the Council of Europe Convention on the Protection of Children against sexual exploitation and sexual Abuse.⁸⁶ In this publication, which is intended for all professionals who work with and for children, it was pointed out that the existing system of protection of children from sexual abuse in Serbia does not have effective mechanisms for prevention of sexual abuse and child protection in cases of sexual abuse wherever it occurs. Professional persons acting in the protection of children and people who work with children often do not have sufficient knowledge about sexual violence against children, its distribution, and specificities about the position of a child who is a victim of sexual violence, recognition of the event of sexual abuse and manifestation of sexual abuse and protection measures. In addition, as stated in the study, their actions are sometimes burdened with prejudices and stereotypes in relation to what children are

⁸⁵ Publication is available on: http://www.ljudskaprava.gov.rs/images/pdf/nacionalne_manijne/Analiza_SMO_2015.pdf.

⁸⁶The Protector of Citizens, available on: http://www.ombudsman.pravdeteta.com/attachments/394_publikacija%20Lanzarot%20pdf.pdf.

saying, especially in cases of sexual abuse and exploitation of children from marginalized groups, when prejudices about "tradition", "culture" "habits" and "patterns of behavior" are particularly conspicuous - which has extremely negative impact on the correctness of the assessment and the quality of services and measures taken to protect the child. It was also stated that all these factors lead towards ignoring the suffering of a child, and neglecting of the expert opinions which indicate sexual abuse, lack of protection measures and measures aimed at the recovery of the child, as well as the maintenance of sexual violence against a child, by which the competent authorities, instead of protection providers are becoming the institutional abusers of a child.

The Protector of Citizen has submitted the Report on the Implementation of the Convention on the Rights of Persons with Disabilities⁸⁷ to the UN Committee on the Rights of Persons with disabilities, which states that Serbia has achieved some progress in improving the situation of persons with disabilities, but that complex problems still remain and that these problems prevent people with disabilities from enjoying the guaranteed rights. It was pointed out that people with mental disabilities are in a very bad position, that they are mostly placed in the institutions because the services which would allow them to realize their rights to live in a community are not developed.

The support which is partially available to the people with disabilities through the system of education and social and health protection is not sufficient to eliminate the barriers that exist in education, rehabilitation, employment and independent living of persons with disabilities.

The Protector of Citizens states that the inaccessibility of public buildings is still a very big problem which prevents people with disabilities from exercising their rights. In addition, it was pointed out that there is no clear decision or clear plan for implementation of the process of de-institutionalization of persons with disabilities who are in the institutions of social and health care, and that there are problems in the implementation of regulations on professional rehabilitation and employment of persons with disabilities.

In cooperation with the Association of Accessibility Audit, the Protector of Citizens made an interactive "Accessibility Map", which should provide an insight into the real state of accessibility on the territory of Serbia.⁸⁸ The database includes information on the accessibility of public transport stops, public parking places reserved for the disabled, pedestrian crossings and public facilities under the jurisdiction of local governments, as well as electric power facilities. Local governments, non-governmental organizations and citizens are invited to engage in the collection of a large number of data for this interactive map, whose content, in accordance with changes in the field, constantly changes and supplements.

In December, the Protector of Citizens published the Declaration on the Protection *and* Promotion of the Rights of Refugees and Migrants signed by the representatives of the Ombudsman/national institutions for the protection of human rights at the conference

⁸⁷Available on: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=SRB&Lang=EN.

⁸⁸Available on: <http://mapapristupacnosti.rs/>.

Ombudsmen/national institutions for the protection of human rights: Challenges for Human Rights in terms of refugee/migrant crisis held on 23–24 November in Belgrade. Referring to the principles of respect for human rights of refugees and migrants, ensuring unimpeded access to an asylum procedure, protection of rights through cross-border cooperation, prevention of inhuman and degrading treatment, measures to strengthen integration and family reunification, promotion and protection of economic and social rights and the provision of protective measures for vulnerable groups, the ombudsmen have realized the need to direct their efforts towards the protection and promotion of the rights of migrants and refugees in accordance with international and regional human rights standards.⁸⁹

The provincial Protector of Citizens of the Autonomous Province of Vojvodina conducted a new study on the situation of women in the national councils of national minorities and their participation in the work of national councils, in order to show how the legal obligation of candidature of 30% women on the lists was respected after the last election for members of the national councils and how many of them were really elected to the national council. This research indicated, similar to the previous two surveys on the situation of women in the national councils, the need to promote women in decision-making process.⁹⁰ The data show that, after the elections in October 2014, there were 106 women in the membership of national councils, eight more than in the previous period, or slightly more than a third. In the national councils, 61 women out of 106 have a university degree (around 60%), while in the case of men, this percentage is about 50, i.e., 109 men out of 205 have a university degree. There was an increase in the number of women on the position of presidents in relation to the previous period, when only one woman was at the head of the national council. Now, two women are at the forefront of the national council. There are 15 men and nine women on the position of the vice president of the Council. It is obvious that the function of lower importance in the internal hierarchy of the national council indicates a smaller difference between the number of men and women, and that there are more women (6 women compared to 4 men) only at the head of the Board of Education. In addition to the Board of education, culture, information and official use of languages and scripts, some national councils established other bodies in which there are both men and women. However, there is greater number of the working bodies where there are no women, while on the other hand, there is no working body in which there is no man. Only three national councils - Croatian, Macedonian and Slovak minorities have a working body which is dealing with the situation of women and protection of their rights.

The Provincial Ombudsman published the Analysis of the position of the coordinator for Roma issues in 19 units of local self-government in the Autonomous Province of Vojvodina,⁹¹ in which they are engaged. The analysis showed that systemic discrimination against Roma is present in Vojvodina, which is the most common and most obvious in health care institutions. It was stated that employees in the health care facilities hinder access to the health care system or deny the right to use them to the members of Roma minorities, on the basis of appearance and behavior, or social status, as well as on the grounds of presumed nationality. In addition, social workers in

⁸⁹ Available on: <http://www.ombudsman.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/4467>.

⁹⁰ Available on: <http://www.ombudsmanapv.org/riv/attachments/article/1573/Polozaj-zena-u-nacionalnim-savetima-nacionalnih-manjina-cir.pdf>.

⁹¹ „Coordinators for Roma issue in the Autonomous Province of Vojvodina”, Novi Sad Нови, 2015. The Report is available on: http://www.ombudsmanapv.org/riv/attachments/article/1650/2015_Romski_koordinatori.pdf.

the centers for social work refuse to specify the address of the center for social work as the address of residence to Roma who use material support and to socially vulnerable persons. Also, tendencies like avoiding the obligations of schools, i.e., denying introducing optional educational classes of Roma language with elements of national culture at these schools where there is a sufficient number of interested Roma and competent teaching staff were identified.

The research of the Provincial Ombudsman *Knowledge of languages and scripts of national minorities which are in equal official use in the Provincial Administration*⁹² found that only five provincial administration bodies out of the 13 surveyed bodies, according to general act, specified knowledge of the language of a national minority as a special precondition for the job. At the workplaces where such a precondition is prescribed, in many cases, knowledge of the language of national minorities is set alternatively with speaking a foreign language. In addition, there is no regulated way of proving knowledge of the language of national minorities and in most cases the necessary level of knowledge of the language for a specific job is not prescribed. When prescribing knowledge of the minority language as a special condition for a specific job, there was no consideration of the exact jobs where communication with citizens is carried out as a regular job, or, that employees who are dealing with the administrative procedures in an adequate number know the languages of national minorities which are in official use.

The Provincial Secretariat for Economy, Employment and Gender Equality of Vojvodina published the *Manual for introducing gender budgeting in the budget program structure - Towards Gender Responsive Budget*,⁹³ which represents a guide for public administration bodies in the implementation of gender budgeting. In this publication, which, among others, contains the previous experiences of the provincial government in this field and the methodology for the introduction of gender budgeting, it was pointed out that next steps in further integration of gender budgeting in the budget program structure were made in the process of creation of the draft budget for 2016.

The Provincial Secretariat for Economy, Employment and Gender Equality of Vojvodina conducted a poll⁹⁴ within the action *16 days of activism against gender-based violence* on the streets of towns in Vojvodina, which was attended by nearly 400 examinees. Every second examinee has expressed opinion that directly (37%) or through relatives (27%) knows a woman who is a victim of family violence in an intimate relationship, but over 40% of the examinees say that they do not know if they would (namely, that it depends on the situation) report violence against women. Over 70% of the examinees consider that women do not have equal status in our society, and 76% admit to doubt the effectiveness of the system of protection of victims, while only 3% of examinees know that, based on the experience of women in the region, the level of protection is good. When they were asked to whom they would report violence against women, the first choice of interviewed examinees was the police (58%), after that the social services (19%), and immediately after that civil society organizations that deal with this topic

⁹²Available on: http://www.ombudsmanapv.org/riv/attachments/article/1589/Istrazivanje_sluz_upotreba_jezika_2015.pdf.

⁹³The Publication is available on:

http://www.spriv.vojvodina.gov.rs/images/dokumenti/ravnopravnost/Ka_rodno_odgovornom_programskom_budzetu.pdf.

⁹⁴More detailed on: <http://www.spriv.vojvodina.gov.rs/index.php/pocetna/81-vesti-cirilica/374-2015-12-08-14-25-09>.

follow. Although almost half of the examinees think that the most common form of violence against women in Serbia is psychological violence, most examinees (78%) consider that verbal and psychological violence is not defined as a serious problem.

The research *Attitude of the police towards discrimination* conducted by the Police Academy in 2015 provides a comparative overview of the attitudes of members of the General Police and Traffic police toward discrimination with the views of members of the Criminal Police (CP) from last year's survey, in relation to the same concepts and value judgments.⁹⁵ The research shows that even 49% of examinees of the traffic police (TP) and general police (GP) do not know what the essence of discrimination is. Members of TP and GP recognize Roma population (16%) and members of the LGBT population (13%) as the most discriminated groups, and in both surveys nearly half of examinees have no opinion on the issue. On the other hand, the most prominent social/ethnic distance is expressed towards LGBT people (39%), then towards migrants (37%), people living with HIV/AIDS (37%) and Albanians (36%). It is notable that slightly greater social/ethnic distance is present in the attitude of members of the traffic police towards members of the General police, but it is generally lower in comparison to members of the criminal police.⁹⁶

Even 74% of examinees did not know to specify in which area, according to their opinion, discrimination is the most present, and those who specified the area actually emphasized the area of employment (12%). In relation to measures that would improve the situation of vulnerable groups, nearly half of examinees disagreed with the statement that "persons belonging to national minorities should be allowed to address the state institutions in their native language, even though it costs the budget." Media, political parties, NGOs and the government, according to the respondents, are the most responsible for the appearance of discrimination, but also the most influential in relation to its reduction in society. As in the previous research of the views of members of the criminal police, in this one it was confirmed that members of the ST and GP consider that the police, as an institution, is neither responsible nor has an impact in terms of the occurrence and extent of discrimination.

In relation to the personal experience of discrimination, 82% of examinees believe that they have never been exposed to discrimination, while every second examinee states that he will not address anyone in the case to find himself in a situation to be exposed to discrimination. When it comes to discrimination as a social problem that needs to be addressed as a priority, 41% of all examinees believe that discrimination is a significant problem, but that there are larger problems that our citizens face. It is worrisome that 54% of examinees do not know whether an institution that protects equality of all citizens exists at all in our society. Although lower than in last year's CP attitudes, a high percentage of agreement with the statement that "homosexuality is an illness that should be treated" is really worrying – 47% and "I have nothing against homosexuals, but let them do it at home" – 59%. The results of the research show significant

⁹⁵The main observations and conclusions are based on the number of issues relating to the goal of the police activities and priority of functions, the attitude towards the implementation of the law (law), recognizing of discrimination, the extent of its presence and vulnerability of social groups, an area where discrimination is most expressed, hate speech, social-ethnic distance, relation to measures that would improve the situation of vulnerable groups and to the institutions in terms of discrimination, personal experience of discrimination and analysis of stereotypical claims.

⁹⁶For example, the average distance expressed among members of the KP to the LGBT population is 49%, while in total the SP and PON mentioned 39%.

regional differences,⁹⁷ which should be taken into account in the creation of a plan for further education of police officers and raising the level of their awareness of discrimination.

Review of the Second National Report on Social Inclusion and Poverty Reduction in the Republic of Serbia for period 2011-2014, which was published by the Team for Social Inclusion and Poverty Reduction (SIPRU) in June 2015, states that the endangered and vulnerable population groups, such as persons with disabilities, the elderly, Roma, the poor, refugees and displaced persons, people with different sexual orientations, people deprived of their liberty, national minorities and people living with HIV, are particularly exposed to discrimination and still have difficulty in achieving a constitutionally guaranteed human rights.⁹⁸ Among other things, in the report it is stated that employment is unavailable for persons older than 50 years and that difficult access to health and social care services contributes to the exclusion and discrimination of particularly vulnerable categories of the rural population, and that, besides women and young people, the elderly and children, especially children with disabilities, are particularly socially excluded.

In the research *Effectiveness of systemic mechanisms to prevent violence against women and domestic violence*,⁹⁹ conducted by the Autonomous Women's Center, it is stated that the isolation of specific social groups, in particular Roma, the rural population and the elderly, and persons with disabilities, contributes to the absence of realistic picture on the size of the domestic violence problem. Most of the interviewed professionals from the system of protection against domestic violence see the abandonment of the judicial process as the biggest problem for increasing the effectiveness of the protection. It is stated that representatives of health institutions rarely attended the training, that some of them are not aware of the existence of a special protocol on protection from violence, that most of them do not complete the form for documenting violence, estimating that it is too extensive for their actual working conditions. It was found that this system lacks regulated and up to date information system that would allow regular reporting on all relevant issues.¹⁰⁰ A significant number of cases of domestic violence is not reported, while police respond only with a verbal warning to the highest number of complaints. Reported cases are processed with partial success, because of a great number of cancellations before and during the proceedings. Criminal policy is mild and there is no sufficient connection between the services and the exchange of information on the outcome of the proceedings, that is to say, there are no established methods of communication between certain services, and even when the ways of communicating are prescribed, reporting is not

⁹⁷In that way, PU Zaječar stands out as administration where there is the highest percentages of those who agree with the above statements. For example, 81% of respondents from this administration agrees with the statement "I have nothing against homosexuals but let them do it at home," which is almost double compared to those of PU Vranje, where the percentage of agreement is 45%. Regarding other statements as well, members of the PU Zaječar showed significantly higher percentages of agreement with statements that form the index of discrimination. In second place can be placed members of PU Belgrade, then PU Subotica, Novi Sad PU, PU Novi Pazar, while the lowest percentages of agreement regarding the following statements are identified in members of PU Kragujevac and Vranje.

⁹⁸Available on: <http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2015/07/Pregled-2.-nac.-izvestaja-CIR.pdf>.

⁹⁹Publication is available on: http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2015/08/Delotvornost_sistemskih_mehanizama_za_sprecavanje_nasilja_prema_zenama-Rezime.pdf.

¹⁰⁰As the number of registered cases of violence against women and violence classified by the type of violence, the specific characteristics of the victim and the offender and the type of relationship between them, the number of relapses, number and type of imposed measures and sanctions and the like.

regular. It is indicated in the research that the biggest problems are related to cooperation and coordination system for monitoring and evaluation of the effects of work.

Belgrade Centre for Security Policy (BCSP) conducted research on the security experiences of women in the public space in Novi Pazar and examined factors which could lead them into potentially dangerous situation and jeopardize their safety, with the aim of encouraging dialogue on women's safety in public space and thus motivate wider community to see security issues from the perspective of women.¹⁰¹ Some of the findings show that the Council for Gender Equality and Equal Opportunities of Novi Pazar, which has existed since 2002, completely is marginalized in the current parliamentary session, women's security is not an issue that is discussed, and the cooperation of the council with other institutions is poor. Women in Novi Pazar do not feel completely safe in public spaces, almost half of women (44%) said that they sometimes did not feel safe while they were walking at night along their neighbourhood, while 21% of men also said that. The study showed that women in the public space are often exposed to sexual comments and taunts of men, mostly because of "inappropriate" dress.¹⁰² Women generally do not call the police because they believe that work of the police is ineffective, so to report the incident to the police does not guarantee a clarification of the crime, but to the contrary, can contribute to that circumstance that, "a woman acquires a bad reputation." Not only do women experience sexual harassment in public space but they experience such situations, as they point out, even in communication with police officers which should care for their safety, so confidence in the police becomes weaker. In such cases, because of the police officers, it often comes to secondary victimization, the report said. To the question who should care for the safety of women, the women replied that they usually take care of their own personal safety, but they assess that, in a situation that endangers their safety in a public place, they would rather contact civil society organizations which are specialized in providing support to women than call the police.

In addition, last year, the Belgrade Center for Security Policy, published a study on the impact of public procurement in the security system on gender equality.¹⁰³ The study indicated that the social dimension of public procurement system in Serbia was ignored, despite the fact that they greatly affect the economy, and hence the daily lives of citizens. Considering that the gender perspective is present in all social trends, the study examines different social roles of men and women which affect the organization, implementation and realization of public procurement, and the consequences they produce.

In October, Praxis published research on access to socio-economic rights of Roma women in Serbia,¹⁰⁴ which provides specific information on access of Roma women to the right to health, education, employment, social assistance, as well as information on living conditions in 10

¹⁰¹Publication „(He)bezbedne u javnom prostoru“, Radovaniović, Đan, BCBP, Belgrade, 2015, available on: http://www.bezbednost.org/upload/document/studija_o_bezbednosti_zena.pdf.

¹⁰²The findings show that most women consider this to be everyday life and does not pay attention too much to this phenomenon, although there's always a certain anxiety. Women strive to normalize the situation in which they are subjected to verbal violence and take the "responsibility" for the behavior of men, justifying their behavior with their "inappropriate" appearance. In order not to jeopardize their safety, women are forced to align their behaviors with socially established norms.

¹⁰³Public Procurement and gender equality: Influence of public procurements on women in the security sector on Serbia, Aurelia Djan, BCBP, Belgrade, 2015, available on: [http://www.bezbednost.org/upload/document/javne_nabavke_i_rr_\[web\].pdf](http://www.bezbednost.org/upload/document/javne_nabavke_i_rr_[web].pdf).

¹⁰⁴Available on: http://www.praxis.org.rs/images/praxis_downloads/Pristup%20Romkinja%20socioekonomskim%20pravima.pdf.

municipalities in southern Serbia. Results show that 79% of surveyed Roma women have a health card, 73% of them are reported by the National Employment Service, a little less than 40% of them have social protection rights, and about 30% of them completed primary school.

The most common reason for non-realization of rights of social protection and the lack of health insurance cards that was stated was the lack of necessary documents; poverty is the biggest cause of failure to register or interruption of basic education, while revenues are mostly realized by illegal employment. Research shows that Roma women usually expect unfavorable treatment because of their nationality, so any other behavior represents sufficient reason for satisfaction, and respect for regulations is experienced in the same way, although it is the duty of all institutions. Men are, in most cases, on behalf of the family, holders of rights to social assistance, in 80% of cases the man is the owner or tenant of the building, while 85% of Roma and only 35% of Roma women stated that they earn income. Although about a third of the surveyed men and women did not finish elementary school, the difference is greater when it comes to secondary school (4% of the women examinees, 13% of men examinees).

In *Analysis of the legal framework and the current status and practice of teaching assistants*,¹⁰⁵ which was developed and published by the Team for Social Inclusion and Poverty Reduction in October 2015, it is stated that the procedure for hiring teaching assistants are not legally regulated, nor transparent, so it is often the case to hear from the representatives of educational institutions that they are not completely clear on what they exactly need to do and who and in which way to turn to in order to obtain a teaching assistant. Also, there is no database which can be used to determine type and number of hours of training that individual assistants have undergone, which further complicates the planning of their future, continuous improvement, while at the same time, according to associates, in practice it appears that the application of knowledge and skills acquired during training often encounter barriers in the institution. In addition, the pace of work and intensity of commitments of teaching assistants are not uniform throughout the school year, and number of children with whom pedagogical assistants work is quite uneven, so by providing support to a larger number of children/pupils at the same time work of teaching assistants actually loses its effectiveness, because they will not be able to devote equal amount of attention to each child. The analysis shows that 173 teaching assistants are involved in 72 local self-government units, which is less than half of the local governments in Serbia. In the municipalities in which pedagogical assistants are engaged, there are 72 pre-schools and 783 primary schools, so the number of hired pedagogical assistants is inadequate for the needs of the local self-governments. From a total of 171 preschools, in 38 of them a pedagogical assistant is engaged, and out of total 1,256 primary schools, at least one pedagogical assistant is engaged in only 12%.

In the previous year, Lawyers Committee for Human Rights YUCOM published revised editions of two manuals on discrimination intended for secondary school students, parents and the wider public, namely, for teachers and professional associates in secondary schools. *Discrimination? Not in my school! One school for all!* is a brochure in which the basic concepts of the Law on

¹⁰⁵Publication is available on:

http://socijalnoukljucivanje.gov.rs/wpcontent/uploads/2015/11/Analiza_pravnog_okvira_i_aktuelnog_statusa_i_prakse_pedagoskih_asistenata.pdf.

Prohibition of Discrimination are represented in a scenic and educational way and in a manner appropriate to the age of the target group, explained the importance of the fight against discrimination and the role of the Commissioner for Protection of Equality, as well as other mechanisms which protect young people from discrimination in the education system and outside of it.¹⁰⁶The manual *Fight against discrimination in the education system* is intended for educational advisers, educational inspectors, teachers and school management in Serbia in order to help in the fight against discrimination in the education system.

In June, Network of Organizations for Children of Serbia (MODS) published *Guidelines for the planning and provision of adequate intersectoral support for inclusive education in the local community*, in which it was pointed out that the inclusion is the most commonly viewed as a process which is in relation to the education system and providing educational support to the children from vulnerable groups, while it is forgotten that in addition to education, the children are often necessary to provide with other types of support - medical or social, as well as that sometimes support is also necessary for the family of the child or for the whole environment. Among the recommendations of this analysis are the formation and strengthening of local support network for inclusive education, formalizing of cooperation between municipality, school, health center, center for social work and other institutions of importance to the individual child and its benefit by establishing clearly defined procedures and protocols on cooperation among institutions, development of appropriate resources in local community, improving the work of interdepartmental commission, the establishment of special units / departments / persons in the municipality responsible for inclusive education, creating a system of keeping records of vulnerable children, funding support for inclusive education and the promotion of inclusion and inclusive education in the local community.¹⁰⁷

Coalition for monitoring of inclusive education¹⁰⁸ has prepared *The guide for parents – recognize and report discrimination in education*, which contains relevant information on how to recognize and where to report discrimination at local and national level.¹⁰⁹ The goal is for parents to be empowered to recognize discrimination in education, that cases of discrimination must be reported so that better and more efficient procedures for detecting cases of discrimination and other violations of children's rights can be established.

In June, Child Rights Centre introduced a custom publication *No one cannot hurt you–book for children and young people to help them understand abuse and neglect*, which is primarily intended for children and youth with disabilities, and children in general population,¹¹⁰ which was prepared by the children and young members of the Club for healthy changes with the support of the Centre for the rights of the child, international charity organization Lumos and the Centre for social preventive activities GRiG.

¹⁰⁶The Manuals are available on: <http://www.yucom.org.rs/category/nova-izdanja/>.

¹⁰⁷Publication is available on: http://sociojalnoukljucivanje.gov.rs/wp-content/uploads/2015/11/Intersektorska_podrska_za_inkluzivno_obrazovanje.pdf.

¹⁰⁸The Coalition is consisted of Association for Development of Children and Youth – Open Club from Nis, Center for Children's Right Uzice, Parent association of citizens from Belgrade and Nexus from Vranje.

¹⁰⁹: Available on: <http://oknis.org.rs/koalicija-za-monitoring-inkluzivnog-obrazovanja/doc/vodic-za-roditelje.pdf>.

¹¹⁰Publication is available on: http://www.cpd.org.rs/system/home/newsplus/viewsingle/_params/newsplus_news_id/5988.html.

As it has already been mentioned, the Coalition of organizations working in the field of protection of the rights of persons with disabilities in Serbia, the Initiative for the rights of people with mental disabilities and the Protector of Citizens filed the Alternative reports on the implementation of the of the Convention on the Rights of Persons with Disabilities¹¹¹ to the UN Committee on the Rights of Persons with Disabilities. The report, submitted to the Committee by the coalition of organizations which work in the field of protection of the rights of persons with disabilities in Serbia, among other things, stated that in relation to general obligation, the state has not taken all appropriate measures to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities and that although there is a de jure of non-discrimination and promotion of equality of persons with disabilities, they remain de facto discriminated in almost all spheres of private and social life, which is, among other things, the result of long-standing practice of segregating people with disabilities and deeply rooted stereotypical attitudes and prejudices. The report stated that the legal provisions concerning legal capacity in Serbia are discriminatory and entirely inconsistent with the provisions of the Convention on the Rights of Persons with Disabilities, that the State was not dealing systematically enough to ensure the full and equal exercise of all human rights and fundamental freedoms for women and a little girls with disabilities, nor define measures for their empowerment, that there are big problems in health care, especially for children with mental and/or combined handicaps, and that the support services for children and families who have children with disabilities are insufficiently developed and territorially uneven.

The Report to the Committee on the Rights of Persons with Disabilities submitted by the Mental Disability Rights Initiative (MDRI-S), indicated that despite reforms in the systems of social protection, education, health care and justice over the past ten years, the situation of persons with mental disabilities, especially those that were situated in residential and psychiatric institutions has not improved sufficiently. The institutionalization of persons with mental disabilities remains the main "service" that the state has to offer, without the introduction of satisfactory alternative solutions. Regardless of differences between individual institutions, certain common problems occur in all of these institutions, which are usual for closed systems that are characterized by segregation, isolation, depersonalization, lack of privacy, strict routines and inadequate protection from neglect and abuse. The report pointed out the lack of data on persons with disabilities, particularly the lack of data disaggregated by sex, age, place where they live and other important aspects. What was pointed out to the Committee was the fact that the laws which regulate the deprivation of legal capacity are not in conformity with the Convention on the Rights of Persons with Disabilities, international standards and recommendations, that they are discriminatory and that human rights of the people with disabilities are violated in that way.

Apart from this, it was pointed out that women with disabilities in residential and psychiatric institutions are at increased risk of abuse, sexual assault and rape from other users and/or staff that they are at risk of being victims of forced abortion, separation from children and providing contraception without consent. It was also stated that there are no studies on the forms and extent of violence against women with disabilities who are in institutions, but that the data are

¹¹¹Available on: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=SRB&Lang=EN.

based on interviews with women. It was also pointed out that Serbia has a very low percentage of institutionalized children, but that children with disabilities are generally represented in institutions – 60% of the total, while only 9% of them are in kinship and foster families.

The report on the rights of women with disabilities to parenthood and family, created by organizations "... Out of Circle" Belgrade and IDEAS –Center for Research and Development of Society, with the support of the Office for Human and Minority Rights, based on research on the attitudes of women with disabilities at rights to parenthood and reproductive health care, it is stated that women with disabilities face multiple barriers when they want to start a family. These barriers include the poor economic situation of women with disabilities, prejudice against mothers with disabilities, underdeveloped specialized support services for parents with disabilities and lack of adaptability of the labor market. Research has shown that there is a strong family influence on the autonomy of women with disabilities and their partnerships, as well as the major obstacles in accessing health care. Apart from that, the practice shows that institutions responsible for the protection of victims of violence, including shelters, are not physically accessible for women with disabilities.

Organizations IDEAS –Center for Research and Development of Society and National organization of persons with disability conducted research about independent living of persons with disabilities. The right of these persons to live independently indirectly depends on the attitudes in society, and directly on functioning of the system of direct support, whose functions are not adequate enough in Serbia. This report indicated that although considerable resources are invested in improving the situation of persons with disabilities, there are no data about the number of persons with disabilities which have the need for support, what type of support they need, what is the scope of persons with disabilities to social services or assessment about accessibility of community for people with disabilities. This makes the development and monitoring of the effects of public policies more difficult on the one hand, but also lobbying for the introduction of new services and the provision of additional resources on the other. The research results show that the primary support for most people is provided by families, which shows their great dependence on the family. A large number of services is not suited for people with mental and intellectual disabilities (communication, socialization), and about half of the interviewed persons with disabilities need intensive support. Only 4% of the persons with disabilities of working age are employed, and social support is often identified with someone else's care and help. It has been indicated that social support of this kind is necessary in any modern society, but that it is necessary for Serbia to develop an effective system of social protection that will enable independent living and equal rights for people with disabilities

The Team for Social Inclusion and Poverty Reduction (SIPRI) published *Research on child marriages* in Serbia, conducted by the Association of NGO Atina.¹¹² The study has noted that this practice is present in Serbia to a lesser extent than in some other environments, and that, in spite of that it is prohibited and punishable, there are still thousands of children who annually enter into child marriages, and the problem is particularly reflected among the Roma community. It is stated that the problem of child marriage is a challenge with which the

¹¹²Research is available on: http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2016/02/Deciji_brakovi_u_Srbiji.pdf.

competent institutions, but also the whole society, do not know how to fight in the right way, and that the last assessment made by UNICEF shows that in Serbia there are more than 14,000 girls of secondary school age who are engaged in a common-law marriage and that 6% of women aged 20-24 years "get married" before the age of 18 years. There is a different distribution of the practice of child marriage to different areas, and this practice cannot be exclusively linked to the urban or rural area, or the financial condition of the family, because child marriages are also recorded among wealthy families from the urban area. Some of the recommendations of this study are the official use of the term "child marriage" because it clearly indicates the seriousness and gravity of the situation in which a child is found, emphasizing the clear link between child/forced marriage and slavery, and determining the clear responsibility of the institutions, as well as the inclusion of sex education in the school program and further gathering of qualitative data on this topic and monitoring of the situation on the ground.

*The National study on the social problem of sexual abuse of children in the Republic of Serbia*¹¹³ showed that there are four children at the age of 10-18 years, in every school class in Serbia, who survived some form of sexual violence and four children more, who know someone who has experienced the same. Even 22% of attacks happen in "virtual space", namely, on social networks, while in school sexual abuse occurs in 7% of cases. Almost half of the interviewed children of school age who have had personal experience, i.e., that were victims of sexual abuse, for the first time spoke to someone about this topic through the interview, while the other half for the first time spoke about that problem with their mother, grandmother and sister. For example, 56% of parents and 26% of children did not agree with the statement that children with disabilities and developmental problems could be abused by any one. 56% of parents and 50% of children agree with the sentence that the girls who dress provocatively will be more likely victims of abuse. Although over 90% of the interviewed children and parents agreed that child abuse should always be reported to the police and that the striker should go to jail, only 7% of such cases would be reported. Only 22% of parents and only 11% of children think that the recovery of victims of sexual violence is possible.

Research conducted by the Red Cross of Serbia in cooperation with the Commissioner for Protection of Equality, with the support of United Nations Population Fund (UNFPA), has shown that some form of abuse or neglect was experienced by 19.8% of the elderly, while experience of abuse in last year was experienced by 11 % of seniors who participated in the study. The publication resulting from the research¹¹⁴ pointed out that the abuse of older people is often preceded by discrimination that leads to prejudice, stereotypes and ideas about the unproductive elderly, as well as preconception that the elderly are passive recipients of aid and a burden to society. Research has shown that there is the greatest risk of financial abuse of the elderly and that 11.5% of examinees reported at least one of the following forms of financial abuse, even

¹¹³National study is realized within the dimension the "Impact on legislation and education," the official campaign of the Council of Europe "1 of 5" by the Incest Trauma Center, in cooperation with the Ministry of Education, Science and Technological Development of Republic of Serbia - Violence Prevention Unit, Department of Protection from violence and discrimination and the Centre for the promotion of women's health in Belgrade. It presents the starting point for development of the Strategy for the prevention of sexual violence against children. Results of the study are available on:

<http://www.incesttraumacentar.org.rs/files/2015/Press%20paket%20-%20ITC%20Preliminarni%20izvestaj%20Nacionalne%20studije%202015.pdf>.

¹¹⁴ „A well-kept Family Secret: Abuse of the Elderly” Brankica Janković, Nataša Todorović, Milutin Vračević; Belgrade: Red Cross of Serbia, 2015, available on: http://www.redcross.org.rs/slika_4096_Dobro%20cuvana%20porodica%20tajna%20e-knjiga.pdf.

13.5% of the elderly declare that they do not make decision entirely on how the funds will be spent and 54% of the elderly state that they support other members of the household. The attitude of the older people that others have greater needs than they do and the fact that they do not recognize inability to dispose of their income as financial violence represent a particular risk. When it comes to neglect on the basis of the research results, it can be concluded that it is more common among older people with limited functional ability.

Gayten-LGBT organization published a brochure *Break the Silence! – Report on monitoring of discrimination and hate crimes against trans people* which was created within the PROTRANS project that the organization Transgender Europe (TGEU) realized in cooperation with organizations of Turkey, Kyrgyzstan, Moldova, Hungary and Serbia. During the PROTRANS project, the common basis for application transphobic incidents was formed, and collected data related to cases of direct and indirect violence against trans people and examples of direct, structural and institutional discrimination. In addition to physical and verbal attacks, trans people in all these countries reported difficulties in relation to the legal recognition of gender identity.

24 transphobic incidents from Serbia were reported to the common base TGEU. Six cases were categorized as a discriminatory incident, physical violence was reported in nine cases, five cases were related to the verbal attack, two people reported sexual harassment, and there were two individual cases in relation to unlawful arrest and hate speech. Most of the victims who experienced the incident were trans women (79%), and in one case the hate speech was directed against the whole trans * community. Out of the total number of reported incidents in the context of the PROTRANS project, 25% is related to discrimination, out of which 66% was related to various problems concerning the legal recognition of gender identity.

In September, Gayten published the publication *Trans people in Serbia - Analysis of the Situation and the Proposed Legal Solutions*. Model of the Law on gender identity that contains a legal analysis of the situation of trans people in Serbia, with reference to their position in the health care system. Model Law on gender identity with an explanation¹¹⁵ was presented in this publication as a proposal for the improvement of the legal situation of trans people.

In November, Belgrade Center for Human Rights, in cooperation with the British humanitarian organization Oxfam, produced report the *Safe passage* about violation of fundamental rights of refugees committed by the Bulgarian border police, which attracted public attention. The report highlighted the dangers that await refugees and migrants near the Bulgarian border with Turkey, as well as later while trying to come to Serbia, in detention centers in Bulgaria and on the border with Serbia.¹¹⁶ The report is based on interviews with over 100 refugees who arrived from Bulgaria to Dimitrovgrad, and it was stated that there were more cases of physical violence against migrant workers, attacks of the police dogs and other serious violations of basic rights. Among other things, the authorities of Bulgaria and the European Union were invited to carry

¹¹⁵Available on: <http://www.transserbia.org/images/2015/dokumenti/Trans%20osobe%20u%20Srbiji%20-%20analiza%20poloaja%20i%20predlog%20pravnog%20reenja.pdf>.

¹¹⁶Belgrade Center for Human Rights, more informationon: <http://www.bgcentar.org.rs/safe-passage-bezbedan-prolaz/#more-7500>.

out an effective investigation of violations of the rights of refugees¹¹⁷ because of these allegations.

In September 2015, the House of Human Rights and Democracy Belgrade and House of Human Rights Zagreb issued a joint press release in which they called on the governments of Serbia and Croatia to immediately abolish all restrictive measures of free movement of people and goods, establish normal communication, and to solve all problems with talks.¹¹⁸ Organizations reminded governments of Serbia, Croatia, Hungary, Slovenia and other countries of South Eastern and Eastern Europe that they are obliged to apply the rules in accordance with the highest standards of human rights and ratified international conventions, and the protection of human rights, including the rights of refugees, represents a fundamental value of each society.¹¹⁹

According to data from the website of the Center for the protection and assistance to asylum seekers, the legal team has provided legal assistance to 140 000 people in 2015.

In 2015, the Work group on asylum and migration conducted joint activities aimed at improving the status and treatment of asylum seekers and irregular migrants, as well as establishing a clear migration policy in line with European standards.¹²⁰

Analysis of the Belgrade Centre for Security Policy *Participation of national minorities in the police force*,¹²¹ shows a range of procedures that may be unfavorable to persons belonging to national minorities who are recruited into a professional police service. For example, the elimination screening for qualifying exam linguistic and spelling of the Centre for Basic Police Training (COPO) means an essay written in Cyrillic and test knowledge, which can be quite a problem to members of certain ethnic minorities, mainly of Hungarian and Albanian minorities, as it happens that they do not know enough Serbian language. Specifically, this study indicated that bad curriculum often leads to the situation that national minorities do not have adequate knowledge of Serbian language and the Cyrillic alphabet, which is a serious problem in practice. Police work, in addition to operating activities, includes extensive administration so a police officer is obliged to write a precise and unambiguous report on his activities during the day, for which he needs the Serbian language. In addition, communication with citizens is very important, which also requires knowledge of the language. The problem has also been noted in connection with the implementation of security check that candidates must pass during enrollment in the Basic Police Training and Police Academy, because check includes the "family responsibility", i.e., the candidate is automatically disqualified if a member of his immediate

¹¹⁷ Representatives of the European Union and the Western Balkan countries agreed on certain principles in further efforts to solve the refugee situation in Europe. The document is available in English language on: http://ec.europa.eu/news/2015/docs/leader_statement_final.pdf.

¹¹⁸ More on: <http://kucaljudskihprava.rs/zajednicko-saopstenje-kuce-ljudskih-prava-i-demokratije-beograd-i-kuce-ljudskih-prava-zagreb-na-zatvaranje-granica-i-izbeglicku-krizu/>.

¹¹⁹ The European Union negotiates its measures to help the refugees from Syria and other war-affected countries. Regardless of all efforts, regional countries must accept and provide assistance to all refugees, regardless of their number, and to allow them freedom of movement and to go further to Western Europe, as it was specified in statement.

¹²⁰ The organizations that create this network are ASTRA, Balkan Centre for Migration and Humanitarian Activities, Belgrade Center for Security Policy, Belgrade Centre for Human Rights, Group 484, Humanitarian Center for Integration and Tolerance, Initiative for Development and Cooperation, the International Aid Network (IAN), Humanitarian center Novi Sad and Praxis. More on: <http://grupa484.org.rs/radna-grupa-za-azil-i-migracije-nastavlja-sa-radom/>.

¹²¹ EmaStepanović, BCBP, Belgrade, 2015, available on: http://www.bezbednost.org/upload/document/ucestvovanje_nacionalnih_manjina_u_policiji.pdf.

family had "trouble with the law." The specific problem of the participation of national minorities in the police is a requirement that employees of the MIA (Ministry of Internal Affairs) have only Serbian citizenship. Although the amendments and supplements to the Police Act of 2011 stipulates that persons with dual nationality can work in MIA, there is a possibility left that for certain positions, which by the nature of their work so require, only employees with Serbian citizenship could be required, according to the findings of the Protector of Citizens in August 2014, these changes were not implemented in practice. The reason was that by-laws were not adopted which would enforce systematization and determine the list of exact positions where an employee with Serbian nationality exclusively could work, so this condition is still applied to all employees and all jobs.

In a brief report of May 2015, the organization Praxis¹²² suggests that people without documents in Serbia are mostly members of the Roma minority, so difficulties in birth registration of children occur almost exclusively among Roma children. Besides the non-possession of necessary documents, additional difficulties are a lack of information of parents, poverty and intensive exposure to the discrimination of members of the Roma minority, which also contributes to the fact that Roma people are exposed to the risk of statelessness to the greatest degree in Serbia. If the child was not registered in the register of births and did not receive personal name and nationality immediately upon birth, the poor, illiterate and ignorant persons would need legal aid to launch and implement procedures for subsequent registration of births, determination of a personal name and the acquisition of citizenship. Difficulties in connection with the determination of a personal name, recognition of paternity, enrollment or wrong registration of the fact of citizenship and destroyed, missing or unavailable parent records are systemic problems that put Roma children in an unequal position in the exercise of fundamental rights.

Praxis' *Analysis of the Procedures of Subsequent Registration in Birth Records*¹²³ shows that regulatory framework which regulates the procedures for obtaining personal documents was promoted in recent years, but that still legally invisible Roma people are faced with certain difficulties and obstacles on their way to the full enjoyment of human rights. Instructions for keeping registers of births and forms of the registers which prescribe that registration in the register of births must be performed in regular time frame based on birth registration were specified as a regulatory obstacle to legally invisible persons, as well as the fact that data about parents need to be entered into the birth record and report information from their ID card, a birth certificate, or a copy of marriage certificate,¹²⁴ which means that if the mother during childbirth has no identity card and a copy of the birth certificate, will be unable to enroll their child in the birth register and determine personal name for her child. In December, Praxis has published the *Analysis of the Procedures for Determining the Date and Place of Birth and for the Exercise of Rights to Citizenship and Registration of Permanent Residence* in 2015,¹²⁵ which highlights a systemic problem that prevents entry into the register of births immediately upon the birth of

¹²²The Report „Prevention of Statelessness among Children – the Rest Problems in Serbia” , Praxis (2015). Complete Report is available on: http://www.praxis.org.rs/images/praxis_downloads/Sprecavanje%20apatridije%20medju%20decom%20-%20preostali%20problemi%20u%20Srbiji.pdf.

¹²³Praxis available on: http://www.praxis.org.rs/images/praxis_downloads/OEBS_-_Finalni_izvestaj.pdf.

¹²⁴The same provision contains Regulations of procedure in issuing birth registration of the child and the application form for the child's birth in a health institution.

¹²⁵Praxis available on: http://www.praxis.org.rs/images/praxis_downloads/Analiza_postupaka_uvmr_i_ostvarivanja_pnd_i_pp_u_2015_godini.pdf.

those children whose mothers do not have identity documents. Recommendation contained in this analysis is that there is a need to change bylaws which regulate this question, because registration to the birth record would allow realization of the basic prerequisite for citizenship, i.e., would prevent statelessness among newborns.

As part of the action "Equal to the finish line", which was held on 18 April 2015 during the Belgrade Marathon, citizens did a test on recognizing discrimination on the desk of the Commissioner for Protection of Equality, as it was done in the previous two years. There were 79 people, which is considerably less than in previous years, but the reason was the rainy weather and the difficulties in completing the test. The results show that there are still people who do not recognize discrimination, and that it is necessary to work to raise awareness of these issues. For example, 11% of examinees believe that the employer may request a female person under 25 years for work, 14% said that the protest of the residents who do not want accommodation for asylum seekers to be in their neighborhood is justified, 11% do not believe that discrimination exists if facilities and areas used by the public are not accessible to persons with disabilities, and even 44% of the examinees believe that "homosexuality is an illness that should be treated."

In the second part of the test, the citizens were expected to hypothetical estimate in which way they would act in certain situations. To the question how they would react if they learn that their child's teacher is LGBT person, 65% of examinees consider that it is not essential for the education of their children, while others would ask for the professor to be dismissed or they would withdraw their child from school. When asked what would be your reaction if you knew that your colleagues do not buy in the nearest bakery because its owner is Albanian, 28% of examinees consider that they would "watch their own business," and 9% believe that such behavior is normal. In the event that access to the restaurant is disabled to their friend who uses a wheelchair, over half of the examinees stated that they would protest against the host, and then, that they would go to another place with their friend, 15% would leave a friend and enter the restaurant, and 32% of those examinees would report this case to the police.

If a girl which is HIV positive went in the same class as their daughter, most examinees (87%) say that they would support girls' parents, while 7% of them would strictly forbid their daughter to approach the girl, while 7% would initiate the girl to be withdrawn from the school. In the end, the question of how they would act if their friend leaves a comment on one website that children with mental disabilities should not be mixed with the other children, the vast majority (80%) say they would explain to their friend that it is example of discrimination, while 13% think that children with mental disabilities interfere with the process of education of other children.

3.3. The practice of the Commissioner for Protection of Equality

The rising trend in the number of cases in which the Commissioner for Equality acted continued in 2015. In comparison with 2014, when the Commissioner has acted in 884 subjects, the year 2015 ended with 1,040 cases, which is an increase of the number of cases of about 20%. Visibility of the Commissioner was increased and in accordance with that tendency, the number

of people which recognize discrimination and who are willing to seek protection from discrimination was also increased. The Commissioner received 797 complaints, which were filed by citizens, legal entities, non-governmental organizations and others. In addition to that, the Commissioner for Equality continued to use her authorities during 2015, so the Commissioner issued 215 recommendations of measures for achieving equality in this period, 17 opinions on draft laws and other legal acts, filed a criminal complaint and one proposal for assessment of constitutionality and legality and issued nine warnings and 35 announcements.

Complaints about discrimination are usually filed to the Commissioner by individuals. Men are more common than women, in the ratio that is approximately the same as in previous period, from the sum of complaints filed by individuals men filed around 55% and women 45%. The Commissioner received the largest number of complaints from Belgrade region (25.3%), and the smallest from the South and East region of Serbia (9.5%) and from Kosovo and Metohija (0.2%).

In addition to complaints of individuals, the number of complaints submitted by legal entities is also increasing, in particular the number of complaints of civil society organizations. During 2015, legal entities filed 121 complaints, out of which civil society organizations filed even 101 complaints. In that way, the civil society organizations proved once again to be one of the most important partners of the Commissioner for Protection of Equality in this year.

Most of the complaints were filed due to discrimination based on gender, a total of 22.1%. This is a very interesting data, considering that the number of complaints caused by discrimination on the grounds of gender is the largest for the first time ever since the institution of the Commissioner for Protection of Equality was established. One of the reasons for the large number of complaints regarding discrimination based on gender is the adoption of the Act on the maximum number of employees in the public sector.¹²⁶ Due to the provisions of this Act relating to the retirement of employees in the public sector, a large number of women, but also of trade unions and associations addressed the Commissioner, pointing to discrimination based on gender.

The following grounds according to the number of complaints are similar to those in previous years, so the number of complaints due to discrimination on the grounds of nationality or ethnic origin, complaints in relation to discrimination based on disability, and complaints regarding discrimination on the grounds of age are next. Namely, 18.4% of complaints were filed due to discrimination based on ethnic affiliation or ethnic origin, 11.3% for discrimination on the grounds of disability, and 9.4% for discrimination on the grounds of age.

There has been an increase in complaints based on one of the personal characteristics that are not explicitly listed in the Law against Discrimination (8.8%), which may be explained, among other things, by increasing in the number of complaints due to discrimination of refugees who pass through our country. Among other grounds of discrimination, religious and political beliefs are identified as a basis for discrimination in 5.4% of complaints, sexual orientation in 4.8% of

¹²⁶"Official Gazette RS", No 68/15.

complaints, and membership in trade unions, political and other organizations, as well as gender identity in 3.24%. The number of individual complaints on other grounds was less than 3% in 2015.

Regarding the areas where discrimination is most common, the practice of the Commissioner for Protection of Equality shows that the largest number of complaints, every year, is filed for discrimination in the area of employment or at work. This year, the Commissioner received even 36.3% of complaints which were related to discrimination in the recruitment process or at work. It should be noted that this is an area in which women submit a higher number of complaints, unlike other areas of social life in which men more often appear as complainants. Constantly large number of complaints in this area is an indication that the Commissioner for Equality in the forthcoming period must pay special attention to those activities that will contribute both to the protection against discrimination and the prevention of discrimination in employment and discrimination at work.

A large number of complaints continue to be filed for discrimination in proceedings before the public authorities (23%), which is an increase compared to the previous year when this number was 17%. If over 8.3% of complaints of discrimination in the provision of public services or use of facilities and areas is added, it is clear that in the next period the Commissioner for Protection of Equality will have to pay special attention to the relationship of public authorities towards citizens who need their services in order to achieve equality of all citizens regardless of their personal characteristics.

Somewhat fewer complaints were filed due to discrimination in the field of public information and media (6.6%), education and vocational training (4.9%) and healthcare (2.3%), while the number of individual complaints in other areas of social relations was below 2%.

It is important to point out that, as in previous years, the largest number of complaints was filed against state authorities, namely, the public authorities –even 50%. Then follow legal entities (around 28%) and individuals, groups of persons and at the end organizations, with the lowest number of submitted complaints.

3.4. Key problems in achieving equality and protection from discrimination

The Reports of international organizations, reports, conclusions and observations of treaty bodies, as well as reports and surveys of local institutions and civil society organizations, show how the state of achieving and protection from discrimination in Serbia is perceived, which groups are recognized as the groups most exposed to discrimination and in which areas discrimination is most pronounced. Certain studies that were summarized in a report present how certain groups of citizens, who participated in the research, including the police, actually perceive discrimination. However, these data as well as data available to the Commissioner for Protection of Equality are not a reliable indicator of the extent of discrimination in society, but show how citizens and other persons understand the phenomenon of discrimination and what

they consider to be the problems in the achievement of equality. This is a reason to once again draw attention to the necessity of establishing a single, centralized and standardized system of collecting, recording and analyzing data on discrimination that would provide an adequate insight and provide data on the prevalence of discrimination, as well as the results of the implementation of legal solutions in this area.

Bearing all this in mind, it is clear that it is very difficult to see and present a realistic picture of the current situation in Serbia regarding the realization and protection of equality, as well as the trends of increase or decrease of discrimination. However, as it was pointed out in previous regular and special reports of the Commissioner for Protection of Equality, the available data from the reports and researches of the international and national institutions and organizations, as well as the practice of the Commissioner show that certain key problems which will be presented in this report are still present.

On the basis of complaints submitted to the Commissioner, it can be concluded that citizens are increasingly encouraged to report discrimination and that they have confidence in the institution. The increase in the number of complaints does not mean that discrimination in Serbia is growing, but that institution, on the one hand, increases its visibility and more intensely works in combating discrimination in our society, and on the other hand, that discrimination as a phenomenon is increasingly recognized.

Based on the submitted complaints, it can be stated that in Serbia women, persons with disabilities, members of the Roma minority are most exposed to discrimination, while women and children from these marginalized groups are in the worse position because they are often exposed to double or multiple discrimination. Women are particularly vulnerable to discrimination in the labor market, and gender-based violence against women is still widespread. The position of the Roma population is still bad, and they are exposed to discrimination in almost all spheres of social life, especially in the fields of education, labor and employment, as well as social and health care. When it comes to people with disabilities, the obstacles for equal participation in all social relations start from the spheres of education and employment, which additionally worsens their situation due to the lack of effective support for independent living. Access to facilities and services is significantly more difficult or completely impossible, and there are also risks of institutionalization, while their political representation is almost negligible.

According to complaints filed after the discrimination on the grounds of gender, nationality or ethnic origin and disability, the most numerous complaints are based on personal characteristics such as: age, sexual orientation, marital or family status, and health status, membership in political, trade union and other organizations and gender identity.

3.4.1 Discrimination on the grounds of gender

This year, as in previous years, the available data confirm that women are at a disadvantage compared to men in all spheres of social life, and that discrimination against women in the labor market, participation in decision-making, in the economic sphere and education is particularly evident, as well as the fact that there is a gender-based violence against women. In order for some of the problems to be adequately solved, in the course of 2015, many documents related to gender equality were prepared and placed in the public debate, so the issue of gender equality was current in professional circles throughout the year. It should be pointed out that this year was marked by a large number of murders of women, because in 2015, a total of 34 women were killed as a result of partner violence, which alarmed the public and decision-makers to take urgent measures regarding this issue, particularly with regard to the relationship of the state towards the victim of violence. In May 2015, the Commissioner for Protection of Equality submitted to the National Assembly of the Republic of Serbia special report on discrimination against women, in which she pointed out the various forms of discrimination that women face in Serbia and gave a number of recommendations for improving the status of women.¹²⁷

The report of the European Commission on the progress of the Republic of Serbia in the European integration process in 2015 stated that it is necessary to ensure the promotion and protection of the rights of the most vulnerable and the most disadvantaged groups, including women to the full extent.¹²⁸ The Commissioner for Human Rights of the Council of Europe, Nils Muižnieks, also pointed out discrimination against women in the report on the visit to Serbia,¹²⁹ and among other things, he stated that the position of women in Serbia is unsatisfactory and that they are still discriminated in many areas, particularly in employment, as well as that there is problem of violence against women.

Violence against women remains one of the most serious forms of violations of women's rights, although the legislative framework improved. The Civil society organizations¹³⁰ indicate that a large number of cases of domestic violence are not reported, and that the police respond only with a verbal warning to the highest number of complaints. Reported cases are processed with partial success, apart from the rest, due to the cancellation of the procedure. The penalties are mild, there is no sufficient connection between the services and the exchange of information, there is no established method of communication between certain services, and the system of monitoring and evaluation of the effects of work, cooperation and coordination is undefined or not implemented.

Due to the large number of murders of women as a result of partner violence in 2015, this subject was the focus of public and it prompted numerous studies in order to map the causes of violence with the aim of its effective prevention. The results of the survey conducted by the

¹²⁷Special Report on discrimination of women is available on: <http://ravnopravnost.gov.rs/sr/izve%C5%A1taji/izve%C5%A1taji>.

¹²⁸Report is available on:

http://www.seio.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/godinj_izvestaj_15_final.pdf.

¹²⁹The European Council, The Commissioner for Human Rights, Report on visit to Serbia 16-20 March 2015, available on:

<https://wcd.coe.int/ViewDoc.jsp?id=2331051&Site=CommDH&BackColorInternet=BD8CF2&BackColorIntranet=FDC864&BackColorLogged=FDC864>.

¹³⁰For example, Autonomous Women's Center, Efficiency of systemic mechanisms for preventing violence against women and family violence (*Делотворност системских механизма за спречавање насиља према женама и насиља у породици*) (2015), available on: http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2015/08/Delotvornost_sistemskih_mehanizama_za_sprecavanje_nasilja_prema_zenama-Rezime.pdf.

Provincial Secretariat for Economy, Employment and Gender Equality of Vojvodina show that every second citizen of Vojvodina, directly (37%) or through relatives (27%) knows a woman who is a victim of family violence in an intimate relationship, but over 40 % of them do not know whether they would decide, and that would depend on the situation, to report violence against women. Over 70% believe that women do not have equal status in our society, and even 76% doubt the effectiveness of the system of protection of victims.¹³¹

This year, special attention was paid to the creation of public policies and gender budgeting, so the Provincial Secretariat for Economy, Employment and Gender Equality of AP Vojvodina, as already mentioned, published *Manual for introducing gender budgeting in the budget program structure – Towards Gender Responsive Budget*,¹³² which represents a tool for the public administration institutions, in an effort to incorporate the practice of gender budgeting in the program budgeting. In this publication, which contains, among other things, the previous provincial experiences in this field and the methodology for the introduction of gender budgeting, it is emphasized that, during the creation of the draft budget for 2016, the subsequent steps in the further integration of gender budgeting in the budget program structure were made. In addition, in a study on the impact of public procurement in the security system on gender equality,¹³³ it is stated that the security institutions in Serbia do not respect gender equality in the implementation of public procurement, which creates situation in which women are often at a disadvantage, and they have less access to resources than men.

The practice of the Commissioner for Protection of Equality, as well as other relevant reports and studies show that women are at higher risk of multiple cases of discrimination. In particular, the position of women with disabilities, women from minority communities, women from rural areas, elderly women is particularly bad. In spite of the fact that there are legal quotas for the participation of under-represented sex, in the last few years, Serbia has made great progress in terms of women's participation in public authorities, it is necessary to put a lot of efforts in this field to make women equal in their participation in all aspects of public life, in decision-making and policy-making processes. In this regard, it is necessary to work on the participation of women members of national minorities. The results of the research,¹³⁴ which we have already spoken about, and which was conducted by the Provincial Protector of Citizens– Ombudsman on the situation of women in the national councils of national minorities, namely about their participation in the work of national councils, in order to show how the national councils after the last election for members of respected legal obligation on the nomination of 30% of women on the lists and how many of them were actually elected to the national council, showed that women are still in an unequal position in the national councils. From a total of 21 national councils, women are in positions of presidents at only two councils, which again points to the need to promote women in decision-making process.

¹³¹More detailed on: <http://www.spriv.vojvodina.gov.rs/index.php/pocetna/81-vesti-cirilica/374-2015-12-08-14-25-09>.

¹³²With the support of the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women). The publication is available

on: http://www.spriv.vojvodina.gov.rs/images/dokumenti/ravnopravnost/Ka_rodno_odgovornom_programskom_budzetu.pdf.

¹³³Public procurement and gender equality: the impact of public procurement on women in the security sector in Serbia, Aurelija Đan, Belgrade Center for Security Policy, Belgrade, 2015, available on:

[http://www.bezbednost.org/upload/document/javne_nabavke_i_rr_\[web\].pdf](http://www.bezbednost.org/upload/document/javne_nabavke_i_rr_[web].pdf).

¹³⁴Available on: <http://www.ombudsmanapv.org/riv/attachments/article/1573/Polozaj-zena-u-nacionalnim-savetima-nacionalnih-manjina-cir.pdf>.

The situation of Roma women in Serbia is very bad, and it is indicated by numerous studies carried out during previous years. According to UNICEF in Serbia in the report on monitoring the situation of women and children in Serbia in 2014,¹³⁵ Roma girls and women are disadvantaged in all areas of society, including education, health care, domestic violence and more. In addition to that fact, the position of women with disabilities is also very bad, they are invisible in public life, they have great obstacles and barriers in exercising their rights, and are often exposed to violence.

3.4.2. Discrimination on the grounds of national affiliation

Despite a satisfactory legal framework for the protection of national minorities in Serbia, public opinion polls¹³⁶ that were conducted last year show that one of the greatest predispositions to discrimination exists in relation to national minorities, as well as that there is the largest ethnic distance towards Albanians, Croatians, Bosnians and Roma. It is evident, too, on the basis of reports by international and local organizations, as well as on the basis of information from the Commissioner on complaints procedures, that members of national minorities feel discriminated in various areas of social life, especially in proceedings before the public authorities, in employment or at work, and that situation of the Roma minority is still particularly bad.

The Resolution CM/Res CMN (2015) 8 on the implementation of the Framework Convention for the Protection of National Minorities in Serbia,¹³⁷ stated that Serbia continued to strengthen legal provisions which regulate the rights of national minorities, that there was a significant institutional development and that significant efforts were invested in developing a comprehensive policy for the promotion of equal opportunities for the Roma. As reasons for concern underdeveloped inter-ethnic relations, the lack of a comprehensive and strategic approach to the integration of national minorities into society and the lack of comprehensive data on gender are listed, which makes the creation of effective policies for overcoming of discrimination faced by ethnic minorities even more difficult. What is recommended to Serbia is to end forced evictions and to continue with its efforts towards the introduction of provisions which guarantee the right to adequate housing without forced evictions, to urgently consider access of Roma people to health care, continue its efforts to eliminate the segregation of Roma children in education and promptly devise measures to effectively increase access to inclusive education and improve educational outcomes for Roma children, to encourage the effective participation of national minorities in the electoral process and take measures to examine the underrepresentation of national minorities in the state administration.

¹³⁵Research of multiple indicators of position of women and children in Serbia 2014 and Research of multiple indicators of position of women and children in Roma settlements in Serbia 2014, Final Report, Statistical Office of the Republic of Serbia and UNICEF, Belgrade 2015, Publication is available on: https://mics-surveys-prod.s3.amazonaws.com/MICS5/Central%20and%20Eastern%20Europe%20and%20the%20Commonwealth%20of%20Independent%20States/Serbia%20%28Roma%20Settlements%29/2014/Final/Serbia%20%28National%20and%20Roma%20Settlements%29%202014%20MICS_Serbian.pdf.

¹³⁶Researches are available on web-page of the Commissioner for Protection of Equality, <http://ravnopravnost.gov.rs/sr/istra%C5%BEivanja>.

¹³⁷Document is available on: <http://www.ljudskaprava.gov.rs/index.php/nacionalne-manjine2/multilateralni-ugovori/okvirna-konvencija/treci-ciklus>.

In December 2015, the Government of the Republic of Serbia adopted the Second and Third Periodic Report on the implementation of the International Convention on elimination of all forms of racial discrimination,¹³⁸ which states, among the other things, that the Government of the Republic of Serbia is determined to continue to create conditions for the integration of national minorities through constant review of existing solutions, improving the legislative and institutional framework, as well as their application in practice. The analysis on the functioning of the Councils for interethnic relations¹³⁹ revealed that councils in ethnically mixed local self-governments have not become the bodies that would fully contribute to the realization, protection and promotion of national equality and inter-ethnic dialogue at the local level yet. As a subsequent step, it is necessary to strengthen the capacity of multinational local self-governments to recognize the importance of the council in a local community. The only thing that can lead towards the full affirmation of this body in achieving, protection and promotion of national equality at the local level is the competence of the councils to carry out their tasks and in that way enable the involvement of minorities in public affairs and the full national equality in multiethnic local self-governments.

In March 2015, a special work group for drafting the Action Plan for the realization of the rights of national minorities was formed, which will, among other things, improve realization of the rights of national minorities to use their language and script, minority representation in public authorities and service. The text of the working version is available on the website of the Ministry of State Administration and Local Self-Government.¹⁴⁰ The special work group for the preparation of the Draft Law on Amendments and Supplement to the Law on Protection of Rights and Freedoms of National Minorities was also formed, and the deadline for the adoption of these amendments is determined by the Action Plan for the realization of the rights of national minorities for the second quarter of 2016. The Ministry of State Administration and Local Self-Government published the Analysis of legislation on the national councils of national minorities¹⁴¹ with special emphasis on issues of their financing, which is presented in detail in the December 2015 on roundtable "National Councils/minority self-governments in the legal system of the Republic of Serbia".

Apart for that, research of the Provincial Ombudsman¹⁴² showed that only five, out of 13 of the provincial administration bodies, according to general law, prescribe knowledge of the minority language as a special requirement for work of specific jobs. Where such a requirement for getting the job exists, in many cases, knowledge of the language of national minorities is set alternatively with knowledge of foreign language, and there is no relevant method which would prove knowledge of the language of national minorities and in most cases there is no prescribed necessary level of knowledge of the language for a specific job. When prescribing knowledge of the language of minorities as a special condition for a certain position, no one took into account where communication with citizens is carried out as a regular job, i.e., that employees who lead

¹³⁸Information was announced by the Office for Human and Minority Rights:

<http://www.ljudskaprava.gov.rs/index.php/yy/vesti/1496-drugi-i-treci-periodicni-izvestaj-rasna-diskriminacija>.

¹³⁹Available on: http://www.ljudskaprava.gov.rs/images/pdf/nacionalne_manjine/Analiza_SMO_2015.pdf.

¹⁴⁰<http://www.mduls.gov.rs/>.

¹⁴¹http://www.ljudskaprava.gov.rs/images/pdf/analiza_zakonodavstva_mduls_ns.pdf.

¹⁴²Knowledge of language and scripts of the national minorities which are in equal official use in provincial administration bodies, available on: http://www.ombudsmanapv.org/riv/attachments/article/1589/Istazivanje_sluz_upotreba_jezika_2015.pdf.

the administrative procedures in adequate numbers know the languages of national minorities which are in official use.

An analysis of the participation of national minorities in the police,¹⁴³ pointed out the specific procedures which can be obstacles to the participation of national minorities in the police. For example, the elimination screening for qualifying exam for the Basic Police training in language culture involves checking the essay written in Cyrillic and test knowledge, which can be a problem to members of certain ethnic minorities because it happens that they do not know the Serbian language well. During security checks, the concept of "family responsibilities" may represent a problem, which means that the candidate will automatically be disqualified if a member of his immediate family had "trouble with the law." In addition, a specific problem for the participation of national minorities in the police may be caused by the requirement that employees of the MIA have only Serbian citizenship.

The situation of the Roma national minority in Serbia is still bad, although there is some progress towards improving their position, discrimination against Roma is most intensive in the field of education, employment, and healthcare and housing. In the course of 2015, the interdepartmental and expert work groups were formed and their purpose was drafting the new Strategy for Social Inclusion of Roma in the Republic of Serbia for the period from 2015 to 2025, public consultation started in November and ended in December 2015. After that, the Ministry of Labor, Employment, Veteran and Social Affairs prepared the report on the public debate on the draft of this strategy.¹⁴⁴

The report "Preventing Statelessness among Children –Remaining Problems in Serbia"¹⁴⁵ of organization Praxis has stated that persons without documents in Serbia are mostly members of the Roma minority, and that the difficulties in birth registration of children occur almost exclusively among Roma children, primarily due to lack of all necessary documents for their parents, parents' ignorance, poverty and discrimination. Difficulties in connection with the determination of a personal name, the recognition of paternity, enrollment or wrong registration of the fact of citizenship and destroyed, missing or unavailable parent records are systemic problems that put Roma children at a disadvantage in the exercise of fundamental rights. In addition, *Analysis of the Procedures of Subsequent Registration in Birth Records*¹⁴⁶ shows that regulatory framework which regulates the procedures for obtaining personal documents was promoted in recent years, but that still legally invisible Roma people are faced with certain difficulties and obstacles to the full exercise of all human rights. Namely, the instruction for keeping registers of births and forms of the registers prescribes that registration in the register of births must be performed in regular time frame based on birth registration and that data about parents need to be entered to the birth record and report information from their ID card, a birth certificate, or a copy of marriage certificate, which means that if the mother during childbirth has

¹⁴³EmaStepanović, Participation of National Minorities in the Police, Belgrade Center for Security Policy, Belgrade, 2015, available on: http://www.bezbednost.org/upload/document/ucestvovanje_nacionalnih_manjina_u_policiji.pdf.

¹⁴⁴Available on

: <http://www.minrzs.gov.rs/lat/aktuelno/item/4358-izvestaj-o-sprovedenoj-javnoj-raspravi-o-nacrtu-strategije-za-socijalno-ukljucivanje-roma-i-romkinja-u-republici-srbiji-za-period-od-2015-do-2025-godine>.

¹⁴⁵ Praxis, Preventing the Statelessness among Children – Remaining Problems in Serbia (2015). Available on : http://www.praxis.org.rs/images/praxis_downloads/Sprecavanje%20apatridije%20medju%20decom%20-%20preostali%20problemi%20u%20Srbiji.pdf.

¹⁴⁶Available on

: http://www.praxis.org.rs/images/praxis_downloads/OEBS_-_Finalni_izvestaj.pdf.

no identity card and a copy of the birth certificate, will be unable to enroll the child in the birth register and determine personal name for her child. The *Analysis of the Procedures for Determining the Date and Place of Birth and for the Exercise of Rights to Citizenship and Registration of Permanent Residence* in 2015,¹⁴⁷ among others, highlights a systemic problem that prevents entry into the register of births immediately upon the birth of those children whose mothers do not have identity documents, so it is necessary to change bylaws which regulate this issue.

The Research of the Provincial Ombudsman about position of the Coordinator for Roma issues in local self-government in Vojvodina,¹⁴⁸ also represents the evidence about discrimination of Roma, namely, that there is systemic discrimination against Roma, which is most often the case in the health care facilities, where Roma people are faced with difficulties to access the health care system. Moreover, Roma who are beneficiaries of financial support and who are not residents, have problems with social welfare centers where all employees refuse to specify the address of the social welfare center as their residence. It was noted that there is avoidance or refusal of schools to introduce optional classes of Roma language with elements of national culture, at these places where there is a sufficient number of interested Roma and qualified teachers.

3.4.3. Discrimination on the grounds of disability

A positive change in the normative regulation of the situation of persons with disabilities is the adoption of the Law on the Use of Sign Language¹⁴⁹ and the Law on Movement of Blind Persons with Guide Dogs.¹⁵⁰ The law on the use of sign language should allow the full inclusion of deaf people in all social relations on an equal basis with others, because it allows the exercise of rights in various proceedings before state authorities, in the educational process and relation to work. On the other hand, the Law on Movement with the help of a guide dog represents the realization of the objectives defined by the Strategy for Improving the situation of persons with disabilities¹⁵¹ and equalization of opportunities for persons with disabilities, especially the blind and visually impaired persons to move without difficulties and to have easy physical access to buildings used by the public, as well as the traffic.

¹⁴⁷Praxis available on:

http://www.praxis.org.rs/images/praxis_downloads/Analiza_postupaka_uvmr_i_ostvarivanja_pnd_i_pp_u_2015_godini.pdf.

¹⁴⁸The Report is available on:

: http://www.ombudsmanapv.org/riv/attachments/article/1650/2015_Romski_koordinatori.pdf.

¹⁴⁹Official Gazette RS", no 38/15.

¹⁵⁰Official Gazette RS", no 29/15.

¹⁵¹Official Gazette RS", no 1/07.

However, although the normative framework is satisfactory, people with disabilities are one of the most vulnerable and most discriminated social groups in all spheres of public and private life. Obstacles for equal inclusion of persons with disabilities in all social relations are starting from the spheres of education and employment, which further worsens their situation due to the lack of effective support for independent living. Access to facilities and services is significantly more difficult or totally disabled, the risks of institutionalization are large, while their political representation is almost negligible. The position of women with disabilities, who are discriminated in a double way, is particularly bad.

According to the census 2011, the educational structure of persons with disabilities is very unfavorable: 52.7% of disabled people aged above 15 have completed primary education or incomplete primary education, while only 6.5% have completed secondary or higher education.¹⁵² Despite these unfavorable data, resistance towards inclusive education still exists, and specific types of support necessary for adequate inclusion of children with disabilities and disabled (transport of children to school, engaging personal companions) are financed from the funds of local self-governments, which lead to a large regional disparity in access to these rights and education.

Available data show that 71,107 persons (12.4%) with disabilities out of the total number of persons with disabilities in Serbia represent the economically active population, while only 9% of disabled people are employed.¹⁵³ If we take into account global and regional projections on the number of persons with disabilities which show a higher number than the number that is reported in official statistics, we can conclude that the real number of unemployed persons with disabilities is worryingly large.

The report of the European Commission on the progress of the Republic of Serbia in the European integration process in 2015 stated that there is a need to ensure the promotion and protection of the rights of the most vulnerable and the most disadvantaged groups, including people with disabilities to the full extent. Since Serbia is required to effectively implement the framework for combating discrimination, promote equality and ensure the integration of persons belonging to vulnerable groups. in this report, as well as in the report of the Commissioner for Human Rights of the Council of Europe, it is stated that it is necessary to improve the situation of people with disabilities in institutions, and that it is necessary to harmonize the procedure of deprivation of legal capacity with international standards, as stated in previous reports of the Commissioner for equality.

The Alternative reports also pointed out the discrimination against persons with disabilities which the Coalition of organizations that work in the field of protection of the rights of persons with disabilities in Serbia, the Initiative for the rights of people with mental disabilities and the Protector of Citizens submitted to the UN Committee on the Rights of Persons with Disabilities.¹⁵⁴ The Protector of Citizens pointed out that Serbia achieved some progress in improving the situation of persons with disabilities, but that there are remaining problems which

¹⁵² RZS, Census 2011.

¹⁵³ Persons with Disability in Serbia, Milan M. Marković, Belgrade 2014, available on: <http://pod2.stat.gov.rs/ObjavljenePublikacije/Popis2011/Invaliditet.pdf>.

¹⁵⁴ Available on: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=SRB&Lang=EN.

prevent people with disabilities from exercising their rights guaranteed by the law. It was pointed out that people with mental disabilities are in a very bad position, that large number of these persons is situated in institutions because they have not developed community services that would allow them the right to live in the community. A coalition of organizations which work in the field of protection of the rights of persons with disabilities in Serbia said that the state did not take all appropriate measures to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities, and that people with disabilities are still discriminated in almost all spheres of private and social life. It was pointed out that the state did not take measures in a systematic way to ensure the full and equal exercise of all human rights and fundamental freedoms of women and girls with disabilities, nor define measures for their empowerment, that there are big problems in the sphere of health care, and that the support services for children and families who have children with disabilities are insufficiently developed and territorially uneven.

The report of the Initiative for the rights of people with mental disabilities MDRI-S indicated that the situation of persons with mental disorders, particularly those that are located in residential and psychiatric institutions has not improved sufficiently. The institutionalization of persons with mental disabilities remains the main "service" that the state has to offer, without the introduction of alternative satisfactory solutions. It points to the lack of data on persons with disabilities, particularly the lack of data disaggregated by sex, age, place where they live, and other important aspects, and that the laws which regulate the deprivation of legal capacity are not in conformity with the Convention on the Rights of Persons with Disabilities, international standards and recommendations, that they are discriminatory and that violation of human rights of the people with disabilities is being committed in that way. In addition, it was pointed out that women with disabilities in residential and psychiatric institutions are exposed to increased risk of abuse, sexual assault and rape from other users and/or staff, that they are at risk of being victims of forced abortion, separation from children and providing contraception without consent. Finally, it was emphasized that Serbia has a very low percentage of institutionalized children, which already was discussed in the section of the report with a description of the situation.

Exercising the right to independent living for people with disabilities depends on the functioning of the system of support, which in Serbia does not work satisfactorily – Research of organization IDEAS and National organizations of persons with disabilities shows that the largest number of people with disabilities is primarily supported by the family, which illustrates their great dependence on the family, while in the same time a large number of services is not adjusted for the people with mental and intellectual disabilities.

The inaccessibility of facilities, services and public areas still represents a barrier that prevents people with disabilities to exercise human rights on an equal basis with others.

The worse position of women with disabilities was emphasized in the report about the right of women with disabilities to parenthood and family,¹⁵⁵ in which it was stated that women with

¹⁵⁵The Report on human rights of women with disabilities to parenthood and family (2015), From Circle – Belgrade and IDEAS – The Center for research and development of society, with support of Office for Human and Minority Rights

disabilities face multiple barriers when they want to start a family, including a bad economic situation, prejudice against mothers with disabilities, insufficiently developed specialized support services for parents with disabilities and lack of adaptability of the labor market. Research has shown a strong family influence on the autonomy of women with disabilities and their partnerships, substantial barriers in accessing health care, the physical inaccessibility of institutions for the protection of victims of violence.

3.4.4. Discrimination on the grounds of sexual orientation

The researches and reports of state institutions and civil society organizations point to the extremely low level of respect for the rights of people of different sexual orientation than heterosexual in Serbia. Homophobia and transphobia have deep roots in society, despite the relatively good institutional and legislative framework, LGBT populations often do not report cases of violence and discrimination, due to distrust of institutions.

There is also some progress in improving the status of LGBT population, but it is most reflected in the fact that the theme of respect for the rights of LGBT people is more present in public. This year, the second Gay Pride Parade was held without incident and the first Trans Pride.

In the Report of the European Commission on the progress of the Republic of Serbia in the European integration process in 2015, it was stated that it is necessary to ensure the promotion and protection of rights, among other things, the rights of LGBT population, and to effectively conduct the investigation, prosecution and punishment for criminal offenses motivated by hatred.¹⁵⁶ The activities in relation to promoting the rights of LGBT people, training for police officers in their work with victims of transphobic/homophobic violence, the participation of Serbia and the signing of the joint statement of Ministers in the region on IDAHO forum in Montenegro, as well as the pride parade which was held were commended. However, LGBT people and activists are still often confronted with hate speech and threats, and in some cases with physical violence, and there are no centralized official data on the number of crimes motivated by homophobia and transphobia. In this report, the need for greater political commitment to the promotion of the culture of respect for LGBT people and ensuring non-discrimination at work, in the health sector and the education system was noted.

In the Report of UN High Commissioner for Human Rights submitted to the Committee for Human Rights on discrimination and violence against individuals on the grounds of sexual orientation and gender identity¹⁵⁷ Serbia was classified in the group of countries in which from 2011 steps forward were made by adoption of a new and revision of existing laws which sanction hate crimes, as well as by undertaking other measures which prevent homophobic and transphobic attacks and violence. In the Concluding Observations on the Second Periodic

¹⁵⁶The Report is available on:

http://www.seio.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/godinja_izvestaj_15_final.pdf.

¹⁵⁷Document of the General Assembly A/HRC/29/23 from 4 May 2015, available in English language on:

http://www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/29/23&referer=/english/&Lang=E.

Report of Serbia on its implementation of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, the UN Committee against Torture asked Serbia to publicly condemn threats and attacks, among others, against LGBT people and to hold back from supporting these attacks, as well as to ensure fast, detailed and efficient investigation in all cases of threats and attacks against these groups, with guarantees that attackers will be condemned and punished in accordance with severity of attack.¹⁵⁸ On the Third International Forum IDAHO (*International Day Against Homophobia and Transphobia – IDAHO*), held in May 2015 in Montenegro, Minister Jadranka Joksimović signed a joint *Statement on ending violence and hate crimes against LGBT people*.

Research on attitude of the police towards discrimination conducted by the Police Academy in 2015, and which was mentioned earlier in the report, shows that members of the general police and traffic police recognize, among others, members of the LGBT population (13%) as the most discriminated group, but on the other hand, the most prominent social distance is expressed toward LGBT people (39%). Although lower in relation to the attitudes of the criminal police in the last year, the high percentage of agreement with the statement that "homosexuality is an illness that should be treated" – 47% and "I have nothing against homosexuals, but let them do it at home" – 59% is really worrying.

Gayten-LGBT organization published brochure *Break the Silence! – Report on monitoring of discrimination and hate crimes against trans people*,¹⁵⁹ in the course of the project in which a common basis for reporting transphobic incidents was formed, and collected data are related to cases of direct and indirect violence against trans people and examples of direct, structural and institutional discrimination. In addition to physical and verbal attacks, trans people in all these countries were reporting various difficulties in relation to the legal recognition of gender identity. Twenty-four transphobic incidents from Serbia were reported to his base. Six cases were categorized as a discriminatory incident, nine cases were in relation to physical violence, five cases were related to the verbal attack, two people reported sexual harassment, unlawful arrest and hate speech occurred in a single case. Most of the victims who experienced the incident were trans women (79%), and in one case, hate speech was directed against the whole trans * community. Of the total number of reported incidents in the context of the PROTRANS project, 25% is in relation to discrimination, out of which 66% is related to various problems concerning the legal recognition of gender identity.

Gayten published the publication *Trans People in Serbia – Analysis of the Situation and the Proposed Legal Solutions. Model Law on Gender Identity* that contains a legal analysis of the situation of trans people in Serbia, with the review of their position in the health care system. As a proposal for the improvement of the legal situation of trans people, *Model Law on Gender Identity* with an explanation was presented in this publication.¹⁶⁰

¹⁵⁸Document is available on web-site of Un High Commissioner for Human Rights, on: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/112/60/PDF/G1511260.pdf?OpenElement>.

¹⁵⁹This brochure was created within ProTrans project realized by organization Transgender Europe (TGEU) in cooperation with organizations from Turkey, Kyrgyzstan, Moldova, Hungary and Serbia.

¹⁶⁰Available on: <http://www.transserbia.org/images/2015/dokumenti/Trans%20osobe%20u%20Srbiji%20-%20analiza%20poloaja%20i%20predlog%20pravnog%20reenja.pdf>.

Same-sex unions are legally invisible in Serbia, although in the last two decades many countries of Europe have recognized same-sex unions. In the Draft Civil Code, the possibility of same-sex families is stated in a footnote as an option that should be considered. There are no provisions devoted to the legal regulation of this issue, as well as there are no such norms that would give grounds for the adoption of a special law on same-sex unions, except for the provisions of Article 2014, where same-sex unions are mentioned in the context of the right to housing. In this regard, the Commissioner for Protection of Equality has pointed to the need to allow the registration of same-sex unions.

3.4.5. Discrimination of refugees, internally displaced persons, asylum seekers and migrants

In the reports of leading international organizations for the protection of human rights in 2015, Serbia was mainly mentioned in the context of the refugee crisis and the country's international obligations in relation to respect for the rights of refugees.

The European Commission expressed in *the Report on Progress of Serbia* that Serbia should be commended for their constructive approach in the current management of the migrant crisis. Due to its geographical position at the external borders of the EU, Serbia is faced with growing mixed migration flows and the management of these flows, as well as ensuring control of border crossings which represents a major challenge for public authorities of the Republic of Serbia. In its emergency response to the crisis, Serbia has made a significant effort to provide the nationals of third countries with shelter and humanitarian assistance with the support of EU and international support. The reception center was opened in Preševo, as well as centers for assistance to refugees in other places, near the borders with Macedonia, Hungary and Croatia. The European Commission considers that it is necessary for Serbia to increase the reception and accommodation facilities and adapt them to the growing needs, invest its efforts to ensure that a sufficient number of well-trained staff at central and local level can respond to the challenges and consequences of the increasing migration pressure. As it was noted in the report, special attention should be paid to the needs of minors and vulnerable groups. In addition, it is necessary to improve the coordination between all institutions involved in the fight against irregular migrations, as well as harmonization of regulations in the area of regular migrations with the EU acquis.

In September 2015, the implementation of the Twinning project *Support to the National asylum system in the Republic of Serbia* started, which is financed by the European Union and implemented by the Commissariat for Refugees and Migration and the Ministry of Internal Affairs of the Republic of Serbia. The aim of the project is to improve the overall asylum system, including amendments to the Law on Asylum, developing of mechanisms for the integration of persons for whom protection is granted, improving interview techniques and protection of documents that are issued to asylum seekers, as well as the implementation of an information campaign with the aim to raise awareness about rights and obligations of asylum seekers in the Republic of Serbia, as well as about the consequences of misuse of a visa-free regime by the Serbian citizens in EU member states.

In December, the Protector of citizens published the Declaration on the Protection and Promotion of the Rights of Refugees and Migrants, signed by the representatives of the Ombudsman/national institutions for the protection of human rights.¹⁶¹ Referring to the principles of respect for human rights of refugees and migrants, ensuring unimpeded access to an asylum procedure, protection of rights through cross-border cooperation, prevention of inhuman and degrading treatment, strengthening of measures for integration and family reunification, promotion and protection of economic and social rights and the provision of protective measures for vulnerable groups, ombudsmen have realized the need to direct their efforts towards the protection and promotion of the rights of migrants and refugees in accordance with international and regional human rights standards.¹⁶²

Belgrade Center for Human Rights¹⁶³ said that, in the period from 1 January to 31 December 2015, 577,995 people expressed their intention to seek asylum in the Republic of Serbia, compared to 16,490 expressed intentions to seek asylum in 2014. The number of asylum seekers has steadily increased each month, and gradually began to decline in November and December 2015. In the course of 2015, Asylum Office registered 662 people, 583 asylum requests were filed and 89 asylum seekers were examined. Thirty requests for asylum were adopted, while other processes were suspended because the asylum seekers, meanwhile, left Serbia. Asylum was granted to citizens of Ukraine, Syria, Iraq, Sudan, South Sudan and Lebanon.

As already mentioned, in September 2015, the House of Human Rights and Democracy Belgrade and House of Human Rights Zagreb issued a joint press release in which they called Governments of Serbia and Croatia to immediately abolish all restrictive measures for free movement of people and goods, to establish normal communication and solve all the problems through talks.¹⁶⁴ Organizations reminded governments of Serbia, Croatia, Hungary, Slovenia and other countries of South Eastern and Eastern Europe that they are obliged to apply the rules in accordance with the highest standards of human rights and ratified international conventions, and the protection of human rights, including the rights of refugees, which represents fundamental value of each society.¹⁶⁵

Regarding the situation of internally displaced persons, UNHCR in Serbia conducted a survey¹⁶⁶ which showed that internally displaced Roma people have the worst situation of all vulnerable groups in Serbia. They share the situation of the Roma in general, which is characterized by exposure to multiple risks: illness, difficult and dangerous jobs, child labor, violence against children and women, threats of violence to the Roma in general, frequent relocation, forced evictions and the like. In addition, the Roma are constantly exposed to various forms of discrimination, and the citizens of Serbia expressed great social distance and prejudice towards

¹⁶¹At the Conference *Ombudsmans/national institutions for protections of human rights: challenges for human rights in conditions of the refugee/migrant crisis, held during period 23–24 November* in Belgrade.

¹⁶²Available on: <http://www.ombudsman.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/4467>.

¹⁶³„Periodic report for November and December 2015: Right to asylum in the Republic of Serbia”, Belgrade Center for Human Rights.

¹⁶⁴More on: <http://kucaljudskihprava.rs/zajednicko-saopstenje-kuce-ljudskih-prava-i-demokratije-beograd-i-kuce-ljudskih-prava-zagreb-na-zatvaranje-granica-i-izbeglicku-krizu/>.

¹⁶⁵European Union negotiates its measures to help the refugees from Syria and other war-affected countries. Regardless of all efforts, regional countries must accept and provide assistance to all refugees, regardless on their number, and to allow them freedom of movement and enable to them to go further to Western Europe, it was said in a statement.

¹⁶⁶http://www.unhcr.rs/media/UNHCR_Brosura_RAE_IRL_Srpski.pdf.

them. Internally displaced Roma live worse than domicile Roma, the most common parts of the village in which they live are even worse, their jobs are harder and underpaid, and their access to social services is difficult. Although the opportunities for participation of Roma in social, cultural and political life significantly increased in Serbia, in recent years, in the context of the activities defined by the Decade of Roma and programs of various international organizations, the practice in these areas is not developed and the Roma remain quite invisible and excluded. The main forms of participation of Roma are confined to marking the traditional Roma holidays, participation in the elections for councils of national minorities and possible participation in the work of some Roma NGOs. Survey research gives similar results. The potential for social participation in both groups of Roma is very low, but for the internally displaced is even lower than that of domicile. Only 5% of the internally displaced Roma are members of an association that represents the interests of Roma, as opposed to 9% among the domicile Roma. This coincides with their personal feeling that they personally may affect the decisions of municipal or state institutions concerning their status and quality of life – only 4% of internally displaced Roma and 9% of domicile Roma feel that it is in their power.

3.4.6. Discrimination on the grounds of age

Discrimination on the grounds of age is present in all the spheres of our society. Elderly citizens are most frequently discriminated in the fields of labour and employment. Employers more frequently fire older workers just before they qualify for pension and older unemployed workers, regardless of their work experience, cannot manage to find employment. The National Employment Service data shows that people older than 50 make up 27% of the total number of the unemployed.

The research conducted by the Red Cross of Serbia in cooperation with the Commissioner for Protection of Equality, with support of the United Nations Fund for Population Activities (the UNFPA), have shown that 19.8% of older people have suffered some form of abuse or neglect and that 11% of the participants have had such an experience during the period of 1 year prior to the research. It is quoted, in the research,¹⁶⁷ that discrimination, initiated by prejudice, stereotypes and ideas about unproductivity of older people as well as by the view that they are passive receivers of benefits and a burden to the society precedes the abuse. It is also quoted that the biggest risk is the one of financial abuse of the elderly and that 11.5% of the participants have reported at least one of the quoted forms of financial abuse, that 13.5% have said that they did not entirely make decisions on how they spend the money they have at their disposal and that 54% said that they supported other members of their households. A special risk of abuse comes from the attitude of the elderly that other people have bigger needs than theirs and that they do not find not managing their incomes a financial abuse, which represents a special risk of abuse.

¹⁶⁷ „A well-kept family secret: abuse of the elderly” Brankica Janković, Nataša Todorović, Milutin Vračević; Belgrade: the Red Cross of Serbia, 2015 http://www.redcross.org.rs/slika_4096_Dobro%20cuvana%20porodicna%20tajna%20e-knjiga.pdf.

In the Second National Report on Social Inclusion and Poverty Reduction in the Republic of Serbia for the period 2011-2014, published in June 2015, it is quoted that the elderly are, among other groups, especially exposed to discrimination and that they are still having difficulty in exercising the Constitutionally guaranteed rights¹⁶⁸, that employment is out of reach for people older than 50, that lack and inaccessibility of health and social protection services contribute to the exclusion and discrimination of the especially vulnerable categories of rural population as well as that, besides women and the young, the elderly and children are also socially excluded.

Apart from the elderly, children of certain social groups are also exposed to discrimination. The Government of the Republic of Serbia adopted the Second and Third Periodic Report on the Implementation of the Convention on the Rights of the Child which contains information on the implementation of both protocols to the Convention.¹⁶⁹ It is stated in the report that the Commissioner, in 2013, prepared a Separate Report on Discrimination Against Children according to which the children of the Roma national minority and the children with disabilities and developmental difficulties are the ones most frequently exposed to discrimination, that discrimination most frequently occurred in preschool and schooling institutions mainly due to not undertaking adequate preventive measures and, in situations when discrimination occurs, the lack of timely reactions of the responsible individuals, as well as that the Roma children are more frequently victims of discriminatory peer treatment and that the children with disabilities and developmental difficulties are in a more unfavourable position during the process of deinstitutionalization.

The UNICEF Research on Monitoring the Situation and Position of Women and Children in Serbia for the year 2014¹⁷⁰ shows that only 69% of children from the Roma settlements in Serbia of the age for starting primary education attend the first grade of primary school. Even 43% of children aged 1-14 were, during the period of one month prior to the research, exposed to, at least, one form of psychological or physical punishment inflicted by members of their households and, in the majority of cases, a combination of violent disciplinary measures is applied. The most striking difference concerning the physical punishment of children can be seen between households of uneducated people, in which more children are punished (24%), and households of highly-educated people (13%).

Results of the research point to the existence of a problem, especially in the Roma population, of the so-called juvenile marriages, which violate human rights, put the development of the girls in danger and, very frequently, lead to juvenile pregnancies which result in incompleteness of education and social isolation. About 4% of young women from the general population aged 15-19 is currently married or is in a common-law marriage whereas in the Roma population such cases amount up to 43%. Early marriage stands in direct correlation to the level of education – in the general population, 35% of women with primary education got married before the age of 18 and less than 1% of highly-educated ones, while, in the Roma population, 57% of 20-49-year-old women with primary education got married before the age of 18, with similar differences concerning the level of education.

¹⁶⁸Available on: <http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2015/07/Pregled-2.-nac.-izvestaja-CIR.pdf>.

¹⁶⁹The report is available on:

http://www.ljudskaprava.gov.rs/images/konvencije/drugi_i_treci_periodicni_izvestaji_o_primeni_KPD_srb.pdf.

¹⁷⁰Multiple Indicator Cluster Survey of Women and Children in Serbia in 2014 and Multiple Indicator Cluster Survey of Women and Children in Roma Settlements in Serbia 2014, The Final Report) Republic Institute for Statistics and UNICEF, Belgrade 2015.

The Lawyers Committee for Human Rights YUKOM published revised editions of two handbooks on discrimination intended for high school students, parents and wider public, that is, teachers and expert assistants in high schools.¹⁷¹The Network of Organisations for Children of Serbia has developed *Guidelines for Planning and Providing Adequate Intersectoral support to Inclusive Education in Local Community* in which it has been pointed out that inclusion is most commonly viewed as a process that has to do with the educational system and with providing children from vulnerable groups with educational support, forgetting in the process that, besides the educational, the children frequently need to be provided with other kinds of support – health support or social support, as well as that sometimes it is necessary to provide support for the child's family or for the child's whole surrounding. Among the recommendations of this analysis are: forming a local inclusive-education support network and its strengthening and formalizing cooperation between municipalities, schools, health centres, social centres and other institutions, operation of which is of significance for an individual child and its well-being, by means of establishing clearly defined procedures and protocols on cooperation between institutions, by developing corresponding resources in the local community, by improving operation of the inter-ministerial commission, forming separate municipal units/departments/individuals for dealing with issues of the inclusive education, by creating systems for keeping records on the children belonging to vulnerable groups, by financing support to inclusive education and by promotion of inclusive education in the local community.

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4. ACTIONS OF THE COMMISSIONER FOR PROTECTION OF EQUALITY ON SUPPRESSING DISCRIMINATION

The Commissioner for Protection of Equality has at his/her disposal different legal instruments for suppressing discrimination and promoting equality. These instruments will be presented here along with the summary of the procedures undertaken during the year 2015, followed by the work of the Commissioner on particular cases of discrimination. This segment of the report is structured according to grounds of discrimination ordered according to the number of discrimination complaints filed on the grounds of discrimination based on certain personal characteristics.

More detailed statistic data on the work of the Commissioner for Protection of Equality are given at the end of this report, under the title Statistic Overview of the Commissioner's Work during the Year of 2015. Besides being presented in this part of the report, the cases dealt with by the Commissioner, all the opinions and recommendations, as well as all other acts the Commissioner has issued are also published on the Internet presentation of the Commissioner for Protection of Equality.

¹⁷¹Available on: <http://www.yucom.org.rs/category/nova-izdanja/>.

¹⁷²The publication is available on: http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2015/11/Intersektorska_podrska_za_inkluzivno_obrazovanje.pdf.

Acting upon complaints

The procedure before the Commissioner for Protection of Equality is initiated by filing a complaint by any individual or legal entity, as well as by a group of individuals who feel that they have suffered discrimination, an organization dealing with the protection of human rights or any individual with the consent of the person considered to have suffered discrimination. In cases of discrimination against a group of people, an organization dealing with protection of human rights can, in its own name, without the consent of the individuals belonging to the discriminated group, file a complaint. Complaints are most frequently filed by individuals, by men more frequently than women – this year men filed 60% and women 40% of the complaints. Legal entities filed 121 complaints, with civil society organizations having filed 101 of total number of complaints.

Of all the complaints the Commissioner received the ones coming from the Belgrade area are the most numerous (25.3%). The smaller number of complaints comes from the regions of Southern and Eastern Serbia (9.5%), with the number of complaints coming from Kosovo and Metohija amounting to 0.2%.

The largest number of complaints was filed against state organs, organs of public authority – even 50%, followed by those filed against legal entities (28%), individuals, groups of individuals and, finally, organizations.

Although a prescribed form of a complaint does not exist, the Commissioner for Protection of Equality created a complaint form, which can serve as a guide for submitting the data and information necessary for conducting procedures. The printed version of the complaint form, in Serbian and in languages of national minorities and in the format adapted for children, is available on the premises of the Commissioner and the electronic version of the form is available on the Internet presentation of the Commissioner - www.ravnopravnost.gov.rs. Apart from providing the basic data stated in the complaint form, it is necessary for the complaint to be signed. More detailed instructions on filling in complaints are available on the Internet presentation of the Commissioner.¹⁷³

Upon receipt of a complaint, investigation of whether the Commissioner for Protection of Equality is authorized to act upon the violation of rights the complaint points to takes place. If the Commissioner is not authorized to act upon it, the complaint gets dismissed and the complainant is notified on who is ought to be addressed to, that is, on who is authorized to deal with that particular case. It is then checked whether the complaint contains all the necessary elements for acting upon it. If it is incomplete, incomprehensible or contains other deficiencies that prevent further action (e.g., if it is not signed) a request is sent to the complainant to eliminate the problematic issues within 15 days, together with information on what the problematic issues are and how to eliminate them. If within the given time-frame the problematic issues are not fixed, the complaint is rejected. Cases in which a complaint is

¹⁷³File a complaint on: <http://www.ravnopravnost.gov.rs/rs/дискриминација/поднеси-притужбу>.

rejected will be explained in more detail in the part of this Report in the section *Outcomes of Complaints* and data on the number of cases in which complaints are rejected are given in the Appendix to this Report.

Afterwards, it is examined whether or not legal obstacles which prevent acting upon the complaint exist, having in mind that The Law on Prohibition of Discrimination stipulates that the Commissioner shall not act upon a complaint in the following cases: 1) when proceedings pertaining to the matter in question have been initiated before a court of law or an enforceable decision has been ruled; 2) when it is evident that no discrimination pointed to by the complainant has actually occurred; 3) when steps have already been taken concerning the same matter and no new evidence have been provided and 4) when, due to the time elapsed since the violation of rights in question, no useful purpose will be served by acting upon the complaint. In such cases, the Commissioner for Protection of Equality acts upon a complaint by issuing a document by which, after establishing that legal reasons for the suspension of proceedings exist - the complainant is informed on the reasons for not acting upon the complaint. Cases in which the proceedings have been suspended will be explained in more detail in the part of this Report in the section *Outcomes of Complaints* and data on the number of cases in which proceedings have been suspended are given in the Appendix to this Report.

If the conditions for conducting a procedure are fulfilled, the Commissioner can, if the situation allows, propose a mediation procedure. If both parties accept the proposed mediation, the complaint procedure is suspended until the end of the mediation procedure. If the parties reach an agreement, the procedure gets terminated, whereas if an agreement is not reached through mediation, the complaint procedure before the Commissioner is continued. In 2015, mediation was offered in two cases and both of those cases were successfully terminated by an agreement reached between the parties in such a manner that there was no need for continuation of the proceedings before the Commissioner, that is, the proceedings were terminated.

Cases in which mediation was offered:

– *The complainant stated that a local daily paper had published, on its internet portal, an article by which he was belittled and discriminated against on the grounds of his extremely short stature which is a result of achondroplasia. He considers that, in this newspaper article, he was presented as an entertainer for the guests of the club in which he was actually conducting a humanitarian action. He stated that he was surprised by this text and by the manner in which certain social events were being promoted. Assessing that it was possible for the situation the complainant was pointing to in his complaint to be settled in a peaceful manner (by mediation), the complainant was offered the process of mediation between himself and the editor of the daily newspaper that had published the story in question. Since both parties accepted the mediation, the complaint procedure was stopped until the end of the mediation. During the mediation, the parties, with the support of the mediator, reached an agreement by which the procedure was successfully terminated.*

– *The complaint was filed against a legal entity which deals with the production and sale of souvenirs and clothing articles with motifs from history, sports and tradition of Serbia. On the*

Facebook profile of that legal entity, beneath a post containing a photo of a jacket with the Serbian coat of arms on the back, Facebook users were commenting and among those comments there were some that were extremely offensive to different national minorities. The complainant considers that animosity was created in this manner – an offensive and humiliating atmosphere against Bosnians and people of the Muslim religion, as well as that the Director of that legal entity is responsible for the situation because those comments were not removed for several months and that he is the one who manages the Facebook profile of the company. The assessment of the Commissioner, in this case, was that the case could be solved in a peaceful manner. The parties were offered a peaceful manner of solving the situation, that is, a process of mediation was offered to them, and they have accepted it. After holding separate meetings with each of the two parties, the mediator held a joint meeting with both parties which resulted in making an agreement, successfully closing the procedure.

If there are no conditions for mediation or if the process of mediation gives no results, the procedure is resumed by sending, within 15 days, the complaint to the party it was filed against, who can, within 15 days, give a statement on the allegation of the complaint and the Commissioner continues the procedure even if the person the complaint is filed against does not provide a statement. For the purpose of establishing the factual situation, the Commissioner may also request statements from other individuals (e.g. witnesses).

In the year 2015, the Commissioner for Protection of Equality has received 797 complaints filed by citizens, legal entities, non-governmental organizations and others. The majority of those was made on the grounds of gender, amounting up to 22.1% but, as it has been stated above, one of the reasons for such a number of complaints for discrimination on the grounds of gender comes from the adoption of the Law on the Method of Determining the Maximum Number of Employees in the Public Sector.¹⁷⁴ Other grounds for filing complaints, according to the number of complaints filed are: nationality or ethnic origin - 18.4% and disability – 11.3%, The Commissioner has, during this year, received 36.3% of complaints for discrimination on the grounds of employment procedures or for discrimination at work. According to the number of complaints, the fields to follow are: procedures in front of the organs of public authority, amounting to 23.2% and discrimination while providing public services and using public buildings and areas, amounting to 8.3%.

In the complaint procedure, the Commissioner gives an opinion on whether discrimination has occurred. If the Commissioner establishes that an act of discrimination has been performed, along with an opinion, he or she gives a recommendation on the manner of removing the violation of rights.

During the year 2015, the Commissioner for Protection of Equality has given 149 opinions. In 99 cases the opinions were that discrimination was proven and the discriminators were issued corresponding recommendations and in 50 cases the opinion of the Commissioner was that discriminations had not occurred.

¹⁷⁴"Official Gazette of RS", бпој 68/15.

Apart from that, in the year 2015, a specific situation concerning the adoption of the Law on the Method of Determining the Maximum Number of Employees in the Public Sector, which caused 97 complaints for discrimination on the grounds of gender to be filed, occurred. The Commissioner, in all of the cases, determined discrimination, but did not give opinions. The Commissioner, instead, together with the Protector of Citizens, filed a suggestion for evaluation of the constitutionality of the Law to the Constitutional Court.

If a discriminator does not act upon the recommendation within 30 days, the Commissioner issues a measure of warning and leaves another 30-day period for acting upon the recommendation. If the discriminator does not act upon the warning, the Commissioner can inform the public about that through an internet presentation, by a notification in daily national papers, in a report or in any other way. The Commissioner has neither executive nor repressing authority nor is authorised to punish discriminators for not acting upon recommendations, but can persuade them to obey by the authority of the institution, by the force of argumentation and by the pressure of the public.

Court procedures for protection against discrimination

The Commissioner is authorized to initiate anti-discrimination litigation, assessing, at the same time, the need for a lawsuit. It should be kept in mind that filing a lawsuit is not a mechanism which ensures implementation of recommendations of the Commissioner for Protection of Equality, nor is it a part of the complaint procedures. In each individual case it is, firstly, examined whether the matter is of strategic significance or not and only after evaluating that there is a need for conducting a so-called “strategic litigation”, a lawsuit is filed with a corresponding court. If the victim of discrimination is an individual, his or her consent is necessary, whereas it is not necessary in cases of discrimination against a group of individuals characterized by the same personal trait. The Commissioner always issues a lawsuit in his or her own name and for the public interest and may file all legal redress claims except the claim for pecuniary and non-pecuniary damages. Conducting litigation enables improvement of the judicial practice, sensitization of the public for the problem of discrimination and influencing the public opinion. For conducting strategic litigation, typical cases of widespread discrimination, those which have good prospects for success, are selected. During the year 2015 no new lawsuits were filed and the ones that had been filed earlier will be presented in the part of this Report entitled *Court Procedures*.

When it is established that an act which violates the principle of equality has been performed, the Commissioner can file misdemeanour and criminal lawsuits. During the year 2015 one criminal lawsuit was filed – it will be presented in the part of this Report entitled *Criminal Proceedings*.

Recommendation of measures for achieving equality

The Commissioner is authorized to recommend measure for ensuring equality to the public authorities and other entities. Those recommendations may be directed at undertaking measures for the purpose of preventing and eliminating institutional discrimination and improving the work of state institutions in combating discrimination by public authorities. They also point to the need for undertaking special measures for obtaining full equality, protection and advancement of individuals or groups which are, compared to other citizens, in an unequal position. During the year 2015, 215 recommendations of measures, which will be presented in the part of this Report dealing with individual grounds of discrimination, were issued.

Legislative initiatives and opinions on regulations

The Commissioner is authorized to monitor the implementation of laws and other regulations as well as to initiate the adoption of regulations and amendments to those regulations for the purpose of improving protection against discrimination. The Commissioner is also authorized to issue opinions on regulations of draft laws and other regulations pertaining to prohibition of discrimination. During the year 2015, the Commissioner has issued 17 opinions on draft laws and other acts and has also submitted one proposal for assessment of constitutionality to the Constitutional Court of Serbia. Opinions on draft laws and other general acts, together with the suggestion for evaluation of constitutionality, will be presented in the section of this Report entitled *Opinions on Draft Laws and Other Acts*.

Warnings and public announcements

The Commissioner is authorised to warn the public on the most common, typical and difficult cases of discrimination, which is done on the grounds of the information and knowledge gained from complaints, from the media and from other sources. The aim of issuing warnings to the public from the part of the Commissioner for Protection of Equality is to point to the discriminators, the manners in which discrimination is performed, the groups or individuals the most common, typical and difficult forms of discrimination are performed against, as well as to point to the consequences of discrimination. During the year 2015, 35 public announcements and 9 warnings were issued. They were published in the media and on the internet presentation of the Commissioner. The warnings and the announcements will be presented in the part of this Report which deals with individual grounds for discrimination.

4.1 Discrimination on the grounds of gender

143 complaints were filed for discrimination on the grounds of gender, which makes up 22.1% of the total number of complaints. The biggest number of complainants comes from individuals (129), 108 women and 21 men. It can be noted that women most frequently file complaints for discrimination on the grounds of gender while men, generally, file complaints more frequently.

Considering the fields from which these complaints were filed, the biggest number comes from the field of employment and work relations. During the previous few years, complaints from this field have been the most numerous ones. 289 of such complaints were filed during this year, which amounts to 36.3%. Gender, as a personal trait, was quoted as grounds of complaints in 49.2% of those cases, 87.4% of which were filed by women and 12.6% by men. Such a high percentage of complaints supports the opinion that women are, still, most discriminated in the field of employment and work relations. Considering other fields from which complaints for discrimination were filed, it can be pointed out that 6.3% of complaints were filed on the grounds of procedures in front of the organs of public authority, which presents a significant drop in comparison with the situation from the previous year, during which the percentage of such cases was 18.9%. A significant drop in the number of cases filed for discrimination on the grounds of gender from the fields of education and professional training is also evident – earlier, it amounted to 7.5% whereas now it amounts to less than 2%. Apart from that, a mild increase of the number of complaints for discrimination in the media and in the field of public information was also noted – now it amounts to 4.3%, whereas, last year it amounted to 3.7%.

The practice of the Commissioner, for a few years now, has shown that women are more frequently discriminated against in the field of employment and work relations. Even though the field of discrimination has not changed, it is evident that the number of complaints has significantly gone up, from 8.4% in 2014 to 22.1 in 2015. The cause for such a trend can be found, primarily, in the fact that in May 2015, the Commissioner for Protection of Equality submitted a Special Report on Discrimination against Women and, by doing so, became more recognizable as an institution which deals with protection of women against discrimination. Also, appointing a female Commissioner for Protection of Equality caused a wider media interest for the institution as well as the practice of the Commissioner, which points to the groups most discriminated against, with women on the top. Finally, the adoption of the Law on the Method of Determining the Maximum Number of Employees in the Public Sector caused the fact that a great number of women from professional associations addressed us because of discrimination. It was the large number of complaints, caused by the discriminatory regulations of this Law (97 of those), that changed the focus from typical forms of discrimination against women in the field of employment (e.g. a transfer to another position or termination of employment) to forced retirement of a large number of women. Because of the activities undertaken concerning the problematic regulations of this Law, the Commissioner for Protection of Equality became recognised by the public as an Institution which deals with complaints concerning work-related rights, which additionally influenced the growth of the number of complaints from the field of employment and work relations. The fact that the number of women who complained for discrimination in the field of employment and work relations on the grounds of gender was tripled in comparison with the year before does not come, with an insight into all the circumstances, as a surprise.

4.1.1 Opinions and recommendations

A Business Company has discriminated a female employee, with Austrian citizenship, because of pregnancy

A female Austrian citizen has filed a complaint against a company from Belgrade quoting that she had been employed by that company as the financial director since 2006, and that the employee had regularly been filing requests to the National Employment Service for employing a foreign citizen according to the Law. After informing her employer, on 1 June 2014, that she was pregnant, the employer failed to do so, and instead offered her a compromise termination of employment, and, after her refusal of the employer's offer, her employment contract was terminated. In the statement concerning the complaint the employer has quoted that a decision not to file the request for employing a foreign citizen to the National Employment Service, had been made even before their being informed on the third pregnancy of the complainant, during the period in which she was using her pregnancy leave and her maternity leave for her second child, which the complainant has been informed about. This business company has also quoted that they had made a decision to employ as a financial director the person who had been replacing the complainant during her leaves, as well as that they have no right to file a request for employing a foreign citizen if it is estimated that a citizen of Serbia who meets all the job requirements exists. During the procedure, the complainant has verified the act of discrimination against herself whereas, by application of the rule of distribution of the burden of data verification, it was stated that the employer had not verified that the decision not to file the request for employing the complainant had nothing to do with her pregnancy. Due to all that an opinion that the employer's decision violated the anti-discrimination regulations, was issued and the business company was recommended to undertake all the necessary measures for the purpose of removing the consequences of its discriminatory actions, to display on its notice-board the opinion and the recommendation of the Commissioner for Protection of Equality, as well as to make sure not to violate anti-discrimination regulations in the future. This recommendation was acted upon.

Upon returning from her pregnancy leave, a female worker has been declared redundant

A female employee has filed a complaint against her employer who, on her first day back to work, after using her pregnancy and her maternity leaves, cancelled her employment contract by declaring her redundant. The employer, in his statement, quoted that the complainant's employment was not terminated because of her pregnancy and maternity leaves and that it was caused by technological and organizational changes. During the procedure it was established

that during the period of 2 years prior to the event, only one position had been declared redundant – the one the complainant was employed at, as well as that the employer hired the complainant's replacement on a specified period of time. The Commissioner for Protection of Equality gave an opinion according to which the employer, by deciding to terminate the complainant's employment contract on her first day back on work, after using her pregnancy and maternity leaves, violated the regulations of the Law on Prohibition of Discrimination. The employer was recommended to display this recommendation on the notice board, to organise a training programme for all the employees who work on managerial positions – the kind that would enable them to overcome gender stereotypes and prejudices and get acquainted with regulations on prohibition of discrimination on the grounds of gender and the manners of the principle of equal possibilities within a business company as well as not to violate the regulations of the Law on Prohibition of Discrimination in the future business dealings again. This recommendation was acted upon.

An employer reassigned a woman to another position right after her returning to work after her maternity leave because she had not been assessed during her leave

A female employee filed a complaint, quoting that her employer has, during her pregnancy and maternity leaves, cancelled her work position. Before taking her pregnancy leave, she was performing a secretarial job together with another female employee and the employer decided to leave her colleague on the position of a business secretary, reassigning her to the position of a financial officer. This decision was made on the grounds of the evaluation performed during the period 2013-2014. The complainant was not evaluated during that time period because that was the period during which she was using her pregnancy and maternity leaves. In comparison to other employees, on whose equality it was being decided during the period in question, she was put in an unequal position on the grounds of gender and family status. The Commissioner for Protection of Equality gave an opinion according to which the employer's decision to reassign the complainant from the position of a business secretary to the position of a financial officer, based exclusively on the results of the evaluation performed during the period 2013-2014, presents a violation of the regulations of the Law on Prohibition of Discrimination. Due to all that, the employer was recommended to reconsider the decision to reassign the complainant to the position of a financial officer by applying objective criteria on the basis of which her work competences, knowledge and skills necessary for performing the job of a business secretary can be completely assessed, disregarding the results of the assessment from the period 2013-2014 since she had not been assessed during that period. The employer was, also, recommended to harmonise the internal acts of the bank with the anti-discriminatory legislation in order to avoid situations in which women who are not evaluated during their pregnancy and maternity leaves and other employees who are not assessed during the leaves taken for the purpose of taking care of their children are not put in unequal situations if the employer, in any respect, changes their work positions during their absence or right after they return to work. This recommendation has not been acted upon.

A company refused to approve a purchase of a product on an instalment credit with an explanation “not to a woman who has recently given birth to a child”

During a complaint procedure filed against a company consisting of shops which sell bed-matrices an opinion was given. It was established that the complainant, in one of the shops in Belgrade, submitted a request for purchasing a mattress in 12 monthly instalments. A certain amount of time after submitting a booking note and other documents, the denied request was sent back to her, crossed and with a hand-written inscription in the upper left corner of the page – “not to a woman who has recently given birth to a child. Shop notified”. In his statement, the director of the company quoted that the request of the complainant to perform an instalment purchase was denied because it was assessed that there was a great risk of crediting her, but not due to the fact that she had recently given birth to a child, but because of the kind of the business company she worked for and the data they had on her employer. On the other hand, the director did not deny that “not to a woman who has recently given birth to a child” had been written on the booking note which was sent back to the complainant, and he stressed that the inscription had been written by mistake and therefore cannot be considered an official explanation for denying the request. The Commissioner for Protection of Equality gave an opinion according to which this business company, by denying the complainant the right to purchase its product on an instalment credit with an explanation that she had recently given birth to a child, performed an act of direct discrimination on the grounds of gender and family situation. Due to all that, the director of the company was recommended to, within 15 days from the moment of receipt of the opinion and the recommendation send an excuse note, in written form, to the complainant, as well as, not to break the legal regulations on prohibition of discrimination in his future business dealings. This recommendation was acted upon.

Collection of Solidarity Tax from women who have recently given birth

The complainant quoted that she was on her maternity leave when her employer, belatedly, made a payment of several monthly incomes at once, which resulted in her being charged, according to the Law on Reduction of Net Wages for Public Sector Employees, with the “Solidarity Tax” by the Tax Administration. In its statement, the Tax Administration quoted that the reason why the Tax Administration established the obligation to pay the difference in net income was in the fact that the employer did not settle the reduction of the net income to the employee who was on her maternity leave. During the complaint procedure it was established that several monthly incomes were belatedly paid at once, in the same month, to the complainant who was first on her pregnancy and then on her maternity leave, resulting in her monthly income, which is, otherwise, not subject to the “solidarity tax” to, after adding up several monthly incomes, exceeded the amount of 60.000,00 dinars which led to establishing of the obligation to pay the difference in net income by the Tax Administration. It was established, in

this complaint procedure, that all other pregnant women and women who had recently given birth, to whom payments of their monthly incomes were made belatedly, were discriminated against by the application of the legal rule on establishing the 'solidarity taxation' which, in practice, produces extremely negative consequences for them because, in this manner, they are "punished" for being on pregnancy and/or maternity leaves. The Commissioner gave an opinion according to which the Tax Administration, by establishing the obligation to pay the difference in net income to women who take pregnancy or maternity leaves, violated the regulations of the Law on Prohibition of Discrimination. Along with the opinion, the Commissioner issued a recommendation that the Tax Administration should remove the consequences of such discriminatory actions and make sure not to violate the regulations of the Law on Prohibition of Discrimination while performing the action within the field of its jurisdiction in future.

A chain-store was discriminating an employee on the grounds of her family status

An opinion was given upon a complaint of a female employee of a chain-store who quoted that, after returning to work from her pregnancy leave her employer offered her to decide whether she would accept a compromise termination of her employment contract or to be transferred to a lower work position or declared redundant. She also quoted that the director of the business company had exclaimed that "women with little children are not adequate for work because she needs people to work from 8 to 22". It was established, during the procedure, that some organizational changes occurred in the company, but the employer did not provide facts and proof which confirm the existence of an objective and reasonable excuse for the termination of the employee's employment contract. Due to all that, an opinion according to which the business company violated the regulations of the Law on Prohibition of Discrimination was given. The employer was recommended to organise an adequate training for all the employees on managerial positions, the kind that would enable them to overcome gender stereotypes and prejudices, to get acquainted with the regulations on prohibition of discrimination on the grounds of gender as well as with manners of realising the principle of equal possibilities, not to violate the regulations of the Law on Prohibition of Discrimination in the future business dealings and to display either on a notice-board or on any other easily visible place on the premises of the company the opinion with the recommendations of the Commissioner for Protection of Equality. The Director who exclaimed the discriminatory lines was recommended to send an apology, in written form, to the complainant and, in the future, to restrain her from discriminatory actions and exclamations which put women in an unequal position on the grounds of family status. This recommendation was acted upon.

A Company has displayed an advertisement for "bosses" on a billboard which offers them a "Goldilocks" ready to give birth

In a complaint procedure, initiated by a citizen because of an advertisement displayed on a billboard at the entrance to Odžaci and other places, by which a company advertises wheat seed, an opinion was issued. The complainant considers the advertisement, created as an ad for “bosses (farmers)”, offering them a “Goldilocks” ready to breed, chauvinistic. The company quoted that the things expressed by this advertising campaign can neither be related to chauvinism nor can they be considered discriminatory against anyone because the symbol of a woman in the background presents the symbol of fertility and new life and that it can, therefore, be considered only a positive thing. It was quoted, in the statement of the company, that the author of the advertising message and attitudes expressed by this advertisement had no intention to insult anyone’s feelings and is sorry if the message was understood as a negative one, as well as that the company, right after the warning about existence of insulting advertisements in Vojvodina issued by the Commissioner for Protection of Equality, removed the billboards and publically expressed its regret to those who might have understood the advertisement as belittling and insulting. During the complaint procedure it was established that this advertisement, featuring a woman “giving an ad” that she is looking for a farmer, presenting herself as a woman “from a good family, healthy, strong and ready to breed”, belittling for women. By this advertisement, a woman was reduced to an object and stereotyped that her only purpose is to breed children. Promoting the idea that the only important things for a woman are to be from a good family, to be healthy and to be ready to breed children, is in contrast to the anti-discriminatory regulations - gender stereotypes are promoted and women are belittled. The Commissioner for Protection of Equality gave an opinion according to which this company, by publishing this ad which expresses ideas and attitudes insulting and belittling for women, and which offends the dignity of a woman, violated the regulations of the Law on Prohibition of Discrimination. The company was recommended not to publish advertisements the contents of which offends the dignity of women and supports gender stereotypes in the future, as well as to make sure not to violate the regulations of the Law on Prohibition of Discrimination in its future business dealings.

Men were discriminated by regulations of a collective agreement on jubilee rewards

A complaint was filed by an employee against his employer because, according to the collective agreement of his company, the employer is obliged to reward any employee who spends a certain number of years working for his company - 10, 20, 30, 35 (women) and 40 (men), the accelerated retirement plan included. The complainant considered the fact that men cannot get the jubilee reward for the 35-year jubilee discriminatory. In the statement of the employer it was quoted that the regulation of the collective agreement of the company was in accordance with the legal regulation on retirement conditions according to which “men are retired with 40 and women with 35 years” and that it was the employer’s wish that his employees, when retired, get a jubilee reward together with their retirement money. During the complaint procedure it was established that, according to the Law on Pension and Disability Insurance, the old age retirement conditions are the same for men and for women, a person can be retired at the age of 65 after at least 15 years of pensionable service and after 45 years of pensionable service,

regardless of the age. Considering the fact that the collective agreement of the company prescribes that the only condition for being entitled to a jubilee reward is the number of years spent working for the employer, there are no justified and reasonable reasons for prescribing different conditions for men and women. The Commissioner for Protection of Equality gave an opinion that the regulations of the collective agreement of the company, which prescribe that the employer is obliged to reward his employees who have spent 10, 20, 30, 35 (women) and 40 (men) years working in the company, with the accelerated retirement plan included, violate the regulations of the Law on Prohibition of Discrimination. The employer was recommended to undertake all the necessary measures, in agreement with the representative unions, for the purpose of harmonizing the collective agreement regulations with the anti-discriminatory regulations, as well as not to violate the anti-discriminatory regulations in the future business dealings. The employer has filed a notice that the recommendations are going to be acted upon.

Fewer finances were assigned for women's football and basketball clubs than for men's clubs which compete in the same rank

A municipal sports union filed a complaint against the council of that municipality because the rulebook on approval, funding and financing of programmes/activities that provide general benefits in the field of sports prescribes different rules on assigning points for men's and women's selections within the same branch of sport and the same rank of competition, assigning a smaller number of points to women's selections. In the statement of the Municipality Council it was quoted that different rules for assigning points to men's and women's sports clubs has not been motivated by a desire to discriminate anyone, that it was motivated by the need to provide financing on the level of the previous year when the financing of the club had not been regulated by the rule-book and that men's and women's clubs are assigned different numbers of points because, on the same rank of competition, men's and women's clubs do not play the same number of games – women's clubs play a smaller number of games and, due to that fact, need less funds to finance their activities. During the complaint procedure it was established that by assigning different numbers of points for women's and men's clubs, competing in the same rank and in the same sport, the goals prescribed by the rule-book (achieving the general benefit and promotion of women's sport) are not achieved as well as that there is no correlation between the measure undertaken and the goal aimed at because the goal can be reached by applying other measures, those which do not violate the principle of equality of the sexes and do not violate the prohibition of discrimination. The Commissioner for Protection of Equality gave an opinion according to which The Municipality Council had violated the regulations of the Law on Prohibition of Discrimination by prescribing different rules for assigning points for men's and women's football and basketball clubs for the purpose of financing their competitive activities. The Commissioner recommended the Municipality Council to undertake all necessary activities and measures within the area of its jurisdiction in order to remove the discriminatory difference concerning the rules applied for assigning points which are prescribed by the rulebook, which assign a smaller number of points to women's football and basketball clubs that compete in the same rank of competition the men's clubs compete in as well as not to violate the regulations of

the Law on Prohibition of Discrimination in the future. The time frame for acting upon the recommendation has not expired in the report period.

A business company did not sign another employment contract with a woman who had recently given birth

The complainant quoted that she was employed in a business company A and that she was temporarily transferred to work in a company B, that, at the moment of her being transferred to work for the other employer, she was using her maternity leave, which lasted during the whole period of her employment in the company B, as well as that, during her leave she, several times, inquired whether her employment contract would be signed again and that she was assured that her employment would be continued in this business company. Upon her return her employment contract expired and was not signed again. Due to all that she considers the situation to be a consequence of her absence from work because of her taking the leave. The business company B, in its statement, quoted that a new contract with the complainant was not signed because her employer A did not transfer her, that this was not a decision that they could make, and that they made no promises to the employees that their contracts would be continued. The Commissioner for Protection of Equality established that, in this case, there was no possibility to sign an employment contract because the employer A did not transfer the complainant to work in the company B. It was also established, during the complaint procedure, that the company B had no influence on the decision on transferring the employees to work for another employer, made by the company A. Due to all that, an opinion was given, according to which the company B did not violate the regulations of the Law on Prohibition of Discrimination.

An employee was declared redundant during her pregnancy and maternity leaves

An employee quoted that she had been employed by an employer for six years before being declared redundant, as a consequence of the cancellation of the work position to which she had been reassigned (the position of a clerk for labour and general affairs), soon after her taking the leave because of her second child. In the statement of the employer it was quoted that the need for performing the work performed by the complainant had ceased due to the economic and organisational changes enforced through the application of the new rule-book on organisation and systemisation of work. It was determined, during the procedure, that other employees (both men and women) were, according to the change of the rule-book on organisation and systemisation in the company, also declared redundant according to the same criteria – the cancellation of the work positions to which they had been assigned due to the economic and organisational changes in the company. The Commissioner for Protection of Equality gave an

opinion according to which it was established that by declaring the complainant redundant during her pregnancy and maternity leaves and by the cancellation of her employment contract upon her returning to work the employer did not violate the regulations of the Law on Prohibition of Discrimination.

Cancellation of an employment contract to an employee who intended to use a leave of absence from work for child-care

The complaint was filed by an employee of a non-governmental organisation in Belgrade because of the decision of her employer to cancel her employment contract. The complainant considers that her employment contract was cancelled because she had informed the director of the organization on her intention to take a leave of absence from work for child-care. In the statement made by the non-governmental organization it was quoted that from the very beginning of their employments all the employees were acquainted with the reorganisation plan which included job-cuts as well as that, during the year 2014 two or three employees were going to be declared redundant. During the procedure, the organisation the complaint was filed against gave objective reasons for changing the rule-book on organisation and systemisation of work, by application of which the work position the complainant was working on has been cancelled. The complainant was the only employee who was not leading any of the projects of the organisation, therefore, she was the employee with the lowest volume of responsibilities, and the programme she was providing support for had been significantly reduced, so an objective and reasonable justification of the cancellation of his contract existed. Having all that in mind, the Commissioner for Protection of Equality assessed that the complainant's informing the director on her intention to take a leave of absence from work for child-care had no influence on the decision that she was going to be declared redundant, which is why she gave an opinion that the employer, by making this decision, did not violate the regulations of the Law on Prohibition of Discrimination.

4.1.2 Recommendations on measures for achieving equality

Recommendations on measures for achieving equality, sent to all Local Self-government Assemblies, concerning the use of gender-sensitive language

In April 2015 all the municipality and city assemblies in Serbia (170) were sent recommendations on measures for achieving equality. The local self-government assemblies were recommended to stop with language-ignoring of women in official communication and to start using gender-sensitive language in the creation of acts that are being adopted.

The necessity of recognising the participation of women in local self-government, both in speech and in official acts, in official languages of their territories, was, having the increase of the number of councilwomen, after the adoption of the amendments to the Law on Local Elections, in mind, been pointed to all the local self-governments. The Commissioner reminded the male and female Presidents of the Assemblies that they have a legal obligation to monitor the implementation of the gender equality, to apply the international standards as well as to, within their jurisdictions, provide gender-equality and realization of equal possibilities. The Commissioner has also recommended them to undertake all the necessary measures for implementation of the gender-sensitive language into all the general and individual acts that they are adopting, as well as to, in official communication, use nouns denoting jobs, positions and functions in the grammatical gender which corresponds to the natural gender of the individuals denoted by them.

Recommendations on measures for achieving equality, sent to national councils of the national minorities

Male and female Presidents of the ten national councils of the national minorities were sent recommendations on measures for achieving equality, pertaining to providing the local self-governments, in which languages of national minorities were in official use, with expert help implementation of the gender-sensitive language in official communication and in all the acts that they are adopting.

This recommendation has been sent, given the jurisdiction of the councils of the national minorities to make propositions to the corresponding organs on measures and activities for improvement of the process of translating regulations into the languages of the national minorities which are in official use and to undertake measures and activities for improvement of the official use of the languages and writing systems of the national minorities, due to the necessity of preserving the national identity and increasing the visibility of Albanian, Bosnian, Bulgarian, Hungarian, Romanian, Ruthenia, Slovakian, Croatian, Montenegrin and Czech women in Serbia.

4.1.3 Warnings and Announcements

A warning regarding inappropriate media content on female politicians, 19 January, 2015.

Because of the scandalous, inadmissible and inappropriate texts and television broadcasts in which certain domestic and foreign female politicians are insulted and belittled, the Commissioner issued a warning that the media content of this kind which explicitly and in a sensationalistic manner humiliates and abuses a woman's body and the physical appearance of a woman, deceiving the public while doing so, presented an obvious violation of the human dignity of a woman. This leads to a conclusion that the only message is that a woman is reduced to an object, with no reports on her expertise, capabilities and professional achievements and labour results. Texts of this kind belittle and discriminate women as well as roughly promote gender-based stereotypes and prejudices. Because of all that, the Commissioner invited the media to strictly obey the legal regulations and the authorities to react.

A warning regarding the alarming violence against women, 8 April, 2015.

The role and the responsibility of the media in combating violence against women have been pointed out for years. Appeals and pleas to stop the sensationalistic reporting and to unambiguously point to the grounds of the gender-based violence have been sent, but the murder of Žaklina Kojić, an abused woman who is the 15th victim since the beginning of the year 2015, has proven that certain media can, unfortunately, go one step further, providing the bullies with the space to publically molest and humiliate their victims. On the occasion of this terrible murder, the Commissioner warned that the system of the protection from violence against women is not efficient and that an adequate and efficient action from the corresponding organs is not present. Therefore, a decisive turn is needed – all the public actors must, finally, become aware of their own responsibilities and of their duties in protection of safety and the lives of the women - victims of violence. The Commissioner urged the relevant state organs and the Regulatory Body for Electronic Media to exhibit a high degree of responsibility and prevent the TV broadcasts from being generators of violence against women.

A warning regarding discriminatory media texts on female politicians, 23 July, 2015.

On the occasion of the publication of discriminatory, inappropriate and belittling texts and photographs of certain domestic and foreign female politicians by some of the daily media, the Commissioner for Protection of Equality warned that such actions and such behaviour were inadmissible and illegal. Scandalous contents of this type, offend the dignity of women in a highly sensationalistic manner and crudely support stereotypes – women are, in such a manner, reduced to objects, presented as if the only thing they care about is their physical appearance and the photographs have no relevance to the texts they are attached to – they are aimed at a sexist and humiliating attitude towards female politicians. Due to all that the media were asked to respect the regulations and the professional standards.

A warning to the public regarding offensive billboard advertisements, 5 October, 2015.

Contents which reduce women to objects, together with the stereotypes that the only purpose of women is to give birth to children, are deeply discriminatory, offend the dignity of women and crudely support the prejudices of inequality of women. Such contents of a billboard caused the Commissioner to assess a billboard which appeared in Vojvodina advertising an agricultural product by correlating it, in an offensive manner to women, as an utterly inappropriate and offensive one. She also warned the public that promoting such patriarchal models, according to which the only important thing for a woman is to be from a good family, healthy and ready to give birth to children, is very discriminatory and in opposition to the anti-discriminatory regulations and legislation. Instead of being suppressed, in such a manner, gender-based stereotypes which belittle women are supported. The Commissioner urged everyone involved in shaping the public life in Serbia, including different companies and marketing agencies, to obey the regulations and professional standards and to restrain themselves from offending, sexist and discriminatory contents using, instead, their creative expressions in appropriate manners, respecting the dignity of women. A complaint was filed to the Commissioner for Protection of Equality, concerning this case.

An announcement regarding media contributions on female politicians, 30 January, 2015.

On the account of the frequent belittling, offensive and inappropriate media contributions on female politicians and officials, the Commissioner for Protection of Equality urged the media to respect professional standards and the regulations of the Law on Prohibition of Discrimination. Such contributions, presenting women through the prism of physical appearance and personal lives, without providing any information on their work, expertise or professional results, violate the human dignity of women and reinforce stereotypes and prejudices about women.

An announcement concerning the International Women's Day, 6 March, 2015.

The Commissioner congratulated the International Women's Day – 8 March to all the female citizens of Serbia and, on the occasion, drew the attention of the public to the fact that the position of women in Serbia is far from satisfactory in spite of the numerous laws, ratified international agreements and declarations and the equality of men and women prescribed by the Constitution. The number of complaints for discrimination against women on the grounds of gender and on the basis of their marital and family status addressed to the Commissioner for Protection of Equality is increasing from year to year – in the year 2014 it amounted to more than 15% of all the complaints filed. The fact that five women were killed in partnership violence since the beginning of the year and that the institutions they had addressed did not react in an

adequate manner is alarming. Women in Serbia face discrimination every day – in some companies women are, right after returning to work from their maternity leaves, given notices on cancellation of their employment contracts and employers, during job interviews, insist on the data on their family status, the number of children and family plans. The unequal position of women in Serbia is frequently justified by deeply rooted habits, patriarchal roots and deep prejudices which take a long time to be altered. In order for us to come to the point of having a society characterised by full equality, it is necessary that we all join our efforts in suppressing the prejudices and the stereotypes because that is the only way to come to the point of having a better and more fair society for all of us.

An announcement concerning the end of the World Breastfeeding week, 8 August 2015.

The World Breastfeeding Week is a global campaign held annually in 170 countries of the world aimed at encouraging and strengthening the public awareness of the significance and the importance of breastfeeding as well as at improving the health protection of mothers and children. In this year's campaign a special emphasis was placed on support to all women to combine work and childrearing, especially breastfeeding, in an adequate way. The Commissioner for Protection of Equality used the end of the World Breastfeeding Week to remind the public of Serbia on the problems and the position of pregnant women, women who have recently given birth and women who use their maternity leaves and to point out that, regardless of dates, it is very important to constantly mention the need for improvement of the position of women and the full application of the Law in everyday life, especially when it concerns pregnant women and women who have recently given birth.

An announcement concerning the International Day of the Girl Child, 11 October, 2015.

The International Day of the Girl Child was established by the United Nations in 2011 and it is celebrated throughout the world with the aim of drawing attention to violation of the rights of girls in areas such as: availability of education, health-care, sexual and reproductive health, legal rights and protection against discrimination, violence and arranged marriages. The Commissioner for Protection of Equality has reminded the public, in her announcement, that the stereotypes and prejudices that exist in our society must not prevent girls from developing their potentials.

An announcement concerning the International Day of Rural Women, 15 October, 2015.

On the occasion of the International Day of Rural Women, the Commissioner reminded the public of the extremely significant role and the potential of women who live in villages and drew

attention to a certain number of those women who are in a difficult situation because of the fact that they live in economically underdeveloped parts of the country and face a series of problems since, very frequently, they cannot exercise their right to maternity payments and pension. On the other hand, due to the fact that, according to the regulations in force, a married couple can register only one farm, men are most often owners of farms. Gender-based violence is also present in rural areas. Women who live in villages are often considered an “invisible work-force” and their roles in the life of the community are not appreciated enough. They are, also, very frequently, exposed to discrimination on various grounds. The International Day of Rural Women was established by the UN General Assembly Resolution in 2007 with an aim to point to the special contribution of women who live in villages.

An announcement concerning the International Day for the Elimination of Violence Against Women, 24 November, 2015.

On the occasion of the International Day for the Elimination of Violence against Women, it was pointed out that women, these days, more frequently report violence and that this issue is no longer a private family matter but one of the biggest social problems. However, the number of reported cases and casualties is increasing significantly. 27 cases of violence against women were recorded last year and during this year 34 women were killed. In order to reduce violence, it is necessary to start changing legal solutions in order to obtain conditions for full application of the Council of Europe Convention on Preventing Domestic Violence against Women (the so-called Istanbul Convention). A consistent and continual policy of punishing perpetrators of domestic violence is also needed. Any mitigation and relativization of the problem of domestic violence against women will not contribute to the fight against this serious problem which is why we are all, as a society, obliged to adequately contribute to its solution. The Commissioner used this opportunity to remind the public that the media plays an important role in the society in raising awareness and in prevention of violence against women due to the fact that its content directly shapes the attitudes of the citizens and that it is the responsibility and duty of the media to, through reporting, protect the victims and send a clear message that violence against women is a criminal offence which carries a penalty.

An announcement concerning the announcement of the Minister of Defence, 7 December, 2015.

The Commissioner, while giving a statement in Trstenik, assessed the statement of the Minister of Defence, Bratislav Gašić, addressed to the TV92 journalist as very rude and inappropriate. The Commissioner, on that occasion, pointed out that such remarks of the Minister were unacceptable and offensive not only to female journalists but also to all women, primarily because all the authorities in Serbia, as public officials, have an additional obligation – to fight

against gender-based stereotypes against women and to treat all the women in the Serbian society with respect, as equals and with no discriminatory attitudes. It was also quoted in the statement that if we want to live in an equal, democratic and tolerant society, we have to thoroughly and consistently suppress the stereotypes and prejudices against women which are at the root of discrimination. It was stated that it is a good thing that the Minister apologised shortly after and that this whole case should serve to those in power as a warning that they should, in speech and in communication, behave decently and with respect to their interlocutors.

An announcement concerning offensive posters, 7 December, 2015.

The Commissioner strongly condemned the appearance of posters, in Novi Sad, with the image of the MP Aleksandra Jerkov, which in an inappropriate and vulgar manner insults her personality. Such an act has a discriminatory character towards the MP whose political actions, the ideas she stands for and her engagement in the public arena are diminished in a very primitive way. In addition, the manner in which this was done, also, presents an insult to all the women, not only to those active in the political life. MPs and delegates have, in accordance with the Constitution and the laws of the Republic of Serbia, a legitimate right to advocate and promote certain political views and ideas in public and it is, therefore, unacceptable for such a campaign against the MP, which presents a classical case of discrimination on the grounds of her gender, to be led as well as to imply, with low and offensive allusions, any other personal trait. The Commissioner expressed her belief that the competent governmental authorities would uncover the perpetrators of this shameful act as soon as possible and recalled the importance of the change of the attitude to women in our society.

An announcement concerning statements given by the officials of Vranje, 19 December, 2015.

Faced with more and more frequent thoughtless, rude and inappropriate statements of public officials in Serbia, the Commissioner, one more time, invited them all to pay attention to what they talk about and distinguish between jokes and discriminatory comments. The reason for the Commissioner's latest appeal and condemnation were statements of the Mayor of Vranje, Zoran Antić, and a local official, Gradimir Jovanović – the two of them were, at the assembly-room rostrum, expressing themselves in a rude and inappropriate manner about the Deputy Prime Minister and the Minister of Construction, Traffic and Infrastructure, Zorana Mihajlović. Such statements are inexcusable and everyone should be aware of the fact that the rhetoric which destroys the dignity of women active in politics or in public life is not offensive only to them, but also to all the female citizens of our country. Stereotypes and prejudices against women have to be thoroughly and consistently suppressed. The existence of a culture of speech and behaviour in the public and political life is the basis for building a modern and tolerant society we all aspire

to. The Commissioner has, in the end, reminded the public that people in power have an additional responsibility and obligation – to fight against gender-based stereotypes and discrimination against women, as well as to treat all the women in the Serbian society decently and with respect.

4.2 Discrimination on the grounds of national affiliation and ethnic origin

During the year 2015, 119 complaints were filed for discrimination on the grounds of national affiliation and ethnic origin, which amounts to 18.4% of the total number of complaints filed. Discrimination on the grounds of national affiliation and ethnic origin, according to the number of complaints filed, takes the second place, right after the discrimination on the grounds of gender. The number of complaints for discrimination on the grounds of national affiliation and ethnic origin that were filed to the Commissioner did not change much in comparison to the previous year, considering the fact that during the year 2014, 124 complaints of this kind were filed, amounting to 18% of the total number of complaints filed.

The largest number of complaints for discrimination on the grounds of national affiliation and ethnic origin were filed by individuals - 75, which amounts to 14.8% of the complaints filed on these grounds, 50 by men and 25 by women. Civil Society Organisations filed 32 complaints for discrimination of national minorities.

During this year, it was in only one case of discrimination on the grounds of national affiliation that mediation was offered. After the first joint meeting with the mediator, the parties settled the matter in a peaceful manner. This was presented in more detail in the section of this report entitled *Complaint Procedures*

Out of the total number of complaints on these grounds, 32 were related to treatment before the public authorities, like ministries, police, health institutions, social institutions, courts and other organs of public authority. In the field of labour and employment, 19 complaints for discrimination on the grounds of national affiliation and ethnic origin were filed because members of the national minorities considered that they were not equally treated both in their work environments and during the process of looking for employment – in cases of those not employed. In the sphere of public information and media, 22 complaints were filed. 8 complaints were filed for discrimination on the grounds of national affiliation in the sphere of education and professional training. Six complaints were filed in the field of provision of services and use of buildings. In the majority of procedures from the field of public information and media, in the cases filed because of discriminatory reporting by weekly and/or daily papers, discrimination has been established. Having the influence of the media on forming the public opinion in mind, these papers were recommended to, among other things, through articles, change the patterns,

customs and practices which cause stereotypes, prejudices and discrimination against members of that national minority.

The largest number of complaints for discrimination on the grounds of national affiliation was for the affiliation to the Roma minority (60), followed by those for affiliation to other national minorities: the Bosnian (8), the Albanian (8), the Vlach (6), the Romanian (5), the Croatian (40), the Hungarian (4), the Bulgarian (2), the Slovak (1), the Slovenian (1) and other minorities (20).

It is evident that, during this year, the largest number of complaints for discrimination was filed on the grounds of affiliation to the Roma national minority. Having in mind the areas of public relations in which discrimination is performed, according to the cases filed to the Commissioner, the attitude of certain public authorities (e.g. the police) towards members of the Roma national minority is especially troubling as well as the conduct of health institutions while providing them with health services. In addition, the housing problem of the members of the Roma minority is still present and it is a very complex one because inadequate housing conditions and living in non-formal settlements significantly hinder their exercising of social and economic rights. In the recommendation of measures for achieving equality, given to the City Municipality of Zemun, it was pointed to the more and more frequent occurrence of demolition of the illegal buildings inhabited by the Roma people which takes place in a larger number of cases than when illegal buildings inhabited by the majority population are in question – this selective approach to solving the problem of illegal buildings raises a serious doubt concerning structural discrimination of the Roma minority in Serbia.

4.2.1 Opinions and Recommendations

A health centre did not open a medical file to a Roma girl

The complaint was filed by a Roma woman, mother of the girl that the health centre did not want to open a medical file for. It was quoted in the complaint that the mother had tried to have a medical file for her daughter opened in a health centre, that the nurse at the counter told her to “go where she had come from and have her medical file opened there”, that the girl still does not have a medical file opened, that, because of that, she has not been given any vaccine and that she is not visited by a visiting nurse. In the statement of the health centre it was quoted that the girl has neither a medical file nor a health card in that institution, that she was admitted by a doctor and given a treatment and that, after that, she has not been brought to the health centre by her mother again. During the complaint procedure, it has not been established what has actually happened at the counter – the complainant provided no evidence that would corroborate her statement on what the nurse had told her on that occasion. However, it has been determined, during the procedure that the girl does not have a medical file and the health centre has provided no evidence on the existence of objective and justifiable reasons for not opening a medical file for the girl. The Commissioner for Protection of Equality gave an opinion according to which the health centre, by not opening a medical file for the girl, performed an act of discrimination on the grounds of affiliation to the Roma nationality. The Health centre was

recommended to undertake all the necessary measures for the purpose of removing the consequences of discriminatory conduct to the girl, to organise a training programme for all of its employees – on the topic of discrimination in health care, for the purpose of sensitizing and educating health workers for work with the Roma population, as well as not to violate the discriminatory regulations in the future. This recommendation was acted upon.

A police station refused to register residence for a Roma girl.

A mother who tried to register residence for her new-born daughter in the police station was refused because the girl had not been enlisted as a member of the family household in the lease contract. In the statement of the chief of the police station it was quoted that the mother has her residence registered in a municipal area, according to her lease contract with the city administration in which all the family household members that can be registered on that address were enlisted, but that the new-born girl was not enlisted even though she was born before the moment of signing the lease contract. During the procedure it was established that the police station offered no data and evidence on the basis of which the existence of objective reasons for the refusal of the registration of the new-born girl could be established. Therefore, an opinion that the police station, by refusing to register residence for the new-born girl, performed an act of discrimination on the grounds of affiliation to the Roma national minority and on the grounds of the fact that the family lives in an apartment of social housing was given.

During the procedure it was established that the complainant was invited to an informative interview in the police station because of the complaint that she had filed to the Commissioner for Protection of Equality. On the occasion of that, an opinion was given according to which the police station, by inviting the complainant to an informative interview concerning the complaint that she had filed against the police station for discrimination in the procedure or registration of residence for her daughter, violated the regulations of the Law on Prohibition of Discrimination. Due to all that, the police station and the chief of the police station were recommended to send a written apology to the complainant for the discriminatory treatment of her daughter, to undertake all the necessary measures for the purpose of removing the consequences of the discriminatory treatment of the girl, to organise a training programme for the employees of the police station that would sensitise and educate them for work, within their jurisdiction, with people of the Roma population as well as not to, in the future, violate the anti-discriminatory regulations. This recommendation was acted upon.

A weekly paper published an article: "Egg throwing: frenzy of the Roma people – throwing eggs on senior citizens"

An opinion was issued in a complaint procedure initiated by two organizations of civil association against a weekly paper because of an article *“Egg throwing: frenzy of the Roma people – throwing eggs on senior citizens”*. In the complaint it was quoted that the text of the article was full of qualifications and generalizations regarding the Roma national minority and that it was discriminatory. The main editor of this paper quoted that right after the publication of this article, the editorial board of this weekly paper published an apology of the main editor and of the journalist who had written the problematic article, on the web-site of the paper and in the first consequent issue of the paper as well as that he was very sorry because of the publication of that article. During the procedure it was established that by the article *“Egg throwing: frenzy of the Roma people – throwing eggs on senior citizens”* a message that a group of Roma children and young people in a certain city, throw eggs at their fellow citizens and that people have, for years, been afraid to go to the cemetery because they can be robbed, was sent. The Roma national minority was, in the whole article, put in the foreground and it can be concluded from the text that the Roma are the ones who throw eggs at citizens and rob those people who come to the cemetery. It was also established that the editorial board of this paper apologized for publishing this article, which had been published in the previous issue of the paper, and has “fallen into the error of generalization. The Commissioner for Protection of Equality gave an opinion that the weekly paper, by publishing a text which expresses attitudes and ideas which are disturbing and humiliating, hurt the dignity of the members of the Roma national minority, violating the regulations of the Law on Prohibition of Discrimination in such a manner. The main editor of the weekly paper was recommended not to publish articles which hurt the dignity of the members of the Roma national minority in the future, nor to support prejudices on them as well as to, through his articles, contribute the alteration of the patterns, customs and practices which influence stereotypes, prejudices and discrimination against the Roma national minority.

Discriminatory reporting of daily papers on the Roma

An organization which deals with protection of the rights of the Roma people filed a complaint against a daily paper because of the article entitled “A Roma sexually assaulted a girl”, published in printed issue of that paper. During the procedure it was established that the national affiliation of the suspect, in this particular case, had nothing to do with the performed act and that, due to the fact that publishing of this information did not contribute to better understanding of the event, there was no need to quote his national affiliation. By emphasising the national affiliation of the suspect the attention was drawn to members of his national minority, they were labelled as people prone to performing a criminal act, which, as a consequence, led to the strengthening of stereotypes and discriminatory attitude towards the Roma. This is especially dangerous since it is known that the Roma are exposed to discrimination in all of the spheres of the Serbian society as well as that they are often subjected to attacks of individuals and organisations that advocate hatred and intolerance towards them. The Commissioner for Protection of Equality gave an opinion that the regulations of the Law on Prohibition of Discrimination were violated by emphasizing the national affliction of the suspect, in the title of the article - “A Roma sexually assaulted a girl”, which presented ideas and

attitudes that are disturbing and humiliating and by which the dignity of the members of the Roma national minority are offended. Due to all that, the daily paper was recommended not to publish articles which support prejudices about national minorities in the future, to, through its articles, contribute the alteration of the patterns, customs and practices which influence stereotypes, prejudices and discrimination against the Roma national minority as well as not to violate, in its future business dealings, the regulations of the Law on Prohibition of Discrimination.

Naming the Albanian nation “Šiptari” in texts published on cover pages of two daily papers

A civil society organization filed a complaint regarding the articles published in two papers. One of those papers published the following titles: a Šiptar Spider Caught“and “Edi Rama, Šiptar with no Shame“on the front pages of its issues from 11 and 20 October 2014. The other paper published, on 14 and 15 October 2014, on its internet-portal, the following titles: “Kosovo is the Heart of Serbia: the Manner in which Šiptars united Grobari and Delije“, “Chaos about to Happen: Šiptars already in Knez Mihajlova, Threat of the War of Spectators!“, “Exclusive Video: Here’s how Šiptars Smuggled the Albanian Flag into Belgrade!“ and “Šiptar reporter for Telegtaf: It Was Known that our Spectators Were Preparing Something Big!“ During the procedure, it was established that, after the incident which had occurred during the football match between Serbia and Albania and the visit of the Albanian Prime Minister, numerous media, including the daily papers the complaints were filed against, were reporting about these events. It was also established that, for almost half a century now, in Serbia, the Albanian nation is derogatively called Šiptars, which members of the Albanian national minority find offensive and that the use of this term can, especially in conflict situations, stir up hostility towards the Albanian nation and Albanian national minority. This manner of reporting, using a colloquial and derogatory term for denoting a certain ethnic group, deepens the gap between the members of the Albanian national minority and the majority population, causing in the majority population repulsion towards the Albanian men and women, and in the members of the Albanian national minority the feeling of insecurity as well as labelling of the whole of their community. The Commissioner for Protection of Equality gave an opinion according to which the use of the term Šiptar violates the dignity of the members of the Albanian minority, violating the regulations of the Law on Prohibition of Discrimination. Due to all that, these daily papers were recommended not to publish articles which offend the dignity of the Albanian national minority in the future, to, through their articles, contribute to the alteration of the patterns, customs and practices which influence stereotypes, prejudices and discrimination against the Albanian national minority as well as not to violate, in their future business dealings, the regulations of the Law on Prohibition of Discrimination.

The president of an environmental movement from Novi Sad urged the Union of Employers of Serbia to exclude one of the members because he is Croatian

A complaint was filed against Nikola Aleksić from Novi Sad because of the suggestion he had made in the name of an environmental movement from Novi Sad to the Union of Employees of Serbia on 19 December 2014 as well as because of the press release of the ecological movement from Novi Sad from 7 October 2014. It was stated, in the complaint, that Nikola Aleksić, by his statement and his letter, discriminated the complainant on the grounds of affiliation to the Croatian national minority. In these documents, among other things, it was quoted, “on the occasion of the public protest announcement of the title (the Union of Employees of Serbia) about supporting Croatian employers in Serbia, we are obliged to notify the title that they have Croatians who are working on that and who have reached the very top of the Union of Employers of Vojvodina...and that the Union of Employers of Serbia should clean its ranks Croatian national council surely was not founded for the purpose of spreading Croatian culture”, while in the public proclamation he addressed a certain Croatian businessman that he can inform “his beautiful” that no one is racketeering him because he is a councilman of Croatia for Vojvodina. During the procedure it was undoubtedly established that the expressed attitudes refer to the complainant even though he was not specified by name. The Commissioner for Protection of Equality gave an opinion according to which Nikola Aleksić, the Director of the environmental movement of Novi Sad, by giving a public announcement and addressing the Union of Employers of Vojvodina in which he expressed his attitudes and ideas which are disturbing and humiliating, violated the dignity of both the complainant and other members of the Croatian national minority. Due to that, he was recommended to send a written apology to the complainant and to organise a meeting with the representatives of the Croatian National Council in order to get directly acquainted with their work, as well as not to give announcements which are offending to both Croatian and other national minorities in the future. Nikola Aleksić did not act upon this recommendation and the public was, through an article in a daily paper ‘Danas’ (on 2 October 2015) informed about that.

Not registering the name of a political party of a national minority in the language of that national minority

A complaint was filed by a member of a national minority against the Ministry of State Administration and Local Self-Government of the Republic of Serbia, in which it was quoted that the complainant has filed a request for making a change in the Registry of Political Parties asking, among other things, the name of the party to be written in the language of his national minority, using the writing system of the minority. The Ministry of State Administration and Local Government did not fully comply with his request – it changed the name of the party in Serbian language but did not register the name in the language of the national minority. In the statement of the Ministry of State Administration and Local Government it was stated that the complaint allegations are not grounded because the Ministry did not reject registering the change of the

name of the party, as well as that the fact that a standardized form of the language of that minority does not exist hinders the full implementation of the European Charter for Regional or Minority Languages and presents an obstacle to its introduction into all the spheres of social life. During the procedure it was established that next to the name of the party in Serbian its name was not written in the language of the national minority and in the script of that minority as it had been requested. On the grounds of the analysis of the evidence and the statements submitted, it was established that several national minority parties were registered in languages of their minorities, but only in those cases when the language is standardized and when the Republic of Serbia has recognized it as a minority-language by ratification of the European Charter for Regional or minority Languages. Due to all that, the Commissioner for Protection of Equality gave an opinion according to which the Ministry of State Administration and Local Self-Government of the Republic of Serbia did not violate the regulations of the Law on Prohibition of Discrimination.

Conduct of police officers towards a member of the Roma minority at passport control

A complaint was filed by a member of the Roma national minority and his wife against the management of the Border Police because of a discriminatory treatment by a police official at the Nikola Tesla Airport. The complainants quoted that they were travelling abroad to their relatives' and that at the passport-control a police officer did not allow them to leave the country. The complainants consider that there was no justifiable reason for not letting them leave the country and that the only reason for such a conduct of the police officer was their affiliation to the Roma nationality. The management of the Border Police has, in its statement, contested the complaint allegations, quoting that the complainants have not been allowed to leave the country because they did not meet the requirements for leaving the country – going abroad. During the procedure it was established that the police officer at the passport control of the Nikola Tesla airport did not allow the complainants to leave the country because they did not meet the requirements for leaving the country prescribed by the Regulation on Stricter Regulation of the Manner of Exercising Police Powers of Border Police Officers and Duties of Persons Crossing the Border, (they did not have return airplane tickets, paid travel insurance and a guarantee letter). The management of the Border Police gave enough evidence for coming to a conclusion that making a decision not to allow the complainants to continue their journey was not influenced by their affiliation to the Roma nationality. Therefore, an opinion according to which the management of the Border Police did not violate the regulation of the Law on Prohibition of Discrimination was given.

Complaint for insult on the grounds of nationality affiliation

An opinion has been issued in a procedure initiated by a complaint filed by an employee against the Director of the company on the grounds of affiliation to the Roma nationality. It was stated in the complaint that the Director, during a discussion in the hall of the factory has sworn the complainant's "gypsy mother". In his statement, the Director denied the complaint allegations in the part referring to the curse. During the procedure it has been established that it was true that there was a verbal and physical confrontation between the Director and the employee but it has not been established that the Director has sworn the complainant's "gypsy mother". Therefore, an opinion that it has not been established that the Director has committed the act of discrimination against the employee on the grounds of his affiliation to the Roma nationality has been issued.

A complaint against a primary school for refusing to enroll a Roma boy in the first grade

An opinion was given in a procedure initiated by a complaint of a boy of the Roma national minority and filed by his mother against a Primary School. In the complaint it was quoted that the mother, in June 2014, took her son to a medical examination and enrolled him in the first grade of primary school. However, the boy's name was not on the list of the children enrolled in the first grade on 1 September 2014, and the Deputy Director of the school told the mother that they had to wait because there were "a lot of Roma children" and that there was no place for the boy in that school. In the statement of the School Director it was quoted that the complaint allegations were not true, that the boy could not have been enrolled in school in June since children are enrolled during the period 1 April – 31 May. It was also quoted that the testing for the primary school had been scheduled for 3 September 2014 for the boy, which was corroborated by the Pedagogical Assistant by declaring that it was her who had made the testing appointment because the parents had failed to schedule it on an earlier date. During the procedure, the school submitted the proof that the boy's enrollment in the first grade had not been refused. The school also gave evidence that the boy had not been on the list on 1 September because he was tested on 3 September 2014 and enrolled in the first grade on that date. The Commissioner for Protection of Equality gave an opinion that it was established in this complaint procedure that the act of discrimination on the grounds of affiliation to the Roma national minority had not been performed.

A complaint against an expert employee of the City Centre for Social Work for insults and belittling on the grounds of national affiliation

A complaint was filed against the City Centre for Social Work (CCSW) in Belgrade and the expert employee of the CCSW. It was quoted that the employee has called the complainant 'Šiptar' and, based on his clothes concluded that he did not need aid. In the statement upon the allegations of the complaint the employee of the CCSW has quoted that the complainant

refuses to take part in the procedure for obtaining the social aid, in the form prescribed by the Law, as well as that, unsatisfied with the decision that he does not have the right on the financial social aid, he “abuses the Law on Prohibition of Discrimination”, that it has been quoted, in the statement of the department manager, that the complainant had already been granted the right to social aid and that he had obtained the right to one-time financial aid twice, that his request for a one-time financial aid has been refused on 8 November 2014, and that, unsatisfied with these decisions he is prone to complaining about the work of the CCSW. Due to the facts and the evidence provided, it was not possible to determine what had exactly been exclaimed during the conversation between the complainant and the employee. During the procedure it has been established that the refusal to grant the complainant the right to social aid had nothing to do with his presumed financial situation. The Commissioner for Protection of Equality has issued an opinion that it has not been established that the employee of the CSW has insulted and belittled the complainant during their conversation concerning his request for one-time social aid, as well as that the CCSW has not violated the regulations of the Law on Prohibition of Discrimination.

Insults on the grounds of national affiliation

An organization which deals with the protection of human rights filed a complaint in the name of an under-aged girl, against a teacher, employed in the school, for insults on the grounds of national affiliation. It was quoted in the complaint that the teacher, during a biology class, told the girl “You should get married soon”. In the statement of the teacher upon the allegations of the complaint, it was quoted that she never uttered such a sentence to the girl in whose name the complaint had been filed, and that she never discriminated the girl, on any grounds. According to the facts and the evidence provided, it was not possible to determine whether the teacher, during the biology class, addressed the girl in an inappropriate manner or not, having in mind that neither the teacher nor the child submitted any evidence that would corroborate their claims.

4.2.2 Recommendations on measures for achieving equality

Forced eviction of the Roma people from the Grmeč Roma settlement

Acting upon complaints of citizens, the employees of the expert office of the Commissioner for Protection of Equality visited the Roma settlement Grmeč in Zemun on 15 July 2015 and talked to the residents on the spot. On the basis of conversations and the insight into the documentation it was established that the city municipality of Zemun had begun preparations for the implementation of forced eviction. The inhabitants of this settlement were handed the decisions of the building inspector on the basis of which they were obliged to, within the period

of one month, remove the buildings in which they reside. When the legal conditions for the enforcement of this decision were fulfilled, the residents were handed the decision on demolition, in which it was stated that the execution will be enforced by a third party and that they would bear the costs of the execution. The Commissioner expressed concern regarding the more and more frequent cases of demolition of illegal buildings occupied by the Roma people which are more numerous than cases of demolition of illegal objects occupied by the majority population. Such a selective approach to the problem of illegal buildings causes suspicion about structural discrimination of the Roma national minority in Serbia.

The city municipality of Zemun was given a recommendation to restrain from enforcing the eviction of the inhabitants of the Grmeč settlement until obtaining an alternative accommodation, equal in quality or of higher quality compared to the housing conditions in that settlement, which has to correspond to the criteria of the adequate housing according to the international standards. The City Municipality of Zemun was also recommended to conduct the whole process of the housing care and integration of the inhabitants of the Roma settlement in cooperation with and with active participation of the Roma people, respecting their needs and the right on part-taking in making all the decisions on all the issues concerning themselves, including the relocation and the manner of social integration, according to the international standards and guidelines for dislocation of citizens from non-formal settlements. The recommendation of measures for achieving equality was acted upon. The inspector authority of the city municipality of Zemun applied the international act on economic, social and cultural rights and, by doing so, cancelled the decision on demolition and removing of the buildings and made a decision to terminate the procedure.

4.2.3 Warnings and announcements

A warning on the occasion of resettlement of the Roma people, 2. July 2015.

The Commissioner, by this warning, urged all the corresponding institutions in the country to find an adequate manner of solving the problem for several dozens of Roma families which were being evicted from non-formal settlements in Zemun and Novi Beograd. The Commissioner issued a warning that, in accordance with the international standards and guidelines for the relocation of people from a non-formal settlement, it is necessary to undertake all measures for housing-care of the relocated members of the Roma settlements. She also stressed that a large number of people who live in these settlements are women and children and that treatment of people in a humane way, respecting their dignity, is not a matter of will but the matter of the basic human rights. In addition, it is necessary to conduct the relocation in cooperation with and with the active participation of the people who are being relocated, respecting their right to part-taking in making decisions on all the issues that concern themselves, including the relocation.

An announcement concerning the International Holocaust Remembrance Day, 27 January 2015.

The International Holocaust Remembrance has to be a warning to all the people that the darkest moment in human history must never happen again. This memory has to be a warning on how dangerous discrimination is and how toleration of discrimination can lead to catastrophic events in human history, such as the Holocaust. It is necessary to constantly point and appeal to the importance of respecting human rights and preventing all kinds of racial, national and religious discrimination and hatred towards other people and people who are different. The Commissioner pointed out that racial, national and religious hatred, based on prejudices is still present in our society and that the only change of such situation is through education and altering attitudes of people. Because of that, the International Holocaust Remembrance Day has to be an obligation, of each individual and every institution in Serbia, to contribute through his or her endeavours to the elimination of racism and anti-Semitism.

Announcement concerning the International Day against Racism, 21 March 2015.

Upon the occasion of celebrating the International Day against Racism, the Commissioner for Protection of Equality has made an announcement, stating that racism has not been eradicated in Serbia and that a big responsibility to create a system that will, especially in young people, develop the spirit of tolerance, enjoying in differences and respecting and understanding the human rights, rests on the educational institutions, because racism is a problem that will not disappear by itself. It has also been stated that there is still a big distance in relation to the Roma people, both by individuals and by institutions.

An announcement concerning the International Roma Day, 8 April 2015.

On the occasion of 8 April, the International Roma Day, the Commissioner for Protection of Equality congratulated the Roma men and women and, in the same time, drew attention to the still bad position of the Roma national minority as well as to the fact that the Roma people are the most discriminated people in Serbia. They are frequently exposed to open and widespread hate speech and discrimination against the Roma people is the most intensive in the fields of education, employment and housing. The data that only 6% of people from the Roma settlements 3-4 years old attend pre-school programmes, that 69% of the children from the

Roma settlements attend the first grade of Primary School and that only 22% of them attend Secondary School is alarming and more than worrying. For the last five years, the complaints for discrimination on the grounds of affiliation to the Roma nationality make up the largest number of all complaints made on the grounds of nationality affiliation that have been filed to the Commissioner. All the law-suits that the Commissioner initiated during the year 2014 pertain to discrimination against the Roma people as well as the criminal charges filed due to the suspicion that a criminal act was performed on the grounds of national, racial or religious intolerance towards the Roma people. Therefore, engagement of all of the social actors is necessary for the purpose of improving the position of the Roma national minority which is still exposed to all kinds of discrimination.

4.3 Discrimination on the grounds of disability

During 2015, 73 complaints of discrimination were filed on the grounds of disability, what accounts for 11.3% of the total number of filed complaints and classifies this ground of discrimination in third place, by the number of filed complaints.

Participation of filed complaints on this ground of discrimination is approximately the same as in previous years. By comparison, in 2014, there were 10.1 % of complaints of discrimination on the ground of disability. However, that number of complaints still does not match the real status of persons with disabilities in Serbia, keeping in mind the researches and reports of international and domestic institutions and organizations. Labor and employment field represents a sphere in which people with disabilities most frequently face discrimination-received 23 complaints. The analysis of complaints in the area of providing public services and use of public facilities and areas shows that every third complaint was filed due to discrimination on the grounds of disability. In the third place by the number of complaints due discrimination on the grounds of disability is discrimination towards organs of public authorities.

With qualitative analysis of submitted complaints, as well as the opinions and recommendations of the Commissioner, it can be stated that the biggest obstacles to equal integration of persons with disabilities in all social currents are: barriers to educations, lack of employment opportunities, the inaccessibility of public buildings and surfaces and inefficient support for independent life.

Cases of multiple forms of discrimination are especially worrying, particularly discrimination against children with disability, most frequently in the field of education. Local self-governments are failing to fulfill their legal obligations, such as the right to free transportation to school for children with disabilities, regardless of the distance from the place of residence, as well as other necessary forms of support.

4.3.1 Opinions and recommendations

Placing additional conditions to persons with disabilities to open a current account

The complainant with multiple sclerosis tried to extend the validity period of a payment card in the bank, which, because of his illness, he was not able to sign, and he was not allowed to put a fingerprint instead of a signature. In the statement of the bank it was claimed, that the client, because of his illness was unable to sign the necessary documentation and that he was given the instructions that, by giving authorization to a third party, to edit and complete the required documentation, that is, he was informed that a third person with proper authorization can sign the necessary documentation and take over the new card, in accordance with general acts of the bank. During the procedure, it was established by the provision of procedure for counter service operation clients that individuals who can sign their name have the right to conclude a contract for opening and maintaining a current account, thus placing the individuals who cannot sign their names in an unequal position. The Commissioner for Protection of Equality gave an opinion that with provision of general act of bank, which stipulates that the right to conclude the contract for opening and maintaining of current accounts of citizens, has a person that can sign, and actions of the bank, which imposes an obligation to complainant to conclude the contract of current account through proxy, the complainant was placed in an unequal position on the grounds of disability. That is why the bank was recommended to harmonize the provision of procedures for counter service operation with clients with anti-discrimination regulations, as well as in the future, within the performance of tasks from its jurisdiction, does not violate anti-discrimination laws. Actions were taken according to this recommendation.

The inaccessibility of the post office building for people with disabilities

The complaint was filed by an organization which deals with human rights, in the name of and with the consent of a woman with disability, against post office in her place of residence, because of discrimination on the grounds of disability. In the complaint it was claimed that it was about a woman who used a wheelchair, that she went to post office to take the set top box device, but that post office was not accessible to persons with disabilities, and that employee refused to leave the building after the user of wheelchair asked passers-by to call her. It was stated that the next time postmaster came out in front of the building in order to talk with her, but he acted haughtily and arrogantly. In the statement it was claimed that it is true that the conversation took place in the street, because the person, on whose behalf the complaint was filed, is a wheelchair user, but that he did not behave arrogantly, and he tried to explain with special care the procedure in relation with top box device, but she did not want to listen. During the proceedings, it was established that the post office was inaccessible to people with disabilities, especially to those who use wheelchairs or with mobility impairments, given the fact

that is necessary to overcome few steps, in order to come from pedestrian zone to entrance of the post office. The Commissioner for Protection of Equality gave an opinion that the post office, by failing to provide an accessible entrance to the building, committed an act of discrimination against people with disabilities. It was recommended to the post office to take all necessary measures in order to ensure an accessible entrance to the building. This recommendation was not implemented.

City Municipality did not organize the public transportation accessible to people with disabilities

The complainant stated that her son is a person with a disability and that he uses a wheelchair and that, in the city where they live, an accessible transportation for people with disabilities is not provided. In the statement of city municipality, it was claimed that accessible transportation for persons with disabilities is not provided, as well as that organization of public transportation on the territories city municipalities are under the jurisdiction of the city, Directorate for public transportation. In the statement Directorate for Public Transportation, it was stated that on the territory of city municipality, local and suburban public transportation of passengers in the jurisdiction of Secretariat for Transportation are organized, as well as that in future they will strive to consider the possibility of introducing low-floor vehicles with mechanical ramps for access of persons with disabilities on one number of lines of local character. It was established that the organization of public transportation on the territory city municipality, is under the jurisdiction of Secretariat for Transportation, Directorate for public transportation, as well as that the public transportation in the territory of city municipality is not accessible to people with disabilities. The Commissioner for Protection of Equality gave the opinion that by non-organizing public transport accessible to persons with disabilities on the territory of city municipalities, Administration of the City Municipality against which the complaint was filed, did not violate anti-discrimination law. Keeping in mind that the organization of public transportation is under the jurisdiction of city administration, Secretariat for Transportation, Directorate for public transport, the appropriate recommendation of measures was given.

The hospital is not accessible to persons with disabilities

The complaint was filed by the father of a child with a disability, in which he claimed that his son, during his stay in the hospital, was unable to access the premises within the hospital (training rooms, rooms, swimming pool) and access to the elevator. It was claimed in the statement that the driveway and access to the most of the rooms inside the building are not accessible to people with disabilities. During the proceeding, it was established that the hospital is not accessible for people with disabilities and that the child with disability, during his stay in this hospital, was not able to access the premises within the hospital - to the pool, elevator and a

room where he was staying. It was also established that the hospital takes certain measures in order to enable unhindered use of the premises inside this facility, which provides a variety of services to people with disabilities. The Commissioner for Protection of Equality gave an opinion that the hospital, by failing to provide adequate access for persons with disabilities to all premises inside the building and unobstructed use of all services, committed an act of discrimination. It is recommended to the hospital to take all necessary measures in order to implement works and provide adequate access to all premises, in which there are common facilities and services are provided, so people with disabilities can equally use services of this hospital. This recommendation was implemented

Discrimination on the grounds of disability in Penal and Correctional Institution

The opinion was issued in the proceedings on the complaint of a convicted person against Correctional Institution, where he is serving his prison sentence. In the complaint he stated that he reported for several times to be employed in Penal and Correctional Institution (PCI) on drafting tasks of envelopes, but he was refused by a professional team. He believed that he was discriminated due disability and age. In the statement of PCI it was claimed that the employment of convicted persons is done according to the mental and physical abilities of the convicted persons, professional qualifications and opportunities of PCI. Among other things, it is stated that the complainant was denied because of disability and the fact that the department has persons who are capable of working, in difficult financial situations, and who are not engaged in work, given the fact that the number of convicted persons is increased in relation to the number of job positions that need to be filled. It was established in proceedings that the expert team of the PCI did not perform the assessment of working abilities of the complainant in relation to the specific job of making the envelopes, but they rejected him because of the fact that he is a person with a disability and with a poor health condition.

The Commissioner for Protection of Equality gave an opinion that the PCI violated the provisions of the Law on Prohibition of Discrimination, by rejecting the request of the complainant or work engagement due to disability, without prior checking of his working abilities in relation to the requirements of a particular job. Therefore, she issued a recommendation to PCI to reconsider the request of the complainant to be engaged in jobs that he applied for, thereby assessing his working abilities and the ability to perform the particular job. On the other hand, PCI provided sufficient evidence that the complainant was not discriminated because of his age, considering that the age structure of convicted persons, who are engaged in the business of making the envelopes, corresponds to the age structure of the convicted persons in Penal and Correctional Institution. This recommendation was implemented.

Person with disability cannot buy a platform ticket on the bus station

The Commissioner for Protection of Equality was contacted by a person with a disability, who uses a wheelchair, and said that she cannot buy the platform ticket at the bus station in her town, because the point of sale is inaccessible. The statement noted that the point of sale of Peron tickets is not approached by stairs, but tickets are sold in the part of the bus station that is accessible, but, because of the position of the terrain from the place of ticket sales to the platform of the bus station, there are stairs. People with disabilities can use detour on platforms, by which the platforms are entered at the "ramp". Keeping in mind that the allegations in the complaint and statements differ, in order to correctly establish the factual situation the employee in Professional Service of the Commissioner visited the bus station, along with the president of the Association of paraplegics and quadriplegics of Serbia. The president of this association, who is a wheelchair user, questioned whether he may approach the place of sale of platform tickets, and whether he can enter the bus station platforms. It was established that from one street the counter hall can be entered, where platform tickets can be bought, across a pedestrian crossing, which is aligned with the entrance to the counter hall, that is, that persons with disabilities can buy Peron ticket without any difficulty. However, after buying a ticket, from the exit of the counter hall to the entrance to the platforms, there are a number of stairs. Therefore, for a person who uses a wheelchair, in order to come to the platform, he/she has to go back to the street by which he/she came, and which is very steep and person with disability can hardly come down without the support of an assistant and enter the platforms by the entrance that the buses use- entrance " by the ramp ". The Commissioner for Protection of Equality gave an opinion that the transportation company failed to take necessary measures to ensure adequate access to platforms of bus station, after the purchase of platform tickets, as well as the unhindered use of all services that this facility provides, by which the complainant was discriminated as well as all persons with disabilities, especially those who are using wheelchairs or Mobility Impairments. Transportation company was recommended to take all necessary measures in order to implement works and provision of adequate and safe access through all areas of bus station, including point of sale for purchase of platform tickets, entrance to the platforms for travelers on the platforms, so that people with disabilities can, under the same conditions, use the services of the bus station. Actions were taken according to this recommendation.

Municipality of Smederevska Palanka refused to provide the transportation from home to school to a blind girl

The complaint was filed by the father of an undraged girl, who claimed that his daughter was a primary school student from Smederevska Palanka, that she is blind, but she is not provided with transportation to school, as well as adapted educational materials and aids for school work, and support of a pedagogical assistant. He addressed to the President of the Municipality of Smederevska Palanka with the request to provide transportation to the child, but he informed him in oral conversation that he will not help him. The school, also, addressed to the municipality several times with the same request, but the transportation was not provided. In the proceeding, it was established that providing transportation for students with developmental

disorders and disabilities is a legal obligation of local self-government. That means that the municipality of Smederevska Palanka was obliged to provide the students with disabilities transportation to school, regardless of the distance of the residence from the educational institution. In relation to the allegations from the complaint that the municipality of Smederevska Palanka discriminated the girl by not providing her with support of pedagogical assistant, adequate textbooks and Braille machines, The Commissioner for Protection of Equality pointed out that the municipality of Smederevska Palanka is not obliged to provide pedagogical assistants for schools and teaching materials, but it should be done by schools and relevant ministry. The Commissioner gave the opinion that with failure to provide free transport to school for a student with disabilities, the municipality of Smederevska Palanka aggravated acquiring the right to education and full inclusion in the educational system for this girl, by which they violated the provisions of the Law on Prohibition of Discrimination. The municipality of Smederevska Palanka is not obliged to provide pedagogical assistants for schools and teaching materials, and in this regard, the municipality of Smederevska Palanka did not violate the provisions of the Law on Prohibition of Discrimination. Radoslav Milojević Keni, the President of the municipality of Smederevska Palanka, was recommended to take all necessary actions and measures under his jurisdiction with which he will provide means for transportation to school for the daughter of the complainant. This recommendation was not implemented.

Employees in Health Center refused to issue a medical certificate to boy with disabilities, which is necessary for enrollment in regular high school

The complaint was filed by the mother of a boy with disabilities, in which she claimed that the boy tried to get a medical certificate for the entry into the secondary school of Design, course of Technician of graphic design. However, a specialist in occupational medicine at the Health centre, Department of health care workers asked for additional examinations and tests before the examination and issuance of the certificate. Besides, the psychologist in this service, after examining, in the special section of medical certificate, she wrote "cannot attend secondary school according to the regular education system". It is advisable to enroll in a school for education and rehabilitation of children with developmental disorders and disability according to the program designed for his capabilities, best manipulative skills- pottery, weaving and similar". In the statement of chief of Health protection of workers, it was claimed that the complainant left the Health Centre before he completed all examinations which are required to obtain a medical certificate, and that medical certificate has not been issued yet, and that he should finish all examinations and attach existing medical records, so the procedure of issuance a medical certificate could be completed. In the statement of a specialist in occupational medicine it is claimed that she estimated that it is necessary for the boy to be examined by psychologist and neuropsychiatrists, so they could issue a medical certificate, and in claims of psychologist it is stated that on the grounds of insight into the medical records and psychological review, she concluded that boy " would not be able to engage in attendance at high school for design". The Commissioner for Protection of Equality gave an opinion that the Health Centre, that is Department of health care of workers, a specialist in occupational medicine and psychologist

violated provisions of the Law on Prohibition of Discrimination by setting specific requirements for the issuance of medical certificate, i.e. by finding where it was stated that the boy cannot attend a regular high school. The Health Centre was instructed to publish the opinion and recommendation of The Commissioner for Protection of Equality on the bulletin board or other visible place in the premises of the Health Centre and to send a written apology to the complainant for the discriminatory treatment towards him. It was recommended to the specialist in occupational medicine that in future, within the performance of tasks and assignments within her jurisdiction, not to set specific requirements for provision of health services based on the personal characteristics of the patients and which are not justified by medical reasons, and the psychologist was recommended not to bring findings and the recommendations whose content is discriminatory and by which patients are unjustifiably denied or realization of the rights in any field of their social life is made difficult in the future. This recommendation was implemented.

Center for Social Work discriminated a mother with disabilities

The opinion was issued in proceedings regarding complaint by the organization for Protection of Rights and assistance for persons with disabilities, which was filed on behalf and with consent of a woman with disability, in which it was stated that social workers, after examination in Health Centre, sent her under aged daughter to the institute of Mental Health, and after the treatment the daughter was placed in the shelter for urgent care for children victims of domestic violence without her consent, and she was temporarily deprived of parental right. In the decision of the Health Centre, by which the girl was put under temporary custody, it was stated that "... the mother, as a single parent who performs parental right, is a disabled hardly moveable person with essentially lowered parental capacity ... ". In the statement of Center for Social Work (CSW), it was stated that the decision on the temporary separation of the child from primary family and determining the temporary caretaker was made after an aimed assessment that in a family there was not enough of stimulation condition for optimal growth and development, as well as that the return to the family after the treatment was a risk to regression to the previous pattern of behavior, by which she would jeopardize the rights of the child to adequately satisfy the law, primarily, on education and health protection, with assessment that they currently exhausted all available opportunities to empower and support the family. During the proceedings, it was established that the attitudes expressed by CRS in support of the assertion that the applicant's complaints essentially reduced parental capacity and was unable to care for the child, they had no justified reasons. CRS did not submit an expert opinion of the team that would corroborate the allegation that there was a risk to safety and health of the child.

The Commissioner for Protection of Equality gave an opinion that by the adoption of a temporary conclusion on the emergency care in the Shelter for emergency care for victims of domestic violence and by making the decision on determining the temporary guardian of the complaint applicant's daughter, CRS violated provisions of the Law on Prohibition of discrimination. To the Social Work Centre was recommended to take all necessary measures to eliminate consequences of discriminatory treatment, to send a written apology to the

complainant, because of discriminatory behavior on grounds of her disability, and not to make decisions in future that violate anti-discrimination laws. This recommendation was implemented.

The complaint against the Belgrade City Assembly and City Administration for questions of funeral services because of discrimination on the grounds of disability

A complaint was filed against the municipality of the city of Belgrade and city administration for issues of funeral services because of discrimination on grounds of disability. The complaint claimed that the complainant, who had an amputated leg, went to the cemetery to visit his mother's grave, but the security guards did not allow the entry by his own car, on the grounds that such a decision was made by Assembly of the City of Belgrade. In the statement it was stated that on May 30 and 31 2015, due to the memorial service, the prohibition of entering the cemetery with motor vehicles for the safety of citizens and to avoid crowds, tension and nervousness was effective. During the proceedings, it was established that Decision on prohibiting the entry of motor vehicles in individual cemeteries on the territory of Belgrade, issued by a public utility company, which is in charge of these issues, and not the authorities against which the complaint was filed, and that the security guards at the entrance to the cemetery in particular case, acted in accordance with this decision. The Commissioner for Protection of Equality gave an opinion that Assembly of the City of Belgrade and Administration of the city, for the issues of funeral services did not violate the provisions of the Law on Prohibition of Discrimination.

Second instance commission for determining the medical fitness of the driver did not give a positive opinion for driving an adapted motor vehicle to a disabled person

The complainant filed a complaint against the second instance state commission for determining the medical abilities of the driver which stated that he is a person with disability (cerebral palsy) and has driven an adapted motor vehicle for over 20 years, but that the last time when he was supposed to extend his driver's license he got the final findings of the second instance state commission that he was incapable of being a driver of all categories. In the statement to the complaint it is stated that the complainant's driver's license is not renewed because, during the examination, changes in health condition are established, which does not allow him safe drive of an adapted motor vehicle. During the proceedings, it was established that the complainant at the last medical examination, did not get a positive opinion for driving the motor vehicle. It was established that his disability was not the reason for not giving a consent, that is, for giving an opinion that he is not capable of driving motor vehicles, but the fact that the changes in health condition were established at the medical examination, which completely excludes the safe

drive of the adapted motor vehicle, according to Regulation on detailed health conditions that needs to be met by the drivers of certain categories of motor vehicles. Second commission for determining medical abilities of drivers provided an objective and reasonable justification, due to which the complainant was not extended the driving license, given the fact that he does not meet the requirements for safe operation of a motor vehicle in the traffic. Therefore the opinion that by the adoption of the final findings and opinions by which the complainant was declared unfit for a driver of all categories, second instance state commission did not violate the provisions of the Law Prohibition of Discrimination was given.

Providing personal companions for children with developmental disorders and disabilities

Mother of an underage boy filed a complaint against Secretariat for education and Child Protection of Belgrade, where it was stated that Secretariat for Education and Child protection of the City of Belgrade did not provide the funds to finance a personal escort for her child, whereby the child was discriminated. During the proceedings, it was established that the boy has developmental disturbances, he is four years old and attends kindergarten group in a pre-school institution in Belgrade. It was also established that the Commission for assessment of the needs for additional educational, health or social support of the child/ student gave an opinion that the boy should attend a regular kindergarten group with individualized approach in accordance with established diagnosis and the best interests for the development of social and communication skills. In the part of the opinion called 'The realization of pre-school programs for work with children with developmental disturbances', the commission stated that the boy has the right to "personal assistant", without specifying who is the responsible person/ department for providing this additional form of support for the child. With the Law on Foundations of the Educational System it is stipulated that a team for providing additional support for the child and a student in a preschool institution makes an educator, professional associate, parent, that is, guardian, and in accordance with the needs of the child a pedagogical assistant, or a companion for personal help to the child, on request of the parents, that is, guardian. In the proceeding, allegations from the statement of Secretariat for Education and Child protection of the City of Belgrade were taken into account, which were supported by statements of some preschool institutions in the territory of city of Belgrade, that the employees of these institutions are considered personal companions in preschools institutions, which in internal communication in kindergartens are called "personal companions". It was also taken into account that the city of Belgrade did not issue regulations, by which additional support to children and students from especially sensitive social groups would be regulated in the detailed manner of financing and providing, nor ordered the authorities competent for the implementation of measures and management of financial resources, as well as that there is a gap in the regulations regarding the age of the children who attend preschools institutions and who need additional support of personal companions – whether the personal companions are intended for children who are attending the preparatory preschool program, or the younger children, keeping in mind the difference between the upbringing - educational work and educational- upbringing work. Therefore, at this time we can

conclude that there is inconsistent practice in relation with the engagement of personal companions in preschool institutions, and it cannot be determined whether Secretariat for Education and Child Protection was obliged to provide financial resources, and thus provide the boy with developmental disturbances with this additional form of support in the system of upbringing and education. Considering the allegations from complaints and claims, and the evidence submitted during the proceeding, The Commissioner for Protection of Equality gave an opinion that it was not established that the Secretariat for Education and Child protection of the City of Belgrade discriminated the son of complainant based on his disability

4.3.2 Recommendations on measures for achieving equality

The recommendation to public communal company from Belgrade to allow the entry to the cemetery to motor vehicles of persons with disabilities in the days of holiday, memorial day or the day after memorial day

The complainant, who is a person with a disability, said that the security guards did not allow him to enter the New Cemetery by his own car for the second day of Memorial Day, with the explanation that such decision was made by Assembly of the City of Belgrade. The complaint was filed against Assembly of the City of Belgrade and city administration for issues of funeral services, but the analysis of the submitted evidence, with the statement on allegations showed that the Decision on the prohibition of the entry of motor vehicles in the certain cemeteries on the territory of the City of Belgrade no. 3-40, dated 17 December, 2008 issued by PUC "Funeral Services" from Belgrade. The analysis of this decision showed that incorrect, outdated and discriminatory terminology was used in the article, that with Legal provisions of Article 5 all persons are prohibited entrance to the cemetery by motor vehicles on the days of national holidays, memorial day and the day after memorial day, as well as that the legal provisions of Article 6 of the decision stipulate that persons with disabilities can get a special permission to enter the cemetery in the days which are not national holidays and memorial day, on the basis of written application and documentation which confirms the disability. That is why The Commissioner for Protection of Equality recommended to PUC "Funeral Services" from Belgrade to change outdated and discriminatory terminology in the Decision about prohibition the entry with motor vehicles in certain cemeteries in the city of Belgrade, that is, comply with generally accepted linguistic and terminological standards in the field of human rights; to enable transport and/or entry of motor vehicles for people with disabilities and to a person with mobility impairments to all cemeteries during days of national holidays, memorial day and the day after memorial day, and to facilitate the procedure for issuance of special permits to enter the cemetery with motor vehicles for persons with disabilities and persons with mobility impairments, in the manner that is acceptable and appropriate for persons with disabilities and PUC "Funeral Services" from Belgrade. This recommendation for achieving equality was implemented.

The recommendations of measures to the Directorate for Public transportation of Secretariat for traffic of the City of Belgrade, to make the public transportation accessible

to persons with disabilities

A citizen of Lazarevac indicated in her complaint that the public transportation in the territory of Municipality of the City of Lazarevac is not accessible to people with disabilities, and in the proceedings conducted by her complaint, it was determined that her allegations are true, that is, that the public transportation in Lazarevac was not accessible to people with disabilities. The provisions of the Law on Prevention of Discrimination of Persons with Disabilities issued the obligation of local self-government to take measures, among other things, with the aim to make public areas and transportation accessible to persons with disabilities, and the accessibility makes one of the fundamental preconditions for equal participation of persons with disabilities in all areas of social life. Accessible public transportation is only one of the links of accessibility, that allows a person with disability a full social inclusion, but it is the most important link in the chain of accessibility. Lack of adequate transportation prevents people with disabilities to use other facilities and services and exercise the rights guaranteed to all citizens. The failure of city of Belgrade, Secretariat for transportation, Directorate for public transportations, the authorities with jurisdiction over organization of public transportation on the territory of city of Belgrade, to fulfil its legal obligation and make public transportation in Lazarevac more accessible to people with disabilities, led to discrimination of persons in Lazarevac, regarding the use of services of public transportation. The consequence of this failure is reflected in restricting abilities of individual persons with disability to under equal conditions enjoy civil, political, social, economic, cultural and other human rights and freedom. That is why the Commissioner for Protection of Equality sent a recommendation of measurements to Secretariat for traffic of city of Belgrade, Directorate for public transportation to take all necessary measurements to make public transportation in the territory of Municipality of the City of Lazarevac accessible to people with disabilities.

4.3.3 Announcements

Congratulation for the winning of medals at Special Olympics, August 6th 2015

On the occasion of the participation of our male and female athletes at the Special Olympics held in Los Angeles and 17 medals won, the Commissioner most sincerely congratulated them on the great success and pointed out that, with their participation and victories, they showed that it is also the way in which full and true equality is made and that they proved that they are true representatives of their country and that everybody should be proud of them. The success of our Olympians should also be a stimulus to the competent authorities to invest even more in improving the position of persons with disabilities, The commissioner pointed out that Serbia has a good legal framework when it comes to position of population that makes 10 % of the population, but it is necessary to work on full implementation of all regulation, especially of Anti-

Discrimination Law and the Law of professional rehabilitation and employment of persons with disabilities.

Public Announcement regarding the International Day of Persons with disabilities, 3 December, 2015.

On the occasion of 3 December, International Day of persons with disabilities, the Commissioner drew the attention on to still an inadequate position of persons with disabilities in Serbia and pointed out that it must be promoted further, especially when it comes to the legal and social status of persons with disabilities. It is necessary to reform the system that applies to the deprivation of business ability of persons with disabilities, because, in our country, the procedure is mainly based on full deprivation of business ability, while partial deprivation still remains as an exception. Such practice is contrary to international documents and standards. Regardless the fact that Serbia has a good legislative framework, complaints addressed to the Commissioner indicate that the discrimination against persons with disabilities is most noticeable in areas of education, labor and employment, life in the community, equality before the law, access to services and information. The new Proposal of Law on amendments to the Law on the Prevention of Discrimination of persons with Disabilities, which would introduce the stamp with engraved signature of the person with disabilities into use, is a good example of how problems should be overcome. Good anti-discrimination laws and their full application are very important. In practice, the persons with disabilities are often prevented to achieve their rights or they are placed in an unfavorable position, especially women and children with disabilities who are often the victims of multiple discrimination. That is why it is necessary to continuously work on removing barriers in all spheres of private and public life.

Public announcement regarding the discrimination of blind and visually impaired persons in GSP, 29 December, 2015.

The commissioner expressed the concern about the frequent problems faced by the representative of association of blind and visually impaired people of Serbia "White cane", Vesna Nestorović, because of the movement with the help of a guide dog. An appeal has been sent to all competent authorities of the City of Belgrade, as well as to representatives of all local governments, and especially GSP Belgrade, that is responsible in this particular case, that they are obliged to respect the law, in order to enable all the citizens, regardless of their personal characteristics, respect of fundamental human rights, including the right to move and use of public transportation services. The assembly of Serbia issued in March the Law on the movement with the help of a guide dog, and the provisions of Article 4 explicitly stipulate that "a

person who is walking with the help of a guide dog has a right to use all of means in public transportation, including the retention in all areas, which are attended for “ passengers”. The right to walk with the help of a guide dog means free access and movement in public transportation, facilities and areas in public use, in working and other space.

4.4 Discrimination on the Grounds of age

The number of complaints on the grounds of age in 2015 is slightly lower than the number of complaints on the same ground in the previous year. 61 complaints about discrimination on the grounds of age was filed , what makes 9.4 % of the total number of complaints filed, while in 2014 it was 11.3%. Although statistics show that the number of complaints due to discrimination on grounds of age is decreasing, this ground represents the fourth ground by the number of filed complaints in 2015.

One third of the complaints (20) on the grounds of age discrimination relate to children, 15 were filed for discrimination of persons older than 65 years, while most of the complaints were filed (26) due to various restrictions and conditions associated with age. Of the total number of complaints on this ground, 52 complaints were filed by individuals, 25 women and 27 men.

Most complaints filed on this ground were in the field of labor and employment (21), followed by proceedings before the public authorities (13), in the field of education and vocational training (12) and in the field of providing public services or the use of facilities and areas (7).

In the field of labor and employment, the highest number of complaints (17) on the grounds of age discrimination was submitted for persons older than 18 and younger than 65 years old. In these cases, usually it comes to issuing certain ages as conditions for the commencement of employment, issuing the criteria for referral to specialization and/or during the promotion at work.

This year several complaints against health centers because of discrimination on the grounds of age during referral to a specialization or because they were issued as one of the conditions for realization of rights to specialization, with a certain age limit have also been filed. We remind that the Commissioner for Protection of Equality in 2014 referred the recommendation of measures for eliminating discrimination on the grounds of age, on the occasion referring to the specialization and narrower specialization to the Ministry of health. When it comes to people younger than 18 years, most complainants were filed in the field of education and professional improvement (11).

Persons older than 65 years filed complaints of discrimination in the field of provisions of public services and during the use of facilities and areas (5), the field of labor and employment (4) and for proceedings before public authorities (4). The number of complaints of discrimination of persons older than 65 is higher than last year (14 compared to 10), but it is still quite a small number. Given the fact that this year several more complaints against different banks that represent upper age limit as a condition for the realization of the rights of some banking services were filed, The Commissioner for Protection of Equality sent a recommendation of the

measures to banks in Serbia to achieve full equality. Most banks reacted positively and removed upper age limit as a condition for obtaining certain bank services from their general acts.

4.4.1 Opinions and recommendations

The bank did not approve a loan to a farmer older than 70

Agricultural entrepreneur applied for aid to agricultural holdings through interest-free loans from a bank, on the grounds of competition which was announced by City administration. Given the fact that after the completion of competition he was approved the aid, he was sent to the bank to sign a contract, but there he was informed that the persons older than 70 cannot get a loan. In the statement of the bank, it was stated that the farmer did not meet the conditions issued by provisions of paragraph 2 Methodology of crediting of agricultural producers, which is why he was not granted a loan. During the proceedings, it was established that by the provisions of paragraph 2. Methodology of crediting agricultural producers of bank it is stipulated that the user of agricultural loans and other products intended for agricultural producers, may be a holder of the household, who in the time of submitting application is no more than 65 years old, nor more than 70 year in the time of repayment of the last loan installments, and if the client is more than 65 years old , a guarantee of a family member ,an heir of the household, is necessary. The Commissioner for Protection of Equality gave an opinion that the bank, by issuing conditions that the users of agricultural loans and other products meant for agricultural producers, can only be holders of registered agricultural household who, among other things, at the time of applying are no more than 65 years old, nor more than 70 at the time of repayment of the last installment of credit, performed an act of discrimination on the grounds of age. Therefore, the bank was recommended to send a written apology to the complainant for the discriminatory treatment towards him, to harmonize the methodology of crediting of agricultural producers with anti-discrimination provisions, as well as in the future, within the performance of activities from its jurisdiction, not to violate anti-discrimination laws. This recommendation was implemented

Bank discriminates the retirees

The complainant stated that he was 77 and that he wanted to apply for loan intended for users of retirement, but the bank did not allow him, because he did not meet the stipulated requirement that a pensioner is no more than 75 on the day of last payment. In the statement of the Bank, it was stated that the criteria set for the conclusion of the agreement of the loan is the right and the obligation of the bank to identify and assess the risks and decide under what conditions will approve a loan. During the proceedings, it was established that the bank in its

service- cash loans and refinancing loans for users of retirement issued, among other things, the requirement that the users of retirements, at the time of application are at least 55 years old, as well as the condition that on the day of the repayment of the last annuity are at most 75 years old. The Commissioner for Protection of Equality gave an opinion that the bank, by issuing the conditions relating to the age of users of loans for pensioners of minimum 55 years at the time of application and maximum 75 years on the day of repayment of the last annuity, violated the provisions of the Law on Prohibition of Discrimination. With the opinion, a recommendation to the bank to harmonize the criteria and conditions for the provisions of credit services designed for users retirement with anti- discrimination regulations was issued , as well as in the future, within the performance of duties from its jurisdiction, it should not violate anti-discrimination laws. This recommendation was implemented.

Discriminatory criteria for referral to a specialization

In proceedings concerning complaints against the employer of the Health center, and concerning the competition for admission to the specialization, which were published in August and October 2014 an opinion was given. During the proceedings, it was established that with the Regulations on amending and supplementing Regulations on Education, professional training of employees of the Health center the criteria for referring to specialization were issued as follows: the average score at the university, height of the score, from the subject branches of medicine / dentistry / pharmacy from which the specialization is being applied for, and years of life. The analysis of issued criteria showed that the age of candidates is the only criterion that does not apply to professional capabilities and achievements of candidates, but during the proceedings it was established that they , considering the way of scoring obviously put in an unequal position, persons older than 39, compared to younger candidates. Setting the criteria relating to the age of the candidates is not justified, because the age is neither real nor a decisive condition for referring to specialization, taking into consideration nature and characteristics under which specialization internship shall be achieved, as well as the condition under which it is performed. The Commissioner for Protection of Equality gave an opinion that with the application of criterion related to the age on competitions which Health centre announced in August and October in 2014, as well as in February 2015, complainant on the grounds of personal characteristics- age was discriminated. It is therefore recommended to Health center to remove the criteria for the referral to the specialization, which refers to age of candidates, to announce the opinion and recommendation of The Commissioner for Protection of Equality on the bulletin board or other visible place in the premises of Health Centre, as well as to take care in future that, when determining criteria for training, not to violate the provision of the Law Prohibiting Discrimination. This recommendation was implemented.

Discriminatory criteria for referral to a specialization

The opinion was given in the proceeding against the Health center on the occasion of competition for referring to a specialization. During the proceedings, it was established that Regulations on the professional development and training of medical workers, medical associates and other employees in the Health center issued criteria for referral to specialization and narrower specialization, namely : age, years of work experience, GPA in college, score from the subjects from the field which the candidate applies for , knowledge of English or other global language, quality of work and respect for the rules of business behavior and work discipline. The analysis of issued criteria showed that age of candidates is the only criteria which does not apply to professional skills and achievements of the candidates, and during the proceedings, it was established that, considering the way of scoring that they obviously put in unequal position persons older than 36 compared to younger candidates. Setting the criteria relating to ages of candidates is not justified, because years of life are neither real nor crucial condition for referral to specialization, by looking into the nature and characteristics under which one acquires specialist residency, as well as the conditions under which it is performed. The Commissioner for Protection of Equality gave an opinion that with the application of criteria which relates to age on competition which the health centre announced in November 2014, the complainant, as well as all other candidates older than 36, were discriminated on the grounds of personal characteristics- age. It is therefore recommended to Health Centre to remove the criteria for referral to specialization, which refers to ages of candidates from Regulations on the professional development and training of medical workers, medical associates and other employees in the Health center. The Commissioner for Protection of Equality gave an opinion to announce the recommendation on the bulletin board or other visible place in the premises of Health centre, as well as to take care when determining the criteria for improvement not to violate the provisions of the Law on Prohibition of Discrimination in the future. This recommendation was implemented.

The company stimulated employees for retirement

The opinion was issued in the proceedings concerning the complaint filed against the employer for the decision by which the conditions for stimulating departure of the employees were issued, that is, the condition that for stimulative departure can applied by employees that are going to be 65 next year, and have at least 15 years of insurance service. The complainant believes that he is discriminated because he turns to be 65 this year, so the mentioned stimulants do not

apply to him. In the statement it was noted that the interest of the business company is to personal, professional and age structure of employees, and that the one of the ways is the voluntary departure of certain categories of employees, who have the ability to remain in employment relationship for longer period, and it is stimulated by realization of rights to single payment. During the proceedings, it was established that the employer adopted the Decision on conditions and criteria for stimulating the voluntary departure from the company, which determined that the right for stimulating voluntary departure from company is granted to the employees who are in 2014 eligible for early old-age pension, with exceptions for employees who are turning 65 in 2015, and at least 15 years of insurance service. Employer provided certain categories of employees the option to leave the company by taking certain stimuli, that is, by providing financial incentives, in order to achieve the goal that fits the best to the needs and financial capabilities of the business company. Given the fact that the employers have limited financial recourses and that it is not in his financial interest to provide incentive to the employees who will definitely by the force of the law retire until the end of current year, in this particular case, there is a proportion between the issued measure and the goal which is achieved by the measure. Therefore, an opinion that by determining the criteria and conditions in Decision on conditions and criteria for stimulating the voluntary leave from the company stating that the business company did not violate the provisions of the Law on Prohibition of Discrimination was given.

Discrimination of mother on the grounds of age during the registration of a child in kindergarten

The opinion was given in the proceedings concerning the complaint due to decision of competent commission of one pre-school institution in Belgrade and second instance decision of Secretariat for Education and Child protection, Department for inspection supervision of City management of the city of Belgrade, that the complainant, during the registration of the child in kindergarten, does not recognize the status as a regular student, because she is 37 years old. During the proceedings it was established that the attitude of the selection committee and the decision of Secretariat for Education and Child protection of Department for inspection supervision of city administration of the city of Belgrade, was that the complainant cannot be granted the status a regular student because she is 37 years old, and does not achieve the privileges that are stipulated for students who are under 26 years old. The analysis for determining the priorities for enrollment of children in pre-school institution, which are stipulated by Regulations on the more detailed requirements for the establishment of priorities for enrollment of children in pre-school institutions, showed that the status of full time student is not conditioned with some additional criteria, such as the age of one parent. The Commissioner for Protection of Equality gave an opinion that they , by adopting the Decision of the selection committee and the secretariat for Education and Child protection of Department for inspection supervision of city administration of Belgrade, and that at registration of child in pre-school

institution, complainant does not recognize the status of a regular student because of her age, in Secretariat of Education and Child Care of Department for inspection supervision of city administration of Belgrade, violated the provisions of the Law Prohibiting Discrimination. This is why they were recommended to take all necessary measures in order to eliminate the consequences of discriminatory treatment towards complainant, to send her written apology for discriminatory treatment on the grounds of her age, and that in the future, during the performance of jobs within its jurisdiction, do not violate the provisions of the Law on Prohibiting of Discrimination. This recommendation was implemented.

Employer reassigned several older employed women to another place of work

Five women employed in the public company, separately filed complaints against the employer, They stated that they are 60, and 62 years old, and have 34, 35 and 37 years of work experience and that they are, by signing the annex to the contract on the work reassigned to lower valued jobs with lower coefficient, and that they are reassigned to other place of work in other populated place. In the statement of the company, it is stated that the complainants' accusations were reassigned to other positions because of the needs for reorganization and rationalization of business operations of the company, in accordance with the instructions of the Government of the Republic of Serbia. During the proceedings, it was established that among employees who were reassigned to other positions, and who changed the place of work and got reduced coefficient, are the employees between 29 and 65 years old. It is established that the public company provided enough evidence that the conclusion of offered annexes to employment contracts, by which the complainants were reassigned to another place of work and by which they got a lowered coefficient, were not because of their age. The Commissioner for Protection of Equality gave an opinion that by any annex of employment of contract, by which the complainants were reassigned to another positions and by which they are determined a lower coefficient of jobs, the public company did not violate the provisions of the Law on Prohibition of Discrimination.

The complaint of female worker against the employer for discrimination on grounds of age

The opinion was issued in proceedings regarding a complaint filed by a worker, filed against the business company where she works, because of discrimination on the grounds of age. The complainant alleged that in early of March 2013 she was proposed to retire, because she met the requirements for retirement. She refused this proposal, after which she was reassigned from

the position of manageress of Economic and financial service to the position of independent officer in Planning department, and she was determined a lower coefficient for payroll accounting. In the statement of the company, it was noted that the complainant was reassigned to another work place due to increased volume and complexity of job in the services to which she was reassigned, as well as her working experience in economical profession. In the amendment, it was indicated that from a total of 154 employees who were in that period reassigned on other position, 106 of them received higher coefficient, and that only five of employees aged from 60 to 65 were reassigned. During the proceeding, it was established that the employer provided enough evidence that there were objective reasons for the reassignment of employees, including the complainant, which were not related to her personal characteristics, given the fact that the employer increased volume and complexity of the work in the planning department, that in the mentioned period, 154 workers were reassigned to other position, that 196 of employees received higher coefficient for payroll accounting, as well as that only five of employees from age group from 60 to 65 years, including her, were among the reassigned employees. Therefore, The Commissioner for Protection of Equality gave an opinion that business company did not discriminate employee on the grounds of her personal characteristics- age.

4.4.2 Recommendations of measures for achieving equality

<i>Recommendation of measures to banks to eliminate direct discrimination on grounds of age in the use of banking services</i>

Acting upon the complaints of citizens that are related to the services offered by banks to individuals, it was noticed that the majority of commercial banks in Serbia condition the use of banking services (current account overdrafts, loans, etc.) by age of customers. Banks also issue that certain banking service, can use, for example “people up to 70 years old” but “not older than 67 at the time of repayment of loans / borrowings”. By specifying the conditions of the upper limit of age for using of banking services, the bank directly discriminates the citizens on the grounds of personal characteristics- age, by denying the rights to a certain group of people (older than the upper mentioned limits) to use banking services. Also, the form of violation of the principal of equal treatment is reflected in the imposition of additional conditions that are required from older users of banking services (e.g. additional guarantee), and which is not required of other potential users of services, by which the older persons are deprived of the possibility that the bank assesses their financial ability on the grounds of comparable and objective criteria. The rights of the banks to carry out the assessment of financial ability and the credit risk is not disputable in every individual case, because they have a legitimate and based on law interest, that by placing the funds provide adequate profits, which includes an adequate assessment of credit risks during the approval of the use of certain services. However, this does not entitle the banks to exclude, that is, prevent the access to banking accounts to entire groups of citizens on the grounds of some personal characteristic, in this case age. Each

banking service must be accessible to all citizens under equal conditions, and in individual cases, banks have the authorization to assess whether the particular client is eligible to use certain banking services. Therefore, on the addresses of 29 commercial Banks in Serbia, a recommendation for achieving the equality by which the banks are recommended to take all necessary measures, so they could eliminate the discriminatory condition of the upper limit of age for the use of banking services that banks issue with their general acts was sent. Most of the banks responded that they acted or they will act in accordance with the recommendation.

The recommendations of measures to National Employment Service to eliminate discrimination on the grounds of age guarantors users of subsidies for self-employment

Acting upon the complaints of citizens, it has been established that the National Employment Service, Department for the city of Belgrade, while approving subventions for self-employment, issues a condition that the endorser of the user of subvention cannot be a person older than 65. By specifying the conditions of the upper limit of age for endorsers, National Employment Service is directly discriminating citizens on the grounds of personal characteristics- age, by denying the right to a certain group of people (older than the above limit) to be endorsers to the users of subventions for self-employment. National Employment service was recommended to take all necessary measures to eliminate discriminatory condition which is related to the age of endorsers. Following this recommendation for achieving the equality it was acted upon.

4.4.3 Announcements

Public Announcement regarding the International Day for the Elimination of Violence against the elderly, 15 June 15, 2015.

Violence is one of the biggest problems in every society and in ours, and violence against older persons is the violence we usually do not talk about. Abuse and neglect of the elderly are still a taboo, although there is an allusion that it is talked about more. The elderly belong to the most vulnerable and most discriminated groups in Serbia, and to their problems the Commissioner indicated in a statement on the occasion of International Day against Violence against the elderly. The statement claimed that our society is becoming increasingly older, and every citizen of Serbia deserves and has right to live with dignity without fear, shame and in a safe environment.

Public Announcement regarding the International Day of Older Persons, 30 September, 2015.

Like most European countries, Serbia is also faced with the challenges of demographic aging of the population. Now, every fourth person is older than 60 years, and the estimates are that by the mid-century, every third person will be that age. The total socio-economic status of elderly in Serbia is unfavorable, and people over 65 make almost a quarter of the total number of the poor. It is therefore of utmost importance to work on creating of policies that will take into account the contribution of older persons, to prevent discrimination and marginalization of older people and ensure that they, on the grounds of their own experience and knowledge, are included in social life, said the Commissioner for Protection of Equality on the occasion of marking the International Day of older persons. According to Global aging index for 2015, Serbia is in 66th place among 96 countries in the world for social and economical well-being of older people, which is the proof that some progress has been made compared to previous year and out of four key criteria, best assessed are those which are concerned with security of income for the elderly, while lower assessments for criteria of health of older, incentive environment for older and personal skills of elderly. According to the data from the index, in Serbia there are 2.2 million of people older than 60 years, and the assessments are that by 2050 32.3% of total population will be older than 60.

Public Announcement regarding the International Day of Children Victims of Violence, 4 June, 2015.

Research by UNICEF in Serbia from 2014 showed that more than 40% of children under 14 years old experienced violent methods of punishment and upbringing, and some researches show that the children are victims in 50% of cases of domestic violence, while 70% suffer from gender-based violence in schools. On this devastating statistic, The Commissioner for Protection of Equality warned the public on the occasion of the International Day of child victims of violence and stated that the institutions of education, social work and health care are crucial for the prevention of violence against the children, with the intervention of the police and judicial authorities. The Commissioner supported the initiative to supplement the regulations which would explicitly prohibit physical punishment of children and the use of physical force as pedagogical means. In this statement, it is recommended that the competent authorities without delaying adopt the Regulations on detailed criteria for the recognition of all forms of discrimination in educational and pedagogical institutions and to provide all conditions for its implementation.

The Commissioner for Protection of Equality pointed out that the International Youth Day is an opportunity for all us to wonder why the social circumstances are for decades unfavorable for development, improvement and the life of youth, and what should be done to improve the position of coming generations, above all, how to solve one of the biggest, if not the biggest problem, and that is unemployment and how to create the necessary conditions and environment in which young people will feel safe, secure and equal. The problem of young people in Serbia is the fact that they do not feel like having any power to influence their own lives or the ability to make decisions on issues that are important to them. The majority of young people are of the opinion that social, political and economical community in Serbia does not understand their needs, which our community does not feel like their own, so they are ready to leave it easily. The Commissioner has it is therefore necessary to balance the needs of labor market and educational system. It is especially necessary to pay attention to cases in which young people are discriminated, often unconsciously and sometimes maliciously, with the particular development of a culture of dialogue, tolerance and respect for human rights from an early age. UNICEF organizes the Youth Panel "Exorcists of discrimination", where it is continually being tried to contribute to it by increasing the active participation of youth in social life in Serbia and in the fight for the protection of equality and reduction of discrimination.

4.5. Discrimination on grounds of sexual orientation and gender identity

Out of the total number of complaints that were filed in 2015, 31 filed complaints were due to discrimination on the grounds of sexual orientation, by which the percentage of complaints on this ground increased to 4.8% compared to last year's 2.6%. Keeping in mind that the number of complaints on this ground in 2014 accounted mere 18, it can be said that there is a certain increase in the number of complaints due to discrimination based on sexual orientation. However, neither does the number of complaints reflect the position of the LGTB population in Serbia, which is one of the most venerable social groups.

The largest number of complaints, more than 50%, was submitted by organizations of civil society, which is understandable, keeping in mind that with LGTB persons there is the great fear of victimization and stigmatization. It is also the cause of the insufficient number of complaints on these grounds, keeping in mind that LGBT people are often concerned for their personal safety.

Most complaints on these grounds are related to the field of public information, 21 complaints due to sexual orientation and 17 complaints for gender identity.

By analyzing the content of the complaints on the grounds of sexual orientation, the most important challenges in the way of realizing the rights to equality for LGTB people can be singled out. These are the protection of personal safety and efficient fight against violence over LGTB persons, protection from discrimination in the workplace and respect for the dignity in the public space. When it comes to transgender persons, as an obstacle to equal inclusion in social flows, the question of issuing personal documents, that is, legal recognition of gender identity is further raised.

In order for the legal and institutional frames for protection of rights of LGTB persons to be efficient, it is necessary to increase the level of trust of LGTB persons in institutions, that is, to reduce the current level of stereotypes and homophobia in institutions of the system, which should provide them with protection. In September 2015, Trans Pride, along with Pride Parade took place for the first time, peacefully and without incident, but with high security measures. The representatives of international organizations and national institutions were also present, but such events were an opportunity for Serbia to show devotion to the ideas of tolerance and respect for diversity.

4.5.1 Opinions and recommendations

Declaring the sexual orientation on a systematic examination in the student clinic

The complaint was filed by an organization of civil society, which stated that the questionnaire for mandatory systematic examination for students, conducted by the Institute for Student Health Care Novi Sad, raises the question of sexual orientation. The question asked in the questionnaire was: " Sexually, you are attracted exclusively to persons of opposite sex" with multiple choice " false ", "true to a lesser extent", "true to a greater extent" and " completely true ". In the statement on the complaint it was claimed that the aim of the questionnaire was to provide students with help and support, if they have any problems in any sphere of life, as well as when it comes to applying on the counter, students are told that the questionnaire is optional. In the proceedings was established that asking this question constitutes a reach of the mandatory regulations on the prohibition of discrimination, because the requirements for students, while performing a systematic examination, to declare their sexual orientation is explicitly prohibited by the Law on Prohibition of discrimination. The Commissioner for Protection of Equality gave the opinion that, by asking the question in the questionnaire, in which students are required during performing of systematic examination, to declare their sexual orientations, the Institute for Student Health care violated the provisions of the Law on Prohibition of discrimination. Along with the opinion a recommendation to have this question removed from the questionnaire was also issued , as well as that in the future, this Health Institution takes care not to breach the legal regulations on the prohibition of discrimination that in the framework of their regular jobs and activities. This recommendation was implemented.

Writing daily newspapers in a manner which offends the dignity of LGBT

Opinion was given in the proceeding concerning the complaint of 13 organizations of civil society and one citizen against a daily newspaper, concerning the front page and the text under the name "Shocking proposal of Ombudsman: Gays in Serbia to adopt children?!". During the proceedings, it was established that this text refers to the analysis of the working version of The Proposition of the Law on Gender Equality, which, among other things, provides for equality in rights to the adoption and legalization of so-called "Surrogate mothers". The analysis of titles and subtitles ("Shocking proposal of Ombudsman: Gays in Serbia to adopt children?!". "Scandalous planting") showed that a message to the readers on the right to adoption of a child without discrimination and legal regulation so-called: "Surrogate motherhood", represent negative social phenomenon was sent. The Commissioner for Protection of Equality gave an opinion that the title of the article "Shocking proposal of Ombudsman: Gays in Serbia to adopt children?!"; as well as the subtitle in the article "Scandalous planting", which was published in this newspaper, express ideas and attitudes that are disturbing and humiliating and by which the dignity of persons with different sexual orientations other than heterosexual is insulted, that is, that by choosing the title and the subtitle of the text they violated the provisions of the Law on Prohibition of Discrimination. Therefore, it is recommended to daily newspaper not to publish attachments that are disturbing and humiliating in the future, and by which they insult the dignity of members of LGTB community, as well as to take care not to violate the legal regulation on the prohibition of the discrimination in the framework of their regular duties and activities. This recommendation was implemented.

General Staff of the Serbian Army and the Ministry of Defence humiliated and degraded a transgender person

The complained was filed by associations of citizens with the consent of a transgender person, who was the major of the Army of Serbia, due to discriminatory attitudes mentioned in the command on the termination of the professional military service. During the proceedings, it was established that the Administration for Human resources of the General Staff of the Army of Serbia, with the proposal of Mayor the General Staff for termination of professional military service of the complainants, sent a rapport to Ministry of Defense, which states that in the applicant's complaint 'a psychiatric diagnosis that may cause adverse effects on the reputation of the Army of Serbia was established'. Acting upon this proposal, the minister of Defense issued an order on the termination of professional military service of major, which also states that it was "established psychiatric diagnosis that may cause adverse effects on the reputation of the Army of Serbia". The Commissioner for Protection of Equality gave an opinion that by the issuing of such an attitude the provisions of the Law on Prohibition of Discrimination, which prohibit harassment and degrading treatment were breached. It is recommended to the General

Staff of the Serbian Army and to the Ministry of Defense to send a written apology to the complainant and to take measures to reduce transphobia, increase tolerance and prevent discrimination against transgender and transgender military personnel and persons employed in the Ministry of Defense. This recommendation was implemented.

The restaurant chain fired an employee who is a member of the LGBT population, but not because of sexual orientation

The complainant stated that he had been employed since 2005, and that he openly declared himself about his sexual orientation. It is believed that due to his sexual orientation, he was exposed to discriminatory behavior and insults in the workplace, which resulted in the termination of employment. It was also noted that in the previous years he was warned to unsatisfactory communication with customers and employees. The employer provided a credible and objective explanation of this. During the proceedings it was established that the complainant was canceled a contract of employment for reasons that were not related to his sexual orientation. On the other hand, during the proceedings, it was not established that the employer was exposed to harassment and humiliating treatment on the work place due to his sexual orientation. That is why The Commissioner for Protection of Equality gave an opinion that with the decision of employer on the termination of the employment contract, he did not violate the provisions of the Law on Prohibition of discrimination, and that it was not established that the complainant was exposed to harassment and humiliating treatment in the workplace because of his sexual orientation.

A police officer claimed that he had to declare his sexual orientation due to the support provided by the LGBT population

The opinion was issued in proceedings concerning the complaint of a police officer against his immediate superior, because of discrimination on the grounds of his health condition, membership in union organization and sexual orientation. In the complaint he stated that the immediate supervisor ignored his medical condition during the execution of the official task of ensuring a match, due to which he was given emergency medical care in the Emergency Center. Also, he stated that his elder recorded unjustified absence for work during the strike of employees, because of membership in union organization, and that he was insulting him and humiliating him because of the support which he provides to the LGTB population, and he was forced to declare his sexual orientation. In the statement, the supervisor explains that he replaces the person who is the immediate superior to the complainant, and that the allegations in the complaint are false and they represent the part of the campaign led by the complainant, to

deny the decision on the transfer to another unit. He explained that in the police hierarchy he has no authority to decide on the rights and privileges from labor relations of the complainant, and that the rules of recording of the employees during the strike was valid for everyone and was established by binding Dispatch by the Ministry of Internal Affairs. He denied that he ever asked the complainant to declare himself about his sexual orientation and that he is unaware whether the complainant publicly advocated for respects for LGTB populations. During the proceedings, it was established that the superior of this police officer was not involved in deciding of his transfer into another unit, and his conduct during the official task of securing the match and during the strike of employees of PD was not in accordance with provisions of Law on Prohibition of Discrimination. During the procedure, it was not established that the complainant was exposed to harassment and humiliating treatment in the work place because of some of his actual or assumed personal characteristics. Therefore, The Commissioner for Protection of Equality gave the opinion that the police supervisor against whom a complaint was filed, did not violate the provisions of the Law on Prohibition of Discrimination, and that it is not established that the complainant was exposed to humiliating treatment or harassment in the work place because of some of his personal characteristics.

4.5.2 Warnings and announcements

Warning the public about attacks on LGBT activist, 4 September, 2015.

The Commissioner strongly condemned the attack on the LGTB activist Predrag Azdejković, and requested an urgent response from the competent authorities because the verbal threats and physical assaults are absolutely impermissible and that it is the obligation of the police and all of the competent authorities to protect citizens, regardless of their sexual orientation or any other personal characteristic. They expressed the expectation that in this, as well as in any other case, the attackers will be found and adequately sanctioned. For the development of our society towards the democracy the human rights and freedoms must be guaranteed to every citizen.

Public warning regarding the attack on activists of LABRIS-a, 29 September, 2015.

The commissioner strongly condemned the brutal attack on the activist of Labris, Dragoslava Barzut and three other girls that were sitting in café, and sent an urgent request to the competent institutions to track down the attackers and prevent further acts of physical abuse that are inspired by homophobia. It is absolutely intolerable to attack women sitting in café, for any reason. Especially, worrying data that Labris presented considering this attack- it was motivated by hatred due to the personal characteristic, which represents one of the gravest and

most disastrous consequences of the form of discrimination and it seems that all LGTB persons, but all women also, feel insecure and unsafe. Commissioner pointed out that only the effective conduct of competent authorities can send a clear message to the attackers, the advocates of such attacks and to the general public that the hate crimes, crimes of discrimination and violence against women, will be severely punished. Just the adequate response of the system presents the clearest message, and at the same time the most effective way of prevention.

Public Announcement regarding the International Day Against Homophobia and Transphobia, 17 May, 2015.

With this announcement, the attention of the public was drawn on the International Day against Homophobia and Transphobia, which has been celebrated since 1992, as the day when the World Health organization deleted homosexuality from the International Classification of Diseases. Public opinion polls have shown that every other citizen of Serbia believes that homosexuality is a disease that it should be treated, and more than 80% do not want LGBT people in their family, that there is a great social distance, homophobia and transphobia are terms of negative stereotypes and prejudices about LGBT people, and that the discrimination on the grounds of sexual orientation is a part of everyday life of LGTB people in Serbia. All this shows that it is extremely important to affirm the idea of human rights, gender equality and tolerance in all spheres of society, and work hard to suppression of discrimination on the grounds of sexual orientation as well as any other personal characteristic.

Public Announcement regarding the International Day of Pride, 26 June, 2015.

The Commissioner for Protection of Equality congratulated the International Day of pride to all LGTB community in Serbia, and also pointed out to the still poor position of LGTB population and discrimination to which they are exposed. In the recent years, there have been some steps towards improving their position, certain strategic documents were adopted and a Pride Parade was held, but that is not enough for Serbia to be a safe environment for all those who have different sexual orientation. Intensive over continuous work on suppression of prejudices and stereotypes is required, especially with children and young people. This is the way to teach new generations tolerance and non-discrimination and to show them that we are all equal, but special, and that's precisely what these differences are offering, the opportunity to develop and enrich as individuals as well as the society. At the end of the statement, the Commissioner called on all citizens to join the rally at Republic Square, which is called Hate free zone, and which is dedicated to anti-fascism and ideas of liberty, equality and space.

In the statement, the satisfaction with the fact that the Pride Parade and Trans Parade in Belgrade were peaceful and without incidents was expressed. By these events, Serbia has demonstrated its commitment to the ideas of tolerance and respect for diversity. The support for LGBT population this year with joint walk gave a number of representatives of state institutions, international organizations and citizens. The position of LGBT people in Serbia must be promoted daily, human rights and freedoms must be respected and protected regardless of sexual orientation. In the last year, some steps have been made for the improvement of the position of LGBT population, although the researches continue to show that they are exposed to discrimination and that the social distance towards them is not reduced.

4.6 DISCRIMINATION OF REFUGEES, INTERNALLY DISPLACED PERSONS, MIGRANTS AND ASYLUM SEEKERS

Since May 2015, a large number of refugees were headed to Europe through the territory of Serbia, which is why the number of asylum seekers in Serbia began to grow rapidly from June 2015. The reports of state authorities and Civil Society organizations are showing that there is no systematic discrimination against refugees and migrants in Serbia, but there are still individual incidents. This is witnessed by eight complaints filed during 2015, because of discrimination of refugees, migrants and asylum seekers. The complaints were related to the field of public information and media (five complaints) and providing public services.

It should be kept in mind that in the Law on Prohibition of Discrimination, the personal characteristics of *refugees, migrants or asylum seekers* are not explicitly stated. However, as the list of personal characteristics is not closed, that is, discrimination can be made on the grounds of other actual and assumed personal characteristics, there is no doubt that the status of refugees, migrants or asylum seekers is certainly a landmark, which under the terms of Anti-Discrimination Law, can be considered as other personal characteristic.

All complaints on behalf of refugees, migrants and asylum seekers were filed by civil society organizations, that is, none of the complaints were filed by an individual who considered that it was discriminated because of their personal characteristics. The reasons why the persons do not address the competent authorities in Serbia is because they are multiple and complex. The difficult position, the language barrier and previous traumatic experiences from the country of origin, and from other countries through which they passed on the way to Serbia, are preventing the potential victims of ill-treatment to file a complaint.

In the majority of complaints, the complainants pointed out to newspaper articles in which the negative stereotypes toward refugees that encourage the intolerance of citizens of Serbia

towards them are presented. However, in almost all of these complaints, one fact was ignored: the attitudes expressed in the articles of the journalist, in relation to which the complaints were filed, can be the subject of discussion and public debate, among other things through the comments of the readers also. The essence of freedom of speech is that we have a personal opinion, to express it, but also that others have the opportunity to express their opinions and dilemmas. From these complaints, it is shown that very often for the citizens, including civil society organizations, the distinction between freedom of speech and discrimination is not clear.

The situation is different regarding the complaints in the field of provision of public services. The Commissioner for Protection of Equality ended two proceedings during 2015 on the grounds of complaints from this area, and on both occasions established that the persons, against whom the complaints were filed, discriminated the refugees.

4.6.1 Opinions and recommendations

The recommendation of Union of taxi association of: Do not drive asylees!

The opinion was issued in the proceedings concerning the complaints by civil society against the Union of taxi association of Serbia regarding the statement of the President of this society, published in one daily newspaper 'NEW RECOMMENDATION TO TAXI DRIVERS: Do not drive the asylees!'. During the proceedings it was established that in the article, among other things, it was stated that the Belgrade taxi drivers got the recommendation not to accept the rides of asylees. The president of the Union of Taxi companies of Serbia said that no one can forbid the taxi driver to accept the drive of each customer, but that it warns them of the risks. "The recommendation to taxi drivers is not to drive asylees, because they can fall into an unpleasant situation. The police, when find the asylees temporarily take away the vehicle of a taxi driver and conducts legal proceedings. In the proceedings, the taxi driver is asked to prove that he did not know that the asylees were in the car. These are very serious matters". In the proceedings, it was taken into account that the president of the Union of taxi association of Serbia wanted to warn the members of the union that the police took away vehicles to certain taxi drivers who were driving the asylees, and that the Prosecutor's office initiated criminal proceedings against them. Having in mind that the task of professional associations is to inform their members about current events and to warn them of the possible inconveniences and potential threats during the provision of services, it can be concluded that the aim of this publication was justified. However, the fact that the Union of taxi associations of Serbia failed to take other measures to solve resulting problem, considering that the denial of transportation services to asylees, is a way to prevent inconveniences that taxi drivers may have, leads to unjustified consequences for asylees who want to use taxi services. The Commissioner for Protection of Equality gave an opinion that by recommendation of taxi drivers not to drive asylum seekers/ migrants, by which this category of passengers was put in an unequal positions regarding the possibility to use services of taxi transportation on the grounds of personal characteristics, the Union of taxi

associations of Serbia violated the provisions of the Law on Prohibition discrimination. That is why the Union of taxi associations of Serbia was recommended that in addressing to the taxi drivers and in media appearances the denial of service to asylum seekers/ migrants must not be recommended, that by such actions they contribute to provide all passengers with the services of transportation under the same conditions, regardless of their personal characteristics, and to take care that in the context of their regular duties and activities do not violate the legal provisions on the prohibition of discrimination.

The conductor demanded that the refugees sit in the back of the bus

In a complaint filed by an organization of civil society against one Bus Company, it was claimed that the organization's activist was traveling with the bus of this company, on the route Belgrade- Subotica. Upon entering the bus she noticed that the conductor was asking from a group of people, who "looked like refugees", to get up and take a seat in the back of the bus. In the statement, the company did not deny the allegations from complaint relating to the behavior of the conductor towards refugees, but it focused on the thesis that the complainants failed to submit evidence in support of its claim that the refugees from the front seats moved to the seats in the back of the bus. The company claimed that the passengers were not complaining about different treatment, which in the opinion of this company proves that there was no discrimination. It was established that the company did not provide any evidence for the claim that during the provision of transport services which was attended by the activist of this organization, treated the refugees in the same way as other travelers, what was required of him to do in accordance with the rules of redistributing the burden of proof. The fact that none of the moved refugees were not appealing, does not indicate that the discrimination did not occur, but their behavior can be the result of lack of language skills, a sense of apathy because of the situation they are in and that they want to avoid conflicts in the foreign country. The Commissioner for Protection of Equality gave an opinion that by the requirement of the conductor that the refugees who were seated in front of the bus move to the back of the bus, regardless of the numbering of the seats on their bus tickets, the company committed an act of discrimination – harassment and humiliating treatment. That is why it is recommended to publish the opinion and recommendation of the Commissioner on the bulletin board or other visible place in the premises where the employees of this company reside (drivers, conductors and other persons), within 15 days from the day of receiving the opinion with recommendation. This recommendation was implemented

The mayor of the municipality of Kanjiža showed the discriminatory attitudes that insult the dignity of refugees

Complaints against the mayor of the municipality of Kanjiža and municipality of Kanjiža were filed by the organizations because of statements that the mayor of the municipality made on the occasion of refugees who are residing on the territory of the Republic of Serbia and municipality of Kanjiža. During the proceedings it was established that the Mayor of Kanjiža, in press conference, on the occasion of refugees who are residing on the territory of municipality of Kanjiža, among other things said: " More buses, full of refugees who are coming to our city, regularly arrive from Preševo, Belgrade and Subotica. They have desecrated our cemeteries, graves, our chapels; they are destroying public spaces, parks, fields and orchards. Let us all take a look at what have they done in the last month, these foreigners who do not possess even the basic elements of general intelligence and culture. However, it appears that they have money and that is the point. Every citizen of Kanjiža, Martonoš and Horgoš is right when they go out with fear; he/she is right when he/she is worried about the future of their children, but also about the beginning of school year that is awaited in fear and because of the destruction of public areas, streets. On behalf of local self-government of Kanjiža I urge the citizens to be prepared". During the proceedings it was established that the presentation of such an attitude is an act of discrimination because it offends the dignity of refugees, in relation to them makes the humiliating and offensive environment and contributes to the spread of prejudice, bigotry and intolerance. The Commissioner gave an opinion that in the statements made by mayor of municipality Kanjiža on the press conference at the premises of the municipality of Kanjiža, and which were published the next day on the internet presentation of the municipality, as the attitude of local self—government on the occasion of the refugees who are residing in this municipality, the attitudes that are harassing and humiliating and by which they are insulting the dignity of the refugees were expressed. The Mayor of the municipality of Kanjiža and the municipality of Kanjiža were given a recommendation to publicly apologize for the statements about refugees, to publish the apology on the internet presentation of the municipality, as well as not to publish statements by which they insult the dignity and by which they support prejudices towards the refugees in the future , and to contribute by their actions to the reduction of xenophobia, racism and discrimination and the increase of tolerance towards the refugees.

4.6.2 Warnings and announcements

A warning to the public on the occasion of the announcement of certain meetings against migrants, 26 August, 2015.

On the occasion of the announcement of some extreme organizations that they are planning the protest meetings against migrants, the commissioner warned the public that by the Constitution and the Law it is prohibited to spread any religious, national and racial hatred and discrimination, and that this country will not tolerate that. The competent authorities should act in accordance with the law and to evaluate whether the values which should be promoted on that event, are in accordance with the laws and the Constitution, and whether the organization that are announcing these meetings are allowed. In the same time, regardless of whether the

meeting is registered or not, the competent authorities must send a clear message that they will not tolerate any form of extremism and that every act that is contrary to the democratic values will be immediately sanctioned. Intolerance, xenophobia and racism must have a broad condemnation of all relevant factors in Serbia, not only individuals, but the society and the country have to show that they are ready to cope with such phenomena. It was also brought to attention by a warning that we must not allow casting a shadow on solidarity and tolerance which our citizens show on daily basis to migrants as well as all good things that our society and our country have done as whole during these months and we all hope that it will also be the same in the future.

Announcement regarding the discriminatory recommendations of Union of Associations of Serbian Taxi driver, 27March, 2015.

In this statement the discriminatory recommendation of the Union of association of taxi drivers of Serbia that the taxi drivers do not transport asylees, because they can get into inconvenient situations with police and that the police can take away their vehicles and initiate minor offense proceedings was strongly condemned. The commissioner pointed out that this attitude of taxi association and the attitude of citizens of Serbia towards asylees are worrisome and that it clearly shows how much of xenophobia is present, although the discrimination in Serbia is prohibited by Law, including the refusal of providing the public services. In the statement the police was urged on, that the attitude towards asylees and those whose services are used by asylees should be in accordance with applicable regulations.

Announcement regarding the statement about the migrants, 14 August, 2015.

Since the beginning of the year Serbia started to face with a large number of migrants, who are passing in waves through our country, hoping that they will find a shelter from war-affected parts of the Middle East and Africa, in the countries of EU. Because of unexpected reactions of certain holders of public functions from the highest to the local level, The Commissioner for Protection of Equality sent an appeal to everyone to be solitarian to keep from assessments and statements that are arbitrary and intolerant and which create the unnecessary anxiety among citizens. The largest number of Serbian citizens shows great solidarity and readiness to assist migrants, by a good deed, because they themselves understand the misfortune of these people, especially taking into account the experiences that Serbia went through in recent past. It was stated that The Commissioner for Protection of Equality will monitor further developments in relation to migrants who are passing through Serbia, and that is also expected that the state, with the help of EU and international organizations, will find a sustainable solution for the current situation. The media was sent an appeal to respect the journalistic code in the newspaper stories, reports and headlines.

Announcement regarding the International Migrants Day, 18 December, 2015.

By the Decision of the United Nations General Assembly 18 December has been celebrated as International Migrants day since 2000, which is the consequence of a large and growing number of migrants in the world. This year was marked by migrants from Asia and Africa, and war-torn countries, who through Balkan route and through our country are going mainly to Western Europe. It is estimated that about half a million of migrants from war-affected areas passed through the country in this year. On that occasion, the Commissioner pointed out that Serbia made and is making great efforts to provide the migrants, during the stay on our territory, with all adequate help, to enable appropriate acceptance, temporary shelter, health care, help in food and medicines, as well as all information about the procedures of asylum, with full respect for their human rights. Our country has fulfilled almost all standards regarding the protection of migrants and gave a good example of how tolerant and humane society that will continue to fight against all forms of discrimination should look like. The commissioner personally visited Preševo, where she appealed from to all competent institutions, including the international, to assist in preventing a humanitarian catastrophe.

4.7 Discrimination based on medical condition

During 2015 23 lawsuits were filed due to discrimination based on medical condition, making it 3.5% of submitted lawsuits overall. The number of lawsuits submitted on the grounds of discrimination based on medical condition in 2015 is much less than 2013 and 2014 when the lawsuits against the discrimination based on medical condition were on the first place based on their number. It was the result of the research conducted at the end of 2014 by an NGO that filed 52 lawsuits against the cosmetic studio that refused to schedule a service delivery to a voluntary researcher of discrimination due to his medical condition (hepatitis type C). Even though the overall number of the lawsuits based on discrimination in the area of public services was registered in 2014, all procedures based on these lawsuits were terminated in 2015. According to the reports of conducted situational researches, it was found that the studios were charged against the discrimination of the people who had hepatitis type C, regarding the delivery of cosmetic services, such as the pedicure. Based on these charges, there were 41 opinions given finding that there was a discrimination and giving necessary recommendations, and in 11 cases the procedure regarding the lawsuit was terminated.

7 out of 23 lawsuits based on discrimination on the grounds of medical condition were filed in the area of work and employment and the same number was filed in the public procedure, following the lawsuits in the area of education and professional training and public service delivery.

The practice of the Commissioner shows that persons who live with HIV are one of the most marginalized and stigmatized social groups in Serbia, while the data about HIV status in institutions of healthcare are often registered outside of the section given in the medical documentation. Due to that, the recommendation to the Ministry Of Health to issue a necessary instruction to all healthcare institutions not to enter the data about HIV status of the patient outside of the section given in the medical documentation for this kind of data was given in 2015. The Ministry of Health followed the recommendation, so all healthcare institutions in Serbia have got the instructions to enter the data about HIV status of the patient according to the regulations on keeping medical records.

4.7.1 Opinions and recommendations

A health center denied issuing a health certificate for the purpose of entering the secondary school

The person who filed a charge tried to get a health certificate for the purpose of retraining, or entering the medical school, section nurse, but the doctors from the health center did not issue the certificate. The explanation given by the head of the health center cites that the evaluation of the health conditions needed for entering the medical school could not be issued because the submitter did not do all necessary examinations and that he did not deliver the necessary medical documentation. During the procedure, the valid proofs for non-issuing the health certificate for the purpose of retraining or entering the medical school were not offered by the health center. The Commissioner For The Protection Of Equality stated that the health center violated the regulations of The Law On The Prohibition Of Discrimination by non-issuing the health certificate and recommended the health center and the head of the health center to take all necessary actions in order to remove the consequences of the discriminatory behavior and not to violate the regulations against discrimination in the future. This recommendation was followed.

A pre-school institution does not provide an adequate diet to a child with special nutritive requirements

The opinion was stated in the procedure regarding a lawsuit submitted by a mother against a pre-school institution from Belgrade based on discrimination on the grounds of medical condition. It was cited that the child has multiple nutritive allergies and that it gets the same food as the other children in the pre-school, regardless that the pre-school was requested to prepare the food according to the medical condition of the child. The mother contacted the pre-school regarding the food preparation according to the medical condition of the child, but without

success. The pre-school explained that the City Institute Of Public Health in Belgrade stated that the parents should be allowed to bring the meals for children with specific nutritive requirements and that the future actions will be taken in order to provide the conditions for preparing the meals intended to children with specific nutritive requirements, based on the recommendations of The Commission For Nutrition Improvement. It is found that a girl has specific nutritive requirements and that the diet is only partially adjusted by the pre-school, which means that the meals are not provided based on her medical condition. That is why it is stated that the pre-school committed an act of discrimination based on medical condition, because it does not prepare the food for a child according to its medical condition. The pre-school is recommended to take all necessary actions to provide the meals to the girl according to her medical condition and not to violate the regulations of the Law on The Prohibition of The Discrimination during its regular activities. The pre-school institution has informed the Commissioner about following the recommendation and about public procurement.

Cosmetic studios refuse to provide pedicure services to people who have hepatitis type C

A human rights organization dealing with protection of the human rights of the persons who have hepatitis type C conducted a situational research based on discrimination in cosmetic studios in Belgrade from June to August 2014, in order to check how regulations about the prohibition of discriminations were being applied during the delivery of cosmetic services.

After the research was conducted, 52 lawsuits were filed against the cosmetic studios from Belgrade. Based on the report made during the situational research, it is found that the charged studios do not equally treat people with hepatitis type C regarding the delivery of cosmetic services or pedicure. 41 opinions with recommendations were given based on these charges and 11 procedures were terminated.

Taking into account that the lawsuits were filed based on the situational research on discrimination, it is necessary to give a detailed explanation of the context of the situational research of the discrimination and its legal terms. The institution of the voluntary discrimination tester is introduced into the legal system of the Republic of Serbia by the Law on the Prohibition of Discrimination. It is a person who voluntarily exposed itself to a discriminatory behavior in order to check how the rules about the prohibition of discrimination are applied. A special method of voluntary situational research of discrimination has been set in order to make the gathering of evidence about the discrimination easier, since there are no satisfying results achieved by the standard matters of evidence. The situation testing is being used "on the spot" in order to make the discrimination acts visible by identifying an unequal treatment of a person or a group of persons visible based on a personal feature. This method or mechanism can be used to identify the discrimination that is often "hidden" and justified by various excuses. The situation testing is a special mechanism of creating a situation where a person marked as a potential discriminator is taken into a position where it can act discriminatory without being monitored, and the testers are the ones who expose themselves to the behavior of the potential

discriminator, checking if they act discriminatory in a given situation. The situation researches have a big potential for enhancing the evidence about discriminatory behavior in specific cases, and they are used for raising the awareness of the public and the public policy development.

In all of these cases based on the lawsuits against cosmetic studios, the tester called the cosmetic studio first, and in some cases the service of pedicure has been scheduled, and then the employee was informed about his/her illness (hepatitis C). After the information about hepatitis C, the scheduled service was denied, and the reasons were a lack of the adequate sterilizers, a lack of skills and suitable gloves and the worries of the staff. Some studios refused the service delivery without any explanation. But there were also some situations when the tester was informed that his medical condition is not a problem, and later notified by the text message that the service cannot be provided after all.

Cosmetic studios cited as the reason that they did not know how to deliver the service to a person who has hepatitis C, and that the staff is not enough trained and that they fear from the disease. It is found that the tester was treated unequally based on his/her medical condition, because the persons who don't have hepatitis C have an opportunity to get and schedule the services of manicure and pedicure without any problems, while persons who live with the hepatitis C are not allowed to schedule their appointment.

The Commissioner stated that cosmetic studios performed an act of immediate discrimination based on medical condition, since they refused to provide the pedicure service to a person with hepatitis C who wanted to schedule a cosmetic service in one of the studios. This is why the cosmetic studios are recommended to provide cosmetic services to persons who live with hepatitis C and to sustain from denying the services to the persons with hepatitis C in the future. Most of the cosmetic studios followed the recommendation or delivered the information about acting upon the recommendation.

Discrimination of the employee based on medical condition

The lawsuit was filed by the employee of the construction business against the employer, because he was dismissed from work due to technological, economic and organizational changes, while he was absent from work because he was temporarily disabled to work. The employer explained that the medical condition of the submitter did not have influence on dismissal, but that there was no need for his profession because of the volume of work has been reduced and the modernized. During the procedure it was found that the employer offered no evidences indicating that medical condition of the submitter influenced the dismissal. The Commissioner For The Protection Of Equality stated that the employer violated the regulations of The Law On Prohibition Of Discrimination by dismissing the submitter of the lawsuit and recommended them to deliver a written apology to the submitter 15 days after the reception of the recommendation and to set the recommendation on the notice board of the company 15 days after the reception day. The recommendation was acted upon.

4.7.2 Recommendations on measures for achieving equality

Recommendation rate for Ministry of Health to prevent discrimination and stigmatization in health care facilities for people living with HIV

Acting on citizens' complaints, it was established that health institutions in Serbia often write information on status of HIV patients outside the sections provided for it in medical documentation; they are specially highlighted, and therefore are often written on the front page of the health card, they are underlined, printed in red, in larger letters or with exclamation mark in the end. This way of entering HIV status is a violation of anti-discrimination legislation and leads to further stigmatization of people living with HIV, toward who there is already an expressed social distance.

It is therefore recommended that the Ministry of Health issues mandatory instructions to all health institutions not to enter information about the HIV status of patients outside the section provided for entering such data. If they are of importance for medical treatment, data on HIV status should be entered in the section of medical documentation provided for entering a diagnosis or any other diagnosis, in the same size and color of the letters which are normally used for diagnosis or conditions of importance for medical procedure, using the Latin name of the code of a disease according to the International Classification of Diseases, Injuries and Causes of Death. The Ministry of Health acted upon this recommendation for achieving equality.

4.7.3 Announcements

The announcement on the occasion of the World AIDS Day¹ December 2015.

In Serbia, there is still a pronounced social distance towards people living with AIDS, and HIV-positive status is often a cause of various forms of discrimination, was said in the announcement on the occasion of the World AIDS Day. This day has been marked since 1988 and it is an opportunity to raise worldwide awareness about the disease. Complaints to the Commissioner for Protection of Equality for discrimination based on health status are on the top of the list in terms of its number, and situational testing conducted in more than 400 dental ordinations showed that even 63 ordinations acted discriminatorily toward persons living with HIV, which is more than worrying. Results of this situational testing, as well as a complaint because of conspicuous marking of this disease on the covers of medical cards, were ruled for the measures addressed to the Ministry of Health. The Ministry of Health acted upon the

recommendations, and all the health institutions in Serbia received instructions which required the information of HIV status of the patients to be written in accordance with regulations on keeping medical records. Stigmatization of the people living with HIV is most often the result of prejudice and ignorance about the disease, therefore, it is extremely important to train health care workers to prevent discrimination and provide health care to people living with HIV under the same conditions for all.

4.8 Discrimination on the grounds of other personal properties

In addition to individually presented ground for discrimination, in 2015 35 complaints of discrimination on the basis of religious and political beliefs were filed, 24 complaints of discrimination based on marital and family status, 21 complaints on discrimination of membership in political, union and other organizations and 17 complaints of discrimination on the grounds of nationality. Additionally, there were 23 complaints of discrimination on other grounds filed in which the number of submitted complaints is less than 2% of the total number of complaints. There were 12 complaints of discrimination on the basis of income, and two complaints of discrimination based on skin color, appearance, language, conviction, race and one discrimination based on genetic characteristics filed.

Furthermore, in 57 complaints as a basis to discrimination referred to any personal property that is not explicitly stated in the law was stated. This group includes complaints on the grounds such as residence, belonging to groups such as asylum seekers, migrants, and refugees.

We especially emphasize that the number of complaints of discrimination based on marital and family status is lower this year (24) compared to the previous year (52); however, the number of cases in which discrimination was found on this basis is higher. In fact, discrimination is stated in five cases on this basis, out of which three cases are about discrimination in the field of labor and employment, where, during the job interviews the complainants were asked questions about marital and family statuses, or whether this status influenced the transfer to another position. Also, the interesting fact is that 20 complaints of discrimination on this basis were submitted by women.

During this year, the Commissioner had two cases in which victimization (prohibition of accountability) was stated. Prohibition of accountability exists if a person or a group of people are unjustly treated worse than others are or should be treated, solely or mainly because they are seeking or are intending to seek protection against discrimination or because they offer evidence of discriminatory treatment.

4.8.1 Opinions and recommendations

Calling for accountability (victimization) of an employee who sought protection against

discrimination

The complainant stated that after addressing the Commissioner for Protection of Equality he was replaced as a head of the sector and allocated to a lower position (independent inspector). The statement noted that that it is not true that the complainant was positioned to a lower position because he addressed the Commissioner for Protection of Equality, as well as the scheduling, had been performed more than a month before the employer received an official letter from the Commissioner, and that prior that date the employer did not know and could not have known that the employee addressed the Commissioner, which means that the allegations in the complaint are without merit. During the proceedings, it was established that the employer did not offer evidence that there were objective and legitimate reasons for scheduling the complaint to a lower position which is not related to his previous remarks to the Commissioner for Protection of Equality. The Commissioner for Protection of Equality gave an opinion that, by the scheduling of the complainant to a lower position the employer violated provisions of the Law on Prohibition of Discrimination (prohibition of accountability) and recommended the employer to, within 15 days after the receipt of the opinion with the recommendation, remove the consequences of discrimination against the employee, and give him a written apology, as well as to put the opinion and recommendation of the CPE on the bulletin board or other visible place in the premises of the employer. At the time of this report writing, acting deadline was in progress.

Health center did not approve specialization because of the residence of the complainant's husband

An opinion was given in the proceedings on complaints against the Health Center on the occasion of the competition for admission to specialization in gynecology. The complainant stated that she was not approved specialization, that the competition was conducted with many irregularities, and that in reasoning of the complaint regarding the results of the competition the director told her that she "got married in Belgrade", and estimated that after the completion of specialization she would be interested in obtaining the job in Belgrade. The statement noted that the decision was based on the Commission's proposal and the decision does not mention anything that could be considered discriminatory. During the proceedings, it was established that based on the submitted evidence criteria for selection of the candidates cannot be established. However, the director of the Health Center, as a reason for not approving specialization to the complainant, alleged the fact that her husband lived in Belgrade and that he was afraid that this fact would influence her to seek employment in Belgrade after specialization. The Health Center did not offer facts and evidence on which it could be concluded that there were objective and reasonable reasons for not approving specialization to the complainant, which he was obliged to do, in accordance with Article 45 of the Law of the

Prohibition of Discrimination. The Commissioner for Protection of Equality gave an opinion that during the selection of candidates for referral to specialization, i.e. the adoption of a decision on approving specialization in gynecology, the Health Center discriminated the complainant on the basis of the personal characteristics of the family member – residential place of the husband. That is why the Health Center was recommended to take all necessary measures to eliminate the results of discriminatory treatment of the complainant, to put an opinion and recommendation of the CPE on a notice board or any other visible place in the Health Center premises, as well as to ensure that, when making decision to award a specialization in the future, do not violate the provisions of the Law of the Prohibition of Discrimination. This recommendation was not acted upon, which the public has been informed about.

Questioning about the marital status at the job interview

An opinion was given in proceedings on a complaint against a company, for discrimination based on marital status during employment. The complainant stated that he applied to the advert of this company for the position of a professional salesman – presenter, and during the interview he was asked inappropriate questions regarding his marital status, and that he did not get a job after he refused to answer these questions. The statement noted that the question of the marital status of candidates is elementary, due to the nature of job performed by the company seller, especially because of the frequent travels and absence from home, as well as that the information about marital status has no impact on the decision of the selection of the candidates. During the proceedings, the employer failed to provide facts and evidence to confirm that there was an objective and reasonable justification why the candidates are asked to declare their marital status, respectively, which provides sufficient basis for the conclusion that the complainant was not treated less favorably because he did not enter data on his marital status. Commissioner for Protection of Equality gave an opinion that by asking questions about marital status at a job interview the company committed an act of discrimination in the field of employment and work on the basis of marital status. The company was recommended to send a written apology to the complainant for the discriminatory treatment during the interview, and not to perform the act of discrimination in interviews with candidates in the future within their activities, as well as to publish that opinion with the recommendation of the CPE on the bulletin board or other visible place on their premises. This recommendation was acted upon.

While hosting a television show, Secretary of the State privileged members of the ruling party

The complaint was filed by a municipal committee of a political party on the statements the State Secretary of the Ministry of Economy made on the occasion of the show which was broadcasted on a local television channel. During the proceedings it was established that the

Secretary of the State, to the journalist's question whether the employees on the territory of Pčinj district employ by the principle "become a member of the Serbian Progressive Party", among other things, said: "If you ask me if we have employed a few people or ten, fifteen or twenty people who are members of the Serbian Progressive Party, we have. And now I am telling you openly, we have and we will. And we will do so this year, as well since these people had no chance to raise their heads in the past seven or eight years. Now, we have come to a position to change things up a bit, and that is what we are going to do." It was found that stating of the opinion that they will continue employment of SNS members, who could not find a job in previous years for their party affiliations represents unduly privilege of the members of the ruling political party and evokes feelings of fear and anxiety with other citizens who are members of other political parties or do not belong to any party. Therefore, the opinion was given that the statement of the State Secretary of the Ministry of Economy given in connection with the party hiring in the TV show was a violation of the Law on Prohibition of Discrimination. Secretary of State was recommended not to privilege the members of his political party in his statements and public appearances, and to contribute to respect for the principles of equality and non-discrimination in all spheres of social life in his acting, and not to violate legal regulations on prohibition of discrimination in the context of his regular duties.

Discrimination on the basis of economic status in the selection of candidates for referral to training for communal police officer

The complaint was filed for the published advertisement of the City Administration for Inspection Affairs of Novi Sad for selection of candidates for referral to training for conducting and implementing powers of the Communal Police. The advertisement had prescribed a special condition that candidate possess psycho-physical abilities needed to perform municipal police duties, as evidenced by a medical certificate issued by authorized health institution, whose costs the candidate should pay himself. The statement in the complaint also stated that all candidates have equal opportunities when applying and that the special condition was prescribed in accordance with the Law on Communal Police. During the proceedings, it was established that the fulfillment of the special condition pertaining to the psychological and physical ability to perform the tasks of the communal police officer is necessary for employment in the Communal Police and that prescribing of this advertisement for the candidate who will be trained is without any legal basis. It was also established that the purpose of describing this requirement is justified; however, there was no proportionality between the measures taken and the aim sought to be achieved, because all the unprivileged candidates were denied the opportunity to participate on equal terms in the selection of candidates for referral to training for performing communal police officers duties. Prescribing of special conditions at the stage of advertising directly discriminated all candidates who, because of their financial status were not able to bear the costs of issuing the medical certificate. The Commissioner for Protection of Equality gave an opinion that the City Administration for Inspection Affairs of Novi Sad, by prescribing conditions for selection of the candidate for training for examination for conducting and implementing powers of communal police officer, psycho-physical ability was to be proved

by submission of authorized health institution violated provisions of the Law on Prohibition of Discrimination. Along with the opinion a recommendation to the City Administration for Inspection Affairs of Novi Sad during the advertising of the selection of candidates for referral to training for passing the exam for conducting and implementing powers of the communal police not to violate the provisions of the Law on Prohibition of Discrimination in future was given. This recommendation was acted upon.

A female candidate was discriminated at the job interview in a lawyer's office

The applicant's complaint alleged that during her interview for a job at the law firm she was asked about her marital status, which she refused to answer to. After that, she was informed over a phone that she did not get the job. The law office until the conclusion of the proceeding did not submit a statement on the allegations in the complaint, even though the request for the declaration was received. The application of the rules on the burden of proof under Article 45 of the Law on Prohibition of Discrimination, it was established that the law office, by asking the applicant to state her marital status performed act of discrimination based on marital status in the field of work. The Commissioner for Protection of Equality gave an opinion that the law firm at the job interview violated the provisions of the Law on Prohibition of Discrimination, by asking the applicant to comment on her marital status. Law office was recommended that in the future, during interviews with the candidates who apply for a job do not repeat an act of placing undue discrimination issues related to their personal characteristics, as well as to publish the opinion and the recommendation on the bulletin board or another visible place in the premises of the law office. This recommendation was not acted upon.

Organizational changes in the Ministry of Internal Affairs after the strike

The opinion was issued in proceedings on the complaint filed by the union on behalf of and with the concurrence of 11 members of the union, against the Ministry of Internal Affairs for discrimination on the basis of membership in the union. The complaint stated that the Ministry of Internal Affairs organized a strike of employees in the period from 26 September to 5 October 2014 and that during the strike and after its completion there were pressures made on employees, resulting in constant movements to other working positions and remote workplaces. The statement noted that the reassignments were performed to improve work processes and job performances, and not because of reprisals against participants in the strike. During the proceedings it was established that the individual organizational units of the Ministry of Internal Affairs the complaint was referred to in the period from 26 September to 31 December 2014, 91 police officials were transferred, out of which 67 employees participated in the strike, i.e. that there were also moved employees who did not participate in the strike to other places of work. The Commissioner for Protection of Equality gave an opinion that the adoption of the decision

on a permanent move, after which the complainants were arranged to other positions and/or other places of work of the Ministry of Internal Affairs, did not violate provisions of the Law on Prohibition of Discrimination.

The child's right to education has priority over the right of parents to educate children in accordance with their religious and philosophical convictions

Commissioner for Protection of Equality spoke to the mother of a child who wanted to pass the entrance to enroll in high school. The mother said that the entrance exam was scheduled for Saturday and Sunday and that her child, for religious beliefs, is not able to pass entrance exam on Saturday. The complainant addressed the Ministry of Education, Science and Technological Development with a request to move the dates of her child's entrance exam, however, the head of school board verbally conveyed the message of the Ministry that her application was rejected. The complainant submitted that she believes that this way violates the rights of her child to "religious freedom". In the process of the applicant's complaint was indicated the attitude of the European Court of Human Rights, set in the judgment of Martins Casimiro and Cerveira Ferreira against Luxembourg, that the duty to respect any beliefs of parents is subjected to the fundamental right of a child to get an education. This means that the court took the view that the right of a child to education, which in this case is the right of the entrance exam along with his peers, has priority over the right of parents to educate children in accordance with their religious and philosophical convictions. Accordingly, an opinion that the decision of the Ministry of Education, Science and Technological Development, which determined the calendar of application of the final exams and entrance exams for specially gifted children, by any of their personal capacity was given.

The decision of the city administration to provide free transport for the children who have not repeated any grade

City administration of a city requested an opinion regarding the decision to allow free transport for schoolchildren who reside in the city, providing they originated in socially vulnerable families and have not repeated any class. The city administration said that the reason for the introduction of the requirement that a student has not repeated any class is the city's desire to motivate students to, regardless the financial situation of the family or the origin, invest at least minimal effort to regularly end each class. The city stated that they have no intentions to exercise any form of discrimination, and that city administration wishes to know if the success of students in school depends on their personal capacity and whether the city exercises discrimination by this decision. The city administration was indicated that unwarranted discrimination or unequal treatment constitutes discrimination only when it is based on personal capacity when there are a cause and effect relationship between personal characteristics and committed act of discrimination. Consequently, the success of students in school does not represent their personal capacity in terms of the anti-discrimination law. However, students who

have repeated grades are at a disadvantage compared to other students, and are therefore stigmatized, and society behaves towards them driven by a variety of prejudices. Therefore, the Commissioner for Protection of Equality pointed out that precisely this group of students needs special protection and motivation to finish school and make a progress to become successful citizens and have equal rights with other children and other young people. Bearing all this in mind, the City Administration was recommended to review its decision, and join the students who repeated class with other students who are entitled to reimbursement of the cost of travel from home to school, and that way motivate them to attend school regularly and be involved in peer groups equally with other students in order to continue their schooling.

Access to KOBSON basis of scientific and professional journals have to state institutions and employed in academic, research and health institutions founded by the Republic of Serbia

A civil society organization filed a complaint against the National Library of Serbia, which stated that the National Library does not allow access to private higher education institutions to KOBSON basis of scientific contents and that only state institutions have access to this database. The statement on the complaint stated that access to KOBSON database is realized via a separate legal entity, but under the terms of the public invitation of the Ministry of Education, Science and Technological Development. During the proceedings, it was established that the right to search the database KOBSON have state institutions and employees of academic, research and health institutions founded by the Republic of Serbia. Due to the fact that education and scientific research activities have a special importance and interest to the state, as well as that the Republic of Serbia implements appropriate policies in this area according to specific needs and priorities, the recognition of the right to access KOBSON database of scientific and professional journals that are provided through the National Library of Serbia does not constitute a restriction of the right to access to KOBSON database to private higher education institutions, but a legal and legitimate form of providing additional support to institutions and organizations, as well as employees, students and researchers in the institutions founded by the state. Therefore, an opinion was given that the provision of search services of KOBSON database to organizations and institutions founded by the Republic of Serbia, the National Library of Serbia did not violate the Law on Prohibition of Discrimination.

4.8.2 Warnings and announcements

Warning regarding the hate graffiti, 8. August 2015.

The Commissioner condemned the graffiti directed against the President of the Democratic Party Bojan Pajtić and asked the authorities to find and punish the perpetrators. Threats and hate speech are unacceptable in a country which is building an open and democratic society, and such phenomena have come across a wide public condemnation, making expressions of political opinion in this way represents a violation of basic human rights and the duty of the state is to protect all individuals from such phenomena.

The announcement on the occasion of International Human Rights Day, 9. December 2015.

The Commissioner congratulated all citizens the Human Rights Day and reminded us that Serbia has made progress in this area in recent years, but we have many further challenges. The following statements referred to several examples of good practice in the past which showed that Serbia respects international law and fosters human values and tolerant society, and that is primarily the attitude toward migrants and Pride Parade without incidents and Trans Pride. At the initiative of the Commissioner for Protection of Equality and Protection of Citizens, Constitutional Court temporarily stopped the law by which women employed in state administration could have early retirement, and legislative amendments which introduce the use of a seal (facsimile) for people with disabilities and therefore facilitate access to their rights and services were determined. Despite everything that has been done positive so far, there is a greater need for work on the development of protection and promotion of human rights, since we must not forget the overwhelming statistics that this year 34 women were victims of domestic violence with a fatal outcome. In this sense, urgent legislative changes and their full implementation are necessary, as there is no justification for the failure of all the institutions of the system in some situations. In order to change this picture, it is necessary to work on the full application and completing of a legal framework which allows full respect for human rights of all citizens and full and consistent implementation of all regulations.

4.9 Multiple discrimination

Multiple discrimination is a phenomenon that has been recognized only recently, and it represents a serious form of discrimination because the negative effects it causes are much higher. Multiple discrimination occurs when a person is discriminated on the basis of a number of personal characteristics, such as a woman with disabilities can be discriminated on the grounds of gender and on the grounds of disabilities.

During 2015, there were 94 complaints with multiple personal characteristics filed. Out of complaints with multiple personal characteristics, the majority indicates age (24), then gender (21), identity and sexual orientation (19 each), ethnicity (18), disability and marital and family status (12), as well as health and religious and political beliefs (9 each).

The practice of the Commissioner shows that multiple discrimination is mostly present with women because of their gender and marital and family status, most often in the process of hiring or in the workplace, as well as discrimination of women with disabilities, as well as Roma women.

It should be kept in mind, as in previous years, that this number of complaints does not mean that all these cases are about multiple discrimination because the complainants usually submit a few personal characteristics, especially in the situations when their personal characteristics were grounds for discrimination.

4.9.1 Opinions and recommendations

The City Administration did not approve aid for the firstborn child in the family of Albanian nationality mother

A married couple filed a complaint against the Board for Children, Social and Primary Health Care of the City of Nis. The complaint stated that a woman was not granted the right to one-time financial aid for an unemployed pregnant woman, the right to one-time financial aid for the firstborn child in the family and the right to parental allowance because she was an Albanian citizen. The statement of the board for Children, Social and Primary Health Care of the City of Nis stated that the right to one-time financial aid to the unemployed mother who resides in the city of Nis for at least a year before the birth of a child, a right to one-time financial aid for the first-born child in the family is recognized if the mother is a permanent resident of the City of Nis for at least six months before giving birth, and that the applicant's complaint was not approved by the law because there was no registration of residence for at least one year, or at least six months before the child was born. During the proceedings, it was established that the Administration for Children, Social and Primary Health Care acted in accordance with the regulations when deciding on request on applicant's complaint about the right to parental allowance and one-time financial aid for the unemployed mother. Namely, the Law on Financial Support to Families with Children stipulates that the right to parental allowance has a mother who is a citizen of the Republic of Serbia, and as regards the right to one-time financial aid for unemployed mother, it was found that the complaint applicant had a permanent residence in the City of Nis for less than a year before giving birth. It was also established that the Administration, in the process of the request for exercising the right to one-time financial aid to first-born child in the family, the complainant was not approved this right because she was a foreign citizen, even though the condition was not stipulated in the decision although the applicant had a permanent residence in Nis for more than six months before the child was born. The Commissioner gave an opinion to the Administration for Children, Social and Primary Health Care of the City of Nis which does not recognize the right to one-time financial aid for unemployed mother and the right for parental allowance did not violate the Law on Prohibition of Discrimination, while ruling which does not recognize the right to one-time aid for the firstborn

child in the family is the violation of the Law on Prohibition of Discrimination, and discrimination against the applicant's complaint on the basis of her personal characteristics – citizenship. Accordingly, the Administration for Children's, Social and Primary Health Care of the city of Nis is recommended to take all necessary measures to eliminate consequences of discriminatory treatment of the applicant's complaints, as well as not to violate anti-discrimination regulations within the carrying out their activities from their competence in the future. This recommendation was not acted upon.

Exercising right to parental allowance when the child's mother is a foreign citizen

A married couple tried to exercise their right to parental allowance, and Head of the Department for Social Childcare administration gave them a verbal explanation that they cannot get a parental allowance because the mother of the child is a foreign citizen. At their request, they were issued a receipt to the applicant that the complainant could not use the right to parental allowance because she is a foreign citizen. The statement of the Head of the City Administration for Social Activities indicated that the complainants did not submit a request for the right to parental allowance and that the statutory conditions for the exercise of this right, inter alia, prescribe that the mother must be a citizen of the Republic of Serbia. During the proceedings, it was established that the City Administration of Social Activities did not offer an objective and reasonable justification for acting of the City Administration official, which was not caused by the fact that the complainant was a foreign citizen. In addition, the City Administration did not act in accordance with the resolution of the Constitutional Court. Namely, the Constitutional Court brought the decision that the provisions of the Law on Financial Support to Families with Children can be interpreted and applied in such a way that the right to parental allowance can be achieved by the father of the child, if it meets the conditions prescribed by the law, if the mother of the child is not a citizen of the Republic of Serbia. The Commissioner for Protection of Equality gave an opinion that the actions of the City Administration for Social Activities, which is reflected in giving the wrong information related to the exercise of the right to parental allowance in situations when child's mother is a foreign citizen, as well as the failure to take all necessary actions to enable the parental allowance to the complainant, is violation of the Law on Prohibition of Discrimination. Therefore, the City Administration for Social Activities was recommended to send a written apology to the complainant because of discriminatory treatment against them, and to put a notice on the bulletin board or other visible place that the right to parental allowance can be benefited by the father in case the mother is a foreign citizen, if the father meets other requirements, as well as not to violate anti-discriminatory regulations within performance of their activities in the future. This recommendation was acted upon.

The conditions for exercising the right to one-time aid to unemployed woman in labor

An opinion was issued in proceedings on the complaint filed by an unemployed woman in labor against the Administration for Children, Social and Primary Health Care of the City of Nis. During the proceedings, it was established that the applicant filed a complaint to the Administration for Children, Social and Primary Health Care of the City of Nis for the right to one-time financial aid to an unemployed woman in labor. However, her application was rejected on the grounds that she does not meet all the conditions for exercising the right to financial compensation, i.e. that she had not resided on the territory for at least one year before the child's birth. The decision on financial support for families with children in the city of Nis prescribed that the right to one-time financial aid to unemployed woman in labor can be realized by every unemployed mother who has permanent or temporary residence, if they were refugees or displaced people from Kosovo and Metohija, on the territory of the City of Nis, for at least a year before the labor. The right to one-time financial aid to an unemployed woman in labor can be achieved by the father of the child, provided that the mother is not alive or did not abandon the child. Bearing in mind that the Administration for Children, Social and Primary Health Care of the City of Nis in the present case acted in everything according to the decision on financial aid to the families with children in the City of Nis, which it is obliged to respect, as well as the bearer of the act is the Assembly of the City of Nis, the Commissioner for Protection of Equality gave an opinion that, by non-recognition the right to one-time financial aid to unemployed woman in labor, the Administration for Children, Social and Primary Health Care, against which the complaint was filed, did not violate the Law on Prohibition of Discrimination.

Pursuant to the legal powers of the Commissioner, the conditions prescribed by the decision on financial aid for families with children in the City of Niš were analyzed, on the basis of which it was established that a condition for exercising the right to one-time financial aid to unemployed woman in labor refers exclusively to the mother's residence has no objective and reasonable justification , since prescribing this requirement without taking into account the residence of a child and the father of the child is not justified neither in terms of purpose, nor in terms of the result it produces. Accordingly, the Assembly of the City of Niš was addressed with an appropriate recommendation.

City Center for Social Welfare initiated the procedure of deprivation of legal capacity to a woman with disabilities and temporarily took away her parental rights

Complaints were filed by mother and father of a minor child against the City Center for Social Work (CCSW). The complaint alleged that CCSW set a temporary guardian to a child in the procedure of deprivation of legal capacity CCSW initiated due to "mild mental retardation", as well as after the childbirth, it set a temporary guardian to a child and placed a child to an orphanage. The statement of the CCSW stated that the decision on the appointment of a temporary guardian mother was brought up based on available medical documentation from the period of her early childhood, where she was identified diagnoses F70 (mild mental retardation), as well as the observations of the expert team, which estimated that "she and her husband do not provide adequate cooperation, that she proceeds as her husband says, thus manipulation

over her is possible, that she has no adequate support from the members of her family...” During the proceedings it was established that CCSW decision to initiate the procedure of deprivation of legal capacity of the applicant was not brought on the grounds of expert assessment and concrete facts, but rather taking into account the fact that the person’s intellectual functioning is at the level of “mild mental retardation”, i.e. based on the fact that it is a disabled person, and attitudes that CCSW presented to support claims that the mother is not able to exercise parental rights and care of the child do not have an objective foundation. Namely, the CCSW has not offered any proof to support the claim that there is a high risk to the safety and health of the child and the implementation of emergency measures of placement in a social care institution. In addition, although the observations stated that the expert team of the CCSW led an assessment process of the status and need of the child, during the proceedings there were no findings and/or expert opinion of this team, which would support the allegations that there are objective circumstances or risk to the health and safety of the child. The analysis of the arguments CCSW put forward in assessing the abilities of the father to take care of the child, found that the position of the guardianship of the father’s abilities to care for the child is based on the fact that his wife has lower intellectual abilities, and therefore, for her personal characteristics – disability, the father has no capacity to care about the child, which is why CCSW committed discriminatory act towards him and excluded him from the exercise of parental rights. The Commissioner for Protection of Equality gave an opinion that the adoption of a decision on determining temporary guardian to the applicant of the complaint in the procedure of deprivation of legal capacity, and by adopting the decision on determining temporary guardian to her minor child and by adoption of conclusion of housing of minor child, CCSW violated the provisions of the Law on Prohibition of Discrimination. Therefore, CCSW was recommended to take all necessary measures to eliminate consequences of discriminatory treatment toward the complainants, as well as not to make decisions that violate anti-discriminatory provisions in the future. This recommendation was not acted upon.

Working women of different ages were terminated limited-time employment in a medical institution

A complaint was filed by a civil society on behalf of four women whose employment was terminated upon the expiration of the employment contract for a limited-time job at the Institute for Oncology and Radiology of Serbia, because of discrimination based on gender and age in the field of labor. The complaint stated that the applicants of complaints had been working at the Institute for Oncology and Radiology and that, at the end of 2014 their contract was terminated by expiration of the employment contract for the limited-time job. The termination of work came after several years of work in the same workplace after numerous extensions of the employment contract. The statement noted that the complaints applicants were terminated employment upon the expiration of the employment contract for a definite time, given that the Institute, in accordance with the staffing plan by the Ministry of Health was forced to reduce the number of

employees with limited-time jobs. During the proceeding, it was found that the employees whose limited-time contracts expired were people of 25-60 years of age. It was found that the Institute for Oncology and Radiology of Serbia provided sufficient evidence that the decision for termination of work contract was not influenced by their age. The Commissioner for Protection of Equality gave an opinion that the Institute for Oncology and Radiology of Serbia did not violate provisions of the Law on Prohibition of Discrimination by their decisions which terminated complainants' limited-time jobs by the expiry of the period they were contracted for.

The applicant of a complaint considers that National Employment Service does not refer women older than 35 for an interview with an employer

The complaint was filed against the National Employment Service (NES), which stated that NES, during mediation in employment, after reports of a company sent only male applicants younger than 35 for an employment interview and thus committed discrimination based on gender and age. The statement of NES stated that the selection and referral of candidates for interviews were conducted solely according to the criteria defined by an employer, which refer to the competence and working conditions. During the proceedings, it was found that NES submitted evidence which confirmed that in 2014 candidates of both genders, as well as candidates older than 35 were sent to interview in the companies in Nis. The Commissioner for Protection of Equality gave an opinion that NES did not discriminate applicants of complaints in mediation for employment on the grounds of gender and age.

4.9.2 Announcements

The announcement on the occasion of the International Day for the Protection of the Victims of Torture, 25 June 2015.

The International Day for the Protection of the Victims of torture should remind the public and the entire society that it is necessary to effectively protect the rights of all victims of torture, violent behavior and inhumane treatment. The Commissioner drew particular attention to the fact that the victims of torture and multiple violations of human rights are often women and children, which is why it is necessary to work resolutely on the promotion and empowerment of victims, support the efforts of the competent authorities in the continuation of the process of

deinstitutionalization of children with disabilities and the introduction of new social services for help and support to families with children at risk of separation. Humanity, non-violence, tolerance, and prevention and combating of all forms of violence should be the goal our society aspires to.

The announcement on the occasion of the report of the Council of Europe Commissioner for Human Rights, 9 July 2015.

In the announcement on the occasion of report of the Council of Europe Commissioner for Human Rights Nils Muiznieks, it was pointed out that the report reflects the real state of affairs in Serbia when it comes to the problems that exist concerning the elimination of discrimination and respect of human rights, stating that the recommendations from the report are identical to the recommendations from the annual report of the Commissioner for Protection of Equality for 2014. The report concluded that there is progress in respect for the rights of LGBT people, but drew attention to homophobia and discrimination against LGBT people in Serbia. The Commissioner indicated in her announcement that regulations on incapacity must be quickly reformed in accordance with the modern model of disability and international standards in this area and also ensure that people with disabilities, with appropriate support on equal basis exercise all rights guaranteed, including the right to work ability. Violence against women needs to be urgently reduced, and the police, judiciary and other state authorities must do everything to punish the cases of domestic violence, perpetrators must be brought to justice and penalty provisions which they are imposed to must be strengthened.

4.10 Proposals for the assessment of constitutionality

The proposal for the assessment of constitutionality of the method for determining the maximum number of employees in the public sector

After the adoption of the Law on determining the maximum number of employees in the public sector, the Commissioner for Protection of Equality received 97 complaints from citizens, unions, professional associations, and civil society associations for discriminatory provisions contained in this Act. In all these complaints it was indicated that, by the application of the provision of the Article 20 of this Law, employment will be terminated by force of law to all women employed in the public sector who, according to the regulations of the pension and disability insurance can use an old-age pension. In this way, the ability to choose whether women in the public sector will retire ceased to exist, that is, it automatically became an obligation, while it had no effect on male employees in the public sector. Starting from that such discriminatory provision would influence many women, Commissioner for Protection of Equality,

altogether with the Protector of Citizens, submitted a proposal for assessment of constitutionality on 29 September 2015.

The provision of the Article 20 of the Law on determining the maximum number of employees in the public sector was prescribed that “an employee in the public sector during the implementation of this law shall be terminated the work position upon reaching an age and pension insurance prescribed by the law for old-age retirement.” The Protector of Citizens and the Commissioner for Protection of Equality considered that provisions of the Article 20 of this law are inconsistent with the provisions of the Constitution of the Republic of Serbia on guaranteed human rights and conditions for the limitation of these rights, and that these provisions, contrary to the prohibition of discrimination and the provisions of the Constitution concerning the conditions for restriction of human and minorities’ rights, women of a certain age who are employed in the “public sector” have limited right to work and on the basis of work, the right to social protection, or the right to social security and insurance of the employee from their family. Namely, the provisions of the Article 19a of the Law on Pension and Disability Insurance prescribes that women are eligible to retire in respect of the exercise of service and age earlier than men, and thus acquire the right, but not the obligation, to retire. However, the Article 20 of the Law on determining the maximum number of employees in the public sector provides that every employee in the public sector shall be terminated work position at the moment the conditions (length of service and age) for retirement are fulfilled. This practically means that the right of choice to go an old age pension under the Law on Pension and Disability Insurance is abolished, or that it is obligatory that women retire earlier than men, and not only women in the “public sector”. Therefore, the provision of the Article 20 of the Law on determining the maximum number of employees in the public sector is contrary to the prohibition of discrimination under Article 21 of the Constitution because it affects only women employed in the “public sector”, which is discrimination against women. The consequences for women employed in the public sector are a termination to the right to work while it has no influence on men. In addition, the provision of the Article 20 of the Law on determining the maximum number of employees in the public sector, without just cause, women working in the public sector are put in an unequal position in terms of realizing the constitutionally guaranteed right to work compared to women employed outside the public sector. Additionally, the disputed provision is not only inconsistent with the Constitution, but also with a series of other laws such as the Labor Law, the Law on Civil Servants, and the Law on Employment in Government Agencies.

The Constitutional Court, in a very short time after the submission of the proposal at the meeting held on 8 October 2015, made a decision to suspend enforcement of an individual act or action taken based on the provisions of the Article 20 of this Law. As the explanation of the decision stated, this decision was made because of the consequences that could occur by using the disputed provisions. It was also stated that considering the mentioned contentious constitutional issues, and the fact that the result of the beginning of the application of the provisions of the Article 20 of the Law on establishing termination of employment to persons who fulfill the conditions foreseen by these provisions, in the context of other provisions of the law and the amendments of general acts governing systematization of jobs and number of employees in each entity to which the law applies, in terms of abolition of certain jobs or downsizing, the Constitutional Court estimated that these circumstances constitute irreparable damage to persons to whom the provisions would be applied to. At the moment of writing this report, the

Constitutional Court has not issued a final decision on the proposal to review the constitutionality of the provisions of Article 20 of the Law on the method of determining the maximum number of employees in the public sector.

The decision of the Constitutional Court on the proposal for assessing the constitutionality and legality of the Article 1 of the Ordinance on amending The Ordinance on Registration, Status, and Transfer of Players of the Football Association of Serbia

The Commissioner for Protection of Equality submitted a proposal for assessing the constitutionality and legality of the Article 1 of the ordinance amending the Ordinance on Registration, Status, and Transfer of Players of the Football Association of Serbia. (Official Gazette FSS "Football", No. 48/13). The provision of the Rules stipulates that in the regulations on Registration, Status and Transfer of the players of the Football Association of Serbia, after the Article 78 the Article 79 is added, which says: "if the club the female player is leaving is a female football club, total compensation is determined by the amount of 15% of the fees prescribed by the Articles 77 and 78 from these Rules". It was pointed out that the disputed provision is incompatible with the constitutional and legal provisions on the prohibition of discrimination because they are prescribing such rules, according to which in the case of transferring female players from one club to another, the club pays compensation in amount of 15% of the fees prescribed for the men's football club, which is direct discrimination against female football clubs comparing to male football clubs, based on gender of their players. Assessment of the Constitutional Court was required in relation to the provisions of the Article 15 and 21 of the Constitution, Articles 4, 6 and 20 of the Law on Prevention of Discrimination and Articles 4 and 34 of the Law on Gender Equality. The proposed suspension of the execution of an individual act or action undertaken on the basis of the disputed provision from the Regulations on Registration, Status and Transfer of the Players of the Football Association of Serbia.

On 9 June 2015, the Constitutional Court issued the conclusion by it rejected the proposal to review the constitutionality and legality of the disputed provisions of the Regulations. In the rationale of that decision, the Constitutional Court stated that the special scaling which was done by the disputed provision of the Article 1 of the Ordinance amending the Ordinance on Registration, Status, and Transfer of the FAS Players, presents a legally permissible distinction. Starting from the real financial situation and economic potential of women's football clubs, such standardization is a necessary condition for the players in terms of compensation payments and registrations in general, they could, generally, move from club to club and thus grow on personal and sporting levels, so that entire development, quality, and progress of this lack of well-established sports discipline to exercise, which is socially acceptable and justified, respectively, has legitimate goal based on the principle of proportionality.

The decision of the Constitutional Court on the proposal for assessing the constitutionality and legality of the Article 15a on keeping registers and forms of registers

Commissioner for Protection of Equality submitted a proposal to the Constitutional Court in 2013 to review constitutionality and legality of the Article 15a Instructions for keeping registers and forms of registers,¹⁷⁵ which stipulates that the personal name of a child, parents, spouses and deceased members of national minority is written in the language of the national minority after registration in Serbian Cyrillic script beneath the same shape and size of letters. The proposal pointed out that the provisions of this article are in accordance with the provisions of Art. 21, 37 and 74 of the Constitution of the Republic of Serbia,¹⁷⁶ and the provisions of Art. 4 and 8 of the Law on Prohibition of Discrimination¹⁷⁷ Art. 13 and 344 of the Law on Family,¹⁷⁸ Art. 9 of the Law on the Protection of Rights and Freedoms of National Minorities,¹⁷⁹ Article 18a of the Law on the official use of language and script¹⁸⁰ and provisions of Art 17 of the Law on Registers,¹⁸¹ or that the bylaw enforcement authorities restrict the right of persons belonging to national minorities, as guaranteed by the Constitution and laws.

The Constitutional Court issued a conclusion number IYo-339/2013 on 25 June 2015, which rejected a proposal to review constitutionality and legality of the Article 15a Instructions on Keeping Registers and Forms of Registers. It is stated in the conclusion that the Constitutional Court found that the disputed Article 15a Instructions on Keeping Registers and Forms of Registers may lead to a constitutional relationship with the provisions of the Art. 37 and 79 of the Constitution because these provisions of the Constitution regulate freedom of choice and use of personal names, as well as the freedom of parents to choose and use the names of their children, and not in the way of registry in the register of births, as well as that the disputed article refers to all members of national minorities who enter the personal name of the child, parents, spouses, and deceased in the register, so it cannot be brought into constitutional relationship neither with Article 21, Paragraph 3 of the Constitution, nor accept the claim that it is contrary to the Art. 4 and 8 of the Law on Prohibition of Discrimination. Also, the Court finds that the provisions of the Article 9 of the Law on Protection of Rights and Freedoms of National Minorities, Article 18a of the Law on official use of language and script and the Article 344 of the Law on Family regulate the rights of members of national minorities to choose and use their personal names in public documents, but not the way of entry. The Constitutional Court further found that these Instructions, as bylaw act regulated technical issues of the entry the way it is regulated by the Law on Official use of language and script and that proposal for assessment of constitutionality and legality is unfounded. In addition, the Court found that it had no jurisdiction in the process of constitutional control of normative acts to assess the general application of rights to the name and use of languages of national minorities in administrative proceedings, but

¹⁷⁵ „Official Gazette”, No. 109/09, 4/10 – corr., 10/10, 25/11 and 5/13.

¹⁷⁶ „Official Gazette RS”, No 98/06.

¹⁷⁷ „Official Gazette RS”, No 22/09.

¹⁷⁸ „Official Gazette RS”, No 22/09.

¹⁷⁹ „Official Gazette SRJ”, No 11/02, „Official Gazette SCG”, No 1/03 –Constitutional charter, „Official Gazette RS”, No 72/09 – oth. law.

¹⁸⁰ „Official Gazette RS”, No 45/91, 53/93, 67/93, 48/94, 101/05 – oth. law and 30/10.

¹⁸¹ „Official Gazette RS”, No 20/09.

that the possible violations and denial of rights can be established in a constitutional appeal against a specific individual act.

4.11 Opinions on draft laws and other general acts

Opinion of the draft rules on detailed criteria for the recognition of discrimination forms of an employee, child, student and third party in the educational institution

At the request of the Ministry of Education, Science and Technological Development, in March 2015, the opinion was given on the Draft Rules on detailed criteria for the recognition of discrimination forms of an employee, child, student and third party in an educational institution. The Commissioner stressed the importance of identifying issues of discrimination in the educational system and its adequate regulation in a way that would enable to identify and prevent discrimination. It was pointed out that there is no need to define concept and forms of discrimination by this bylaw. In this regard, the Commissioner pointed out that the definition of discrimination in the Draft Rules is not in accordance with the legal definition of discrimination. In addition defining forms of discrimination in the Draft Rules was not done in accordance with the legal definition laid out in the Law on Prohibition of Discrimination. Certain provisions of the Draft Rules narrowed the legal prohibition of discrimination and left out important elements of certain forms of discrimination. So, for example, the Draft Rules incorrectly or incompletely defined indirect discrimination, i.e., omitted an important part of the definition which refers to the potential justification for a legitimate aim and is appropriate and necessary means of achieving the objective. In addition to this, there is an inaccurate and incomplete data and definition of breach of the principle of equal rights and obligations under Article 6 of the Draft Rules, while the definition of the prohibition of accountability under Article 7 of the Draft Rules is incomplete. Additionally, the Draft Rules more narrowly defines distressing and degrading treatment as a form of discrimination than it is required by the provisions of the Law on Prohibition of Discrimination. Namely, it is prescribed that this form of discrimination can only be performed by a third party and not by any of the participants in the process of education.

Opinion of the Draft Law on Administrative Procedure

At the request of the Ministry of State Administration and local Government, in April 2015 an opinion on the draft version of the law on general administrative procedure was given and in September 2015 an opinion on the Draft Law on Administrative Procedure was given. In the assessment of the provisions of the draft law, first satisfaction with the commitment to the legal

framework in this area into line with international standards was expressed, as well as with the principles and rules of the European Convention for the Protection of Human Rights and Fundamental Freedom. At the same time, the expectation that the adoption of this law will contribute to the fact that administrative territory of Serbia entirely meets the standards in terms of respect for human and minority rights was expressed, especially the rights of particularly marginalized and stigmatized social groups. It was also noted that some observations of the Commissioner for Protection of Equality of the text of the draft law were adopted. As for specific legislation, the need that the Draft Law explicitly prescribes exemption costs for persons with disabilities to hire an interpreter for the purposes of communication and monitoring the procedure, as well as to more specifically determine the manner of participation of persons with disabilities administrative proceedings, in accordance with the regulations in this area and European standards was pointed out. This would ensure a higher level of legal security, facilitate the work of administrative bodies, facilitate the position of parties in proceedings and allow the full exercise of the right to equality. The opinion also pointed out that people with visual impairments should have the right to have all written delivered for free in a form that allows them to self-learn its content. Costs of transcripts should be borne on the budget, so people with disabilities would not be imposed to additional costs which other parties do not have, where it is necessary to leave the possibility to visually impaired people to choose the format customized and understandable to them. In this context, it was supposed to amend the provisions of the draft law relating to the notifications and submissions. The Commissioner used this opportunity to point out the necessity to ensure physical accessibility of administrative bodies, included unhindered access, movement, and residence of persons with disabilities in administrative bodies so they could enjoy their rights and obligations equally with other citizens. In this regard, the Commissioner also reminded of the provisions of the Convention on the Rights of Persons with Disabilities, ratified by the Republic of Serbia. Also, the opinion indicated to provisions of the Convention of the Children's Rights. It was pointed out that the draft law should adequately define and operationalize the right of the child to freely express opinions in administrative proceedings that decide on his rights and interests and the child's right to an independent counselor in cases of conflicts between the child and his legal representative in administrative proceedings, as well child's hearing as parties and witnesses in administrative proceedings, while respecting international standards in the field of child rights, which is of particular importance in terms of child protection from discrimination. Finally, the Commissioner pointed out that it is necessary to reconsider the way in which the draft law defines who can be a party to the proceedings, who may appeal, as well as the circle of individuals and legal entities whose rights, obligations or legal interests may affect the outcome of the administrative procedure. In addition, bearing in mind that the draft law provided significant conceptual shift in relation to the currently valid Law on Administrative Procedure, the Commissioner pointed out that the length of the period prescribed in transitional and final provisions of special regulation should be reconsidered to comply with this law, as well as the length of the period prescribed for the implementation of the law.

Opinion of the Draft Law on the Method of Determining the Maximum Number of Employees in the Public Sector

At the request of the Ministry of State Administration and Local Self-Government, on 26 June 2015, an opinion on the Draft Law on the method of determining the maximum number of employees in the public sector was expressed. The opinion pointed out that the Article 5, Paragraph 1, item 2 of the Draft Law, placed the Commissioner for Protection of Equality in an disadvantaged position in relation to the current situation, bearing in mind that the Law on determining the maximum number of employees in the republic administration ("Official Gazette of RS", No 104/09) did not apply to the Commissioner. The European Commission report on the progress emphasized the need to improve the capacity of the CPE and to provide adequate facilities for employees, while the European Commission report on screening for the Republic of Serbia especially emphasized for the chapter 23 that it is necessary to strengthen institutional capacities of the bodies which are active in this field, improve their inter-cooperation and ensure that the bodies in charge of law enforcement act more effectively upon possible violations of law. The opinion pointed out that the determination of the maximum number of employees should remain under direct jurisdiction of the National Assembly of the Republic of Serbia, which gives consent to the Act on internal organization and systematization of the CPE, without deciding by a parliamentary committee, i.e., that decision is brought out in the lower level, as provided by the Draft Law on determining the maximum number of employees in the public sector. Also, this kind of decision would be contrary to the provisions of the Law on Prohibition of Discrimination.

An opinion of the Model Law on Agency for the Fight against Corruption

The Commissioner for Protection of Equality, at the request of the Ministry of Justice, on July 10, 2015, gave an opinion on the Model Law on Agency for the fight against corruption. Namely, by the model of the new law, the composition of the Committee, one of the bodies of the Agency shall be regulated in a different manner compared to the current Law on Agency for the fight against corruption.¹⁸² Members of the Board are elected at the preposition of the Administrative Committee of the National Assembly, the President of the Republic, the Government, the Supreme Court, the State Audit Institution, the Ombudsman and the Commissioner for Information of Public Importance, through joint agreement, as well as Social and Economic Council, Attorney Chamber of Serbia and Association of Journalists of Serbia, through mutual agreement. Bearing in mind the powers, the way of electing the members of the board and the fact that two independent state bodies are authorized nominators of members of the Committee, it is proposed that the authorized proposers include the Commissioner for Equality, which is an independent state body established by the Law on Prohibition of Discrimination, independent in performance of activities under this law, with a board range of legal powers that make it a central national mechanism to prevent and combat all forms and types of discrimination.

¹⁸²"Official Gazette RS", No 97/08, 53/10, 66/11 – decision US, 67/13 – decision US, 112/13 – authentic interpretation and 8/15 – decision US.

Opinion on the Draft Law on Amendments to the Law on Foundations of Education System

The Commissioner for Protection of Equality, on 10 July 2015 gave an opinion on certain solutions contained in the Draft Law on Amendments to the Law on Foundations of Education System, which are relevant in terms of the regulations on the prohibition of discrimination. The provisions of Article 10 of the draft law stipulate that after the Article 10dj Articles 10e and 10f should be added. In the Article 10f, paragraph 2, points 1 and 2 are prescribed by the actions of the Inter-ministerial Commission for assessing the need for additional educational, health and social support for children and students, as well as data controller in the process of data collection and processing, as required by the Commission, inter alia, which collects information about children for whom the process for assessment of needs for assistance was initiated, and keeps record on children who are assessed to need assistance. On the occasion of the above provisions, the Commissioner pointed to the proper use of the term and the need to query: procedure for evaluating the need for providing assistance should be replaced with the term: assessment process for providing additional educational, health or social support, in order to avoid stigmatization of children who need support.

In addition, in the processed new Article 10f paragraph 7 is prescribed: particularly sensitive data on children and students from both collections of data are collected and processed with the consent of their parents or guardians. In the event that the parent, i.e. guardian does not want to consent to the collecting and processing of data on their child, or withdraws approval, the members and the coordinator of the Commission can continue the processing of personal data of children and students in cooperation with the guardianship authority if it is in the best interest of the child and students, in accordance with the law. In this way, the parents of the children and the children themselves who need additional support in education would be put in an unequal position in relation to other parents and their children. It was pointed out that there is no legitimate reason for the existence of such an exception, bearing in mind that even the current Law on Foundations of Education, as well as the draft law do not have similar provisions that would allow the continuation or processing of data on a child or a student in case that parent/guardian does not want to consent to the collecting and processing of personal data on their child or withdraws previously given consent. In addition, it was recommended to seek the opinion of the Commissioner for Information of Public Importance and Personal Data Protection, bearing in mind the fact that the protection of personal data is in the competence of the independent state body.

On the occasion of the provisions of the draft law relating to the preparation of standards and conditions for the realization of special programs for children and students with disabilities and disabled people in the field of preschool, primary and secondary education, it was pointed out that the introduction of special programs for children and students with disabilities is not in compliance with anti-discriminatory legislation, as well as the principles of inclusive education.

In this regard, a comment on the proposed settlement of the draft law according to which the schools for the education of students with disabilities are able to generate customized and modified/special school programs in relation to the type of disability was also given. This solution is obsolete or obsolescent and is a serious step backward which does not contribute to increasing the quality and accessibility of education. Adoption of the proposed provision would present a return to the so-called medical model, which is contrary to the principle of full social inclusion.

The Article 43, paragraphs 5 and 6 of the draft law stipulate that a member of the team for inclusive education in pre-school and school institutions, among others, is a special respective specialty, who can be referred to other institutions. In this regard, it was pointed out that the provisions of the Article 77 of ZOSOV define that an individual education plan is brought to a child who, due to social deprivation, developmental disabilities, physical disabilities and other reasons, needs additional support in education. Therefore, it is not clear why it was prescribed that a special teacher should be the member of the team, bearing in mind that there is a vast diversity of children and students who could potentially require additional support in education. The current provisions according to which the parents' proposals may include experts outside the institutions who know the child, for who the educational plan is made, are entirely appropriate and should not be changed.

Remarks on the Article 49 of the Draft Law, which provides that in the opinion of an Inter-departmental Commission, a student with disabilities can be moved from elementary school to the school for students with disabilities, or from school for students with disabilities to elementary school, if it is estimated that it is in the best interest of the students, with parental consent were given. An opinion that the proposed provisions should not be adopted because in this way the real difference between students with disabilities and other students is opposed to the anti-discriminatory legislation was given. Specifically, it was stipulated that a parent chooses the school in which to enroll the child, and the role of the Inter-departmental Commission is to assess the child's need for additional support in education in order to provide individualized and good quality education for a child. The opinion also proposed to amend or omit the provision of the Article 52 of the Draft Law which stipulates that students with disabilities and disabled students adapt textbooks in accordance with their needs and capabilities, in accordance with the law. Commissioner for Protection of Equality issued an opinion that it is necessary to pursue this solution because there is no way to determine the "opportunities" for education by a specific textbook.

An opinion on the Draft Law on Police

The Commissioner for Protection of Equality, supporting the initiative of the Autonomous Women's Center to introduce "emergency measures to protect" in the Law on Police, gave an opinion to the Draft Law on Police on 14 July 2015. She welcomed the activities of the Coordination Body for Gender Equality, which initiated the dialogue between the representatives of the Ministry of Justice, Ministry of Internal Affairs and the Ministry of Labor, Employment, Veteran and Social Affairs in order to take coordinated measures within their jurisdiction and initiate reconciliation of family and criminal law in this area. The opinion expressed an attitude that it is necessary to amend the existing Draft Law on Police in a way that it would enable police officers to impose emergency measures in cases of domestic violence, suspension from the residence address, the house or apartment, to impose measures for person who performs violence against family members minimum 14 days and a temporary prohibition of contact with a family member, etc., in order to prevent further commission on violence. Also, the issue of ownership of a house or apartment may not have any impact on the implementation of the proposed measures. This would allow the implementation of "emergency measures for the protection of victims of violence in situations of imminent danger, regardless of the legal proceedings, which would primarily have a preventive character. The Commissioner pointed out that these measures should not be identified with the existing variety of measures for protection from domestic violence and security measures in our legislation imposed only after the court proceeding, i.e. in many cases too late. Police should also be empowered to prohibit the violator to return to his residence address respecting the principle of proportionality, by taking away abuser's house keys, allow him to take necessary personal items and inform him of a possible alternative accommodation, etc., the way it has been done in the Austrian Law on Police, which is an example of good practice in Europe. Bearing in mind that the fight against violence against women is one of the priorities of the entire society, and therefore the police, it is very important that the Draft Law on Police anticipates the possibilities of imposing such measures and powers of the Ministry of Internal Affairs for their application, and that the use of "emergency measures of protection" and ways of emergency response in the event of violation is regulated by a bylaw in more details. The Commissioner pointed out that the Convention of the European Council on preventing and combating violence against women and domestic violence (Istanbul Convention) recognizes the need for "urgent measures of protection".

Opinion on the Draft Law on Textbooks

During 2015 (February, June, and July), at the request of the Ministry of Education, Science and Technological Development, an opinion on the submitted texts on the Draft Law on the textbooks was given. The opinion indicated that some of the suggested solutions in the Draft Law are not in compliance with applicable anti-discrimination legislation and regulations which establish the legal framework of inclusive education in Serbia. Thus, Article 4 of the Draft Law introduces a special category of textbooks – textbooks for students with disabilities and disabled

as contrary to the Article 21 of the Constitution of the Republic of Serbia,¹⁸³ which prohibits any form of direct or indirect discrimination on any personal capacity, the provisions of the Article 19 of the Law on Prohibition of Discrimination which, among other things, prohibits impeding or not allowing following of teaching and participation in other educational activities and sorting students according to their personal capacities; the provisions of the Article 26 on the mentioned Act provides that discrimination exists if it is acted contrary to the principle of respect for equal rights and freedoms of persons with disabilities in political, economic, cultural and other aspects of public, professional, private and family life; the provisions of the Article 3, paragraph 1, item 2 of the Law on Prevention of Discrimination against Persons with Disabilities which describes discrimination as any distinction or unequal treatment, or omission (exclusion, limitation or preferential treatment) in relation to individuals or groups, as well as members of their families or persons close to them, in overt or covert way, which is based on the grounds of disability or is related to it. The provision of this article could not be considered a special (affirmative) measure intended for children with disabilities. The legislator provided that the changes and adjustments made at the individual level, and their meaning is to provide the adjustment / change to a student in accordance with their individual needs, which is achieved, among other ways, through an individual education plan. Given that it is not generally provided to change the content and / or customize the curriculum for children with disabilities, there is no basis for the existence of special textbooks for students with disabilities. On the other hand, the existence of textbooks in other formats, such as books written in Braille format, with enlarged letters and the like, do not constitute discrimination but its elimination, because in this way specific characteristics of certain students are respected.

The Draft Law stipulates the possibility that the Government, in accordance with available resources, finances or co-finances purchase textbooks, manuals for adult education and teaching aids from the budget, with the aim to enable equal access to textbooks, manuals and teaching aids to pupils and students from socially / financially disadvantaged families. The Commissioner for Protection of Equality welcomed this legal solution, bearing in mind the fact that children from poor and socially deprived communities are at risk of discrimination due to unfavorable social and material situation in their families. This would encourage inclusive education, eliminate obstacles and premises and create equal opportunities for all children.

On the occasion of the provisions of the Draft Law relating to equal opportunities and prohibition of discrimination, an opinion was expressed that the practical application of this rule, which introduction deserves all the praise, is of great importance to be adequately developed, so it would be prescribed that all textbooks and other teaching aids should promote the right to non-discrimination, gender equality, and equal opportunities, as well as tolerance and respect and appreciation for diversity of human identity. Bearing in mind that the prohibition of discrimination, as well as the concept of discrimination, are adequately regulated in our legal system, it was pointed out that there is no need for a separate definition of discrimination in the draft law, however, it is sufficient to enter appropriate anti-discrimination clauses. If, however, we remain

¹⁸³"Official Gazette RS", No 98/06.

committed that the Law on Textbooks regulates prohibition of discrimination, it should be performed in accordance with applicable anti-discrimination laws.

On the occasion of the provisions of the draft law relating to the list of assessors manuscripts of textbooks and procedure for selection of assessors manuscripts of textbooks, it is proposed to consider prescribing the obligatory participation of experts in the field of human rights and anti-discrimination legislation in the work of the Commission for the evaluation of manuscripts. This would ensure the necessary conditions for realization of inclusive education.

The opinion also argued that it is necessary to amend the provisions of the draft law by a provision according to which the textbook should be withdrawn for usage if its content is contrary to the provisions of this Act, which regulates respect for the principle of non-discrimination and equal opportunities.

The Commissioner for Protection of Equality once more pointed out that the use of words and phrases only in the masculine form in the draft text, as generic neutral terms for both masculine and feminine, violates the principle of gender equality. Bearing all this in mind, it is necessary that the provisions of the future law be written in the gender-differentiated language, using any form and words in both masculine and feminine genders, or to introduce clauses to all legal provisions apply equally to both men and women.

Opinion of the Draft Law on Sports

Acting upon the request of the Ministry of Youth and Sports, and using her legal powers, the Commissioner for Protection of Equality, on 3 September 2015, gave an opinion on certain provisions of the draft law on sports, in which she praised the use of gender-sensitive language. The use of the language in which the presence, equal status and roles of women and men in society are on an equal footing reflect and are treated with equal value and dignity, are of importance in achieving the gender equality. In this regard, the introduction of provisions on obligations of marking the position, profession, and occupations in the male of female grammar gender, depending on the carrier of the position, profession or occupation was recommended, which would be a further important step towards the realization of the gender equality. They also pointed out the need that the concept of discrimination and personal characteristics should be in line with the provisions of the Law on Prohibition of Discrimination, by which these terms are

defined. It is of great importance that all sports facilities are accessible to people with disabilities, children, and elderly people. It was suggested that terms such as “persons with disabilities” and other similar stigmatizing expressions are eliminated from the draft law, or replaced with the corresponding terms in accordance with generally accepted linguistic and terminological standards. All persons with disabilities, regardless of the type of disability, have the same needs as all other citizens (for food, safety, physical activity, emotional relationship, education, culture, sports, etc.). Ways to satisfy these needs depend exclusively on the willingness of society to equally treat all its citizens, with the creation of equal opportunities for all.

Opinion on the Draft Law on Amendments to the Law on the Prevention of Discrimination of the Persons with Disabilities

The Commissioner for Equality, at the request of the Ministry of Labor, Employment, Veteran and Social Affairs, in October and November 2015, gave an opinion on the Draft Law on Amendments to the Law on Prevention of Discrimination against Persons with disabilities. In these opinions, the Commissioner expressed satisfaction because of the strong commitment to comply the legal framework in this area with international standards, as well as with the principles and rules of the UN Convention on the Rights of Persons with Disabilities.¹⁸⁴ By ratifying the UN Convention on the Rights of Persons with Disabilities, the Republic of Serbia committed itself to ensure and promote the full realization of all human rights and fundamental freedoms of persons with disabilities, and to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities.¹⁸⁵ The Commissioner supported the effort to proposed changes to encourage equality and social inclusion of people with disabilities who, because of the nature of the disability (physical or sensory or illness) are not able to personally sign in situations when the signature is required on the exercise of the right or a service. A satisfaction that the Commissioner's remarks were generally adopted for the first text of the draft law and that the use of the seal was extended in the procedures of exercising rights from public authorities was expressed, as well as that in the new text the design and use of the seal were regulated in more details. The introduction of the possibility of using the seal containing the information about personal identity or seal engraved with the signature of the person with disabilities who suffers from lasting effects on physical or sensory impairment or disease in the proceedings before the public authorities, as well as when using the services, is of great importance to everyday lives of people with disabilities, and achievement of equality of these people who are unable to personally sign and exercise their rights and use services in relation to other citizens. The satisfaction because of the readiness of the Ministry of Labor, Employment, Veteran, and Social Affairs in cooperation with the Ministry of Education, Science, and Technological Development, as the competent authority for education to approach

¹⁸⁴ Law on Ratification of the Convention on the Rights of the Disabled People ("Official Gazette RS – International Contracts", No 42/09).

¹⁸⁵ Article 4, Paragraph 1 Convention on the Rights of Persons with Disabilities ("Official Gazette RS– International Contracts", No 42/09).

modifications of the Article 19 of the Law on Prevention of Discrimination of Disabled Persons and its harmonization with national and international standards in this field, which is in relation to its compliance with the Article 21 of the Constitution of the Republic of Serbia, with the provisions of the Article 21 and 28 of the Convention on the Rights of the Child¹⁸⁶ with the Article 7 of the Convention on the Rights of Persons with Disabilities,¹⁸⁷ with the provisions of the Article 4-14 of the Law on the Prohibition of Discrimination and with the provisions of the Article 3, 6 and 77 of the Law on the Foundations of the Educational System.¹⁸⁸ was also expressed in the opinion on the submitted text of the draft law. In this way the earlier recommendation of the Commissioner relating to the amendment of the articles of the law would be fully adopted, which would put children with intellectual disabilities on an equal position with other children.

Opinion of the Draft Law on Gender Equality

On 31, August 2015, Commissioner for Protection of Equality gave an opinion on the Draft Law on Gender Equality, which was preceded by the text of the draft law on equality of women and men from 27 December 2015. At the beginning of the opinion, the Commissioner recommended for the term “gender” to be replaced by the term “gender identity”, which implies a deep personal understanding of the own gender, which may and may not coincide with the gender attributed to a person at birth. Also, the Commissioner for Protection of Equality pointed out that the definition of discrimination in the Draft Law on Gender and Gender Identity omitted one of the essential features in the concept of discrimination, and that is that discrimination is unwarranted differentiation. The Commissioner for Protection of Equality pointed out that it is essential that the concept of discrimination from the Draft Law is into line with the concept of discrimination in the Law on Prohibition of Discrimination, given that this law represents the basics of anti-discrimination law which regulates the general regime of protection against discrimination. Then, bearing in mind the subject of the Draft Law, it was proposed that in addition to direct and indirect discrimination, which represent the two main forms of discrimination, defines multiple discrimination and prohibition, “discrimination on two or more personal characteristics”, which is a severe form of discrimination. Furthermore, the Draft Law stipulates that harassment and sexual harassment are unwanted acts done intentionally. From the standpoint of the Law on Prohibition of Discrimination, the intent is not legally relevant in cases of discrimination, or for establishing the fact of whether someone committed discrimination or not, it is not important whether there was an intention to discriminate another person. Discrimination can be conducted without an intention, and therefore in ignorance that the act done was discriminatory, and without awareness that someone was discriminated. Given the above, it was proposed that the wording of the Draft Law omits the phrase “intent” whenever it is correlated with the act of

¹⁸⁶ Law on Ratification of the UN Convention on the Rights of the Child (“Official Gazette of the SFRJ– International contracts”, No 15/90, “Official Gazette” of SRJ – International contracts”, No. 4/96 и 2/97).

¹⁸⁷ “Official Gazette of RS– International contracts”, No 42/09.

¹⁸⁸ Law on Foundations of Education and Upbringing (“Official Gazette of RS”, No. 72/09, 52/11, 55/13 and 35/15).

discrimination. In addition, it was pointed out to the necessity of compulsory use of gender-sensitive (gender-differentiated) language in official communication, but also to the need to prescribe non-implementation of gender-sensitive language in all general and individual acts passed by state authorities, institutions, agencies and organizations, as well as illicit behavior. Due to the fact that women are involved in social, political and public life, use of the names of their titles and functions in male grammatical gender is unacceptable. In this way traditional and stereotypical gender division of occupations into “male” and “female” is continued, the changes that have undoubtedly occurred are not followed, the existing stereotypes and prejudice maintain which makes it difficult to uniformly involve women in social and political life. It was also suggested that the Draft Law should be amended by provisions relating to the obligation of public authorities to use gender-sensitive (gender-differentiated) language in official communication in all general and individual acts passed in performing their responsibilities. Also, due to the fact that a small number of employers in Serbia employs more than 250 employees, the Commissioner proposed to amend provisions of the Draft Law concerning the obligations of employers who employ more than 250 employees and to introduce an obligation for employers who employ more than 50 employees to adopt plans of measures for elimination or mitigation of uneven employment of men and women, and to make reports on the implementation of plans of measures for elimination or mitigation of uneven employment.

It was also suggested that the provisions of the Draft Law are amended by the provisions by which the state bodies, institutions, agencies, and organizations will be required to take special measures for the employment of difficult to employ women (e.g. Roma women, older women, disabled women, single mothers, women victims of gender-based violence, women of different sexual orientation or gender identity, etc.). Also, the opinion pointed out that certain provisions of the Draft Law identify discrimination and harassment at work. Given the above, it was recommended that the Draft Law stipulates that the act of discrimination is solely considered harassment at work or in connection with work on the basis of sex and gender identity, personal characteristics (ground of discrimination) is one of the essential and constitutive elements of discrimination. Regarding the ban of redistribution of working time for mothers and pregnant women, the commissioner pointed out that this way diminishes the rights they have under the provisions of the Law on Labor. It is extremely important that pregnant women and new mothers have the right to choose whether or not they want to have their working hours redistributed. The Commissioner also proposed the introduction of new provisions related to the assessment of employees during pregnancy and maternal leave and during leave from work for child care and special child care, in a manner that the employees whose work is not valued because of these circumstances, they cannot be brought in an unequal position compared to other employees, if the employer in any way changes the employment status during their absence from work.

In terms of the obligations of the unions, which are regulated by the Draft Law, the commissioner pointed to two illogical things. Namely, there is a prescribed duty of the unions to include provisions that guarantee protection from discrimination based on gender and gender identity in their collective agreements and other acts. Given the nature of collective agreements,

it is proposed that these provisions should not be entered into collective agreements, bearing in mind the fact that collective agreements are the result of collective participation in negotiations. In addition, the Commissioner for Protection of Equality pointed out that it is unacceptable for a sovereign and independent organization of employees, whose operation is based on the voluntary principle, to be imposed a duty to initiate court proceedings. Then, the Draft Law stipulates that the institutions of social and health care, and services for retail establishment (pre-school and school education, regardless of ownership, mail, postal savings banks, city and municipal administrations) have their work and working time arrangements adapted to the needs of users, organizing work in shifts, not later than three months from the date of entry into force of this Act. Commissioner for Protection of Equality believes that this is an important step in ensuring the balance between private and professional life for all employees who need these services. However, the Commissioner indicated that we should bear in mind the employees in the departments and services for citizens, and to specify that the work in these services can be organized in two shifts with full-time, in order to avoid the possibility that employees work double shifts. Otherwise, employees in these services would be brought in an unequal position in relation to employees who work for other employers, with great difficulty to reconcile professional and private life. When it comes to guaranteeing the gender equality in sport, the Commissioner for Protection of Equality considers that this provision should be amended so that gender equality is guaranteed to people who are actively involved in sports, as well as sports workers. In addition, it is necessary to expressly provide the prohibition for unequal treatment of male and female sports clubs, as well as their players, especially regarding the conditions for training, earnings of the club, and earnings of the players.

The Draft Law stipulates that marital and extramarital communities are equal in terms of rights and obligations arising from these communities (parenting, child support, and property and inheritance relations). The Commissioner considers that this provision should be amended, so as to include the rights to pension and disability insurance, as well as the right of inheritance. In addition, a time limit should be prescribed for all laws in which marital and extramarital communities are not fully equal to be harmonized with this law. The Commissioner for Protection of Equality believes that the part of the law relating to family life should prescribe special measures to encourage fathers to use the right to leave for the child care. In addition, it is necessary to prescribe certain measures (the required training, etc.) aimed at employees in the social welfare system and the judiciary, and which will affect the changes in stereotypes and prejudice regarding gender roles, respectively, which will contribute to alter that usual practice after termination of communion of the parents, in most cases, the children are entrusted to their mother's care. At the end of this section of the Draft Law it was provided that the conditions for the establishment of companies between married and common-law partners are not more restrictive than the conditions for the establishing of companies from other individuals. The Commissioner for Protection of Equality believes that this paragraph should be amended, i.e., stipulated that there are not more restrictive conditions for the establishment of any form of organization that is subject to registration (e.g. farm, a citizens' association, various forms of entrepreneurship, etc.).

It was also suggested that the Draft Law defines persecution, as a special form of gender-based violence, with the prescription of this unlawful conduct as criminal offense. With this, the Republic of Serbia would, among other things, fulfill one of the commitments undertaken by the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). Persecution can be defined as tracking or stalking of other person or an attempt to deal with the person, directly or through a third party or otherwise, to establish unwanted contact and that way cause a lifestyle change with the person, cause anguish or fear for the person's safety or safety of persons close to the persecuted person. Furthermore, the Draft Law lists the personal characteristics on the basis of which the persons who have been exposed to domestic violence are considered "particularly vulnerable categories" and which should be adapted to all specialized services for providing protection from domestic violence. The Commissioner proposed expanding the list of personal characteristics (gender, disability, sexual orientation, linguistic diversity, rural life) and other personal characteristics which make people particularly vulnerable in situations of gender-based violence. The Commissioner proposed to expand the list of particularly vulnerable survivors of gender-based violence so that the special attention would be paid to people living with HIV / AIDS, pregnant women, new mothers, migrant and asylum seekers, single parents, elderly and disabled people and similarly. In the part of the Draft Law relating to gender-based violence and violence against women and domestic violence it points to the problem of trafficking women, given that it is a form of gender-based violence against women, which leads to brutal violation of human rights and dignity of women. Bearing in mind that the civil protection against discrimination is comprehensively regulated by the Law on Prohibition of Discrimination, an amendment of the provisions of the Draft Law relating to judicial protection was proposed, so that it would provide that everyone has the right to file a lawsuit for the protection from discrimination on grounds of gender and gender identity and with accordance with the Law on Prohibition of Discrimination.

At the end of the opinion it was recommended to amend the penal provisions of the Draft Law so as to prescribe offenses for failure to fulfill obligations imposed by law and discrimination based on gender in respect of termination of employment and work engagement, the principle of equal pay for equal work or work of equal value, to enshrine gender equality in sport, prevent discrimination based on gender in education, science and culture; the establishment and financing of non-stop free SOS line for the whole territory of Serbia and the provision of service to those who have suffered violence in the same room with the perpetrators of violence. In addition, it was proposed that the Court make an assessment, having in mind circumstances of the case and the nature of the offense, to decide whether to impose a measure of public announcement of the sentence at the expenses of the convicts, regardless of the sentence, with obligatory imposition of the measure in case of the imposition of the maximum sentence.

Opinion about the Draft Law on Equality between Women and Men

At the request of the Deputy Prime Minister, on 27 December 2015, the Commissioner gave her opinion on the Draft Law on Equality between Women and Men. The Commissioner for Protection of Equality pointed out that it is essential that the concept of discrimination from the Draft Law is harmonized with the concept of discrimination in the Law on Prohibition of Discrimination, given that this law represents the basic anti-discrimination law which regulates general regime of protection against discrimination. Special laws which regulate prohibition of discrimination in certain areas of social life, or are related particular social groups, must comply with this law. When defining the concept of discrimination, key characteristics which are the basis of distinguishing discrimination from other illegal behaviors were omitted. Firstly, the essential characteristics of discrimination were omitted, and that is that discrimination is unwarranted differentiation. There is number of situation where this differentiation is justified and such a definition is not in accordance with international and national anti-discrimination legislation. Also, another essential element of discrimination – basis of discrimination was omitted. Then, it was pointed out that this law should prescribe the prohibition of multiple discrimination. It was also suggested that the Draft Law would be amended by provisions relating to the obligation of public authorities to use gender-sensitive (gender-differentiated) language in official communication, in all general and individual acts passed in performing their responsibilities. Also, due to the fact that small number of employers in Serbia employ more than 250 employees, the Commissioner proposed to amend the provisions of the Draft Law concerning the obligation of employers who employ more than 250 employers and to introduce an obligation for employers who employ more than 50 employees to adopt plans of measures to eliminate or mitigate the uneven employment of men and women, and to make reports on the implementation of plans of measures to eliminate or mitigate unequal employment.

It was also suggested that the Draft Law should be amended with provisions that would provide that employees whose work was not assessed during pregnancy and maternity leave and during leave from work for child care and special child care cannot be placed in an unequal or less favorable position in relation to other employees, just because of the aforementioned absence. In addition, it was proposed to specify the provisions of the Draft Law relating to the working time of social and health care institutions, as well as of institutions which provide services for the population (pre-school and school residence, regardless of ownership, post offices, postal savings banks, city and municipal administration) and adjustment of the work of these institutions to the needs of the users and to organize their work in shifts. Regarding the provisions of the Draft Law which stipulate that spouses and common-law partners are equal according to the law, an opinion that it is necessary to fully equalize marital and extramarital communities in all spheres of social relations was given. In this regard, it was suggested to specify these provisions in a manner that would prescribe that spouses and common-law partners are equal in their rights and obligations in all areas of social life and that the rules governing the rights and obligations of spouses and common-law partners in specific areas of social life are harmonized with this provision. Given the above, it was proposed that the Draft Law prescribes a deadline within which to carry out harmonization of other laws with this law. It was also suggested that the part of the Draft Law related to family life should prescribe specific

measures to encourage fathers to exercise their right to leave for child care, as well as certain measures (mandatory training, etc.) that would affect the changes of stereotypes and prejudices in relation to gender roles.

The Commissioner also suggested the Draft Law to define stalking as a specific form of gender-based violence, stipulating this unlawful conduct as a criminal offense. This way, the Republic of Serbia would fulfill one of the commitments undertaken by the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). It was also suggested that the provision of the Draft Law, which refers to the fact that violence is not allowed either in public or in private life, and that mandatory mediation and arbitration in resolving disputes in relation to violence are not allowed, should be amended by not allowing services to those who have suffered violence in the same room with perpetrators of violence. Namely, practice has shown that the presence of perpetrators in the room where the victim makes the statement about the violence, makes them suffer secondary victimization, exposes them to feel helpless and possibly leads to a situation of fear for his/her safety and not being sincere in describing the events and expressing their emotions and fears of the perpetrators. It was also pointed out that this section should be amended, so that all the people in the situations of domestic violence, regardless of their personal characteristics, will be provided specialized services, including shelters for safe accommodation. At the end of the section relating to domestic violence, the problem of trafficking of women was pointed to, given that it is a form of gender-based violence against women, which leads to blatant violation of human rights and dignity of women.

In reference to the Draft Law relating to judicial protection from discrimination, it was proposed that the provisions of the Draft Law are in accordance with the Law on Prohibition of Discrimination. Finally, it was proposed that penalty provisions of the Draft Law should be amended, i.e., offenses for failure to fulfill obligations imposed by the law, and discrimination against women and men in regard to termination of employment and work engagement, the principle of equal pay for equal work or work of equal value and violation of mandatory mediation and reconciliation in resolving disputes in relation to violence and provision of services to victims of domestic violence in the same room with perpetrators of violence should be prescribed. In addition, prescribing of offense for the competent authority which provides specialized services and for the responsible person in the institution, in case they act contrary to the provisions of this Act in the part related to the provision of safe accommodation and access to persons who have suffered violence was proposed.

In December 2015, the Commissioner for Protection of Equality, at the request of the Ministry of State Administration and Local Government, gave an opinion on the Draft Law on Amendments to the Law on Civil Servants. In the opinion of the draft law it has been pointed out that, if we want to establish a civil service system based on the principles of transparency, competitiveness, admissions and promotions based on merit, some provisions of the draft law are necessary to be reconsidered. Bearing in mind the provisions of the Constitution of the Republic of Serbia, and the Law on Prohibition of Discrimination, an opinion that it is necessary to amend the provisions of the Draft Law which restrict the number of civil servants whose work can be evaluated as “very good” and “very successful” was given. As an explanation of changes in the law, it was stated that “in the current system of evaluating there is an apparent large number of the highest scores, which undermined the purpose and meaning of assessment and evaluation of their performance.” However, the adoption of these changes would lead to violations of labor rights, as well as a possible distinction, exclusion or preference to individual civil servants which would lead to a distortion of equal opportunities for the exercise of rights. With the introduction of restrictions, some employees would not be evaluated by the highest grade even though they deserve it, which would be obstructed by the exercise of labor rights, which are conditioned by the achieved grades, i.e., evaluation of employees. If the amendments to the Law on Civil Servants want to improve the appraisal system for civil servants, and achieve balanced and fair assessment to motivate employees and increase productivity, it is necessary that instead of introducing quotas in the evaluation process, to establish a mechanism of capacity assessors in terms of objective measurement for efficiency of work processes by establishing standards and clear criteria that would be applied during the process of assessment. Considering that the Law on Civil Servants stipulates possibility of promotion, but not the obligatory advancement of the employees who in a certain period assigned scores similar to progression, there are no clear reasons for the introduction of these quotas. The introduction of restrictions of how many employees can be graded with “very good” and “very successful” does not mean that the evaluation of work will be better and more just. The opinion also pointed out that it is necessary to reconsider the provisions of the Draft Law relating to different types of assessment, or different evaluation of civil officials and civil servants at executive positions. The proposed amendments have not prescribed how to evaluate the assessments of the civil officials, when the civil official's work is terminated, in case he is assigned to the executive position in the state body. The question is whether the proposed amendments put civil officials in a disadvantaged position in relation to state servants at executive positions, because they are left without possibilities to advance, for in the period when they were at positions they were not graded with the promotion scores. Related to this, it was pointed to the need to accurately determine the assessment “satisfactory”, to define precisely what it involves, in order to avoid making differences related to the officials and civil servants at executive positions.

4.12 Court Proceedings

One of the most important powers of the Commissioner for Protection of Equality is to initiate proceedings for protection from discrimination. The Commissioner has an active processing legitimacy in all cases for protection from discrimination, regardless of the form and the case of discrimination and irrespective of whether an individual or a group of people is a victim of discrimination. The Commissioner initiates anti-discrimination litigations in cases of the public interest, and he estimates when and in which cases to file a lawsuit for protection from discrimination, bearing in mind the fact that the objective and purpose of litigation he initiates are beyond the significance it has in terms of protection of the rights of discriminated persons, i.e., group of people. These are called strategic litigations, initiated by the Commissioner and are conducted in the public interest, with an aim that with her processing legitimacy as a prosecutor in the lawsuit, contribute to the consistent application of the regulations and improve legal practice and further encourage victims of discrimination to institute anti-discrimination litigation, as well as to educate and sensitize public to the problem of discrimination. In addition, the Commissioner aims, with his procedural activity, to achieve favorable court decisions, which, in addition to providing legal protection for discriminated persons, also sends a clear message to the public that discrimination is prohibited and effectively outlawed.

The Commissioner for Protection of Equality is authorized to present all the legal requirements that are prescribed by the Law for Prohibition of Discrimination, except for the claims for material and non-material damages. The lawsuit can be filed if the discriminated person agrees, in cases when discriminatory treatment applies to a specific person only, and the consent is not required if the act of discrimination refers to two or more people, and not only in cases when the act of discrimination refers to the group (individually unspecified) people, but also when the same act of discrimination discriminate two or more individually specified persons, members of the group. The Commissioner bears the burden of litigation, and she is the one who needs to make it probable that the defendant committed an act of discrimination, in accordance with the rules on the allocation of the burden of evidence. However, the Commissioner is not a holder of the rights protected in the proceedings and therefore all the effects of the litigation and judgment it brings act begin indirectly for the individual/individuals whose rights are protected in the lawsuit.

Complaints procedures implemented by the Commissioner and litigation for protection against discrimination are two completely different and independent forms of protection from discrimination, and the procedure on the complaint does not have the character of preliminary proceedings and does not constitute a procedural precondition upon which the permissibility of providing legal protection to the anti-discriminatory lawsuit. Also, filing the complaint about protection from discrimination is not a mechanism that ensures compliance with the recommendations of the Commissioner for Protection of Equality.

Commissioner for Equality has filed 13 lawsuits for protection against discrimination so far. Out of these, seven lawsuits were filed due to discrimination based on belonging to the Roma national minority, three due to discrimination based on gender, one claim of discrimination based on disability and two lawsuits for discrimination on multiple grounds.

From a total 13 lawsuits for protection against discrimination, six ended in favor of the Commissioner for Protection of Equality, as the court fully adopted filed complaints of the Commissioner. In most claims, and depending on the forms and cases of discrimination, as well as the ways discrimination was performed, in addition to the request for finding that the defendant acted in a discriminatory way, the Commissioner demanded from the Court to prohibit the defendant further commission of the acts of discrimination, and/or prohibit repetition of discrimination activity. If it was possible in a concrete case, the Commissioner asked the court to make the defendant obliged to enforcement of action which would remove the effects of discriminatory treatment, as well as the announcement of the verdict in one of the daily newspapers with national circulation.

In two cases, the Commissioner for Protection of Equality withdrew a lawsuit, given that the defendant in one case impugned decision, and the other defendant changed the ordinance, which was the reason for the complaint. One of the processes was interrupted, given that the defendant was removed from the register of companies, two cases are before the Appellate Court in Belgrade, which is to decide on appeals, and one procedure is still pending before the Superior Court in Belgrade.

Only one process was lawfully ended by refusing the complaint claim from the Commissioner for Protection of Equality.

During, 2015, the Commissioner for Protection of Equality did not submit any claims for protection against discrimination. In this part of the report procedures in the anti-discrimination lawsuits that were initiated in previous years and the decisions made in 2015 will be presented. In addition, a criminal complaint filed by the Commissioner to the competent prosecutor's office will be presented.

Discrimination of Roma children in the fast food restaurant

The Commissioner for Protection of Equality filed a complaint against the fast-food restaurant in 2012 because the security guard did not allow Roma children to enter the restaurant with a woman who wanted to buy them food in the restaurant. The first instance court decision rejected the complaint on the grounds that the Commissioner for Protection of Equality did not have the consent of the person in respect of which it was claimed that the action of direct discrimination was done. The Superior Court in Smederevo refused Commissioner's complaint and confirmed the first instance decision. Deciding on the revision of the Commissioner for Protection of Equality, the Supreme Court of Cassation in September 2014, revoked the decision of the Superior Court in Smederevo and the decision of the First Basic Court in Belgrade, and returned the case for retrial. This decision of the Supreme Court of Cassation is very important because the Court held that the Commissioner did not need a written consent for filing the complaint, considering that in this case the complaint was filed for investigation of discrimination the defendant committed toward the group of people – children of Roma nationality. The Supreme Court of Cassation pointed out that the complaint was not directed at the Commissioner's

finding of discrimination against a particular person, in which case the Commissioner was required a written consent for filing a complaint, but the identification of discrimination against a group of people. As noted above, the Supreme Court of Cassation, due to the annulment of decisions, returned the case for retrial to the Superior Court, as a really competent to decide on disputes related to protection from discrimination, given that the amendments to the Law on Courts ("Official Gazette of RS" no. 116/08, 104/09, 101/10, 31/11 - other law, 78/11 - other law 101/11 and 101/13), which has been implemented since January 1st 2014, a real jurisdiction to decide disputes for protection against discrimination with the basic courts was taken to relevant higher courts. However, the Superior Court in Belgrade, by decision of 16 March 2015 was announced incompetent to act in this matter and determined that, after the final judgment the case was delivered to the First Basic Court in Belgrade, as a real and territorial jurisdiction. The Superior Court states in this decision that, in accordance with the Article 23, paragraph 1, item 7 on the Law on Courts jurisdiction in disputes related to protection against discrimination and harassment and work, the basic court is competent for this. The First Basic Court sparked conflicts of real jurisdiction, considering that it is not competent to act in this legal matter, but that the Superior Court in Belgrade is competent and it referred the case to the Appellate Court in Belgrade, in order to resolve the conflict of real jurisdiction. The Appellate Court in Belgrade, by the decision of 1 July 2015 decided that the trial in this matter is the jurisdiction of the Superior Court in Belgrade. Preliminary hearing in the case was held on 9 December 2015, three and a half years after the filing of the complaint, and the next trial hearing is scheduled for March 2016

Gender discrimination in employment

The Supreme Court of Cassation, by its decision of February 2015, rejected the revision of the restaurant chain filed against the judgment of the Appellate Court in Belgrade, which altered the judgment of the First Basic Court in Belgrade. By the judgment of the Appellate Court the request of the Commissioner for Protection of Equality was fully approved, in a lawsuit for discrimination on the basis of gender, against the pizza restaurants chain which employs only women. After the appearance of the advertisements on the sales places "Would you like to become a part of our team? Girls needed to work at the desk", voluntary discrimination testers reported on the job and talked with the employees of the pizzeria, that is, with people who presented themselves as competent to talk about employment. Interviews were conducted at three outlets in Belgrade and in all three locations a voluntary tester of discrimination was informed that he could not be recruited because of company policy to employ only women while the job was offered to a voluntary examiner of discrimination. The Appellate Court found that this commercial company, by posting a job advertisement "Would you like to become a part of our team? Girls needed to work at the desk" committed a direct discrimination on the grounds of gender in the field of labor, the defendant was prohibited to repeat an act of discrimination on the basis of gender or any other personal characteristics in the future, in any way, within the framework of their activities, and was ordered to publish the judgment in a daily newspaper with national circulation. The Supreme Court of Cassation noted in its decision that the court of the

second instance, by the proper application of substantive law, concluded that the defendant committed an act referred to the treatment of direct discrimination on the grounds of gender, which is why the trial verdict was properly modified and the claim was approved.

Transfer to a lower position after returning from absence from work for child care

In March 2015, the revision of the Commissioner for Protection of Equality of the judgment of the Appellate Court in Belgrade of 10 September 2014 was rejected. This ended the proceedings on the complaint by the Commissioner for Protection of Equality in 2012, filed against a bank for transferring of an employed woman to a lower working position after returning from maternity leave and leave from work to care for her third child. The first instance court rejected the complaint of the Commissioner for Protection of Equality, which requested the court to determine whether the bank, by moving the employee to a lower position, immediately after returning from maternity leave, and leave from work to care for her third child, committed an act of discrimination on the grounds of gender, the court ordered the bank to return the employee to the position where she had been before the maternity leave, and that the bank should publish the judgment in a daily newspaper with national circulation. The Appellate Court in Belgrade rejected as unfounded the appeal of the Commissioner for Protection of Equality and confirmed the decision of the First Instance Court, and the Supreme Court of Cassation rejected, in March 2015, revision of the Commissioner filed against the judgment of the Appellate Court in Belgrade.

Discrimination against Roma minority members in the provision of banking service

At the end of 2013, the Commissioner filed a complaint against a bank, following situational discrimination tests conducted by a non-governmental organization for the protection of rights of the Roma minority. Based on the report on the conducted situation testing, it was found that the bank refused to open a current account to a voluntary examiner of discrimination and member of Roma minority, who wanted to open an account in the branch of the bank. Namely, the voluntary examiner of discrimination came into the bank and said that she wanted to open a current account, as she should receive a one-time payment. The bank official refused to open a bank account to the examiner of situational testing and stated that they could not open an account for a one-time payment. Two hours later, controller of the situational testing, who was not a member of the Roma minority, came to the bank with the same request and the same bank official opened an account for her. By the complaint statement, the Commissioner requested the court to determine whether the bank's refusal to open an account, to provide a

service and open a current account to the voluntary examiner of discrimination, was an act of direct discrimination on the basis of nationality, and to prohibit the bank, in the frameworks of its activities, to repeat acts of discrimination by refusing to provide services to the members of the Roma national minority in future, as well as that the court announce the verdict in the daily newspaper with national circulation. After the procedure, the Superior Court in Belgrade, by the judgment of 7 September 2015 rejected the claims as unfounded, and the Commissioner for Protection of Equality eventually appealed against this judgment. The proceeding is pending before the Appellate Court in Belgrade which decides on the complaint of the Commissioner for the Protection of Equality.

Discrimination of the members of the Roma national minority in the real estate agency

In November 2015, the proceedings were interrupted on the complaint filed by the Commissioner for Protection of Equality against the company whose activity was renting of real estate (real estate agency), after situational testing of discrimination conducted by a non-governmental organization for the protection of the rights of the Roma minority. Based on the report of the conducted situational testing, it was found that the agency refused to provide a service and offer an apartment to the voluntary examiner of discrimination who was a member of the Roma national minority and who wanted to rent an apartment. Service was refused on the grounds that "they do not have apartments to suit his requirements." After an hour, a situational testing controller came into the agency, a young man who was not a member of the Roma national minority and stated that he wanted to rent an apartment under the same conditions as the voluntary tester of discrimination. He was provided the service; the agency offered him two apartments it had at its disposal, in accordance with his requirements. The Commissioner for Protection of Equality, in the complaint, requested the Court to establish that the agency's refusal to provide the service and offer a flat to the voluntary examiner of discrimination, committed an act of direct discrimination based on nationality, to prohibit the agency in the future, in the framework of its activities, to repeated act of discrimination and that the court orders the agency to publish the judgment in a daily newspaper with national circulation. During this process, the Superior Court in Belgrade, by the decision of 4 March 2015, announced itself incompetent to act in this matter, given that a process of liquidation against the defendant was initiated, and for which the court considers that the further proceedings, in this case, are in the jurisdiction of the Commercial Court. The Commissioner appealed against this decision of the Superior Court, stating that the required statements are not in any way connected to the fact that there was no process of liquidation over the defendant, given that the basis of the complaint is protection from discrimination. The Appellate Court in Belgrade, by the decision of 9 April 2015, granted Commissioner's appeal, abolished the decision of the Superior Court in Belgrade and returned the case for retrial. However, as this company, after the completion of liquidation proceedings, was removed from the register of companies of the Business Registers Agency, the Superior Court decision of 17 November 2015 ceased the proceedings on this legal matter.

President of the local community discriminates Roma

On 8, August 2015, Commissioner for Protection of Equality filed a complaint against the president of the local community of Sirča because of his statements of 17 July 2014: “Sirča is having difficult times. Neither floods nor earthquakes have degraded Sirča as the settlement of Kosovo Roma. We are not racists, but we cannot live together with them because our peace is disrupted. During the Turkish occupation, the villagers of Sirča were running into the hills, in Trgovište, it seems we will have to do the same again. We cannot mix with them”, was quoted by many media in Serbia. He committed a serious form of direct discrimination against the members of Roma minority. At the hearing on 8 June 2015, the defendant admitted the claim entirely. By the verdict of the Superior Court in Belgrade of 8 June 2015, it was found that the president of the local community Sirča committed serious form of discrimination against members of the Roma minority, he was forbidden to give statements in the future and point out attitudes which discriminate Roma minority, he was ordered to, at his own expense, perform a public apology to the Roma national minority in a daily newspaper with national circulation and to publish the verdict in a daily newspaper with national circulation. The judgment is final.

Discrimination of Roma national minority in employment

The complaint was filed on 18 July 2014 against an employer for discrimination of the Roma national minority members in the field of employment. Specifically, this employer, for work on picking up raspberries prescribed a document entitled “Note” that the workers of Roma nationality will not be accepted (for disagreements with the workers of other nationalities and for possible consequences that may arise from the common work for the same employer)!!!” the Commissioner for Protection of Equality with her complaint also required the court to determine a temporary measure in order to immediately withdraw the document “Note” from use. The court adopted the required temporary measure which would remain in force until the proceedings are concluded. The Superior Court in Belgrade, on 22 October 2015 brought a judgment which fully approved the claim of the Commissioner for the protection of Equality. It was found that the defendant denied the right to work to the members of the Roma national minority, by which he committed discrimination in the field of labor based on the ethnicity. The judgment ordered the defendant to remove provisions from the conditions of the competition which exclude members of the Roma national minority and not to repeat the act of discrimination in the future, to send the letter of apology to the damaged party, and at his own expense publish the verdict in a local newspaper with national circulation. The defendant appealed this judgment, which is why the Commissioner for Protection of Equality submitted the reply to the appeal on 11 December 2015. The case is currently before the Appellate Court in Belgrade, which decides on appeals lodged.

Criminal charges for the article “The Truth about Homosexuals”

The criminal complaint was filed against unknown perpetrators, editors of the electronic newspaper “Sandžak PRESS”, published on the internet portal <http://sandzakpress.net/>. The charges were filed because of reasonable doubt that by the publication of this article a criminal offense of racial and other discrimination under the Article 387 paragraph 4 in conjunction with paragraph 1 of this article of the Criminal Code of RS was committed. On 24 December 2014, this internet portal published an article entitled “The Truth about Homosexuals”, in which a number of ideas, opinions and theories that directly advocate and incite hatred and discrimination against persons of different sexual orientation than heterosexual were set out thus violating their human rights and freedoms guaranteed by the generally accepted rules of international law and ratified international treaties.

4.13 Outcomes of the Proceedings

This part of the report will present outcomes of the proceedings before the Commissioner for Protection of Equality in 2015. As already mentioned, the number of citizens who turn to the Commissioner is constantly increasing, so in 2015 17% more cases were treated. The increased number of the citizens’ complaints is certainly a result of general visibility of the institution in which the Commissioner, together with the employees in the professional service works intensively, but there are still many cases due to which many citizens address the Commissioner for Protection of Equality and indicate events, behaviors and acts which do not constitute discrimination.

During 2015, the Commissioner for Protection of Equality acted in 1040 cases, out of which 797 were complaints, which represents a considerable increase compared to last year. The number of recommendations of measures for achieving equality also increased, and in 2015 there were 215 recommendation measures issued. Out of 797 complaints received by the Commissioner in the course of 2015, 149 cases were given opinions on, in 99 cases discrimination was established, so that the opinions were followed by appropriate recommendations, while in 50 cases the opinion that there was no discrimination was given. In addition, this year the Commissioner for Protection of Equality found discrimination in another 97 cases where the complaints referred to the provisions of the Law on determining the maximum number of employees in the public sector, but bearing in mind that the discriminatory provisions were contained in the law, the only option the Commissioner had at her disposal was to submit proposals to the Constitutional Court of the Republic of Serbia, which the Commissioner for protection of Equality did, together with the Protector of Citizens. Opinions and recommendations of the Commissioner which confirmed discrimination, as well as individual opinions in which discrimination was not established, were presented in the section of the report relating to the certain grounds of discrimination.

The Law on Prohibition of Discrimination provides that the Commissioner for Protection of Equality does not act on the complaint when the same matter of proceedings is before the court or when it is completed; when it is obvious that there is no discrimination complaint refers to; when the same matter has already been acted upon and new evidence has not been submitted and when due to the time lapse of the violation it is not possible to achieve the purpose of proceedings. In such cases, the complainant is informed of the reasons for which the complaint is still not acted on, but at the same time, he is provided with information on who he can turn to and how to protect his rights.

The complaints were dismissed in 209 cases, out of which 85 for lack of jurisdiction of the Commissioner for Protection of Equality, 124 for the incompleteness of complaints and other reasons that prevent handling of complaints. The complaints that were dismissed for lack of jurisdiction related to the violation of rights which trial and determining the jurisdiction are of other state bodies. In these cases, the complainants are informed of the reasons for the rejection of complaints and given the information on the competent body of the case. As for the rejection of the complaints about incompleteness, the complaints usually do not indicate all the necessary information that the complaint could be treated or if the evidence are not submitted, or the documentation is not fulfilled within the prescribed deadline. Each applicant of the incomplete complaint shall be notified of the reasons for which the complaint is incomplete, and which information are necessary to deliver and / or what needs to be attached to the complaint while leaving a period of 15 days to fulfill the complaint. If within the time limit the applicant fails to remedy the deficiencies, the Commissioner for Protection of Equality does not act further on the complaint.

Complaints procedures were suspended in 313 cases, of which 285 because it was obvious from the complaints that there were no violations of rights the complainant refers to, in 13 cases because of initiated or completed court proceedings in the same matter, and in one case because it was not possible to achieve the purpose of treatment, in eight cases because the complaints were already treated and did not offer new evidence, and six procedures were suspended because the complaints were withdrawn.

This part of the report will be represented by the individual cases of complaints addressed to the Commissioner, in connection with proceedings which were suspended because it was obvious that there were no violations of anti-discriminatory legislation, due to lack of personal characteristics or due to the lack of a causal link between personal characteristics and the commission of the act.

The establishment of a camp for women only

An activist of a website launched a sub-website with the aim of increasing the number of women to administrate the website, qualitative and quantitative enhancement of the contents of gender and feminist terms. The complainant pointed out that the fact that 97% of men administrate the website in Serbian language encouraged her to organize regional camp which participation was devoted exclusively to women that would be dealing with the administration of the website but one of the colleagues pointed out that such conditions for participation in the camp constitute discrimination against men. She was interested whether such competition conditions can be considered discriminatory. In this case, it is important to note the provisions of the Article 14 of the Law on Prohibition of Discrimination, which states that measures introduced for achieving full equality, protection and advancement of persons or group of persons who are in unequal position are not considered conditions. Also, this provision of the Article 7 of the Law on Gender Equality stipulates that adoption of special measures to eliminate and prevent the unequal position of women and men and achieving equal gender opportunities are not considered a violation of the principles of equal rights and obligations.

Therefore, according to the legal regulations in the field of protection against discrimination, not each distinction is discriminatory treatment. In this concrete case, the organizer of the event may, in accordance with his capabilities and aims of the project, provide certain privileges to certain social groups which are in uneven positions, i.e. to establish special rates for these groups. The decision on the applicant's complaint to organize a regional camp for women from Albania, Serbia, and Kosovo, which is designed exclusively for women who would deal with editing website, led to conclusion that under-representation of women in the editing of this website is recognized, which provides special support to achieve full equality. It follows that this is a special (affirmative) measure, which is not considered discrimination.

Money payment for women on the occasion of 8 March is not discrimination

The complainant believes that he was discriminated based on his gender, because for the International Women's Day, March 8th, women in health and education institutions receive money.

According to the provisions of the Law on Labor, the employer has the possibility to, by a general act or a work contract, establish the right of employees to other income. This is a possibility the employer has, but not an obligation, and it is the discretion right of each employer to decide in which cases and under what conditions it will allow other benefits to his employees, and in accordance with the business policy and funding opportunities of the employer. On the other hand, the very nature of other benefits that the employer can allow to his employees represents the kind of a measure by which certain employees are privileged with. However, not every privilege is discrimination, i.e., in order that privileging of certain individual or group of

individuals constitute discrimination, it needs to be unjustified. For example, among other benefits employers often pay are New Year's gifts for the children of the employees. The aim of these measures is not discrimination of employees who do not have children, but the willingness of employers to support employees who have children.

It is necessary to point out the fact that other incomes do not represent earnings of employees, nor salary compensation, and cannot be brought in connection with the principle of equal pay for work of equal value. Therefore, the amount of money that employed women perhaps received on the occasion of the International Women's Day does not constitute discrimination against male employees, but a special measure of the employer aimed at employed women. This measure is understandable and justified, especially if one takes into account the inferior social position of women in Serbia, as well as the fact that women earn less than men, despite the principle of gender equality proclaimed by the Constitution and anti-discriminatory legislation. Accordingly, in this case, it can be concluded that apparently there has been no unwarranted distinction or unequal treatment based on any personal capacity.

Belonging to a department is not the ground of discrimination

In the complaint filed against an employer, the employee states that the management of the company discriminates his employees in the Department for Digitalization, by banning them access to LAN network, deprives them of their right to a spa treatment, does not pay their bills for the scanner and performs breaches of health and safety at work. He further stated that his place of work was moved to a place which was recently leaking and had been used by persons with disabilities. He believes that he has been discriminated because he speaks Jekavian dialect, because of the abolishment of solidarity aid and because he works in the Department for Digitalization.

For an act of discrimination in this particular case to be executed, it is important to note that it is necessary that the unwarranted discrimination or unequal treatment are based on personal capacity, and that there is a causal link between the personal characteristics and committed act of discrimination. According to the facts stated in the complaint, it was not likely that the conduct of the employer was based on any personal characteristics of the complainant. That is, although Jekavian dialect was listed as personal characteristics, the existence of personal characteristics was not brought into connection with the above procedure. In addition, "belonging to the Department for Digitalization" which applicant stated as the grounds for discrimination, cannot be considered personal characteristics in terms of the Law on Prohibition of Discrimination because it is primarily related to the working place. Bearing in mind the circumstances of this case, the complainant was advised of the possibility of protecting his rights under the Law on Prevention of Harassment at Work.

Classical philologists do not have an exclusive right to teach the Latin language

The complaint was filed by a professor of the Latin language against the Ministry of Education, Science and Technological Development. The complaint alleged that the Rules on the level and type of education provided that teaching of the Latin language can be performed by a professor with a master or bachelor degree in Classical Philology. However, it stipulates that if the school does not establish working agreement with a person who meets these conditions, the work of teachers of the Latin language can be performed by the bachelor or master philologist who passed the exam in the Latin language that a philologist attended at least four semesters. The applicant believes that this decision discriminates her, because classical philologists cannot get a job and the Latin language is taught in high schools mostly by the philologists who graduated Italian or French language.

Bearing in mind the allegations of the complaint in the present case, it is obvious that there is no violation of law in terms of the Law on Prohibition of Discrimination since an essential and constitutive element of discrimination is missing – grounds of discrimination. Therefore, the title of the classic philologist cannot be considered personal characteristics, but it also represents the level and type of education and not the grounds of discrimination. The absence of grounds of discrimination does not mean that in the process described there were no violations of other rights, which are not under the jurisdiction of the Commissioner for Protection of Equality.

Irregularities during the making of facsimiles

An applicant filed a complaint against the director of a health center because during the absence from work caused by health reasons, she was asked to bring her own seal in order to be signed out temporarily, but on her return to work she was given the seal which did not contain all of her academic and professional titles, respectively, it did not have written “spec. of periodontics and oral medicine” on it. She believes to be discriminated because in a previous year she applied for a position of the director of the health center and now she is seeking the protection against mobbing, arbitrariness and creating an atmosphere of fear.

In order to characterize an unequal treatment as discrimination, it is necessary for it to be based on a personal characteristic. More specifically, it is necessary to treat a particular person unequally only because he is of a particular nationality, gender, religion, sexual orientation, and the like. In this case, it is obvious that there is no personal characteristic upon which the potential difference is made between the applicant's complaint and her colleagues. Possible irregularities in describing the data in the process of making the seal can be determined by other competent authorities, the applicant did so by addressing the Ministry of Health, but they could not be qualified as discrimination because she was not unequally treated based on some of her personal characteristics.

Determining of redundant employees and years of life

The complainant stated that she was discriminated by the decision of the Ministry of Labour, Veterans and Social Affairs, the Department of Employment, in the process of the program for resolving redundant employees. She said that she worked in a local public television service, and that the employer, on the basis of the Program of the Government of the Republic of Serbia made a list of employees who were reported redundant. From a total of 63 employees, 59 applied, and only the complainant was rejected on the grounds that she meets the requirements for retirement because she is 61 years old and has 35 years of service.

Having reviewed the decision on establishing the program for redundant employees in the privatization process for 2015, it was established that the aim of this program is creating economic conditions for profitable business growth and productivity through business consolidation of companies, as well as resolving the employment status of redundant workers in terms of providing funds for investment in new employment – self-employment, raising the possibility for new employment or to overcome the problems in the period of seeking new employment through active job search. Therefore, it can be concluded that the objective of decision-makers, i.e. the Government, was to solve the employment status of redundant workers who, due to various circumstances, could have difficulty finding a new job through the provision of funds for investment in new employment, to thereby provide the funding until the conditions for retirement, which is a type of measure that a particular group of employees prefers. However, not every preference is discrimination, i.e., in order that preference of certain groups or individuals is considered discrimination, it needs to be unjustified. The provision of the Article 21, paragraph 4 of the Constitution of the Republic of Serbia and the Article 14, of the Law on Prohibition of Discrimination, stipulates that specific measures introduced to achieve full equality of groups or people who are in unequal positions are not considered discrimination. As it can be seen from the text of the decision, the aim of this measure is not discrimination of employees who meet any of the legal requirements for retirement, but the willingness of the employer to provide economic support to employees who have not fulfilled conditions for retirement yet. Accordingly, the decision of the employer to provide financial assistance to redundant employees who do not meet requirements for retirement can be considered justified.

Given the fact that the complainant is 61 years old and has 35 years in service, respectively, that she meets conditions for retirement, the Ministry of Labor, Veteran and Social Affairs has obviously not found grounds to rank her in a privileged group with the redundant employees who need to be provided with a measure for solving the employment status, bearing in mind that she can retire and thus provide a regular monthly income, unlike other employees who cannot. Accordingly, it is obvious that there was no unwarranted distinction in equality treatment or any personal characteristics in the applicant's complaint.

The complainant believes that he was discriminated because he was not sued

The complainant stated that he was discriminated as a blind person because he was not sued in the process in which he was an investor. He said that he was carrying out works in his home and that the contractor sued his nephew for the alleged debt. It is considered that the contractor consciously used his nephew who did not participate in the works on the house, as he thought he could collect the debt from him easier, and that he was discriminated because he did not sue him as the owner of the house because he is a blind person with low incomes.

From the allegations in the complaint and the evidences it can be concluded that in this case there is no cause-effect link between the personal characteristics and – disability and actions of the contractor, against whom the complaint was filed. Bearing in mind that discrimination is an unwarranted distinction or unequal treatment, or failure based on personal characteristics, in this case, there was no distinction or unequal treatment on any personal characteristic of the applicant. At the same time, the complainant explained that there is no possibility that any state authority or any other person orders another person who to sue and that during the court proceedings in which the defendant is his nephew, the court determines that the claim is well founded, in which the defendant has the right to an objection of locus standi.

Center for Social Work delays adoption of opinions on child custody

The complainant submitted that she was in a process of divorce for a year and a half and that during that time the center for Social Work had not issued an opinion on the custody of her two minor children, endangering her rights. She stated that the current estimate of the Center for Social Work on the psychological state of the father is contrary to their previous estimates and that children are at risk and the actions to stop this have not been taken. She pointed out that it is necessary to decide on custody as soon as possible because the children were with their father, despite their will. It is believed that by such treatment of the Center for Social Work she was discriminated as a mother, as well as on marital and family statuses.

According to the Law on Prohibition of Discrimination, unequal treatment is qualified as discrimination if a person or a group of people are placed at a disadvantaged position compared to other persons in a comparable situation because of some of their personal characteristics such as ethnicity, gender, disability, marital status, age or any other personal characteristic. Accordingly, discrimination based on marital and family status exists when a person is treated unequally because of their marital and family status, i.e. because of what the person is or was, or the person is not or was not in marital status, or because the person has or has no children. Thus, discrimination based on marital or family status before the public authorities would exist if someone was denied the exercise of the rights only because the person has / does not have children or because the person is (not) married. Based on these facts, in this case, it was found that there was no probable cause-effect link between any personal characteristics of the

applicant and treatment of the Center for Social Work. The complainant was informed that if she believes that the Center for Social Work hampered her rights in any way as well as the rights of the children, and violated the law, she may turn to the Protector of Citizens whose jurisdiction is legality and regularity of the work of the bodies of the public administration.

Sanitary inspection does not control water in the villages without water supply

The complainant submitted a complaint in which it was stated that in the countryside and the areas without water supply where people use individual wells the quality of water is not controlled in order to fight infection, as well as that the sanitary inspection does not perform the analysis of water quality in rural schools and kindergartens which have their own wells. The complainant considers that this is contrary to the UN Convention on the Children's Rights and that it constitutes discrimination of children in the areas without water supply. In this case, we did not engage in any further review of allegations in the complaint, because, according to the facts stated clearly that there was no distinction or unequal treatment based on any personal capacity.

Smoke from the bakery threatens neighboring households

A complaint was filed by a woman against the owner of the bakery, because she believes that all families living in the vicinity of the bakery are discriminated from the bakery owner who does not comply with the regulations and does not have a "waste incineration plant". In order to apply any provision of the Law on Prohibition of Discrimination, it is necessary to make a distinction or unequal treatment in any personal capacity and in the present case there is no violation of the rights under the Law on Prohibition of Discrimination.

Employees in the public company are not members of political parties

Employees in public companies have filed several complaints against their employers stating that they were placed to less valued work positions and were not promoted because they were not members of the same political party as the director of the company. In the case of these complaints, none of the complainants has made it probable that the presumed act of discrimination was done because of their (non) political orientation. The complainants submitted evidence statements which could not substantiate the allegations from the complaints. None of the witnesses confirmed that he had heard that any of the complainants stated that their promotion or transfer to another work position depends on their political affiliation or in any other

way made allegations from the complaint credible. The statement of witnesses alleges that their attitudes and assumptions that the political commitment of employees resulted in changing of work positions. Therefore, in the present case, there is no violation of the law in terms of Law on Prohibition of Discrimination, which does not exclude the possibility that there were some other violations of rights that are not within the competence of the state authority.

Neighbor keeps his horses in the front yard

A complainant is a disabled person and the complaint was filed against the neighbor who keeps horses in the front part of his plot, stating that the horses are five meters from his front door and that the horses repeatedly broke into his yard. He further stated that it upsets him, that it creates an unpleasant odor, dust, and noise and interferes with his everyday life and that way deteriorates his health. In this particular case, bearing in mind the allegations in the complaint, it was obvious that there was no violation of the Law on Prohibition of Discrimination, because there was no cause-effect link between the personal characteristics of the complainant (disability and health conditions) and the neighbor's acting.

Scholarships for the young talents

The complaint was filed by a regular student of a faculty against the Ministry of Youth and Sports of the Republic of Serbia, who because of her age (32 years old) she did not have the right to apply for the scholarship of the Ministry of the Youth and Sports. The complainant considers that the age should not be an obstacle to obtaining scholarships and progress further on. The Young Talents Fund was formed with the aim to create opportunities to support financing and education and training of young talented people and it is one of the specific measures that are aimed at providing additional support to young people. Establishing the upper age limit ensures that students are granted scholarship if they did not take a break during their education and who were efficient during their studies. In addition, we should bear in mind that the National Strategy for Young People¹⁸⁹ and the Law on Youth¹⁹⁰ stipulate that young people –are persons from 15 to 30 years of age. In view of the foregoing, it is evident that funding of graduate students of basic and master studies who have not reached certain age is one of the specific measures aimed at providing additional support to young people, and the right and the ability of the State to provide additional support to a number of students who continued their academic studies without interruption in education.

¹⁸⁹"Official Gazette of RS", No 55/08.

¹⁹⁰"Official Gazette of RS", No 50/11.

Public transport benefits for the companions of blind people

A parent of an autistic child filed a complaint against the Directorate for Public Transport of the City of Belgrade, as the provisions of the Ordinance on the tariff system in the public transport of passengers on the territory of Belgrade¹⁹¹ prescribes that the right to free transport is provided to “blind people and their companions while with them”, while companions of other disabled people are not entitled to free transport. According to the legislation in the field of protection against discrimination, special measures introduced to achieve full equality, protection and advancement of persons or groups of people who are in an unequal position are not considered discriminatory. In the present case, the City Council of the City of Belgrade, as a legislator of regulations in accordance with their powers and capabilities, determined the categories of beneficiaries to whom it is willing and able to provide certain benefits. Therefore, the decision to entitle the companions of blind people to free transportation presents a special measure.

The teacher did not allow a pupil of the first grade to go on an excursion with other children for being “naughty”

Organization of a civil association filed a complaint which pointed to the unequal treatment of a first-grade pupil. Namely, they learned from the pupil's parents that his teacher refuses to take him to the excursion organized for all pupils in the class. Her explanation for this decision was that the boy was “naughty”. The organization pointed out that the director of the school informed the parents that they were not competent in this case because the excursion was not organized by the school, but by their employee on her own initiative in cooperation with a private tourist agency. In order to apply any provision of the Law on Prohibition of Discrimination, it is necessary that the act of discrimination is based on their personal characteristics. Accordingly, the organization was informed that the behavior of the pupil in school (“naughtiness”) does not present personal characteristics in terms of the Law on Prohibition of Discrimination.

A member of a multiple marginalized social group seeks help not to pay the rent for the

¹⁹¹“Official Gazette of the City of Belgrade”, No. 96/14 и 1/15.

land

The complainant is a disabled person, a refugee and indigent who asked the Commissioner for Protection of Equality to help him in the exemption from paying the remaining lease payment for land for the construction of a family building. The complainant was informed that an act of discrimination is any unwarranted discrimination or unequal treatment, or omission (exclusion, restriction or preference), in relation to individuals or groups as well as their family members of persons close to them, based on personal characteristics. With the full understanding of the difficult situation in which the complainant and his family were, it was concluded that there was no causal link between any of the complainant's personal characteristics and handling of a public company which owes the lease for the land.

It cannot be considered a freedom of speech if we expect that everything others say must be in accordance with our personal values

Civil association organization filed a complaint against a daily newspaper regarding the article "Asylum Seekers in Europe pluck their eyebrows". The complaint noted that in this text the newspaper made a number of unfounded assumptions that refugees use the services of beauty salons in Belgrade, so as not to look like asylum seekers, and that they apparently have a large amount of money. The complainant considered that this text presented negative prejudice towards refugees, labeled them and encouraged intolerance of citizens of the Republic of Serbia towards them.

Analysis of this text, in terms of anti-discriminatory regulations, has shown that the text, for the most part, consists of quoted statements of entrepreneurs and employees in Belgrade who provide services to refugees. The interlocutors describe what requirements refugees have, what they buy and to what extent, and they convey their impressions of them as customers. The author of the article also quoted and cited the statement, i.e., opinions and observations of people who came to meet with refugees, whether they provided services of their activities or carried out work near their current place of residence. The responsibility of a journalist / editor for statements he gave about another person, in this case, entrepreneurs and employees, has not been justified, particularly bearing in mind that the media have the right to report on different phenomena and provide a variety of information and views. Then the author of the text, in the part which describes the current condition of the Luka Čelović Park ("urine is felt in the air, the wind is turning garbage from the surrounding streets, public fountain is used as a bathroom...") expresses her personal opinion: „[...] sentenced to clearing of the busiest part of the Serbian capital, consciously or unconsciously, they are ruining the beauty of this part of the city [...] and so from day to day, while asylum seekers do not go to the promised land. Until then, the sight that will welcome visitors when they step out of Belgrade bus or train will not be nice ...”

Bearing in mind relevant international and domestic legislation on prohibiting discrimination, but also on guarantying freedom of opinion, it can be concluded that the readers of electronic media, when the media allow commenting on published texts, have the right to express their opinion on the text they read, associations the text provoked, and to express their attitudes and ideas on a variety of social phenomena. Accordingly, the attitude of the journalist expressed in the article "Asylum Seekers in Europe Pluck Their Eyebrows" may be a subject to discussion and public debate, including readers' comments. However, it should be borne in mind that it cannot be considered that there is freedom of speech if we expect that everything others state must be consistent with our personal values. The essence of freedom of speech is that we have a personal opinion, to express it, but that others also (including journalists) have the opportunity to express their opinions and dilemmas. Freedom of expression and opinion is very important in any democratic society and it includes, above all, freedom to own opinion, then the freedom to impart information and ideas, but also the freedom to receive information and ideas. This kind of freedom is protected, it may be restricted only in exceptional cases and it can be in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary. The Committee of Ministers of the Council of Europe states that "all restrictions of this law are considered incompatible with the nature of a democratic society". Also, according to the opinion of the European Court of Human Rights, Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms does not protect only information or ideas that are favorably received or regarded as inoffensive or something that does not cause reactions, but also those that offend, shock or disturb, because such are the demands of that pluralism, tolerance and broadmindedness without which there is no democratic society. Consequently, according to the facts presented in the complaint, it is obvious that there was no distinction or unequal treatment of persons on whose behalf the complaint was filed. This, however, does not mean that there is no violation of any rights, which is not within the competence of the Commissioner for Protection of Equality. Therefore, the complainant was informed that the Commissioner for Protection of Equality cannot continue acting according to this complaint and was informed that if he considers that the said article presents untrue information or information that damage the honor and reputation of some people, but thereby not contribute to the public debate, he may file a complaint with the competent court in the territory of which there is the seat of the publisher, against the responsible editor of the media that such information was conveyed by.

The criteria for the candidates who wish to take a certification exam for tourist guide and escort is the date and time of the submission of the application

A complaint was filed against the Ministry of Trade, Tourism and Telecommunications, and concerning the advertisement for the professional exam for tourist guide or tourist escort. The complainant considered that this ad is discriminatory because of the ranking of candidates. In fact, the announcement stated that the ranking of candidates will be conducted solely on the

basis of the date and time of submission of application by mail or at the registry office. The complainant was informed that an act of discrimination means any unwarranted discrimination or unequal treatment, or omission (exclusion, restriction or preference), in relation to individuals or groups as well as their family members or persons close to them, be it overt or covert on the basis of a personal characteristic. Accordingly, it was concluded that there was no causal link between any personal characteristic of the complainant and the treatment of the Ministry of Trade, Tourism and Telecommunications, bearing in mind that the ranking of candidates based on the date and time of submission of the application does not constitute individual personal characteristics of persons or groups of persons prescribed by the Law on Prohibition of Discrimination. The absence of grounds of discrimination (personal characteristics) does not mean that there is no violation of law, but only the violation is not discrimination and is therefore not within the competence of this authority. The complainant was informed that he can address the Administrative Inspection, and in case the Administrative Inspection fails to respond, or if he is not satisfied with their response, he was informed that he can address the Protector of Citizens who controls legality and authority of administration bodies.

Residents of apartment buildings in vicinity of the catering facilities are considered disadvantaged related to the residents of the buildings with the restaurants

A complaint was filed against the City of Belgrade concerning the Decision on working hours of hospitality facilities, which complainant considers discriminatory because hospitality facilities within residential buildings have limited working hours (weekdays until 11pm and weekends until 12pm), so residents of these buildings can spend "quiet nights". However, if the catering objects are outside the building, even if they are located only one meter from a residential building, this time-decision is not limited to them. Therefore, residents of apartment buildings that are located near restaurants, suffer "harassment" because of loud music. The complainant considered that this decision of the City of Belgrade is discrimination of the citizens who live in apartment buildings located close to the restaurants compared to the citizens who live in apartment buildings within which catering objects are located and whose working hours are limited.

The complainant was pointed out that an act of discrimination can be considered to be performed if it is unwarranted discrimination or unequal treatment based on personal characteristics and that there must be a causal link between the personal characteristics and committed act of discrimination. Bearing in mind the allegations of this complaint, the complainant was pointed out that in this case it is obvious that there was no violation in terms of the Law on Prohibition of Discrimination because it lacks essential and constitutive elements of discrimination - discrimination basis. The absence of the grounds of discrimination does not mean that in the case described there was any violation of other rights, which are not the responsibility of this body.

The school provides no information to parents about engagement of a personal escort for a child

Parents of a disabled boy filed complaint against the elementary school their son attends. The boy finished first and second grades, but at the beginning of October 2014, he lost his personal assistant, who, due to irregular financing, decided to suspend her work. The parents pointed out that the child had not attended school ever since and that they had repeatedly petitioned with the principal of the school, but she did not inform them if and when their child would get a personal assistant. They also stated that they do not dare to send their child to school without further assistance of a personal assistant, for fear of unpleasant events which happened to the disabled children in the school who continued to attend school without the personal assistant. The complainants believe that the school should have asked in “more aggressive way” from the local government to engage personal assistants for pupils who need such support. The parents were informed that the provisions of the Law on Foundations of the Education System provide that exceptionally, for assistance to a child or a student with disabilities, a personal assistant can participate in the educational work of a child. Funds to finance pupil's personal assistant are provided by the local government. Therefore, in this case, it is the obligation of the local government to provide a personal assistant to the child of the complainants. Bearing in mind that the parents filed a complaint against the school, which is not competent in this case, they were informed that the Commissioner for Protection of Equality cannot act upon their complaint which was filed against the school.

Discrimination or harassment at work

The complainant stated that she had been exposed to harassment at work for years, that the procedure for protection against mobbing is in the employer's implement, but has not been responded from the director yet, and she believes that she is exposed to discrimination in her workplace because of her participation in a strike and in the Commission for checking the current state of activities, as well as because of her fight against mobbing. The complainants was informed that the act of discrimination is any unwarranted discrimination or unequal treatment, or omission (exclusion, restriction or preference), in relation to individuals or groups as well as their family members or persons close to them, be it overt or covert but that it is based on race, color, descent, nationality, national or ethnic origin, language, religious or political beliefs, gender, gender identity, sexual orientation, financial status, birth, genetic characteristics, health status, disability, marital and family status, previous convictions, age, appearance, membership in political party, trade union and other organizations and other real or presumed personal characteristics. In order to apply any provision of the Law on Prohibition of Discrimination, it is necessary that an individual or a group of people are unequally acted by after some of their personal characteristics. On the other hand, harassment at work (mobbing) is any active or passive behavior towards an employee or group of employees which is repeated, which is aimed at or constitutes violation of dignity, reputation, personal or professional integrity,

health, the status of the worker and causes fear or creates a hostile, humiliating or offensive environment, deteriorates working conditions or results in the isolation of the employee or induces their own initiative to terminate the employment contract or cancel an employment contract or other agreement. Harassment at work in some cases may constitute discrimination, but only when it is based on a personal capacity of an employee. Participation in the strike and in the Commission for checking the current state of activities, as well as fighting against mobbing do not represent personal characteristics in terms of the Law on Protection of Discrimination.

Therefore, the complainant was informed that the Commissioner for Equality cannot act on her complaint, as well as that the provisions of the Law on Prohibition of Harassment at work prohibit harassment at work related to work. Protection from harassment at work is carried out by the employer (in the mediation process and the procedure of determining the responsibility of the employee) and before the competent court in accordance with the law. An employee who believes that he is exposed to harassment by an employer may directly address the court against such behavior. In proceedings before the competent court, the employee who believes that he is exposed to abuse, among other things, may also require compensation for pecuniary and non-pecuniary damage. Also, bearing in mind that the complainant has not received a response on the outcome of the procedure for the protection from harassment at work in the institution she works in, these circumstances may be information for the Labor Inspection.

The Commissioner does not act upon the complaint if the court proceeding on the same matter has already been initiated or it is legally concluded

An employed woman filed a complaint against an employer in which she stated that she has been exposed to harassment at work since 2009. Therefore, in October 2012 she filed a complaint against the employer in order to protect her from harassment at work and the court proceedings are in procedure. The applicant's complaint alleged that throughout the court proceedings she claimed that she was not harassed at work only, but that she was also discriminated because of her political beliefs, as it was confirmed by the statements of her superior, given at the court hearing. She was informed that the provision of the Article 36, paragraph 1 of the Law on Prohibition of Discrimination provides that the Commissioner for Protection of Equality shall not act upon the complaint if the court proceedings on the same matter are already in procedure or is legally concluded.

The complainant turned on again and pointed out that the complaint was filed because of harassment at work and not because of discrimination and that she believes that it is not the same legal matter. She was informed that regardless the fact that the specific subject of the judicial proceedings is determining of the harassment at work, it is certainly the same legal matter, bearing in mind that the proceedings before the court and the proceedings before the Commissioner for Protection of Equality are based on the fact that the employer, as she claims, over a longer period of time makes it impossible for her to do her job, insults her dignity and reputation, and creates a hostile, humiliating or offensive environment because of her political

beliefs. The provision which stipulates that the Commissioner shall not act upon the complaint if the court proceedings on the same matter had already been initiated or is legally concluded, the legislator excludes the possibility that Commissioner for Protection of Equality shall act upon complaints of discrimination when on the occasion of the same act the court proceeding is initiated or completed, to eliminate any possibility that different authorities take different views on whether the violation exists, as it would create legal uncertainty and undermine the confidence of citizens in the institutions of the system. The complainant was therefore informed that the Commissioner for Equality cannot act upon her complaint in accordance with the Article 36, paragraph 1 of the Law on Prohibition of Discrimination, bearing in mind that the initiated court proceedings for harassment at work were caused by her personal characteristic - political opinion.

A woman in the situation of domestic violence asking for help and protection

The complainant claims that she has been exposed to the domestic violence, but she was informed that there was no evidence in her case for the public prosecutor to act. She also stated that employees in the social welfare centre changed their attitude towards her, accusing her of abusing her husband and the members of his family. She stated that the divorce procedure is pending, and that she is very concerned because the employees in the social welfare service threaten to take her child away from her and place it in the foster family. Fully understanding the difficult position that the complainant found herself in, it has been concluded that, based on the facts she stated, she did not make the plausible cause-and-effect connection between any of her personal actions and the actions of the public prosecutor and the social welfare service. Besides, the complainant was informed that the Commissioner for the Protection of Equality has no jurisdiction to offer legal protection to the victims of the domestic violence, nor she has the possibility to offer pro bono legal assistance in the form of writing the applications and representing the clients in court or in other public authorities.

However, some actions that can be undertaken in the process of the protection from the domestic violence have been presented to the complainant. Namely, the fact that the public prosecutor considers there is no evidence that the perpetrator has committed the felony does not mean that she cannot initiate the criminal procedure for committing a criminal offense of the domestic violence, by pressing the private criminal charge. Also, she has the possibility of asking for the protection against the domestic violence in the civil procedure, filing the complaint for taking one or more precautionary measures for the protection against the domestic violence (the court order for eviction of the violent family member, regardless of the property; the restraining order within the certain distance; access barring to the area around the place of living or the work place and the prohibition of further harassment). If the complainant decides to press charges, and thinks that she does not have sufficient financial resources, she has the possibility to ask from the court, in the written form, to exclude her from paying the legal fees and expenses. As far as the eventual irregularities in the work of the social welfare centre are concerned, which she pointed at in the complaint, she has been informed that the Protector of

citizens is in charge of the control of the legitimacy and regularity of the work of administrative organs.

Personal identity of a person does not represent the basis for discrimination

An employed woman claims that she “has been exposed to discrimination” for seven months by the leaders of the local community of one town, who have been asking her employer (a public company) to cancel her employment contract. The complainant stated that, due to the pressure of the leadership of the town, she has been demoted and still works “under the threat of a notice”. She thinks that she found herself in such a position because she is a close friend and an associate of a representative and a member of the Socialist Party of Serbia (SPS), with who the leadership of the town is not in good terms, so they use the complainant as the means of the political vengeance against her friend. From the content of the complaint it is obvious that the complainant points to the unequal treatment, she is, as she states, exposed to, due to the fact that she is a friend and a close associate of the member of SPS. The eventual unequal treatment described in the complaint is caused by her personal identity – by the fact that she is a friend and a close associate of a person, and not by some personal quality of hers (for example, the membership in a particular political party etc.). It has been indicated to the complainant that the personal identity of one person, as well as his character and other personal features, habits etc. are not considered as the grounds for discrimination according to the Law on Prohibition of Discrimination, hence the unequal treatment a certain person is exposed to due to those reasons cannot be legally qualified as discrimination.

How to “stand in the way” of the employers who ask questions about marital and family status at job interviews

A woman approached to the Commissioner for Protection of Equality, stating that she has problems at the job interviews because of the questions about her marital and family status. She points out that she is twenty-eight, married, no children, and that when she informs the employers about that, they refuse to hire her. She asked what she could do in order to “stand in the way” of such a behaviour of the employers at the job interviews. The complainant was informed that the Commissioner for Protection of Equality acts only in the cases when there is a complaint filed against a certain person or the institution the complainants think are discriminating them. She is invited, if she wants to, to file the complaint against the particular potential employer who refused to hire her because of her marital and family status. Also, she is informed that during the job interviews she is not obliged to answer the questions about her marital and family status.

The family living with HIV requires a “certificate” that will help them exercise the right to seek asylum in a foreign country

A married couple stated in their written note that they are the people living with HIV and that they suffer the bullying of the residents from their village, as well as from the relevant institutions from which they have asked for help. They asked the Commissioner for Protection of Equality to issue a ‘certificate’ by which they would exercise the right to asylum in a foreign country. With all due respect and understanding of the situation this family is in, as well as their need to lead a safe and dignified life in their own village, keeping in mind the legal jurisdiction of the Commissioner, they were informed that the Commissioner was not authorized to issue a certificate which would enable or help them get the asylum in one of the foreign countries. In this particular case, the Commissioner for Protection of Equality can only take actions if a member of their family was disabled to exercise some of his rights by some of the relevant institutions’ actions or if someone harasses them, or degrades them based on the fact that they live with HIV. In that case, they can turn to the Commissioner, and they are informed that in such case they need to file a complaint that will state all the information necessary for taking legal actions.

Can legal persons have political beliefs?

The Civil Society Organisation, which is the founder of one informational portal, filed a complaint which stated that the reporters of the informational portal at the Sava quay in Belgrade tried to record the interview about the project „Belgrade Waterfront“. During the preparation for the interview, communal police officers approached the reporters and their interviewee, checked their personal IDs twice and used force. One of the policemen was acting really rudely, demanding from the reporters to turn the cameras off and to step away from the location they were on. It is also stated that a policeman threatened to destroy the reporters’ equipment, because “he could feel that the camera was going to fall off the stand, showing how that might happen, leaning the stand and the camera, thus only camouflaging his threat to destroy the equipment if they refuse to step away and continue to record.” The complainants stated that on the location they were trying to record the interview there were other citizens who were peacefully passing by, and who were not disturbed and checked. The complainants believe that such an attitude of the communal police officer was caused by his presumed personal characteristic – political belief, because it is known that the actions and the statements of the politicians are being analysed and criticised on this portal, among others the project „Belgrade Waterfront.”

Concerning the event described in the complaint, it was necessary to determine what would be the eventual grounds for discrimination in that particular case. The complainants believe that the

actions taken by the communal police of the city of Belgrade were the result of their “presumed political beliefs”. However, the political conviction, by definition, is imminent to the individuals, keeping in mind that the prohibition of discrimination based on the political convictions is closely connected to the freedom of thought, conscience and religion, which is guaranteed to every citizen by domestic and international legal regulation. The terms “thought”, “belief” and “conscience” can refer to the wide spectre of intellectual and spiritual activities of the individual, but only public expression of thoughts and beliefs can initiate the discussion about the questions concerning the freedom of expression in the context of the right of non-discrimination. Starting from the fact that the freedom of thought, conscience and religion is one of the most essential elements of the identity of a person and his concept of life, which was the attitude the European Court of Human Rights assumed in the case of *Kokkinakis versus Greece* from 1993,¹⁹² it is evident that the political belief, (as well as religion), represents the result of the intellectual and spiritual process and is the part of the identity of a person, and also represents the personal characteristic connected to the individuals, that is individual and not legal entities. Keeping in mind the fact that the complaint was filed by the organization of the civil society (citizen association), which has the status of a legal entity, it is concluded that different entities that individuals create objectively cannot have political beliefs, it is the quality of its members. Moreover, keeping in mind that the complainant organization is not a political party, but a citizen association, it cannot be claimed for sure that all its members share the same political beliefs, although they indisputably share the same values, which, however, cannot be directly connected with their political beliefs. Namely, the complainants do not represent the form of the political organization, because they do not have a transparent political programme and the political principles (which is the case with political parties). According to that, and keeping in mind the fact that citizen association is not the form of political organization, the citizens who make this organization cannot be considered the protagonists of its political ideas and goals, because the association does not have them; they can only represent the goals of the association registered in the Registry of the association. Of course, it does not mean that the members of the association, as individuals, cannot state their own political beliefs, or be the members of some political party. Also, as far as the allegation from the complaint is concerned that the members of the association disagree with the realization of the project „Belgrade Waterfront“, it is stated that this fact does not, nor can, represent political belief, it is actually, about the attitude, that is, the opinion of the association and its members about certain social phenomenon, regardless of the fact that the project in question is advocated by the ruling political party, and citizen associations have the right to control the government activities and the decisions, and to demand „rendering of the accounts“ to the fellow citizens, male and female. Finally, it has been concluded that in this particular case, based on the allegations from the complaint, the complainants did not make a plausible cause-and-effect connection between any personal feature of the association and the actions taken by the Communal police of the city of Belgrade. Hence, in this particular case, there are no violations of rights in terms of the Anti-discriminatory Law, so the Commissioner for Protection of Equality did not take any further actions on this complaint. However, it does not rule out the possibility that in the actions depicted in the complaint there were the violations of some other rights, which are not under the jurisdiction of this authority. Since it is obvious from the complaint that the complainants turned

¹⁹² 14307/88, series A number 260-a from 25 May 1993. chap. 31.

to the Protector of Citizens, they were informed that they turned to the authority in charge of control of the actions and legitimacy of the work of the Communal police.

Different tax treatment of people employed in business companies as compared to those employed in companies for professional rehabilitation and employment of persons with disabilities

The complainant stated that he is a disabled person, employed in a joint-stock company, and that his colleague, also a disabled person, is employed in a company for professional rehabilitation and employment of disabled persons, and according to the Personal Income Tax Law, apart from the net salary, he receives the amount of money of the calculated income tax. He stated that according to the Personal Income Tax Law, companies for professional rehabilitation and employment of disabled persons are exempt from the income taxation, whereas his employer – a business company is obliged to pay the income tax on his salary to the Tax Administration. The complainant wanted to know whether the disabled persons employed in joint-stock companies are discriminated in comparison to the disabled persons employed in companies for professional rehabilitation and employment of disabled persons, keeping in mind that, apart from the salary, they receive the amount of the calculated income tax.

According to the Personal Income Tax Law¹⁹³ it is said that the income tax is not to be paid for the incomes of disabled persons employed in the companies for professional training and employment of persons with disabilities. Therefore, the legislator, on issuing of this provision, obviously kept in mind the Law on professional rehabilitation and employment of persons with disabilities¹⁹⁴, which is no longer effective since 2009. This law established the special term for employment of persons with disabilities, that is, the foundation of companies for professional rehabilitation and employment of persons with disabilities is issued. Such companies can be established and perform activities under the condition that at least 40% of their employees are the persons with disabilities, that they have adequate work space, adequate technical and other equipment for professional rehabilitation and the work of the persons with disabilities, as well as the employed expert staff for professional rehabilitation, depending on the number of the persons with disabilities and the type of their disability. These companies were provided funds from the budget of the Republic of Serbia, in the amount of 50% of the average income per an employee in the Republic of Serbia. However, after this law ceased to be effective, the Law on professional rehabilitation and employment of the persons with disabilities was passed¹⁹⁵, which encouraged the inclusion of the persons with disabilities, that is, their equal participation in the labour market, together with the employees with no disabilities. This law also demands that every employer who has at least 20 employees must employ a certain number of persons

¹⁹³ "The Official Gazette of the Republic of Serbia", No 24/01, 80/02, 80/02 –st.law, 135/04, 62/06, 65/06 – corr., 31/09, 44/09, 18/10, 50/11, 91/11 –decision, 7/12 –consistent amount in dinars., 93/12, 114/12 – decision, 8/13 –consistent amount in dinars 47/13, 48/13 – correction, 108/13, 6/14 –consistent amount in dinars., 57/14, 68/14 –the state law 5/15.

¹⁹⁴ "The Official gazette of the Republic of Serbia", No 25/96 и 101/05 –the state law

¹⁹⁵ "The Official gazette of the Republic of Serbia", No 36/09 и 32/13.

with disabilities. Hence, the previous and the currently effective law on employment of persons with disabilities are completely different in terms of the purpose of their implementation and the approach to the rights and the employment of the persons with disabilities. In spite of enacting the Law on professional rehabilitation and employment of persons with disabilities, as well as the changes in the politics of the employment of persons with disabilities, the provision in the Personal Income Tax Law was not altered. It has been pointed to the complainant that the disability cannot be a personal characteristic on which the unequal treatment of the persons with disabilities is based, between the persons with disabilities employed in companies for professional rehabilitation and employment of the persons with disabilities and those employed by other employers. Namely, the basis for the distinctive income tax payment in this case, is the type of organization of the employer hiring the person with a disability, which cannot be considered as personal characteristic in terms of the Law on Prohibition of Discrimination.

Data from the official register written in the Latin alphabet

The complainant stated that the Business Register Agency on its internet site does not show the data from the register written in Latin alphabet, and he believes that Business Register Agency, by doing so, discriminates him personally, as well as the entire public. Taking into consideration the statements from the complaint, the complainant has been informed that in this particular case there is no violation of rights in terms of the Law on Prohibition of Discrimination, because one of the crucial and constitutive elements of discrimination is missing – the grounds for discrimination. The absence of the grounds for discrimination does not mean that in the described procedure there was not eventual violation of other rights, which are not under the jurisdiction of this authority. The complainant is informed that according to the Law on Official Use of Language and Script¹⁹⁶ the official alphabet in the Republic of Serbia is the Cyrillic alphabet, and the use of Latin alphabet is regulated by that law. Supervision of the implementation of the law, within their range respectively, is in charge of the competent ministries in the area of state administration, traffic, urbanism and public services and utilities, education, culture and health.

The level of education and profession are not the grounds for discrimination

The complaint states that one higher education institution advertises its study program on the national frequency television by promoting the thesis that men shouldn't be blue-collar workers, because the women will avoid them, that they should graduate from university and that thus they will be more popular with women. The complainant thinks that through this commercial, the higher education institution has practiced discrimination on the grounds of "the level of education, as well as on the profession", and that such way of advertising of the educational

¹⁹⁶ "The Official gazette RS", No 45/91, 53/93, 67/93, 48/94, 101/05 –st.law and 30/10.

institutions is unacceptable. Taking into account the statements from the complaint, the complainant was informed that in this particular case there is no violation of the rights in terms of the Law on Prohibition of Discrimination, since one of the crucial and constitutive elements of discrimination is missing- the grounds of discrimination. Namely, the level of education and the profession are not the grounds of discrimination (personal characteristics) in terms of the Law on Prohibition of Discrimination. The absence of the grounds for discrimination does not imply that in the depicted case there was not the eventual violation of other rights, which are not under the jurisdiction of this administrative organ. The complainant is informed that according to the Law on Radio-Diffusion, he is allowed to file a complaint to the Republic Radio-Diffusion Agency, in relation to the contents of the emitter, if he considers that his personal interests or the general interests are offended or threatened by those programmes.

Violation of the principles of secularity is not under the jurisdiction of the Commissioner for Protection of Equality

The civil society organization filed the complaint against the president of the Republic of Serbia, Tomislav Nikolić, concerning his statement to the citizens that “he wants them to believe in God just as they believe in themselves, because if they do not believe in themselves, not even the God can help them, and if they do not believe in God, they cannot help themselves.” The complainant believes that by this statement, the president discriminated all people who are not believers. The fact has been pointed out to the complainants that in order to implement any of the regulations from the Anti-discrimination Law, it is necessary that a person or a group of persons to be treated unequally based on their personal characteristics. In this particular case, the president Tomislav Nikolić’s statement in which he wishes the citizens (both male and female) to believe in God, since otherwise they „cannot help themselves either“ does not fulfil the conditions for implementation of any regulation of the Anti-discrimination Law, since that statement does neither restrict the rights of the non-religious persons, nor give the special privileges to the religious persons, that the citizens who do not share similar religious beliefs are restricted of. Also, with this statement of the president of the Republic of Serbia, non-religious citizens still keep their rights granted by the law, to freely express their beliefs and attitudes towards religion, that is, this statement did not cause the prohibition of acquisition, maintaining and expression of religious and other beliefs of the non-religious citizens of the Republic of Serbia. Finally, it has been suggested to the complainants that the eventual violation of the principle of secularity is not under the jurisdiction of the Commissioner for Protection of Equality.

Complaint on non-registering in the Legal trainee register

The complainant stated that the bar association has refused to register him into the legal trainee register, annotating that he did not present the diploma of the Faculty of Law in the Republic of

Serbia, although he has a diploma on acquired higher education of the Bachelor of Science in Law, from the private faculty of law. He believes that he was unjustifiably restricted the right to register and that he is discriminated, since the bar association has been and is still registering persons with the acquired education of the Bachelor of Science in Law from the private faculty into the Legal trainee register. The personal characteristic he considers as the grounds of discrimination is the status of the Bachelor of Science in Law, acquired from the private faculty of law, however, based on the presented evidence, it is concluded that the bar associations in Serbia register persons who acquired the status of Bachelor of science in Law from private faculties of law in Serbia. Hence, it has been pointed out to the complainant that the acquired education of the Bachelor of Science in Law from the private faculty of law as the personal characteristic cannot be the grounds for discrimination in this particular case, because there is no cause-and-effect connection between the stated personal characteristic and the actions of the bar association.

Publishing of the personal information in daily newspapers

A lawyer filed a complaint on publishing his clients` personal information in daily printed edition of a daily newspapers, due to what he believes that the Constitution of the Republic of Serbia has been violated, as well as the Law on Protection of Personal Data, then the right to the fair trial and the right to legal security in the criminal law. It has been indicated to the complainant that the Commissioner for Information of Public Importance and Personal Data Protection is in charge of the protection of personal data. In this particular case it was obvious that there was no violation of rights in terms of the Law on Prohibition of Discrimination, since one of the basic elements of discrimination is missing – personal characteristic, that is, the grounds of discrimination.

Complaint on the work of the employees in the social welfare centre

The complainant states that he filed the complaint to the competent social welfare centre for the suspicion of child abuse and neglect, after which the employees in the social centre deceived the court because they did not present the report from the school paediatrician about the neglecting of the child`s health and redirected the child to the competent health institution. The complainant was informed that obviously there was no violations in terms of the Law on Prohibition of Discrimination with the advice about the competent institutions he can refer to if he believes that the employees in the social welfare centre do their job incompetently and inaccurately.

Mobbing

The complainant stated that she is employed in a public institution, and that the superior executive is constantly abusing, harassing and intimidating her, as well as the other associates, for no reason, which reflected on her health. The complainant is informed that mobbing is any form of active or passive treatment of an employee, or a group of employees, by the employer, which repeats, and is aiming to or represents violation of dignity, reputation, personal and professional integrity, health, the status of employee, and which can cause fear or create a hostile, humiliating or offensive work atmosphere, deteriorates working conditions, leading to the isolation of the employee, or makes the employee terminate, on his own initiative, the employment contract or any other contracts. In some cases, mobbing can be seen as discrimination, but only when it is based on some personal characteristic of the employee. In this particular case, it is concluded that the actions of the employer were not based on the personal characteristics of the complainant. She is also informed that the protection from mobbing can be achieved in the procedure introduced by the Law on Workplace Violence Prevention (Anti-Mobbing Law).

Complaint on the court decision

Human rights organization filed a complaint against the Administrative court, which stated that the decision of the Administrative court violated the law-imposed and Constitution-guaranteed prohibition of discrimination on the grounds of national affiliation, since according to the court's interpretation, the legal provisions of the Law on rights of civilian invalids of war can only be applied to the cases of the persons died exclusively on the territory of the Republic of Serbia. The complaint is ruled out due to the decision of the Administrative court, referring to the principle of the state sovereignty and territorial integrity of the Law on Rights of Civilian Invalids of War, because to the persons who died outside the territory of the Republic of Serbia, as well as to the members of their families, although they have Serbian citizenship, the rights imposed by this law cannot be acknowledged. In the interpretation of the judgement it is stated that there is not a single provision of the Law on Rights of Civilian Invalids of War which says that the characteristic of the civilian invalid of war, or the civilian victims of war can be acknowledged to persons injured, or died under the circumstances from the article 2 of this law outside the territory of the Republic of Serbia. It has been suggested to the complainant that the Constitution of the Republic of Serbia imposes independence and autonomy of judicial system, and that court decisions can only be questioned by the competent court in the procedure defined by law, and that the Commissioner for Protection of Equality has no jurisdiction to influence the actions and decisions of courts in any way, which is why he cannot take any further actions on complaint.

Job competition under the special terms

The complainant stated that he is a person with a disability, that he did his internship in the Municipal court and passed the bar examination in 2012. He stated that he talked with the president of the Municipal court couple of times about the possibility of announcing the job contest for the judicial assistant position, which would involve not only general terms, but also the specific terms the candidates would have to fulfil, imposed by the Law on professional rehabilitation and employment of the persons with disabilities, in order to establish the employment relationship in court. The complainant believes that the president of the Municipal court can alter the Rulebook on Internal Organization and Job Classification, after which the court might announce the job contest for the position of judicial assistant under the special terms, which would further on create the possibility for the complainant, as the only person with disability and with passed bar examination in that municipality, to establish the employment relationship. It has been denoted to the complainant that in this particular case, there was no unjustifiable differentiation, that is, unequal treatment based on his personal characteristics.

Complainant believes to be discriminated on the grounds of residence

The complainant stated that he has bought an item on the shopping site from a registered member, which was listed at a price of 69 dinars per piece. He stated that he asked the seller to send him the item as certified mail, but he received the answer from the seller that in the item description, under the conditions of sale, it was clearly written „take over the goods in person“. Among other things, the complainant stated that he contacted the company which owns the site, because the seller rated him with negative grade for trade, thus violating his honour and reputation, and that he received the answer from the users service that the Rulebook of the shopping site was not violated, and that he was obliged to inform previously on all details of the shopping. The complainant believes that he is discriminated on the grounds of residence. In this particular case, it was obvious that there was no violation of rights in term of the Law on Prohibition of Discrimination, since one of the most crucial and constitutive elements of discrimination is missing – the grounds for discrimination.

Inability to fulfil the conditions of redundancy benefit according to the program for managing the surplus of employees

The complainant stated that he is a person with a disability, that he has been employed in the company, together with 12 other persons with disability, as well as they deal with a company which is the subject of privatization. Bankruptcy proceeding was forced into the company in the process of privatization and with which they cooperate in glass production, and previously the program for managing the surplus of employees was adopted, whereas the company he was employed in was excluded from the process of privatization. He appealed to the Agency of privatization and got the information that the provisions of the Law on Privatization are not applied to the companies for professional rehabilitation and employment of the persons with disabilities. He believes that he has been restricted of the right to receive redundancy benefit according to the program for managing the surplus of employees, thus his work-legal status being unequal to other employees, due to the fact that he is employed in a company which mostly deals with another company which is about to be liquidated. Since the company the complainant is employed in works as the company for professional rehabilitation and employment of the persons with disabilities, he is informed that the provisions of the Law on Privatization do not refer to these companies, as well as that the Decision on the setting of the program for managing the surplus of employees in the privatization process for 2015 do not apply to the company the complainant is employed in. The fact that the company they deal with is in the process of privatization does not affect the status of the company he is employed in, since it is an independent company. According to that, Decision on setting of the managing the surplus of employees in the process of privatization in 2015 does not apply to the company the complainant is employed in, since it is not in the process of privatization, which is the condition for implementation of this decision. The complainant has been informed that, according to the facts he stated, there was no unjustifiable differentiation on any personal characteristic, and that in this particular case there was no violation of the rights in terms of the Law on Prohibition of Discrimination.

Inability to legalize the object

The complainant stated that in 2007 he built the object for performing the craftsmanship activity on the property owned by the municipality. He stated that in 2013 he filed a request for the legalization of that object and that from the Municipality administration, Department for urbanism and spatial planning he received the answer that the cadastral plot of his object was alienated in favour of a third party (individual), according to the municipal decision on re-parcelling. Among other things, he stated that he sent the request to the Public Utility Company "Vodovod" for the temporary connection to the water supply and sewerage network and that they informed him that they could not grant his request since the municipal administration did not issue an adequate certificate according to which they could connect his object to the water supply and sewerage network. He filed a complaint for determination and elimination of discrimination to the Superior Court in Užice against the Municipality, believing that he has been continually discriminated on the grounds of internally displaced person. The complainant is informed that the article 38 Paragraph 1 of the Law on Prohibition of Discrimination regulates that the Commissioner acts according to the complaint, unless the judicial procedure on the same

matter has already been initiated or terminated by legally binding ruling. After the insight into the complaint and the attachments, it is concluded that the complainant has already initiated the judicial procedure. Since the judicial procedure on the same legal matter has already been initiated, the complainant was informed that the Commissioner is not able to take any further actions on the complaint.

Italian believes to be discriminated on the grounds of employment in Serbia

An Italian citizen filed a complaint against the National Employment Agency, stating that he is a foreign citizen with a permanent residence in the Republic of Serbia, and that according to the Law on the Legal Status of Foreign Citizens, foreign citizens with permanent residence have equal rights and obligations as the domestic citizens. However, the National Employment Agency required from him to present work permit, for which the tax is to be paid in the amount of 12,530.00 dinars. He stated that the domestic citizens are not obliged to get that permit, which puts him into the unfavourable position. In order to look properly at the situation the complainant found himself in, it was necessary to analyse the regulations that regulate the rights of foreign citizens. The complainant was first informed that the rights of the foreign citizens to enter certain relations and affairs, according to their availability, are assorted into three categories. These are *absolutely reserved rights*, available only to local, domestic citizens (the right to vote, the right to perform public functions etc.), *relatively reserved rights*, which are available to foreign citizens only if certain conditions are fulfilled (reciprocity, domicile in domestic country, approval, permit) and *general rights*, which are available to foreign citizens under the same conditions as to the domestic citizens. The Law on the Legal Status of Foreign Citizens in the article 37 regulates that a foreign citizen with permanent residence has equal rights and obligations as the citizens of the Republic of Serbia, except relating to those rights and obligations he is excluded from, according to the Constitution and the law. The Law on Employment of Foreign Citizens closely regulates the conditions for employment of foreign citizens in terms that a foreign citizen may be employed if the conditions prescribed by the law and by the international contract are fulfilled. Employment of foreign citizens is realized under the condition that a foreign citizen has the approval for permanent residence or the approval for temporary residence and the approval for establishing the employment relationship (work permit). Thus the right of a foreign citizen to establish the employment relationship is established as the *relatively reserved right*. The Italian citizen is furthermore informed that there is a justified interest of the Republic of Serbia to place certain rights into the categories of absolutely or relatively reserved rights for domestic citizens, which is also the practice in other democratic societies. Foreign citizens have equal rights in terms of work, employment, and self-employment as the citizens of the Republic of Serbia, provided that legal conditions are fulfilled. Protection of the rights and the interests of domestic citizens is a legitimate goal, and acknowledging the right to work to foreign citizens, under some conditions, such as issuing the work permit, is a temporary means for accomplishing that goal. Hence, in this particular case there is no violation of the principle of equality of rights and obligations.

Prisoner filing a complaint against the Detention and Correctional Facility

The complainant asked to file the oral complaint, keeping in mind that he is serving the punishment and he cannot read or write. He stated that he started serving the punishment in prison in Niš, but due to the reconstruction of the object, he was transferred to Detention and Correction Facility in Belgrade with several other prisoners. The contact with his family is difficult due to the remoteness of the Detention and Correctional Facility Belgrade, and although the reconstruction of the second pavilion of the Detention and Correctional Facility in Niš was finished, he was not returned to Niš to serve the remaining sentence. Because of the difficulties and the pressure he was exposed to, he asked for psychiatric help. The psychiatrist advised that he should be placed alone in a room, but that was not allowed to him. The management of the Detention and Correction facility made the decision by which he was assigned the measure of increased surveillance, and in the explanation it was stated that such measure was ruled in order to prevent the disturbing of peace and security in the facility. The complainant believes that he was punished because he had an argument with the doctor because she refused to provide him with the appropriate therapy. Also, after self-injuring by making cuts on his own arm, he received medical help after ten days. During his stay in prison, he was bitten by a mouse, and he has a medical documentation about that. When asked for the reason of such behaviour, that is, for the reasons for discrimination, he stated it was on the grounds of affiliation to the Roma national minority. However, he did not make a plausible connection between his own national affiliation and the actions taken by the management of the detention facility he complains against. The complainant is advised to turn to the Protector of Citizens, who is in charge of the control of legitimacy and regularity of the work of state administrative organs.

Attendee of the Police officer course dismissed for diabetes

The complainant attended the police officer course in 2003. After finishing theoretical part of the training and issuing of the decision on the assignment, he was sent to the medical examination in Niš due to certain health issues, with the directive to go to military-police training (camp) on Goč afterwards. During the training he was informed that the conditions are bad and that because of his health condition he should go to Belgrade to additional examinations. In Belgrade he was diagnosed with diabetes. The medical report stated that he is capable of working in the first and the second shift, as well as that he is not to return to the camp training since his absence is justified. When he came to work in the Ministry of Internal Affairs in November, 2003, he was told to wait for the call. Instead of the call he received the decision on the dismissal from work because of the illness and the absence from the training camp on Goč. He stated that physically he feels good, in spite of being diagnosed with diabetes, that he is capable of working in the police, and that his health condition must not be the grounds of discrimination and dismissal from work. Accessing the complaint and the presented

attachments it is concluded that in this particular case, the judicial process was closed before the First Municipal Court in Belgrade, with the final and enforceable judgement in April, 2008. The statement of claim for dismissal of the disputable decision issued by the Ministry of Internal Affairs was overruled as groundless, and in the explanation it is stated that the decision was based on the provision from the article 4 of the Decision on the admitting of the course attendees, which states that the attendees of the internal affairs school – police officers and traffic wardens course, subsequently claimed not to fulfil the conditions for the admittance to the internal affairs school – police officer course, lose their rights and obligations from the day of establishing the fact that they do not fulfil the conditions. In the ruling of the Appellate Court from November 2010, which confirmed the first-instance verdict, among other things, it is stated that the court took into consideration the expert evidence which states that persons diagnosed with diabetes have equal treatment as other employees in terms of conducting assignments within the *normal condition*. However, the explanation states that it is of the crucial importance the ability of the attendee of the course to conduct the assignments in the condition of *irregularity*, and that it is concluded from the expert evidence that the complainant does not have such health ability. Also, he filed the constitutional complaint against the verdicts of the Municipal and Appellate Court in Belgrade, which was ruled out by the decision of the Constitutional court from April 2012. The complainant is informed that the provision of article 36, paragraph 1 of the Law on Prohibition of Discrimination regulates that the Commissioner for Protection of Equality takes actions according to the filed complaint only if the procedure before the court on the same matter is not initiated or closed by the final, non-appealing verdict. For those reasons, it was impossible to take actions on a complaint.

Unequal treatment of diplomas acquired abroad

The complaint was filed against the Ministry of Education, Science and Technological Development of the Republic of Serbia, which stated that the complainant, in the process of recognition of diploma had to pay the tax, only because the high school he attended belonged to the Federation of Bosnia and Herzegovina and not to the Republic of Srpska, although it is the same state. The complainant was firstly informed that it is necessary for the unequal treatment to be based on some personal characteristic in order for any provision of the Law on the Prohibition of Discrimination to be applied, and then he was informed about the relevant regulations. According to the provisions of the Agreement on the mutual recognition of documents in education and regulating of the status issues of pupils and students,¹⁹⁷ concluded between the Republic of Serbia and the Republic of Srpska, diplomas of pre-graduate, specialized and post-graduate level of the same professional degree, provide the right to further education, that is they are mutually recognized when exercising the right to employment and in other professional purposes, in accordance with the regulations that are effective in each signatory country from this agreement. Diplomas on acquired middle or higher education acquired in the Republic of Srpska are recognized for the continuing of education or employment

¹⁹⁷The agreement is concluded in Belgrade 25 April, 2005, under the No. 680-01-70/05-01.

in the Republic of Serbia, without conducting the process of recognition. This agreement was concluded in accordance with the article 2 of the Agreement on creating the special parallel relations between Serbia and Montenegro and the Republic of Srpska and is the exception from the rule according to which diplomas acquired abroad must go through the process of recognition.

Complaint on sensationalist writing of a daily newspaper on refugees

A non-governmental organization filed a complaint against a daily newspaper because of the article titled "More and more refugees: migrants will soon Islamise Serbia". The complaint states that this article contributes to spreading of fear, creating a hostile environment and deepening of the social distance of the citizens towards the refugees and migrants. It is stated that they are discriminated on the grounds of their religion, since it is said in the text that more and more migrants from Syria, Afghanistan and Somalia bring the risk of islamization of Europe and it will lead to Serbia becoming one of their permanent residences. The complainant believes that the title and the content of the article contribute to discrimination of migrants and creation of intolerance because of their religion. The Constitution of the Republic of Serbia in article 46 and the European Convention for the Protection of Human Rights and Fundamental Freedoms in article 10, guarantee the right to freedom of expression. It presumes the freedom of opinion, receiving and sharing the information and ideas without the interference of the public government. The Constitution of the Republic of Serbia guarantees the freedom of thought and expression, as well as the freedom to seek, receive and spread information and ideas through speech, writing, drawing or any other way, and the provisions of article 50, paragraph 3 forbid the censorship. The provision in the article 5 of the Law on Public Information and Media,¹⁹⁸ states that ideas, information and opinions about happenings, events and personalities that the public has a justifiable interest to know about, can be published in public media, with no restrictions. The limitation of these rights is also stated, in the interest of the national security, territorial integrity, and prevention of chaos or crime, protection of health and moral, protection of reputation or the right of others. The competent court may prevent spreading of information and ideas through the means of public media only if it is necessary in the democratic society in order to prevent the violent dissolution of the Constitutional order or the violation of territorial integrity of the Republic of Serbia, prevention of propagation of war or the provocation of immediate violence or prevention of stirring up racial, national or religious hatred, which encourage discrimination, violence or hostility.¹⁹⁹ Also, the jurisprudence of the European Court of Human Rights shows that the limitations must not be such so as to discourage the *open discussion on the issues of public importance*.²⁰⁰ In that sense, the European Court of Human Rights finds that the *freedom of the press also includes possible turning to stating the opinions which represent overreaction or even provocation*.²⁰¹ Accessing the text which was the reason for filing the complaint, it is concluded that it mainly consists of the opinions and attitudes of the

¹⁹⁸Official gazette RS ", No 83/14.

¹⁹⁹The Constitution of Republic of Serbia, ("The Official Gazette of the republic of Serbia ", No 98/06), article 50. paragraph 3.

²⁰⁰ Maronek v. Slovakia, 2001.

²⁰¹ Dalban v. Romania, 1999; Prager and Oberschlick v. Austria, 1995; Dichand and Others v. Austria, 2002.

analysers, whereas the data on the number of refugees was stated by the Commissariat for Refugees and Migrations. Since media have the right to report on different happenings, and to give and convey different information and attitudes, it would be unacceptable to call the author/the editor on responsibility for conveying other persons' opinions about the social issues which are the subject of the open discussion. According to that, the Commissioner did not involve into further evaluation of the complainant's claims, because according to the stated facts it is obvious that there was no differentiation and unequal treatment of the refugees on the grounds of their personal characteristic – religion.

Claim of seized agricultural property

The complainant stated that she, together with other heirs, claims the agricultural property of their father, that is, grandfather, which was seized by so-called "agrarian reform" from 1946. According to the effective Law on Property Restitution and Compensation, only about 1ha of the agricultural land which is the property of the Ministry of Agriculture can be returned in nature, whereas the rest of the land is the property of legal entities and cannot be returned, only compensated. She also stated that the Draft of the Law on Changes and Amendments of the Law on Property Restitution and Compensation suggests that in cadastral municipalities, where land consolidation was conducted, the other agricultural land is to be returned, so she believes that thus, those who live in the territory of the cadastral municipalities where land consolidation was not conducted are discriminated in comparison to other participants in restitution. She also stated that she and other heirs do not accept the compensation, but ask from the state to return them some other suitable agricultural land. The complainant is firstly informed that in particular case there is no violation of the rights in terms of the Law on Prohibition of Discrimination, because one basic and constitutive element is missing – the grounds for discrimination.

Depriving of the right to acquired education by placing a dietetic nutritionist in the technical stuff instead of medical stuff

The complainants stated that the vocation of a dietetic nutritionist has existed for several years, that that cadre was educated at the High Medical School and now on the High Medical school of Vocational Studies in Belgrade, so that they have the medical education and healthcare workers' licence. It is also stated that a dietetic nutritionist is placed in technical and not medical stuff in 80% of secondary and tertiary healthcare institutions, despite the medical education, which represents deprivation of the right on acquired education. They asked secondary and tertiary healthcare institutions to be ordered to adjust the Act on systematization of the work places and other acts with adequate medical education that dietetic nutritionists own and thus equalize them to the rest of the healthcare workers, at the professional level, as well as at the level of the coefficient for payment of earnings. In this particular case, there was no violation of

rights in terms of the Law on Prohibition of Discrimination, since one of the crucial and constitutive element of discrimination is missing – the grounds for discrimination.

Rejection of application of the employee for the managing surplus employees program

The complainant stated that she is discriminated by the decision of the Ministry of Labour, Veteran and Social Policy, Department of employment, in the procedure of the managing surplus of employees program. She stated that she is employed on the regional television, and that her employer, according to the program of the Government of Serbia, formed the list of the employees who volunteered to be the surplus employees. From the total of 63 employees, 59 applied, and she was the only rejected one, with the explanation that she fulfils the condition for retirement, since she is 61, and has 35 years of length of service. She stated that she was really hurt because she feels as if the state “forces her to retire”, and that she still wants to work, because the law allows that. She believes that she is discriminated by the provisions of the law which regulates that women who are 60 and a half should be retired by the force of law. The complainant is informed that she fulfils the conditions for retirement, and that the Ministry of Labour, Veteran and Social Policy obviously did not find the grounds for putting her into the privileged group of the surplus workers who require ensuring of the measure for solving their legal work status, keeping in mind the fact that she fulfils the conditions for retirement, thus being able to provide regular monthly income, as opposed to other employees, who do not have that possibility. According to that, and according to the stated facts, obviously there was no unjustifiable differentiation and unequal treatment on any personal characteristic. Hence, in this particular case, there is no violation of rights in terms of the Law on Prohibition of Discrimination. Concerning her claims that she is discriminated because as a woman, she does not have the same retirement conditions as men, she is informed that social changes which happened in the last ten years influenced the changes in legislation, so that the rules which regulate the right to retirement, state the gradual equalization of the conditions for the old - age pension for men and women. In the Republic of Serbia, the same conditions for the old - age pension for men and women will be applied from 2032. Till then it is appointed that every year the age limit for women increases for two more months, until the complete equalization.

5 COOPERATION OF THE COMMISSIONER

The commissioner for Protection of Equality along with the employees in professional service continued and during 2015 intensively worked on increasing the visibility of institutions and promotion of principles of equality and non-discrimination. Apart from regular activities from the jurisdiction of Commissioner for Protection of Equality, this was also conducted by participation in many lectures, presentations and conferences, organising promotional meetings and participation in professional and roundtable meetings. An exceptionally good cooperation exists

with other independent state authorities, as well as the civil society organisations, international organisations, public authorities, institutions and media.

This part of the report will present the intensified cooperation and activities of the Commissioner for Protection of equality along with employees in professional service with international and domestic organisations and institutions, civil society organisations and professional associations, as well as with the media.

5.1 Cooperation with Public Authorities

5.1.1 Cooperation with the National Assembly of the Republic of Serbia

Apart from performing other duties according to the law, the Commissioner for Protection of Equality, whose work is subjected to the National Assembly of the Republic of Serbia, is obliged to present the annual report on the condition in the protection of equality to the National Assembly of the Republic of Serbia. Taking into consideration the crucial position the Commissioner has as an independent authority in the system of protection from discrimination, continuous support of the National Assembly is of great importance to the work and maintaining the independence of the institution. During 2015 the cooperation with the National Assembly has been continued and deepened, through various activities, especially concerning the Committee on Human and Minority Rights and the Women`s Parliamentary Network. Also, the successful cooperation is seen in the fact that the president of the National Assembly of the Republic of Serbia accepted the recommendation of the Commissioner to provide the compliance with principles on non-discrimination and introduce disciplinary responsibility for disobeying through the future changes in the Rules of Procedure of the National Assembly of Serbia and The Code of Conduct for the members of parliament.

Although not open for discussion on the National Assembly session, the Annual Report of the Commissioner was presented to the Committee for Human and Minority Rights and Gender Equality in April, 2015. During the discussion, the members of the committee approved of the five-year work of the Commissioner Nevena Petrušić, stressing the importance of everything that has been done on the plan to subdue and protect against discrimination and promotion of equality. They also looked back to the problem of violence over women, gender equality and discrimination on the grounds of nationality.

On the Committee for Human and Minority Rights and Gender Equality session a Special report on discrimination of women in Serbia was presented. A description of current state was described in the report, pointing to the difficulties and discrimination women in Serbia face with. The report represents a kind of invitation to all relevant parties to join the efforts and work on the repression of sexism, stereotypes and prejudices. The representatives of independent bodies, ministries, international organisations, embassies, EU delegation in Serbia, civil society, Women`s Parliamentary Network and others attended the presentation of the report. The

president of the Coordination Body of the Government of Serbia for Gender Equality, Zorana Mihajlović announced the drafting of the new legislation on gender equality, whereas the coordinator of Women's Parliamentary Network Gordana Čomić pointed out that the improvement in reducing the discrimination of women is visible and irrevocable. The Coordinator of the UN Office in Serbia, Irena Vojačkova Solorano mentioned that life without violence is the basic human right, and that the development of society is not possible without offering equal opportunities for all. The President of the Committee for Human and Minority Rights and Gender Equality Meho Omerović assessed that Serbia accomplished significant improvement in the fight against discrimination, but that in the real life, the position of women is far from the one guaranteed by the law and the conventions.

The intensive cooperation with the Committee for Human and Minority Rights and Gender Equality was continued in October, 2015, by a mutual organisation of the public hearing on *Aging—the years of life: from the privilege to discrimination*, with the support of the USAID *Project for the Reformation of Judiciary and the Responsible Government*. The president of the Committee Meho Omerović said that the statistics and the experience show that in society, after the Roma and persons with disabilities, elderly people are the most discriminated, but that is not often presented in public. The Commissioner Brankica Janković mentioned that the population of Serbia, according to all parameters, with the average age of 42.2, can be classified in the group of extremely old populations, not only in European, but also in the world context. However, the Commissioner receives fewer complaints on discrimination on the grounds of age, and due to the numerous reasons – poor information level, non-sufficient familiarity with what discrimination is, which can often be concealed, but also the fact that older citizens often consider they must put up with certain behaviour. Based on cases so far, it can be concluded that the discrimination of elderly people often occurs in the area of providing health protection and in the area of work and employment. The Commissioner stated that the violence over older people is a serious problem and that almost 20% of elderly population is exposed to some kind of violence – financial, emotional, physical etc. It also stressed that it is necessary to start drafting the strategic document for improving the position of elderly population, considering that the previous National Strategic on Aging has expired. On the public hearing, Nataša Todorović from the Red Cross of Serbia also spoke, explaining the position of Serbia in the Global Aging Index for 2015, a sociologist Srećko Mihajlović especially looked back on the relation between work and aging, and Nadežda Satarić from the Amity Organisation was talking about the role of civil sector in creating the politics for the protection of elderly population. The public hearing was held in the House of the National Assembly, in front of almost 100 participants, among others members of the parliament, the representatives of the Government of Serbia, and all relevant state authorities, institutions, facilities and non-governmental organisations which deal with the problem of elderly population. This was the first time to discuss the position of elderly citizens in the National Assembly.

The Commissioner participated in the discussion on the draft of the Law on Public Assembly at the mutual meeting of the Committee for Defence and Internal Affairs and the Committee for Human and Minority Rights and Gender Equality in the National Assembly of the Republic of Serbia. After presenting the Draft of the law to the members of the committee and to the guests, the Commissioner emphasized the flaws and gave suggestions with the aim of improvement of the suggested document, according to anti-discrimination legislation.

The satisfactory cooperation with the Women's Parliamentary Network was intensified during 2015.

The Commissioner participated in the work of the third National Conference of the Women's Parliamentary Network in November, where the results of the activities of the network were presented, as well as the models of cooperation with the mechanism for gender equality on all levels. Addressing the attendees, the Commissioner stressed out the importance of the increasing of the number of women involved in all levels of decision making and reminded that majority of the electoral body in Serbia are women. The speakers stressed the importance of the Women's Parliamentary network in the process of strengthening the gender equality, as well as the necessity of continuation of the process of integration of women in the political activities in local environment, while the special focus was put on the representation of women in media, which is rated as stereotyped in many cases, and very often as sexist.

That was exactly the subject of the Women's Parliamentary Network session in December, where the results of the research on position of women in media, called *Who creates the news*, were presented. The research, conducted within the project *Global Media Monitoring*, showed that in media in Serbia, women were present in 22% of the reports, three and a half times less than men, which is below the European and world average. Snježana Milivojević, a professor at the Faculty of Political Science presented the results of the research according to which women are present in the political news in 14% of cases, and in the area of art, media and sport three times more. The Commissioner assessed that the image of women in our media is still stereotyped and discriminatory, and in her appeal she explained when and in which way the Commissioner for Protection of equality reacted in the case of discrimination of women. The speakers were also the coordinator of the Women's Parliamentary Network Vera Paunović and Zorana Mihajlović, the president of the Coordination Body of the Government of Serbia for Gender Equality.

By the end of December, the Commissioner spoke on the ceremonial beginning of the project *Strengthen of the political participation of the persons with disabilities in Serbia*, organized in the National Assembly. The members of the Committee for Human and Minority Rights and Gender Equality, as well as the other members of parliament, attended the event, and several spokespersons addressed the attendants: the president of the National Assembly of Serbia Maja Gojković, the USA ambassador Michael Kirby, in the name of the US Agency for International Development – USAID which supports the project financially, as well as Gordana Rajkov, the president of the Centre for the Independent Living of the Persons with Disabilities in Serbia. The Commissioner specifically stressed that the persons with disabilities must be included into all social aspects and that political involvement is very important for the improvement of the overall position, while it is necessary for them to have their representatives on the highest level of decision making in our country, that is, in the National Assembly. She also stressed that the Republic of Serbia has a good legal frame, but that consistent change of all existing regulations is necessary, and she emphasized the need to make the new strategy for promoting the position of the persons with disabilities, keeping in mind the fact that previous strategy expires this year.

During 2015 the representative of the Commissioner for Protection of Equality attended a public hearing about the *National study on social problem of sexual abuse of children in the Republic*

of Serbia, in the organization of the Women`s Parliamentary Network and The Incest Trauma Centre, and then attended the panel discussion *How the Assembly controls the executive authorities*, organized by the Centre for Research, Transparency and Accountability (CRTA) and the Open Parliament, and she also attended the presentation of the annual report of Gay Straight Alliance on the position of LGBT population in Serbia, in organisation of the Committee for Human and Minority Rights and Gender equality.

5.1.2 Cooperation with the representatives of executive authority

Continuation and deepening of the cooperation with the representatives of executive authority in the Republic of Serbia is of crucial importance for the work of the Commissioner for Protection of Equality. The Commissioner for Protection of Equality, while acting upon the complaints, gives the opinions and recommendations to the public authorities and other persons on the measures for maintaining of equality, gives opinions on the drafts of the laws and other general acts, whose creating is entrusted to the executive authority.

The president of the Government of Serbia supported the work of the institution of the Commissioner for Protection of Equality, meeting the Commissioner in August, 2015. At the meeting about the importance of issuing new legal solutions for preventing the violence against women was discussed, with mutual conclusion that any form of violence, including domestic violence, is not allowed, hence it is necessary to work even more energetically on the prevention of it. One of the subjects of the meeting was the position of elderly citizens, and the Commissioner stressed that provision of certain services of support would prevent numerous problems that come with aging. It was concluded that more intense actions should be undertaken in order to achieve complete equality and reduction of the discrimination on all levels, including the persons with disabilities, Roma population, children and the young and other sensitive groups. On that occasion, the Prime Minister said that the Government will find the way to provide for the adequate working space for the Commissioner for Protection of Equality.

In November, 2015, the meeting was held between the Prime Minister and the independent state authorities. The problems in functioning of the institutions and the ways for their solutions were discussed at the meeting. The attendants of the meeting were, besides the Commissioner Brankica Janković, the Protector of Citizens Saša Janković and the Commissioner for Information of Public Importance and Personal data Protection Rodoljub Šabić. The following meeting was agreed to be held soon, in order to discuss the improvement in solution of the current problems.

Dedication to the realization of the goals of the Commissioner for Protection of Equality and the support in conducting the activities were provided by the representatives of different departments of the executive authorities.

In January 2015, the former Commissioner met Laslo Čikoš, the state secretary of the Ministry of Labour, Employment, Veteran and Social Affairs. The actual problems that the Ministry is dealing with were discussed at the meeting, including the problems concerning the foster care and inclusive education. The support of the Ministry of Labour, Employment, Veteran and Social Affairs given to the work of the Commissioner for Protection of Equality is very important, regarding the necessity of intensifying the cooperation between these two authorities and accelerating the finding of the solutions, that is, removing the structural and individual discrimination of the groups in charge of this Ministry.

In June, 2015, the Commissioner for Protection of Equality met the vice-president of the Government and the president of the Coordination Body for Gender equality, Zorana Mihajlović. Considering the importance of the activities of the Coordination Body, the mutual work was agreed in the area of human rights that will include the fight for all marginalized groups to have equal rights and equal possibilities in society, In accordance with all relevant international and domestic regulations and documents. The special attention was paid on the equality of women and the efforts that need to be intensified, so that all institutions competent for the fight against the violence could act in accordance with their jurisdiction and responsibilities. It was also agreed that the Commissioner should be invited to attend regular meetings of the Coordination Body, as well as to be able to suggest topics for some of the meetings, which will prove to be important for the discussion and resolving of the major and frequent problems in terms of gender equality, and based on the citizens' complaints filed to the Commissioner for Protection of Equality.

Keeping in mind that the area of education is of the crucial importance for the building of tolerant society, the Commissioner discussed the key problems and the possible mutual acting in the area of protection from discrimination in education with the minister Srđan Verbić. The Commissioner emphasized the necessity of the immediate issue of the Rulebook on milder criteria for recognition of discrimination by the employee, the student or the third party in the educational and up-bringing institution, and providing all conditions for its implementation. A wide research was agreed to be conducted on the causes of the attitude of the young which lead to intolerant behaviour and discrimination. They also discussed the idea of the Living library, the project of the Commissioner which should be made accessible to as many children of all age as possible. The Commissioner stressed out the problem of segregation of Roma children in schools, and it was agreed that this problem is to be solved systematically.

Good cooperation with the Ministry of Internal Affairs was confirmed at the meeting of the Commissioner and the Minister of Internal Affairs Nebojša Stefanović, in July, 2015. The key topic at the meeting was improvement of the normative range of the system of protection from the domestic violence, by initiating the changes in terms of the authorities of police officers to issue emergency measures of temporary removal from the place of living and temporary restriction of communication with a member of the family. The Commissioner and the Minister agreed that it is essential to take all measures with the aim of improving the efficiency and efficaciousness in providing protection from the domestic violence, and that institution must efficiently and in time offer help to the victims of violence.

The Commissioner Brankica Janković and the Minister of Justice Nikola Selaković had the work meeting when they discussed the promotion of the legal frame and measurements with the aim of improving the protection of marginalized and minority groups in Serbia, concluding that there are still cases, not only in judiciary, but also in the entire society, when due to different circumstances unequal position of the citizens occur. The Minister stressed the important role of the institution of the Commissioner in the activities that will contribute to the decrease of discrimination in the society. Among other things, it is concluded that it is necessary to issue the Law on Free Legal Aid, and also to make the work of the courts better and more efficient.

The former Commissioner met with Ksenija Milivojević, the acting director of the European Integration Office in May, 2015, and they talked about the accession of Serbia to the European Union and the contribution of the Commissioner to that process. This extremely important subject was intensified at the meeting in July, 2015, at the meeting between the Commissioner Brankica Janković and the chief of the negotiation team Tanja Mišćević. They came to the mutual conclusion about the importance of the joint fight against discrimination in the process of euro integrations and the special role of the Commissioner for Protection of Equality, as an independent body in the negotiation process, keeping in mind the contribution of the Commissioner through her actions. The Commissioner has the special role in the activities conducted within the chapter 23 – *Judiciary and basic rights*, as well as within the chapter 19 – *Social politics and employment*. It is of the essential importance to conclude that the protection of equality and the efficient fight against discrimination is one of the means to meet the standards and the values of the European Union.

Ever since it was founded, the institution of the Commissioner for Protection of Equality achieves intensive and qualitative cooperation with the Office for Human and Minority Rights. As the continuation of the successful cooperation on Infrastructure Project 2011, by the end of 2015 the Office for Human and Minority rights and the Commissioner started the implementation of the new IPA twining project 2013 *Support of the improvement of human rights – zero-tolerance for discrimination*. This project is realized with the help of the Austrian Institute for Human Rights „Ludwig Boltzmann“ and the Office for minority of the Republic of Slovenia. Within the project, the accent was set on the improvement of the struggle against discrimination on the local level, through supporting the partners, local authorities and local organisations of civil society in the attempts to improve their capacities for recognition the cases of discrimination and suppressing it.

The Commissioner for Protection of Equality, in accordance with his legal authorities regularly and on time submits opinions on draft laws and other general acts whose drafting is in the jurisdiction of the executive authorities. Apart from giving opinions and recommendations on the draft laws and other general legal acts, the representatives of the institution participated in numerous roundtable meetings where the draft laws and other general acts proposed by the executive authority were considered. With the opinions and recommendations, the Commissioner points to the faults and gives directions with the aim of improvement of the content of the legal texts, within his jurisdiction.

5.1.3 Cooperation with the units of local self-government

Successful cooperation between the Commissioner for Protection of Equality and the representatives of the units of local self-government is one of the keys segments of the efficient prevention and protection from discrimination in our society. The Commissioner and the representatives of the units of local self-government improve their cooperation by the realization of various activities, whose aim is to, among others, raise the capacity of the representatives of the units of local self-government so they can recognize the patterns and types of discrimination and oppose them.

Regional office of the Commissioner for Protection of Equality is opened in Novi Pazar in 2014. On visiting the Regional Office, the Commissioner held the meeting with the Mayor of Novi Pazar, Meha Mahmutović and the members of the City council, where they discussed the concrete activities local authority undertakes to solve the problems related to the discrimination and the protection of equality. Also, they talked about the availability of public institutions to the persons with disabilities, as well as the use of the Bosnian language. The Commissioner particularly emphasized the office is not in the busy spot, with high circulation of people, which is the reason for lower transparency of the institution, resulting in the small number of the citizens' complaints. The Mayor said that he will try to find the solution and allocate the adequate space in the city centre, which would greatly contribute to the visibility and availability of the Commissioner for Protection of Equality.

During 2015, in seven local self-governments in Serbia, seminars for the representatives of the local self-governments, called *Promotion of tolerance, reducing of discrimination and respect of the rights of internally displaced persons in Serbia in search of the permanent solutions* were held. The Commissioner for Protection of Equality in cooperation with the Protector of citizens and with the support of the United Nations High Commissioner for Refugees delivered the seminar on promotion of tolerance, reducing of discrimination and respect of the rights of internally displaced persons in Serbia in search for permanent solutions.

The Commissioner for Protection of Equality met with the representatives of the Podunavski district, the town of Smederevo and the municipality of Velika Plana. The subject of these meetings was the prevention of discrimination and protection of equality in all aspects of social relations, and some very important questions from the area of human rights and discrimination were raised,, with determination to continue the improvement of activities for prevention of discrimination. The Head of the Podunavski District Radisav Cokić, the Mayor of Smederevo Jasna Avramović and the deputy president of the municipality of Velika Plana Miodrag Škorić emphasized the examples of good practice which relate to employment of the persons with disabilities, as well as the affirmative measures for the improvement of the position of Roma minority. The Mayor expressed the wish for Smederevo to be the town where regular activities which lead to the reduction of discrimination and improvement of equality will be conducted.

Stronger local actions of the Commissioner for Protection of Equality were arranged at the meeting of the Commissioner with Mihalj Njilaš, Provincial Secretary for Education, Regulations, Administration and National Minorities and Janoš Oroš, the assistant of the Provincial Secretary

for National Minorities in October 2015. The jurisdiction of the Commissioner for Protection of Equality and the area of work of Provincial Secretariat were discussed at the meeting, as well as the future cooperation with the aim of improvement of equality and reduction of discrimination.

In December 2015 the Commissioner participated in the convention *Gender Equality on the local level*, where European charters for gender equality were assigned to the representatives of 34 municipalities in Serbia, which signed the European Charter on Gender Equality. The charter was signed by: Novi Pazar, Ivanjica, Nova Varoš, Priboj, Prijepolje, Raška, Sjenica, Tutin, Prokuplje, Blace, Žitorađa, Kuršumlja, Leskovac, Bojnik, Vlasotince, Lebane, Medveđa, Crna Trava, Vranje, Bosilegrad, Bujanovac, Vladičin Han, Preševo, Surdulica, Trgovište, Brus, Aleksinac, Gadžin Han, Doljevac, Merošina, Svrlijig, Babušnica, Bela Palanka and Knjaževac. On this convention, the speakers were the representatives of the Government of the Republic of Serbia, and the convention was organized with the help of the United Nations Agency for Gender Equality and the Empowerment of women UN Women, the European Union and the Government of Switzerland through the developmental program of European progress.

The Commissioner for Protection of Equality through the participation in this convention gave support to the theme conventions organized in the regional centres in Niš, Kragujevac and Novi Sad, dedicated to the discussion about the United Nations New Developmental Agenda for the period until 2030, which are the goals of the sustainable development of the United Nations. The new agenda, adopted in September 2015 at the United Nations convention, was presented to the representatives of the local self-government. It consists of 17 general goals that were referred to as the priority for realization, and the Republic of Serbia, as the signer of the Agenda, committed to taking actions on the fulfilment of the goals within their public politics. THE Commissioner for Protection of Equality emphasizes the importance of goals that refer to providing healthy life and promoting of prosperity for all and of all ages, achieving gender equality and empowering women and girls, promoting peaceful and inclusive societies for sustainable development, providing the access to justice for all and building the efficient, reliable and inclusive institutions at all levels, as well as other goals which can be connected to the activities performed by the Commissioner for Protection of Equality.

5.2 Cooperation with the civil society organisations

The Commissioner for Protection of Equality continued to develop and improve successful cooperation with the civil society organisations in order to provide better protection from discrimination and to improve equality. Taking into the consideration that civil sector is a natural partner of the Commissioner in the struggle against the discrimination, since May 2015, when she was elected the new Commissioner, Brankica Janković has had many meetings with the representatives of civilian sector who deal with the protection of the minorities, that is, human and minority rights. Types and ways of further cooperation in the fight against discrimination were discussed at these meetings. The meetings were held with the Belgrade Centre for Human Rights, YUCOM Organisation, Gay-Straight Alliance, the Organisation „From the circle“ AS Centre, Helsinki Committee for Human Rights, Belgrade Fund for Political Excellence, Autonomous Women`s Centre, the Pride Parade, Gay-lesbian info centre, Partners for

Democratic Changes in Serbia, the representatives of Egal, Citizen` Initiatives, AMITI, MDRI-S, NOOSI and Bibija. The Commissioner also talked with independent experts in the area of human rights, women`s and children`s rights, the representatives of the Coalition for Monitoring of the Inclusive Education, the representatives of ten organisations of civil societies, the members of the Coalition against Discrimination and the Coalition for the Access to Justice.

The cooperation with YUCOM organisation has been continued through joint activities with the Judicial Academy, supported by OEBS. The meeting was held where further activities with the aim of equalizing anti-discrimination practice in the appellate courts in Serbia were agreed, and the attendants of the meeting were the representatives of the Commissioner for Protection of Equality, Supreme Court of Cassation, Judicial Academy, OEBS and YUCOM.

With the common aim to improve equality, the Commissioner Brankica Janković, on separate meetings, talked with the director of YUCOM, the director of Belgrade Centre for Human Rights and the executive director and the president of Gay-Straight Alliance. The need to improve the system for monitoring actions on recommendations of the Commissioner for Protection of Equality was discussed at the meeting with YUCOM, whereas the cooperation on various projects for improving human rights especially in the areas which were not adequately covered so far was announced with Belgrade Centre for Human Rights. At the meeting with GSA representatives it was agreed to work on encouraging the LGBT population to file more complaints.

The continuation of realization of the project *Simulation of trial in the area of protection from discrimination* was agreed at the meeting with the Foundation for Open Society. The purpose of the project is to contribute to the development of legal education in this area and to improve equality. The Foundation for Open Society is an important partner of the Commissioner in several important projects, and that cooperation was agreed to be widened in the next period.

On the meeting with the representatives of “Egal” organisation, the Commissioner discussed the improving of the position and status of transgender persons through implementations of legal and sub legal solutions, as well as giving support of the Commissioner to this organisation in finding the space – “Drop in” centre for transgender persons.

With the director of Citizens` Initiatives the further cooperation was discussed, with the special accent on questions and topics concerning discrimination in teaching resources and school textbooks, as well as protection of position of national minorities in Serbia. The modification of the content of topics in school subject Civil Education, in order to reach a higher level of equality for all members of society, was also discussed.

The Commissioner talked with the representatives of organisation AMITY – the power of friendship about the challenges of the attitude of Serbian society towards elderly population and especially expressed discrimination and insufficient understanding of elderly population, difficult access to services they experience every day, especially health and social protection services,

as well as the need for joint actions and organizing of the activities that lead to overall improvement of the position of elderly population.

Concerning the trend of increased number of people deprived from work abilities was the topic of the meeting with the representatives of the Initiative for the Rights of persons with Mental Disabilities (MDRI-S). They particularly discussed the arbitrary way such decisions are made, without considering their long-term consequences, as well as the non-existence of the alternatives in this procedure.

Establishing better cooperation was also agreed upon with the National Organisation of Persons with Disabilities in Serbia, and with the representatives of this organisation the Commissioner discussed the importance of education of persons with disabilities and their organisation in order to recognize discrimination, analyse the implementation of anti-discrimination laws and judicial practice. It was stressed out that all facilities and institutions must be accessible to persons with disabilities and in the further period special attention will be paid to prevention of multiple discrimination of women with disabilities, as well as the members of national minorities with disabilities.

At the meeting with the representatives of the Roma Women`s Organisation "Bibija", the Commissioner discussed the position of Roma women and the importance of empowering their organisations and local Roma community to take initiative with the aim of achieving sustainable integration. Further attention was to be paid on the higher employment rate of Roma women.

The Commissioner for Protection of Equality, together with the Red Cross of Serbia organized the conference on the occasion of International day for the elimination of the violence against elderly population called *How to reduce discrimination and violence against elderly population in Serbia*. At this conference, the Commissioner emphasized that the majority of complaints for discrimination on the grounds of age was filed in the area of offering services, especially banking and health protection services and she announced the activities for cancelling the concept of total deprivation of work competence, as well as reduction of discrimination and violence against elderly persons. The results of the research of Global Alliance for Human Rights of Elderly Persons were presented at the conference.

The further cooperation in terms of wider implementation of mechanisms of mediation, which is one of the authorities of the Commissioner, was agreed with the non-government organisation Partners for Democratic Changes in Serbia. Mediation is a very important procedure in the process of dealing with the violation of equality and in the further period, more effort should be put in creating conditions for more often implementation in practice.

The Commissioner for Protection of Equality talked with the director of Autonomous Women`s Centre about the current and future cooperation in trying to make the mechanisms for protection of women from discrimination and gender-based violence more effective. The Commissioner offered full support to the current initiatives of the Autonomous Women`s Centre and the activities for changing the regulations, especially for the adjustment of domestic regulation with the Istanbul Convention, which Serbia was among the first countries to ratify. The Commissioner stated that she will keep informed about the situation in this area and enjoin to the flaws in the protection system, especially in terms of emergently protection measures.

The improvement of cooperation between the Commissioner and organisations of civil society as the key partners in reducing discrimination and protection of equality was the main topic of the meeting between the Commissioner and the director of Belgrade Fund for Political Excellence. Further strengthening of independent institutions is of a crucial importance for creating the society in which all citizens will indulge human rights. The actual problem of migrations and asylum was discussed at the meeting, too. It was also agreed that in the centre of future cooperation should be the position and protection from discrimination of Roma population, since majority of them live in extremely difficult conditions, unemployed and with no possibility to provide for a minimum of existence, and thus free life too. During the conversation it was stated that in the next period, joint efforts will be put to make mechanisms for protection of discrimination more effective.

The Commissioner participated in the marking of the International Pride Day of LGBT persons and their walk through the city centre of Belgrade from Trg Republika Square to the monument of the anti-fascists hanged on Terazije, in the "Zone free of hatred". The action was organized the third year in a row, and it was dedicated to anti-fascism, and the aim was, apart from showing the position of LGBT persons in Serbia, stronger solidarity with other social groups and the stressing of the existing problems in all society. This year's action "Zone free of hatred" was organized by a group of non-governmental organisations Women in Black, Gay-Straight Alliance, Gay Lesbian Info Centre, Association "Rainbow" Šabac, the Centre for Queer Studies, "Hestia" association, Lawyers Committee for Human Rights – YUCOM and the League of anti-fascists of Serbia.

At the meeting with the representatives of the Pride Parade, it was discussed about the Pride week and the preparations for the Pride event in September 2015, the situation in society in terms of the position of the members of LGBT population and eventual safety risks concerning the organisation of the Parade.

With the president of Gay-lesbian info centre it was discussed about the support to the festival Merlinka – The International Queer film Festival, which is regularly organized every year, in December.

The Commissioner and the employees in professional service participated in Pride Parade and Trans Pride on 20 September, 2015. The Pride Parade was peaceful and with no incidents. The participants walked from the Government building to the Plato in front of the National Assembly, where they sent the messages of love, tolerance and solidarity with migrants.

With the executive director of AS Centre it was discussed about the problems of persons living with HIV, among the most common are: lack of cooperation with competent authorities, insufficient psychosocial support, insufficient preventive protection, non-compliance with the recommendations of the World Health Organisation and the lack of medical equipment. The cooperation was continued with the organisation "From the Circle", and the Commissioner talked with the representatives of that organisation about the position of women with disabilities. It was concluded that, in order to provide for adequate protection of our female citizens with disabilities, higher competencies of the social welfare centres are needed, and that other

systems should create adequate mechanisms that can help exercising the rights of all women with disabilities.

The main question at the meeting with the director of 484 organisations was how to solve problems of asylum seekers in the best possible way, and the biggest problems are: borders control, temporary and systematic retention. It is also agreed that further work on the sensibility of citizens concerning problems with migrants is needed.

The Commissioner for Protection of equality met with the representatives of ten civil society organisations, members of the Coalition against Discrimination and the Coalition for Access to Justice. In the workplace of the Humanitarian Law Centre in Belgrade they discussed the joint cooperation, and the basic model of that future cooperation might be mutual public hearings in the National Assembly on the problems of discriminated groups in Serbia. By organizing mutual public hearings the public attention would be drawn and the solutions for overcoming of systematic problems related to discrimination would be offered. The attendants of the meeting were the representatives of the Centre for Advanced Legal Studies, Civil Right Defenders, Praxis, Minority Regional Centre, Labris – Organisation for lesbian human rights, Gaytan, LGBT, Association of students with handicap, Youth Initiative for Human Rights, CHRIS – Network Committee for Human Rights and the Humanitarian Law Centre.

The Commissioner supported the work of the Coalition for Monitoring the Inclusive Education, and stated that the future cooperation will be focused on solving the problem of segregation of children in schools. This coalition includes eight civil society organisations and 56 parents, chosen from different groups according to previously defined criteria.

The Commissioner for Protection of Equality spoke at many meetings dedicated to the subjects from the jurisdiction of the institution, including “*The improvement of the approach to human rights of the elderly population in the Republic of Serbia*”, organized by the Red Cross, in association with Help Age International from Great Britain, with the financial support of the European Union. She presented the attendants with the work of the Commissioner for Protection of Equality and the activities from the domain of protection of the human rights of the elderly population.

At the roundtable *Strategic directions for improving the position of the members of Roma community in the Republic of Serbia*, organized by the Centre for Advanced Legal Studies, the Commissioner emphasized that the position of Roma community in Serbia is not even close to satisfactory and that they still have huge problems in terms of employment, education, health protection and residence. More than 40% of citizens recognize Roma population as the most discriminated community, but at the same time they do not want them as members of the family, neighbours, friends, educators. The conclusion was brought that strategic documents are the landmarks, but are not self-sufficient, and that additional efforts should be put in order for those documents to be operative.

During one of the visits to the regional office in Novi Pazar, in August 2015, the Commissioner met with the president of the Sandžak Committee for Protection of Human Rights and Freedom. They talked about discrimination of women in the process of employment in this region and about the problems related to the use of Bosnian language in schools.

At the final conference of the Coalition for Equality – Step “*Three views on the fight against discrimination*” the steps that Serbia took in the fight against discrimination were summarized. Coalition Step²⁰² was formed with the aim to perform a regional action on improving the state of human rights, particularly dealing with the rights of LGBT population, empowering the role of women in political and public life and monitoring of trials on the grounds of discrimination. The conference was held within the project *Involvement of civil society in protection of jeopardized human rights*, which is realized with the support of European Commission and the Great Britain Embassy, and in the name of the Commissioner for Protection of Equality the assistant of the Commissioner Kosana Beker participated at the panel dedicated to the steps taken to improve the position of women in political and public life.

On the occasion of ceremonial marking of the beginning of the project “*Strengthening of political involvement of persons with disabilities in Serbia*”, the Commissioner for Protection of Equality offered full support to the project saying that the number of filed complaint does not coincide with the actual position of the persons with disabilities. She said that the improvement has been made in the last 15 years, that the good legislative and strategic frame was made, providing the basis for successful protection of persons with disabilities, but that there are still obstacles in education, employment, use of services and accessibility to the facilities, institutions and public area, and that there are no persons with disabilities in parliament. This project is conducted by the Centre for Independent Living of PWDs of Serbia with support of the US Agency for International Development (USAID).

At the conference held on 25 December, 2015 on occasion of presentation of research and publication *Well-kept family secret – the abuse of elderly persons*, organized by the Red Cross of Serbia and the Commissioner for Protection of Equality based on the research on the abuse of elderly persons, a set of recommendations was defined, the first of which is improvement of normative frame through changes and amendments to the laws which regulate legal protection from violence. The Commissioner stated that it is particularly important to consider the change of the Criminal Code and to define special criminal offense of neglect and abuse of elderly persons as the qualified type of criminal offense of domestic violence, and also to make a special strategic document on aging. Among the recommendations that Commissioner suggested educations of professionals in charge of solving the cases of violence, promoting services of SOS phone line, developing services for psychosocial help, as well as informing of the elders on their rights are obligatory and continuing. The results of the research on frequency and models of abuse of elderly persons were presented at the conference. The research was

²⁰²Coalition includes Organisation Yukom, Centre for Civil Education, Humanitarian Law Centre Kosovo, Network Committee for Human Rights CHRIS, Gay Straight Alliance, LGBT forum, Progress, Belgrade Centre for Human Rights and the Youth Initiative for Human Rights Kosovo.

realized by the Red Cross of Serbia in cooperation with the Commissioner for Protection of Equality, and with the support of the United Nations Population Fund.

The Commissioner for Protection of Equality supported the organisation of the conference on education of children with disabilities conducted by the Initiative for the Rights of Persons with Intellectual Disabilities MDRI-S and the Initiative for Inclusion “The Little Big”. The conference was held on 30 October 2015 in the workplace of the National Assembly of the Republic of Serbia within the project *Children with disabilities in residential facilities as the victims of multiple discrimination*. The aim of the conference was to present data on the position of children with disabilities in the institutions and to open constructive discussion on difficulties and obstacles while exercising the rights of these children, especially the right on education. The assistant of the Commissioner Kosana Beker presented the field of work of the Commissioner on prevention of discrimination and improvement of equality of children with disabilities. Such conventions were organized in other towns in Serbia.

The Commissioner for Protection of Equality opened and closed the sixth Belgrade Film festival of persons with disabilities – BOSIFEST 2015. The festival contributed to the inclusion of persons with disabilities hiring their artistic potentials. Along with the artistic contents, this festival promotes the examples of the successful practice of International Community and institutions in fulfilment of the inclusion with respect to the difference. Within the competitive and non-competitive part the audience was able to see films whose authors are persons with disabilities or the films dealing with the life of persons with disabilities.

Within the cooperation with the European Centre for the Rights of Roma from Budapest (ERRC), the Commissioner for Protection of Equality organized internship program in Professional Service of the Commissioner for interns of Roma nationality. The aim of the six-month program was to provide to the interns immediate experience of work in the independent institution, specialized for prevention and protection from discrimination and improvement of equality. Besides, the aims of the program are also empowering of the members of Roma national minority through getting familiar with the work and functioning of the Commissioner for Protection of Equality, acquiring practical experience and knowledge through everyday work in the institution of the Commissioner, deepening of the knowledge on various aspects of equality politics aimed at inclusion of Roma community, raising the level of consciousness on necessity of including all minority groups in the work of public authorities and practical application of knowledge and skills acquired during the studies at university and/or during the previous work experience. At the end of the program, the Commissioner presented the certificates to the interns and thanked them for the professional and responsible work in Professional Service.

5.3 International cooperation

The Commissioner for Protection of Equality continued the cooperation with international partners in the country and abroad, at a bilateral and multilateral level, especially stressing the international cooperation – partnerships and mutual activities with the missions and international organisations offices, regular activities within the membership in European Network of Equality (EQUINET).

Within the cooperation with the United Nations agencies, the Commissioner for Protection of Equality met the chief of the UN Office in Serbia Irena Vojačkova Solorano, and discussed the improvement and continuation of their cooperation. During the discussion, the readiness to additionally strengthen the capacities of the Commissioner for Protection of Equality through mutual activities was emphasized. The commissioner talked to Claude Khan, United Nations Advisor for Human Rights, and special attention was paid on questions of improvement of the position of Roma population and the problem of informal Roma settlements, as well as the need for hiring all actors in the improvement of human rights of elderly citizens.

The discussions on the continuation of cooperation with the United Nations Agency for Gender Equality and Empowering of Women – UN Women were led with the director of the Regional Office for Europe and Central Asia. After considering the current cooperation that the Commissioner had with the UN Women Office in Serbia, the regional director was presented the concept of future mutual project aimed at further education of legal experts and recognition of gender discrimination, the more efficient access to justice and to Commissioner for Women from Marginalized Groups, empowering the capacity of the Commissioner and further education of media. The director of the UN Women Office in Serbia Asja Varbanova and the coordinator of program Milana Rikanović also attended the meeting.

UN special rapporteur on the defender of human rights and twinning expert Michel Forst visited the Commissioner for Protection of Equality. There were talks about the position of human rights defenders, the possibility of creating a legal frame for their protection and the continuation of cooperation, the result of which would be improvement of the position of human rights defenders, and hence, the higher level of respect of the human rights, including the right to non-discrimination. The representatives of the Office for Human and Minority Rights, the representatives of the civil society organizations from the Centre for Practical Politics, Helsinki Committee for Human Rights, Autonomous Women`s Centre, Women in Black and twinning partners of the Commissioner in Serbia also attended the meeting.

In 2015, the Commissioner had numerous bilateral meetings with the representatives of bodies, authorities and organisations from other countries which deal with protection and improvement of human rights and equality.

The Commissioner for Protection from Discrimination of the Republic of Albania Irma Baraku and the assistant of the Commissioner Adriana Hala visited the Commissioner in April 2015. During the two-day visit the work of the Commissioner was presented to them, as well as the steps and measures that have been implemented in Serbia in the fight against discrimination and protection of equality so far. Albanian delegation was interested in the position and jurisdiction of the institution, anti-discrimination legal solutions that Serbia adopted and their implementation in practice. During the presentation of concrete experience of the Commissioner

in prevention and reducing of discrimination, the representatives of Albanian commissioner were particularly interested in strategic judicial proceedings, testing of discrimination and the project *Do not judge the book by its covers – Alive Library* and they expressed readiness to apply this unique methodology for reducing negative stereotypes and prejudices in their country.

The delegation of Moldavia led by the Protector of Citizens Mihail Kotorobai and the president of the Committee for Equality Ian Feldman visited the Commissioner for Protection of Equality of the Republic of Serbia in November 2015. The work of the institution was presented to the members of the Moldavian delegation and in direct discussion with the Commissioner and the employees they found out more on experiences and results achieved so far in the area of protection from discrimination and improvement of equality. They got familiar with the way of acting upon the complaints and with the examples from the real life, as well as with the most important projects and types of cooperation that the Commissioner has with other independent bodies, state authorities, non-governmental organisations, media and international partners. The representatives of the Moldavian delegation were interested in creation and procedure of filing regular and special reports of the Commissioner. For this delegation, a meeting with non-governmental organisations dealing with the questions of protection and exercising the rights of persons with disabilities in Serbia was organized.

In December 2015 a delegation from Belarus, from the Ministry of Justice, The Academy for Administration, the State Centre for legislation and legal research and the Society of persons with disabilities visited the Commissioner for Protection of Equality in order to get familiar with the jurisdiction and the work of the institution. The members of the delegation were particularly interested in the way the Commissioner acts on the complaints and receiving of complaints in the electronic form.

During the year, the Commissioner also held many bilateral meetings with the representatives of embassies in Belgrade, with the aim of maintaining and further development of cooperation, realization of mutual activities and projects, and exchange of experience between the Commissioner and bodies dealing with protection of equality in those countries.

Starting the cooperation with the Republic of Austria and the bodies in charge of the fight against discrimination was agreed in July 2015, at the meeting with Oliver Hiler, the attaché for work, social politics and protection of consumers of the Austrian Embassy in Serbia. At this meeting there were talks about the experience of Austrian institutions in fight against violence on women, and the models that can be applied in Serbia.

During the visit of Austrian ombudsman for persons with disabilities Ervin Buhinger to Serbia, in October 2015, the position of persons with disabilities in both countries was discussed, and the experiences on activities undertaken for improving of their position were exchanged. The inclusion of the children with disabilities was particularly discussed taking into consideration that high percentage of children with intellectual disabilities attends special schools in both countries, as well as their low visibility and insufficient involvement in the educational system. It is stated that in Serbia there is still a problem of moving and employment of persons with disabilities, due to various obstacles. They also discussed the position of the elderly population in both countries.

The meeting with Croatian ambassador in Serbia Goran Markotić passed in exchanging experiences that both countries have in terms of protection of equality, fight against discrimination and improvement of human rights in Serbia and in Croatia. The mutual visit of the representatives of independent bodies was arranged, as well as the meeting with the General Attorney in order to exchange the best practice of work and determine the forms of future cooperation.

The Commissioner met with Charge d'affaires of Slovenian embassy in Belgrade Mateja Norčič Štamcar, and the topic of discussion was maintaining cooperation between the Commissioner for Protection of Equality and institutions and independent bodies in the Republic of Slovenia.

The American Agency for International Development (USAID) continued to follow and support the work of the Commissioner for Protection of Equality. In order to improve the existing cooperation, several work meetings were held with the representatives of the Judicial Reform and Government Accountability Project. At the meetings there were talks about raising the level of consciousness on the protection of equality and the fight against discrimination on the entire territory of Serbia, especially in parts of South and East Serbia which are more distanced from the bigger towns and cities and which have less developed infrastructure. The importance of getting the local communities familiar with the protection against discrimination and necessity of existing of tolerance and equality was stressed out. Continuous cooperation and support of this agency to the Commissioner resulted in making the *Rulebook for applying anti-discriminatory minor offenses law* in April, 2015.

At the meeting held in the British embassy in October, 2015 the Commissioner met with Philip Hamond, the Minister of Foreign Affairs of Great Britain, as well as with the Protector of Citizens Saša Janković and the Commissioner for Information of Public Importance and Personal data Protection Rodoljub Šabić. On that occasion they discussed the Action Plan for chapter 23, especially the improvement in the area of human rights in the context of European integrations in Serbia, as well as the rule of law. The representatives of civil society organisations also attended the meeting.

In October 2015 the Commissioner met with newly-elected ambassador of the Kingdom of the Netherlands in Serbia Hendrik van den Dool. The topics of the discussion were present cooperation achieved in projects on improvement of the position of Roma population in Serbia, and the possible future cooperation, especially in the area of discrimination of elderly persons and LGBT population. This meeting represents the continuation of successful cooperation between the Commissioner and the Kingdom of the Netherlands, which was graded as exceptionally good by the previous ambassador Laurent Stokvis. Meeting the Commissioner in February 2015, Stokvis emphasized the results actions undertaken by the Commissioner in fight against discrimination and improvement of the position of marginalized groups, also emphasizing the importance of empowering the position of LGBT persons and women in Serbian society as well as the improvement in exercising the guaranteed rights.

Present projects and cooperation with the Kingdom of Norway, as another important partner of the Commissioner, were discussed at the meeting between the Commissioner and the ambassador of the Kingdom of Norway in Serbia Arne Sannes Bjornstad in October 2015. They

discussed the most important activities of the Commissioner for Protection of Equality in promotion of equality, fight against discrimination and respect of human rights, with special accent put on the activities the Commissioner undertook in 2015 within the two-year project financially supported by Norway *Let equality become reality*. They also talked about the institutions in Norway dealing with the protection of equality, and the mutual readiness for further cooperation was emphasized.

During the meeting with Denis Keefe, the ambassador of Great Britain in Serbia, held in November 2015, the excellent results of current cooperation between the Commissioner and the British embassy was discussed, as well as the future projects and activities, especially within the project of good governance. The importance of the activities of the Commissioner was emphasized, undertaken in the fight against discrimination and improving the position of discriminated groups in Serbia, especially LGBT population, elderly persons and persons with disabilities.

In December 2015 the Commissioner met with ambassador of Italy Giuseppe Manzo. It was concluded that there is a significant room for cooperation between the Commissioner and Italian bodies in charge of the protection of equality, by exchanging experiences, common activities and projects.

5.3.1 Cooperation with the OSCE Mission in Serbia

Cooperation with the OSCE Mission in Serbia was continued in 2015. The importance of independence and stable financial resources for satisfactory work and functioning of the independent bodies in Serbia, as well as the support of international organisations, especially OSCE in that area, were emphasized at the meeting with the ambassador Peter Burkhard, the head of the OSCE Mission in Serbia in June 2015. The preparation and making of several anti-discrimination rulebooks were agreed, as well as the education of the employees in different systems, especially continuation of education of judges. The strengthening of cooperation and deeper relationship between independent bodies and the National Assembly was also agreed, including education of the members of the Parliament, especially those who are in the Parliament for the first time.

The cooperation in the area of gender equality was very intensive. In mid-July in Arandelovac, a two-day seminar was organized, called "*The seminar on gender equality in the institutions of security sector*". It was stressed out that over the past few years in the safety sector the significant improvement was realized, in providing gender equality through integration of gender perspective and improvement of the position of women, but there is still a lot to be done on the improvement of their position. The role and jurisdiction of the Commissioner in procedures on complaints in safety sector were presented to the attendants of the seminar, and the contribution of the Commissioner to conducting of the gender equality politics in the institutions of safety sector was also discussed.

The representatives of the Commissioner attended the Annual Human Dimension Implementation Meeting, organized in September 2015 in Warsaw, within the OSCE chairmanship of Serbia. At the session *Tolerance and non-discrimination*, they talked about the position of women in Serbia, so far accomplishments and future steps aimed at improvement of their position. Together with the representatives of the Protector of Citizens and the Provincial Ombudsman, working breakfast was held, called "*The role of independent institutions dealing with the protection of human rights in the fight against violence on women and gender-based discrimination*", during which the Special report on discrimination of women was presented. The representatives of the Commissioner participated in the following event *Women, peace and safety; marking of the fifteenth anniversary of the Resolution of the United Nations Security Council 1325 – concrete examples of implementation*, organized by the permanent missions of Finland, Austria, Liechtenstein, Iceland and Turkey. It was concluded that the resolution should be revised according to the new world tendencies in migrations and increasing wave of terrorism.

The self-evaluative report of the Republic of Serbia in the area of human and citizens' rights, especially stressing the freedom of speech and the position of Roma population was presented at this meeting. Besides the speeches of the representatives of civil society and the academic community, the representatives of the Commissioner presented to the attendants the situation concerning the position of women, particularly stressing the political engagement of women, economic empowering, reducing discrimination of Roma women, the role of media in achieving gender equality and the influence of institutional mechanisms in gender equality improvement.

The third regional conference on freedom of expression on the internet "*Gaining a Digital Edge: Freedom of Expression*" was held in October 2015, in Belgrade, organized by the OSCE Mission in Serbia, The School of Public Policy at Central European University in Budapest and the Share Foundation. The Conference summoned journalists, media lawyers, representatives of academic community, fighters for human rights, as well as the representatives of state institutions, and the representatives of the Commissioner also participated in it. The challenges concerning the protection of freedom of expression and other human rights within digital media environment were discussed.

The Commissioner for Protection of Equality continued to support the work of the Women's Parliamentary Network by participating in the third National conference, held in November 2015, and supported by the OSCE Mission in Serbia. Working part of the conference was dedicated to gender responsible budgeting at the republic and local level, as well as monitoring the execution of the budget from the point of view of gender equality. The attendants of the conference came to a conclusion that it is necessary to continue the process of integration of women, especially the members of minority groups, in political activities in local areas. The representatives of local self-governments, international organisations, civil society organisations and independent bodies, including the Commissioner, also participated in the work of the conference.

In November 2015, the conference *Improvement of the Criminal Procedure Code* was organized by the Prosecutors Association of Serbia and the OSCE Mission in Serbia. A large number of prosecutors, the representatives of international organisations and other actors, including the representatives of the Commissioner, attended the conference. The aim of the Conference was

consideration of overall approach to improvement of the Criminal Procedure Code from the perspective of academic community and the case law.

In the period from 24 to 27 November, the OSCE Mission organized the visit of the representatives of the Commissioner for Protection of Equality to Malta. Within that visit the meetings were held with the representatives of the Ministry for Social Dialogue, Consumer Affairs and civil Liberties, The National Commission for Promotion of Equality and Persons with Disabilities, National Council of Women of Malta and the People for Change Foundation. The aim of the visit was exchange of experiences and knowledge with the institutions for protection of equality in Malta, which have a significant influence on creating public policies in Maltese society. The special attention was paid on discrimination of persons with disabilities in the area of education and the access to public places.

In mid-December, the representative of the Commissioner for Protection of Equality and the representatives of OSCE Mission in Serbia visited London, accompanying the reporters who won the first prize within the first annual Media Reward for Tolerance. The aim of the visit was to get familiar with media and organisations dealing with the freedom of information and reporting on topics related to improvement of the respect of human rights and fight against discrimination, among which are *BBC and Guardian*, and organisations *Media Legal Defence Initiative, Media Diversity Institute, Media Trust and Community Channel*.

5.3.2 Cooperation with the EU Delegation

The representatives of the Commissioner for Protection of Equality participated in the annual conference on freedom of speech in the West Balkan and Turkey *Speak Up*, organized by the European Union and the European Parliament. The hosts of the conference were High Commissioner for EU's Enlargement Johannes Hahn, Council of Europe High Commissioner for Human Rights Nils Muižnieks, and the vice-president of the European Parliament Ulrike Lunacek. In separate sessions, the improvement in the area of freedom of media was discussed, as well as the role of internet communication in the context of democratization, and the perspectives and the future of media in the region. It is emphasized that the freedom of expression will be one of the important criteria for successful conclusion of accession negotiations, whereas in terms of media in Serbia, the need for more frequent thematization of the position of minority and endangered groups, above all, Roma minority, women, persons with disabilities and LGBT population, was emphasized.

The continuous cooperation with European Union bodies continued in 2015. The delegations of EU in Serbia continued to support and follow the work of the Commissioner through the project financed by EU in Serbia and numerous mutual activities as well.

The Commissioner for Protection of Equality Brankica Janković met with the Head of EU Delegation in Serbia Michael Davenport in July 2015. The big role and importance of independent institutions, and of course, the institution of the Commissioner for Protection of

Equality, for all citizens of Serbia in the process of euro-integrations was emphasized. They discussed the strategic goals and priorities in the work of the Commissioner in the forthcoming period and about the types of future cooperation, especially those concerning the activities from the Action Plan for Chapter 23 in negotiations with EU, as well as the conducting of the activities on twinning project, the realization of which begins in the other half of 2015.

In October 2015, the Commissioner for Protection of Equality, in cooperation with the Office for Human and Minority rights, started the realization of the twinning project "*The support to the improvement of human rights and zero-tolerance of discrimination*". The European partners in this project were Ludwig Boltzmann Institute of Human and Minority Rights from Austria and the Office for Human and Minority Rights of the government of the Republic of Slovenia. Project activities were aimed to empower the capacity of the Commissioner in preventing and fight against all forms of discrimination on local level, stressing the intensifying of the cooperation with national councils of national minorities, conducting of researches on implementation of the Law on Prohibition of Discrimination and the public perception of discrimination and inequality in Serbia, adjustment of the Law on Prohibition of Discrimination with European standards, leading campaigns concerning the improvement of implementation of recommendations of the Commissioner and the analysis of the existing internal data base of the Commissioner, with the aim of its improvement.

In 2015, a lot of attention was dedicated to the area of social inclusion, through the support of improvement of the socio-economic position of Roma population. The Commissioner participated in the roundtable *Analysis of strategic documents related to employment of members of Roma population from the perspective of international standards of human rights*, held in Belgrade by the end of May, initiated by the Ministry of Labour, Employment, Veteran and Social Affairs and the Project and Operating Centre of the United Nations Office for Project Services (UNOPS) in Serbia within the mutual project of EU and four of its partner organisations. The aim of the analyses is to identify the flaws affecting the full exercising of the right to work of Roma national minority. In the final discussion, the representatives of the Commissioner participated in considering concrete measures for improvement of the position of Roma population in this area.

In July 2015, the seminar *Social implementation of members of Roma population in the Republic of Serbia* was held, organized by the European Commission and the government of the Republic of Serbia. The seminar represents the continuation of the implementation of the Operative conclusions of the mutual seminar of Serbia and European Commission from 2013, and it is organized in order to define precise goals in the area of employment, education and reduction of the poverty of the endangered social groups of population, especially Roma population. Along with the attendance of representatives of National Assembly of the Republic of Serbia, National Council of Roma national minority, civil society organisations, international organisations and independent bodies, the representatives of the Commissioner contributed a great deal to defining the priorities and concrete suggestions for improvement of the social implementation of Roma population.

One of the priorities of the cooperation with EU was working on reducing the violence on children within the mutual project realized by the Ministry of Education of the Republic of Serbia,

the Centre for the Promotion of Women`s Health and the Incest Trauma Centre, with the support of the Austrian embassy, Reconstruction Women`s Fund and the Office for Cooperation with Civil Society of the Government of the Republic of Serbia. Within the project, the first research on characteristics and occurrence of sexual violence against children in Serbia was conducted, and the first national study aimed at informing the public about this social phenomenon, not transparent enough. The Commissioner participated in presenting the results of the study which involved children, the young and the parents from 97 elementary and high schools from the entire territory of the republic.

Within the support to the civil society, EU financially supported the project *PROACTION – Protection from discrimination of the asylum seekers and unaccompanied migrant children*, jointly conducted by the Group 484, Praxis and the International La Commission. Within this project, training on migrations, discrimination and international law on human rights was held. The representatives of the Commissioner participated in the training which gathered national actors dealing with hosting of migrants, as well as those involved in the process of defining the policies of asylum and migration. The aims of the training included enhancing of protection of economic, social and cultural rights of the asylum seekers, unaccompanied children and migrants in custody in context of EU law and international law.

5.3.3 Cooperation with the United Nations Children`s Fund (UNICEF)

In accordance with the signed Memorandum of Understanding with the United Nations Children`s Fund in Serbia (UNICEF) the Commissioner for Protection of Equality continued realization of planned common activities in 2015.

Three seminars of the Youth Panel of the Commissioner for Protection of Equality “Exterminators of Discrimination“ were organized. At the seminar in Končarevo from 19-21 February, 2015, the members of the Panel, as well as the members of the jury, chose the winning works in the categories from the first to the fourth grade, and from the fifth to the eighth grade, sent to the art competition on subject *We are all equal and we can do it together*. Few photographs sent to the photography competition did not fulfil minimal technical demands of the competition, and did not correspond with the topic, so the jury decided not to award the prize in the category of photography. The second part of the seminar was dedicated to the research work on the analysis of the contents of the high school textbooks, and with the help of the expert on developmental (child) psychology, they reached the directives they used for finalizing their analyses. Based on the results of the research, the Report on the research of discriminatory contents in the high school textbooks was done. In the second part of the seminar, the representatives of the Initiative for the Rights of Persons with Intellectual disabilities (MDRI Serbia) and the Initiative for Inclusion “The Big Small” addressed the members of the Panel. Through interactive and creative workshops the young got familiar with the position of children and the young with disabilities in the institutions of social protection.

Members of the Youth Panel met again in Niš, from 23 to 25 August, 2015, in order to participate in the workshop on the position of refugees passing through Serbia. The workshop was held by the representatives of the UNHCR, and afterwards the panellists spent the day in the Reception centre for refugees in Preševo. After two-day activities, members of the Panel talked about the day spent in the asylum centre, suggested some changes in organization of hosting of the refugees and discussed the topics for the next meeting.

The last in a row of planned seminars of the Youth Panel was held with the help of the expert on gender equality from 7 to 9 December in Orašac, on gender, sex and sexual orientation. Further cooperation with MDRI Serbia on the project *“Children with disabilities in institutions as victims of multiple discrimination”* was discussed at the seminar. With members of the Panel it was agreed that, in the next few months, various activities should be organized in their local environments concerning the position of children with intellectual disabilities without parental care, and in cooperation with MDRI Serbia. On the final day of the seminar, the panellists talked with two “living books” – a person with disability and the volunteer on the SOS line for women victims of violence.

The UNICEF supported the development of the rulebook on models of desegregation in schools through comparative analysis of the model of successful practice in reducing the segregation of Roma children, mapping the conditions in Serbia, identifying of challenge and successful practice and giving recommendations for the development of the model. Within this project, and based on the conducted research by using the method of questionnaires and interviews in more than 120 schools and pre-school institutions, *The Rulebook for desegregation of schools and classes* was created. The project was realized in order to strengthen the preventive role of the Commissioner in reducing discrimination and support offered to other systems to recognize and react to the cases of discrimination of Roma children, especially in the educational institutions.

The exhibition of the art works from the competition „We are all equal and we can do it together „was realized from 16 to 21 March, 2015 in the Children`s cultural centre Belgrade. On the ceremonial opening of the exhibition the awards were given to the contestants whose works were chosen as the most successful ones.

With the support of the UNICEF, the Commissioner created and printed many publications and other promotion materials. The second collection of the comics *Don` t tolerate discrimination! Ask for protection and react!* The comics represent the actual cases of the Commissioner for Protection of Equality where the children were discriminated, and they were published on 16 November in the daily paper *Politika*. Also, the second Collection of opinions and recommendations of the Commissioner for Protection of Equality was published – acting on complaints regarding discrimination of children. The collection consists of 43 opinions and recommendations given in the procedures on complaints against discrimination of children on the grounds of national identity, language, disability, health status as well as multiple discrimination. Reprinting of the form of complaint designed for this target group, with simple text and design in the large circulation, is of a great importance for the work of the Commissioner as well as for the encouragement of children to seek for protection against discrimination.

Employees in the Professional service of the Commissioner for Protection of equality, in cooperation with the Ministry of Health and the Paediatric Association organized six lectures on the course *Protection of the children's rights in the health system, with special regard to the Roma and other sensitive groups of children*. Within this project, paediatricians and community-health nurses from three towns had the opportunity to get familiar with the jurisdictions of the Commissioner, the idea and types of discrimination, as well as with the mechanisms of protection against discrimination.

The roundtable *Policies and practice of the inclusive education in Serbia* was held in November within the project *Improvement of education in Serbia through the development of the Network of support for the inclusive education*, realized by the Network of support for the inclusive education and the Ministry of education, science and technological development. The aim of the roundtable was the retrospective on the current situation in area of education and presenting further steps of the competent bodies in the field of improvement of policies and practice of the inclusive education.

5.3.4 Cooperation with the German Technical Cooperation Agency (GIZ)

Successful cooperation with the German Technical Cooperation Agency (GIZ) was established within the project concerning the reforms of legislation and education, as well as social rights of sensitive groups in 2015. At the joint meeting of the Commissioner and regional GIZ director Siegmund Muller further modalities of cooperation and support of the empowering of the institution of the Commissioner were discussed. It is agreed the support to be aimed at the strengthening the capacity of the institution and designing the strategy for development and preventive activities for prevention and reducing of discrimination in the area of work and employment. The support was agreed in realization of activities pre-defined by the Action plan for Chapter 23, such as designing and distribution of rulebook for recognizing and efficient reducing of discrimination, designed for academic community and citizens, and their promotion in media.

The roundtable *Anonymous, impersonalized interview – support in prevention of discrimination in the area of work and employment* was held within GIZ's Legal and Judicial Reform Project in October in Belgrade. At the roundtable, the project *Anonymous job application* was presented and the attendants got familiar with the experience of the Federal Anti-Discrimination Agency from Germany and the Institute for the Study of Labour from Bonn in the realization of this project. The representatives of the National Employment Service, Serbian Chamber of Commerce and Industry, Info stud, Ministry of Labour, Employment, Veteran and Social Affairs, Academy of Legal Profession and the professors of the Faculties of Law from Belgrade, Novi Sad and Niš attended the roundtable.

Two-day workshop for the employees in the institution of the Commissioner was organized in mid-November, 2015 in Arandelovac, where, with the expert help, the activities on designing the second strategy for development of the institution started. After the workshop, in December

2015, three more working meetings were held concerning further work on this important document, and continuation of activities and completion of work on the strategy are expected in the next year.

The Commissioner also participated in workshop in Skopje in December 2015, on planning of two-year regional GIZ project “*Social rights for vulnerable groups*” financed by the German Federal Ministry for Economic Cooperation and Development (BMZ). Project activities are mostly aimed at empowering the ethnic minorities, persons with disabilities, single mothers and girls, refugees and internally displaced persons, elderly population and members of LGBT population to demand the protection of their rights and to be recognized as equal members of society.

5.3.5 Cooperation with the Council of Europe

Successful cooperation with the Council of Europe Office in Belgrade was continued in 2015, and in July, 2015 the Commissioner met with the head of the Council of Europe in Belgrade Tim Cartwright, with whom she discussed continuation of present cooperation and future joint activities. They also discussed recommendations of the Council of Europe Commissioner for Human Rights Nils Muižnieks, which are identical to the recommendations from the annual report of the Commissioner for 2014, as well as additional efforts that need to be taken by all social actors in order for recommendations to be realized as soon as possible.

The Council of Europe Commissioner for Human Rights Nils Muižnieks visited the Commissioner for Protection of Equality in March 2015. He was particularly interested in the position of women, LGBT population, persons with disabilities and members of Roma population in Serbian society, and he approved the work of the Commissioner for Protection of Equality over the past five years and emphasized that it is of a crucial importance to provide the continuity of this institution. Nikos Sitaropoulos, the deputy to director of the Council of Europe Commissioner for Human Rights Office also attended the meeting.

The Commissioner for Protection of Equality and the Council of Europe Office in Belgrade continued their cooperation on the project *Do not judge the book by its covers – living library in Serbia*, which has been successfully conducted in Serbia since 2012, with the support of the Ministry of Youth and Sport. Since September 2014, the Commissioner took the leading role in the project and continued the implementation and improvement of the established standards in realization of project activities in order to reduce the influence of negative stereotypes and prejudices as the main causes of discrimination in society.

The group „Let`s...” organized the three-day national training for organizers of „Living Libraries” in Sremski Karlovci, with the financial help of the Office for Human and Minority Rights. Activists from 19 civil society organisations attended the training and had the opportunity to be trained for organizing of the “Living Libraries” in local communities they come from. The standards of quality in methodology of organizing the „Living Libraries” were presented at the training, and the aim

was raising the capacities of civil society organisations and empowering new generation of fighters for human rights in Serbia. The experiences of the representatives of civil society organisations were exchanged at the meeting, and their mutual connection was continued with the aim of further cooperation in fight for human rights.

The fourth in a row „Living Library“ was held in Belgrade Fair within the Educational Fair BELL from 29-30 October, 2015. 27 books were presented at the Fair, and among the most read were a lesbian, a gay, a transgender person and a victim of domestic violence. Between 400 and 450 visitors attended the „Living Library“, accomplishing 787 readings. 46 volunteers were hired for the organisation of the project, 350 T-shirts and 600 publications were distributed.

“Living Library” was also organized in Novi Sad in December 2015, by the association “Balkan Idea”. In the hall of Studio M the readers had opportunity to choose one of the 23 books, among which were the books of the members of minority groups, persons with anorexia, teenage mothers, LGBT, a person living with diabetes, a person with disabilities and other books. “Living Library” in Novi Sad was well covered in media, and the total of 171 readings was achieved.

5.4 Other forms of cooperation

The Commissioner for Protection of Equality organized a working meeting with the Austrian Ombudsman for persons with disabilities Erwin Buchinger and the representatives of civil sector dealing with the position of persons with disabilities. On that occasion the Commissioner presented Special report on discrimination of persons with disabilities. The uniqueness of this report lies in the fact that it is made self-initially, In accordance with the estimation of the Commissioner that there is a need for presenting current situation in exercising equality of persons with disabilities at the National Assembly. Representatives of civil society organisations presented the challenges they meet with in their work, among which are difficult position of persons with intellectual disabilities, lack of capacities for provision of services of personal assistants, as well as the problem of multiple discrimination of women with disabilities. At the same time, examples of successful practise were stressed out, such as the organisation of international film festival dealing with persons with disabilities BOSIFEST and issuing the Law on Use of Sign Language. Austrian ombudsman for persons with disabilities shared the experiences from his country, emphasizing that the largest number of cases the Ombudsman deals with is from the area of education and access to public facilities.

Inspired by refugee crisis in Europe and Near East, and by the need for overall institutional reaction to challenges the countries in the region meet with, the Protector of Citizens in November organized international conference *Ombudsmen/national institutions for protection of human rights – challenges in providing human rights in refugee/migrants crisis*, where the Commissioner participated, too.

In the organisation of the American Agency for International Development (USAID), within the project for Judicial Reform and Government Accountability, in October 2015 training called

Efficiency in initiating the misdemeanour proceeding was organized. The representatives of the Commissioner actively participated in the training, within which the roundtable was organized, gathering the attendants of the project and representatives of independent institutions, where the Commissioner presented the suggestions for increasing efficiency in misdemeanour proceeding.

Innovative knowledge course *Parliament and Democracy* was held in April 2015 on the Faculty of Political Sciences in Belgrade, organized by the Centre for Democracy of the Faculty of Political Sciences, with support of the project *Strengthening of the supervision role in transparency of the work of the National Assembly*, conducted by the United Nations Development Programme, the National Assembly of the Republic of Serbia, with support of Swiss Agency for Development and Cooperation. The assistant of the Commissioner for Protection of Equality was one of the speakers on this course, on the topic of cooperation between the Commissioner for Protection of Equality and the National Assembly.

United Nations Population Fund (UNFPA) in cooperation with the European Network Women Against Violence (WAVE) and the Centre for Promotion of Women's Health organized the consulting meeting concerning revised training package for health care workers on gender-based violence. The aim was to improve the reaction of health system to gender-based violence and to define sustainable solutions for improving the reaction of health system. Based on practical experiences, the representatives of the Commissioner offered adequate contribution to improvement of training package.

With the support of the Kingdom of the Republic of Norway, and in organisation of the International and Security Affairs Centre (ISAC Fund) the final results of research project *Serbian-Romanian relations and status of Vlach national minority in Serbia*. The Commissioner attended the presentation of these results.

In the organisation of the World Bank and Ministry of Education, Science and Technological Development, regional conference *Policies and practice of inclusive education in South-East Europe* was held in June. The Commissioner for Protection of Equality participated in presenting the best examples of international practise in this area, and defining of key topics related to the future and development of inclusive education in Serbia. Regional conference, with 170 attendants from ten countries, was part of the project *Monitoring and evaluation of inclusive education*, realized by the Ministry of Education and the World Bank, with support of UNICEF, the Team for Social Involvement and Reducing Poverty and the Open Society Foundations.

United Nations Population Fund (UNFPA) supported the research on abuse of elderly population published by the Red Cross of Serbia in cooperation with the Commissioner for Protection of Equality, which was discussed in more detail in the previous parts of the research. This support is very important, because the discrimination of elderly population has not been adequately recognized as a problem in our society yet and only but few researches deal with this topic. Besides, the Commissioner participated in evaluation of the Strategy on Aging, design of which was helped by UNFPA.

During 2015 the representatives of the Commissioner for Protection of Equality and the Protector of Citizens organized seminars for the employees in local self-governments in seven

local self-governments in Serbia, aiming at the promotion of tolerance, reduction of discrimination and respect of the rights of internally displaced persons, with the support of and in organisation of the United Nations High Commissioner for refugees (UNHCR).

5.4.1 Cooperation with the European Network of Equality Bodies (Equinet)

During 2015 successful cooperation between the Commissioner for Protection of Equality and EQUINET network through participation on working meetings, trainings and seminars in organisation of this body continued. The important role of the Commissioner for Protection of Equality of the Republic of Serbia within the network was confirmed in October, 2015, on the Regular Annual Assembly of EQUINET Network, when the assistant of the Commissioner Kosana Beker was re-elected the member of the Executive Board of the Network.

By the end of March 015, the representatives of the Commissioner participated in the activities of work group of EQUINET for formulating practical policies, held in Brussels. The first defined priority was creation of the Perspective on work of the equality body on improvement of equality and reducing of discrimination on the grounds of religious and other beliefs. Practical implementation of this document was the topic of the seminar organized in London, in November, on strengthening the capacity of employees in the equality bodies, under the slogan *The question of religion. Religious and other belief within the work of equality body*. The primary aim of the seminar was the reaction of equality body to discrimination on the grounds of religious and other beliefs. Freedom of thought, Conscience and Religion, permeation and confrontation of these grounds for discrimination with other personal characteristics, sexual orientation and gender identity were also narrow topics for discussion. Strategies of the equality bodies for fight against religious discrimination were also considered, and the Practical policies of EQUINET on the work of equality bodies in this area were presented. The representatives of the Commissioner actively participated in development of strategies for reducing discrimination on the grounds of religious and other beliefs, within the theme work groups.

The seminar on implementation of the European Charter on Basic Rights was organized in June, 2015, in Brussels. The participants discussed the importance of the Charter in the system of human rights and different dimensions of her practical implementation. Also, the specificities of the Charter from the aspect of the right to asylum were discussed, and it was concluded that although it is too early to evaluate the efficiency of the Charter on this issue, it is of a great importance that countries promote this document, as well as to establish precise connection between directives and national laws. In the final part of the seminar, the participants defined multiple discrimination and education as thematic focuses within the area of gender equality.

The matters of balance between business and private life and discrimination on the grounds of gender and family status were discussed on the two-day seminar of the EQUINET, held in the beginning of July in Tallinn. It was concluded that further improvement in this area will depend on overall changes on individual, institutional and social level, while the improvement of

consciousness, legislative frame and activities of employer as the carrier of the model of successful practice were seen as the initiators of change.

The representatives of the Commissioner had the opportunity to become familiar with reforms concerning parental leave conducted in EU countries, as well as with the effects of those measures on reducing discrimination on the grounds of gender and family status. In the direct exchange of experience it is concluded that the possibility of work from home is mostly used by women, as the consequence of belief that work from home is a secondary activity used by the employees whose primary obligation is taking care of the family. An interesting example of successful practice was presented by the representatives of Malta, who presented the *Evaluation of equality* to the attendants; it is a certificate given to companies which establish gender equality as the basis for promotion of the potential of all employees, regardless of gender and family status. The seminar ended with the exchange of practical experiences within the workshop organized by the representatives of the Commissioner for Protection of Equality, where social prejudices and institutional obstacles to achieving balance between work and personal life were emphasized.

During September 2015, the representative of the Commissioner participated in two-day training dedicated to management of projects and application for EU funds held in Sofia. With the participation of the representatives of equality bodies from EU member countries, the aims of the training were strengthening national capacities for managing projects and application for EU funds. In the exchange of experiences, programmes that equality bodies can apply for were presented, including structural funds. Priorities of every single programme were explained in detail, along with methodology of applying and specific rules concerning programming of budget.

In the light of the Directive 2014/54/EU on freedom of movement, a meeting of the work group of EQUINET was held in Bratislava, in September. It was dedicated to discrimination on the grounds of nationality, that is, citizenship. The representatives of the Commissioner participated in the work of work group and in formulation of conclusions about necessity to form national bodies that will deal with promotion and support for equal treatment of European Union workers and the members of their families. The experiences related to the migration flows and discrimination on the grounds of nationalities were discussed, too. After reaching the conclusion that a small number of filed complaints against discrimination on the grounds of nationality or citizenship are mostly the result of not being acquainted with the mechanisms of protection, the Commissioner spoke about a large number of migrants from Near East passing through Serbia.

Meetings of two work groups of EQUINET were held in Berlin, in November, on which the representatives of the Commissioner actively participated. The first meeting gathered the members of the work group for communication who dedicated this year's session to fight against the hate speech, especially focusing on the hate speech coming from political actors. The importance of international coordination in condemning hate speech was emphasized, as well as the importance of social networks in monitoring and promotion of everyday work of the bodies dealing with equality. Exchanging experiences on the actual condition in terms of gender equality was the topic of the second meeting of the work group for gender equality. With the presence of the European Commissioner for Justice, Consumers and Gender Equality,

members of the work group discussed the activities on the level of the EU concerning gender equality, such as *The Rulebook on equal pay* and *The Landmark of European Commission on balance between professional and private life*. In the concluding part of the meeting, landmarks and priorities in the work of this EQUINET group for the next year were defined.

In mid-November 2015, in Strasbourg, two thematically connected meetings of the EQUINET work group on formation the policies with the aim of preparation of *Perspectives on social and economic rights* were held. The importance of these meetings lies in formulating the ways of approach to the topic from the perspective of the equality bodies, especially taking into consideration different practices of the network member countries. The representatives of the Commissioner actively participated in defining of this perspective. The second meeting gathered the representatives of the Council of Europe and FRA Organisation. The joint platform was established, aiming at the improvement of the work of member countries on implementation of commitments undertaken by signing and ratification of the Revised European Social Charter.

Organized under the slogan *Freedom of movement – challenge or opportunity?*, the conference in Paris, in December, was dedicated to implementation of the Directive 2014/54/EU as well as to the evaluation of the readiness of equality bodies for new jurisdictions regulated by the Directive. The representative of the Directorate of the European Commission for Enlargement, the Commission for Equality in the Member States, academic community and members of EQUINET presented their own views and opinions on this topic. At the same time, the lack of efficiency of certain governments in implementation of the directive was emphasized, the complete integration of which was planned to be finished by the end of May 2016. In the context of accession negotiations of the Republic of Serbia with EU and adjustment of legal frame, modalities of implementation of this directive in Serbia were discussed.

5.4.2 Annual Conference of the Commissioner

Key role of the Commissioner for Protection of Equality to influence the prevention of discrimination and improvement of equality in all areas and at all levels through his recommendations, affected the necessity of establishing regular annual conference where all relevant actors in society would become familiar with the practice and challenges in work. That is why the Commissioner for Protection of Equality, organized the conference *Serbia on the road of non-discrimination and tolerance: Experiences of the Commissioner for Protection of Equality*, on 16 November, which is the International Tolerance Day, and at the same time the Day of the Institution. With the support of the Open Society Foundation, which through empowering independent bodies helps development of democratic and open society based on the rule of law, this activity becomes an important instrument in promotion of human rights. Thanks to the live broadcast on the public media service, the widest public got familiar with the efforts made in protection against discrimination and improvement of equality.

This year's conference gathered more than 200 representatives of state institutions, diplomatic missions, among which were EU and OSCE, ambassadors, civil sector and media. At the

beginning the participants paid the homage to the victims of the terrorist attack in Paris by the minute of silence. The Commissioner for protection of Equality Brankica Janković started the conference with the message that Serbia walks on the path of equality, tolerance and respect for any type of diversity and that equality is the value that should confirm the maturity of one society. Out of the stereotypes we have on any minority or marginalized group, we have the tendency to create prejudices very quickly, and then easily come to discrimination which is, in spite of evident improvements in certain segments of society, still present, said the Commissioner.

In the introductory part of the conference, the Prime Minister Aleksandar Vučić addressed the attendants saying that tolerance and diversity are advantages of Serbian society, but also condition for the future, peace and stability. He invited the citizens and the institutions to face discrimination together and emphasized that in Serbia there is a legal frame, strategy and action plan. “I invite you to face the intolerance and discrimination together, more determinately and more successfully, as well as to try to eradicate these phenomena and build the society in which human dignity and equality among people are utmost values that we, as the society, accept, since there will be no stability and progress without them”, concluded the Prime Minister.

The Head of EU Delegation in Serbia Michael Davenport said that tolerance is the value that Europe will defend and will not be stopped by terror and fear. He said that Serbia showed commitment to fight for human and minority rights. Talking about discrimination, he said that it is a global phenomenon present in all countries and that Serbia made a great improvement over the years in fight against discrimination. According to him, strong democratic institutions citizens have faith in are necessary, as well as the existence of the legal frame which will regulate the reducing of this phenomenon.

Director of the Lawyers Committee for Human Rights Milan Antonijević said that 16 November should be dedicated to summarizing of everything that has been done in Serbia in the area of tolerance and fight against discrimination and for protection of human rights, adding that there is a legal frame, but we should not be satisfied with the very implementation of the same. The Director of the YUCOM also said that a dialogue in society is essential for strengthening tolerance, but he also stressed that certain messages coming from certain religious communities must be condemned, and that more efficient work of courts and prosecution is also necessary.

Media are essential allies in protection from discrimination and fight for equality, as well as the important part of the front against intolerance. That was the reason why the Commissioner for Protection of equality, in cooperation with OSCE Mission in Serbia constituted annual media reward for tolerance since 2015, the aim of which is establishing the atmosphere in society with zero-tolerance of discrimination. The rewards were presented at the conference by Brankica Janković and the Head of OSCE Mission in Serbia Peter Burkhard. According to his opinion, equality and dignity are the conditions for exercising the rights, whereas discrimination undermines the basis of tolerant and democratic society and deprive us of economic and cultural prosperity. The OSCE Mission in Serbia remains congruous to cooperation with the Commissioner for Protection of Equality on further promotion of tolerance and non-discrimination, concluded Burkhard.

At the contest which lasted from 20 September to 15 October 2015, almost 50 media works were sent. After the analysis of received works, the jury decided to, apart from two categories, for the best work in the category of TV/radio reports and in category of press/on-line, introduce the third category for reportage. The winners were chosen by the votes of seven-member jury: Veselin Kljajić, a professor from the Faculty of Political Sciences, Jelisaveta Blagojević, a professor at the Faculty for media and communications, Jelena Spasić, a representative of the Journalists Association of Serbia, Vukašin Obradović, the president of the Independent Association of Journalists of Serbia, Dragana Prodanović, a representative of the Independent Association of Journalists of Vojvodina, Gordana Janković, the chief of the Media Department of OSCE Mission in Serbia and Antigona Andonov, the chief of the Cabinet of the Commissioner for protection of Equality.

I place:

- Reportage/a documentary "I am HIV positive", by a journalist Sandra Mandić, VICE Serbia, broadcast on TV Prva
- TV/radio report "Two faces of the Institution Veternik", by a journalist Jovana Urhin, TVB92, broadcast on TV B92
- Press/on-line for the text "The country also rapes, right?", by a journalist Jovana Gligorijević, of the paper *Vreme*, published in the weekly newspaper *Vreme*

II place:

- Reportage/a documentary "The case of Života Milanović", by a journalist Gordana Lazarević, PG Network, broadcast on RTS 2
- TV/radio for report "The life with HIV as the Don Quixote fight against wind mills", by a journalist Ana Šuvalija Pešić, RTS, broadcast on RTS 1
- Press/on-line the second place is shared by the text "Golgotha of the refugees: first hand", by a journalist Mihailo Medenica, *Nedeljnik*, published in the paper *Nedeljnik*, and the text "Marina – the story about a discriminator in every one of us", by a journalist Ivana Petrović, City Radio Niš, broadcast on the City Radio Niš portal.

III place:

- Reportage/ a documentary "The code F64", by a journalist Petra Živić, VICE Serbia, broadcast on TV Prva
- TV/radio report "Šabac students from china", by a journalist Tanja Dimitrić Mijailović, RTS correspondent from Šabac, broadcast on RTS
- Press/on-line for the text "Female agriculturists without labour rights", by a journalist Sandra Iršević from Subotica, the text was published in *Subotičke novine*

The second part of the conference was dedicated to relation of media towards phenomenon of discrimination and intolerance, as well as to topics of equality and human rights. In this part of the conference, apart from the representatives of the Commissioner, the president of the Executive board of the Media Association Zoran Sekulić also participated, stating that inequality and discrimination are forbidden by the constitution and law, and still occur every day. The role of the media in reducing discrimination is huge but not the only one, it depends on the power in political scene, behaviour of the political elite and the culture of public speech. Member of the Council of the Regulatory Body for Electronic Media (REM) Gordana Suša presented the analysis on the gender equality in management structures of the media, which show that women are still performers of the work and men are on the leading positions. She stated that on Public service the situation is still better than on commercial televisions, concerning the equality of women and men, that is, the distribution of functions and power, concluding that in REM itself, out of nine members, until recently there has been only one woman, and now there are two.

Finally, equally important data is that journalists, cameramen and photo reporters from more than 30 redactions participated in the conference. Numerous publications in printed, electronic or on-line media confirm that media recognized the importance of this event. Taking into consideration the level of the meeting, speakers, as well as the importance and the need to talk about the questions of tolerance, non-discrimination and protection of human rights before broad public, the conference was live broadcast by the Public service on the channel 2 (RTS 2).

5.4.3 National competition in the simulated court proceedings

The Commissioner for Protection of Equality continued the successful cooperation with the Open Society Foundation on the realization of the project *Simulated Court Proceeding (Moot court) in the area of protection from discrimination*. Third in a row national competition in simulated court proceeding was conducted in the period from September to December, 2015. The competition was organized for the students of basic and master law studies in Serbia, and this year it consisted of issuing the complaint and responding to the complaint, as well as simulated discussion on the hearing based on the given case from the area of the rights of national minorities. The goal of this competition is to raise the level of knowledge in the area of anti-discrimination law, as well as to improve equality in the Republic of Serbia.

27 teams applied for the competition, that is, 75 students from accredited Faculties of Law on the territory of the Republic of Serbia, which is about 40% more than in 2014. The students who participated in the competition showed high level of knowledge concerning the protection of members of national minorities from discrimination. Besides, they also practised practical skills, increased sensitivity for this area, as well as the understanding of the term of discrimination, which they could use in further professional engagement. Eight best-graded teams in the written phase of the competition, continued to compete in the oral (final) phase of the competition. The

final phase was held in the Administrative Court building in Belgrade, and included two hearings in which the teams switched roles of a prosecutors and defendants. On final hearings they were judged by the expert and objective court chamber, consisted of three, that is five judges. The judges on this simulated court proceeding were lawyers, judges and legal experts.

At the end of the competition the winners of the oral phase of the competition, the best speaker and the winners of the written phase were announced. The announcement of the winners and presenting of the rewards was organized in the Official Gazette in Belgrade. Students of the Faculty of Law, University of Niš, Milijana Tomić, Milica Stanković and Ivan Popović won this year's competition. Sonja Stanković and Jovana Popović from the University "Lazar Vrkatić" from Novi Sad won in the category the best written submission. Milica Škaro and Stefan Raičević from the Faculty of Law at Belgrade University won the second place in oral phase of the competition. Milijana Tomić, the student of the Faculty of Law at University of Niš was announced the best speaker.

The project *Simulated Court Proceeding in the area of protection from discrimination* was realized in cooperation with Judicial academy and with support of the Administrative Court, which provided for the space. Partnership with these organisations, that is, with the institution contributed to the more qualitative work, better conditions for organizing final rounds of competition and better motivation of students, participants in the project (both male and female).

5.4.4 Belgrade Marathon – To the Finish Line on an Equal Footage

The Commissioner for Protection of Equality in cooperation with the Sports Association for Persons with Disabilities, Belgrade (SSOSIB) organized the action under the slogan "To the Finish Line on an Equal Footage", within the 28th Belgrade Marathon. The goal of the action is to make sportsmen and sportswomen with disabilities more visible, to promote inclusive society and to stress out the problems persons with disabilities meet with. Inaccessibility of public spaces and facilities is one of the basic problems in achieving equality of persons with disabilities. Although the law says that objects and places for public use must be built in accordance with the standards of approachability, which provide safe movement and the access for persons with disabilities, children and elderly persons, many objects are not accessible, including state authorities facilities, public spaces and sports centres, which makes realisation of many rights difficult and disables full social inclusion of persons with disabilities.

Around 400 visitors, of which about 250 were sportsmen and sportswomen with disabilities, visited the promotional stand of the Commissioner for Protection of Equality and the Sports Association for Persons with Disabilities. Many of them participated in the Race for Pleasure with other citizens from Belgrade and Serbia. Interested citizens could get familiar with the work of the Commissioner for Protection of Equality while testing their knowledge on discrimination and human rights through questionnaires. Besides, the participants had an opportunity to spend time talking with sportspersons with disabilities. Within this action, volunteers shared about 350

T-shirts, caps, fliers and publications of the Commissioner for Protection of Equality to the present citizens.

6 MEDIA REPORTING

Year after year, media pay more and more attention to reporting on topics of non-discrimination and equality. What might be the evaluation of the media space when these topics are concerned is the improvement in relation to the sensitive, marginalized and minority groups which did not use to be visible and recognizable in public, or which were written about only on some particular occasion. At the same time, reporters recognized the importance of certain topics, especially those concerning the position of women.

One of the news that marked last year was related to discrimination on the grounds of gender, since the Law on Maximum Number of Employees in Public Sector and initiation of the proceeding for evaluation of constitutionality before the Constitutional Court by the Commissioner for Protection of Equality, have been in media focus for months. Huge attention of media was caused by expressing dissatisfaction of a large number of doctors of medicine, teachers, professors and other women employed in public sector who were supposed, according to the regulations of this law, to retire earlier, and without their consent.

One inappropriate comment of Minister of Defence Bratislav Gašić addressed to a female reporter also caused the attention of media. This topic has been one of the most important one for days, even more when the change of minister was announced. The Commissioner condemned this statement, stressing that such addressing is unallowable and offensive, not only for the reporter, but also for all women in Serbia. It was also stated that stereotypes and prejudices towards women must be thoroughly suppressed and that politicians and public persons should give a positive example of how to build democratic and tolerant society.

Several times during 2015 in media, especially in printed ones, texts and photographs in photomontage could be seen, offending domestic female politicians, as well as female politicians from the region. The reactions of the Commissioner, who, through many announcements, warnings and media reports, condemned offending and depreciation of female politicians in public, were broadcast by almost all media.

Violence against women was a frequent topic in the media, and one of the reasons is the fact that the number of murdered women in domestic and intimate partner violence was higher than in the previous year, and a certain number of those women reported violence before they died. At the same time, in the cases of violence in which the victims were public persons and their partners, the texts in the media were often written in sensationalistic manner, revealing the identity and the details from the life of a victim. The Commissioner reacted, emphasizing that it is unacceptable for the bullies to get space in media which relativize their actions. Also, the media reported on the need for adjustment of relevant laws in this area, and they also discussed the suggestion of the Commissioner for Protection of Equality and non-governmental organisations that the regulations should be changed in accordance with so-called „Austrian model“, according to which the police have the authority to remove the bully from the house immediately after the reported act of violence, regardless of the ownership of the real estate.

Just like over previous years, the attention of media concerning national minorities was directed at members of Roma population, both male and female, not just reporting on various incidents, but also reporting on the activities undertaken in order to improve their position. At the same time, reports on Roma national minority in Serbia did not occupy the most space in media just in April, when the International Romani Day is celebrated; the topics on the daily life of this most endangered national minority appeared in media throughout the year.

Media followed the entire process of internship of members of Roma population in the institution of the Commissioner for Protection of Equality – from the moment of announcing the contest, until their arrival and a six-month internship. Along with the information that their internship was organized within the project of European Roma Rights Centre, all the media stressed the importance of such an example as the successful practice, the aim of which is to provide an immediate experience of work in an independent institution to young members of Roma population. Simultaneously, the messages from the Commissioner about the necessity of involving the members of Roma national minority into the work of public authorities were conveyed.

Huge media attention was drawn by the story about the intention of the competent authorities in municipality Zemun to displace informal Roma settlement Grmeč, which is situated on the territory of that local self-government. Media reported that the Commissioner for Protection of Equality visited citizens of that settlement, as well as that that certain steps are being undertaken to stop the displacement. Since the municipality of Zemun acted upon the recommendation of the Commissioner and aborted the eviction, that story found the space in media several times.

Over the year, media paid more attention to problems persons with disabilities meet with, especially concerning the adoption of new laws and changing the existing ones dealing with persons with disabilities. The evaluations of the National organisation of persons with disabilities

were also reported, concerning the fact that changes of the Labour Law had a bad impact on the employment of persons with disabilities, because now employer can declare a person with disability surplus if he is not capable of finding an appropriate position according to the work capacities, which is why the initiation for evaluation of constitutionality was filed.

Only occasionally did media deal with problems the children with intellectual and physical disabilities deal with in the process of exercising the right to education. They reported parents' opinions that competent authorities do not provide for adequate expert, financial and material help. The attention of the media was also drawn by the opinion of the Commissioner that municipality of Smederevska Palanka discriminated a student with disability because they did not provide the transport to school, thus making it difficult for her to exercise the right to education; also there was a story about a girl who has walking problems due to the spine disease, and the school recommended enlisting in another, physically more approachable school.

During 2015 media occasionally reported on the position of elderly people in Serbia, especially on public hearing organized by the Commissioner in cooperation with the Committee on Human and Minority Rights and Gender Equality in the National Assembly of the Republic of Serbia, on 25 October, on the topic "Age as the grounds for discrimination". Also, special attention was dedicated to the research on abusing of elderly persons conducted by the Red Cross of Serbia in cooperation with the Commissioner for Protection of Equality and with support of the UNFPA, so media reported on the results of this research. It was pointed out that almost 20% of elderly persons suffered some form of violence, and the recommendations for improvement of the position of elderly population were also conveyed.

Position, rights and problems of LGBT population were frequent topics in all media in 2015. All the media reported as the top headline the apology of the Minister of Foreign Affairs Ivica Dačić to representatives of NGO Labris in the office of the Commissioner for Protection of Equality. Ivica Dačić acted upon the recommendation of the Commissioner, met with the representatives of this non-governmental organisation and personally apologized for his discriminatory statements. This event was the reason why media in the following days, continued to deal with the messages of the politicians to LGBT persons and their rights.

Organisation and performing of the Pride Parade and Trans Pride were the main news on the eve of the performance in September. All the media reported that the Commissioner and employees in this institution participated both in Trans Pride and in Pride Parade, reporting the words of the Commissioner that the rights of LGBT persons are still not protected enough in Serbia, although in the previous period some improvements were made concerning improvement of their position, including organisation of Parades. As the most important information, it is stressed that the Parades ended in peacefully, without incidents, but with strong police forces guarding the meetings. Most of the media reported correctly on these

events, whereas some tabloids published texts in which they called members of LGBT population offensive names and analysed the costs of the organisation of Pride Parade. Media also followed the International Pride Day celebration on 27 June and the participation of the Commissioner and the employee of this institution in the walk organized in the centre of Belgrade on that occasion.

One of the breaking news was the case of a transgender person, Major Helena V., because of whom the complaint against the Serbian Armed Forces and the Ministry of Defence was filed to the Commissioner for Protection of Equality. Media showed high level of compassion with the difficulties Helena faced with and her life story became the topic which was present in various media contents throughout the year. Describing her position, the wide spectre of problems transgender persons deal with was stressed. Transgender persons were practically invisible in public until this case. The opinion of the Commissioner which confirmed discrimination was one of the breaking news in all media, which, through their reports and interest in this particular case helped transgender persons become more visible in our society. A lot of space in the media was given to the news that a former member of neo-Nazi organisation National Alignment decided to change gender. The media reported on problems Dajana Pospíš is now dealing with, especially physical attacks and difficult economic situation. The Commissioner reacted saying that transgender persons must not be left on their own.

One of the frequent topics in media in 2015 was the migrants' crisis. Media followed the activities of the Commissioner for Protection of Equality undertaken in relation to migrants and certain cases of discrimination they were exposed to while their short stays in Serbia. Also, all media reported on the visits of the Commissioner to the reception centres, conversations with migrants, representatives of the Red Cross, UNHCR and others. Media reacted to the statements of the president of municipality of Kanjiža, Mihalj Bimba, against migrants. It was also reported that Mihalj Bimba acted on recommendation of the Commissioner and apologized in public for his discriminatory statements.

Talking about the media topics related to work and activities of the Commissioner in 2015 from the statistical point of view, then it should be emphasized that the number of reports is three times higher than in the previous year. However, what is important is the fact that there was a qualitative increase in number of the texts and reports dealing with the topics of discrimination, equality, tolerance with much more sensitivity, recognizing the ways in which they can, not only inform, but also educate and promote values and respect of diversity. That is exactly why, recognizing media as natural allies, the Commissioner for Protection of Equality in cooperation with the OSCE established in 2015 annual media reward for tolerance, with the aim to affirm importance of media reporting on improvement of equality in our society, as well as to reduce prejudices and stereotypes towards minority marginalized and endangered groups. More about presenting the awards can be read in the chapter *Annual Conference of the Commissioner*.

7 DUTIES IN ACCORDANCE WITH THE LAW ON FREE ACCESS TO INFORMATION OF PUBLIC INTEREST

The Commissioner ensures an uninhibited access to the information acting on demands for free access to information of public interest by publishing the Report on her work and other information on the internet site, by reporting to the National Assembly, by informing the public through announcements, publications, press conferences and other adequate forms.

In 2015 only two requests for uninhibited access to public information were filed, which were responded to in the lawful time span of 15 days from the day of receiving it. Both requests were filed by individuals.

Table of the number of requests filed by categories:

No.	Requests by	No. of submitted requests	No. of accepted/ partially accepted requests	No. of dismissed requests	No. of rejected requests
1.	Citizens	2	2	-	-
2.	Media	-	-	-	-
3.	Non-governmental and other civil society organisations	-	-	-	-
4.	Political parties	-	-	-	-
5.	Public administration	-	-	-	-
6.	Others	-	-	-	-
7.	Total	2	2	-	-

When giving information, the Commissioner takes special care of protection of personal data, in accordance with the Law for the protection of personal data.²⁰³ The client involved in the legal proceeding before the Commissioner for Protection of Equality has the right to confidentiality of all the personal data that are included in the procedure notes and those introduced to the Commissioner or other authorized subject by the client.

The information booklet on the work of the Commissioner for Protection of Equality is available on the internet site www.ravnopravnost.gov.rs. In order to practice the right to free access to

²⁰³"Official Gazette of RS", No. 97/08, 104/09 – st. law, 68/12 – decision US and 107/12.

information of public interest, the citizens are allowed to download forms with examples of filing a request for a free access to information from the internet site. The request can be filed in a written format and without using the forms. It is important to state clearly in the request which information is sought and/or to what it precisely pertains to, that is, as precise description of the wanted information as possible. The request may, but does not have to contain reasons for filing the request, as well as other data which make searching for the information easier. Insight into the document that contains required information is free of charge.

The request to access information of public interest which pertain to or are related to the work of the Commissioner may be submitted in writing and sent to the following address: Poverenik za zaštitu ravnopravnosti, 70 Beogradska, 11000 Belgrade, or by e-mail: poverenik@ravnopravnost.gov.rs.

8 REPORT ON IMPLEMENTATION OF THE FINANCIAL PLAN

The Commissioner for Protection of Equality was allocated funds in the total amount of RSD 72.904.000 pursuant to the Law on the budget of the Republic of Serbia²⁰⁴ for 2015. The overall funds were increased over the year due to donations and used for financing the regular activities and functioning of the professional service of the Commissioner for Protection of Equality, In accordance with the financial plan and the Plan for public procurement, as well as for financing activities that are the result of the contracted obligations towards the donators.

The structure of the planned expenses of the Commissioner is as follows:

- Salaries, additional payment and reimbursements of the employees – 70% of the allocated funds,
- Merchandise and services – 27% of the allocated funds
- Nonfinancial assets – 3% of the allocated funds.

From the total funds allocated from the budget of the Republic of Serbia for 2015, the total of RSD 46.737.187 was spent, that is, 64% of the allocated funds.

In structure of realized payments from the category of expenses in relation to salaries, additional payments and reimbursements of the employees it reached the level of 71% of the allocated funds, primarily due to impossibility to achieve realisation of approved personnel plan of the Commissioner. Insufficient size of the working space, as the limiting factor, will be overcome in 2016, since according to the brief of the Government – Committee for housing affairs and distribution of official buildings and offices 77 No. 361-11575/2015 from 30 October 2015, the

²⁰⁴"Official Gazette" No. 142/4.

Commissioner for Protection of Equality was allocated a new working space in 84 Bulevar Kralja Aleksandra.

Rational spending of the allocated funds is especially noticeable in the category of expenses in relation to merchandise and services, donations, cash supplies and transfers and other expenses, taking into consideration that realized level was 52%.

The Commissioner did not have expenses for nonfinancial assets in 2015.

The table shows detailed data on the allocated and spent appropriations in 2015.

econ. class	Programme activity/project	DESCRIPTION	Allocated funds	execution of budget	Percent of execution
1	2	3	4	5	6
I - IV		TOTAL	74.779.470	47.557.204	64
I		Income from budget - source 1	72.633.000	46.737.187	64
411	0012	Salaries, additional payments and reimbursements of employees	39.660.000	28.641.347	72
412	0012	Social contributions by the employer	6.900.000	5.128.542	74
413	0012	Nonfinancial reimbursements	100.000	99.372	99
414	0012	Social dispensations to the employees	183.000	163.749	89
415	0012	Reimbursements of the employees`expences	4.350.000	2.597.108	60
416	0012	Employee bonuses	300.000	70.809	24
421	0012	Regular expences	4.150.000	2.836.127	68
422	0012	Travelling expences	3.780.000	1.482.224	39
423	0012	Contractual services	6.650.000	3.627.305	55
424	0012	Specialized services	600.000	183.644	31
425	0012	Current repairs and maintenance	450.000	275.749	61
426	0012	Material	2.900.000	1.346.687	46
462	0012	Subsidies to international organisations	300.000	245.435	82
481	0012	Subsidies to NGOs	10.000	0	0
482	0012	Taxes, obligatory taxes and fines	200.000	13.589	7
483	0012	Fines according to court rulings	100.000	25.500	26
511	0012	Buildings and architectural objects	400.000	0	0
512	0012	Machines and equipment	1.350.000	0	0
515	0012	Invisible assets	250.000	0	0
II		Doantions from foreign countries - source 05	1.000	0	0
422	0012	Travelling expences	1.000	0	0
III		Donations from NGOs - source 08	1.970.853	645.400	33
	0012	Norwegian project: Making equality a reality	421.073	250.000	59
421	0012	Regular expences	10.000	0	0
423	0012	Contractual services	312.000	250.000	80
465	0012	Other dotations and transfers	99.073	0	0
	4003	Project of trial simulation MOOT COURT	1.549.780	395.400	26
422	4003	Travelling expences	954.580	270.000	28
423	4003	Contractual services	595.200	125.400	21
IV		Funds from previous years - source 15	174.617	174.617	100
	0012	Closing of various projects from previous years	28.766	28.766	100
423	0012	Contractual services	22.800	22.800	100
465	0012	Other doatations and transfers	5.966	5.966	100
	4003	Project of trial simulation MOOT COURT	145.851	145.851	100
422	4003	Travelling expences 255	145.851	145.851	100

Apart from budgetary funds, the Commissioner for Protection of equality also used the funds from donations in the total amount of RSD 814.051.

After the two-year period, the report on the realization of the project *Making Equality Reality*, realized with the funds approved by the Ministry of Foreign Affairs of the Kingdom of Norway, from 1 October 2013 to 30 September 2015 was finished and accepted by the donators. The total amount of donated funds was NOK 772.000 (EUR 100.000), whereby the Commissioner participated with additional NOK 85.820, in dinar counter value. This participation of the Commissioner in 2015 was RSD 537.577. The project was conducted in cooperation with the House for Human rights and Democracy, as the implementation partner.

During 2015, the cooperation with the Open Society Foundation on the project *Trial simulation – Moot Court*. The Foundation donated the funds in the total amount of RSD .279.780. Considering the fact that the funds did not start realization until the end of the year, the larger part, left at disposal will be put into function in 2016.

Structurally observed, the part of funds from projects and donations spent in 2015 is given in the following table.

Source of financing		Spent funds
The Kingdom of Netherlands	The project <i>Equal chance for better prospects – strengthening Roma people in combating discrimination</i>	22.800
Kingdom of Norway	The project <i>Making equality a reality</i>	250.000
Open Society Foundation	The project <i>Trial simulation – Moot court</i>	541.251
Total:		814.051

9 RECOMMENDATION FOR SUPPRESSING DISCRIMINATION AND PROMOTING EQUALITY

The regular 2014 Annual Report, based on the data gathered in proceedings on complaints and in the process of insight into the key problems in the exercise and protection of equality, gave 23 recommendations, the implementation of which would serve the purpose of a more efficient and effective prevention of discrimination and its suppression. Unlike the previous year, when the National Assembly²⁰⁵ invited the Government and the competent state authorities to take necessary measures to support consistent realisations of the recommendations of the Commissioner, in 2015, the Regular Annual Report of the Commissioner for Protection of Equality was not presented and discussed in the National Assembly of the Republic of Serbia.

It can be concluded that in the previous year, like in past years, the trend of partial realisations of the general recommendations given by the Commissioner in his annual reports is continued, in comparison to the recommendations concerning concrete discrimination cases, which are implemented almost completely.

In 2015, some of the recommendations given by the Commissioner in previous reports were realised, but a majority of recommendations have not been realised yet, or were realised partially. It should be emphasized that in the sixth year of existence of the institution, in accordance with the recommendations that the Commissioner gave every year, an adequate working space was provided for the work of the Commissioner for Protection of Equality and that the moving of the Professional service and beginning of work in new working space is planned for the middle of 2016.

Having in mind previously given recommendations, the majority of which are still current, and based on the information gathered in proceedings on complaints during 2015, as well as other relevant data about problems in realisation of equality, the following recommendations are given:

1. Establish and operationalize the unique, centralised and standardised system for collecting, keeping and analysing relevant data on monitoring discrimination and the ways of functioning of the legal protection system against discrimination.
2. Immediately start preparation of the strategic documents expired in 2015. New strategic documents should be based on the evaluation of previously effective strategies, with respect to the current situation and needs of the social groups they refer to. While preparing all strategic documents, gender perspective should be provided, the goals and activities should be realistically set, financial resources should be provided and a broad consulting process with all groups interested should be established. Also, the preparation of the strategic documents expiring in 2016 should start on time.

²⁰⁵Conclusion from 5 June, 2014 on considering the Regular Annual Report of the Commissioner for Protection of Equality for the year 2013, "Official Gazette of RS", No.60/14.

3. Intensify the work on introducing measures determined by the national, regional and local strategic documents and action plans, which should ensure achieving full equality of deprived and marginalised society groups, including women and children from these groups, in order to create the conditions for an effective enjoyment of all the guaranteed rights, without discrimination, with obligatory participation of the representatives from these social groups.
4. Prescribe the obligation of “gender mainstreaming”, that is, integration of the gender perspective in all public policies, in order to ensure the elimination of the systemic and structural causes of gender inequality, and create the conditions for transposition of gender equality, as a European value, in a coherent and systematic manner. Continue to work on integrating gender perspective in all decisions and policies on national, regional and local level. Ensure an efficient application of the rules on gender analysis of law drafts and other acts and the analysis of their effect on men and women.
5. Prescribe the duty of all public authorities and private employers to develop internal mechanisms for reducing and protection from discrimination, gender balanced work policies and managing national, ethnic, religious, language and other diversity.
6. Take all necessary measures to warrant that the composition of state authorities, local self-government authorities and other public authorities correspond to the national structure of population on their respective territories by increasing the number of employed members of national minorities and their education and training in this regard.
7. Adopt the Law on Gender Equality, in order to safely eliminate systemic and structural causes of gender inequality and enable enjoyment of all the guaranteed rights, In accordance with the Constitutional principle of gender equality and to the commitment to developing policies of equal possibilities.
8. Improve normative frame of the system of protection from domestic violence and other forms of gender-based violence, according to the standards determined by the ratified Istanbul convention. Also, all public authorities should take all necessary measures from their jurisdiction to improve efficiency and effectiveness in offering family justice and criminal justice protection from domestic violence and other forms of gender-based violence, along with coordinating and efficient activities of the institutions of the system in providing help and support to the victims.
9. Adopt, in a timely manner, the Rulebook on more precise criteria for recognizing the forms of discrimination in educational institutions by an employee, a pupil and a third party, and ensure all conditions for its implementation.
10. Adopt the Law on free legal help, which will provide an efficient approach to justice, with no discrimination on any grounds, including the approach to justice for the victims of discrimination.
11. In short notice, change the regulations concerning deprivation of work capacity according to the contemporary social model of disability and international standards in this area, in order to ensure that, with adequate support, persons with disabilities equally enjoy all the guaranteed rights.

12. Improve legal position of transgender persons, by issuing a special law, or by changing and amending the existing regulations, in order to enable transgender persons to fully integrate their new identity into their personal and professional life, with full respect for their privacy.
13. Adopt the regulations which will enable the registration of same-gender couples and regulate actions, legal consequences and the way of ending these registered partnerships, in accordance with the recommendations of the Council of Europe.
14. Amend the Law on financial support to the families with children, and specifically state that a father can exercise the right to child care compensation too, if a mother is not the citizen of Serbia.
15. Continually work on the education of the holders of judicial office, police employees, employees in state administration, in the system of education, health, social protection and in labour inspectorate, in the area of anti-discrimination law, in order to ensure proper and equal interpretation and application of anti-discrimination regulations, in accordance with the international standards and international organisations` practice.
16. Take all measures to integrate the topics which develop the culture of peace, tolerance, understanding and acceptance of diversity, gender equality and non-discrimination into the teaching programmes and materials. All discriminatory contents must be removed from the teaching materials, together with the contents which support stereotypes and prejudices. Health education on reproductive and sexual health is to be introduced into the high schools programmes.
17. Provide equal possibilities in approach to high education for the young from deprived groups, including persons with disabilities, by introducing special measures and amending the standards for accreditation of the institutions of high education in terms of accessibility of space, providing assistive technologies and proper services for support of students. Initiate adoption of internal rules on the way of acting in cases of discrimination in high education facilities.
18. Equate the Republic of Serbia as the employer for direct and indirect budgetary users with other employers in regards to the manner of complying with the obligations of employing persons with disabilities.
19. Change and amend the Law on Prohibition of Discrimination, in cooperation with the Commissioner for Protection of Equality, with the aim of reaching complete equalization with the law practices of the European Union, especially concerning the range of exceptions from the rule of equal action and the obligation to secure a reasonable accommodation in the workplace for persons with disabilities. Also, through changes and amendments prescribe adequate solutions for overcoming the problems and obstacles noticed in the process of implementation of the law.

ANNEX: STATISTICAL OVERVIEW OF THE COMMISSIONER'S WORK IN 2015

Number of cases per years

Cases	2010.	2011.	2012.	2013.	2014.	2015.
Complaints	124	346	465	716	666	797
Recommendations for taking measures	2	22	117	24	198	215
Lawsuits		3	5	3	2	
Opinions on draft laws and regulations		2	3	6	2	17
Misdemeanour charges		2	6	2	1	
Proposals to the Constitutional Court			1	2	3	1
Legislative initiatives		2	1			
Warnings	1	8	2	10	6	9
Public announcements*	4	22	17	15	20	35
Total number of cases*	127	385	600	763	878	1040

*Public announcements are not counted in the Total number of cases.

Number of cases in 2015

Cases	2015.
Complaints	797
Recommendations for taking measures	215
Opinions on draft laws and regulations	17
Proposals to the Constitutional Court	1
Criminal charges	1

Warnings	9
Public announcements*	35
Total number of cases*	1040

Complainants

Individuals

Individuals as complainants	2015.	%
Men	360	54,8
Women	297	45,2
Total number	657	100,0

Other complainants

Complainants	2015.	%
Individuals	657	82,4
Organisations	101	12,7
Legal entities	20	2,5
State authorities	11	1,4
Group of persons	8	1,0
Total number of complainants	797	100,0

Grounds of discrimination - personal characteristics

Discrimination complaints	No.	%
Complaints in which personal characteristic is stated	554	69,9
Complaints in which personal characteristic is not stated	243	30,1
Total number of complaints	797	100,0

Grounds of discrimination by number - one/more personal characteristics

Complaints in which one personal characteristic is stated	460
Complaints in which more than one personal characteristic is stated	94
Total number of complaints in which personal characteristic (one/more) is stated	554

Complaints in which personal characteristic is stated	No.	%
Gender	143	22,1
National affiliation or ethnic origin	119	18,4
Disability	73	11,3
Age	61	9,4
Other personal characteristic	57	8,8
Religious or political beliefs	35	5,4
Sexual orientation	31	4,8
Marital and family status	24	3,7

Health condition	23	3,5
Membership in political, syndicate or other organisations	21	3,2
Gender identity	21	3,2
Citizenship	17	2,6
Financial situation	12	1,8
Skin colour	2	0,3
Appearance	2	0,3
Language	2	0,3
Conviction status	2	0,3
Race	2	0,3
Genetic features	1	0,1
Total	648	100,0

*In 94 complaints more than one personal characteristic is stated as the grounds for discrimination.

Complaints in which personal characteristic is stated by complainant	No.	%
Gender	143	22,1
<i>Organisations</i>	7	
<i>Legal persons</i>	3	
<i>State authorities</i>	2	
<i>Group of persons</i>	2	
<i>Individuals</i>	129	
<i>Men</i>	21	
<i>Women</i>	108	

National affiliation or ethnic origin	119	18,4
<i>Organisations</i>	32	
<i>Legal entities</i>	9	
<i>State authorities</i>	3	
<i>individuals</i>	75	
<i>Men</i>	50	
<i>Women</i>	25	
Disability	73	11,3
<i>Organisations</i>	6	
<i>State authorities</i>	1	
<i>Individuals</i>	66	
<i>Men</i>	41	
<i>Women</i>	25	
Age	61	9,4
<i>Organisations</i>	7	
<i>Legal entities</i>	1	
<i>State authorities</i>	1	
<i>Individuals</i>	52	
<i>Men</i>	27	
<i>Women</i>	25	
Religious or political beliefs	35	5,4
<i>Organisations</i>	4	
<i>Legal entities</i>	2	
<i>Individuals</i>	29	
<i>Men</i>	22	
<i>Women</i>	7	

Sexual orientation	31	4,8
<i>Organisations</i>	18	
<i>Legal entities</i>	1	
<i>State authorities</i>	1	
<i>Individuals</i>	11	
<i>Men</i>	7	
<i>Women</i>	4	
Marital and family status	24	3,7
<i>Legal entities</i>	1	
<i>Individuals</i>	23	
<i>Men</i>	3	
<i>Women</i>	20	
Health condition	23	3,5
<i>Organisations</i>	1	
<i>Individuals</i>	22	
<i>Men</i>	15	
<i>Women</i>	7	
Membership in political, syndicate and other organisations	21	3,2
<i>Organisations</i>	4	
<i>Legal entities</i>	3	
<i>Individuals</i>	14	
<i>Men</i>	10	
<i>Women</i>	4	
Gender identity	21	3,2
<i>Organisations</i>	14	
<i>Legal entities</i>	1	

<i>Individuals</i>	6	
<i>Men</i>	3	
<i>Women</i>	3	
Citizenship	17	2,6
<i>Organisations</i>	4	
<i>Individuals</i>	13	
<i>Men</i>	10	
<i>Women</i>	3	
Other personal characteristics	57	8,8
<i>Organisations</i>	10	
<i>Individuals</i>	47	
<i>Men</i>	32	
<i>Women</i>	15	
Total number of complainants by stated personal characteristics*	648	100,0

*In 94 complainants more than one personal characteristic is stated as the grounds for discrimination.

Grounds of discrimination – national affiliation

Complaints – national affiliation	No.	%
Roma national minority	60	50,4
Albanian national minority	8	6,7
Bosnian national minority	8	6,7
Vlach national minority	6	5,0
Romanian national minority	5	4,2
Croatian national minority	4	3,4
Hungarian national minority	4	3,4

Bulgarian national minority	2	1,7
Slovak national minority	1	0,8
Slovenian national minority	1	0,8
Other national minorities	20	16,8
Total number of complaints	119	100,0

Grounds of discrimination – age

Complaints – age	No.	%
From 18 to 65	26	42,6
Children up to 18 years	20	32,8
Elderly – over 65	15	24,6
Total number of complaints	61	100,0

Areas of social relations the complaints pertain to

Complaints by discrimination area	No.	%
In the procedure of employment or at work	289	36,2
Procedures before public authorities	185	23,2
Provision of public services or use of facilities or areas	66	8,3
Public information and media	53	6,6
Other	40	5,0
Education and professional training	39	4,9
Public sphere/General public	29	3,6
Health protection	18	2,3
Housing	13	1,6

Private relations	12	1,5
Social protection	12	1,5
Pension and disability insurance	11	1,4
Realisation of collective minority rights	9	1,1
Activities in trade unions, political parties, NGOs and other organisations	7	0,9
Culture, art, sport	7	0,9
Judiciary	3	0,4
Ownership rights and relations	2	0,2
Other	2	0,2
Total number of complaints	797	100,0

Discrimination areas by complainants	No.	%
In the procedure of employment or at work	289	36,3
<i>Legal entities</i>	6	
<i>Organisations</i>	24	
<i>Group of persons</i>	5	
<i>State authorities</i>	2	
<i>Individuals</i>	252	
<i>Men</i>	92	
<i>Women</i>	160	
Procedures before public government authorities	185	23,2
<i>Legal entities</i>	6	
<i>Organisations</i>	13	
<i>State authorities</i>	3	
<i>Individuals</i>	160	
<i>Men</i>	115	

<i>Women</i>	45	
Provision of public services or use of facilities and areas	66	8,3
<i>Organisations</i>	12	
<i>State authorities</i>	2	
<i>Individuals</i>	52	
<i>Men</i>	34	
<i>Women</i>	18	
Public information and media	53	6,6
<i>Legal entities</i>	6	
<i>Organisations</i>	32	
<i>State authorities</i>	2	
<i>Individuals</i>	13	
<i>Men</i>	6	
<i>Women</i>	7	
Other	40	5,0
<i>Legal entities</i>	1	
<i>Organisations</i>	3	
<i>Individuals</i>	36	
<i>Men</i>	24	
<i>Women</i>	12	
Education and professional training	39	4,9
<i>Legal entities</i>	1	
<i>Organisations</i>	6	
<i>State authorities</i>	2	
<i>Individuals</i>	30	
<i>Men</i>	14	

<i>Women</i>	16	
Public sphere/general public	29	3,6
<i>Organisations</i>	7	
<i>Individuals</i>	22	
<i>Men</i>	16	
<i>Women</i>	6	
Health protection	18	2,3
<i>Organisations</i>	1	
<i>Individuals</i>	17	
<i>Men</i>	10	
<i>Women</i>	7	
Housing	13	1,6
<i>Organisations</i>	3	
<i>State authorities</i>	1	
<i>Individuals</i>	9	
<i>Men</i>	8	
<i>Women</i>	1	
Private relations	12	1,5
<i>Organisations</i>	2	
<i>Individuals</i>	10	
<i>Men</i>	7	
<i>Women</i>	3	
Social protection	12	1,5
<i>Individuals</i>	12	
<i>Men</i>	6	
<i>Women</i>	6	

Pension and disability insurance	11	1,4
<i>Individuals</i>	11	
<i>Men</i>	9	
<i>Women</i>	2	
Realisation of collective minority rights	9	1,1
<i>Organisations</i>	1	
<i>Individuals</i>	8	
<i>Men</i>	4	
<i>Women</i>	4	
Activities in trade unions, political parties NGOs and other organisations	7	0,9
<i>Organisations</i>	1	
<i>State authorities</i>	1	
<i>Individuals</i>	5	
<i>Men</i>	2	
<i>Women</i>	3	
Judiciary	3	0,4
<i>Individuals</i>	3	
<i>Men</i>	2	
<i>Women</i>	1	
Ownership rights and relations	2	0,3
<i>Individuals</i>	2	
<i>Men</i>	2	
Total	797	100,0

Work and employment

Note: Percentage values for stated personal characteristics are calculated in relation to the number of complainants for complaints in which personal characteristic is stated, and not the total number of complaints in this particular area.

Complainants in work and employment area	No.	%
Complaints in which personal characteristic is not stated	59	19,3
Complaints in which personal characteristic is stated	246	80,7
<i>Gender</i>	121	49,2
<i>Legal entities</i>	2	
<i>Organisations</i>	5	
<i>Group of persons</i>	2	
<i>State authorities</i>	1	
<i>Individuals</i>	111	
<i>Men</i>	14	
<i>Women</i>	97	
<i>Disability</i>	23	9,3
<i>State authorities</i>	1	
<i>Legal entities</i>	1	
<i>Individuals</i>	21	
<i>Men</i>	10	
<i>Women</i>	11	
<i>Age</i>	21	8,5
<i>Organisation</i>	5	
<i>Individuals</i>	16	

<i>Men</i>	9	
<i>Women</i>	7	
<i>National affiliation or ethnic origin</i>	19	7,7
<i>Legal entities</i>	2	
<i>Organisations</i>	1	
<i>Individuals</i>	16	
<i>Men</i>	11	
<i>Women</i>	5	
<i>Marital and family status</i>	14	5,7
<i>Legal entities</i>	1	
<i>Individuals</i>	13	
<i>Men</i>	1	
<i>Women</i>	12	
<i>Religious or political beliefs</i>	14	5,7
<i>Legal entities</i>	1	
<i>Organisations</i>	1	
<i>Individuals</i>	12	
<i>Men</i>	9	
<i>Women</i>	3	
<i>Membership in trade unions, political or other organisations</i>	13	5,3
<i>Legal entities</i>	2	
<i>Organisations</i>	1	
<i>Individuals</i>	10	
<i>Men</i>	7	
<i>Women</i>	3	
<i>Health condition</i>	7	2,8

<i>Organisations</i>	1	
<i>Individuals</i>	6	
<i>Men</i>	4	
<i>Women</i>	2	
<i>Other personal characteristic</i>	6	2,4
<i>Organisations</i>	2	
<i>Individuals</i>	4	
<i>Men</i>	3	
<i>Women</i>	1	
<i>Other</i>	8	2,9
Total	246	100,0

Conduct of public authorities

Note: Percentage values for the stated personal characteristic are calculated in relation to the total number of complaints in which personal characteristic is stated, and not in relation to the total number of complaints for particular area.

Personal characteristics in complaints in the area of conduct of public authorities	No.	%
Complaints in which personal characteristic is not stated	74	36,6
Complaints in which personal characteristic is stated	128	63,4
<i>National affiliation or ethnic origin</i>	32	25,0
<i>Organisations</i>	6	
<i>Legal entities</i>	3	
<i>State authorities</i>	1	
<i>Individuals</i>	22	
<i>Men</i>	17	

<i>Women</i>	5		
<i>Disability</i>	15	11,7	
<i>Organisations</i>	1		
<i>Individuals</i>	14		
<i>Men</i>	12		
<i>Women</i>	2		
<i>Other personal characteristic</i>	14	10,9	
<i>Individuals</i>	14		
<i>Men</i>	12		
<i>Women</i>	2		
<i>Age</i>	13	10,2	
<i>Individuals</i>	13		
<i>Men</i>	8		
<i>Women</i>	5		
<i>Religious or political beliefs</i>	11	8,6	
<i>Organisations</i>	1		
<i>Legal entities</i>	1		
<i>Individuals</i>	9		
<i>Men</i>	9		
<i>Gender</i>	8	6,3	
<i>Legal entities</i>	1		
<i>Individuals</i>	7		
<i>Men</i>	2		
<i>Women</i>	5		
<i>Health condition</i>	7	5,5	
<i>Individuals</i>	7		

<i>Men</i>	6	
<i>Women</i>	1	
<i>Other</i>	28	21,9
Total	128	100,0

Public information and media

Note: Percentage values for stated personal characteristics are calculated in relation to the number of complainants for complaints in which personal characteristic is stated and not in relation to the total number of complaints in this particular area.

Complainants in the area of public information and media	No.	%
Complaints in which personal characteristic is not stated	4	28,9
Complaints in which personal characteristic is stated	69	71,1
<i>Sexual orientation</i>	21	30,4
<i>Legal entities</i>	1	
<i>Organisations</i>	16	
<i>State authorities</i>	1	
<i>Individuals</i>	3	
<i>Men</i>	1	
<i>Women</i>	2	
<i>Gender identity</i>	17	24,6
<i>Legal entities</i>	1	
<i>Organisations</i>	13	
<i>Individuals</i>	3	
<i>Men</i>	1	

<i>Women</i>	2	
<i>National affiliation or ethnic origin</i>	11	15,9
<i>Legal entities</i>	3	
<i>Organisations</i>	6	
<i>Individuals</i>	2	
<i>Men</i>	1	
<i>Women</i>	1	
<i>Other</i>	20	28,5
Total	69	100,0

Provision of services and/or use of public facilities and spaces

Note: Percentage values for stated characteristics are calculated in relation to the number of complaints in which personal characteristic is stated, and not in relation to the total number of complaints in this particular area.

Personal characteristics in the complaints in the area of provision of services and/or use of public facilities and space	No.	%
Complaints in which personal characteristic is not stated	22	28,9
Complaints in which personal characteristic is stated	54	74,1
<i>Disability</i>	18	33,3
<i>Organisations</i>	3	
<i>Individuals</i>	15	
<i>Men</i>	7	
<i>Women</i>	8	
<i>Other personal characteristic</i>	9	16,7
<i>Legal entities</i>	1	

<i>Organisations</i>	5	
<i>Individuals</i>	3	
<i>Men</i>	2	
<i>Women</i>	1	
<i>Age</i>	7	13,0
<i>Individuals</i>	7	
<i>Men</i>	4	
<i>Women</i>	3	
<i>National affiliation or ethnic origin</i>	6	11,1
<i>Organisations</i>	2	
<i>Individuals</i>	4	
<i>Men</i>	4	
<i>Other</i>	14	26,0
Total	54	100,0

Education and professional training

Note: Percentage values for the stated personal characteristics are calculated in relation to the number of complainants for complaints in which personal characteristic is stated, and not in relation to the total number of complaints for this particular area.

Complainants in the area of education and professional training	No.	%
Complaints in which personal characteristic is not stated	13	26,0
Complaints in which personal characteristic is stated	37	74,0
<i>Age</i>	12	32,4
<i>Legal entities</i>	1	

<i>Organisations</i>	2	
<i>State authorities</i>	1	
<i>Individuals</i>	8	
<i>Men</i>	5	
<i>Women</i>	3	
<i>National affiliation or ethnic origin</i>	8	21,6
<i>Organisations</i>	3	
<i>State authorities</i>	1	
<i>Individuals</i>	4	
<i>Men</i>	3	
<i>Women</i>	1	
<i>Disability</i>	6	16,2
<i>Organisations</i>	1	
<i>Individuals</i>	5	
<i>Men</i>	3	
<i>Women</i>	2	
<i>Other</i>	11	29,7
Total	37	100,0

Against whom the complaints were filed

Against whom the complaints were filed	2015.	%
State authorities	361	50,5
Legal entities	198	27,7
Individuals	120	16,8

Organisations	25	3,5
Group of persons	11	1,5
Total	715	100,0

Number of cases with one discriminator	593
Number of cases with more than one discriminator	122
Total	715

Number of complaints per region

Number of complaints per region	2015.	%
Belgrade	202	25,3
Šumadija and Western Serbia	155	19,4
Vojvodina	99	12,4
South and East Serbia	76	9,5
Kosovo and Metohija	2	0,2
Unknown region *	263	33,0
Total number of complaints	797	100,0

* The region is unknown when a complaint is sent by e-mail and the complainant does not indicate the municipality of residence.

Outcomes of the procedures

Outcomes of the complaint procedures	2015.
Discrimination was established	99

Discrimination was established – proposal was filed to the Constitutional Court	97
There was no discrimination	50
Incompetence	85
Incomplete (with deficiencies)	124
There is no violation of law	285
Proceedings initiated before the court of law or enforceable decision adopted	13
It has been previously acted upon the same matter but no new evidence has been provided	8
Concerning the time elapsed no useful purpose would have been served by acting upon the complaint	1
Complaint withdrawn	6

NOTE: Part of the complaints from 2014 was concluded in 2015. A certain number of cases from 2015 were not concluded by the end of the year.

Acting upon recommendations

Acting upon recommendations	2015.	%
Acted upon recommendation	41	89,1
Not acted upon recommendation	5	10,9
Total number	46	100,0

Acting upon proceedings

Acting upon proceedings	2015.	%
Completed	760	95,4
Still in progress	37	4,6
Total number	797	100,0

