

REGULAR ANNUAL REPORT FOR 2012

**COMMISSIONER
FOR PROTECTION
OF EQUALITY**

Belgrade, March 2013.

Publisher:
Commissioner for Protection of Equality

Editor:
Nevena Petrušić, PhD

Translated by:
Novica Petrović

Design and prepress:
TRONIK dizajn

Printed by:
TRONIK dizajn

Amount:
300

CIP - Каталогизacija y публикациji
Hapodna biblioteka Србије, Београд

342.7

REGULAR Annual Report for ... /
Commissioner for Protection of Equality ;
editor Nevena Petrušić. - 2010- . -
Belgrade (Beogradska 70) : Commissioner for
Protection of Equality, 2011- (Belgrade :
Tronik dizajn). - 24 cm

Godišnje. - Varijantni naslov: Regular Annual
Report of the Commissioner for Protection of
Equality. - Ima izdanje na drugom jeziku:
2217-6527
ISSN 2217-7302 = Regular Annual Report
(Commissioner for Protection of Equality)
COBISS.SR-ID 187450380

TABLE OF CONTENTS

SUMMARY	10
1. THE LEGAL STATUS AND SCOPE OF ACTIVITY OF THE INSTITUTION OF THE COMMISSIONER FOR PROTECTION OF EQUALITY	12
1.1. The legal status of the Commissioner for Protection of Equality	12
1.2. The jurisdiction and authority of the Commissioner for Protection of Equality	12
2. THE PROFESSIONAL SERVICE	15
2.1. Organisation of the Professional Service	15
2.2. Enhancing the capacities of the Professional Service and the professional competencies of the staff.....	16
2.3. Improving the methodology and manner of work	18
2.4. The working premises and funds.....	18
2.5. The work of the Reception Office.....	20
2.6. Improving the accessibility and availability of the premises	22
2.7. Increasing accessibility through the Internet and the Call Centre	22
3. THE DEVELOPMENT STRATEGY OF THE INSTITUTION OF THE COMMISSIONER FOR PROTECTION OF EQUALITY	24
4. THE SITUATION CONCERNING THE ACHIEVEMENT AND PROTECTION OF EQUALITY	26
4.1. The normative framework of the achievement and protection of equality	26
4.2. A description of the current situation concerning the achievement and protection of equality	28
4.2.1. The attitude of citizens towards discrimination in Serbia	
– a public opinion poll	29
4.2.1.1. Discrimination: degree of acquaintance, attitudes and perception of the situation in Serbia.....	29
4.2.1.2. The most important findings of the survey	44
4.3. The main problems in the achievement of equality and protection from discrimination.....	45
5. THE COMMISSIONER'S CONDUCT IN CASES OF DISCRIMINATION	50
5.1. The steps taken acting upon complaints on account of discrimination	50
5.1.1. The number of complaints	52
5.1.2. Complainants	54
5.1.3. The grounds for complaints	55
5.1.3.1. Complaints on account of discrimination based on national affiliation or ethnic origin	57
5.1.3.2. Complaints on account of discrimination based on disability	59
5.1.3.3. Complaints on account of discrimination based on sex and gender identity	60

5.1.3.4. Complaints on account of discrimination based on marital and family status	62
5.1.3.5. Complaints on account of discrimination based on financial status	63
5.1.3.6. Complaints on account of discrimination based on age	63
5.1.3.7. Complaints on account of discrimination based on membership in political, trade union or other organisations	64
5.1.3.8. Complaints on account of discrimination based on religious and political beliefs	64
5.1.3.9. Complaints on account of discrimination based on sexual orientation.....	65
5.1.3.10. Complaints on account of discrimination based on other personal characteristics	66
5.1.4. Social relations areas that complaints pertain to	66
5.1.4.1. The sphere of labour and employment	67
5.1.4.2. The conduct of public authorities.....	69
5.1.4.3. Providing services or using public premises and surfaces	70
5.1.4.4. Public information and the media	71
5.1.4.5. Education and professional training	71
5.1.4.6. Other areas	72
5.1.5. Against whom complaints are lodged	72
5.1.6. The number of complaints per region	73
5.1.7. Outcomes of acting upon complaints.....	73
5.2. Lawsuits initiated by the Commissioner	76
5.3. Misdemeanour proceedings	79
5.4. Criminal law charges	81
5.5. Proposal for assessing constitutionality and legality	81
6. WORK ON IMPROVING EQUALITY	82
6.1. Legislative initiatives and providing opinions on regulations.....	82
6.2. Recommendations to public authority organs	84
6.3. Warnings and announcements to the public.....	87
7. ESTABLISHING A SYSTEM OF MEDIATION SERVICES WITHIN THE FRAMEWORK OF THE COMMISSIONER'S SERVICE	89
7.1. The legal framework of the implementation of mediation in cases of discrimination.....	89
7.1.1. Activities aimed at establishing a system of mediation services	90
7.1.2. Creating a special model of mediation in cases of discrimination	90
7.1.3. Creating and realising training programmes for specialised mediators	92
7.1.4. Training of the Commissioner's service employees.....	92
7.1.5. The first experiences in the implementation of mediation	93
7.1.6. Work on promoting mediation	94
8. PARTICIPATION IN GATHERINGS	95
8.1. Participation in gatherings and public debates.....	95
8.2. Participation in conferences and round-table discussions	98
9. LECTURES, PRESENTATIONS AND TRAINING SESSIONS.....	101

9.1. Lectures and presentations	101
9.2. Improving the capacities of civil society organisations for situational testing of discrimination.....	104
10. COOPERATION.....	106
10.1. Cooperation with other independent bodies	106
10.2. Cooperation with public authority organs	106
10.3. Cooperation with the judiciary	107
10.4. Cooperation with local governments	108
10.5. Cooperation with civil society organisations.....	109
10.6. Cooperation with the media	110
10.7. International cooperation.....	111
10.7.1. Participation in international gatherings and study trips	111
10.7.2. Meetings with representatives of international organisations.....	113
10.7.3. Organisation of international events	114
11. THE MEDIA COVERAGE OF THE WORK OF THE COMMISSIONER AND REPORTING ON DISCRIMINATION	115
11.1. The media on the Commissioner	115
11.2. The media on discrimination	116
12. PROJECTS	120
13. PUBLISHING	125
14. PROMOTIONAL ACTIVITIES	126
15. FULFILLING OBLIGATIONS IN ACCORDANCE WITH THE LAW ON FREE ACCESS TO INFORMATION OF PUBLIC IMPORTANCE	127
16. REPORT ON THE FULFILMENT OF THE FINANCIAL PLAN	128
17. RECOMMENDATIONS FOR SUPPRESSING DISCRIMINATION AND IMPROVING EQUALITY	130

All the terms used in this report in the masculine gender encompass both the masculine and feminine gender of the persons they refer to.

Dear representatives of the people, dear readers,

Suppression of discrimination is among the most important tasks of the state and its organs. Experience shows that each act of differentiation, exclusion, limitation or giving priority on the basis of nationality, origin, religion, sex, gender identity, sexual orientation or any other personal characteristic is an exceptionally dangerous practice, for it negates the very idea of human rights, violates human dignity, freedom, peace and security, and obstructs the social and economic development of the community. Therefore, the principle of equality and non-discrimination is the fundamental postulate of the legal order of all developed democratic states.

Understanding the importance of suppressing discrimination and achieving equality, over the past several years Serbia has developed a valid anti-discriminatory legal framework and established a system protection from discrimination. Within the framework of this system, an important place belongs to the Commissioner for Protection of Equality, an independent and autonomous organ of the state, which is profiled as the central national anti-discriminatory body for fighting against all forms and kinds of discrimination.

Another year of continual work is behind us. During the course of this period, the Commissioner continued her activities aimed at preventing and suppressing discrimination in Serbia. Through her work during 2012, the Commissioner positioned herself in the public as an organ active in the sphere of implementation of anti-discriminatory regulations and promotion of the right to freedom from discrimination. Through her proactive approach, using all her authority and the resources at her disposal, the Commissioner strove to maximally affirm the principles of equality, equal opportunities and tolerance towards national, ethnic, religious and other minorities, thereby contributing to the establishment of a system of values wherein the diversity of human identities is accepted, recognised and understood as a source of enrichment providing potential for social development. These efforts on the part of the Commissioner were acknowledged and given a seal of approval in the Report of the European Commission on the Progress of the Republic of Serbia for the year 2012,¹ wherein it is stated that the Commissioner for Protection of Equality was active in her efforts aimed at raising the level of awareness of discrimination and the ways of suppressing it, and when it came to strengthening the existing mechanisms for protection from discrimination.

During last year, the activities of the Commissioner unfolded in five main areas.

First of all, the Commissioner, in accordance with the law, implemented the requisite procedures acting upon complaints on account of discrimination (in 2012, the number of complaints increased by almost 40% compared to 2011). Acting upon complaints, as a form of reactive activities of the Commissioner aimed at eliminating the state and consequences of discrimination, resulted in issuing 56 opinions and recommendations, seven cautions and one announcement to the public about non-compliance with the Commissioner's recommendations. Also, five lawsuits for protection of discrimination were initiated, as well as six requests for initiating misdemeanour proceedings, one criminal charge and one proposal for assessing the constitutionality and legality of a general act.

¹ The Report of the European Commission on the Progress of Serbia for the year 2012 is available on the Internet at: http://www.seio.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/izvestaj_napretku_2012.pdf.

In addition to the above, the Commissioner proactively strove to eliminate the causes of discrimination, raising the level of awareness of the public and improving equality. Acting in a preventive manner, the Commissioner issued 117 recommendations to public authorities for undertaking measures with a view to improving equality, provided 4 opinions and initiatives for changing legal regulations, and issued 19 cautions and announcements. Realising various information and educational programmes and campaigns, with the support of international organisations and European funds, in cooperation with other organs of the state, civil society organisations and the media, the Commissioner strove to contribute to raising the level of awareness of the public concerning discrimination and its harmful consequences, a better monitoring of the actual phenomenon of discrimination, the development of tolerance, the implementation of anti-discriminatory regulations and increasing the effectiveness and efficiency of legal protection against discrimination. For the purpose of achieving these objectives, the Commissioner published a number of books, brochures and other publications aimed at children and young persons, the general public, media practitioners and legal experts.

An important segment of the Commissioner's activities is her work on promoting and increasing the visibility of this independent body on the entire territory of Serbia, and on improving the accessibility and transparency of this institution's work. By participating in a number of promotional events and workshops throughout Serbia, organising such events and workshops, constantly supplementing the contents of the Internet presentation and carrying out many other activities, the Commissioner strove to inform the public of her role, tasks and authority, to help people recognise discrimination and stimulate them to react and seek protection from discrimination. In order to increase accessibility and improve the supply of legal information and advice to the citizens, a Reception Office was opened, and the staff of the Professional Service have been specially trained for working with parties contacting the institution. During the course of last year, almost 1,000 persons contacted the staff of the Professional Service, be it personally or by telephone, seeking legal information and advice.

During the course of last year, the Commissioner continued to strengthen the capacities of the Professional Service, to raise the level of the professional competencies of the staff, and to improve the methodology and the manner of work and conducting procedures. Requisite attention was paid to developing internal procedures, improving the electronic database and creating the preconditions for establishing a system of mediation services in cases of discrimination.

Last year was marked by the establishment and deepening of cooperation with state and other public authority organs, civil society organisations, the media and international organisations and forums. With the support of the Council of Europe Office in Serbia, the United Nations Development Programme (UNDP) Office in Serbia, the OSCE Mission to Serbia, the European Commission, the UNICEF Office, the United States Agency for International Development (USAID), and the embassies of Australia and Holland, the Commissioner carried out a number of projects and activities aimed at improving protection from discrimination and increasing the capacities of the institution itself. Owing to its membership in the European Network of Equality Bodies (EQUINET), the staff of the Commissioner's Professional Service got acquainted with the experiences, anti-discrimination practices and standards of work of other similar bodies in European states and the states of our region.

The recommendations that the Commissioner announces to the public are mostly received with understanding and approval. However, some opinions and recommendations, wherein the Commissioner pointed to the discrimination of members of national and religious minorities, especially the LGBT population, provoked vehemently negative reactions from extreme right-wing organisations and individuals, which resulted in the dissemination of lies and diverse organised attacks directed at the Commissioner, all with a view to compromising the Commissioner's reputation, authority and credibility.

The third regular annual report that is before you now encompasses the period from 1st January to 31st December 2012. By submitting this report to the National Assembly of the Republic of Serbia, the Commissioner fulfils her legal obligation prescribed by Article 33 paragraph 5 of the Law on Prohibiting Discrimination. The report, on the basis of the data available, describes the current situation in the sphere of achieving and protecting equality, and points to the most frequent forms of discrimination, and also to those areas of social relations where discrimination is most widespread. The report also contains an overview of the results of the Commissioner's work during 2012, as well as the challenges she faced in the course of realising her social role.

The social reality of Serbia is marked by cohabitation, tolerance and cooperation, as well as the presence of gender, ethnic and other stereotypes and prejudices, a high level of social distance from certain national, religious, sexual and other minorities, which makes things much more difficult when it comes to achieving the standards of equality in everyday life. That is the reason why, despite the satisfactory anti-discriminatory legal framework and increased sensitivity to the problem of discrimination, discrimination is quite widespread in Serbia, and the existing mechanisms of legal protection are not sufficiently used, as confirmed by numerous surveys and the Commissioner's practice. I hope that this report will stimulate the National Assembly of the Republic of Serbia, as well as all the other public authority organs, to cooperate with civil society organisations, to intensify work aimed at preventing and suppressing discrimination in Serbia, and to develop an open, tolerant and inclusive society based on respect of human rights, which guarantees everyone equal rights and equal opportunities, all within the scope of their authority. In order to achieve this aim, we should intensify work on the implementation of special measures aimed at achieving the full equality of social groups whose position is unequal to that of the other citizens, and put in efforts towards improving the efficiency of legal protection from discrimination. What is also required is a broad mobilisation of all the social actors to promote equality and tolerance towards national, ethnic, religious, sexual and other minorities as common values that our society consciously adopts, essentially understanding that without them, there is no peaceful cohabitation, social stability and progress.

Nevena Petrušić, PhD,
Commissioner for Protection of Equality

SUMMARY

During the course of 2012, the Commissioner for Protection of Equality continued her activities aimed at suppressing all aspects, forms and cases of discrimination, and at improving equality, using all the legal authority at her disposal.

During 2012, the Commissioner received 465 complaints, an increase of almost 40% compared to 2011. What contributed to this trend were the Commissioner's activities with a view to informing the citizens about discrimination and the ways of providing protection from discrimination, and also to increasing the visibility of the institution of the Commissioner. Last year the Commissioner issued 29 opinions, 27 opinions with a recommendation, 117 recommendations to public authority organs for undertaking measures for the purpose of improving equality, as well as 3 opinions concerning laws. Five lawsuits were initiated for the purpose of providing protection from discrimination, and 19 cautions and announcements were issued.

In the complaints received, the reasons for discrimination stated include disability, national affiliation / ethnic origin, sex, religious and political beliefs, age, membership in political, trade union or other organisations, marital and family status, etc. Most complaints pertained to discrimination in the sphere of labour and employment, discrimination before public authority organs, in the sphere of education and professional training, providing public services, the use of premises and public surfaces, etc.

In the course of last year as well, the number of complaints pertaining to violations of laws for which the Commissioner is not authorised to intervene was relatively high, which indicates that the citizens are still not sufficiently acquainted with the phenomenon of discrimination and with the jurisdiction of the Commissioner.

The Commissioner worked intensely on promoting the principle of equality and non-discrimination by means of lectures and presentations, organising promotional events, participating in conferences, professional symposia and round-table discussions staged by civil society organisations. Cooperation was established and deepened with independent bodies and other state organs, kindred institutions abroad, international organisations, as well as civil society organisations. The Commissioner made full use of the benefits afforded by the membership in the European Network of Equality Bodies (EQUINET).

The Strategic Plan for the development of the Commissioner and the Communication Strategy, featuring the Action Plan, were completed for the 2012–2014 period. Work was initiated on establishing a system of mediation services within the framework of the Commissioner's service. A public opinion poll entitled "The Attitude of Citizens towards Discrimination in Serbia" was conducted, which made it possible to find out to what extent the citizens were acquainted with discrimination, what the level of social and ethnic distance between certain social groups was, and also how visible to the public the institution of the Commissioner was. A total of 11 books, manuals and brochures were published. The staff of the Professional Service improved their professional competencies, and the very institution of the Commissioner became more visible, accessible and available.

During this period, the media intensely monitored their work of the Commissioner and reported on it to the public, and also published her announcements, views and opinions.

In 2012, the Commissioner for Protection of Equality was granted the sum of 89,471,000.00 dinars, and the Law on Budget for the year 2013 stipulates the sum of 89,348,000.00 dinars for the work of the Commissioner.

1. THE LEGAL STATUS AND SCOPE OF ACTIVITY OF THE INSTITUTION OF THE COMMISSIONER FOR PROTECTION OF EQUALITY

1.1. The legal status of the Commissioner for Protection of Equality

The Commissioner for Protection of Equality is a state organ, established by the Law on Prohibiting Discrimination, independent and autonomous in performing the tasks prescribed by law. The institution of the Commissioner has been conceived and profiled as the central national body for fighting against all aspects and forms of discrimination, with a broad scope of authority.

In May 2010, the National Assembly of the Republic of Serbia elected the first Commissioner for Protection of Equality, Professor Nevena Petrušić, PhD, for a period of five years. In accordance with the Constitution and the relevant legal regulations, the Commissioner shall be answerable to the National Assembly for her work.

The independence and autonomy of the institution of the Commissioner represent the basic postulates and the key prerequisites for a successful realisation of her social role and mission. That is why any attempt at influencing the work of this institution is an act of violating its independence, irrespective of whether it comes from a public authority organ, civil society organisations or the private sector.

For a successful realisation of the mission of the Commissioner, what is of greatest importance is the preservation of her authority and credibility in the public, especially in view of the fact that the Commissioner's recommendations are not enforceable. That is why it is particularly worrying that, towards the end of last year, the Commissioner was exposed to media pressure by the "Kurir [Courier]" tabloid, which occurred after she, having been exposed to pressures, blackmail and threats, refused to employ a certain person on a full-time basis, on account of which even her personal safety was endangered. Concerning these media pressures, attacks, blackmail and threats endangering the independence and autonomy of the institution and damaging the Commissioner's reputation and authority, all the authorised state organs and international organisations in Serbia with which the Commissioner cooperates were duly notified. Such and suchlike behaviour must be prevented, and for the purpose of achieving this, what is of great importance is a clear and unequivocal support of the state and its organs.

1.2. The jurisdiction and authority of the Commissioner for Protection of Equality

The jurisdiction and authority of the Commissioner are broadly defined, in keeping with international standards, so as to enable this body to effectively and efficiently prevent discrimination and provide protection from it, thus contributing to achieving and improving equality.

One of the basic areas of jurisdiction of the Commissioner is acting on the basis of complaints submitted on account of discrimination, and those authorised to submit com-

plaints include physical and legal persons, groups of persons, as well as organisations dealing with human rights protection. When acting upon complaints, the Commissioner gives her opinion and recommendations concerning the manner of eliminating violations of rights and passes decisions on measures prescribed by law in case the discriminator fails to act in accordance with her recommendation.

The Commissioner is also obliged to provide information to the party submitting a complaint on his/her right to freedom from discrimination, and on the ways of protecting this right, and also to suggest to the opposing parties mediation as a method of overcoming the given situation.

The Commissioner is authorised by law to initiate lawsuits for the purpose of providing protection from discrimination, which are conducted in order to provide judicial civil law protection from discrimination. These lawsuits are initiated by the Commissioner in the public interest, and they belong to the category of the so-called strategic lawsuits. When conducting such lawsuits, the Commissioner is expected to choose cases providing examples of frequently occurring and widespread discrimination, especially those that result in particularly difficult consequences for members of vulnerable, endangered and marginalised social groups, which rarely had an epilogue in judicial practice, and which stand a good chance of success and possess a potential for fulfilling the objectives of strategic lawsuits. If, in the course of the procedure, the Commissioner establishes that a violation stipulated by anti-discriminatory regulations has been committed, she may submit a request for initiating misdemeanour proceedings.

When realising her preventive function, the Commissioner is authorised and obliged to warn the public of the most frequent, typical and difficult cases of discrimination, doing so on the basis of insights gained from the complaints, information from the media and from other sources. In addition to this, for the purpose of achieving and improving equality and suppressing discrimination, the Commissioner recommends to public authority organs and other persons the undertaking of appropriate measures, monitors the implementation of the law and other regulations in the sphere of protection of equality and prohibition of discrimination, gives her opinion on draft laws and other regulations, and initiates the passing of new legal and other regulations, as well as adopting amendments to the existing ones.

Apart from the annual report on the situation concerning protection of equality, the Commissioner may, if particularly important reasons exist, submit a special report to the National Assembly, be it of her own initiative or acting upon a request of the National Assembly. Last year the Commissioner started the preparation of the first special report on discrimination of persons with disability, and its preparation has now entered the final phase.

An important part of the activities of the Commissioner pertains to establishing and maintaining cooperation with organs authorised for maintaining equality and protecting human rights on the territory of an autonomous province and a local government. The establishment of this form of cooperation is made more difficult by the fact that no regional offices of the Commissioner have been established yet, which would not only stimulate cooperation with these organs but would also contribute to a greater accessibility of the institution of the Commissioner and enable more intensive work with employees of organs of an autonomous province and a local government, with a view to training them and sensitising them to the

problem of discrimination, thereby improving the implementation of anti-discriminatory regulations.

Cooperation with public authority organs, among other things, is reflected in observing the recommendations made by the Commissioner in accordance with the law, for the purpose of improving equality. Public authority organs, be it in direct communication or by way of written notices, have voiced a positive view of these recommendations and a willingness to implement them. Some organs, however, have ignored the recommendations of the Commissioner, and there are even some which have openly opposed them. Such an attitude on the part of public authority organs is worrying, for it represents a manifestation of a lack of knowledge of anti-discriminatory regulations, as well as a neglect of the duty of strictly observing anti-discriminatory regulations in procedures and when it comes to adopting subordinate acts.

Last year, state organs did not avail themselves of the opportunity to ask the Commissioner for her opinion of draft laws and other regulations, and therefore, in 2012 the Commissioner, using her legal authority, gave only three opinions on draft laws acting of her own initiative. Cooperation with state organs in this respect mainly unfolded through the Commissioner's participation in expert discussions concerning the draft versions of some laws. It should be pointed out that these invitations, as a rule, arrived too late, so that the Commissioner was deprived of the opportunity to analyse the prepared texts and materials in a timely manner, from the perspective of whether they were in keeping with anti-discriminatory regulations.

2. THE PROFESSIONAL SERVICE

For the purpose of performing expert and administrative work from the framework of the Commissioner's work, the Professional Service has been established, which helps the Commissioner exercise her authority.

Based on the Rules of Internal Organisation and Systematisation of Posts within the Professional Service of the Commissioner, a total of 60 staff members have been envisaged (four civil servants occupying positions of seniority, 53 civil servants occupying posts that entail performing tasks, and three lower-rank employees). Of the number envisaged, a total of 19 posts have been filled so far, including that of the Commissioner for Protecting Equality.

In view of the current workload, the number of employees at the moment does not constitute the optimum number to ensure a timely, high-quality operation of this independent organ. The increasing number of contacts that the Commissioner continually has with the citizens, which entails an increase in the number of activities and procedures arising from them, leads to increasing additional engagement of the employees and experts on a part-time basis, which is an insupportable way for the institution to work in the long term. In order to overcome this problem, through the personnel plan for 2012, the Commissioner planned to employ 11 new staff members, but did not manage to realise the plan due to the limitations imposed by the temporary working premises at no. 70, Beogradska Street. This directly aggravates the problem of fulfilling the legal obligations of the Commissioner for protection of Equality.

2.1. Organisation of the Professional Service

For the purpose of an effective and efficient performance of the Commissioner's activities authorised by law, and on the basis of two-year experience and the practice of the service, in February 2012 a change in the systematisation of the service was proposed. In November 2012, the National Assembly passed a Decision on Granting Assent to the Decision of Amending the Decision on the Establishment and Work of the Professional Service of the Commissioner for Protection of Equality and the Rules on Internal Organisation and Systematisation of Posts within the Professional Service of the Commissioner for Protection of Equality,² thereby granting a new systematisation of posts.³ The Rules do not envisage an increase in the number of systematised posts, nor is it necessary to apportion additional budget funds for their implementation.

For the purpose of carrying out expert and administrative work within the framework of the jurisdiction of the Commissioner, the new Rules of Internal Organisation and Systematisation of Posts envisage the establishment of three sectors as the basic internal units: the Sector for Protection of Equality, the Sector for Improving Equality and the Sector for General Affairs. The Commissioner's Office and the Group for Disseminating Information are established as special internal units.

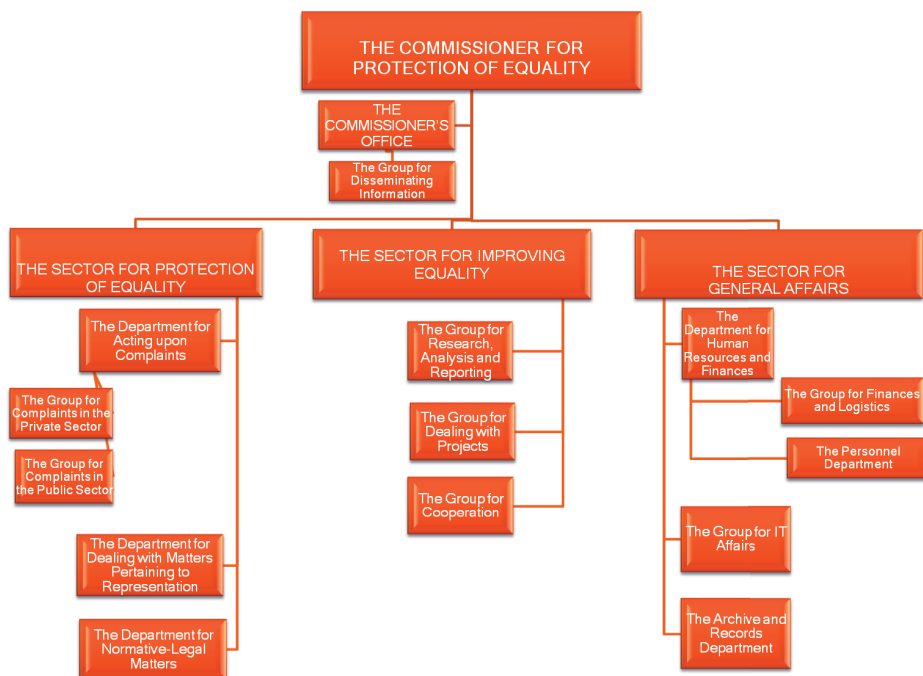
² "The Official Gazette of the Republic of Serbia", no. 111/12.

³ The Rules of Internal Organisation and Systematisation of Posts in the Professional Service of the Commissioner are available on the Internet at:

<http://www.ravnopravnost.gov.rs/lat/opstiAktiPoverenika.php?idKat=1>.

Underneath, we append a graph detailing the organisational structure of the Professional Service of the Commissioner.

Graph of the organisational structure of the Professional Service of the Commissioner for Protection of Equality



2.2. Enhancing the capacities of the Professional Service and the professional competencies of the staff

In the 2010-2011 period, a total of 18 persons were employed in the Professional Service of the Commissioner, and their number has not increased since then. The Act on the Systematisation of Posts, as has been mentioned before, envisages a total of 60 posts in the Professional Service of the Commissioner, featuring 57 civil servants in senior positions and posts entailing performing tasks, as well as three lower-rank employees. Even though there does exist a need for increasing the overall number of employees, in view of the constant increase of the workload and the number of activities performed by the Commissioner, it is not possible for the time being due to the insufficient working premises handed over to the Commissioner for use towards the end of 2010. That is why, last year as well, the Commissioner was forced to meet the demand for more employees by occasionally engaging employees on the basis of a part-time contractual arrangement.

During the course of 2012, activities aimed at increasing the level of general and specific knowledge, as well as the level of professional competencies of the staff employed with the Commissioner's Professional Service were intensified. Even though the staff are very dedicated

and sensitised to the problem of discrimination, there is a need to enhance, through continual education, their competencies, skills and abilities when it comes to dealing with clients, acting upon complaints and all the other segments of work that are important for making the functioning of the Professional Service of the Commissioner as efficient as possible. That is why during 2012 a number of training sessions, seminars and workshops were organised for the Professional Service staff, featuring lecturers who are well-respected and experienced experts from academic institutions and civil society organisations. We mention underneath a few of the most important ones.

The staff of the Department for Acting upon Complaints, who also deal with matters pertaining to representation, attended a seminar dealing with the implementation of the new Law on Civil Procedure organised by the “Paragraph” periodical, held on 24th February 2012 in Belgrade.

From 26th to 28th March 2012, a seminar entitled “Together against Discrimination”, dealing with gender equality, the rights of members of the LGBT community and the rights of the Roma, intended for the entire staff of the Professional Service, was held in Novi Sad.

On 9th and 10th April, and also on 6th and 7th December 2012, the lawyers employed with the Professional Service completed two modules of the seminar entitled “Legal Interview”, realised with the support of the OSCE Mission to Serbia and the Commissioner for Protection of Equality. This seminar was dedicated to developing skills necessary for successfully conducting a legal interview and correctly classifying a case, which also encompasses the skills of active listening, posing questions and other aspects of working with clients.

In May 2012, the heads of sectors in the Professional Service of the Commissioner, the Commissioner, the head of the Commissioner’s Office and assistants to the Commissioner attended the seminar entitled “Managerial Skills, Leadership, Motivation, Decision-Making and the Basics of Lobbying”. The seminar topics were designed with a view to contributing to increasing the efficiency of management, and to recognising and successfully dealing with potential crisis situations in a timely manner.

From 3rd to 5th July 2012, the initial seminar on “The Specific Characteristics of Mediation and the Role of the Commissioner for Protection of Equality in the Mediation Procedure in Cases of Discrimination” was held for the staff of the Sector for Acting upon Complaints, so that they could acquire the basic knowledge of mediation as a method of resolving conflicts (see section 3.2.)

During August 2012, training sessions with a view to preparing and designing presentations were held for the employees.

On 17th and 18th December 2012, with the support of the United Nations Children’s Fund in Serbia (UNICEF), a seminar entitled “Strengthening the Capacity of the Commissioner for Protection of Equality for Reporting”, organised with a view to enabling an exchange of experiences pertaining to writing reports, with a special emphasis on reporting on the rights of the child, was held.

In view of the diversity of the topics that the employees deal with carrying out their

tasks, as well as the great number of legal grounds and forms of discrimination, and areas where discrimination occurs, in connection with which citizens submit complaints, the education of a certain number of the employees encompassed seminars dealing with policies and practices in the sphere of asylum and readmission, the processes of programming international assistance, as well as identification and producing drafts of project proposals. Also, the employees of the Sector for General Affairs attended educational seminars dealing with public procurement,⁴ preparation and maintenance of an Internet page,⁵ and forming databases,⁶ and also with innovations in the sphere of bookkeeping within the state administration.⁷ The employees of the Sector for Improving Equality attended a seminar entitled “Managing the Project Cycle in Projects Financed by EU”.⁸

2.3. Improving the methodology and manner of work

In order to increase the efficiency and quality of work, procedures have been established and the necessary instructions have been prepared for the staff of the Professional Service, as living documents that are subject to changes. The instructions have established internal procedures and standards, and the employees fully participated in their preparation.

During 2012, *Instructions for Acting upon Complaints* were prepared, which defined all the phases and steps to be taken in a procedure initiated because of a complaint due to discrimination, from receiving a complaint to publishing a decision on the website. Also, *Instructions for Preparing and Revising Decisions of the Commissioner for Protection of Equality* were prepared, which have been supplemented and renewed. They contain clearly formulated guidelines pertaining to the content and structure, as well as the manner of providing argumentation for an opinion, an opinion with a recommendation, general recommendations for undertaking measures, issuing cautions and other decisions made by the Commissioner within her scope of jurisdiction.

2.4. The working premises and funds

For the purpose of being granted appropriate, permanent working premises, which is a problem dating back to May 2010, in 2012 the Commissioner for Protection of Equality once again petitioned the National Assembly and the Government of the Republic of Serbia to take the necessary steps within the scope of their authority.

The working premises occupying a space of 248 m², used by the Commissioner, which were granted to the institution by the Government of the Republic of Serbia, are located inside a block of flats at no. 70, Beogradska Street, on the first floor, without any security or parking space for the official vehicle allotted to the Commissioner, all of which makes the work of this organ considerably more difficult. The existing working premises have been granted to the

4 The seminar “Public Procurement”, organised by the Institute for Economics and Finances, September 2012.

5 The seminar “Maintenance of a New Website”, organised by USAID, November 2012.

6 The seminar “Database – Advanced Level”, organised by the Personnel Management Service of the Government of the Republic of Serbia, 5th–15th November 2012.

7 The seminar “Bookkeeping in the State Administration”, April 2012.

8 The seminar “Managing the Project Cycle in Projects Financed by EU”, organised by the Belgrade Open School and the Office for European Integrations of the Government of the Republic of Serbia, 20th–24th February 2012.

Commissioner on a temporary basis, on the basis of the decision passed by the Commission for Apportioning Official Buildings and Business Premises of the Government of the Republic of Serbia, 77 no. 3615713/2010 of 9th September 2010, following a seven-month stay in two rooms within the building of the National Assembly of Serbia at no. 14, Kralja Milana Street. Those premises required a total reconstruction and adaptation, for they were entirely unusable and devastated, without any central heating and proper plumbing and electrical installations, and therefore inaccessible to persons with disability. After the renovation work had been completed, the Professional Service of the Commissioner was able to move in only in June 2011. In this way, after more than a year of the existence of this specialised state organ, at least the elementary spatial and technical preconditions for its work were ensured.

The Commissioner's working premises limit the development of the Service to its full capacity, thus making its efficient functioning and timely and effective fulfilment of tasks considerably more difficult. One should bear in mind that the scope of the Commissioner's work constantly increases, and that more than 1,200 cases have been accepted and dealt with from the institution's establishment to the present day, and that the number of direct contacts with this organ for the purpose of seeking legal advice is considerably bigger than that. An additional difficulty in its work is presented by the fact that there is no parking space in front of the allotted working premises or nearby, which makes them less accessible to clients with disability and to persons coming to official meetings organised by the Commissioner. It is very important to point out that the Commissioner fights against all kinds of discrimination, be it direct or indirect, and is still unable to ensure that a person with disability employed with the Professional Service should have a safe and dignified access to the workplace. We have addressed the Secretariat for Traffic of the City of Belgrade and asked them to do what they can to fulfil the needs of our Service, but the reply we received was that in that particular location it was not possible to do so. By offering this example, we wish to illustrate the situation in which the Commissioner's Service has been functioning for quite some time now.

One of the most important tasks of the Commissioner is to provide information to the citizens concerning their rights and the mechanisms of legal protection from discrimination, which also presupposes providing information about peaceful resolution of conflicts and assistance in achieving this. The law prescribes that complaints may be submitted orally, provided that a record of the oral statement is made, and that, in the process of establishing the facts of the case, records are made of statements given by complainants and other persons. Since from the very beginning of the Commissioner's work the citizens have been requesting to get the necessary information, explanations and legal data through direct contact with the staff, it was necessary to organise as soon as possible the work of the Reception Office. Since the working premises allotted to the Commissioner do not meet either the physical or the security conditions for housing the requisite number of employees and receiving clients, nor do they ensure their right to privacy, during the course of 2011 the Commissioner addressed the Republican Directorate for the Property of the Republic of Serbia and the Commission for Housing and Apportioning Official Buildings and Business Premises of the Government of the Republic of Serbia, submitting a request to be granted temporary offices for receiving clients. It was only towards the end of 2011 that the Commissioner was temporarily granted the use of an office in the building of the Administration for Common Affairs of Republican Organs at no. 22-26, Nemanjina Street, which was made fit for working in by June 2012, when we started receiv-

ing clients there. Even though this arrangement makes the work and internal communication of the Service staff more difficult, creating additional pressure upon the already insufficient number of employees, for they work in two locations, the Commissioner accepted this temporary solution, expressing hope that the Service would soon be provided with proper working premises on a permanent basis.

The lack of proper premises for the work of the employees, employing new staff and receiving clients constitute the most important limitations in the work of the Commissioner.

So far, all the necessary technical equipment for work has been provided, especially computers and other technical devices and office stationery. Equipment and stationery have been procured from our own funds, and some have been provided through donations. Towards the end of 2012, the Commissioner received, by way of donation from an IPA project, a large number of technical devices, professional-quality printers, computers, etc. However, due to a lack of space, they cannot all be used, making the work environment unsafe.

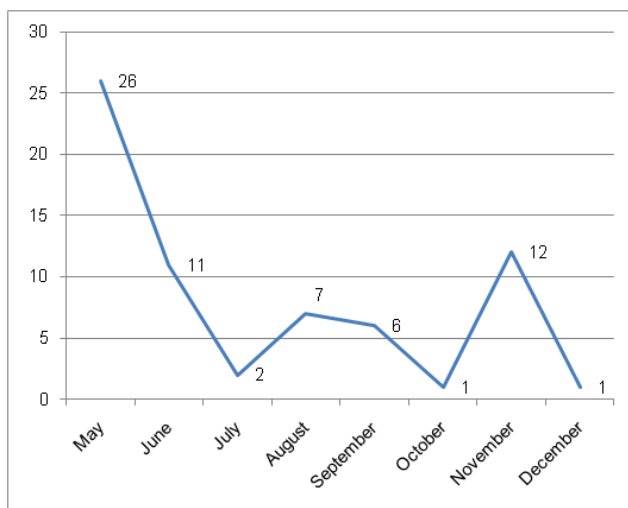
2.5. The work of the Reception Office

One of the important tasks of the Commissioner is providing information to the citizens about their rights and the mechanisms of legal protection from discrimination, which also pertains to information on the possibilities of peaceful resolution of cases of discrimination. The law also prescribes that complaints may be submitted orally, in which case a record must be made of them, and that in the procedure of establishing the facts of the case, records should be made of statements given by complainants and other persons. On account of the need to communicate directly with the citizens, during the course of 2012 activities aimed at opening the Reception Office were completed.

Since the spatial and security-related conditions for organising the work of the Reception Office within the premises used by the staff of the Professional Service could not be fulfilled, upon a request submitted by the Commissioner, a single room has been provided as a temporary solution. The Reception Office started working in May 2012, after the Professional Service staff, with the support of OSCE, had completed the requisite training and acquired the necessary knowledge and skills for conducting a legal interview and counselling. The building where the Reception Office is located is accessible to persons who use wheelchairs, and has a security service. As the work of the Professional Service unfolds in two locations, the Reception Office functions on the basis of the principle of making prior appointments with the clients. The reception of clients is organised on Tuesdays and Thursdays, but if need be, it can be arranged on other weekdays, too.

Since the beginning of the work of the Reception Office, free legal aid in the form of legal information and legal advice has been received by 66 clients, whereas more than 1,000 citizens have received information by phone.

Graph: the number of clients in 2012



In the Reception Office, citizens may receive precise instructions on how to write a complaint, explanations as to whether their case manifests the characteristics of discrimination, and also which other organ is authorised to deal with it if that legal matter falls outside the jurisdiction of the Commissioner for Protection of Equality.

It is interesting to note that, of the overall number of clients who came to the Reception Office during 2012, only two cases pertained to possible discrimination. In one case, the client informed us of the situation she was in and of possible discrimination; however, the client did not want to initiate the procedure, but expected the Commissioner for Protection of Equality to initiate the procedure *ex officio*. In the other case, the client submitted a complaint, on the basis of which the requisite procedure was carried out, resulting in the opinion that an act of discrimination had been committed.

None of the other problems on account of which prospective clients came to the Reception Office were within the scope of work and jurisdiction of the Commissioner for Protection of Equality, but mostly pertained to harassment at work, violations of some other rights pertaining to employment and to property relations.

Focusing on the example of the work of the Reception Office, we can conclude that the citizens are still not sufficiently acquainted with the notion of discrimination, even though there were cases when clients knew that it was not discrimination, but did address the Reception Office in order to receive advice on who to address and how to resolve their problem in the most efficient way. On the other hand, it is obvious that there still does not exist a system of free legal aid that would enable poorer citizens to get legal aid freely or at a reduced rate. Establishing such a system is one of the priorities, among other things because of observance of the principle of equal access to justice, as was also pointed out in the Commissioner's report for 2011.

2.6. Improving the accessibility and availability of the premises

During the course of 2011, the working premises were equipped with an access ramp and modern moving platforms for persons with disability. During last year, measures were undertaken with a view to making the institution of the Commissioner more accessible and available to persons with disability.

In the course of June 2012, in the room for meetings on the Commissioner's premises and in the Reception Office located at no. 22-26, Nemanjina Street, equipment for amplifying sound was installed, which facilitates communication with persons whose hearing is impaired. What was also installed was the induction system for amplifying speech, which enables persons who wear hearing aids to hear the speaker clearly, that is, to hear the sounds around them without obstruction. The rooms where the system is installed are marked with an internationally recognisable sign informing a hearing aid user that this location is wired for sound in a special way.

All the employees of the Professional Service of the Commissioner use visiting cards with the Braille script, and during 2012, we started preparing the inclusion of audio books and publications adjusted to the needs of persons with impaired sight, and it is expected that they will be published soon.

The entire working premises of the Commissioner are equipped with tactile panels containing the name of the institution in the Braille script, which facilitates accessibility and stay on the premises to persons with impaired sight.

2.7. Increasing accessibility through the Internet and the Call Centre

According to the Law on Prohibiting Discrimination, the Commissioner is obliged to provide information to the citizens about their rights and the mechanisms of legal protection from discrimination. In addition to this, the Commissioner should also make available all the other information about the manner and results of work and dealing with clients, so that her work should be visible and transparent. It was precisely for this reason that a new, interactive Internet page should be created, one corresponding to contemporary requirements and standards. In cooperation with the United States Agency for International Development (USAID) and with its support, during 2012 the Commissioner had a new Internet page made, one not only enriched by new content (compared to the previous one), but also more advanced when it comes to the accessibility of its contents to persons with impaired hearing and sight. In addition to this, the new Internet page is designed in such a way as to enable two-way communication, for the Commissioner can present all the relevant information through it, and the citizens can inform the Commissioner of anything they perceive in connection with achieving equality, of cases of discrimination, and of their opinions and views, thus providing answers to the questions that the Commissioner poses on the Internet page through various questionnaires.

We have initiated the first activities aimed at creating a related site intended for children and young persons with a view to improving communication with this very sensitive social group, creating conditions for presenting the activities of the Group of Young Counsellors to the Commissioner (see section 12).

Towards the end of 2012, we started the installation of the Call Centre, owing to a donation coming from the IPA fund dating from 2011, within the framework of the project “Implementation of Anti-discriminatory Policies in Serbia”, whose bearer in the Office of Human and Minority Rights, and the Commissioner for Protection of Equality is one of its beneficiaries. On account of legal and technological requirements arising in this process, the launching of the Call Centre is planned for the first half of 2013.

3. THE DEVELOPMENT STRATEGY OF THE INSTITUTION OF THE COMMISSIONER FOR PROTECTION OF EQUALITY

In May 2012, work on The Development Strategy of the Institution of the Commissioner for Protection of Equality was completed,⁹ with active participation of the entire Professional Service Staff. The Strategy was developed as a result of the need to define the strategic priorities of the Commissioner's work for a three-year period (2012–2015), in order to improve the Commissioner's work and successfully realise her mission.

In the process of developing the Development Strategy, a SWOT analysis was conducted, which made it possible to ascertain the internal strengths and weaknesses of the Commissioner, as well as the external circumstances which are of importance for the Commissioner's work and activities. The Development Strategy defined the vision and the mission of the institution of the Commissioner, taking as its starting point and basic principles: independence, respecting differences, professionalism and transparency, permanent education of the employees, accessibility and inclusiveness. All the social actors with whom cooperation should be established and who are expected to contribute to prevention and suppression of discrimination in Serbia, in accordance with their authority and social role, were mapped.

VISION

SERBIA IS AN OPEN AND TOLERANT SOCIETY OF PEOPLE WITH EQUAL RIGHTS, GIVING EVERYONE THE SAME OPPORTUNITY.

MISSION

ERADICATION OF ALL FORMS OF DISCRIMINATION AND REALISATION OF FULL EQUALITY IN ALL SPHERES OF SOCIAL LIFE.

Within the framework of the Strategy, the following strategic priorities were defined: 1) efficient suppression of and protection from discrimination; 2) increased awareness of the public of discrimination; 3) visibility and accessibility of the institution of the Commissioner, and 4) efficient and functional service of the Commissioner. Strategic objectives and tasks were defined within the framework of each priority.

In the sphere of effective suppression of and protection from discrimination, the following strategic objectives were established: 1) establishing a system of monitoring discrimination in Serbia through the implementation of a monitoring system; 2) improving protection of equality through establishing mechanisms for cooperation with public authority organs and education of civil servants; 3) improving the system of protection of equality through the development and implementation of the mediation model.

When it comes to the second strategic priority (increasing the accessibility of the institution of the Commissioner), the strategic objectives are as follows: 1) raising the level of society's being informed of the institution of the Commissioner for Protection of Equality; 2)

⁹ The Development Strategy of the Institution of the Commissioner for Protection of Equality is available on the Internet at: <http://www.ravnopravnost.gov.rs/lat/oNama.php>.

bringing the work of the institution of the Commissioner closer to the citizens; 3) developing the visual identity of the institution and improving the relations with the public.

Within the framework of the third strategic priority (increased awareness of the public of discrimination), the following strategic objectives were established: 1) raising the level of media awareness of the necessity of informing the public about the occurrences of discrimination; 2) improving the knowledge of professional groups concerning steps to be taken in cases of discrimination; 3) raising the level of knowledge of children and young persons about discrimination through peer education; 4) informing and educating the public.

As regards the fourth strategic priority (efficient and functional Professional Service of the Commissioner), the following objectives were defined: 1) improving the capacities of the Professional Service and improving the procedures for the purpose of more efficient work; 2) continual improvement of the IT system; 3) improving the manner of work and the flow of information within the framework of the Professional Service; 4) professional advancement of the employees.

4. THE SITUATION CONCERNING THE ACHIEVEMENT AND PROTECTION OF EQUALITY

4.1. The normative framework of the achievement and protection of equality

Understanding the importance of suppressing discrimination and achieving the equality of legal subjects, over the past several years the Republic of Serbia has developed a valid anti-discriminatory legal framework, adopted the most important universal and regional treaties in the sphere of human rights and made them part of its legislation, and has worked on adopting and implementing optional protocols that go along with these treaties.

Discrimination is forbidden by *The Constitution of the Republic of Serbia*, which stipulates in Article 21 that all people are equal before the Constitution and the law, that everyone has the right to equal legal protection, without discrimination, that every kind of discrimination is prohibited, be it direct or indirect, on any grounds, and especially on the grounds of race, sex, nationality, social origin, birth, religion, political or other beliefs, financial status, culture, language, age and psychic or physical disability. In addition to this, the Constitution prescribes that any special measures that the Republic of Serbia may introduce for the purpose of achieving a full equality of an individual or a group of persons who are essentially in an unequal position compared to other citizens shall not be considered to constitute discrimination.

General and special anti-discriminatory laws have been passed: *The Law on Prohibiting Discrimination* (2009),¹⁰ *The Law on Protecting the Rights and Freedoms of National Minorities* (2002),¹¹ *The Law on Preventing Discrimination of Persons with Disability* (2006),¹² and *The Law on the Equality of the Sexes* (2009).¹³ The prohibition of discrimination is contained in a number of laws regulating particular areas of social relations: *The Law on Labour* (2005),¹⁴ *The Law on Professional Rehabilitation and Employment of Persons with Disability* (2009),¹⁵ *The Law on Health Care* (2005),¹⁶ *The Law on the Foundations of the Educational System* (2009),¹⁷ *The Law on Churches and Religious Communities* (2006).¹⁸ Criminal law protection from discrimination is regulated by *The Criminal Code of the Republic of Serbia*,¹⁹ which prescribes a number of criminal offences in connection with the prohibition of discrimination, such as violation of freedom of expression of national or ethnic affiliation, professing one's faith and conducting religious rites, promotion of hatred and incitement of hatred, violence against a person or a group of persons on the basis of some personal characteristic, etc.

These regulations provide a good legal framework for the prevention and suppression

10 "The Official Gazette of the Republic of Serbia", no. 22/09.

11 "The Official Gazette of the Republic of Serbia", no. 11/02, "The Official Gazette of Serbia and Montenegro", no. 1/03 – The Constitutional Charter, and "The Official Gazette of the Republic of Serbia", no. 72/09 – a different law).

12 "The Official Gazette of the Republic of Serbia", no. 33/06.

13 "The Official Gazette of the Republic of Serbia", no. 104/09 (hereinafter referred to as: LES).

14 "The Official Gazette of the Republic of Serbia", nos. 24/05, 61/05 and 54/09.

15 "The Official Gazette of the Republic of Serbia", no. 36/09.

16 "The Official Gazette of the Republic of Serbia", nos. 107/05 and 72/09 – a different law.

17 "The Official Gazette of the Republic of Serbia", no. 73/09.

18 "The Official Gazette of the Republic of Serbia", no. 36/06.

19 "The Official Gazette of the Republic of Serbia", nos. 85/05, 88/05 – correction, 107/05 – correction, 72/09 and 111/09.

of discrimination through the use of civil law, criminal law and misdemeanour law protection, in accordance with international and European standards. This, however, does not mean that there is no room for improving and amending those regulations that are relevant from the perspective of achieving and protecting the principles of equality.

In her previous annual report and in her public appearances, the Commissioner for Protection of Equality pointed to the need to improve certain regulations, and in that respect she gave her support to certain initiatives. For example, she supported the initiative of the Committee of Lawyers for Human Rights and the Gay-Straight Alliance proposing that, through appropriate amendments to the Criminal Code of the Republic of Serbia, all-encompassing incrimination and proper punishment of crimes committed out of hatred, that is, acts motivated by hatred based on race, skin colour, ethnic or national affiliation, religion, political or other beliefs, language, sex, sexual orientation, gender identity, age, health condition, disability, education, social position, social origin, financial status or some other personal characteristic. In addition to that, she supported the initiative proposing that regulations dealing with public information be renewed and adjusted to anti-discriminatory regulations, so as to suppress hate speech and other forms of discrimination through the media more effectively.

The existing anti-discriminatory laws were not changed during 2012, but several laws were passed that contain a number of regulations of importance for protection of equality and fighting against discrimination.

The Law on Amendments to the Law on Extrajudicial Proceedings,²⁰ adopted on 31st August 2012, regulates the procedure for establishing the time and place of birth. The said procedure, which is regulated by the provisions of Article 71a–n, pertains to establishing the time and place of birth when entering in the Birth Registry adult persons who do not have the requisite documents and whose parents are either unknown or unavailable. The Law on Extrajudicial Proceedings was amended on account of the fact that the Law on Birth Registries²¹ did not satisfactorily regulate this matter. Before the adoption of these amendment to the Law on Extrajudicial Proceedings, requests of adult persons for entry in the Birth Register were often rejected or the procedure was interrupted, and the persons submitting such requests were directed to initiate a lawsuit for the purpose of establishing maternity or paternity. However, in such proceedings the persons initiating the lawsuit most often could not provide evidence on the basis of which their identity could be established. That is why it is considered that in Serbia there existed around 6,500 so-called “legally invisible persons” who had no personal documents and could not exercise basic human rights and freedoms. It was precisely this situation that provided the reason for adopting the said amendments to the Law on Extrajudicial Proceedings.

The Law on Amendments to the Criminal Code,²² adopted on 24th December 2012, introduced hatred as an especially aggravating circumstance for all criminal offences committed out of hatred (Article 54a of the Criminal Code). This strengthened the criminal law protection of victims who belong to certain vulnerable social groups in cases when the commitment of the offence was motivated by hatred.

20 “The Official Gazette of the Republic of Serbia”, no. 85/12.

21 “The Official Gazette of the Republic of Serbia”, no. 20/09.

22 “The Official Gazette of the Republic of Serbia”, no. 121/12.

From the perspective of improving protection from discrimination, what is of importance are all the other laws that prescribe the principle of equality and contain the prohibition of discrimination (for example, the Law on Public Procurement,²³ adopted on 29th December 2012, prescribes the principle of equality of bidders, so as to ensure the equal position of bidders in all the phases of the procedure of public procurement).

Apart from the laws adopted, during the course of last year drafts and working versions were made of certain laws that are of importance for the sphere of protection from discrimination. The Commissioner for Protection of Equality, in accordance with her authority, gave her opinion of some of those drafts (see section 6.1).

4.2. A description of the current situation concerning the achievement and protection of equality

Even though there exist no consolidated data on the occurrence of discrimination, it is evident that discrimination is still quite widespread in all spheres of social life. The Report of the European Commission on the Progress of the Republic of Serbia in 2012 points to this as well. In item 2.2, entitled Human Rights and Protection of Minorities, it is observed that there exist all the legislative and institutional frameworks for observance of human rights and that active measures have been undertaken to ensure their implementation, but that it is necessary to make additional efforts when it comes to the implementation of international legal instruments, and that discrimination on the basis of race, ethnic affiliation, gender, age and sexual orientation is quite widespread, and that further measures for fighting against all forms of discrimination are necessary.

It is necessary to point out that one of the preconditions for efficiently fighting against discrimination is the establishment of mechanisms for monitoring the occurrence of discrimination, the effects of the implementation of legal instruments for protection from discrimination, and of the special measures undertaken with a view to achieving the equality of some marginalised and vulnerable social groups. However, despite the Commissioner's recommendation that there be established a unified, centralised system of gathering and registering data relevant for monitoring the occurrences of discrimination and the manner of functioning of the system of legal protection from discrimination, such a system has not been established, which presents great difficulties when it comes to gaining insight into the real situation. That is why we point out in this report that successful suppression of discrimination is not possible without exact data on how widespread discrimination is, its characteristics and forms, the most frequent victims and perpetrators, on the areas where it is most frequently encountered, or without data on the implementation of mechanisms for protection from discrimination and their effects.

We expect that the National Strategy for Suppression of Discrimination, which is being prepared, and which the Commissioner has recommended for adoption, will create mechanisms that will offer up-to-date information to all the relevant actors in society on the spread and frequency of the occurrence of discrimination in Serbia, and on the effects of the implementation of mechanisms for its prevention and suppression, encompassing data on civil law,

²³ "The Official Gazette of the Republic of Serbia", no. 124/12.

criminal law and misdemeanour law protection from discrimination.

Striving to present the current situation when it comes to achieving and protecting equality, in this part of the annual report we first presented the results of a public opinion poll on discrimination that was carried out on behalf of the Commissioner during 2012. This survey is important not only because it provides information on the state of the citizens' awareness of the problem, the degree of (in)tolerance and the spread of prejudices, but also because it is the third such survey (using the same methodology, two previous surveys were conducted in 2009 and 2010 respectively), which makes it possible to perceive the trends and changes in the attitudes and perception of the citizens.

We supplemented the description of the situation when it comes to achieving and protecting equality with a summary overview of the main problems faced in achieving equality and prevention from discrimination, on the basis of findings acquired in the course of acting upon complaints and from other sources.

4.2.1. The attitude of citizens towards discrimination in Serbia – a public opinion poll

During 2012, the Commissioner, with the support and assistance of the United Nations Development Programme (UNDP), organised a public opinion poll entitled “The Attitude of Citizens towards Discrimination in Serbia”,²⁴ conducted by the Centre for Free Elections and Democracy. As has been said before, the first such survey was carried out in 2009, whereas the second one was conducted in 2010.²⁵ The carrying out of this survey was an expression of the Commissioner's efforts aimed at ensuring continual monitoring of the citizens' views on the occurrence of discrimination, and on the level of social and ethnic distance between certain social groups. In addition to this, such a survey makes it possible to gain insight into the degree of the visibility of the institution of the Commissioner, that is, into how well informed the citizens are of the jurisdiction of the Commissioner, and of the way in which they can address the Commissioner. The results of the survey enable the Commissioner, as well as other social actors, to ascertain the priorities when it comes to eliminating the causes of discrimination and its efficient suppression.

4.2.1.1. Discrimination: degree of acquaintance, attitudes and perception of the situation in Serbia

*The discrimination index*²⁶ – The results of the opinion poll show that there exist three,

24 The results of the public opinion poll “The Attitude of Citizens towards Discrimination in Serbia” are available on the Internet at:

http://www.ravnopravnost.gov.rs/files/Izvestaj_diskriminacija_CPE_CeSID_UNDP_decembar_2012.pdf.

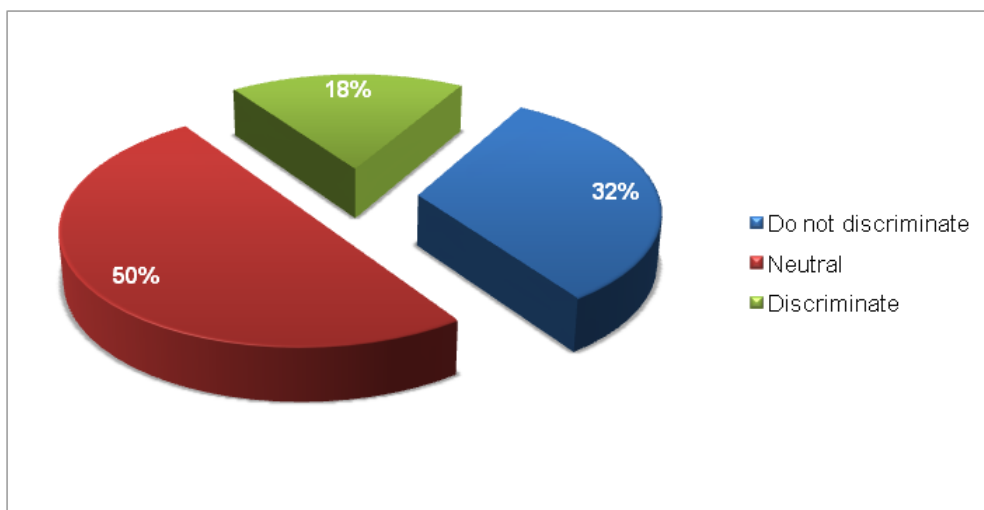
25 These surveys were carried out within the framework of the project “Support to the Implementation of Anti-discriminatory Legislation and Mediation in Serbia”, realised by the Ministry of Labour and Social Policy of the Republic of Serbia and the organisation UNDP Serbia, with the support of the European Union.

26 The discrimination index is a quantitative indicator that is arrived at on the basis of the respondents' attitudes and shows the extent to which they are prepared to discriminate against certain groups of people. The survey investigated seven grounds for discrimination. The claims made by the pollsters pertain to attitudes towards the Roma, the LGBT population, xenophobia (hatred and mistrust of foreigners), religious exclusivism, anti-Semitism, attitudes towards persons with disability and persons living with HIV/AIDS.

that is, four grounds on the basis of which the citizens in our society are most prone to discrimination. Those are sexual orientation, religious beliefs, citizenship, as well as ethnic origin and national affiliation. In other words, our citizens are to a great degree homophobic, intolerant in matters of religion and xenophobic. In addition to this, the respondents manifested a certain degree of negative stereotypes towards the Roma and a certain dose of anti-Semitism, but in both segments there are more of those who do not manifest negative attitudes.

Discrimination is condemned by 32% of the citizens, whereas only 18% of the respondents manifested a tendency towards discrimination, while 50% of the citizens do not manifest a tendency towards either discrimination or condemnation of discrimination.

Graph: the discrimination index (in %)

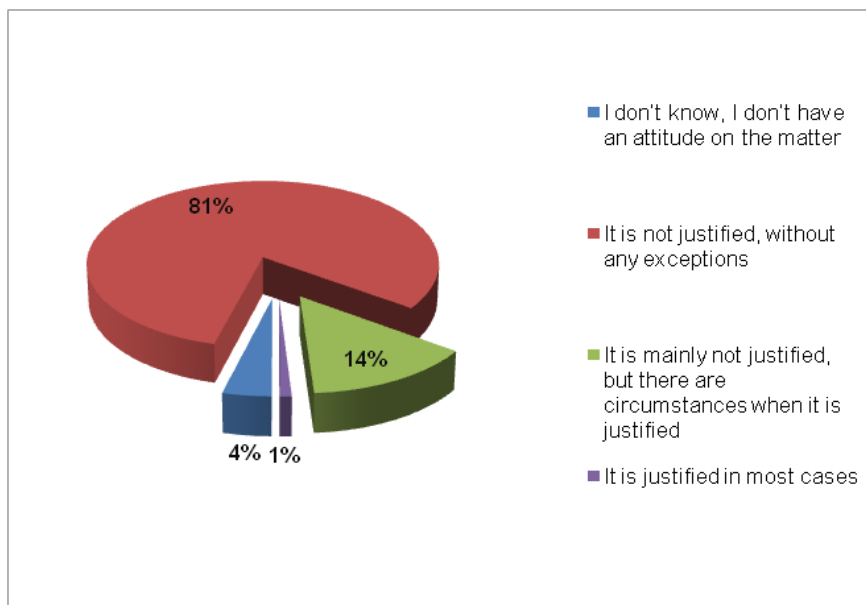


Degree of acquaintance and attitudes towards discrimination – Generally speaking, the citizens are acquainted with the notion of discrimination, but there is a lot of room for progress in that respect, for one quarter of the population has no idea or does not have an attitude towards this issue. Among those who did provide some answers, three ways of “understanding” the notion of discrimination predominate: 1) endangering/denying someone’s rights (23%); 2) disdainful attitude, humiliation (18%), and 3) inequality, unequal status (12%). All the other answers were below the 10% level.

Compared to the survey carried out two years ago, there is a difference in the order of associations when the term discrimination is mentioned, even though the first five associations contain the same “definitions”.

The citizens clearly recognise that it is never justified to deny someone his/her rights (the right to work, education, etc.) only on account of some personal characteristic (national affiliation, religion, sex, etc.); that is the opinion of 81% of respondents. On the other hand, 14% of them believe that this is *mostly* not justified, but that there exist circumstances that justify such treatment.

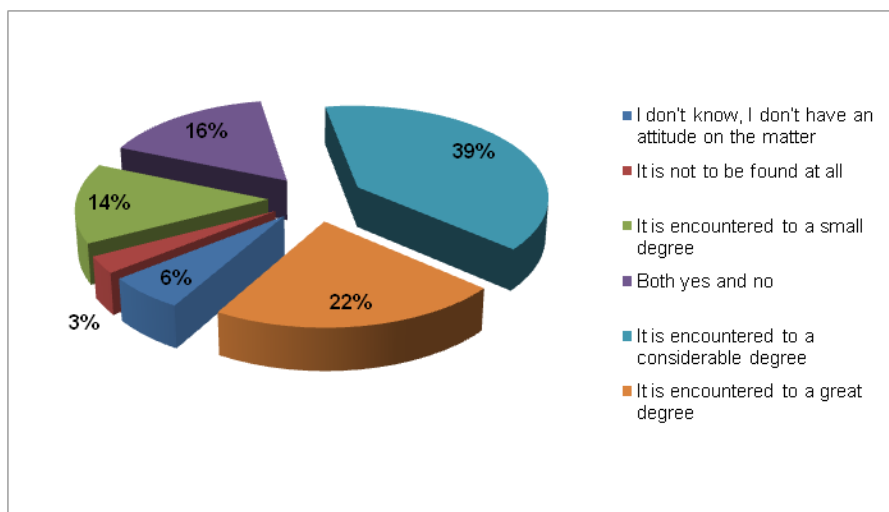
Graph: is it justified to deny someone some right of his/hers (the right to work, education, etc.) only on the grounds of some personal characteristic (national affiliation, religion, sex, etc.)? (in %)



By cross-referencing the above data with socio-demographic characteristics, the following findings were obtained: young persons aged 19 to 29 are of the opinion, their number exceeding the average proportion of respondents, that denying people their rights on the grounds of personal characteristics is mainly unjustified, but that there exist circumstances when it is justified to do so (21%, as opposed to 14%); pupils and students also agree with this thesis, their number also exceeding the average. This points to the fact that the younger population relativises the phenomenon, that is, that young people do not consider it controversial that some circumstances may result in some fundamental human rights being denied to some people.

Perception of the situation in Serbia – More than 60% of the respondents are of the opinion that discrimination does exist in Serbia, to a great or considerable degree. Only 3% of the respondents believe that discrimination does not exist in Serbia at all, 14% of them believe that it exists to a small degree, whereas 16% of them are not quite certain of their attitude (“both yes and no”).

Graph: to what extent does discrimination exist in our country? (in %)



More than one-third of the citizens (36%) estimate that there is more discrimination in Serbia compared to the period of three years ago. Every ninth respondent believes that there is less discrimination, 15% of them do not know or have no attitude on the matter, while 38% of the citizens believe that discrimination neither increases nor decreases. Where were the greatest deviations recorded? The following groups of respondents believe, in numbers exceeding the average, that there is more discrimination than before: 1) the youngest population (aged between 15 and 18); 2) national minorities, especially the Roma, and 3) those with the lowest income (less than 10,000 Serbian dinars per month).

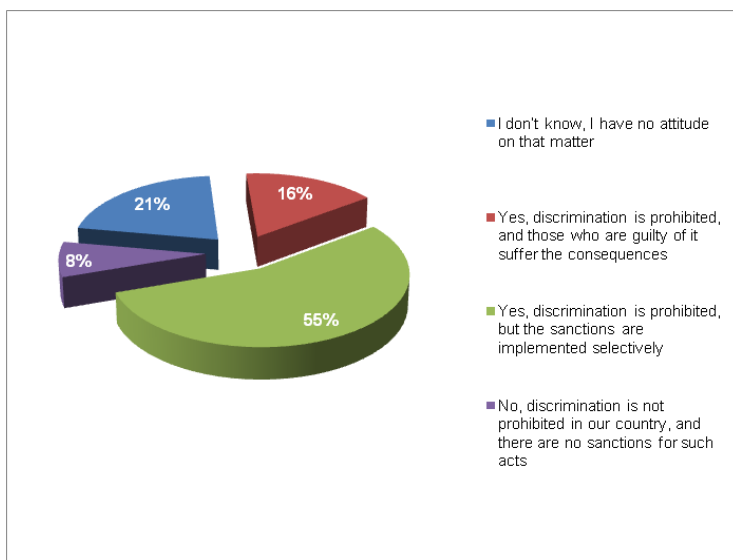
The Roma are the most endangered group by far, as spontaneously stated by 38% of the respondents. This, however, manifests a decrease (by 7% and 12% respectively), compared to the surveys of 2010 and 2009 (45% and 50% respectively). They are followed by *poor persons* (28%), *persons with disability* (22%), *old persons* (18%), *women* (17%) and *members of sexual minorities* (14%). It is indicative that national minorities generally, as well as particular ones among them, are at the bottom of this list. It is certain that the citizens of Serbia do not believe that minorities are discriminated against, which probably reflects the view of the majority of the Serbian population. At the same time, it was observed that minorities perceived discrimination to be very much in evidence in Serbia.

Table: which groups are the most discriminated against in Serbia? (in %)

Groups discriminated against	Total (three possible answers)
The Roma	37.8
Poor persons	27.8
Persons with disability	22.3
Old persons	17.6
Women	17.3
Members of sexual minorities	14.2
Refugees, displaced persons	5.1
Serbs	4.9
Workers	4.8
National minorities	4
Sick persons	3.9
Children	3.9
The unemployed	3.4
Persons with special needs	3.2
Young persons	2.9
People from rural areas	2.9
Persons with HIV/AIDS	2.5
Religious minorities	2
Muslims/Bosniaks	2
Albanians	1.6
Croatians	0.9
Uneducated persons	0.7
Persons with different political beliefs	0.6
Hungarians	0.5
Others	7.1

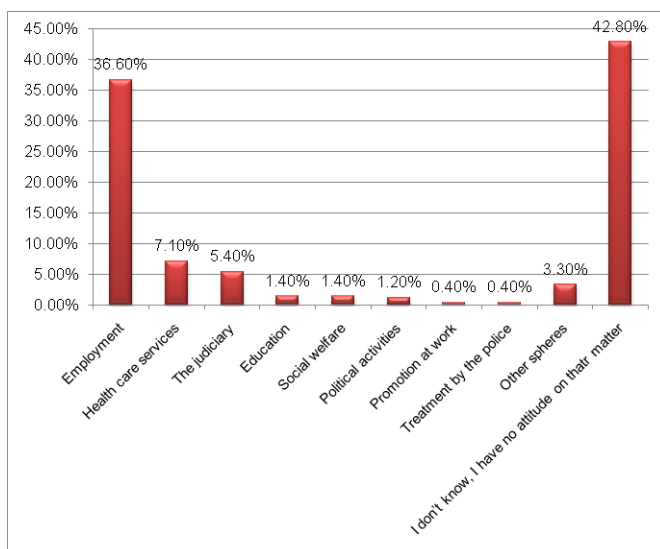
The two main findings when it comes to regulating the prohibition of discrimination and observance of laws in Serbia are as follows: a) a great number of people do not know that discrimination is prohibited in our country (as many as one-fifth of the respondents), and b) 55% of the respondents are aware that legal regulations do exist, but they doubt that the regulations are properly implemented, that is, they believe that the laws are applied selectively, which is a slight increase compared to two years ago, from 52% to 55%.

Graph: Is discrimination prohibited by law in our country, and to what extent is this prohibition observed? (in %)



The deepened effects of the crisis are even more visible when the citizens are asked about the sphere of life where discrimination is encountered the most (answers given spontaneously). If we disregard the great many respondents who gave no specific answer (43%), as many as 37% of them stated that discrimination was encountered the most in the sphere of employment.

Graph: in what sphere of life is discrimination encountered the most? (in %)



Employment of members of social groups discriminated against is supported by 76% of the respondents, even if such measures have to be paid for out of the state budget. Only every tenth citizen of Serbia says that he/she would not support such measures, for they would be to the detriment of the majority of the citizens. When it comes to the issue of minority groups members' entry into university, there is almost no difference in the way the respondents reacted – 73% of them would support the enrolment of minority groups members at the university based on special quotas, 13% of them oppose this, whereas 14% of them do not know or have no attitude on that matter.

As regards various affirmative action measures, the citizens are most understanding when it comes to being educated in one's native tongue, as 45% of them agree with the view that national minorities should be provided with education in their native tongue even though it would have to be paid out of the state budget (18% of them are undecided on the matter, whereas 37% of them oppose this view). On the other hand, 35% of the respondents agree with the view that members of national minorities should always be enabled to address state institutions in their native tongue, even though it would have to be paid out of the state budget, whereas a marginally higher percentage of them, 36%, support financing the media of national minorities out of the state budget.

Table: the citizens' attitude towards measures that would improve the position of national minorities (in %)

	I totally disagree	I disagree	Undecided	I agree	I totally agree	Total
National minorities should be educated in their native tongue, even though it would have to be paid out of the state budget	23	14	18	22	23	100
It is the duty of the state to finance the media of national minorities, even though it has to be paid out of the state budget	26	16	22	18	18	100
Members of national minorities should always be enabled to address state institutions in their native tongue, even though it would have to be paid out of the state budget	29	17	19	16	19	100

The view that persons with disability should be provided with unobstructed access to all the buildings housing state institutions, even though it would have to be paid out of the state budget, is supported by 95% of the respondents. The reason for such a large percentage of positive reactions is reflected in the fact that this vulnerable group is one of the most visible ones, so that the citizens are often prone to manifest a socially desirable attitude towards it.

Prejudice and tolerance – The issue of social distance shows that, out of the eight categories surveyed, the greatest distance is manifested towards the LGBT population. A high degree of distance was also manifested towards HIV positive persons; in seven out of the eight categories surveyed, this group comes right after persons with a different sexual orientation.

Table: social distance (in %)

	National	Neighbour	Colleague	Boss	Statesman	Friend	Educator	In the family
Persons with physical disability	2.7	2.7	3.9	7.8	13.2	5.3	10.9	36.3
Persons with mental disability	4.1	8.6	23.8	48.7	59.2	23.6	60.3	72.8
Old persons	2.6	2.6	4	6.8	10	3.6	6	27.4
Women	2.3	2.5	2.4	5.3	6	2.5	3	10.7
Poor people	2.3	2.5	2.8	4.8	6.1	3.5	3.7	10.4
LGBT population	23.8	30.2	32.5	40.6	48.4	46.2	58.8	79.5
Religious minorities	11	16.4	15.8	22.4	33	24.3	31.2	47.6
Refugees	4	4.6	4	8.9	15.6	6	7.4	15.2
Asylum seekers	19.4	19.3	19.9	28.8	48	24.4	35.2	45.2
Foreigners	7.9	7.8	8.1	15.1	37.5	10.5	20.4	22.8
HIV patients	12.4	21.3	26.2	30.8	36	38.2	55.4	79.5

The results of the survey show that the greatest degree of ethnic distance is manifested towards Albanians, and it is higher compared to all the other ethnic groups in all the eight categories surveyed. In terms of the degree of distance, they are followed by Croatians, the Roma, Bosniaks, whereas the least degree of distance is manifested towards Hungarians.

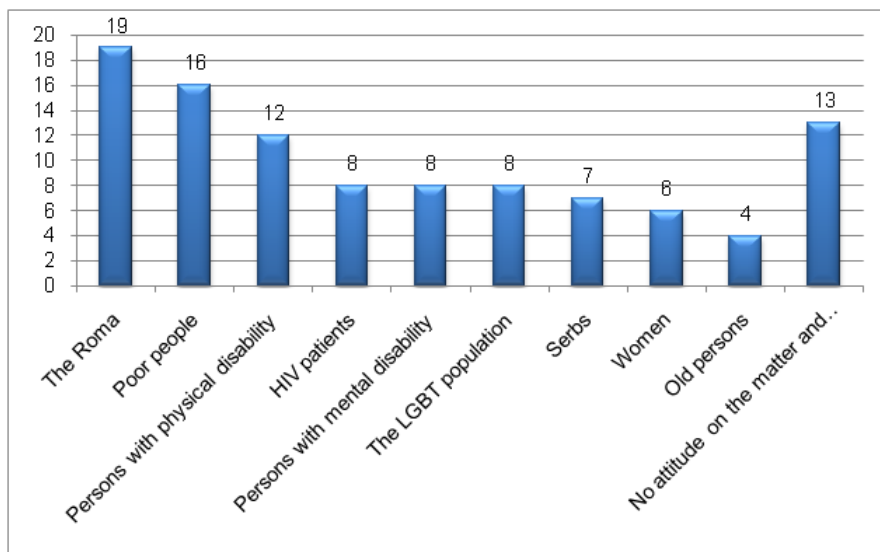
Table: Ethnic distance (in %)

	National	Neighbour	Colleague	Boss	Statesman	Friend	Educator	In the family
The Roma	5.9	12.5	11	18.7	28.2	18.2	25.9	53.3
Bosniaks	9.7	11.5	10.5	16.1	32	14	21.8	40.9
Hungarians	6.4	7.1	7.4	12.8	29.5	9.8	15.9	30.2
Croatians	16	17	16.2	22.6	39.5	19.1	26.4	41.2
Albanians	22.9	26.1	27	34.1	48.7	32.7	41.8	57.4
Serbs	2	2.5	2.5	2.9	3.3	2.7	2.4	5

The extent of discrimination against these groups is clearly seen when they are cross-referenced by means of a differentiating question (the citizens are asked to choose only one

group which is most discriminated against). One can immediately see changes in relation to the percentages presented above. First of all, the respondents are of the opinion that the Roma are the group most discriminated against, followed by poor people and persons with physical disability. This order greatly differs from the one obtained on the basis of the above percentages. Relying on the above data, it is easy to establish priorities when it comes to the issue of which groups need help to fight against discrimination.

Graph: who do we discriminate against the most? (in %)



If one examines the changes in distance over the past few years, it will be evident that they have not been considerable. This thesis only confirms the fact that such distances are part of prejudices and views that are formed during the period of the socialisation of young persons, and do not change significantly after that. Some situations and circumstances may increase or lessen the distance towards various groups, but the trends are relatively stable and become a variable category only over a long period of time.²⁷

Hate speech – The three most important conclusions concerning hate speech are as follows: 1) generally speaking, the citizens recognise hate speech for what it is, with all the deviations that exist; 2) there are few respondents who are undecided or do not know the answer (between 4% and 8%), and 3) the greatest “dilemmas” arise over the claim that all politicians are crooks, where the number of respondents who say that it constitutes hate speech (36%) is almost identical to the number of those who disagree (37%).

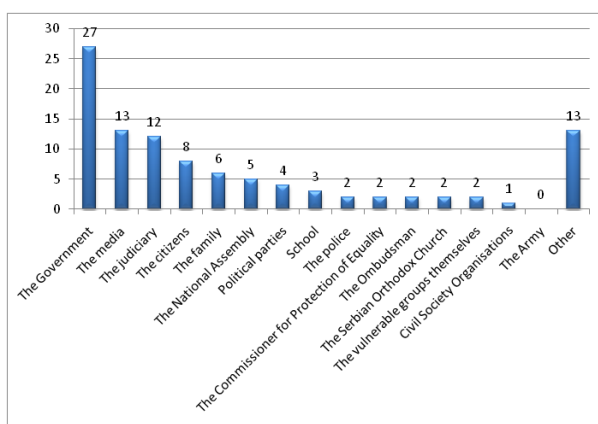
The responsibility and role of institutions – When it comes to the issue of discrimination perpetrated by institutions, in the opinion of the respondents, among those institutions that discriminate the most, as was to be expected, are political parties, the Government, the

²⁷ This piece of information is indicative of the importance of activities promoting equality in the period of the socialisation of young persons; these activities should be methodologically adjusted and continuous during the entire period of socialisation.

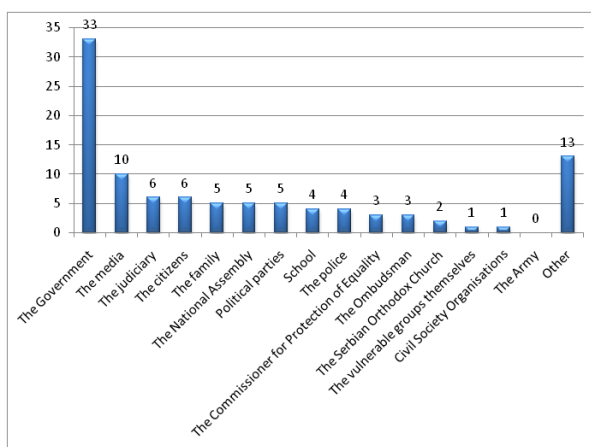
National Assembly and the judiciary (as political state institutions), but what is surprising are the media and the citizens themselves because, in the nature of things, they are actors originating from the sphere of civil society. On the other hand, there is considerably less difference between these institutions when it comes to their role in preventing discrimination. The said institutions (the Government, the National Assembly, the media, political parties, the judiciary) are the most responsible ones for prevention of discrimination, but in terms of expectations concerning such a responsibility, all the others, such as the Ombudsman, the Commissioner for Protection of Equality, the citizens, the family, etc., are close to them.

The Government, that is, the executive branch of the powers-that-be, is seen by the citizens as the institution that discriminates the most, but also as the one which should help the most in this area. More than one-fifth of the respondents stated that this was the institution which discriminated the most. A double-digit percentage of the respondents are of the opinion that political parties and the citizens themselves are the greatest sources of discrimination.

Graph: which institution discriminates the most? (in %)

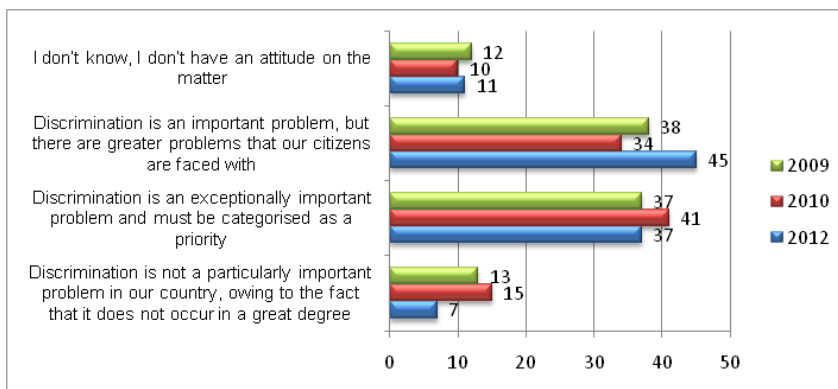


Graph: which institution should prevent the occurrence of discrimination? (in %)



Judging by the respondents' attitudes, the percentage of those who see discrimination as a problem that is not one of high priority has increased (from 38% in 2009 and 34% in 2010 to 45% in 2012). This increase was at the expense of those who believe that it is not an important problem that merits attention. In that sense, we can say that the citizens' interest in this topic has increased.

Graph: should our state categorise the problem of discrimination as a priority that needs to be resolved? (in %)



Personal experiences concerning discrimination – The percentage of respondents who stated that they had been exposed to discrimination has decreased by 8% and 6% respectively, compared to the surveys conducted in 2010 and 2009. Namely, the survey conducted in 2012 shows that 16% of the respondents have had personal experiences of discrimination. The citizens most perceive and “feel” discrimination on the occasion of employment or in the workplace, which is certainly connected with the economic crisis. If we disregard the great number of those who will not address anyone or have never been discriminated against, the greatest number of citizens would turn to the police (13%), the Ombudsman (4%) and organs of the judiciary (3%).

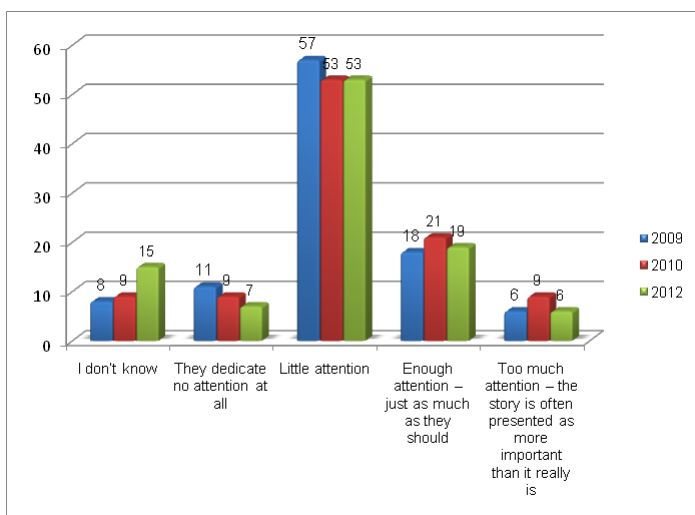
The main reason why citizens did not address anyone when they were discriminated against, or why they would not address anyone if they were discriminated against, is the fact that as many as 61% of them do not know who they should address. Another reason is the fact that almost every fifth citizen mistrusts state institutions (which correlates with the 2010 survey), and the third reason is the fact that there is no authorised institution in their place of residence and the complicated nature of the procedures involved.²⁸

Information – More than half the population of Serbia think that the media dedicate little attention to problems pertaining to discrimination (53% of the respondents), which is identical to the findings dating from 2010. That the media report on discrimination just as

²⁸ If one considers the regions that the citizens come from, two interesting findings can be observed: firstly, that an above-average number of respondents from Belgrade consider the procedures complicated, and secondly, that among the citizens of Vojvodina almost half of them stated that they did not know who they should address. Those who are in a bad financial situation also have a problem with this, which is a finding that is somewhat expected.

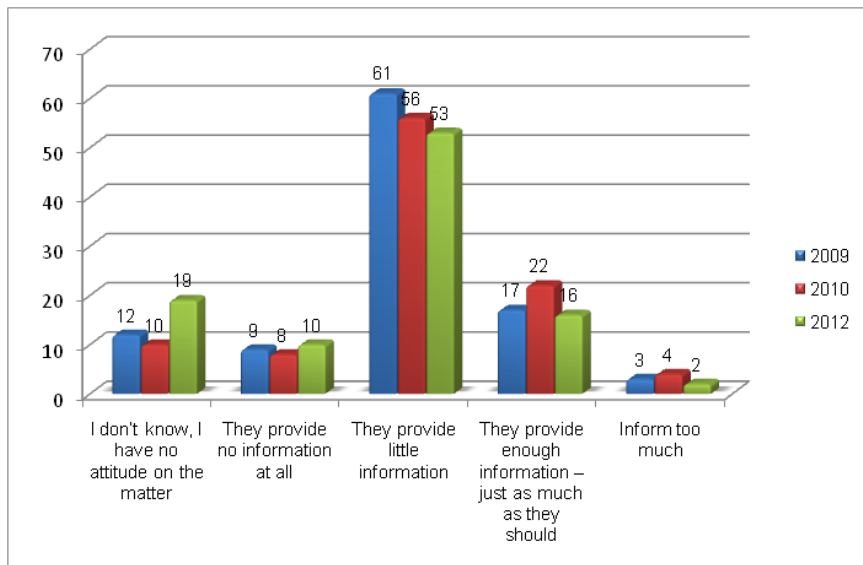
much as they should is the opinion of 19% of the respondents, 6% of them say that there is too much discrimination in the media, whereas 7% of them believe that media dedicate no attention at all to discrimination. When it comes to certain topics directly relevant to vulnerable groups, the citizens are aware that problems related to discrimination exist, they recognise them and would like society to deal with them and resolve them. At the same time, the citizens do not talk about it much with their friends, they are passive, and it would appear that it is their objective that those problems be resolved without their participation. This is indicative of a certain dose of passivism in the majority of citizens, which is also manifested in other surveys dealing with other topics.

Graph: how much attention do the media dedicate to the problem of discrimination? (in %)



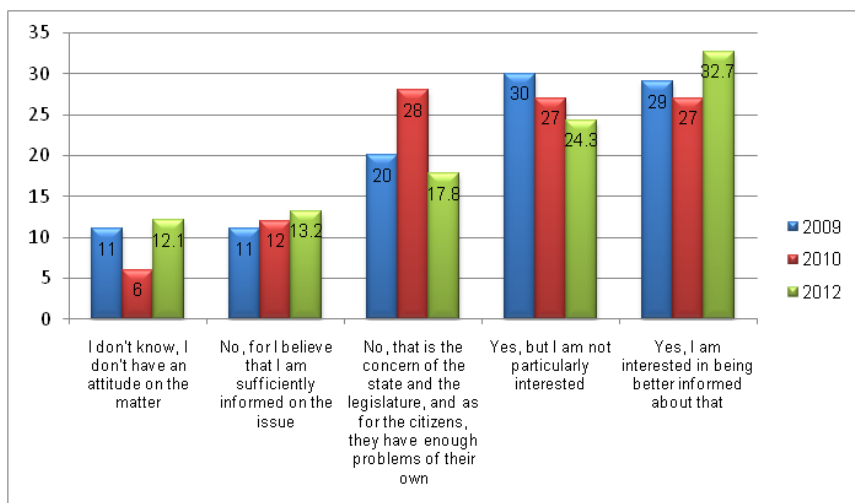
Almost two-thirds of the population (63%) believe that the institutions responsible provide little or no information at all about problems connected with discrimination and about the activities of the state concerning discrimination. That the official organs have a measured attitude when it comes to providing such information is the opinion of 16% of the respondents, and only 2% of them believe that they overdo it. Every fifth respondent is undecided or does not know the answer to that question.

Graph: to what extent do the responsible institutions inform the citizens about the problems connected with discrimination and about the activities of the state in connection with this problem? (in %)



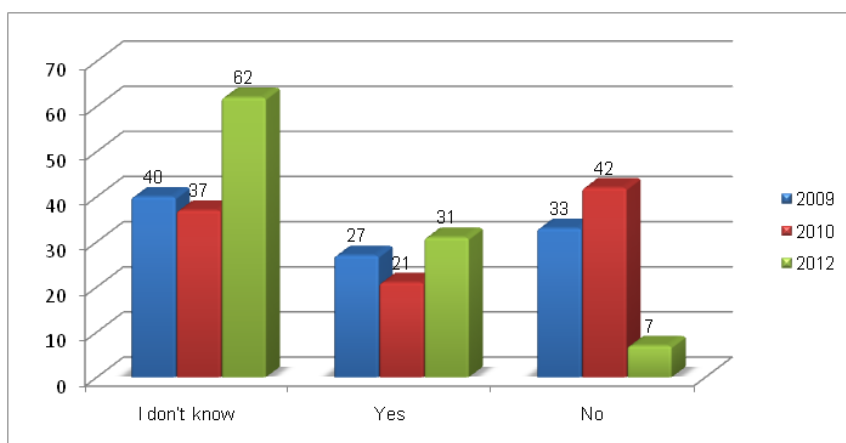
The citizens would like to be better acquainted with problems concerning discrimination, and the percentage of those who are interested in being better informed about discrimination and the activities of the state concerning that problem has increased from 27% in 2009 to 33% in 2012.

Graph: would you personally like to be better acquainted with the problems of discrimination in our country and the activities of the state concerning that problem? (in %)



The recognisability of the Commissioner for Protection of Equality – After, in 2010, the percentage of citizens who knew that there existed an institution protecting the equality of all citizens decreased, this year we were in a position to note some positive trends. Namely, 31% of the respondents say that they know such an institution exists, which is the greatest percentage since these surveys were initiated: 2010 – 21%, 2009. – 27% (an increase of 10% compared to 2010, that is, of 4% compared to 2009). However, this year there was an exceptionally large number of respondents who were not sure whether this institution existed or not, as many as 62% of them, which was considerably more than in the previous years. That is why the number of those who expressly stated that they did not know whether there was an institution which protected equality was drastically lower – 7%, as opposed to 42% in 2010, or 33% in 2009. A worryingly small number of citizens knew which institution it was – more than 80% of them did not know the answer to this question, 13% named one of the institutions, but gave the wrong answer, and only 5% gave the correct name of the institution.

Graph: is there an institution in our country that protects the equality of all citizens, that is, an institution our citizens can turn to for help in case of discrimination? (in %)



Cluster analysis: the citizens' views of discrimination and the value matrix²⁹ – The results of the survey showed that there was no significant correlation between various socio-demographic characteristics of groups of respondents and attitude towards discrimination. On the other hand, we perceived a connection between the citizens' value attitudes and their readiness to discriminate, and we took into consideration the attitude of the respondents towards traditionalism, conformism, authoritarianism, nationalism (*value judgements*), EU and democracy (*situational attitudes*).

Viewed individually, the respondents' value judgements and situational attitudes correlate to a great extent with the discrimination index, so that those who are traditionalists, conformists, authoritarian, nationalists, who have a negative attitude towards EU and democracy, are considerably more prone to democracy than those who are on the opposite pole of values and situational attitudes.

²⁹ In this chapter, we present the most important analyses of the relations between the value attitudes of the respondents (the attitude towards traditionalism, conformism, authoritarianism, nationalism, EU and democracy).

Cluster analysis – In order to determine how much certain groups of respondents with similar value and situational attitudes in all the six categories are prone to discrimination, a cluster analysis was conducted.³⁰ The analysis singled out six groups of respondents who have similar characteristics and share value attitudes in various categories.

In group 1, most of the respondents are modernists, are not conformists, are not authoritarian, are internationally oriented, are proponents of EU and are predominantly democrats. This group makes up a little more than one-fifth of the population of Serbia (21%). As can be seen, this group is not prone to discrimination and can be referred to as non-discriminatory.

Apart from group 1, group 4 also manifests a predominantly non-discriminatory or undecided attitude. When it comes to traditionalism, conformism, authoritarianism and attitude towards democracy, this group is divided between the positive and the neutral pole, whereas when it comes to nationalism and attitude towards EU, it is divided between the neutral and the negative pole. Based on their characteristics, it can be said of members of this group that they are national non-discriminators, and they make up a little less of one-fifth of the population (18%).

As opposed to these groups, group 2 may be referred to as a discriminatory one. It is made up of persons who, more than others, manifest a tendency towards discrimination, and almost one-fifth of the respondents (18%) belong to it. Those who belong to this group bear the following main characteristics: they are traditionalists, authoritarian, nationalists, and have a negative attitude towards EU. When it comes to conformism and attitude towards democracy, they are positioned in-between the neutral and the negative pole.

As regards the three remaining groups, there are no significant indications that they are prone to discrimination, and the ratio of those who discriminate and those who do not discriminate is balanced, or slightly in favour of those who do not discriminate. Group 3 gave the greatest number of negative answers in all the categories surveyed, and it is precisely for this reason that it may be referred to as neutral. This group comprises 17% of the respondents.

The main characteristic of group 5 is conformism; it is that segment of the population which will always adjust to the attitude of the majority. This group comprises 13% of the respondents.

Group 6 is made up of those citizens who have a traditional notion of society, but highly value democracy and EU. This group of respondents, whom we may refer to as traditionalists, comprises 13% of the overall number of respondents.

Thus classified groups of respondents may now be subdivided according to some essential socio-demographic characteristics. It would appear that the most important difference is the one that may be established between group 1 (non-discriminatory) and group 2 (discriminatory), for this gives us the typical characteristics of respondents who discriminate and those

³⁰ A cluster analysis makes it possible to present the *sum total* of all the characteristics that pertain to values and attitudes, and to their relationship towards discrimination, which may be of help in the selection of methodology when it comes to activities aimed at promoting equality.

who do not discriminate.³¹ In group 1, respondents who are middle-aged (from 30 to 50 years of age) predominate, there are more women than men, for the most part they are advanced school or university graduates, have secondary school education as a minimum, and an above-average number of them are employed in the public sector. As opposed to them, group 2 is balanced in terms of sex, those are predominantly persons above 60 years of age, their education is predominantly primary or secondary school level, and to a great extent they are pensioners.

4.2.1.2. The most important findings of the survey

The majority of the respondents are of the opinion that discrimination is considerably or to a great extent encountered in Serbia. What is encouraging is the fact that the number of those who believe that discrimination is not prohibited at all has gone down by half compared to the 2010 survey. Also, the number of those who believe that those who discriminate suffer clearly defined consequences has increased, but there are still few of them – only 16% of the respondents.

What is worrying is the fact that as many as one-third of the respondents stated that discrimination is most often encountered in the sphere of employment, and the respondents also perceive discrimination in the sphere of health care and education.

The results of the survey show that there is a difference between the views that are used for the purpose of establishing the discrimination index and the respondents' perception of the measure of discrimination certain social groups are exposed to. In other words, respondents are prone to discriminating certain social groups (the LGBT population, religious minorities, foreigners), but do not perceive this as discrimination. These findings are indicative of the respondents' lack of awareness of discrimination, that is, of the fact that their views and conduct are discriminatory. This is best perceived in their attitude towards the LGBT population, of which opinions are still very much polarised among the general public, and in the attitude towards religious minorities, which are spoken about very rarely.

The survey also shows that the citizens are homophobic to a great extent, those who are intolerant in matters of religion slightly outnumber the ones who manifest tolerance in this area, and xenophobia is a prominent characteristic. Apart from this, the citizens of Serbia manifest a certain degree of negative stereotypes towards the Roma and a certain dose of anti-Semitism, although in both segments those who do not manifest negative attitudes predominate. The citizens are less prone to discriminating persons with disability and HIV/AIDS patients; on the other hand, they manifest a great social distance from HIV/AIDS patients, that is, fewer respondents are prepared to establish certain social relations with such patients, which can also constitute a cause of discrimination. The reason for this should be sought in insufficient knowledge of HIV/AIDS and of the manner of passing this disease to others, of the fact that one can live with it and that it is against the law to exclude AIDS patients and HIV carriers from society.

On the basis of this survey, it is possible to perceive the changes in social distance between social groups in Serbia that have occurred since 2009 to the present day, that is, in the

³¹ The typical characteristics should be taken provisionally. They do not manifest regularity and cannot be used as dependable indicators, but only as general indicators.

degree of tolerance and the ability of the citizens to resist prejudices and recognise differences. The greatest degree of social distance exists towards members of the LGBT population, and it is also high in the case of HIV positive persons, persons with mental disability, members of religious minorities, asylum seekers and foreigners, whereas the social distance maintained against other groups is of a lesser degree. It is evident that over the past several years there have been no changes when it comes to social distances, which confirms the fact that such distances are part of the prejudices and views formed during the period of the socialisation of young people, that the prejudices and views acquired then do not change appreciably later on in life, and that they become a variable category only over a long period of time.

The survey showed that the institutions dealing with protection of human rights are not visible enough, as a result of which two-thirds of the respondents are not certain which institutions they can turn to if they are exposed to discrimination. The citizens are still poorly informed about the institution of the Commissioner for Protection of Equality, its role and jurisdiction.

4.3. The main problems in the achievement of equality and protection from discrimination

The survey presented here shows how our citizens perceive discrimination, but it cannot be used as a source of data on the extent to which discrimination occurs and is widespread in our society. As has already been mentioned, there is no unified, centralised and standardised system of gathering, recording and analysing data on discrimination in Serbia, which is necessary for successfully working on suppressing discrimination and improving equality. There must exist up-to-date information and findings about how widespread discrimination is, and also on the results of the implementation of legal regulations in this area. Bearing this in mind, it is almost impossible to gain comprehensive insight into the real situation, and it is difficult to provide an objective description of the situation when it comes to achieving and protecting equality, and it is especially difficult to draw conclusions on the potential decrease or increase of certain forms and aspects of discrimination.

However, some of the main problems pointed out in the previous regular annual reports of the Commissioner for Protection of Equality, and also in the reports submitted by civil society organisations, still persist. We shall present a summary overview of the main problems encountered when it comes to achieving equality and protection from discrimination, on the basis of findings gathered in the course of procedures initiated based on complaints and from other sources, noting that not all groups exposed to discrimination in Serbia were encompassed, but that only the most characteristic and widespread problems experienced by certain social groups were presented.

Discrimination on the grounds of sex – Discrimination on the grounds of sex is one of the most widespread forms of discrimination in Serbia. The equality of men and women is guaranteed by the Constitution, which prescribes the duty of the state to pursue the policy of equal opportunities.³² The Law on the Equality of the Sexes prescribes that public authority organs are obliged to develop an active policy of equal opportunities in all the spheres of social

³² Article 15 of the Constitution of the Republic of Serbia.

life, which presupposes participation of women and men on an equal footing in all the phases of planning, decision-making and implementation of decisions that influence the position of women and men.³³ In Serbia, there is still no gender-sensitive statistics, that is, gathering and processing of data on the basis of sex, which would make it possible to monitor, investigate and analyse the data on the position of men and women. The only exception to this are the National Employment Service and the Republican Bureau of Statistics.³⁴

The available data confirm that women are in a position unfavourable compared to that of men in all spheres of social life. What is particularly worrying is the discrimination of women on the labour market, discrimination when it comes to decision-making, the discrimination of women in the economic sphere and in education, gender-based violence against women, gender inequality in the media, etc.

The discrimination of women in the sphere of labour relations is quite widespread.³⁵ It is reflected in the lesser degree of activity of women compared to men, in their less favourable position on the labour market, lesser chances of employment and promotion in their chosen line of work, lesser income for their work etc. According to the data of the National Employment Service,³⁶ in 2012, out of a total of 761,834 unemployed persons, 394,993 were women. Also, the available data show³⁷ that women make up 80% of the persons who voluntarily left their jobs for family reasons and 98% of those for whom the only work they do is household work.

Pregnant women and child-bearing women are in a particularly bad position, for despite the fact that Serbia is striving to increase the national birth-rate and that its laws guarantee special protection to these categories of women, their labour rights are often violated. What is particularly worrying is the fact that women employed on a part-time basis, sometimes for a number of years, do not have their employment contracts extended when they become pregnant.

Discrimination on the grounds of national affiliation – Members of national minorities are also exposed to discrimination, even though their legal position is specially regulated by the Constitution of the Republic of Serbia and by special laws (the Law on Protecting the Rights and Freedoms of National Minorities³⁸ and the Law on the National Councils of National Minorities³⁹), and also through other laws which contain provisions pertaining to issues

33 Article 3 of the Law on the Equality of the Sexes.

34 The third publication entitled "Women and Men in the Republic of Serbia" was published in 2011, and the statistical data contained in it are presented on the basis of sex (the first such publication came out in 2005, and the second one in 2008).

35 For more details on this, see the publication *The Discrimination of Women on the Labour Market*, The Victimological Society of Serbia, 2012, available at:

<http://www.vds.org.rs/KnjigaDiskriminacijaZenaNaTrzistuRadaUSrb.htm>.

36 The Bulletin of the National Employment Service, December 2012, available at: http://www.nsz.gov.rs/live/digital-Assets/0/380_bilten_nsz_-_decembar_2012.pdf.

37 Women and Men in the Republic of Serbia, The Republic of Serbia, The Republican Bureau of Statistics, Belgrade, 2011.

38 "The Official Gazette of the Federal Republic of Yugoslavia", no. 11/02, "The Official Gazette of Serbia and Montenegro", no. 1/03 – The Constitutional Charter, and "The Official Gazette of the Republic of Serbia", no. 72/09 – a different law.

39 "The Official Gazette of the Republic of Serbia", no. 72/09.

that are of interest to national minorities.

The results of the survey⁴⁰ show that the greatest degree of ethnic distance exists towards Albanians, who are followed by Croats, the Roma, Bosniaks and Hungarians. On the other hand, a great number of complaints addressed to the Commissioner for Protection of Equality pertain to discrimination on the grounds of national affiliation. From these complaints, one can draw the conclusion that members of national minorities often feel discriminated against, especially in the course of proceedings conducted before public authority organs, even in situations when there is no violation of the right to equality.

The position of the Roma national minority in Serbia is still bad. The Roma are often exposed to open, very often encountered and widespread hate speech, and discrimination towards the Roma is manifested the most in the sphere of education, employment, health care and housing.

In the report of the Council of Europe entitled "Human Rights of Roma and Travellers",⁴¹ it is stated that the reason for the unfavourable position of the Roma in Serbia lies in the fact that a large number of members of the Roma community lack personal documents and live in informal settlements. Research has shown that 72% of Roma settlements (out of a total of 593) are not legalised, whereas in the Council of Europe report it is stated with concern that only in Belgrade there exist 137 informal Roma settlements, and that during 2011 there was an increased number of forcible evictions.⁴² In addition to this, Roma children almost never attend pre-school institutions, and according to the data from the EC report against racism and intolerance, 62% of Roma children have never attended or have left school, whereas only 9,6% of them continued and completed further education.⁴³ There are indicators that in the educational system discrimination against the Roma is very pronounced, and that this is one of the main reasons why Roma children are excluded from the educational system and why many of them leave school early or complete their education with low-level educational achievements.⁴⁴ The complaints addressed to the Commissioner for Protection of Equality also point to the discrimination of Roma children – in some schools there is segregation of Roma children, and there are schools attended by a large percentage of Roma children, which also leads to segregation. On account of this, it is necessary to undertake urgent measures for a desegregation of classes and schools.

There are also certain improvements concerning the position of the Roma population. For example, the Law on Extrajudicial Proceedings⁴⁵ has been amended by prescribing the procedure of establishing the time and place of birth of persons who have not been entered in birth registries, which constitutes the first step towards resolving the problem of the so-

40 For the attitude of Serbian citizens towards discrimination, see http://www.ravnopravnost.gov.rs/files/Izvestaj_discriminacija_CPE_CeSID_UNDP_decembar_2012.pdf.

41 Human Rights of Roma and Travellers in Europe, The Council of Europe, Strasbourg, February 2012, available at: http://www.coe.int/commissioner/source/prems/prems79611_GBR_CouvHumanRightsofRoma_WEB.pdf.

42 12 Ibid.

43 The report of the European Commission against racism and intolerance in Serbia (ECRI Second report on Serbia), The Council of Europe, Strasbourg, 2011.

44 Situational Analysis of Education and Social Inclusion of Roma Girls in Serbia, CARE Serbia, March 2011.

45 The Official Gazette of the Socialist Republic of Serbia", nos. 25/82 and 48/88; "The Official Gazette of the Republic of Serbia", nos. 46/95 – a different law, 18/2005 – a different law, and 85/2012.

called “legally invisible persons”. By prescribing this procedure, persons who do not fulfil the requirements for being entered in birth registries were enabled to exercise that right in judicial proceedings in accordance with the rules of administrative proceedings.

Even though there have been improvements in the position of the Roma national minority, it is necessary to undertake an entire succession of measures for any essential changes to be effected. It is necessary, among other things, to dedicate more attention to raising the level of awareness of the public, to work on the education and strengthening of this national minority, while at the same time educating the broader public in order to be able to recognise and eradicate discrimination.

Discrimination of persons with disability – Over the last several years, the normative framework of persons with disability has been improved and their social visibility has been increased, but persons with disability still remain in a worse position compared to other citizens. Discrimination of persons with disability exists in all spheres of social and private life, and it is most manifest in the sphere of employment, education, access to buildings, services and housing. The position of persons with disability can be perceived through a high degree of unemployment, low level of education, poverty, lack of political representation, violence, to which women with disability are exposed in particular, the risk of being institutionalised, and difficult access to public buildings, surfaces and services.

A positive shift when it comes to the education of children with development problems and disability is the introduction of inclusive education,⁴⁶ which has enabled a greater number of children to enter regular schools, but cases of discrimination of children with development problems are still frequent when it comes to realising their right to education by recognising their educational needs. There are also positive shifts in the sphere of employment, but a lot of attention must still be paid to the employment of persons with disability, for the overall rate of unemployment of persons with disability is three times higher than in the rest of the population.

The inaccessibility of public buildings and surfaces is still one of the basic problems in achieving equality for persons with disability, even though the law prescribes that public buildings and surfaces must be built in accordance with the standards of accessibility.⁴⁷ However, numerous buildings are not accessible, and the same goes for the premises of state organs, which makes the realisation of numerous rights more difficult and prevents the social inclusion of persons with disability.

Discrimination on the grounds of sexual orientation – Discrimination on the grounds of sexual orientation is still quite widespread in Serbia, both in the public and in the private sector. The event that marked last year was certainly the Gay Pride parade that did not take place in October 2012. Last year, too, on the eve of the Gay Pride parade the visibility of the problems with which members of the LGBT community in Serbia are faced with increased, but what also increased was the visibility of the negative social attitude towards LGBT, ho-

46 The Law on the Foundations of the Educational System, “The Official Gazette of the Republic of Serbia, nos. 72/09 and 52/11.

47 The Law on Planning and Building, “The Official Gazette of the Republic of Serbia”, nos. 72/09, 81/09 – correction, 64/10 – Constitutional Court decision, and 24/11.

mophobia, intolerance, discrimination and violence to which those persons are exposed on a daily basis. The specific nature of the position of the LGBT population is also reflected in the fact that it is the only group whose right to public assembly is disputed, which has led to a public debate over the last several years despite the constitutional guarantee of freedom of assembly. Within the framework of the Pride Week, a succession of events were held with a view to pointing to the problems faced by the LGBT population.

5. THE COMMISSIONER'S CONDUCT IN CASES OF DISCRIMINATION

Acting upon complaints on account of discrimination of individuals or groups of persons connected by some common personal characteristic is one of the most important areas of the jurisdiction of the Commissioner for protection of equality. The Commissioner receives and reviews complaints due to violations of provisions of the Law on Prohibiting Discrimination, gives opinions and recommendations in specific cases, and passes measures prescribed by the law. The Commissioner also supplies information to complainants concerning their rights and the possibilities of initiating court or other proceedings aimed at ensuring protection from discrimination, including the mediation procedure.

When she considers a case of discrimination on account of which a complaint has been lodged to be of strategic importance, the Commissioner for Protection of Equality may initiate a lawsuit. Also, the Commissioner is authorised to bring misdemeanour charges, and she may also bring criminal charges, as well as submit a proposal to the Constitutional Court for evaluating the constitutionality and legality of a general act.

5.1. The steps taken acting upon complaints on account of discrimination

The procedure before the Commissioner is initiated by submitting a complaint. A complaint may be lodged by any physical or legal person, as well as any organisation dealing with protection of human rights, who consider that, through any act, action or omission to act, discrimination has been committed against them on any grounds whatsoever.

As a rule, each person lodges a complaint in his/her own name. If it is a case of violation of the rights of a group of persons, a complaint may be submitted by each person from that group, and it is not necessary for the other members of the group to give their assent. In addition to this, under certain circumstances the procedure may be initiated by organisations dealing with protection of human rights, with the proviso that, if they initiate the procedure for the purpose of protecting a specific person, they can only do so on behalf and with the assent of that person.

There is no prescribed form for such a complaint, but the Commissioner has had a complaint form made, which is available in printed form in the Serbian language and the languages of national minorities on the premises of the institution, and also in electronic form at the Commissioner's Internet site (www.ravnopravnost.gov.rs). A complaint need not be submitted on this form for it to be acted upon. The complaint form represents just a guideline for providing all the data necessary for it to be acted upon.

The complaint should contain information on the person discriminated against, and on the person or organ claimed to have committed an act of discrimination, the manner of committing the said act of discrimination, and appropriate evidence that could be used to establish the facts concerning the purported act of discrimination.

The Commissioner for Protection of Equality does not act upon anonymous complaints. A complaint must be signed, and it is also acceptable for a signed complaint to be

scanned and submitted in electronic form. As a rule, a complaint is submitted in written form, by sending it to the Commissioner's address, and it can also be submitted by means of telefax, by e-mail as an attachment featuring a scanned document containing the complainant's signature, or in electronic form, featuring the electronic signature of the complainant. In exceptional cases, it is possible to submit a complaint orally, provided a record is made of it. The Commissioner's Professional Service ensures that, if a complaint is made orally and a record is made of it, interpreters and translators are used so as to enable persons with disability and persons who do not know the official language to submit a complaint. The Commissioner for Protection of Equality may not initiate a procedure ex officio.

The procedure before the Commissioner is a simple one, devoid of excessive formality, which contributes to its efficiency. When a complaint is submitted, it is first investigated whether the Commissioner for Protection of Equality is authorised to decide on the violation of rights pointed to in the complaint. The complaints submitted still relatively often pertain to some illegal acts that do not constitute discrimination, and therefore, when it is established that the Commissioner is not authorised to act upon it, she decides to reject the complaint, and the decision is forwarded to the complainant, together with a note stating which organ is authorised to provide legal protection in that particular case.

If a complaint is not rejected for being outside the Commissioner's jurisdiction, it is further checked whether it contains all the necessary elements for acting upon it. If a complaint is incomplete, incomprehensible or has shortcomings which prevent acting upon it (for example, it is not signed), a request is sent to the complainant, demanding of him/her to eliminate the shortcomings within 15 days, noting the said shortcomings and providing instructions on how to eliminate them. If the shortcomings are not eliminated within the stipulated deadline, a decision is made to reject the complaint, which is forwarded to the complainant.

Following this, another verification ensues – it is investigated whether there are any potential legal obstacles preventing the Commissioner for Protection of Equality from initiating the procedure. Namely, the Law on Prohibiting Discrimination (Article 36) prescribes that the Commissioner shall not act upon a complaint in the following cases: 1) if court proceedings have been initiated on the same grounds, or if the proceedings before a court of law have been completed by passing an enforceable decision; 2) if it is evident that there is no discrimination of the kind pointed to by the complainant; 3) when the Commissioner has already acted upon a complaint in the same matter, and no fresh evidence has been submitted, and 4) if, due to the passage of time from the moment when a right was violated, it is impossible to achieve the purpose of the procedure. If any of the above reasons exists, the Commissioner shall pass a decision informing the complainant that she will not be acting upon the complaint.

If the preconditions for initiating the procedure are fulfilled, it is investigated whether there may be a possibility of a peaceful resolution of the problem through mediation. If there are no conditions conducive to mediation, the complaint is forwarded, within 15 days of the date of receipt at the latest, to the person of whom it is claimed that he/she committed an act of discrimination. Along with the complaint, this person is also forwarded a request for making a statement on the case, and is given a 15-day deadline to comply with the request and state his views on the claims made in the complaint and on the legal grounds of the complaint. In the request for making a statement, it is stated precisely what that person's statement should en-

compass. The person against whom the complaint was made has no legal obligation to make a statement; the law prescribes that the person in question “may make a statement” (Article 37). Still, most of those against whom complaints are submitted make the required statement. If the person in question does not submit a statement within the deadline prescribed, the decision is made on the basis of the facts and evidence appended with the complaint.

In the course of the procedure of acting upon a complaint, the facts of the case are established by reviewing the evidence submitted, taking a statement from the complainant, from the person against whom the complaint was lodged and from another person, and in another manner, in accordance with the law (Article 37).

The procedure before the Commissioner for Protection of Equality is completely free of charge, no taxes are charged nor are any other charges made, and it must be completed within 90 days (Articles 35 and 39).

If it is established on the basis of the facts gathered and the legal regulations consulted that discrimination has been committed, the Commissioner gives her opinion, along with a recommendation stating what the discriminator should do in order to eliminate the violation of the law (Article 39 paragraphs 1 and 2). In her opinion, the Commissioner states her view that the behaviour of that specific person, that is, his actions or omitting to act, are discriminatory. In the recommendation, the Commissioner states what the discriminator should do in order to prevent further discriminatory behaviour, eliminate the consequences of discrimination and give appropriate satisfaction to the victim of discrimination. The opinion and the recommendation must be justified. The justification should state the facts of the case, its legal evaluation and the motives and reasons justifying the specific opinion and recommendation.

The opinion and the recommendation are forwarded to the complainant and the person against whom the complaint was lodged. In accordance with the law, the discriminator is given a 30-day deadline to act in accordance with the recommendation and eliminate the violation of the right in question (Article 39 paragraph 3). He/she is obliged to act in accordance with the recommendation and to inform the Commissioner for Protection of Equality about it. Failing this, the Commissioner passes a decision to caution him/her, leaving him/her a new 30-day deadline to eliminate the violation of the right in question (Article 40). The decision is final, and no complaint may be lodged against it. The decision is forwarded to the complainant and the discriminator. If, within the new deadline of 30 days, the discriminator fails to eliminate the violation of the right in question, the Commissioner may notify the public about it (Article 40 paragraph 2).

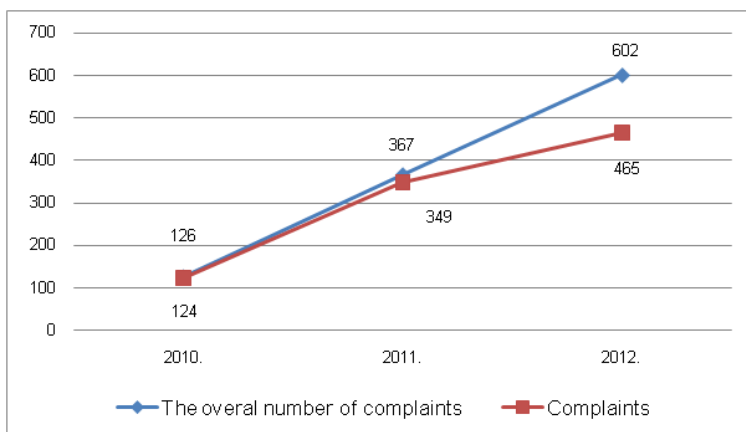
The Commissioner for Protection of Equality is not authorised to punish discriminators if they do not observe her recommendations, but may convince them to do it through the authority of the institution that she represents, the power of arguments and the pressure of the public.

5.1.1. The number of complaints

In the period between 1st January and 31st December 2012, a total of 602 new cases were entered in the register. When we compare that number to the number of cases from the

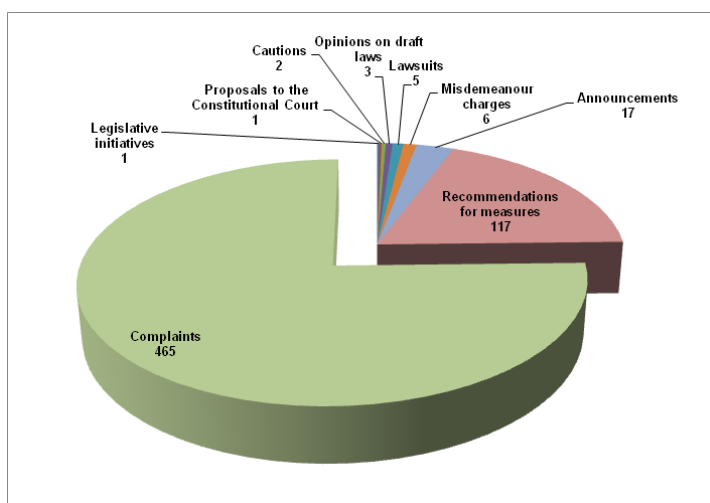
previous two years (2010 – 124 cases, and 2011 – 349 cases), we can say that the number of cases increased considerably in 2012. This increase is the result of a number of factors: a great number of activities, promotional events and visits to cities and municipalities in Serbia during 2012, participation in several projects, in partnership with civil society organisations, as well as raising the level of awareness among the citizens about the possibilities of protection from discrimination, all of which contributed to the visibility of the institution of the Commissioner for Protection of Equality.

Graph: the number of cases per calendar year



Of the overall number of new cases in 2012, 465 were complaints, 117 recommendations concerning measures for achieving equality, 6 requests for initiating misdemeanour proceedings, 5 lawsuits, whereas the rest are opinions about draft laws, a legislative initiative, a criminal law charge and a proposal to the Constitutional Court.

Graph: the overall number of cases

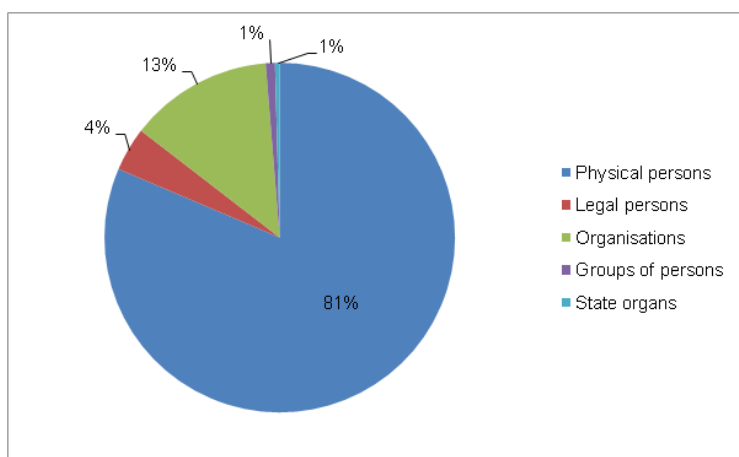


On the other hand, the number of complaints is still very low, taking into consideration the results of the survey on the awareness of, attitudes to and perception of discrimination in Serbia in 2012, as well as the widespread occurrence of various forms of discrimination. Also, during 2012 the staff of the Professional Service of the Commissioner for Protection of Equality participated in numerous workshops, seminars and panel discussions throughout Serbia, and from their conversations with citizens, they found out that many of them feared victimisation, which they could be exposed to after reporting cases of discrimination, and that they lacked confidence in institutions when it came to protecting their rights. Those are some of the reasons why citizens refrain from deciding to seek protection of their rights.

5.1.2. Complainants

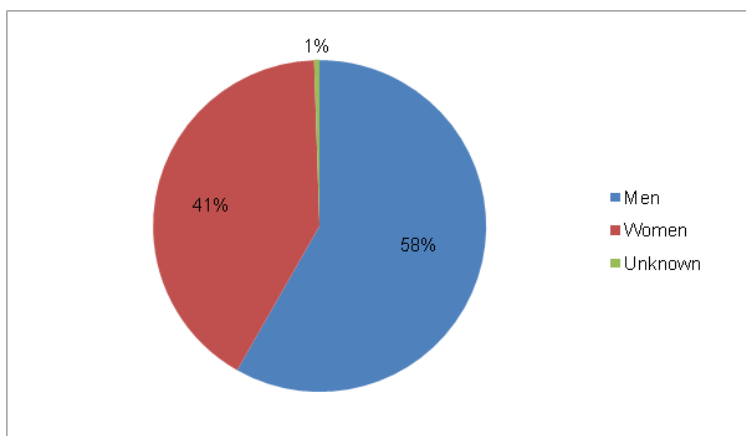
During 2012, most of the complaints were submitted by physical persons – a total of 381 complaints (81.4%). Legal persons submitted 81 complaints (17.3%), groups of persons submitted 4 complaints (0.9%), and state organs 2 complaints (0.4%). Among the legal persons submitting complaints, civil society organisations predominated, having submitted a total of 62 complaints (13.2%).

Graph: complainants



Of the overall number of complaints submitted by physical persons, 157 complaints were submitted by women (41.2%), and 222 (58.3%) by men, whereas in the case of two complaints the sex of the complainant is unknown (0.5%).

Graph: physical persons who submitted complaints

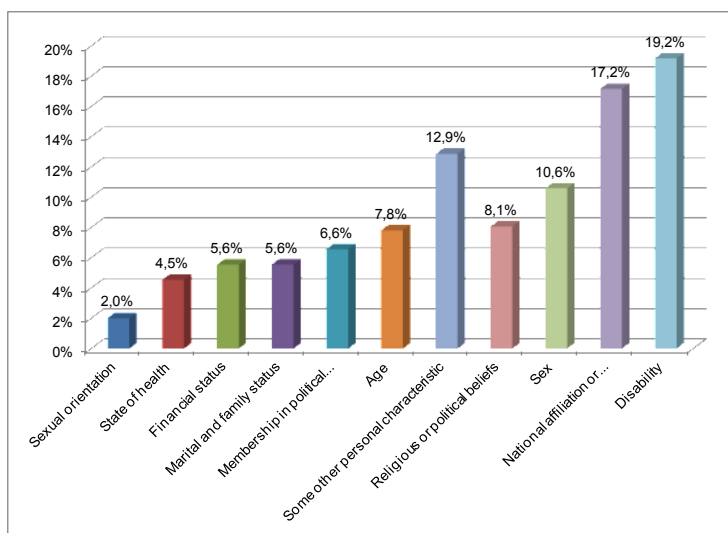


5.1.3. The grounds for complaints

The Law on Prohibiting Discrimination prescribes over twenty personal characteristics on the grounds of which discrimination is prohibited, but this list is not final, that is, the legislator left the possibility of another personal characteristic not expressly stated in the law constituting the grounds of discrimination. Discrimination, that is, discriminatory behaviour, refers to any unjustified differentiation or unequal treatment, or omission to act (exclusion, limitation or giving priority) in relation to individuals or groups, as well as members of their families or persons close to them, in an open or concealed manner, on the grounds of race, skin colour, ancestors, citizenship, national affiliation or ethnic origin, language, religious or political beliefs, sex, gender identity, sexual orientation, financial status, birth, genetic characteristics, state of health, disability, marital and family status, the status of being convicted, age, appearance, membership in political, trade union or other organisations, and other real or presumed personal characteristics (Article 2 paragraph 1 item 1).

In 2012, 76 complaints were submitted on the grounds of disability, 68 on the grounds of national affiliation or ethnic origin, 42 on the grounds of sex, 32 on the grounds of political and religious beliefs, 31 on the grounds of age, 26 on the grounds of membership in political, trade union or other organisations, 22 on the grounds of marital or family status, 22 on the grounds of financial status, 18 on the grounds of state of health, and 8 on the grounds of sexual orientation. A total of 145 complaints were lodged without stating the grounds for discrimination.

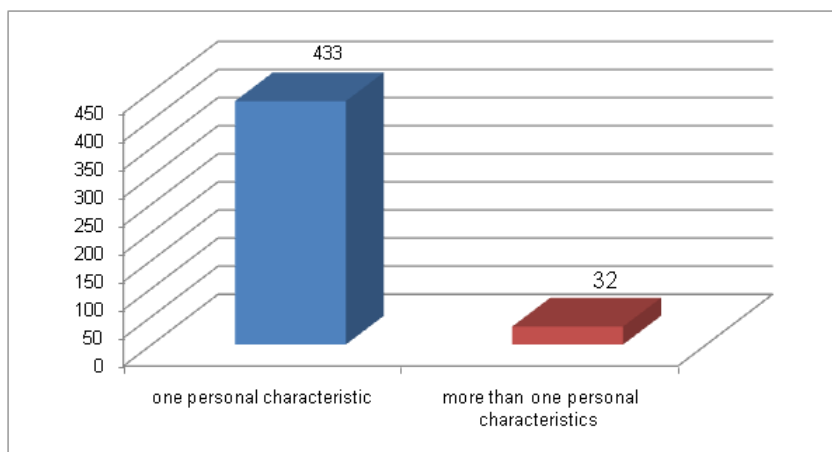
Graph: the grounds for discrimination



When submitting their complaints, the complainants state which personal characteristic of theirs constitutes the grounds for discrimination. The Commissioner for Protection of Equality may, in the course of acting upon a complaint, establish that the given personal characteristic is not the grounds for discrimination but something else. A wrongly stated personal characteristic or failure to state a personal characteristic is not a reason not to act upon a complaint if it is clear from the description of events which personal characteristic was the grounds for discrimination. It has already been mentioned that the Commissioner received 145 complaints wherein the requisite personal characteristic was not stated, and wherein the complainants mainly pointed to some other violations of rights and/or to unequal treatment that did not occur on the grounds of some personal characteristic of the complainant. This fact indicates that the citizens of Serbia are still insufficiently acquainted with the notion of discrimination, and that they very often think that they were discriminated against even in situations when the behaviour or act they point to is not connected with some personal characteristic.

In 433 complaints, one personal characteristic was stated as the grounds for discrimination, whereas in 32 complaints a number of personal characteristics were stated as the grounds for discrimination.

Graph: complaints in terms of number of grounds for discrimination



5.1.3.1. Complaints on account of discrimination based on national affiliation or ethnic origin

In the course of 2012, 68 complaints (17.2%) were submitted on account of discrimination on the grounds of national affiliation and ethnic origin.

The greatest number complaints was submitted on account of belonging to the Roma national minority (31), and a considerably lower number of them on account of belonging to other national minorities – Albanian (4), Macedonian (4), Bosniak (3), Croatian (3) and Hungarian (3); there were also complaints based on belonging to the Ukrainian, Montenegrin, Slovak, Bulgarian, Czech, Romanian and Wallachian minority. It is interesting to note that last year 15 complaints were submitted on account of discrimination on the grounds of Serbian national affiliation.

As was the case the year before, from the complaints submitted on account of discrimination on the grounds of national affiliation, it may be concluded that members of national minorities feel discriminated against in almost all the spheres of social relations, especially when it comes to procedures before public authority organs. Of the overall number of complaints lodged on these grounds, 19 of them pertained to procedures before public authority, and in the majority of the cases no discrimination was established.

Examples:

- *The complainants state that they are discriminated against by the Ministry of Finances of the Republic of Serbia, in view of the fact that in 1991 they submitted requests for getting back the ownership of land taken away from them on the basis of the Law on the Manner of and Conditions for Recognising the Right to Land and Return of the Land Which Became Socially Owned Based on the Agricultural Land Fund and Confiscation Due to Unfulfilled Obligations Pertaining to the Obligatory Buy-up of Agricultural Products ("The Official Gazette of the Republic of Serbia", nos. 18/91, 20/92 and 42/98), and*

that even after more than 20 years no enforceable decision was passed in relation to their requests. All the complainants were members of the Romanian national minority, and considered themselves discriminated against on the grounds of their national affiliation, for the majority of proceedings pertaining to the same factual and legal issue had ended with enforceable decisions as far back as the mid-1990's, and due to the fact that out of 118 unresolved cases pertaining to requests for return of land in the Municipality of Vršac, more than 70 featured families belonging to the Romanian national minority, even though only 10.8% of the inhabitants of the Municipality of Vršac are members of the Romanian national minority. After the procedure had been conducted, it was established that the complainants had not been discriminated against on the grounds of national affiliation.

- The National Council of the Hungarian national minority from Subotica submitted a complaint against the National Employment Service. It was stated in the complaint that, during the process of testing the psychophysical abilities of educators, teachers and other teaching staff, the National Employment Service did not provide the conditions that would be acceptable to members of the Hungarian national minority when being tested. The Commissioner's opinion was that the National Employment Service did not discriminate against members of the Hungarian national minority when testing their psychophysical ability for working with children and pupils, because the standardisation of psychological measurement instruments was outside her jurisdiction, for the Association of Psychologists of Serbia is in charge of this standardisation.

The position of members of the Roma national minority is still particularly worrying, as they are exposed to discrimination in all the spheres of social life. Even though the greatest number of complaints on account of national affiliation pertained to belonging to the Roma national minority, the number of such complaints is still low, considering the widespread nature of discrimination against this national minority.

Examples:

- The organisation P. lodged a complaint against the Secretariat for Social Welfare of the City Administration of B. on account of a contract of use of mobile housing units, concluded between the Secretariat for Social Welfare and the beneficiaries, displaced members of the Roma nationality, which stipulated, among other things, that the beneficiaries' obligations included polite behaviour towards the representatives of the Secretariat for Social Welfare, sending their children to school and active seeking of employment on the part of able-bodied beneficiaries, as well as putting up notices on housing unit rules, which differed from similar acts in housing units where the Roma were not accommodated in that they expressly referred to forbidden manners of conduct and contained a written warning forbidding the beneficiaries to let their guests spend the night in their housing units. It was established that these acts discriminated against the Roma beneficiaries of mobile housing units on the basis of their national affiliation, and it was recommended that the controversial provisions of the contract of use be amended, that the "housing unit rules" be changed and that the written warning be removed.
- The organisation R. C. M. from B. lodged a complaint against O. A. on account of an offensive "joke" which he posted on his Twitter profile, namely: "Gypsy business escort –

dogs following them while they go about collecting cardboard.” After acting upon the complaint, the Commissioner came up with the opinion that this text violated the dignity of members of the Roma national minority, thus being tantamount to an act of discrimination (disturbing and humiliating behaviour), and therefore issued an appropriate recommendation. The recommendation was followed, namely, on the premises of the institution of the Commissioner for Protection of Equality, a meeting was organised between representatives of R. C. M. from B., an organisation fighting for protection of the rights of the Roma national minority, and O. A., so that he could find out directly about the problems that members of the Roma community faced in their everyday lives and how they were affected by a text of this kind.

Of the overall number of complaints on account of discrimination on the grounds of national affiliation, 10 of them pertained to the sphere of labour relations and employment. The complainants stated that they were treated differently in relation to other employees because of their national affiliation, and there were also complaints wherein the complainants claimed that they had already been discriminated against during the employment procedure, that is, that they had not been employed due to being members of a national minority. Also, nine complaints were received which were lodged on account discrimination on the grounds of national affiliation in the sphere of education and professional training, and eight complaints pertaining to the sphere of public information and the media.

On account of discrimination on the grounds of belonging to the Roma national minority, the Commissioner issued a recommendation to the city of Niš, proposing measures to be undertaken for achieving equality. It was recommended that steps be taken in order to provide members of the Roma national minority who had been displaced from a settlement near “Bellville” in New Belgrade and relocated in a warehouse in Daničićeva Street in Niš, with housing conditions that would fulfil the international standards of housing in alternative housing of citizens who are relocated after being displaced from informal settlements. It was also recommended that the process of providing housing and integration of displaced members of the Roma national minority be carried out in cooperation with and with the active participation of displaced persons, observing their needs and their right to participate in decision-making pertaining to all issues that are of concern to them, which presupposes the manner of relocation and social integration, in keeping with the international standards and guidelines for displacing persons from informal settlements. Unfortunately, despite professing their willingness to act in accordance with the recommendation, the city authorities did not act upon the Commissioner’s recommendation.

5.1.3.2. Complaints on account of discrimination based on disability

The greatest number of complaints received in 2012 pertained to discrimination on the grounds of disability – 76 (19.2%). From these complaints, it can be concluded that discrimination of persons with disability is still encountered in almost all the spheres of social life.

Twenty complaints were submitted on account of discrimination on the grounds of disability in the course of providing public services or when using public buildings, 15 complaints pertained to procedures conducted before public authority organs, while 14 complaints pertained to discrimination on the grounds of disability in the sphere of labour and employment.

A smaller number of complaints was received in the spheres of health care and social welfare, as well as pension and disability insurance.

Examples:

- *The complainant was a person with disability who uses a wheelchair and suffers from quadriplegia, on account of which he cannot sign his name but signs documents using a facsimile. The complainant stated that in the City Administration of B. he was not allowed to have his facsimile certified, but was advised to go to a court of law for that purpose, and while there, it was only after the intervention of the head of the signature certification department that he was allowed to have his facsimile certified. Two separate procedures were conducted on the basis of this complaint: against the City Administration of B., of which it was established that it had committed an act of discrimination – a violation of the principle of equal rights and obligations of persons with disability, and against the court in question, of which it was not established whether it discriminated against persons with disability. After the said procedures, these state organs were advised to enable all persons with disability who cannot write, and therefore use a facsimile, to do so in place of signing in their own hand without any obstructions.*
- *A complainant stated that he was discriminated against on the grounds of disability when he applied to be entered in the register of the National Employment Service, for to begin with, he was not provided with an interpreter for sign language during the application procedure and the interview, following which he was exposed to offensive behaviour. During the course of the procedure it was established that the staff of the branch office of the National Employment Service in B. behaved towards the complainant in a humiliating manner when he applied to be registered with the National Employment Service, and that such behaviour on their part was caused by the fact that the applicant is a person with disability who requires an interpreter for sign language. Along with her opinion on the matter, the Commissioner issued a recommendation stating that the National Employment Service should forward a written apology to M. G. on account of harassment and humiliating treatment from the staff, and should undertake all the necessary measures to ensure that, when dealing with all persons with disability when they use the services of the National Employment Service, they are treated in a way that recognises their individual specific characteristics and prevents any form of indirect or direct discrimination.*

Due to discrimination on the grounds of disability, measures for achieving equality were recommended to the public company “The Directorate for Building of the City of Niš”; it was recommended that all the newly built and reconstructed public surfaces in the city should be accessible to persons with disability, in accordance with the prescribed standards of accessibility. This recommendation has not yet been carried out entirely.

5.1.3.3. Complaints on account of discrimination based on sex and gender identity

Due to discrimination on the grounds of sex, 42 complaints were received, and in the case of discrimination on the grounds of gender identity, 3 complaints (11%) were received. The greatest number of complaints in this area was submitted on account of discrimination in the

sphere of labour and employment (20), 7 complaints were submitted due to discrimination in the course of procedures before public authority organs, and 5 complaints were lodged on account of discrimination in the sphere of public information and the media. Due to discrimination on the grounds of sex in the sphere of labour relations and employment, 2 lawsuits were initiated before the authorised courts.

Examples:

- *In a complaint lodged against the kindergarten Č. B., it was stated that towards the end of December 2011, a New Year's performance was organised on the premises of the said kindergarten, wherein children acted, and wherein a part of the acting supported prejudices and social models based on stereotyped roles of the sexes. After the procedure of acting upon the complaint, it was established that an act of discrimination on the grounds of sex had been committed, and the kindergarten was recommended to organise workshops, that is, educational programmes for children dealing with the theme of eradication of prejudices based on stereotyped roles of the sexes for the purpose of promoting the equality of the sexes, and to organise training and professional advancement courses for the staff and outside collaborators working with children, focusing on the theme of prohibition of discrimination, so as to achieve a greater degree of sensitivity when it comes to recognising discrimination.*
- *A complainant stated that the Faculty of Law rejected her request to "correct" her graduation certificate on account of the change of her name following a change of sex from male to female, which happened after the completion of her studies and the issuance of the graduation certificate, and to issue a new graduation certificate stating her new name. Following the procedure of acting upon the complaint, the Commissioner for Protection of Equality gave her opinion to the effect that, by refusing to issue a new graduation certificate, which would be in the complainant's new name on account of her change of sex, the Faculty of Law committed an indirect act of discrimination on the grounds of sex. Along with her opinion, the Commissioner issued a recommendation to the Faculty proposing that it undertake all the necessary measures to enable the complainant and other persons who, after graduating, changed their names on account of a change of sex, to have a new graduation certificate issued upon personal request, as well as other public documents which the faculty is authorised to issue, wherein their new names will be stated, thus observing the domestic and international standards in the sphere of protection of transsexual persons from all forms of discrimination. The Faculty of law acted upon the recommendation and issued a new graduation certificate to the complainant, which was made out in her new name. At the same time, this complaint prompted the Commissioner, on the basis of the authority conferred upon her by the provisions of Article 33 paragraph 9 of the Law on Prohibiting Discrimination, to address a recommendation to all universities in Serbia to adopt measures aimed at establishing equal treatment of persons who changed their names after graduation due to a change of sex, so that all faculties could issue new graduation certificates to transsexual persons upon personal request, as well as other public documents that they are authorised to issue, wherein their new names will be stated, and could do so in a quick, transparent and accessible manner, observing the domestic and international standards in the sphere of protection of transsexual persons from all forms of discrimination.*

- *A complainant stated that she was transferred to a lower-ranked post that did not fit her qualifications immediately after returning from a sick leave taken for the purpose of tending to her child, while the post she had previously occupied was not abolished. Following the procedure of acting upon the complaint, it was established that the employer, by transferring the complainant to a lower-ranked post, committed an act of indirect discrimination on the grounds of sex. The employer was recommended to undertake all the necessary measures to eliminate the discriminatory treatment of the said employee.*

During 2012, the Commissioner issued several recommendations proposing measures to be undertaken for the purpose of achieving equality on account of discrimination on the grounds of sex: to the Republican Fund for Health Care Insurance and to the Ministry of Health Care, proposing that they undertake measures to ensure that women who are planning to start a family, pregnant women and child-bearing women, for a period of up to 12 months after childbirth, should be able to exercise their right to health care insurance on these grounds, and in situations when they have health care insurance on some other grounds, but do not exercise it in practice because the party obliged to pay compulsory contribution for health care insurance does not fulfil this obligation; a recommendation to 19 cities and municipalities in Serbia⁴⁸ to undertake measures, within the framework of their jurisdiction and the available budget funds, in order to provide financial support for the work of specialised organisations of civil society from their respective regions which provide help and support to women suffering violence in the family/from their partners; a recommendation to the municipality of Prijepolje proposing to undertake all the necessary measures for achieving equality, so that, on the basis of decisions on establishing local communities, their statutes and other acts, the equality of the sexes and the equality of opportunity could be ensured in local community organs and in the procedures for electing members of the said organs, in accordance with the constitutional guarantee of equality of men and women, and with the obligation of all public authority organs to develop an active policy of equal opportunity in all the spheres of social life, which presupposes participation of both sexes on an equal footing in all the phases of planning, decision-making and implementing decisions that influence the position of men and women. To the above, we should add two recommendations proposing measures for achieving equality addressed to the National Assembly of the Republic of Serbia (see section 6.2).

5.1.3.4. Complaints on account of discrimination based on marital and family status

During the course of 2012, a total of 22 complaints on account of discrimination on the grounds of marital and family status were received.

Example:

- *A complainant went shopping with her husband and her baby, and at the entrance to the retail store "M" they were stopped by a staff member who informed them that they could not enter the store with a pram. The complainant stated that she asked the staff member at the entrance if they had any prams of their own, and the reply she received was that they did not. After that, she and her husband left that retail store, for they were prevented*

⁴⁸ Niš, Kruševac, Leskovac, Kragujevac, Kraljevo, Vlasotince, Vranje, Kikinda, Novi Bečej, Smederevska Palanka, Novi Sad, Vršac, Novi Pazar, Bačka Topola, Savski venac, Stari grad, New Belgrade, Vračar and Palilula.

from doing any shopping under safe circumstances for their baby. It was established that, through its General Conditions of Sale for the Buyers' Shopping and Access, the company "M" from B. did prescribe a ban on entering their retail stores with a pram, while not providing any other way for buyers who arrive in their retail stores with their children to do so, whereby this category of buyers was discriminated against when it came to the possibility of using the company's retail services on the grounds of their family status, and a recommendation was issued accordingly, proposing to this company to ensure unobstructed and safe access to their retail stores for customers who arrive with their children.

5.1.3.5. Complaints on account of discrimination based on financial status

A total of 22 complaints due to discrimination on the grounds of financial status were received, of which 4 each pertain to procedures before public authority organs, labour relations and the employment procedure, the rest pertaining to education and professional training. In these complaints, financial status was claimed to be the grounds for discrimination, for the most part along with some other grounds for discrimination. The complainants state that certain rights were denied to them precisely on account of their bad financial status, but in the course of acting upon these complaints, no evidence could be found to support these claims.

5.1.3.6. Complaints on account of discrimination based on age

A total of 31 complaints due to discrimination on the grounds of age were received. The majority of them pertained to the sphere of labour and employment, and considerably fewer pertained to the sphere of health care and social welfare.

Example:

- *A complainant stated that the Rules of Procedure for Medicines That Are Prescribed and Issued at the Expense of the Obligatory Health Care Insurance Fund contain certain medicines which are subject to prescription limitations in connection with the age of the insured person. Namely, persons suffering from metastatic prostate cancer above 75 years of age, as well as women suffering from breast cancer above 40 years of age, cannot obtain the said medicines for the purpose of medicinal castration at the expense of the Obligatory Health Care Insurance Fund, but must procure them at their own expense. The procedure of acting upon this complaint is still ongoing.*

The Commissioner also issued a recommendation proposing to the General Hospital in Šabac to change its Rules of Procedure Pertaining to Employment for the purpose of achieving equality, specifically, the section prescribing the criteria and the points-awarding scheme pertaining to the candidates' age.

In addition to the above, a recommendation was sent to the addresses of 12 Internet portals that publish job advertisements, suggesting that they should not publish job advertisements that contain discriminatory conditions pertaining, among other things, to the candidates' age, except in situations when such an advertisement pertains to a job whose nature is such or the work is done under such conditions that a personal characteristic constitutes a real and decisive precondition for performing the job, and if the objective to be achieved thus is justified.

5.1.3.7. Complaints on account of discrimination based on membership in political, trade union or other organisations

During 2012, 26 complaints due to discrimination on the grounds of membership in political, trade union or other organisations were received, of which 18 pertained to labour relations and employment.

Examples:

- *A complainant stated that he was a member of a trade union board, but the employer dismissed seven members of that trade union board by activating a pre-signed mutual-agreement termination of employment contract. The court established that the dismissal was unlawful, and that it was caused by the fact that the complainant was a trade union representative. After the completion of the court proceedings and return to work, the employer did not enable the complainant to work, but continually handed him certificates of being sent home. In the course of the procedure conducted before the Commissioner for Protection of Equality, it was established that the complainant was denied the opportunity to work in his post over a long period of time and to fulfil the work obligations for which he received his salary, so that he was thus placed in an unequal position compared to all the other employees who were in a position of being able to get financial recompense for the work they did. The employer was sent a recommendation proposing to him that he should enable the complainant to perform his work in his former post, under equal conditions as the other employees.*
- *A complainant stated that the city of Š. discriminated against her because she was unable to exercise her right to subsidised public utility bills for persons with disability, prescribed by a decision passed by the city, for the sole reason that she was not a member of a certain association of persons with disability. Namely, according to the decisions passed by the city, only members of certain associations of persons with disability may exercise that right. It was established that this constitutes a case of discrimination of persons with disability on the grounds of membership in an association, and the city was issued a recommendation proposing to undertake appropriate measures in order to enable all persons with disability to exercise the right to subsidised public utility bills under equal conditions, regardless of whether they are members of an association of persons with disability.*

5.1.3.8. Complaints on account of discrimination based on religious and political beliefs

A total of 32 complaints were submitted due to discrimination on the grounds of religious or political beliefs in various spheres of social life. It is interesting to note that 13 complaints were submitted by a civil society organisation, and that they all pertained to discrimination of atheists. In the case of two complaints, the Commissioner's opinion was that no act of discrimination had been committed, whereas in the case of other complaints submitted by this organisation it was evident that there was no violation of rights in the sense of the Law on Prohibiting Discrimination, for the complainants pointed to a violation of the principle of secularity.

Examples:

- A complaint lodged against the Health Care Centre K. on account of the building of a church on the plot of land owned by the hospital. The complainants are of the opinion that this constitutes an act of discrimination of all the citizens of K. who are not Orthodox Christians, and who are either employed at the Health Care Centre or are treated there. It is stated in the complaint that in this way the Health Care Centre “is defined as Orthodox, thus establishing one religion as obligatory to it, thereby directly offending all the employees and patients” and according privileges to Orthodox citizens.
- A complaint lodged against the City Council of K. on account of building an Orthodox cross at the entrance to K. The complainants are of the opinion that this constitutes an act of discrimination of all the citizens of K. who are not Orthodox believers, for in this way the city of K. is defined as an Orthodox city, establishing one religion as the state or obligatory religion.
- A complaint against the councillors of the City Council of N. S., on account of paying an official visit to a church dignitary. The complainants are of the opinion that, in doing so, the councillors committed an act of discrimination of all people who are not Orthodox believers.

5.1.3.9. Complaints on account of discrimination based on sexual orientation

In 2012, 8 complaints were submitted due to discrimination on the grounds of sexual orientation, and only in one of those cases was discrimination actually established. Two procedures are still ongoing, whereas 6 were completed in 2012. Such a small number of complaints due to discrimination on the grounds of sexual orientation points to the fact that this type of discrimination is still not sufficiently reported, especially in view of the results of the survey on awareness of, attitudes to and perception of discrimination in Serbia conducted in 2012.

Example:

- The organisation L. submitted a complaint against Dr M. B., Professor of a Faculty of “M.” University in B., wherein it is stated that Prof. M. B., while lecturing to students, stated that “homosexuality is an illness, and that this is how it should be registered, just like stomach ulcer, and that homosexuality is cured by a change of sex”. Following the procedure of acting upon the complaint, the Commissioner for Protection of Equality gave her opinion that, by talking about homosexuality and mentioning in the same context “illness”, “cure” and “a change of sex”, Prof. M. B. brought into question the validity of the decision on the basis of which it was removed from the list of illnesses, whereby he contributed to creating humiliating and offensive surroundings in relation to LGBT persons. Along with her opinion, the Commissioner issued a recommendation, suggesting that Prof. M. B. should take care in the future that what he tells his students about homosexuality should be quite clear and unequivocal, without leaving any possibility for misunderstanding the meaning of his words, bearing in mind that certain incorrect statements may contribute to creating and maintaining stereotypes, prejudices and intolerance directed against LGBT persons, hurt their dignity and create humiliating and offensive surroundings in relation to them.

5.1.3.10. Complaints on account of discrimination based on other personal characteristics

In the course of 2012, there were no complaints due to discrimination on the grounds of genetic peculiarities, whereas a total of 17 complaints were lodged on account of discrimination on the grounds of previous conviction(s), ancestors, birth, race, language, appearance, skin colour and citizenship.

Example:

- *The Commission for selecting candidates for professional training at the Centre for Basic Police Training of the Ministry of the Interior of the Republic of Serbia rejected the application of M. S. for entry of candidates from Classes VII and VIII in the Centre for Basic Police Training because, as stated, he did not prove that he did not have a dual citizenship. The application submitted by M. S. was rejected, allegedly for his failure to comply with the requirements pertaining to citizenship, but the decision was not based on an established fact or piece of evidence, but was made on the basis of the assumption that M. S. had a dual citizenship, for he was entered in the Register of Yugoslav citizens only in 1998. By rejecting his application, the Commission committed an act of discrimination on the grounds of a presumed personal characteristic of M. S. – a dual citizenship.*

In 31 of the complaints, some personal characteristic was referred to as the grounds for discrimination, even though it is not expressly mentioned in the text of the Law on Prohibiting Discrimination (pensioner, civil servant, displaced person, asylum seeker, etc.).

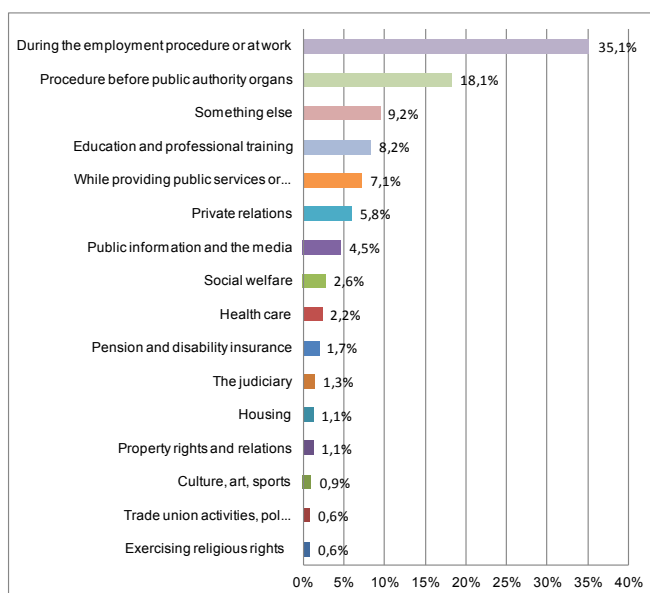
Example:

- *In the course of the procedure conducted acting upon a complaint submitted by J. M., it was established that, based on the decisions of the Mayor of the city of B., authorising a quarterly payment of financial assistance in the amount of 4,000.00 dinars to pensioners who reside on the territory of the city of B., and whose pension is below the amount of 13,000.00 dinars per month, the right to financial assistance was in effect recognised only to those pensioners who earned their pension by working in the Republic of Serbia only, which was tantamount to discriminating against those pensioners whose years of service were partly spent in other states, and who were in the same situation, that is, resided on the territory of the city of B. and had overall pension earnings in the amount of below 13,000.00 dinars per month.*

5.1.4. Social relations areas that complaints pertain to

The complaints received in the course of 2012 pertained to the sphere of labour relations and employment (35.1%), procedures conducted before public authority organs (18.1%), areas not expressly mentioned in the Law on Prohibiting Discrimination (9.2%), education and professional training (8.2%), providing public services and using public buildings and surfaces (7.1%), private relations (5.8%), public information and the media (4.5%), and to other areas of social relations (individual percentage of complaints lower than 3%).

Graph: the sphere of discrimination



5.1.4.1. The sphere of labour and employment

As in 2011, during 2012 the greatest number of complaints received had to do with discrimination in the sphere of labour relations and the employment procedure. In this area, complaints were submitted pertaining to almost all personal characteristics mentioned in the Law on Prohibiting Discrimination. A total of 163 complaints (35,1%) were received, of which 80 were submitted by men, 73 by women, while 2 complaints were submitted in electronic form, without stating the sex of the complainant, and 8 complaints were submitted by legal persons / organisations.

The analysis of those complaints shows that in the sphere of labour and employment there exist many problems with which the citizens are faced, and that it is women, especially pregnant women and child-bearing women who are most exposed to discrimination, followed by persons with disability and old persons.

Example:

- *A complainant is of the opinion that her employer discriminates against her on the grounds of sex, marital and family status, in view of the fact that, after returning to work from a sick leave taken for the purpose of tending to her child, she was transferred to a lower-ranked post. It was requested from the employer to forward a list of all female employees who had taken a maternity leave in the past three years, along with information on which posts they occupied before taking the maternity leave or sick leave for the purpose of tending to their children, and on what posts they were given after returning to work, and also what posts they occupied six months after returning to work. On the basis of insight into the documentation submitted, it was established that in the last three years 89 female em-*

employees took this kind of leave, of whom 31 were still on maternity leave. Taking into consideration only the position of those female employees who returned to their posts after the maternity leave, it was concluded that, of the overall number of female employees (58), 14 were transferred to lower-ranked posts after their return from the maternity leave, which makes 24.14%. To this number we may add 18 female employees who, before taking their maternity leaves, occupied the lowest-ranked posts (cashiers, cleaning ladies and coffee makers), so that they could not be transferred to a lower-ranked post after returning from their maternity leaves. On the basis of this complaint and the data submitted, a strategic lawsuit has been initiated.

However, the majority of complaints from the sphere of labour relations were unfounded from the perspective of the Law on Prohibiting Discrimination. This fact indicates that the citizens are particularly sensitive to situations and events connected with exercising their rights pertaining to employment, and that in this area they are more often prepared to demand that their rights be protected. On the other hand, in this area, too, it turned out that there was insufficient knowledge of the actual notion of discrimination, that is, that many complainants considered each case of unequal treatment to constitute discrimination. In a great many procedures wherein no violation of rights could be established in the sense of the Law on Prohibiting Discrimination, the complainants were informed about the possibilities that they had at their disposal on the basis of regulations dealing with labour relations and prevention of harassment at work, that is, they were directed to address other authorised organs.

Examples:

- A complainant submitted a complaint against an ET school in P. and the principal on account of discrimination on the grounds of disability during the employment procedure. The complainant stated that she applied for a job, that she had the requisite qualifications, but that the principal selected another applicant. The complainant is of the opinion that, as a person with disability, she takes priority when it comes to employment, that is, that the principal is obliged, on the basis of the Law on Professional Rehabilitation and Employment of Persons with Disability, to employ her, for she is a person with disability.
- A group of employees lodged a complaint against the NI company, stating that they worked in the company's plant, only not on the basis of a contract of employment but on the basis of a contract of service concluded with other service firms. Other employees, who concluded a contract of employment with NI, work in the same kind of posts as the complainants, but earn considerably more than the complainants. The complainants are of the opinion that this constitutes an act of discrimination, that is, a violation of the right to equal pay for equal work of those who are not employed by NI, compared to those who are NI employees.

Due to discrimination during the employment procedure, that is, on the occasion of advertising vacancies, measures for achieving equality were recommended and sent to the addresses of 12 Internet portals that publish job advertisements. It was recommended to them not to publish job advertisements that contain discriminatory employment conditions, namely, those pertaining to sex, age, appearance of the candidate, or to some other personal characteristic. An exception to this are situations when a job advertisement refers to a job whose

nature is such, or which is performed under such circumstances, that a personal characteristic constitutes a real and decisive precondition for job performance, provided that the objective to be achieved is justified. Also, it was recommended to them to undertake all the necessary measures to prevent any possibility of publishing job advertisements which, contrary to the law, contain discriminatory conditions for employment.

5.1.4.2. The conduct of public authorities

Due to discrimination in the course of procedures conducted before public authority organs, a total of 18.1% complaints were submitted. The complaints were most often submitted against local government units and cities, ministries and health care institutions.

Examples:

- *The Association of Persons with Disability lodged a complaint against two first-instance medical commissions and one second-instance medical commission authorised to establish the bodily and mental ability to drive a motor vehicle. In the complaint, it is stated that two persons with disability addressed the authorised medical commissions in their places of residence for the purpose of obtaining certificates of bodily and mental ability to drive a motor vehicle. Both persons received from their respective commissions certificates stating that they were unable to drive a specially adapted motor vehicle. After this, both persons addressed a first-instance medical commission in another city, not their place of residence, where they were issued certificates of being able to drive a specially adapted motor vehicle. As these two persons received two contrary medical certificates from two different first-instance medical commissions, a second-instance medical commission passed the final decision in both cases by proclaiming both persons permanently incapable of driving a motor vehicle. In the procedure conducted acting upon the complaint, it was established that the different conduct of medical commissions constitutes an act of discrimination against persons with disability, and the medical commissions were issued a recommendation suggesting to them to unify their practice when it comes to issuing medical certificates establishing the bodily and mental ability of a person with disability to drive a motor vehicle, and to bear in mind the achievements made by modern assistive technologies when issuing such certificates.*
- *The Council of the Municipality of Svrlijig passed a decision (no. 400-136/2011-01, of 15th September 2011) on financing married couples, which prescribed the right of married couples to one-off financial assistance to be paid to the spouses in an equal amount after the contraction of marriage, namely, in the amount of 100,000 dinars, and in the case of spouses living in a village, in the amount of 150,000 dinars. By this decision, the Council of the Municipality of Svrlijig violated the principle of equal rights and obligations, thereby committing an act of discrimination against certain categories of citizens of the Municipality of Svrlijig on the grounds of their personal characteristics – their place of residence and marital status. It was recommended to the Municipality of Svrlijig to eliminate the conditions that violated the principle of equality by withholding the right to financial assistance.*

To all courts of general jurisdiction in the Republic of Serbia, a recommendation was sent proposing that they undertake all the necessary measures, in accordance with their legal

authority, to ensure that the proceedings in discrimination-related lawsuits, which are conducted on the basis of the provisions of the Law on Prohibiting Discrimination and other anti-discriminatory regulations, are carried out efficiently and completed as soon as possible, in accordance with Article 41 paragraph 3 of the Law on Prohibiting Discrimination, which prescribes that these proceedings be classified as urgent.

To the National Assembly of Serbia, two recommendations were sent, proposing measures for achieving equality: 1) the Assembly was recommended to undertake all the necessary measures in accordance with its authority in order to ensure that all the delegations of the National Assembly of the Republic of Serbia in international institutions should have a minimum of 30% persons belonging to the less represented sex, in keeping with Article 38 paragraph 2 of the Law on the Equality of the Sexes, and 2) to undertake all the necessary measures to ensure that all the parliamentary boards should have a balanced proportion of persons belonging to the less represented sex, in keeping with the constitutional guarantee of equality of men and women, and the duty of state organs to develop the policy of equal opportunity.

A chronological overview of opinions and recommendations issued to public authority organs, passed on the basis of the authority conferred by the provisions of Article 33 paragraph 1 item 9 of the Law on prohibiting Discrimination, is presented in the section entitled *Recommendations for measures for achieving equality*.

5.1.4.3. Providing services or using public premises and surfaces

In 2012, 33 complaints were submitted in the area of providing services or using public buildings and surfaces. The complaints pertaining to the use of public buildings and surfaces almost solely had to do with discrimination on the grounds of disability, whereas in the case of providing services, other personal characteristics are also mentioned as the grounds for discrimination.

Examples:

- A HR organisation from N., on behalf of and with the agreement of several associations of persons with disability, submitted complaints against the city of N. on account of non-removal, that is, non-adjustment of curbs in four streets in N. It was established that the adjustment of curbs falls within the jurisdiction of the Directorate for Building from N., so that a unified procedure was conducted and the Commissioner issued the opinion that this constituted an act of discrimination. It was recommended to the Directorate for Building from N. to ensure the accessibility of these streets, so that all persons with disability who use wheelchairs for moving about could move across and use public surfaces without any obstructions.
- A group of complainants submitted a complaint against a decision of the City Council of S. prescribing free public transportation for citizens above 65 years of age living on the territory of the city of S., stating that in, implementing this decision, the public company "S. M.", being in charge of its implementation, withheld the right to public transportation from citizens above 65 years of age who live in suburban settlements by deciding that free public transportation belonged only to citizens residing in urban settlements. It was established that there was no discrimination against citizens of S. on the grounds of their

place of residence, because the decision prescribed that all persons fulfilling the conditions specified in it had the right to free public transportation, irrespective of whether they lived in an urban or a suburban settlement. This decision does not place those citizens of the city of S. who reside in its suburban settlements in an unequal position, for the place of residence (be it suburban or urban) does not feature among the preconditions for exercising the right to free public transportation.

5.1.4.4. Public information and the media

On account of discrimination in the sphere of public information and the media, a total of 21 complaints were submitted. The complaints mainly pertained to texts published in the printed media, and several of them were submitted on account of announcements posted on Internet sites and social networks.

Examples:

- *In the authorial text entitled “Only Thieves Are Zealous”, published in the daily paper “P”, the author expressed ideas and views that were disturbing, humiliating and constituted a violation of the dignity of members of the Roma national minority, thus creating hostile, humiliating and offensive surroundings. It was recommended to the daily paper “P” to issue a public apology to members of the Roma national minority on account of the content of the text “Only Thieves Are Zealous”.*
- *It was recommended to the daily paper “B.” not to publish any longer texts which spoke disparagingly of women and supported prejudices and social models based on stereotyped roles of the sexes, and to start contributing, through the selection of the texts it publishes, to a change of models, customs and practices resulting in stereotypes, prejudices and discrimination against women.*

5.1.4.5. Education and professional training

During 2012, 38 complaints were submitted on account of discrimination in the sphere of education and professional training. These complaints point to a great number of problems in the sphere of education, especially in connection with children from marginalised groups (Roma children, children with developmental problems). Several complaints pertained to the discrimination of Roma children at school, and also to the segregation of Roma children in primary schools and in one pre-school institution. It is very worrying that open segregation of children in education exists in some institutions, such as the primary school “Aleksandar Stojanović Leso” and the pre-school institution “Mladost” from Novi Pazar – Deževa, the village of Blaževo-Vržogrnici”, where Roma children from displaced families are kept in separate classes located in a separate building, whereas in some other schools it is a systemic problem.

Example:

- *In one complaint it was stated that over 90% of the pupils of the primary school “V. K.” from N. were Roma children, and that there were only two or three non-Roma children per one generation of pupils. Even though no actual discrimination of Roma children was established, it was recommended to the Administration for Education, Culture and*

Sports of the city of N. to embark, in cooperation with the primary school "V. K.", the Ministry of Education, Science and Technological Development, as well as civil society representatives, on developing an all-encompassing plan of measures whose realisation will contribute to overcoming the problem of segregation, that is, the excessive number of Roma children, compared to the number of other children in the primary school "V. K." in N., in keeping with the Strategy for Improving the Position of the Roma in the Republic of Serbia. Through the implementation of such a plan of measures, the situation in the primary school "V. K." would change on a long-term basis, and the city of N. would become a positive example that other cities and municipalities could follow.

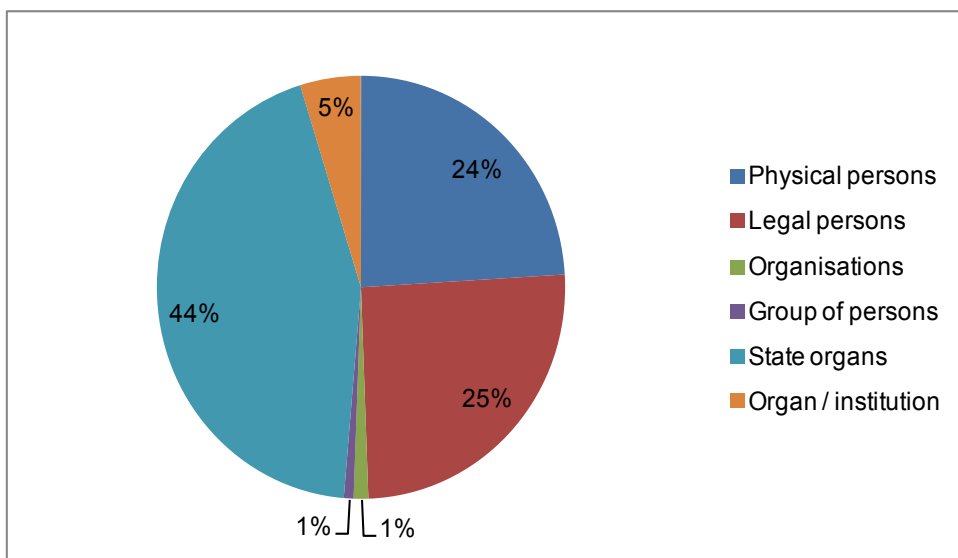
5.1.4.6. Other areas

In other areas, fewer complaints were submitted: private relations (27), social insurance (12), health care (10), pension and disability insurance (8), the judiciary (6), housing (5), property rights and relations (5), culture, art and sports (4), activities in trade unions, political parties, non-governmental and other organisations (3) and exercising religious rights (3).

5.1.5. Against whom complaints are lodged

In 2012 as well, the greatest number of complaints were lodged against state organs – 228 (43.8%), followed by those lodged against legal persons – 132 (25.4%), physical persons – 125 (24%) and organs and institutions – 25. In 421 complaints, one person was designated as a discriminator, whereas in 44 complaints more than one person were designated as discriminators.

Graph: against whom complaints are lodged

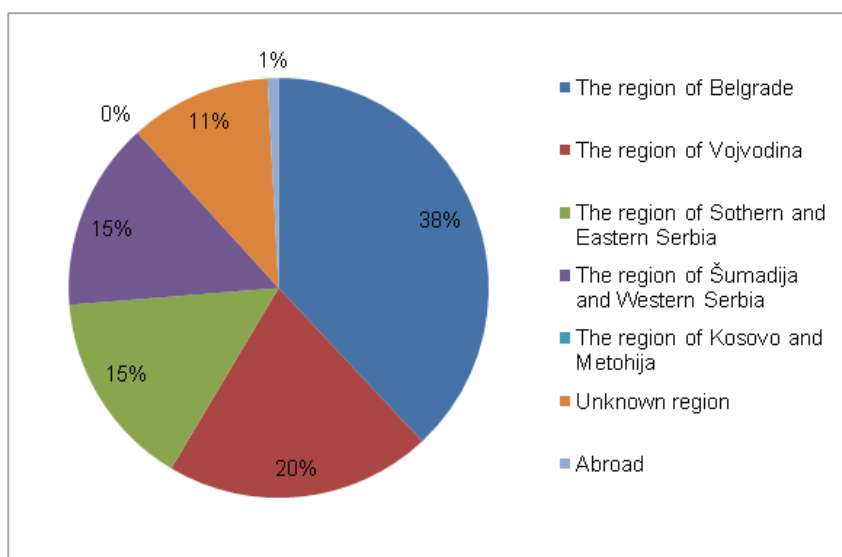


5.1.6. The number of complaints per region

The greatest number of complaints are still lodged by persons residing in Belgrade and in suburban settlements around Belgrade (38%), followed by the region of Vojvodina (20.5%). This is an indicator that the institution of the Commissioner for Protection of Equality is still most visible in Belgrade and its environs, and therefore, in 2013 we shall continue the activities that are to contribute to this institution becoming more accessible, recognisable and visible on the entire territory of Serbia.

If funds and adequate support of state organs are provided, we shall start opening regional centres. The experiences of similar independent bodies for protection of equality in the region, for example, the Bulgarian Commission for Protection from Discrimination, show that the opening of regional centres gave a new impetus to struggle against discrimination and contributed to the realisation of the mission of independent bodies in the sphere of prevention and suppression of discrimination.

Graph: complaints per region



5.1.7. Outcomes of acting upon complaints

In the section of the report that deals with acting upon complaints, we review the entire procedure of acting upon complaints before the Commissioner for Protection of Equality in more detail. As is stated there, what should be done after receiving a complaint is investigate whether the complaint contains all the necessary elements for acting upon it. If a complaint is incomplete, incomprehensible or has shortcomings which prevent acting upon it, the complainant is sent a request demanding that he/she eliminate the shortcomings, detailing the shortcomings and showing the ways of eliminating them. The complaint is rejected if the complainant fails to eliminate the shortcomings within the stipulated deadline, or if the Commis-

sioner for Protection of Equality establishes that she is not authorised to decide on the violation of rights to which the complainant points.

The provisions of Article 36 of the Law on Prohibiting Discrimination prescribe that the Commissioner shall act upon a complaint if no proceedings before a court of law have been initiated in the same matter or if the proceedings have not been completed with an enforceable decision being passed. The Commissioner shall not act upon a complaint if it is evident that no violation of rights that the complainant points to has actually occurred, if the same matter has been dealt with already and no fresh evidence is forthcoming, and if it is established that, due to the passage of time from the moment of violation of rights, it is impossible to achieve the objective of acting upon the complaint.

In 2012, there were a total of 249 complaints that were not acted upon, for the following reasons: it was obvious that there was no violation of rights of the kind that the complainant referred to (199), proceedings before a court of law had already been initiated or brought to a close (38), the Commissioner had already acted upon the complaint, and no fresh evidence was forthcoming, and (11) due to the fact that, on account of the passage of time, the objective of acting upon the complaint could not be achieved (1).

Example:

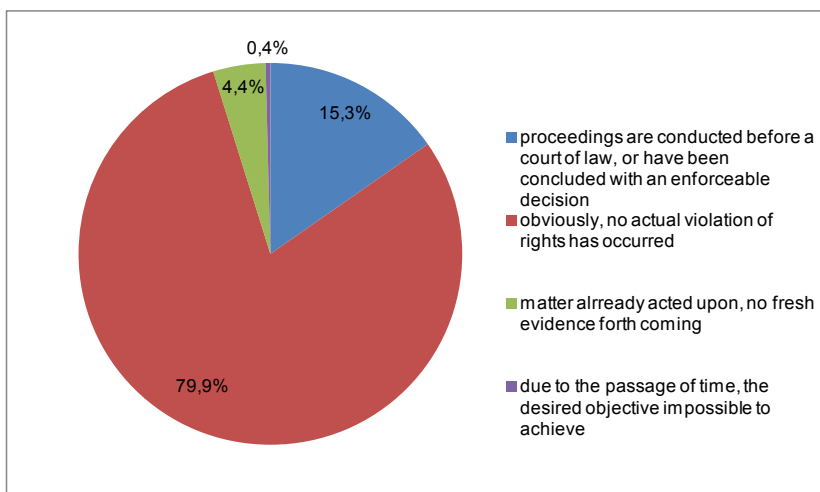
- *A complainant states that, in the course of 2009, his immediate superior at work kept insulting him on the grounds of national affiliation, marital and family status, as well as health status. This is a case where, due to the passage of time since the moment of the violation of rights, it was not possible to achieve the desired objective of acting upon the complaint.*

In the majority of the cases, the reason for not acting upon a complaint was a lack of particular personal characteristic or a lack of a causal connection between the personal characteristic in question and the act pointed to as an instance of discrimination.

Examples:

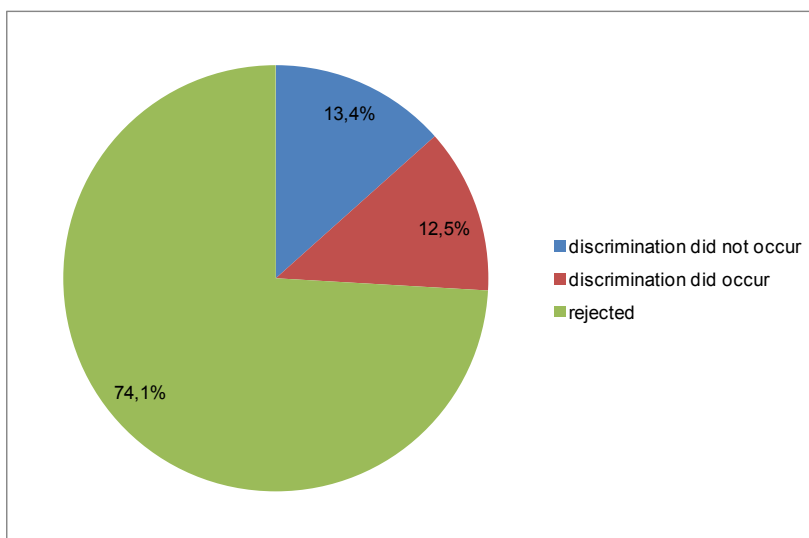
- *The parents of a primary school pupil submitted a complaint because their children's teacher had been replaced, and it was their opinion that their children had been discriminated against in this way.*
- *A complainant considers himself to have been discriminated against, for in the course of nine months no steps have been taken in the court proceedings conducted against him.*
- *A complainant considers himself discriminated against on the grounds of being a Serb, for he gets his public utility bills printed in Latin script.*

Graph: complaints not acted upon



A total of 216 complaints were acted upon, of which 160 complaints were rejected, 29 procedures resulted in the opinion that no actual discrimination occurred, whereas in 27 cases discrimination was established and an appropriate recommendation was issued.

Graph: complaints that were acted upon



Of the overall number of complaints received in 2012, in the majority of the cases the Commissioner's recommendations were acted upon, and in 6 cases the discriminators failed to act on the recommendations issued by the Commissioner for Protection of Equality.

5.2. Lawsuits initiated by the Commissioner

One of the most important things the Commissioner is authorised to do is initiate lawsuits for the purpose of seeking protection from discrimination (the so-called anti-discrimination lawsuits), which are conducted in order to provide judicial civil law protection from discrimination (Article 35 item 3 of the Law on Prohibiting Discrimination). By initiating these so-called strategic lawsuits, the Commissioner, through her activities before courts of law, strives to contribute to a consistent implementation of regulations and improvement of legal practice, to additionally encourage and stimulate the victims to initiate anti-discrimination lawsuits, to support the rule of law and to contribute to improving access to justice, to legally educate and sensitise the public to the problem of discrimination, etc. The Commissioner is expected to choose for the so-called strategic lawsuits cases of frequent and widespread discrimination, that is, cases that lead to particularly serious consequences for members of vulnerable, threatened and marginalised groups, which have rarely received a judicial epilogue in legal practice, and which offer good chances of winning the lawsuit in question. In keeping with the above, the decision on whether a case constitutes an act of discrimination of strategic importance does not depend on the form of discrimination, on the consequences it led to, on who is the victim and who the discriminator, etc. Cases that may be of strategic importance may pertain to discrimination against a group of persons, as well as those whose victims are individual physical or legal persons, cases of severe forms of discrimination, and also those that do not belong to this category, cases of discrimination committed by public authority organs, as well as individuals, provided they have a “potential” for achieving the objectives of a strategic lawsuit.

In the course of 2012, the institution of the Commissioner worked on developing indicators for selection of cases which would necessitate requesting judicial protection, but they have not been entirely defined yet. In order to ensure conditions that would contribute to the achievement of the postulated goals of strategic lawsuits, last year we began cooperating with the AIRE centre from London (Advice on Individual Rights in Europe), which has a lot of experience in the sphere of strategic lawsuits. The project that we are preparing in collaboration with the AIRE centre will make it possible for us to develop, in cooperation with experts from this centre, indicators for selecting strategically important cases of discrimination.

During 2011, three lawsuits were initiated for the purpose of protection from discrimination, and in 2012 five more lawsuits were initiated. At the time of writing this report, three court proceedings have been completed by an enforceable court decision.

Before we present the cases on account of which the Commissioner for Protection of Equality sought civil law judicial protection, it is necessary to point out certain problems that we have encountered in connection with these court proceedings. Although the provisions of Article 41 paragraph 3 of the Law on Prohibiting Discrimination prescribe that the procedure for the purpose of protection from discrimination shall be an urgent one, the principle of urgency has not been observed in any of these cases. That is why a recommendation proposing measures for achieving equality was sent to all courts of general jurisdiction, urging them to undertake measures so that such court proceedings should be conducted efficiently and brought to a close as soon as possible. Also, such cases are often registered as labour disputes, and one such case remained unregistered for a long time. On several occasions so far, we have

received orders to pay court taxes even though the Commissioner for Protection of Equality, as an independent organ, is exempt from taxation in accordance with the provisions of Article 9 paragraph 1 of the Law on Court Taxes.⁴⁹

Lawsuits initiated on account of discrimination on the grounds of belonging to the Roma national minority

The first lawsuit was initiated against Vasa Kenić from Svrljig, who, on 3rd June 2011, gave a statement to a reporter of the Radio-Television of Serbia concerning the information that J. M. would move into the building wherein he lives with her five children: *"It is not exactly in our favour that a Roma woman should move into our building. She has a lot children, five children, she... I don't know. It's very chaotic. That's what the Roma are like... You know that they always have a special settlement, a separate one, things like that."* This statement was broadcast on 6th June 2011 by RTS. On the basis of this lawsuit, the court passed an enforceable decision, which established that a severe form of discrimination of members of the Roma national minority had occurred – causing and provoking inequality, hatred and intolerance on the grounds of national affiliation. The defendant was forbidden to give statements in the future expressing views that discriminate against the Roma national minority, he was ordered to publish a written apology in a national daily paper at his own expense, and to pay for the publication of the verdict in a national daily paper.

The second lawsuit was brought against the fast food restaurant "MD", due to the fact that a member of its security staff did not allow Roma children to enter the restaurant in the company of a woman who wanted to buy them food in it. The first-instance court, in a decision dated 30th October 2012, rejected the lawsuit due to the fact that the plaintiff did not have the agreement of the persons claimed to have been directly discriminated against. On 19th December 2012, the Commissioner for Protection of Equality lodged a complaint against the decision of the first-instance court, so that now the proceedings are conducted before the High Court in Belgrade, which will decide on the complaint.

A lawsuit initiated on account of discrimination on the grounds of birth, marital and family status

This lawsuit was brought against the city of Jagodina because of the Decision on Providing Financial Assistance to Married Couples, no. 011-92/10-10-1, passed by the City Council of Jagodina on 23rd December 2010. The decision contains the conditions which, without justification, deny the right to receiving financial assistance to certain categories of citizens, namely: to couples who live together out of wedlock, to those not born in Jagodina, to those who, before contracting their present marriage, had children born out of wedlock, and to those who, before contracting their present marriage, lived with a partner out of wedlock. The first-instance court, in its decision passed on 17th January 2012, rejected the lawsuit initiated by the Commissioner for Protection of Equality as unfounded; the Commissioner requested that the defendant be ordered to erase from the Decision on Providing Financial Assistance to Married Couples the conditions which denied certain categories of citizens the right to receiving financial assistance, namely: to couples who live together out of wedlock, to those not born in

⁴⁹ "The Official Gazette of the Republic of Serbia", nos. 28/94, 53/95, 16/97, 34/2001 – a different law, 9/2002, 29/2004, 61/2005, 116/2008 – a different law, 31/2009 and 101/2011.

Jagodina, to those who, before contracting their present marriage, had children born out of wedlock, and to those who, before contracting their present marriage, lived with a partner out of wedlock. After the Commissioner for Protection of Equality lodged a complaint against this decision, the Appeal Court in Kragujevac, in its decision of 6th November 2012, annulled the decision of the Basic Court in Jagodina and sent the case back to it for judicial review. Since the City Council of Jagodina, in the course of its session held on 18th June 2012, passed the Decision on Rescinding the Decision on Providing Financial Assistance to Married Couples, the Commissioner for Protection of Equality withdrew the lawsuit pertaining to this legal matter, and the proceedings were brought to a close.

Lawsuits initiated on account of discrimination on the grounds of sex

The first lawsuit against this kind of discrimination was brought against the Football Association of Serbia on account of discrimination against women's football clubs in relation to men's football clubs, on the grounds of the players' sex. Namely, Article 79 of the Rules on the Registration, Status and Transfers of Players, passed by the Football Association of Serbia (the official gazette "Football" of 20th June 2011), prescribes that the reimbursement of expenses on the training and development of a female football player, to be paid by a women's football club for a transfer of a female football player, shall be 15% of the reimbursement to be paid by a men's football club in the case of a male player's transfer. The first-instance court decision accepted the request of the Commissioner for Protection of Equality contained in the lawsuit in its entirety, and established that, in prescribing the provisions of Article 79 of the Rules, the Football Association of Serbia committed an act of discrimination against women's football clubs on the grounds of their players' sex. The defendant was ordered to erase the discriminatory provisions contained in Article 79 of the Rules, and to publish the verdict in a national daily paper. The Football Association of Serbia lodged a complaint against the said verdict, and the Appeal Court in Belgrade, in its decision of 6th November 2012, rejected the complaint of the FAS as unfounded, thus confirming the verdict of the First Basic Court in Belgrade. The proceedings were brought to a close with an enforceable decision.

The second lawsuit was brought against a bank on account of transferring a female employee to a lower-ranked post after she returned to work following her maternity leave and a leave taken for the purpose of tending to her third child. The proceedings are still ongoing, even though the lawsuit was initiated on 17th September 2012. Namely, the first hearing was scheduled for 5th June 2013, so the Commissioner for Protection of Equality requested of the court in a written application to undertake the necessary measures in order to schedule the hearing as soon as possible, bearing in mind the principle of the urgent nature of lawsuits seeking protection from discrimination.

The third lawsuit on account of discrimination on the grounds of sex was brought against a pizza parlour chain that employs women only. After the appearance of advertisements in the chain outlets saying "Do you want to become a part of the 'C' team? Girls needed for work at the counter", voluntary investigators of discrimination posed as candidates interested in getting a job and talked to employees and to persons who introduced themselves as being in charge of job interviews. The interviews were conducted in three outlets in Belgrade, and in all three places the male investigator was told that he could not get a job with them due to the firm's policy of employing only women. The lawsuit was initiated on 23rd August 2012,

and the proceedings before the First Basic Court in Belgrade are ongoing.

A lawsuit on account of discrimination on the grounds of previous convictions, sex, marital and family status, and health status

The lawsuit was brought against the “K. i.” firm, which posted as part of its Internet presentation an employment questionnaire requiring of candidates applying for a job to supply data concerning their personal characteristics, namely, marital and family status, health status, as well as information on any previous convictions. The lawsuit was initiated on 20th July 2012, and the first-instance proceedings are still ongoing.

Discrimination on the grounds of disability

A lawsuit was brought on 2nd October 2012 against the entrepreneur M. A., the owner of the “P. C.” shop, for this catering establishment refused to serve a group of young persons with disability. The First Basic Court in Belgrade passed a decision on 22nd January 2013, which accepted the request of the Commissioner for Protection of Equality contained in the lawsuit in its entirety.

5.3. Misdemeanour proceedings

The Commissioner for Protection of equality is authorised to bring misdemeanour charges on account of violations of rights referred to in the Law on Prohibiting Discrimination (Article 33 item 4). Even though it is not expressly prescribed by the Law on Prohibiting Discrimination, the Commissioner, in view of her role, is authorised to bring misdemeanour charges for acts of discrimination that are incriminated as misdemeanours by special anti-discrimination laws and other regulations.

In the course of 2012, the Commissioner for Protection of Equality submitted 6 requests for initiating misdemeanour proceedings, as follows:

- *Against the pre-school educational institution and the manager of the pre-school institution in the settlement Deževa-Vožegrnci, near Novi Pazar, due to discrimination in the sphere of education – segregation of Roma children from displaced families who attended a preparatory pre-school programme as a separate group, located in a separate building in relation to Serb and Bosniak children. The proceedings are ongoing.*
- *Against the primary school in the settlement Deževa-Vožegrnci, near Novi Pazar, and its principal, due to discrimination in the sphere of education – segregation of Roma children from displaced families who attended the first and the fourth form of the said school in separate classes, located in a separate building in relation to Serb and Bosniak children. The proceedings are ongoing.*
- *Against the “M. U. M.” firm from B. and its general manager, for publishing a job advertisement for the post of a business secretary-administrator, which contains discriminatory conditions. Candidates wishing to apply for a job with this firm, apart from requirements concerning their professional training and competence, must fulfil requirements concerning their personal characteristics – sex, age and appearance. Namely, in the job advertise-*

ment for the post of business secretary-administrator, it is stated that a person applying for the post must be female, aged between 25 and 35, of pleasant appearance. Also, it is stated in the advertisement that a professional biography with 3 photographs must be submitted within the stipulated deadline. The proceedings are ongoing.

- Against the “V.” firm from B. and its general manager, for publishing a job advertisement for the post of a bookkeeping and administrative clerk which contains discriminatory conditions. Candidates wishing to apply for a job with this firm, apart from requirements concerning their professional training and competence, must fulfil requirements concerning their personal characteristics – sex and age. Namely, in the job advertisement for the post of bookkeeping and administrative clerk, it is stated that a person applying for the post must be female, up to 35 years of age. The Misdemeanour Court in Belgrade rejected the Commissioner’s request due to a lack of information about the person in charge and the facts of the case. The Commissioner for Protection of Equality has lodged a complaint against this decision.
- Against the “N. R.” firm and the person in charge, for a member of the security staff did not allow Roma children to enter this firm’s restaurant in N. S. The proceedings are ongoing.
- Against the “T. M.” firm from K., the former employer of S. A., who, contrary to the obligation arising from the programme for employment of young people entitled “The First Chance”, refused to extend the contract of employment of the complainant and her colleagues, solely on account of their being pregnant. The proceedings are ongoing.

On the basis of several proceedings that have been initiated, we can conclude that, in the course of 2012, misdemeanour courts in Serbia dealt very inefficiently with the requests for initiating misdemeanour proceedings submitted by the Commissioner for Protection of Equality. Namely, in some cases no steps have been taken so far, that is, the Commissioner for Protection of Equality has not been notified of any. In two cases, a request for supplementing the misdemeanour charge was forwarded seven months after the request for initiating misdemeanour proceedings had been submitted. On the other hand, it can be observed that there is a general lack of understanding of the very essence of discrimination and the authority of the Commissioner for Protection of Equality in misdemeanour proceedings. This situation is probably a consequence of the fact that the Commissioner for Protection of Equality is a relatively new state organ, operating on the basis of specific laws in the sphere of protection from discrimination, with which misdemeanour court judges have not had much practical experience so far. In view of this, the Commissioner for Protection of Equality will work on increasing the visibility of the institution, and will also take a succession of steps to inform misdemeanour courts of her jurisdiction, of the specific characteristics of anti-discrimination misdemeanours, of the very notion of discrimination, as defined by the anti-discrimination legislation of the Republic of Serbia, and of the importance of efficiently conducting such proceedings and meting out appropriate punishment for misdemeanour perpetrators. Negotiations have been initiated that will enable the Commissioner to carry out these activities together with the Association of Misdemeanour Judges, whose Chairman showed understanding and willingness to cooperate.

5.4. Criminal law charges

During 2012, the Commissioner for Protection of Equality brought a criminal law charge to the High Public Prosecutor's Office against an unknown person, the author of the text "*Robbing Serbia and the Serbian People to Help Gypsies*", published on the blog "The Roma in Serbia" (www.romiusrbiji.wordpress.com). The charge was brought due to well-grounded suspicion that the unknown perpetrator committed the criminal offence of inciting national, race and religious hatred and intolerance, referred to in Article 317 paragraph 1 of the Criminal Code of the Republic of Serbia.

5.5. Proposal for assessing constitutionality and legality

On 5th March 2012, the Commissioner for Protection of Equality submitted a proposal for assessing the constitutionality of Article 2 of the Decision on Providing Financial Assistance to Married Couples ("The Official Gazette of the City of Jagodina", no. 11/2010). This decision regulates the requirements for, the manner and procedure of realising the right of married couples to receiving one-off financial assistance, in accordance with the law, and with a view to increasing the birth rate. Article 2 paragraph 1 of the said Decision prescribes that the right to receiving one-off financial assistance belongs to spouses who contract marriage for the first time, provided that they fulfil the following conditions: a) that one of the spouses is above 38 years of age, was born on the territory of the city of Jagodina, and has been living for 10 years continuously on the territory of the city of Jagodina before the coming into effect of the Decision; b) that the marriage contracted must last at least 5 years, and during that period the spouses must reside at the same address; c) that at least one child must be born out of this marital union over a period of 5 years, and d) that before contracting this marriage the spouses have no children born out of wedlock and that they did not live with a partner out of wedlock.

In view of the fact that the provisions of Article 2 of the Decision on Providing Financial Assistance to Married Couples are not in accordance with Article 21 of the Constitution of the Republic of Serbia, and with Articles 4 and 8 of the Law on Prohibiting Discrimination, for the right to receiving financial assistance is denied, without justification, to certain categories of citizens on the grounds of their personal characteristics, namely: to couples who live together out of wedlock, to those not born in Jagodina, to those who, before contracting their present marriage, had children born out of wedlock, and to those who, before contracting their present marriage, lived with a partner out of wedlock, the Commissioner for Protection of Equality submitted a proposal for assessing the constitutionality and legality of the said Decision.

The City Council of Jagodina, in the course of its session held on 18th June 2012, passed the Decision on Rescinding the Decision on Providing Financial Assistance to Married Couples, and in view of this, the Commissioner for Protection of Equality withdrew her proposal for assessing the constitutionality and legality of the Decision in July 2012.

6. WORK ON IMPROVING EQUALITY

6.1. Legislative initiatives and providing opinions on regulations

Within the framework of her legal authority to act preventively and influence the improvement of protection from discrimination, the Commissioner for Protection of Equality is authorised to monitor the implementation of laws and other regulations, to initiate the passing or amending of regulations for the purpose of implementing and improving protection from discrimination, and therefore gives her opinion on the provisions of draft laws and other regulations that concern the prohibition of discrimination. This authority on the part of the Commissioner is prescribed by Article 33 item 7 of the Law on Prohibiting Discrimination.

During the course of 2012, the Commissioner forwarded three opinions to the authorised organs concerning the draft versions of laws, and presented one legislative initiative. In the text that follows, we present a chronological overview of these.

- On 28th May 2012, the Commissioner for Protection of Equality forwarded to the Government of the Republic of Serbia the Initiative for Amending the Decision on Establishing a Fund for Young Talents ("The Official Gazette of the Republic of Serbia", nos. 71/08, 44/09, 37/11), which establishes the conditions for providing grants to the best students attending second- and third-degree studies at foreign universities. Specifically, the Initiative proposes amending item 3 paragraph 3 of the Decision, which stipulates, as one of the preconditions for providing grants to the best students attending second- and third-degree studies at universities of European Union countries and within the European Free Trade Association (EFTA), as well as the leading world universities, that they complete a minimum of one year of basic studies at institutions of higher education founded by the Republic of Serbia. This requirement is discriminatory, for it places students who completed all their academic years of study at private institutions of higher education in an unequal position.
- The Commissioner gave her opinion on some provisions of the draft version of the Law on Amendments to the Law on Extrajudicial Proceedings on 5th November 2012. She pointed out that the provisions of Articles 31-44a of the draft version of the Law, which regulate the procedure of depriving of or limiting business ability, are not in accordance with the international standards and obligations adopted by the Republic of Serbia through the ratification of the Convention on the Rights of Persons with Disability, or with the national anti-discrimination regulations. Specifically, the entire procedure is still based on a total deprivation of business ability, which was not abolished but remains as a rule, while a partial deprivation of business ability is insufficiently precisely defined, and essentially boils down to a total deprivation of business ability. This still places the issue of divestment of business ability in the sphere of property, instead of viewing it in the context of human rights. In the draft version of the Law, there are no provisions that would enable support in decision-making, the procedure is not individualised, and apart from that, it is still based on the so-called medical model, that is, it boils down to medical expertise.

- Also, in her opinion of the draft version of the Law on Amendments to the Law on Extrajudicial Proceedings, the Commissioner pointed out that the provisions of Articles 45–55, which regulate the procedure of keeping a person in a health care institution dealing with the sphere of neuropsychiatry, are not in accordance with the international standards and the national anti-discrimination regulations either.
- Concerning the provisions of Article 55a-f of the draft version of the Law, which regulate the new procedure for issuing permission to change sex and gender identity, the Commissioner expressed her opinion that the procedure of issuing permission for a change of sex was unacceptable, and that it was necessary to prescribe a quick and efficient procedure for regulating the legal consequences of a change of sex, while observing the international standards in this area and the anti-discrimination regulations.
- On 5th November 2012, in her opinion of the draft version of the Law on Mediation, the Commissioner pointed out the need to amend Article 8 paragraph 3 of the draft version of the Law. The provisions of the said Article prescribe that, in the mediation procedure, the legal representative represents not only a party lacking business ability but also a party with limited business ability. In this way, persons with limited business ability are deprived of the possibility of participating in the mediation procedure within the limitations of their business ability. Also, the Commissioner pointed out that the said provisions deviate from the general rule of the processual ability of persons with limited business ability.
- The Commissioner's opinion of the draft version of the Law on Amendments to the Law on Civil Procedure was given on 5th November 2012. The Commissioner supported amending Article 85 paragraph 1 of the Law on Civil Procedure currently in effect, which prescribes that when a party to the proceedings does not take steps independently, he/she must do it through an authorised representative, who must be a lawyer. The proposed amendment to this Article leaves out the rule that the authorised representative must be a lawyer, which is in keeping with the opinion given by the Commissioner in 2011, during the procedure of adopting the new Law on Civil Procedure. Also, it was suggested that the new Law on Civil Procedure should regulate the participation of the Commissioner for Protection of Equality as an intervener in proceedings initiated on the basis of the Law on Prohibiting Discrimination. Furthermore, the Commissioner also supported the introduction of alternative solutions for the provisions of Article 195 of the Law on Civil Procedure, which prescribes the obligation of a person who intends to sue the Republic of Serbia to submit a proposal for a peaceful settlement of the dispute to the Public Attorney's Office of the Republic of Serbia. These alternative solutions, contained in the draft version of the Law, enable parties to the proceedings to do so, but do not impose upon them the obligation to do so. Finally, the Commissioner also pointed out the need for an additional review of the provisions of the Law on Civil Procedure contained in Articles 499 and 500, which regulate the procedure for protection of collective rights and interests, including protection from discrimination, with a view to eliminating those provisions which endanger the right of associations, their unions and other organisations established in accordance with the law to freely point out violations of the collective rights and interests of the citizens, and to use legal instruments for achieving judicial civil law protection of these rights and interests.

6.2. Recommendations to public authority organs

Based on Article 33 item 9 of the Law on Prohibiting Discrimination, the Commissioner for Protection of Equality is authorised to recommend measures for achieving equality to public authority organs and other persons. Those recommendations for undertaking certain measures are supposed to preventively influence public authority organs with a view to preventing and eliminating structural and institutional discrimination. Also, in this way public authority organs are alerted to the need for undertaking affirmative action measures for the purpose of achieving the full equality, protection and progress of individuals or groups of persons who are in an unequal position in relation to the other citizens, in accordance with Article 14 of the Law on Prohibiting Discrimination.

In the text that follows, we provide a chronological overview of recommendations to public authority organs that the Commissioner for Protection of Equality addressed during 2012.

A recommendation to all universities (16th March 2012)

The Commissioner sent a recommendation to all universities in Serbia to immediately undertake all the necessary measures so that faculties that are part of these universities could issue new graduation certificates, upon personal request, to persons who changed their name after graduation on account of a change of sex (transsexual persons), as well as other personal documents that they are authorised to issue, wherein their new name will be stated, and all this in a quick, transparent and accessible way, observing the domestic standards in the sphere of protection of transsexual persons from all forms of discrimination.

A recommendation to all courts of general jurisdiction (14th June 2012)

To all courts of general jurisdiction, the Commissioner sent a recommendation to undertake all the necessary measures, in accordance with their legal authority, so as to ensure that proceedings in discrimination lawsuits, conducted on the basis of the Law on Prohibiting Discrimination and other anti-discrimination regulations, are conducted efficiently and brought to a close as soon as possible, in accordance with Article 41 paragraph 3 of the Law on Prohibiting Discrimination, which prescribes that such proceedings shall be urgent.

A recommendation to the Republican Health Care Insurance Fund (23rd July 2012)

To the Republican Health Care Insurance Fund, the Commissioner recommended to immediately undertake all the necessary measures in order to ensure that employed women who are planning a family, pregnant women and childbearing women, who have health care insurance on the basis of employment, and whose employer does not pay contributions for obligatory health care insurance, remain insured on the basis of insurance for planning maternity, pregnancy and childbirth for a period of up to 12 months after childbirth.

A recommendation to portals which publish job advertisements (23rd July 2012)

To Internet portals which publish job advertisements, the Commissioner recommended not to publish job advertisements that contain discriminatory conditions for employment,

namely, conditions that pertain to the sex, age, appearance of the candidates, or to some other personal characteristic. An exception to this are situations when a job advertisement pertains to a job whose nature is such, or which is performed under such conditions that a personal characteristic constitutes a real and decisive condition for performing the job, provided that the desired objective is justified, in accordance with Article 16 paragraph 3 of the Law on Prohibiting Discrimination, and with Article 22 of the Law on Labour. The Commissioner also recommended to undertake all the necessary measures in order to prevent any possibility of publishing a job advertisement which, contrary to the law, contains discriminatory conditions for employment.

A recommendation to the Ministry of Health Care of the Republic of Serbia (1st August 2012)

To the Ministry of Health Care of the Republic of Serbia, the Commissioner issued a recommendation to immediately undertake all the necessary measures to ensure that women who are planning a family, pregnant women and childbearing women may exercise their right to health care insurance on these grounds even in situations when they do have insurance on some other grounds, but cannot exercise this right in practice because the employer, as the party obliged to pay contributions for compulsory health care insurance, does not fulfil this obligation, for up to 12 months after childbirth.

A recommendation to the National Employment Service (9th August 2012)

To the National Employment Service, the Commissioner issued a recommendation not to publish job advertisements that contain discriminatory conditions for employment, namely, conditions that pertain to the sex, age, appearance of the candidates, or to some other personal characteristic. An exception to this are situations when a job advertisement pertains to a job whose nature is such, or which is performed under such conditions that a personal characteristic constitutes a real and decisive condition for performing the job, provided that the desired objective is justified, in accordance with Article 16 paragraph 3 of the Law on Prohibiting Discrimination, and with Article 22 of the Law on Labour. The Commissioner also recommended to undertake all the necessary measures in order to prevent any possibility of publishing a job advertisement which, contrary to the law, contains discriminatory conditions for employment.

A recommendation to the city of Niš (29th August 2012)

The city of Niš was recommended to immediately undertake all the necessary measures in order to enable members of the Roma national minority who were displaced from the settlement near “Bellville” in New Belgrade and housed in a warehouse in Daničićeva Street in Niš to get housing that fulfils the international housing standards in the case of alternative housing of citizens who are displaced from informal settlements. The city of Niš was also recommended to carry out the process of housing and integration of displaced members of the Roma national minority in cooperation with the displaced persons and with their active participation, respecting their needs and the right to participate in making decisions on all issues that are of concern to them, which presupposes both their relocation and the manner of their social integration, in keeping with the international standards and guidelines for displacing citizens from informal settlements.

A recommendation to the public company “The Directorate for Building of the City of Niš” (4th September 2012)

To the public company “The Directorate for Building of the City of Niš”, the Commissioner recommended to undertake all the necessary measures within its sphere of jurisdiction in order to ensure that all newly built and reconstructed public surfaces in Niš should be accessible to persons with disability, in accordance with the prescribed standards of accessibility.

A recommendation to local governments – 19 cities and municipalities in Serbia: Kruševac, Leskovac, Kragujevac, Kraljevo, Vlasotince, Vranje, Kikinda, Novi Bečej, Smederevska Palanka, Niš, Novi Sad, Vršac, Savski venac, Vračar, New Belgrade, Palilula, Stari grad, Novi Pazar, Bačka Topola (10th September 2012)

The Commissioner recommended to cities and municipalities to undertake all the necessary measures, within their sphere of jurisdiction and the budget funds at their disposal, in order to support the work of specialised civil society organisations in their region that provide assistance and support to women exposed to family/partner violence.

A recommendation to the municipality of Prijepolje (10th September 2012)

The Commissioner recommended to the municipality of Prijepolje to undertake all the necessary measures to ensure that decisions on establishing local communities, their statutes and other acts, as well as the organs of local communities and the procedures for being elected to those organs, guarantee the equality of the sexes and the equality of opportunity, in accordance with the constitutional guarantee of equality of men and women, and the obligation of all public authority organs to develop an active policy of equal opportunities in all the spheres of social life, which presupposes the participation of both sexes, on an equal footing, in all the phases of planning, passing and implementing decisions which influence the position of women and men.

A recommendation to the National Assembly of the Republic of Serbia (11th September 2012)

The National Assembly of the Republic of Serbia was recommended to immediately undertake all the necessary measures, in accordance with its authority, to ensure that all the delegations of the National Assembly of the Republic of Serbia to international parliamentary institutions should comprise at least 30% of persons belonging to the less represented sex, in accordance with Article 38 paragraph 2 of the Law on the Equality of the Sexes. The National Assembly was also recommended to immediately regulate the manner of ensuring that all the parliamentary delegations participating in international cooperation should comprise at least 30% of persons belonging to the less represented sex, in accordance with Article 38 paragraph 2 of the Law on the Equality of the Sexes.

A recommendation to the National Assembly of the Republic of Serbia (11th September 2012)

The National Assembly of the Republic of Serbia was recommended to immediately undertake all the necessary measures to ensure that, in the make-up of all the parliamentary

boards, there should be an equal balance when it comes to the representation of the less represented sex, in accordance with the constitutional guarantee of equality of men and women, and the obligation of state organs to develop a policy of equal opportunities. The National Assembly was also recommended to immediately regulate the manner of ensuring that, in the make-up of the parliamentary boards, there should be a balanced number of persons belonging to the less represented sex.

A recommendation to the General Hospital Šabac (3rd December 2012)

The Commissioner recommended to the General Hospital Šabac to remove from the job application form contained in their Internet presentation all the question pertaining to the personal characteristics of candidates applying for a job with this health care institution. The General Hospital Šabac was also recommended to change its Rules of Procedure regulating the manner of employment with this institution, namely, the section prescribing the criteria and evaluation concerning the age of the candidates.

6.3. Warnings and announcements to the public

In accordance with the provisions of the Law on Prohibiting Discrimination, the Commissioner warns the public of the most frequent, typical and severe cases of discrimination. The Commissioner does so on the basis of the complaints received, insights gained from the media and from other sources. In a warning issued to the public, the Commissioner points to discriminators, the manner of committing acts of discrimination, individuals and groups exposed to the most frequent, typical and severe forms of discrimination, while ensuring the obligatory protection of personal data, and to the consequences or possible consequences of the most frequent, typical and severe forms of discrimination.

During 2012, the Commissioner issued two warnings and 17 announcements to the public, which were published in the media and on the Commissioner's Internet site (www.ravnopravnost.gov.rs).

In her *Warning of 2nd March 2012*, the Commissioner strongly condemned the attack on Dželim Liman, a member of the Gorani national minority, expressing her hope that the perpetrators of this brutal act would receive appropriate punishment. The public was warned that incidents motivated by hatred towards everyone who is different were becoming almost customary, and that, on account of this, state organs had to react more decisively and punish such acts of violence. Also, it was pointed out that such attacks pointed to the necessity of involving everyone, from the authorised organs and institutions to individual citizens, in the dissemination and affirmation of the values of a society wherein all people are equal, irrespective of their nationality or some other personal characteristic.

In her *Warning of 14th September 2012*, the Commissioner expressed her grave concern over the fact that, three weeks ahead of the announced Gay Pride parade and the events planned on the occasion of this, there were increasingly frequent threats, instances of hate speech and violence against the LGBT population. At the same time, this group is still the only one in Serbia whose right to free assembly is brought into question and denied. It was pointed out that open threats and acts of violence created an atmosphere of fear and incited intolerance,

hatred and hostility towards LGBT persons, which represented an attempt of sorts to prepare an alibi for the cancellation of the Gay Pride parade. The Commissioner stated that everyone in Serbia should be worried on account of the level of hatred, intolerance and violence against a minority group, our fellow citizens, for as soon as the next day, they may turn against anyone of us. The Commissioner expressed her unreserved support to all LGBT persons, pointing out that the state and its organs of authority must show their power and readiness to protect the basic human rights guaranteed by the Constitution, including the right to peaceful assembly and freedom of speech. State organs were invited to undertake all the necessary measures to ensure the security of the participants of the events being planned, and to create all the necessary preconditions for their peaceful assembly.

In her 17 announcements, the Commissioner expressed the views of the institution of the Commissioner for Protection of Equality concerning certain discriminatory forms of conduct, and a number of announcements were issued on the occasion of celebrating important international dates dedicated to human rights. One announcement had to do with the media campaign instigated by a tabloid against the institution of the Commissioner for Protection of Equality and the person of the Commissioner.

7. ESTABLISHING A SYSTEM OF MEDIATION SERVICES WITHIN THE FRAMEWORK OF THE COMMISSIONER'S SERVICE

In accordance with Article 33 item 3 of the Law on Prohibiting Discrimination, the Commissioner for Protection of Equality is authorised to propose to the parties in conflict the implementation of the reconciliation procedure, that is, mediation. The mediation procedure is a confidential, structured process in which a third, neutral party, the mediator, guides the dialogue between the parties in conflict, so that they can review the problem in a new way and arrive at an outcome acceptable to everyone. This method has been known abroad for decades, and represents a broadly accepted method of resolving conflicts, whereas in Serbia mediation is gradually becoming a part of the practice of judicial, educational and other institutions. Mediation has been applied for years in the work of some national independent bodies for equality (in Great Britain, Australia, France, Denmark, Austria, USA, Canada), and it has already confirmed its advantages and potential. The practice of these bodies has shown that mediation is an effective method for resolving situations featuring discrimination, that it leads to a cessation of hurtful behaviour and prevents its repetition. In view of the positive comparative experiences and advantages of mediation, the Commissioner has initiated work on establishing a system of mediation services within the framework of the Commissioner's service.

Since mediation is a still insufficiently known method, in this section we give a detailed presentation of the legal framework of the mediation procedure and the Commissioner's activities aimed at establishing a system of mediation services.

7.1. The legal framework of the implementation of mediation in cases of discrimination

The Law on Prohibiting Discrimination prescribes that the Commissioner for Protection of Equality is authorised to recommend a reconciliation procedure (Article 33), and also to propose the implementation of the reconciliation procedure in accordance with the law regulating the mediation procedure, all this before taking other steps in the procedure (Article 38). These provisions give rise to several rules: the Commissioner is authorised, but not obliged, to propose or recommend the implementation of the reconciliation procedure, which presupposes that she personally decides whether a particular case is suitable for mediation. On the other hand, the Commissioner is obliged to propose mediation to the parties in conflict after establishing that the conditions for carrying out the procedure of acting upon a complaint have been fulfilled, and before taking the first step in this procedure, that is, before forwarding the complaint to the person of whom it is claimed that he/she committed an act of discrimination. Consequently, the Commissioner is not authorised to propose mediation to the parties in conflict in the later phases of the procedure, after starting to establish the legally relevant facts and circumstances of the case.

The Law on Preventing Discrimination itself does not regulate the mediation procedure in cases of discrimination; however, in Article 38 it points to the implementation of general regulations dealing with mediation. Regulations dealing with mediation are contained in

the Law on Mediation, passed in the Republic of Serbia in 2005.⁵⁰ This law establishes the basic principles of the mediation procedure, the manner of initiating and carrying out mediation, the authority of the parties in conflict, the tasks, duties, authority and responsibility of the mediator, and the conditions which mediators must fulfil in order to be able to conduct the mediation procedure.

The Rules of Procedure regulating the work of the Commissioner prescribe the rules on the manner of work of the employees of the Commissioner's service with a view to recognising cases suitable for mediation and the manner of communication with parties in conflict (Article 27 of the Rules of Procedure). As regards mediators, the Commissioner is authorised to appoint mediators and enter their names in *The List of Authorised Mediators*; the Commissioner is also authorised to establish the criteria and more closely defined conditions that mediators should fulfil, in accordance with the provisions of the Law on Mediation.

7.1.1. Activities aimed at establishing a system of mediation services

Until now, the activities of the Commissioner for Protection of Equality aimed at establishing a system of mediation services in cases of discrimination have unfolded along four parallel lines: creating a special model of mediation in cases of discrimination, creating and realising a programme of training specialised mediators, training of the employees of the Commissioner's service, and the promotion of mediation.

One should bear in mind that the establishment of an effective system of mediation services requires long-term efforts, and that we are still at the very beginning of this process. There is, however, enough knowledge and willpower to gradually develop all the necessary legal infrastructure in order to round off the system and make it effective and sustainable. To realise this objective, however, it is necessary to strengthen the capacities of the Professional Service of the Commissioner.

7.1.2. Creating a special model of mediation in cases of discrimination

For mediation to be an effective and efficient method in resolving cases of discrimination, what needed to be done was create a special model of mediation. Because of this, the Commissioner for Protection of Equality formed a Work Group which prepared a mediation model adjusted to the characteristics of a situation resulting out of discrimination. In the text that follows, we present the basic specificities and characteristics of this model of mediation.

The special model of mediation implemented within the framework of the Commissioner's service is based on the standard principles of mediation: voluntariness, confidentiality, impartiality and neutrality. Even though it relies on the existing normative framework of mediation in Serbia, it is still specific in relation to standard mediation, for a number of special rules have been created in order to adjust the mediation procedure to the characteristics of the situation of discrimination itself, and in order to prevent the negative effects that the implementation of mediation may entail in relation to both the victim of discrimination and to the realisation of the social mission of the Commissioner when it comes to raising the level of awareness of the public and to suppressing discrimination. In accordance with the above,

⁵⁰ "The Official Gazette of the Republic of Serbia", no. 18/2005.

elements of victim-offender mediation have been built into the special model of mediation; this form of mediation is based on the concept of restorative justice, in view of the fact that standard mediation is not adjusted to situations of discrimination, since it is intended for resolution of conflicts, and in cases of discrimination, for the most part there is no conflict, but the matter revolves around emotional or other injury inflicted by one party to the other.

The special model of mediation within the framework of the Commissioner's service contains specific rules on the criteria and the manner of selecting cases suitable for mediation.⁵¹ A special rule was introduced, stating that during the first assessment of a case pertaining to a complaint on account of discrimination, it should be analysed whether the case is suitable for conducting a strategic lawsuit. If it is assessed that the case in question is suitable for a strategic lawsuit, the possibility of advising the parties involved to agree to mediation is not taken into consideration, whereby it is ensured that strategically important cases of discrimination should receive an epilogue before a court of law, that is, that court decisions made concerning such cases should contribute to achieving the desired reformist objectives – providing guidance to judicial practice and increasing the level of awareness of the public.

One of the characteristics of the mediation procedure within the framework of the Commissioner's service is reflected in the fact that the principle of the mediator's neutrality has been redefined, in the sense that he/she must not be morally neutral towards discrimination itself, but must quite clearly show that it is morally unacceptable. Also, for the mediation procedure to be adjusted to the rules on the procedure of acting upon complaints, special rules have been established concerning the steps to be taken by the employees of the Commissioner's service after receiving a complaint. In order to ensure that the conditions for mediation are effective and satisfy the needs of both parties, the Commissioner's service supplies all the relevant information on the mediation procedure and on the standard procedure of acting upon a complaint to both parties, thus giving them an opportunity to review the advantages of either procedure and to choose the one which can satisfy their interests.

In the first phase, the mediation procedure within the framework of the Commissioner's service is conducted by a mediator appointed by an authorised official of the Commissioner, from the list of authorised mediators. The authorised official makes an appointment for the first separate meetings between the mediator and the parties, first with the person against whom a complaint was lodged, and then with the complainant. If both parties agree to proceed with mediation, they may agree that the mediator who was in charge of the preparatory meetings should continue to conduct the mediation process, and if they fail to agree on this, the mediator is selected by the authorised official of the Commissioner, and it is that mediator who carries on with the mediation procedure. As the procedure unfolds, the mediator makes an appointment for a second separate meeting with the parties, first with the person against whom a complaint was lodged, and then with the complainant, following which a joint meeting is held, in the course of which, among other things, the parties agree on proceeding with mediation and on accepting the mediator. Within the framework of one or more joint meetings, the mediation process unfolds through its standard phases.

⁵¹ Special rules have been established that exclude the implementation of mediation in cases when the reason for submitting a complaint on account of discrimination is behaviour based on some general act passed by a public authority organ or a legal person. On the other hand, there exist special criteria for assessing the applicability of mediation that concern the parties.

7.1.3. Creating and realising training programmes for specialised mediators

According to Article 18 of the Law on Mediation, in Serbia mediation may be practised by judges, lawyers and other prominent experts from various areas, depending on the type of controversial relationship wherein they mediate, and each mediator must meet the legal requirements for mediation, among them a successfully completed training course carried out in accordance with the programme prescribed by the minister authorised for dealing with judicial matters.⁵² In accordance with Article 19 of the Law on Mediation, mediators are appointed and entered in a special list by the president of a court of law, or the head of some other organ.

In view of the organisation of work of the Commissioner's service and the manner of acting upon complaints, as well as the need to eliminate any doubts concerning the neutrality and impartiality of the mediator, thereby maximally protecting the integrity of the mediation procedure itself, only persons who are not employed with the Commissioner's service may be included in the list of mediators, provided they meet the criteria and closely defined requirements established by the Commissioner.

Proceeding from the view that it is useful for a successful implementation of the mediation procedure in case of discrimination if mediators, apart from standard knowledge and skills, acquire special knowledge of issues from the sphere of equality and anti-discrimination, and get acquainted with the context of mediation within the framework of the service of the Commissioner for Protection of Equality, a special training programme for mediators has been prepared, aimed at persons interested in entering the Commissioner's list of authorised mediators. During 2012, the first cycle of training for mediators was brought to a close, and was successfully completed by 22 persons,⁵³ and specialised training is planned for the first quarter of 2013, and after its completion, mediators will be entered in the Commissioner's list of authorised mediators. The plan is for mediators to conduct the initial mediation procedures with the supervisory support of experts and experienced mediators.

7.1.4. Training of the Commissioner's service employees

Although mediation in cases of discrimination concerning which the Commissioner has received complaints is not an integral part of the procedure of acting upon a complaint, the institution of the Commissioner has an important role in the implementation of this form of mediation. First of all, the employees of the Commissioner's service conduct a preliminary selection of cases suitable for mediation and take appropriate steps in order to establish proper contact with the parties, supply them with all the necessary information on mediation, its aims, contents and possible outcomes, and motivate them to agree to mediation. On the other hand, the Professional Service of the Commissioner plays the role of a service of a kind, its task being to provide the organisational and technical conditions for conducting the mediation

⁵² The Minister of Justice passed the Rules of Procedure Concerning the Training Programme for Mediators, published in "The Official Gazette of the Republic of Serbia", no. 44/05.

⁵³ In accordance with the conditions contained in the public call issued towards the end of October 2012, when selecting candidates, attention was paid to balanced regional representation, giving priority to candidates from marginalised social groups. During a five-day training course in October 2012, the attendees had the opportunity to acquire additional knowledge of communication skills, understanding of conflicts, techniques of alternative resolution of conflicts and mediation, phases of mediation, and also of the manner of conducting mediation and ethical issues.

procedure, and to monitor and evaluate the process of mediation, which means that it has the role of an administrator that provides support to the implementation of the mediation procedure. For this reason, it was necessary to train the employees of the Commissioner's service in order to enable them to fulfil the above-mentioned duties in the best possible way. This training course was realised on two separate occasions, through lectures and workshops, and was prepared and realised by members of the Work Group, which had prepared a special model of mediation. What follows is the realisation of advanced-level training courses.

7.1.5. The first experiences in the implementation of mediation

In 2012, the mediation procedure was offered in seven cases, and was rejected in all of them. Even through the number of cases suitable for mediation is small, it is indicative that mediation was not accepted in any of the cases when it was offered. The reason for this may be the fact that the parties are still not sufficiently acquainted with the advantages and possibilities offered by mediation, as well as the fact that, despite the explanations provided by the Professional Service of the Commissioner, to the parties mediation was something new which they did not wish to enter into on account of a feeling of insecurity and lack of confidence in the other party. Also, the parties stated that they felt more secure if they had the Commissioner's opinion establishing that discrimination did occur, that is, they had more confidence in a state organ when it came to resolving the problem on account of which they submitted a complaint.

Examples:

- *A complainant stated that her neighbour D. P. insulted her verbally on a number of occasions, addressing her nationalist insults of the following kind: "You are Shquiptar [offensive term for Albanians] trash, scum, I won't let you expand, if you were worth anything, you wouldn't be living in a barrack." She stated that D. P. had tried to talk other persons into speaking against her and her family because of their being members of the Albanian national minority.*
- *A complainant stated that she shared the yard with her neighbour E. B., and that the latter insulted her verbally a number of times, sent her text messages with offensive content and physically assaulted her for being a member of the Roma national minority.*
- *A complainant participated in establishing a trade union organisation of the employees of the "G. T." company from S. P., and according to his statement, after that the company management placed him in an unequal position in relation to those employees who were not part of the trade union board by preventing him from occupying his post, for he continually received certificates of being sent home. He is of the opinion that he is discriminated against on the grounds of membership in a trade union organisation.*
- *A complainant was a member of the Municipal Council of I. for the 2008-2012 period; he stated that the municipality did not pay him his outstanding councillor's benefits, which new Council members are receiving. He is of the opinion that he is thus discriminated against on the grounds of membership in a political organisation.*

7.1.6. Work on promoting mediation

If mediation in cases of discrimination is to be implemented more extensively, it is necessary to conduct promotional campaigns in order to inform the citizens of the advantages and potential of mediation.

So far, the main activities concerning the promotion of mediation in cases of discrimination have unfolded within the framework of the project “Partnership for Tolerance and Protection from Discrimination in Serbia”, jointly carried out by Partners for Democratic Changes Serbia and the Centre for Alternative Resolution of Conflicts. Within the framework of this project, a number of panel discussions, workshops, training sessions, conferences have been organised in more than 15 Serbian cities, the participants featuring employees of the Commissioner’s service. A leaflet and a poster were produced and widely distributed, a promotional video spot was prepared, as well as a film about mediation, in which the process of mediation was presented in an appropriate way, pointing out the most important advantages and the positive effects of mediation.

In the coming period, it is necessary to dedicate more attention to informing lawyers and other legal representatives of the nature of mediation, of the actual mediation procedure within the framework of the service of the Commissioner for Protection of Equality, of the possible advantages of mediation for their clients, and of their role and manner of representing a client in this process. In addition to this, through the media and in other appropriate ways, civil society organisations and the broader public should be informed of the possibilities of mediation in order to strengthen the incentives and motivation for accepting mediation.

8. PARTICIPATION IN GATHERINGS

During 2012, the Commissioner for Protection of Equality and the employees of the Commissioner's service participated in many conferences and round-table discussions, public debates and hearings, expert conferences and seminars organised by public authority organs and civil society organisations. Also, numerous lectures and presentations dealing with the institution of the Commissioner were held throughout Serbia.

8.1. Participation in gatherings and public debates

- Conference on “*Examples of International and European Good Practices for a Sustainable Development of Civil Society*”, held on 18th January 2012, organised by the Office for Cooperation with Civil Society of the Government of the Republic of Serbia.
- Meeting of the focus group on “*The Position of the Judicial System in South and South-western Serbia – Fighting against Discrimination and Inefficiency*”, held in Vranje on 26th January 2012, organised by the Association of Public Prosecutors and Deputy Public Prosecutors of Serbia. The issues discussed during the meeting included criminal law cases pertaining to incitement of racial, national and religious intolerance, the normative anti-discrimination framework in Serbia, and the procedure before the Commissioner and the Commissioner's authority; the participants also included representatives of judicial organs and civil society organisations.
- Meeting on the occasion of commemorating the European Day of Personal Data Protection, held on 30th January 2012, organised by the Commissioner for Information of Public Importance and Personal Data Protection, and Partners for Democratic Changes Serbia.
- Presentation of the report “*Assessment of the Process of Passing Laws and Preparing Regulations in the Republic of Serbia*”, held on 7th February 2012 at the National Assembly of the Republic of Serbia. The report was prepared through the cooperation of the Legislative Board of the National Assembly and the Office of Democratic Institutions and Human Rights of OSCE.
- Presentation of a new proposal for a public practical policy “*The Judiciary and Internal Affairs in the Republic of Serbia*”, held on 14th February 2012, organised by the Investigative Forum of the European Movement in Serbia.
- Conference entitled “*So That Their Message Is Heard*”, held from 21st to 25th February in Niš, organised by the non-governmental organisation “Hajde da... [Let us...]” with a view to encouraging organisations that promote human rights to use performance skills or short videos in order to increase the visibility and point to the needs of various marginalised groups. The Commissioner for Protection of Equality opened the event and delivered the introductory lecture.
- International conference dedicated to the relations between the national institutions for protection and improvement of human rights and parliaments, held on 22nd and

23rd February 2012 at the National Assembly of Serbia. The aim of the conference was the preparation and adoption of globally applicable principles concerning the relations between parliaments and the national institutions for human rights. In the course of the closing session, a document entitled *"The Belgrade Principles"* was adopted.

- Debate on *"Human Rights, New Criminal Law Legislation and the New Penal Policy"*, held on 29th February 2012, organised by the Centre for Democracy and the Friedrich Ebert Foundation. The issues discussed were the beginning of the implementation of certain solutions in the sphere of criminal law and criminal law proceedings, and the question of whether the new solutions were adjusted to the aims of general and special prevention, the expected results and problems with implementation. The participants in the debate included representatives of the judiciary, the National Assembly, organisations dealing with protection of human rights, lawyers and professors of law.
- The fifth annual conference of the League for the Roma Decade, held on 7th March 2012 in Sokobanja. At the conference, Nevena Petrušić, the Commissioner for Protection of Equality, was given the annual award for improving the rights of the Roma.
- Session of the Board for the Equality of the Sexes of the National Assembly of Serbia, held on 4th April 2012, dedicated to the topic *"Roma Women in Serbia – Roma Female Activism for Systemic Solutions"*. The session was dedicated to the campaign *A Month of Roma Female Activism*, realised by the Roma Female Network of Serbia between 8th March and 8th April.
- Workshop entitled *"Monitoring of Residential Institutions for Persons with Disability"*, held on 20th April 2012, organised by the Initiative for the Rights of Persons with Mental Disability MDRI-S and the Ombudsman.
- Presentation of the research project *"The Roma and the Quality of Health Care"*, held on 4th May 2012 at the Media Centre in Belgrade, organised by the Centre for the Rights of Minorities.
- Conference presenting the work of the Work Group for Displacing the Informal Roma Settlement in Block 72 in New Belgrade, held on 21st May 2012, organised by the Administration for Human and Minority Rights.
- Conference presenting the results of research into children's participation at the local level in Serbia entitled *"The Participation of Children and Young Persons in Decision-making in Local Governments in Serbia"*, held on 23rd May 2012, organised by the Network of Organisations for Children of Serbia, in cooperation with the Association for the Development of Children and Young Persons – the Open Club from Niš, in partnership with the UNICEF Office in Serbia.
- Regional expert debate on *"Regional Cooperation and European Integrations"*, held on 6th June 2012 at the Ministry of Foreign Affairs, organised by the European Movement in Serbia and the Friedrich Ebert Foundation.
- Conference *"The Position of the Judicial System in South and South-western Serbia –*

Fighting against Discrimination and Inefficiency”, held on 12th June 2012, organised by the Association of Public Prosecutors and Deputy Public Prosecutors of Serbia and the Judicial Academy. In the course of the conference, the publication “The Implementation of Anti-discrimination Legislation and Criminal Law Protection” was presented.

- Conference “The Role of the Media Council on the Media Scene of Serbia”, held on 27th June 2012, organised by the Association of Journalists of Serbia and the Independent Association of Journalists of Serbia.
- Panel discussion of the rights of LGBT persons, held on 27th June 2012 within the framework of the project “Together for the equality of LGBT Persons” (carried out by five NGO’s dealing with the rights of LGBT persons).
- Conference on the business ability of persons with intellectual and psychosocial problems, held on 30th July 2012, organised by the Initiative for the Rights of Persons with Mental Disability MDRI-S.
- Panel discussion “*The Rights of National Minorities – Laws Actually Implemented or Mere Words on Paper?*”, held on 14th September 2012, organised by the Belgrade Board of the Association of Hungarians from Vojvodina.
- Debate “*LGBT and the Role of Institutions*”, held on 1st October 2012 in Belgrade. The debate was held within the framework of the Pride Week, organised by Belgrade Pride with a view to raising the awareness level of the citizens concerning the position of LGBT persons in society.
- The draft version of the Law on Misdemeanours was presented on 23rd October 2012, the event being organised by the Ministry of Justice and State Administration.
- Women’s media forum WOMENRAMA, held on 30th and 31st October in Belgrade, organised by the Women’s Centre. The conference presented various aspects of the participation and presentation of women in the media.
- Visit to the Asylum Centre in Bogovada on 20th November 2012, organised by the United Nations High Commissioner for Refugees (UNHCR) – the Belgrade office. The visit was organised with a view to assessing the position of asylum seekers and the problems that they face in this centre. Representatives of the EU Mission to Serbia, the Commissioner for Protection of Equality, UNHCR and Group 484 interviewed groups of asylum seekers for the purpose of preparing a report with appropriate recommendations.
- Presentation of “*An Operational Manual for the Realisation of Twinning Projects*”, held in Belgrade on 27th November 2012 in Belgrade. The presentation was organised by the Office for European Integrations in cooperation with the Delegation of the European Union to the Republic of Serbia.
- On the occasion of 10th December – the International Human Rights Day – a presentation of “*Report on the Work of the New Government in the Sphere of Human Rights*”

and the Rule of Law” was held, and the library of the House of Human Rights and Democracy was opened. The institution of the Commissioner for Protection of Equality supported the opening of the library by donating a set of all the books published by the Commissioner.

- Seminar “*Fighting against Discrimination on the Grounds of Sexual Orientation and Gender Identity*”, held on 13th December 2012, organised by the Office for Human and Minority Rights in cooperation with the Council of Europe. The Commissioner for Protection of Equality delivered a lecture entitled “*The Position of LGBT Persons in Serbia – the Perspectives*”.

8.2. Participation in conferences and round-table discussions

- Conference on the occasion of submitting an initiative for assessing the constitutionality of the Law on the Civil Law Procedure, held on 23rd January 2012, organised by the Coalition for Access to Justice.
- Conference “*Form Prison to Life without Violence: the Human Rights of Women in Prison*”, held on 26th January 2012, organised by the Victimological Society of Serbia. In the course of the conference, the project “*The Human Rights of Women in Prison – Interceding for Imprisoned Women Who Are Victims of Violence*” was presented, and the assistant of the Commissioner for Protection of Equality spoke about the importance of this project for protecting women from discrimination.
- Conference “*MAN 2012: New Balkan Boy*”, held on 30th and 31st January 2012, organised by the Centre E8 and the CARE International organisation. The conference was dedicated to the role of man in the struggle against gender-based violence and to promoting gender equality and the lifestyles of young men.
- On the occasion of commemorating 8th March – the International Women’s Day – a national conference entitled “*Women in Public Life*” was held, organised by the Administration for Gender Equality of the Ministry of Labour and Social Policy.
- International conference “*The Cooperation of Parliaments and Independent Regulatory Bodies in South-eastern Europe*”, held on 3rd and 4th April 2012, organised by the National Assembly and the European Movement in Serbia, with the support of the OSCE Mission to Serbia, USAID and the Friedrich Ebert Foundation. The Commissioner for Protection of Equality spoke about the role of the Commissioner in the legislative process, the difficulties she encountered in exercising her authority to legislative initiative and to giving opinions on draft laws from the perspective of the Commissioner for Protection of Equality.
- Conference “*A Revision of the Joint Basic Document on the Republic of Serbia*”, held on 3rd and 4th April 2012 in Kovačica, organised by the Administration for Human and Minority Rights.
- The second PLHIV conference entitled “*Strengthening the PLHIV Sector in the Region of South-eastern Europe*”, held in Belgrade between 19th and 21st April 2012. At this

conference, dedicated to persons living with HIV, the Commissioner's assistant presented the work of the Commissioner for Protecting Equality.

- Round-table discussion on the occasion of presenting three new model laws – Model Law on Registered Same-sex Marriages, Model Law on Recognising the Legal Consequences of a Sex Change and Establishing Transsexualism, and Model Law on Limiting and Protecting Certain Rights and Freedoms – held on 4th May 2012, organised by the Coalition against Discrimination.
- Conference on the occasion of presenting “*The Annual Report on the Position of the LGBT Population in Serbia for 2011*”, held on 15th May 2012, organised by the Labris association.
- Round-table discussion entitled “*How to Counter the Discrimination of Persons Living with HIV/AIDS in Serbia*”, held on 6th June 2012, organised by Čovekoljublje [Love of Mankind], the Charity Fund of the Serbian Orthodox Church and the Union of Organisations Dealing with Protection of Persons Living with HIV.
- Round-table discussion of the presentation of the results of “*Research into the Prevalence and Characteristics of Discrimination of Women on the Labour Market in Serbia*” and “*Research into Organisations/Institutions That Come or May Come into Contact with Women Victims of Discrimination on the Labour Market*”, held on 12th June 2012, organised by the Victimological Society of Serbia.
- Conference “*United in Action: Employing Persons with Disability through Public/Private Entrepreneurship*”, held on 19th June 2012, organised by the Initiative for the Rights of Persons with Mental Disability MDRI-S and the Association for Support to Persons with Development Problems “Our House”. The conference pointed out the importance of cooperation between the civil, public and business sectors in order to create new possibilities for employment and create quality services aimed at persons with disability.
- Conference “*Put a Stop to Torture*”, held on 26th June 2012, organised by the International Aid Network (IAN). The participants spoke about the right of victims to rehabilitation, that is, about the importance of treatment for alleviating the severe and long-lasting physical and psychological consequences of torture.
- The closing conference within the framework of the project “*Fighting against Discrimination on All Grounds in the Educational System of the Republic of Serbia*”, held on 26th and 27th June 2012 in Vršac, organised by the Committee for Human Rights and the Belgrade Centre for Human Rights.
- Conference “*Protection from Discrimination in Serbia – Achievements and Challenges*”, held on 5th September 2012, organised by Partners for Democratic Changes Serbia and the Centre for Alternative Resolution of Conflicts. The conference was the closing event within the framework of the project “*Partnership for Tolerance and Protection from Discrimination in Serbia*”. The Commissioner for Protection of Equality presented “*A Practicum for Protection from Discrimination*” and spoke about the existing mechanisms for protection from discrimination in Serbia, the possibilities for their improve-

ment and the current challenges in the sphere of protection from discrimination.

- Round-table discussion “*Fighting against Sexual and Gender-based Violence*”, held on 6th September 2012, organised by the Ministry of Labour and Social Policy.
- Conference “*The Position of Women Exposed to Twofold and Multiple Discrimination*”, held on 10th October 2012, organised by the Committee of Lawyers for Human Rights – YUCOM, and the Administration for Gender Equality.
- International conference “*Monitoring the Effects of Policies and Measures in the Sphere of Suppressing Violence against Women*”, held on 17th November 2012, organised by the Autonomous Women’s Centre.
- Round-table discussion “*Implementation of Recommendations Given by the Commissioner for Protection of Equality*”, held on 23rd November 2012 (within the framework of the project “*Strengthening the Role of the Ombudsman in Serbia*”), organised by the Committee of Lawyers for Human Rights and the Belgrade Centre for Human Rights.
- Round-table discussion “*How State Organs, Institutions and Independent Bodies in Serbia Deal with Interethnic Conflicts: the Experiences So Far and Planning of Activities*”, held on 28th November 2012, organised by the Victimological Society of Serbia.
- Conference “*Practices and Models of Institutional Protection from Gender-based Discrimination in the Security Sector*”, held on 30th November 2012, organised by the Belgrade Centre for Security Policy and the Geneva Centre for Democratic Control of Armed Forces.
- Round-table discussion “*Together for the Rights of Patients – the Importance of Passing the Law on the Rights of Patients*”, held on 5th December 2012, organised by USAID and the Institute for Sustainable Communities (ISC).
- Conference “*Dialogue between the Multisector Coordination Body for the Implementation of Resolution 1325 in the Government of the Republic of Serbia and Civil Sector Organisations*”, held on 11th December 2012, organised by UN WOMEN and the Office for Cooperation with Civil Society.

9. LECTURES, PRESENTATIONS AND TRAINING SESSIONS

9.1. Lectures and presentations

- Last year the Commissioner for Protection of Equality and employees of the Professional Service organised several panel discussions and presentations entitled “*Protection from Discrimination – the Procedure before the Commissioner for Protection of Equality*”,⁵⁴ within the framework of the project “*Partnership for Tolerance and Protection from Discrimination in Serbia*”, realised by Partners for Democratic Changes Serbia and the Centre for Alternative Resolution of Conflicts, in Cooperation with the Commissioner for Protection of Equality.
- Lectures “*The Notion and Types of Discrimination*”, organised in cooperation with the Ministry of Defence and UN WOMEN, within the framework of a seminar for education of members of analytical groups in the Republic of Serbia (between 22nd and 24th February 2012), and within the framework of a course for training gender advisers to commanders of national contingents in multinational operations (3rd April 2012).
- The role, tasks and jurisdiction of the institution of the Commissioner for Protection of Equality were presented in the course of the introductory address at the opening of the training course “*The Rights of National Minorities and the Issue of Gender Equality*”. The training was intended for representatives of political parties, municipal officials and representatives of the Councils of National Minorities of Albanians, Bulgarians and the Roma, and was held on 29th February 2012 in Niš, organised by the PBILD programme.
- Lecture on the institution of the Commissioner for Protection of Equality for representatives of civil society organisations dealing with the rights of the child, held on 12th March 2012. The representatives of the said organisations were informed of the institution and the manner of work of the Commissioner, and with the way of submitting complaints to the Commissioner.
- Within the framework of the jubilee 25th Belgrade Marathon, which was held on 22nd April 2012, the employees of the service of the Commissioner for Protection of Equality organised a campaign entitled “*To the Finish Line on an Equal Footing*”. The citizens had an opportunity to get acquainted with the work of the institution and to check their knowledge of the sphere of discrimination and human rights by means of an anonymous questionnaire. The campaign’s promoters were the sportswomen/men Milica Mandić, Tanja Dragić and Draženko Mitrović, and the aim of the campaign was to support discriminated groups in the sphere of sports and to point to the problems with which persons with disability and women are faced in the realm of sports.
- Lecture on the institution of the Commissioner for Protection of Equality, held on 9th May 2012, within the framework of a programme of specialised training for mediators entitled “*Mediation in Cases of Discrimination*”. The training course was held in Kovačica between 9th and 13th May 2012, and was organised by Partners for Demo-

⁵⁴ They were held: on 25th January in Valjevo, on 1st March in Vrbas, on 29th March in Subotica, on 14th June in Kruševac, and on 28th June 2012 in Bajina Bašta.

cratic Changes Serbia and the Centre for Alternative Resolution of Conflicts.

- At the Chamber of Commerce of Serbia, on 20th June 2012 there was a presentation of the institution of the Commissioner for Protection of Equality, and a lecture was held on the position of women and women's entrepreneurship. The event was organised by the Club of First Women.
- Lecture on the role and jurisdiction of the Commissioner for Protection of Equality, held within the framework of the seminar "*Representing Clients in the Mediation Procedure in Cases of Discrimination*". The seminar was held in Ruma on 23rd and 24th August 2012, and was organised by Partners for Democratic Changes Serbia and the Centre for Alternative Resolution of Conflicts.
- Lecture on the role and jurisdiction of the Commissioner for Protection of Equality, held within the framework of a seminar for trade union representatives in health care, organised by the Associated Trade Unions of Serbia "Sloga [Unity]" on 14th September 2012 in the Vrujci spa.
- Lecture on the role and jurisdiction of the Commissioner for Protection of Equality, featuring a description of the case against the Football Association of Serbia, held on 25th September 2012 in Novi Sad, within the framework of training for sports journalists working for the printed and electronic media in Vojvodina.
- Lecture entitled "*Working with Vulnerable Groups of Young People and the Principles of Non-discrimination*", held on 28th September 2012, within the framework of the educational course for local coordinators of offices for young people, organised by the Ministry of Youth and Sports of the Republic of Serbia and the OSCE Mission to Serbia, with the support of the Belgrade Centre for Human Rights.
- Lecture on the role, jurisdiction and the manner of work of the Commissioner for Protection of Equality, and on discrimination on the grounds of sex and gender, held on 28th September 2012 in Ivanjica, within the framework of the seminar "*Representing the Rights of Female Beneficiaries before Centres for Social Work and the Police – the Jurisdiction of Institutions and Complaint Mechanisms*", organised by the Autonomous Women's Centre.
- Lecture on discrimination on the grounds of sex, held on 8th October 2012 in Ečka, organised by the Multisector Coordinating Body for the Implementation of Resolution 1325 in the Government of the Republic of Serbia and UN WOMEN.
- Panel discussions that served to present the institution of the Commissioner for Protection of Equality, its jurisdiction and the manner of work were held on 17th October in Novi Pazar, on 8th November in Prokuplje, and on 10th December 2012 in Smederevska Palanka, within the framework of the project "*Equal Opportunities for Better Possibilities – the Empowerment of the Roma in the Fight against Discrimination*".
- Four lectures on "*The Notion of Discrimination and the Existing Mechanisms of*

protection”,⁵⁵ held within the framework of the project “Gender-based Discrimination in the Security Sector in Serbia”, carried out by the Belgrade Centre for Security Policy, with the support of OSCE.

- Lecture on discrimination, with special emphasis on discrimination of children with development problems and children who belong to minority groups, held on 30th October 2012 in Bor. The lecture was organised for representatives of interdepartmental commissions and the local government, within the framework of the project of the Association of Students with a Handicap.
- Lecture “Discrimination of Persons with Disability – the Experiences So Far and Challenges”, held on 3rd November 2012 in Divčibare, at the conference “The Reform So Far – the Perspectives and Challenges of Further Development of Social Welfare in Serbia”, organised by the Ministry of Labour, Employment and Social Policy, and the Republican Institute for Social Welfare.
- Three lectures on the importance of observing the principle of equality when including children with development problems in the regular system of education,⁵⁶ delivered within the framework of one-day conferences on “The Role of Local Government in Inclusion of Children with Development Problems in the Regular System of Education within the Local Community”, organised by the Association of Students with Handicap, in partnership with the Initiative for Inclusion BigSmall and the Initiative for the Rights of Persons with mental Disability of Serbia, with the support of the Delegation of the European Union to the Republic of Serbia.
- Two lectures on “The Notion, Forms of Discrimination and the Role and Jurisdiction of the Commissioner for Protection of Equality”, held on 9th and 10th November in Ruma, and on 23rd and 24th November 2012 in Niš, within the framework of the educational seminars “Protection of Victims of Discrimination and Experiences from the Struggle against Discrimination in Serbia”, organised by the Association of Public Prosecutors and Deputy Public Prosecutors.
- Lecture on the role of the Commissioner for Protection of Equality, held on 12th December 2012, within the framework of a seminar for judges of the High Misdemeanour Court of the Novi Sad Department. The educational seminar was organised by the Judicial Academy, with the support of the OSCE Mission to Serbia.
- A lecture on the Commissioner for Protection of Equality was delivered to a group of students in their final year of studies at faculties of social sciences in the region on 25th December 2012. A visit of the students to the Commissioner was organised within the framework of the project “Youth Reconciliation Ambassadors”, carried out by the Youth Board of Education, with the support of the British Embassy.

⁵⁵ They were held: on 19th October to a focus group of women in the army, on 23rd October to a focus group of women in the police, on 12th November to a focus group of men in the army, and on 13th November 2012 to a focus group of men in the police.

⁵⁶ The lectures were delivered: on 7th November in Bečej, on 14th November in Šabac, and on 29th November 2012 in Leskovac.

- Four lectures were delivered to civil servants⁵⁷ on protection from discrimination and cooperation of independent state bodies and state administration organs on protection of human rights, in cooperation with the Service for Personnel Management of the Government of the Republic of Serbia. The training sessions and the cooperation with the Service for Personnel Management will continue, in keeping with the Programme of General Professional Training of Civil Servants for the year 2013.

9.2. Improving the capacities of civil society organisations for situational testing of discrimination

The Law on Prohibiting Discrimination, in keeping with the international anti-discrimination standards, prescribes special rules on repositioning the burden of proof, while also regulating the possibility of voluntary investigation of discrimination, the so-called situational testing, for proving the existence of discrimination sometimes presents a great challenge because in some cases it is not possible to prove that an act of discrimination has been committed using standard means of proof.

Situational testing represents an experimental, deliberately created situation through which one can verify whether discrimination does or does not occur in a given social situation. It is used when the occurrence of discrimination is suspected, but it is not recognisable at first glance.

Bearing in mind that civil society organisations are significant actors in the struggle against discrimination, and that they are strategic partners of the Commissioner for Protection of Equality, in August 2012 a public call was issued with the aim of granting funds to civil society organisations for the purpose of implementing the situational testing of discrimination. The aims of this included strengthening the capacity of civil society organisations themselves and establishing an initial mechanism for the situational testing of discrimination on the territory of the Republic of Serbia.

A total of 66 civil society organisations applied, and in the process of selection, attention was paid to a balanced regional representation of target groups, that is, to which vulnerable groups the organisations' activities are primarily dedicated (sex, gender identity, sexual orientation, disability and health status, age, national affiliation and ethnic origin, and other real or presumed personal characteristics). A total of 23 organisations were selected, and a precondition for granting them funds prescribes that each organisation is obliged to appoint two representatives who will participate in the training for a situational testing of discrimination.

With the support of the TACSO programme,⁵⁸ three training sessions were carried out in Kragujevac, Niš and Belgrade, featuring 43 representatives from 22 civil society organisations. The lecturers were representatives of civil society organisations that have experience with situational testing of discrimination (Labris, Gayten, the Regional Centre for Minorities and YUCOM).

⁵⁷ The training sessions were held on 31st May, 8th June, 10th October and 23rd November 2012.

⁵⁸ Technical support to civil society organisations: http://www.tacso.org/Default.aspx?langTag=sr-SP-Latn&template_id=69&pageIndex=1.

Contracts were concluded with 22 organisations, that is, funds were allotted to them in the amount of 130,000 dinars. The organisations were obliged to conduct a minimum of three situational tests within a period of six months, and to submit a report on each testing. If, in the course of testing, they established that an act of discrimination had occurred, the organisations were obliged to submit a complaint to the Commissioner for Protection of Equality.

10. COOPERATION

10.1. Cooperation with other independent bodies

As before, during 2012 the Commissioner for Protection of Equality had good cooperation with other independent state organs, especially with the Ombudsman. Around the middle of 2012, two joint work groups of the Ombudsman and the Commissioner for Protection of Equality were formed: 1) *the Work Group for Analysing Regulations of Importance for the Position of Persons with Disability in Legal Transactions and Procedures before Public Authority Organs* – formed with the task of identifying and analysing legal regulations that are of importance for the participation of persons with disability in legal transactions, and for exercising and protecting the rights of persons with disability in court proceedings and procedures before other public authority organs. The work group is made up of representatives of civil society organisations that deal with protecting the rights of persons with disability, and the aim of their joint work is to formulate specific proposals for amending regulations in this area; 2) *the Work Group for Analysing Regulations of Importance for the Legal Position of Transsexual Persons* – formed with the task of identifying and analysing domestic, regional and international legal regulations and standards in this area. The work group is made up of experts with many years of experience, and the aim of their work is to formulate recommendations and specific proposals for legislative changes that will contribute to improving the position of transsexual persons in Serbia.

In cooperation with the Ombudsman and with the support of the United Nations Children's Fund (UNICEF) office in Serbia, a seminar for children entitled "*Serbia: o Discrimination!*" was held between 28th and 30th November 2012 in Kovačica. The seminar participants included the Panel of Young Advisers to the Ombudsman and a group of children who will constitute a group of young Commissioners for Protection of Equality in the coming period. Both institutions were presented to the seminar participants, and the differences between these two independent state organs were explained to them. The seminar encompassed several segments pertaining to the notion of discrimination, the phenomenal forms of discrimination and protection from discrimination, tolerance and acceptance of differences, and special attention was paid to the education of children with development problems and to discrimination in the educational system. Special guests of the seminar were children and young people with development problems who are included in the programme for young persons of the Initiative for Inclusion BigSmall.

10.2. Cooperation with public authority organs

- In 2012, the Commissioner continued cooperation with public authority organs. The Commissioner for Protection of Equality and the employees in the Commissioner's service participated in various activities organised by other state organs.
- Participation in national consultations on the occasion of the preparation of a state report for the second cycle of the Universal Periodical Overview, in cooperation with the Office for Human and Minority Rights, and in a conference held on 26th October 2012, in the course of which "*The Report of the Republic of Serbia for the Second Cycle of the Universal Periodical Overview*" was presented.

- Participation in expert group meetings of the Coordinating Body for the Process of Serbia's Accession to the European Union, within the subgroups "Social Policy and Employment" and "Movement of Workers". The working meetings were organised in cooperation with the Office for European Integrations and other state organs, in connection with the preparation of the National Programme for Adoption of EU's *Acquis Communautaire* (NPAA) 2013–2016.
- Participation in a working meeting with representatives of the Office for Human and Minority Rights held on 12th September 2012. This meeting was called in connection with the preparation of the National Strategy for Fighting against Discrimination, as well as the Gay Pride parade, already announced, and the attendant events. The long-term cooperation between the Commissioner for Protection of Equality and the Office for Human and Minority Rights will continue within the framework of the project IPA 2011.
- Participation in a meeting with the National Employment Service held on 11th September 2012, called upon the initiative of the Commissioner for Protection of Equality and the Deputy Ombudsman for the Equality of the Sexes of the Autonomous Province. The meeting was dedicated to the issue of job advertisements that contain discriminatory provisions, and to programmes for employment and professional training. An agreement was reached concerning joint work on preventing discrimination, within the framework of the jurisdiction of the three institutions, and on education of employers, employees and persons seeking employment concerning anti-discrimination regulations.
- Within the framework of the project of the Commissioner for Protection of Equality entitled "*More Than Law: Promoting and Implementing Anti-discrimination Legislation and Equality in Serbia*" several workshops were held on "*Discrimination and the Role of State Organs in Fighting Discrimination*". The workshops were attended by representatives of the Ministry of the Interior, the Ministry of Culture and other state organs, institutions and agencies that participate in the preparation of draft laws, especially in the sphere of public information and the media.

10.3. Cooperation with the judiciary

During the course of 2012, the cooperation between the Commissioner for Protection of Equality and representatives of the judiciary was improved. Within the framework of the project of the programme PROGRESS "*More Than Law: Promoting and Implementing Anti-discrimination Legislation and Equality in Serbia*", two training sessions were held for representatives of organs of the judiciary, and were aimed at increasing their capacities and improving their knowledge in the sphere of protection from discrimination.

Within the framework of the educational seminars "*Protection of Victims of Discrimination and Experiences in Fighting against Discrimination in Serbia*", organised by the Association of Public Prosecutors and Deputy Public Prosecutors of Serbia, lectures were held on the role and jurisdiction of the Commissioner for Protection of Equality.

In addition to the above, the publication *“Judicial Civil Law Protection from Discrimination”* was put out, the first of its kind in Serbia, intended primarily for judges, as well as other legal professionals. The publication came into being within the framework of the project of the programme PROGRESS, with the support of the OSCE Mission to Serbia, and the publishers are the Judicial Academy and the Commissioner for Protection of Equality.

10.4. Cooperation with local governments

In cooperation with the United Nations Agency for Gender Equality and the Empowerment of Women of (UN WOMEN) – the Office in Serbia, with which the Commissioner for Protection of Equality has signed a Memorandum of Understanding, work with local governments was continued. During 2011, 10 municipalities and cities were selected,⁵⁹ where cooperation began with the local authorities, the local mechanisms for gender equality and offices for free legal aid. The aim of such direct cooperation is to ensure a better accessibility of the Commissioner for Protection of Equality to all citizens, especially women, through better information of the local mechanisms for gender equality and offices for free legal aid about the mandate of the Commissioner and her role in preventing gender-based discrimination.

In September, representatives of the Professional Service of the Commissioner visited local mechanisms for gender equality in Užice and Ivanjica. In working meetings with representatives of the local governments, they talked about the jurisdiction and the role of the Commissioner for Protection of Equality in preventing gender-based discrimination, and of models of future cooperation with the local mechanisms for gender equality.

On the occasion of the beginning of the project *“Promotion of the European Charter for the Equality of Women and Men at the Local Level”*, financed by the European Union, on 28th February 2012 a conference entitled *“Equality of Women and Men at the Local Level”* was held in Kraljevo. The Commissioner for Protection of Equality spoke of the need for developing the local mechanisms for improving the equality of women and men. The conference presented the main actors from the local communities, the institutions relevant for gender equality at the national level, as well as actors from other states. On that occasion, a Protocol on Cooperation between cities and municipalities participating in the realisation of the project – Mostar, Kotor, Kraljevo and the city of Niš (the municipality of Medijana) was signed.

At the conference *“Developing the Local Mechanisms for Gender Equality of the City of Belgrade”*, held on 2nd March 2012, organised by the Commission for Gender Equality of the city of Belgrade, with the support of the Chamber of the Economy of the City of Belgrade, the association the Club of First Women and the United Nations Agency for Gender Equality and the Empowerment of Women (UN WOMEN), the Commissioner for Protection of Equality participated in a panel discussion entitled *“Legal Obligations and Their Implementation – the Equality of Male and Female Citizens from the Perspective of the Commissioner for Protection of Equality”*.

⁵⁹ The local governments were selected on the basis of previously defined criteria such as the geographical spread, the capacities of local mechanisms for gender equality and free legal aid offices, the dedication of municipalities to protection of human rights and gender equality, the activities so far, the level of visibility and previous cooperation with the Commissioner.

10.5. Cooperation with civil society organisations

During 2012, the Commissioner for Protection of Equality continued intensive cooperation with civil society organisations in the sphere of protection of equality. Acting upon the invitation of civil society organisations, the Commissioner and the Professional Service employees held a succession of lectures and presentations dealing with the work of the institution of the Commissioner, and participated in numerous events.⁶⁰ The Commissioner's cooperation with civil society organisations was also manifested through joint organisation of various expert conferences, and also through other forms of partnership.

On 12th March 2012, the Commissioner for Protection of Equality organised a meeting with civil society organisations that deal with the rights of the child. The aim of the meeting was to establish closer cooperation and to present the publication *"The Rights of the Child in International Documents"*, put out by the Commissioner for Protection of Equality and the Ombudsman, with the support of the United Nations Children's Fund (UNICEF) in Serbia.

The Commissioner continued cooperating with the organisations Partners for Democratic Changes Serbia and the Centre for Alternative Resolution of Conflicts on the realisation of the project *"Partnership for Tolerance and Protection from Discrimination in Serbia"*, which is supported by the Delegation of the European Union in Serbia. Through a series of training sessions, workshops and panel discussions in 15 cities in Serbia, and also through a public campaign, the project contributes to overcoming discrimination, improving the system of protection from discrimination and increasing the visibility of the Commissioner for Protection of Equality. Within the framework of this project, a specialised training course for mediators who will deal with cases of discrimination and two training courses for legal representatives were organised.

In cooperation with the organisations Praxis and the Regional Centre for Minorities, the Commissioner is carrying out the project *"Equal Opportunities for Better Possibilities – the Empowerment of the Roma in the Fight against Discrimination"*.⁶¹

A meeting was held with representatives of the Fund for Humanitarian Law concerning the problems encountered by victims of severe violations of human rights perpetrated by members of Serbian forces during the 1990's when trying to realise their right to being compensated for their suffering. The Fund asked for the support of the Commissioner for Protection of Equality to the initiative for changing the regulations on the rights of civilian invalids of war. The Commissioner expressed her readiness to get involved in this process, together with other institutions, in order to improve the existing legal regulations and enable this category of victims to realise their rights in accordance with international standards.

On the eve of the already announced Gay Pride parade, a meeting was held with representatives of the Organising Committee of the Gay Pride parade 2012. On that occasion, the Commissioner gave her full support to all the activities planned, including the announced Gay Pride parade, and a joint conclusion was reached that the right to peaceful assembly was guaranteed by the Constitution of the Republic of Serbia, and that the state was obliged to ensure the safety of participants and prevent any violence from occurring.

⁶⁰ An overview of the most important activities is presented in section 9 of this report.

⁶¹ For more details on this, see section 12 of this report.

Also, a public call for bids for grant funding was issued to civil society organisations, the aim of which was for the said organisations to establish an initial mechanism of situational testing in cases of discrimination, and in connection with this, three training courses on situational testing of discrimination were held for selected civil society organisations (for more details on this, see section 9.2).

10.6. Cooperation with the media

Cooperation with the media and the interest shown by the media in the work of the Commissioner for Protection of Equality have considerably increased, which has contributed to the visibility of the institution.

Among other things, the visibility and recognisability of the work of the institution of the Commissioner for Protection of Equality were contributed to by the activities within the framework of the project of the programme PROGRESS *“More Than Law: Promoting and Implementing Anti-discrimination Legislation and Equality in Serbia”*, whose most voluminous component referred precisely to the media. Cooperation with the media encompassed numerous activities: workshops, in the course of which journalists acquired additional information about the institution of the Commissioner and the phenomenon of discrimination, study trips to Paris and Rome, in the course of which visits to independent bodies for equality and media houses were organised for journalists. In cooperation with journalists, an extensive investigation into *“The Media and Discrimination”* was carried out, and an operational manual entitled *“The Media and Equality”* was published.

The international conference *“The Media and Equality”*, held on 19th October 2012, was dedicated to the education of media representatives from domestic media houses, and also to exchanging information from Serbia and the broader region. The aims of the conference were raising the level of awareness of journalists of the importance of suppressing discrimination, hate speech, intolerance and animosity in the media, and of protecting the right to equality of minority and vulnerable groups, and of promoting equality through examples of good practices and getting acquainted with the European standards of reporting.

On the occasion of the International Tolerance Day, the Commissioner for Protection of Equality and the Blic daily published a comic strip by Marko Somborac which deals with discrimination and tolerance in Serbia in a recognisable manner. The common objective of this campaign was the development of a tolerant society which respects and recognises differences, and which observes the principle of zero tolerance of discrimination.

Also, a Communication Strategy was prepared, whose realisation was already under way during October 2012. The Strategy developed in some detail the activities planned for the 2012-2014 period, the aim of which is promoting equality and suppressing discrimination in society, improving communication with the media, civil society organisations, state organs and institutions at the republican and local levels, and with other institutions and organisations with which the Commissioner cooperates. The Communication Strategy will enable the Commissioner to acquaint the broader public with the priorities in her work and to go on continually informing the citizens about discrimination and ways of protecting from discrimination.

10.7. International cooperation

During 2012, cooperation with regional and international organisations and institutions was additionally intensified. Apart from the already established cooperation with the representative offices of international organisations in Serbia and their specialised bodies, along with carrying out its regular activities within the framework of its membership in the European Network of Equality Bodies (EQUINET), the institution of the Commissioner established cooperation and developed partnerships with other organisations as well. Study trips and working meetings with international partners contributed to an exchange of experiences and increasing the capacities of the institution.

10.7.1. Participation in international gatherings and study trips

- Conference “*Zero Tolerance to Gender-based Violence and Harassment in Europe*”, held between 5th and 7th March 2012 in Brussels (Belgium), organised by the Public Policy Exchange. The participation of a representative of the Commissioner was made possible by the United Nations Agency for Gender Equality and the Empowerment of Women (UN WOMEN).
- Legal training dealing with developing models of mediation in cases of discrimination on “*Alternative Resolution of Conflicts: the Mechanisms of Specialised Bodies for Equality*”, held on 23rd and 24th May in Vilnius (Lithuania), organised by the European Network of Equality Bodies (EQUINET). In the course of the training, a model of mediation in cases of discrimination developed by the Commissioner for Protection of Equality was presented.
- Joint conference on the occasion of the beginning of three regional projects in the Western Balkans financed by the European Union, held from 27th to 29th June 2012 in Budva. The projects presented at the conference were the Council of Europe’s “*Promotion of Human Rights and Protection of Minorities in South-eastern Europe*” and “*A Regional Initiative for Inclusive Education*”, and the project of the Office for Democratic Institutions and Human Rights with the OSCE (OSCE-ODIHR) entitled “*The Best Practices for the Integration of the Roma*”.
- Conference of Ombudsmen and representatives of bodies for equality in south-eastern Europe entitled “*Improving Human Rights and Protection of Minorities in South-eastern Europe*”, held on 17th and 18th September 2012 in Tirana (Albania), organised by the Council of Europe. Representatives of national bodies for equality and Ombudsman offices spoke of their experiences so far and the problems they faced in their work in the sphere of protection of the rights of national minorities, and also of examples of good practices in cooperation with representatives of specialised bodies from other countries.
- Training course on “*The Use of Communications in the Prevention of Non-reporting Cases of Discrimination*”, held between 26th and 29th September 2012 in Malta, organised by the European Network of Equality Bodies (EQUINET). During the training, the participants reviewed models of communication with a view to raising the level of

awareness of human rights, increasing the self-confidence of persons and groups discriminated against towards active participation in the defence of their rights, and for the purpose of contributing to the development of the culture of cultivation of human rights in society.

- Annual conference on human rights and democracy “*The Human Dimension Implementation Meeting (HDIM)*”, held in Warsaw (Poland). Representatives of the Commissioner for Protection of Equality held a presentation entitled “*Protection from Discrimination in Serbia – Efficient Answers*”, supported by the OSCE Office in Serbia, on 3rd October 2012.
- Conference on “*Prevention of Conflicts and Mediation in Schools*”, held from 17th to 20th October 2012 in Ohrid (Macedonia), organised by OSCE and the ZDF Forum.
- “*Regional Expert Workshop of National Institutions for Human Rights and Gender Equality*”, held on 4th December 2012 in Sarajevo, organised by the OSCE Mission to Bosnia and Herzegovina, and the Office for Democratic Institutions and Human Rights with OSCE. During the workshop, “*An Operational Manual for National Institutions for Human Rights on the Rights of Women and the Equality of the Sexes*” was presented.
- Annual conference of the European Network of Equality Bodies, held between 3rd and 6th December 2012 in Brussels. The conference presented an overview of the activities of working groups in the course of 2012, a proposal for activities in 2013, and the Commissioner for Protection from Discrimination of the Republic of Macedonia was granted membership.
- Round-table discussion on “*Fighting against Discrimination in Education through Strategic Lawsuits*”, held in Prague on 11th and 12th December 2012; conference on “*Bodies for Protection of Equality and Fighting against Discrimination: the Possibilities, Limitations and Cooperation with the Civil Sector*”, held in Brno on 13th December 2012. Both events were organised by the Counselling Center for Citizenship/Civil and Human Rights, the Czech Republic, with the support of the Ministry of Foreign Affairs of the Czech Republic and the Open Society Foundation.
- Study visit to Australia, organised between 4th and 15th February 2012, made possible by the Australian Embassy in Serbia and the United Nations Development Programme (UNDP). Together with two assistants of hers, the Commissioner for Protection of Equality visited the Commission for Equality, the Faculty of Law in Sydney, the Civil and Administrative Tribunal in Sydney, and had meetings with representatives of commissions dealing with the rights of Australian Aborigines. Owing to the endeavours of Professor Nataša Čiča, a visit to the Commission for Equality of Tasmania was organised, in the course of which there was an exchange of experiences between these two very similar independent bodies, and there was also discussion about the possibility of further cooperation in the sphere of equality and preventing discrimination. The Commissioner for Protection of Equality delivered a lecture at the Faculty of Law of the University of Tasmania entitled “*How to Make Equality a Reality – in All Meridians*”, and a part of the lecture was dedicated to the work of the institution of the Commissioner for

Protection of Equality of the Republic of Serbia.

- Study visit to the University of Roehampton in London, organised between 20th and 25th May 2012, within the framework of the project *“Equal Approach for Everyone: Strengthening the Social Dimension with a view to Strengthening the European Area of Higher Education”*, wherein the Commissioner participates as a partner. The aim of the visit was for members of the project team to get acquainted with the basic principles and experiences of the process of broadening access to higher education in Great Britain.
- Within the framework of the project *“More Than Law: Promoting and Implementing Anti-discrimination Legislation and Equality in Serbia”*, two study visits were organised – a visit to the Defender of Rights of the Republic of France and a meeting with representatives of the media in Rome.

10.7.2. Meetings with representatives of international organisations

During 2012, the Commissioner for Protection of Equality and her collaborators had a number of meetings and talks with representatives of international organisations and diplomatic missions to Serbia concerning the improvement and promotion of equality: with the Ambassador of Great Britain, the Ambassador of Australia, the Head of the Office of the Council of Europe, the Head of the Delegation of the European Union to Serbia, etc.

A meeting was held with a representative of the SIGMA programme, in the course of which the progress in the work of the Commissioner for Protection of Equality during 2011 was discussed, and was assessed in very positive terms. The meeting was held in order to gather and analyse data on the administrative capacities of Serbia that were used in the preparation of the annual progress report for 2011.

In June 2012, a working meeting was held with representatives of the Embassy of Holland, the Embassy of Australia, the Delegation of the European Union to Serbia, the OSCE Mission to Serbia, the United States Agency for International Development (USAID) and the United Nations Development Programme (UNDP). In the course of the meeting, possibilities for improving cooperation and project-related activities that will contribute to protection and improvement of equality in Serbia were reviewed.

On 1st August 2012, the Commissioner for Protection of Equality met with the Director of the Programme for Reforming the Judiciary and for Accountable Authorities, the adviser for fighting against corruption and the adviser for accountable authorities of the United States Agency for International Trade (USAID). The basic criteria for project support to the Commissioner for Protection of Equality were established, as well as the initial activities within the framework of mutual cooperation.

During 2012, an agreement was concluded with the United Nations Children's Fund (UNICEF) in Serbia on long-term cooperation in preventing all forms of discrimination of children. The agreement presupposed the financial support of UNICEF for the implementation of activities aimed at children and young persons in Serbia.

10.7.3. Organisation of international events

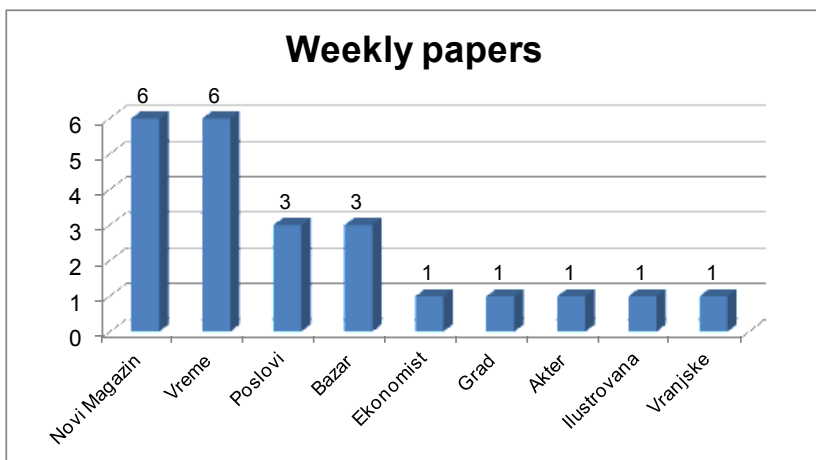
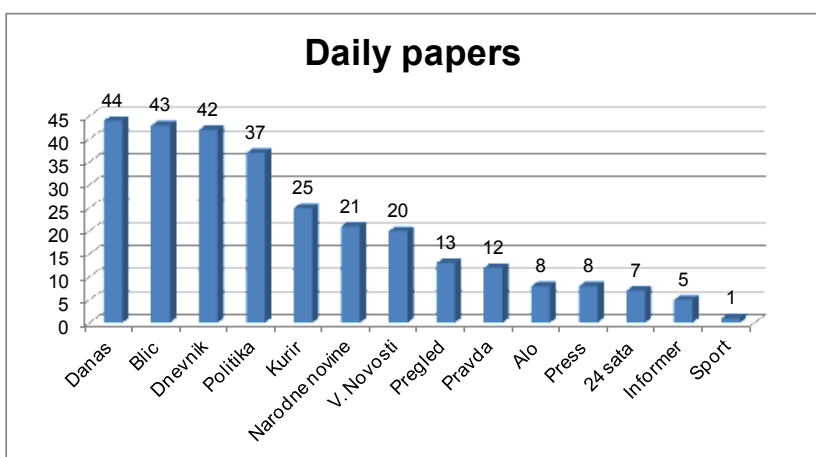
During 2012, the institution of the Commissioner organised two international events:

- “A Round-table Discussion on the Burden of Proof in Discrimination Proceedings” was held on 11th May 2012, featuring representatives of independent bodies dealing with protection from discrimination from Croatia, Bosnia and Herzegovina, the Republic of Srpska, Montenegro and Serbia. the future cooperation of equality bodies in the region was also discussed in the course of the meeting.
- The international conference “*The Media and Equality*” was held on 19th October 2012, and the participants were journalists from the domestic media, whereas the lecturers and workshop facilitators were well respected domestic and foreign experts.

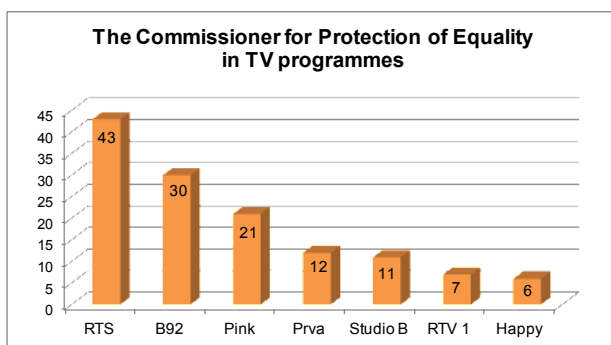
11. THE MEDIA COVERAGE OF THE WORK OF THE COMMISSIONER AND REPORTING ON DISCRIMINATION

11.1. The media on the Commissioner

The interest of the media in the work of the Commissioner increased in the course of 2012 compared to the previous years. In statistical terms, during 2012 the institution of the Commissioner for Protection of Equality and the Commissioner herself were mentioned in the media 439 times. The printed media published 309 newspaper articles (statements, reports, announcements, comments), while the electronic media broadcast 130 news items, statements, announcements and thematic TV blocs wherein the Commissioner for Protection of Equality, or one of the employees of the Professional Service of the Commissioner, was mentioned or quoted.



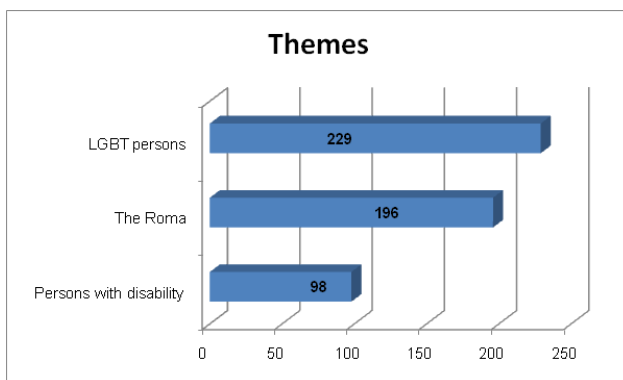
The electronic media



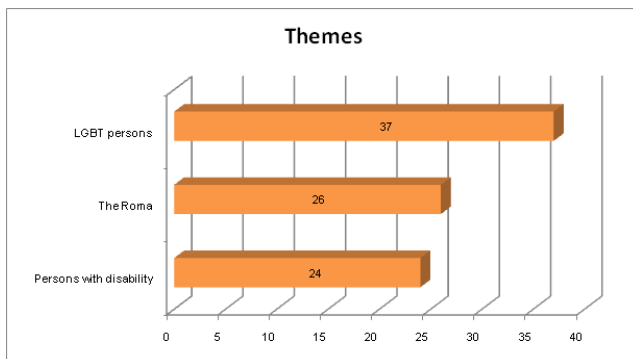
11.2. The media on discrimination

When it comes to reporting on discrimination, the most of the texts and news items were about LGBT persons, followed by reports on the Roma and persons with disability.

The printed media



The electronic media



In the text that follows, we provide an analysis of the texts on vulnerable groups published in the printed media in Serbia during 2012.

During the course of last year, the printed media published a total of 148 texts on the Roma. Most of those texts were published in the papers Blic [Biltz] (29), Danas [Today] (28), Dnevnik [Diary] (19), Politika [Politics] (14), Kurir [Courier] (11), Alo [Hello] (7), Pravda [Justice] (6), Novosti [News] (6), Narodne novine [People's Newspaper] (5), 24 sata [24 Hours] (4), Press (3), Informer (3), Privredni pregled [Economic Review] (3); the following papers printed one text each on the subject: Napred Valjevo [Forward Valjevo], Novi Magazin [New Magazine], Vreme [Time], NIN [Serbian acronym for Weekly Informative Paper], Vranjske [News of Vranje], Reč naroda [People's Word], Bečejski mozaik [Mosaic of Bečej], Ekonomist [Economist], Akter [Actor], Grad [City].

More than one-third of those texts (as many as 53) were occasioned by incidents in which the victims were members of the Roma national minority. Of those 53 texts, 35 dealt with the displacement of Roma from unhygienic settlements and related events, while approximately one-fifth of the texts dealt with investigations leading, as a rule, to the conclusion that the Roma are one of the minority groups most discriminated against.

There are 26 texts presenting the Roma in a positive light, especially those published in the papers Danas, Dnevnik, Politika and Blic (Blic published several comments by Nevena Petrušić, the Commissioner for Protection of Equality). The daily papers Politika and Danas stand out when it comes to the number of analytical texts which, without being occasioned by any specific event, point to the difficult position of the Roma in Serbia.

Of the overall number of texts about the LGBT population in the printed media (186), only a small part referred to transsexual persons, and all the others dealt with homosexual persons.

The greatest number of texts came out in the papers Danas (26) and Dnevnik (26), a few less in Politika (21), followed by Blic (19), Informer (16), Alo (15), Press (14), Kurir (13), Večernje novosti [Evening News] (13), 24 sata (8), Vreme (5), Privredni pregled (5), Pravda (2), NIN (2), Narodne novine (1). The Gay Pride parade and related events occasioned the vast majority of the texts about the LGBT population (as many as 134 texts), and 20 texts were published about various incidents in which the victims were persons with a different sexual orientation, or about trials and verdicts against discriminators. The weekly Vreme and the daily papers Danas and Dnevnik stand out in particular when it comes to positively intoned texts about LGBT persons, having published a succession of comments by human rights activists, politicians and journalists who criticised intolerance towards LGBT persons and promoted equality. Criticism of the intolerant atmosphere and statements related to the Gay Pride parade and affirmative texts could also be found in the daily papers Blic, Politika and 24 sata. The daily paper Informer publishes both positive and negative news items about the LGBT population, but it is noticeable that the positive texts are almost always in the form of brief news items, whereas the negatively intoned ones are always longish and sensationalist in tone. When it comes to the manner of reporting to be found in the paper Alo, there is a visible tendency towards sensationalist reports on the LGBT population – two extensive text that are of no importance in terms of providing information dealt with the acquaintance of some LGBT

activists and members of the conservative nationalist organisation Dveri [Gate]. Sensationalism is evident in the manner of reporting in the daily Kurir, and in some texts published in the daily Press. A number of texts in various papers dealt with hate speech, and affirmative statements about the LGBT population are to be found mainly in the criticism addressed to state organs by the European Parliament and the Commissioner for Protection of Equality Nevena Petrušić.

During 2012, the printed media published a total of 32 texts about persons with disability. The greatest number of them were published in the daily Blic (6), followed by Danas (5), Večernje novosti (4), Dnevnik (3), Politika (2), Poslovi [Jobs] (2), Privredni pregled (2), Narodne novine (2), Kurir (1), Čačanske novine [Čačak News] (1), Alo (1), Press (1), Pravda (1) and Somborske novine [Sombor News] (1). Most of these texts deal with persons with mental disability and persons with physical disability who use a wheelchair, while a smaller number of texts deal with persons whose hearing or eyesight are impaired. When it comes to the use of appropriate terminology, there is evident progress in the use of correct terms that show respect for a person. Correct terms were used in 22 texts, but there are still quite a few texts whose content is correct while their titles are not, and the other way round. It can be assumed that this is due to the fact that the journalists in question are not properly acquainted with the appropriate terminology, or this may be due to the need to shorten the texts in question. Only 4 texts have a positive content which, without being related to any specific occasion, promotes projects for improving the position of persons with disability, while the majority of these texts, even those that point to problems and the ways of resolving them, were occasioned by events such as the Day of Persons with Disability, forums on discrimination, incidents or extremely bad conditions in some institutions providing accommodation for persons with disability. The majority of these texts deal with the problems of employing persons with disability, and this topic is often connected with the need for equal accessibility and education.

Of the 49 texts published last year in connection with national minorities, the greatest number of them came out in the daily Danas (13), followed by Blic (8), Dnevnik (7), Pravda (7), Politika (4), Novosti (2), Narodne novine (2), Kurir (1), NIN (1), 24 sata (1), Vreme (1), Vranjske (1) and Alo (1). Most of these newspaper texts referred to members of the Hungarian national minority (12), followed by texts about Bosniaks (10), Germans (4), Albanians (4), Wallachians (3), Croats (2), Gorani (2), Bunjevci (1), Ashkali (1) and Egyptians (1).

One-fifth of these texts were occasioned by some interethnic incident, and they mainly dealt with nationally-motivated attacks on members of various minority groups, mostly Hungarians. One text dealt with a case of discrimination of a Serb by members of the Hungarian national minority.

Many of the texts dealt with complaints due to discrimination in the sphere of labour relations and employment, pointed out by the Commissioner Nevena Petrušić.

During 2012, the printed media published 192 texts about the position of women in Serbia. The greatest number of these came out in the daily Danas (30), followed by Politika (27), Blic (26), Dnevnik (15), Novosti (11), Privredni pregled (11), Kurir (11), Press (8), Alo (6), Pravda (6), Informer (5), Vreme (4), Narodne novine (3), 24 sata (3), Poslovi (3), NIN (3), Pančevac [Pančevo News] (3), Novi magazin (2), Blic žena [Blitz Woman] (2), Ekonomist (1),

Glas komune [Voice of the Commune] (1), Bečejski mozaik (1), Grazia (1), Akter (1), Napred Valjevo (1), Sremske novine [Srem News] (1), Nedeljne novine [Sunday News] Bačka palanka (1), Pirotske novine [Pirot News] (1), Pobeda [Victory] (1), Zrenjanin (1), Borski problem [Bor Problem] (1) and Reč naroda (1).

Most of these texts (48) point to the discrimination of women in the sphere of labour relations and employment, and primarily pertain to the fact that women are paid less and find it more difficult to get promoted. Many of these texts are about the illegal dismissal of pregnant women and childbearing women, and also about discriminatory job advertisements. The need for pregnant women to have their health care booklets certified occasioned 9 texts, and all the texts dealing with this topic refer to the recommendation issued by the Commissioner for Protection of Equality Nevena Petrušić.

There were 34 texts dealing with the position of women in the sphere of politics. All of them point to the fact that there are still not enough women in politics, especially in high-ranking political positions and decision-making places. In several texts it is stressed that some progress has been made, for the new Government of the Republic of Serbia has the greatest number of women so far. Violence against women occasioned 22 newspaper texts, four of which were published on the occasion of the Day of Fighting Violence against Women. Stereotyped presentation of women and their invisibility in the media are the topics of three texts, while two texts deal with the need for a gender-sensitive language. Only one text dealt with stereotyped presentation of women in school textbooks.

Gender equality in general terms, in all spheres of life, was the topic of 54 texts, four of which pertain to the discrimination of men (single fathers), while all the others refer to the discrimination of women. Women's Day, 8th March, gave rise to almost one-third of the texts about gender equality, and 7 texts dealt with research that indicated daughters were less desirable children in Serbia than sons.

An analysis of reports on the above-mentioned minority groups in the printed media showed that the majority of texts are still published after incidents wherein members of those groups were victims. Incorrect terminology is encountered to a great degree in such texts, as are elements of sensationalist reporting, without any real intention of pointing to a particular problem or dealing with a topic. The papers with the most correct attitude are Danas and Dnevnik, which report the most on observance of human rights (or lack of it) and, using appropriate terminology, point to the problems encountered by members of minority groups that are discriminated against. To a great degree, the media dealt with the issue of gender equality and the position of women, members of national minorities, and in particular with the sphere of labour relations, where the greatest number of cases of discrimination on all grounds is to be found. There is a considerable number of texts pointing to the causes of the unfavourable position of women and ways of resolving that problem.

12. PROJECTS

In the course of 2012, the Commissioner for Protection of Equality realised numerous activities within the framework of projects realised either independently or in partnership with civil society organisations.

Project “More Than Law: Promoting and Implementing Anti-discrimination Legislation and Equality in Serbia” (European Union programme PROGRESS)

The project was realised between 15th December 2011 and 15th December 2012. Within the framework of the first component of the project, the aim of which was to increase the capacity of the judiciary for the implementation of anti-discrimination laws, one of the activities was publishing court decisions passed in Serbia in the sphere of discrimination. The publication “*Judicial Civil Law Protection from Discrimination*” is intended for judges as a manual and a source of information and good practices in an area that represents something new in our judicial practice, and for all those who need information from this area. Workshops on civil law protection from discrimination were held for representatives of the judiciary, and a number of judges will conduct similar workshops in the future.

The second component of the project is dedicated to the media, that is, to working with representatives of the media on raising the level of awareness of the phenomenon of discrimination and the role of the media in the suppression of discrimination. In the period between 20th December 2011 and 20th January 2012, an extensive survey was conducted, the results of which were published under the title “*The Media and Discrimination in Serbia*”. Several workshops were held: 1) for editors of printed and electronic media at the local level (from 23rd to 25th April 2012); 2) on the issue of the relations between representatives of the media and the police in cases of discrimination (on 14th and 15th June 2012; it was the first workshop of this kind, for representatives of these two professions had not had an opportunity to exchange and compare their professional experiences, challenges and professional dilemmas in connection with discrimination), and 3) for civil servants and representatives of the media (an overview of anti-discrimination legislation pertaining to the media, their functioning and position).

Within the framework of this project, two study trips were organised for representatives of the media – a study trip to Paris, in the course of which journalists working for the Radio-Television of Serbia, TV B92, Network and Politika had an opportunity to meet and talk with journalists working for the papers *Le Monde* and *Les Echos*, and a study trip to Rome, in the course of which journalists working for *Blic*, the Radio-Television of Vojvodina, TV Studio B and TV Zone from Niš talked with journalists from the anti-discrimination portal *Zero Violenza Donne* (<http://www.zeroviolenzadonne.it>) and with journalists from TV *BABEL*, a television station dealing with issues that are of importance for the life of immigrants in Italy. The exchange of experiences and examples of good reporting with French and Italian colleagues will contribute to promoting equality and fighting against discrimination, with media representatives participating alongside the Commissioner for Protection of Equality.

Within the framework of this project component, the manual “*The Media in Serbia, from Discrimination to Equality*” was published, and an international conference entitled “*The Media and Equality*” was held: the opening speeches were delivered by the Head of the Delegation.

tion of the European Union to Serbia Vincent Degert, the Deputy Prime Minister of the Government of the Republic of Serbia for European Integrations Suzana Grubješić, the Speaker of the National Assembly of the Republic of Serbia Nebojša Stefanović and the Commissioner for Protection of Equality Nevena Petrušić. In the working part of the conference, workshops for journalists were held, conducted by guests from abroad and prominent representatives of the domestic media – the President of the Association of Journalists of Serbia Ljiljana Smajlović, the Al Jazeera journalist from Bosnia and Herzegovina Nadina Malčibegović, the Executive Director of the Media Diversity Institute from London Milica Pešić, the President of the Independent Journalists' Association of Serbia Vukašin Obradović, Sue Caro of the BBC, the Director of ANEM Saša Mirković, the reporter of TV Atlas from Montenegro Duška Pejović and the journalist of the Croatian paper Jutarnji list [Morning Paper] Drago Hedl.

The third project component was dedicated to analysing labour-related legislation from the perspective of anti-discrimination regulations. Within the framework of this project component, *"A Manual for Fighting against Discrimination in the Sphere of Labour"* was published, wherein international standards, the national legislation and the judicial practice in this area are analysed.

The closing conference was held on 13th December 2012, and in the course of it the results of the activities on this project were presented.

Project "A Living Library" (in cooperation with the Council of Europe Office in Belgrade)

Cooperation was established with the Council of Europe Office in Belgrade for the purpose of the realisation of the project "A Living Library", the aim of which is to reduce the influence of negative stereotypes and prejudices as the main causes of discrimination in society.⁶²

Six "Living Libraries" were held (in Smederevo, Pančevo, Kragujevac, while three were held in Belgrade). So far, more than 120 volunteers have participated in their realisation, and the overall number of readers was around 2,000.

In addition to this, three national training sessions were held for "Living Library" organisers (in Ruma, Jagodina and Šabac), and 64 persons in all underwent the training, mostly from civil society organisations. The basic aim of the training was to enable the participants for independent organisation of "Living Libraries" in the places where they live, to help them learn more about the role of prejudices and negative stereotypes in generating discriminatory behaviour, and to inform them of the mechanisms for protection from discrimination. In this way, the capacities of local civil society organisations dealing with human rights protection is increased, so that they could work on preventing discrimination, and in situations when discrimination does occur, that they should be able to help the persons discriminated against when it comes to protecting their rights.

62 "A Living Library" represents an innovative methodology for promoting human rights, equality, and for fighting against racism and xenophobia. The methodology of "A Living Library" is rather specific. Its books are living people, carefully selected from social groups which are often exposed to prejudices and negative stereotypes. Due to their position in society and to belonging to a particular social group, these persons are stigmatised or suffer discrimination.

“For Equality to Become Reality” (the Kingdom of Norway)

Towards the end of 2012, the Commissioner for Protection of Equality had a project entitled “For Equality to Become Reality” approved. Project activities are aimed at the position of national minorities and at improving the position of the LGBT population in Serbia. The realisation of the project will commence in 2013.

“Equal Opportunities for Better Possibilities – the Empowerment of the Roma in the Fight against Discrimination” (the Kingdom of Holland)

The project is to be realised between May 2012 and December 2013, in partnership with the organisations Praxis and the Regional Centre for Minorities. The main aims of the project are raising the level of awareness of the Roma population about the role and jurisdiction of the Commissioner for Protection of Equality, and about the institutional mechanisms for fighting against discrimination, as well as education aimed at enabling them to recognise acts of discrimination and providing information about the manner of submitting a complaint to the Commissioner.

The project envisages holding panel/round-table discussions in Roma settlements in 10 cities and municipalities of Serbia. In the second half of 2012, panel discussions were held in Novi Pazar, Prokuplje and Smederevska Palanka, and the participants were encouraged to submit complaints to the Commissioner for Protection of Equality when cases of discrimination do occur. Apart from the interested Roma, these events were attended by representatives of the local non-governmental organisations and representatives of the local public authority organs. These activities are planned to continue in 2013, through visits to Roma settlements in Vranje, Kragujevac, Požega, Niš, Novi Bečej, Subotica and Belgrade.

Agreement on cooperation with the United Nations Children’s Fund (UNICEF) in Serbia on preventing all forms of discrimination of children

In September 2012, the United Nations Children’s Fund in Serbia and the Commissioner for Protection of Equality concluded an agreement on cooperation, planned to last for years, on preventing all forms of discrimination of children. The cooperation will unfold in phases. After each phase, the results achieved will be evaluated, and the partners will decide on the types of activities to be carried out in the next phase of the project. The aim of this cooperation is to strengthen the respect and protection of human rights of all citizens, especially of children and young persons.

Within the framework of the first phase (September 2012-June 2013), the following activities have been carried out:

- Training for the employees of the office of the Commissioner for Protection of Equality, with a view to improving analytical work, the manner of reporting, the development of strategic documents and other activities that should bring the work of this office closer to children and young people.
- A colouring book entitled “We Are All Equal and We Can Be Together” was published, intended for children of pre-school age. It contains various illustrations which,

among other things, aim to dispel gender stereotypes and promote equality regardless of personal characteristics such as national affiliation, skin colour and disability.

- A brochure entitled *“Do Not Tolerate Discrimination, Seek Protection and React”* was published, intended for children aged 12 to 16. It presents various examples through which children can learn what is discrimination and what is not, as well as ways of seeking protection.
- A *Group of Young Persons* was founded, and in the coming period it will cooperate with the Commissioner for Protection of Equality. A three-day training course was organised for them, in the course of which the young attendees learned what discrimination is, found out about the jurisdiction of the Commissioner for Protection of Equality, about the problems that children with development problems face, what the right to education for all means, etc. The training was also attended by young people from the Panel of Young Advisers to the Ombudsman.

“Support to the Institution of the Commissioner for Protection of Equality for Efficient Implementation of Anti-discriminatory Legislation”, in cooperation with the United Nations Development Programme (UNDP)

The aim of this project is the improvement of the capacity of the Commissioner for Protection of Equality for fully realising its advisory role and providing a well adjusted legislative framework for fighting against discrimination, for building capacities through transfer of knowledge and analysis of comparative judicial practices, and for developing alternative conflict resolution through the mediation method. The project envisages establishing a database on cases of discrimination, on the basis of the methodology provided by the institution of the Commissioner for Protection of Equality, so that the employees can better prepare for processing the cases and for conducting strategic lawsuits, and establishing a network of outside experts, that is, collaborators.

The United Nations Development Programme supported a public opinion poll on discrimination in Serbia, conducted for the benefit of the Commissioner for Protection of Equality by the Centre for Free Elections and Democracy in November 2012. The aim of the survey was to continually monitor the citizens' views on discrimination over a long period of time in order to perceive the indications and social changes, and to enable decision-makers to better identify the main areas of activity and the priorities in the work of the institution of the Commissioner for Protection of Equality.

“Implementation of Anti-discrimination Policies in Serbia” (the Office for Human and Minority Rights – IPA 2011)

During 2010, in the process of programming IPA for 2011, the then Ministry of Human and Minority Rights submitted a project proposal that involved the Commissioner for Protection of Equality as a beneficiary. This project is now conducted by the Office for Human and Minority Rights.

Activities on this IPA project commenced around the middle of 2012 by the selection of the consortium that would carry out the project. The project envisages diverse activities

of the Commissioner in the sphere of raising the awareness of the citizens of Serbia in the struggle against discrimination, as well as increasing the capacities of the Commissioner through technical support in the form of procuring equipment for the Commissioner's Professional Service.

13. PUBLISHING

For the purpose of improving and promoting equality, protection from discrimination and providing better information to the citizens about the work of the institution, the Commissioner for Protection of Equality issued several publications during 2012. In this section, we provide an overview of the Commissioner's publishing activities, noting that all the publications are available in electronic form as well, on the web page of the Commissioner for Protection of Equality:

- a) *The Regular Annual Report of the Commissioner for Protection of Equality for 2011*, Belgrade, 2012, 108 pages (in Serbian and in English);
- b) *Collection of Selected Opinions and Recommendations of the Commissioner for Protection of Equality*, Belgrade, 2012, 97 pages (in English);
- c) *Survey: the Media and Discrimination in Serbia*, Belgrade, 2012, 74 pages;
- d) *The Media in Serbia: from Discrimination to Equality – a Manual for Journalists*, Belgrade, 2012, 125 pages;
- e) *A Manual for Fighting against Discrimination in the Sphere of Labour*, Belgrade, 2012, 151 pages;
- f) *Judicial Civil Law Protection against Discrimination*, Belgrade, 2012, 320 pages;
- g) *For a Serbia without Discrimination*, Belgrade, 2012, 8 pages;
- h) *Do Not Tolerate Discrimination! Seek Protection and React!*, Belgrade, 2012, 24 pages;
- i) *We Are All Equal and We Can Be Together!*, Belgrade, 2012, 24 pages;
- j) *A Practicum for Protection from Discrimination*, Belgrade, 2012, 94 pages (in Serbian, English, Albanian, Hungarian and Roma)
- j) *What Is Discrimination and How to Protect Oneself from It? A Simplified Version of the Practicum for Protection from Discrimination*, Belgrade, 2012, 30 pages.

14. PROMOTIONAL ACTIVITIES

For the purpose of sensitising and raising the level of awareness of the public concerning the occurrence of discrimination and its harmful consequences, and also with a view to increasing the visibility of the institution of the Commissioner, several campaigns were organised.

The campaign conducted under the slogan “To the Finish Line on an Equal Footing”, which attracted the attention of the public and the media, was particularly successful. It was organised on 22nd April 2012, within the framework of the jubilee 25th Belgrade Marathon.

The aim of the campaign was to provide support to discriminated persons and social groups in the realm of sports, and to point to the problems faced by persons with disability and women in sports, caused first of all by discrimination. Through this campaign, the institution of the Commissioner for Protection of Equality promoted the creation of an inclusive society of equal opportunities for all the citizens of Serbia. The campaign was supported by representatives of the Paralympics Committee of Serbia, members of the Belgrade Association for Sports and Recreation of Persons with Disability, the organisation Women in Sports, numerous sport clubs and volunteers, and was promoted by the sportswomen/men Milica Mandić, Draženko Mitrović, Tanja Dragić and the Pink TV reporter Nikola Milivojević.

The promotional stalls of the Commissioner for Protection of Equality and the Association for Sports and Recreation of Persons with Disability were visited by between 400 and 450 citizens, among them 230 persons with disability. The interested citizens had an opportunity to get acquainted with the work of the institution of the Commissioner. Within the framework of the campaign, the citizens who visited the stall of the Commissioner for Protection of Equality were given an opportunity to do a test entitled “Recognise cases of discrimination”. The test was done by 96 interested persons, mostly young persons.

15. FULFILLING OBLIGATIONS IN ACCORDANCE WITH THE LAW ON FREE ACCESS TO INFORMATION OF PUBLIC IMPORTANCE

The Commissioner for Protection of Equality provides free access to general acts from her sphere of jurisdiction, to information of public importance and other information that make it possible for the citizens to get acquainted with the work of the Commissioner. In that sense, the Commissioner provides free access to information by submitting a regular annual report to the National Assembly, acting upon requests for free access to information of public importance, publishing the Informant bulletin about her work, presenting information on the institution's web, holding press conferences, and in other suitable ways.

The Informant on the work of the Commissioner for Protection of Equality was published for the first time on 29th December 2010, and since then its content has been regularly updated and improved. The Informant is available on the web page of the Commissioner for Protection of Equality at: www.ravnopravnost.gov.rs.

The citizens have the opportunity to see on the Commissioner's web page and download from it forms with samples for submitting requests and complaints for the purpose of gaining free access to information, in order to be able to exercise their right to free access to information more easily.

During 2012, the Commissioner for Protection of Equality received seven requests for free access to information of public importance, to which replies were sent within the legally prescribed deadline. Compared to 2011, when a total of five requests were received, in 2012 there was a slight increase in the number of requests submitted. Two each were submitted by citizens and organisations, that is, associations, whereas three were submitted by the media.

Tabular presentation of the number of requests submitted, classified by category:

No.	Information seeker	No. of requests submitted	No. of requests accepted	No. of requests rejected	No. of Requests refused
1.	Citizens	2	2	-	-
2.	The media	3	3	-	-
3.	NGO's and other citizens' associations	2	2	-	-
4.	Political parties	-	-	-	-
5.	Public authority organs	-	-	-	-
6.	Other	-	-	-	-
7.	Total	7	7	-	-

16. REPORT ON THE FULFILMENT OF THE FINANCIAL PLAN

The Law on the Budget of the Republic of Serbia for the Year 2012, and the Law on Amending the said Law, provided funds for the Commissioner for Protection of Equality in the amount of 89,471,000 dinars.

Through a rational spending of the budget funds during 2012, the institution's expenditures amounted to a total of 65,146,576.50 dinars, that is, 74% of the funds available.

The funds envisaged by the budget were used to finance the regular activities of the Commissioner for Protection of Equality, in accordance with the financial plan of the Commissioner for 2012.

Econ. classif.		Funds from the 2012 Budget, Off. Gazette 101/11	Rebalance of 2012 Budget, Off. Gazette 93/12	Budget realisation in 2012	% of realisation 5 : 4
1	2	3	4	5	6
	Income	89,471,000.00	89,471,000.00	65,146,576.50	74.13
411	Salaries, benefits and reimbursement to employees	35,004,000.00	33,304,000.00	24,078,475.68	74.13
412	Social welfare contributions	6,112,000.00	5,812,000.00	4,310,047.07	76.51
413	Payment in kind	50,000.00	50,000.00	1,840.00	3.68
414	Social welfare payments to employees	800,000.00	800,000.00	0.00	0.00
415	Reimbursement of employees' expenditures	700,000.00	1,200,000.00	1,317,142.33	96.85
416	Rewards to employees	1,000.00	1,000.00	0.00	0.00
421	Permanent expenses	3,225,000.00	3,225,000.00	3,380,391.02	86.12
422	Travel expenditures	3,500,000.00	4,900,000.00	4,735,140.89	82.49
423	Contracted services	19,048,000.00	19,048,000.00	14,390,752.34	79.52
424	Specialised services	300,000.00	400,000.00	503,508.00	77.46
425	Repairs and maintenance	400,000.00	400,000.00	155,042.50	38.76
426	Material	2,975,000.00	2,975,000.00	2,813,688.16	94.58
462	Subsidies to international organisations	6,206,000.00	6,206,000.00	5,361,104.00	86.39
481	Subsidies to NGO's	3,000,000.00	3,000,000.00	0.00	0.00
482	Taxes, compulsory taxation and fines	400,000.00	400,000.00	53,064.00	13.27
511	Buildings and construction objects	1,000,000.00	1,000,000.00	0.00	0.00
512	Machines and equipment	6,000,000.00	6,000,000.00	3,791,859.99	63.20
515	Non-material property	750,000.00	750,000.00	254,520.52	33.94

In addition to the funds prescribed by the Law on Budget, in 2012 the Commissioner for Protection of Equality also used funds derived from donations made by foreign countries.

Project name	Donor	Project budget	Project duration	Brief description / purpose / beneficiaries
PROGRESS “More than Law: Promoting and Implementing Anti-Discrimination Legislation and Equality in Serbia	EC	183.292,00 €	12 months 15.12.2011- 15.12.2012	Developing the capacities of the Commissioner, increasing the capacity of the judiciary for implementation of anti-discrimination legislature, and education of the media with the aim of raising the level of awareness of the occurrence of discrimination and ways of fighting it.
“Equal opportunities for Better Possibilities – the Empowerment of the Roma for Fighting against Discrimination”	Kingdom of Holland	23,000.00 €	18 months June 2012 – 31st December 2013	Raising the level of awareness of Roma population of the existence and mandate of the institution of the Commissioner, providing support and education for recognising acts of discrimination and the manner of submitting complaints.

Also, in October 2012, the Commissioner for Protection of Equality received funds from UNICEF in the amount of US\$ 16,000.00, for the purpose of realising the project “Establishing Cooperation between UNICEF and the Commissioner for Protection of Equality for the Purpose of Preventing All Forms of Discrimination of Children”. The project is to be realised in 2013 as well.

Towards the end of 2012, a donation was received from the Kingdom of Norway in the amount of 772,000.00 Norwegian crowns, intended for the realisation of the project “For Equality to Become Reality”. Project activities will commence in 2013.

17. RECOMMENDATIONS FOR SUPPRESSING DISCRIMINATION AND IMPROVING EQUALITY

Within the framework of the report for 2011, on the basis of the data gathered in the course of procedures of acting upon complaints and insight into the main problems encountered in achieving and protecting equality, the Commissioner gave 21 recommendations whose implementation would contribute to a more efficient and effective prevention and suppression of discrimination.

In the course of last year, the majority of those recommendations were not implemented, and the only one that was implemented in its entirety was the recommendation pertaining to amending the Criminal Code and thereby ensuring appropriate punishment of crimes of hatred, that is, acts whose commitment is motivated by hatred based on race, skin colour, ethnic or national affiliation, religion, political or other beliefs, language, sex, sexual orientation, gender identity, age, health status, disability, education, social status, social origin, financial status or some other personal characteristic. Some activities have been undertaken in connection with a small number of recommendations.

Thus the implementation of the Commissioner's recommendation pertaining to the preparation of the National Strategy for Fighting against Discrimination, including the Action Plan for its application, is in its final phase. According to what we have learned, the preparation of this strategic document, which should define the short-term, medium-term and long-term measures and activities of all the actors in society with a view to suppressing discrimination and improving equality, will soon be brought to a close.

Also, around the middle of 2012, the draft version of the Rules on More Closely Defined Criteria for Recognising Forms of Discrimination by Employees, Pupils and Third Parties in Educational Institutions was prepared; its adoption is prescribed by Article 44 of the Law on the Foundations of the Educational System. However, the Rules have not yet been adopted.

Some activities have also been undertaken when it comes to the realisation of the recommendation that concerns the education of judicial officials in the sphere of anti-discrimination regulations. Thus, for example, the Judicial Academy, in cooperation with the Commissioner, organised a training course for judges in the sphere of civil law protection from discrimination, and through project activities, training sessions were conducted in the area of anti-discrimination legislation intended for public prosecutors and deputy public prosecutors, as well as judges of misdemeanour courts.

The Crime-Police Academy and the Ministry of the Interior, in cooperation with the Commissioner, started realising training courses on suppression of discrimination for police officers and students of the Crime-Police Academy.

Taking into consideration the recommendations given earlier, most of which still apply, on the basis of insights gained last year, we give the following recommendations:

1. Complete work on the National Strategy for Fighting against Discrimination and commence its implementation.

2. Realise the measures established by the national and local strategic documents and action plans, with a view to eliminating obstacles and circumstances that obstruct the achievement of full equality of deprived, vulnerable and marginalised social groups (the Roma, persons with disability, old persons, refugees and internally displaced persons, poor persons and other socially endangered persons, all of which encompasses children and women belonging to these groups), so as to create conditions for these groups to really enjoy all the rights guaranteed to them, without any direct or indirect discrimination; approach, in a timely manner, the preparation of new strategies and action plans in the cases when the extant ones' period of validity is about to expire.
3. Undertake measures for the purpose of integrating into curricula and teaching materials themes that develop the culture of peace, tolerance, understanding and respect for differences, gender equality and non-discrimination; remove from teaching materials contents that support stereotypes and prejudices, and enable teachers, through appropriate education, to develop in their pupils the spirit of tolerance and non-discriminatory attitudes; immediately adopt the Rules on More Closely Defined Criteria for Recognising Forms of Discrimination by Employees, Pupils and Third Parties in Educational Institutions, and ensure their implementation; prepare and realise a plan for desegregating Roma children in schools and pre-school institutions.
4. Continue work on integrating the gender perspective into all decisions and policies at the national, provincial and local level, as well as work on the implementation of measures for improving the position of women, especially women from marginalised social groups.
5. Adjust regulations concerning public information with anti-discrimination regulations; increase the effectiveness of the work of regulatory bodies on the suppression of hate speech, violence, intolerance and discriminatory attitudes disseminated through the media; ensure that public broadcasting services and companies promote equality, tolerance and non-discrimination, and that, through their activities, they contribute to raising the level of awareness of the public and to changing social and cultural models that are based on stereotypes and prejudices towards minority and marginalised social groups.
6. Plan and realise measures that will ensure that the make-up of state organs, local government organs and other public authority organs corresponds as much as possible to the national structure of the population in their region, which presupposes increasing the number of employed members of national minorities in these organs, as well as their education and enabling them to perform tasks in public authority organs.
7. Ensure that the public broadcasting service produces and broadcasts programmes which, through their content, make it possible to express the cultural identity of national minorities and ethnic groups, which also pertains to creating conditions for national minorities and ethnic groups to follow programmes in their native language and script.
8. Improve the capacities of national minority councils, so that they can efficiently realise the roles that they have in the sphere of education, culture, providing information in

the language of their own national minority, and the official use of language and script.

9. Prepare and realise a training programme intended for employers, which will help them develop and apply mechanisms for introducing the principle of equal opportunities and non-discrimination in the sphere of labour and employment, for preventing all forms of direct and indirect discrimination, and for managing diversity in the workplace surroundings; improve the activities of labour inspectors aimed at suppressing discrimination at work and in connection with work.
10. Ensure efficient implementation of legal regulations on the education, employment and professional rehabilitation of persons with disability, and work on eliminating obstacles that make access to buildings, transportation, information, communications and other public services more difficult.
11. Improve the knowledge and abilities of police officers so that they could react more efficiently in cases involving incitement of national, racial and religious hatred and intolerance, violations of equality, racial discrimination and discrimination on other grounds, as well as other acts motivated by hatred.
12. Continue work on the education of judges, public prosecutors and lawyers in the sphere of civil law, criminal law and misdemeanour law protection from discrimination.
13. Adjust the legal regulations prescribing the conditions and procedure of registering non-traditional religious communities to the domestic, European and international standards dealing with the equality of churches and religious communities, so as to prevent indirect discrimination of these religious communities and their believers.
14. Adopt the Law on Free Legal Aid, so as to ensure that victims of discrimination get an effective access to justice.
15. Provide appropriate business premises that meet the needs of the Professional Service of the Commissioner and support the establishment of regional offices of the Commissioner.