



Republic of  
Serbia



COMMISSIONER  
FOR PROTECTION  
OF EQUALITY

# Commissioner for Protection of Equality

## Abridged Report for 2012

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Belgrade, May 2013

# **Commissioner for Protection of Equality**

## **Abridged Report for 2012**

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### **Publisher**

Commissioner for Protection of Equality

### **For editor**

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### **Translation**

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### **Cover design**

Impress

### **Prepress**

NGO "ALTHEA"

### **Print**

KLIK Tim d.o.o.

**Printed in 50 copies**



Translation and printing of this publication has been financed by the EU Delegation to Serbia within the framework of the IPA 2011 project "Implementation of Anti-Discrimination Policies in Serbia".

The contents of this publication are the sole responsibility of the author and do not necessarily represent the view of the European Union.

All terms used in the report that are grammatical masculine gender refer to both masculine and feminine persons they are related to



Translation and printing of this publication has been financed by the EU Delegation to Serbia within the framework of the IPA 2011 project „Implementation of Anti-Discrimination Policies in Serbia”. The aim of the project is to strengthen the institutional capacities of the Office for Human and Minority Rights and The Commissioner for Protection of Equality for the efficient implementation of anti-discrimination policies in line with the EU standards and good practices.

Project implemented by:



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## INTRODUCTION

Dear Members of Parliament,  
Dear Readers,

Another year of continuous operation is behind us. Over the past year, the Commissioner for Protection of Equality continued her efforts to combat discrimination and sought to promote as best as possible the principles of equality, equal opportunity and tolerance, thereby contributing to the establishment of a system of values in which the diversity of human identity is accepted, respected and comprehended as richness and a potential for social development. Such a commitment made by the Commissioner has been recognised and positively evaluated in the European Commission Report on the progress of the Republic of Serbia in 2012, which states that the Commissioner for Protection of Equality was active in raising awareness of discrimination and ways of its prevention, as well as in strengthening existing mechanisms for protection against discrimination.

In the past year, the Commissioner acted in five key areas. Above all, she conducted procedures upon discrimination complaints, which increased in number during 2012 by almost 40% compared to 2011. The Commissioner worked on eliminating the causes of discrimination, increasing public awareness and promoting equality, promoting and increasing his visibility and accessibility within the entire territory of Serbia and improving transparency of work.

The abridged report presented before you covers the period from 1 January to 31 December 2012. The report, based on the available data, describes the current situation in the field of exercise and protection of equality and indicates the most common forms of discrimination and areas of social relations in which discrimination is most prevalent.

I hope that this report will encourage all public authorities to, within their jurisdiction, in cooperation with civil society organisations and the media, increase efforts to prevent and combat discrimination in Serbia and build an open, tolerant and inclusive society based on human rights and the rule of law, where everyone is provided an equal opportunity.

Nevena Petrušić, Ph.D.  
Commissioner for Protection of Equality



## Executive Summary

During 2012, the Commissioner for Protection of Equality continued his activities in combating all forms, shapes and instances of discrimination and promoting equality, using all legal powers in his possession.

Over the course of 2012, the Commissioner was sent 465 complaints, up by nearly 40% compared to 2011. This was contributed to the activities of the Commissioner in terms of informing the public about discrimination and how to protect oneself against discrimination, and to the increase of this institution's visibility. In the past year, 29 opinions, 27 reviews with recommendations, and 117 recommendations were issued to the public authorities to take measures in promoting equality, as well as three opinions concerning legislation. Five suits were launched relating to protection against discrimination, while 19 warnings and announcements had also been issued.

Most of the filed complaints based on discrimination cited as a basis disability, nationality / ethnicity, gender, religious beliefs or political convictions, age, membership in political, trade union or other organisations, marital and family status, and so-forth. The majority of complaints were related to discrimination in the area of labour and employment, discrimination in proceedings before public authorities, education and vocational training, the provision of public services and use of facilities and areas, etc.

In the past year, there have been a relatively high number of complaints relating to violations of rights over which the Commissioner has no authority, which shows that people are still not familiar with the concept of discrimination and the jurisdiction of the Commissioner.

The Commissioner worked intensively on promoting the principles of equality and non-discrimination, through lectures and presentations, organising promotional events, participation in conferences, symposia and round tables of civil society organisations. Deepened cooperation has been established with independent bodies and other state bodies, similar institutions abroad, as well as with international and civil society organisations. The Commissioner has in full capacity realised benefits provided by membership of the European Network of Equality Bodies (EQUINET).

A Strategic Development Plan of the Commissioner was devised, as well as a Communication Strategy including an Action Plan for the period 2012-2014. Work commenced on establishing a system for providing mediation services within the framework of the Commissioner. The conducted survey of public opinion „Citizens' Attitudes towards Discrimination in Serbia“ made it possible to find out how familiar citizens were with discrimination, what the level of social and ethnic distance among certain social groups was, as well as how visible the institution of the Commissioner was to the public. 11 books, manuals

and brochures were published. The professional staff enhanced their professional competence, while the institution of the Commissioner became more visible, accessible and available.

In the previous period, the media have extensively been monitoring and reporting to the public on the work of the Commissioner and communicating his statements, views and opinions.

In 2012, the Commissioner for Protection of Equality was approved 89,471,000.00 dinars, while the Law on Budget for 2013 foresees the allocation of funds amounting to 89,348,000.00 dinars to the Commissioner's Office.

## 1. Actions of the Commissioner for Protection of Equality in Preventing Discrimination and Improvement of Equality

**Discrimination**, that is, discriminatory treatment is any unjustified discrimination or unequal treatment, or omission (exclusion, restriction or preference), in relation to individuals or groups, as well as members of their families or persons close to them, open or covert, on the grounds of race, colour, descent, citizenship, nationality or ethnic background, language, religious beliefs or political convictions, gender, gender identity, sexual orientation, property, birth, genetic characteristics, health condition, disability, marital and family status, convictions, age, appearance, membership in political, trade union and other organisations, and other real or supposed personal characteristics<sup>1</sup>.

*The Law on the Prohibition of Discrimination* provides over twenty personal characteristics that may not be subject to discrimination, however, this list is not final, that is, the legislator has left open the possibility for adding another personal characteristic that is not specifically listed under the law.

**The Commissioner for Protection of Equality** is an autonomous, independent and specialised state body established by the *Law on the Prohibition of Discrimination*<sup>2</sup> and represents a **central government body for the fight against all forms and types of discrimination**. The Commissioner for Protection of Equality **Nevena Petrušić Ph.D.** was elected by the National Assembly of the Republic of Serbia on 5 May, 2010.

The Commissioner's powers allow for the efficient and effective prevention and protection from discrimination and contribute to the exercise and development of equality, and they are as follows:

- Acting on complaints of discrimination against persons or groups of persons connected by the same personal characteristics
- Lawsuits for protection from discrimination
- Misdemeanour Proceedings
- Recommendations to the public authorities
- Legislative initiatives and opinions on regulations
- Warnings and press releases to the public

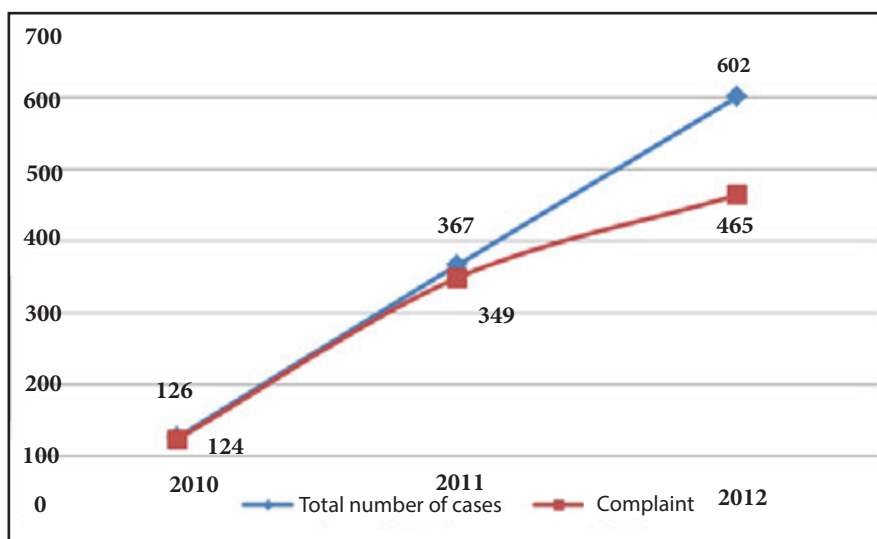
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<sup>1</sup> Article 2(1)(1) of the Law on the Prohibition of Discrimination (hereinafter "LPD").

<sup>2</sup> "Official Gazette of RS", no. 22/09.

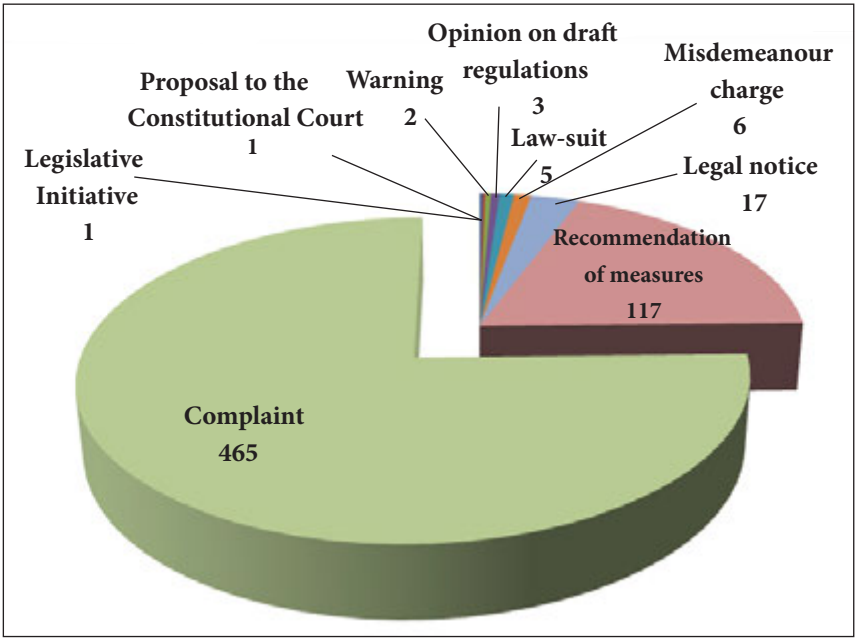
In the period from 1 January to 31 December 2012, the total of 602 new cases had been filed. When we compare this number to the number of cases in the last two years (2010 - 124 and 2011 - 349), we note a significant increase in the number of cases. This increase is the result of several factors - a large number of activities, promotional activities and tours of cities and municipalities in Serbia during 2012, participation in several projects in partnership with civil society organisations, as well as raising awareness among citizens about the possibilities of protection against discrimination, which has contributed to the increasing visibility of the Commissioner for Protection of Equality.

**Chart: Number of cases by year**



Out of the overall number of new cases in 2012, 465 were complaints, 117 were recommendations of measures for achieving equality, 6 requests for initiating court proceedings, 5 suits, while the others included opinions on draft laws, legislative initiatives, criminal charges and a proposal to the Constitutional Court.

*Chart: Total number of cases*



### 1.1 Acting upon Complaints

One of the primary responsibilities of the Commissioner is to **handle complaints of discrimination against persons or groups of persons connected by the same personal characteristics**<sup>3</sup>. The Complaints Procedure is simple, devoid of excessive formalities; it is completely free and may last up to 90 days<sup>4</sup>. We shall present its basic steps:

#### Step 1 – Filing a complaint

Proceedings before the Commissioner for Protection of Equality may be initiated by **filing a complaint**. Complaints may be submitted by any individual or legal person and organisations dealing with human rights and others<sup>5</sup>.

The complaint should contain details of the person who has been discriminated and the person who allegedly acted in a discriminatory manner, a description of the act of discrimination, as well as evidence, that is, allegations of

<sup>3</sup> Article 33 of the LPD.

<sup>4</sup> Articles 35 and 39 of the LPD.

<sup>5</sup> Article 35 of the LPD.

evidence that could be used to prove the truth of facts. The complaint must be signed and submitted in writing, in print, and may be submitted by fax, e-mail with the scanned submission and a signature of the applicant, in electronic form with an electronic signature of the applicant, as well as orally on the record. The Commissioner for Protection of Equality does not act on anonymous complaints.

### Step 2 – Testing eligibility for treatment

Upon receipt of a complaint, an investigation is initially carried out clarifying whether the complaint contains all the necessary elements to act upon<sup>6</sup>. If the complaint is incomplete, incomprehensible or contains deficiencies that hinder treatment, a request is sent to the complainant to remedy the deficiencies. If the complainant fails to correct the deficiencies in the set deadline, the complaint is dismissed. Rejection of a complaint also occurs when the Commissioner determines that he is not competent to decide on the said violation of law, in which case he notifies the complainant of the body that is responsible for providing legal protection.

The Commissioner **does not act** upon complaint<sup>7</sup>:

- if court proceedings on the same matter have not already been initiated or completed in the final disposition,
- if it is obvious that there is no infringement of rights the applicant has indicated,
- if the same matter has already been acted upon and new evidence has not been provided,
- if it finds that it is impossible to achieve the purpose of treatment due to the passage of time since the violation of rights.

### Step 3 – Fact-finding

If action may be taken upon complaint, further proceedings determine facts on the basis of all available evidence<sup>8</sup> and conduct a comprehensive legal analysis of the case.

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<sup>6</sup> In accordance with the Law on the Prohibition of Discrimination and the Rules of Procedure which in more detail regulates the proceedings before the Commissioner for Protection of Equality.

<sup>7</sup> Article 36 of the LPD.

<sup>8</sup> Article 37 of the LPD.

#### Step 4 – Forming an opinion

After conducting the proceedings, the Commissioner shall **issue a decision in the form of opinions** - clarifying whether or not there are grounds for discrimination<sup>9</sup>. Besides an opinion stating that discrimination has actually been carried out, the Commissioner for Protection of Equality must also issue a recommendation to the person against whom the complaint is filed. The **recommendation** relates to the ways of redressing violations of rights, that is, ways of eliminating discriminatory behaviour or unequal treatment<sup>10</sup>. After receiving recommendations, the person against whom the complaint is filed has a deadline of 30 days from receipt to comply with the recommendations and to redress the violation and is required to comply with the recommendations and to notify the Commissioner in this regard. If that does not happen, the Commissioner is authorised to adopt a decision imposing a warning to the discriminator, leaving a new deadline of 30 days to correct the violations. The decision is final and not subject to appeal. If the discriminator does not redress the violation in the new period of 30 days, the Commissioner for Protection of Equality notifies the public<sup>11</sup>.

During 2012, 465 complaints were filed, which shows a significant increase in the number of complaints compared to the previous year.

2010	124 complaints
2011	349 complaints
2012	465 complaints

On the other hand, the number of complaints is still very low considering the degree of prevalence of discrimination in Serbia. The reasons for this are numerous: low level of awareness of citizens concerning discrimination, their attitudes and perceptions of discrimination, as well as lack of visibility and accessibility of the Commissioner on the whole territory of Serbia. In addition, during 2012, employees in the Commissioner's expert service learned from conversations with citizens at many workshops, seminars and forums throughout Serbia that many of them were afraid of victimisation they may be exposed to after reporting discrimination and that they were distrustful of institutions dealing with the protection of rights.

During 2012, **the highest number of complaints was filed by individuals** - the total of 381 complaints (81.4%). Legal entities filed 81 complaints (17.3%), groups of persons filed 4 complaints (0.9%) and public authorities 2 (0.4%). In the

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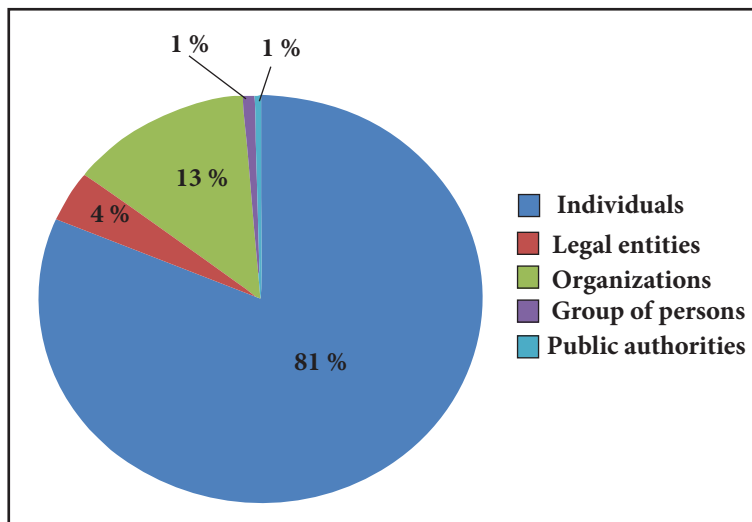
<sup>9</sup> Article 39(1) of the LPD.

<sup>10</sup> Article 39(2) of the LPD.

<sup>11</sup> Article 40 of the LPD.

category group of legal entities, civil society organisations filed the most complaints- 62 (13.2%).

**Chart: Complainants**

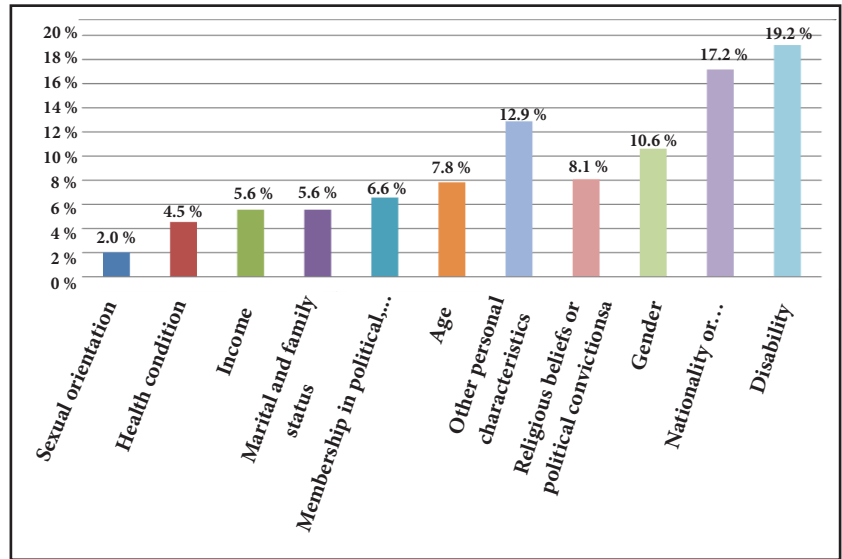


The statistic on the total number of complaints filed by individuals shows that women filed 157 complaints (41.2%), men 222 (58.3%), while the gender of the applicant was not known for two filed complaints (0.5%).

In 2012, 76 complaints were related to discrimination on the basis of disability, 68 on the basis of nationality or ethnic background, 42 complaints based on gender, 32 on religious beliefs and political convictions, 31 complaints on the basis of age, 26 on the basis of membership in political, trade union or other organisations, 22 on the basis of marital and family status, 22 on the basis of income, 18 based on health, and 8 on the basis of sexual orientation. 145 complaints were filed failing to state grounds of discrimination.



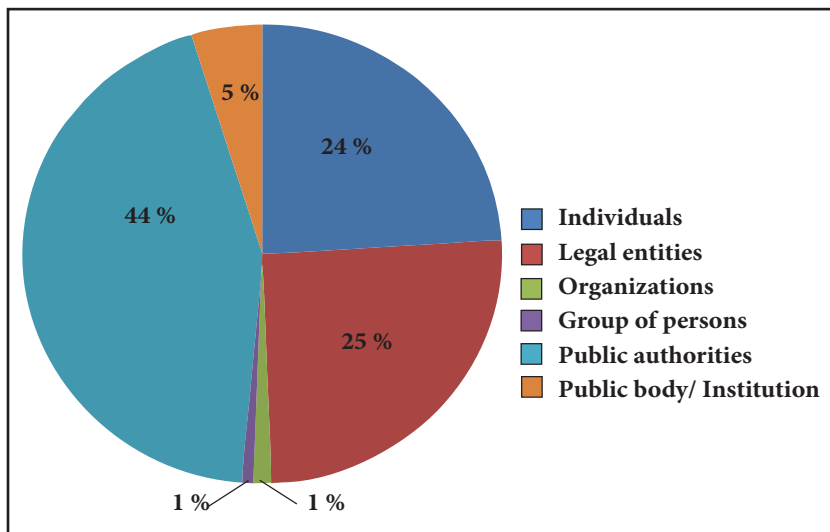
**Chart: The basis of discrimination**



In the past year, 145 complaints were received which did not indicate personal attributes and in which the complainants generally pointed to some other violation of rights and/or unequal treatment that were not based on personal characteristics of the applicants. This data points to the fact that citizens of Serbia are still not adequately familiarised with the concept of discrimination, and often feel discriminated against even in situations where behaviour or an act they pointed to is not connected to any personal attribute.

433 complaints referred to a single personal attribute as being the basis for complaint. The basis for 32 more complaints referred to several personal characteristics.

Over the past year, most complaints had been filed against public bodies - 228 (43.8%), followed by 132 against legal persons (25.4%), 125 against individuals (24%) and 25 complaints against public authorities and institutions. 421 complaints designated an individual as a discriminator, while 44 other complaints indicated several individuals as discriminators.

**Chart: Whom the complaints were filed against**

The highest number of complaints are still being filed by persons with permanent domicile/ residence in Belgrade and in sub-urban areas around Belgrade (38%), followed by the region of Vojvodina (20.5%). This is an indication that the institution of the Commissioner for Protection of Equality is still mostly visible in and around Belgrade which is why activities shall be continued with in 2013, all for the purpose of making the institution more accessible, recognizable and visible within the whole territory of Serbia.

In 2012, there were 249 complaints processed in total for the following reasons: it was obvious that there was no violation of the rights which the complainant pointed to (199), legal action had already been initiated or completed (38), a process had been conducted, and new evidence had not been offered (11) and the purpose of treatment could not be achieved due to the passage of time (1).

Example:

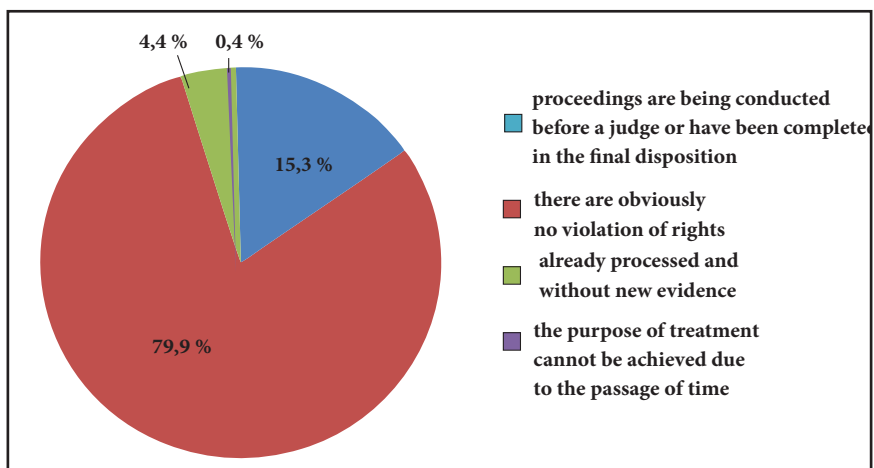
*The complainant stated that during 2009 his immediate supervisor insulted him at work on the basis of his nationality, marital and family status, and health condition. This is a case in which the purpose of treatment cannot be achieved due to the passage of time since the rights violation.*

The reason for not acting in most cases is the lack of personal characteristics or apparent lack of causal connection between personal characteristics and the act referred to as an act of discrimination.

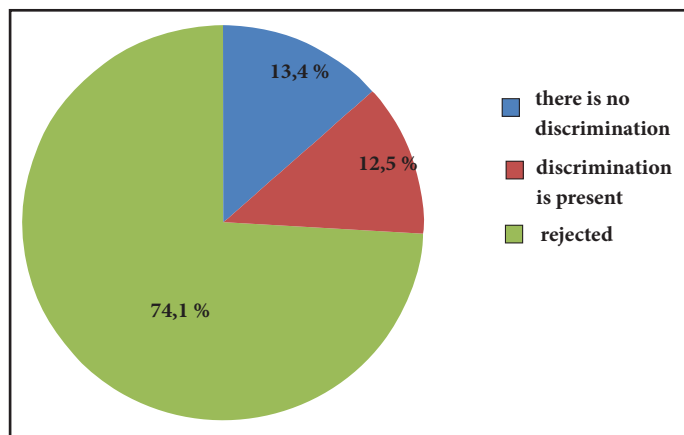
Examples:

- Parents of students in a class at the elementary school filed a complaint because their children's teacher had been replaced and they felt that the children were thus being discriminated against.
- The complainant believes that he was discriminated against due to the fact that in nine months not one action was taken in the court proceedings against him.
- The complainant believes that he was discriminated against because he was a Serb who received utility bills written in Latin alphabet.

**Chart: Unprocessed complaints**



Procedures were initiated on the basis of 216 complaints. 160 of these complaints were rejected. Moreover, 29 procedures issued an opinion that there was no discrimination, while in 27 cases discrimination was identified and appropriate recommendations were made.

*Chart: Complaints acted upon*

Most of the recommendations issued in 2012 were in fact implemented. In 6 cases the discriminators did not act on the recommendations of the Commissioner for Protection of Equality.

## 1.2 Anti-discrimination Litigation

The Commissioner for Protection of Equality may initiate anti-discrimination litigation<sup>12</sup>, in which he independently assesses the need for a lawsuit. If an individual is a victim of discrimination, the Commissioner for Protection of Equality needs the consent of the discriminated person, while consent of the discriminated people is not necessary in cases of discrimination against a group of persons associated by the same personal attributes.

### The Commissioner may initiate a lawsuit requiring:

- that the court finds that the defendant acted discriminatory towards a certain person;
- the prohibition of an activity that threatens in a discriminatory manner, prohibition of further discriminatory activity, i.e., the prohibition of repeating discrimination;
- the discriminator take one or more actions which lead to the elimination of discrimination;
- the discriminator at his own expense publish a court decision establishing discrimination.

The Commissioner **may not seek** compensation of pecuniary and non-pecuniary damages in the lawsuit.

<sup>12</sup> Article 33 of the LPD.

**It should be borne in mind that filing a claim is not a mechanism to ensure the implementation of the recommendations of the Commissioner, nor is it a part of the complaints procedure. Each and every case is examined whether it represents a subject of strategic significance, and only after the evaluation that there is a necessity to lead so-called „strategic litigation“, a lawsuit is filed with the competent court.**

**In 2011, three lawsuits were filed relating to protection from discrimination, and in 2012 another five.** Three procedures were legally terminated at the time this report was being prepared.

- The claim of discrimination based on affiliation with the Roma minority against Vase Kenić from Svrlijig;
- The second claim of discrimination based on belonging to the Roma minority filed against fast food restaurant „M.D.“ because the security guard did not allow Roma children to enter the restaurant with a woman who wanted to buy them food at the restaurant.
- The claim for discrimination on the basis of birth and marital and family status against the city of Jagodina, due to the Decision on Financial Support to Married Couples no. 011-92/10-10-1, which the City Council of Jagodina adopted on 23 December 2010.
- The first claim of sex discrimination was filed against the Football Association of Serbia, due to the discrimination of women's football clubs in relation to men's football clubs, based on the gender of players.
- The second claim of sex discrimination was filed against a bank due to the transfer of a female employee to a lower job position upon her return from maternity leave and absence from work while caring for a third child.
- The third claim of sex discrimination was filed against a pizza chain that only employed women.
- A discrimination claim based on conviction, sex, marital and family status, and health condition was filed against the company „K.I.“ which published an employment questionnaire on their website in which the male and female candidates applying for the job were demanded information concerning their personal characteristics, such as: marital and family status, health condition and criminal records. The lawsuit was filed on 20 July 2012 and the first instance proceedings are still ongoing.
- A claim for discrimination based on disability filed on 2 October 2012 against the entrepreneur M.A, owner of the shop „P.C.“ because it's employees refused to provide service to a group of young people with disabilities

It is necessary to point out some of the problems that we encountered in connection with these proceedings. Although the provision of Article 4(3) of the Law on the Prohibition of Discrimination provides urgent procedure for the protection from discrimination, this urgency was not respected in any cases. In

addition, cases are very often registered under labour dispute, and even in one case, the case stood unregistered for a long period of time. The Commissioner was repeatedly sent an order to pay court fees, even though as a public authority he was freed from paying taxes, in accordance with the provisions of Article 9(1) of the Law on Court Fees<sup>13</sup>.

### 1.3 Misdemeanour Proceedings

The Commissioner for Protection of Equality is authorised to file misdemeanour charges for violation of the Law on the Prohibition of Discrimination<sup>14</sup>. Given his role, the Commissioner is also authorised to file criminal charges in accordance with specific anti-discrimination laws: *the Law on the Protection of the Rights and Freedoms of National Minorities, the Law on Prevention of Discrimination against Persons with Disabilities, the Gender Equality Law, as well as other regulations*.

In 2012, the Commissioner for Protection of Equality submitted **six requests for initiating misdemeanour proceedings**.

Based on several initiated proceedings, we can conclude that the magistrate's courts in Serbia untimely acted in 2012 on the requests for initiation of misdemeanour proceedings filed by the Commissioner for Protection of Equality.

It may be noted that there is a general lack of understanding of the very essence of discrimination and the powers of the Commissioner for Protection of Equality in misdemeanour proceedings. This situation is probably due to the fact that the Commissioner for Protection of Equality is a relatively new state agency acting under specific laws, which the magistrates' courts judges have so far not had a lot of practical experience with. In this regard, the Commissioner for Protection of Equality shall work to increase his visibility and take a number of steps to inform misdemeanour judges of the Commissioner's jurisdiction, the phenomenon of discrimination, the specificities of anti-discrimination violations, as well as of the importance of keeping these procedures up to date and adequately punishing perpetrators.

### 1.4 Criminal Charges

The Commissioner for the Protection of Equality in 2012 filed one criminal complaint with the Higher Public Prosecutor's Office in Belgrade against an unknown person, the author of the article „Looting Serbia and the Serbian

<sup>13</sup> “Official Gazette of RS “, nos. 28/94, 53/95, 16/97, 34/2001 - state law, 9/2002, 29/2004, 61/2005, 116/2008 -state law, 31/2009 and 101/2011).

<sup>14</sup> Article 33(4) of the LPD.

people to help Gypsies“; published on the blog [www.romiusrbiji.wordpress.com](http://www.romiusrbiji.wordpress.com). The charges were raised due to reasonable doubt that the unknown perpetrator committed the crime of incitement to national, racial and religious hatred and intolerance of Article 317(1) of the Criminal Code of RS.

## 1.5 Recommendations Issued to the Public Authorities

The Commissioner for Protection of Equality has the authority to recommend to the public authorities and other persons **measures for ensuring equality**<sup>15</sup>. Recommendations may relate to public authorities taking measures to prevent and eliminate institutional discrimination and improve the work of state institutions to combat discrimination. Recommendations also point out the need to take special measures, so-called affirmative actions, which should lead to full equality, protection and advancement of persons or groups who are in an unequal position compared to other citizens.

A review of recommendations is presented in the sections of the report pertaining to the particular grounds of discrimination (Chapter 3).

### *Recommendation to all courts of general jurisdiction (14 June 2012)*

All courts of general jurisdiction in the Republic have been given a recommendation to take all necessary measures, in accordance with statutory powers, which shall provide that anti-discrimination litigation procedures, which are maintained under the provisions of the Law on the Prohibition of Discrimination and other anti-discrimination legislation, are implemented expeditiously and concluded in the shortest possible period, in accordance with Article 41(3) of the Law on the Prohibition of Discrimination, which stipulates that this procedure is urgent.

## 1.6 Legislative Initiatives and Opinions on Regulations

The Commissioner for Protection of Equality is also empowered to monitor the implementation of laws and regulations, to drive for the adoption or amendment of regulations in order to improve protection against discrimination. In addition, the Commissioner has the authority to give opinions on provisions of draft laws and other regulations pertaining to the prohibition of discrimination<sup>16</sup>.

During 2012, the Commissioner gave three opinions to competent authorities on draft versions of laws and one legislative initiative<sup>17</sup>.

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<sup>15</sup> Article 33(9) of the LPD.

<sup>16</sup> Article 33(7) of the LPD.

<sup>17</sup> Details and specific opinions of the Commissioner for Protection of Equality on legis-

- The initiative of the Government of the Republic of Serbia to amend the Decision on Establishing the Fund for Young Talents („Official Gazette of RS“, nos. 71/08, 44/09, 37/11) which lays down the conditions for awarding scholarships to the best students in the second and third level of studies at foreign universities (May 28, 2012).

- An opinion on certain provisions of the draft Law on Amendments to the Law on Non-Contentious Procedures regarding incapacity procedure (November 5, 2012).

- An opinion on the provisions of Articles 55(a) – (f) of the draft Law on Amendments to the Law on Non-Contentious Procedures which provides for a new procedure relating to permission for legal change of sex and gender identity (5 November, 2012).

- An opinion on the draft version of the Law on Mediation and the need to change some of the draft's sections (November 5, 2012).

## 1.7 Warnings and Public Announcements

The Commissioner is authorised to **warn the public** of the most common, typical and severe cases of discrimination<sup>18</sup>. The Commissioner does so on the basis of information and knowledge from filed complaints, the media and other sources. When alerting the public, the Commissioner indicates discriminators, the manner of discrimination, individuals and groups that were subjected to the most common, typical, and severe forms of discrimination, as well as the consequences of severe forms of discrimination.

Over the course of 2012, two warnings and 17 press releases were issued that had been published in the media and on the website of the Commissioner [www.ravnopravnost.gov.rs](http://www.ravnopravnost.gov.rs).

## 1.8 Establishment of a System of Mediation Services in the Office of the Commissioner

The Commissioner for Protection of Equality is authorised to propose to parties a reconciliation procedure or mediation. Given the positive comparative experience and advantages of mediation, the Commissioner has started work on establishing a system of mediation services within the framework of the Commissioner's Office.

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lative initiatives are available in the Regular Annual Report for 2012. In the summary report we are only presenting a general overview of the legislative initiatives.

<sup>18</sup> Article 33(6) of the LPD.



The mediation process is a confidential and structured process in which a neutral third party, the mediator, instigates dialogue between people in conflict so that they can consider the problem in a new way and reach an outcome that is acceptable to all.

The Law on the Prohibition of Discrimination does not regulate mediation in discrimination cases, but refers to the application of general rules governing intercession (mediation). Regulations on mediation are contained in the Law on Mediation of the Republic of Serbia from 2005<sup>19</sup>. This Act establishes the basic principles of the mediation process, the method of initiating and conducting mediation, parties' authorities, tasks, duties, powers and responsibilities of the mediator, as well as conditions mediators must meet to be able to conduct mediation. Rules of Procedure of the Commissioner prescribes the rules of conduct for staff in the Commissioner's Office in order to identify cases eligible for mediation and modes of communication with parties (Article 27 of the Rules of Procedure).

So far, the activities of the Commissioner for Protection of Equality to establish a system of mediation in cases of discrimination were carried out in four directions: 1) the creation of a specific model of mediation in cases of discrimination, 2) the preparation and implementation of training programs for specialised mediators, 3) the training of staff of the Commissioner's Office and 4) promotion of mediation.

The Commissioner for Protection of Equality formed a working group that drafted a mediation model adjusted to the characteristics of a situation created through the perpetration of discrimination. Some specific models implemented in the Commissioner's Office are as follows:

- a special mediation model based on standard principles of mediation: voluntary, confidentiality, impartiality and neutrality.
- elements of mediation between the victim and the offender have been introduced (*Victim-Offender Mediation*), which is based on the concept of restorative justice, as standard mediation is not suitable in situations of discrimination because it is intended to resolve conflicts, and in most cases of discrimination there is no conflict between the parties, it is rather about emotional or other harm that was caused by one side to the other.
- specific rules on the criteria and method for selection of cases suitable for mediation<sup>20</sup>.

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<sup>19</sup> "Official Gazette of RS", no. 18/2005.

<sup>20</sup> Special rules have been established that exclude the use of mediation in cases where the reason for filing complaints of discrimination is behaviour that is based on a general act of a public authority or entity. On the other hand, there are specific criteria for assessing the applicability

- redefined principle of neutrality of the mediator in the sense that he cannot be morally neutral to discrimination, but must clearly demonstrate that it is morally unacceptable.
- the Office of the Commissioner provides parties with all relevant information about the mediation process and the standard complaints procedure, thereby enabling parties to look at the benefits of each of the procedures and choose the one that can satisfy their interests.

The Commissioner is authorised to appoint mediators and add them to the *List of Certified Mediators*, with the authority to determine the criteria and detailed requirements that mediators should meet, in accordance with the provisions of the Law on Mediation. Bearing in mind the organisation of the work of the Commissioner's Office and manner of operation relating to complaints, as well as the need to remove any doubt about the neutrality and impartiality of the mediator and thus maximize the protection of integrity of mediation, the Commissioner's mediator list may only include persons who are not employees of the Office of the Commissioner, and who meet the evaluation criteria and the detailed requirements set by the Commissioner.

In 2012, the first round of training for mediators was successfully completed by 22 people<sup>21</sup>, while special training has been planned for the first quarter of 2013 after which the mediators shall be included in the Commissioner's List of Certified Mediators. Training of staff of the Commissioner's Office was conducted twice, in the form of lectures and workshops, and it was prepared and implemented by members of the Working Group that had created a special model of mediation. The realisation of advanced level training is pending.

So far, the key activities in the promotion of mediation in cases of discrimination took place within the „Partnership for Tolerance and Anti-Discrimination Protection in Serbia“ project implemented jointly by Partners for Democratic Change Serbia and the Alternative Dispute Resolution Centre. The project organised a series of panel discussions, workshops, training sessions, conferences and other activities in over 15 cities in Serbia, with the participation of employees of the Commissioner's Office.

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of mediation relating to the parties involved.

<sup>21</sup> Pursuant to the terms of a public call released in late October 2012, the selection of candidates involved the consideration of equitable regional representation, with priority given to candidates from marginalised social groups. During the five-day training in October 2012, students had the opportunity to gain additional knowledge about communication skills, understanding of conflicts, techniques of alternative dispute resolution and mediation, mediation stages, as well as conduct of mediation and ethical issues.

In 2012, conciliation (mediation) was proposed in 7 cases. The conciliation proposal was accepted in none of those 7 cases.

Examples:

- The complainant alleged that her neighbor D.P. repeatedly carried out verbal abuse on national basis, including: „You are an Albanian wretch, ignorant, I will not let you get cocky, if you had worth, you would not be living in barracks.“ She said that the D.P. was persuading other persons against her and her family because of their affiliation with the Albanian national minority.

- The complainant was a parliamentary deputy in the legislature of the municipality I. since 2008 until 2012 who stated that his municipality did not pay out residual payments for councilor allowance which is disbursed to new councilors in the parliament. He believes that such actions discriminated him on the basis of membership in a political organisation.

## **2. Professional Service and Development of the Institution of the Commissioner for Protection of Equality**

For the execution of professional and administrative duties within the scope of the Commissioner, a professional service was established that assists the Commissioner in the exercise of his jurisdiction.

According to the Rulebook on Internal Organisation and Job Classification in the Commissioner's expert service, the total of 60 employees have been systematised. Namely, four were appointed to supervisory positions, 53 to executive posts, while three were posted as appointees. Out of the expected number, the total of 19 positions were filled, including the position of Commissioner for Protection of Equality. Due to the volume of work, the existing number of employees is not an optimal number for prompt and quality work of this independent body. Even though there is a need to increase the number of employees, given the constantly increasing volume and the number of activities implemented by the Commissioner, that is not possible because of inadequate office space given to the Commissioner in late 2010. Therefore, last year the Commissioner was forced to overcome the need for more employees by occasionally hiring persons under appropriate contracts.

In order to provide more efficient and effective performance of authorities delegated by the law within the purview of the Commissioner, and on the basis of two years of experience and practice of the service, changes to this systematisation format were proposed in February 2012, later approved by the National Assembly in November 2012<sup>22</sup>. The Rulebook<sup>23</sup> does not envisage an increase in the number of systematised positions nor should additional budgetary resources be allocated for its implementation.

During 2012, activities were intensified in order to raise the level of general and specific knowledge and professional skills of staff in the professional service of the Commissioner. Several training courses, seminars and workshops were organised for professional staff during 2012 with the participation of teachers who are respected and experienced experts from academic institutions and civil society organisations.

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<sup>22</sup> The Decision on approving the Decision amending the Decision on Establishment and Work of the Professional Service of the Commissioner for Protection of Equality and the Rulebook on Internal Organisation and Job Classification in the Professional Service of the Commissioner for Protection of Equality, "Official Gazette of RS ", no. 111/12.

<sup>23</sup> The Rulebook on Internal Organisation and Job Classification in the Professional Service of the Commissioner is available at <http://www.ravnopravnost.gov.rs/lat/opstiAktiPoverenika.php?idKat=1>

In order to increase the efficiency and quality of work, procedures have been established and necessary instructions created for the professional staff. Guidelines prepared with the full participation of employees have established internal procedures and standards as living documents that are subject to change.

The office premises used by the Commissioner has an area of 248 m<sup>2</sup>, it is located in a building on 70 Beogradska Street, 1st floor, without security and parking space for a company car, which extensively hampers smooth operation. The existing office space was given to the Commissioner as a temporary solution, on the basis of a Conclusion adopted by the Commission for the Allocation of Official Buildings and Offices of the Government of the Republic of Serbia, No. 77. 361-5713/2010 dated September 9, 2010.

The office was furnished during 2011 when access ramps and a modern platform lift for people with disabilities were installed. In the past year, measures have been taken for making the institution of the Commissioner more approachable and accessible to people with disabilities, as in the boardroom and in the reception office where key equipment to facilitate communication for people with hearing impairments has been set up. An induction system for amplification of speech has also been installed, which allows people who wear hearing aids to clearly hear the speaker and surrounding sounds without interference. The premises in which it has been installed have been marked with an internationally recognizable symbol that provides information to the hearing instrument user that the location has a special audio system. All members of the expert service use business cards with Braille. The distribution of audio books and publications tailored to people with visual impairments that have been in preparation since 2012 is expected soon. The Commissioner's entire office space is equipped with tactile boards in Braille, with the name of the institution, making it easier for visually impaired people to access and stay in the premises of the Commissioner.

One of the important tasks of the Commissioner is to provide information to citizens about their rights and mechanisms of legal protection against discrimination, including information on the possibilities of peaceful settlement of discrimination cases. The Act also provides for the possibility to file complaints orally for the record, and in the process of determining facts also take complainants' and others' statements on the record. Due to the necessity to communicate directly to citizens, activities surrounding the **opening of a reception office** were finalised during 2012.

Since there were no space and security conditions to organize the running of the front office in the premises where employees of the professional service work, a single room was provided at the request of the Commissioner as yet another temporary solution. The Reception Office began operations in May 2012 after the professional staff, with the support of the OSCE, completed the required training and acquired the necessary knowledge and skills to conduct legal interviews and counseling. Considering that the work of the professional service takes place in two locations, the reception office operates by prior appointment

scheduling of parties. Receptions are organised on Tuesdays and Thursdays, but if necessary, it is possible to schedule an appointment on another working day. Since the beginning of the reception office's opening, free legal assistance in the form of legal information and legal advice has been received by 66 parties, while more than 1,000 people received information by telephone.

In cooperation and with support from the U.S. Agency for International Development (USAID), the Commissioner created a new website during 2012. The new website is in contrast with the earlier version, by not only being enriched with new content, but also improved in terms of accessibility of content for people with hearing and vision impairment.

Preparations on the Development Strategy of the Commissioner for Protection of Equality<sup>24</sup> were concluded in May 2012, with the active participation of all staff in the service. The strategy is the result of the need to define strategic priorities of the Commissioner in a three-year period (2012-2015), in furtherance of the Commissioner's work and successful implementation of his mission.

#### **VISION**

SERBIA IS AN OPEN AND TOLERANT SOCIETY OF EQUAL PEOPLE THAT PROVIDES EVERYONE WITH EQUAL OPPORTUNITY.

#### **MISSION**

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

The Strategy defines the following strategic priorities: 1) effective prevention and protection from discrimination, 2) improved public awareness of discrimination, 3) visibility and accessibility of the Commissioner, and 4) efficient and functional service of the Commissioner. Within each priority there are defined strategic goals and strategic objectives.

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<sup>24</sup> The Development Strategy of the Commissioner for Protection of Equality is available at: <http://www.ravnopravnost.gov.rs/lat/oNama.php>

### 3. The State of Achievement and Protection of Equality and Actions of the Commissioner

The Republic of Serbia has in recent years built a solid legal framework for combating discrimination and ensuring equality. In addition to the adoption of anti-discrimination laws, the Republic of Serbia adopted the most relevant universal and regional treaties in the field of human rights.

The Constitution of the Republic of Serbia<sup>25</sup> prohibits any discrimination, direct or indirect, on any grounds, particularly based on race, sex, national affiliation, social background, birth, religion, political or other convictions, property, culture, language, age, and mental or physical disability.

The following general and specific anti-discrimination laws have been adopted: the *Law on the Prohibition of Discrimination* (2009)<sup>26</sup>, the *Law on Protection of Rights and Freedoms of National Minorities* (2002)<sup>27</sup>, the *Law on Prevention of Discrimination against Persons with Disabilities* (2006)<sup>28</sup> and the *Gender Equality Law*<sup>29</sup> (2009) .

The prohibition of discrimination is enshrined in many laws governing individual areas of social relations: the *Labour Law*<sup>30</sup> (2005) , the *Law on Vocational Rehabilitation and Employment of Persons with Disabilities*<sup>31</sup> (2009), the *Health Care Law*<sup>32</sup> (2005), the *Law on the Fundamentals of the Education System* (2009)<sup>33</sup>, the *Churches and Religious Communities Law* (2006)<sup>34</sup>. Legal protection from discrimination is regulated by the *Criminal Code of the Republic of Serbia*<sup>35</sup>, which prescribes a number of criminal offenses in connection with the prohibition of discrimination, such as violation of freedom of expression of nationality or ethnic background, religious confession and performance of religious rites,

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<sup>25</sup> "Official Gazette of RS", no. 98/06, Article 21.

<sup>26</sup> "Official Gazette of RS", no. 22/09.

<sup>27</sup> "Official Gazette of the FRY ", no. 11/02, "Official Gazette of the SCG", no. 1/03 – Constitutional Charter and "Official Gazette of RS", no. 72/09 – state law.

<sup>28</sup> "Official Gazette of RS", no. 33/06

<sup>29</sup> "Official Gazette of RS", no. 104/09.

<sup>30</sup> "Official Gazette of RS", nos. 24/05, 61/05 and 54/09.

<sup>31</sup> "Official Gazette of RS", no. 36/09.

<sup>32</sup> "Official Gazette of RS", nos. 107/05 and 72/09 – state law.

<sup>33</sup> "Official Gazette of RS", no. 73/09.

<sup>34</sup> "Official Gazette of RS", no. 36/06.

<sup>35</sup> "Official Gazette of RS", nos. 85/05, 88/05 – rev., 107/05 - rev., 72/09 and 111/09.

promotion and incitement to hatred, violence against a person or group of persons on the basis of their personal characteristics and so-forth.

These regulations provide a sound legal framework for preventing and combating discrimination using civil, criminal and misdemeanour protection in accordance with international and European standards. This, however, does not mean that there is no room for improving and supplementing regulations that are relevant from the point of realisation and protection of the principle of equality.

Although there are no aggregate data on the occurrence of discrimination, it is clear that discrimination is still very widespread in all areas of social life.

It should be noted that one of the preconditions for effectively combating discrimination is the establishment of a mechanism to monitor cases of discrimination, the effects of the implementation of anti-discrimination legal instruments, as well as special measures taken in order to achieve equality of certain marginalised and vulnerable groups. However, despite the recommendation of the Commissioner to establish a unified and centralised system for the collection and recording of data relevant to the monitoring of discrimination and functioning of the system of legal protection against discrimination, such a system has not yet been established, which hampers insight into the real situation.

### **3.1 Citizens' Attitudes towards Discrimination – Opinion Poll**

During the year 2012, the Commissioner, with the support and assistance from the United Nations Development Programme (UNDP), organised a public opinion poll „Citizens' Attitudes towards Discrimination in Serbia“<sup>36</sup>, conducted by the Centre for Free Elections and Democracy (CeSID).

Key findings of the survey showed that most respondents believed that discrimination was frequent or greatly present in Serbia. Encouragingly, the number of those who thought that discrimination had not been prohibited had been cut in half compared to 2010. Also, the number of those who believed that there were clear consequences for those who carry out discrimination increased, but the percentage was still low - only 16% of respondents. It is concerning that as many as one third of citizens stated that discrimination was mostly present in employment, and that citizens recognised discrimination in the provision of health services and in the sector of education.

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<sup>36</sup> The opinion poll „Citizens' Attitudes towards Discrimination in Serbia“ is available at [http://www.ravnopravnost.gov.rs/files/Izvestaj\\_diskriminacija\\_\\_CPE\\_CeSID\\_UNDP\\_decembar\\_2012.pdf](http://www.ravnopravnost.gov.rs/files/Izvestaj_diskriminacija__CPE_CeSID_UNDP_decembar_2012.pdf)



The results of the research showed that people tend to discriminate against certain groups (LGBT, religious minorities, foreigners), but do not perceive it as discrimination. These results suggest a lack of awareness among citizens about discrimination and about their own discriminatory attitudes and behaviour. This is most evident in relation to LGBT people, who are still viewed by the public with conflicting opinions, as well as with regard to religious minorities, who are scarcely ever mentioned.

The research points out to the fact that citizens are largely homophobic, that there are slightly more religiously intolerant people than religiously tolerant, and that xenophobia is pronounced. In addition, citizens of Serbia show a certain degree of negative stereotypes towards Roma and a certain amount of anti-Semitism, but in both segments there is a greater number of those who do not have negative attitudes. They are less likely to discriminate against people with disabilities and patients with HIV/AIDS, but also have a great social distance towards patients with HIV/AIDS, i.e. a small number of respondents are willing to enter into certain social relationships with people suffering from this disease, which may also be a cause of discrimination.

The research makes it possible to observe changes in the social distance that exists between social groups in Serbia since 2009 until now, that is, the degree of tolerance and the ability of citizens to resist prejudice and recognize diversity. Social distance is most frequently expressed towards the LGBT population; it is high towards HIV- positive individuals, persons with mental disabilities, religious minorities, asylum seekers and foreigners, while there is less social distance towards other groups. It is evident that in recent years there has not been a change in distances, which confirms that distance is a segment of prejudices and attitudes that are formed during the period of socialisation of young people, that they do not change radically later on and are a variable category only in the long-run.

The research has shown that institutions dealing with human rights are not sufficiently visible and that two-thirds of citizens are not sure or do not know which institutions they can turn to if they are discriminated against. There is still a lack of information among citizens regarding the Commissioner for Protection of Equality, his role and responsibilities.

### **3.2 Discrimination Based on Sex and Gender Identity**

Discrimination on grounds of gender is one of the most widespread forms of discrimination in Serbia. Equality between women and men is guaranteed by the Constitution which prescribes the duty of the state to pursue a policy of equal opportunities<sup>37</sup>. The Gender Equality Law provides that public authorities

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<sup>37</sup> Article 15 of the Constitution of the Republic of Serbia.

are obliged to develop an active policy of equal opportunities in all spheres of social life, including equal participation of women and men<sup>38</sup> in all stages of planning, decision-making and implementation of decisions that have an impact on the position of women and men. Serbia still does not have gender-sensitive statistics, i.e., collecting and processing of data by gender, which would enable the monitoring, investigation and analysis of information on the status of men and women. Exceptions are the National Employment Service and the Statistical Office of the Republic of Serbia<sup>39</sup>.

Available data confirms that women are more disadvantaged than men in all spheres of social life. Of particular concern is discrimination against women in the labour market, in terms of participation in decision making, discrimination against women in the economic sphere and education, gender-based violence against women, gender inequality in the media and others.

Discrimination against women in the field of labour relations and employment is widespread<sup>40</sup>. It is reflected in a lower level of activity of women in relation to men, in their poor position in the labour market, fewer job opportunities and less chances for career advancement, lower fees and so-forth.

According to the National Employment Service<sup>41</sup>, out of the total of 761 834 unemployed people in 2012, 394 993 were women. In addition, available data shows<sup>42</sup> that women make up 80% of people who have voluntarily left their jobs for family reasons and 98% of those whose only work is in the household.

Pregnant women and new mothers are particularly disadvantaged because their labour rights are often violated despite the fact that Serbia is committed to increasing birth rate and that the laws guarantee special protection of these categories of women. Of particular concern is the fact that women who work part-time, sometimes for several years, are not extended contracts when they become pregnant.

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<sup>38</sup> Article 3 of the Gender Equality Law.

<sup>39</sup> In 2011, the third publication of "Women and Men in the Republic of Serbia" was issued, which presented statistical data according to gender (the first was published in 2005, and the second in 2008).

<sup>40</sup> More information in the publication Discrimination against Women in the Labour Market, Victimology Society of Serbia, 2012, <http://www.vds.org.rs/KnjigaDiskriminacijaZenaNaTrzistuRadaUSrb.htm>

<sup>41</sup> Women and Men in the Republic of Serbia, the Republic of Serbia, Statistical Office of the Republic of Serbia, Belgrade, 2011.

<sup>42</sup> Women and Men in the Republic of Serbia, the Republic of Serbia, Statistical Office of the Republic of Serbia, Belgrade, 2011.

### Practice of the Commissioner for Protection of Equality

**42 complaints** were received **relating to gender discrimination and 3 on the basis of gender identity**. Most complaints were filed on these grounds for discrimination in the sector of labour and employment (20), 7 for discrimination in proceedings before public authorities and 5 in the field of public information and media.

*- The complainant alleged that the Law School denied her request to make a „correction“ of her diploma, due to a change of name, and issue a new diploma stating her new name after a sex change from male to female, which occurred after graduation. After undergone procedures, the Commissioner for Protection of Equality expressed her opinion that by failing to issue certificates that would include the new name after a gender change, the Law Faculty committed indirect gender discrimination. A recommendation was issued along with the opinion proposing the Faculty of Law take all necessary measures to ensure that the complainant and other persons, who after graduation change their name after a change of sex, be issued upon request new certificates and other documents stating their new name, following national and international standards in the field of providing protection to transgender people from all forms of discrimination. The Faculty of Law acted on this recommendation and issued a certificate to the complainant stating her new name.*

*Withal, under the authority of Article 33(9) of the Law on the Prohibition of Discrimination, this complaint became a catalyst for **making recommendations to all universities in Serbia** to adopt measures for creating equal treatment for people who after graduation renamed due to gender change and allow faculties to upon request issue new certificates and other documents to transgender persons stating their new name, in an expeditious, transparent and accessible manner, respecting national and international standards in the domain of protecting transgender people from all forms of discrimination.*

The Commissioner for Protection of Equality filed **three complaints** due to gender-based discrimination:

- The first claim of this kind of discrimination was filed **against the Football Association of Serbia** due to discrimination of women's football clubs in relation to men's football clubs on the basis of players' gender. Specifically, Article 79 of the Regulations on Registration, Status and Transfer of Players of the Football Association of Serbia (Official Gazette „Football“ dated June 20, 2011) provides that compensation costs invested in the training and development of female football players paid by a women's football club when transferring female football players amounts to 15% of the fees paid by a men's soccer team when transferring football players. The first instance verdict fully approved the claim

of the Commissioner for Protection of Equality and established that the Football Association of Serbia discriminated women football teams on the basis of their players' gender by prescribing rules under Article 79 of the Regulations. The defendant was ordered to remove discriminatory provisions contained in Article 79 of the Regulations and ordered the publication of the judgment in a newspaper with national circulation. The Football Association of Serbia complained against the mentioned judgment, however, the Court of Appeal's judgment adopted in Belgrade on 6 November 2012 rejected the appeal of the Football Association of Serbia and upheld the verdict of the First Basic Court in Belgrade. The dispute was finally completed.

- The second lawsuit was filed **against a bank** due to the transfer of a women employee to a lower working position upon her return from maternity leave and absence from work while caring for a third child. The process is still ongoing, although the suit was filed on 17 September, 2012. Namely, the first hearing was scheduled for 5 June of 2013, so the Commissioner for Protection of Equality demanded the court take necessary measures to schedule the hearing as soon as possible, taking into account the urgency of suits in the field of anti-discrimination.
- The third claim of sex discrimination was filed **against a pizza chain** that employs only women in its stores. After the appearance of an advertisement in the pizzeria's outlets „Do You Want to Become a Part of the ‚C‘ Team? Girls necessary for work at the counter“, voluntary investigators of discrimination claims introduced themselves as candidates interested in the job and talked with the staff and people who presented themselves as responsible for the job interview. Interviews were conducted at three outlets in Belgrade and all three of the men who conducted the investigation were told by their interviewer that they could not get a job because of the company's policy to only hire women. The lawsuit was filed on August 23, 2012 and the proceedings before the First Basic Court in Belgrade are still in progress.

Furthermore, the Commissioner for Protection of Equality submitted in 2012 a request for initiating **misdemeanour proceedings** against the company, „T.M“ from K., the former employer of S.A. who, contrary to the obligation under the program for employment „First Chance“, refused the complainant's and her colleagues' extension of contracts solely because of pregnancy. The process is ongoing.

Over the course of 2012, a number of **recommendations were adopted that provide measures to achieve equality in situations involving gender discrimination**: The Republic Fund for Health Insurance and the Ministry of Health were recommended to take measures to ensure that women planning their families, pregnant women and mothers up to 12 months postpartum exercise their

right to health insurance on this basis even in situations where they have insurance on other grounds, but do not exercise it in practice due to the fact that the taxpayer of mandatory health insurance fails to pay contributions; 19 cities and municipalities in Serbia were recommended measures<sup>43</sup> to within their jurisdiction and available budget financially support the work of specialised organisations from the civil society in the area of their communities that provide help and support to women subjected to domestic/ intimate partner violence; measures were recommended for achieving equality in the municipality of Prijepolje, which was recommended to take all necessary measures to ensure gender equality and equal opportunities in decision-making on establishing local communities, statutes and other regulations within local community bodies and election procedures.

The National Assembly of the Republic of Serbia was given a recommendation to in accordance with its powers immediately take all necessary measures to ensure the composition of all delegations of the National Assembly of the Republic of Serbia in international parliamentary institutions included at least 30% of the under-represented gender, in accordance with Article 38(2) of the Gender Equality Law. Furthermore, the National Assembly of the Republic of Serbia was recommended to take all necessary measures to ensure that the composition of parliamentary committees were equally represented by persons of the under-represented sex, in accordance with the constitutional guarantee of equality between men and women and the duty of authorities to develop a policy of equal opportunities.

### **3.3 Discrimination Based on Nationality and Ethnicity**

Members of national minorities are exposed to discrimination, although their legal status is specifically regulated by the Constitution of the Republic of Serbia and special laws - the Law on the Protection of Rights and Freedoms of National Minorities<sup>44</sup> and the Law on National Councils of National Minorities<sup>45</sup>, as well as other laws containing provisions relating to issues of interest for national minorities.

The results of the research<sup>46</sup> show that the highest degree of ethnic distance

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<sup>43</sup> Niš, Kruševac, Leskovac, Kragujevac, Kraljevo, Vlasotince, Vranje, Kikinda, Novi Bečej, Smederevska Palanka, Novi Sad, Vršac, Novi Pazar, Bačka Topola, Savski Venac, Stari Grad, Novi Beograd, Vračar and Palilula.

<sup>44</sup> "Official Gazette of the FRY", no. 11/02, "Official Gazette of SCG", no. 1/03 – Constitutional Charter and "Official Gazette of RS", no. 72/09 – state law

<sup>45</sup> "Official Gazette of RS", no. 72/09.

<sup>46</sup> Citizens' Attitudes towards Discrimination in Serbia, available at [http://www.ravno-pravnost.gov.rs/files/Izvestaj\\_diskriminacija\\_\\_CPE\\_CeSID\\_UNDP\\_decembar\\_2012.pdf](http://www.ravno-pravnost.gov.rs/files/Izvestaj_diskriminacija__CPE_CeSID_UNDP_decembar_2012.pdf)

is present towards Albanians, followed by Croats, Roma, Bosniaks, and Hungarians. On the basis of complaints submitted to the Commissioner for Protection of Equality, it can be concluded that members of ethnic minorities often feel discriminated against, particularly in proceedings before public authorities, even in situations where there is no violation of the right to equality.

The position of the Roma national minority in Serbia is still poor. They are often exposed to open, very present and wide-spread hate speech and discrimination against Roma is most pronounced in the areas of education, employment, health and housing.

The Council of Europe report „Human Rights of Roma and Travellers“<sup>47</sup> states that the reasons for the unfavourable situation of the Roma in Serbia are a large number of Roma without possession of identity documents and accommodation in informal settlements. Studies have shown that 72% of Roma settlements have not been legalised (out of 593), while the Council of Europe report noted with concern that as much as 137 informal settlements existed in Belgrade and that during 2011 an increase was registered in the number of forced evictions<sup>48</sup>. In addition, there are almost no Roma children attending preschool. According to the European Commission against Racism and Intolerance, 62% of Roma children have never attended school or have left school, while only 9.6% continued and completed their education<sup>49</sup>. There are indications that discrimination against the Roma is present in the educational system and that that is one of the main reasons why Roma children are excluded from education and why many of them leave school early or end up with low educational attainment<sup>50</sup>.

There are some improvements regarding the situation of the Roma population. For example, the Law on Extra-judicial Proceedings has been amended<sup>51</sup>, by prescribing a process for determining the time and place of birth of persons who are not registered at birth, which is the first step toward solving the problem of so-called „legally invisible persons“.

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<sup>47</sup> Human Rights of Roma and Travellers in Europe, Council of Europe, Strasbourg, February 2012 (Human Rights of Roma and Travellers in Europe, Council of Europe), available at [http://www.coe.int/commissioner/source/prems/prems79611\\_GBR\\_CouvHumanRightsofRoma\\_WEB.pdf](http://www.coe.int/commissioner/source/prems/prems79611_GBR_CouvHumanRightsofRoma_WEB.pdf)

<sup>48</sup> Ibid.

<sup>49</sup> The European Commission against Racism and Intolerance report on Serbia, Council of Europe, Strasbourg, 2011 (ECRI Second report on Serbia, Council of Europe).

<sup>50</sup> Situational Analysis of Education and Social Inclusion of Roma Girls in Serbia, CARE Serbia, March 2011.

<sup>51</sup> “Official Gazette of RS “, nos. 25/82 and 48/88 and “Official Gazette of RS “, nos. 46/95 - state law, 18/2005 - state law and 85/2012.

### **Practice of the Commissioner for Protection of Equality**

During 2012, the total of 68 complaints (17.2%) were filed due to discrimination based on nationality and ethnicity.

Most of the complaints were based on grounds of belonging to the Roma national minority (31), while significantly fewer complaints were filed on the basis of other national minority's affiliation - Albanian (4), Macedonian (4), Bosniak (3), Croat (3) and Hungarian (3). There were also complaints due to the affiliation to the Ukrainian, Montenegrin, Slovak, Bulgarian, Czech, Romanian and Vlach minority groups. It is interesting to mention that 15 complaints of discrimination on the basis of Serbian ethnicity have been received during this year.

Similar to last year, it can be concluded from the complaints that were filed for discrimination based on nationality that members of ethnic minorities feel discriminated against in almost all areas of social relations, especially in proceedings before public authorities. Of the total number of complaints filed on this basis, 19 were related to proceedings before public authorities, and in most cases discrimination was not established.

*- The National Council of the Hungarian national minority in Subotica filed a complaint against the National Employment Service. The complaint stated that in the process of checking the psychophysical abilities of educators, teachers and other teaching staff, the National Employment Service did not provide conditions that were acceptable to members of the Hungarian minority during testing. An opinion was adopted that the National Employment Service did not discriminate against members of the Hungarian minority while checking their psychophysical abilities to work with children and students due to the fact that the standardisation of psychological measuring instruments was not under its jurisdiction, but that of the Serbian Psychological Society.*

Of the total number of complaints for discrimination based on national affiliation, 10 were related to the sphere of labour relations and employment. Some complainants alleged that they were treated differently than other employees because of their nationality, while others claimed to have been discriminated against in the recruitment process, i.e., that they were not employed because they were members of an ethnic minority. Nine complaints for discrimination based on nationality were also received in the field of education and vocational training, and eight in the field of public information and media.



The warning of 2 March 2012 strongly condemned the attack on a member of the Gorani minority, Lehman Jhelum, and expressed hope that the perpetrators of this brutal act would be adequately punished. The public was warned that incidents motivated by hate towards anyone who was different had become almost common and that, therefore, the authorities had to act decisively and punish violence. Furthermore, it was pointed out that these attacks show the necessity of including all authorities, institutions and individuals of both genders in spreading and promoting values of a society in which all people are equal, without any distinctions in terms of nationality or any other personal characteristic.

Most of the complaints on the basis of nationality were due to Roma national minority affiliation, but we can conclude that the number of complaints addressed in this respect is still insignificant if we consider the prevalence of discrimination against this national minority.

*- The organisation P. filed a complaint against the City Administration of B., the Secretariat for Social Welfare in regard to an agreement on the use of mobile housing units signed between the Secretariat of Social Welfare and users, displaced members of the Roma national minority, which, among other things, provides the obligation of users to mind their manners when addressing representatives of the Secretariat for Social Welfare, send children to school and actively job-search if of working age. Furthermore, notices of „house rules“ were posted that differed from similar ones in housing units where Roma were not accommodated in that they explicitly set out prohibited conduct and a written warning, which forbid users from receiving guests in their housing units overnight. It was found that these regulations discriminated Roma, users of mobile housing units, on the basis of their ethnicity and a recommendation was made proposing an amendment of the challenged provisions of the contract on the use of mobile housing units, a change to the „house rules“ and the removal of the written warning.*

*- The organisation R. c. m. from B. filed a complaint against O. A. for posting offensive „jokes“ on his Twitter account, including one stating: „Gypsy business escort - puppies that follow them while they are collecting cardboard“. After the procedure was concluded, an opinion was rendered that this text injured the dignity of members of the Roma minority, and represented an act of discrimination - harassment and ill-treatment. A corresponding recommendation was thus issued according to which actions were taken in organising a meeting between the representatives of R. c. m. from B., the organisation protecting Roma rights and O.A. in the premises of the Commissioner for Protection of Equality so that the Commissioner could directly acquaint himself with the kind of problems the Roma community faced in everyday life, as well as how the content of the text influenced them.*



Due to discrimination on the basis of Roma ethnic group affiliation, measures to ensure equality were also recommended to the city of Niš. Recommendations were made to take measures in providing Roma displaced from the settlement by „Belleville“ in New Belgrade and housed in a warehouse in Daničićeva Street in Niš with housing that meets international standards of living in alternative accommodation for citizens who are moved from informal settlements. It was also recommended that the process of care and integration of displaced members of the Roma national minority be implemented with the cooperation and active participation of displaced persons, respecting their needs and right to participate in decision making on all matters affecting them, including resettlement and methods of social integration, in accordance with international standards and guidelines for resettlement of citizens from informal settlements. Unfortunately, despite expressing willingness to act on the recommendation, the city government has not implemented the recommendation of the Commissioner.

In addition, the Commissioner for Protection of Equality filed **two lawsuits** for discrimination based on affiliation to the Roma minority.

- The first lawsuit was filed against Vase Kenić from Svrlijig, who issued a statement to a journalist of Radio Television of Serbia on 3 June 2011 regarding information that J.M. would move into the building he lives in with five children as follows: *„We are not exactly in favor of Roma to move into our building. There are many children, five children, she ... I do not know. It's a mess. Roma will be Roma ... You know how they always have a separate settlement, separate and stuff“*. This footage was aired on 6 June 2011 on RTS. On the basis of this lawsuit, a final judgment was adopted which determined a severe form of direct discrimination of members of the Roma minority - inciting inequality, hatred and intolerance on the basis of nationality. The defendant was prohibited from making statements and expressing views in the future that discriminate against the Roma national minority and he was ordered to publish an apology in a newspaper with national circulation at his own expense. The judgment also ordered the publishing of the verdict in a daily newspaper with national circulation, at the expense of the defendant.
- The second lawsuit was filed against the fast food restaurant „M.D.“ because its security guard did not allow Roma children to enter the restaurant with a woman who wanted to buy them food. The first instance court decision of 30 October 2012 rejected the claim, given that the plaintiff did not have consent of the person who claimed to be a victim of direct discrimination. On 19 December 2012, the Commissioner for Protection of Equality appealed the decision of the first instance court, therefore opening proceedings before the High Court in Belgrade which shall decide on the appeal. **Misdemeanour charges** were also filed in this case.

The Commissioner for Protection of Equality filed requests for opening two misdemeanour proceedings for discrimination in the field of education on the basis of belonging to the Roma minority. A misdemeanour charge was filed against a pre-school and a pre-school principal in the settlement of Deževa-Vožegrnci near Novi Pazar for the segregation of Roma children of displaced families who attended the preschool preparatory program **into a separate group and separate building** from children of Serbian and Bosnian nationality. The other misdemeanour charges were filed against an elementary school and the principal of a primary school in the same place for segregation of Roma children of displaced families who attended first and fourth grade of primary school **into separate classes and a separate building** from children of Serbian and Bosnian nationality. Both procedures are still ongoing.

### 3.4 Discrimination Based on Disability

In recent years, the regulatory framework has been improved and social visibility of people with disabilities increased, however, people with disabilities are still at a disadvantage compared to other citizens. Discrimination against people with disabilities exists in all spheres of public and private life, mostly pronounced in the areas of employment, education, as well as access to facilities, services and housing. The situation of people with disabilities can be viewed through the high level of unemployment, low education, poverty, political under-representation, violence specifically experienced by women with disabilities, risks of institutionalisation, and limited access to public buildings, areas and services.

A positive step in terms of educating children with mental and physical disabilities is the introduction of inclusive education<sup>52</sup>, which allowed more children to be enrolled in regular schools; however, there are still frequent cases of discrimination against children with mental disabilities in exercising their right to an education that respects their educational needs. Also, there has been progress in the area of employment, but meanwhile more attention must be given to the employment of persons with disabilities, as the overall unemployment rate of people with disabilities is three times higher than among the general population.

The inaccessibility of public buildings and space is still one of the main problems in achieving equality for persons with disabilities, even though the law provides that the facilities and areas used by the public shall be constructed in accordance with accessibility standards<sup>53</sup>. However, many buildings are inaccessible, including premises of state authorities, making it difficult to exercise many rights and preventing the social inclusion of people with disabilities.

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<sup>52</sup> Law on the Fundamentals of the Education System, "Official Gazette of RS", nos. 72/09 and 52/11.

<sup>53</sup> Law on Planning and Construction ("Official Gazette of RS", nos. 72/09, 81/09 - rev., 64/10 - CC decision and 24/11).

### Practice of the Commissioner for Protection of Equality

Most complaints in 2012 were related to discrimination on grounds of disability - 76 (19.2%). On the basis of these complaints it is possible to conclude that discrimination against persons with disabilities is still present in almost all areas of social life.

Of the total number of complaints, 20 complaints were filed due to discrimination based on disability in the provision of public services or use of facilities, 15 complaints were related to proceedings before public authorities, while 14 complaints concerned discrimination on the basis of disability in the areas of labour and employment. A smaller number of complaints were received in the areas of health and social care, as well as pension and disability insurance.

*- The complainant is a person with a disability who uses a wheelchair, a quadriplegic who does not have the ability to write, but is signed by facsimile. He said that the City Administration of B. did not permit him to certify a facsimile, but instead sent him to court, where he received an approval to certify the facsimile only after the intervention of the Head of the Department for Signature Certification. On the basis of these complaints two separate proceedings were carried out: against the City of B., which was found to have committed discrimination - a violation of the principle of equal rights and obligations of persons with disabilities, and against the court, which was not found to have discriminated against people with disabilities. After performing the proceedings, state authorities were recommended to provide all persons with disabilities who cannot write and therefore use a facsimile, secure unrestricted use of facsimile instead of a handwritten signature.*

*- The complainant alleged that he was discriminated against on the basis of disability when registering with the National Employment Agency because the presence of a sign language interpreter was not permitted during the meeting, after which he was subjected to abusive behaviour. The procedure found that an official employee of a branch of the National Employment Service in B. acted degrading to the complainant during registration with the National Employment Service and that this conduct was caused by the fact that he was a person with disabilities who needed a sign language interpreter. On the basis of the provided opinion on this matter, a recommendation was issued that proposed the National Employment Service send a written apology to M.G. for harassment or degrading treatment by public officials and take all necessary measures to ensure that all persons with disabilities, when using the services of the National Employment Service, are ensured a process that takes into account individual characteristics and prevents any form of direct or indirect discrimination.*

The Commissioner for Equality filed **one claim of discrimination based on disability** during last year. The suit was filed 2 October 2012 against the entrepreneur M.A., owner of the shop „P.C.“ due to the fact that the restaurant refused to provide service to a group of young people with disabilities. The First Basic Court in Belgrade issued a judgment for failure on 22 January 2013, which fully endorsed the claim of the Commissioner for Protection of Equality.

Due to discrimination based on disability, measures were recommended for achieving equality in the public enterprise „Directorate for Land Development of the City of Niš“, which proposed that all new and refurbished public areas in the city become accessible to people with disabilities, in accordance with standards of accessibility. This recommendation has not yet been fully implemented.

Due to the specific and disadvantaged position of persons with disabilities in our society who suffer direct and indirect discrimination in almost all areas of life, but also due to the fact that most of the complaints for discrimination were based on disability, the Commissioner for Protection of Equality is preparing the **first Special Report** devoted to the position of persons with disabilities.

### 3.5 Discrimination Based on Sexual Orientation

Discrimination based on sexual orientation is still highly widespread in Serbia, both publicly and privately. The event that marked this year was certainly the failure to hold the Pride Parade in October 2012. The visibility of problems faced by members of the LGBT community in Serbia increased this year just prior to the Pride Parade, as well as the visibility of negative social attitudes towards LGBT people, such as homophobia, intolerance, discrimination and violence they are exposed to. The specificity of the position of LGBT population is reflected in the fact that they are the only group whose right to public assembly is challenged despite the constitutional guarantee of freedom of assembly, which in recent years has been publicly debated on many times. As part of Pride Week, a series of events were organised aiming to highlight the problems of LGBT people.

The **warning** of 14 September 2012 expressed great concern over the fact that numerous threats, hate speech and violence against the LGBT community appeared three weeks before the announced Parade and the events in behalf of that occasion. It was pointed out that the open threats and violence created an atmosphere of fear and promoted intolerance, hatred and hostility toward LGBT people, which represents a type of attempt to create an alibi for not holding this year's Pride Parade. Unreserved support for all LGBT people was expressed and it was emphasised that the state and its authorities must demonstrate the power and willingness to protect basic human rights guaranteed by the Constitution, including the right to peaceful assembly and freedom of speech.

Eight complaints for discrimination based on sexual orientation were filed this year; however, discrimination was determined only in one case. Two procedures are still in progress, while 6 were completed in 2012. Such a small number of complaints relating to discrimination based on sexual orientation indicate that such discrimination is still not reported sufficiently.

*The organisation L filed a complaint against Dr. M. B., professor at the F. F. C. M. „M.U.“ in B., which states that during a lecture Prof. Dr. M.B. said that „homosexuality is a disease, it should be registered similarly to stomach ulcers and treatment for homosexuality is carried out by sex change“. After the proceedings ended, the Commissioner for Protection of Equality expressed the opinion that professor Dr. M.B. talked about homosexuality mentioning in this context „illness“, „treatment“ and „sex change“, and by doing so, called into question the validity of the decision to remove this category from the list of diseases, thus contributing to the creation of a humiliating and offensive environment in relation to LGBT people. A recommendation was issued along with the opinion stating that in the future Prof. Dr. M. B. makes certain that what he tells students about homosexuality is clear and unequivocal, with no possibility that the meaning of his words is misunderstood, keeping in mind that certain false statements can contribute to the creation and maintenance of stereotypes, prejudice and intolerance against LGBT people, hurt their dignity and create a humiliating or offensive environment for them.*

### 3.6 Discrimination Based on Marital and Family Status

In 2012, the total of 22 complaints were received dealing with discrimination based on marital and family status.

*- The complainant went shopping with her husband and baby when at the entrance of the retail store „M.“ Ltd. in K. a worker stopped them saying that they could not enter with a baby carriage. She said that she asked the workers at the entrance if they had their baby strollers and got an answer that they did not. After that, she and her husband left the retail store, as they were unable to make a purchase keeping their child's safety in mind. It was established that the general conditions of sale for the purchase and access of customers in „M.“ Ltd. from B. prescribes a denial of entry to its retail facilities with baby carriages, however, another way of entering the retail store was not provided to customers accompanied by children, which caused discrimination against this category of customers regarding the possibilities of using services on the basis of family status. Accordingly, recommendations were issued to ensure unhindered and safe access to stores for people who came with children.*

The Commissioner for Protection of Equality filed a **lawsuit against the City of Jagodina** for discrimination based on marital and family status in regards to the Decision on Financial Support to Married Couples no. 011-92/10-10-1, which was adopted by the City Council of Jagodina on 23 December 2010. The decision included conditions where the right to receive financial aid was unreasonably withheld from certain categories of citizens, as follows: those who had entered into a civil partnership, those who were not born in Jagodina, those who have children from common-law marriages before marrying, and those who were in wedlock prior to marriage. The first instance court verdict of 17 January 2012 dismissed the claim of the Commissioner for Protection of Equality which requested the issuing of an order to the defendant to eliminate conditions from the Decision on Financial Support to Married Couples that without justification deprive certain categories of citizens from receiving financial assistance. These categories are as follows: those who have entered into a civil partnership, those not born in Jagodina, those who have children from wedlock prior to marrying, as well as those who were in common-law marriage before marrying. On the basis of an appeal filed by the Commissioner for Protection of Equality, the Appellate Court in Kragujevac decided on 6 November 2012 to quash the judgment of the Municipal Court in Jagodina and return it for reconsideration. As the City Council of Jagodina adopted a decision on the termination of financial aid decisions on married couples at a meeting held on 18 June 2012, the Commissioner for Protection of Equality withdrew the complaint on this matter, and the procedure was completed.

Due to this decision, the Commissioner for Protection of Equality also submitted a **proposal for the review of constitutionality and legality**. However, as the City Council of Jagodina adopted a decision on the termination of the Decision on Financial Support to Married Couples, the Commissioner for Protection of Equality withdrew the proposal for evaluation of constitutionality and legality in July 2012.

### **3.7 Property Based Discrimination**

22 complaints were received on the basis of property status. There were four complaints related to each of the following: proceedings before public authorities, labour relations, recruitment processes, education and training. Property status is referred to as the basis of these complaints, mainly with reference to yet another basis for discrimination. Complainants allege that they were denied certain rights because of their poor financial situation, but in the course of proceedings on complaints there was no evidence to substantiate this assertion.



### 3.8 Age Based Discrimination

31 complaints were received for discrimination on the grounds of age. The highest number was related to labour and employment, and a much smaller number to health and social care.

*- The complainant alleged that the Ordinance on types of medicines prescribed and dispensed freely by the compulsory health insurance lists specific drugs that have established prescription limits in relation to the age of the insured person. Namely, patients with metastatic prostate cancer who are older than 75 years of age, and women with breast cancer over 40 who undergo medical castration, cannot obtain these drugs paid by compulsory health insurance, but must obtain them by themselves. The procedure for this complaint is still pending.*

A recommendation of measures was made to achieve equality, which advised the General Hospital in Šabac to amend the Rules of Procedure of Employment in the segment prescribing criteria and scoring related to the age of male and female candidates.

### 3.9 Discrimination Based on Membership in Political Parties, Trade Union and Other Organisations

In 2012, 26 complaints of discrimination based on membership in political parties, trade union and other organisations were received, of which 18 related to labour relations and employment.

*- The complainant stated that he was a member of the trade union committee, but that the employer fired seven members of the trade union committee by activating blank agreed termination of employment contracts. The court found that the termination was unlawful, and that it was caused by the fact that the complainant was a union representative. After the completion of court proceedings and return to work, the employer prevented the complainant from working by continually issuing certificates to send him home. In the proceedings before the Commissioner for Protection of Equality, it was established that the complainant was denied the opportunity to conduct work for an extended period of time and perform working obligations that earn his salary, thus placing him in an unequal position compared to all other employees who are able to receive financial compensation according to achieved work. A recommendation was issued to the employer to allow the complainant to carry out his job at his workplace under the same conditions as other employees.*

*- The complainant alleged that the city of S. discriminated her because she was unable to qualify for subsidised utility bills for people with disabilities, as provided by a decision of the city, due to the fact that she was not a member of the Association of Persons with Disabilities. According to the conclusions of the city authorities, only members of certain associations of persons with disabilities may exercise this right. Discrimination against persons with disabilities on the basis of membership in an association was established, and the city was advised to take appropriate measures to enable all persons with disabilities equal conditions for receiving subsidised utility bills, regardless of the fact whether they are members of an association of persons with disabilities.*

### **3.10 Discrimination Based on Religious Beliefs and Political Convictions**

Due to discrimination on grounds of religion or political convictions in different areas of social life, 32 complaints were filed. It is interesting that 13 complaints were filed by a civil society organisation and that all related to discrimination against atheists. An opinion that an act of discrimination had not been committed was adopted in regards to two complaints, while other complaints submitted by this organisation obviously did not violate rights under the Law on the Prohibition of Discrimination, as the applicants pointed to the violation of the principle of secularism.

*- A complaint against the Medical Centre K. due to the construction of an Orthodox church on hospital land property. The complainants considered that this discriminated all non-Orthodox Christian citizens who were employed or treated in the health centre. The complaint referred that by doing so, the health centre was „defined as orthodox and that one religion was established as compulsory thereby directly insulting all staff and patients“. In their opinion, this gave more privileges to Orthodox citizens.*

*- A complaint against the City Hall of K. due to the construction of an Orthodox cross at the entrance of K. The complainants considered that this discriminated all non-Orthodox Christian citizens, and that thereby this defined the city of K. as an orthodox city and established one state or obligatory religion.*

*- A complaint against members of the Assembly of N.S. due to an official visit to a church dignitary. The complainants deemed that deputies committed discrimination against all people who are not Orthodox Christians.*



### 3.11 Discrimination Based on Other Personal Characteristics

There were no complaints on the basis of genetic characteristics in 2012, while the total of 17 complaints were filed for discrimination based on conviction, ancestry, birth, race, language, appearance, colour and citizenship.

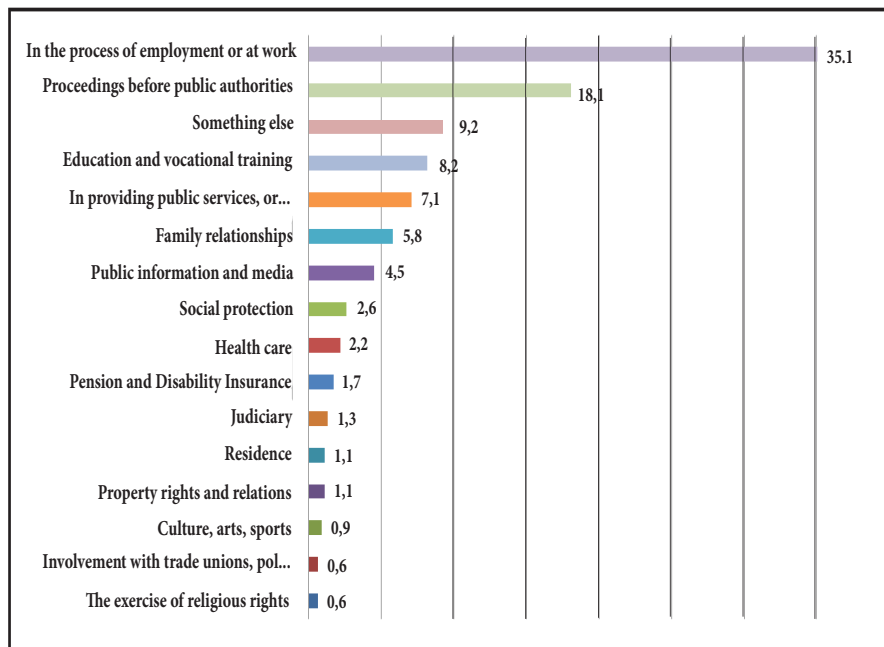
*- The Commission for the Selection of Students of Vocational Training in the Basic Police Training Centre of the Ministry of Internal Affairs of the Republic of Serbia rejected the application of M.S. from Z. for enrolment to the VII and VIII classes in the Centre for Basic Police Training because, as noted, he did not prove that he had dual citizenship. The application filed by M.S. was dismissed for alleged non-compliance with the requirements in terms of citizenship; however, the decision was not based on an established fact or evidence, but was made based on the assumption that M.S. had dual citizenship because he was added to the registry of Yugoslav citizens not before 1998. By doing so, the Commission committed an act of discrimination based on presumed personal characteristics of M. S. - dual citizenship.*

There were 31 complaints based on specified personal attributes that are not specifically included in the Anti-Discrimination Act (pensioners, civil servants, displaced persons, asylum seekers and others).

*- In a procedure opened upon a complaint of J.M. it was established that the conclusions of the mayor of B., according to which quarterly financial assistance of 4,000.00 dinars is paid out to retirees living in the city of B. who have pensions less than 13,000.00 dinars per month, grant the right to financial help only to those retirees who worked their entire lives in the Republic of Serbia. This discriminates retirees who in proportion gained a part of their work experience in other countries, and who are in the same situation, i.e. they are residence of the territory of B. and have the total income from pensions that is less than 13,000.00 dinars per month.*

### 3.12 Areas of Social Relations that the Complaints Refer to:

Complaints received during 2012 were related to the sphere of labour relations and employment (35.1%), proceedings before public authorities (18.1%), fields that are not explicitly mentioned in the Law on the Prohibition of Discrimination (9.2%), education and vocational training (8.2%), public services and use of facilities and areas (7.1%), family relationships (5.8%), public information and media (4.5%) and other areas of social relations (single percentage of complaints less than 3%).

**Chart: Field of Discrimination**

### 3.12.1 Labour and Employment

As in 2011, the most complaints for discrimination received in this year were in the sphere of labour relations and employment. In this area, the complaints were filed on the basis of almost all personal attributes listed in the Law on the Prohibition of Discrimination. **The total of 163 complaints were received (35.1%)**, of which 80 were filed by men, and 73 were filed by women, two complaints were filed electronically, without specifying gender and eight complaints were filed by legal persons/ organisations.

An analysis of complaints showed that in the area of labour and employment there were many problems that citizens faced, and that discrimination is mostly perpetrated against women, particularly pregnant women and new mothers, and people with disabilities and the elderly.

- The complainant considered that the employer discriminated against her on grounds of sex, marital and family status given that after returning to work from nursing a child she was moved to a lower position. The employer was required to provide a list of all the workers who in the last three years used maternity leave, with information on their work positions prior to maternity leave and child care, after using the leave and six months after returning to work. After examining the

*submitted documents, it was found that in the last three years, 89 workers used their leave, of which 31 workers were still on maternity leave. Taking into account only the position of employed workers who returned to work after maternity leave, it was noted that of the total of 58 workers, 14 workers were moved to lower jobs after returning from maternity leave, which is 24.14%. This number can be added to the number of 18 workers who were employed prior to maternity leave at the lowest work positions (cashier, housekeeper and coffee cooker), and upon return from leave could not be moved to a lower position. A strategic litigation was launched on the basis of this complaint and information provided.*

However, **most of the complaints in the field of labour relations were unfounded in terms of the Law on the Prohibition of Discrimination.** This fact indicates that citizens are particularly sensitive to situations and events connected with the exercise of labour rights, and that they are more willing to seek protection of their rights in this area. On the other hand, there is a lack of knowledge in this area concerning the concept of discrimination in the sense that many complainants consider any unequal treatment discriminatory. In a number of cases in which there was no violation of rights under the Law on the Prohibition of Discrimination, the complainants were informed about opportunities provided by regulations governing labour relations, prevention of harassment at work, or were referred to other appropriate authorities.

*- The complainant filed a complaint against E.T. School in P. and its principal for discrimination on the basis of disability in the recruitment process. She stated that she had applied for a job, that she had suitable qualifications, however, the principal chose another candidate in this contest. The complainant considered she had a priority in employment as a person with disabilities, i.e., that the principal had the duty under the Law on Professional Rehabilitation and Employment of Persons with Disabilities to hire her because she was a person with a disability.*

**A recommendation of measures** regarding discrimination in employment and job advertising in particular was adopted **for the achievement of equality in this sector and sent to the addresses of 12 Internet portals** that publish job ads. Namely, they were recommended not to publish job advertisements containing discriminatory conditions of employment relating to gender, age, candidates' appearance or any other personal characteristic. Exceptions are situations where an ad concerns a work position where personal attributes are a real and decisive condition of doing business, or if the purpose justifies the means. Also recommendations were made to take all necessary measures to prevent any possibility of advertising job vacancies that, contrary to the law, contain discriminatory conditions of employment.

In addition, the Commissioner for Protection of Equality sent a **recommendation to the National Employment Service** on 9 August 2012 not to publish job ads containing discriminatory conditions of employment related to gender, age, candidates' appearance or any other personal characteristic. Exceptions are situations where an ad concerns a work position where personal attributes are a real and decisive condition of doing business, or if the purpose justifies the means, in accordance with Article 16(3) of the Law on the Prohibition of Discrimination and Article 22 of the Labour Law. Recommendations were also made to take all necessary measures to prevent any possibility of advertising jobs that, contrary to the law, contain discriminatory conditions of employment.

### 3.12.2 Actions of Public Authorities

18.1% of the complaints were filed due to discrimination in treatment before public authorities. The most common complaints were filed against local self-governments and municipalities, ministries and health institutions.

*- The Association of Persons with Disabilities filed a complaint against two first-instance and second instance medical boards that determine physical and mental abilities of people with disabilities to operate a motor vehicle. The complaint alleged that two people with disabilities addressed medical committees responsible for their places of residence in order to obtain certificates of bodily and mental ability to operate a vehicle. Both defendants received verdicts from each of their competent first-instance commissions that they were not fit to use their adapted motor vehicles. Subsequently, they both addressed a first instance medical commission in a city other than the place of their residence where they received assurances that they were able to operate an adapted motor vehicle. Due to the fact that they received two conflicting medical certificates from different first instance commissions, an appellate medical board adopted a final report and opinion in both cases, declaring both persons permanently incapable of driving a motor vehicle. The conducted procedure showed that differential treatment of medical committees constituted discrimination against persons with disabilities, thus recommendations were addressed to the medical commissions to standardize their practice when it comes to issuing medical certificates specifying physical and mental ability of a person with a disability to drive a motor vehicle, and bear in mind the achievements of modern assistive technology when issuing these kinds of certificates.*

*- The Municipal Assembly of Svrnjig adopted the Decision on the Financing of Couples no. 400-136/2011-01 of 15 September 2011, which provided the right of married couples to receive financial support in the amount of 100,000 dinars, paid to both spouses in equal parts after marriage, and 150,000 dinars for spouses who live in rural environments. This decision of the Municipal Assembly of Svrnjig violated the principle of equal rights and obligations, discriminating against certain categories of citizens of the municipality of Svrnjig based on their personal characteristics - place of residence and marital status. The Municipality of Svrnjig was recommended to remove conditions that violated the principle of equality through denial of financial aid.*

The National Assembly of the Republic of Serbia was addressed with two recommendations of measures to achieve equality: 1) recommendations were made to take all necessary measures in accordance with its powers to ensure that the composition of all delegations of the National Assembly of the Republic of Serbia in international parliamentary institutions included at least 30% of persons of the underrepresented gender, in accordance with Article 38(2) of the Gender Equality Law, and 2) to take all necessary measures to ensure that the composition of parliamentary committees were equally represented by individuals of the under-represented sex, in accordance with the constitutional guarantee of equality between men and women and the duty of the authorities to develop a policy of equal opportunities.

### **3.12.3 Providing Services, Use of Facilities and Areas**

33 complaints were filed last year in the field of services provision or use of facilities and areas. The complaints related to the use of public facilities and areas were almost exclusively filed for discrimination based on disability, while the basis of discrimination allegations in the provision of services also included other personal characteristics.

*- O.Lj.P. from N., on behalf of and with the approval of several associations of persons with disabilities, filed a complaint against the city of N. and P.E.D. for failing to remove, i.e., adapt curbs in four blocks in N. It was found that the adjustment of the curb was under the jurisdiction of P.E.D. and N., therefore, joint proceedings were subsequently conducted and an opinion was issued stating that an act of discrimination had been committed. Recommendations were addressed to P.E.D. and N. to ensure accessibility of these streets so that all persons with disabilities who used wheelchairs could move freely and use public areas.*

*- The complainants appealed the decision of the City Council of S. which provides free transportation for citizens over 65 who live in the city of S. stating that the company responsible for the implementation of the decision, PE „S.T.“, denied the right to free transport to citizens over the age of 65 who live in suburban areas, by determining that free transportation applied only to citizens residing in urban areas. It was found that discrimination was not committed against citizens on the basis of place of residence because the decision stipulates that all persons who meet the requirements of the decision shall be entitled to free use of public transport, regardless of the fact whether they live in urban or suburban areas.*

### **3.12.4 Public Information and Media**

21 complaints were received for discrimination in the field of public information and media. These complaints were mostly related to articles published in the press, while several complaints were lodged in regards to posts on Internet sites and social networks.

*- In the article „Only Thieves are Zealous“, which was published in the daily newspaper „P“, ideas and views were expressed that were harassing, demeaning and undermined the dignity of members of the Roma minority, and that created a hostile, humiliating or offensive environment. The daily „P“ was recommended to issue a public apology to members of the Roma minority in regards to the text „Only Thieves are Zealous.“*

*- Recommendations were made to the daily newspaper „B.“ to cease publishing articles that denigrate women and support prejudices and social patterns based on stereotyped gender roles, and start publishing content that contributes to the change of patterns, customs and practices that influence stereotypes, prejudice and discrimination against women.*

### **3.12.5 Education and Vocational Training**

During the year 2012, 38 complaints were filed for discrimination in the fields of education and vocational training. The complaints point to a number of problems in the field of education, especially when it comes to children from marginalised groups (Roma children, children with disabilities). Several complaints were related to discrimination against Roma children in school, as well as the segregation of Roma children in primary schools and one preschool. It is very concerning that there is a presence of segregation of Roma children in education, completely open in some institutions, such as the primary school „Aleksandar Stojanović Leso“, pre-school „Youth“ from Novi Pazar - Deževa, village Blaževo-Vožegrnci, where Roma children from displaced families have been placed in separate departments in a separate building. The problem is systematic in some other schools.

*- The complaint states that over 90% of students of the primary school „V. K.“ from N. are Roma children, and only two or three children in one generation belong to the non-Roma population. Although discrimination of Roma children was not established, recommendations were made to the Directorate of Education, Culture and Sports of N. to commence with the preparation of a comprehensive plan of measures, in cooperation with the primary school „V. K.“, the Ministry of Education, Science and Technological Development, and representatives of the civil society, whose implementation would overcome the problem of segregation, i.e., the large number of Roma children compared to other children in the primary school „V.K.“ in N., in accordance with the Strategy for Improvement of the Status of Roma in the Republic of Serbia. Implementation of such a plan of measures would change the long-term situation in the elementary school „V. K.“, and the city of N. would become a positive example that could be followed by other cities and towns.*



## 4. Cooperation and Promotion of Equality

In 2012, the Commissioner for Protection of Equality and employees of the Commissioner's Office participated in many national and international conferences and round tables, public discussions and hearings, symposia and seminars organised by the public authorities and civil society organisations. Furthermore, many lectures and presentations were held about the institution of the Commissioner throughout Serbia. A complete overview of conferences, public events, roundtables and conferences with the participation of representatives of the Commissioner for Protection of Equality is given in the integral Regular Annual Report of the Commissioner for 2012.

Over the course of 2012, the Commissioner for Protection of Equality continued close cooperation with other independent state institutions, especially with the Ombudsman. In mid-2012, the Ombudsman and the Commissioner for Protection of Equality formed two joint working groups, including:

1) *The Working Group for analysis of regulations relevant to the position of people with disabilities in the legal system and in proceedings before public authorities* - formed with the task to identify and analyze legislation of importance to the participation of people with disabilities in the legal system, as well as for exercising and protection of the rights of persons with disabilities in judicial proceedings and before other public authorities. The working group includes representatives of the civil society involved in the protection of rights of persons with disabilities, and the goal is to work together to formulate specific proposals for amending the legislation in this area;

2) *The Working Group for analysing regulations relevant to the legal status of transgender persons* - formed with the task to identify and analyze local, regional and international legislation and standards in this area. The working group consists of experts with years of experience and the goal of their work is the formulation of recommendations and specific proposals for legislative changes that would improve the position of transgender people in Serbia.

In cooperation with the Ombudsman and with the support of the United Nations Children Fund in Serbia (UNICEF), a seminar for children, „*Serbia: 0 Discrimination*“, was held between 28-30 November 2012 in Kovačica. The seminar was attended by members of the Ombudsman's Youth Advisors Panel and a group of children who would in the upcoming period represent a group of young Commissioners for Protection of Equality.

Cooperation with the public authorities was continued during this year. The Commissioner for Protection of Equality and employees in her service participated in various activities organised by other government bodies, such as national consultations, expert meetings and working group meetings.



In the year 2012, cooperation was enhanced between the Commissioner for Protection of Equality and representatives of the judiciary. Under the framework of the project „*Beyond the Law: The Promotion and Implementation of Anti-discrimination Legislation and Equality in Serbia*“, two training courses were held for representatives of the judiciary dedicated to capacity building and advancing knowledge in the field of protection from discrimination.

In cooperation with the Office of the United Nations Entity for Gender Equality and Empowerment of Women (UN Women) in Serbia, with which the Commissioner for Equality has signed a Memorandum of Understanding, cooperation was continued with local self-governments. In the year 2011, 10 municipalities<sup>54</sup> and cities were selected in which cooperation was established with local authorities, local gender equality mechanisms and offices for free legal aid. The aim of such direct cooperation was to provide better accessibility of the Commissioner for Protection of Equality to all citizens, especially women, through increasing awareness of local gender equality mechanisms and offices for free legal assistance in regards to the Commissioner's mandate and his role in the prevention of gender-based discrimination.

In 2012, cooperation was further strengthened with regional and international organisations and institutions. In addition to already established co-operation with the offices of international organisations in Serbia and their specialised bodies and the conduct of regular activities within the membership of the European Network of Equality Bodies EQUINET, the institution of the Commissioner also established co-operation and developed partnerships with other organisations. Study visits and meetings with international partners have contributed to the exchange of experience and capacity building of institutions.

In 2012, the institution of the Commissioner organised two international meetings:

1) *The „Roundtable on the Burden of Proof in Discriminatory Actions“*, a regional meeting held on 11 May 2012, which was attended by representatives of independent bodies involved in protection against discrimination in Croatia, Bosnia and Herzegovina, the Republic of Srpska, Montenegro and Serbia. Discussions held at the meeting dealt with future cooperation between equality bodies in the region.

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<sup>54</sup> Local self-governments have been selected on the basis of pre-defined criteria, such as geographic coverage, capacity of local gender equality mechanisms and offices for free legal assistance, dedication of municipalities in protection of human rights and gender equality, previous activities, level of visibility and previous cooperation with the Commissioner.

2) The international conference „*Media and Equality*“ held on 19 October 2012, which was attended by journalists from the local media. The lecturers and workshop leaders were prominent local and foreign experts.

#### **4.1 Improving the Capacities of Civil Society Organisations in Situation Testing Discrimination**

The Law on the Prohibition of Discrimination, in accordance with international anti-discrimination standards, defines the specific rules for the redistribution of the burden of proof and regulates the possibility of voluntary testing discrimination, so-called situation testing.

Situation testing is an experimental, deliberately created situation, with the aim of checking whether a particular social situation involves discrimination. It is used in situations where there is suspicion of discrimination, which is unrecognizable at first glance.

Given the fact that civil society organisations are important actors in the fight against discrimination who represent strategic partners of the Commissioner for Protection of Equality, a competition was announced in August 2012 for the allocation of funds to civil society organisations for the implementation of situation testing discrimination. The aim was to strengthen the capacities of these organisations and establish an initial mechanism for situation testing discrimination in the Republic of Serbia.

The total of 66 civil society organisations applied for the competition. The selection of organisations took into account regional representation and equal representation of vulnerable groups with which organisations work (gender, gender identity, sexual orientation, disability and health status, age, national affiliation and ethnic background and other real or supposed personal characteristics). 23 organisations were selected, and two representatives from each organisation attended training for situation testing discrimination. With the support of the TACSO program<sup>55</sup>, three training courses were held in Kragujevac, Niš and Belgrade, with the participation of 43 representatives from 22 civil society organisations. Contracts have been signed with the total of 22 organisations and they have been granted funds in the amount of 130,000 dinars. These organisations are required to perform at least three situation tests within six months, and submit a report for every test. If during testing they determine that a discriminatory act was committed, the organisations are required to submit a complaint to the Commissioner for Protection of Equality.

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<sup>55</sup> Technical Support for Civil Society Organisations, available at [http://www.tacso.org/Default.aspx?langTag=sr-SP-Latn&template\\_id=69&pageIndex=1](http://www.tacso.org/Default.aspx?langTag=sr-SP-Latn&template_id=69&pageIndex=1)

## 5. Media Coverage of the Commissioner's Work and Reporting on Discrimination

Media interest in the work of the Commissioner in 2012 was increased compared to the previous year. Statistically speaking, during 2012, the Commissioner for Protection of Equality and the Commissioner in person appeared 439 times in the media. The print media published 309 articles (statements, reports, announcements, comments) and the electronic media 130 items, statements, reports and thematic TV packages that mentioned or quoted the Commissioner for Protection of Equality or any of the staff of the Office of the Commissioner for Protection of Equality.

In terms of reporting on discrimination, most texts and articles were published about LGBT people, then Roma, followed by persons with disabilities.

An analysis of print media reporting on these minority groups has shown that most articles are still published on the occasion of incidents in which members of these groups were victims. Incorrect terminology is present to a large extent, as well as elements of sensationalist reporting, with no real intention to point to a specific problem or address an issue. The most correct reporting can be attributed to the newspapers *Danas* and *Dnevnik*, which report the most on the (dis)respect of human rights and point out the problems faced by members of minority discriminated groups using appropriate terminology. The media have also largely dealt with issues relating to gender equality and the status of women, ethnic minorities, and especially labour relations, which has the greatest number of discrimination cases on all grounds. A considerable number of articles also indicate the cause of women's disadvantages and ways for solving problems.

## 6. Projects

In 2012, the Commissioner for Protection of Equality conducted a number of project activities, implemented independently or in partnership with the civil society.

***The project „More than the Law: the Promotion and Implementation of Anti-discrimination Legislation and Equality in Serbia,“ Progress program of the European Union.***

The project was implemented in the period from 15 December 2011 to 15 December 2012. Under the framework of the first component of the project, which aimed to increase the capacity of the judiciary in the implementation of anti-discrimination laws, a study entitled *„Court Civil Protection from Discrimination“* was published; it was intended primarily for judges, but also for all those who need knowledge in this field. Workshops were held for representatives of the judiciary on the subject of civil-legal protection against discrimination.

The second component of the project was dedicated to working with the media in order to raise awareness about the phenomenon of discrimination and the role of media in combating discrimination. Extensive research was conducted, which was published under the title *„Media and Discrimination in Serbia“*. Several workshops were organised, as well as two study tours for representatives of the media in Paris and Rome. This component resulted in the publishing of the hand-book *„Media in Serbia, From Discrimination to Equality“* and the holding of the international conference *„Media and Equality“*.

The third component of the project was devoted to the analysis of labour laws, in terms of anti-discrimination legislation. A handbook entitled *„Manual for the Fight against Discrimination at Work“* was published, which discusses international standards, national legislation and case law in this area.

***The „Living Library“ project, in collaboration with the Council of Europe Office in Belgrade***

The project aims to reduce the impact of negative stereotypes and prejudices as key causes of discrimination in society<sup>56</sup>. Six „Living Library“ projects have been organised until now (Smederevo, Pančevo, Kragujevac and three in Belgrade), more than 120 volunteers have been involved, and the total number of readers is around 2000. Therewith, three national training courses were held for

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<sup>56</sup> “Living Library” represents an innovative methodology that aims to promote human rights, equality, the fight against racism and xenophobia. The methodology “Living Library” is specific. Books are living people, carefully selected from social groups that are frequently faced with prejudices and negative stereotypes. Due to their status in society, and membership in a particular social group, these individuals are stigmatised or suffer discrimination.

organizers of „*Living Libraries*“ (Ruma, Jagodina and Šabac), 64 people successfully graduated, mostly from the ranks of civil society organisations.

***„Let Equality Become a Reality“ The Kingdom of Norway***

The Commissioner for Protection of Equality approved the project „*Let Equality Become A Reality*“ in late 2012. Project activities are focused on the status of national minorities and improving the position of the LGBT population in Serbia. Implementation of the project shall commence in 2013.

***„Equal Opportunity for Better Perspectives - Strengthening Roma People to Combat Discrimination“, The Kingdom of the Netherlands.***

The project is being implemented from May 2012 to December 2013 in partnership with Praxis, and the Regional Centre for Minorities. Its main objectives are to raise awareness of the Roma population on the role and responsibilities of the Commissioner for Protection of Equality and the institutional mechanisms for combating discrimination, and to educate people how to recognize acts of discrimination and file a complaint with the Commissioner. The project will be implemented in Roma settlements of 10 cities and municipalities in Serbia.

***Agreement on Cooperation with the United Nations Fund for Children in Serbia (UNICEF) on the prevention of all forms of discrimination against children.***

In September 2012, The United Nations Fund for Children in Serbia and the Commissioner for Protection of Equality signed a multi-year agreement on cooperation in the prevention of all forms of discrimination against children. The aim of this cooperation is to strengthen respect for and protection of human rights of all citizens, especially children and youth.

The following activities were carried out under the auspices of phase one (September 2012 - June 2013):

- Training of employees in the Office of the Commissioner for Protection of Equality in order to improve analytical work and fashion of reporting and develop strategic documents and other activities that would bring the work of the office closer to children and youth.
- Publishing of the colouring book „*We Are All Equal and We Can Live Side by Side*“ intended for children of preschool age.
- Publishing of the brochure „*Do Not Tolerate Discrimination, Seek Protection and React*“, intended for children aged 12 to 16 years.
- Establishment of a *Youth Group*, which will in the future cooperate with the Commissioner for Protection of Equality. A three-day training course was organised at which young people learned about discrimination, the authorities of the Commissioner for Protection of Equality, problems faced by children with disabilities, the right to education for all and so-forth. The training was also at-

tended by young people from the Ombudsman's Youth Advisors Panel.

***„Support to the Institution of the Commissioner for Protection of Equality for the Effective Implementation of Anti-discrimination Legislation“, in cooperation with the United Nations Development Programme (UNDP)***

The goal of this project is to improve the capacity of the institution of the Commissioner for Protection of Equality of the Republic of Serbia for the full realisation of its advisory role, providing a harmonised legislative framework for combating discrimination, building capacities through the transfer of knowledge, analysis of comparative jurisprudence, and supporting the development of institutions in the application of alternative dispute resolution through the method of mediation. The project envisages setting up a database on cases of discrimination, raising the capacity of employees to handle cases and conduct strategic litigation, as well as the establishment of a pool of outside experts and associates.

The United Nations Development Programme supported the conduct of a public opinion survey on discrimination in Serbia carried out in behalf of the Commissioner for Protection of Equality by the Centre for Free Elections and Democracy (CeSID) in November 2012.

***„Implementation of Anti-discrimination Policies in Serbia“, the Office of Human and Minority Rights - IPA 2011***

In 2010, in the process of planning IPA for 2011, the Ministry of Human and Minority Rights filed a project proposal that included the Commissioner for Protection of Equality as the project beneficiary. This project is now managed by the Office for Human and Minority Rights.

Activities of the IPA project commenced in mid-2012 with the selection of a consortium to carry out the project having been made.

## 7. Publications

In order to improve and promote equality, protection from discrimination, and better inform citizens about the work of the institution, the Commissioner for Protection of Equality published several publications in 2012.

- *Regular Annual Report of the Commissioner for Protection of Equality for 2011*, Belgrade, 2012, 108 pages (in Serbian and English);
- *Collection of Selected Opinions and Recommendations of the Commissioner for Protection of Equality*, Belgrade, 2012, 97 pages (in English);
- *Research: Media and Discrimination in Serbia*, Belgrade, 2012, 74 pages;
- *The Media in Serbia: From Discrimination to Equality - A Manual for Journalists*, Belgrade, 2012, 125 pages;
- *Manual for the Fight Against Discrimination at Work*, Belgrade, 2012, 151 pages;
- *Court Civil Protection from Discrimination*, Belgrade, 2012, 320 pages;
- *For Serbia Without Discrimination*, Belgrade, 2012, 8 pages;
- *Do Not Tolerate Discrimination! Seek Protection and React!*, Belgrade, 2012, 24 pages;
- *We Are All Equal and We Can Live Side By Side*, Belgrade, 2012, 24 pages;
- *Practicum for Protection Against Discrimination*, Belgrade, 2012, 94 pages (in Serbian, English, Albanian, Hungarian and Romani);
- *What is Discrimination and How to Protect From It? A Simple Version of the Practicum for Protection against Discrimination*, Belgrade, 2012, 30 pages.

All publications are available in electronic form on the official website of the Commissioner for Protection of Equality, at <http://www.ravnopravnost.gov.rs/lat/publikacije.php>.

## **8. Performance of Obligations According to the Law on Free Access to Information of Public Importance**

The Commissioner for Protection of Equality provides free access to general laws under its jurisdiction, public information and other information that enable citizens to become familiar with the work of the Commissioner. In this sense, the Commissioner provides free access to information by reporting to the National Assembly through regular annual reports, by acting on requests for access to information of public importance, by publishing an Information Booklet and information on the website, holding press conferences and using other appropriate means.

The Information Booklet of the Commissioner for Protection of Equality was first published on 29 December 2010. Since then, its content has been regularly updated and improved. The informer is available on the website of the Commissioner for Protection of Equality at [www.ravnopravnost.gov.rs](http://www.ravnopravnost.gov.rs).

In 2012, the Commissioner for Protection of Equality filed seven requests for access to information of public importance that were answered in due time. In comparison to 2011, when there were the total of five requests, 2012 recorded a slight increase in the number of applications. Two applications each were filed by citizens and organisations, that is, associations, and three were submitted by media.



## **9. Recommendations for Combating Discrimination and Promotion of Equality**

Based on data collected in complaints procedures and insights into key issues in the realisation and protection of equality, 21 recommendations were given in a report from 2011 that would contribute to more efficient and more effective prevention and combating of discrimination when implemented.

Most of these recommendations were not implemented in the past year, while full implementation was carried out only in regards to a recommendation relating to the amendment of the Criminal Code, which provides adequate punishment of hate crimes, i.e., acts which were motivated by hatred based on race, skin colour, ethnic or nationality, religion, political or other opinion, language, gender, sexual orientation, gender identity, age, health condition, disability, education, social status, social background, property or other personal attribute. Certain activities were undertaken in terms of a small number of recommendations.

Taking into account previously given recommendations, most of which are still on-going, and based on insights gained during the past year, we offer the following recommendations:

1. Conclude work on the National Strategy for Combating Discrimination and commence with its implementation.

2. Implement measures set by national and local strategic documents and action plans to eliminate obstacles and circumstances that hinder the achievement of full equality of deprived, vulnerable and marginalised groups: Roma, people with disabilities, the elderly, refugees and internally displaced people, the poor and other socially vulnerable people, including children and women belonging to these groups, with the goal of creating conditions for their effective enjoyment of all rights granted, without any form of direct or indirect discrimination; commence with the timely development of new strategies and action plans with respect to their deadlines.

3. Take measures to integrate themes into the curriculum and teaching materials that develop the culture of peace, tolerance, understanding and respect for diversity, gender equality and non-discrimination; remove content from the curriculum that supports stereotypes and prejudices and through appropriate training enable teachers to develop in pupils the spirit of tolerance and non-discriminatory attitudes. Promptly adopt and ensure the implementation of the Ordinance on detailed criteria for the recognition of forms of discrimination by employees, students and third parties in institutions of education; prepare and carry out a plan for desegregation of Roma children in schools and preschools.

4. Continue work on the integration of a gender perspective into all policies and decisions at the national, provincial and local levels, as well as work on the implementation of measures to improve the status of women, especially women from marginalised social groups.

5. Harmonize regulations on public information with anti-discrimination legislation; Increase the effectiveness of regulatory bodies in combating hate speech, violence, intolerance and discriminatory attitudes that are spread through the media; Ensure that public service broadcasters and enterprises promote equality, tolerance and non-discrimination, and actively contribute to raising public awareness and changing social and cultural patterns and practices that are based on stereotypes and prejudice towards minorities and marginalised social groups.

6. Plan and implement measures that will ensure that the composition of government bodies, local authorities and other public authorities to the fullest extent correspond to the ethnic composition of an area's population, which includes increasing the number of persons belonging to national minorities in government bodies and providing them with education and training for work in the public administration sector.

7. Ensure that the public broadcasters produce and broadcast programs that allow the expression of national minorities' and ethnic groups' cultural identities, in both the official and their own language and script.

8. Improve the capacities of national councils of national minorities for effective implementation of the role they have in the field of education, culture, and informing in minority and official languages and scripts.

9. Create and implement a training program for employers to help them develop and implement mechanisms for the introduction of the principle of equal opportunities and non-discrimination in the area of labour and employment, preventing all forms of direct and indirect discrimination and managing diversity in the work environment; improve the work of labour inspectors in combating work and work-related discrimination.

10. Ensure effective implementation of legislation on education, employment and vocational rehabilitation of persons with disabilities and work to remove barriers that hinder access to buildings, transport, information, communications, and other public services.

11. Improve the knowledge and skills of police officers for more efficient response in case of incitement to national, racial and religious hatred and intolerance, violation of equality, racial discrimination, discrimination on other grounds and other hate crimes.

12. Continue work on the education of judges, prosecutors and lawyers in civil, criminal and misdemeanour legal protection from discrimination.

13. Harmonize legislation governing the conditions and procedures for registration of non-traditional religious communities with local, European and international standards on equality of churches and religious communities in order to prevent indirect discrimination of these religious communities and believers.

14. Adopt the Free Legal Aid Act to ensure victims of discrimination effective access to justice.

15. Provide adequate office space that meets the needs of the professional services of the Commissioner and support the establishment of regional offices of the Commissioner.



CIP - Каталогизација у публикацији

Народна библиотека Србије, Београд

341.231.14(497.11)"2012"(047.1)

343.85:343.412(497.11)"2012"(047.1)

COMMISSIONER for Protection of Equality :

Abridged Report for 2012 / [editor Nevena Petrušić ;  
translation Nataša Bošković]. - Belgrade : Commissioner  
for Protection of Equality, 2013 (Belgrade : Klik Tim).

- 67 str. : graf. prikazi, tabele ; 24 cm

Izv. stv. nasl.: Скраћени годишњи извештај Повереника  
за заштиту равноправности за 2012. годину. - Тираж 50.

- Str. 7: Introduction / Nevena Petrušić. - Napomene i  
bibliografske reference uz tekst.

ISBN 978-86-88851-16-9

а) Људска права - Међународна заштита - Србија -  
2012 - Извештаји б) Дискриминација - Спречавање

- Србија - 2012 - Извештаји

COBISS.SR-ID 202771468



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