



REPUBLIC OF  
SERBIA



COMMISSIONER  
FOR PROTECTION  
OF EQUALITY

# REGULAR ANNUAL REPORT OF THE COMMISSIONER FOR PROTECTION OF EQUALITY FOR 2014

Belgrade, June 2015



**REGULAR ANNUAL REPORT**

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**OF THE COMMISSIONER FOR PROTECTION OF EQUALITY FOR 2014**

Belgrade, June 2015

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



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# INTRODUCTION

Respected Members of National Assembly,

Respected readers,

This is the fifth Regular Annual Report of the Commissioner for Protection of Equality for 2014, which represents the roundup of the first five years of this institution's work and the final year of the five-year long mandate of the first Commissioner for Protection of Equality, elected by the National Assembly on May 5th 2010.

In the past year the Commissioner has continued to act as an autonomous and independent state authority specialised for the prevention of and protection from discrimination, seeking to fulfil its role of a central institutional mechanism for combating all forms of discrimination to full extent. In order to achieve this objective, an efficient, just, transparent and objective complaint procedure concerning discrimination, which had resulted in opinions and suggestions based on the national and European anti-discrimination standards, was guaranteed to the victims of discrimination. With such actions, over the five year work, the Commissioner secured a stable and reliable legal practice, which could offer support and direction in applying anti-discrimination regulations.

The report offers the opportunity for all interested parties to get acquainted with the results of the work the Commissioner did over last year, acting on discrimination complaints and practicing its other legal entitlements. Apart from describing and assessing the issues concerning equality of legal persons, especially representatives of the deprived, marginalised and vulnerable social groups, we systematised and presented the information on the cases of discrimination we worked on. From the data shown the reader can conclude which group was the most discriminated against and on what ground, who were those discriminating and in which areas was that discrimination most present. In order to achieve an integral insight into the regard of the society of discrimination, in this Report one can find information on the manner in which the media reported on the discrimination cases and how they followed our work engagement.

An important segment of the Report is the presentation account of the proactive actions of the Commissioner on the level of non-discrimination principle affirmation, equal opportunities and toleration towards national, religious, sexual and other minorities as well as promoting a system of values in which diverse identities are fully accepted, respected and appreciated. An overview of the recommendations

on the measures needed for achieving equality directed at the public authorities and other societal actors is also given. These recommendations are aimed at the abolition of the causes of structural, institutional and individual discrimination and the creation of the environment of real equality between individuals and society groups. A number of the recommendations were included in the previous reports of the Commissioner, and their repetition is caused by the fact that they were not fully implemented or not implemented at all. Project activities, implemented with the support of international organisations and in cooperation with CSOs, are also shown in the Report. All these activities are the expression of the Commissioner's dedication towards promoting awareness of the public on the topic of discrimination, developing the culture of human rights, equality and tolerance, and towards encouraging a wider use of the instruments for legal protection from discrimination as well as raising the visibility of the Commissioner and transparency of the work done by the Commissioner.

The report contains the overview of the international cooperation of the Commissioner realised in the bilateral relationships with analogous government authorities concerned with equality in European states and the states in the region, as well as by active participation in the work of relevant international and European institutions such as (EQUINET), (ECRI) and other. These activities ensured the exchange of valuable practices for combating discrimination and enhanced professional competencies and the capacities of the Commissioner's Professional Service. On the other hand, the results of the international cooperation contributed to the promotion of the institution of the Commissioner and its good position, which led to the Commissioner being the host of the European equality bodies seminar in October 2014, dedicated to special (affirmative action) measures and which gathered over 150 participants and the Assistant to the Commissioner Kosana Beker being elected a member of the Executive board of EQUINET.

The most important work limitations, issues and challenges the Commissioner is still faced with, and which limit the Commissioner fulfilling the legal duties and authorisations, are presented in the report as well. Overcoming such limitations and issues is of paramount importance for the fulfilment of the mission and the role the Commissioner for the Protection of Equality has in the legal system of the Republic of Serbia.

It is evident that the social reality in Serbia is marked with tolerance and a respect for difference on one level; however, on another one, gender, ethnic and other stereotypes and prejudices, as well as a high level of social distance towards certain national, religious, sexual and other minorities, are deeply rooted and spread, which marks key obstacles in reaching a true equality and full social inclusion of all social groups and individuals. For those reasons, this negative social occurrence

is still present to a great extent in Serbia, despite a relatively satisfactory anti-discrimination legal framework and numerous activities aimed at preventing and suppressing discrimination. Many researches, as well as the practice of the Commissioner's service, attest to that.

Having in mind that the rule of law, social justice, human and minority rights and non discrimination are the fundamental principles of the Constitution of the Republic of Serbia, having in mind the fact that on the way to the full membership in the European Union, for which Serbia opted, three key values and three key criteria are democracy, nomocracy and respect for the fundamental rights, it is necessary to consolidate and intensify the efforts concerning the inclusion of anti-discrimination policy in all public sectors. It entails, among other things, timely inclusion of the planned measures and activities set by the Action plan for the inclusion of the Strategy for Prevention of and Protection from Discrimination for the time period from 2014 to 2018, which was accepted in October 2014, and observation of their effect. Furthermore, it is of great importance to introduce new strategic documents which will establish a long-term and integral policy of the state, all with the aim of preventing discrimination and creating equal opportunities for the representatives of the depraved, marginalised and vulnerable society groups, such as Roma people, children, elderly and women, considering that in 2015 the strategies for these areas will become invalid, including the Strategy for Achieving Gender Equality. When defining strategic priorities, measures and activities it is important to take into account the findings and recommendations of the Commissioner, as well as the comments and evaluations of the international (government) bodies which oversee the application of international contracts in Serbia, as well as the European Commission. Mere construction of the strategic documents must be based on an objective situation, along with a detailed and transparent consultative process and a full participation of the CSOs, especially those concerned with the promotion and protection of minority rights and the rights of vulnerable social groups.

I hope that this final report, that I write at the end of my five year long mandate, will be encouragement for all government officials, in cooperation with the CSOs and other social representatives, to intensify their work on preventing and lessening discrimination in Serbia and creating conditions for an efficient and effective functioning system for protection from discrimination. A successful anti-discrimination policy implies a long-term, dedicated and coordinated action from all social bodies on the issue of abolishing causes of discrimination and strengthening the institutions which act in the area of human rights. Only by such an attitude, equality, equal opportunities and tolerance towards national, ethnic, religious, sexual and other minorities can become values accepted by all, which the society welcomes

consciously, understanding that there is no peace, stability, wellbeing and progress of the community without them. It is the only way towards an open, modern, just and inclusive society, where every individual, regardless of sex, national and religious affiliation, sexual orientation, political beliefs or any other group identity is entitled to equal rights and who can participate in the social match under equal conditions, using the resources the society possesses.

Nevena Petrušić, PhD  
The Commissioner for Protection of Equality

## SUMMARY

In the course of 2014 the Commissioner for Protection of Equality continued the work on suppression of all types, shapes and cases of discrimination and on improving equality, using the legal authorisation given to her.

During 2014 the Commissioner for Protection of Equality worked on 884 cases. Compared to the previous year slightly fewer complaints were received (666), but the number of recommendations for achieving equality was significantly higher, from 24 in 2013 to 198 in 2014. 109 opinions were issued, discrimination was confirmed in 66 cases and therefore, along with an opinion, recommendations were offered, while in 43 cases the Commissioner was of the opinion that there was no discrimination. Apart from that, six criminal charges and three proposals to assess constitutionality and legality were submitted, two new strategic court proceedings were started and six previous ones were continued, a motion for initiating misdemeanour proceeding was submitted, two opinions on draft laws were issued as well as twenty announcements and six warnings..

Among the complaints issued the majority pertained to discrimination on the grounds of national affiliation, as well as ethnic origin, health condition, age, disability and sex. More than one third of complaints pertained to discrimination in the hiring process or at the workplace, and the rest of the complaints were filed for discrimination in the proceedings before public authorities, the provision of public services, the use of buildings and public areas, education and professional training etc. The most complaints were filed against legal persons and state authorities. The Commissioner for Protection of Equality still receives a number of complaints pertaining to the violation of laws for which the Commissioner is not authorized to intervene in, which indicates that the citizens do not distinguish between discrimination and other unlawful acts, and that they are not fully familiar with the Commissioner's sphere of authorisation.

The Commissioner continued the work and activity on the promotion of equality and non-discrimination principles, by organising and taking part in lectures and presentations, promotional meetings, conferences, thematic and roundtable meetings of CSOs. With this intent in mind, six books, manuals and brochures were published. The staff of the Commissioner's professional service improved their professional competence, and the institution of the Commissioner became more visible, accessible and available.

The first regional office of the Commissioner for Protection of Equality in Novi Pazar was opened, with the help the municipality of Novi Pazar as well as the financial aid of the European Union and the Government of Switzerland, as a part

of the Programme of European partnership with municipalities – EU PROGRES. The opening of this office was supported by the National Assembly, which ensured that approaching the Commissioner became an easier task for the inhabitants of that region.

The cooperation with independent bodies as well as with other state authorities, foreign institutions with similar mandate, international organisations as well as CSOs was continued. The Commissioner realised three projects, in consortium with CSOs and with the support of international organisations and foreign embassies. In the course of past year the Commissioner made use of all the conveniences of the membership in EQUINET and aided the development of this network. In order to show an appreciation for this contribution and support for the Commissioner's work, a seminar for European equality bodies was held in Belgrade in October 2014 and it was dedicated to special (affirmative) measures.

In the previous period the media coverage of the Commissioner's work was more intensive and they reported on the announcements, views and opinions of the Commissioner. Many media reports dealt with discrimination and intolerance, and the most common themes were discrimination of women, LGBT people, people with disabilities and Roma people.

The Commissioner was approved a budget of 68.951.000 dinars in 2014. According to the Law on the Budget for 2015 for the Commissioner's work a budget of RSD 72.633.000 is allocated.

In order to combat discrimination effectively and establish effective equality, the following steps should be taken:

1. Timely start the preparation of strategic documents expiring in 2015, such as the National Strategy for Improving the Position of Women and Promoting Gender Equality (2009–2015), the National Action Plan for Children (2004–2015), the National Strategy for Improvement of the Position of Roma People, Roma Decade 2005–2015, the Strategy on Aging (2009–2015), the Action Plan for the Implementation of the Strategy for Improving the Position of Persons with Disabilities (2013–2015), the Strategy on Development and Promotion of Socially Responsible Business Operations (2010–2015) etc. With the new Strategy on Development and Promotion of Socially Responsible Business Operations it is necessary to foresee the special measures that aid the elimination of social exclusion and discrimination of the persons belonging to vulnerable groups, for whom it would be ensured that the employers abide by the principle of equal opportunities and non-discrimination in work and employment.

2. Proscribe gender mainstreaming, that is integrating the gender perspective in public policies in order to ensure abolishment of systemic and structural causes



of gender inequality and create the conditions for gender equality immersion in the work of the government, as a European value, in a coherent and systematic manner. Maintain the work on integrating gender perspective in all decisions and policies on a national, regional and local level. Ensure efficient application of the rules on gender analysis of draft laws and other general acts and the analysis of their effects on men and on women.

3. Proscribe the duty of all public authorities and private employers to develop internal mechanism for combating and protection from discrimination, gender balanced recruitment policies and managing national, ethnic, religious, language and other diversity.

4. Intensify the work on introducing measure determined by the national, regional and local strategic documents and action plans, which should ensure achieving full equality of the deprived, vulnerable and marginalised society groups: Roma people, persons with disability, refugees or internally displaced people, penurious and other socially disadvantaged people, including women and children belonging to these groups, in order to create the conditions for an effective enjoyment of all the guaranteed rights, without any kind of direct or indirect discrimination. These activities should include the representatives of the vulnerable social groups.

5. Take all necessary measures to warrant that the composition of state authorities, local self-government authorities and other public authorities corresponds to the national structure of the population on their respective territories by increasing the number of employed members of national minorities and their education and training in this regard.

6. Continually work on education of judges, public prosecutors, police officers and public servants working in state administration or local self-government units in the area of anti-discrimination legislation, in order to ensure that the legislative bodies regularly and evenly interpret and apply anti-discrimination regulations, in accordance with the international standards and the policy of international legislative institutions, contributing thus fully to combating discrimination and protection of the victims of discrimination.

7. Adjust the legal decisions that regulate the conditions and the process of registration of non-traditional religious communities with the national and international standards of church and religious communities' equality, in order to prevent direct discrimination of these religious groups and of devotees themselves.

8. Adopt the Rulebook on closer criteria on recognizing discrimination forms by an employee, a student or a third party in an education institution and ensure all conditions for its implementation.

9. Create and realise educational programmes for teachers, educators and other employees so as to train them to recognise and prevent discrimination, promote equality among students, actively oppose all types of discrimination and support inclusive education.

10. Take measures to integrate topics concerning the development of culture of peace, tolerance, understanding and accepting diversity, gender equality and non-discrimination into syllabuses and curriculums. Eradicate discriminatory content from curriculums, as well as such content which supports stereotypes and prejudices.

11. Secure equal opportunities in respect to higher education of young people from under-represented groups, including persons with disability, by introducing measures and reviewing standards for accreditation of higher education institutions, concerning spatial accessibility, provision of assistive technologies and adequate services for student support. Initiate the implementation of internal rules on the manner of action in cases of discrimination in institutions of higher education.

12. Create and realise educational programmes intended for those employed in the health sector, with the aim of raising the level of knowledge on discrimination, as well as respecting the regulations that inhibit it. Include the counsellors for the protection of patients' rights as well as members of local health councils and the employees of the National Health Insurance Fund and its branch establishments in similar educational programmes.

13. Create and realise educational programmes intended for those employed in the social institutions with the aim of raising the level of knowledge on discrimination and its understanding as well as respecting the regulations which inhibit it.

14. Ensure an adequate education for journalists in the area of anti-discrimination law.

15. Equate the Republic of Serbia as the employer for direct and indirect budgetary users with other employers in regards to the manner of complying with the obligation of employing persons with disabilities.

16. Remove from legal regulations all inadequate and stigmatizing terms used to designate persons with disabilities ("blind", deaf", "mute", "handicapped person", "person with special needs" etc.) and replace them with uniform and correct terms. In this respect, supplement the Common Methodology Rules for Drafting Regulations ("Official Gazette of RS", no. 21/10).

17. Reform regulations on the deprivation of legal capacity in accordance with the contemporary social model of disability and international standards in this area, in order to ensure that persons with disabilities, with appropriate support, enjoy all their guaranteed rights on an equal basis.

18. Adopt the Law on Free Legal Aid that would ensure effective access to justice without discrimination on any grounds, including access to justice for victims of discrimination.

19. Adopt regulations to enable registration of same-sex couples and regulate the effect, legal ramifications and the manner of abolishing of such registered partnerships, in accordance with the suggestions made by the Council of Europe.

20. Create and realise educational programmes intended for the employees of labour inspections on a national, regional and local level so as to educate them to recognise and act adequately in cases of discrimination at the workplace and in connection to work.

21. Approach amending the *Law on Prohibition of Discrimination* with the aim of achieving a full harmonization with the European Union acquis, especially concerning the range of exceptions from the rule of equal treatment, definition of direct discrimination and the obligation to secure reasonable accommodation of the workplace for persons with disabilities. Ensure that the new Commissioner for Protection of Equality is chosen before the mandate of the previous one ends, so as not to halt the actions of this autonomous and independent state authority, by the amendments to laws.

22. Ensure the work continuity of the institution of the Commissioner for Protection of Equality by choosing the new commissioner by May 5<sup>th</sup> 2015, when the mandate of the previous commissioner ends.

23. Ensure an adequate work space for the Professional Service of the Commissioner and urgently continue support for opening new regional offices of the Commissioner.

# 1. About the Commissioner for Protection of Equality

The Republic of Serbia stated clearly its decision to respect human and minority rights and combat all forms of discrimination in social relationships by adopting the Law on Prohibition of Discrimination and appointing the Commissioner for Protection of Equality. In doing so, it took a significant step towards implementation of the international and European anti-discrimination standards.

The Commissioner for Protection of Equality is an autonomous and independent state authority established on the basis of the Law on the Prohibition of Discrimination<sup>1</sup> with a broad scope of authority, which makes it the central national institution specialized in preventing and combating all forms and types of discrimination. The authority of the Commissioner is broadly defined, in accordance with the international standards, in order to enable to efficiently and effectively prevent and protect from discrimination and contribute to achieving and improving equality.

The National Assembly of the Republic of Serbia appointed the first Commissioner for Protection of Equality, Professor Nevena Petrušić, on May 5<sup>th</sup> 2010. The Commissioner was chosen for the period of five years and her mandate ends on May 5<sup>th</sup> 2015.

The Commissioner is an ombudsman type state institution, with an exclusive authority to protect one human right – the right to equality. It is chosen by the National Assembly and it aids the National Assembly with the parliamentary overseeing in the area of protection of equality, but is also “a body of the public”, that is the body of the civil society, to which it belongs. The Commissioner has no legislative nor repressive authority, and it does not decide on the rights and responsibilities of legal persons, but it achieves its legal role by issuing recommendations, admonitions, warnings, reports, legislative initiatives etc.

According to the articles of the Law on the Prohibition of Discrimination, the Commissioner is authorised to receive and review complaints pertaining to discrimination, provide opinions and recommendations and adopt measures established by the law in case of failing to implement said recommendations. Furthermore, the Commissioner has authorisation to initiate strategic misdemeanour proceedings of public interest to protect from discrimination, as well as submit misdemeanour and criminal charges and proposals for assessing constitutionality and legality. The Commissioner provides information to the person filing a complaint on the manners of protection of the right to non-discrimination and is also authorized to recommend mediation if assessed that the case is such.

When performing her preventive role, the Commissioner is authorized and obliged to warn the public of the most frequent, typical and severe cases of

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1 "Official Gazette of RS", no 22/2009

discrimination, recommend measures to public authorities and other subjects, monitor the implementation of laws and other regulations in the area of protection of equality and prohibition of discrimination, provide opinions on draft laws and other regulations and initiates the adoption of new regulations.

The Commissioner submits a regular annual report on the work done by the National Assembly of the Republic of Serbia, which contains evaluation of the situation concerning the protection of equality, and at her own initiative or upon the request of the National Assembly, the Commissioner submits a special report as well. Each report contains recommendations for undertaking measures with the aim of overcoming the evident downfalls and preventing and suppressing discrimination more effectively.

Autonomy and independence of the Commissioner for Protection of Equality represent basic postulates and key prerequisites for the successful realization of her social role. Therefore, any attempt to influence the work of this institution represents an act of violation of its independence regardless of whether it comes from public state authorities, CSOs or the private sector, and the statements and actions focused on intimidating and endangering personal safety of the Commissioner must be taken seriously, examined and sanctioned.

## **1.1. Strategic goals and challenges**

### ***1.1.1. The strategy of the institution's development for the time period of 2012–2015***

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

Having in mind the political, economic, social and other circumstances in which the Commissioner for the Protection of Equality acts, and especially taking into account the need for the widely spread and deeply rooted discrimination to be recognised and abolished, the Commissioner established four priorities in the strategy for development of the institution: a) efficient combating and protection

from discrimination b) raising visibility and accessibility of the institution of the Commissioner c) raising awareness of the public on discrimination and d) an efficient and functional Commissioner's service. Social subjects with whom cooperation should be established and who are expected to assist the prevention of discrimination in Serbia, as well as its suppression, in accordance with its authorisation and the role in the society are mapped in the strategy.

Due to the fact that it will be the third year of implementation of the strategy for development of the Commissioner for Protection of Equality, in 2015, the gathered results will be analysed – in the context of projected goals and troubles and challenges with which we were faced and it will serve as the foundation for the new strategy for the next period, with full inclusion of all the employees of the Commissioner's professional service.

### ***1.1.2. Work challenges***

A satisfactory legal and strategic framework for discrimination prevention and equality realization is determined in Serbia. Establishing an anti-discrimination policy and the work of the Professional Service of the Commissioner were followed by numerous challenges and troubles, which stem from the overall social context and the conditions in which the Commissioner acts.

Research "The Attitude of Citizens towards Discrimination in Serbia", which was carried out by the Commissioner in 2012 and 2013, according to the methodology used in the researches done by UNDP in 2009 and 2010, showed that there is a high level of intolerance and social distance towards certain minority groups in our society, which represents one of the key challenges in the work of the Commissioner. Furthermore, the still dominant traditional values and discriminatory attitudes which are slowly changing, lack of knowledge on the anti-discrimination regulations, insufficient understanding of the term discrimination, as well as insufficient knowledge of the role and authorisation of the Commissioner represent the challenges. On the other hand, the research "The attitude of the public administration representatives towards discrimination in Serbia", carried out near the end of 2013, showed that the attitudes of the public authorities representatives towards discrimination do not differ significantly from the attitudes of the citizens. Also, this research showed that 22% of the representatives of the executive and legislative authorities in Serbia do not know that discrimination is prohibited by the law.

Having in mind such a social context, it was necessary to develop a range of activities which contribute to awareness raising and sensitisation of the public for the issue of discrimination, which promote equality, diversity and tolerance, through raising the level of knowledge on the discrimination phenomenon and

its forms, as well as anti-discrimination regulations and the authorisations and role of the Commissioner for Protection of Equality in the legal system of the Republic of Serbia. Apart from numerous lectures and workshops, a great part of these activities is the work done on writing and publishing educational materials, intended for specific target groups and the widest public. A great support in the educational and promotional work was given by the IPA project “Administering anti-discrimination policies“, through which a training programme was prepared and carried out and an adequate manual for future coaches made, those coaches who will train the representatives of local organisations of the civil society who offer support and legal aid to the vulnerable groups in cases of discrimination.

One of the challenges in the Commissioner’s work is the attitude of the media towards discrimination. Namely, some of the media are not interested in an adequate measure for the issues of discrimination, and there are those who, by their reports, instigate and spread stereotypes and prejudice towards certain minority groups. Having in mind the influence of media on the formation of the public’s opinion, the Commissioner undertook actions to set a partnership with the media and contribute to raising the knowledge of and understanding of anti-discrimination standards, thus encouraging the media to promote human rights, non-discrimination and tolerance in their reports.

The previous five years have been marked by actions concerned with the construction and recruitment of professional and active employees of the Commissioner’s professional service. The limiting factor in the broadening of capacities is still the insufficient space for the work of this institution. The Commissioner for Protection of Equality, not even five years after the initial appointment, has no adequate work space. The office in which the hearings, procedures etc with the clients are conducted, due to the lack of sufficient space, had to be arranged in a separate space, on a location which is physically detached from the official rooms of the Commissioner, which puts a strain on work coordination and a quality management of obligations, concerning informing and advising the citizens. These unfavourable circumstances obstruct significantly a complete, quality and timely fulfilling of legal duties of the Commissioner, and are a threat to the mission and role given to this independent state institution. Namely, a direct consequence of the lack of space is an insufficient number of employees in the office, which is still one third of the number of the state employees prescribed in the Act of Systematisation which was supported by the National Assembly of the Republic of Serbia. In last year, eight subjects were employed through an advertisement, and two of them in the regional office in Novi Pazar, which means that there are 24 employees in the Commissioner’s service, which is not nearly enough, having in mind that the work load is permanently increasing. Speaking of professional capacities of the employees, a raise in the level of their professional knowledge and skills, which is acquired through different



forms of formal and informal education, is evident. Owing to the membership in EQUINET, the employees are actively participating in the actions of working groups within this network, which enables exchange of experience, learning of anti-discrimination policy and working standards of other equality bodies. Despite the challenges that are an inevitable segment of the development of the institution, knowledge, dedication, team work, motivation and employees' enthusiasm, their professionalism and willingness to engage completely represent the moving force behind the institution of the Commissioner.

One of the permanent challenges in the Commissioner's work is increasing the accessibility of the institution. The work space is adapted for people with hearing and sight disability, and was made available to those with wheelchair-assisted movement through installing a ramp. Having in mind that the work space is in an apartment building, the ramp is set on the staircase that is used by all tenants, which causes their disapproval due to the narrowing of the passage and inhibited movement. The problem of accessibility is made more strenuous by the lack of parking space for the clients, partners and guests of the Commissioner.

In previous period, the Commissioner strove to increase the accessibility of the institution in Serbia by opening regional offices. In March 2014, the first regional office was opened in Novi Pazar, with the support of UNOPS EU Progress project, UN Women and the municipality of Novi Pazar, which gave an administrative space for free use in Kosanciceva street, with the surface of 28.83 m<sup>2</sup> for the period of five years. There are two employees in the office, who were employed through an advertisement. Due to the financial support of UNOPS EU Progress project, training of the employees in the Commissioner's service was successfully undertaken, as well as supervision of their initial work. A plan of actions was accepted as well, which includes work done on the cases, giving advice, as well as educational and promotional activities in Novi Pazar, Raska, Sjenica and Tutin. Three more regional offices were planned to be opened, through the support of IPA funds and as a part of the sector programming for 2013; however, the actions needed to ensure the conditions for opening these new offices were stunted, caused by delaying the actualisation of the Twinning project, on which the Commissioner was dependent.

An insufficient number of employees, caused by the lack of work space, was a limiting factor in the realisation of educational and promotional activities. In spite of that, in the course of 2014, with a maximal engagement of the employees, the intensive work on promoting equality, tolerance and non-discrimination was continued. The employees in the Commissioner's professional service held numerous lectures and workshops, and participated in conferences, trainings and thematic meetings. The Commissioner's activity was presented in many places throughout Serbia, on many assemblies and meetings with the representatives of



local self-governments, corporate subjects and the representatives of professional organisations and citizen societies. These activities led to an increased visibility of the institution, better recognition of discrimination and a raise in the level of knowledge on the instruments of legal protection, as well as greater confidence in the institution of the Commissioner, which in turn resulted in a larger number of cases and citizens' appeals.

The previous period was marked by the struggles to improve the organisational and functional aspects of the Commissioner's work. The manner of case management was improved in order to make an efficient system of quality control. Aiming at the increase in work efficiency a draft of a new Rulebook of Procedures was made, as well as a new Rulebook on Inner Organisation and Systematisation of job positions in the office of the Commissioner for Protection of Equality, with the support of the experts hired as a part of the IPA project "Execution of anti-discrimination policies".

Working on the cases the Commissioner had to settle many issues occurring due to imprecision, lack of conversation and discord of the regulations and the legislative failure to regulate clearly certain questions. The Commissioner organised consultative meetings with notable law experts. Though it was planned, within the IPA project "Execution of anti-discrimination policies", to hold a thematic meeting dedicated to critical consideration of certain legal solutions, the meeting was not held, and the reasons for its cancellation are not known to the Commissioner.

In previous period an improvement in the implementation of the recommendations given by the Commissioner in individual cases of discrimination of individuals or groups of people, is noticeable. A step forward is evident in the area of implementation of the recommendations on measures for promotion of equality. Regarding the general public, the opinions of the Commissioner are usually met with acceptance but those that are related to discrimination of the member of certain national or religious minorities, and especially LGBT population, sometimes cause a negative reaction of extreme right wing organisations and individuals, which in turn causes many organised attacks on the Commissioner, with the aim of destroying her reputation, authority and the credibility of her institution.

Despite all the challenges and troubles, the Commissioner achieves successfully the planned goals, with the cooperation with and the support of CSOs, international organisations and other social agents. Due to that, the domestic public as well as international subjects recognise the importance and the role of the Commissioner for Protection of Equality as a national institution which enjoys increasing confidence and achieves more recognised results on the plan of prevention and suppression of discrimination and promotion of equality and tolerance.

## 2. Normative framework for implementation and protection of equality

### 2.1. Overview of the effective regulations

In the past years the Republic of Serbia was, having the understanding of the importance of non-discrimination principles, built a valid anti-discrimination legal framework. It adopted and implemented into its legislation the most important universal and regional agreements in the area of human rights and worked on implementation and application of facultative protocols with these agreements.

Discrimination is prohibited by the Constitution of the Republic of Serbia<sup>2</sup> which, in Article 21 states that before the Constitution and law all are equal, that everyone has the right to equal legal protection, without discrimination, that any form of discrimination is forbidden, direct or indirect, on the basis of origin, birth, religion, political and any other belief, finances, culture, language, age and mental or physical disability. The Constitution further states that special measures that the Republic of Serbia could introduce in order to attain full equality of people or groups of people that are essentially unequal to the rest of the citizens is not to be perceived as discrimination.

General and special anti-discrimination laws were adopted: Law on Prohibition of Discrimination (2009)<sup>3</sup>, Law on Protection of Rights and Freedoms of National minorities (2002)<sup>4</sup>, Law on Prevention of Discrimination against Persons with Disabilities (2006)<sup>5</sup> and Law on Gender Equality (2009)<sup>6</sup>. Prohibition of discrimination is present in many laws that establish certain areas of social relationships: The Labour Law (2005)<sup>7</sup>, Law on Professional Rehabilitation and Employment of Persons with Disabilities (2009)<sup>8</sup>, Law on Health Protection (2005)<sup>9</sup>, Law on the Foundations of Educational System (2009)<sup>10</sup>, Law on Primary education (2013)<sup>11</sup>, Law on Secondary and Higher

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2 "Official Gazette of RS", no 98/06

3 "Official Gazette of RS", no 22/09.

4 "Official Gazette of RS", no 11/02, "Official Gazette of Montenegro", no 1/03 – The Constitutional Charter and "Official Gazette of RS", no 72/09 – other laws).

5 "Official Gazette of RS", no 33/06.

6 "Official Gazette of RS", no 104/09

7 "Official Gazette of RS", no 24/05, 61/05 and 54/09.

8 "Official Gazette of RS", no 36/09.

9 "Official Gazette of RS", no 107/05 and 72/09 – other laws.

10 "Official Gazette of RS", no 73/09.

11 "Official Gazette of RS", no 55/13

Education (2013)<sup>12</sup>, Law on Churches and Religious Communities (2006),<sup>13</sup> Law on the Rights of Patients (2013)<sup>14</sup>, Law on Protection of Persons with Mental Disability (2013)<sup>15</sup> etc. Legal protection from discrimination is established by the Criminal code of the Republic of Serbia,<sup>16</sup> which prescribes several criminal offences pertaining to prohibition of discrimination and proscribes that hatred on the basis of race and religious beliefs, national and ethnic background, gender, sexual orientation or gender identity represents aggravating circumstance for all hate crimes (Article 54a of the Criminal Code), unless it is proscribed as a characteristic of the criminal offense. Thus, legal protection of the victims belonging to certain vulnerable social groups is upgraded, in those cases when the offense is motivated by hate.

As a candidate for EU membership, Serbia is in the process of the harmonisation of legislation with legal framework of the European Union. Anti-discrimination regulations which were adopted in previous years are mostly in line with the EU legislation, including the Charter of Fundamental Rights of the European Union from 2007, Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, Directive 2006/54/EC of the European parliament and the Council on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, Directive of the Council 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services etc. However, there is a need for the national anti-discrimination regulations to be in complete accordance with the anti-discrimination regulations and standards of the European Union. It was pointed out in the 2014 Annual Progress Report of the European Commission for Serbia, and it was emphasised that the scope of exceptions from the principle of equal treatment needs to be precisely determined, the definition of indirect discrimination to be redefined and the obligation of reasonable accommodation for the employees with disabilities to be established.

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

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12 “Official Gazette of RS“, no 55/13

13 “Official Gazette of RS“, no 36/06.

14 “Official Gazette of RS“, no 45/13

15 “Official Gazette of RS“, no 45/13

16 “Official Gazette of RS“, no 85/2005, 88/2005 – amend. 107/2005 – amend., 72/2009, 111/2009, 121/2012, 104/2013 and 108/2014).

## 2.2. Normative changes in 2014

In 2014 anti-discrimination laws were not changed but several laws which contain a number of rules important for the protection from discrimination and combating discrimination were adopted. In the following text, an overview of relevant regulations within subsidiary laws which amended the anti-discrimination legal framework is given. Furthermore, the acts of the Government of the Republic of Serbia important for suppression of discrimination and promotion of equality are presented.

The Law on Amendments to the Law on National Councils of National Minorities<sup>17</sup> from 2014, which was the elections year for national minorities' national councils, changed the Law on National Councils of National Minorities from 2009. The main goal of those changes was to aid the promotion of the work done by national councils, as well as a better protection and fulfilment of the rights of the members of national minorities who elect national councils. The application of the law and its analysis so far indicated that there is a set of problems concerning the constitution of the council, mandate period, the reasons for the end of a mandate, the need for new elections after the premature end of mandate etc. The Constitutional Court made a decision in January 2014 which stated that certain regulations pertaining to the authorisation of national councils of the Law on National Councils of National Minorities are not in accordance with the Constitution<sup>18</sup>. The law amendments did not offer satisfactory answers to all the questions so it is necessary to undertake amendments of this law so as to, in an adequate manner, and in accordance with the decision of the Constitutional court, regulate the authorisations of national councils and improve the legal solutions which application caused issues in practice.

The Law on Mediation<sup>19</sup>, which regulates the area of alternative civil procedure, was adopted. New legal solutions give a wider space for the application of mediation, including mediation in legal matters with a foreign element, which is in accordance with the Recommendation REC/2002/10 of the Committee of the Ministers of the Council of Europe. During an open discussion, the Commissioner gave opinion on certain regulations of the Working version of the law, pointing out the solutions which could aggravate the application of mediation methods in discrimination cases. In addition, the need was recognised – to move mediation from the context of legislation and open a wider space for its application as a method for peaceful court procedures, so as to use its full potentials on the plan of promotion of culture of peace and tolerance. In accordance with that, it was suggested that the rules that

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17 "Official Gazette of RS" no 55/14.

18 Ruling of the Constitutional Court from January 16<sup>th</sup>, 2014IUz-882/2010 ("Official Gazette of RS", no 20/2014.)

19 "Official Gazette of RS" no 55/14.

would motivate development of special forms of mediation, including mediation in discrimination cases and mediation in a community, as well as development of various profiles of mediation, such as facilitative, interest-oriented, evaluative, transformative mediation, etc be created. Concerning the solution that the agreement on the conflict solving through mediation get the force of an enforceable title, the Commissioner stated that such a rule aggravates application of mediation as a method for peaceful solving cases of discrimination before the institution of the Commissioner for Protection of Equality, considering that, according to the Law on Prohibition of Discrimination, mediation, that the Commissioner points the person who files the complaint as well as the person against which the complaint was filed, to is an alternative to the proceeding before the Commissioner, and which, as a result, has an opinion and recommendation and not the alternative to the court procedure. According to the Commissioner, the rule on which the agreement on conflict solving has an executive power is not adequate because it will serve to advise against mediation that the Commissioner, to whom both sides in the court process turn to for opinion and recommendation, recommends out of fear that the process of litigation is thus closed to them. On the other hand, it is necessary to be aware of the fact that the mediators could be people of different educational profiles and professions, who are not capable of examining the contents of the agreement realised in the process of mediation from the aspect of coercive regulations, public order, the rules of morality and good customs, because it could only be done by the mediator with law education. The Commissioner recommended, in the opinion issued, that higher education should be eliminated from the list of the conditions for mediator positions, since it is not insurance that someone would be a successful mediator as well as the fact that this condition puts in an unequal position those people without higher education, particularly the people from those minority social groups that have difficulties with the accessibility to higher education such as Roma national minority, persons with disabilities etc, with a much lower number of people with higher education than the people with higher education in the general population. At the same time, these rules limit the right of the members of these social groups to choose as the mediator a member of their own minority group, which causes extremely harmful consequences in the cases when, due to the specific characteristics of both sides, it is necessary for the mediation to be carried out by “co-mediators” in order to set an adequate “power balance”. In regard to the mediation in the cases of discrimination, it is very important that the mediators be people from all segments of the society, who know the position of minorities very well, their cultural characteristics and the relationships in the community where the minority groups come into contact with the majority of population, on a daily basis. It is particularly important when the mediation is carried out in the cases of discrimination based on their personal characteristic, and especially when it is allied with abuse, humiliation and/or open display of intolerance. Unfortunately, the opinions and recommendations of the Commissioner encountered disregard,

so that the final text of the law contains all inadequate solutions the Commissioner brought the attention to.

In May 2014, the Law on Amendments to the Law on Civil Procedure<sup>20</sup> Article 2 of this law is the changed article 35 of the Law on Civil Procedure which regulates the compositions of the court by proscribing the rule that in the anti-discrimination court procedures an individual judge should preside. Changes were made to the regulations and the Article 85 par 2 and 3 of the Law on Civil Procedure which define who can be the authorised subject of the party in the process of litigation by proscribing that the authorised subject could be a lawyer, cousin, brother, sister or a spouse, or a representative of the legal aid service of the local self-government who is a graduate lawyer who passed the bar exam, and the authorised subject of an employed party in the court procedure could be a representative of the syndicate the employed party belongs to, if he/she is a graduate lawyer who passed the bar exam. The Commissioner for Protection of Equality filed a proposal for assessment of constitutionality and legality of the regulation of Article 85 par 3 of the Law on Civil Procedure which is, according to the Commissioner's assessment, not in accordance with the regulation of Article 21 of the Constitution which prohibits any discrimination, direct or indirect, on any grounds, as well as with the regulation of Article 62, par 5 of the Constitution which equates the domestic partnership (free union) and marriage, in accordance with the law, and it is also in opposition to the regulation on prohibition of discrimination contained in Article 4 and Article 8 of the Law on Prohibition of Discrimination. In the proposal for assessment of constitutionality the Commissioner was of the opinion that the regulation of Article 68 par 2 of the Law on Civil Procedure puts the persons in domestic partnership (free union) in an unequal position in comparison with the persons who are married, and their different treatment has no objective or reasonable foundation, which leads to the conclusion that the cited regulation is in discord with the constitutional and legal norms on prohibition of discrimination. By not allowing the authorised subject to be, apart from the spouse, the partner of the party, an act of discrimination is performed on the grounds of personal characteristic – marital status, for there is no ratio between the goal that is to be achieved by the proposed legal solution and the consequences this solution has.

In May 2014, the Law on Amendments to the Law on Extrajudicial Procedure,<sup>21</sup> was adopted which introduced certain improvements in the process of deprivation of legal capacity. However, these changes did not ensure an adequate obligation fulfilment that Serbia has towards the UN Convention on the rights of persons with disabilities. The amendments to the Law on Extrajudicial Procedure did not eliminate the deprivation of legal capacity nor did it prevent the potential conflict of

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20 "Official Gazette", no 55/14.

21 "Official Gazette of RS", no 55/2014.

interests in the procedure as well as setting the measure of deprivation of the shortest possible duration, which was the duty of the state, having in mind the obligations adopted by the Convention. Apart from the Convention on the Rights of Persons with Disabilities and the practice of the European Court for Human Rights, the recommendations of the Commissioner for Human Rights of the Council of Europe and the Committee for the Rights of Persons with Disabilities present very clear demands regarding the legal capacity of persons with disabilities. In the process of projecting legal solutions these demands were not taken into account, and the fact that the equality of persons with disabilities is guaranteed by the Constitution of the Republic of Serbia, the Law on Prohibition of Discrimination and the Law on Prevention of Discrimination against Persons with Disabilities, and that deprivation of legal capacity of persons with intellectual or psychosocial disabilities, as especially sensitive and multiply endangered groups, disables them in various activities and decision making and affects their daily life to a great extent. The amendments introduce the obligatory period during which the decision on deprivation of legal capacity should be reviewed, but not a limited time for the measure's effect and shortening the time of its effect to the shortest possible period. The analysis if the changes of the law shows that the whole procedure is still based on a complete deprivation of legal capacity, while partial deprivation is still an exception, and not regulated precisely enough. These changes do not solve the issues of the previous legal solution and the "medicinal" approach to disability is still supported, which has been surpassed in international legislation and practise. Despite the duty of the Republic of Serbia to provide for persons with disabilities the opportunity to use legal capacity on an equal basis with others in all aspects of life, the approach that is based on limitation of rights is kept, without introducing the mechanisms that would ensure support in decision making on the questions that affect the lives of persons with disabilities. All this signals that reform of this area is needed, with full respect of international standards and anti-discrimination regulations, and it is necessary to change concurrently the norms of procedural and substantive law<sup>22</sup> which regulate this area.

The Law on the Execution of Criminal Sanctions,<sup>23</sup> adopted in May 2014, introduces into the legal system the judge for the execution of criminal sanctions, familiar to the majority of legislations of the countries from Continental Europe, and whose introduction should ensure a better legal protection of people deprived of freedom. Also, this law, unlike the previous one, proscribes that the aim of executions of criminal sanctions is rehabilitations of the incarcerated subjects, and not retribution. According to the regulations of an earlier law, the aim of implementation of criminal sanctions was the suppression the actions that violate or endanger the person and fundamental social values, and it was done through realisation of valid

22 Primarily the segment of the Family Law which regulates the institutes of legal capacity and custody

23 "Official Gazette of RS", no 55/2014



and executive court rulings. Now, the general and special prevention is the aim of criminal sanctions. From the aspect of prohibition of discrimination, Article 7 is important which states that a subject who is being sanctioned must not be put in an unequal position on the grounds of race, skin colour, sex, language, religious beliefs, political and other affiliation, national or social origin, financial status, education, social position or other personal characteristic. Furthermore, Article 34. Proscribes that the judge for execution should protect the rights of the detained subjects, the condemned, subject who was given a safety measure of compulsory psychiatric treatment and detention in a health institution, compulsory treatment of addicts and compulsory treatment of alcoholics when done in an institute, monitor the legality in the process of execution of criminal sanctions and ensure equality of these subjects before the law

A similar stipulation on prohibition of discrimination is contained in the Law on Execution of Non-institutional Sanctions and Measures,<sup>24</sup> adopted in May 2014. Namely, this Law, adopted with the aim of regulation of alternative sanctions and measures with special application and with the aim of coordination with the international standards in this area, in the Article 4 the position of the agent included in the realisation is proscribed. The person towards whom the realisation is carried out must not be put in an unequal position on the grounds of race, skin colour, gender, language, faith, political and other beliefs, national or social affiliation, financial condition, education, social position, sexual orientation or any other personal characteristic.

In the course of 2014 the Law on Ratification of the Amendments to the Article 20 paragraph 1 of Convention on the Elimination of All Forms of Discrimination against Women<sup>25</sup> by which Serbia supported the prolongation of the sessions of the Committee for Elimination of Discrimination against Women proposed by the amendment, with the aim of a timely consideration of the reports of the member states and realisation of other obligations, and their successful and efficient work was questioned because of the immensity of the schedule and limited time for the session. However, the Committee for Elimination of Discrimination against Women is supervising the application of this convention, which proscribes the equality of a man and woman in the domain of economic, social, cultural, civil and political rights and the measures for surveillance over the implementation of equality between men and women in these areas were set.

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24 "Official Gazette of RS", no 55/2014

25 "Official Gazette of RS – International Contracts", no 5/2014



In June 2014 the new Law on Consumer Protection<sup>26</sup> was adopted, and the main reasons for its adoption were efficient implementation of basic consumer rights pertaining to education and the right to be informed, the right to protection of economic interests, solving of consumer issues and representation of consumers' interests, as well as accessibility to vital products and services. The main aim of the adoption of this law is to ensure a comprehensive protection of the consumer, which includes creating an environment in which consumers practice their rights effectively, and creating a mechanism for implementation of the law's regulations. The regulation of Article 85 proscribes the duty of the tradesperson to ensure in advance that the customer is introduced to the conditions of using services of general economic interest and for those conditions to be published, not to discriminate against the consumers and to calculate the service by applying the prices proscribed by special regulations.

In July 2014, the Law on Amendments to the Labour Law<sup>27</sup> was adopted. A set of innovations is introduced, pertaining to the calculation of past labour, using annual leave and the procedures necessary in the process of termination of employment of an employee.. From the aspect of anti-discrimination regulations, those that introduce an adequate terminology pertaining to employees with disability and eliminate degrading and stigmatising terms are of great importance. Section 7 of the law is titled Protection of Persons with Disabilities and Employees with Health Related Problems, and Article 101 states: *The employer is obligated to provide the opportunity for an employee-person to work according to professional ability, in accordance with the law.* It is positive that the term *remaining* professional ability but the concept of legal capacity is still a problematic one, which is without exception determined only in relation to persons with disabilities, which does not contribute to the promotion of and essential implementation of equality of persons with disabilities on the job market, and the medicine model of disability is retained in the legal system. An important change is the new rule on distribution of the burden of proof introduced by Article 5 of the Law on Amendments to the Labour Law, stating that *if, in the course of a procedure, the prosecutor made probable that the act of discrimination was performed in the sense of this law, the burden of proof that no behaviour representing discrimination occurred, falls on the accused.* Thus, the rules on the burden of proof in litigations for damage reimbursement for damaged caused by discrimination at work, proscribed in the Labour Law, are coordinated with the rules on distribution of the burden of proof, of Article 45 of the Law on Prohibition of Discrimination. The fee amount has been increased for misdemeanour offence from Article 274 of the Labour Law pertaining to discrimination. An important advancement was achieved in regard to the protection of employed women by proscribing the rule

26 "Official Gazette of RS", no 62/2014

27 "Official Gazette of RS", no 75/2014

that the female employee, during pregnancy and breastfeeding period, cannot do overtime and night shifts, is such work would be detrimental to her health and the health of the infant, according to the findings of a competent healthcare authority, as well as the rules that allow a pregnant employee to take a paid leave from work, during the work hours, for physical exams pertaining to pregnancy, as recommended by the chosen doctor, in accordance with the law, of which she is obliged to inform the employer in a timely manner (Article 23 of the Law on Amendments to the Labour Law, in regard to Article 90 of the Labour Law).

In August 2014, a set of new media laws was adopted, which for the public marked the beginning of a reform of the media in Serbia, with aim of a more quality and objective reporting and ensuring that the public has insight into the funding of the media. Some of the changes brought by these laws are the “removal of the state from the media“, except for the public services RTS and RTV, within the year from the adoption of the laws and the move to project funding of the media with the money of the state. The media in Serbia are given by the new laws predictability and opportunity to equal working conditions with clear standards. The laws predict prohibition of censorship, the rules that prevent excessive concentration, as well as greater tolerance of the public officials to the media criticism.

The Law on Public Service Media<sup>28</sup>, in Article 7. par 1. cl 5., states that the public interest includes *the satisfaction of the need for information by all parts of a society without discrimination, taking into special consideration the vulnerable social groups such as children, the youth and elderly, minority groups, persons with disabilities, those that are at risk in the social and health area of their lives, etc.* Furthermore, it is proscribed that, in the process of the actualisation of the public interest, the public service media are obliged to *respect language and speech standards, of the majority of the populations as well as, in an adequate ratio, national minorities on the area of the programme's broadcast, and language and speech standards of people with hearing disabilities, and to [...] on a republic, regional and local level use all available resources, including the network of correspondents, with the aim of implementing the right of all citizens to equal access to information.* Besides, Article 9 states that the public service media are obliged to use Serbian language, Cyrillic script and *sign language as the form of communication of people with disabilities*, regarding the use of Serbian language, it is not necessary in those programmes intended for members of national minorities.

The Law on Electronic Media<sup>29</sup>, proscribes that, within the cooperation with state and other bodies and organisations, the regulator cooperates with the bodies and organisations authorised for the area of public information, electronic communications,

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28 “Official Gazette of RS“, no 83/2014

29 “Official Gazette of RS“, no 83/2014

competition protection, consumer protection, personal data protection, equality protection and other bodies and organisations on the questions important for the area of media services (Article 27). In Article 47 par 5. It is proscribed that the regulator respects the prohibition of public political announcements outside the pre-elections campaign, and to ensure that the registered political parties, coalitions and candidates are represented in the media without discrimination. According to Article 50, media service is offered in a manner that *respects human rights and especially human dignity*, and the prohibition of hate speech is defined by Article 51 by stating that *the regulator ensures that the programme content of the provider of media service does not contain information that incites, openly or in a covert manner, discrimination, hatred and violence on the grounds of race, skin colour, ancestors, citizenship, national affiliation, language, religious or political belief, sex, gender identity, sexual orientation, financial conditions, birth, genetic characteristics, health condition, disability, marital and family status, previous convictions, age, appearance, membership in political, syndicate or other organisations as well as other real, that is alleged personal characteristics*. Such legal solution represents a significant advancement in suppression of hate speech. Namely, according to earlier regulations, instances of hate speech in the media were prohibited only if it was directed against an individual or a group of individuals because of their race, religious beliefs, nation, ethnic origin, gender or sexual orientation. The new regulations on prohibition of hate speech in the media the definition of the notion of hate speech is coordinated with the general definition of this notion included in the Law on Prohibition of Discrimination, which the circle of subjects that the prohibition of hate speech protects was established in a uniform manner, and that prohibition pertains to hate speech on the grounds of all personal characteristics that an individual or a group of individuals can have.

The protection of the right of persons with disabilities is proscribed by Article 52 according to which the provider of media service is bound to, in accordance with their financial and technical abilities make their programme available to the people with hearing, and visual disabilities. *The regulator motivates the provider of media service to make its programme available to the people from par 1 of this Article*. Special obligations of the operators of electronic communication networks for distribution of media content are proscribed by Article 100, stating that the operator is obligated to distribute the services in a just, transparent and *non-discriminatory manner*, in relation to the providers of media services.

The Public Information Law<sup>30</sup> *affirms the freedom of public broadcasting where indirect and direct discrimination of media editors, journalists and other subjects in the area of public information is prohibited, especially on the basis of their political affiliation and belief or other personal characteristic*. Claiming the right

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30 "Official Gazette of RS", no 83/2014

to information of persons with disabilities is guaranteed by regulations of Article 12. And implementation of the right to information in languages of minorities is guaranteed by regulations of Article 13.

Public interest in public broadcasting is defined by Article 15, in accordance with which the Republic of Serbia, an autonomous region, or the unit of local self-government maintains the actualisation of public interest by supporting diversity of media content, freedom of expression of one's ideas and opinions, free development of independent and professional media, which contributes to meeting the needs of citizens for information and content from all spheres of life, *without discrimination*. Hate speech is prohibited by the regulations of Article 75. By proscribing that the ideas, opinions, that is information, announced in the media must not inspire discrimination, hate or violence against individuals or a group of individuals on the grounds of their race, belief, nation, sex, sexual orientation or other personal characteristic, regardless of the fact whether the publication was a criminal act. This new legal solution is very important for suppression of discrimination because the limitations on the subjects protected by the prohibition of hate speech were eliminated.

Energetics Law<sup>31</sup> contains a number of anti-discrimination regulations pertaining to the realisation of the goals of energy policy and the manner of its realisation to energy delivery and energy sources and the conditions for a secure supply of consumers, the protection of consumers of energy and energy sources, the conditions and manners in which energetic services are carried out, the conditions for construction of new energy facilities, the status and field of work of the Energy Agency of the Republic of Serbia, use of renewable energy source etc. It can be concluded that a great number of obligations and goals proscribed by this law need to be done in accordance to the principle of non-discrimination. For example, one of the goals of energy policy is rivalry on the energy market on the principles of non-discrimination, publicity and transparency (Article. 3. par 1. cl. 4). It is proscribed that the obligations of public services must be clearly defined, transparent, non-discriminatory, confidential, with a limited time span, they must guarantee equality of energy subjects in offering public services but they cannot influence to opening of the market (Article. 12. par 2). The Energy Agency, the regulatory body for the field of energetic is obligated to provide a stable, transparent and non-discriminatory frame for energy buyers, users of the system and investors and to give consent to the programme of coordination for realisation of non-discriminatory behaviour (Article. 48. par 1. cl. 3). Furthermore, it is proscribed that the system operator working within the vertically integrated institution, adopts the programme for ensuring non-discriminatory behaviour which contains measures of preventing discriminatory behaviour, obligations of the employees and the rules of behaviour in the process of non-discrimination

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31 "Official Gazette of RS", no 58/2014

implementation, efficient performance and regular reports and chooses the subject responsible for monitoring the implementation of this programme (Article. 237. par 1). The announced intention of the legislative bodies to include anti-discrimination regulations in this law is worthy of commendation, but it should be stated that the legal term “avoiding discrimination” of users or a group of users used in the text of this law is not completely adequate, considering that the principle of prohibition of discrimination is of imperative nature and legally binding for all.

Ministry of Education, Science and Technological Development and Ministry of Labour, Employment, Veteran and Social Policy at the beginning of December 2014 adopted the *Rulebook on the conditions and manner of implementation of social protection of children in a preschool institution*<sup>32</sup>. There are no anti-discrimination regulations in the text of this rulebook but in the segment under the title *Foundations of social work in preschool institutions*, which is a part of the rulebook, it is stated that the fundamental principles and values of social work are, among other, respecting freedom and dignity of a person and appreciation of individual and group characteristics and differences. It is proscribed that social work created the conditions for a systemic, primary prevention of many issues in children’s development, that it enables timely interventions, that starting different socio-cultural activities *overrides the stigmatising effect of the service for marginalised groups*. It was pointed out that one of the most important functions of preschool education is *providing equal opportunities for all children and overcoming all social differences and compensation of disadvantageous position or conditions*. It was clearly proscribed that *the differences that children have in the sense of personal abilities, previous knowledge, ethnic origin, family values, belief and customs must be respected*, and that, *if the preschool institution is a place for everyday life of children then it has to be the place where all children can express themselves and the place of partnership and interaction with families and communities, open to different styles of life and different human practices*. These explicitly stated attitudes represent a strong support to the implementation of the principle of non-discrimination and equal opportunities for all children in preschool institutions, and a special importance hold the attitudes related to the elimination of the stigmatising effect of the service for marginalised groups.

The Government of the Republic of Serbia adapted the Action Plan for Implementation of the Strategy for Prevention and Protection from Discrimination for the period from 2014 to 2018<sup>33</sup>. This extremely important document establishes the systemic monitoring of the implementation of the Strategy of Prevention and Protection from Discrimination, which was adopted in 2013, as recommended by the Commissioner, and particular measures and activities have been determined, the subjects responsible and the financial resources for realisation, as well as the

32 “Official Gazette of RS“, no 131/2014

33 “Official Gazette of RS“, no 107/2014

indicators for estimation of successfulness of achievement of the set goals. The Action plan ensures the opportunity for independent state authorities to participate, that can join on their own initiative to contribute by giving advice or in other manners to the realisation of the activities as proscribed by the measures which are established by the Action plan and regarding the actions from their authorisation and field of profession, to such extent that does not harm their independent position and function.

In the process of creation of the Action plan, the data, observations and recommendations of the Commissioner were taken into account. It is established by the Action plan to ensure that children are granted access and participation in the process before the Commissioner for Protection of Equality regarding the complaints, accommodated for children. It is planned to incorporate discrimination against refugees, asylum seekers, that is persons that enjoy one of the legally established forms of international protection, as a special case of discrimination. One of the measures are the activities done on the suppression of discriminatory practices in all areas, that will be based on the analysis of individual cases of discrimination against vulnerable social groups, that the Commissioner for Protection of Equality the Protector of Citizens and the Provincial Ombudsman have faced, with the aim of elimination of the causes and consequences of such practices. Particular activities for implementation of this measure are planned, and they include analysis of the causes that lead to recommendations by the independent control bodies and consideration and establishment of measures for prevention of discrimination against vulnerable social groups based on the analysis of individual cases that the Commissioner for Protection of Equality, the Protector of Citizens and the Provincial Ombudsman have dealt with.

In the area pertaining to education and professional education a measure of improving the quality of textbooks, syllabuses and curriculums, as well as the content of textbooks and other teaching materials on all levels of education, is proscribed, in order to eliminate discriminatory content, especially that pertaining to national minorities, sex, sexual orientation and gender identity, that is the content that spurs stereotypes and prejudice. The first recommended activity is related to *the practical application of the* recommendation given by the Commissioner for Protection of Equality for elimination of discriminatory content from textbooks and teaching materials in lieu of preventing discrimination, promotion of tolerance, respecting diversity and human rights, given to the Ministry of Education in 2011, and it still hasn't been implemented..

The recommendation of the Commissioner pertaining to providing a professional education of state officials on application of anti-discrimination regulations on sensitive social groups is integrated into the Action plan. Among other, the preparation of a



manual on protection from discrimination, especially in relation to sensitive social groups for the need of guidance in education is planned, which will incorporate the topic related to the manner in which the Commissioner for Protection of Equality acts and the issues sensitive social groups are facing, and which lead to discrimination before the state authorities. Furthermore, it is planned to provide professional education of municipal and city government officials for application of anti-discrimination regulations.

From the moment the Action plan was incorporated a relatively short time period passed and therefore it cannot be assessed yet how it is implemented. The period before us will show to what extent is the state ready to support, institutionally and financially, the planned activities. Knowing the importance of this document from the aspect of implementation of state anti-discrimination policy, as well as the expectancies of the public, the Commissioner will follow systematically the realisation of the planned activities.

An important step forward in the establishment of an institutional framework of gender equality is the *Decision on Formation of a Coordination Government Authority for Gender Equality*, accepted in October, 2014.<sup>34</sup> The Government of the Republic of Serbia thus set a specific institutional mechanism that is to coordinate the work of the State administration bodies regarding gender equality. The decision states that the Coordination body reports on its work to the Government every 90 days and a Professional group of the Coordination body that performs official work was formed, and it received the work guidelines from the Coordination body. The rule that allows inclusion of other government authorities and organisations in the work of the Professional group, at the call of the chairperson, is very important as well. In December 2014, the Government of the Republic of Serbia introduced the Work Manual on the Work of the Coordination Body for Gender Equality, which organises the manner of action, scheduling and preparing the meetings, the method of voting and decision making and other topics important for the work of the Coordination body. Even though the deadline for submitting the first report on the work of the Coordination body, the Commissioner has no knowledge on whether the report was done since the public was not notified.

The Commissioner for Protection of Equality, with the Protector of Citizens, sent a recommendation for an adequate institutional mechanism for implementation of the gender equality policy on a national level to be made, and assessed the foundation of the Coordination body, whose work would be observed permanently by the Commissioner, as positive.

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34 "Official Gazette of RS", no 121/2014

### 3. Situation regarding achievement and protection of equality

There are no unified data on the emersion of discrimination in Serbia, but it is evident that discrimination is widely spread in all areas of social life. As stated previously, the Government of Serbia adopted the Action plan for implementation of the Strategy of prevention of and protection from discrimination, for the period from 2014 to 2018, which promises enhancement of statistic parameters and establishment of a database for monitoring court proceeding concerning cases of violation of prohibition of discrimination. Furthermore, a unique database on all filed criminal complaints pertaining to acts of violence and threats cause by a personal characteristic, as well as other prescribed sanctions in connection to the acts of violence and intolerance towards sensitive social groups is outlined. Therefore, we point out that setting up of such a database is useful, but that it does not eliminate the need to organise a unified centralised system of data gathering. Namely, since such a system does not exist it complicates seeing the emergence of discrimination, the effect of the application of legal instruments for protection against discrimination as well as special measures that are undertaken in the aim of implementation of equality of individual marginalised and sensitive social groups. In that regard, it should be mentioned that the Commissioner for Protection of Equality recommended in 2011 that a unified and centralised system of data gathering should be created, relevant for tracking the emergence of discrimination and the manner in which the system of legal protection from discrimination functions, as one of the key conditions for an efficient battle against discrimination and promotion of equality in a society.

With the aim of giving insight into the situation regarding implementation and protection of equality, primarily the reports of the European Union bodies and other relevant documents of international organisations will be presented in this part of the Report. Secondly, the most important result of two researches done on Commissioner's request at the end of 2013 is presented. The result are presented as a reminder, since they are still relevant and current, having in mind the fact that the attitudes of the citizens are not susceptible to fast changes. The description of the situation of implementation and protection of equality was completed with a short overview of the key issues in implementation and protection from discrimination, on the basis of the knowledge gathered in the complaint procedures and other sources.



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

Even though there are evident steps forward in the plan on prevention and suppression of discrimination, the need for further and more active action in this area is confirmed by the reports of the European Union, international organisation and CSOs. In the Report of the European Union on the Advancement of the Republic of Serbia in the process of European integration in 2014, it is stated that in Serbia, the most discriminated groups are Roma people, LGBT people as well as those living with HIV/AIDS, and that in cases of discrimination against LGBT people the cases of discrimination are more and more present in the area of employment. The Pride parade in Belgrade in September 2014 was positively assessed, and it was held without major incidents, which represents a significant move towards an efficient realisation of human rights in general, and especially the right of LGBT people in Serbia, even though a greater political support to promotion of the basic freedoms and rights is needed, as well as the culture of respect towards lesbian, gay, bisexual, transsexual and intersexual community. It is stated that it is necessary to obtain an efficient implementation of the legal framework of protection of minorities throughout the country, for example in the areas of education, language use and access to the media and religious services in the languages of minorities, and that continuous effort and additional financial means are necessary in order to improve the position of Roma people, refugees and displaced people. In the report, it is needed to work continuously on improvement of the position of women, adequate research, processing and sanctioning of hate speech as well as that social inclusion of persons with disabilities, and especially children with disability, need to be strengthened further. Furthermore, the accommodation and treatment of people with mental conditions in the institutions is not established in accordance with the international standards, much like the process of dispossession of working ability of persons with disabilities.

In the Report of the European Committee the need for improvement of the capacity of the Commissioner's service and provision of an adequate work space was emphasised, and in the Report of the European Committee on Screening for the Republic of Serbia for chapter 23 was especially stressed that the institutional capacities of the bodies active in this area should be strengthened/increased, their intercooperation improved and it should be ensured the bodies responsible for implementation of the law act more efficiently in the cases of eventual violations of the law.

The UN Committee on Economic, Social and Cultural Rights issued the Concluding Observations on the Second Periodic Report on Serbia in May 2014<sup>35</sup>. The Committee

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35 The text of the Concluding Observations on the Second Periodic Report on Serbia is available at: <http://www.ljudskaprava.gov.rs/index.php/ljudska-prava/konvencije/54-pakt-o-ekonomskim-socijalnim-kulturnim-pravima>

expresses worry over the fact that the members of national and ethnic minorities, persons with disabilities, refugees and internally displaced people, including Roma people and other marginalised groups are still exposed to discrimination in regard with the access to economic, social and cultural rights. Therefore, the Committee asks the state to undertake further measures in the aim of overcoming discrimination of Roma people in practicing these rights, including the revision of the Strategy for improvement of the status of Roma in Serbia and to ensure that the nationally accepted priorities for Roma people are reported to the local self-governments for them to be efficiently implemented. Also, the Committee invited the state to intensify the efforts on promotion of equality and combating discrimination directed at the members of national minorities, persons with disabilities, refugees and internally displaced people, including Roma people, LGBT people and other marginalised persons in regard with the access to employment, social protection, housing, health services and education. In the sphere of implementation of gender equality, Serbia was advised to estimate whether the mechanisms for gender equality are adequate and whether the national mechanisms in the sphere of gender equality provide enough of human and financial resources for betterment of their efficient and regular function, and to follow adequately the implementation of the Strategy and Action plan for improvement of the status of women and improvement of gender equality according to the precisely established markers.

The UN Committee for the Rights of Persons with Disabilities adopted in April 2014 the general comments on Article 12 (equal recognition before the law and professional ability) and Article 9 (accessibility) of the Convention on the Right of Persons with Disabilities. The goal of these general comments is to help all relevant participants in the interpretation and application of the regulations of the Convention on the Rights of Person with disability. These comments are very important for the Republic of Serbia, having in mind the fact that the financial and legal, as well as the substantive and procedural norms which regulate the dispossession of professional ability are not in accordance with the international standards, as well as the fact that persons with disabilities are exposed to great obstacles due to inaccessibility of space and services.

The European Committee against Racism and Intolerance adopted the Conclusion for Serbia<sup>36</sup> on the grounds of the information pertaining to the implementation of the recommendations from the Second Periodic Report for Serbia. The key recommendation of the European Committee against Racism and Intolerance, in the domain of non-discrimination, pertains to the strengthening the Commissioner for Protection of Equality, through improving human and administrative, that is

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36 CRI(2014)24, <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Serbia/SER-IFU-IV-2014-024-ENG.pdf>

financial capacities, especially in providing an adequate work space. The European Committee against Racism and Intolerance assesses in its conclusions that this recommendation has not been implemented in its completeness, acknowledging that certain steps have been taken.

### **3.2. Research on the attitudes towards discrimination in Serbia**

#### ***3.2.1. Main findings of the research on the attitudes of the citizens towards discrimination in Serbia***

The public opinion research<sup>37</sup> showed that the greatest predispositions for discrimination exist in relation to the LGBT people, members of other ethnic communities and members of minority religious communities<sup>38</sup>. The majority of the citizens believe that the society we live in is discriminatory, and even two thirds believe that discrimination is present in our country. The citizens assess that the most discriminated groups in Serbia are women (42%) and Roma (41.5%), following are persons with disabilities (28.4%), impoverished people (27%) the elderly (24.5%), children (18.6%) and sexual minorities (16.4%). More than one third believes that discrimination is most visible in the area of employment. The greatest ethnic distance is towards the Albanian, Croatian, Bosnian and Roma people, and the greatest social distance towards the LGBT population and people living with HIV.

#### ***3.2.2. Main findings of the research of the attitudes of Public Administration representatives towards discrimination in Serbia***

The research shows<sup>39</sup> that the representatives of Public Administration see discrimination as a negative phenomenon, and 74% of them believe that discrimination is present in Serbia. As an answer to the question “Which groups are exposed to discrimination to the greatest extent?” the majority of the subjects agreed (60%)

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37 Attitude of citizens towards discrimination in Serbia, Commissioner for Protection of Equality, UNDP, CeSID, 2013. Available at <http://www.ravnopravnost.gov.rs/sr/istra%C5%BEivanja/istra%C5%BEivanje-javnog-mnenja-odnos-gra%C4%91ana-prema-diskriminaciji-u-srbiji>

38 Even 49% of the subject agrees with the statement that homosexuality is a disease which needs to be treated, 38% agrees with the statement that a normal person accepts only the traditional religious beliefs, and 35% that small religious communities “steal” people’s souls

39 Attitude of Public Administration officers towards discrimination in Serbia, Commissioner for Protection of Equality, UNDP, IPSOS, 2013. Available at <http://www.ravnopravnost.gov.rs/sr/istra%C5%BEivanja/istra%C5%BEivanje-odnos-predstavnika-organa-javne-vlasti-prema-diskriminaciji-u-srbiji>

that the impoverished people, Roma people, persons with disability and members of sexual minorities<sup>40</sup> are the most discriminated groups and that the area with most discrimination is that of employment. This research showed that the representatives of the public authorities have partial knowledge on anti-discrimination regulations that a significant number of the subject does not differ between discrimination and prejudice, or mobbing and discrimination. Indirect discrimination is not recognised by 41% of the representative of public authorities. The subjects believe that the representative of the public authorities have prejudices against certain groups, especially LGBT population, members of small religious communities, people living with HIV, Roma and children with developmental disabilities. The worrying fact is that almost the half of the subject believes that the discriminated groups are responsible for their position, and that “tolerance of diversity went to the other extreme and the members of minorities (ethnic, sexual) have more rights than the majority population”.

### ***3.2.3. Research of the attitudes of police officers towards discrimination***

The results of the research conducted in 2014 show that attitudes are not changed quickly and that the citizens of Serbia have similar attitudes regardless of their profession. Research on the attitudes of police officers on discrimination<sup>41</sup> showed that 92% of the subjects believe that all citizens deserve equal treatment in regard with the application of law, regardless of their origin or affiliation, and 79% believes that discrimination is present in our society. The subjects believe that Roma and LGBT people are the most discriminated groups. The most prominent social distance is towards the member of LGBT population and people living with HIV, and the greatest ethnic distance is in relation to Albanian people. On the other hand, the research showed that there is the least of social distance towards the impoverished people, people with physical disability and refugees, since the police officers believe that these groups are in unenviable position in relation to other citizens. Regarding the perception of discrimination, 47% of the subjects answered that they had no opinion on *what is the essence of discrimination*. In this research, it is stated that the lack of knowledge on discrimination and its basis results in not achieving to recognise it, not even in one's own actions, which could

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40 It is interesting that 29% of public administration officers believe that they, personally, have been exposed to discrimination

41 The Office for Human and Minority rights and the Commissioner for Protection of Equality carried out a joint research on the attitudes of police officers towards discrimination as a part of the project “Implementation of anti-discrimination policies in the Republic of Serbia” (IPA programme), financed by the EU.

have multiple consequences in the case of police work,<sup>42</sup> and is thus necessary for additional effort to be put to change such atmosphere through different educational programmes and seminars. Programmes of education must incorporate more actively the representatives of Criminalistics police department, in a certain manner as with the uniformed officers of the Police Directorate of the Ministry of Internal Affairs of the Republic of Serbia.<sup>43</sup>

### 3.3. The Practice of the Commissioner for Protection of Equality

Since May 2010, when the first Commissioner for Protection of Equality was chosen, until the end of 2014, the Commissioner for Protection of Equality received over 3000 complaints and other statements from citizens, and several thousand contacts were made with the citizens. After almost five years of work, a brief description of the condition of achieving and protection of equality will be given, based on the data from the procedures carried out by the Commissioner for Protection of Equality. The most common reasons of citizens and other persons seeking the Commissioners help or advice will be presented, which personal characteristics were stated most often as the grounds for discrimination, which area has the highest number of complaints, against whom were the complaints filed etc.

The number of procedures the Commissioner participated in is constantly increasing, from 127 cases in 2010 to 884 cases in 2014. This increase does not mean that there are more cases of discrimination but that the visibility of the Commissioner increased during this period, and the number of people who recognise discrimination and who are ready to seek protection from discrimination is rising accordingly. On the other hand, the creation of the institution of the Commissioner and increasing the number of human resource capacities led to a greater use of other authorisations and competencies of the Commissioner, so the number of recommendations on measures rose from two in 2010 to 198 in 2014. Furthermore, 16 opinions on draft laws and general acts were given, and 13 strategic litigations

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42 Suppression of discrimination in the Republic of Serbia – with a special focus on the role and contribution of the Ministry of Internal Affairs of the Republic of Serbia, Radoslav Zekavica, Office for Human and Minority Rights, Belgrade, 2014, pg 88.

43 The subject of this research were the views of the members of the Criminalistics department of the RS police. Subject of the research was the basis forms of discrimination, and the main goal of the research was identification of perception and the attitudes of the members of the Criminalistics department of the RS towards discrimination. The whole research was published in Suppression of discrimination in the Republic of Serbia – with a special focus on the role and contribution of the Ministry of Internal Affairs of the Republic of Serbia, Radoslav Zekavica, Office for Human and Minority Rights, Belgrade, 2014, available at: [http://www.ljudskoprava.gov.rs/images/pdf/eu/Radomir\\_Zekavica.pdf](http://www.ljudskoprava.gov.rs/images/pdf/eu/Radomir_Zekavica.pdf)

were initiated, 11 misdemeanour and criminal charges submitted, 6 proposals for assessment of constitutionality and legality, as well as numerous warnings and announcements.

Complaints for discrimination are usually filed to the Commissioner by natural persons. Men are more common complainants than women, in the ratio that is approximately the same as in previous period, from the sum of complaints filed by natural persons men filed around 60% and women 40%. It should be noted that the number of complaints filed by legal persons is increasing every year, especially the number of complaints filed by CSOs. In 2010, legal persons filed only 13,7% of all the complaints while in 2014 that number was significantly greater – legal subject filed 29,5%, and the majority of those were filed by CSOs concerned with the protection of minority rights.

The most complaints were filed for discrimination on the grounds of national affiliation and ethnic origin – 16.8%. The number of complaints filed on this ground is in the first or second place every year, in 2013 it was 12.2%, while in 2011, and the number was 23.8% of all the complaints filed. Disability was the next most frequent ground for discrimination, 12%. In 2010, the least of complaints on these grounds were filed – 5.9% and the most in 2012 – 19.2%. Following these two grounds is health condition with 10.5%. The number of complaints on the grounds of health condition differs between years the most, from no complaint in 2010 to 16.5% and 14.1% in 2013 and 2014, respectively. The reason for such increase is the greater activity of CSOs which carried out situational testing of discrimination on the grounds of health condition in previous two years, by testing dental services offered to people living with HIV/AIDS in 2013, and in 2014 cosmetic services provided to people with viral hepatitis.

The increase of the complaints on the grounds of age is also significant – 9% of all complaints. Accordingly, it is important to realise that this basis includes discrimination of the elderly, discrimination of children and discrimination of people on the grounds of age. The next basis with 8.5% is sex, followed by marital and family status with 7.3%. Women are primarily exposed to discrimination on the grounds of sex, as well as marital or family status.

Other grounds for discrimination, such as religious and political belief are given as the basis of discrimination in 6.4% of all complaints, membership in syndicate, political and other organisations in 5.6%, financial status 5.2% and sexual orientation 4.3%. The number of complaints on other grounds was less than 2% in previous period

Regarding the areas where discrimination is most common, the complaints filed with the Commissioner for Protection of Equality show that by far the largest number of complaints, every year, is filed for discrimination in the area of employment. That number ranged from 34% and 38%, thus, this is the area that needs additional attention. Also, a large number of complaints pertain to procedures before public authorities – around 17% of all complaints, and this percentage went over 20% in certain years. If over 9% of complaints for discrimination in the process of providing public services and using objects or surfaces are added to that, it is clear that this area needs additional efforts on suppression of discrimination, that is, achieving equality of all citizens.

A slightly lower number of complaints were filed for discrimination in the sphere of education and professional qualification (7.1%), health protection (4.7%), public broadcasting and media (4%), social protection (3.2%) and private relations (3%), and the number of complaints in other areas is under 2%.

It is important to emphasise that the greatest number of complaints were filed against state or other public authorities – between 30 and 40% every year, followed by legal persons, natural persons and with the lowest number of complaints organisations and groups of subjects.

### **3.4. Key problems in achieving equality and protection from discrimination**

The reports of CSOs, as well as international organisations show how the public and international community see the state of achieving and protection from discrimination in Serbia, as well as which groups are recognised as being exposed to discrimination the most. On the other hand, the research of the public, attitudes of the public administration representatives and police officers, whose most valuable results are briefly represented, show how the citizens and public administration representatives, including police, see discrimination, but these data cannot be used to state with certainty to what extent and towards which groups is discrimination present and spread in the society. Also, the data the Commissioner for Protection of Equality has are not a definitive measure of to which extent is discrimination present and spread in the society, but show what the citizens and other subject experience as an issue for which they contact the competent authority. Therefore, there is no centralised and standardised system of gathering, noting and analysing data on discrimination in Serbia, which was stated previously in this and previous reports. This system is necessary in order to work effectively on suppression of discrimination and achieving equality, because it would give an adequate insight and current data on the spread of discrimination, as well as the results of implementation



of legal actions in this area. Because of all of this, not even six years after the Law on Prohibition of Discrimination was adopted, we do not have a complete insight into the situation in this area, which makes it difficult to give a realistic picture on the issues of achieving and protection of equality as well as possible decrease or increase of specific forms of discrimination.

However, it is evident that some key issues are present, which were pointed out in previous annual reports of the Commissioner for Protection of Equality and the reports of international and national organisation. Therefore, the key issues that certain groups face will be summarised and presented, based on the data from the complaints procedures and other sources.

### ***3.4.1. Discrimination on the grounds of national affiliation***

Even though the legal framework of protection of national minorities in Serbia is satisfactory, members of national minorities feel discriminated and the researches show that there is a social distance towards certain national minorities – Albanians, Roma, Croats and Bosnians. As stated previously, the greatest number of complaints submitted to the Commissioner for Protection of Equality pertained to discrimination on the grounds of national affiliation. It could be concluded from the complaints that members of national minorities feel discriminated often, especially in hiring processes or at work, before the public authorities, even in situations when violation of the right of equality has not occurred.

In October 2014, elections for National Councils of national minorities were held, and according to the assessment of the National Councils themselves, the preparation of these elections was better than the previous one, without great irregularities that would affect the regularity of the elections.

At the end of the mandate of the previous composition of National Councils of national minorities, the Provincial Ombudsman conducted the research on the application of the Law on National Councils of National Minorities. The research showed that National Councils were most active in enacting their authorisations in the area of education, official use of language, letter and culture, and least active in the area of broadcasting. National Councils were most active in the first two years of the adoption of the Law.<sup>44</sup>

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44 Four years of National Councils of national minorities, Provincial Protector of Citizens – Ombudsman, Novi Sad, 2014: [http://www.ombudsmanapv.org/riv/attachments/article/1436/4%20god\\_nac\\_saveta\\_final\\_site.pdf](http://www.ombudsmanapv.org/riv/attachments/article/1436/4%20god_nac_saveta_final_site.pdf)



As stated, the Constitutional Court of Serbia, by the decision from January 2014, established that certain regulations of the Law on National Councils of National Minorities are not in accordance with the Constitution. Starting from the fact that four areas where members of national minorities, through their elected National Councils, and in order to preserve their identity, enjoy additional, collective rights (education, culture, broadcasting and official use of language and letter) the Constitutional court established that the regulations which are not in accordance with the Constitution the ones that give authorisation to National Councils in other areas of importance for preservation of national minorities' identity and it assessed that the regulation proscribing the authorisation of National Councils in relation to the, so-called, institution of special importance for national minorities does not fulfil the fundamental standards of certainty and clarity, which is the key element of realising the principle of rule of law.

In Information on the Official Use of Languages of National Minorities in the Local Self-government Units in Central Serbia<sup>45</sup>, it was stated that all administrations of the local self-government units that have adopted the use of a minority language, have human resources for use of a minority language. The data show that spoken and written communication is done in the minority language that is in official use, as well, but these data do not reflect the span of administration procedures in those languages. This document states that the reasons for such situation cannot be determined and that National Councils of national minorities believe that the main reasons for such situation are the facts that the members of minorities do not have sufficient knowledge on their rights and inadequate education of the officers in the local self-government units. Regarding the issuing of registries and conducting procedures regarding registries, it is stated that two-language forms were not issued only in local self-governments where Bulgarian language is in official use.

The position of Roma national minority in Serbia is still bad, they are often exposed to open and widely spread hate speech, and discrimination against Roma is most evident in the area of education, employment, health protection and housing, as shown by the complaints submitted to the Commissioner for Protection of Equality. Even though there are certain advancements towards an improved position of Roma national minority, a set of measures needs to be taken to achieve real changes. The fact that Roma civilian sector supports the redefinition of the current policies, as momentary and sporadic actions and introduction of a holistic approach to the

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45 Information was published by the Office for human and minority rights, as a part of making the Third Periodic Report on application of the European Charter on regional and minority language in the Republic of Serbia: [http://www.ljudskaprava.gov.rs/images/pdf/nacionalne\\_manjine\\_1/Uпотреба\\_jezika.pdf](http://www.ljudskaprava.gov.rs/images/pdf/nacionalne_manjine_1/Uпотреба_jezika.pdf)

solution of issues of public policies towards Roma minority speaks in support to this aim.<sup>46</sup>

Roma children are still discriminated in education, and cases of segregation of Roma children in education were noticed in previous years. According to the data gathered through researches done by MICS 2014<sup>47</sup>, only 6% of children from Roma neighbourhoods aged 3–4 participate in the programmes of pre-school education. In the general population 97% children aged 6–7 are in the first grade of primary school as opposed to 69% of Roma children. Also, 89% of children from general population aged 14–18 go to secondary school as opposed to 22% of Roma children of the same age. These data are alarming and more than worrying.

The research “Implementation and Monitoring of the Standards of the Quality of Health Protection of Roma People in Serbia”<sup>48</sup>, carried out in 2014, shows that the life expectancy of Roma in Serbia is shorter by 12.4 years than that of the other citizens of Serbia, the general; standardised mortality rate of Roma people in 2011 is greater by 28% than the mortality rate in Serbia, and the mortality of Roma children under five years of age is twice as big as that of the general population.

At the end of 2014 the Starting Study for Making the Strategy for Inclusion of Roma People in Serbia Coordinated with the Strategy Europe 2020<sup>49</sup> was conducted, which represents the foundation for the second Decade of Roma. The new strategy will focus on education, employment, housing and health, and special attention will be given to gender equality, the position of internally displaced Roma people, promotion of their position and child protection, as well as protection of the cultural identity of Roma people.

### 3.4.2. Discrimination on the grounds of disability

Even though in previous period the normative framework was improved and social visibility of persons with disabilities was increased, this group is still in a

46 **Monitoring of public policies: effects of the Roma Decade on the position of Roma women in the Republic of Serbia**, Bibija Roma female centre, Belgrade, 2014 [http://www.bibija.org.rs/images/publikacije/Prelom\\_BOS.pdf](http://www.bibija.org.rs/images/publikacije/Prelom_BOS.pdf)

47 **Research of multiple indicators– Serbia 2014**, UNICEF and the Republic Institute for Statistics: [http://www.unicef.org/serbia/Srbija\\_2014\\_MICS\\_Rezime.pdf](http://www.unicef.org/serbia/Srbija_2014_MICS_Rezime.pdf)

48 **Implementation and monitoring of the standards of quality of health protection of Roma people in Serbia**, Center for minority rights, Belgrade, 2014: <http://www.praxis.org.rs/images/Zdravstvena%20zatita%20Roma%20Centar%20za%20prava%20manjina.pdf>

49 **The study was conducted by the Office for Human and Minority Rights of the Government of the Republic of Serbia in partnership with the Team for Social Inclusion and Poverty Reduction, and with the support from „Making the Most of EU Funds for Roma“ Open Society Foundations from Budapest and the Foundation for an Open Society from Belgrade.**

significantly worse position than other citizens. Discrimination of persons with disabilities exists in all spheres of social and private life and it is most pronounced in the sphere of employment, education, access to objects and services and housing. The position of persons with disabilities can be observed through the high level of unemployment, violence that women with disability are particularly exposed to, the risk of institutionalisation, as well as problematic access to public buildings, facilities and services.

Children with developmental disability are still discriminated against in education. The Practice of the Commissioner for Protection of Equality shows that, apart from resistance to inclusive education that is still present in some education workers and professional associations, a great obstacle in enjoyment of the right to education is the fact that the additional support for the child is financed from the budget of a local self-government. Having in mind the fact that Serbia has many local self-government units that are impoverished and devastated, and without the necessary means for funding the necessary support of the child, it can be concluded that the education of children with developmental disability that needs an additional support depends on their residence. Additionally, the issue of pedagogical assistants in primary schools has not been regulated in a unified and precise manner on the national level, which makes the education of children with developmental disability even harder. The youth with disability have a difficult access to higher education, despite in inclusion of special measures for enrolling in institutions of higher education. It is positive that certain CSOs participate in the regional initiatives and projects with the aim of improving the position of students with disability, since the results if the research could be implemented in Serbia<sup>50</sup>.

The adoption of the Law on Professional Rehabilitation and Employment of Persons with Disabilities<sup>51</sup> introduced positive advancements but discrimination of persons with disabilities at the job market is still present and some of the key obstacles to the increase of the rate of employment are the inadequately accessible environment, inaccessible public transport, inaccessible information and communication, inaccessible work spaces and underdeveloped support services. Therefore, it is necessary to proscribe in a timely manner the duty of employer to ensure a reasonable adaptation of work space for persons with disabilities.

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50 Improvement of the Social Dimension of the European Space of Higher Education in SouthEast Europe, Association of Students with Disability: <http://www.ush.rs/index.php/sr/projekti/istrazivanja/34-regionalni-izvestaj-unapredjivanje-socijalne-dimenzije-u-jugoistocnoj-evropi.html>, Strengthening Higher Education for Creation of Social Policy and Provision of Social Services, Centre for Independent Life of Persons with Disabilities

51 „Official Gazette of RS“, No. 36/09 and 32/13

Persons with disabilities, and especially people with intellectual or psychosocial disability, are often exposed to the risk of being deprived of legal capacity. It has been stated previously that the legislation of Serbia is not coordinated with the international conventions and standards regarding the legal capacity of persons with disabilities, so the measures should be taken to reform the outdated regulations that this area is regulated by.

### ***3.4.3. Discrimination of people living with HIV/AIDS***

Discrimination of people living with HIV/AIDS is still widely spread in Serbia and the latest researches of the Commissioner for Protection of Equality show that the citizens of Serbia have the greatest social distance towards the people living with HIV. These people are exposed to discrimination and stigmatisation in almost all spheres – from their treatment in health centres, reactions of their environment and family, to work and employment. In the Strategy for prevention and protection from discrimination it is stated that it is not rare that children living with HIV or children whose parents are HIV positive are isolated in the educational system. Apart from that, discrimination in the sphere of work relations was recognised, that is cases when subject lost their jobs because of their health condition that has no direct connection to work performance, without the right to prequalification or to another work position.

With the aim of ensuring that human rights of people living with HIV are respected and that those people are not stigmatised, the Centre for Affirmation of a Positive Life Q-club submitted an initiative for changing Article 250 of the Criminal Code that is decriminalisation of unintentional transmission of HIV. This initiative was filed with the Assembly's Board for Legal Questions and Legislation, Board for Human and Minority Rights and Board for Health and Family.<sup>52</sup>

### ***3.4.4. Gender based discrimination***

The existing data show that women are in a disadvantageous position compared to men in all areas of social life, and discrimination of women on the job market, area of economy and education is particularly present, as well as gender based violence against women.

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52 Report on work for 2014: <http://www.q-club.org.rs/files/Godi%C5%A1nji%20izve%C5%A1taj%20o%20radu%202014.pdf> pg. 8

A series of research conducted by the Ministry of Labour, Employment, Veteran and Social Policy in the course of 2014<sup>53</sup>, showed that gender equality has not been achieved in Serbia and that women face many issues in the process of enjoying their rights. Researches on the position of single parents<sup>54</sup>, the position of women in business<sup>55</sup> and on the attitudes of the citizens of Serbia on gender equality<sup>56</sup> were conducted. Women and men in Serbia formally have equal rights, but the researches show that the overall socio-economic status of women significantly worse compared to that of men and that there is a deep incongruity between the proclaimed principles and the practice in implementation of policies. Women are refused on job advertisements more often than men with the explanation that is a “man’s job” or because of their age, and the cases of women being fired after they used their pregnancy leave are not rare. Discrimination of women is present in the business sector, with women holding one fourth (25.8%) of the highest decision-making positions in companies, and make up slightly more than one third of the number of entrepreneurs (31.7%). The majority of women in business are entrepreneurs out of need (66%), primarily without family tradition in this area and they operate usually on the local market, within the catering services.

In the Report of Civil Society for 2014 on the Security Council Resolution 1325<sup>57</sup>, sorted according to the indicators set by NAP 1325, is the assessment that there was a gradual advancement in the participation of women in public authorities by the number of women in executive state authorities decreasing but increasing in the judiciary. Regarding the question of women participating in the security sector, judiciary and peacekeeping operation an increase in their participation was noted only in the sector of peacekeeping operations. The analysis showed that a percent of women civilians in Ministry of Defence and the Serbian Armed Forces is decreasing, but that the number of women in Uniform is increasing constantly, as well as the number of women who participate in peacekeeping operation as

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53 As a part of the Programme for realization of the National action plan for improvement of the position of women and promotion of gender equality for the period 2010–2015, with the Embassy of Sweden, information available at: <http://korak-hapi-step.eu/polozej-zene-u-srbiji-u-2014-cinjenice-koje-demantuju-stavove/>

54 <http://www.mc.rs/upload/documents/istrazivanje/2014/09-25-14-Istrazivanje-osamohranim-roditeljima.pdf>

55 <http://www.mc.rs/upload/documents/istrazivanje/2014/09-25-14-Polozej-zena-u-biznis-sektoru-u-Srbiji.pdf>

56 <http://www.mc.rs/upload/documents/istrazivanje/2014/09-25-14-Rodna-ravnopravnost.pdf>

57 Cooperation of Dea Dia, Global Network of Peace Builders and Belgrade Centre for Safety Policy for publishers of Dea Dia, November 2014: [http://bezbednost.org/upload/document/rezolucija\\_saveta\\_bezbednosti\\_1325\\_-\\_izvetaj\\_civil.pdf](http://bezbednost.org/upload/document/rezolucija_saveta_bezbednosti_1325_-_izvetaj_civil.pdf)

professional soldiers, which is a significant advancement in relation to previous period when women participated only as part of medical teams.

Domestic violence, sexual violence and other forms of gender based violence are a daily occurrence in Serbia. Therefore, it is very important that the *Convention of the Council of Europe on Prevention and Combating Violence against Women and Domestic Violence*, signed by Serbia as one of the first countries to do so, became effective on August 1st 2014.<sup>58</sup> The Convention demands from the countries that have signed it, that they make comprehensive and coordinated policies which would prevent violence, protect victims and legally sanction the perpetrators, and to develop adequate systems for data gathering. The states that ratify this convention are obliged to provide services such as specialised institutions that provide support to victims (including a specialised support for victims of sexual violence), safe houses, help lines, counselling and legal counselling, etc.

It is necessary to note that, apart from the Istanbul Convention becoming effective, the CSOs and certain professional associations give great contribution to combating gender based violence. In the *Guidelines for Action of Police Officers and Prevention of Secondary Victimization of Domestic Violence and Intimate partner Abuse Victims*<sup>59</sup>, the necessity of the action of police in accordance with the joint and valid principles defined by the General protocol on action and cooperation of institutions, bodies and organisations in situation of domestic violence or intimate partner abuse against women, as well as in a Special protocol on action of police officers in cases of domestic violence or intimate partner abuse against women. In the publications *Improved Access of the Public Prosecutor in the Protection of Domestic Violence Victims* it is stated that there is a need for coordinators in public prosecutor offices, who would start and maintain cooperation between institutions in the area of persecution, since only the public prosecutor has the authority to start all three forms of protection from domestic violence<sup>60</sup>, which is why this office should have the role of a coordinator in the cooperation of institutions.<sup>61</sup>

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58 Convention was adopted on May 5th 2011 in Istanbul, and so far it has been ratified by 16 countries: Andorra, Albania, Austria, the Netherlands, Bosnia and Herzegovina, France, Italy, Malta, Monaco, Montenegro, Portugal, Serbia, Slovenia, Spain, Sweden and Turkey. The condition for its implementation was for it to be ratified by 10 states, 8 of them being members of the Council of Europe

59 Guidelines for action of police officers and prevention of secondary victimization of domestic violence and intimate partner abuse victims, Autonomous female centre and Astra, Belgrade, 2014: <http://www.womenngo.org.rs/images/publikacije-dp/2015/Smernice.pdf>

60 Protection in the spheres of criminal law, family law and misdemeanor law

61 The access of the public prosecutor in the process of protection of domestic violence victims was improved, *Association of public prosecutors Serbia*, Belgrade, 2014: <http://www.uts.org.rs/images/inicijativa.unapredjen.pristup.pdf>

### 3.4.5. Discrimination on the grounds of age

Discrimination on the grounds of age became more visible in the society. It manifests, in relation to the elderly, during the use of health services or enjoying the rights in the areas of health protection and employment, having in mind that a large number of older workers do not manage to find employment, and employers fire older workers more often, or send them into premature retirement. Therefore, it should be taken into account that the age, as well as any other personal characteristic, can be set as a condition of employment only in those cases when the nature of the job demands it, that is, when that personal characteristic is necessary for performing the work tasks. Age is irrelevant for the majority of jobs on the job market, but employers often set a certain age as a condition, which is violation of anti-discrimination regulations. The data of the National Employment Service show that people older than 50 make up 26% of the unemployed people in Serbia.

The recommendations made as the result of the activity on the project *For a More Dignified Life of the Elderly in Residential Housing*<sup>62</sup>, were submitted to the Ministry of Labour, Employment, Veteran and Social Policy and the Republic Fund for Health Insurance. Key recommendations supported by 62 CSOs are the following: it is necessary to revise the legal framework and remove the issues that prevent full respect of human rights of the elderly, it is necessary to set an independent system of control of the work of housing institutions in such a way that an independent system of quality control of service providing and protection of human rights of people using that housing, is set up, as well as the recommendation to the Republic Fund for Health Insurance to ensure that anti-dementia drugs are financially more accessible to the elderly in need and to amend the conditions for acquiring adult diapers, as funded by the Republic Fund for Health Insurance.<sup>63</sup>

In Serbia, children, as well as the elderly, are discriminated against. The Commissioner for Protection of Equality submitted a Special Report on Discrimination against Children in Serbia, at the end of 2013<sup>64</sup>. It was stated in the report that the children of Roma nationality and the children with developmental disability and disability are the groups most often exposed to discrimination. These two groups are most often discriminated against in the educational system, preschool institutions,

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62 Amity, Autonomous female centre and SIPRU

63 Report on work for 2014, Amity: [http://www.amity-yu.org/index.php?option=com\\_banners&task=click&bid=43](http://www.amity-yu.org/index.php?option=com_banners&task=click&bid=43)

64 Available at the internet presentation of the Commissioner for Protection of Equality: <http://www.ravnopravnost.gov.rs/images/files/Posebna%20izvestaj%20o%20diskriminaciji%20decesa%20koricama.pdf>



and discrimination usually occurs because the educational institutions do not take timely and adequate preventive measures, an adequate reaction of the responsible subjects, after discrimination has occurred.

Discrimination against children with developmental disability and Roma children is pointed out in the joint statement on the deinstitutionalisation in Serbia<sup>65</sup>, which says that Roma children are present in too great a number in the system of formal care, that children with developmental disability are present in too great a number in institutional accommodation [...], that the existing system has not found a way to ensure that children and people with complex needs for support have respect. Unequal treatment and approach to services and rights, as well as social exclusion retain the families in poverty, and poverty and social deprivation must not be the reason for institutionalisation of children and adults. Children are multiply vulnerable and the full effect of interventions on their protection can be achieved with *the cooperation of multiple sectors and combination of measure and services that include the whole family*. It was emphasised that the admission of children and adults into institutions must be prohibited, because every person, regardless of their personal characteristics has the right to a life in a community with adequate individualised support.

Child Rights Centre<sup>66</sup> realised a national research on the monitoring mechanisms and control and appeal procedures that exist in the institutions where children deprived of liberty are.<sup>67</sup> The research showed that the legislation of the Republic of Serbia contains a number of legal regulations that clearly regulate the monitoring mechanisms, as well as appeal mechanisms that are available to the minors, especially in the institutions for the execution of criminal sanctions. However, these solutions are rarely used in practice, and it is therefore needed to work on increasing the capacities of minors to participate in the protection of their rights.

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65 **Joint statement of CSOs**, <http://www.mdri-s.org/vesti/zajednicka-izjava-organizacija-civilnog-drustva-u-srbiji/> This statement is supported by the CSOs: The Network of Organization for Children in Serbia – MODS, National Organisation of Persons with Disabilities of Serbia, Centre for Independent Life of People with Disability, Initiative for Inclusion BigSmall, Initiative for the Rights of Persons with Mental Disabilities MDRI -S, Association for Revision of Accessibility URP, Belgrade Centre for Human Rights, Committee of Lawyers for Human Rights – YUCOM, Centre for orientation of Society, Association for Promotion of Inclusion – API Serbia

66 As a part of the project „Children’s Rights Behind Bars. Human rights of children *deprived of liberty: improving monitoring mechanisms*“

67 [http://www.cpd.org.rs/system/home/newsplus/viewsingle/\\_params/newsplus\\_news\\_id/5508.html](http://www.cpd.org.rs/system/home/newsplus/viewsingle/_params/newsplus_news_id/5508.html) The research realised in Detention Centre in Kruševac, Juvenile Penitentiary in Valjevo and Special prison hospital in Belgrade.



### 3.4.6. *Discrimination on the grounds of sexual orientation*

In Serbia, discrimination on the grounds of sexual orientation is a part of the daily life of LGBT people, a LGBT population is one of the most discriminated groups. As stated previously, the researches of the public show that every other citizen believes that homosexuality is a disease that needs to be treated, and more than 80% does not want LGBT people in their families. Great social distance, widely spread homophobia and transphobia are the expressions of negative stereotypes and prejudice on LGBT people. Threats, hate speech and open violence are the most common forms of discrimination against LGBT people.

ILGA Europe<sup>68</sup> presented Annual overview of the Human Rights Situation of LGBT people in Europe in May 2014<sup>69</sup>. In the segment pertaining to the situation in Serbia, it was stated that the attacks on the members of LGBTI community are worryingly common and that a high level of intolerance is present in the society, especially in the media. It was pointed out that despite the quick and public reaction of the Commissioner to the cases of discrimination and violence, the recommendations are rarely implemented. The Centre for Queer Studies conducted the research “Pride parade and LGBT population”<sup>70</sup> at the beginning of last year, which showed that violence, fear of violence and deeply ingrained feeling of elementary lack of safety still mark the existence of LGBT people in Serbia. The subjects believe that the primary goals of LGBT organisations should be protection from violence, fight for economic and social rights of LGBT people and protection from discrimination on a work place, SOS phone lines and psychological help.

The key positive change is that the problems that LGBT population faces are more talked about in public, and the position of LGBT population is seen as a matter of human rights. A great success after three attempts to organise Pride parade, in September 2014, Pride week was organised which ended in Pride parade, with many security measures. Even though it was very important to hold the Pride parade without issues, it became apparent that mere organisation of this manifestation was not enough. A continuous work on suppression of prejudice and discriminatory attitude needs to be done, primarily among children and youth through the educational

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68 Roof LGBTIQ organization in Europe, includes 355 CSOs from 44 European states

69 „Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2014“, ILGA Europe, 2004: <http://www.certidiritti.org/wp-content/uploads/2014/05/Annual-Review-2014-web-version.pdf>

70 Research “Pride parade and LGBT population”, Centre for Queer studies, Belgrade, 2014: [http://issuu.com/centarzakvirstudije/docs/parada\\_ponosa\\_i\\_lgbt\\_populacija/1](http://issuu.com/centarzakvirstudije/docs/parada_ponosa_i_lgbt_populacija/1)

system, as well as through joint action of the state authorities, institutions, the civil sector and the media.

The organisation for lesbian human rights Labris analysed secondary school Psychology, Biology and Medicine textbooks, used in the course of 2013/2014 school year and presented the results in the publications *Same-sex orientation in secondary school textbooks*<sup>71</sup>. The research was carried out after the Commissioner issued a recommendation to the Ministry of Education, Science and Technological Development and the Institute for Education Quality and Evaluation, which advises these institutions to remove discriminatory content from teaching materials and practice and to promote tolerance and respect for human rights. After the analysis, a campaign for gathering support for this initiative was started, in order to remove this discriminatory content from textbooks.<sup>72</sup>

However, despite the advances there are many more actions to be taken in order to improve the promotion and protection equality of LGBT community. Among other, regulations should be adopted which enable registration of the same-sex couples and regulate the effects, legal ramifications and the manner of abolishment of these registered partnerships, in accordance with the recommendations of the Council of Europe, which was emphasised in previous Reports of the Commissioner. It should be stated that the organisation Gayten started research on hate crimes against LGBTIQ people, with focus on violence against people of trans-identity, as well as those cases of discrimination and violation of human rights of LGBTIQ persons, with the aim of using the results to aid the promotion of the rights of this group and adoption of the Law on Gender Identity.<sup>73</sup>

### ***3.4.7. Discrimination of refugees, internally displaced persons, migrants and asylum seekers***

Serbia is still the country with the greatest number of refugees and internally displaced people in Europe and one of five countries in the world with a “long-lasting refugee crisis”. According to the date from June 2014, 43.763 refugees<sup>74</sup> and more than 200.000 of internally displaced people from Kosovo and Metohija live on the territory of Serbia and 1.369 of them live in 22 collective centres, according to the date of the Commissariat for Refugees and Migrations.

71 “Same-sex orientation in secondary school textbooks”, Labris, Belgrade, 2014: <http://labris.org.rs/wp-content/uploads/2014/07/Analiza-diskriminatornog-sadrzaja-srednjoskolskih-udzbenika.pdf>

72 Available at: <http://labris.org.rs/podrzy-promenu-podseti-nadlezno-ministarstvo-i-institucije-nanjihovu-obavezu-da-izmene-i-ukinu-diskriminatorne-sadrzaje-iz-udzbenika-za-srednje-skole/>

73 In cooperation with the TGEU and ILGA organisations, available at: <http://transserbia.org/vesti/739-monitoring-kršenja-ljudskih-prava-i-zlocina-iz-mrznje-nad-lgbtq-osobama>

74 32.371 from Croatia and 11.342 Bosnia and Herzegovina

The project “Mobile Teams Network for Help to the Most Endangered Individuals from the Refugee and Internally Displaced population”<sup>75</sup> has lasted since 2000 and it is directed at giving support to the families that are at risk in finding permanent solutions. With the aim of solving the housing issue of the most endangered refugees and displaced persons, the Regional Programme of providing housing was started, with a plan to solve the housing issue for around 27.000 of the most endangered families in Serbia, Montenegro, Croatia and Bosnia and Herzegovina, through this programme<sup>76</sup>.

The study Estimation of the Needs of Internally Displaced People in Serbia<sup>77</sup> from 2011 classifies almost half of the internally displaced people as “in need” that is as people who are in particularly difficult financial situation. Especially endangered part of population of the internally displaced are Roma people, and even 75% of the displaced Roma people fall into this category, which is a significantly higher number than the non-Roma population (42%). The organisation Praxis published a booklet “The position of the internally displaced people”, in which an analysis of the everyday challenges these people face is presented.<sup>78</sup> The analysis of the position of the displaced subjects shows that the greatest issues of the displaced are residence, access to information and employment, as well as the lack of fundamental personal documents. Furthermore, the displaced people have an additionally worse access to employment, due to their long inactivity and lack of skills, which aids their dependency on social help. Research done among the displaced people shows the issues with acquisition of personal documents and it is emphasised that the Roma people are the group most susceptible to this issue.

In the third Periodic Report on Asylum in the Republic of Serbia for 2014 of Belgrade centre for human rights<sup>79</sup>, it is stated that in the first nine months of 2013, 8498 people expressed their intention to seek asylum in Serbia, which is a significant increase compared to 2704 people, as noted for the same period last year.<sup>80</sup> However, out of the overall number of people who expressed their intention

75 Carried out by the Humanitarian centre from Novi Sad in cooperation with Amity – The power of friendship from Belgrade and Sigma plus from Nis, with financial support from UNHCR

76 It is planned by the programme to offer support to 16780 families on the territory of Serbia, through building 10000 flats, through help in the form of construction material for 4000 and montage houses, that is purchase of countryside estates, each for 1500 families.

77 Estimated need of the internally displaced people in Serbia, UNHCR, JIPS and the Refugees Commeseriate, 2011. [http://www.unhcr.rs/media/IRL\\_izvestaj\\_srpska\\_verzija.pdf](http://www.unhcr.rs/media/IRL_izvestaj_srpska_verzija.pdf)

78 Position of internally displaced people, Praxis: [http://www.praxis.org.rs/images/praxis\\_downloads/Polozaj\\_interno\\_raseljenih\\_lica\\_-\\_kratka\\_analiza\\_preostalih\\_izazova.pdf](http://www.praxis.org.rs/images/praxis_downloads/Polozaj_interno_raseljenih_lica_-_kratka_analiza_preostalih_izazova.pdf)

79 With the support of UNHCR in the course of 2014 the project directed at providing an adequate legal aid to the asylum seekers, as well as monitoring and reporting on the practice of the right to asylum in the Republic of Serbia was continued.

80 Third periodic report for June-September 2014, Belgrade centre for human rights, 2014: [http://www.azil.rs/doc/III\\_periodicni\\_izvestaj\\_2014.pdf](http://www.azil.rs/doc/III_periodicni_izvestaj_2014.pdf)

to see asylum, only 217 filed the request. The Office for Asylum in the temporary asylum centres in Obrenovac, Sjenica and Tutin does not perform the official duty of filing requests, which is noticed as a specific issue, so that all the asylum seekers in these centres do not have an access to this procedure<sup>81</sup>.

In the study Foreign Unaccompanied Minors in the Republic of Serbia<sup>82</sup>, recommendations to the state authorities on course of action and protection of the rights of unaccompanied foreign minors were given, having in mind the problems and challenges they are facing. The recommendation include the changes of the Law on Asylum, primarily concerning the change of the definition of an unaccompanied minor with the addition of a regulation on the course of action according to the child's best interest, adapting the procedure for assessment of the adequacy of the request for asylum to the needs of children and their level of understanding, and a precise legal definition of the cases in which the unaccompanied minor must be given a custodian and coordination between the Law on Asylum and the Family Law.

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81 Asylum in the Republic of Serbia – Report for January 2014, Belgrade centre for human rights, 2014: [http://www.azil.rs/doc/SRB\\_april\\_2014\\_1.pdf](http://www.azil.rs/doc/SRB_april_2014_1.pdf)

82 Foreign Unaccompanied Minor in the Republic of Serbia, Humanitarian Centre for Integration and Tolerance, Novi Sad, 2014.

## 4. The Commissioner's actions on combating discrimination

In this segment of the report the actions of the Commissioner for Protection of Equality in 2014 will be presented. The Commissioner uses different legal instrument with the goal of suppressing discrimination and promoting equality. Firstly, these instruments will be presented along with the summary of the undertaken procedures, and secondly, the work of the Commissioner on particular cases of discrimination. This segment of the report is structured according to the personal characteristics as the grounds of discrimination, and the agenda according to the number of complaints filed for discrimination on the basis of certain personal characteristics. At the end of every review on individual grounds of discrimination, in order to give a entire picture of the action done concerning these cases of discrimination, the manner in which the media reporting on discrimination on the basis of certain personal characteristics is described as well as the interest the media showed for the cases of discrimination the Commissioner dealt with.

More detailed statistic data on the work of the Commissioner for Protection of Equality are given in the annex of this report, under the title Statistical overview of the Commissioner's work in 2014. Also, all the opinions, recommendations, warnings, announcements as well as any other acts the Commissioner issued are published on the internet presentation of the Commissioner in an integral format and are available to interested public.

***Acting upon complaints*** The procedure before the Commissioner is initiated by filing a complaint. Any natural and legal person, as well as any organization dealing with the protection of human rights may present a complaint. In the course of 2014, natural persons filed the majority of complaints (66.4%) and 60.9% of them were filed by men and 39.1% women. The largest number of complaints came from Belgrade region (35.9%) and Vojvodina (20.4%), while the least complaints were submitted in Šumadija and West Serbia, as well as Kosovo and Metohija. The complaints were, in the majority of case, filed against legal persons (43.4%) and state authorities (28.7%).

The Commissioner for Protection of Equality created a complaint form, which is available in the printed version in the Commissioner's premises in Serbian and in languages of national minorities, and in the electronic version on the Internet presentation of the Commissioner: [www.ravnopravnost.org](http://www.ravnopravnost.org), and it should be understood that there is not a proscribed form for complaints, that is, the complaint form was made as a guide for submitting data and information necessary for the procedure. Apart from the basic data stated in the complaint form, it is necessary

to sign the complaint. More detailed instructions on filing a complaint and the necessary data are available on the Internet presentation of the Commissioner<sup>83</sup>.

The procedure before the Commissioner is simple and devoid of excessive formality, which contributes to its efficiency. Upon receiving the complaint, it is first investigated whether the Commissioner for Protection of Equality is authorised to decide whether the violation of rights mentioned out in the complaint occurred. If the Commissioner determines not to be authorised to act upon it, the complaint is dismissed and the complainant is notified on from whom to seek advice and help, i.e. the institution authorised for the specific case. It is then established whether the complaint contains all the necessary elements for acting upon it. If the complaint is incomplete, incomprehensible or contains other deficiencies that prevent further action (for example it lacks the signature), the complainant asked to eliminate the problematic issues within 15 days, and is provided with information on what precisely are the issues and how to eliminate them. If they are not removed in the prescribed time frame the complaint is rejected. After this, another verification is performed – investigation on whether or not there are legal obstacles for initiating the procedure, taking into consideration that the Law on the Prohibition of Discrimination stipulates that the Commissioner shall not act upon a complaint in the following cases: 1) if proceedings pertaining to the matter in question have been initiated before a court of law or an enforceable decision has been ruled; 2) if it is evident that no violation of rights pointed to by the person having filed the complaint has actually occurred; 3) if he/she has already taken steps concerning the same matter and no new evidence has been provided; and 4) if he/she establishes that, in view of the time elapsed since the violation of rights in question, no useful purpose will be served by acting upon the complaint. Even though the Law on the Prohibition of Discrimination uses the expression “The Commissioner shall not take steps concerning a complaint [...]”, it is necessary to note that in these cases the Commissioner actually takes steps concerning the complaint by issuing a document by which it informs the complainant on the reasons why the Commissioner shall not act further upon the complaint. The cases of suspended proceeding before the Commissioner will be further explained in this Report in the section „Outcomes of the Complaints“ and the information on the number of cases in which the proceedings have been suspended are presented in the Annex to this Report.

If the preconditions for initiating the procedure are fulfilled, the Commissioner may propose a *mediation procedure*. If both parties accept mediation, the complaint procedure is suspended until the end of the mediation procedure. If the parties reach an agreement, the procedure is completed, whereas if the agreement has not been reached through the mediation procedure, the complaint procedure before

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83 File a complaint, the Commissioner for Protection of Equality: <http://www.ravnopravnost.gov.rs/rs/дискриминација/поднеси-притужбу>

the Commissioner is continued. In 2014, mediation was offered in four cases but agreement was not reached in any of them and the procedures were continued before the Commissioner.

*Cases in which mediation was offered*

- The person that filed the complaint stated that her neighbour offends her and her husband “in every way at every opportunity” by calling them “Gypsies”. After the person against whom the complaint was filed answered the accusations it was established that she was, in fact, the complainant’s sister and that their family relations were disturbed on account of quarrel over assets distribution. Both sides were offered mediation, having in mind the neighbourly and family relationships, but the complainant did not agree to those terms and the procedure before the Commissioner was continued.*
- The complainant stated that a group of his colleagues, whose senior he is, filed a motion against him to the director of the institution where all of them work. In the motion it is stated that the complainant abuses, offends, controls them and in different ways violates their work rights. Furthermore, it is stated that their senior offends them on national basis, because he changes religion “went into Catholics and hates everything Serbian” and therefore their Serbian origin bothers him. The complainant believes that his colleagues marked him as a “Serb-hater” and he is worried that such statements could provoke bad emotions in his fellow citizens, as well as eventual attacks and violation of his safety. Both sides were offered mediation that they did not accept.*
- A mother of children with visual impairments stated that the primary school discriminates against her children, by not following all the recommendations of the Coordination committee for the evaluation of the need for an added educational, health or social support to a child. She said that the children did not get all the needed textbooks with enlarged content, as well as that some textbooks that are in colour, copied and enlarged in black and white for her children. Mediation was offered, but it was not accepted.*
- Complainant believes that she was discriminated by the statement of an employee in a state agency, which was published in a national daily newspaper on the grounds of her personal characteristic – political belief, that is, she believes that in the published text it was suggested that she was employed on the basis of her political belief. Mediation was not accepted in this case, either.*

If there are no conditions for mediation, the complaint procedure is continued by forwarding the complaint to the person against whom it was filed within 15 days. The person against whom the complaint has been filed may give a statement on the



allegations of the complaint within 15 days, and the Commissioner continues the procedure even if that person does not provide a statement. In order to establish the facts, the Commissioner may also request statements from other persons (e.g. witnesses). The procedure before the Commissioner has a duration of 90 days.

666 complaints were filed to the Commissioner for Protection of Equality in 2014. The majority of those were on the grounds of national affiliation and ethnic origin (18%), with complaints on the grounds of health conditions (14.1%) and age (11.3%) following closely. More than one third of complaints, similarly to the data from previous years (36.3%) were filed on the ground of discrimination in the hiring process or at a workplace. Slightly less in number are complainants who believed they were discriminated against by the public authorities (16.7%) as well as in domain of public service or while using an object or a surface (15.6%).

In the complaint procedure the Commissioner gives an opinion on whether discrimination occurred. If the Commissioner established that an act of discrimination was performed, it gives, along with the opinion, a recommendation on how to remove violation of rights.

During 2014, the Commissioner for Protection of Equality gave 109 opinions, in 66 of which discrimination was proven and adequate recommendations were given to those who discriminated, and in 43 cases the Commissioner was of the opinion that discrimination did not occur.

The Commissioner does not have legislative or repressive authorisations. If the discriminator does not implement the recommendation within the 30-day deadline, the Commissioner then issues a warning and sets a new deadline of 30 days for the recommendation to be implemented. However, if the discriminator does not act upon the recommendation even after the warning has been issued, the Commissioner can notify the public through her Internet presentation, by issuing a notice in daily national newspapers, in a report or in other appropriate ways. The Commissioner is not authorised to punish discriminators if they do not respect the recommendations but she can persuade them to do so by using the authority of the institution she represents, by using the force of argumentation and public pressure. During 2013, the Commissioner issued 140 opinions – discrimination has been established and discriminators were issued recommendations in 108 cases, and in 32 cases discrimination has not been established.

***Anti-discrimination litigation.*** The Commissioner is authorised to initiate anti-discrimination litigation, and independently assesses the need for a lawsuit. If an individual is a victim of discrimination, it is necessary to obtain consent of that individual, while consent of the discriminated group of people is not necessary in cases of discrimination against a group of individuals sharing a common personal characteristic. The Commissioner always issues a lawsuit in her own name and in the public interest, and may file all legal redress claims except the claim for



compensation of pecuniary and non-pecuniary damages. Conducting litigation enables the improvement of judicial practice, sensitization of the public for the problem of discrimination and influencing public opinion. For conducting a strategic litigation, typical cases of widespread discrimination are selected those which have good prospects for success. Filing lawsuits is not a mechanism which ensures the implementation of the Commissioner's recommendations and it is not a part of the complaints procedure. In each case, firstly, it is examined whether or not that matter is of strategic significance, and only after the evaluation that confirms that it is needed to conduct a so-called "strategic litigation", a lawsuit is filed with the competent court. In 2014 two lawsuits were filed and will be presented in the appropriate parts of this Report.

***Misdemeanour procedures.*** The Commissioner is authorised to file misdemeanour charges for violation of the rights protected by anti-discrimination regulations. In 2014, one misdemeanour charge was filed.

***Criminal procedures.*** The Commissioner for Protection of Equality is authorised, as are other state authorities, to file criminal complaint upon learning that a criminal act which violated the principle of equality was performed. In the course of 2014, six criminal charges were filed to the authorised prosecutor's offices.

***Recommendations on measures for achieving equality.*** The Commissioner is authorised to recommend to the public authorities and other persons the measures for ensuring equality. These recommendations may be directed at public authorities taking measures in order to prevent and eliminate institutional discrimination and improve the work of state institutions in combating discrimination. These recommendations also call attention to the need of taking special measures (affirmative action) which ensure full equality, protection and advancement of persons or groups in an unequal position compared to other citizens. In 2014, 198 recommendations on measures were issued, which will be presented in the section of this Report pertaining to specific grounds of discrimination.

***Legislative initiatives and opinions on regulations.*** The Commissioner is authorised to monitor the implementation of laws and other regulations, to initiate adoption or amendments to regulations so as to improve protection against discrimination. The Commissioner is also authorised to issue opinions on provisions of draft laws and other regulations pertaining to prohibition of discrimination. In 2014, the Commissioner issued two opinions related to draft laws and other acts, and submitted three proposals for the assessment of constitutionality and legality of general legal acts to the Constitutional Court of Serbia.

***Warnings and public announcements.*** The Commissioner is authorised to warn the public of the most common, typical and severe cases of discrimination which is done on the basis of information and knowledge gathered from the filed complaints, the media and other sources. In the warnings issued to the public, the

Commissioner indicates discriminators, the manner of discrimination, individuals and groups of individuals subjected to the most common, typical and severe forms of discrimination, as well as the consequences of discrimination. In 2014, the Commissioner issued 20 public announcements and six warnings, which were published in the media and on the Internet presentation of the Commissioner. Warnings and recommendations will be presented in the section of this Report pertaining to individual grounds of discrimination.

#### **4.1. Discrimination based on national and ethnic origin**

During 2014, 124 complaints were filed where as the grounds for discrimination was given national affiliation and ethnic origin, which is 18% of all complaints filed, that is the largest number on individual grounds for discrimination. In comparison with previous year, the part of the filed complaints for discrimination on the grounds of national affiliation and ethnic origin was increased by 5.9%.

Out of the total number of complaints on these grounds, 23 complaints (18.5%) were related to treatment before public authorities, such as ministries, local self-governments, health institutions, police and other. Discrimination in the hiring process and at work, which is at the same time the area of social relations to which the greatest number of complaints, submitted to the Commissioner for Protection of Equality, pertains, was noted in 12 complaints. These complaints stated national affiliation and ethnic origin as the grounds for discrimination in the hiring process and at work, and on the basis of one of these complaints the Commissioner started an anti-discrimination litigation.

The National Council of Bosnian national minority filed 22 complaints for discrimination of Bosnian people in the educational system. The complaints were filed against several primary and secondary schools, as well as preschool institutions, as well as against the Ministry of Education, Science and Technological Development, and in them it was stated that the collective minority rights, particularly the right to education in Bosnian language, was not recognised.

Also, 19 complaints were filed for discrimination in provision of public services and use of buildings and facilities, 12 for discrimination in education and professional training, and seven complaints referred to public information and media. Only five complaints for discrimination on the grounds of national affiliation and ethnic origin was filed for violation of the rights in the field of social protection, and four in the field of health protection.

The greatest number of complaints on these grounds of discrimination was filed by natural persons (71), and an increased number of organisations (44). The complaints filed by the natural persons make 56% of the complaints filed on this

ground, of which 44 (62%) were filed by men and 27 (38%) by women which relates to the ratio of the overall instances that men and women approached the Commissioner in the course of this year 60,9 % of men and 39,1% of women.

In the course of 2014, five criminal complaints were filed for incitation of national, racial and religious hatred and intolerance towards Roma national minority, two strategic litigations were conducted – one in the area of work relations and the other in the area of housing. Mediation was offered in one complaint.

Out of 124 complaints for discrimination on the grounds of national affiliation 95 state precisely which national minority the complainant belongs to. The most complaints, 40% were filed for discrimination against Roma people, as was the case in previous years. A rise in the number of complaints for discrimination of the members of Bosnian national minority occurred, from 10 complaints in 2013 to 26 in 2014, due to the activity of National Council of Bosnian national minority. 11 complaints for discrimination of Bulgarian national minority were filed, five for discrimination towards Vlach national minority and 4 for Romanian national minority.

The biggest number of complaints for discrimination on the grounds of national affiliation and ethnic origin, similarly to previous years, was filed for discrimination on the grounds of belonging to Roma national minority, thus it could be concluded that Roma community is in a very disadvantageous position. Both strategic litigations conducted by the Commissioner for Protection of Equality in the course of 2014 pertains to discrimination of Roma people, as well as five criminal complaints because of the existence of doubt that the criminal act of incitation of national, racial and religious hatred and intolerance towards Roma national minority.

#### ***4.1.1. Opinions and recommendations***

##### *A pizzeria discriminated against a Roma person in the process of application for the job*

Organisations for the protection of human rights filed a complaint against a catering facility, which is situated in the South of Serbia. One of these organisations carried out a situational testing of discrimination in the process of employment. Based on the report on that testing, it was determined that a test subject of Roma nationality came to the premises of this facility of a catering industry concerning a job advertisement and that she talked to an employee working in that facility. During their talk, the employee asked for information on her working experience, and when the test subject said that she had worked in several pizzerias in that town the employee commented that she “must have worked as a help worker”. An hour later, the controller of the testing came to that facility, and she was not of Roma nationality

and talked to the same employee. During their talk, the employee asked for her working experience and work on similar positions, and took contact information after that. Three days later, the controller of the testing was noted that she could come to work if she was still interested, while no one contacted the test subject. The owner of this facility did not comment on the complaint's allegations. Applying the rules on the burden of proof in discrimination cases, the opinion was given that the owner of the facility prevented the test subject from getting the job on the grounds of her national affiliation, which signified an act of indirect discrimination. Apart from the opinion, a recommendation was given to the owner of the facility to abide by the imperative legal regulations on prohibition of discrimination, to publish the opinion and recommendation of the Commissioner for Protection of Equality on the notice board or another visible place in the facility and to, in the future, within his work, take all the necessary precautions to prevent, in the process of employment of a candidate, violation of the notion of the equal possibilities for employments on the grounds of any personal characteristic. This recommendation has not been implemented.

*Power utility company discriminated against the inhabitants of a Roma neighbourhood by issuing joint electricity bills*

Citizens of a Roma neighbourhood filed 16 complaints against a power utility company. In these complaints it was stated that the workers of this company, without previous warning, stopped the transport of electrical energy to that Roma neighbourhood, and, that some time previous to that, it set only two numbers of distribution of electrical energy for the whole of neighbourhood. Now, the whole neighbourhood receives two bills for electricity, which put the people living there in an unfavourable position in comparison to other users. In the announcements of a company for distribution of electrical energy, it was stated that the distribution of electrical energy in this neighbourhood was stopped because of unpaid debts for the energy used and that 18 machines that calculate the amount of energy spent had to be taken from these households due to problems with reading and illegal use of electrical energy. In the proceedings it was established that the company, for a greater number of households in this neighbourhood, set two numbers that calculate the amount of spent electrical energy jointly. The consequence of such actions is that the users from many Roma households, unlike other users, do not have their own (individual) bills for electricity, but they are forced to pay to joint bill, at a higher rate, having in mind the formation of the price in relation to the used energy, and that the users from these households do not have an insight into how much electrical energy they used. The Commissioner for Protection of Equality was of the opinion that the power utility company for distribution of electrical energy violated the rules of the Law on prohibition of discrimination, by setting the joint metres for a greater number of households in that Roma neighbourhood. Therefore,

a recommendation was given to the company – to take all measures necessary in order to distribute electrical energy to all the households in this neighbourhood under the same conditions.

This recommendation was not implemented in the time span set by the law, so a warning was given.

### *Offence on the grounds of national affiliation*

In the complaint, it was stated that a neighbour “in every way and at every opportunity” offended the complainant and her husband by calling them “Gypsies”, and the statement of the complainant’s mother was given as evidence. The neighbour gave a statement saying that she is the sister of the complainant’s mother and that their family relationships were askew due to asset division issues. Having in mind that there were indications that this situation would be solved in a peaceful manner, mediation was proposed. Neither side agreed with it, so the proceeding before the Commissioner was continued. During that proceeding, it was established that the mother of the complainant, serving as a witness, had no firsthand knowledge on the events described in the complaint – that the neighbour offended and depreciated the complainant, her husband and child on the grounds of national affiliation. Having in mind that during the proceeding it was not established that the neighbour said the alleged words, the act of discrimination was not deemed probable and, therefore, the Commissioner issued the opinion that the neighbour did not discriminate against the complainant and her family on the grounds of national affiliation of her family member – her husband.

### *Peer violence towards a student of Roma national affiliation*

An organisation for protection of human rights filed complaint in the name of an underage boy of Roma nationality against a director of a primary school. It was stated that the school did not take the necessary measures, after offences on the grounds of nationality and bodily harm inflicted on the boy by a classmate occurred. Regarding these allegations, in the statement given by the school it was stated that all necessary measures were taken in this case of peer violence between the pupils, and that the conflict between the pupils did not occur because of the national affiliation of one of them. During the proceedings, it was established that the conflict between the two boys did occur and that serious bodily harm was caused to the Roma boy. However, from the gathered evidence it could not be established that the conflict between the pupils happened because of Roma nationality of one of the boys. Namely, both students and their parents claimed that the two boys were friends from the first grade, and that their families were in friendly relationships. Having this in mind, as well as the fact that the school took

certain measures in the case of peer violence between pupils, the Commissioner for Protection of Equality is of the opinion that in this particular case the rules of the Law on Prohibition of Discrimination were not broken. Because of that, she believed that the primary school and the principal did not discriminate against this boy on the basis of his nationality.

*The actions of police administration concerning a report that a child begging in a street*

The complaint against a police administration was filed by a citizen, who stated that she reported to the police that she had seen a child lying and begging in a street, without supervision of an adult. In the complaint was stated that the officer of the Police administration who answered the call asked: "Is the child a Gyps... of Roma nationality?" with an explanation that such information was needed so she could know which unit to transfer it to. After that, she patched the caller through to another officer who said that he would send a patrol car. The complainant believes that in this case, discrimination on the grounds of national affiliation is present considering that it was obvious to her, from the call, that different offices deal with people of different nationalities. The police administration gave a report on the undertaken checks and established facts as well as evidence that do not aid the allegation that the officer asked for the child's nationality so that she could transfer the complainant's call to a different, special office, but that she asked about the municipality where the child was. In the course of the proceeding and based on the given facts and evidence, it was not established that the police administration asked for information on the child's nationality so as to direct the complainant to a special office that deals with children of Roma nationality. Therefore, the Commissioner for Protection of Equality issued the opinion stating that it was established that the police administration did not discriminate on the grounds of one's belonging to Roma national minority.

*Primary school failed to question the pupils on whether they want to have their lectures in Romanian*

Parents' association filed a complaint against a primary school for discrimination against the pupils on the grounds of national affiliation. In the complaint it was said that his association talked to the school, with a demand to introduce the subject Romanian language with elements of national culture but the school refused the demand. In the course of the proceeding it was established that the school failed to give the students a questionnaire regarding whether they were interested in studying Romanian with the elements of national culture. According to the allegations in the complaint and the evidence that were given with the complaint, 25 pupils were interested in studying Romanian language with the elements of

national culture. The school, however, reported to the parents' association that it would not give the questionnaire because, from the gathered signatures of the parents, it established that only seven pupils going to the first grade wanted to listen to this elective subject. The Commissioner for Protection of Equality gave the opinion that the primary school failed to give the questionnaire to the pupils, that is, to check whether the pupils were interested in choosing the elective Romanian language with the elements of national culture in 2013/14 school year. Due to that fact, it was recommended that the school, for the school year of 2014/15 give the questionnaire to the pupils in order to determine if there was a sufficient number of interested pupils for studying the elective course – Romanian language with the elements of national culture, to organise classes in that subject if the questionnaire shows that there is the necessary number of interested pupils, and to, in the future, within its authorisation, it does not violate anti-discrimination regulations. The school did not implement the recommendation even after the warning and the public was informed of that.

*Survey on the inclusion of the subject Romanian language with the elements of national culture*

Parents' association filed complaints against the Ministry of Education, Science and Technological Development and one school administration, stating that the students of primary and secondary schools from the territories of two counties were not enabled to take classes in the subject Romanian language with the elements of national culture. In the complaints it was stated that in the majority of schools from those counties the questionnaire regarding the inclusion of the subject Romanian language with the elements of national culture was not carried out, and that in those schools where the questionnaire was give the classes of this subject were not realised. In the course of the proceeding it was established that the regulations that establish education in the language of national minorities and the formation of groups for studying electives defined that schools were bound to offer the electives to the pupils at the beginning of the school year, to offer subjects from the list of electives proscribed by the syllabus, that they had the option to ask for the Ministers approval, through school administration, in case an insufficient number of pupils applied for the elective. The Commissioner for Protection of Equality believes that the Ministry of Education, Science and Technological Development and the school administration took all the measures and actions in their authority and did not discriminate against the pupils of Romanian nationality regarding the fulfilment of their right to attend the classes of the elective Romanian language with elements of national culture.



*The elective classes of Romanian language with elements of national culture – discontinued*

Parents' association filed a complaint against a primary school and stated that the parents of the school's pupils gathered signatures for inclusion of the elective Romanian language with elements of national culture, and that the children showed a desire to learn Romanian language, but the school did not enable them to do so. In the course of the proceeding it was established that the primary school gave a questionnaire to the pupils to establish whether they were interested in studying the elective Romanian language with elements of national culture. The results of the questionnaire showed that no class had enough students who were interested in studying this elective. Therefore, the Commissioner for Protection of Equality gave the opinion that by not organising classes in the elective subject Romanian language with elements of national culture in the school year of 2013/14 the primary school did not violate the regulations of the Law on Prohibition of Discrimination.

*Five schools and one preschool institution did not give a questionnaire to the Bosnian pupils regarding their wish have the lectures in Bosnian language*

Complaints were filed against five primary schools and one preschool institution. In these complaints it was stated that the pupils of the primary schools and the children going to the preschool institutions were not enabled to voice their wish on classes, that is the pre school curriculum, to be carried out in Bosnian language and therefore all of them listened to classes in Serbian language. In the statements given by the schools and preschool institution it was stated, among the rest, that the questionnaire forms the national council sent to the school were not agreed upon by the Ministry and the schools and that no parent or student filed a demand for classes to be organised in Bosnian language, that the students were given questionnaires on electives regularly and that, in those cases, one or two students declared that they wanted to have classes in the subject Native language with elements of national culture. In the course of the proceedings it was established that the schools and preschool institution did not give questionnaires to the pupils, that is, the pupils' parents, on whether they wanted to listen to classes in Bosnian language. The Commissioner for Protection of Equality gave the opinion that the schools and preschool institution, by failing to organise a questionnaire, discriminated against the children of Bosnian national minority. The preschool institution and school were advised to conduct a survey for school year of 2014/15 in order to determine if there was a sufficient number of pupils who wanted to have classes in Bosnian, as well as to take all the necessary measures to organise classes in Bosnian language, if the results of the survey show that there is a sufficient number of pupils interested in that notion. Four schools acted according to the recommendations of the Commissioner while one primary school and one preschool institution did not.



*The schools did not organise classes in Bosnian language even though a sufficient number of pupils opted for that*

The National Council filed complaints against a secondary grammar school and two primary schools for discrimination of the pupils of Bosnian nationality. It was stated that 141 pupils in the grammar school opted for classes in Bosnian language but that the organised classes were in Serbian for all pupils. The grammar school did not issue a statement on the allegations of the complaint, despite having received the demand for statement. In the complaints against the primary schools it was stated that in one primary school 35 first grade pupils and 36 fifth grade pupils opted for classes in Bosnian and in another primary school 17 first grade pupils and 12 fifth grade pupils. In their statements, the schools stated that they received a spoken statement from the school administration to wait for the Minister's direction on this issue, and, not having received any direction from the Minister, they did not organise classes in Bosnian. The schools did not offer evidence from which it could be concluded that they had, indeed, contacted the school administration and the Ministry of Education, Science and Technological development and asked for directions on how their actions regarding classes in Bosnian, as well as the evidence that would prove they had taken any measure towards the organisation of classes in Bosnian. The Commissioner for Protection of Equality gave the opinions that the reasons the schools submitted with the aim of justifying of not organising classes in Bosnian language were not objective and legitimate and the schools were given recommendations to give a survey questionnaire for the school year of 2014/15 in order to determine if there was a sufficient number of pupils who wanted to have classes in Bosnian, as well as to take all the necessary measures to organise classes in Bosnian language, if the results of the survey show that there was a sufficient number of pupils interested in that notion. The grammar school did not implement the recommendation and the primary schools did.

*Complaints against the schools where there was an insufficient number of pupils of Bosnian nationality who opted for classes in Bosnian*

The National Council filed complaints against five schools because they did not carry out classes in Bosnian language even though a significant number of pupils opted for that. In the course of the proceedings it was established that an insufficient number of pupils applied for this option (one, three, five and in two schools eight pupils) in these schools. Furthermore, it was established that the decisions of the schools not to organise classes in Bosnian for this number of pupils were not discriminatory and, regarding the regulations that state that the classes in the language of national minority should be carried out for 15 pupils, that is, with the consent of the Minister authorised for the area of education, for a smaller number of pupils than prescribed. Due to that fact the Commissioner for Protection of Equality gave the opinion that the schools did not violate the

regulations of the Law on Prohibition of Discrimination by failing to organise classes in Bosnian language.

### *Lack of conditions for classes in Bosnian*

Complaints were filed against one grammar school and five professional schools in which the pupils of Bosnian nationality opted for classes in Bosnian and the classes were carried out in Serbian language for all pupils. In the statement of the grammar school's principle it was stated that 81 pupil declared that they wanted classes in Bosnian language but that the Ministry of Education, science and technological development did not approve the changes in the plan of enrolment, that is, did not approve there being five first grade classes instead of four. In the statements of the professional schools it was stated that the Ministry of Education, Science and Technological development did not export the Rulebooks for classes in Bosnian language for secondary professional schools. In the course of the proceedings, it was established that the grammar school and professional schools did not discriminate against the pupils of Bosnian nationality, regarding the fact that there were no conditions for classes in Bosnian since the Ministry of Education, Science and Technological Development did not adopt adequate curriculums and syllabuses for secondary professional education, that is did not agree with changing the conditions of enrolment. Therefore, the Commissioner issued the opinion that the schools did not violate the regulations of the Law on Prohibition of Discrimination by not organising classes in Bosnian.

### *The Ministry of Education, Science and Technological Development did not take the necessary measures to allow the classes in primary and secondary classes to be organised in Bosnian*

A complaint was filed against the Ministry of Education, Science and Technological development of the Republic of Serbia, which stated that the pupils of Bosnian nationality were discriminated on the grounds of national affiliation because the Ministry did not adopt all the necessary by-laws pertaining to education in Bosnian language, did not monitor the work of educational institutions regarding the implementation of classes in Bosnian, did not provide the forms for school administration for primary and secondary school in Bosnian, and in a number of educational institutions in Novi Pazar, Tutin, Sjenica, Prijepolje, the pupils of Bosnian nationality could not listen to the classes in Bosnian. The Ministry of Education, Science and Technological development did not issue a statement to the allegations of the complaint, even though it received the demand for a statement. In the course of the proceeding it was established that the ministry did not design the curriculums and syllabuses for classes in Bosnian, as well as that the Advertisement for pupil enrolment in the first grade of secondary schools in the Republic of Serbia

for school year of 2014/15, no school or special classes were organised in the places where the pupils of Bosnian national minority opted for classes in Bosnian. The Commissioner for Protection of Equality gave the opinion that the Ministry of Education, Science and Technological development violated the regulations of the Law on Prohibition of Discrimination by not taking measures within its own authority pertaining to the right of pupils of Bosnian nationality to receive education in their native tongue. The recommendation was issued to the Ministry to create a curriculum and syllabus for secondary professional schools for classes in Bosnian, to amend the Advertisement for pupil enrolment in the first grade of secondary schools in the Republic of Serbia for the school year of 2014/15 and to determine the schools and the number of classes for lectures in Bosnian in all schools where a sufficient number of students wishes to listen to lectures in Bosnian, to take all the necessary measures within its authority in order to organise classes in Bosnian in those schools where the results of the survey show that there is a significant number of pupils who opted for classes in Bosnian as well as, not to, in the future, within the framework of their authorised actions, violate anti-discrimination regulation. This recommendation was implemented.

#### *Unequal treatment of an employee in a communal company*

The complainant believes that the director and other employees treat him in an inappropriate manner. In the complaint he stated that the director called him a beggar, sick person, liar and that he did not value his work, as well as that other employees called him “Turk”. The complainant considers that such behaviour at the hand of the director and employees was exhibited on the grounds of his national affiliation and financial conditions. In the course of the proceeding, from witness statements offered in the complaint, it was not established that the director’s actions and those of other employees towards the complainant were motivated by his national affiliation or financial conditions. Furthermore, in the course of the proceeding it was not established that the employees in the complainant’s company called him a “Turk” and discriminated against him in that way. Based on all the information gathered, the Commissioner for Protection of Equality gave the opinion that it was not established that the company and the director acted discriminatorily towards the complainant.

#### *4.1.2. Anti-discrimination litigations*

##### *Lawsuit for discrimination on the grounds of national affiliation*

A lawsuit was filed against the president of the municipality Sirča, because his statements from July 17<sup>th</sup> 2014 “*Sirča is going through an extremely hard period.*”

*No earthquake or flood degraded Sirča as much as immigration of Roma people from Kosovo did. We are not racists but we cannot live with them because it ruins our peace. The inhabitants of Sirča used to run to the hills in the times of Turkish invasion, to Trgovište, and it seems that we will have to do the same now. We cannot mix with them.* “that many media in Serbia reported on, represent a heavy form of direct discrimination of the members of Roma national minority. The procedure is underway.

#### *Lawsuit for discrimination on the grounds of national affiliation*

A lawsuit was filed against an employer for discrimination against the members of Roma national minority. Namely, this employer for the position of raspberry harvester wrote in a document titled “Remarks” that “People of Roma nationality are not employed “because of quarrels with the employees of other nationality and possible consequences that can occur during the joint stay with the employer!!!” The Commissioner for Protection of Equality demanded, aside from the lawsuit, that the court set a temporary measure so as to remove the document “Remarks” from the public eye. The court ordered an interim measure, which is valid until the legal end of the proceeding.

#### **4.1.3. Criminal lawsuits**

##### *Lawsuit because of the text “(White)washing of the history of Gypsies”*

A lawsuit was filed against the author of the text “(White)washing of the history of Gypsies”, published on the internet portal Vaseljenska TV [www.vaseljenska.com](http://www.vaseljenska.com) and an unknown agent, the owner of the internet portal Vaseljenska TV. The lawsuit was filed because of the reasonable doubt that the publication of this text caused a criminal offence of provoking national, racial and religious hatred and intolerance from the Article 317 par 1 of the Criminal Code of the Republic of Serbia. On this internet portal on January 9<sup>th</sup> 2014 the text under the name “(White)washing of the history of Gypsies” the author aired a set of ideas and views which provoke and fuel racial hatred and intolerance towards Roma people, as a national minority living in Serbia and thus performed a heavy form of discrimination against Roma people on the ground of national affiliation. The owner of this internet portal supported, by publishing the text of such content, the discriminatory ideas and views of the author and thus has responsibility for causing and fuelling of racial hatred and intolerance towards Roma people. In this text, the author deals in a detailed manner with the history and life of Roma people, which he refers to throughout the text as “Gypsies” and he defends such an attitude by statements that the term “Gypsies” contains all that which the members of the Roma national minority caused themselves through their actions or lack thereof in perception of

the peoples they encountered. The author writes of “the typical issues related to the presence of Gypsies” which he groups into several parts: crime rate, resistance to inclusion; birth rate; failure to conduct social obligations, and at the end of the text he gives his views on the solution to the problem “Gypsy population”.

### *Lawsuits for the text “Srbija – ciganija (Serbia – Gypsyland)”*

A lawsuit was filed against the author of the text “Srbija – Ciganija” (Serbia – Gypsy land) published on the internet portal [www.intermagazin.rs](http://www.intermagazin.rs) and an unknown agent, the owner of that internet portal. The lawsuit was filed because of the existent of a reasonable doubt that a crime offence of causing national, racial and religious hatred and intolerance from the Article 317 par 1 of the Criminal Code of the Republic of Serbia was carried out. Namely, the text was published on this internet portal on November 29<sup>th</sup> 2013. In this text the author aired a set of ideas and views which directly provoke and fuel racial hatred and intolerance towards Roma people, as a national minority living in Serbia and thus performed a heavy form of discrimination against Roma people on the grounds of national affiliation. The owner of this internet portal supported, by publishing the text of such content, the discriminatory ideas and views of the author and thus has responsibility for causing and fuelling of racial hatred and intolerance towards Roma people. In this text, the author states that after 2000 “more than one and a half million Gypsies” immigrated into Serbia, from all over the world and that this number is more than worrying and that the Serbian people must wait for decades for “their state” to help them, while the problems of Roma people are solved expediently. The author refers to Roma people as Gypsies constantly and the whole Roma population describes as “an asocial and very dangerous people” who “pollute our environment, expose us to danger, who take from this land for it enabled them to do so, holding them as an extinct species”.

### *Three lawsuits for drawing graffiti and distributing flyers “Serbs, organise!” in Belgrade, Novi Sad and Kruševac*

The Commissioner for Protection of Equality filed lawsuit to the Higher Public Prosecutor in Belgrade, Novi Sad and Kruševac against unknown agents on the basis of reasonable doubt that they committed a criminal offense of provoking national, racial and religious hatred and intolerance from the Article 317 par 1 of the Criminal Code of the Republic of Serbia. The unknown agents wrote graffiti and distributed flyers in Belgrade, Novi Sad and Kruševac, named “Serbs, organise!” in which they aired a set of ideas and views which directly provoke and fuel racial hatred and intolerance towards Roma people, as a national minority living in Serbia and thus performed a heavy form of discrimination against Roma people on the grounds of national affiliation. In the signature on the flyer “Serbian action”

(<http://www.srb-akcija.org/o-nama/>) was mentioned of which there are no data in the Agency for Business Registers.

#### *Lawsuit against the president of the municipality of Sirča*

A lawsuit was filed to the Higher Public Prosecutor in Belgrade, Novi Sad and Kruševac against unknown agents on the basis of reasonable doubt that the president of the municipality of Sirča committed a criminal offense of provoking national, racial and religious hatred and intolerance from the Article 317 par 1 of the Criminal Code of the Republic of Serbia. The inhabitants of village Sirča near Kraljevo organised a protest against the arrival of a Roma family into their village. On this protest from 17<sup>th</sup> July 2014 the media informed the public. It was stated that over 50 citizens blocked the path to the household that this family had bought previously. The president aired on that occasion a set of ideas and views which directly provoke and fuel racial hatred towards Roma people.

#### *4.1.4. Recommendations on measures for achieving equality*

##### *Recommendation to the City Secretariat for Utilities and Housing Services for the removal of the discriminatory graffiti in the Student Park*

A recommendation was sent to the City Secretariat for Utilities and Housing services because of the discriminatory graffiti against Roma national minority that was written on a wall in the Student park in Belgrade, The Commissioner pointed out that such graffiti and messages of similar content represent discrimination of the Roma national minority which is one of the most marginalised and stigmatised social groups that is face with numerous threats, disturbances and other issues on a daily basis. Because of that, all social agents must offer support and undertake measures, each within their own authorisations, so as to establish equal enjoyment of the guaranteed rights, without discrimination, to everybody. The Commissioner recommended to the City Secretariat for Utilities and Housing Services to undertake all necessary measures, within their authorisations, in order to remove the offensive graffiti from the wall in Student Park and prevent further disturbances of the members of Roma national minority. This recommendation was implemented.

#### *4.1.5. Warnings and announcements*

##### *Warning regarding the list of SNP Ours and the call to lynching of "Women in Black"*

The Commissioner for Protection of Equality condemned the publication of the list of names that the organisation "SNP Ours" marked as Serbian-haters

and called to lynching of “Women in Black”, on the Facebook page of a person represented as a speaker for the Antiterrorism unit of Ministry of Internal Affairs of the Republic of Serbia. The Commissioner asked for an urgent action of the competent authorities and assessed that it was scandalous that such lists still appear in Serbia. It was pointed out that the state was obligated to protect the freedom and human rights of every individual and prevent the violation of the very foundation of the constitutional order.

#### *Warning on the occasion of the protests against the arrival of Roma people*

The Commissioner condemned the protest of the residents of village Sirča near Kraljevo that did not allow a Roma family to move into their neighbourhood. According to the information published in the media, the president of the municipality aired the following views: “we cannot mix with them” and “we just cannot live with them, because it ruins our peace”, which apart from being degrading and offensive to human dignity, they represent a heavy form of racial discrimination. The Commissioner for Protection of Equality warned that the so-called preventative protests organised on the occasion of the arrival of a Roma family, are reminiscent of the earlier cases when intolerance and hatred towards the Roma population were transformed into violence and calls for lynch and had serious consequences.

#### *Warning on the vandals’ attack in Vojvodina*

After the match Serbia – Albania, held in Belgrade, there were attacks by the vandals on the facilities whose owners are Albanian people in several places in Vojvodina: Vršac, Novi Sad, Sombor and Stara Pazova. The Commissioner for Protection of Equality expressed great concern regarding those events and implored the authorities to, without hesitation, undertake all necessary measures so as to prevent new ethnically motivated attack. In the warning it was stated that for the perpetrators did not have facilities as the target but Albanian people, our neighbours and citizens, as well as all citizens of multiethnic Vojvodina. The Commissioner warned that in the conditions of raised tension in the society and the lack of adequate reaction by the state, the victims are innocent people.

#### *Announcement regarding the statement that the so-called “Language patrols” will be formed*

The Commissioner for Protection of Equality, regarding the statement that language patrols will be formed in Vojvodina, warned that such an idea is disconcerting especially because it was publicly said, as if it were something allowed and legitimate. In the statement, the Commissioner said that everyone in Serbia must know that the Constitution and laws regulate the right to official use of languages of national minorities and no one must question that right. The Commissioner emphasised



that no one has the right to announce, let alone organise patrols or any other kind of similar activities, for they are a method of intimidation of people, which can cause unimaginable consequences, especially because they remind us of long gone and dangerous times.

*Announcement regarding the lawsuit filed for the flyers against the Roma people*

The Commissioner for Protection of Equality filed lawsuits against those who created and distributed to people throughout Serbia, that is put them in their post, flyers signed by the organisation “Serbian action”. The flyers contained openly hateful speech against Roma national minority and a call to violence and lynching. The views presented in the flyers stated that “spreading of wild Gypsy neighbourhoods” which present “inhumane environments” should be stopped and that the Roma people’s arrival entails “unbearable stench, quarrels, fights, rise of criminal actions”, represent not only a violation of human dignity but a heavy form of racism as well. On this occasion, an urgent and decisive action by the competent authorities is needed, with expectations that a clear and non-ambiguous message would be sent that racism will not be tolerated in Serbia.

*Announcement regarding the International remembrance day of holocaust victims*

On this occasion, the Commissioner for Protection of Equality warned that racial, national and religious hatred are still present in our society. The only way to change that is through changing people’s views. The Commissioner reminded of every individual’s obligation, as well as of every institution and body, to, through their own action, help uproot racism and anti-Semitism. The memory of the tragedy that hurt Jewish people the most, but a large number of Roma, polish, Serbian people, and other as well, that such events must never be repeated.

*Announcement regarding the International day of fight against racism*

On the occasion of the International day of fight against racism, the Commissioner for Protection of Equality warned that racism in Serbia was not destroyed yet and that fact was often ignored and negated. The fact that the citizens of Serbia as well as representatives of public authorities still have a great distance towards Roma people even though they are aware of the fact that they are the most discriminated social group. The Commissioner called the citizens of Serbia to react in all cases of racial discrimination and not to ignore this big social problem.



### *Announcement regarding the World day of Roma people*

Roma children in remote classes, peer violence against Roma children, cancellation of the classes of Roma language, emphasis on the national affiliation of perpetrators if they are of Roma origin – these are merely some of the examples of media report on Roma people from previous year. On the occasion of the World day of Roma people, the Commissioner for Protection of Equality showed that the picture presented by the media is the one that is later formed in the mind of citizens and that, due to this fact, it is necessary to acquaint the public with positive examples of Roma people which definitely exist. Around 80% of the Roma people say that they did not feel positive effects of the measures and activities for promotion of the position of Roma people so far and that they still feel discriminated in all areas. Because of that, the Commissioner stated that the World day of Roma people should remind us that as a society we are responsible to enable every Roma child to live in a society where he/she will be able to realise her/his talents, knowledge and skills.

#### ***4.1.6. From the media***

The protests regarding the inhabitation of Roma people into a place called Sirča, near Kraljevo, as well as the condemnation of the protest and the request by the Commissioner for Protection of Equality submitted to the competent authorities to send a strong message to the public that racism will not be tolerated in Serbia, were the topics covered by all media. Having in mind that the protests lasted for a couple of days, some, primarily local media, used these events to actualise the matter of the position of Roma people in their environments.

One of the main topics in the media for days were the flyers that called for lynching of Roma population and the lawsuit that the Commissioner for Protection of Equality filed against those who created and distributed the flyers signed by “Serbian Action”. The press researched in the following days which ultra right wing and neo Nazi groups existed in Serbia and what is the path to their legal prohibition, and relatively soon after that the persons suspected of creating and distributing these flyers were arrested.

All the media broadcast the ruling of the Misdemeanour Court in Novi Sad according to which the company “McDonald’s” was punished for discriminating Roma children, in the process initiated by the Commissioner for Protection of Equality.

Furthermore, all the media reports the news that the Commissioner for Protection of Equality started to litigations on the basis of the results of the situational testing

showing that a bank and a rental agency would not serve the customers of Roma nationality. The bank refused to open an account to a Roma person and the agency refused to give information to a Roma youth on the available apartments for renting. The situational testing, that is the method of willing discrimination examination, was attractive enough to some journalists because it was unfamiliar to the wider public and they procured such topics with no reason, quoting the Commissioner and the representatives of the civilian sector that carried out the testing.

Before 8<sup>th</sup> April, the international day of Roma people, the media broadcast the news that a Roma person employed at the City Cleaners in Niš could not get into the office of a bank because she was not dressed properly, but was in work overalls. The Commissioner for Protection of Equality was asked for a commentary and she explained that such behaviour at the hand of the bank clerks is illegal and offensive to human dignity, and called the employee of the utility company to contact the Commissioner for Protection of Equality. On the occasion of the Roma day in the daily newspaper “Danas” a text written by the Commissioner for Protection of Equality was printed on the difficult position of that population in Serbia and discrimination they are exposed to almost on a daily basis in all areas.

The media's attention was attracted by the case of the creation of the so-called “language patrols”. Namely, the National council of Hungarian national minority stated that they would form groups of two younger people whose job would be to visit local self-government where Hungarian language is in use in order to monitor whether the regulations were respected in their completeness. After that, the Regional Chief of the DSS announced that that political party would form their own language patrols to establish how many Hungarian people in Vojvodina did not speak Serbian. The Commissioner for Protection of Equality reacted to this, warning that such an idea was a way of intimidating people. This topic was covered by a number of media and several published articles in which they made connections to the events from the beginning of the 90s.

In the course of 2014, the Commissioner for Protection of Equality and the employees in her service, visited cities and municipalities in Serbia, especially the Sandžak region, having in mind that the first regional office of the Commissioner was opened in Novi Pazar in March. All the national and local media, both electronic and printed ones, reported at length on that. Simultaneously, as a part of the project with UN Women, visit to the municipalities of South and Southwest Serbia were organised, to acquaint the citizens with the work of the institution and the most common cases of gender based discrimination. Therefore, the media reports on the Commissioner for Protection of Equality in the local media from that region were intensive.

A number of media published a lengthy report from the roundtable meeting of the Commissioner for Protection of Equality and the House of Human Rights where, on the International day of Human Rights, the representatives of all national councils in Serbia gathered for the first time after the elections which aided the formation of national councils. Journalists recorded the press conference during which the results of the project of the Commissioner for Protection of Equality “Equal Chances for a Better Future – Empowering Roma People in Combating Discrimination” were presented. That, however, was not motivation for at least some of the media to take the next step. Namely, even though there were articles or TV reports which spoke of Roma people in an affirmative manner, primarily on Roma musicians and Roma mediators in the health system, they are still too far apart and too few. From the analysis of the published material it could be concluded that a Roma person is still most often mentioned when someone is attacked or beaten, in the articles dealing with poverty or the ghetto lives they are leading in the trash-can neighbourhoods. When reporting on the incidents where the attacker or perpetrator was a Roma person, as if by a rule, their national affiliation is emphasised. It leads to the conclusion that the media, especially the local ones, should pay more attention to the fact that their reports affect the public and that they, through the content they are reporting, contribute to the continuation of stereotypes and prejudice that are widely spread towards the Roma population.

## **4.2. Discrimination on the grounds of disability**

In 2014 health condition was stated as the basis of discrimination in 97 complaints (14.1%) submitted to the Commissioner for Protection of Equality, representing the second ground of discrimination regarding the number of complaints.

More than a half of these complaints were filed for discrimination in the field of public services and use of public objects and facilities. Around 23% of the complaints on the grounds of health condition pertained to the hiring process and work relations, followed by the complaints for discrimination before public authorities, in the field of health protection and education.

It should be noted that complaints for discrimination on the grounds of health condition have been in the second place regarding the number of complaints for two years, right behind the complaints for discrimination on the grounds of national affiliation and ethnic origin. In 2013, the most complaints on this ground were in the field of health protection. It was the result of the situational testing conducted throughout the year, and it was established that 63 dental practices in Belgrade refused to set appointments for the volunteer discrimination tester because of his

HIV status. 52 complaints against beauty salons that refused to provide service to the volunteer discrimination tester because of his health status (Hepatitis C). That it is the reason the complaints for discrimination in the field of public services makes up 52.6% of the overall number of filed complaints on the grounds of health condition.

Even though a number of complaints by people living with HIV/AIDS has not been large in 2014, the practice of the Commissioner for Protection of Equality and the researches conducted by the Commissioner in 2012 and 2014, show that the people living with HIV are one of the most marginalised and stigmatised social groups in Serbia. The social distance towards these people is great, and even among health workers there is a high level of stigmatising attitudes and beliefs, which results to isolation and discrimination of people living with HIV. Having in mind the issues they face in everyday lives, discrimination of people living with HIV/AIDS remains a matter of worry for the Commissioner for Protection of Equality.

#### *4.2.1. Opinions and recommendations*

##### *Health centre wrote on the patient's therapy list in red marker "HIV infectio!"*

CSO filed a complaint in the name of one patient, against the Health centre, for discrimination on the grounds of health condition. In the complaint it was stated that the patient went to Office for Physical Therapy and Rehabilitation of the Health Centre and that she was given the therapy list on which it was written in red marker „*HIV infectio!*” The Health centre did not contradict that they had marked the HIV status of the patient, but they stated that the information were available only to the patient and the authorised health workers. The Commissioner gave the opinion that, by writing the HIV status on the therapy list of the complainant, underlying on the form in red marker „*HIV infectio!*” the Health centre violated the regulations of prohibition of discrimination. Therefore, the Health Centre was advised to write the data on HIV status of the patients, depending on whether they are of importance to the treatment, in accordance with the regulations on conducting medical documentation, in the column in medical documentation intended for diagnoses, in letters of the same size and colour as other diagnoses and conditions of importance to the medicinal procedure, using the Latin term and code for the disease according to the International classification of the diseases, injuries and causes of death; to provide education on HIV/AIDS for the employees of this Health Centre and to, in future and within its authorisation, act in accordance with anti-discrimination regulations. This recommendation was implemented.

### *The Institute refused to hospitalise the patient with HIV/AIDS*

The complainant went to the Institute for psychiatric diseases, after a suicide attempt. Even though the need for the complainant's stay in hospital was established the Council of Doctors advised him to another health centre within the Clinical centre of Serbia because of the fact that the complainant has HIV/AIDS and is a patient at the Infective Clinic. In the statement given by the institute the council was led by the patient's interests with a primary somatic problem yet, in the course of the proceeding, it was established that these claims were not supported by evidence. The Commissioner for Protection of Equality was of the opinion that by denying health protection including hospitalisation of the complainant in the Institute after the suicide attempt, based only on the fact that the person lived with HIV/AIDS, the Institute violated the regulations on prohibition of discrimination. A recommendation was issued to the Institute to send a written apology, to ensure health services to the people living with HIV/AIDS under the same conditions as the people who are not, to ensure that the employees receive education on HIV/AIDS and to, in the future, while performing actions in the range of its authorisation, acts according to the anti-discrimination regulations. This recommendation was implemented.

### *Municipality administration insisted that the person filing a request with health conditions come in person to file the request*

In the complaint it was stated that the Municipality administration of Voždovac refused to rule according to the request, signed by the person filing it, for the inclusion in a special election list of a national minority sent by mail. The complainant stated that the administrative body insisted that he, in person, gives the request in the administration's offices, even after learning that the requester cannot move, due to a health condition. Having in mind that at the moment the request was filed there was only 10 days left to sign onto the list, the Municipality administration was sent a recommendation on measures to fulfil equality, which stated that the work of the offices should be reviewed in order to prevent discrimination in this case.

Consequently, the complainant sent announcement that his request, filed for the third time through an authorised person, was accepted. The municipality administration informed that the procedure had a positive epilogue. Believing that by a strict application of the regulations, in order to avoid prohibited actions that the complainant was treated equally as all other people who filed a request, after the review of the actions and acceptance of the request, a hope was expressed that it would be concluded that the municipality administration did not perform an act

of discrimination. The Commissioner for Protection of Equality was of the opinion that the municipality administration with a strict interpretation of the regulations, that is, their application, put the complainant into a disadvantageous position compared to the subject who was able to file a request by coming in person. The municipality administration was recommended to send a written apology to the complainant, to inform all the employees working and solving the administrative procedure of the recommendations on measures for achieving equality and the opinion with a recommendation, as well as not to, in the future and within its authority, violate anti-discrimination regulations. These recommendations were implemented.

#### *4.2.2. Recommendations on measures for achieving equality*

*Recommendation on measures to the preschool institutions to ensure that the children with a health condition, that is for religious or other non-health reasons have specific dietary demands, receive adequate food*

Upon the process of acting on the complaint of the parents whose children, due to their health conditions, could not use the food given in kindergarten, which was finalised by the Commissioner's opinion and recommendation, she learned that an adequate diet was not provided to the children with health conditions or specific dietary demands in other preschool institutions in Serbia, as well. Namely, the food in kindergartens is organised in such a way that it suits the needs of many children, having in mind that the majority of children has no special dietary demands, that is they can eat all the meals given to them in these institutions. However, a certain number of children cannot eat the food given in kindergartens, because of their health conditions or other reasons, which is necessary to acknowledge when planning the diet of children in kindergartens. Because of that, a recommendation was given to all preschool institutions for ensuring equality – 160 recommendations on measures to be taken. In the recommendation it was pointed out that the work of preschool institutions should be organised in such a manner that it respect individual needs of every child, including the specifics concerning diet, because, from the aspect of anti-discrimination regulations, it is unacceptable to give the same food both to the children with specific dietary need and those with the regular ones. Out of 160 preschool institutions that were given the recommendation for realisation of equality, more than half of them replied that the food was in accordance with the needs of all the children spending time in them.

*Recommendation to the Municipality administration office to remove discriminatory behaviour against the member of national minority and undertake measures for discrimination prevention*

The complainant filed a written request for enlistment into a special election list of a national minority, but was informed that she needs to visit the facilities of the municipality, before the special election list closes in order to be signed in the list. Upon receiving the information, the complainant explained that due to his health condition he would be unable to come to the facilities and file a request in person, and suggested several solutions in order to realise his right of enrolling in the special election list, but was once more informed that in order to achieve that his presence was necessary. Having in mind that there was the possibility of irrevocable consequences for the complainant, who wanted to exercise her elective rights, according to the legal authorisation, as well as regarding the rather short period of time until the election lists were closed, the Commissioner gave a recommendation on measures for achieving equality in which she emphasised that discrimination of a person or a group of people is prohibited on the ground of their health condition, that is, that everyone has the right to equal access to and equal protection of their rights before the public authorities and that discriminatory actions at the hands of a responsible subject in an office of public authorities is seen as harsh violation of professional duty. The recommendation on measures for achieving equality was given momentarily after the complaint's arrival, due to the fact that irrevocable harm could come to the complainant, and the Municipality office acted according to the recommendation and allowed the complainant to be signed in the elections list by accepting the documentation brought by an authorised person.

#### ***4.2.3. Opinions on the drafts laws and general acts***

*Opinion on the regulation of Article 70 sec 2 par 4. of the Draft Law on Foreign Affairs*

The Commissioner for Protection of Equality issued an opinion on the regulation Article 70 sec 2 par 4 of the Draft Law on Foreign Affairs, which prescribes the conditions for employments in the Ministry of Foreign Affairs by stating that employment can be formed with a person of "good health and mental conditions". The Commissioner established that his rule is not in accordance with the regulations on prohibition of discrimination and that, in practice, it could have negative consequences in relation to the possibility of employment and fulfilment of the working rights of certain subjects, having in mind their personal characteristics that are not in direct relation with the demands of the work position and the abilities for doing the job



for example people with chronic diseases, persons with disabilities, people living with HIV/AIDS and others, without establishing if their health condition, that is the disability of the subject, influences the abilities that certain work position entails. Furthermore, this unclear and insufficiently direct rule prevents the possibility of employment to all the people of less than perfect health condition, regardless of whether they could perform the particular assignments within the Ministry of Foreign Affairs. In her opinion it was emphasised that it is necessary to explain the notion of good health and mental condition as the condition for employment within the Ministry of Foreign Affairs in order to avoid any eventual discrimination.

*Opinion on the Draft Decision on Amendments to the Decision on Formation of a Budgetary Fund for Treatment of Illnesses, Conditions and Injuries that Cannot Be Treated Successfully in the Republic of Serbia*

The Ministry of Health asked for an opinion concerning the Draft Decision on Amendments to the Decision on Formation of a Budgetary Fund for Treatment of Illnesses, Conditions and Injuries which Cannot Be Successfully treated in Serbia, in relation to the treatment of ill children abroad. The Commissioner for Protection of Equality issued an opinion saying that giving priority to the children, in the process of allotment of the assets from the Budgetary funds for treating illnesses, conditions or injuries that cannot be treated successfully in the Republic of Serbia, represents a special measure intended for protection and promotion of children, which has a legitimate aim and which implementation is allowed in accordance with the Constitution and the Law on Prohibition of Discrimination. The regulations on the prohibition of discrimination do not rule out the possibility for the ill children to be, with regard to a health treatment abroad, privileged in relation to the adult subject, especially concerning those interventions that are necessary to be carried out in a timely manner. In the Commissioner's opinion it is stated that despite the fact that every human life is equally valuable, in the conditions of limited financial means allocated to health treatments abroad, children must be given priority, which stems from the Constitution of the Republic of Serbia, which states that children enjoy special protection, as well as from the Law on Health Protection, based on the notion of justice in providing health protection, which proscribes that every underage child has the right to the highest possible standard of health and health protection.

#### **4.2.4. Public Announcements**

*Announcement regarding the World AIDS Day*

On the occasion of December 1<sup>st</sup>, the World AIDS Day, the Commissioner for Protection of Equality pointed out that discrimination of people living with HIV/AIDS was still widely spread in Serbia and that, according to the latest research,



the citizens of Serbia have the greatest social distance from the people with HIV. People living with HIV/AIDS are susceptible to discrimination and stigmatisation in different areas – from their treatment in health centres, immediate environment and family, at work places in the process of employment. In the statement it was emphasised that it is necessary to work intensively on the education of citizens, as well as the employees of the health sector, since discrimination is caused by the lack of knowledge on this illness. The Commissioner reminded that during previous year a great number of complaints against the facilities providing dental services which refused to serve people living with HIV.

#### ***4.2.5. From the media***

This media was less present in the media than in previous years because there were no particular cases that were the motivation for the media to write about discrimination on the grounds of health condition. Certain non-governmental organisations concerned with the protection of citizens affected by a serious illness organised discussion and round table meetings in which representatives of the Commissioner for Protection of Equality participated. The reports from these events were broadcast by the written and electronic media.

### **4.3. Discrimination on the grounds of age**

The number of complaints for discrimination on the grounds of age in 2014 did not change significantly in compared to previous year. 78 complaints were filed for discrimination on the basis of age, which is 11.3% of the overall number of filed complaints, and in 2013 the percentage of age based discrimination was 10.3%, the age as the grounds for discrimination is in the third place regarding the number of filed complaints in 2014.

The greatest number of these complaints refers to discrimination of children (45, 10 complaints were filed for discrimination of people over 65 and the other complaints were filed for various limitations and conditions related to age. Of the overall number of the complaints based on age 52 complaints were filed by natural persons – 33 men and 19 women.

The most complaints were filed for discrimination on the grounds of age in the area of fulfilment of collective minority rights – 20, and in the process of employment or at work-17, in the area of education and professional education – 12, as well as in the area of public information and media – 11. All complaints filed for discrimination on the grounds of age in the sector of fulfilment of collective minority

rights are related to the rights of children to education in a native tongue. On the other hand, the complaints for discrimination based on the age of person younger than 65 usually pertain to the area of work and employment – proscribing certain age in the conditions for employment, assessing age in the process of proscribing criteria for specialisation and/or advancement at work. Finally, it should be pointed out that the number of complaint for discrimination on the basis of age of people older than 65 is still relatively small.

The Commissioner's practice shows that age, as the grounds for discrimination, is rarely present in complaints as the sole basis for discrimination, but usually in combination with another personal characteristic – national affiliation, gender, disability etc. Therefore, the opinions issued on the basis of complaints which have age as the sole grounds for discrimination, are presented at this part while the opinions and recommendations of the Commissioner pertaining to discrimination on the grounds of age and yet another personal characteristic presented in different parts of the Report. For example, the opinion on the cases of discrimination of children in the process of implementation of their right to education in their native tongue is presented in the part that is concerned with the complaints on the basis of national affiliation or ethnic origin.

#### ***4.3.1. Opinions and recommendations***

*People older than 30 cannot sign the contract for the post-paid tariff package offered by a mobile operator: "Only for under 30s: Mega, Giga and Ultra tariffs"*

Two people state in their complaints that one mobile operator refuses to allow people older than thirty to sign the contract for the post-paid tariff offered by a mobile operator "Only for under 30s: Mega, Giga and Ultra tariffs" thus discrimination against the people older than 30. In the statement given by this company it was stated that they recognised people younger than 30 as a group that needs special attention since, according to the statistical data, they make 30% of the unemployed in the Republic of Serbia, that they, most often, have no income, and that when they do it is under the average income level in the state. In the course of the procedure, it was established that this mobile communications company, opted for the group of under 30s to offer them a special contract, and that it was suited to the socio-economic position of the youth in Serbia, their need for communication and information exchange and the manner in which the young use mobile phones. The Commissioner for Protection of Equality believes that this differentiation has an objective and reasonable reason. Namely, the socio-economic position of the young in Serbia, their need for communication and information exchange and the

manner in which the young use mobile phones, as well as the need of this company to be rival on the market of telecommunications, resulted in the decision that the young be offered such a package. Considering the fact that this company offers another 18 types of package that are available to all citizens, it was concluded that in this particular case there the proscribed measure and the goal achieved by that measure is proportionate. Therefore, the opinion was given that the mobile operator, by offering tariff packages “Only for under 30s: Mega, Giga and Ultra tariffs”, aimed at the people under 30 years of age, did not discriminate against the people over 30.

*Assessing the artists’ activity in the past five years when renting artist studios, the city did not differentiate between younger and older artist*

Three artists filed complaint upon learning that the city authorities plan to bring forth, for the third time in 2014, the Decision on renting artist studios. They believe that the Draft decision contains a discriminatory rule against people older than thirty, because the “main criterion for renting the activity of the artist in the past five years” which puts the artists over 30 in a disadvantageous position compared to the younger artists. A member of City Council of the city, assigned to the field of culture, stated in the announcement that the Assembly of the city accepted the decision suggested by the City Council. She emphasised that the relevant cultural associations were asked to suggest priority lists of the artists for granting artist studios, based on the existing rules of the associations, but that the city government formed the criteria independently, since the associations had a negative and inappropriate attitude. She stressed that, in the process of criteria definition, they had in mind that the artist studios are spaces used for work as well, and that the assessment is limited to the past five years, and special care was given to balancing the possible number of pints regarding the artist’s activity, prizes and bought works. The president of the City Assembly repeated this information and said that the artists received a greater number of points on the basis of their work abroad, having in mind that it was more difficult to organise them. Analysing the criteria of the advertisement and determining the “comparer”, that is, the person that is in the same or similar situation as the complainants, and whose age differs from the complainants, in this particular case someone under thirty years of age, the Commissioner established that the artists older than 30 are not put into an unequal position. Therefore, she gave the opinion that the Decision on Renting Artist Spaces is not opposed to the regulations of the Law on Prohibition of Discrimination since there are no objective and legitimate reasons for the activity of the artists in the past five years not to be assessed, as well, as, having in mind other criteria of the decision, that by proscribing such conditions a difference is not made between the younger and older artists.

### 4.3.2. Recommendations on measures for achieving equality

#### *Recommendation to the Ministry of Health to eliminate discrimination on the grounds of age in the process of medical specialisation and closer medical specialisation*

In several complaints filed to the Commissioner for Protection of Equality it was stated that certain health institutions, when proscribing the criteria for specialisations, put the candidates in an unequal position based on their age. The Commissioner for Protection of Equality learned that similar regulations exist in rulebooks of the majority of health institutions, so, in order to find a systemic solution and prevent discrimination on the grounds of age, she sent a recommendation on measures to the Ministry of Health, given that it is within the authorisation of the Minister to agree with the decisions regarding the approval of specialisation, which are made by the directors of health institutions and the founders of private practices.

For example, an analysis of one of the rulebooks showed that the criterion “age” defined in the following way: the candidates who, in the year they apply for a specialisation, are less than 35 years of age get 5 points, those between 36–37 get 4 points, those of 38–39 years of age get 3 point, the applicants who are 40 get 2.5 points and those over 40 get 1 point. From the aspect of the Law on Prohibition of Discrimination, setting this criterion and the proscribed manner of assessment it is evident that the applicants are put in an unequal position on the grounds of age, in relation to how old they are. By setting such assessment process according to which a higher number of points is given to a younger applicant, without any valid reason, the older candidates are put in an unequal position, for they get a smaller number of points on the grounds of their age, regardless of their professional qualifications. The analysis showed that the criterion pertaining to the age and the manner of assessment has no objective or reasonable explanation, since proscribing this criterion is legitimate neither from the aspect of purpose nor from the aspect of consequence it has caused.

In the recommendation it was stated that for acquiring medical specialisation in medicine or dentistry, as well as other forms of professional education, the age of the candidate is not of the utmost importance, since the specialisation can be undertaken and finished in equally professional and adequate manner by people of any age, if other conditions pertaining to education and working experience are satisfied. Health institutions have complete freedom to, independently and in accordance with the existing regulation and based on the objective criteria, decide on who will be given specialisation, assessing their professional knowledge, competence and abilities. What the health institutions must not do is set conditions for specialisation based on personal characteristics of the candidates, and those which are not real or crucial conditions for work, considering the nature and characteristics

of the work and the conditions in which it is carried out. Therefore, the Ministry of Health was advised to take measures and ensure that health institutions, when setting the criteria for specialisation, do not set criteria pertaining to the age of the candidates. This recommendation was not implemented.

### **4.3.3. Announcements**

#### *Announcement regarding the International day of combating violence against the elderly*

All the member states of the United Nations celebrate 15<sup>th</sup> June – the International day of combating violence against the elderly. In the past years the number of cases of violence against the elderly was on the rise, and elderly women are especially at risk. The situation is similar in Serbia, as well. The researches show that the elderly are often exposed to different forms of violence done by their family members. The number of such occurrences is high because they are not reported, and not rarely, the victims are those that hide it out of shame, the need to protect the assailant, a feeling that they were the ones responsible for violence, fear of the assailant, lack of belief in the institutions of the system etc. Violence against the elderly must not be tolerated; it is an expression of gender discrimination and the lack of social responsibility for violence against those who have neither power nor ability to fight against it.

#### *Announcement on the occasion of International Day of the Elderly*

On the occasion of International Day of Older Persons, the Commissioner reminded that Serbia is one of the countries with the highest number of older citizens and that their position is very difficult. Senior citizens face poverty, neglect, violence and many forms of discrimination. Their many rights are limited, they are marginalised, their voice is not heard and their contribution not valued enough. The elderly have the right to dignified living conditions, devoid of discrimination, the right to equal access to health and all other public services, the right to protection from all manners of neglect, abuse and violence, regardless of whether it occurs within the family or in the institutions they are in. The Commissioner called the elderly citizens not to endure discrimination, to react and file complaints.

#### *Announcement regarding the frequent acts of violence done by children*

Regarding the frequent acts of peer violence and other forms of violence done by children, it was pointed out in this statement that this occurrence is indicative of inefficient and uncoordinated action of the institutions of the system on abolishment of the causes of aggressive and violent behaviour in children and youth, and especially

those that are left to their own devices and who, in the most vulnerable part of their lives, do not have adequate help and support. The commissioner emphasised that it was high time we, as a society, faced the responsibility we have for the behaviour of children and youth and focus on removing the causes of their violent behaviour, which has become more brutal and dangerous. It must not happen again that the chain of responsibility fails and a system must be built – the one that would not allow the children of 10 or 11 years of age, whose birth date is not known but it is, however, known that they have 300 criminal lawsuit for banditry and stealing to be on Belgrade streets, that is, the children that were, after the first criminal complaints, let out of the system and none of the authorities admits their responsibility.

#### ***4.3.4. From the media***

Having in mind that in the beginning of 2014, we saw the publication of the results of the research done by Red Cross on violence against the elderly, that topic was present throughout the year in most media. The Commissioner for Protection of Equality was often a guest on different TV stations and gave statements regarding this research.

Certain daily newspapers published, throughout the year and with no apparent cause, articles pertaining to discrimination of people older than 45 in the process of employment and the Commissioner for Protection of Equality was one of the conversants.

### **4.4. Discrimination on the grounds of disability**

In 2014 disability was stated as the grounds of discrimination in 70 complaints (10.1%) submitted to the Commissioner for Protection of Equality, representing the fourth ground of discrimination regarding the number of complaints.

By comparing the number of discrimination complaints on the ground of disability submitted in 2013 and 2014, it could be concluded that in 2014 an approximately equal number of complaints was submitted against discrimination on the ground of disability. Namely, last year, complaints on the basis of disability made up 9.9% of the total number of complaints.

Most of the complaints on the basis of disability were filed in the area of labour and employment – 32, provision of public services and use of public building and facilities with 13 complaints and 8 complaints were filed for discrimination in the area of education and professional training and proceeding before public authorities, each.

Having in mind that discrimination against persons with disabilities is still present in Serbia, it can be concluded that the number of complaints filed against discrimination on the basis of disability does not correspond to the factual position of persons with disabilities. An analysis the received complaints for discrimination on the grounds of disability shows that discrimination of persons with disabilities is most common in the area of employment and labour, inaccessibility of facilities and public areas, as well as the manner in which proceeding before public government authorities are carried out in where participants are persons with disabilities.

#### ***4.4.1. Opinions and recommendations***

*The Ministry does not engage pedagogical assistants for children with developmental disabilities*

The mother of a boy with developmental disability filed a complaint against the Ministry of Education, Science and Technological Development of the Republic of Serbia. She stated that her son, a primary school pupil, has developmental disabilities and that Interdepartmental committee for assessment of the needs for additional educational, health or social support to children suggested that he be assigned a person for pedagogical and personal assistance. Considering that it was not provided for him, his mother contacted the Ministry but was informed that there are no pedagogical assistants for children with developmental disabilities in preschool institutions and primary schools, but that pedagogical assistants are involved in providing help and additional support to Roma children. In the course of the proceeding, it was established that the committee assessed that this boy needed “a person to be assigned to him that would provide pedagogical and personal assistance“, but that the only help he was given in the educational work was a personal assistant while the school had no pedagogical assistant. The Commissioner for Protection of Equality issued the opinion that by failing to provide the conditions for employment of pedagogical assistants for children with developmental disabilities, the Ministry of Education, Science and Technological Development prevented a pupil with developmental disabilities from receiving the necessary additional support in education, it violated the regulations of the Law on Prohibition of Discrimination. Therefore, the Ministry was given a recommendation to undertake all the necessary measures and employ pedagogical assistants for children with developmental disabilities in the educational system of the Republic of Serbia and to undertake all the necessary actions and measures within its authorisation, which would ensure that the primary school in question hires a pedagogical assistant, and to, in the future, ensure that within the framework of its regular activities and assignments, it does not violate the regulations on prohibition of discrimination. This recommendation was not implemented.



### *A hotel in a spa does not have an access for persons with disabilities*

A guest of the hotel filed a complaint in which it is stated that the hotel is inaccessible to persons with disabilities, that is, access to certain facilities in the hotel was not enabled for persons with disabilities. In the statement given by the hotel's administration it was stated that they were not notified in advance that a person with disability would be staying in the hotel, for that person would be provided a room at the basement floor of the hotel. Furthermore, it was stated that the hotel is a two star hotel and that, according to the regulations, it does not require a lift. In the course of proceedings it was established that the entrance of the hotel is inaccessible and that facilities with different purposes (reception, bar, restaurant, swimming pool, TV room, exercise room) are in the basement and not on different levels and is therefore necessary to, in order to move from one room to another, walk up/down some steps. The Commissioner for Protection of Equality issued the opinion that by failing to provide accessible entrances into the hotel and other facilities within the hotel, this hotel performed the act of discrimination and a recommendation was given that it should undertake all measures with the aim of providing an accessible entrance into the hotel and the facilities. This recommendation was not implemented.

### *Accessible entrance for persons with disabilities was not ensured*

The complaint was filed by the 'Tenants' Union of a building in a newly built neighbourhood against the Secretariat of Urban Planning and Construction of Serbia and it was stated that one of the building four entrances are not accessible to persons with disabilities, while the other building in the neighbour have that access. The Secretariat of Urban Planning and Construction of Serbia stated that they were not obligated to set a ramp for persons with disabilities, for it was not planned by the project for this building. In the course of the procedure it was established that the Secretariat of Urban Planning and Construction of Serbia was the investor of the project and that four entrances in this building are not accessible to persons with disabilities, while other buildings in the neighbourhood have that access. Accessibility represents yet another basic precondition for equal inclusion of persons with disabilities in all areas of social life. By failing to provide the accessibility of the building entrance, persons with disabilities are put in a disempowered position and their right to independent life and freedom of movement is limited. Having in mind that the Secretariat of Urban Planning and Construction of Serbia, as the investor, did not ensure an accessible entrance for persons with disabilities being made, it is the failure of the Secretariat of Serbia to fulfil their legal obligation, regarding the provision of accessibility, which led to discrimination of persons with disabilities, especially those with wheelchair-assisted movement. Therefore, the Commissioner for Protection of Equality issued the opinion that the Secretariat of



Urban Planning and Construction of Serbia, by failing to undertake certain action in the process of construction of the building in this newly-built neighbourhood and with the aim of providing an accessible entrance for persons with disabilities, violated the regulations of the Law on Prohibition of Discrimination. The Secretariat of Urban Planning and Construction of Serbia was given a recommendation to take all necessary measures in order to provide an accessible entrance for persons with disabilities who are assisted in their movement by wheelchairs, as well as ensure their unobstructed access to the building. This recommendation was not implemented in the legal time frame and a new deadline was set, that has not passed at the moment this report is being written.

*Health institution did not set an appointment for a woman with disability who needed nonstandard health service*

The complaint was filed against the Gynaecology Clinic for failing to set an Ob-Gyn appointment for a woman with disability. In the complaint was stated that on July 22<sup>nd</sup> 2014 the guardian of the complainant tried to set an appointment with a doctor but was refused and that after seeing the patients' counsellor and the protector of the patients' rights, he managed to set an appointment for July 30<sup>th</sup> 2014. However, the day before the appointment he was notified that the examination will not be executed, and that the doctor specialist asked for consent from a psychiatrists, as well as a suggestion for the eventual preparation of the patient. When he provided the needed consent, he was notified that he would need the consent from an internist and endocrinologist. Four months after the initial attempt to set an appointment, he was called by the director of the clinic to provide the medical documentation which he did on October 27<sup>th</sup> and November 10<sup>th</sup> 2014, failing to set a new appointment. In the statement of the director it was stated that the guardian of the complainant did not try to set an appointment in July 2014 but that he merely asked for information on the nonstandard health service, that the Ob-Gyn doctor gave findings and opinion regarding further action on July 29<sup>th</sup> 2014 and that the counsellor for patients' rights gave opinion on the objection, and that he, personally, tried to provide nonstandard health service to the patient, that he talked to the complainant and asked him to come with the existing medical documentation to the clinic. In the course of procedure it was established that an appointment was not set for the complainant, even though her guardian tried to do so on 22 July 2014, at the Gynaecology Clinic, with the needed documentation. The Commissioner for Protection of Equality indicated that the patient, that is the complainant, needed a nonstandard medical service because of her disability (ultrasound examination of a small pelvis under general anaesthesia), and that this fact was the cause of the appointment not being set. Due to that fact, the Commissioner issued the opinion that by such actions the Clinic violated the regulations on prohibition of discrimination. The Gynaecology Clinic was

advised to, in a timely manner, set an appointment for the patients, and to inform the complainant and her guardian, in writing, on the date of the appointment, the needed medical documentation and other conditions that need to be fulfilled, to review internal procedures of action of the Clinic for provision of nonstandard health services to persons with disabilities, and, to, if needed, coordinate them to anti-discrimination regulations, to submit a written apology to the complainant and her guardian, as well as to, in future, within the framework of its regular activities and assignments, act according to anti-discrimination regulations. This recommendation was implemented.

### *TV host refused to put on air a person with disability*

The complainant filed a complaint regarding the situation she participated in on the occasion of a planned television guest appearance. In the complaint she stated that she agreed with a host on a show of the daily programme that he would call her and put her on air, so that she could announce a film festival on the topic of disability, named “Catch this day with me – Catch a film”. However, after the telephone conversation with the complainant, the host called her colleague and demanded that he should be on air, saying that he did not know that the complainant had speech disability. In the course of the procedure it was established that the colleague from the association was put on air and that he announced the film festival in place of the complainant. The host said in the statement that he could not decide on whom to put on air and that the editorial board, after the talks with the members of the association decided who would be on air. The host failed to prove prior the end of the procedure that there were objective reasons for putting on air the colleague of the complainant, instead of her, which he was obligated to do. Therefore, the host, due to his decision not to put the complainant on air, because of her disability, hurt her dignity. The Commissioner for Protection of Equality was of the opinion that by deciding to include someone from the association, and not the complainant, as was previously agreed, in the programme of the show, the host violated the regulations of the Law on Prohibition of Discrimination. A recommendation was issued, as well, stating that the host should send a written apology to the complainant and not to, in the future and within the framework of his professional authorisation, violate the regulations of the Law on Prohibition of Discrimination. The recommendation was not implemented in the legal time frame, a warning was issued and a new date was set, which hasn't passed yet at the moment this report is being written.

### *Failure to give adequate support to a student with visual impairments*

Mother of a child with visual impairments filed a complaint against the primary school her daughter goes to and stated that she is first grade pupil, that she has visual

impairments and that adequate support was not given to her in the school, that she does not have appropriate textbooks, that the school counsellor is not available and open to cooperation with the parents, which all affected the fulfilment of her right to education. In the statements given by the principal and pedagogue various activities were stated as being used in regard to the girl's education. In the course of the procedure it was established that the textbooks and other school materials for people with visual impairments were provided only at the end of the first semester, as well as that the individual curriculum was made only in January 2014. The Commissioner for Protection of Equality was of the opinion that the principal and the pedagogue, as the responsible persons for implementing the individual curriculum of the pupil, by failing to give the necessary support in education, put this girl in an unequal position in comparison to other pupils. Therefore, a recommendation was issued, that they undertake all the necessary measures and actions which will ensure the necessary support in her education, that in the future they should refrain from violating legal regulations on the prohibition of discrimination within the assignments and activities within their area of authorisation, as well as to organise educational trainings for the employees of the school on the topic of discrimination in education, especially regarding the pupils who need additional support in education, due to their social status, developmental disabilities, disability, issues with learning or other. This recommendation was implemented.

*Moving the employees who are persons with disabilities into the work positions of less income*

The complainants were assigned the status of persons with disabilities by the National Employment Service. The employer reassigned them to another work position in the Digitalisation office, where their income was smaller than on those positions they were reassigned from, while the employees with the category III disability were assigned to the same office and they retained their previous income coefficient, that is, the overall income remained the same. The complainants believe that the employer discriminated against them by such actions for in both cases the complainants were people who suffered a change in their health condition and they were not able to perform the working assignments they could before the disability occurred, and in both cases the disability was determined by the statements from the authorised officer according to the regulations valid at the moment the disability was determined. In the statement, it was said that according to the administrative act by the NES, which establishes the status of the person with disability, the employer is not obligated to retain income at the same level which existed before the administrative act of the NES was issued, unlike the subjects whose status of a person with disability is approved by an administrative act of the Republic Fund for Pension and Disability Insurance, which determines the duties of the employer pertaining to the retention of income. In the course of procedure,

it was established that persons with disabilities, according to the valid regulations, retained their income even after they were assigned to a different job position. Their vested rights remained unchanged even after the rules that regulate that field. On the other hand, the analysis of these cases from the aspect of anti-discrimination regulations showed that in particular cases one of the fundamental elements of discrimination is missing – personal characteristic, taking into consideration that the notion of discrimination entails unequal treatment based on a real or alleged personal characteristic. It is evident that unequal treatment, indicated by the complainants, is not based on their personal characteristics, but it is a consequence of the changes in legal regulations. Therefore, the Commissioner issued the opinion that the company did not violate the regulations of the Law on Prohibition of Discrimination.

### *Abuse on the grounds of a disability*

Due to conflict events which occurred on a parking in front of a bakery, a complaint was filed which stated that one citizen threatened and said offensive words to the complainant because of her disability: “cripple, invalid, I will finish you, I will slap you, I will break your phone...” However, the women against whom the complaint was filed negated these allegations in her statement and said that the complainant threatened her, that was offensive and screaming and that she, in order to calm her down, said: There is no need to be afraid, do not offend me and do not threaten me without cause.” Having in mind that these allegations are mutually exclusive and that the witness of this event did not send in her statement, in this particular case it was impossible to determine what precisely was said on that occasion. Considering that the complainant did not make the act of discrimination probable, the Commissioner for Protection of Equality was of the opinion that it was not established whether the women against whom the complaint was filed performed an act of discrimination.

### *Accommodating the work place to the employee with a disability*

The complainant believes that she was discriminated against by the employer and a colleague working on the position of a technician for maintaining control devices in the process of production. She stated that she had neck discus hernia, that the first degree of issues and obstacles in work was determined in her case and that she had the status of a person with disability. In the complaint she states that the technician for maintaining control devices in the process of production “accused” her of breaking the programmer (the machine she was working on), that he did not allow her to keep the machine upright, which is not harmful to her condition, and that she contacted the employer several times asking to be moved to a place without draught and allowed to use help while working. The process

against the company was aborted for it was determined, during the procedure, that the complainant had conducted a court procedure against the employer, while the procedure against the employee, that is the colleague of the complainant working on the job position of a technician, was conducted. In the course of the procedure, it was established that the maintenance technician, while controlling the use of a device, found an empty work space, without an employee, with the device in a faulty position. Firstly, he put the device in its assigned position, but moved it back to the original position after determining that it was the work space of the complainant, and by doing deviated from the rules that apply to all other employees, because the use of the device in the assigned position could have detrimental effect on the complainant. The Commissioner for Protection of Equality issued the opinion that the actions of the technician could not constitute an act of discrimination against the complainant on the grounds of disability.

#### *4.4.2. Recommendations on measures for achieving equality*

##### *Recommendation directed to banks to provide unlimited use of bank services and unlimited access to persons with disabilities*

Acting on the complaints of the citizens, the Commissioner learned that the entrances to most of the professional bank branches are inaccessible to the people in wheelchairs, and that the counters in the offices are set too high, so that the people with wheelchair-assisted movement have difficulties in using bank services at the counter. Furthermore, the biggest number of cash machines is inaccessible to the persons with disabilities, especially those who require wheelchair-assisted movement and those with visual impairments, since the control screens of cash machines are set too high so that people in wheelchairs cannot use them and they are not equipped with audio devices which would to give information on the operations at hand, which makes them inaccessible for people with visual impairments. It should be noted that one of the basic principles of accessibility is the accessibility of services and products, meaning that all citizens, without a difference, can use all the services provided. If only one of the elements of accessibility is not adequate, the person with disability would not be able to act independently. Therefore professional banks have the obligation to provide adequate access to their offices, services and cash machines to persons with disabilities. On the contrary, persons with disabilities are unable, or their possibilities are limited, to use bank services independently, which other citizens, at any moment and without issues can use. Additionally, persons with disabilities represent one of the most vulnerable social groups, exposed to all manners of discrimination. For the process of social inclusion of persons with disabilities to be successful, it is necessary to create an

accessible environment where all people could function independently and fulfil their needs. Therefore, a recommendation on measures for implementing equality in all professional banks in Serbia (30 banks) was issued and they were advised to undertake all necessary measures and activities to ensure that persons with disabilities can use bank services on an equal basis, which include free access to bank offices, counters, desks and cash machines. The majority of banks answered that they would implement the recommendation.

#### **4.4.3. Announcements**

##### *Announcement regarding the International Day of Persons with Disabilities*

In the announcement regarding the International Day of Persons with Disabilities it is stated that persons with disabilities are still exposed to the widely spread discrimination, especially in the areas of education, work and employment, life in a community, equality before the law, access to services and information, which is confirmed by the complaints submitted to the Commissioner for Protection of Equality. The main problems of persons with disabilities are poverty, employment and architectonic barriers and limitations, and they and their families are usually exposed to stigmatisation and segregation due to the deeply rooted and widely spread prejudice and lack of information. Media reports on the position of persons with disabilities are abundant in stereotypical representations of these people as powerless, victims and passive recipients of social or humanitarian aid. The International Day of Persons with Disabilities should remind us that persons with disabilities enjoy all human rights and that they should have equal chances at life without obstacles, meaning that equal opportunities should be created for them to enjoy all rights.

#### **4.4.4. From the media**

The participation of the Commissioner for Protection of Equality on the Belgrade marathon this year was reported on by many media. A guest of the Commissioner for Protection of Equality was Michael Davenport, the chief of EU Delegation in Serbia, who emphasised the importance of the traditional activity “Equally to the goal” and assessed that it was yet another way of equality promotion and suppression of discrimination, as one of the key moments on the way of our country’s accession to the European Union. For these activities, the Belgrade Marathon and the Sports association of Persons with Disabilities gave letters of thanks to the Commissioner for Protection of Equality.

Some printed media focused their attention in the course of 2014 to the position and rights of people with mental disability. Inclusive education and deinstitutionalisation of children with developmental disabilities, as well as their greater inclusion into the educational system, were the topics written about in the media and the Commissioner for Protection of Equality spoke on those topics in several interviews.

The media dealt occasionally with the topics pertaining to the employment of persons with disabilities, trying to affect indirectly the conscience of those employers who, instead of employing the person with disability, chose to pay a sum of money into a special fund, in accordance with the law. Though not in greater number, some media, primarily printed ones, tried to point out the fact that special measures concerning this marginalised social group in which employment is significantly lower than among other citizens are thus relativized. A noticeable breakthrough occurred regarding the use of correct language terms, but certain texts still use terms such as “invalid” and “people with special needs”.

In several daily newspapers, a report was given on one secondary school student from Subotica with hearing disabilities, who, during his schooling suffered peer violence in primary school and grammar school, because of his disability. Despite the wish to make the text affirmative because it speaks of the boy’s success on several seminars in the Research unit Petnica he participated in, there is no mention, in any of the segments of that report, of the reaction by the authorised educational offices regarding violence, abuse and disrespect this boy endured from his peers. At the same time, it could be concluded from his statements that he is still stigmatised in his environment and that there is a great level of intolerance and prejudice directed at him.

#### **4.5. Gender based discrimination**

58 complaints (8.4%) against discrimination were filed on the basis of gender. Most of these complaints were filed by natural persons (46), out of which 33 were women and 13 were men. More than half of the complaints against gender-based and sex-based discrimination pertain to discrimination in the hiring process and employment or at work.

Also, it should be noted that the number of complaints for discrimination in the hiring process or at work is 243, which is 36.3% of the total number of filed complaint. Natural persons filed 168 complaints, 78 women and 90 men. This datum is interesting for it indicates the position of women on the job market and at work, taking in consideration that the number of women complainants is lower than men (39.1%).



Apart from the field of employment and work relations, 18.9 % of complaints for sex-based discrimination were filed for proceedings before public authorities, and 7.5% pertains to the area of education and professional training. The number of complaints for sex-based discrimination in the area of education and professional training has seen an insignificant decrease compared to last year's 8%, and the number of complaints filed for discrimination in the media and the field of public information is significantly lower this year. Namely, that number decreased from 12% from last year to 3.7% in 2014.

The practice of the Commissioner shows that sex-based and gender-based discrimination is most common in the area of employment and at work, as was last year. Violation of the principle of equality in the hiring process is most common in the instances when employers demand that the candidate be of particular gender, and women are more often discriminated in work relations and at work. Often discrimination at work is manifested by reassignments to lower job position or those with a lower income, upon returning from a pregnancy leave.

#### ***4.5.1. Opinions and recommendations***

##### ***Sexism and prejudice in a textbook on Criminology***

Two complaints were filed against the professor at the Faculty of Law in Kragujevac who is the author of a textbook on Criminology. It was stated that in the segment of the textbook concerning the methodology of detection, investigation and proving of a criminal act of rape, it said "that in practice, the cases that the victim of rape did not aid the perpetration of the criminal act are fewer in number and that the contribution of the victim is usually reckless behaviour (lonely walks through dark streets, suburbs, fields in the late night hours, hitchhiking), and the victim, thus, objectively puts herself in the situation to become the victim of a criminal act; that a female person often creates, aids or accepts a sexually tense situation; that the motives that spur a woman to enter and accept the situation in which she does not want the sexual contact could be her neurotic character, her emotional instability and dissatisfaction which create a strong and needy desire for emotional and pure connection with an imagined, ideal man, which is why she consents without much thought to situations she dubs romantic and the other side sexually tense...". The professor did not issue a statement regarding the allegations of the complaint. In the process of decision making in this procedure, the Commissioner regarded the fact that the Constitution of the Republic of Serbia guarantees freedom of speech and expression, as well as freedom of professional creation, but is of the opinion that such views are degrading to women, that their dignity is offended and prejudice



and social forms based on the stereotypical gender roles supported and instigated. The professor was advised to remove the controversial content from the textbook on Criminology and to refrain from spreading ideas and views which harm the dignity of women and promote and support the social forms based on stereotypical gender roles. This recommendation was not implemented not even after a warning was issued, of which the public was notified.

### *Fathers cannot stay in hospital rooms with children*

The complainant stated that he was in the room with his son after his son's surgery, that he left home for a short period of time and that upon his return, the doctor on duty did not allow him to be in the hospital room with his son, even though there were two parents of other children in the room where his son was. It is believed that he was discriminated on the grounds of gender that is, that he was not allowed in the room with his child because he is a man. The clinic said in the statement that the doctor on duty acted professionally and that the clinic provides the opportunity for parents and guardians regardless of their sex to stay with their children. The analysis of the Decision on Financial Compensation of Expenses of Mothers Accompanying Children, which determines the expenses and conditions of a stay in hospital only for mothers of the patients, showed that only mothers can accompany their children. Furthermore, it was established that, according to the document Announcement on fathers staying at the clinic as patients' chaperones, it was proscribed that fathers and other people could chaperone the children only in situations when the mother is prevented from being there. The Commissioner for Protection of Equality determined that proscription of such a rule is action according to prejudice, customs and other social forms, based on the stereotypical views of gender roles, that is, that it represents gender based discrimination. Therefore, she was of the opinion that the implementing of Decision on Financial Compensation of Expenses of Mothers Accompanying Children which states that a stay at the clinic is permitted only for mother accompanying her child and releasing of the Announcement on fathers staying at the clinic as patients' chaperones which allows the father and other chaperones to accompany patients if the patients do not have chaperones of female gender, the Clinic violated regulations of the Law on Prohibition of Discrimination. The Clinic was advised to revise the Decision on Financial Compensation of Expenses of Mothers Accompanying Children, by eliminating the condition pertaining to the gender of the chaperone, which would allow both parents (guardians/foster parents) to, under equal conditions, stay in hospital rooms as chaperones, and to, in future, within the framework of its authorisation, act according to anti-discrimination regulations. This recommendation was implemented.

### *Failure to use gender sensitive language in general and particular acts adopted by the City Assembly*

A member of a City Assembly filed a complaint against the lack of gender differential (gender sensitive) language in the acts adopted by the Assembly. The declaration states that the City Assembly does not act in discord with the principle of gender equality, since the Law on Prohibition of Discrimination does not contain direct regulations proscribing the official use of gender sensitive language. It states that in the City Assembly 41% of the members are women and that women hold the positions of vice president, secretary and vice secretary of the City Assembly. The president of the City Assembly did not issue a statement regarding the allegation of the complaint in the prescribed time frame. The Commissioner for Protection of Equality indicated that the number of women members and those holding higher positions in the City Assembly is the evidence that it is necessary to abolish the practice of linguistic ignorance of women, especially having in mind that such behaviour has no foundation in Serbian language. The City Assembly has a legal obligation to accompany the implementation of gender equality, to apply international standards, as well as, to, within its authorisation, ensure gender equality and realisation of equal opportunities. Therefore, the City Assembly was advised to undertake all necessary measures to introduce gender sensitive language in all general and particular acts that it adopts and to use, in official communication, the nouns marking working places, positions and functions in the grammatical gender of the gender of the person they are ascribed to. This recommendation was not implemented in the legal time frame and a warning was issued and a new date set, which has not yet passed at the moment this report is being written.

### *Failure to employ the candidate after she returned from pregnancy leave*

The complainant stated that she had participated for several months in the activities and had conversations pertaining to her employment in the company "A" that took over many employees from sister company "B", where she was employed. However, during her pregnancy leave she was told that she would not be offered a contract of employment with the company "A". The complainant believes that her pregnancy was the cause the company "A" decided not to employ her. In the statement given by the company "A" it was stated that the reason for their decision was not her pregnancy but the fact that the company had no need for an employee of her qualifications. In the course of the procedure it was established that the company "A" did not have an agreement with the company "B", therefore, had no legal or contractual obligation to employ the complainant. Furthermore, it was established that not all employees from company "B" were employed in company "A" and that one of the employees from company "B" had started working for company "A" after returning from childcare leave. Having all the facts and evidence in mind,

the Commissioner for Protection of Equality was of the opinion that it was not established during the procedure that company “A” had put the complainant in an unequal position in comparison to other employees from company “B”, on the grounds of her pregnancy and sex.

#### *Upon return from a leave she was made redundant*

An employed woman filed a complaint stating that, immediately upon her return from pregnancy and childcare leave, the employer informed her that she was made redundant, that she could receive minimal compensation according to the law or she could chose to be assigned to work in storage. Not having accepted the employer’s decision on being made redundant, she signed an annex of a contract according to which she was reassigned to the work position of a help worker in storage. Apart from the change in her work position, earnings as well as all other points of the contract remained unchanged. The company stated that very significant economic and organisational changes occurred, which is why they were compelled to make certain cuts in the employee sector. In the course of procedure it was established that the employer, because of the change in the market and economy conditions, was compelled to lessen the number of employees on the position of referent of outer trade, resulting in the job being done by one employee instead of the previous three. The employer gave evidence that the organisational changes occurred in other job positions, such as commercialists for large buyers, which is why he was forced to make the cuts in this segment as well and terminate some employment contracts. Furthermore, this company closed their branch in the south of Serbia and eight employees working in that office were made redundant. Based on the facts, the Commissioner for Protection of Equality concluded that the company gave the facts and evidence which show that the reassignment of the complainant to a different job position had objective and sensible reasons and that it was not done on the grounds of her pregnancy and childcare leave. Therefore, it was stated that the act of reassigning the complainant to a different work place, by signing the annex of the contract, was not a violation of the regulations of the Law on Prohibition of Discrimination.

#### **4.5.2. Recommendations on measures for achieving equality**

##### *Recommendation to the National Assembly of the Republic of Serbia concerning implementation of gender equality*

On the occasion of the election of new members of the National Assembly of the Republic of Serbia, after the parliamentary elections held on March 16<sup>th</sup> 2014, the Commissioner for Protection of Equality sent a recommendation on the measures for implementation of gender equality. The national Assembly was advised

to undertake all the necessary measures, according to its authorisation, which would provide and ensure that: 1) at least 30% of the delegations of the National Assembly in international parliamentary institutions are people of the less represented sex, 2) there is an equal number of both sexes in the composition of its boards and 3) the manner in which it will be ensured that the composition of all boards of the delegations participating in international cooperation consists of at least 30% of persons of less represented sex is regulated. The Commissioner emphasised, on that occasion, the importance of achieving and retaining equal representation of both sexes, in accordance with the Constitutional guarantee of equality between women and men and the promotion of the equal opportunities policy.

*Recommendation on measures for the mandator for the configuration of the Government of the Republic of Serbia to ensure the equal gender representation*

Having in mind that the existing regulations do not have a set quota for the less represented sex in the highest executive authority, the Commissioner for Protection of Equality sent Aleksandar Vučić, the mandator for the configuration of the new Government, a recommendation on measures to ensure the equal representation of sexes in the process of election of new Government members. The recommendation emphasises the necessity that the new Government has a greater number of women to ensure that they are included in the executive authority to a complete extent. The National Strategy for Improving the Position of Women and Achieving Gender Equality (2009 – 2015) conveys the same notion, which states that, with the aim of an equal and efficient participation of women on decision making, which represents special interests of women in a better manner, it is not sufficient to have a certain number of women in the representative authorities but that it is necessary that women participate in the executive authority as well. Having in mind the lack of regulations which set the quota for the less represented sex in the highest executive authority, the Commissioner expressed hope and expectation that the new mandator and the future chairperson of the Government, would use his authority, influence and legal authorisations and suggest to the National Assembly such composition of the Government which would be in accordance with the principle of gender equality, with a reminder that an equal and efficient participation of men and women in decision making is one of the fundamental European values and foundations of democracy, that it improves the transparency of the process of decision making, increases the level of responsibility and ensures a more just division of influence in the society, which speeds up the process of modernisation and democratisation of the society and its overall development.

The new Government was formed on April 27th 2014. It consists of 4 female ministers, two of which are on the position of the Deputy Prime Ministers and 14 ministers, two of which are on the position of the Deputy Prime Minister.

*Recommendation to the Prime Minister on the measures for realisation of an adequate institutional mechanism for implementation of gender equality policy on the national level*

Regarding the abolishment of the Administration for Gender Equality, which was concerned with actions on promotion of equality, the Commissioner for Protection of Equality sent a recommendation to the Prime Minister stating the need for the existence of a national institutional mechanism for gender equality whose actions would improve the implementation of gender equality policy in the Republic of Serbia. The existence of such a government authority is especially important having in mind that the National Strategy for Promotion of Gender Equality and Improvement of the Position of Women and the National strategy for Combating Sexual and Gender-based violence are valid only until 2015 and that it is thus necessary to create new strategic documents. The Commissioner stated that the recommendations of the Committee for Elimination of Discrimination against Women were not implemented. In their conclusions on the combined second and third periodic reports of the Republic of Serbia, in July 2013 the Committee expressed regret that the institutions and bodies for promotion of the position of women do not have enough human resources or adequate means and authorisations to influence the state politics and decisions. The Committee advised the Republic of Serbia to strengthen the national mechanism further by providing adequate human, technical and financial resources, increasing their visibility and efficiency. Having in mind the current situation, and the issues that follow the implementation of gender equality policy and the high level of structural, institutional and individual discrimination that women in Serbia are still exposed to, the Commissioner expressed her expectations that the Government will undertake all the necessary measures in order to promote the efficiency of government authorities in the area of equality of men and women and continue the actions on development of equal opportunities policies.

#### **4.5.3. *Proposals for assessment of constitutionality***

*Proposal for assessment of constitutionality and legality of Article 1. of the Rulebook of Annexation of the Rulebook on Registration, Status and Transfer of Players of the Football Associations of Serbia ("Official paper of the Football Association of Serbia "Fudbal", no. 48/2013)*

The Committee for Urgent Questions of the Football Association of Serbia amended the Rulebook on Registration, Status and Transfer of Players of Football Association of Serbia, by adding Article 79 which states that: *"If the club from which a player is transferred a female football club, the total compensation is 15% of the compensation proscribed in Article 77 and 8 of this Rulebook"*. This norm is contrary to Constitutional and legal norms, for proscription of such a rule, which states

that in the case of a transfer of a female player from one football club to another the compensation that the club pays is 15% of the compensation proscribed for a male football club, discriminates directly against the female football clubs on the ground of their player's sex. In chapter X of the Rulebook on Registration, Status and Transfer of Players of Football Association of Serbia the manner of determining the amount of compensation of the expenses of the player's training and development in the case of transfer of players from one club into another. The norms of Article 71 establish that the right to compensation of the expenses of development and training of players belongs to the clubs, in cases of the transfer of their players into Super and Premier League clubs, prior to the end of the season in which the player turns 23, meaning that the expenses include investments into the development of the players from their 12 to 21 year of age. The compensation for training and development of players belongs to the last club the player was registered at, as well as those clubs that he/she played for or was registered at in the last 30 months, if they had not already acquired compensation during the player's previous transfers. The amount of compensation of the expenses invested in training and development of players is determined by a written agreement of the interested clubs (Article 72), and if the clubs have not made a written agreement, the compensation is determined by the criteria as proscribed in the Rulebook (Article 74–76). The criteria for determining the compensation of the expenses invested in the training and development of players: the player's age, time the player spent in that club, the status of the player in that club, whether the club is the nursery club of the player and the participation of the player in official games of "A" national team of Football Association of Serbia, and the basis for calculation of compensation is the average net income per employee in the Republic of Serbia.

All the stated norms on compensation of the expenses invested in the training and development of players under equal conditions are valid for all football clubs. Furthermore, all the other rules included in the Rulebook pertaining to the registration of football clubs, registration of the players, issuing a passport to a player, deletion of players etc, are applied to female and male football clubs, that is, both male and female players, including the rules that determine the tax cost paid by the Football Association of Serbia. In that regard, the Rulebook does not differentiate between male and female clubs, that is female and male football players, except of the rule on the manner in which this compensation is determined. In the proposal for assessment of constitutionality and legality it was emphasised that the Football Association of Serbia is unified, that is that its members are female and male clubs, and that the regulations cannot be applied selectively. The rule of Article 4 of the Statute of the Football Association of Serbia prohibits discrimination of any kind against a country, private subject or a group of people on ethnic, racial, gender, language, political or any other basis and is sanctioned accordingly. The fact that within the Football Association of Serbia there are male and female leagues with different levels of competition is irrelevant from the aspect of determining the

cost of compensation that football clubs pay in the case of player transfer because the right to compensation of expenses invested in training and development of players belongs to the clubs on all levels of competition when their players go to the clubs in Super and Premiere Leagues. Accordingly, it is irrelevant whether the player who transfers to, for example, the club of Premiere League from a male football club which is in the Serbian League or Premier League of Serbia. Besides, the manner of determining of the compensation cost paid by the male football clubs, should be taken into consideration, as it is based on the criteria of the player status (professional player, player on a scholarship or amateur player) and the players' age (12–15 years, 15–18 years and 18–21 years), and the calculation of the compensation cost is done according to the average net income per employee in the Republic of Serbia, that is multiplied by the number of months the player spent playing in a certain status. Therefore, the manner of calculation is such that it does not determine the real expenses invested in the development of every individual player, but primarily according to objective criteria. It is evident that the nature of these criteria such that they are completely applicable to female football players as well. Accordingly, the rule proscribed by the annexed article 79 is contrary to the regulations on prohibition of discrimination and from the aspect of the goal and consequences caused, and there is no objective and reasonable explanation for unequal treatment of female football clubs in comparison to male football clubs, regarding the payment of compensation of expenses for training and development of female and male players. The quoted norm, included in the general act of the Football Association of Serbia, performs direct discrimination of female football clubs on the ground of gender of their players, which is prohibited by the Constitution and anti-discrimination regulations of the Republic of Serbia. The procedure before the Constitutional court is still underway.

#### *4.5.4. Warnings and announcements*

##### *Warning regarding the texts on new members of the National Assembly*

After the irregular parliamentary elections numerous reports and texts on the new female representatives in the National Assembly of Serbia appeared in the media, which were inappropriate, offensive and degrading, for they focused on the physical appearance of the members and not their professional competency, abilities and results of their work. Such an approach signifies the conclusion that the members have not professional qualities, but that they were in the National Assembly primarily due to their physical appearance. The Commissioner warned that such reporting is in discord with the anti-discrimination regulations since it supports prejudice, customs and social forms of behaviours that are founded on stereotypical gender roles. She also stated that the media should develop awareness of gender equality and influence the abolition of gender stereotypes, prejudices and discrimination.



*Announcement regarding the implementation of the Convention of the Council of Europe on Preventing and Combating Violence against Women and Domestic Violence*

The Commissioner for Protection of Equality greeted the implementation of the Convention of the Council of Europe on preventing and combating violence against women and domestic violence, ratified in Serbia in October 2013. Her statement states that this convention creates new standards of preventing, protecting from, processing and sanctioning of the acts regarding gender based violence. The Commissioner invited all the competent authorities to approach the coordination of the legal and strategic framework in a timely manner in order for this form of violence to be efficiently suppressed, and an adequate protection, help and support provided to the women victims of violence.

*Announcement regarding the International day for the elimination of violence against women*

On the occasion of the International day for the Elimination of Violence against Women it was assessed that the violence against women is still widely spread and that suppression of this occurrence and the protection of women are still not effective and efficient. In 2014, 21 women lost their lives as the result of family violence and that fact must be an alarm for all the competent authority and the society as a whole. Violence done against women, as the most drastic manner of violation of human rights of women, is the evidence to how little was done on the elimination of causes of such behaviour. The struggle against violence done on women cannot be successful if it is not observed in the context of gender stereotypes, prejudice and discriminatory views deeply rooted and spread among professional working on the prevention and processing of violence against women. The Commissioner reminded that the state, by signing the Istanbul convention took on the obligation to apply the standards of “complete dedication” in the process of prevention, protection, processing and sanctioning of the acts of violence against women.

*Announcement for the public regarding the abolishment of the Administration for Gender Equality*

Regarding the abolishment of the Administration for gender equality within the Ministry of Labour, Employment, Veteran and Social Policy, not interfering with the manner in which the executive authority organises its actions, the Protector of Citizens and the Commissioner for Protection of Equality reminded of the duty of the state to provide adequate institutional mechanisms for efficient implementation, monitoring and planning of the work of state administration in the sphere of human rights, and particularly in the most sensitive areas such as gender equality, children



rights, the rights of persons with disabilities, national minority rights, the right of people in detainment etc.

### *Announcement regarding the International Women's Day*

The Commissioner for Protection of Equality indicated that the International Women's Day – March 8<sup>th</sup> is a chance to question ourselves why the women are still exposed to violence and why they do not have adequate help and support of the institutions of the system, why they are still economically weaker than the men, why the society and the decision makers do so little on the issue of betterment of the position of Roma women, women with disability, women from villages, why there are not enough women in the place of money and power, there, where the policy is created. Research conducted by the Commissioner showed that 42% of the citizens believe that women are the group most discriminated against in Serbia. Therefore, it is necessary that we, all together, show effort to achieve genuine gender equality, because the future of Serbia will be better only when women participate equally to men in all public activities and all spheres of life.

#### *4.5.5. From the media*

Having in mind the fact that in March 2014, irregular parliamentary elections were held, the media were concerned with the questions of gender equality and representation of women on party lists significantly more. The Commissioner often gave statements and explained the reasons why it was necessary that women participate in the state authorities on all levels and in all processes of decision making that affect the development of the whole society. The abolishment of the Administration for Gender Equality was also a current topic, but for the media this issue was not of greater importance, so they reported only on the joint statement by the Commissioner for Protection of Equality and the Protector of citizens who pointed out the necessity of existence of an institutional mechanism for gender equality.

The discussion organised by the Commissioner for Protection of Equality and the Delegation of the European Union in Serbia named "*Vojnik/vojnkinja, Sudija/sutkinja..... What is my profession called in female gender?*" for the International Women's Day attracted a lot of attention from the media even before it was held. Some media dealt affirmatively with this topic, announcing the esteemed participants from the sphere of public life, trying to see the importance of using gender sensitive language from different aspects. At the same time, several daily newspapers used this occasion to present views of several linguists who are opposed to that notion, once more. Well known assessments that the violence against women would not be lessened nor would their employment rate rise were published, but some media reports had a dose of degradation and derision on the account of the attempt to

standardise language that would represent the actual representation and role of women in our society. However, regarding the use of gender sensitive language in the media, certain improvements can be seen. Though not to a satisfactory extent, the importance and necessity of using gender sensitive language has been written about more than previous years.

In February, Serbia joined the global campaign that calls for the elimination of violence against women and girls under the name „*A million rising for justice*“. Within the activities held in Belgrade, discussions and meetings were organised where the Commissioner for Protection of Equality spoke. The topic of domestic violence was present in the media this year as well, primarily due to the campaign that made that topic current and visible to the broader public.

It is noticeable that over previous year the number of texts on female entrepreneurship and economic empowerment of women rose in weekly and monthly magazines. The examples represented promoted the ideas of gender equality in professional life with much less stereotypes, objectively and comprehensively, stressing the necessity of a more intensive implementation of equal opportunities policies. Though not to a greater extent, in certain daily papers research papers were published on the so-called male and female professions, as well as the ways of overcoming gender stereotypes concerning professions previously reserved solely for men.

Furthermore, certain printed media published texts throughout the year that are related to the representation of women in media, analysing the causes of the most common stereotypes. The majority suggested that it is necessary to change the manner of reporting and to sensitise the public sphere of social life to the notion of gender.

#### **4.6. Discrimination on the grounds of membership in political, syndicate or other organisations**

In 2014, 58 complaints for discrimination on the grounds of membership in political, syndicate or other organisations were filed, which represents a significant rise in comparison to previous year when only 22 complaints on this grounds were filed. Over half of these complaints were filed for membership in political parties, 11 for membership in syndicate organisations and 5 for membership in other organisations.

The greatest number of complaints for discrimination on the grounds of membership in political, syndicate or other organisations, 45, pertained to the hiring process or employment, and five complaints were filed for discrimination in the procedures before the public authorities.

It should be noted that the Law on Prohibition of Discrimination sees political affiliation as a personal characteristics. On this ground, 36 complaints were received and in 19 complaints the membership in certain political parties was given as another ground for discrimination, along with the political affiliation. It is indicative that out of 36 complaints for discrimination on the grounds of political affiliation, 33 were filed for discrimination in the sphere of work and employment.

In the largest number of complaints for discrimination on the grounds of membership in political organisation and for political affiliation, the complainants state that they were discriminated in the hiring process because they were not members of certain political parties that are thought to have influenced the decisions made in the hiring process, especially in the public authorities. However, in almost all of the complaints the assertions were not supported by evidence. Based on these complaints it could be concluded that the citizens often make no distinction between a personal characteristic and personal identity, which is explained to a greater detail in the final remarks on procedure cancellation.

#### ***4.6.1. Opinions and recommendations***

##### ***Reassigning employees from Municipal administration to the agricultural caretaker's service for political affiliation***

An organisation of civil society filed a complaint in the name of four employees against the Municipal Administration, the President of Municipality and the Chief of the Municipal Administration. The complaint states that these employees, after a change of government in that municipality, were reassigned to job positions in agricultural care takers' service, with lower job position and lower income coefficient, resulting in a worse legal and professional position in comparison to their previous one. They believe that the decision on their reassignment was made since their political beliefs differs from that of the president of that municipality and the Chief of Municipal Administration, that is because they are sympathisers of the Democratic Party. In the statements it is stated that the due to the rationalisation of expenses and attempt to avoid termination of employments a decision was made to cancel the contract with an agency regarding the jobs of protection of agricultural assets and maintenance of communal and other facilities, and thus new systematisation was adopted and a certain number of employees from the Municipal Administration was reassigned to these job positions. It is emphasised that the Municipal Administration does not keep record of the political affiliation of its employees, nor which party they are inclined to and that the employees are assigned to positions according to their professional education and work abilities, regarding education and years of employment, thus it could not be said that the complainants were assigned to lower job positions. In the course of this procedure it was established that the Municipal Administration adopted a Rulebook on Amendments to the Rulebook on Internal

Organisation and Systematisation of Job Positions in Municipal Administration. After the systematisation, 60 employees, out of the total number of 162 in the Municipal Administration, were reassigned to different job positions, and 24 of the employees were reassigned to “agricultural caretakers’ service”. Taking into consideration all facts and circumstances, it was concluded that the Chief of Municipal Administration did not offer fact and evidence on the grounds of which it could be concluded that the complainants were reassigned due to objective reasons to different job positions, with lower professional rank and lower income coefficient. It is evident that the public is familiar with the complainants’ political affiliations, who are members and sympathisers of the Democratic Party. The circumstance that all four of them are reassigned to “agricultural caretakers’ service”, along with 20 other employees, 18 of which were members of the Democratic Party and the rest were family members of the members of this party or its sympathisers, leads to the conclusion that the decision on their reassignment to “agricultural caretakers’ service” was motivated by their political assignment. That is confirmed by the fact that three of the employees, after having left the Democratic Party, returned to their previous positions or were assigned to some other positions. The Commissioner for Protection of Equality issued the opinion that the Chief of the Municipal Administration, by reassigning the complainants, performed an act of discrimination on the grounds of political affiliation, and that the President of that Municipality did not violate the regulations of the Law on Prohibition of Discrimination, since he was not authorised for making decision on reassigning the employees, establishing professional rank and calculation income coefficient. The Chief of the Municipal Administration was advised to undertake all necessary measures with the aim of elimination of the consequences of such discriminatory behaviour towards the complainant, and not to, in future, make decisions which violate anti-discrimination regulations. This recommendation was not implemented even after a warning was issued, and the public was informed.

*Failure to provide bank service to the client who is a member of the association that conducted a court procedure against the bank*

The complainant believes that, because of his activities with the association which is concerned with the protection of bank clients, he was not provided service by the bank terminating one-sidedly two contracts with him – the contract on opening and maintaining a foreign currency bank account and the contract on a safe. In the bank’s statement it says that, it, in both cases terminated the contracts one-sidedly in accordance with the appropriate rules, respecting the cancellation date. Furthermore, it says that the bank has clients that are members of this association who were provided bank services, which rules out the reasons for discrimination stated in the complaint. In the course of the procedure it was established that this bank continued to provide services to the members and the president of the

association concerned with the protection of bank clients, which brings to the conclusion that the bank did not put the complainant in an unequal position and failed to provide services to him, due to his membership in the association. Therefore, it was established that termination of bank services was not caused by his membership. The opinion that the bank and the director of a sub-branch did not act in a discriminatory manner towards the complainant on the grounds of his personal characteristic – membership in an association was issued.

#### *Protest against a discussion at a faculty*

A group of citizens filed a complaint against the students of the faculty where a discussion was held on the harmful effect of GMOs in food. Namely, organised by the Student Union, a discussion named “The harmful effect of GMOs in food” was held at the faculty. Five speakers were announced, among whom were the coordinator of the campaign of the group of citizens who filed the complaint – “For Serbia without GMO” and one journalist. In front of the amphitheatre, before the discussion started, a group of students protested, carrying posters, one of which was the poster with a red circle and in the middle of that circle a swastika crossed out. After the group of lecturers entered the amphitheatre, the students with the posters entered right after them and insisted that the coordinator of the campaign and journalist leave the discussion, which they did and the discussion was held without their participation. It was established that the student against whom the complaint was filed was in the group that protested in front of and inside the amphitheatre. According to his statement, it is established he carried one protest poster but not the one with the crossed out swastika or that he offended the lecturers. By analysing the context of the whole event the Commissioner assessed that this student, as well as other people who expressed their protest against the announced lectures by the group of citizens, expressed his beliefs of the political ideology that is, system of beliefs, ideas and views of the society and the organisation of the relations within the society, contained in the programme of this group of citizens in a legally acceptable manner. According to that, the Commissioner for Protection of Equality issued the opinion that the student against whom the complaint was filed did not perform an act of discrimination of the group of citizens who filed the complaint, during the discussion held at the faculty.

#### **4.6.2. Warnings**

##### *Warning regarding the attack on “Women in Black”*

In this warning, the attack on the activists of the non-governmental organisation “Women in Black” and the cyclists participating in the memorial walk towards

Srebrenica that happened in Valjevo was judged most harshly. The Commissioner expressed hope that all the attackers that had been arrested in the mean time, would be sanctioned adequately and reminded that the state was obliged to protect basic human rights and freedom of every individual and to secure complete safety. Concurrently, she warned that it was inadmissible to prevent anyone's right to a peaceful gathering and assessed that the threats, violence and hate speech towards the representatives of "Women in Black" were scandalous.

#### **4.7. Discrimination on the grounds of marital and family status**

Marital and family status was stated as a ground of discrimination in 52 complaints (7.5%) in 2014. Out of the total number of complaints for discrimination on this ground, the largest number pertains to discrimination in the area of labour and employment (44) and 8 complaints were filed for discrimination in the areas of social protection, in the processes of public service use, in the area of culture, art and sport.

The number of complaints on the grounds of marital and family status was not changed in comparison to previous year, but a rise in the number of complaints in the area of labour and employment was noticed. The main causes of this increase are the economic situation in the country, as well as the existing practice that certain employers, job advertisements and job interviews include questions on marital and family status.

Complaints for discrimination on the grounds of marital and family status were filed more often by women (58%) than men (42), and this ground of discrimination is most commonly stated as one of the grounds of discrimination in the complaints for multiple

##### **4.7.1. Opinions and recommendations**

*Employee who was on childcare leave was deprived of the achieved gain of the employer*

The complainant is employed in a state agency and believes that she has been discriminated against by the decision of the employer that the right to participate in agency's income is not given to those who have been on their leaves for longer than 30 days, depriving the complainant of the share of the gain since she was on her pregnancy and childcare leave. The agency stated that the complainant did not participate in the work thus the acquiring of the yearly gain of the agency which is

the main condition for being granted a share based on the achieved gain, as well as that for the period of her leave in the year in which they acquired that gain, the appropriate part of the gain was calculated and paid out, including the part for the time spent on an annual holiday that year. It was also stated that in the case of a longer leave of the employee the agency must employ a substitute worker, who carried out the assignment of the absent workers and acquired assets for the agency, which is why they were granted a share of the gain. In the course of the procedure it was established that the Decision on Division of Excess Income acquired by the agency in 2010, the rules for awarding the employees from the gain for 2010 are prescribed as following: the basic earnings established by the Collective contract for the agency, increasing gain on the grounds of the time spent at work, salary when using holiday leave, leave from work on the grounds of an injury and temporary work inability under 30 days. The analysis of these rules showed that the employees who were on a leave for longer than 30 days were exempt from the gain division, including the employees who were on child caring leave. It should be noted that the agency employed other persons as replacements for the employees on the leave and those persons had the right to a share in the gain division. Therefore, the employer's explanation that he/she limited the right to a share only to those employees that acquired that share through work could be regarded as founded. Having in mind that the right to a share entails work with the aim of acquiring gain, as well as the fact that the right to be included in the division of the gain is reserved for those who are employed on the job position of a person on a leave for longer than 30 days, the Commissioner for Protection of Equality was of the opinion that the proscribed measures regarding the inclusion into the division of gain had an objective and reasonable explanation and that the agency did not violate the regulations of the Law on Prohibition of Discrimination.

#### ***4.7.2. Recommendations on measures for achieving equality***

##### ***Recommendation on measures to the Minister of Defence for abolishment of the conditions of job advertisement that the candidates must be married***

In the newspaper DEFENCE a job advertisement of the Military Intelligence Agency of the Ministry of Defence was published, for employment as envoys of defence of the Republic of Serbia in 2015. Among certain special conditions the advertisement says that the candidate must be married, that he/she must take the spouse abroad with them, and that he/she and the closest family members must be healthy and able to work as the envoys of defence. The Commissioner for Protection of Equality concludes that proscribing special criteria that condition that the candidate must be married and must take the spouse abroad represent discrimination on the grounds of marital status. Therefore, it cannot be allowed to



publish advertisements containing conditions for employment pertaining to personal characteristics that are not a real and deciding condition for performing duties of the job, regarding the nature and characteristics of the job and the conditions in which it is done. Therefore, the fact whether the candidate can stay abroad with the spouse for the duration of the work engagement as the envoy of defence cannot represent the deciding criterion in the process of choosing the candidate. Setting the special condition that the candidate must be married and that he/she must take the spouse abroad in the Decision on special criteria for employment as the envoys of defence, potential candidates who are not married are automatically eliminated, even though they possess the appropriate education and experience, as well as those who are married but whose spouses cannot relocate. For these reason, the Ministry of Defence of the Republic of Serbia was advised to coordinate the Decision on special criteria for employment as the Envoys of defence of the Republic of Serbia with anti-discrimination regulations by removing special criteria pertaining to the candidate's marital status and by striving not to violate the regulations of the Law on Prohibition of Discrimination and other anti-discrimination regulations by its decisions and by publishing internal and public job advertisements. This recommendation was implemented.

#### ***4.7.3. Proposals for assessment of constitutionality***

*Proposal for assessment of constitutionality and legality of Article 2 par 2 of the Rulebook on Registration to the Register of Agricultural Household and Renewal of Registration, as well as the Conditions for a Passive Status of Agricultural Households ("Official Gazette of RS", no. 17/2013)*

The regulation of Article 2 par 2 of the Rulebook on Registration to the Register of Agricultural Household and Renewal of Registration, as well as the Conditions for a Passive Status of Agricultural Households proscribes that *"married couples can be registered in only one agricultural household"*. The analysis of this regulation showed that the agricultural workers who are married are put into an unequal position as compared to the unmarried agricultural workers. The Rulebook states that spouses can be registered in only one agricultural household, meaning that they cannot have two separate households, nor can they be members of different households. This means that certain households that are registered will have to be put out of business, if both spouses have registered households. Considering the still prevailing patriarchal concept of marital unity in the Republic of Serbia, undoubtedly, the women, more likely than men, will be expected to "merge" their registered households into those of their husbands. Having in mind the fact that for



the registration of a household, as well as realisation of incentive a fully workable agricultural land, in the ownership of the carrier of the request or in his/her tenure, should be registered, the proposal indicates that, by the by-law, the right of an independent access to the joint and special assets guaranteed by the law, is limited. Namely, the regulations of the Family Law proscribe that the assets that the spouse acquired prior to marriage are his/her special assets and that the assets acquired during marriage through division of joint assets, that is through inheritance, gift or other legal process which provides only rights are his/her special assets and that every spouse has an independent access to his/her assets, as well as that the assets the spouses acquires through work during the marriage are their joint assets. Therefore, the proposal to the Constitutional Court was submitted to, after the undertaken procedure, bring forth the decision which would state that the regulation of Article 2 par 2 of the Rulebook on registration to the Register of agricultural household and renewal of registration, as well as the conditions for a passive status of agricultural households, is not in accordance with the Constitution of the Republic of Serbia, the Law on Prohibition of Discrimination and the Family Law. The procedure for assessment of constitutionality and legality is underway.

#### **4.8. Discrimination on the grounds of sexual orientation**

During 2014, a total of 18 (2.6%) complaints were filed against discrimination based on sexual orientation, and this number is significantly lower compared to last year, when there were 25 complaints. The still insignificant number of complaints for discrimination on the grounds of sexual orientation lead to the conclusion that cases of discrimination on the grounds of sexual orientation are rarely reported, caused by the fear of LGBT people from stigmatisation and victimisation

The largest number of complaints for discrimination on the grounds of sexual orientation was filed by physical subject in the field of employment and work relations, as well as public information

In September 2014 the Pride parade was held, with extreme security measures. The realisation of the Pride parade represents a significant step towards the implementation of the rights of LGBT people to gathering and freedom of speech, but having in mind a great social distance and negative attitude towards LGBT population, it is necessary to undertake measures for overcoming prejudice, stereotypes and discriminatory attitudes towards sexual minorities, which would create the conditions for this manifestation to be held in future, without the need for security measures.

### 4.8.1. Opinions and recommendations

#### *Prime Minister offended the LGBT population in the statements to the media*

An organisation for protection of the rights of LGBT people filed a complaint against Ivica Dačić, Prime Minister of the Republic of Serbia at that time regarding the statements he gave on September 23<sup>rd</sup>, 2013, before the announcements for the Pride parade, broadcast by many media. In the course of the procedure it was established that Ivica Dačić, speaking about the LGBT people said, among other things, that: “We should not go to the other extreme and *mollycoddle* them. *Should I turn go so it could be proEuropean? They are equal with other citizens but do not tell me it is normal, when it is not. If it is normal, why are we the exceptions then? I have no hatred towards them, I just cannot accept that it is normal because it is not natural*“. The Commissioner for Protection of Equality established that the expression of such views is an act of discrimination because it offends the dignity of the people of same sex sexual orientation and creates a humiliating and offensive environment against them, aids the spreading of stereotypes and prejudice as well as stigmatisation and intolerance. It was emphasised that this statement has special responsibility and effect because it was said by the highest state official and the carrier of public government, whose constitutional and legal duty was to respect prohibition of discrimination and equality of all citizens. Therefore, the opinion was issued that Ivica Dačić in his statements from September 23<sup>rd</sup> 2013 expressed the views which are disturbing and humiliating and which offend the dignity of the people of homosexual orientation, and he was advised to invite for a meeting the delegation of the organisation which filed the complaint so that he would learn directly which problems and challenges people of same sex sexual orientation face on a daily basis and how they are affected by such statements. Furthermore, he was advised to refrain from giving the statements which offend the dignity of the LGBT population and support the stereotypes towards the people of same sex sexual orientation, to aid the suppression of homophobia, violence and discrimination as well as increase tolerance towards this population, and all other minority groups. This recommendation was implemented and the meeting between Ivica Dačić and the representative of the organisation was held in the premises of the Commissioner for Protection of Equality, with the attendance and support of the Commissioner.

#### *Catering facility refused to rent the space for a party for LGBT people*

An organisation of civil society stated in the complaint that one catering facility refused to rent its space to the activists of this organisation who wanted to rent it for a party for LGBT people. The director of the company refused to service

them and rent the facility when she learned that they want to organise a party for LGBT people and on that occasion said that she would not want her facility to be promoted “in that way”. The statement said that the facility was not rented to the activists of this organisation because the facility is used only for celebrations of children birthdays, for children under 13 and with a small number of guests, which did not fit their needs. Considering that this organisation made the act of discrimination probable, the company had the obligation of proving that violation of the principle of equality was not violated in this particular case. However, it failed to provide the evidence that there were objective and warranted reasons for failing to provide service and that are not related to the fact that it was a party for LGBT people. The Commissioner for Protection of Equality issued the opinion that this company performed an act of discrimination on the grounds of sexual orientation, because it did not rent the premises to the activists of the organisation for organising a party for LGBT people. The appropriate recommendations were issued with the opinion and the company and its director were advised to ensure that the LGBT people are provided services in their frame work, and not to, in the future, within their professional authorisation, violate the regulations of the Law on prohibition of discrimination. The recommendation was implemented.

### *Publishing a text offending the dignity of the people of LGBT population*

An organisation concerned with the protection of human rights filed a complaint regarding the text “Lest this evil come to us”, published in a national daily newspaper. It was established that this text was related to the photographs posted by two Canadians after they had become parents, with the help of a surrogate mother. On those photographs two Canadian are hugging the newborn boy. In the text three photographs of the couple with the baby are published and the top of the text the comment “Is this in store for Serbia?”, “The world “celebrates” the gay couple with a baby” is highlighted in red. On the photo of the couple posing, in a red circle which is very noticeable and covers the third of the photo, is written in caps “Where is this planet going”. The text starts with the comment “*God save us and God forbid! after which the journalist explains in the introduction* , that the photos of the two men holding their son, who was born by a surrogate mother, are a source of delight for the gay marriage supporter, on social networks and that “*conversants with this newspapers pray to God for something like that never to come to Serbia. However, they warn us that there is a difficult fight to evade it*“. The editorial board of the newspaper stated that the text and the statements of the conversants are not a form of discrimination of people of different sexual orientation. The Commissioner for Protection of Equality stated that the title of the text “Lest this evil come to us”, as well as the subtitle “*God save us and God forbid!*“, expresses the ideas and

views that are disturbing and demeaning and which offend the dignity of people of sexual orientation different from the heterosexual. Therefore, this daily newspaper was advised to invite for a meeting the representatives of the organisation which filed the complaint in order to learn directly of the problems LGBT people face in everyday life and how they were affected by this text, and to, in the future, refrain from publishing texts which offend the dignity of LGBT population and support prejudice towards the marginalised social groups, as well as to, in their reports, aid the change of patterns, customs and practice which conditions stereotypes, prejudice and discrimination against the LGBT people. This recommendation was not implemented in the legal timeframe, a warning was issued and a new date was set which, at the time this report is being written, has not passed yet.

#### *Theatre failed to provide press material to the editorial board of a gay magazine*

The editor of the gay magazine asked for the press material, by email and phone, for a theatre show but the material was not given to him with the explanation that “such advertisement would not suit the theatre”. The theatre’s statement says that because of the false interpretation of the show by the media and the pressure of the premiere night of the show, the executive produce decided hastily and clumsily not to provide the gay magazine with the press material. In the course of the procedure it was established that the theatre failed to provide the press material to the editorial board of the gay magazine, with a clear and non-ambiguous explanation that they didn’t want the magazine to write about the show. The Commissioner for Protection of Equality established that, by such actions, the theatre put the gay magazine in an unequal position compared to other media. Therefore, she issued the opinion that the theatre violated the regulations of the Law on Prohibition of Discrimination and the theatre was advised to send a written apology to the gay magazine and to ensure that in the process of undertaking measures within its authorisation respect the principle of equality and prohibition of discrimination, that is, to refrain from making unaccountable differentiating between and unequal action towards the subject or a group of subjects or neglecting them ( exonerating, limiting or giving priority), based on a personal characteristic. This recommendation was implemented.

### **4.8.2. Announcements**

#### *Announcement regarding the attack on a German citizen*

The Commissioner for Protection of Equality judged most harshly the attack on the foreign LGBT activist that happened in the centre of Belgrade, two weeks

prior to the Pride parade. The statement said that it was scandalous that a man, who came to Serbia in order to participate in the promotion of the idea of tolerance, diversity respect and non violence at the conference on LGBT rights, would be beaten up brutally and that the doctors struggled to save his life. The Commissioner emphasises that it cannot be allowed, on the eve of the Pride parade, as was done in previous years, the atmosphere of fear where threats and violence strives to be created afresh.

#### *Announcement regarding the activists of GSA*

The Commissioner for Protection of Equality judged most harshly the death threats over the phone to the activists of the Gay-Straight Alliance. She called for an urgent reaction of the authorised bodies, to find and process the perpetrator and point out that death threats must be sanctioned rigorously, since it was the only way to prevent the widely spread discrimination, attacks and hate speech that the LGBT population is exposed to on a daily basis.

#### *Announcement regarding the Pride parade*

In this announcement full support was offered to all the activities carried put during the Pride week, and the Commissioner reminded that the right to peaceful gatherings is the basic human right guaranteed by the Constitution, and that the Pride parade in 2014 would be a test for the new government. The statement further says that the realisation of the Pride parade is a chance to show everyone that the force of law rules in Serbia and not the law of force and that Serbia is decisive in its intention to protect human rights, ensure complete safety and prevent any form of violence. Concurrently, this manifestation will show how tolerant we are, how ready to respect human rights and to accept the right to diversity – as individuals and as a society.

#### *Announcement regarding the International day of combating homophobia and transphobia*

The statement says that the International day of combating homophobia and transphobia should serve as a warning that all human rights belong to every individual, for every person, regardless to their sexual orientation and gender identity, has the right to live freely and without fear, surrounded with understanding, respect and support. Homophobia and transphobia are widely spread in Serbia and are the expression of negative stereotypes and prejudice on LGBT people. In order to change this negative situation it is very important that everybody, from the public offices, educational, health and other institutions, to the citizens themselves aid the raising of awareness on tolerance and respect of the rights of LGBT people.

### *Announcement on the occasion of International Pride Day*

The Commissioner for Protection of Equality wished LGBT population a happy International Pride Day and emphasised that this day is the opportunity for us to show that we are dedicated as a society to the idea of human rights, tolerance, respect of diversity and acceptance of others and different. Everyone has the right to live freely and without fear, regardless of sexual orientation. In the statement it is said that discrimination on the grounds of sexual orientation is still widely spread in Serbia and that LGBT population is one of the groups most discriminated against, so it is necessary to remind the citizens of Serbia that the realisation of the Pride Parade this year is very important because it will show how tolerant ready we are as a society to accept the right to diversity. The manifestation itself, however, is not enough but a continuous effort on suppression of prejudice and discriminatory attitudes is needed, primarily with children and the youth through the educational system, as well as through joint action of state authorities, institutions, the civil sector and media

#### *4.8.3. From the media*

Having in mind that the Pride parade was supposed to be held in May, but due to the floods it was postponed to September, it could be said that, throughout the year, the position of LGBT people was the topic written and talked about. The participation of the Commissioner for Protection of Equality on conferences, discussions and roundtable meetings on the topic of the position of this minority population, was also present in the media, as well as the participation of the Commissioner with the employees from the Commissioner's service in two walks organised by non-governmental organisation whose area of work is the protection of LGBT people: the first one was organised by Gay Straight Alliance on the occasion of 27<sup>th</sup> June, the International day of LGBT pride, from park Manjež to Beogradska Street, where is the monument erected for the Roma boy Dušan Jovanović who was beaten to death by a group of skinheads 17 years ago. The second walk was the Pride Parade itself held on September 28<sup>th</sup>, and in the walk from the building of the Government of Serbia to the City hall of Belgrade, for the first time, along the head people of independent institutions in Serbia, were several ministers and the mayor with many foreign diplomats and public personas.

The Commissioner for Protection of Equality participated in conferences and events prior to the Pride Parade, and all the media broadcast her statements and assessments that the issue that LGBT people are facing with is not only theirs, but of the society as a whole, since it speaks of intolerance, homophobia, ignorance and prejudice. Also, the media broadcast the reaction of the Commissioner regarding the attack on the German LGBT activists, the participant of the conference on LGBT rights organised prior to the Pride Parade.

The opinion that established that the previous Prime Minister Iвица Dačić, in his statement to the media on the topic of Pride Parade 2013 performed an act of discrimination against LGBT people was popular in the media. Expressing the views which are offensive to the dignity of LGBT population and aids spreading of prejudice, intolerance and hostility attracted the attention of the media. Having in mind that he was advised to apologise, the media were interested in whether he would do that and when.

The announcement given to the public that the Municipality of Čačak did not implement the recommendation to apologise publicly to the member of LGBT population because of the document it requested from PPA to remove the content “promoting homosexuality and paedophilia” from national TV stations cause great media attention. The media even broadcast the statement of the Municipality of Čačak that they would not apologise because “sanctions for the misdemeanour offence are not great, and the Commissioner will put it in the media” as well as that “they have nothing against everyone expressing their affiliation but in the privacy of their home”. Such assessments from the carriers of state functions, whether on the republic or local level, confirm the lack of knowledge of legal regulation and the phenomenon of discrimination, and that homophobia in Serbia is still widely spread, therefore, certain politicians still do not have the awareness of their obligation to promote in public the values of a democratic society, such as tolerance and the right to diversity.

The story of discriminatory textbooks in Serbia was actualised after a few discussions on the quality of textbooks organised by certain non-governmental organisation, reminding the public of the recommendation on removing the discriminatory content from textbooks, which was issued by the Commissioner in 2011 to, Ministry of Education, the National Educational Council and the Institute for the Improvement of Education.

The press was dealing with the death threats directed at the members of the GSA, the ruling of the Court of Appellation in Belgrade stating that the president of the United Serbia political party performed an act of discrimination of LGBT people, the ruling of the Court of Appellation in Novi Sad stating that the attacker on the LGBT activist from Bečej was to pay compensation of 138 000 Serbian dinars, as well as the ruling stating that the leader of “Bora” was sentenced to four months of house arrest.

Initiated by the adopting of the Life Partnership Act in Croatia, the journalists dealt with this topic in the course of 2014, but not in a neutral manner, different than their approach to similar from previous years, and with a noticeable intention to approach the topic analytically and comprehensively. Therefore, many media tried to, by using particular examples, shed light on the problem that the people living in same sex unions are facing and who do not have the opportunity to



correct their status legally. The Commissioner for Protection of Equality, in several texts, explained that such opportunity would alleviate the position of people who, because of their sexual orientation, have their rights limited, with the remark that for Serbia it is binding because of the obligations it has towards the citizens as well as the path to integration into the European Union.

The victory of transgender person on the Eurovision context provoked a discussion in the media that lasted for several days, and which inspired many comments from public people and which ranged from tolerant to offensive and homophobic. This example represents the views of the public in Serbia which still has the greatest social distance towards LGBT people and is the evidence to the fact that the conservative system of values is slowly changing in our society in relation to LGBT population.

## 4.9. Multiple discrimination

Multiple discrimination is a severe form of discrimination because its negative consequences are much greater. Multiple discrimination exists when a person is discriminated against on the grounds of several personal characteristics such is the example of a Roma woman with a disability may be discriminated on the grounds of gender, national affiliation and disability

In 2014, 120 complaints were filed in which several personal characteristics were stated: of which 46 stated age, 42 marital and family status, 38 national affiliation, 35 membership in political, syndicate or other organisations, 32 religious and political beliefs and 23 gender.

It should be taken into consideration that this number of complaints does not entail that in all these cases were cases of multiple discrimination, since it is a common occurrence that the complainants state several personal characteristics, especially in those cases when they are not exactly sure which of their personal characteristics was the ground for discrimination.

The practice of the Commissioner shows that multiple discrimination is most common in against women, because of their sex and marital and family status, in the hiring process and at a work place

### 4.9.1. *Opinions and recommendations*

#### *Bank poses prohibited questions in an online employment form*

An organisation whose scope of work is the protection of human rights filed a complaint against the discriminatory questions that could be found in the online

employment form, since certain questions in this form pertain to the sensitive data and personal characteristics of the candidate applying for the position. The bank stated that the controversial questions remained from the period of formation and setting up the system of the bank in 2005, before the Law on Prohibition of Discrimination was adopted, but that the employment form was reviewed and those questions were eliminated. In the course of the procedure it was established that posing these questions in the employment form is a violation of the imperative regulations on prohibition of discrimination and that the personal characteristics of the people applying for this position do not represent the deciding condition for meeting the demands of the job position and the area of expertise of that company. Furthermore, it was said that the bank, after it had issued the statement regarding the complaint, removed the controversial questions which were the basis for the complaint from the employment form. The Commissioner for Protection of Equality was of the opinion that putting the said questions in the form on the internet site, which ask for the applicants to give data on their personal characteristics, such as: their father's name, marital status, children, represented an act of discrimination in the area of employment by the bank on the grounds of sex, marital and family status. Having in mind that those questions were removed from the form, the bank was advised not to, in the future, repeat the act of discrimination by asking question pertaining to the applicants' personal characteristics, in discord with the legal regulations on prohibition of discrimination, when advertising the job positions and in the talks with the applicant. This recommendation was implemented.

*Broadcasting of a video violated the dignity of women with disability and health conditions*

Organisations concerned with the position of persons with disabilities and violence against women filed a complaint for the video "Hello, I am Aca" which was broadcast as a part of the humanitarian campaign for raising funds for support of the work done in Children's village, against the foundation that organised this campaign. In the complaint of the organisation concerned with the position of persons with disabilities it was stated that in the video a boy utters the following sentence: "Since mum has been sick she cannot take care of us and that is why I live in the Children's village", and in the background a woman using wheelchair can be seen. After the organisation concerned with the position of persons with disabilities, had voiced their views the humanitarian foundation changed the video by removing the shot of the woman using a wheelchair. After that, a complaint was filed by an organisation concerned with prevention of violence against women stating that the changed version of the video "Hello, I am Aca" was still discriminatory against women and people with health issues. On the other hand, the humanitarian foundation stated that the campaign was carried out in order to send an appeal for support of children living in foster families without stating abuse and neglect as the dominant reasons for removing children from their families and that it

was not their intention to discriminate against anybody. The Commissioner for Protection of Equality emphasised that apart from the appeal for raising the funds, this video send the message to the wider public on the children who are the users of the foundation's services, and for that reason it is very important that the video did not have examples which could incite prejudice and stereotypes or which hurt the dignity of certain groups of people. Therefore, it is completely inappropriate to show a picture of a woman using a wheelchair in this video, in the background, while the boy utters: "Since mum has been sick she cannot take care of us and that is why I live in the Children's village" because it cannot be allowed for one of the examples of representation of mothers with disability in public to be in the context of their inability to care for their children and about removing children from their families and them being put in alternative forms of care. Even though it is positive that the picture of the woman using a wheelchair was removed from the video, it should be noted that the sentence the boy utters is offensive to the dignity of women, primarily of those with health issues and promoted the stereotypes related to gender roles and the responsibilities that women and men have concerning parenthood. Therefore, the reached opinion was that by creating and broadcasting the video the regulations of the Law on Prohibition of Discrimination were violated and the humanitarian foundation was advised to change the content of the video and not to, in the future, violate anti-discrimination regulations. This recommendation was implemented.

*Opinion of the Ministry of Labour, Employment, Veteran and Social Policy that choosing a child's surname is not in accordance with anti-discrimination regulations*

A complaint was filed against the Ministry of Labour, Employment, Veteran and Social policy for the opinion regarding the interpretation of the regulation of Article 345 par 1 of the Family Law. The Ministry issued the opinion to the municipal authorities stating that parents can decide the child's surname in accordance to the surname of one parent, and to the surname of both parents only when both parents have the same surname, and not when they have different ones. In the course of the procedure it was established that the regulation of Article 345 par 1 of the Family Law proscribes that the surname of a child is determined by its parents in accordance with the surname of one parent or both parents, and that the cited regulation does not limit the right of parents to use a surname for their child that would contain different surnames of the mother and father. The opinion of the Ministry of Labour, Employment, Veteran and Social policy, according to which the parents cannot determine the child's surname according to the surname of both parents in the case when the parents have different surnames is in contrast to the imperative regulations on prohibition of discrimination, because it produces negative consequences for those spouses who, according to their beliefs, chose the legal opportunity to have different surnames because they are unable to choose

freely the surname for their child, which puts them in an unequal position in comparison to other parents who have the opportunity to choose the surname for their child in accordance with the surname of both parents and in keeping with their belief regarding the choice of surname when entering marriage. This opinion, also, produces negative consequences for the child who is prevented from having the surnames of both its parents which puts this child in an unequal position compared to other children who have the opportunity to carry the surname of both parents, according to their parents' beliefs. Therefore, the Commissioner for Protection of Equality advised the Ministry of Labour, Employment, Veteran and Social policy to undertake, without prolongation, all necessary actions and measures which would ensure that the municipal and city government authorities, in the process of signing the surname of a child in the civil registry of births, allow the child to be signed with the surnames of both its parents even when they have different surnames, if the parents decide on such a surname, and to, in the future and within its own authorisation, act according to anti-discrimination regulations. This recommendation was implemented.

*Employers request a photograph and the information on sex, children and marital status in application process*

An organisation fighting for women's rights filed complaints against two companies for their online employment forms found on their internet sites. The questionnaire of the first company had questions pertaining to sensitive data and personal characteristics of the candidate applying for the job position and those are: sex, marital status and photograph. The questionnaire of the second company had the following questions: marital status, children and photograph. In the course of these procedures it was established that posing such questions in the employment forms represented violation of imperative regulations on prohibition of discrimination and that the personal characteristics of the people applying for the job position did not represent the real and deciding condition for performing the said job, having in mind the nature and characteristics of the job and the area of expertise of the companies against which the complaints were filed. Both companies removed the controversial questions from the forms, after a request for statements was issued to them. In both cases the opinions given were that putting the online employment form on the site asking the candidates applying for the job to state the information pertaining to their personal characteristics represents an act of discrimination in the area of employment and labour on the grounds of sex, marital and family status and physical appearance. Having in mind that the mentioned questions were removed from the employment forms the companies were advised not to, in the future, in the process of advertising job position and interviews with the candidates; repeat the act of discrimination by posing inappropriate questions pertaining to the candidates' personal characteristics. These recommendations were implemented.

### *Posing inappropriate question during a job interview*

The complainant stated that during a job interview the members of the employment committee asked her question pertaining to family planning, her marital status and whether she was pregnant at that time. She believes she was not chosen for the job position because she refused to answer those questions. In the statements, all three members of the committee negated that they had asked the complainant or any other candidate these questions. Also, they stated that the complainant was not chosen because she did not satisfy the criteria. In the course of the procedure, on the basis of the submitted evidence, it was established that the members of the employment committee, during the job interviews, asked the candidates, including the complainant, questions pertaining to their professionalism and knowledge. It was assessed that the members of the committee had given enough facts and evidence that support their statements that the failure to employ the complainant was not due to her personal characteristics, yet that there were valid reasons for not choosing her for the job position. Therefore, the Commissioner for Protection of Equality issued the opinion that the members of the committee did not violate regulations of the Law on Prohibition of Discrimination.

### *Conflict situation regarding a request filed with the doctors' committee*

The complainant stated that a doctors' committee refused to approve his request for a prolonged rehabilitation on the grounds of his sexual orientation and intention to change his sex as well as that, on that occasion, he was offended, laughed at, that he suffered open ridicule and that he was told that "to such people as him should not be allowed to be treated and that they should be expunged from the country". In the statements, the doctors negated having uttered such a sentence, and that they did not offend the complainant, by words or acts, but that he told them, "what's wrong, murderers?" after which he continued offending them. As the complainant as well as the president and member of the doctors' committee did not mention the presence of a third party, it was impossible to gather statements from the third party. Therefore, the Commissioner for Protection of Equality concluded that from the facts and evidence submitted the precise wording the president and member of the doctors' committee uttered could not be determined. The allegations from the complaint differ from the allegations from the statements and they are contradictory and since the complainant did not offer any other evidence the Commissioner for Protection of Equality concluded that the act of discrimination was not made probable. Therefore, the opinion was issued that it was not established whether the members of the doctors' committee had performed an act of discrimination on the grounds of sexual orientation and gender identity of the complainant.

#### 4.9.2. *Proposals for assessment of constitutionality*

*Proposal for assessment of constitutionality and legality of Article 85 par 1 and 3 of the Civil Procedure Law (Official Gazette of the Republic of Serbia“, no. 72/11, 49/13-ruling of the Constitutional Court, 74/13-ruling of the Constitutional Court 55/2014)*

The Law of Amendments to the Civil Procedure Law (“Official Gazette of the Republic of Serbia“, no. 55/14) amends the norms of Article 85 of the Civil Procedure Law by adding par 2 and 3 and which state: *An attorney of a physical subject can be a lawyer, first degree blood relatives, brother, sister or a spouse, as well as a representative of the unit of local self-government who is a graduate lawyer who has taken and passed the Bar exam. The attorney of an employee who is a party in a procedure can be a representative of the syndicate that the employee is a member of, if he/she is a graduate lawyer who has taken and passed the Bar exam.* The analysis of new rules which regulate who can be an attorney of natural persons as parties in a litigation procedure show that they are contrary to the constitutional principle of prohibition of discrimination, contained in Article 21 of the Constitution of the Republic of Serbia, since it limits the chance of the party to choose an attorney freely, which violates the principle of equality in fulfilling the right to access to a court, which is one of the main components of the right to a just trial, guaranteed by Article 32 of the Constitution of the Republic of Serbia and Article 6 of the European Convention for Protection of Human Rights and Basic Freedoms, as well as the right to equal protection before courts and other state authorities as guaranteed by Article 36 par 1 of the Constitution of the Republic of Serbia. In the proposal it was stated that in the process of projecting legal solution that mesh with the right to access to a court it is necessary to have in mind that this right represents one of the key elements of the right to a just trial, since all the other procedural laws, which form this right, can be fulfilled only after legal subject address the court and seek legal protection. It is evident that, namely, by these new rules on the attorneys of natural persons – parties in litigation, which regulate that an attorney of these parties can be a lawyer, first degree blood relative, sister, brother or a spouse, as well as a representative of the legal aid office of the unit of local self-government, who must be a graduate lawyer who has taken and passed the Bar exam in lieu of the possibility to be represented, puts in an unequal position those subjects who are unable to, for whatever reason, take the procedural actions in the procedure personally, and they do not have financial means to pay a lawyer or live in places where the office of legal aid is not set up (it is well known that in many municipalities such services do not exist or that they do not have lawyers with the Bar exam), or they do not have a first-degree blood relative, that is brothers, sisters or spouses or they do have them but they do not want to represent the party or are unacceptable as representatives for the party. The number of people who can be named as attorneys

was set arbitrarily and is the expression of legal voluntarism. For example, the rule which states that an attorney of a physical subject can be a spouse, is in direct opposition to the principle of prohibition of discrimination guaranteed by Article 21 of the Constitution because people who have entered civil partnership are not allowed to have their civil partner as an attorney, which discriminates against them compared to those who entered marriage, on the ground of marital status. The proposal further states that the given limitations, which put the party in need of an attorney in an unequal position, are contrary to the principle of prohibition of discrimination because there are no objective and reasonable reasons to account for them, not from the aspect of goal nor consequence it causes. The proposal for assessment of constitutionality and legality was denied.

#### **4.10. Discrimination on the grounds of other personal characteristics**

Apart from the personal characteristics individually represented in this report, in 2014, 49 complaints were filed for discrimination on other grounds. For each of these the number of filed complaints is under 2% of the overall number of complaints. Seven complaints were filed on the grounds of citizenship, six on the grounds of personal appearance, three on the grounds of previous incarceration, on the grounds of skin colour and one on the grounds of ancestors. Along with the mentioned reasons, in 31 complaints, a personal characteristic not proscribed explicitly in the law, was stated.

##### ***4.10.1. Opinions and recommendations***

###### ***Giving unjustified privileges on the grounds of the seat of the founder of the legal subject***

A company filed a complaint against a bookkeeping association for the decision of the Administrative Committee of this association proscribing that for renting a stand at the schoolbook fair in 2014, all the companies whose founder is a domestic natural or legal subject have the right to a 40% discount while other members of the association have 10% discount. The association stated that it has the legitimate right to decide who would get privileges as well as that this decision was approved by the Monitoring Committee of the association, not finding it to be in discord with the legal regulations. In the course of the procedure it was determined that by proscribing such conditions the members of the association whose founder is a foreign physical or legal subject are put in an unequal position in comparison with the members of the association whose founder is a domestic physical or legal subject, on the question of renting a stand at the schoolbook fair and that such action had no



objective or justified reasons so that this associations, through such actions, violated the regulations of the Law on Prohibition of Discrimination Due to such ruling, the association was advised to remove the condition from their decision which violated the principle of equality of individual members of the association, in order to ensure that all members, under equal conditions, rent stands at the schoolbook fair, and to, in the future, ensure that, within its authorisation, act according to anti-discrimination regulations. This recommendation was implemented.

*Right to financial help for firstborn child enjoys the mother who has had residence on the territory of the city for more than six months*

The complainant filed a request to the City Administration for establishment of the right to financial assistance for her firstborn child. However, her request was denied with the explanation that she did not satisfy all the criteria for claiming the right to financial help because she was not a resident on the territory of the city for six months before the baby's birth. It is believed that by such actions the family of the complainant was put in an unequal position in relation to other families with a firstborn child. The Decision on Financial Assistance to Families with Children proscribes that the right to financial help has the mother who has been a resident on the territory of the city for more than six months prior to baby's birth and who claimed her right to parental allowance. The father can claim the right to a financial help for firstborn child as well, under the condition that the mother of the child is not alive, that she is incarcerated or relieved of her parental right in favour of the father. Having in mind that the City administration, in this particular case, acted according to the Decision on Financial Assistance of Families with Children, which it is obliged to respect, and that the City administration did not adopt this act but it was the City Assembly, the opinion was issued that by failing to recognise the rights of the complainant to a financial help for her firstborn child the City administration, against which the complaint was filed, had not violated the Law on Prohibition of Discrimination. Regarding the complaint for discrimination, an analysis of the conditions proscribed by the Decision on Financial Assistance of Families with Children adopted by the City Assembly, according to which it was established that the condition for exercising the right to financial help for firstborn child and which pertains only to the mother's residence, did not have an objective and reasonable justification, for proscription of this condition, failing to introduce the residence of the father and the child, was not justified neither from the aspect of purpose nor the aspect of its consequences. Therefore, an appropriate recommendation was issued to the City Assembly. This recommendation was implemented.

*Right to parental allowance is not recognised for an adopted child*

A married couple filed a complaint against the Administration for Children, Social and Primary Health Protection for not respecting the right to a parental

allowance and the right to financial assistance for adopted firstborn child. In the course of procedure it was established that the complainant filed a request for parental allowance and the request for temporary financial assistance and that the competent authority did not recognise her right to parental allowance, because, according to the instructions of the Ministry of Labour and Social Policy, as an adoptive parents she cannot fulfil this rights for an adopted child, having in mind the nature of the right to parental allowance. An analysis of the conditions that are proscribed by the Law on Financial Assistance for Families with Children for realisation of the right to parental allowance showed that the parental allowance is a measure of prenatal policy, and its goal is to spur giving birth, that this measure has no social character and that it is not directed at the financially impoverished groups of society. Furthermore, as the law proscribes the amount of parental allowance as the children are being born, it is evident that the parental allowance is directed to the motivate giving birth and not to settling the expenses of a newborn child. Even though from the aspect of the right to parental allowance and the right to temporary financial assistance for firstborn child the adoptive parents are put in an unequal position in comparison to those parents who have biological children, this differentiation is objectively justified, having in mind the purpose of parental allowance and temporary financial assistance for a firstborn child, as proscribed by the law and act of the unit of local self-government. Therefore, the opinion was issued that by not recognising the right to parental allowance and the right to temporary financial assistance for the firstborn adopted child of the complainants, the Administration for Child, Primary and Social Health Protection did not violate the regulations of the Law of Prohibition of Discrimination.

*Foreign citizen cannot use health insurance of her spouse who has special insurance*

The complainant has a two-month old child, is a citizen of Albania and has permission for stay in the Republic of Serbia. She stated that her husband is insured as an unemployed subject and a diabetic and the Republic Fund for Health Insurance did not ensure that she could be insured as a close family member of her husband, since she is a foreign citizen. She believes that by such actions the Republic Fund for Health Insurance discriminated against her on the grounds of her citizenship. In the course of the procedure it was established that the spouse of the complainant was insured in relation to the treatment of a health condition of greater socio-medicinal importance and that this basis of insurance was not contained in the regulation of the Law on Health Insurance proscribing the possibility of insurance for members of close family of the unemployed insurants. This leads to the conclusion that the close family members of the complainant's husband do not have the right to be insured in the grounds of his health insurance, regardless of their citizenship. In

the statement to the complaint the Republic Fund of Health Insurance offered evidence according to which it could be concluded that the ruling on including the complainant into the compulsory health insurance and setting a monthly financial contribution was given due to reasons not pertaining to her citizenship. Therefore, the Commissioner for Protection of Equality issued the opinion that the Republic Fund for Health Insurance did not violate regulations of the Law on Prohibition of Discrimination, by its actions which resulted in the complainant being included in the compulsory health insurance and set a monthly financial contribution.

#### **4.10.2. Misdemeanour charges**

##### *Misdemeanour charge for discrimination of the candidates who graduated from private Law faculties*

On the internet job market an advertisement was published, by a lawyer firm, which contains discriminatory condition for the candidates who wish to apply for employment, that is, acquire the apprentice position with this employer. The advertisement was for the position of a Bachelor of Law – Apprentice. The candidates wishing to apply for the position of apprentice in this firm, beside the conditions pertaining to the professionalism and competence, must have graduated from a state faculty. Namely, this advertisement says that the person applying must have graduated from a state faculty, with GPA 7 and a maximum of 5 years spends studying. By such action, the lawyer, who is the principal of this firm, violated the regulations of the Law on Prohibition of Discrimination by preventing people who have graduated from private faculties to apply for the position. The criminal charges state that the achievement of a legitimate goal must not lead to discrimination. What an employer must not do in the process of publishing advertisements for job is to set criteria pertaining to personal characteristics of the candidates, and which are not a real and deciding condition for performing a job, having in mind the nature and characteristics of the job and the conditions in which it is done. Therefore, the fact whether the candidate acquired the Bachelor's Diploma in an institution founded by the Republic of Serbia or some other subject, is not a real and deciding factor for performing the job with this employer. The stated condition is prohibited, because it pertains to the personal characteristics of the candidate that have no direct importance for performing the job assignments, within the profession of the employer. Such behaviour is against the law and represents a violation of imperative regulations on prohibition of discrimination, binding for all legal persons. Such actions are an offence sanctioned according to Article 51, par 1 and Article 10, par 3 of the Law on Prohibition of Discrimination.

#### 4.10.3. Recommendations on measures for achieving equality

*Recommendation to the principle of a school to review the discriminatory decision which prohibits the student to attend the graduation party in the school for his status of an irregular student*

The principal of a school decided not to allow a student to attend the graduation party because he was an irregular student. Having in mind that the graduation party was fast approaching and that there was the possibility of irremovable consequences occurring, the principal was advised to review his decision urgently. In the recommendation it was stated that the principal was obligated to respect the regulations of prohibition of discrimination and to prevent through his actions expression of all forms of discrimination in the institution he administered, as well as that it was important to prevent discrimination of the child, in a timely manner, regarding the opportunity to celebrated such an important day in every pupil's life with the friends from his class This recommendation was implemented.

*Recommendation to the City Assembly of Požarevac to remove elements of discrimination contained in the Law on Financial Support to Families with Children*

Acting upon the complaint of a mother with a newborn who did not get the temporary financial assistance for her firstborn child because she did not live in Požarevac for longer than six months until the child was born, even though her husband was born and lives in Požarevac, and it is their child's residence, the Commissioner analysed the conditions proscribed by Article 2 of the Law on Financial Assistance Families with Children of Požarevac. As stated in the law the right to financial assistance for the firstborn child can be enjoyed by the mother, but the analysis of the whole decision showed that the city wanted to show support to the family with a firstborn, for the birth of the baby and the raised costs, regardless of the fact that the mother is the carries of this right. This conclusion is supported by the possibility proscribe by the Article 2 of the Law, stating that the father of the child can fulfil this right in special circumstances, from which stems that the aim of such assistance is to help the newborn financially, as well as the whole family raising it. The Commissioner recommended that the city of Požarevac change the Decision on Financial Assistance for Families with Children by proscribing that, apart from other conditions, the right to financial remuneration is enjoyed by the mother, if her or the father of the child had residence on the territory of Požarevac for longer than 6 months before the child was born, under the condition that the child's official residence is on the territory of the city. This recommendation was implemented.

## 4.11. Outcomes of the procedures

This part of the Report will present the outcomes of the procedures before the Commissioner for Protection of Equality in the course of 2014. Though the number of citizens addressing the Commissioner is increasing, which is the result of a greater visibility of the institutions, the opening of a regional office in Novi Pazar and many activities that the Commissioner has conducted along with the employees, there are still many cases of citizens who contact the Commissioner for events, behaviours and acts which are not discriminatory. Therefore, this part of the report will deal with the examples of the complaints which were submitted to the Commissioner, and which procedures were terminated because it was evident that there is no violation of the right from anti-discrimination regulations, because of a lack of personal characteristic or cause-effect relation between the personal characteristic and the act performed. In such cases, the complainants is informed on the reasons for termination of the procedure, and is given information on who to contact further or the manner in which he/she could protect their rights.

In 2014 the Commissioner conducted 884 procedures. In comparison to previous year fewer complaints were filed – 666, which is understandable having in mind the fact that in 2013 one non-governmental organisation filed 64 complaints after conducting a situational testing of discrimination. On the other hand, the number of recommendations on measures for achieving equality rose from 24 in 2013 to 198 in 2014. Out of the total number of 666 complaints, in 109 opinions and recommendations were issued, in 66 cases discrimination was established and in 43 cases the issued opinion was that there was no discrimination. The Commissioner's opinions and recommendations, in which discrimination was established, as well as certain opinions in which discrimination was not established, are presented in the parts of this Report pertaining to specific grounds of discrimination.

It has already been mentioned that the Law on the Prohibition of Discrimination stipulates that the Commissioner does not act on a complaint in case the proceedings pertaining to the matter in question have been initiated before a court of law or the procedure was legally terminated ; when it is evident that the alleged discrimination did not occur, if the Commissioner has already conducted the same procedure no new evidence has been provided, and if it is impossible to achieve purpose of conducting a procedure due to the time elapsed since the violation of the rights in question.

In 193 cases the complaints were dismissed, and 33 of those for the authorisation of the Commissioner for Protection of Equality and 160 for incomplete complaints and other reasons which inhibit acting upon a complaint. Complaints dismissed for the Commissioner's authorisation pertained to violation of those rights which examination and establishing is within the authorisation of other bodies (e.g. Labour

Inspection or some other), and in some complaint the Commissioner was asked to conduct a “revision” of effective court rulings. In these cases the complainants are informed on the reasons for complaint dismissal and further information on who to contact or how to protect their right is given. Regarding the dismissal of complaints due to their incompleteness, most commonly the complainants fail to mark all the necessary data so that the complaint could be acted upon (e.g. against whom the complaint is submitted) or they fail to submit evidence or they do not rectify the documentation on time. Every complainant of an incomplete complaint is informed on the reasons of its incompleteness as well as on which data are needed or which additional documentation should be submitted, and a time period of 15 days is left for rectification of the complaint. If the complainants fail to do so, the Commissioner dismissed the complaint.

Acting upon the complaint was terminated in 288 case, and in 231 of those because it was evident from the complaint that the violation of rights did not occur, and in 38 because of another procedure conducted or finished on the same matter, in 4 cases when it was impossible to achieve purpose of conducting a procedure due to the time elapsed since the violation of the rights in question, in 6 cases because the Commissioner had already conducted the same procedure and no new evidence had been provided and 9 procedures were terminated because the complaints were drawn.

Several procedures were discontinued because it was evident that the violation of rights did not occur. In the end, the procedures and the outcomes of the court proceedings on lawsuits, misdemeanour and criminal lawsuits that the Commissioner for Protection of Equality had conducted will be presented.

#### *Decision on the continuation of treatment*

The doctor who operated on the complainant recommended continuing the treatment in a spa facility. The complaint was filed against the Republic Fund for Health Insurance and one of the doctors from the doctors’ committee for the decision of the committee not to permit the complainant to undertake treatment in the spa as the continuation of her treatment after the intervention. Based on the allegations and the submitted evidence, it was not evident in this case that there was a violation of the rights in regard to the Law on Prohibition of Discrimination, since the decision of the Committee was not based on any personal characteristic of the complainant.

#### *Failure to continue the temporary contract*

The complainant stated that she was employed in a company as a help worker, that she had an injury on the job and took a sick leave and that the employer failed

to continue her temporary contract, after the time period for which it was signed, and that he employed another worker for the same position. The complainant believes that she was discriminated on the basis of the injury she suffered, since, prior to that, she had fulfilled all the demands of the employer. In the complaint she asked for help in the protection of the rights and existence of her family. In this particular case, having in mind the allegations stated in the complaint and the submitted evidence it was evident that there was not violation of the law in regard to the Law on Prohibition of Discrimination, since one of the substantial and constituent elements is missing – the grounds for discrimination.

### *Untruthful data in media reports*

Complaints were filed by the person authorised by a group of members of a small religious community against a printed and internet publication of a national daily newspaper and one informative internet portal. In the complaints it was stated that these media published untruthful data on the camp and activities organised by this religious community, which created a negative perception towards this community. They believe that by spreading untruthful information, hatred and intolerance on the grounds of religious beliefs is provoked and fuelled. The analysis of the allegations of the complaint and the submitted evidence showed that apparently this was not the case where the law was violated that the complaints suggested, having in mind that in this particular case it was necessary to determine whether the published information was true. The complainant was informed that it was possible to file a lawsuit to the authorised court, if there was a doubt that the articles gave untruthful information or information which degraded honour and reputation of certain people, if it does not aid the public dispute as stated by article 79 of the Law on Public Information and Media, and against the editor-in-chief of the media that published the information.

### *Unequal position of the employees with higher professional education*

A group of employees of a Municipality Administration filed a complaint against the employer, stating that the employer, according to rulebook which determines the salaries of this administration, increased the coefficient of all employees' incomes, except those with higher professional education. It was established that the employees with higher education were put in an unequal position in relation to the employees with lower professional education, but that this action was not caused by any common personal characteristic of this group of employees. In this particular case, it was evident that no violation of rights occurred, since the differentiating between certain groups that is not based on any personal characteristic is not regarded as discrimination.



### *Failure to achieve employment after years-long volunteer work*

The complainant has BSc in chemistry, who volunteered in the Institute for Public Health in a city in Serbia for several years. She stated that she was not employed, and that at the time, her colleague, a daughter of the chief of a government office and the secretary of the Institute's Director, did receive employment. The complainant believes that she was discriminated on the grounds of marital status of the colleague that was employed. Based on the allegations from the complaint and the evidence submitted it was established that the possible unequal action was not caused by any personal characteristic of the complainant. As for the person that had been employed, it was displayed that the employment was not motivated by her personal characteristic but her identity – the fact that she is in a familial relationship with the people close to the Chief of the Institute for Public Health. It was explained to the complainant that the discrimination on the grounds of marital status would entail the candidate for the position of Bachelor chemist to be employed based on whether she was or was not married, and not whether the decision of the employer was influenced by the fact who her parents were, as well as that, the example of discrimination on the grounds of family status could be the situation in which the candidate is asked to provide information on their parents or children, etc, and that such information then, influenced the employer's decision regarding her employment (for example, refusal of single parents etc).

### *Readers' comments on an internet portal*

The complainant stated that on the internet portal of a famous daily newspaper, under a text on Kosovo, there was a comment by a reader, posted under a pseudonym. The anonymous commenter called the Orthodox church faulty, that is, pointed out that Serbian people, after the division of Christian church in 11<sup>th</sup> century, chose the eastern „fake Orthodox church, and the Croats stayed what they were and while that church was powerful, the Serbs were well and there was a kingdom while the Croatian kings and land disappeared“. Furthermore, the reader stated that „serbia is lost between two worlds now“ and voiced his wish for the Christian church to be united again and “wrong orthodoxy to cease to exist, marking the end for serbia and all evil in this region for it was such until the division in 1047 but serbia did not exist then for they lived in Raška, and all the evil created fake churches and chasm in church“. The complainant believes that this reader writes the word Serbia in small letters that he/she refers to Orthodox Christianity, to which the complainant belongs, as fake and that his comment is abundant in discriminatory attitudes towards Serbian people, with proclamation of “fascist and pro-ustasha attitudes”. Furthermore, the complainant believes that the administrators of this internet publication published the comment of an anonymous reader on purpose and that

even after the complainant requested that this comment be removed they did not take any action. Taking into account the relevant international and domestic legal regulations which prohibit discrimination, as well as guarantee freedom of thought and expression, it can be concluded that the readers of electronic media, when that media allows commenting on the published texts, have the right to express their opinions on the text, associations cause by that text and to express their opinions and ideas on different social occurrences. Accordingly, the administrators who decide on the publication of comments are obliged to respect the rights guaranteed by the Constitution of every citizen to freedom of thought and expression, taking care that these comments do not incite discrimination, hatred or violence against individuals or groups of individuals on the grounds of their personal characteristic. Freedom of expression is very important in every democratic society and it entails, primarily, the freedom to one's own opinion, freedom of announcing information and opinions, as well as accepting them. This form of freedom is absolutely protected, that is, it can be limited only in specific cases, according to regulations and it can be in cases of the interests of national safety, territorial integrity or public safety, in order to prevent crime and riots, protect health and morale, protect reputation and the rights of others, prevent uncovering of information gathered in secrecy or with the aim of retaining authority of court unbiased attitude. The Committee of the Ministers of the Council of Europe states that all "limitations of this right cannot be connected with the nature of a democratic society". Also, according to the European Court for Human Rights, regulation of Article 10 of the European Convention on Human Rights, not only the positive information and ideas and those deemed not offensive are protected but also those that offend, shock or disturb, because such are the demands of pluralism, tolerance and open-mindedness which are the foundations of a democratic society. There is no freedom of speech if we expect that all that is said by others must be in accordance to our personal values. The essence of freedom of speech is to have an opinion, to express it but for other to have the opportunity to do the same.

### *Special insurance rate for women who gave birth*

Upon learning that employed women who gave birth are given a special insurance rate after they acquire the conditions for retirement and according to the number of the children they gave birth to, the complainant stated that she believed that such rules are discriminatory towards women who, for a plethora of reason, could not or did not want to become mothers. She stated that, in this way, women were divided unjustifiably to those without children and mothers. The Commissioner for Protection of Equality pointed out to the complainant the relevant regulations of the Constitution of the Republic of Serbia and the Law on Prohibition of Discrimination which proscribe special (affirmative action) measures and especially the regulation

of Article 21 par 4 of the Constitution which proscribes that the special measures the Republic of Serbia can introduce in order to achieve full equality, protection or development of an individual or a group of individuals that are in an essentially unequal position compared to other citizens are not deemed discriminatory. It was emphasised that not every differentiation is a discriminatory action, according to the legal regulation in the field of protection from discrimination. Namely, the Law on Pension and Disability Insurance proscribes that the female insurants are given a special insurance rate depending on the number of children they gave birth to (for one child six months, for two a year, for three two years). In this way the state, through laws and by-laws, manages a pro-natal policy, that is, conducts measure for increasing the number of children being born. According to the estimations of the Republic Institute for Statistics infants make up only 0.92% of the citizens, the natality rate on 1000 citizens is -5.2 and decreasing every year. Therefore, these special measures are used by the state to motivate giving birth and with the aim of increasing the natality rate and leading pro-natal policy. It stems from this that the regulations of Article 60 of the Law on Pension and Disability Insurance proscribe a special measure, which is not discriminatory.

#### *Conflict situation at the work place*

The employee in a health institution filed a complaint against her colleague, a lawyer in the legal office, before the employer. In the complaint it is stated that she sent a letter to the Ministry of Health informing them of the hiring process in this Health Centre and expressed a wish that her son is hired as well. The Control of the Ministry showed her letter to the Chief of the Health Centre and the lawyer, after which the lawyer read the contents of the letter in all offices of the centre which spurred a conflict between the complainant and some of her colleagues, who stopped talking to her, and on several occasion she was the victim of verbal attacks. She also stated that she had contacted the Chief in regard to the abuse she believed to have suffered but that the Chief did not take any action to protect her. The complainant was informed that in order for any regulation of the Law on Prohibition of Discrimination to be applied it is necessary that a person or a group of people be treated in an unequal manner on the grounds of some personal characteristic. On the other hand, the regulations of the Law on Elimination of Abuse at Work, sees abuse at work (mobbing) as any active or passive behaviour towards an employee or a group of employees that is repeated, and that has the goal of violation of dignity, reputation, personal and professional integrity, health, the position of the employee that causes fear and creates hostile, degrading or offensive environment, deteriorates working conditions and leads to the employee being isolated or made to resign or terminate the contract on work or any other

contract. At the same time, the complainant was informed that in certain cases abuse at work can be discriminatory, but only when it is based on a certain personal characteristic of the employee. In this particular case, the complainant was informed that discrimination would exist the behaviour of the lawyer of the Health Centre was grounded on any personal characteristic of the complainant. However, the allegations of the complaint do not state that the behaviour of the complainant's colleagues was not founded on any personal characteristic of the complainant, it was concluded that there is no connection between any personal characteristic of the complainant and the behaviour of the lawyer of the Health Centre.

#### *Failure to be employed*

The complainant stated that his son had been discriminated against because a university failed to employ him, and the complaint was filed against the Provost. His son had enrolled in a Doctoral studies programme on a Faculty under the jurisdiction of that University, and he had excellent recommendation, and the, among other, the recommendation of an ex Prime Minister, but that he was, despite all that, not employed. The complainant was informed that in that particular case there was no violation of right, considering that the fact that his son was not employed was not in relation to any personal characteristic of his son.

#### *Subventions for families with several members*

The complainant states that the City Assembly of Novi Sad has been implementing measures of improvements and support of pro-natal policy, by giving certain financial aid to families with three or more children. Furthermore, the complaint states that the Public Communal Company "Informatika" decreases the bills by 30% for families with three children or more, on the list of users for whom subventions were approved. The complainant and his spouse obtained that right in 2012 but not for the first two months of 2013, because the request was not filed for that year. In the complaint he stated that he hadn't known that a request should have been submitted every year. In this case it was evident that there was no violation of rights the complainant indicated, considering that the subvention was not received due to his failure to fail a request, and not on the grounds of any personal characteristic.

#### *Citizens' income tax*

The complaint of an agricultural producer it was stated that paying the income tax is not obligatory for agricultural workers with registered agricultural assets. He believes to be discriminated against on the grounds of his financial status because he cannot register his land because he has less than one acre of land and

for registration at least something more than one acre is needed. The complainant was informed that it is evident there was no violation of rights according to the Law on Prohibition of Discrimination.

#### *Complaint on the actions of an employee in a Social Work Centre*

The complainant states that she filed a request for realisation of the right to financial social assistance to the authorised centre. She believes that she was discriminate by an unprofessional and unconscientious action on behalf of an employee of the centre, who was conducting her case, since all six of the decisions were annulled in a second-instance jurisdiction procedure. The complainant was informed that the violation of rights according to the Law on Prohibition of Discrimination did not occur, and she was educated on who to contact if she believed that the employees performed their job duties in an unprofessional and unconscientious manner.

#### *BusPlus advertisements have only men on them*

The complaint was filed by a citizen of Belgrade stating that in the majority of buses in Belgrade on the advertisements for BusPlus which have only men on them. She contacted the Commissioner with a question whether it could be constituted as discrimination or if it meant that only men had the right to discounts and the right to use BusPlus, since women used BusPlus card as well. In the course of the procedure on her complaint it was established that neither in the text nor the application form for this travel card was stated that only men could acquire discount, even though the advertisement video had only men in it. It is evident that the advertisement that has only representative of one sex in it does not paint a realistic of the society, that it is not directed at all users, and that the consequence of marketing campaign could be that the user population not included in it felt excluded and hurt. However, using only male actors in this commercial does not mean that the female users are excluded from the programme of discounts. Therefore, it was evident that in this particular case there was no violation of right as according to the Law on Prohibition of Discrimination.

#### *Change of marital and family status of the candidates for apartment bestowment*

The complaint was filed by a young scientific worker against the Foundation for Solution of the Housing Needs of Young Scientific Workers of the University of Belgrade for discrimination on the grounds of a change in marital and family status in the period from the end of the advertisement for apartment bestowment to the moment when individual decisions were made. He stated that the advertisement was finalised on 2003 and that in 2013 the Foundation for Solution of the Housing

Needs of Young Scientific Workers of the University of Belgrade made the decision stating that the Housing Committee would take into account the number of members of a household of the candidates at the moment the advertisement ended, in the process of decision making on solving housing issues of the candidates. In this time period, the number of members in the complainant's household changed from one to five, and the complainant believes that he was thus put into an unequal position in comparison to the candidates whose change in marital and family statuses was acknowledged by the Committee, before the decision by the Foundation for Solution of the Housing Needs of Young Scientific Workers was made, in 2013. In the course of the procedure, it was established that the unequal treatment of two groups of candidates is evident but that it was a consequence of the decision made by the Foundation for Solution of the Housing Needs of Young Scientific Workers in 2013. However, for unequal treatment to be considered discrimination, according to the Law on Prohibition of Discrimination, it is necessary for it to be grounded on a personal characteristic that does not exist in this particular case. Namely, both groups of candidates had a change in marital and/or family status and different treatment of these groups, according to the facts and evidence submitted, was not grounded on any personal characteristic. Therefore, in this particular case the violation of rights according to the Law on Prohibition of Discrimination, did not occur, which does not mean that in this case another right was not violated, which is not within the authorisation of the Commissioner for Protection of Equality.

#### *Division of assets to associations of persons with disabilities*

The complaint was filed by an association of persons with disabilities against the City Administration on the grounds of advertisement that the City Administration had published a public advertisement for choosing a programme in the area of social protection, co-financed by the City Budget Funds, which is promotion of the quality of life of persons with disabilities. It was stated that the assets for the expenses of funding income for an employee granted to all associations that had requested it, except for the association that filed the complaint. In this case, according to the allegations from the complaint it is evident that differentiation or unequal treatment on the grounds of any personal characteristic of the association did not occur.

#### *Conditions for doctor specialisation*

The complaint was filed against the health institution the proscribed by the rulebook that the choice of the candidates for specialisation is done, among other, on the grounds of the years of work in that institution and not the years of work in other health institutions, on the job position of general practitioner. The complainant believes that this action represents discrimination against him/her, considering the complainant's seven years of work on the job position of a general practitioner in

other institutions, which are not assessed and that it was “*quiet discrimination on the grounds of age*”. According to the facts stated, it is evident that differentiation or unequal treatment on the grounds of any personal characteristic of the complainant occurred. Namely, the assessment of years of work for the employer who suggests the candidate for specialisation is not discrimination on the grounds of age, since it is evident that the older employees can have more years of work for the employer than the employee who is younger. Therefore, it was concluded that in this particular case violation of rights, as according to the Law on Prohibition of Discrimination, did not occur.

#### *Unified form for payment of communal services*

The complaint was filed against the City Assembly of Belgrade because it proscribed that communal services should be paid by using one (unified) form which shows clearly the calculated monthly amount due to be paid for communal services and that has the total sum off all those amounts. The complainant believes that the obligation of the citizens are enlarged by such manner of payment and indicated that the monthly payments for communal services are greater than the income from pensions. The complainant was informed that there was no violation of right as according to the Law on Prohibition of Discrimination in this case, since, according to the stated facts, no differentiation or unequal treatment on the grounds of any personal characteristic of the complainant, occurred.

#### *A disciplinary procedure against a colleague*

The complainant is employed in a primary school and in the complaint she states that she filed a request for a disciplinary procedure against a colleague, the school psychologist, on the grounds of violent behaviour. She states that he yelled at her during a meeting and that he threatened her physically and told her to leave the office. She called the police on this occurrence and she believes that there is ground for a disciplinary procedure against her colleague. The complainant was informed on why in this particular case there is no violation of rights as according to the Law on Prohibition of Discrimination, an explanation was given on the difference between abuse at the work place (mobbing) and discrimination, as well as information on the possibility of contacting the authorise bodies.

#### *Inability to acquire compensation of income for the time spent on pregnancy leave, due to the employer's bankruptcy*

The complaint was filed against the Municipal Administration and the complainant believed that she was discriminated against on the grounds of the status in a business entity. She stated that she could fulfil the right to compensation of income for the



time spent on pregnancy leave, since the employer went bankrupt. The complainant stated that the Municipal Administration makes payment to the subjects who perform professional duty independently (entrepreneurs) and fulfil other conditions to be given the right to income compensation, makes payments for income compensation for the time spent on pregnancy leave from the funds of the Municipality, and that other subjects, employed in companies, cannot fulfil this right if the employer does not have the means to make a payment. The complainant was informed that the status in a business entity is not a personal characteristic according to the Law on Prohibition of Discrimination, but the fact that she was employed in a company, and not independently. Having that in mind, it is evident that such actions by the Municipal Administration are not grounded on her personal characteristic, but that there are different rules of making a payment of income compensation for the time spent on pregnancy leave, according to the Law on Financial Assistance for Families with Children.

#### *Fulfilment of the contractual obligations*

The complainant stated that one of the mobile communications' operators was discriminative on the grounds of disability. The complainant signed a contract with this company for two years. In the course of the contractual obligation, she obtained the right to a pension on the grounds of a disability and received compensation as a caretaker for another subject. She stated that she could not use the commodities offered by the operator to persons with disabilities, until the contractual obligation of her current two year contract ended. The complainant was firstly informed that the commodities this operator offered to persons with disabilities were an affirmative action measure, and not a legal obligation of this company. Also, she was informed that the mobile operator had not limit and right or commodity to the complainant on the grounds of her disability, considering that she would be able to enjoy them after her current contract ended.

#### *Irregularity in assessment in the process of deciding on the receiver of the Pupil of Generation Award*

The complainant states that the treatment towards his daughter in her school, in the course of assessment for the Pupil of Generation Award, was unequal. He stated that his daughter was not give extra points for achieved results in extracurricular activities, and another pupils was granted those points, even though it was not according to the Rulebook on the Pupil of Generation Award. The complainant was informed for treatment to be characterised as unequal it was necessary to pertain to a certain personal characteristic, that is, that it is necessary for it to be conducted only on the grounds of one's nationality, sex, religious beliefs, sexual orientation etc. In this particular case it was evident that no violation of rights as

according to the Law on Prohibition of Discrimination occurred, considering that the assessment was not founded on any personal characteristic of the complainant's daughter. Furthermore, the complainant was informed that all possible irregularities could be questioned before other competent authority.

### *Dissatisfaction with the court procedure*

The complainant believes that the judge discriminates against her on several grounds, that in the course of trial violation of the right to equality, the right to trial within a reasonable time, the principle of process economy occurred, as well as limitation of human rights and freedom of speech and several other violations of the law. In this particular case it was evident that violation of rights did not occur in the sense of the Law on Prohibition of Discrimination, considering that there was no cause-effect relation between the personal characteristics of the complainant and the events described. It was explained that it does not rule out the possibility of violation of human rights during the court procedure, which is not within the authorisation of the Commissioner for Protection of Equality, and the complainant was educated on the possibility of filing an appeal.

### *Failure to extend a temporary employment*

The complainant was employed for a temporary period of time. In the course of that contract she hurt her hand and had to take a sick leave. After the contract for temporary employment had expired the employer did not employ her again. She believes that by such actions the ex-employer discriminated against her and that she would have trouble finding new employment. The complainant was informed that, according to the regulations of the Labour Law, the employer does not have a legal obligation to rehire the person who was on temporary employment. With complete understanding for the difficult situation of the complainant, the Commissioner for Protection of Equality stated that she was not authorised to conduct procedures of mediation in employment, nor could she influence the employer to rehire her.

### *Abuse at work*

The complainant stated that she has been employed for 17 years in a Health Centre and that her position on the work place deteriorated after the arrival of a new chief. Her chief, as she stated, abuses her at work constantly and she is exposed to a great psychological pressure, which reflected itself on her health. The complainant is notified of what constitutes as abuse at work – every active or passive behaviour towards an employee or a group of employees with an employer, which, as the aim, has violation of dignity, reputation, personal and professional

integrity, health, the position of the employee and which causes fear or creates a hostile, degrading and offensive environment, worsens the working condition and leads to the employee isolating himself/herself or pushed to hand in resignation, self-initiatively, or to cancel the contract on work or any other contract. Abuse at work in certain cases can be discrimination, but only when it is based on a personal characteristic of employees. In the particular case it is not established whether the behaviour of the chief was based on a personal characteristic of the complainant, and the complainant was notified on the fact that the protection of abuse at work is fulfilled by the procedure proscribed by the Law on Work Abuse Elimination.

#### **4.12. Court procedures**

Having in mind the authorisations of the Commissioner for Protection of Equality regarding the court procedures (anti-discrimination litigations, indictable offence procedures and committal procedures), in this part of the report the authorisations of the Commissioner will be presented in greater detail, as well as the course of certain procedures and the outcomes of the court procedures started in previous years.

As mentioned previously, one of the important authorisations of the Commissioner is the right to conduct litigations for protection against discrimination. The Commissioner is, according to the regulations of the Law on Prohibition of Discrimination given an active procedural authority in all anti-discrimination litigations, regardless of the form and case of discrimination and whether the victim of discrimination is an individual or a group. The legal authority of the Commissioner to require court protection from discrimination is the manifestation of the attitude of the legislator to introduce the prevention and suppression of discrimination as a general (public) interest to the society, to enable this independent body to start and conduct anti-discrimination litigations so as to, through its process activity, ensure positive court rulings. The importance of these rulings is not seen only in the fact that they ensure legal protection of the discriminated person (or a group), but also in that those rulings, through the power of their validity and authority they have in the legal system, send the message to the public that discrimination is a prohibited behaviour that is against the law and is not to be tolerated but punished accordingly.

The Commissioner can start anti-discrimination litigation regarding a particular act of discrimination, if a complaint by the discriminated subject, that is another authorised subject, was filed in regard to that act. The Commissioner is not authorised to carry out the procedure and determine discrimination self-initiatively and to the professional duty, but can do so only if a complaint is filed. However, the Commissioner decides on which cases she will bring before the court, that is, regarding which discriminatory acts will she require court protection, having in

mind the fact that the aim and the meaning of the litigations the Commissioner conducts, overcomes the importance they have from the aspect of the protection of the rights of the subjects discriminated against. Namely, they are the so-called strategic litigations, those that the Commissioner starts for the general (public) interest, with the aim of aiding, through the procedural activity as the prosecutor in the litigation, the consistent application of the regulations and the improvement of legal practice, to encourage and motivate the victims of discrimination to start anti-discrimination litigations, to support the rule of law and aid the promotion of access to justice, to educate the public on the law and to sensitise the public to the issue of discrimination, etc. Leading strategic litigations represents a part of the “promotional strategy” of the Commissioner and is one of the instruments used for suppression of discrimination and equality promotion in the social relations. The Commissioner is expected to choose the cases of frequent and widely spread discrimination for the strategic litigation, especially those that have specifically hard consequences pertaining to the members of vulnerable, endangered and marginalised social groups, that have rarely had their cases before the court, and which have a great percent of potential success in the litigation. According to that, the strategically important cases could be those where a group of subjects is discriminated, as well as those where the victims are individual natural persons or legal persons, difficult cases of discrimination, as well as those who do not belong in this category, the cases where discrimination is done by state authorities or individuals, granted that they have the “potential” for achieving the goals of strategic litigation.

The Commissioner for Protection of Equality is authorised to emphasise all the demands regarding legal protection proscribed by the Law on Prohibition of Discrimination, except for the demand for compensation of pecuniary and non-pecuniary harm, and the Commissioner decides which demands of legal protection will be given in the lawsuit. The commissioner for Protection of Equality can issue a lawsuit if the procedure before the court on the same grounds was not started or settled previously, and the lawsuit can be brought if the discriminated subject consented to that, in those cases where the discriminatory behaviour pertains to an individual subject. The consent is not necessary if the act of discrimination pertains to two or more subjects, and not only in those cases when it pertains to a groups of (undetermined individual) people, but also in those cases when two or more subjects, individually determined, members of a group, are discriminated under the same act of discrimination, concurrently and on the same grounds.

The complaint procedure undertaken by the Commissioner and the anti-discrimination litigation represent two completely different and independent forms of protection against discrimination, and the procedure itself does not have characteristics of the previous procedure and it does not represent procedural presupposition which conditions whether legal protection could be offered in the anti-discrimination

litigation. At the moment the issuing of a lawsuit, the Commissioner acquires the procedural position of the prosecutor. He is a party in the functional meaning of that word and the exponent of the general (public) interest that is actualised in the anti-discrimination litigation through the Commissioner's procedural activity. As the prosecutor in the litigation, the Commissioner sets the topic of the litigation by determining the content of the demanded legal protection, thus the matter of disputation and court's decision, through the formulation of the demands in the lawsuit. The Commissioner is responsible for conducting the litigation and the Commissioner is the one to, in accordance with the regulations on division of the burden of proof, make probable that the accused committed an act of discrimination. The Commissioner is not the one who, however, "carries" the right protected in the procedure and, therefore, all the effects of such litigation and the rulings brought forth are directed at the subject whose right is protected in the litigation.

The Commissioner for Protection of Equality has issued 13 lawsuits for the protection from discrimination. Seven lawsuits were filed for discrimination on the grounds of national affiliation to the Roma national minority, three for gender based discrimination, one for discrimination on the grounds of disability and two for discrimination on several grounds.

Out of 13 anti-discrimination litigations, five were concluded in favour of the Commissioner for Protection of Equality, and the court accepted the lawsuit demands the Commissioner presented in these cases in all their completeness. In the majority of the demands, depending in the forms and cases of discrimination, as well as the manner in which the discrimination was carried out, apart from the demand for the accused to be assessed as having acted in a discriminatory manner, the Commissioner demanded that the accused be prohibited from further acts of discrimination and/or prohibit the repetition of the discriminatory act. If possible, in a particular case, the Commissioner demanded that the accused be compelled to an act that would remove the consequences of the previous discriminatory action, as well as that the ruling be published in some of the national daily newspapers. In two cases, the Commissioner dropped the lawsuit, having in mind that the accused ceased the controversial act in one case, and in the other made changes to the rulebook that was the cause of the lawsuit. Only one case was finalised with the denial of the lawsuit demand of the Commissioner for Protection of Equality. This case is, presently, before the High court of Cassation, waiting the decision of the revision of the Commissioner for Protection of Equality. Five additional procedures are before the Higher court in Belgrade presently.

In 2014, the Commissioner for Protection of Equality filed two lawsuits for protection from discrimination, presented in the part of this report pertaining to discrimination on the grounds of national affiliation, since both lawsuits were filed for discrimination against the members of Roma national minority.

It is necessary to display some conditions and issues regarding the procedures conducted in 2014. Namely, the amendments to the Law on Organisation of Court of Serbia (Official Gazette of RS“, no. 116/2008, 104/2009, 101/2010, 31/2011 – other law, 78/2011 – other law, 101/2011 и 101/2013), which application started on January 1<sup>st</sup> 2014, the authority on decisions on the anti-discrimination court procedures was transferred from the basic courts to the higher courts. Furthermore, the work of the legislation was blocked by the lawyers from the whole country entering a strike in September 2014, due to the breach regarding their demands for decrease of flat-rate taxes and the changes of several laws, primarily the Law on Public Notaries („Official Gazette“, no. 31/2011, 85/2012, 19/2013, 55/2014 – other law, 93/2014 – other law, 121/2014 и 6/2015). The consequence of this event was that in the litigations the Commissioner conducted in 2013 and which were not finalised, as well as the procedures of 2014, there were no appearances before the court in 2014, even though the regulation of Article 41. par 3 of the Law on Prohibition of Discrimination proscribes that the anti-discrimination court procedure is urgent.

Regarding the course of the procedures in anti-discrimination litigations of the Commissioner, three rulings from 2014 will be presented – the ruling of the Supreme Court of Cassation and two rulings of the Appellation Court in Belgrade, ruled in the processes of deciding on the lawsuits and revisions of the Commissioner for Protection of Equality.

- The Commissioner for Protection of Equality filed a lawsuit against a fast-food restaurant in 2012, because a security worker did not allow the children of Roma nationality to enter the restaurant with a woman who wanted to buy them food. The First-degree Court denied the disregarded the lawsuit with the explanation that the Commissioner did not have the consent of the victim of discrimination. The Higher Court in Smederevo disregarded the appeal of the Commissioner and confirmed the ruling of the First-Degree Court. Ruling on the revision of the Commissioner the Supreme Court of Cassation abolished the ruling of the Higher Court in Smederevo in septembar 2014 and the ruling of the First Basic Court in Belgrade, and submitted the case for a new procedure and ruling. This decision of the Supreme Court of Cassation was very important because the Court stated that the Commissioner did not need a written consent for filing the lawsuit, since the lawsuit was filed to determine discrimination performed against a group of people – children of Roma nationality. The Supreme Court of Cassation stated that the appeal of the Commissioner is not directed at determining discrimination towards a subject, for what the Commissioner would need a written consent , but, determining discrimination against a group of people.
- The ruling from February 2014, the Court of Appellation in Belgrade reversed the ruling of the First Basic Court in Belgrade by accepting the claim of the

Commissioner for Protection of Equality in discrimination litigation on the grounds of sex, against the pizzeria chain who employs only women. After the advertisement appeared on the catering premises *“Do you want to become a part of our team? Girls for work on the counter needed”*, volunteer testers of discrimination answered to the advertisement and talked to the employees and people who presented as authorised for interviews regarding employment. The interviews were conducted on three premises in Belgrade and on all three premises the volunteer tester of discrimination was informed that he could not be employed there for the policy of the company is to hire only women, and the female tester was offered the job. The ruling of the Court of Appellation stated that this company by advertising the job position *“Do you want to become a part of our team? Girls for work on the counter needed”* performed an act of discrimination on the grounds of gender in the area of employment, the accused was prohibited from, in future, repeating the act of discrimination in any way within the activities pertaining to his professional duties in the process of publishing job advertisements and the process of employment, on the grounds of either of the sexes or any other personal characteristic and he was ordered announce the ruling in one national daily newspaper. The accused announced the revision against the verdict of the Court of Appellation in Belgrade and the case is before the Supreme Court of Cassation.

- In September 2014 the procedure on the lawsuit submitted by the Commissioner in 2012, against a bank for reassignment of an employee to a job position of a lower professional rank, upon her return from pregnancy leave and child care leave for her third child, was finalised. The First-Degree Court refused the claim of the Commissioner stating that the court is to determine whether the bank, by reassigning the employee to a job position of a lower professional rank, upon her return from pregnancy leave and child care leave for her third child, performed an act of discrimination on the grounds of gender, and to order the bank to assign the employee to her old position, the one she was on prior to her pregnancy leave, and to publish the ruling in a national daily newspaper. The Court of Appellation in Belgrade refused it as unfounded claim of the Commissioner in September 2014 and confirmed the ruling of the Supreme Court. The Commissioner for Protection of Equality announced the revision of the appealable ruling and the case is before the Supreme Court of Cassation.

The Commissioner for Protection of Equality is authorised to file misdemeanour charges for violation of rights according to the Law on prohibition of discrimination. Even though it was not strictly proscribed by the Law on prohibition of discrimination, considering the role of the Commissioner, he/she is authorised to file misdemeanour



lawsuits for acts of discrimination that have been incriminated as felonies by special anti-discrimination laws.

The Commissioner for Protection of Equality filed a request for starting a misdemeanour procedure in 2014, which was presented in the part of the report pertaining to discrimination on the grounds of other personal characteristics. In the course of the work so far, the Commissioner filed 11 requests for conducting misdemeanour procedures. Even though that is not a large number of procedures, it can be concluded that there are certain problems that harm the efficiency of the protection from discrimination, and that, therefore, this legal mechanism possibly does not have the wanted results in practice. Out of those 11 procedures, three were finalised by a non-appealable court judgement, one by the Misdemeanour Appellation Court reaching the verdict of release, three are still being conducted, and other are outdated and the decisions on termination of those procedures were made. The practice of courts in processing misdemeanours proscribed by anti-discrimination laws is not coordinated enough yet which is not surprising having in mind the small number of requests for conducting misdemeanour procedures. The penalties given are minimal, which is the evidence of the lack of understanding of the danger to the society and harmful consequences of discriminatory behaviour. It should be emphasised that the employees the Commissioner's Professional Service, and the Commissioner herself, several calls to testify were sent, which shows that there are judge who still do not know enough on the position of the Commissioner for Protection of Equality in the legal system, with legal authorisations of the Commissioner, as well as the nature and manner of conducting a procedure before this public authority. The calls to the Commissioner and the employees of the Professional Service of the Commissioner to testify is the result of not knowing that the whole procedure before the Commissioner is done in writing, and that neither the Commissioner nor the employees, have no other knowledge on the facts and evidence pertaining to the committed acts, than those stated in the request for in the request for conduction of a misdemeanour procedure.

The Commissioner for Protection of Equality, as well as other state authorities, is authorised to file criminal lawsuits. In the course Commissioner's work so far seven criminal lawsuits were filed, and for all of them reasonable doubt existed that a criminal act of incitation of national, racial and religious hatred and intolerance from Article 317 par 1 of the Criminal Code was committed. Even though in every criminal lawsuit submitted, a plea to the Prosecutor's office is issued to inform the Commissioner on the actions undertaken, not once was information received on the measures and the outcome of the lawsuit procedures.

#### 4.13. Media on other activities of the Commissioner

In the course of 2014 the media write extensively on the topics pertaining to the work and activities of the Commissioner for Protection of Equality. There were 813 reports on the Commissioner for Protection of Equality (interviews, statements, columns, articles etc) and 623 on the institution of the Commissioner. Apart from the increased number of reports, the number of texts on discrimination, equality and tolerance is also on the raise and these topics are approached with much more sensibility, along with the recognition of the ways in which they could gather information as well as educate and promote new systems of values and diversity respect. In this part of the report the media reports on certain social groups and the activities of the Commissioner for Protection of Equality.

The media covered the presentation of the regular annual reports of independent bodies – the Commissioner for Protection of Equality, Protector of the Citizens and Commissioner for Information of Public Value and Protection of Personal Data. The hours-long meeting in the National Assembly, during which the reports were presented, was interrupted when the chairperson of the Parliament interrupted Rodoljub Šabić, the Commissioner for Information of Public Value and Protection of Personal Data, during his speech, which resulted in the Commissioners and Protector of the three independent bodies leaving the meeting. This occurrence was not interpreted in the same manner in all the media. In some, the event had the central place and in other it was merely mentioned, and some media covered that story only the following day, after Maja Gojković, the president of the National Assembly, apologised to the Commissioners and the Protector. Some daily newspaper continued reporting on this story in the following days from the aspect of freedom of speech and institution disrespect.

At the end of October 2014, in the Palace of Serbia, a big conference “Serbia on the way to Tolerance and Non-discrimination: the Experiences of the Commissioner for Protection of Equality” was held, which attended more than 200 participants. This conference attracted a lot media, since all relevant subjects, whose strategic goals and priorities were fulfilment of human rights, striving towards an open and democratic society based on the rule of law – the president of the parliament, ministers and state secretaries, ambassadors, diplomats of international organisations, as well as a large number of representatives from the civilian sector, were present. The whole event was broadcast live by the public media service, and the majority of reported the statement given by the Commissioner and the participants of the conference, as well as the conclusion that an even more intensive work should be undertaken on the promotion of tolerance and equality, as well as creation of the society in which the rights of all are respected, regardless of diversity.

All the media reported comprehensively on the results of the research done by the Commissioner for Protection of Equality on the attitudes of the representatives of the state authorities towards discrimination. Depending on the editorial policy, the titles and texts were different – from informational (One fifth of officials do not have knowledge on the law) to sensationalistic (Shameful: Zero for the state and its officials), and the Commissioner for Protection of Equality was a guest in several informative televisions.

The information that the Commissioner for Protection of Equality would be the host of the annual meeting of EQUINET – European network for equality, found its place in almost all the media. Apart from the news on the event itself, the journalists marked this meeting as yet another important step of our country on its way towards the European standards and values, and incorporated that matter into their reports.

The regional media started showing interest for the work and activities of the Commissioner for Protection of Equality owing to the two-day seminar “How to report on discrimination?”, organised for the journalists from the local media by the Commissioner for Protection of Equality and the EU delegation in Belgrade, as a part of the IPA project “Implementation of anti-discrimination policy in Serbia”. Many journalists recognised their key role in the awareness raising and informing the public on the phenomenon of discrimination, as well as reality shaping through overcoming and eliminating prejudice and stereotypes. This seminar aided the topics of diversity, equality and evenness on their way to the media reporting in languages of national minorities. Therefore, a larger number of the texts and articles promoting particular activities of the Commissioner for Protection of Equality appeared, such as “Living library”, situational testing of discrimination etc.

On the occasion of the international day of tolerance – 16<sup>th</sup> November, the Commissioner for Protection of Equality published the Dictionary of Tolerance, and on the same occasion in the daily newspaper “Politika” a comic for children was published, which represented the cases of discrimination, created with the support of UNICEF.

Prohibition of physical punishment of children or “the beating stick did not come from heaven“, is the theme that the media covered before and after the International Children Day, having in mind that it was published on that occasion that this issue would be finally solved by amendments to the law. Numerous texts and articles, with the Commissioner for Protection of Equality as the conversant, were published on this topic.

## 5. Cooperation of the Commissioner

The Commissioner for Protection of Equality, along with her professional service, worked intensively on the promotion of the principles of equality and non-discrimination, by participating in many lectures and presentations, conferences, thematic and roundtable meetings, as well as, by organising promotional meetings. Cooperation with other state authorities, civil society organisations, international organisations and media was established and improved, due to these activities. An exceptionally good cooperation exists between the Commissioner and other independent state authorities, as well as those civil society organisations concerned with the protection of minority rights.

During the course of past year, the Commissioner held a number of working meetings with the government officials. Considering the Commissioner's practise so far showed that a certain number of complaints were filed against discriminatory acts of local self-government units, apart from opening the first regional Commissioner's office in Novi Pazar, many actions suited for the local self-government representatives were undertaken. Those actions include anti-discrimination educational seminars for the local self-government officials and those employed in the local self-government units, as well as local NGOs, youth organisations, local media and minority editorial offices.

After the elections for the National councils of national minorities held in October 2014, the Commissioner organised a roundtable meeting with the representatives of all national councils of national minorities. The first meeting after the elections was a unique opportunity to establish cooperation and encourage the representatives of national councils to be more active in prevention of and protection from discrimination, through joint activities with the Commissioner. The constantly rising number of complaints the Commissioner receives regarding discrimination based on nationality emphasises the need for such cooperation.

The cooperation with international organisations and diplomatic missions was further strengthened and a meeting with the representatives of international institutions, organisations and embassies with whom the Commissioner cooperates on projects was organised at the end of 2014. The chief of the EU delegation in Serbia, Chief of the Council of Europe office in Serbia, director of UNICEF Serbia office, Norway and Australia ambassadors, chief of UN Women Serbia office, representatives of OSCE, UNDP, USAID, UNHCR, embassies of Netherlands, Croatia, Great Britain and other attended the meeting.

The Commissioner continued to contribute to the process of the accession of the Republic of Serbia to the European Union, through active participation in the work of the Negotiating group on Social Policy and Employment and the Negotiating group on Justice and Fundamental Rights. Furthermore, the Commissioner participates actively in the work of the *Working Group* for the *coordination of activities* of the Serbian OSCE Chairmanship.

The latest Annual report of the European commission on Serbia's advancement, recognises the successful cooperation with the European Union bodies and the contribution of the Commissioner for Protection of Equality in raising awareness of discrimination and mechanisms for protection against discrimination, with an annotation that it is necessary to strengthen the Commissioner's capacities, who still does not have adequate facilities in the workplace which is why the institution is forced to operate with one third of the anticipated number of employees.

### 5.1. Cooperation with the civil society organisations

The Commissioner for Protection of Equality and the civil society organisations (in the following text CSO) that are concerned with the protection of various minority groups are natural partners in achieving goals that lead to the improvement of equality in our society. Since the appointment of the Commissioner, certain CSOs with several years' worth of experience in combating discrimination supported the Commissioner. By appointing the Commissioner for Protection of Equality, the Republic of Serbia institutionalised the mechanism for systemic fight against discrimination, which had consisted primarily of the efforts and activities of the CSOs, prior to the appointment. Without the cooperation with the CSOs and their support it would be impossible to create a society with no tolerance for discrimination, where discriminatory behaviour is an unwanted and unacceptable occurrence for the social community as a whole.

The project "*Let Equality Become Reality*", funded by the Kingdom of Norway is realised by the Commissioner in cooperation with the Assembly of the association House of Human Rights and democracy, as an implementation partner. The goal of the project is combating discrimination and achieving equality through activities on a local level, in collaboration with the national councils of national minorities, youth organisations and civil society organisation concerned with the youth. Realisation of certain projects began in October 2013 and it has been estimated that the project will last two years. With the support of the implementation partner, the Commissioner organised educational trainings for the members of youth organisations and organisations concerned with the youth that are registered, have a seat in or are active in the area of Severna Bačka, Pčinjski region and Raška administrative region, during 2014. Through three different modules, educational seminars on

anti-discrimination legal regulations of the Republic of Serbia, protection from discrimination, minority rights, gender equality, LGBT rights, public representation of the discriminated groups' rights, as well as the development of a local campaign on public representation of the minority rights, were held. Upon finishing the seminars, the young participants had an opportunity to visit the Commissioner for Protection of Equality and the House of Human Rights and Democracy, and develop and implement local campaigns, concerned with raising awareness of the community of the problems minority and marginalised groups face, in their neighbourhoods with the help of a mentor. The results of these campaigns will be presented during the final event of the project in the second half of 2015.

On the occasion of the International day of human rights, the Commissioner for Protection of Equality and the House of human rights and democracy organised a roundtable meeting of the name „*The Role of National Councils in Combating Discrimination*“. This meeting was an opportunity for the representatives of all national councils of national minorities to gather for the first time after the elections for the national councils of national minorities held in October 2014. The Commissioner brought the attention of the representative to the fact that every fifth complaint the Commissioner received was founded on discrimination on the basis of national affiliation. Worrisome results of the research done by the public authorities on discrimination were presented, emphasising that one of the goal of the Commissioner is to show that differences should not be taken as a threat, but a potential for development. The representatives of the national minorities national councils presented a range of problems that worry them – from enjoying the right to education in the languages of minorities and the problem of insufficient number of textbooks in the language of minorities, to fears that the local media who have programmes in minority languages would disappear, which would prevent the fulfilment of the right to minority language broadcasting. There were many talks about active participation of national minority National councils in combating discrimination and promotion of cooperation with the Commissioner.

Noticing a need for an improvement in the area of protection from discrimination based on national origin, the Commissioner, along with the House of Human Rights and Democracy prepared two publications dedicated to the protection of minority rights: “Protection of Equality: a Manual for National councils of National Minorities” and “A guide Through Institutional Protection from Discrimination against National Minorities – for Serbia without Discrimination”. Both publications are available in electronic format on the Commissioner’s website.

During 2014, the project “Equal Chances for Better Opportunities – Empowering Roma People in Combating Discrimination” was finished, and it was realised in cooperation with organisations Praxis and Regional Centre for Minorities, from

May 2012 to December 2013. The project's focus was strengthening the Roma community in order to recognise discriminatory behaviour and protection of their rights. In February 2014, a conference was held to mark the end of the project and the final study and report on the project realisation was presented. This project was financed by the Embassy of the Kingdom of Netherlands in Serbia.

In cooperation with the Regional Centre for Minorities, the Commissioner started the realisation of yet another project that is focused on the promotion of equality of the Roma community. The project "Overcoming Inequality: Combating Discrimination and Hate Crimes against Roma People in Serbia" was supported by the Embassy of the Kingdom of Netherlands, and it consists of two components. The first one is the continuation of a successfully finished project "Equal Chances for Better Opportunities – Empowering Roma People in Combating Discrimination", and the other one is focused on combating hate speech and hate crime. The project should last for a year and in that time span several activities throughout Serbia will be realised. During 2014, two educational trainings for the representatives of Roma community were held, in order for them to become acquainted with the mechanisms of protection from discrimination. The trainings were realised in Vranje and Smederevska Palanka.

In cooperation with the Roma women centre Bibija, two seminars were held in Belgrade, with the aim of strengthening the capacities of Roma women organisations as a part of the project "Promotion of Knowledge and Skills for Recognition of and Reaction to Discrimination". The aim of this project is strengthening Roma organisations and local Roma communities for initiative taking in the process of integration into social processes and improvement of society pluralism. The attendees were the representatives of six female Roma organisations from Belgrade, Novi Bečej, Pirot and Lazarevac. During the first seminar, the topics on the term discrimination and mechanisms of legal aid from discrimination and on the second, three day long, seminar the attendees had an opportunity to learn, through a series of practical exercises and workshops more about the proceedings before the Commissioner for Protection of Equality, filling and filing a complaint, that is, all the mechanisms for protection from discrimination.

Initiative for the Rights of People with Mental Disability MDRI-S and the Commissioner for Protection of Equality held a two-day training for judges on the topic "Legal Capacity as a Precondition of Equality Before the Law for Persons with Disabilities". The judges of lower and higher courts, as well as the representatives of CSOs and lawyer, took part in the training. The basic aims of the trainings were trade in experience between the judges themselves, who work in the cases connected to professional ability, awareness raising of the standards of human rights in the area of professional ability which are binding for the republic of Serbia, presenting



the results of research on the practice before Serbian courts that give evidence to automatism, unprincipled and serious breach of law in the proceedings concerned with deprival of professional ability, and empowerment of the attendees for application of the existing legal solutions, in accordance with international obligations.

Partners for Democratic Changes in Serbia, in cooperation with the Commissioner, organised the workshop “Mediation in Cases of Discrimination” in Vrnjačka Banja. The meeting was a chance to gather mediators specially trained for discrimination cases and their linking. A part of the workshop was dedicated to the promotion of mediation in local areas, especially those with a higher number of marginalised groups and the least number of complaints filed to the Commissioner for Protection of Equality. The publication “Manual for Mediation before the Institution of the Commissioner for Protection of Equality”, was presented at the meeting, and the publication was the result of the struggle of the Commissioner to set the service of mediation and offer the citizens of Serbia a chance to settle arguments, that is breaches of rights, in a peaceful way.

Within the IPA project “*Implementation of Anti-discrimination Policies in Serbia*”, the Commissioner for Protection of Equality strengthened the cooperation with the local CSOs even further. During July 2014, more than 30 representatives of NGOs from 11 local municipalities attended the educational seminar for future coaches. The goal of the training was for the participants to gather relevant knowledge in the area of legal protection from discrimination and the role of the CSOs in equality promotion, as well as development and improvement of their coaching skills. As a result of these activities, a network of trained coaches was set and the most successful ones had an opportunity to, with the support from the Commissioner, realise trainings further in their local communities. In September, three regional trainings were held on the topic “Discrimination and Mechanisms of Protection from Discrimination” in Novi Sad, Belgrade and Nis, with the support of experts on the project and a representative of the Commissioner’s professional service.

The mandate and activities of the Commissioner for Protection of Equality were presented on the seminar “Representation of Women before Independent Institutions”, organised in collaboration with the association of women Femina from Smederevska Palanka. The attendees, members of the association, were told about the authorisation and the results of the work until then of the Commissioner, as well as the situation in which they could contact the Commissioner and in which way to do so. A special emphasis was put on the examples of discrimination towards women and the Commissioner’s actions in such cases. After the seminar and practical exercises for writing a complaint, the seminar attendees identified the online form for employment that contains discriminatory questions and filed a complaint to the Commissioner for discrimination in the area of work and employment.

The Commissioner supported the Academy of Female Leadership and the initiatives of 50 CSOs and 68 individuals from the whole of Serbia that were sent to the Government of the Republic of Serbia on the improvement of institutional framework of gender equality. Through this initiative, the Government was called to take necessary step to create organisational and technical conditions for the policy of gender equality to be instilled and for the regulations contributing to the application of gender equality.

For the occasion of International Day of Combating Violence Against Women, the Commissioner joined the action of the Independent Female Centre and signed the flag of solidarity, emphasising that violence against women is the most grievous form of human rights violation and that the state is obliged to set an effective system of protection and show sincere dedication to suppressing this dangerous social occurrence.

The Commissioner joined the Pride parade, which was held after three years of unsuccessful trials in September 2014, along with a group of employees. Much like previous years, a support was given to the organisation of all the planned activities in the Pride week, as well as the Parade itself. It was the chance to show readiness for the continuation of cooperation in the promotion of human rights and uprooting prejudice towards LGBT population, in collaboration with LGBT organisation and other CSOs, which gave a great contribution in the formation of a more tolerant society where the diversity of human identity is respected.

For a successful cooperation and a special contribution to the promotion of the position of LGBT people in 2014, the Commissioner for Protection of Equality, Nevena Petrušić, received a letter of thanks from the Labris organisation, as well as recognition from the Rainbow Association for the support that she has been giving continually to this organisation.

## **5.2. Cooperation with public authorities**

### ***5.2.1. Cooperation with the National Assembly***

The cooperation with the National Assembly is of great importance for maintaining independent and efficient work of the Commissioner for Protection of Equality. The National Assembly has shown, through its actions, that the discrimination phenomenon and mechanisms of combating discrimination are increasingly recognised and understood and that it is determined to contribute to the suppression of discriminatory behaviour in the society, considering the place and role it has in the institutional system of combating discrimination. Apart from

the activities that are yet to be presented, it is important to emphasise that there is a significant move forward in communication between the Commissioner and the National Assembly, as well as the support to the efficient realisation of the Commissioner's recommendations.

2013 Regular Annual Report of the Commissioner for Protection of Equality was presented to the Committee for Human and Minority Rights and Gender Equality of the National Assembly in May 2014. During the discussion, the members of the committee assessed that the annual report of the Commissioner comprehensive and that the date point to the need for a constant education in the area of anti-discrimination regulations. Special interest was given to the possibilities for improvement of the position members of national minorities hold, as well as to the recommendation on the measures given by the Commissioner, with the aim of equality protection.

The Annual Report of the Commissioner was presented to the National Assembly in June 2014. The National Assembly concluded that discrimination is still widely spread, despite the legal framework having been upgraded and the authorised activities that the Commissioner undertakes. The National Assembly invited the Government of the Republic of Serbia and state authorities to take necessary measure with the aim of complete realisation of the Commissioner's recommendations, especially those concerning multiple discrimination. The activities done on the formation of regional offices of the Commissioner were especially praised and the need for intensified such actions, which include raising spatial capacities for the Commissioner's work, in the following period was emphasised.

The Commissioner for Protection of Equality presented the issues she is faced with, concerning the lack of adequate working space, to the president of the National Assembly, Maja Gojković. The Commissioner reiterated that the lack of working space for the admission office, temporarily placed in the building of the Government of Serbia, is an important issue, since the Administration for Joint Services of the Republic Bodies asked for the office to be moved from that building. Due to that fact it is necessary to secure an adequate space in a timely manner so that the Commissioner could make direct contact with the citizens and give legal information and advice. The President of the National Assembly expressed understanding and support in the process of overcoming the space related issues of the Commissioner for Protection of Equality.

Within the project "Strengthening the Judiciary and the Capacities of the National Assembly of the Republic of Serbia" organised by the USAID, a seminar for new members of the National Assembly was held in July, and five independent offices were presented there: the Commissioner for Protection of Equality, the Protector of Citizens, the Commissioner for Information of Public Importance and Personal Data Protection, State Audit Institution and the Anti-Corruption Agency.

On that occasion the Commissioner represented the work of this independent state body, specialised in combating and suppression of discrimination, through two fields of action: prevention, which raises awareness on equality and reaction, when discrimination occurs. The number of complaints is increasing yearly, as it was shown, which does not mean that there is greater discrimination in Serbia, but that the citizens wish not to endure injustice and that they recognise the Commissioner as an institution they can contact and ask for protection.

In September 2014, the Commissioner took part in the joint meeting of the Committee for Human and Minority Rights and Gender Equality and the Committee for European Integration of the National Assembly of the Republic of Serbia. Many representatives of LGBT organisations attended this meeting that was dedicated to the position of sexual minorities in Serbia. The Commissioner stressed that the problem the members of LGBT community are faced with is not only theirs but of the society as a whole since it testifies of intolerance, homophobia, ignorance and prejudice.

Representatives of the Commissioner's professional service regularly participated in roundtables and thematic meetings devoted to improvement of cooperation between the National Assembly and independent bodies. As a result of the Twinning project done by the National Assembly of the Republic of Serbia and the Parliament of Greece, with the employees of the Commissioner's service as regular participants, many conclusions and recommendations were given – for the promotion of cooperation through enhanced inter-communication, consideration of regular annual reports as well as special reports done by independent state bodies, setting clear procedures of cooperation and consideration and application of the best practices from EU countries. Emphasis was put on the process of filing and consideration of special reports done by independent state bodies, setting a better formal as well as operational and technical communication between the National Assembly and independent state offices and enhanced procedures for tracking the application of the independent bodies' recommendations.

### **5.2.2. Cooperation with the representatives of executive authority**

The Commissioner for Protection of Equality, as an independent organ of state, cooperates with the representatives of executive authority. The Commissioner gives recommendation to the executive state authorities on particular cases of discrimination, as well as recommendations on measures for achieving equality. Furthermore, the Commissioner gives opinion on draft laws and other general acts that fall into the jurisdiction of the executive authorities. Therefore, quality

cooperation with the executive authority representatives secures a faster and more efficient application of those recommendations, as well as prevention of discriminatory clauses in general acts.

A continual and constructive cooperation was set with the Office for Human and Minority Rights as well as collaboration of the realisation of the EU project *“Implementation of anti-discrimination policies in the Republic of Serbia – IPA 2011”* since 2012. Within the two year long project educational trainings were organised in the area of anti-discrimination in which more than 1000 state and local self-government officers, police officers, judges, prosecutors, professional workers of social work centres, representatives of the non-governmental sector and journalists participated. The finishing activity of the project was a national campaign for promotion of equality and discrimination combating, started in the second half of 2014. The central part of the campaign, named “Discrimination is not a joke – let’s talk about equality” and “Same, different, equal”, had various TV videos on discrimination of Roma population, women and LGBT population. The video campaign lasted for four weeks, and the videos were broadcasted on two national TV stations (RTS and B92), as well as nine regional and local TV stations. Short animated educational films were created – “What is discrimination” and “How to fight discrimination in Serbia” which explain the authorisation and area of action of the Commissioner and the Office for human and minority rights and invite discrimination victims to use mechanisms of protection. Apart from that, the campaign included making and putting billboards on numerous locations in Belgrade, which marked the key dates in the history of fight for promotion of human rights and tolerance, such as International Tolerance Day, International Children Day, International Persons with Disabilities Day, International Human Rights Day, as well as a billboard for the Pride parade. All of the video material is available on the official Youtube channel of the Commissioner.

As a continuation of a successful cooperation on the IPA project 2011, the Office for Human and Minority Rights and the Commissioner, in the period from 2015 to 2017 will work together on the realisation of the Twining project “Support in human rights enhancement – zero tolerance for discrimination”. The partners on the project are Austrian Institute for Human Rights Ludwig Boltzmann and the Office for National Minorities of the Republic of Slovenia.

A working meeting with representatives of executive authority was held in May, in cooperation with the Protector of citizens, where findings and recommendations of the joint work group that analysed regulations relevant for the legal position of transgender people were presented. The main goal was to make the issue of transgender and transsexual people visible and help their abolishment. Representatives of the Ministry of Internal Affairs, Ministry of Public administration and Local

self-government, Ministry of Labour, Employment, Veteran and Social policy, Ministry of Education, Science and Technological Development, Ministry of Health, Republic Fund of Health Insurance, the Commissioner for Information of Public Value and Protection of Personal Data, Office for Human and Minority Rights and Council for Gender Equality of the Protector of Citizens' office. It was jointly assessed that the meeting represented the first, but very important step towards setting and maintaining a quality cooperation of all the authorities in the struggle for enhancement and protection of rights of this socially vulnerable group.

In September the Commissioner for Protection of Equality talked to Srđan Verbić, the Minister of Education, Science and Technological Development about possible forms of cooperation and joint action in the area of education and awareness raising of the employees in education and upbringing sector, as well as application of the recommendations given by the Commissioner for Protection of Equality. The Commissioner presented to the Minister the opinions and recommendations given to the Ministry through a special report on children discrimination, as well as the importance of adopting a by-law on closer criteria for recognition of forms of discrimination from an employee, student or a third party in education or upbringing institution, which lies in the jurisdiction of the Ministry. Minister Verbić stated that the recommendations given by the Commissioner are being implemented and that two activities are being prepared: changes to the Law on Textbooks and other Teaching Materials and a campaign for parents. Furthermore, he explained that one of the Ministry's priorities is to form a Unit for Combating Violence and Discrimination in School, while the Commissioner emphasised that the actions of school and teacher in cases of discrimination is of key importance.

Furthermore, the Commissioner for Protection of Equality spoke with Kori Udovički, Vice president of the Government and Minister of Public Administration and Local Self-Government about key issues and troubles in application of anti-discrimination legislation and about possible forms of cooperation on the level of education and awareness raising of the employees in the public administration bodies. The commissioner explained that one third of the filed complaints pertain to the proceeding before public administration bodies. The Minister and Commissioner agreed that educational trainings of the employees are necessary, concerning interpretation and application of anti-discrimination regulations, so that more meetings should be organised in order to determine the best manner in which those trainings are to be organised. Having in mind that the common goal is a society based on tolerance, the Ministry of Public Administration and Local Self-Government is ready to talk about all the Commissioner's initiatives, among other the changes that would regulate the position of a child in the Law on Administrative Procedure and Methodology for Creating By-Laws of the Government of Serbia from the aspect of gender equality. The state secretary Željko Ožegovic attended

the meeting and he announced that a regulation on gender equality on the level of local self-governments will be included in the Draft Law on Local Self-government.

During a work meeting with Aleksandar Vulin, Minister of Labour, Employment, Veteran and Social Policy, the commissioner pointed out that the majority of complaints pertains to the area of work and employment and that, because of that, it is needed to work more on employee education. She stressed that there are issues with the concept of fester care, giving examples of children's removal from families for socioeconomic reasons. Minister Vulin suggested setting up a mechanism of constant education of the employees in social protection, as well as organising a meeting with the director of the Labour inspection, where a programme of educational trainings for labour inspectors would be agreed upon. In accordance with the agreement with Minister Vulin, the Commissioner met Bojan Jocić, director of the Labour Inspection and talked about the possibilities of cooperation and collaboration on combating discrimination and enhancement of equality in the area of work and employment. The Commissioner spoke to the chief of the Labour inspection about the work of the Commissioner for Protection of Equality so far, as well as key problems in this area. The director showed willingness for cooperation in the area of equality protection and enhancement so it was agreed that there should be cooperation between these two institutions as well as educational trainings and experience trade between the employees of the Professional Service of the Commissioner and Labour inspection representatives.

The Commissioner discussed the possibilities of joint actions on equality enhancement in Serbia with the Minister of Justice Nikola Selaković. The Commissioner informed the minister that 13 strategic legal actions were started and that, in the future, it is important to work on education of the representatives of judicial government and enhancing the knowledge on the role and authorisations of the Commissioner for Protection of Equality. The Commissioner pointed out that on several occasions she gave opinion on draft laws and other acts but that it caused no reaction so that it would be valuable for the ministry to use the knowledge of this state authority. The Minister showed willingness to enhance the cooperation between these two authorities and expressed gratitude for suggestion and proposed areas of collaboration. He stated that a draft Law on Mediation and Lawsuit settlement is being written and that the Programme for mediator training will start in near future, which he believes could be enhanced through joint actions.

A great number of complaints for discrimination in the area of health were the motive for a meeting with the minister of health Zlatibor Lončar. The Commissioner spoke to the Minister about the key issues in the area of healthcare and enjoying the right to health insurance: lack of knowledge of anti-discrimination legislation, incompatibility of health protection acts and anti-discrimination legislation and inaccessibility of Healthcare institutions to persons with disabilities. There were



talks during the meeting of the possibilities of joint actions on equality enhancement in Serbia and it was agreed that a working group should be made, which would suggest a plan of education of the employees in the healthcare sector and which would analyse application of the recommendations given by the Commissioner for Protection of Equality, concerning this area.

### *5.2.3. Cooperation with the units of local self-government*

The fight against discrimination cannot be carried out to full extent without the support from and cooperation with the representatives of local self-government. The Commissioner for Protection of Equality, as well as the members of its professional service, visited local self-governments in Serbia over the past few years and they met different professional groups, organisations and individuals. During 2014, the Commissioner continued working cooperation with the units of local self-government. According to the Protocol on cooperation between the Commissioner for Protection of Equality, the Office for Human and Minority Rights, Constant Conference of the Cities and Municipalities and eleven units of local self-government several activities were realised, including the representatives from chosen self-governments – Bor, Ivanjica, Jagodina, Kosjerić, Leskovac, Loznica, Novi Pazar, Odžaci, Prijepolje, Vranje and Žitište.

The Commissioner's representatives visited 10 municipalities and held discussions on work and role of the Commissioner for protection of equality in combating discrimination. Several meetings were held, on the topic of "Gender equality on local level", in Novi Pazar, Tutin and Sjenica and the representatives of the Commissioner spoke with local self-government officials, members of the Council for gender equality and the Council for youth, representatives of the media and civil society. In these meetings, anti-discrimination legislation was presented, as well as the recommendations of the EU in the area of gender equality and the role of the Parliament in actualising and applying of gender equality policy. Apart from that, the cases in which the Commissioner for Protection of Equality gave recommendations to local self-governments with the aim of development of gender equality were presented and the process of complaints before the Commissioner explained.

The results of the research "The Attitude of the Representatives of Public Authorities towards Discrimination" were presented at extremely populated discussions in Leskovac, Vranje, Novi Pazar and Bor, with the exception of Belgrade. The research was done by IPSOS Strategic Marketing, by request of the Commissioner and with the support of UNDP in Serbia, at the end of 2013.

The Commissioner's practice showed that complaints are often filed due to the discriminatory rules contained in general legal acts of local self-governments.

Considering that a part of the cause is the fact that lawyers working in local self-governments are not well informed about the phenomenon of discrimination and its manifestations, nor are they completely qualified for adequate interpretation and application of anti-discrimination regulations. With the support of IPA project “Implementation of Anti-Discrimination Policies in Serbia”, the Commissioner prepared “A guide for application of anti-discrimination legislation in the process of regulation writing on a local level”, upon additional analysis of the situation. The publication of this guide marks the need to provide educational material for the lawyers working on draft general legal acts which would be a reliable foundation in coordination of normative solutions with anti-discrimination regulations. During the preparation of this manual it was attempted to observe and interpret the authorisations of the units of local self-government and their legislations in context of anti-discrimination legislation, to point out the obligations those units have in connection with prevention of discrimination, as well as its abolishment, and the obligations, rights and possibilities that the units of self-government have in implementation of the policy of equal opportunities and special measures undertaking.

In March 2014, in Novi Pazar the first regional office of the Commissioner for Protection of Equality was opened, with the help of Novi Pazar municipality, as well as financial support of European Union and the Government of Switzerland within the Programme of European partnership with municipalities EU PROGRESS. Opening of this office enabled the inhabitants of that region to approach the Commissioner more easily. At the same time, it is a good example of cooperation between a state institution, the European Union, the Government of Switzerland for enhancement of rights protection of all the citizens of Serbia.

After a successful opening of the first regional office of the Commissioner in Novi Pazar, it is planned to open yet three more regional offices, for greater visibility, availability and stronger local action of the Commissioner. It is not possible to open regional offices of the Commissioner for protection of equality without close cooperation and support from the representatives of local self-government.

### **5.3. International cooperation**

International cooperation is of great significance for the work of the Commissioner or Protection of Equality. On one hand, the financial support that the international partners offer to the Commissioner is often of crucial importance for implementation of certain activities, especially in times of economy crisis and saving measures. Also, the support of the international community is noticeable in the realisation of activities that are not financed by foreign partners, through reports, conditions estimation, conferences and other activities important for realisation of human rights and the right to equality. On the other hand, the international community observes diligently and assesses the conditions of human rights in our society and

often recognises misgivings and weaknesses in the work of many institutions, which should, according to the assessment of the Commissioner as well, be more active in anti-discrimination policy implementation.

During 2014 the successful cooperation of the Commissioner with the representatives of international organisations, embassies and foreign partners through different projects and activities, as well as, bilateral meetings was continued. At the beginning of the year two expert missions of the European Union visited the Commissioner. The topics of the meetings were the rights of children from the perspective of the Commissioner's work and rule of law, legislative framework and anti discrimination policy in Serbia. Apart from representation of the Commissioner's work in cases concerning children discrimination and the Special report on children discrimination in Serbia, the Commissioner insisted that it is necessary to regulate the position of a child before independent offices so as to enable children to freely express their opinion in the proceeding on their rights. The members of the mission whose responsibility is the rule of law were interested for particular cases of discrimination in Serbia and the way the recommendations of the Commissioner were carried out, and, also, there were talks of the position of Roma people, LGBT people, the elderly and the persons with disabilities in Serbia.

The cooperation with AIRE Centre from London was continued, and with the help of British Ministry of Foreign Affairs and Commonwealth and OSCE, seminars on the role of strategic litigations in combating discrimination were held in Belgrade and London. On that occasion, the Regional base of data on the practice of European court for human rights was presented, and it is available in Albanian, Macedonian and Bosnian-Serbian-Croatian languages.

Representative of the European centre for the rights of Roma people from Budapest visited the Commissioner in June 2014 and presented the results of the research: "*Overrepresentation of Roma Children in Special Schools in Serbia*". This research showed that the overall number of children in special schools in Serbia lessened, but that the ratio of the number of Roma and non-Roma children is the same, that is, that there are a far greater number of Roma children in special schools. Collaboration on the projects concerning enhancement of the position of Roma people, especially Roma children, was agreed upon.

Delegation of the Protector of Human Rights and Freedoms of Montenegro, headed by ombudsman Šučko Baković, came to a two-day visit to the Commissioner for Protection of Equality in June. There were talks on possible forms of cooperation, having in mind an exceptionally good relationship of these two institutions. Furthermore, the representatives of the Montenegrin Protector of citizens and freedoms visited "Living Library" that the Commissioner organised on Belgrade Book Fair.

In September 2013 the Commissioner for Protection of Equality Nevena Petrušić and the protector of citizens Saša Janković, talked to the Commissary of German Government for human rights Christof Strasser who was on a three day visit to Serbia in order to learn of the state of human rights in our country. The counsellor for political matters Sabine Brendel and the German ambassador Heinz Wilhelm were other members of the delegation. Commissary Strasser was especially interested in the position of LGBT and Roma people. The commissioner pointed out the most common cases of discrimination that the Roma and LGBT population is facing and she stressed the need to enhance the culture of human rights, tolerance and non-discrimination. The attendees of the meeting were introduced to the issued in the application of anti-discrimination regulations and the regulations concerning the applications of the processes for protection from discrimination.

A meeting with the representatives of international institutions, organisations and embassies that the Commissioner collaborates with was held in Mid-December. The Commissioner summed up the results so far in the work on protection of equality and discrimination combating and presented the plans for next year. The continuation of the important cooperation between the Commissioner and the CSOs, media and syndicates, with necessary support and help given by foreign partners through their experience and capacities, was heralded. The chief of the political department of the EU Delegation in Serbia, Luca Bianconi, the chief of the Council of Europe's Office in Serbia Tim Cartwright, the chief of the UNICEF Office in Serbia Michel Saint Lot, the ambassadors of Norway and Australia Nils Kamsvåg and Julia Fini, the chief of UN mission UN Women in Serbia Asja Verbanova, representatives of OSCE, UNDP, USAID, UNHCR, embassies of the Netherlands, Croatia, Great Britain and other were present at the meeting.

### ***5.3.1. Cooperation with the United Nations Children's Fund in Serbia (UNICEF)***

During 2014, the cooperation with UNICEF was continued, working on prevention of and protection from discrimination of children and youth and promotion of children rights, and in April, a new Memorandum of understanding was signed. This document represents the continuation of the previous Agreement on cooperation and signifies the support that UNICEF will give to the Commissioner in the future, with the aim of children rights promotion and protection of children and youth from discrimination. Particular attention will be placed to protection of the right to non-discrimination of all children, and especially those from marginalised groups, with the aim of enhancement of the system of monitoring and reacting to discrimination cases, equality promotion through a Youth Advisors Panel and improvement of the procedures that would strengthen the position of children in proceedings before the Commissioner and other independent bodies.

Within this cooperation, a summer school was organised by a Youth Advisors Panel of the Commissioner for Protection of Equality „*Discrimination busters*“, in Banja Vrujci in August. The aim of the summer school was for children and youth to establish their gained knowledge and learn new thing about discrimination recognition, not to be discriminators themselves, as well as get acquainted with mechanisms of protection from discrimination, if needed. Furthermore, guidelines for analysis of the contents of their secondary school textbooks were given, that they can use in their research work in the following period.

In the second half of the year a drawing contest was announced as well as one for the best photography for students of primary and secondary schools in the Republic of Serbia. The goal of the contest “We are All Equal and We Can Do It Together!” was to raise the level of tolerance and diversity acceptance as well as level of awareness and sensitivity for discrimination recognition in children. Several hundreds of works were entered into the contest, and the best will be chose by the jury made up of the group members. This is a way for children to send a message through their works that we are all equal and that we can live together regardless of personal characteristics, such as nationality, religious belief, skin colour, disability, health condition, sexual orientation, gender, financial conditions, age, appearance and other.

Apart from that, several publications were published as a part of this partnership – “*Collection of the opinions and recommendations of the Commissioner for Protection of Equality: Acting on complaints concerning children discrimination*”, was prepared and published and it contains all the opinions and recommendations given in the complaints procedures on children discrimination, as well as a collection of cartoons intended for children and youth “Don’t tolerate discrimination! Seek protection and react!” Cases from the Commissioner’s practice in which children were discriminated against were presented in the comics, and the authors of these comics were extinguished comic books authors Aleksandar Zograf, Vuk Palibrk, Uroš Begović and Nikola Vicković.

### **5.3.2. Cooperation with OSCE Mission to Serbia**

A continuous cooperation with the OSCE Mission in Serbia was continued in 2014, especially in the area of institutions capacity strengthening, through support to employee trainings. Apart from the support to the educational trainings, a study visit to London was organised, financially supported by the Embassy of Great Britain in Belgrade. On that occasion, the employees acting on complaints and who represent the Commissioner in strategic litigations, visited AIRE Centre (*Advice on Individual Rights in Europe*), a specialised organisation that has great experience and practice in strategic litigations before the European court for human right, as

well as CRIN – Child rights International Network, and a number of meeting with the representatives of the Ministry for Foreign Affairs and Commonwealth of Great Britain, that is, the Commissioner for human rights and equality of Great Britain.

In addition, the cooperation on training of judges and the students of Law academy on the topic of discrimination, the Commissioner for Protection of Equality, international and national legal framework and practice was continued, which represents very important activities, having in mind the fact that there the court practice in this area is rather scarce.

Cooperation with OSCE Mission was very intensive in the area of gender equality as well. Representatives of the Commissioner, as a part of the delegation of independent institutions of the Republic of Serbia, visited the European Institute for gender equality, advisory board of European Union with the seat in Vilnius. The aim of the talks was introducing European standards, results in the process of protection and position enhancement of women, as well as new approaches to inclusion of gender perspectives into all areas of social life.

The Commissioner for Protection of Equality participated in the work of international conference dedicated to implementation of the taken obligations from the area of gender equality. The Conference was organised in Vienna, for the occasion of ten year anniversary of the implementation of OSCE's Action plan for promotion of gender equality and implementation of the obligations taken from that domain. On that occasion, the achieved results in this domain in the past ten years were presented and the significant problems all countries are faced with today and concerning implementation and application of gender perspective in crisis and conflict situations as well as promotion of principles of equal opportunities for women and men in economy sphere.

In June 2014, the Commissioner met Lesley Hess, higher counsellor for human rights and non-discrimination of the Department for Democratisation within OSCE mission in Serbia. During the meeting, the possibility of further cooperation between the Commissioner and OSCE were discussed. She pointed out that OSCE's Mission continued to give strong support to the endeavours of the Commissioner directed at the promotion of equality, protection from discrimination and awareness raising on the importance of building a tolerant society Serbia strives towards.

### ***5.3.3. Cooperation with the Council of Europe***

The Commissioner for Protection of Equality continued the successful cooperation with the Office of the Council of Europe in Belgrade, as the coordinator of their joint project „*Don't judge a book by its cover – Living Library in Serbia*“. The aim

of this project is lessening of the effect of negative stereotypes and prejudice, as key causes of discrimination in society. The support to this project is given by the Ministry of Youth and Sport of the Republic of Serbia.

The national training for the organisers of Living library was held in June in Sremski Karlovci and it was carried out by the group “Let’s...”, with the aim of quality standards development in the methodology of Living Library organisation, as well as train future organisers for the realisation of Living libraries with respect of the principles of human rights, diversity and intercultural dialogue. The idea of this training was to strengthen a new generation of organisers of Living libraries in Serbia, that would join the existing network and whose existence ensures quality and cooperation between the CSOs and institutions participating in the project.

Living library was held for the third time at the Education fair Zvonce, a part of Book Fair in Belgrade. During the two-day introductions, on 1<sup>st</sup> and 2<sup>nd</sup> November, Living library had 287 “readings” and the most popular “books” were gay, Chinese, a person living with HIV, a person with disability, Muslim and atheist. All volunteers, as well as “books” participating in this year’s Fair the Commissioner Nevena Petrušić, the chief of the office of the Council of Europe in Belgrade Tim Cartwright and the assistant of the Minister of Youth and Sport Snežana Klačnja were given letters of thanks for support and successful cooperation.

#### ***5.3.4. Cooperation with the United States of America Agency for International Development (USAID)***

*American Agency for International Development continued to follow the work of the Commissioner for Protection of Equality and offer support in 2014 as well. With the aim of improvement of the existing cooperation, several working meetings of the Commissioner and Lawrence Wetter, director of JRGA – Judicial Reform and Government Accountability Project for legislation and responsible government reform and Benjamin Allen, one of the senior managers of the project were held. The meetings were dedicated to the talks of mechanisms for following the application of the recommendations given by the Commissioner and the ways in which USAID can help with the recommendations given to the state authorities. The topics of these meetings were also cooperation of the National Assembly with independent institutions, and it was pointed out that, apart from the civil sector and the media, it is important to work with the representatives of the state authorities on raising visibility of the Commissioner for Protection of Equality and introducing her authorisations.*

In July 2014, with the help of USAID project “Strengthening the Judiciary and the Capacities of the National Assembly of the Republic of Serbia”, a seminar for new representatives of the National Assembly was held in order for them to learn



more closely the authorisations and responsibilities of their new position. Within the session dedicated to the role of independent institutions in the work of the Parliament, the work of the Commissioner had a special presentation.

The day of open court for secondary school students was held in July in the Criminal court in Ruma, at the same time when the simulation of a court trial in a criminal proceeding was given, and the subject of the simulation was one of the cases of discrimination from the practice of the Commissioner for protection of equality.

USAID supported the second national competition in court trial simulation (Moot Court) on the topic of protection from discrimination, organised by the Commissioner for Protection of Equality in collaboration with the Judicial Academy and The Foundation for Open Society.

Starting from the fact that the misdemeanour legal protection is a part of protection from discrimination, the Commissioner for Protection of Equality and the Association of Misdemeanour Judges assessed that for enhancement of efficiency in providing legal protection from discrimination it is necessary to improve the level of knowledge and understanding of misdemeanour judges on the regulations of anti-discrimination law. In order to do that, work on the Manual for Application of Anti-discrimination Misdemeanour Law, the publication of which is expected in the first quarter of 2015, was started.

### ***5.3.5. Cooperation with the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women)***

Cooperation with the Agency of United Nations for Gender Equality and the Empowerment of Women (UN Women) on the promotion of position of women on a local level was continued. In February 2014, presentation of the Commissioner's work and authorisation was organised in the South of Serbia. A working meeting was held with the president of the municipality Prokuplje as well as a discussion the mechanisms of protection from discrimination, with emphasis on gender based discrimination. 60 representatives of institutions, non-governmental organisations, media and interested citizens were present at the meeting. The attendees were introduced to the role of the Commissioner for Protection of Equality and mechanisms of protection from discrimination as well as the most common cases of discrimination based on gender that were filed before the Commissioner. After the meeting, the citizens had a chance to file a complaint and get advice on whether the behaviour they were exposed to constitutes as discrimination. Representatives of the Commissioner visited the village Donja Straževica and talked to the inhabitants on the term discrimination and the way they could fulfil and protect their rights.

The roundtable meeting “The Commissioner for Protection of Equality and discrimination against women” was held in March in the ceremonious hall of the town Novi Pazar. Within the visit to municipalities in the South of Serbia organised by UN Women, representatives of local institutions and organisations, authorised to protect and react in cases of violation of the right to equality, learned the role and authorisations of the Commissioner and were introduced to the most common cases of gender based discrimination. One of the visits to women assemblies in villages of the Commissioner’s representative was to the village Požega, near Novi Pazar and they talked to women on their position and ways in which they could recognise discrimination and ask for protection.

### ***5.3.6. Cooperation with the European Network of Equality Bodies (EQUINET)***

During 2014, several working meetings, trainings, seminars were organised by EQUINET network on which representatives of the Commissioner participated actively. What is of special importance to our institution is that the assistant of the Commissioner, Kosana Beker, became a member of the Executive committee of the European network of Equality Bodies, which is a success and recognition of the Commissioner for Protection of Equality, as well as Serbia, on the way to creation of open and tolerant society. That was one of the key reasons why the media recognised the importance of the annual meeting of representatives of all member countries of EQUINET, whose host was the Commissioner for protection of equality in October. In all media reports, this event was represented as yet another important step of our country towards European standards and values, in the process of accession to EU.

In April, in the rooms of the European Economic and Social Committee in Brussels, a seminar was held on the topic of gender equality that brought together more than 90 representatives of European equality bodies and international experts, including representatives of the Commissioner for protection of equality. The aim of the seminar was exchange of experiences on implementation of Directive of the European Union Council 2004/113/E3 and models of cooperation in lieu of enhancement of gender equality in access to the goods and offering services.

Representatives of the Commissioner participated in meeting of all work groups of EQUINET this year as well. The main topic of the meeting of Working group for gender equality was analysis of the research done among European equality bodies on the position of women in the area of goods access and service giving. The analyses of the results of the research showed that the majority of bodies have the authorisation in that area but that they do not use it to an adequate extent. The findings of the research made the foundation for the creation of the Report on the

application of the Directive 2004/113/EK on the implementation of the principle of equal treatment of men and women in the area of access to goods and service offering. Working group for communications presented a new electronic directory that would aid the construction of data base on the work of all European equality bodies and allow timely circulation of information between the network members. A number of the meeting of the network was dedicated to talks on planned activities of work groups for 2015 as well as the new Strategic plan of EQUINET for the period 2015–2018. Members of the work groups had a chance to exchange experiences on how participation in the work of the network improved their work so far, which topics should be covered to a greater extent in the future and to what measure and in which ways could the work of individual work groups be improved.

Extreme success for and recognition to the work of the Commissioner in this network was the realisation of the expert training of the member of EQUINET in October, 2014 in Belgrade. During a two-day training, the effects of the application of affirmative action measures, which are taken in the states which are members of EQUINET in order to improve the position of the groups that do not enjoy equality and speed up the process of true equality. Highest representatives of national institutions for equality and discrimination combating from Europe, the USA, the European Committee and Serbia participated. Special mention was given to special measures for enhancement of the position of women in Serbian society.

## 5.4. Other forms of cooperation

The participants of the project *“Specialisation Programme for Young Members of Minorities in State Institutions in Serbia”* visited the Commissioner in February 2014, and young specialists, of Albanian, Bosnian and Roma national minority, had a chance to learn more closely of the institution’s work, mechanisms of protection from discrimination and the most interesting cases from the Commissioner’s practice.

The Commissioner for Protection of Equality participated actively in the work of National Committee for Combating Hate Speech on the Internet. With the aim of establishing a more tolerant and safer society, the Ministry of Youth and Sport initiated formation of the committee that has more than thirty members – representatives of institutions, youth and sports organisations, media and local self-government. Symbolically, on February 14<sup>th</sup> – the Valentine’s Day – the internet platform and campaign for suppression of hate speech on the internet. A set of different contents will be available for the visitors of this internet presentation: from basic information on the campaign on European and national level, interactive calendar of activities and important events that promote tolerance and equality, to online advice clinic for the victims and witnesses of hate speech on the internet that will have access to psychologists and counsellors.

The Commissioner for Protection of Equality supported the global campaign “One Billion Rising” – against violence done against women, and the Commissioner spoke during the meeting where she asked for the violence against women and girls to cease and punishment of women abusers to be more severe. On that occasion, the Commissioner emphasised a great importance of the fact that Serbia joined this global campaign and pointed out the alarming statistics according to which more than 2/3 of the citizens of Serbia thinks that violence against women widely or relatively widely spread and 42% believes that women are the most discriminated group against in our country. It was shown that all the authorities should put maximum effort in creation of the conditions for a secure life of all women victims of violence in family, not to discontinue SOS telephone lines for help for the victims and that the bullies and discriminators be punished adequately.

Prior to the International Women’s Day, the Commissioner for Protection of Equality and Delegation of EU in Serbia organised a debate “*„Vojnik/vojnkinja, sudija/sutkinja... What is my profession called in female gender?“* Through talking with distinguished people from the area of culture, media and art, answers on the reasons for opposing the use of terms such as “policajka, inženjerka, vozačica...” what exactly do phrases “gentler” and “weaker” sex mean etc. The Chief of EU Delegation Michael Davenport, the state secretary in the Ministry of culture Gordana Predić, director of the Centre for safety politics Sonja Stojanović Gajić, journalist Olja Becković, actress Mirjana Karanović and linguist Vlado Đukanović participated in the debate. The aim of this debate was to remind the public of the need to improve the position of women in the society and to point out that one of the ways to do so is to use gender sensitive language.

As a part of the 27<sup>th</sup> Belgrade marathon, the Commissioner for Protection of Equality organised the third action under the motto “We Are All Equal In This Race”. Interested citizens had an opportunity to get acquainted with the work of the institution and to, through an anonymous questionnaire, test their knowledge on the subject of discrimination. Special interest was shown by numerous young citizens, secondary school pupils and students. During this activity, over 400 t-shirts, caps and badges, acquired with the help of the project IPA 2011, was given to persons with disabilities as well as all the attendees. Furthermore, the participants had a chance to spend time and talk to athletes with disability. The activity was supported by Michael Davenport, chief of the EU’s Delegation in Serbia, representative of Paralympics Committee, National Committee for Combating Hate Speech on the Internet and numerous sport clubs. Due to the activity during Belgrade marathon, the Commissioner Nevena Petrušić received, on a ceremony in the City Assembly of Belgrade, letter of thanks for special contribution.

On the international day of LGBT pride 27<sup>th</sup> June, in park Manjež a meeting was held and after it a walk was organised, as a sign of solidarity between LGBT population with the Roma community, in Belgrade Street where, in 1997, a Roma boy Dušan Jovanović was killed. The action called “Hate-free zone” was organised by several non-governmental organisations such as GSA, GLIC, Women in black and YUCOM.

A workshop on discrimination and tolerance was held in October for the pupils of the 4<sup>th</sup> grade of Primary School “Jovan Miodragović” in Belgrade, on the initiative of parents and the teacher of this class. In a relaxed atmosphere, through games, questions, tasks and acting, the pupils had a chance to get acquainted more closely with the importance of respecting equality and nurturing the culture of diversity acceptance. The pupils showed, by asking many questions and giving comments, that they were interested in the subject, they stated their opinions and points of view and through personal examples or the examples of others spoke of discrimination.

The Ministry of Youth and Sport, the Commissioner for Protection of Equality and the Office for Human and Minority rights supported the action “Month of Tolerance and Human Rights”, started by several informal youth groups from Serbia. As a part of that action, symbolically on the International day of tolerance, a Caravan “I believe in tolerance” started from Subotica, and by the 10<sup>th</sup> December which is the International Day of Human Rights, it visited several cities in Serbia. Citizens filmed, using a web camera, short video messages on the topic of tolerance and human rights on Likomat, as yet another segment of the Caravan. Those video messages are posted on the internet site of the National Committee for fight against hate speech on the internet, and the winner of the competition will be the person whose message is the most viewed one.

The Commissioner for Protection of Equality, in cooperation with Judicial Academy and with financial support from the Foundation for Open Society and USAID, organised the second national competition of the law faculty students in Serbia in trial simulation (Moot Court) with the theme of discrimination, and the topic was discrimination on the basis of sexual discrimination. The competition was held in the building of Constitutional Court in Belgrade, in December 2014. The judges for the simulation were lawyers, judges and law experts, among who were Vida Petrović Škero, Vesna Petrović, Goran Miletić, Dušan Ignjatović, Nenad Vujić, Milan Antonijević and other. 17 teams applied to this competition, from all accredited Law Faculties in the Republic of Serbia. The team of female students from the Faculty of Law, University of Niš won on the competition this year. The best competitors were given valuable prizes and all participants received acknowledgments.

## 6. Duties in Accordance with the Law on Free Access to Information of Public Interest

The Commissioner ensures an uninhibited access to information abiding by the requests for an uninhibited access to the information of public value, by publishing the Report on her work and other information on the internet site, reporting to the National Assembly, informing the public through announcements, publications, press conferences and other adequate forms.

Compared to 2013 when 16 requests for uninhibited access to public information were filed, in 2014 there were notably fewer requests, only four, which were responded to in the lawful time span of 15 days from the day of receiving it. All requests were filed by natural persons.

Table of the number of requests filed by categories:

No.	Requests by	No. of submitted requests	No. of accepted requests	No. of dismissed requests	No. of rejected requests
1.	Citizens	4	4	–	–
2.	Media	–	–	–	–
3.	Non-governmental and other civil society organizations	–	–	–	–
4.	Political parties	–	–	–	–
5.	Public administration	–	–	–	–
6.	Others	–	–	–	–
7.	Total	4	4	–	–

The Commissioner for Protection of Equality, when giving information, takes special care of protection of personal data, in accordance with the Law for the protection of personal data<sup>84</sup>. The client involved in a legal proceeding before the Commissioner for Protection of Equality has the right to confidentiality of all the personal data that are included in the procedure notes and though which the client is introduced to the Commissioner or other authorised subject.

This principle can be deviated from, in accordance with the law, in cases of maltreatment, suicide, violence, threats or other circumstances determined by the law or other legal act and endanger a person's life.

<sup>84</sup> "Official Gazette of RS", no 97/08

The information booklet on the work of the Commissioner is available on the internet site [www.ravnopravnost.gov.rs](http://www.ravnopravnost.gov.rs). In order to practice the right to free access to information of public interest, the citizens are allowed to see and download forms with the examples filling a request for a free access to information, as well as possible complaints from the internet site. The request can be filed in a written format and without using the forms. It is important to state clearly in the request which information is sought and to what it pertains to, that is, as precise description of the wanted information as possible. The request may, but does not have to, contain reasons for asking for information and other data which make searching for the information easier.

Insight into the document that contains required information is free of charge in accordance with the Law on Free Access to Information of Public Interest.<sup>85</sup>

The request to access information of public interest which pertains to the work of the Commissioner for Protection of Equality may be submitted in writing by any interested person or organization and sent to: Poverenik za zaštitu ravnopravnosti, 70 Beogradska, 11000 Belgrade or by email: [poverenik@ravnopravnost.gov.rs](mailto:poverenik@ravnopravnost.gov.rs).

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85 „Official gazette of RS“, no. 120/04, 54/07, 104/09 and 36/10.



## 7. Report on Implementation of the Financial Plan

The Commissioner for Protection of Equality was allocated funds in the total amount of RSD 68.951.000 pursuant to the Law on the Budget of the Republic of Serbia ("Official Gazette of RS", no. 110/13), and according to the Law on Amendments to the Law on the Budget of the Republic of Serbia for 2014 ("Official Gazette of RS", no. 116/14 and 142/14), the total amount of funds was increased to RSD 69.768.000.

The allocated budgetary funds were used for financing the regular actions and the work of the Commissioner's professional service, in accordance with the financial plan and the Plan for public procurement.

The structure of the planned expenses of the Commissioner is as follows:

- Salaries, additional payment and reimbursements of the employees – 65% of the allocated funds,
- Merchandise and services – 31% of the allocated funds, and
- Nonfinancial assets – 4% of the allocated funds.

The table shows detailed data on the allocated and spent appropriations in 2014, as well as the allocated funds for 2015, in accordance with the Law on the Budget of the Republic of Serbia for 2015.

Econom. classification	Description	Allocated funds by the Law on the Budget of the Republic of Serbia for 2014 ("Official Gazette" no. 110/13)	Allocated funds by the Law on Amendments to the Law on the Budget of the Republic of Serbia for 2014 ("Official Gazette of RS", no. 116/14 and 142/14)	Execution of Appropriation	Percent of Execution	Allocated funds by the Law on the Budget of the Republic of Serbia for 2015 ("Official Gazette of RS" no 142/14)
I-V	Sum	68.955.000	77.126.760	60.791.903	78,82	72.904.000
1	2	3	4	5	6	7
I	Income from budget – source- 01	68.951.000	69.768.000	53.853.764	77,19	72.633.000
411	Salaries, additional payment, and reimbursements of the employees	33.868.000	34.563.000	28.300.130	81,88	39.810.000
412	Social contribution by the employer	6.059.000	6.181.000	5.060.454	81,87	6.900.000
413	Nonfinancial reimbursements	100.000	100.000	–	0,00	100.000
414	Social dispensations to the employees	500.000	500.000	3	0,00	183.000

415	Reimbursements of the employees' expenses	4.000.000	4.000.000	3.012.353	75,31	4.350.000
416	Employee bonuses	300.000	300.000	117.746	39,25	300.000
421	Regular expenses	4.000.000	4.000.000	2.942.180	73,55	3.850.000
422	Travelling expenses	3.200.000	3.300.000	2.732.466	82,80	3.780.000
423	Contractual services	8.990.000	8.990.000	6.836.675	76,05	6.950.000
424	Specialised services	400.000	500.000	376.495	75,30	600.000
425	Current repairs and maintenance	200.000	300.000	148.803	49,60	450.000
426	Material	3.500.000	3.500.000	2.998.988	85,69	2.900.000
462	Subsidies to international organisations	1.600.000	350.000	–	0,00	150.000
481	Subsidies to NGOs	10.000	10.000	–	0,00	10.000
482	Taxes, obligatory taxes and fines	200.000	200.000	23.140	11,57	200.000
483	Fines according to court rulings	50.000	50.000	6.000	12,00	100.000
511	Buildings and architectural objects	150.000	700.000	–	0,00	400.000
512	Machines and equipment	1.124.000	1.424.000	926.789	65,08	1.350.000
515	Invisible assets	700.000	800.000	371.542	46,44	250.000
<b>II</b>	<b>Donations from foreign countries- source 05</b>	<b>3.000</b>	<b>6.023.760</b>	<b>6.020.411</b>	<b>99,94</b>	<b>1.000</b>
421	Regular expenses		1.000	–	0,00	
422	Travelling expenses	2.000	1.000	–	0,00	1.000
423	Contractual services	1.000	831.000	829.651	99,84	
481	Subsidies to NGOs		5.190.760	5.190.760	100,00	
<b>III</b>	<b>Donations from international organisations – source 06</b>	<b>1.000</b>	<b>1.000</b>		<b>0,00</b>	
422	Travelling expenses	1.000	1.000	–	0,00	
<b>IV</b>	<b>Donations from NGOs – source 08</b>		<b>1.274.000</b>	<b>858.228</b>	<b>67,36</b>	<b>270.000</b>
422	Travelling expenses		655.000	245.880	37,54	270.000
423	Contractual services		349.000	348.824	99,95	
512	Machines and equipment		270.000	263.524	97,60	
<b>V</b>	<b>Funds from previous year – source 15</b>		<b>60.000</b>	<b>59.500</b>	<b>99,17</b>	
422	Travelling expenses		60.000	59.500	99,17	

From the total budgetary funds of the Republic of Serbia for 2014, RSD 53.853.764, that is 77% of the allocated funds, was spent, which signifies the rationality in consumption.

Apart from the budgetary funds, the Commissioner for Protection of Equality also used the funds from donations in the total amount of RSD 6,938,140. The structure of these funds was as follows:

The source of funding		Funds spent
05 – Foreign countries' donations		
Kingdom of the Netherlands	Project – <i>Equal chance for better prospects – strengtening Roma people in combating discrimination</i>	829.651
Kingdom of Norway	Project – <i>Making equality a reality</i>	5.190.760
08 – Non-governmental organisations' and individual's donations		
Open Society Foundation	Project – <i>Trial simulation „Moot court“</i>	858.229
15 – Unspent funds from the previous period		
European Committee	Project – <i>Progress</i>	59.500
Тотал:		6.938.140

## 8. Recommendations for Combating Discrimination and Achieving Equality

The Regular 2013 Annual Report, based on the data gathered in the process of insight into the key problems in instilment and protection of equality, gave 20 recommendations which implementation would serve to the purpose of a more efficient and effective prevention of discrimination and its suppression. In the Conclusions on the 2013 Regular Annual Report of the Commissioner for Protection of Equality adopted on 5th of June 2014, the National Assembly concluded that the duty of all state and public authorities is to undertake all necessary measures in view of full realisation of the Commissioner's recommendations, especially the most discriminated groups, including the double and multiple discrimination. The National Assembly pledged to support consistent application of anti-discrimination law and respect the recommendations of the Commissioner, with the aim of equal gender representation, in the framework of a control function over the Government's work.

Despite such an overt support from the National Assembly, in the course of previous year the trend stating that the general recommendations, pertaining to the measures for combating discrimination and improvement of equality, are not accepted or are applied only to an extent, in comparison to the recommendations concerning concrete discrimination cases, which are implemented almost completely.

In 2014 some of the recommendations given by the Commissioner in previous reports were accepted but certain recommendations were ignored or carried out partially.

The action plan for implementation of the Strategy for Prevention and Protection from Discrimination for 2014–2018, was adopted, which set the measures for organising a unified system of gathering data on discrimination emersion and the effects of applying mechanisms of protection from discrimination. It marked the end of the process of adopting such a strategically important document and the action plan for its implementation. The state authorities should undertake the measures and activities so as to fulfil the projected goals successfully.

Pride parade was held with no significant incidents, with great safety measures. However, it is necessary to take a range of measures and activities to lessen the social distance towards the LGBT population and to create the conditions necessary for an uninhibited enjoyment of all rights under equal conditions.

In the domain of public information, a set of long awaited laws were adopted, which started the reformation in this area and who are in accordance with the anti-discrimination regulations and promise an equal broadcasting to all parts of

the society without discrimination and hate speech. New media laws establish that the carriers of the public broadcasting service create and broadcast programmes which content allows expression of cultural identity of national minorities and ethnic groups, including creating the conditions to follow those programmes in their language or alphabets. These laws promise broadcasting of the programmes which are suited for persons with disabilities.

Amendments made to the Labour Law from July 2014 abolished the inadequate and stigmatising terms concerning persons with disabilities. In doing so, the recommendation of the Commissioner was partially carried out. It is needed to change other regulations which contain the unacceptable terms and, in that sense, supplement the unified methodological rules for the regulations' writing, in order to prevent such actions.

The Law on Free Legal Aid has not been adopted and the offered solutions from the draft law are not satisfactory from the aspect of equal opportunities and an effective approach to justice, which is extremely damaging to the persons from vulnerable and marginalised social groups, who are often subjected to discrimination.

The Rulebook on Closer Criteria for Recognition of Forms of Discrimination by an Employee, Student or a Third party in an Institution of Education, proscribed to be adoptees by Article 44 of the Law on the Foundations of the Education System, has not been instilled not even after three years, even though the draft was made in 2012.

Having in mind the previously given recommendations, the majority of which are still current, and based on the information gathered throughout 2014, the following recommendations are given:

1. Timely start the preparation of strategic documents expiring in 2015, such as the National Strategy for Improving the Position of Women and Promoting Gender Equality (2009–2015), the National Action Plan for Children (2004–2015), the National Strategy for Improvement of the Position of Roma, Roma Decade (2005–2015), the Strategy on Aging (2009–2015), the Action Plan for the Implementation of the Strategy for Improving the Position of Persons with Disabilities (2013–2015), the Strategy on the Development and Promotion of the Socially Responsible Actions (2010–2015) etc. The new Strategy on Development and Promotion of the Socially Responsible Actions is set to anticipate the special measure which aid the elimination of social exclusion and discrimination of the vulnerable groups, and ensures that the employers implement the principle of equal opportunity and non-discrimination in employment.

2. Proscribe the obligation of “gender mainstreaming” that is, integration of the gender perspective in all public policies, in order to ensure the elimination of the systemic and structural causes of gender inequality and create the conditions for transposition of gender equality, as a European value, in a coherent and systematic manner. Continue the work on integrating gender perspective in all decisions and policies on a national, regional and local level. Ensure an efficient application of the rules on gender analysis of law drafts and other act and the analysis of their effect on men and women.

3. Proscribe the duty of all public authorities and private employers to develop internal mechanism for combating and protection from discrimination, gender balances work policies and managing national, ethnic, religious, language and other diversity.

4. Intensify the work on introducing measure determined by the national, regional and local strategic documents and action plans, which should ensure achieving full equality of the deprived, vulnerable and marginalised society groups: Roma people, persons with disabilities, refugees or internally displaced people, penurious and other socially disadvantaged people, including women and children belonging to these groups, in order to create the conditions for an effective enjoyment of all the guaranteed rights, without any kind of direct or indirect discrimination. These activities should include the representatives of the vulnerable social groups

5. Take all necessary measures to warrant that the composition of state authorities, local self-government authorities and other public authorities corresponds to the national structure of the population on their respective territories by increasing the number of employed members of national minorities and their education and training in this regard.

6. Continually work on education of judges, public prosecutors, police officers and public servants working in state authorities or local self-government units in the area of anti-discrimination law, in order to ensure that the legislative bodies interpret regularly and evenly and apply anti-discrimination regulations, in accordance with the international standards and the policy of international legislative institutions, contributing thus fully to combating discrimination and protection of the victims of discrimination.

7. Align regulations on the conditions and the process of registration of non-traditional religious communities with the national and international standards of equality of churches and religious communities, in order to prevent direct discrimination of these religious groups and of believers themselves.

8. Adopt, in a timely manner, the Rulebook on more precise criteria for recognizing the forms of discrimination in educational institutions by an employee, a pupil and a third party, and ensure all conditions for its implementation.

9. Create and realise educational programmes for teachers, educators and other employees so as to train them to recognise and prevent discrimination, promote equality among students, actively oppose all types of discrimination and support inclusive education.

10. Take measures to integrate topics concerning the development of culture of peace, tolerance, understanding and accepting diversity, gender equality and non-discrimination into syllabuses and curriculums. Eradicate discriminatory content from curriculums, as well as such content which supports stereotypes and prejudices

11. Secure equal opportunities in respect to higher education of young people from under-represented groups, including persons with disabilities, by introducing measures and reviewing standards for accreditation of higher education institutions, concerning spatial accessibility, provision of assistive technologies and adequate services for student support. Initiate the implementation of internal rules on the manner of action in cases of discrimination in institutions of higher education.

12. Create and realise educational programmes intended for those employed in the health sector, with the aim of raising the level of knowledge on discrimination, as well as respecting the regulations that inhibit it. Include the counsellors for the protection of patients' rights as well as members of local health councils and the employees of the National Health Insurance Fund and its branch establishments in similar educational programmes.

13. Create and realise educational programmes intended for those employed in the social institutions with the aim of raising the level of knowledge on discrimination and its understanding as well as respecting the regulations which inhibit it.

14. Ensure an adequate education for journalists in the area of anti-discrimination law.

15. Equate the Republic of Serbia as the employer for direct and indirect budgetary users with other employers in regards to the manner of complying with the obligation of employing persons with disabilities. .

16. Remove from legal regulations all inadequate and stigmatizing terms used to designate persons with disabilities ("blind", deaf", "mute", "handicapped person", "person with special needs" etc.) and replace them with uniform and correct terms. In this respect, supplement the Common Methodology Rules for Drafting Regulations ("Official Gazette of RS", no. 21/10).



17. Reform regulations on the deprivation of legal capacity in accordance with the contemporary social model of disability and international standards in this area, in order to ensure that persons with disabilities, with appropriate support, enjoy all their guaranteed rights on an equal basis.

18. Adopt the Law on Free Legal Aid that would ensure effective access to justice without discrimination on any grounds, including access to justice for victims of discrimination.

19. Adopt regulations which enable registration of same-sex couples and regulate the effect, legal ramifications and the manner of abolishing of such registered partnerships, in accordance with the suggestions made by the Council of Europe.

20. Create and realise educational programmes intended for the employees of labour inspections on a national, regional and local level so as to educate them to recognise and act adequately in cases of discrimination at the workplace and in connection to work.

21. Approach c amending the *Law on Prohibition of Discrimination* with the aim of reaching a complete equalization with the law practices of the European Union, especially concerning the range of exceptions from the rule of equal action, definition of direct discrimination and the obligation to secure a reasonable accommodation in the workplace for persons with disabilities. Insure that the new Commissioner for the Protection of Equality is chosen before the mandate of the previous one ends, so as not to halt the actions of this independent state institution, by amending laws.

22. Ensure the work continuity of the institution of the Commissioner for Protection of Equality by choosing the new commissioner by May 5<sup>th</sup> 2015, when the mandate of the previous commissioner ends.

23. Ensure an adequate work space for the Commissioner and continue supporting regional offices of the Commissioner, urgently.



## ANNEX: STATISTICAL OVERVIEW OF THE COMMISSIONER'S WORK IN 2014

### Number of cases by years

Cases	2010.	2011.	2012.	2013.	2014.
Complaints	124	346	465	716	666
Recommendations for taking measures	2	22	117	24	198
Lawsuits		3	5	3	2
Opinions on draft laws and regulations		2	3	6	2
Misdemeanour charges		2	6	2	1
Proposals to the Constitutional Court			1	2	3
Legislative initiatives		2	1		
Warnings	1	8	2	10	6
Public announcements*	4	22	17	15	20
<b>Total number of cases*</b>	<b>127</b>	<b>385</b>	<b>600</b>	<b>763</b>	<b>878</b>

In 2014 6 criminal lawsuits were also initiated and the total number of procedures would then be 884.

\*Public announcements are not counted in the Total number of cases.

### Number of cases in 2014

Cases	2014.
Complaints	666
Recommendations for taking measures	198
Public announcements*	20
Warnings	6
Criminal charges	6
Proposals to the Constitutional Court	3
Opinions on draft laws and regulations	2
Lawsuits	2
Misdemeanour charges	1
Legislation initiatives	
<b>Total number of cases*</b>	<b>884</b>

\* Public announcements are not counted in the Total number of cases.

## Complainants

### Natural persons

Natural persons as complainants	2014.	%
Men	271	60,9
Women	174	39,1
Total number	445	100,0

### Other complainants

Complainants	2014.	%
Natural persons	445	66,4
Organisations	140	20,9
Legal persons	58	8,7
State authorities	19	2,8
Group of persons	8	1,2
Total number of complainants	670	100,0

### Basis for discrimination (personal characteristic)

Discrimination complaints	No.	%
Complaints in which personal characteristic is stated	522	78,4
Complaints in which personal characteristic is not stated	144	21,6
Total number of complaints	666	100,0

Complaints in which personal characteristic is stated	No.	%
National affiliation	124	18,0
Health condition	97	14,1
Age	78	11,3
Disability	70	10,1
Religious beliefs	28	4,1
Political beliefs	36	5,2
Membership in political, syndicate or other organisations	58	8,4

Gender	53	7,7
Marital and family status	52	7,5
Other personal characteristic	31	4,5
Financial situation	23	3,3
Sexual orientation	18	2,6
Citizenship	7	1,0
Gender identity	5	0,7
Appearance	5	0,7
Conviction status	3	0,4
Skin colour	1	0,1
Ancestors	1	0,1
<b>Total number of given physical characteristics*</b>	<b>690</b>	<b>100,0</b>

\*In 120 complaints more than one personal characteristic is stated as the ground for discrimination.

<b>Complaints in which the personal characteristic is stated by complainant</b>	<b>No.</b>	<b>%</b>
National affiliation or ethnic origin	126	18,1
<i>Organisations</i>	44	
<i>Legal persons</i>	4	
<i>State authorities</i>	4	
<i>Groups of subjects</i>	3	
<i>Natural persons</i>	71	
<i>Men</i>	44	
<i>Women</i>	27	
Health condition	99	14,2
<i>Organisations</i>	56	
<i>Legal persons</i>	1	
<i>Group of persons</i>	1	
<i>State authorities</i>	2	
<i>Natural persons</i>	39	
<i>Men</i>	29	
<i>Women</i>	10	

Age	78	11,2
<i>Organisations</i>	25	
<i>Group of persons</i>	1	
<i>Natural persons</i>	52	
<i>Men</i>	33	
<i>Women</i>	19	
Disability	70	10,1
<i>Organisations</i>	6	
<i>Legal persons</i>	24	
<i>Group of persons</i>	2	
<i>State authorities</i>	1	
<i>Natural persons</i>	37	
<i>Men</i>	18	
<i>Women</i>	19	
Membership in political, syndicate or other organisations	58	8,4
<i>Organisations</i>	5	
<i>Legal persons</i>	19	
<i>Natural persons</i>	34	
<i>Men</i>	30	
<i>Women</i>	4	
Sex and gender identity	58	8,4
<i>Organisations</i>	7	
<i>Legal persons</i>	3	
<i>State authorities</i>	2	
<i>Natural persons</i>	46	
<i>Men</i>	13	
<i>Women</i>	33	
Marital and family status	52	7,5
<i>Organisations</i>	1	
<i>Legal persons</i>	19	
<i>State authorities</i>	4	
<i>Natural persons</i>	28	
<i>Men</i>	13	
<i>Women</i>	15	

Political beliefs	36	5,2
<i>Organisations</i>	12	
<i>Legal persons</i>	18	
<i>State authorities</i>	1	
<i>Natural persons</i>	5	
<i>Men</i>	1	
<i>Women</i>	4	
Religious beliefs	28	4,0
<i>Organisations</i>	1	
<i>Legal persons</i>	1	
<i>State authorities</i>	3	
<i>Natural persons</i>	23	
<i>Men</i>	23	
Financial situation	23	3,3
<i>Organisations</i>	3	
<i>Natural persons</i>	20	
<i>Men</i>	19	
<i>Women</i>	1	
Sexual orientation	18	2,6
<i>Organisations</i>	3	
<i>Legal persons</i>	2	
<i>State authorities</i>	2	
<i>Natural persons</i>	11	
<i>Men</i>	11	
Other personal characteristics	49	7,0
<i>Organisations</i>	5	
<i>Legal persons</i>	2	
<i>State authorities</i>	4	
<i>Natural persons</i>	38	
<i>Men</i>	31	
<i>Women</i>	7	
<b>Total number of stated personal characteristics*</b>	<b>695</b>	<b>100,0</b>

\* In 120 complaints more than one personal characteristic is stated as the ground for discrimination, and in 4 complaints there were more complainants.



## Basis for discrimination by number (one/more personal characteristics)

Complaints in which personal characteristic is not stated	144
Complaints in which one personal characteristic is stated	402
Complaints in which more than one personal characteristic is stated	120
<b>Total number of complaints</b>	<b>666</b>

## Other basis

The table below shows other personal characteristics. The percentage values presented in the table are calculated with regard to the total number of complaints in which personal characteristic is stated.

Other personal characteristics by complainant	No.	%
Other personal characteristics	31	4,5
<i>Legal persons</i>	1	
<i>Organisations</i>	3	
<i>State authorities</i>	2	
<i>Natural persons</i>	25	
<i>Men</i>	21	
<i>Women</i>	4	
Citizenship	7	1,0
<i>Legal persons</i>	1	
<i>Organisations</i>	1	
<i>Natural persons</i>	5	
<i>Men</i>	4	
<i>Women</i>	1	
Appearance	6	0,9
<i>State authorities</i>	1	
<i>Natural persons</i>	5	
<i>Men</i>	3	
<i>Women</i>	2	
Conviction status	3	0,4
<i>Organisations</i>	1	
<i>State authorities</i>	1	

<i>Natural persons</i>	<i>1</i>	
<i>Men</i>	<i>1</i>	
Skin colour	1	0,1
<i>Natural persons</i>	<i>1</i>	
<i>Men</i>	<i>1</i>	
Ancestors	1	0,1
<i>Natural persons</i>	<i>1</i>	
<i>Men</i>	<i>1</i>	
<b>TOTAL - other personal characteristics</b>	<b>49</b>	<b>7,0</b>

### Areas of social relations the complaints pertain to

Complaints by discrimination area	No.	%
In the procedure of employment or at work	242	36,3
Procedures before public authorities	111	16,7
Provision of public services or use of facilities and areas	104	15,6
Public information and media	41	6,2
Education and professional training	38	5,7
Other	24	3,6
Realisation of collective minority rights	22	3,3
Health protection	17	2,6
Private relations	13	2,0
Housing	11	1,7
Social protection	10	1,5
Culture, art, sport	9	1,3
Public sphere/General public	8	1,2
Pension and disability insurance	7	1,0
Judiciary	5	0,8
Ownership rights and relations	2	0,3
Realisation of religious rights	1	0,1
Activities in political parties, NGOs and other organizations	1	0,1
<b>Total number of complaints</b>	<b>666</b>	<b>100,0</b>

Discrimination areas by complainants	No.	%
In the procedure of employment or at work	243	36,3
<i>Legal persons</i>	45	
<i>Organisations</i>	22	
<i>Group of persons</i>	3	
<i>State authorities</i>	5	
<i>Natural persons</i>	168	
<i>Men</i>	90	
<i>Women</i>	78	
Procedures before public government authorities	111	16,6
<i>Legal persons</i>	3	
<i>Organisations</i>	8	
<i>State authorities</i>	7	
<i>Natural persons</i>	93	
<i>Men</i>	64	
<i>Women</i>	29	
Provision of public services or use of facilities and areas	104	15,5
<i>Legal persons</i>	2	
<i>Organisations</i>	56	
<i>State authorities</i>	1	
<i>Natural persons</i>	45	
<i>Men</i>	32	
<i>Women</i>	13	
Public information and media	42	6,3
<i>Legal persons</i>	2	
<i>Organisations</i>	8	
<i>State authorities</i>	1	
<i>Natural persons</i>	31	
<i>Men</i>	25	
<i>Women</i>	6	
Education and professional training	39	5,8
<i>Legal persons</i>	2	

<i>Organisations</i>	11	
<i>Group of persons</i>	3	
<i>Natural persons</i>	23	
<i>Men</i>	6	
<i>Women</i>	17	
Other	24	3,6
<i>Legal persons</i>	2	
<i>Organisations</i>	3	
<i>Natural persons</i>	19	
<i>Men</i>	14	
<i>Women</i>	5	
Realisation of collective minority rights	22	3,3
<i>Legal persons</i>	1	
<i>Organisations</i>	20	
<i>Group of persons</i>	1	
Health protection	17	2,5
<i>Organisations</i>	2	
<i>Natural persons</i>	15	
<i>Men</i>	7	
<i>Women</i>	8	
Private relations	13	1,9
<i>Organisations</i>	3	
<i>Natural persons</i>	10	
<i>Men</i>	4	
<i>Women</i>	6	
Housing	12	1,8
<i>Organisations</i>	4	
<i>Natural persons</i>	8	
<i>Men</i>	8	
Social protection	10	1,5
<i>State authorities</i>	2	
<i>Natural persons</i>	8	
<i>Men</i>	4	
<i>Women</i>	4	

Culture, art, sport	9	1,3
<i>Legal persons</i>	1	
<i>Natural persons</i>	8	
<i>Men</i>	8	
Public sphere /General public	8	1,2
<i>Organisations</i>	3	
<i>Natural persons</i>	5	
<i>Men</i>	4	
<i>Women</i>	1	
Pension and disability insurance	7	1,0
<i>State authorities</i>	2	
<i>Natural persons</i>	5	
<i>Men</i>	1	
<i>Women</i>	4	
Judiciary	5	0,7
<i>Group of persons</i>	1	
<i>Natural persons</i>	4	
<i>Men</i>	2	
<i>Women</i>	2	
Ownership rights and relations	2	0,3
<i>State authorities</i>	1	
<i>Natural persons</i>	1	
<i>Women</i>	1	
Activities in trade unions, political parties, NGOs and other organizations	1	0,1
<i>Natural persons</i>	1	
<i>Men</i>	1	
Realization of religious rights	1	0,1
<i>Natural persons</i>	1	
<i>Men</i>	1	
<b>Total number of complaints</b>	<b>670</b>	<b>100,0</b>

## Work and employment

Note: Percentage values for these personal characteristics are calculated in relation to the total number of complaints in which personal characteristic is stated and not the total number of complaints in the this area.

Personal characteristics in the area of work and employment	No.	%
Complaints in which personal characteristic is not stated	67	20,1
Complaints in which personal characteristic is stated	267	79,9
<i>Activities in trade unions, political parties, NGOs and other organizations</i>	45	16,9
<i>Legal persons</i>	18	
<i>Organisations</i>	3	
<i>Natural persons</i>	24	
<i>Men</i>	20	
<i>Women</i>	4	
<i>Marital and family status</i>	44	16,5
<i>Legal persons</i>	19	
<i>Organisations</i>	1	
<i>State authorities</i>	1	
<i>Natural persons</i>	23	
<i>Men</i>	10	
<i>Women</i>	13	
<i>Political beliefs</i>	33	12,3
<i>Legal persons</i>	18	
<i>Organisations</i>	11	
<i>State authorities</i>	1	
<i>Natural persons</i>	3	
<i>Men</i>	1	
<i>Women</i>	2	

<i>Disability</i>	32	12,0
<i>Legal persons</i>	23	
<i>Organisations</i>	2	
<i>Natural persons</i>	7	
<i>Men</i>	2	
<i>Women</i>	5	
<i>Sex and gender identity</i>	28	10,5
<i>Legal persons</i>	2	
<i>Organisations</i>	4	
<i>Natural persons</i>	22	
<i>Men</i>	4	
<i>Women</i>	18	
<i>Health condition</i>	23	8,6
<i>Organisations</i>	1	
<i>Natural persons</i>	22	
<i>Men</i>	17	
<i>Women</i>	5	
<i>Age</i>	17	6,4
<i>Organisations</i>	1	
<i>Natural persons</i>	16	
<i>Men</i>	8	
<i>Women</i>	8	
<i>National affiliation or ethnic origin</i>	12	4,5
<i>Legal persons</i>	1	
<i>Group of persons</i>	1	
<i>State authorities</i>	1	
<i>Natural persons</i>	9	



<i>Men</i>	5	
<i>Women</i>	4	
<i>Financial situation</i>	10	3,7
<i>Natural persons</i>	10	
<i>Men</i>	10	
<i>Other</i>	23	8,6
<b>Total number of personal characteristics in the area of work and employment</b>	<b>334</b>	<b>100,0</b>

## Conduct of public authorities

Note: Percentage values for these personal characteristics are calculated in relation to the total number of complaints in which personal characteristic is stated and not the total number of complaints in the this area.

<b>Personal characteristics in complaints in the area of treatment before public authorities</b>	<b>No.</b>	<b>%</b>
Complaints in which personal characteristic is not stated	41	33,3
Complaints in which personal characteristic is stated	82	66,7
<i>National affiliation and ethnic origin</i>	23	28,0
<i>Organisations</i>	4	
<i>Legal persons</i>	1	
<i>State authorities</i>	1	
<i>Natural persons</i>	17	
<i>Men</i>	12	
<i>Women</i>	5	
<i>Gender</i>	10	12,2
<i>Legal persons</i>	1	
<i>State authorities</i>	1	

<i>Natural persons</i>	8	
<i>Men</i>	4	
<i>Women</i>	4	
<i>Disability</i>	8	9,8
<i>Natural persons</i>	8	
<i>Men</i>	6	
<i>Women</i>	2	
<i>Health condition</i>	8	9,8
<i>Organisations</i>	1	
<i>State authorities</i>	1	
<i>Natural persons</i>	6	
<i>Men</i>	6	
<i>Financial situation</i>	6	7,3
<i>Natural persons</i>	6	
<i>Men</i>	6	
<i>Other personal characteristic</i>	27	32,9
<b>Total number of personal characteristics in the area of conduct of public authorities</b>	<b>123</b>	<b>100,0</b>

## Provision of services and/or use of public facilities and spaces

Note: Percentage values for these personal characteristics are calculated in relation to the total number of complaints in which personal characteristic is stated and not the total number of complaints in the this area.

<b>Personal characteristics in the complaints in the area of provision of services and/or use of public facilities and spaces</b>	<b>No.</b>	<b>%</b>
Complaints in which personal characteristic is not stated	0	0,0
Complaints in which personal characteristic is stated	105	100,0

<i>Health condition</i>	51	48,6
<i>Organisations</i>	50	
<i>Natural persons</i>	1	
<i>Men</i>	1	
<i>National affiliation and ethnic origin</i>	19	18,1
<i>Natural persons</i>	19	
<i>Men</i>	13	
<i>Women</i>	6	
<i>Disability</i>	13	12,4
<i>Organisations</i>	2	
<i>Legal persons</i>	1	
<i>Natural persons</i>	10	
<i>Men</i>	8	
<i>Women</i>	2	
<i>Age</i>	5	4,7
<i>Natural persons</i>	5	
<i>Men</i>	4	
<i>Women</i>	1	
<i>Other personal characteristic</i>	17	16,2
<b>Total number of personal characteristics in the area of provision of services and/or use of public facilities and spaces</b>	<b>105</b>	<b>100,0</b>

## Public information and media

Note: Percentage values for these personal characteristics are calculated in relation to the total number of complaints in which personal characteristic is stated and not the total number of complaints in the this area.

Personal characteristics in the complaints in the area of public information and media	No.	%
Complaints in which personal characteristic is not stated	3	5,7
Complaints in which personal characteristic is stated	50	94,3
<i>Religious and political beliefs</i>	19	38,0
<i>Legal persons</i>	1	
<i>Natural persons</i>	18	
<i>Men</i>	18	
<i>Age</i>	11	22,0
<i>Natural persons</i>	11	
<i>Men</i>	11	
<i>National affiliation and ethnic origin</i>	8	16,0
<i>Organisations</i>	5	
<i>Natural persons</i>	3	
<i>Men</i>	2	
<i>Women</i>	1	
<i>Sexual orientation</i>	4	8,0
<i>Organisations</i>	2	
<i>Legal persons</i>	1	
<i>State authorities</i>	1	
<i>Other personal characteristic</i>	8	16,0
<b>Total number of personal characteristics in the area of public information and media</b>	<b>53</b>	<b>100,0</b>

## Education and professional training

Note: Percentage values for these personal characteristics are calculated in relation to the total number of complaints in which personal characteristic is stated and not the total number of complaints in the this area.

Personal characteristics in the complaints in the area of education and professional training	No.	%
Complaints in which personal characteristic is not stated	5	9,4
Complaints in which personal characteristic is stated	48	90,6
<i>Age</i>	12	25,0
<i>Organisations</i>	3	
<i>Group of persons</i>	1	
<i>Natural persons</i>	8	
<i>Men</i>	2	
<i>Women</i>	6	
<i>National affiliation and ethnic origin</i>	12	25,0
<i>Organisations</i>	9	
<i>Natural persons</i>	3	
<i>Men</i>	1	
<i>Women</i>	2	
<i>Disability</i>	8	16,7
<i>Group of persons</i>	2	
<i>Natural persons</i>	6	
<i>Men</i>	1	
<i>Women</i>	5	
<i>Health conditions</i>	5	10,4
<i>Legal persons</i>	1	

<i>Group of persons</i>	<i>1</i>	
<i>Natural persons</i>	<i>3</i>	
<i>Men</i>	<i>1</i>	
<i>Women</i>	<i>2</i>	
<i>Gender</i>	<i>4</i>	<i>8,3</i>
<i>Natural persons</i>	<i>4</i>	
<i>Women</i>	<i>4</i>	
<i>Other personal characteristic</i>	<i>6</i>	<i>14,6</i>
<b>Total number of personal characteristics in the area of education and professional training</b>	<b>53</b>	<b>100,0</b>

## Other areas

Note: The table shows the data for the number of complaints by the following personal characteristics which are not stated in the previous chapters:

- Realisation of religious rights
- Realisation of collective minority rights
- Health care
- Social protection
- Judiciary
- Private relations
- Pension and disability insurance
- Culture, arts, sports
- Housing
- Public sphere / general public
- Ownership rights and relations
- Activities in trade unions, political parties, NGOs and other organizations
- Other

Personal characteristics in the complaints in other areas	No.	%
Complaints in which personal characteristic is not stated	28	16,5
Complaints in which personal characteristic is stated	142	83,5
<i>National affiliation or ethnic origin</i>	51	35,9
<i>Age</i>	28	19,7
<i>Health condition</i>	12	8,5
<i>Disability</i>	8	5,6
<i>Sex</i>	8	5,6
<i>Other personal characteristic</i>	35	24,7
<b>Total number of personal characteristics in other areas</b>	<b>170</b>	<b>100,0</b>

### Against whom the complaints were filed

Against whom the complaints were filed	2014.	%
Legal persons	307	43,4
State authorities	203	28,7
Natural persons	132	18,7
Body / Institution	36	5,1
Group of persons	20	2,8
Organisations	9	1,3
<b>Total number of persons against whom the complaint were filed*</b>	<b>707</b>	<b>100,0</b>

\*In 39 complaints more than one person was stated to have committed discrimination.

Number of cases with one discriminator	627
Number of cases with more than one discriminator	39
<b>Total number of complaints</b>	<b>666</b>

## Number of complaints by regions

Number of complaints by regions	2014.	%
Belgrade	241	35,9
Vojvodina	137	20,4
South and East Serbia	136	20,3
Šumadija and Western Serbia	87	13,0
Unknown region*	68	10,1
Kosovo and Metohija	2	0,3
<b>Total number of complaints</b>	<b>671</b>	<b>100,0</b>

\* The region is unknown when a complaint is sent by e-mail and the complainant does not indicate the municipality of residence.

## Outcomes of the procedures

Outcomes of the complaint procedures	2014.
Discrimination was established	66
There was no discrimination	43
Incompetence	33
Incomplete (with deficiencies) all the others	160
There is no violation of law	231
Proceedings initiated before a court of law or enforceable decision adopted	38
It has been previously acted upon the same matter but no new evidence has been provided	6
In view of the time elapsed, no useful purpose would have been served by acting upon the complaint	4
Complaint withdrawn	9

NOTE: A segment of classes initiated in 2013 were concluded in 2014. A certain number of cases from 2014 were not concluded by the end of the year.

## Mediation

	2014.
Referred to mediation	4



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