**Summary of 2016 Regular Annual Report**

**of the Commissioner for the Protection of Equality**

In 2016 the Commissioner for the Protection of Equality, within its statutory powers, continued with the activities aimed at combating all types, forms and instances of discrimination as well as those geared towards promoting equality. This, seventh Regular Annual Report of the Commissioner for the Protection of Equality is at the same time the second such report submitted in a five year term of office of the Commissioner for the Protection of Equality, Brankica Janković, who was elected by the National Assembly on 27 May 2015. It should be noted that in 2016 adequate office space was provided for operational needs of the Commissioner for the Protection of Equality and the institution has moved to its new premises which offer better working conditions and are easier to access.

A total of 1346 cases were handled by the Commissioner for the Protection of Equality in 2016, out of which 626 were complaints filed by citizens and 665 were recommendations of measures aimed at achieving equality. In addition, the Commissioner issued 40 opinions on draft laws and other acts of general nature; it has also filed criminal charges in three instances and one application to initiate misdemeanor proceedings, one initiative to assess conformity with the Constitution, and one initiative for the amendments to the law; it has issued nine warnings and 25 statements to the public. Opinions were issued in 51 cases following the completion of complaints procedure, out of which act of discrimination has not been confirmed in five cases and adequate recommendations have been issued, while in remaining cases an act of discrimination has been ascertained. Opinions were issued in 14 cases stating that an act of discrimination against a group of persons has been ascertained (LGBT, persons with disability, Roma, women etc.), while in other cases an individual had been the object of discrimination. Recommendations pertaining to concrete instances of discrimination have been implemented in 76.7% of cases. The majority of recommendations that have not been adhered to pertain to recommendations issued in the complaints procedure against discrimination on the grounds of sexual orientation. As for recommendations related to the implementation of measures aimed at achieving equality that were issued to public authorities and other entities, a total of 93,9% were acted upon, which, together with recommendations issued and acted upon in individual cases, amounts to an average of 85.3% implementation rate.

In terms of discrimination, an overwhelming number of complaints filed with the Commissioner for the Protection of Equality were those filed by private entities. Similar to previous years, out of all complaints filed by private entities, men prevail with 58%, while women constitute 42% of all complainants. In 2016, 34 complaints were filed by legal entities, while 83 complaints were filed by civil society organizations.

In 2016 the largest number of complaints alleged discrimination on the grounds of disability (12, 9%), gender (12, 9%), followed by complaints alleging discrimination on the grounds of age (11, 8%) and complaints claiming discrimination on the grounds of national affiliation (9, 4%). The further sequence of discrimination grounds according to the number of filed complaints is similar to the one from the previous year. Namely, 8.6% of complaints were filed alleging discrimination on the grounds of health status, 8.2% on the grounds of marital and family status, followed by 7.7% on the grounds of membership in political, union and other organizations and 5.7% on the grounds of financial status. Other grounds of discrimination include: religious and political beliefs in 4.6%, sexual orientation in 4.1%, previous criminal convictions in 2.8% and citizenship in 1.6% of complaints.

As for areas in which discrimination is most commonly encountered, much like in previous years, most complaints alleged discrimination in the job recruitment process or workplace related discrimination (33.9%), followed by complaints claiming discrimination in the course of procedures before public authorities (approximately 23.3%) and by complaints alleging discrimination in the process of public services provision or utilization of public spaces and facilities (9.4%). Similar to previous years, the largest number of complaints was filed against government bodies i.e. public authorities (38.9%), followed by complaints against legal entities (30.5%) and private entities (20.3%). The area of education and professional development is next with 7.5% of complaints pertaining to this particular area, followed by healthcare protection at 5%, public information and media at 4.6%, public domain at 3.8%, social welfare at 2.9%, while complaints in other areas of social life are also present but to a lesser extent.

Complaints filed with the Commissioner for the Protection of Equality in 2016 indicate that in Serbia women and persons with disability tend to be most discriminated against, closely followed by discrimination on the grounds of age, a similar situation to the one in 2015 and 2014. As for complaints against discrimination on the grounds of gender, mostly filed by women, they were fewer in number when compared with the year before. In 2015, one of the key reasons for a large number of complaints filed against discrimination on the grounds of gender was the contentious provision of the Law on the Manner of Determining the Maximum Number of Employees in the Public Sector which relates to women and their retirement eligibility criteria. In 2016 too, women were the ones who filed the most complaints as their gender or family status was the reason they were passed over for promotion or were laid off or assigned to other, usually more junior and lower paid job positions during their parental leave of absence. Persons with disability belong to a group of people who are most discriminated against in all areas of private and public life, in particular in the field of education, professional development and extension of public services or utilization of public spaces and facilities as well as in the area of labor and employment. In 2016 instances of discrimination on the grounds of age closely follow behind grounds such as gender and disability and are indicative of the unfavorable position of both children in education but also of citizens aged between 50 and 65 years of age in the area of labor and employment. Discrimination on the grounds of national affiliation or ethnic origin, in particular Roma, has been recorded but to a slightly lesser extend as compared to the previous year, perhaps due to the fact that Roma non-governmental organizations filed fewer number of complaints. These are followed by complaints filed against discrimination on the grounds of health status, marital or family status, membership in political, union and other organizations, financial status, religious beliefs, political convictions and sexual orientation.

The results of the survey administered by the Commissioner for the Protection of Equality “Citizens and their views on discrimination in Serbia” undertaken with the support of the EU funded Twinning project “Support to the Promotion of Human Rights and Zero Tolerance for Discrimination” indicate that there are other social groups as well as challenges in terms of attaining full equality as guaranteed by the Constitution and the law. This survey shows that purposeful strides have been made in the area of protection against discrimination. The most important indicator to this effect is the fact that an increasing number of citizens claim that they would approach government institutions in case of discrimination. At the same time, fewer citizens think that discrimination in Serbia is on the rise resulting in a decreased distrust of government institutions. Likewise, the visibility of and confidence in the institution of the Commissioner for the Protection of Equality has increased considerably, which is particularly important in terms of protecting citizens against discrimination. However, despite positive trends, the country is still facing major challenges in its attempts at protecting citizens against discrimination. The survey shows that although the conditions necessary for efficiently combatting discrimination have improved, this has not yielded tangible results yet. Thus, the number of citizens who think that discrimination in Serbia is rampant is the same as it was in 2013 and the number of those who think that discrimination is acceptable remains unchanged. The majority of citizens think that discrimination in Serbia is not sanctioned at all. In addition, results indicate that the majority of citizens lack sufficient knowledge enabling them to detect discrimination: one third of population is either unaware of the fact that discrimination is prohibited by the law or thinks that it is not prohibited, while the majority is of the opinion that they are not sufficiently informed about discrimination. Citizens view the Roma, members of the LGBT population and poor persons as those most discriminated against in the Republic of Serbia, while the area of labor and employment is singled out as the field where discrimination occurs most frequently. Such perception of citizens directly correlates with results of a survey aimed at measuring social distance which is most pronounced in respect of LGBT persons. However, the number of filed complaints against discrimination of this minority group is not high. The main trait is that the majority of complaints filed against discrimination of LGBT persons pertain to the area of public information and media, while civil society organizations tend to be most frequent complainants. Poverty stricken citizens are perceived as a heavily discriminated group, but unfortunately the number of complaints against discrimination on the grounds of financial status is marginal, which speaks volumes of the need to extend assistance and support to this social group in their attempts to overcome a host of problems they encounter.

In view of the fact that practical experience of the Commissioner for the Protection of Equality, survey data, as well as reports by international and national organizations, show that discrimination is most prevalent in areas such as labor and employment and in procedures before public authorities, in the upcoming year it would be necessary to exert additional efforts geared towards promoting equality and protection against discrimination, in particular in the aforementioned areas of social life, primarily by raising awareness among citizens about discrimination as a negative social phenomenon, about options for protection against discrimination and awareness raising among different professional groups on discrimination and its forms. Taking into consideration the compliance rate, the practice of the Commissioner for the Protection of Equality indicates that issuing recommendations for undertaking measures to rectify instances of discrimination, is the institution’s most efficient tool for preempting further discrimination.

In the course of 2016 further efforts were exerted towards increasing accessibility and visibility of the institution, as well as towards promoting the principle of equality and anti-discrimination by participating and organizing numerous training sessions, lectures, conferences, expert meetings, issuing publications, etc. Cooperation with public authorities, civil society organizations, international organizations, other institutions as well as the media has also been strengthened.

In addition, successful cooperation between the Commissioner for the Protection of Equality and the European Network of Equality Bodies continues by institution’s participation in the work of the Executive Board and Annual Equinet Assembly meeting, as well as by taking part and membership in trainings, seminars and workshops organized by Equinet’s Working Groups.

Years long cooperation with the Council of Europe continued in 2016 through working with the European Commission against Racism and Intolerance and through implementing “Do not judge the book by its cover – Living Library in Serbia” project with the Council of Europe Belgrade Office. “Moot Court” project in the area of antidiscrimination continues in partnership with the Open Society Foundation. Further cooperation with Serbia Red Cross organization continued throughout the implementation of “Position of the Elderly in Rural Areas” with funding from the United Nation Population Fund (UNFPA). One of the key project activities included a jointly implemented survey on the position of the elderly in rural areas.

On the occasion of the International Tolerance Day, the Commissioner for the Protection of Equality organized the “Regional Conference of South-east Europe Equality Bodies” held on 16 November with the support from the OSCE Mission to Serbia and Open Society Foundation. This year’s conference, third in the row, organized by the Commissioner for the Protection of Equality had a regional character to it. The conference saw the presence of over 200 representatives of institutions, diplomatic missions, civil sector organizations, media, representatives of the Equinet and regional equality bodies with the signing of the Statement on Cooperation between nine equality bodies from South-east Europe as one of its achievements.

Annual Media awards, established in 2015 by the Commissioner for the Protection of Equality and the OSCE Mission to Serbia with an objective to create a climate of zero tolerance for discrimination, were awarded during the conference. It would be safe to say that when compared to the previous year, media outlets seem to be more interested in issues related to equality, tolerance and protection of human rights, while some topics to report on could be found in recommendations, warnings or statement issued by the Commissioner. On the occasion of 10 December, International Human Rights Day, the Handbook for Journalists “Fighting for Equality” developed by the Commissioner for the Protection of Equality and supported by the OSCE Mission to Serbia was presented.

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

In accordance with 2016 Republic of Serbia Budget Law[[1]](#footnote-1), a sum of 81,255,000 RSD was allocated to the Commissioner for the Protection of Equality in 2016 for the implementation of the program “Promotion and Protection of Human and Minority Rights and Freedoms”, which is a slight increase when compared to 72,904,000 RSD in 2015. Together with undisbursed funds from donations in the previous year, as well as with donations received in the course of 2016, the total available funds for the Program, i.e. the sum on the current appropriations, amounted to 84,200,412 RSD.

In 2016 certain recommendations that were issued by the Commissioner for the Protection of Equality in 2015, were fully implemented, while others were implemented only in part.

During the reporting period the following legislation was enacted: Law on Preventing Domestic Violence[[2]](#footnote-2), Law on the Amendments to the Criminal Code[[3]](#footnote-3), Law on Employees Working in Autonomous Provinces and Local Self-government Units[[4]](#footnote-4), 2016 – 2020 National Gender Equality Strategy[[5]](#footnote-5), 2016 – 2025 Republic of Serbia Roma Social Inclusion Strategy[[6]](#footnote-6), Rulebook on Criteria and Procedures for Roma student high school enrolment under more favorable conditions for the purpose of achieving full equality[[7]](#footnote-7), Rulebook on Criteria and Procedures for High school Enrolment under more favorable conditions for the purpose of achieving full equality of those students who have completed elementary school education as adults[[8]](#footnote-8), Rulebook on detailed criteria for detecting discrimination by staff members, children, students or third party in an educational institution[[9]](#footnote-9), Rulebook on the manner and procedure forgiving expert assessment and providing expert opinion on the quality of draft textbooks, manuals and teaching materials, as well as approved teaching materials, teaching aids, didactical tool and didactical play tools[[10]](#footnote-10). In addition, the Commissioner for the Protection of Equality has trained judicial function duty bearers, police officers, civil servants as well as a number of staff members working in education and social protection services.

Taking into account complaints received during 2016 and bearing in mind other relevant and accessible data pertaining to challenges related to achieving equality, the Commissioner for the Protection of Equality hereby gives the following recommendations:

1. Establish and make fully operational a unified, centralized and standardized system for the collection, registration and analysis of discrimination related data used to monitor discrimination and the functioning of the system for protection against discrimination.

2. Initiate without delay the development of strategic documents which ceased or will cease to be effective in 2016 and 2017 respectively. This primarily pertains to the adoption of a strategy for the promotion of the position of persons with disability, persons living with HIV, aging strategy, adult education development strategy and strategy to improve mental health protection. New strategic documents should be based on evaluation results of previously effective strategies while taking into account the current situation and needs of concerned social groups. When preparing these strategic documents gender mainstreaming should be incorporated, objectives and activities should be realistically defined, sources of funding ensured and a far reaching consultation process to include all stakeholders should be pursued.

3. It would be necessary to adopt the Law on Gender Equality. In addition, gender mainstreaming of policies should be made mandatory i.e. integration of gender perspective into policy making, so as to eliminate causes of gender inequality and impose on all public and private sector employers obligation to develop internal mechanisms for suppression of and protection against discrimination as well as for pursuing gender balanced human resources policy.

4. In order to foster economic empowerment of women it is necessary to undertake continuous measures for boosting women employment, entrepreneurship among women, protection of women against discrimination on the labor market, developing special measures for the promotion of the position of women working in agriculture, in particular in terms of agricultural households title registration.

5. Line institutions should undertake measures so as to ensure a coordinated and efficient action of institutions of the system regarding protection against domestic violence and other forms of gender based violence, aimed at full implementation of the law.

6. Adopt the Law on Free Legal Assistance so as to ensure an effective access to justice, without discrimination on any grounds, including access to justice for victims of discrimination.

7. Intensify activities aimed at eliminating all types of barriers making it difficult for persons with disability to access public facilities and spaces, means of transportation, communication, and other types of services. Ensure that information on the work and activities of all public authorities is accessible in adequate formats, including content of internet presentations. Provide persons with disability conditions for an unhindered exercise of their guaranteed rights (election rights, right to education, etc.).

8. Intensify deinstitutionalization process and provide adequate support to persons with disability for an independent life in a least restrictive environment while continuously developing diverse services in the local community intended for children and adults with disabilities.

9. Undertake measures for the promotion/harmonization of the legal framework so as to enable persons with disability to use efficiently and without discrimination a seal which contains personal data or a seal with an engraved signature, when exercising their rights and utilizing services.

10. Undertake measures geared towards creating conditions for making it possible for blind and visually impaired persons to move around with the help of a guide dog, in accordance with the Guide Dog Access Law.

11. Amend regulations governing the deprivation of legal capacity and guardianship of adults in accordance with modern international standards and recommendations, which implies altering the approach to persons with disability, from a predominantly medical model towards a social one.

12. Line government authorities should undertake necessary actions and measures within their scope of competence so as to ensure that teaching assistants are provided to children and students in need of additional support in education, and continue developing inclusive education, in keeping with the principles of equality and accessibility in education at all levels.

13. Improve the legal framework for the protection of child rights in terms of harmonizing it with the Convention on the Rights of Child, in particular regarding the definitions, prohibition of corporal punishment, prohibition of discrimination and protection against economic exploitation.

14. Continuously work on providing young people belonging to marginalized social groups with equal opportunities for accessing higher education, by introducing special measures and amending accreditation standards for institutions of higher education in terms of spatial accessibility, provision of assistive technologies and appropriate student support services.

15. Undertake measures that would incorporate topics conducive to peace, tolerance, understanding and appreciation of differences, gender equality and non-discrimination into school curricula and syllabi. Remove from curricula and syllabi discriminatory content which breeds stereotypes and prejudice. Introduce health education as well as reproductive and sexual health topics into school curricula and syllabi.

16. Amend the Law on Financial Support to Families with Children by explicitly stating that a father shall be entitled to parental allowance in case the mother is not a Serbian citizen; by expanding the scope of persons entitled to compensation during maternity or parental leave of absence; and by improving other provisions of this law aimed at attaining full equality.

17. Intensify activities aimed at promoting the position of the elderly, in particular those living in rural, remote and inaccessible areas, especially in terms of extending social welfare and health care services (mobile teams, mobile pharmacies and stores, etc.). This implies early detection of social exclusion and timely activation of all forms of support and assistance.

18. Take measures aimed at promoting the position of convicted persons and their full social inclusion, without stigmatization, in particular in the employment process. This implies adequate legal amendments so as to ensure full compliance with the provision of Article 102 of the Criminal Code which stipulates that no one shall be entitled to request a citizen to provide the proof of their criminal record or lack thereof.

19. Improve the legal status of transgender persons, by passing a separate law or amending the existing legislation, so as to enable transgender individuals to fully integrate their new identity into their private and professional life, while at the same time respecting their right to privacy.

20. Pass regulations which would enable the registration of same sex couples and which would regulate the effects, legal consequences and termination of thus registered partnerships, in line with recommendations issued by the Council of Europe.

21. Introduce all necessary measures so that staff composition of government bodies, local self-government units and other public institutions corresponds to ethnic structure of the population living on that particular territory and take measures aimed at managing national, ethnic, religious, language and other diversity.

22. Pursue continuing antidiscrimination education and training of professionals in the judiciary, police officers, civil servants, educators, healthcare workers, social and welfare protection workers and employees working in inspection services. This would enable them to interpret and implement antidiscrimination regulations uniformly and duly, in accordance with international standards and practice of international institutions.

23. Undertake training measures and activities aimed at educating journalists about the prohibition of hate speech and other forms of discrimination, as well as on the importance of equality and tolerance principles.

24. In cooperation with the Commissioner for the Protection of Equality, amend the Law on the Prohibition of Discrimination, with a view to attaining full harmonization with the European Union Acquis. In addition, the amendments should define adequate instruments for overriding problems and difficulties detected in the course of its implementation.

1. “Official Gazette of the Republic of Serbia”, No. 103/15 [↑](#footnote-ref-1)
2. “Official Gazette of the Republic of Serbia”, No. 94/16 [↑](#footnote-ref-2)
3. “Official Gazette of the Republic of Serbia”, No. 94/16 [↑](#footnote-ref-3)
4. “Official Gazette of the Republic of Serbia”, No. 21/16 [↑](#footnote-ref-4)
5. “Official Gazette of the Republic of Serbia”, No. 4/16 [↑](#footnote-ref-5)
6. “Official Gazette of the Republic of Serbia”, No. 26/16 [↑](#footnote-ref-6)
7. “Official Gazette of the Republic of Serbia”, No. 12/16 [↑](#footnote-ref-7)
8. “Official Gazette of the Republic of Serbia”, No. 42/16 [↑](#footnote-ref-8)
9. “Official Gazette of the Republic of Serbia”, No. 22/16 [↑](#footnote-ref-9)
10. “Official Gazette of the Republic of Serbia”, No. 75/16 [↑](#footnote-ref-10)