

Abridged version of 2016 Regular Annual Report

of the Commissioner for the Protection of Equality

Belgrade, June 2017

Publisher

Commissioner for the Protection of Equality

For Publisher

Brankica Janković

Editor

Brankica Janković

Prepress

Jelena Panić

Printed by

JP „Službeni glasnik“

Amount

100

CIP – Каталогизација у публикацији
Народна библиотека Србије, Београд

342.722

REGULAR Annual Report for ... / Commissioner
for Protection of Equality ; editor Brankica Janković.
- 2010- . - Belgrade : Commissioner for Protection of
Equality, 2011 - (Belgrade : Službeni glasnik). - 24 cm

Godišnje. - Varijantni naslov: Regular Annual Report
of the Commissioner for Protection of Equality.

- Od 2011. sa izdanjem: Abridged version of ...
Regular Annual Report of the Commissioner for
the Protection of Equality. - Ima izdanje na drugom
jeziku: Реџован годишњи извештај Повереника за
заштиту равноправности = ISSN 2217-6527

ISSN 2217-7302 = Regular Annual Report
(Commissioner for Protection of Equality)

COBISS.SR-ID 187450380

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

Table of Contents

Introduction	9
Summary	13
1. About the Commissioner for the Protection of Equality	19
1.1. Professional Service of the Commissioner for the Protection of Equality	20
1.2. 2016 – 2020 Strategic Plan of the Commissioner for the Protection of Equality	22
2. Normative Framework for Implementation and Protection of Equality	24
2.1. Overview of the effective regulations	24
2.2. normative amendments in 2016	28
3. Description of the current situation and activities undertaken by the Commissioner aimed at suppressing discrimination and promoting equality	31
3.1. Surveys administered by the Commissioner for the Protection of Equality	31
3.1.1. Public opinion survey “Citizens’ perception of discrimination in Serbia”	31
3.1.1.1. Exposure to discrimination and trusting government institutions	32
3.1.1.2. Understanding and detecting discrimination	33
3.1.1.3. Views on social groups which are most exposed to discrimination	33
3.1.1.4. Views on areas of social relations where discrimination occurs most frequently	34
3.1.1.5. Perception of discrimination	34
3.1.1.6. Ethnic and social distance toward members of different groups	34
3.1.1.7. Citizens’ opinion on special (affirmative) measures	35
3.1.1.8. Awareness of the legislative framework and views on the extent of its implementation	35
3.1.1.9. Visibility of the institution of the Commissioner for the Protection of Equality	36
3.1.1.10. Perception of institution’s accountability and its role in suppressing discrimination	36
3.1.1.11. Providing information about discrimination to citizens. .	37
3.1.2. Survey “Position of the elderly living in rural areas”	37

3.2. Reports by the EU, international organizations and treaty bodies	38
3.3. Reports and surveys by national institutions and organizations	42
3.4. Case law of the European Court of Human Rights	49
3.5. Practice of the Commissioner for the Protection of Equality.	51
3.6. Key challenges in achieving equality and protection	
against discrimination	55
3.6.1. Discrimination on the grounds of disability.	59
3.6.1.1. Opinions and recommendations	60
3.6.1.2. Recommendations containing measures	
for achieving equality	62
3.6.1.3. Warnings and statements to the public	64
3.6.2. Discrimination on the grounds of gender	64
3.6.2.1. Opinions and recommendations.	67
3.6.2.2. Recommendations containing measures	
for achieving equality	69
3.6.2.3. Warnings and statements to the public	70
3.6.3. Discrimination on the grounds of age.	72
3.6.3.1. Opinions and recommendations.	74
3.6.3.2. Recommendations containing measures	
for achieving equality	75
3.6.3.3. Statement to the public.	76
3.6.4. Discrimination on the grounds of national affiliation	77
3.6.4.1. Opinions and recommendations.	79
3.6.4.2. Statements to the public.	81
3.6.5. Discrimination on the grounds of health status	82
3.6.5.1. Opinions and recommendations.	85
3.6.5.2. Recommendations containing measures	
for achieving equality	86
3.6.5.3. Statements to the public.	87
3.6.6. Discrimination on the grounds of sexual orientation.	88
3.6.6.1. Opinions and recommendations	90
3.6.6.2. Warnings and statements to the public	92
3.6.7. Discrimination of refugees, internally displaced persons,	
migrants and asylum seekers	93
3.6.7.1. Opinions and recommendations.	95
3.6.7.2. Statement to the public.	95
3.6.8. Discrimination on the grounds of other personal	
characteristics	96
3.6.8.1. Opinions and recommendations.	97
3.6.8.2. Statement to the public.	99
3.6.9. Multiple discrimination	99
3.6.9.1. Opinions and recommendations.	100

3.7. Motions to assess conformity with the constitution	102
3.8. Opinions on draft laws and other acts of general nature	105
3.9. Court proceedings	112
3.9.1. Litigations	112
3.9.2. Criminal charges	114
3.9.3. Misdemeanor proceedings	115
3.10. Other outcomes of proceedings	115
4. Cooperation of the Commissioner for the Protection of Equality	121
4.1. Cooperation with public authorities	121
4.1.1. Cooperation with the National Assembly of the Republic of Serbia	121
4.1.2. Cooperation with representatives of the executive branch of power	122
4.1.3. Cooperation with local self-government units	125
4.2. Cooperation with civil society organizations	125
4.3. International cooperation	127
4.3.1. Cooperation with the OSCE Mission to Serbia	128
4.3.2. Cooperation with the EU Delegation to Serbia	129
4.3.3. Cooperation with the UNICEF	130
4.3.4. Cooperation with GIZ	130
4.3.5. Cooperation with the Council of Europe	131
4.4. Other forms of cooperation	131
4.4.1. Cooperation with the European Network of Equality Bodies (EQUINET)	131
4.4.2. Regional cooperation geared towards enhancing equality	132
4.4.2.1. Annual conference of the Commissioner for the Protection of Equality on the occasion of the International Tolerance Day	132
5. Media coverage	134
6. Publications of the Commissioner for the Protection of Equality	135
7. Complying with obligations in accordance with the Law on Free access to Information of Public importance	136
8. Report on the implementation of the Financial plan	138
9. Recommendations for Combating discrimination and achieving equality	139
Annex: Statistical overview of the Commissioner's work in 2016	147

INTRODUCTION

Esteemed Members of the National Assembly,

Dear readers,

This is an abridged version of 2016 Regular Annual Report of the Commissioner for the Protection of Equality, which contains, as does the unabridged version, a presentation of another year of continuous and intensive work and activities in keeping with the mandate and authority which the Commissioner for the Protection of Equality has been entrusted with. In the previous period, our institution has continuously and actively pursued activities aimed at prevention of and protection against discrimination, as well as those geared towards promoting the equality principle by resorting to a whole range of different actions.

An increase in the total number of complaints, which is a direct result of our work and activities aimed at extending protect against discrimination and enhancing equality, continued throughout 2016. Citizens cited gender, disability and age as the most frequent grounds of discrimination, while labor and employment as well as procedures before public authorities remain areas of life which the complaints most frequently refer to. One of the key reasons for a spike in the overall number of cases is the fact that we have issued a considerably higher number of recommendations containing measures for achieving equality to different social actors in various segments of social life. Practice of the Commissioner for the Protection of Equality shows that recommendations containing measures for achieving equality are the most efficient preventive actions, in particular bearing in mind the high compliance rate. In addition, it transpired that following recommendations containing measures for achieving equality issued to public authorities and other entities, citizens rarely apply with the Commissioner due to the situation referred to in the recommendation.

In April 2016, a new 2016 – 2020 Development Strategy, which was created as a result of a wide consultation process including different experts and civil society organizations, was adopted. This document was developed on the basis of all relevant data available to the institution and represents the foundation for future action. It emerged that the Strategy itself was in sync with the findings of “Citizens’ perception of discrimination in Serbia” public opinion survey published by the Commissioner for the Protection of Equality at the end of 2016 with the support of the Support to the Advancement of Human Rights and Zero Tolerance for Discrimination Twinning Project. Despite the fact that the number of citizens who would choose to apply with institutions is considerably higher than in 2013, the lack of ability to detect discrimination continues to reversely impact

anti-discrimination attempts. The findings of the most recent survey indicate that only a quarter of all respondents comprehend discrimination as unequal treatment based on a certain personal characteristic. In view of the fact that detecting discrimination is a precondition for reporting it and filing a complaint, the inability to clearly distinguish and detect discrimination considerably limits protection in this area, hence the Commissioner will continue pursuing its awareness raising activities aimed at informing citizens on discrimination and its forms as a negative social phenomenon, in accordance with the strategic goals of our institution.

With respect to the promotion of equality, in 2016 the Commissioner placed particular emphasis on regional cooperation, primarily with equality bodies in the South-east Europe. The strengthening of their mutual relations and exchange of experience was formalized on 16 November 2016 on the occasion of the International Tolerance Day when the Commissioner hosted a Regional Conference of South-east European Equality Bodies and initiated the signing of a Joint Statement on Cooperation between Equality and Human Rights Bodies of Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro and Serbia. This conference, supported by the OSCE Mission to Serbia saw the participation of over 200 representatives of government institutions, regional equality bodies, diplomatic missions, Equinet, civil sector and the media, received considerable media coverage both locally and throughout the region. Thus, the Commissioner for the Protection of Equality and the Republic of Serbia as hosts have been able to bring together regional equality bodies around a common idea – tolerance, as one of the basic principles of every society.

International cooperation continued within the European Network of Equality Bodies (EQUINET) which, together with the Council of Europe and the EU Fundamental Rights Agency was our co-host of the Third meeting of the Cooperation Platform of the Council of Europe, EU Fundamental Rights Agency and European National Human Rights Institutions and European Network of Equality Bodies on Social and Economic Rights, participating actively with the EU member states in creating future public policies in the area of social and economic rights.

The Commissioner for the Protection of Equality has organized a significant number of training and education sessions throughout Serbia in particular for police officers, civil servants, judges, local self-government representatives as well as for university students from different tertiary education institutions.

We have published several publications in the form of anti-discrimination guidebooks and manuals for different professionals, namely a Handbook for Detecting Discrimination in Procedures before Public Authorities and Media Manual – Fighting for Equality, which is a roadmap for anti-discrimination treatment by civil servants and journalists.

After more than six years of working in inadequate office premises, at the end of November 2016 we were able to move into adequate premises enabling us to have all the departments of the institution in one place. This provided for better working conditions and better accessibility of the institution to citizens.

2016 was a year of intensive activities which we intend to pursue in the forthcoming period. I believe that a proactive approach in our work and activities will yield adequate and efficient protection against discrimination for each and every citizen, as well as further promotion of equality as one of key principles of a society, I believe, we all wish to live in. *“It is necessary for us to differ among ourselves, to learn to see other people who are unlike us and to respect them for who they are.”* (Herman Hesse)

Brankica Janković,
Commissioner for the Protection of Equality

SUMMARY

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. The 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 and press releases. 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 complaint 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 those in previous years. 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, trade 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 persons (30.5%) and private persons (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 extent 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, trade 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’ perception of 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 to protect 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 in trainings, seminars and workshops organized by Equinet's Working Groups and maintaining membership in these 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 a 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" project

with financial support of the United Nation Population Fund (UNFPA). One of the key project activities included a jointly implemented survey on the position of the elderly living 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 seemed 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 statements to the public 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 consecutive, intended for young Roma interns who were thus able to acquire hands-on work experience in an independent institution, get 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 Law¹, a sum of RSD 81,255,000 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 RSD 72,904,000 in 2015. Together with undisbursed funds from donations in the previous year, as well as with donations received in the course

1 “Official Gazette of the Republic of Serbia”, No. 103/15

of 2016, the total available funds for the Program, i.e. the sum on the current appropriations, amounted to RSD 84,200,412.

In 2016 certain recommendations that were issued by the Commissioner for the Protection of Equality in its 2015 Regular Annual Report, 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, *Law Amending the Criminal Code*³, *Law on Employees Working in Autonomous Provinces and Local Self-government Units*⁴, *2016 – 2020 National Gender Equality Strategy*⁵, *2016 – 2025 Republic of Serbia Roma Social Inclusion Strategy*⁶, *Rulebook on criteria and procedures for Roma students high school enrolment under more favorable conditions for the purpose of achieving full equality*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, *Rulebook on detailed criteria for detecting discrimination by staff members, children, students or third parties in an educational institution*⁹, *Rulebook on the manner and procedure for giving 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 tools and didactical play tools*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 has issued 24 recommendations that are given at the end of this Report.

2 “Official Gazette of the Republic of Serbia”, No. 94/16

3 “Official Gazette of the Republic of Serbia”, No. 94/16

4 “Official Gazette of the Republic of Serbia”, No. 21/16

5 “Official Gazette of the Republic of Serbia”, No. 4/16

6 “Official Gazette of the Republic of Serbia”, No. 26/16

7 “Official Gazette of the Republic of Serbia”, No. 12/16

8 “Official Gazette of the Republic of Serbia”, No. 42/16

9 “Official Gazette of the Republic of Serbia”, No. 22/16

10 “Official Gazette of the Republic of Serbia”, No. 75/16

1. About the Commissioner for the Protection of Equality

The Commissioner for the Protection of Equality is an autonomous and independent singular state body, established by the Law on the Prohibition of Discrimination¹¹, with a wide scope of authority which makes it a central national institution specialized in the prevention and suppression of all forms and types of discrimination. The Commissioner's competences have been comprehensively set, in accordance with international standards, enabling the institution to engage in the prevention of and protection against discrimination effectively and efficiently, as well as to promote and achieve equality. The National Assembly of the Republic of Serbia elected Brankica Janković as the Commissioner for the Protection of Equality on 27 May 2015 for a five year term of office.

The institution's autonomy and independence are the basic principles and key preconditions for a successful discharge of its social role and mission. The Commissioner for the Protection of Equality has no powers to penalize discriminators if they fail to observe recommendations issued by the institution, however what it can do is to use its institutional authority, strength of argument and pressure by the public to ensure compliance.

According to the provisions of the Law on the Prohibition of Discrimination, the Commissioner is in charge of acting upon complaints alleging discrimination. A complaint may be filed by any private person or legal entity, a group of persons who feel they have been discriminated against, as well as by organizations dealing with the protection of human rights or by another person in the name of and with the consent of a person who feels he/she has been discriminated against. The procedure launched by filing a complaint is free of charge for the complainant. In the course of acting upon a complaint the Commissioner for the Protection of Equality issues an Opinion as to whether there had been a violation of the Law on the Prohibition of Discrimination, gives a recommendation on how to eliminate the ascertained violations of rights and imposes measures prescribed by the law in case the discriminator fails to comply with the Commissioner's recommendation.

The Commissioner for the Protection of Equality offers information to the complainant on his/her rights and options to launch a court or other kind of proceedings for the protection of his/her rights, i.e. information about mechanisms for the protection of rights, and is authorized to recommend mediation, if the case is suitable for mediation.

11 "Official Gazette of the Republic of Serbia", No. 22/09

The Commissioner for the Protection of Equality is authorized to initiate the so called strategic litigation proceedings for the protection against discrimination. In addition, the Commissioner is authorized to file misdemeanor and criminal offence charges, as well as motions for the assessment of conformity with the Constitution and the law.

The Commissioner is authorized to issue warnings to the public of most frequent, typical and severe cases of discrimination as well as to issue recommendations to public authorities and other entities containing measures aimed at achieving equality.

The Commissioner has the obligation to submit its Regular Annual Report to the National Assembly of the Republic of Serbia which contains the assessment of the situation in the area of equality, and should there be particularly important reasons, it can develop and submit special reports either at its own initiative or at the request of the National Assembly. Every report contains recommendations of measures to be undertaken for the purpose of overcoming detected weaknesses or implementing more effective anti-discrimination actions.

The Commissioner monitors the implementation of laws and other regulations, it initiates the adoption of or amendments to regulations geared towards promoting anti-discrimination protection and gives opinions on draft laws and other regulations pertaining to the prohibition of discrimination.

In addition, the Commissioner establishes and maintains cooperation with bodies in charge of achieving equality and protection of human rights on the territory of an autonomous province and local self-government unit.

The Commissioner cooperates with civil society organizations, international and national organizations and institutions dealing with the protection of human rights.

1.1. Professional Service of the Commissioner for the Protection of Equality

The Law on the Prohibition of Discrimination prescribes that the Commissioner for the Protection of Equality shall have a Professional Service which assists in the discharge of its authority and duties. Since its establishment, the Professional Service of the Commissioner has been developing and strengthening its capacities in keeping with the existing conditions.

By virtue of the Official Conclusion of the Commission for Housing Issues and Allocation of Official Facilities and Office Premises of the Government of the Republic of Serbia, 77 No. 361-11575/2015 dated 30 October 2015, the

Commissioner for the Protection of Equality has been allocated adequate office space on Bulevar kralja Aleksandra 84, with total office space amounting to 1008 square meters. Following extensive refurbishing, the Commissioner for the Protection of Equality moved to the new premises as of October 2016, creating conditions to incorporate the Admission Office with the rest of the institution as it had previously been located outside the institution's head office which created difficulties in the organization of work and activities of the Commissioner for the Protection of Equality.

In addition, new office space created conditions for hiring new full time staff members. Namely, the capacity of the Professional Service of the Commissioner for the Protection of Equality in terms of job posts availability according to the job classification is at 50% (31 full time staff members). The dynamics and scope of activities performed by the Professional Service of the Commissioner for the Protection of Equality indicate that staffing capacities need to be strengthened further, hence the 2017 staffing plan envisages a total of 50 full time employees in 2017 (exclusive of the Commissioner for the Protection of Equality who is elected by the National Assembly), out of 60 employees as envisaged by the Rulebook on Internal Job Systematization and Classification in the Professional Service of the Commissioner for the Protection of Equality and the Decision on the Maximum Number of Full Time Employees in the Professional Service of the Commissioner for the Protection of Equality, as approved by the National Assembly of the Republic of Serbia.

Similar to the previous period, the Regional Office of the Commissioner for the Protection of Equality in Novi Pazar had an extremely small number of complaints claiming discrimination on any grounds filed by the local population.

Staff members of the Commissioner for the Protection of Equality undergo continues training courses and seminars which improve the quality of their work and professional competences. In the course of last year staff members have attended many workshops, trainings and expert seminars organized for the purpose of improving knowledge and exchange of experiences.

In cooperation with the United States Agency for International Development (USAID) and with the support of the Judicial Reform and Government Accountability Project, the Commissioner for the Protection of Equality has developed its new website in 2016, which has been enriched with new content with updated accessibility for persons with visual and auditory impairments. Furthermore, in an attempt to increase its accessibility, visibility and interactive communication with the citizens, the Commissioner has prepared special content for social networks enhancing institution's social media presence on its official Facebook and Twitter accounts and official YouTube channel.

1.2. 2016 – 2020 Strategic plan of the Commissioner for the Protection of Equality

In May 2012 the Commissioner for the Protection of Equality adopted its first Institution Development Strategy¹². In view of the fact that the strategy validity period has expired, activities for the development of a new Strategic Plan of the Commissioner for the Protection of Equality for the period 2012 – 2020 have been undertaken in a timely fashion. The previous strategy was evaluated with active participation of all staff members and with the support and assistance by the German Development Agency (GIZ). The achieved results were analyzed in the context of projected objectives, difficulties and challenges the Commissioner has encountered in its work.

The evaluation results of the previous strategy show that the projected strategic objectives and tasks have been executed to a certain extent. The analysis also showed that particular strategic tasks were too widely and too ambitiously set. In addition, certain objectives and tasks were either not entirely implementable or could not be implemented within defined deadlines due to the lack of resources and insufficient capacity which have failed to evolve at a planned speed, while some tasks were abandoned all together in the course of Strategy implementation.

During the strategic planning process for the upcoming five year period three general objectives have been defined: 1) protection against discrimination, 2) promotion of equality and 3) Commissioner for the Protection of Equality capacity building. Special goals and activities have been defined within each of these three objectives.

The general objective which refers to the protection against discrimination implies that an efficient functioning of an anti-discrimination mechanism needs to be ensured, ways for its continuous improvement must be envisaged and awareness raising among citizens on the possibilities and ways for the protection against discrimination needs to be strengthened. This general objective includes two special goals: a) improving the legal framework and developing anti-discrimination protection monitoring system and b) improving public awareness about anti-discrimination protection offered by the Commissioner for the Protection of Equality.

Promoting equality implies preemptive actions by the Commissioner and exerting a wider influence in terms of fighting discrimination and enabling the enjoyment and protection of the right to equality as guaranteed by the Constitution. In the upcoming five year period, this objective should be achieved by implementing the following four operational goals: a) creating preconditions for the reduction of most frequently encountered types of discrimination; b) maintaining and

12 2012 – 2015 Commissioner for the Protection of Equality Development Strategy

promoting cooperation with organizations dealing with achieving equality and human rights protection both nationally and internationally; c) maintaining and promoting cooperation with public authorities and d) awareness raising among citizens about discrimination as a negative social phenomenon.

Improved working conditions of the Professional Service of the Commissioner for the Protection of Equality as well as continuous staff capacity building will further improve the work of the Commissioner and the development of the Professional Service as an efficiently organized and effective service catering to the needs of citizens.

2. Normative Framework for Implementation and Protection of Equality

2.1. Overview of the effective regulations

In the previous years the Republic of Serbia has established a solid anti-discrimination normative framework. Appreciating the significance of respecting human rights and adhering to anti-discrimination principles, Serbia has ratified most important universal and regional treaties in the area of human rights and prohibition of discrimination.

The Constitution of the Republic of Serbia explicitly prohibits discrimination¹³, while this constitutional prohibition of discrimination has been elaborated in detail by the Law on the Prohibition of Discrimination. Special anti-discrimination laws have been adopted: Law on the Protection of Rights and Freedoms of National Minorities,¹⁴ Law on the Prevention of Discrimination of Persons with Disabilities¹⁵ and Law on Gender Equality¹⁶. In addition, anti-discrimination provisions are contained in multiple laws governing particular areas of social relations, namely: Labor Law¹⁷, Law on Professional Rehabilitation and Employment of Persons with Disability¹⁸, Law on Health Care Protection¹⁹, Law on the Fundamentals of the Education System²⁰, Law on Primary Education²¹, Law on Secondary Education²², Law on Churches and Religious Communities²³, Law on the Rights of Patients²⁴, Law on the Protection of Persons with Mental Disabilities,²⁵ Law on Movement of Blind and Visually Impaired Persons with the Assistance of a Guide Dog²⁶, Law on Sign Language²⁷ and other laws.

13 "Official Gazette of the Republic of Serbia", No. 98/06

14 "Official Gazette of the Federal Republic of Yugoslavia", No. 11/02, "Official Gazette of the State Union of Serbia and Montenegro", No. 1/03 – Constitutional Charter and "Official Gazette of the Republic of Serbia", Nos. 72/09 – other law and 97/13 – CS.

15 "Official Gazette of the Republic of Serbia", No. 33/06 and 13/16

16 "Official Gazette of the Republic of Serbia", No. 104/09

17 "Official Gazette of the Republic of Serbia", Nos. 24/05, 61/05, 54/09, 32/13 and 75/14

18 "Official Gazette of the Republic of Serbia", Nos. 36/09 and 32/13

19 "Official Gazette of the Republic of Serbia", Nos. 107/05, 72/09 – other law, 88/10, 99/10, 57/11, 119/12, 45/13 – other law, 93/14, 96/15 and 106/15

20 "Official Gazette of the Republic of Serbia", Nos. 72/09, 52/11, 55/13, 35/15, 68/15 and 68/16 – CS

21 "Official Gazette of the Republic of Serbia", No. 55/13

22 "Official Gazette of the Republic of Serbia", No. 55/13

23 "Official Gazette of the Republic of Serbia", No. 36/06

24 "Official Gazette of the Republic of Serbia", No. 45/13

25 "Official Gazette of the Republic of Serbia", No. 45/13

26 "Official Gazette of the Republic of Serbia", No. 29/15

27 "Official Gazette of the Republic of Serbia", No. 38/15

Legal protection against discrimination in criminal matters is governed by the Criminal Code²⁸, that was amended in 2016, and the amendments are presented in the section which pertains to normative amendments during the reporting year. The Criminal Code defines several criminal offences related to the prohibition of discrimination. In addition, Article 54a of the Criminal Code defines discrimination on the grounds of racial origin and religious affiliation, national or ethnic origin, gender, sexual orientation or gender identity as aggravating circumstances to the crime, unless it has been defined as a characteristic of a criminal offence.

Republic of Serbia has established a comprehensive system of legal protection against discrimination which includes mechanisms of legal protection in civil, criminal and misdemeanor matters. The effective legislation offers good legal framework and adequate anti-discrimination protection, prevention and suppression mechanisms, in accordance with international and European standards.

The Government has adopted several strategic documents of significance for a more efficient implementation of anti-discrimination legislation, namely: *Poverty Reduction Strategy*, *Social Protection Development Strategy*²⁹, *National Aging Strategy*³⁰, *Strategy for the Reintegration of Persons Returning on the Basis of Readmission Agreements*³¹, *National Strategy for the Improvement of the Position of Women and Promotion of Gender Equality*³², *Strategy for Improving the Position of the Roma in the Republic of Serbia*³³, *Migrations Management Strategy*³⁴, *Republic of Serbia Free Legal Assistance System Development Strategy*³⁵, *HIV Infection and AIDS Strategy*³⁶, *National Strategy for the Prevention and Suppression of Domestic and Intimate Partner Violence against Women*³⁷, *2011-2020 National Employment Strategy*³⁸, *Serbia Education Development Strategy until 2020*³⁹, *Strategy for the Prevention of and Protection against Discrimination*⁴⁰, *2015-2020 National Strategy to Tackle Issue of Refugees and Internally Displaced Persons*⁴¹, *2014-2018 Republic*

28 "Official Gazette of the Republic of Serbia", Nos. 85/05, 88/05 – correction, 107/05 – correction, 72/09, 111/09, 121/12, 104/13, 108/14 and 94/16

29 "Official Gazette of the Republic of Serbia", No. 108/05

30 "Official Gazette of the Republic of Serbia", No. 76/06

31 "Official Gazette of the Republic of Serbia", No. 15/09

32 "Official Gazette of the Republic of Serbia", No. 15/09

33 "Official Gazette of the Republic of Serbia", No. 27/09

34 "Official Gazette of the Republic of Serbia", No. 59/09

35 "Official Gazette of the Republic of Serbia", No. 74/10

36 "Official Gazette of the Republic of Serbia", No. 26/11

37 "Official Gazette of the Republic of Serbia", No. 27/11

38 "Official Gazette of the Republic of Serbia", No. 37/11

39 "Official Gazette of the Republic of Serbia", No. 107/12

40 "Official Gazette of the Republic of Serbia", No. 60/13

41 "Official Gazette of the Republic of Serbia", No. 62/15

of Serbia Sports Development Strategy⁴², 2015 – 2025 National Youth Strategy⁴³ and other strategies. It should be noted that certain strategies have ceased to be effective due to the effluxion of time, hence in the forthcoming period new strategic documents should be adopted. These strategic documents should be based on evaluation results of previous strategies taking into consideration the current situation and needs of groups these strategies pertain to.

In 2016 certain very important strategies aimed at achieving the principles of equality have been adopted. During the reporting period the Government has passed the 2016 – 2020 National Gender Equality Strategy⁴⁴ and the 2016 – 2025 Strategy for the Social Inclusion of Roma Men and Women in the Republic of Serbia⁴⁵. Apart from the aforementioned, it should be said that certain rulebooks of state administration bodies (ministries and special organizations) which regulate in more detail certain provisions of laws, have practical anti-discriminatory effects. In that respect, the *Rulebook on criteria and procedures for Roma students high school enrolment under more favorable conditions for the purpose of achieving full equality*⁴⁶ is very important. Based on this legal framework following have been enacted: *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*⁴⁷, *Rulebook on detailed criteria for detecting different types of discrimination by staff members, children, students or third parties in an education institution*⁴⁸ as well as the *Rulebook on the manner and procedure for giving expert evaluation and expert opinion on the quality of textbook manuscripts, manuals and teaching materials, adopted teaching tools, teaching assistive materials, didactical tools and didactical play-like tools*⁴⁹. In the area of labor, employment and occupational health and safety it would be important to mention the *Rulebook on ways to monitor compliance with the obligation to hire persons with disabilities and ways to prove that such obligation has been met*.⁵⁰ Pursuant to Article 6 paragraph 2 of the Law on Occupational Health and Safety (“Official Gazette of the Republic of Serbia”, Nos. 101/05 and 91/15), the Minister in charge of labor issues and the Minister in charge of healthcare issues have mutually agreed to prescribe preventive measures related to occupational health and safety measures targeting young persons, working pregnant women

42 “Official Gazette of the Republic of Serbia”, No. 1/15

43 “Official Gazette of the Republic of Serbia”, No. 22/15

44 “Official Gazette of the Republic of Serbia”, No. 4/16

45 “Official Gazette of the Republic of Serbia”, No. 26/16

46 “Official Gazette of the Republic of Serbia”, No. 12/16

47 “Official Gazette of the Republic of Serbia”, No. 42/16

48 “Official Gazette of the Republic of Serbia”, No. 22/16

49 “Official Gazette of the Republic of Serbia”, No. 75/16

50 “Official Gazette of the Republic of Serbia”, No. 101/16

and working nursing mothers. These measures are defined by the *Rulebook on preventive measures for a safe and healthy work of young people*⁵¹, as well as by the *Rulebook on measures for a safe and healthy work of working pregnant women, new mothers and nursing mothers*⁵².

It would be important to stress that the *Rulebook amending the Rulebook on fees charged for extending services by the Republic of Serbia Land Surveying Institute*⁵³ which introduces concrete incentives for the purpose of achieving full gender equality and protection of persons with disabilities has been adopted.

Effective anti-discrimination regulations offer good legal framework and adequate instruments for the protection against discrimination, which are more or less harmonized with the European Union legislation. However, in its 2016 Serbia Annual Progress Report, the European Commission noted that Serbia has in fact achieved a certain level of preparedness in respect of the EU Acquis Communautaire and European standards in this area. Certain progress has been made thanks to partial implementation of recommendations contained in the last year's Progress Report, but additional harmonization and implementation of reforms in the area of human rights and protection against discrimination still remain to be done.

With reference to this, both European Union Directives (for example, *Council Directive 2000/43/EC* on implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, *Council Directive 2000/78/EC* on establishing a general framework for equal treatment in employment and occupation, *Directive 2006/54/EC of the European Parliament and of the Council* on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, *Council Directive 2004/113/EC* on implementing the principle of equal treatment between men and women in the access to and supply of goods and services, etc.), but also strategic documents of the European Union such as the *European Strategy on Persons with Disability* (2010 – 2020), *European Platform for Combatting Poverty and Social Exclusion*, are of paramount importance for further development and promotion of anti-discrimination legislation and policies.

In addition, it is necessary to stress that the Committee of Ministers of the Council of Europe adopted the *Council of Europe Strategy for the Rights of the Child* (2016-2021). This Council of Europe strategy explicitly states that the Council of Europe protects and promotes human rights which include the rights of the child. Five priority areas for guaranteeing child rights have been identified, namely:

51 "Official Gazette of the Republic of Serbia", No. 102/16

52 "Official Gazette of the Republic of Serbia", No. 102/16

53 "Official Gazette of the Republic of Serbia", No. 110/16

equal opportunities for all children, participation of all children, a life free from violence for all children, child-friendly justice for all children, rights of the child in the digital environment.

2.2. Normative amendments in 2016

In the past year certain laws have been adopted, as well as some by-laws (mentioned in the previous heading) which are important for the protection against discrimination and promotion of equality in certain areas.

In addition, in January 2016 the *Law on Public Assembly*⁵⁴ was enacted which regulates the right to public assembly in the Republic of Serbia. Provisions pertaining to the prohibition of discrimination and prohibition of inciting discrimination are contained in the *Law on Advertising*⁵⁵. The obligation of preventing discrimination is explicitly contained in the new *Law on Police*⁵⁶ (Article 5).

The *Law on Sport*⁵⁷ which contains detailed provisions pertaining to the prohibition of discrimination and respect of the equality principle was also adopted in 2016. Particular attention is attached to the protection of children in this area, hence any kind of abuse, maltreatment, discrimination and violence against children in the field of sport is prohibited.

For the first time the *Law Amending the Law on the Prohibition of Discrimination of Persons with Disabilities*⁵⁸ introduced provisions governing the use of seal with an engraved signature for persons with disabilities. The *Law on Employees Working in Autonomous Provinces and Local Self-government Units*⁵⁹ prescribes that staffing and hiring policies should be such that the structure of employees reflects the nationality composition, gender representation and disability structure of the population, as much as possible.

In 2016 the *Law Amending the Law on Culture*⁶⁰ which states that the general benefit and interest in culture is achieved by, among other things, supporting cultural and artistic production of socially vulnerable groups was adopted as well as the *Law on Public Health*⁶¹ which also acknowledges the importance of upholding the

54 "Official Gazette of the Republic of Serbia", No. 6/16

55 "Official Gazette of the Republic of Serbia", No. 6/16

56 "Official Gazette of the Republic of Serbia", No. 6/16

57 "Official Gazette of the Republic of Serbia", No. 10/16

58 "Official Gazette of the Republic of Serbia", No. 13/16

59 "Official Gazette of the Republic of Serbia", No. 21/16

60 "Official Gazette of the Republic of Serbia", No. 13/06

61 "Official Gazette of the Republic of Serbia", No. 15/16

principle of equality in its purview, namely in the area of public health, competences, planning, implementation of activities related to the protection and promotion of health of the general population, as well as public health funding.

*The Law on General Administrative Procedure*⁶² is one of the system related regulations adopted in the course of 2016 which will become effective on 1 June 2017, except for certain provisions of this law that will become effective prior to this date. This law, inter alia, provides that persons with disabilities shall have the right to communicate and follow the course of proceedings with the assistance of their interpreter or in another fitting manner, in accordance with the law, while Article 126 states that witnesses who, due to their age, illness or disability are unable to come to the hearing, shall be heard in their condominium or another place of their residence.

The Criminal Code, as one of the system grade laws, has undergone significant changes in November 2016 when the *Law Amending the Criminal Code*⁶³ was adopted. In accordance with the legislative practice in European countries, the amendments pertain to the reform of criminal acts committed against the economy, as well as to the harmonization with the Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence (hereinafter referred to as the Istanbul Convention). Significant amendments refer to newly defined criminal acts while the criminal act of taking away a minor has been amended. It merits saying that these amendments have, for the first time, leveled the envisaged penalty for a criminal act of rape as defined in Article 178, with the penalty for a criminal act of sexual assault against an incapacitated person as defined in Article 179 of the Criminal Code, which was previously subject to milder penalty. The mentioned amendments were accepted and incorporated at the initiative of the Commissioner for the Protection of Equality as the institution had pointed out the discrepancy in the penal policy with respect to these two criminal acts.

In the course of 2016 the *Law on Preventing Domestic Violence*⁶⁴ was passed. The effectiveness date of this law was postponed for 1 June 2017. This law governs the issue of preventing domestic violence and acting of state authorities and institutions in preventing domestic violence and extending protection and support to victims of domestic violence. The main objective of this law is to define, in a general and unified manner, the organization and acting of state authorities and institutions thus ensuring effective prevention of domestic violence and urgent, timely and efficient protection and support to the victims of domestic violence (Article 2).

62 "Official Gazette of the Republic of Serbia", No. 18/16

63 "Official Gazette of the Republic of Serbia", No. 94/16

64 "Official Gazette of the Republic of Serbia", No. 94/16

In 2016, the *Law Amending the Law on Public Utilities*⁶⁵ containing a provision which refers to the use of gender sensitive language was adopted and so was the *Law on Housing and Condominium Buildings Maintenance*⁶⁶ which attaches special attention to persons with disabilities, as well as to persons belonging to other vulnerable groups. The mentioned Law states that the relocation to adequate housing should meet, among other things, physical accessibility criterion of the facility in accordance with the regulation governing unobstructed movement and accessibility for persons with disabilities, children and the elderly. Commissioner's comments to the Draft of the mentioned Law pertaining to persons with disabilities have been accepted.

*The Law Amending the Customs Law*⁶⁷, among other amendments, governs the issue of personal data protection and in particular states that personal data processing of persons with disabilities, in cases when an application requesting customs relaxations as defined by the present Law is submitted, shall refer exclusively to the identification of the document issued by a competent authority, health institution or a medical specialist certifying to the level and type of disability. In its opinion on the mentioned Draft Law, the Commissioner made some suggestions that have been accepted in part.

65 "Official Gazette of the Republic of Serbia", No. 104/16

66 "Official Gazette of the Republic of Serbia", No. 104/16

67 "Official Gazette of the Republic of Serbia", No. 108/16

3. Description of the current situation and activities undertaken by the Commissioner aimed at suppressing discrimination and promoting equality

For the purpose of gaining a thorough and comprehensive insight into the present situation with respect to achieving and protecting equality, in this section of the abridged version of the Regular Annual Report of the Commissioner for the Protection of Equality certain findings of public surveys implemented in the course of 2016 for the needs of the Commissioner will be presented, followed by reports developed by the European Union, relevant documents of international organizations, reports and surveys of non-governmental organizations in Serbia as well as the case law of the European Court of Human Rights.

The description of the present situation with respect to achieving and protecting equality also includes a short overview of key challenges in the area of protection against discrimination which is the result of complaint procedures pursued by the Commissioner for the Protection of Equality, but also of findings coming from other sources as well.

3.1. Surveys administered by the Commissioner for the Protection of Equality

In 2016 two important surveys were implemented, one on the prevalence of discrimination and achieving equality in the Republic of Serbia – “*Citizens’ Perception of Discrimination in Serbia*” and the other – “*Position of the Elderly Living in Rural Areas*”. The findings of these surveys are an important input when defining guidelines and setting priorities for creating and pursuing public policies in these areas of social life in the upcoming period.

3.1.1. Public opinion survey “Citizens’ perception of discrimination in Serbia”

Within the 2013 IPA “Support to the Promotion of Human Rights and Zero Tolerance for Discrimination” Twinning Project, the Commissioner for the Protection of Equality has implemented a public opinion survey *Citizens’ Perception*

of *Discrimination in Serbia*⁶⁸. The survey was administered by Faktor Plus Agency in June 2016. In order to ensure comparability of findings with previous Commissioner's surveys, a unified methodology was used, which made the detection of trends and changes in citizens' perceptions and views possible.

This survey was an important source of information on citizens' perception of discrimination, on the existing social distance towards members of different groups, on citizens' awareness of the legislative framework and sanctions that may be imposed, as well as on their perception of different roles played by various actors in perpetuating and suppressing discrimination.

3.1.1.1. Exposure to discrimination and trusting government institutions

The findings of this survey show, among other things, that 13% of Serbian citizens think that at some point in their life they have been exposed to discrimination, which is a slight improvement when compared to 2013 survey findings of 16%. In addition, survey results indicate that citizens who think that they have been discriminated against belong to the LGBT population (50%), followed by those belonging to ethnic minorities (36%).

The number of citizens who would approach government institutions in case of discrimination is twice as large when compared to 2013 survey (an increase from 32% to 63%), which is indicative of the fact that a growing number of citizens are gaining trust in institutions, namely that they would be ready to seek protection in case they are exposed to discrimination. When compared to the 2013 survey, a considerably larger number of citizens would seek help of the Commissioner for the Protection of Equality in case they suffered discrimination, as much as 18%.

Likewise, in 2013 10% of citizens stated that they would report discrimination to the police, while in 2016 this number has doubled to 21%, which indicates that it is necessary to further strengthen police capacities to respond adequately to reported instances of discrimination. In 2016 the Commissioner for the Protection of Equality organized seven one-day and one two-day trainings for police officers – "Detecting and Responding to Discrimination". In comparison to previous surveys, and in keeping with a growing number of citizens who would approach institutions, the number of citizens who would not know whom to approach in case of discrimination and who deem application procedures much too complicated, has significantly decreased.

68 The survey is available at: <https://drive.google.com/file/d/0B1QaDisvv7K3c19yTVd3Z1ZuQ0U/view>

3.1.1.2. Understanding and detecting discrimination

Despite the fact that when compared to 2013, the number of citizens who would chose to approach institutions has doubled, the effectiveness of anti-discrimination activities can be negatively affected by the lack of ability to detect discrimination. It would be safe to say that only around one quarter of all respondents (24%) comprehend discrimination as unequal treatment based on a personal characteristic. Citizens tend to confuse discrimination with violence against different groups, irrespective of whether violence was based on a personal characteristic or not (8%), as well as with the rejection of different groups which was not based on any personal characteristic (4%). In order to report discrimination one must know first how to detect it, hence the absence of this ability considerably limits protection in this area.

The majority of citizens in Serbia still believe that discrimination is prevalent in Serbia. Survey findings indicate that one fifth of citizens think that discrimination is omnipresent (19%), while less than half believe that discrimination is mostly present in Serbia. This means that two thirds of citizens (63%) think that discrimination in Serbia exists to a considerable extent. These results indicate that citizens' perception of discrimination has not changed significantly when compared to 2013 when 65% of citizens were found to believe that discrimination is present to a considerable extent or is very present.

When considering citizens' views of whether discrimination has increased or decreased in Serbia, the majority think that nothing much has changed in the past three years (44%). If this data is compared to 2013 findings, it would be safe to assume that almost half as many citizens think that discrimination is on the rise, which is a positive trend.

3.1.1.3. Views on social groups which are most exposed to discrimination

As the first free association as to which is the most discriminated group in Serbia, respondents listed members of the Roma national minority (23%), followed by LGBT persons (12%), women (9%) and the poor (6%). All other groups were also present, but all of them in less than 5% of cases, among which the following groups should be mentioned: national minorities (4%), persons with physical and sensory disabilities (4%), while persons with intellectual disabilities and mental impairments appear to be the group least discriminated against (1%).

If relative position of the mentioned groups were to be considered in comparison to the 2013 survey, it would be safe to say that citizens' perception of the level of their exposure to discrimination is similar.

3.1.1.4. Views on areas of social relations where discrimination occurs most frequently

Citizens perceive labor and employment area as the one where discrimination occurs most frequently. Namely, more than two thirds of respondents were of such opinion (72%). This finding coincides with the practice of the Commissioner for the Protection of Equality – the largest number of complaints filed in 2015 pertain to alleged discrimination in the employment process or work-place discrimination (36%). After labor and employment, citizens see social welfare protection (31%), followed by healthcare (25%) and education (23%) as areas in which discrimination is most prevalent.

3.1.1.5. Perception of discrimination

When compared to 2013 findings, the existing trend persists, namely, on the one hand, the number of citizens who perceive discrimination as the government's priority (one quarter of respondents – 24%) is continuously decreasing while on the other hand the number of those who think that discrimination is an important problem (two thirds of respondents), but that there are more severe problems that the society faces (59%), is increasing.

Three quarters of respondents (73%) think that discrimination is unacceptable, regardless of the group of citizens which might be exposed to discrimination, while 16% think that discrimination is acceptable against certain groups.

3.1.1.6. Ethnic and social distance toward members of different groups

Survey results indicate that one quarter of respondents (27%) do not wish to have an LGBT person as their co-worker, one third (34%) do not wish to have them as their friends, half of them (47%) do not want to have an LGBT person as an educator working with their children, while 63% of respondents would be opposed to them or their children marrying an LGBT person. Although social distance is most prominent towards members of the LGBT population, the majority of surveyed categories has experienced shrinking of the social

distance when compared to 2013 findings. The reduction of social distance is most significant when it comes to accepting marriage to and being friends with an LGBT person. Thus, when compared to 2013, rejecting the idea of marriage to an LGBT person has dropped by 19%, while rejecting an LGBT person as a friend has decreased by 12%.

While the survey noted the shrinking of the social distance towards LGBT persons in all surveyed areas, this social distance has slightly increased towards migrants (asylum seekers) in some areas, while in others it has decreased. Three years ago 20% of respondents did not accept the idea of migrants becoming citizens of Serbia, while now 31% of respondents are of this opinion. Likewise, the number of those not wishing to see migrants as their next door neighbors is growing (from 23% to 30%), as well as of those who would not want to have migrants as their co-workers (from 20% to 23%).

3.1.1.7. Citizens' opinion on special (affirmative) measures

Survey findings show that introducing measures that would impose an obligation on employers to hire certain number of members of those groups, which are essentially in an unequal position in comparison to other citizens, would receive undivided support of 40% of citizens, and partial support of another 33% of citizens. Roughly 17% of respondents are against such affirmative employment boosting measures.

In terms of education, 64% of respondents support special measures for the secondary school enrolment, while 62% of respondents support such measures aimed at university enrolment. These findings indicate that the support to special measures in education is slightly lower than in 2013 when it was 73%.

Approximately one third of citizens support the allocation of budget funds for achieving rights of ethnic minorities to communicate with institutions, be informed and receive education in their mother tongue, one third of respondents partially support this, while between one third and one quarter of citizens do not support such budget allocations.

Almost all respondents (96%) think that public institutions must be accessible to persons with disabilities.

3.1.1.8. Awareness of the legislative framework and views on the extent of its implementation

The majority of citizens think that in Serbia discrimination is prohibited by the law (67%), while only 12% believe that it is not prohibited. The survey showed that there is a correlation between respondents' education level and awareness

about anti-discrimination legislation. The least number of citizens who are aware of the fact that discrimination is prohibited by the law are persons who either have not completed or have completed only elementary school education (53%), while 66% of persons who have secondary school education share their opinion and 72% of people with high or higher education are of the same opinion. It should be stressed that a considerably lower number of respondents belonging to different nationalities (apart from those who are of Serbian nationality) think that discrimination is prohibited by the law (54%). In addition, citizens living in Vojvodina (57%) and in Southern and Eastern Serbia (59%) exhibit a lower level of knowledge about anti-discrimination legislation unlike respondents who are residents of Belgrade (64%), Šumadija and Western Serbia (83%).

A total of 4% of citizens believe that discrimination is completely sanctioned in Serbia, while 37% of citizens believe that it is only partially sanctioned. Largest number of respondents believes that discrimination is not sanctioned at all and that sanctions are not being imposed (43%).

3.1.1.9. Visibility of the institution of the Commissioner for the Protection of Equality

Half of respondents (51%) knew about the existence of a state institution in Serbia which is in charge of protecting equality of all citizens, while 41% of respondents were not sure whether such institution existed. The thing that inspires confidence is the fact that, in comparison to 2013 survey, the number of persons who knew that the institution charged with the protection against discrimination exists, has increased considerably.

2016 survey results indicate that 41% of citizens knew the precise name of this institution, 35% could not give the name of our institution, while 21% of respondents have refused to answer this question. If we were to take into consideration only those respondents who knew that a state institution tasked with the protection of equality of citizens actually existed, 77% of them were aware that it was the Commissioner for the Protection of Equality.

3.1.1.10. Perception of institution's accountability and its role in suppressing discrimination

According to respondents' opinion, stakeholders who can be held responsible in most part for discrimination are the media (19% of respondents as compared to 8% in 2013) but also citizens themselves, while stakeholders who are least probable to discriminate are the Commissioner for the Protection of Equality and the Armed Forces of Serbia.

According to respondents, stakeholders who discriminate against citizens to a considerable extent are in fact political parties, schools and the judiciary. The government is perceived as being less responsible for the emerging of discrimination when compared to the previous survey (23% less when compared to 2013 survey).

Respondents see the media, family, schools and citizens themselves as those which can have a decisive impact on combatting discrimination. These are followed by different government institutions, among which is the Commissioner for the Protection of Equality, while respondents see the army as a stakeholder with the least capacity to make a difference when it comes to decreasing discrimination. Results are slightly different when a direct question is asked, namely which stakeholder could have most impact on decreasing discrimination in a society. As an answer to this question, citizens of Serbia named the government of the Republic of Serbia (16%), the media (15%) and finally, the family (12%).

3.1.1.11. Providing information about discrimination to citizens

Most respondents think that the media attaches little importance to the issue of discrimination (45%), while 12% think that the media attaches no importance whatsoever to this topic. Citizens think that the media currently gives attention to the equality of LGBT persons the most (27%), while at the same time giving almost no attention to the poor (3%) and the elderly (3%).

In line with these findings, citizens also think that the society as a whole needs to pay particular attention in the forthcoming period to persons with disabilities (66%), poor people (67%) and the elderly (56%).

Despite the fact that a little over half of respondents thought that institutions extended insufficient information to citizens on the issue of discrimination, only one fifth (20%) was interested in being better informed on issues associated with discrimination in Serbia.

3.1.2. Survey *“Position of the elderly living in rural areas”*

“Position of the elderly living in rural areas” survey was implemented by the Red Cross of Serbia and the Commissioner for the Protection of Equality with the support of the United Nations Population Fund (UNFPA) in the time period between August and November 2016.

The survey findings were useful in understanding challenges elderly people living in rural areas, their families but also the local self-governments encounter as a result of population depletion in rural areas. The findings and detected challenges provide good source of information for creating recommendations which

should promote equality, improve the quality of life in the old age and ensure dignity to the elderly living in rural areas.

The key challenges in achieving equal treatment of this population category include deterioration of healthcare and social welfare service accessibility, lack of interest on behalf of professional service providers to operate in rural areas, shrinking of informal support networks – frequent urban areas bound migrations, insufficient information on the availability of services and rights, as well as mental illnesses (depression, dementia) which frequently go undetected. In addition, some challenges include cost ineffectiveness of extending transportation services in areas which are scarcely populated as well as limited access to transportation capacities adjusted to the needs of the elderly. Last but not least is the issue of ageing in one's household which under the circumstances, results in social isolation with social and cultural activities scarce and mostly inaccessible, which is also true for learning opportunities and equipment. All of these elements would make independent living easier for the elderly in rural areas.

Elderly persons living in rural areas are mostly in poor health and face multiple obstacles in securing healthcare services. Survey findings indicate that healthcare services are only partially utilized, namely, 43% of elderly persons were in fact in need of medical attention but have failed to see a doctor. Almost half of elderly persons living in rural areas have difficulty moving around, while 3% of them are bed ridden or in a wheelchair.

Perception of the elderly living in rural areas of their life quality is bleak. One quarter thinks that they have either poor or very poor quality of life, while the majority of them (54%) think that their life quality is neither good nor bad. The elderly living in rural areas are at a greater risk of social exclusion than they are of losing functional capacities to take care of themselves. They are mostly excluded from institutional services provision system aimed at assisting and supporting elderly population and tend to rely on informal services, assistance and support.

Most of respondents deem that they have never been exposed to discrimination (56.4%), one fifth claims to have been exposed to discrimination occasionally (19.6%), 11% only rarely, while only 7.3% claim to be exposed to discrimination frequently. 86% of respondents expressed positive views on gender equality, while 8.9% were indecisive and 3.8% had a negative opinion on gender equality.

3.2. Reports by the EU, international organizations and treaty bodies

Although progress in the area of preventing and suppressing discrimination is obvious, the need to continuously and proactively pursue activities and exert further efforts in this field was confirmed in the reports of the European Union,

international organizations and treaty bodies. Conclusions from different reports will be given in the section that follows.

*2016 European Commission Serbia EU Accession Progress Report*⁶⁹ states that the legislative framework governing the protection of human rights exists, but is not consistently implemented. The Report observes a lack of political support for the protection of rights of groups most exposed to discrimination, including members of the LGBT population, persons with disabilities, persons living with HIV/AIDS and other vulnerable groups. European Commission Report underlines the fact that certain progress has been achieved in the area of employment policies, Roma inclusion, prohibition of discrimination and gender equality, but it also notes that regardless of these efforts, the position of women on the labor market has not improved and is characterized by low activity and employment rate when compared to men.

Serbia's activities geared towards introducing the EU Gender Equality Index were commended, as well as the budget reform and the Law on the Budget System of the Republic of Serbia which made possible the introduction of gender sensitive budgeting as mandatory for all Republic of Serbia budget beneficiaries at national, provincial and local levels. However, the Report indicates that a sustainable institutional network with the capacity and resources to promote gender equality needs to be established. Particularly worrisome are instances of domestic and intimate partner violence that in many cases result in killing of women. The need to correctly implement the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) as well as to harmonize national legislation with this Convention has been stressed.

Particular focus was placed on the need to exert additional efforts aimed at increasing the participation of persons with disabilities in the education process and the necessity to implement a comprehensive facility accessibility plan for persons with disabilities, the elderly and socially vulnerable persons. Serbia's activities aimed at promoting rights of LGBT population have received positive assessment, but the Report states that greater political commitment is necessary in promoting the culture of respect for the rights of LGBT persons and ensuring prohibition of discrimination at work, in healthcare and education. In addition, there is a need to revise school textbooks containing discriminatory content and regulate legal procedures for acknowledging the results of sex reassignment surgeries and treatments.

At the 15th Session of the UN Committee for the Rights of Persons with Disabilities held in April 2016, the *Concluding Observations with Recommendations to the Republic of Serbia for the Protection and Promotion of the Position of Persons with Disabilities*

69 The Report is available at: http://www.seio.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/izvestaj_ek_srbija_2016.pdf

(CRPD/C/SRB/CO/1) were adopted.⁷⁰ The Committee commended Republic of Serbia for a string of achievements and activities with respect to the promotion of equality, in particular highlighting legal solutions and strategic documents that were adopted during the period under review. However, in its Concluding Observations the Committee expressed its concerns over certain regulations which are contrary to the provisions of the Convention on the Rights of Persons with Disabilities. The Committee expressed its profound concern over the number of children with disabilities living in institutions, in particular those children suffering from mental impairments as well as over the lack of standardized practices for awareness raising regarding persons with disabilities, in particular in regular schools, and over the absence of mechanisms for fighting multiply detrimental stereotypes and widely spread discrimination. The Committee encouraged Serbia to actively pursue deinstitutionalization process of children and awareness raising campaigns, which would actively involve persons with disabilities and organizations representing them, as well as to proactively promote a positive image of persons with disabilities.

In September 2016, the United Nations Committee for the Rights of Persons with Disabilities adopted *General Comment No. 3 on Article 6 of the Convention on the Rights of Persons with Disabilities*⁷¹, pertaining to women and girls with disabilities. The Committee warned of the fact that women with disabilities are exposed to multiple discrimination and of three main problems that have been identified, namely violence, sexual and reproductive health and discrimination.

United Nations Committee on the Elimination of Racial Discrimination is currently reviewing the Second and Third Periodic Report of the Republic of Serbia on the Implementation of the International Convention on the Elimination of all Forms of Racial Discrimination⁷², adopted by the Government of the Republic of Serbia at its session on 30 December 2015. The Report contains an overview of legislative, judicial, administrative and other measures undertaken by the government for the purpose of implementing provisions of the Convention and achieving full and effective equality and protection against racial discrimination.

70 In 2012 Republic of Serbia submitted the Initial Report on the Implementation of the Convention on the Rights of Persons with Disabilities in the Republic of Serbia and in 2015 Serbia submitted the Alternative Report following which the Committee sent a list of questions to the Government of the Republic of Serbia. In the course of 2016 the Government sent its answers to those questions to the Committee, thus creating conditions for the adoption of Concluding Observations with Recommendations to the Republic of Serbia for the protection and promotion of the position of persons with disabilities. As a member state, Republic of Serbia has the obligation in the upcoming period to focus on the implementation of these concluding observations and concrete recommendations given by the Committee for the Rights of Persons with Disabilities. Available at: http://www.ljudskaprava.gov.rs/sites/default/files/dokument_file/zakljucna_zapazanja_komiteta_za_prava_osoba_sa_invaliditetom_srb.pdf

71 Available at: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>

72 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fSRB%2f2-5&Lang=en

The United Nations Committee on the Rights of the Child sent to the Republic of Serbia additional questions related to the Second and Third Periodic Report on the Implementation of the Convention on the Rights of the Child in the Republic of Serbia⁷³. The questions referred to a clear definition of the term child, coordination of cross-sector cooperation and the current status of the Government of the Republic of Serbia Council for the Rights of the Child. Serbia was requested to submit information related to further plans to formulate the country's policy on children, as the National Action Plan ceased to be effective in 2015.

The *United Nations Committee against Torture* published the Addendum to the Concluding Observations on the Second Periodic Report of Serbia⁷⁴. The Report was preceded by the response of Serbia to Committee's Concluding Observations (CAT/C/SRB/CO/2) which relates to the obligation of member states to submit by 15 May 2016 information in writing on steps taken towards implementing recommendations No. 9(a) and 19. The Addendum to Concluding Observations includes a description of the situation, information and measures Serbia has undertaken to implement these two recommendations.

International organization "*Human Rights Watch*" (HRW) published a report entitled "It Is My Dream to Leave This Place: Children with Disabilities in Serbian Institutions"⁷⁵. The Report highlights the fact that families are frequently pressured into sending their children with disabilities to large residential-type institutions which are often a long way from their home and where children with disabilities are separated from their families, oftentimes neglected, experience inadequate access to medical treatment, suffer from a lack of privacy and have limited access to education.

Report published by international organization *Amnesty International* "*The State of the World's Human Rights*"⁷⁶, gives the situation in human rights analysis results in 160 countries and territories around the world in 2015/2016. Part which refers to the Republic of Serbia deals with refugees, asylum seekers and migrants, enforced disappearances, discrimination of Roma, LGBT rights and crimes subject to international law which are the result of ethnic conflicts in the region. The Report speaks positively about the Pride Parade held in 2016 without any incidents, however it stresses the fact that hate crimes and assaults against members of the LGBT community still persist.

73 Available at: http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/SRB/INT_CRC_LIT_SRB_24382_E.pdf

74 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fSRB%2fCO%2f2%2fAdd.1&Lang=en

75 Available at: <https://www.hrw.org/report/2016/06/08/it-my-dream-leave-place/children-disabilities-serbian-institutions>

76 Available at: <https://www.amnesty.org/en/documents/poll0/2552/2016/en/>

3.3. Reports and surveys by national institutions and organizations

In the *Fourth Report on the Implementation of Action Plan for Chapter 23 in the European Union membership accession negotiations*⁷⁷, the Ministry of Justice stated that the “Rulebook on criteria and procedures for Roma students high school enrolment under more favorable conditions for the purpose of achieving full equality”⁷⁸ was passed in the previous period yielding good results in practice. In addition, the “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”⁷⁹ has also been adopted.

For the purpose of achieving full harmonization of the Serbian legislative framework with legislation of the European Union in the area of anti-discrimination, activities geared towards developing the Draft Law Amending the Law on the Prohibition of Discrimination have continued. In addition to the activities undertaken by the Ministry of Labor, Employment, Veteran and Social Affairs towards developing this Draft Law, institution of the Commissioner for the Protection of Equality has formulated its proposal of amendments thereto, based on its practice and experience in implementing the Law⁸⁰.

In addition, the Ministry of Education, Science and Technological Development had prepared and adopted the “Rulebook on detailed criteria for detecting discrimination by staff members, children, students or third parties in an educational institution”⁸¹ in February 2016, thus acting upon Commissioner’s recommendation given in the 2015 Regular Annual Report of the Commissioner for the Protection of Equality.

On 23 November 2016 the National Assembly of the Republic of Serbia adopted the Law Amending the Criminal Code which amended certain provisions by defining violation of equality as a criminal act (Article 128) if a person, due to his/her sexual orientation or gender identity, is denied or limited in exercising his/her rights as a person and as a citizen⁸².

77 Available at: <http://www.mpravde.gov.rs/files/Izve%C5%A1taj%20br.%204-2016%20o%20sprovo%C4%91enju%20Akcionog%20plana%20za%20Poglavlje%2023.pdf>

78 “Official Gazette of the Republic of Serbia“, No. 12/16

79 “Official Gazette of the Republic of Serbia“, No. 42/16

80 Report on the Implementation of Action Plan for Chapter 23 in the European Union membership accession negotiations, p. 259

81 “Official Gazette of the Republic of Serbia“, No. 22/16

82 Report on the Implementation of Action Plan for Chapter 23 in the European Union membership accession negotiations, p. 410

In August 2016 the Human and Minority Rights Office published the *Report on Monitoring the Implementation of Action Plan for the Implementation of 2014 – 2018 Strategy for the Prevention of and Protection against Discrimination – for the second, third and fourth quarter of 2015*⁸³. The Report states that within the measure pertaining to the harmonization of regulations in the area of prohibition of discrimination which have not been entirely harmonized with the European Union regulations, one of the envisaged activities was to provide child-friendly access to and participation of children in complaints procedures before the Commissioner for the Protection of Equality. The Ministry of Labor, Employment, Veteran and Social Affairs which is in charge of implementation of this measure, has not provided data on implemented activities for this reporting period.

The Report states that the measure or the activity pertaining to the practical implementation of Commissioner's recommendation to remove discriminatory content from school textbooks and teaching materials so as to prevent discrimination, foster tolerance, encourage appreciation of differences and respect of human rights has been implemented only in part. Institute for the Promotion of Education has reviewed nine secondary school textbooks which contain, according to Labris NGO and the Commissioner for the Protection of Equality, discriminatory content. Following the completion of the review procedure, Institute for the Promotion of Education submitted its opinion to the Ministry of Education, Science and Technological Development, stating that eight textbooks indeed contain discriminatory content and that they can no longer be used.

One of the key topics in 2016 was the issue of migrants and refugees as particularly vulnerable groups. With reference to this, *Standard Operational Procedures for the Protection of Refugee/Migrant Children (SOP)* have been created⁸⁴. They offer a basis for a coordinated action of those participating in extending support and identifying particularly vulnerable refugee/migrant children.

The description of the situation in the area of achieving and protecting equality is contained in following documents: *Report on Monitoring the Implementation of Action Plan for the Implementation of 2014 – 2018 Strategy for the Prevention of and Protection against Discrimination – for the second, third and fourth quarter of 2015*⁸⁵ published by the Human and Minority Rights Office, "Digital Violence – Prevention and Response" manual, published by the Ministry of Education, Science and

83 Document is available at: http://www.ljudskaprava.gov.rs/sites/default/files/dokument_file/drugi_izvestaj_ap_final_16082016.pdf

84 Document is available at: <http://ideje.rs/wp-content/uploads/2016/09/Standardne-operativne-procedure-za-zastitu-dece-izbeglica-i-migranata.pdf>

85 Document is available at: http://www.ljudskaprava.gov.rs/sites/default/files/dokument_file/drugi_izvestaj_ap_final_16082016.pdf

Technological Development and the Pedagogical Society of Serbia⁸⁶, publication of the Social Inclusion and Poverty Reduction Team “End school leaving!”⁸⁷, *Analysis of the implementation of affirmative measures in the area of education of Roma men and women and recommendations for the improvement of such measures* from June 2016⁸⁸, *Instruction on developing teaching materials in accordance with the universal design principle*⁸⁹, “Guidelines for Social Impact Assessment”⁹⁰ as well as “Mapping Social Protection Services Provided by Local Self-government Units in the Republic of Serbia”⁹¹.

In the course of 2016, Republic of Serbia Ombudsman published a *Special Report on Informing in National Minorities Languages Following Privatization of the Media*⁹² for the purpose of drawing attention of the competent authorities in a timely fashion, to irregularities and problems that occur in practice following the privatization of media outlets, in order to have informing in national minorities languages done in such a way so as to meet the needs of persons belonging to national minorities.⁹³ In addition, Serbia Ombudsman published “*Protecting Women against Domestic and Intimate Partner Violence (selected recommendations)*” publication⁹⁴.

In February 2016, Social Inclusion and Poverty Reduction Team launched the first *Gender Equality Index for Serbia*⁹⁵, stressing that the Republic of Serbia is

86 Available at: <http://www.mpn.gov.rs/wp-content/uploads/2015/08/priru%C4%8Dnik-interaktivni.pdf>

87 “End school leaving!”, Social Inclusion and Poverty Reduction Team, Belgrade 2016. Available at: http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2016/06/stop_napustanju_skole.pdf

88 Analysis of the implementation of affirmative measures in the area of education of Roma and recommendations for the improvement of such measures, Social Inclusion and Poverty Reduction Team, Belgrade 2016.

89 Instruction on developing teaching materials in accordance with the universal design principle, Lazar M., Malidžan-Vinkić D., Social Inclusion and Poverty Reduction Team, Belgrade 2016. Available at: http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2016/02/uputstvo_zaoizradu_nastavnog_materijala_univerzalni_dizajn.pdf

90 “Guidelines for Social Impact Assessment”, Social Inclusion and Poverty Reduction Team, Belgrade 2016. Available at: <http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2016/11/Smernice-za-procenu-uticaja-na-drustvo-SRP.pdf>

91 “Mapping Social Protection Services Provided by Local Self-government Units in the Republic of Serbia”, Social Inclusion and Poverty Reduction Team, Belgrade 2016. Available at: <http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2016/12/Mapiranje-usluga-socijalne-zastite.pdf>

92 Special Report on Informing in National Minorities Languages Following Privatization of the Media, Protector of Citizens, Belgrade, 2016. Available at: <http://www.ombudsman.rs/attachments/article/5018/Izvestaj%20o%20informisanju%20na%20jezicima%20nacionalnih%20manjina%20nakon%20privatizacije%20medija.pdf>

93 Special Report on Informing in National Minorities Languages, p. 4

94 Protection of women against domestic and intimate partner violence, Republic of Serbia Ombudsman, Belgrade, 2016, available at: <http://www.ombudsman.rs/attachments/article/5031/Zbirna%20preporuka%20ZG%20Zastita%20zena%20od%20nasilja%20u%20porodicima%20i%20partnerskim%20odnosima%20SRPSKI.pdf>

95 Coordination Body for Gender Equality of the Government of the Republic of Serbia, Government of Serbia Social Inclusion and Poverty Reduction Team and Serbia Statistics

the first country outside the European Union which has introduced this gender equality measuring instrument⁹⁶ which measures gender equality (gender gap) on a scale of 1 (complete inequality) to 100 (complete equality) in six EU policy framework relevant domains: knowledge, work, money, health, time, power, and two satellite domains: violence and intersecting inequalities.

“Access to economic opportunities for women in Serbia” survey⁹⁷, implemented in cooperation with the World Bank, states that the large pay gap between men and women is especially noticeable in high earning brackets which indicates that there is a glass ceiling for women when it comes to earnings. Women in Serbia seem to have much more on their plate when it comes to taking care of their family members and doing household chores.

In July 2016 the Ombudsman of the Autonomous Province of Vojvodina published a new survey⁹⁸ on the implementation of gender equality principle in local self-government units on the territory of the Autonomous Province of Vojvodina. This survey shows that inequality and inequity persist among genders in all spheres of public local policy and government authorities. It also indicates that men continue to hold decision making and power positions, while women are represented to an extent envisaged by affirmative measures in the form of quotas. Formally speaking, women have the ability to take decisions as they do hold positions, however women still continue to be managers of departments and sectors which have traditionally been allocated to women, such as social issues, education and social protection.

Provincial Secretariat for Social Policy, Demography and Gender Equality published a *Collection of Conferences of Domestic and Intimate Partner Violence Cases*

Office with extensive support of the European Institute for Gender Equality from Vilnius have initiated the calculation of the Gender Equality Index for the Republic of Serbia. Government of the Republic of Serbia Working Group for developing Gender Equality Index was established and it included representatives of all relevant public institutions, civil society organizations as well as subject matter experts and members of the academia.

- 96 Gender Equality Index for Serbia – Gender equality index for Serbia was published for the first time in this publication containing data for 2014, while Gender Equality Index for the EU pertains to 2012. Available at: http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2016/02/Izvestaj_Indeks_rodne_ravnopravnosti_2016_SRP.pdf
- 97 Women’s Access to Economic Opportunities in Serbia, Social Inclusion and Poverty Reduction Team, Belgrade 2016 Available at: http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2016/11/Mogucnost_pristupa_ekonomskim_sansama_u_Srbiji_za_zene.pdf
- 98 Implementation of Gender Equality Principle in Local Self-government Units in the Autonomous Province of Vojvodina, Ombudsman of the Autonomous Province of Vojvodina, Novi Sad, 2016. The data is derived from a questionnaire administered in the period between 29 January and 3 march 2016. A total of 27 out of 45 local self-government units responded to this questionnaire. The Report is available at: http://www.ombudsmanapv.org/riv/attachments/article/1827/Primena_principa_rodne_ravnopravnosti_2015.pdf

against Women⁹⁹ which includes cases that illustrate certain difficulties encountered in working on these cases, manner of overcoming them and their impact on professional conduct and action.

The *Analysis of Effects of Implementation of Amendments to the Labor Law developed by the Center for Democracy Foundation*¹⁰⁰ indicate that the relation between the Law on Prohibition of Discrimination (LPD) and the Labor Law (LL) is one of the key problems encountered in real life situations. The Labor Law contains no provisions mandating referral to the Law on the Prohibition of Discrimination, which would serve to bridge certain normative gaps, but rather introduces its own quasi-antidiscrimination procedure as a form of protection against discrimination, which has certain similarities with the procedure for the protection against discrimination prescribed by the Law on Prohibition of Discrimination.

In addition to the abovementioned, the *Lawyers' Committee for Human Rights, YUCOM* published an analytical report¹⁰¹ indicating certain trends when it comes to hate crimes and hate speech against LGBT persons. The report, which includes a chapter containing the analysis of media reporting on LGBT persons, highlights a discrepancy between the number of officially reported cases of discrimination and hate crimes committed against LGBT persons, on the one hand and the number of persons who have turned to civil sector activists for help, on the other hand.¹⁰² There are also the *Guidebook for Journalists – Domestic Violence*, published by the Autonomous Women's Center¹⁰³ stresses that knowledge and understanding of key characteristics of domestic violence and violence against women is of paramount importance for journalists reporting on or investigating these phenomena,

99 Collection of Conferences of Domestic and Intimate Partner Violence Cases against Women, Nedeljkov J., Banauh Brusin M, Provincial Secretariat for Social Policy, Demography and Gender Equality, Novi Sad 2016. Available at: http://www.womenngo.org.rs/images/publikacije-dp/2016/Zbirka_konferencija_slucaja_nasilja_nad_zenama_u_porodici_i_partnerskim_odnosima.pdf

100 Analysis of Effects of Implementation of Amendments to the Labor Law, Reljanović M, Ružić B, Petrović A, center for Democracy Foundation, Belgrade 2016. Available at: <http://www.centaronline.org/userfiles/files/publikacije/fcd-analiza-efekata-primene-izmena-i-dopuna-zakona-o-radu.pdf>

101 Analytical report on shortcomings and legal loopholes in the implementation of existing policies pertaining to anti-discrimination, prevention of violence, hate crimes and hate speech against LGBT persons, Lawyers' Committee for Human Rights YUCOM, Belgrade, 2016. Available at: <http://www.yucom.org.rs/wp-content/uploads/2016/11/Analiticki-izvestaj-i-preporuke-LGBT-prava.pdf>

102 Report data indicates that only 10% of incidents are reported to the authorities.

103 The Guidebook for Journalists – Domestic Violence, Tanja Ignjatović (editor), Autonomous Women's Center, Belgrade 2016. Available at: http://www.womenngo.org.rs/images/publikacije-dp/2016/Vodic_za_novinarke-nasilje_u_porodici-II_izdanje.pdf

as well as “Serbia, from a transit country to a destination country” report¹⁰⁴ and the *Analysis of the Law on Asylum through Gender Perspective*, both published by Belgrade Human Rights Center.¹⁰⁵

The Report on Performance Results of the Appeals Commission of the Printed Media Council for the period between 1 May and 31 August 2016¹⁰⁶, *Analysis of Decisions of the Appeals Commission of the Printed Media Council* for the period between 1 May and 31 August 2016, *Monitoring Report on Compliance with the Serbia Journalist Code of Conduct in Daily Printed Media* during the period between 1 February and 24 April 2016 and report for the period between 1 March and 31 August¹⁰⁷ state that the number of complaints claiming violations of the Serbia Journalist Code of Conduct provisions pertaining to the prohibition of discrimination and hate speech in printed and on-line media was on the rise.

Publication *Protecting Minority Rights of Roma* published at the beginning of the year by Roma Information Center from Kragujevac¹⁰⁸, states that data on social and economic position of Roma men and women is scarce, outdated, unsystematic and is being collected partially, mainly by using non-standardized and unverified methodologies. Taking into consideration the fact that poverty data in Serbia does not contain information on ethnic structure of poor population, it is difficult to assess true dimensions of poverty among Roma men and women, while the lack of such statistical data constitutes yet another form of their social exclusion.

In December 2016 European Roma Rights Center (ERRC) and Praxis non-governmental organization have submitted to the Committee for the Rights of the Child written comments, so as to enable this body to review them before adopting concluding observations in February 2017¹⁰⁹. This document states, in the context of state's obligation to classify statistical data on Roma, that despite provisions of the Law on Primary Education which mandates schools to segregate and monitor

104 Publication Gender Analysis of the Law on Asylum – Implementation of the Principle of Gender Equality in the Asylum System of the Republic of Serbia, is the result of Refugee and Migrant Crisis in the Western Balkans Project implemented by Belgrade Human Rights Center in cooperation with Oxfam organization and UN Women. Available at: <https://www.scribd.com/document/327315703/Rodna-analiza-Zakona-o-azilu-Asylum-Act-Gender-Analysis>

105 Serbia, from a transit country to a destination country, Belgrade Human Rights Center, Belgrade, 2016. Link: <http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2016/06/Srbija-od-zemlje-tranzita-do-zemlje-destinacije-3.pdf>

106 Available at: www.savetzastampu.rs/cirilica/izvestaji/110/2016/09/20/1251/rezultati-rada-komisije-za-zalbe-saveta-za-stampu-u-periodu-od-1-maja-do-31-avgusta.html

107 Available at: www.savetzastampu.rs/doc/monitoring-2016/izvestaj-o-monitoringu-postovanja-kodeksa-novinara-srbije-u-dnevnim-stampanim-medijima-mart-avgust-2016.pdf

108 Protecting Minority Rights of Roma, Roma Information Center, Kragujevac 2016. Available at: http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2016/01/Zastita_manjinskih_prava_Roma.pdf

109 Document is available in English at: http://www.praxis.org.rs/images/praxis_downloads/Serbia-crc-submission-december-2016.pdf

student data, many schools have failed to collect data on national affiliation/ethnic origin of their students. Bearing in mind the shortcomings of the provisions of this Law, the document indicates that data collection is not regulated nor is it implemented in a uniform and systematic manner, which leaves space for potential abuse and arbitrary interpretations.¹¹⁰ This prevents the monitoring of exercise of rights of national minorities members and renders their social inclusion into the education system difficult.¹¹¹

A survey administered by IDEAS from Belgrade¹¹², indicates that most persons with disabilities are in need of living-at-home assistance (78%) and support when physically moving in the community as well as when communicating with public service providers (80%). The need for personal assistance services, although to a lesser extent, still continues to be high (40%), while 19% of persons with disabilities need communication and socialization assistance on daily basis. Approximately 7% of persons with disabilities need monitoring and counseling services, mostly children with disabilities.¹¹³

The *Center for Independent Living of Persons with Disabilities* published a document entitled “*Proposals for Strengthening Election Rights of Persons with Disabilities*”¹¹⁴ which, inter alia, highlights the need to regulate physical accessibility of election polls by law and not by means of an Instruction governing the election procedure which is subject to change prior to each and every elections and is aimed at ensuring a successful technical implementation of elections¹¹⁵. A *Guidebook to Accessible Election Campaigns*¹¹⁶, intended for political parties in the Republic of Serbia, as well as for marketing and advertising agencies working for political parties has been developed.

110 The fact that data collection on ethnic/national affiliation is not an integral part of the so called Unified Information System in the Education System of the Republic of Serbia is highlighted as the most serious problem.

111 Report of the European Roma Rights Center (ERRC) and Praxis non-governmental organization, page 4

112 Living in the Community, IDEAS, Belgrade, 2016. Survey summary is available at: <http://ideje.rs/wp-content/uploads/2016/06/Saz%CC%8Cetak-istras%CC%8Civanja-Za-z%CC%8Civot-u-zajednici.pdf>

113 The survey states that support in all domains, as well as monitoring and counseling services, is necessary primarily for persons with mental and intellectual disabilities as well as for persons with multiple disabilities. In addition to the domain of communication and socialization, intensive support is needed for persons with physical disabilities (p. 7)

114 *Proposals for Strengthening Election Rights of Persons with Disabilities*, Center for Independent Living of Persons with Disabilities, Belgrade, 2016. Available at: http://www.cilsrbija.org/ebib/201612231013400.cil-unapredjenje_izbornih_prava_osoba_sa_invaliditetom.pdf

115 *Proposals for Strengthening Election Rights of Persons with Disabilities*, page 14

116 *A Guidebook to Accessible Election Campaigns*, Center for Independent Living of Persons with Disabilities, Belgrade 2016. Available at: http://www.cilsrbija.org/ebib/201604062025320.vodic_za_pristupacnu_izbornu_kampanju.pdf

The *Handbook for Establishing and Developing Community Mental Health Protection Centers* states that the existing psychiatric system functioning in Serbia is inadequate and is unable to respond to the needs of patients and communities.¹¹⁷ Publication entitled *Social and Legal Position of Persons Suffering from Rare Diseases and Their Families in Serbia*¹¹⁸ gives a detailed overview of problems and challenges persons suffering from rare diseases face.

3.4. Case Law of the European Court of Human Rights

In 2016 the European Court of Human Rights reviewed several interesting cases of alleged discrimination.

In the case of *Novruk and Others v. Russia*, application No. 31039/11, 48511/11, 76810/12, 14618/13 and 13817/14, judgment dated 15 March 2016, the European Court found that this country has a “structural problem” when it comes to laws which discriminate against HIV-positive foreigners wishing to enter and stay in the country.

Case of *Pilav v. Bosnia and Herzegovina*, application No. 41939/07, judgment dated 9 June 2016 is the third such case in European Court of Human Rights case law in which the Court found that the provisions of Bosnia and Herzegovina Constitution are discriminatory as they make it possible only for candidates who belong to one of the constituent entities (Bosnian, Croatian and Serbian) to run for Presidency of this country.

Discrimination on the grounds of refusing a request for property tax exemption has been ascertained in the case of *Guberina v. Croatia*, application No. 23682/13, judgment dated 22 March 2016.

In the case against Germany, *Partei Die Friesen v. Germany*, application No. 65480/10, judgment dated 28 January 2016, a political party of a national minority applied with the European Court of Human Rights to rule on the violation of the right to free elections. In addition, indirect discrimination of citizens on the basis of ethnic origin was the subject matter in the case of *Biao v. Denmark*, application No. 38590/10, judgment of the Grand Chamber dated 24 May 2016.

117 Handbook for Establishing and Developing Community Mental Health Protection Centers, Jović V. et al., Helsinki Committee for Human Rights in Serbia, Belgrade 2016. Available at: <http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2016/03/Prirucnik-za-uspostavljanje-i-razvoj-centara-za-zastitu-mentalnog-zdravlja-u-zajednici.pdf>

118 Sjeničić M., Milenković M., Social and Legal Position of Persons Suffering from Rare Diseases and Their Families in Serbia, Serbian Association of Lawyers for Medical and Healthcare Law – SUPRAM, Institute of Social Sciences, Belgrade 2016. Available at: <http://www.supram.org.rs/wp-content/uploads/2016/09/Polozaj-osoba-sa-retkim-bolestima-FINAL.pdf>

In the case of *M.C. and A.C. v. Romania*, application No. 12060/12, judgment dated 12 April 2016, the European Court of Human Rights considered the failure of Romanian authorities to take into consideration possible discriminatory motives in the investigation pertaining to homophobic attacks against participants of an LGBT rally in Bucharest.

Refusal to initiate criminal prosecution on the grounds of insults and slander was the reason for filing an application with the European Court of Human Rights by a publicly declared member of the LGBT population in the case of *Sousa Goucha v. Portugal*, application No. 70434/12, judgment dated 22 March 2016.

In the case of *Halime Kılıç v. Turkey*, application No. 63034/11, judgment dated 28 June 2016, the European Court of Human Rights reviewed the actions of Turkish line authorities in extending protection to a woman victim of domestic violence.

The right to the respect of private and family life from the standpoint of social welfare payments was the subject matter in the case of *Di Trizio v. Switzerland*, application No. 7186/09, judgment dated 2 February 2016.

Religious freedoms and discrimination against a religious minority in Turkey was the focus of case *İzzettin Doğan and Others v. Turkey*, application No. 2649/10, judgment of the Grand Chamber dated 26 April 2016.

Discrimination against a blind person in the area of education was the subject matter in case of *Çam v. Turkey*, application No. 51500/08, judgment dated 23 February 2016.

Several cases dealt with discrimination against same-sex couples in exercising their right to private and family life, namely the case of *Taddeucci and McCall v. Italy*, application No. 51362/09, judgment dated 30 June 2016, the case of *Pajić v. Croatia*, application No. 68453/13, judgment dated 23 February 2016, case *Aldeguer Tomás v. Spain*, application No. 35214/09, judgment dated 14 June 2016. There is an interesting judgment of the European Court of Human Rights in the case of *Chapin and Charpentier v. France*, application No. 40183/07, application dated 9 June 2016, when the Court found that the state policy geared towards preserving marriage as a union of man and woman does not constitute discrimination.

Alleged discrimination of Gurkha soldiers in the area of pension system was the subject matter in the case of *British Gurkha Welfare Society and Others v. the United Kingdom*, application No. 44818/11, judgment dated 15 September 2016.

3.5. Practice of the Commissioner for the Protection of Equality

This part of the abridged version of the Regular Annual Report contains an overview of the practice of the Commissioner for the Protection of Equality in 2016 when the Commissioner acted upon 1346 cases. A total of 626 complaints were received, but in addition to acting upon complaints filed by citizens, the Commissioner, in keeping with its mandate and available anti-discrimination instruments, has passed 665 recommendations of measures for achieving equality. The number of complaints received during 2016 is very similar to that received in 2015 (bearing in mind that last year, due to a discriminatory provision of a law, as many as 97 complaints were filed with the Commissioner over the course of only several days and taking into consideration that civil society organizations have organized situational testing which resulted in 52 complaints being filed), while the number of recommendations for achieving equality issued by the Commissioner to public authorities and other entities was considerably higher. In 2016, a total of 40 opinions to draft laws and other acts of general nature were issued, criminal charges were laid in three cases, in one case misdemeanor charges were initiated, in one case motion for the amendments to a law was filed and in one case a motion for the assessment of conformity with the Constitution was filed with the Constitutional Court. In addition, a total of 9 warnings to the public were issued and 25 statements to the public. Opinions were passed in the complaints procedure in 51 cases, out of which in five cases no discriminatory action has been ascertained and adequate recommendations were issued, while in remaining cases discrimination has in fact been ascertained. In 14 cases an opinion was issued confirming discrimination of a group of persons (LGBT, persons with disabilities, members of the Roma national minority, women, etc.), while in the remaining cases discrimination had been committed against an individual. In 76.7% of cases pertaining to concrete instances of discrimination was acted upon. The largest number of recommendations that have not been complied with refer to recommendations issued in the complaints procedure due to discrimination on the grounds of sexual orientation. As for recommendations containing measures for achieving equality issued to public authorities and other entities, 93.9% were acted upon, which in addition to recommendations issued in individual cases amount to 85.3% on average.

The largest number of discrimination complaints filed with the Commissioner for the Protection of Equality was filed by private persons. Similar to previous years, men file complaints more often than women, thus out of the total number of complaints filed by private persons men have filed 58%, while women have filed around 42% of complaints. In 2016, a slightly lower number of complaints were filed by civil society organizations when compared to 2015.

Most complaints filed during this year pertain to alleged discrimination on the grounds of disability and on the grounds of gender, amounting to 25.8% of the overall number of complaints, i.e. 12.9% per each of the two grounds of discrimination. There was a slight increase in the number of complaints on the grounds of disability as compared to the previous year, but this data still does not reflect the true position of persons with disabilities in our society.

Portion of complaints alleging discrimination on the grounds of disability is similar to those in previous years (11.3% in 2015). In previous years this grounds of discrimination was among first four grounds by the number of filed complaints. Surveys implemented by international organizations, national civil society organizations and institutions as well as the practice of the Commissioner all show that persons with disabilities are most frequently discriminated against in exercising their rights in areas such as education, labor, accessibility to public facilities and areas, as well as service provision. The Commissioner's "*Citizens' perception of discrimination in Serbia*" survey indicates that persons with physical and sensory disabilities are perceived as a group most frequently exposed to discrimination, while persons with intellectual difficulties and mental impairments are seen as its most discriminated sub-group. Almost all respondents (96%) have expressed their view that public institutions must be accessible to persons with disabilities. Likewise, 66% of citizens think that in the forthcoming period society as a whole should attach considerable attention to the equality of persons with disabilities.

This year too gender as the grounds of discrimination was at the top of the list in terms of the number of complaints, regardless of the fact that the percentage of filed complaints alleging discrimination on this particular ground was slightly lower than the previous year. In 2015 the reason for an increase in the number of complaints claiming discrimination on the grounds of gender is due to the fact that the Law on the Manner of Determining the Maximum Number of Employees in the Public Sector¹¹⁹ contained discriminatory provisions (Article 20) pertaining to retirement eligibility criteria for employees in the public sector. Just to reiterate, in 2015 the Commissioner for the Protection of Equality and the Protector of Citizens jointly filed a motion for the assessment of conformity with the Constitution of this particular provision of the law. Acting on this motion, the Constitutional Court passed a decision IY3 255/2015 on 30 June 2016 finding that provisions of Article 20 of the Law on the Manner of Determining the Maximum Number of Employees in the Public Sector are not in accordance with the Constitution of the Republic of Serbia.

In terms of these particular grounds of discrimination, it is obvious that women tend to be complainants far more often than men, in particular in the area of labor and employment. Women were the ones who mostly filed complaints,

119 "Official Gazette of the Republic of Serbia", No. 68/15

as they were denied promotion due to their gender but also for reasons of their family status or due to the fact that their employment contract was either terminated or they were assigned to other lower ranking and lower paid job positions while they were on parental leave of absence. In addition, "*Citizens' perception of discrimination in Serbia*" public opinion survey results indicate that 16% of respondents when asked about a group most exposed to discrimination, said that women are a group that first springs to mind. When asked about discrimination as a notion, the first thing citizens said was discrimination in the area of employment on the grounds of gender and lower pay for women for work of equal value. Judging by the aforementioned it would be safe to say that women still face numerous difficulties and obstacles in exercising their right to equality.

Age comes second in terms of number of complaints filed, with a share of 11.8% in the total number of complaints. The analysis shows that the largest number of complaints alleging discrimination on the grounds of age pertain to children and persons between the age of 50 and 65 years. With this in mind, it is no surprise that the highest number of complaints claiming discrimination on the grounds of age were filed in the area of labor and employment. As for children, the most vulnerable categories are children with disabilities, in particular children with intellectual difficulties and Roma children, while the areas where they are most discriminated against include education, professional development and service provision.

Discrimination on the grounds of national affiliation ranks third in terms of the number of complaints, and is the fourth grounds of discrimination after gender, disability and age. There was an evident drop in the number of complaints claiming discrimination on the grounds of national affiliation and ethnic origin in comparison to previous years. In 2015 this grounds of discrimination came in second in terms of number of filed complaints, i.e. 18.4% of the total number of complaints, while in 2016 the share of complaints claiming discrimination on this grounds was 9.4%. In 2014 this grounds of discrimination ranked first. This year too, the largest number of complaints on this particular grounds was filed alleging discrimination against Roma (38.3%). However, the number of complaints filed by members of Roma national minority has declined. In 2016, persons belonging to Croatian national minority came second after Roma national minority in terms of number of filed complaints. Much like in the previous year, the fewest complaints were filed by members of the Slovak national minority. In addition, as compared to last year, there is a tangible decrease in the number of complaints filed by members of the Bosnian national minority. This year the highest number of complaints alleging discrimination on the grounds of national affiliation were filed in the area of labor and employment, unlike 2015 when the predominant area was procedures before public authorities.

Ranking of other grounds of discrimination according to the number of filed complaints is similar to previous years, namely on the grounds of health status: 8.6% of complaints, on the grounds of family and marital status: 8.2%, followed by membership in political, trade union and other organizations 7.7% and financial status 5.7% of complaints.

Complaints filed on other grounds of discrimination include: religious beliefs and political views: 4.6%, sexual orientation: 4.1%, previous criminal convictions: 2.8%, citizenship: 1.6%. The number of complaints on other grounds of discrimination in 2016 was less than 3% for each individual grounds of discrimination. The number of complaints claiming discrimination on other personal characteristics not explicitly stated in the Law on the Prohibition of Discrimination has decreased (4.9% in comparison to 8.8% in 2015).

Labor and employment is the area of social relations where discrimination complaints were most frequently filed, namely a share of 33.9% of the overall number of complaints, which is a trend that persisted in 2016 too. In much the same way as in previous years, procedures before public authorities is an area in which discrimination complaints are most frequently filed, namely in 2016 23.3% of complaints pertain to this area, while in 2015 the share was very similar at 23.2%. The next area in which citizens tend to file discrimination complaints most frequently is extending public services and utilization of public facilities and areas. Taking into consideration the position of persons with disabilities in our society and inaccessibility of public and other facilities which are used for different purposes and for meeting different needs, one would expect the number of complaints to be higher than the current 9.4% of all complaints. With reference to this, there is a need to pursue further activities aimed at awareness raising on the right to free access to facilities and services without discrimination.

Area of education and professional development with 7.5% is fourth in terms of the number of complaints filed, followed by healthcare protection (5%), public information and media (4.6%), while the number of complaints in other areas of social relations is slightly lower at 3% per each individual area.

In much the same way like in previous years, the largest number of complaints was filed against government authorities i.e. public authorities: 38.9%, which is slightly lower when compared to previous year when half of all complaints were filed against government authorities. This is followed by legal persons (30.5%) and private persons (20.3%). The remaining complaints pertain to groups of persons, organizations and institutions which are represented with a considerably lower percentage.

The highest number of complaints, similar to the previous year, came from Belgrade region (29.7%), followed by Vojvodina region (12.8%) from where a

slightly higher number of complaints was received as compared to 2015, followed by region of Šumadija and Western Serbia (12.3%), region of South and East Serbia (11.7%) and region of Kosovo and Metohija (3.0%) where there was an increase in the number of filed complaints.

Various activities of the Commissioner for the Protection of Equality aimed at familiarizing citizens with the institution have yielded good results. However, there are still instances when citizens apply with the Commissioner regarding some events, conduct and acts which do not constitute discrimination. In such cases, complainant is informed as to why his/her complaint could not be acted upon, but at the same time he/she is provided with information where to apply and how to protect his/her rights.

3.6. Key challenges in achieving equality and protection against discrimination

In order to successfully suppress discrimination and achieve equality, all anti-discrimination mechanisms must be fully functional, primarily the institution of the Commissioner for the Protection of Equality and the courts, but also all public authorities must consistently and rigorously implement the existing anti-discrimination legal framework, high quality unified records on discrimination cases in all areas of social life must be kept, all relevant survey results and information on the prevalence of this phenomenon must be made available, international and national anti-discrimination practice, case law and policies must be closely followed and kept abreast with. Another element of paramount importance is that citizens must be well informed on discrimination and aware of the fact that discrimination is prohibited by the law. In addition, they must be cognizant of the significance that achieving equality has for the overall social and economic development and for the improvement of the quality of life of all citizens.

Although it is still early to talk about systematic and standardized monitoring system i.e. data collection and analysis of the prevalence of discrimination, its traits and forms, victims who most frequently fall prey to discrimination, areas where it most often occurs, most common discriminators, to what extent legal protection instruments are used and to what effect, what the level of knowledge and extrapolation is on this phenomenon, things are looking up at least according to multiple data sources which offer insight into the state of affairs in terms of protection against discrimination in Serbia. In order for the improvements to materialize in this area, the Commissioner for the Protection of Equality has, among other things, given in this year's and its previous Regular Annual Report, a recommendation stating that there is a need to establish and operationalize a unified, centralized and standardized relevant data collection, recording and

analysis system that would be used to monitor discrimination phenomenon and the way legal protection against discrimination functions.

Despite positive trends, the country still faces significant challenges in its efforts to protect citizens against discrimination. The results of the aforementioned public opinion survey administered in 2016, indicate that the majority of citizens still lack knowledge that would enable them to detect discrimination, one third of citizens does not even know that discrimination is prohibited by the law or think that it is not prohibited, while the majority of respondents believe that government institutions and the media are not informing them sufficiently on the issue of discrimination. The most important positive indicator points to the fact that the number of citizens who would turn to government institutions in case they were exposed to discrimination – primarily to the police and the Commissioner, has increased.

The existing Serbian anti-discrimination legislation offers a strong foundation for promoting equality and combatting discrimination, however this legal framework needs to be further strengthened and harmonized with the EU *Acquis Communautaire* and international standards. With reference to this, it should be stressed that in the EU accession negotiation process Republic of Serbia has opened certain negotiation chapters. In view of the fact that certain progress has been made in reforming particular sections of the legal system and that a string of strategic documents have been adopted, including those pertaining to anti-discrimination, Chapter 23 Action Plan elaborates in more detail strategic goals and activities that need to be implemented. Bearing this in mind and in keeping with Chapter 23 Action Plan, in 2016 the Commissioner for the Protection of Equality has analyzed up to date implementation of the Law on the Prohibition of Discrimination and its compliance with the EU anti-discrimination legislation.

Additionally, in order to improve the legal framework that would be conducive to a more efficient protection against discrimination and harmonize it with the EU *Acquis Communautaire*, there is a need to either adopt or improve other regulations which could affect the achievement of equality and help promote the position of certain marginalized groups (for example, the Law on Free-of-charge Legal Aid, amendments to the Law on Financial Support to Families with Children, Law on Out-of-court Proceedings, etc.).

Based on complaints filed with the Commissioner for the Protection of Equality in 2016 it would be safe to assume that women and persons with disabilities are most exposed to discrimination in Serbia, while age related discrimination is very frequently encountered as well. The area of education, professional development and service provision are all spheres in which persons with disabilities are exposed to discrimination most often. Women are particularly exposed to discrimination on the labor market, while gender based violence continues to

be a pressing problem. The position of the Roma national minority continues to be extremely fragile irrespective of fewer complaints that were filed in 2016, and they tend to be discriminated against in all spheres of social life, primarily in the area of education, labor and employment and in exercising their rights before public authorities.

The practice of the Commissioner for the Protection of Equality indicates also that discrimination on the grounds of health status, marital or family status, membership in political, trade union and other organizations, financial status, religious beliefs or political views and sexual orientation persists.

According to survey results, persons with disabilities are one of the most vulnerable and most discriminated against social groups in all areas of public and private life. Obstacles for equal inclusion of persons with disabilities, as well as difficulties in accessing facilities and services continuously deplete their position in the society. Although public opinion surveys indicate that respondents almost unanimously (96%) think that institutions must be accessible to all persons with disabilities, relatively few complaints were filed with the Commissioner on the grounds of physical barriers and inaccessibility of facilities.

As for gender as the grounds of discrimination what stands out is the fact that women are the ones who most frequently file complaints, as they were denied promotion due to their gender but also for reasons of their family status or due to the fact that their employment contract was either terminated or they were assigned to other lower ranking and lower paid job positions while they were on parental leave of absence.

It is important to stress that a high number of discrimination complaints was filed on the grounds of age affecting children, mostly in the area of education, professional development and service provision, but also affecting citizens in the age bracket between 50 and 65 years of age, mostly in the area of labor and employment as they are considered to be hard-to-employ group of population.

According to the aforementioned survey findings, citizens see Roma, members of the LGBT population and poor persons as groups most discriminated against in the Republic of Serbia. In addition, LGBT population is in a less favorable position as they are perceived as being a group towards which social distance is most pronounced. However, the number of complaints filed on the account of discrimination of this minority group was not high. The majority of complaints were filed on the grounds of discrimination of LGBT persons in the area of public information and media, while civil society organizations remain most frequent complainants. Complaints by the Roma national minority constitute the largest portion of complaints alleging discrimination on the grounds of national affiliation or ethnic origin, which is confirmed by survey findings which indicate that

Roma are the group most discriminated against. In these cases complainants are mostly civil society organizations. Poor citizens too are perceived as one of three most discriminated social groups, however the number of complaints claiming discrimination on the grounds of financial status is marginal and they are mostly filed by private persons.

Judging by the number of received complaints in 2016, labor and employment as well as procedures before public authorities are areas in which the largest number of complaints were filed. Taking into consideration survey results, reports of international and national organizations and the practice of the Commissioner for the Protection of Equality, in the course of next year it would be necessary to exert additional efforts towards improving equality and strengthening anti-discrimination protection in particular in the previously mentioned areas of social life, primarily by enhancing public awareness on discrimination as a negative phenomenon, on options for protection against discrimination and awareness raising among different professionals on discrimination as a notion and its forms. Up to date practice of the Commissioner indicates that issuing recommendations containing measures for achieving equality is one of the most efficient preemptive mechanisms available in suppressing discrimination.

It should be highlighted that the education system shapes views of children and young people and therefore plays an important role in making or breaking stereotypes which frequently seem to be the main cause of discrimination. What inspires hope is the fact that in 2016 the recommendation of the Commissioner included in the Regular Annual Report has been acted upon and led to the adoption of the *Rulebook on detailed criteria for detecting discrimination by staff members, children, students or third parties in an educational institution*. There is a need to continuously work on eliminating barriers preventing the achievement of equal rights to education, in particular in respect of accessibility for all children without discrimination.

Mass media outlets play a leading role in shaping views and values in present day societies, hence they inevitably mold individual's perception of equality and discrimination. Public opinion survey findings indicate that citizens perceive the media as one of the agents with heaviest leverage in shaping the level of discrimination in a society. On the one hand citizens currently see the media as a significant generator of discrimination, while on the other hand the media is also seen as an anti-discrimination agent.

The section containing the review of discrimination grounds includes a description of the state of affairs shown through the results of surveys, reports of relevant organizations and institutions and practice of the Commissioner in combating discrimination and promoting equality. In addition, examples of some opinions, recommendations containing measures, warnings and statements to

the public issued in 2016 were given so as to enable citizens to better grasp the issue of discrimination.

Furthermore, an overview of activities of the Commissioner for the protection of equality pertaining to the motion to access conformity with the Constitution, motions to amend different laws, opinions on draft laws and other documents of general nature, court proceedings (litigation, misdemeanor, criminal) and outcomes of proceedings pursued by the Commissioner, will be given in the following section of the Report.

A detailed statistical data breakdown pertaining to the work and activities of the Commissioner for the Protection of Equality is given at the very end of this abridged version of the Report under heading *Statistical Overview of the Commissioner's Work in 2016*.

3.6.1. Discrimination on the Grounds of Disability

Positive strides have been made toward improving the position of persons with disabilities, in the widest sense, but in view of the fact that numerous risks of social exclusion of persons with disabilities have a tendency to multiply, there is a need to persistently exert efforts – by employing multidisciplinary and cross-sector approach, and pursue various activities aimed at reducing these risks as much as possible.¹²⁰

IDEAS implemented survey findings indicate that persons with disabilities make up 8% of the overall population of the Republic of Serbia. Average age of a person with disability is around 67 years, hence a whopping 71% of these persons belong to the 65 and plus age group.¹²¹ Economic and social status of persons with disabilities, their position on the labor market and in the education system, limited access to exercising their rights to healthcare as well as the social environment replete with barriers and prejudice, with no adequate support, these are all elements that create an environment which offers little in a way of equal opportunities to this group for exercising their rights.

The Commissioner's public opinion survey "*Citizens' perception of discrimination in Serbia*" findings indicate that persons with physical and sensory disabilities are perceived as a group of persons most frequently exposed to discrimination, while persons with intellectual difficulties and mental impairments are seen as its

120 Strategy Proposal for the Promotion of Position of Persons with Disabilities in the Republic of Serbia until 2020. Available at: http://www.noois.rs/pdf/zakoni/Predlog_Strategija_OSI_2020.pdf

121 Statistics Almanac, Republic of Serbia Statistics Office, Belgrade, 2016, page 32. The report is available at: <http://pod2.stat.gov.rs/ObjavljenePublikacije/G2016/pdf/G20162019.pdf>

most discriminated sub-group. Almost all respondents (96%) were of the opinion that public institutions must be accessible to persons with disabilities. Likewise, 66% of citizens think that in the forthcoming period the society as a whole should attach considerable attention to the equality of persons with disabilities.

In 2016, 82 complaints alleging discrimination on the grounds of disability were filed, which constitutes 12.9% of the overall number of filed complaints. Number of filed complaints on these grounds of discrimination is very similar to one in previous years. In 2015 a total of 73 complaints alleging discrimination on the grounds of disability (11.3%) were filed with the Commissioner, while in 2014 the number stood at 10.1%. In previous years, these grounds of discrimination was always among top four by the number of received complaints.

Area of education and professional development is a sphere where persons with disabilities are most frequently exposed to discrimination, a total of 24 complaints were received. This is followed by the area of public service provision or utilization of public facilities and areas (18 complaints), labor and employment (14 complaints), while 9 complaints were filed on account of discrimination in the procedures before public authorities, while in other areas of social life a lower number of complaints was filed.

In much the same way as the practice of the Commissioner for the Protection of Equality, surveys of international and national organizations, national civil society organizations and institutions also indicate that persons with disabilities are most discriminated against in their efforts to exercise their rights in the area of education, labor and employment and accessibility to public facilities, areas and services.

3.6.1.1. Opinions and recommendations

Failure of a municipality to provide the support of personal chaperone to a student with developmental impairments

The opinion was issued following complaint procedure before the Commissioner as a result of a complaint filed by a mother against a local self-government unit on behalf of her child who is a student with developmental impairments. In her complaint the complainant stated that the student was not provided with personal chaperone support despite the fact that the Panel for Assessing Needs for Additional Education, Healthcare and Social Welfare Support to a Child/Student, had passed its opinion stating that this particular student was in need of personal chaperone support while in school, as the student is unable to fully and independently take care of himself.

In its declaration, the municipality stated that its 2016 budget does indeed envisage resources for funding personal chaperones offering personal assistance to children and students in the education system but that the opinion and instruction of the Ministry of Education, Science and Technological Development on hiring and funding personal chaperones was still pending.

During the procedure it was established that in this particular case the municipality failed to provide services of a personal chaperone, despite the fact that ensuring such additional support to children and students in the education system falls directly within the scope of authority of the municipality. The Commissioner for the Protection of Equality stressed that the lack of clarity in respect of hiring and financing personal chaperones in no way diminishes the responsibility of the municipality for its failure to provide such additional form of support to children in need of personal chaperone assistance.

The Commissioner issued its opinion stating that by failing to ensure additional support provided by personal chaperones, the municipality has effectively prevented the student with developmental impairments from receiving necessary additional assistance in education and has thus violated provisions of the Law on the Prohibition of Discrimination. As a result, this municipality was issued a recommendation to undertake all the necessary actions and measures aimed at ensuring the provision of personal chaperone services for this particular student, and to refrain from violating anti-discrimination regulations when discharging of its mandated functions in the future. The recommendation has been acted upon.

Ministry of Education, Science and Technological Development has prevented children with developmental impairments from receiving necessary additional support in education

The opinion was issued following complaint procedure before the Commissioner as a result of a complaint of an association of parents filed against the Ministry of Education, Science and Technological Development on behalf of a legal counsel of six children with developmental impairments attending a pre-school institution and an elementary school in a city in Serbia. The complaint was filed on account of discrimination on the grounds of disability since the Panel for Assessing Needs for Additional Education, Healthcare and Social Welfare Support to a Child/Student, had passed opinions proposing that these children be provided with pedagogical assistants. However, none of the six children were provided with such support.

In its declaration the Ministry of Education, Science and Technological Development stated that pedagogical assistants had been hired in the past for extending support to Roma children, that a total of 175 pedagogical assistants have

been engaged thus far, and that there was a plan to develop a new Rulebook on Pedagogical Assistance which would regulate in more detail the conditions and criteria for their hiring.

During the procedure it was established that the cross-sector panel had made an assessment within an individual support plan, that children, on whose behalf the present complaint had been filed, were in fact in need of a pedagogical assistant, but education institutions those children attend on the territory of that city, have not hired a pedagogical assistant.

The Commissioner for the Protection of Equality issued an opinion stating that by failing to ensure conditions necessary for hiring a pedagogical assistant for children with developmental impairments, the Ministry of Education, Science and Technological Development has prevented children on whose behalf and in whose best interest the complaint had been filed, from receiving necessary additional support in education, and has thus violated provisions of the Law on the Prohibition of Discrimination. As a result, the Ministry of Education, Science and Technological Development was issued a recommendation to undertake all necessary actions and measures within its scope of authority aimed at ensuring that two elementary schools and a preschool institution in Novi Sad hire a pedagogical assistant, to take without delay all necessary measures so as to provide services of pedagogical assistants for children and students in need of additional support in education, and to refrain from violating anti-discrimination regulations when discharging of its mandated functions in the future. The Ministry of Education, Science and Technological Development has informed the Commissioner for the Protection of Equality that activities aimed at developing the mentioned Rulebook were under way. The Rulebook has not yet been developed nor have pedagogical assistants been hired.

3.6.1.2. Recommendations containing measures for achieving equality

*Recommendation containing measures related to the implementation
of Articles 34 and 34a of the Law on Preventing Discrimination
of Persons with Disabilities*

Union of Banks of Serbia and Poštanska štedionica Ltd. Bank applied with the Commissioner for the Protection of Equality stressing that the Law on Preventing Discrimination of Persons with Disabilities or rather its amendments have introduced certain solutions which are vague and cause ambiguities in terms of regularity of banks' daily operations when serving their clients who are persons with disabilities.

The Commissioner for the Protection of Equality found that the amendments to the Law on Preventing Discrimination of Persons with Disabilities constitutes a step towards achieving rights of persons with disabilities who, due to their permanent physical or sensory impairments or illnesses are unable to personally put their signature on a document. However, the Commissioner also found that provisions pertaining to the use of a seal by a person with disability suffering from permanent consequences of physical or sensory impairment or illness, are insufficiently clear and that these provisions are not entirely in compliance with other regulations (the Law on Promissory Note, the Law on Out-of-court Proceedings) which leads to implementation problems in real life situations.

Namely, Article 103 of the Law on Promissory Note stipulates that the signature of blind persons on a promissory note as well as on the power of attorney issued for promissory note related purposes, shall be valid only after being court certified in a manner as defined by Article 102 of the Law on Promissory Note. In addition, blind persons, as well as other persons who, due to the level and type of disability, are unable to personally sign a promissory note or power of attorney issued for promissory note related purposes or any other kind of document which result in obligations on the debit side, shall undertake such action in keeping with Articles 164 – 210 of the Law on Out-of-court Proceedings. However, provisions of Article 34 of the Law on Preventing Discrimination of Persons with Disabilities state that the public authorities have the obligation to enable persons with disabilities to sign documents, in proceedings before these authorities, with a help of a seal containing personal identity data or a seal with the person's engraved signature (paragraph 2). Paragraph 3 of the same article states that a document representing a form of contract or any other form of legal document shall not be signed in accordance with paragraph 2 of this article, but rather in accordance with regulations governing signature certification and document verification. Provision of Article 34a imposes an obligation on all legal and private persons as defined by Article 13 of the Law on Preventing Discrimination of Persons with Disabilities, to enable a person with permanent consequences of physical or sensory impairment or illness to affix his/her signature on a document, when necessary, with the help of a seal containing personal identification data or a seal with the person's engraved signature, without providing for an exception which is defined in Article 34, paragraph 3 of the law.

Bearing in mind the aforementioned, the Commissioner for the Protection of Equality recommended that the Ministry of Labor, Employment, Veteran and Social Affairs take all necessary measures and actions so as to resolve ambiguities in the implementation of the Law on Preventing Discrimination of Persons with Disabilities and tackle problems persons with disabilities face in achieving full equality, in particular in the area of service provision accessibility, and launch an initiative aimed at harmonizing all regulations with this anti-discrimination regulation.

3.6.1.3. Warnings and statements to the public

Excerpt from the statement to the public on the occasion of the International Day of Persons with Disabilities, 3 December 2016

On the occasion of the 3 December, International Day of Persons with Disabilities, Commissioner Janković reflected upon a difficult position of person with disabilities. Women with disabilities are exposed to discrimination in all spheres of public and private life, facing barriers in education, health and social care and are poorer and find employment less often than men with disabilities. The statement to the public stressed that disability based discrimination is the third most common reason for complaints filed with the Commissioner for the Protection of Equality. However, men with disabilities tend to file complaints with the institution more often than women with disabilities, which speaks of the need to encourage women to seek protection against discrimination.

Warning to the public following the assault against a para taekwondo athlete, 14 September 2016

Following a physical assault against Dušan Marisavljević, a para taekwondo athlete, Brankica Janković, the Commissioner for the Protection of Equality issued a warning to the public strongly condemning savage behavior and assault against an athlete just for wearing insignia of another sports team. The Commissioner warned that violence against fans of competing sports clubs was escalating and has become a serious problem in our society taking an ugly turn this time around as the victim was a person with disability. Competent authorities were called upon to do everything in their power to find perpetrators of this gruesome act of violence and all responsible stakeholders were encouraged to exert efforts towards preventing and suppressing violent behavior.

3.6.2. Discrimination on the grounds of gender

In 2016 discrimination on the grounds of gender was one of the two most frequently encountered grounds of discrimination citizens alleged in their complaints filed with the Commissioner for the Protection of Equality. Position of women in the Republic of Serbia is still less favorable than that of men in all areas of social life, in particular in the area of labor and employment, economic sphere, political life participation, and women tend to be more exposed to gender based violence. “*Citizens’ Perception of Discrimination in Serbia*” results indicate that when asked about a group most exposed to discrimination, 16% of respondents said that women belong to a group that first comes to mind. When asked about

discrimination as a notion, the first thing citizens said pertained to discrimination in the area of employment on the grounds of gender and lower pay for women for work of equal value. Judging by the aforementioned it would be safe to say that women still face numerous difficulties and obstacles in exercising their right to equality.

Gender Equality Index for Serbia¹²² is at 40.6%, and the index of the EU Member States is 52.9%. This number shows that Serbia is lagging behind EU-28 average by 12 percentiles in particular bearing in mind serious challenges in respect of the position of women belonging to different vulnerable groups who are exposed to multiple discrimination (Roma women, women in rural areas, migrant women, women belonging to national minorities, women with disabilities, single mothers, poor women, unemployed women and women without work-related skills, women belonging to minority sexual orientation groups and others). Practice of the Commissioner for the Protection of Equality also shows that women are treated differently when compared to men in the area of labor and employment, in particular once they become mothers, which often makes it difficult for them to find employment and move up the corporate ladder. Employed single mothers are particularly vulnerable as some employers, in deciding on the status of their employees, base their decisions on prejudice and stereotypes that women are neither efficient nor productive as their male co-workers due to their family obligations.

In view of the fact that violence against women represents one of the most drastic forms of violation of women's human rights, in November 2016 Republic of Serbia adopted the Law on Preventing Domestic Violence and the Law Amending the Criminal Code. The objective of the Law on Preventing Domestic Violence is to regulate in a general and unified manner, actions of state authorities and institutions hence providing efficient prevention of domestic violence and urgent, timely and effective protection and support to persons exposed to domestic violence. Significant novelties were introduced, such as urgent measures that police officers can impose and an obligation to keep a centralized register of domestic violence cases which would be kept by the Republic of Serbia Public Prosecutor's Office.

Yet another problem women in Serbia face is the manner in which they are portrayed by certain media outlets where they are shown as being incompetent and inferior, where they are represented through their physical appearance and in a degrading way, rather than through their achievements, expertise and performance. The Commissioner for the Protection of Equality pointed to this problem

¹²² In February 2016, Social Inclusion and Poverty Reduction Team published the first Gender Equality Index for the Republic of Serbia.

in its “*Manual for Journalists – Fighting for Equality*”¹²³. Despite some forward strides made in reporting in certain segments, such attitude of certain media outlets poses a challenge for the Commissioner for the Protection of Equality as a number of media outlets show little interest for the problem of discrimination. Unfortunately, certain number of texts and dispatches encourage and foster stereotypes, prejudice and discriminatory views.

In 2016, 12.9% of all complaints filed with the Commissioner for the Protection of Equality were those filed on account of discrimination on the grounds of gender, which makes gender and disability two most frequent grounds of discrimination. The largest number of complaints was filed by private persons (75) out of which 57 complainants were women and 18 complainants were men. Similar to last year, this year too women tend to file complaints on account of discrimination on the grounds of gender more frequently, while men file complaints more frequently in general.

As for areas in which discrimination is most commonly encountered, much like in the previous year, most complaints alleged discrimination in the area of labor and employment. For several years now the largest number of complaints were filed in this particular area, with a total of 212 complaints this year, amounting to 33.9%, out of which gender was cited as a personal characteristic in 15.4% of complaints, with 29 women and 5 men as complainants. This leads to a conclusion that women continue to be discriminated against in the area of labor and employment the most, and that the situation has not changed much in comparison to the previous year when 36.3% of complaints were filed in this area and the majority of complainants were women. Analyzing other areas in which complaints alleging discrimination on the grounds of gender were filed, it would be safe to say that the second area in which complaints alleging discrimination on the grounds of gender were filed was the area of procedures before public authorities (11.5%), which is almost twice the number of complaints filed in the previous year when this figure was at 6.3%. In addition, there is an obvious increase of complaints alleging discrimination on the grounds of gender in the area of media and public information which stood at 4.3% earlier on, while now it is as much as 9.7%. There is also an increase in the number of complaints claiming discrimination on the grounds of gender in the area of education and professional development which is now at 4.6% as compared to 2% from last year. In addition, what catches the eye is the fact that all complaints on account of discrimination on the grounds of gender in the area of education and professional development were filed by women.

123 “Manual for Journalists – Fighting for Equality“, Brankica Janković, Prof. Dr Ivana Krstić, Antigona Andonov and Tatjana Jakobi, Commissioner for the Protection of Equality, Belgrade, 2016. Available at: <http://poverenik.symbolgames.netdna-cdn.com/wp-content/uploads/2017/01/Prirucnik-za-novinarku-i-novinare-Borba-za-ravnopravnost.pdf>

3.6.2.1. Opinions and recommendations

Indirect discrimination on the grounds of gender and family status in the area of labor and employment

The complainant in this case was a mother of two minors, employed with the Ministry of Internal Affairs, Command of the Gendarmerie, working in the medical service as a doctor, and the proposal was for her to be transferred to the future Sector of Human Resources where she would continue to work as a doctor but would be paid a salary which is half the present salary and would lose special status and extra years of service benefits. The complainant filed a complaint with the Commissioner for the Protection of Equality against the Command of the Gendarmerie as she thought that she had been discriminated against on the grounds of her marital and family status and on the grounds of her gender by the proposal for a transfer to a less favorable position.

The declaration clearly states that the transfer of the complainant to another position was proposed exclusively for reasons of not participating in the execution of special tasks outside the seat of the unit, which is directly linked to the fact that the complainant is a woman and a mother of children who are under three years of age, and that she had exercised her right permitting her not to work in the field due to the fact that she is a mother with young children. In addition, during the procedure it was established that the Ministry of the Interior would establish a new Sector for Human Resources in keeping with the reform process, hence a proposal for the transfer of employees to the future new sector has been made and the list for transfer contains 14 persons out of which 12 were women and one of them was the complainant. This fact shows without a shadow of a doubt that indirect discrimination had been committed on the grounds of gender of employees, which is based on prejudice and stereotypes that women are neither efficient nor productive in their operative work as their male co-workers due to their family obligations.

As no viable or reasonable explanation was offered to support the proposal for transfer of the complainant to the future Sector for Human Resources, an opinion was issued stating that indirect discrimination on the grounds of gender and family status had been committed against the complainant with this proposal for transfer. Furthermore, a recommendation was given to the Command of Gendarmerie to take all necessary steps and measures aimed at eliminating consequences of discriminatory treatment the complainant had suffered. This recommendation has been acted upon.

Using maternity leave and parental leave of absence cannot be a reason for female civil servants to be denied promotion

Two persons employed with the Basic Court in Kragujevac filed a complaint against this court as they were denied promotion under equal conditions with other

employees, for reasons of using maternity leave or parental leave of absence. The complainants stated in their complaints that during 2012 and 2013 they received top marks on their annual review, but in 2014 they have not received marks as they were on maternity leave or parental leave of absence making it impossible for them to be promoted in 2015.

In its declaration, the Court stated that complainants did not meet the conditions necessary for promotion, in view of the fact that provision of Article 16 of the Law on Salaries of Civil Servants and Other Employees states that a civil servant must receive mark “excellent” in its annual review for two consecutive years in order to be promoted, and complainants have not received marks for 2014.

In the course of the complaint procedure, regulations governing the promotion of civil servants were analyzed and following a targeted and systematic interpretation of regulations, in particular in the context of anti-discrimination legislation – guaranteed gender equality and constitutional protection of mother and children, it has been ascertained beyond any reasonable doubt that being on maternity leave and on parental leave of absence, can in no way prevent female civil servants from being promoted nor can it in any other way negatively impact their position and status in terms of labor rights. Namely, in the present case, the Court has implemented legal norm envisaged by Article 16 of the Law on Salaries of Civil Servants and Other Employees stating that *a civil servant who has received mark “excellent” for two consecutive years during his/her annual review, shall be eligible for promotion by two pay grades*. The Basic Court has obviously resorted to linguistic interpretation of the aforementioned regulation, finding that a civil servant must receive the highest mark in two consecutive years i.e. in an uninterrupted time sequence in respect of the year when the promotion is decided upon.

In order to establish the actual meaning of this regulation i.e. its true point and purpose, the Commissioner for the Protection of Equality has first analyzed the Law on Civil Servants which governs the position and labor rights status of civil servants. Provisions of Article 88 of the Law on Civil Servants governing the issue of civil servants promotion, state that a civil servant must receive two consecutive “excellent” marks in order to be eligible for promotion. Namely, this provision stipulates that the condition for promotion is receiving two consecutive “excellent” marks, but not in two consecutive years, hence each and every civil servant who has received two consecutive marks “excellent” is eligible for promotion, judging by those years the civil servant has been reviewed in, which does not mean that those years need to be consecutive. This should be used for interpretation of the provision of the Law on Salaries of Civil Servants and Other Employees, in keeping with the rule that the meaning of lower grade legal norms must be sought in the meaning of higher grade legal norms on which lower grade legal norms must be based. This is the reason the Commissioner for the Protection of Equality has issued a recommendation to the Court to correctly implement

regulations governing promotion of civil servant so as to avoid bringing them into an unequal position on the grounds of their personal characteristics i.e. to review conditions necessary for promotion by taking into consideration their previous marks, namely, to disregard the year in which they have not received annual review mark due to the fact that they were on maternity leave or parental leave of absence. This recommendation has been acted upon.

3.6.2.2. Recommendations containing measures for achieving equality

Recommendations containing measures for achieving equality issued to social welfare centers to avoid basing their decisions and opinions on stereotypes with respect to parental roles

In the course of the complaint procedures following complaints filed by male and female citizens, the Commissioner for the Protection of Equality has learnt that certain social welfare centers in Serbia, when deciding in procedures pertaining to the supervision of parental right implementation, take decisions based on stereotypes and prejudice which pertain to parental roles of mothers and fathers in child's life. An official decision of a social welfare center was made available to the Commissioner, by means of which a child's surname, under which the child had been entered in the Births Register (surname of the child's mother), has been changed and decided that the child would take father's surname stating that "it is customary for a child to bear his/her father's surname if the father's identity is known, and the institution deems that taking father's surname would do more good than damage, hence it is in the child's best interest to bear father's surname." In the course of the second instance procedure the Ministry of Labor, Employment, Veteran and Social Affairs has in this particular case, quashed the official decision issued by the social welfare center and has ordered a new procedure for deciding on this matter. In its decision the Ministry pointed out in great detail to the first instance authority how to eliminate the shortcomings and pass a decision based on the law, after it had established all the necessary facts and being guided by a correct implementation of material law and procedure provisions.

The Commissioner for the Protection of Equality indicated that in decisions dealing with exercising parental rights and assessing parental competences, each social welfare protection professional must be able to give essential and clear reasons for taking the decision, which would be supported by sufficient facts and proof so strong as to convince every expert evaluating this decision that it was in fact a legal and useful decision and that he/she himself/herself would not have done anything different in the same situation and under the same circumstances. Hence, decisions passed by professionals working in social welfare centers cannot be driven by prejudice and stereotypes in terms of expected gender and parental

roles during their child' growing up. For this reason a recommendation containing measures for achieving equality, was issued to social welfare centers in Serbia. The recommendation states that social welfare centers should not base their decisions and opinions in procedures pertaining to the supervision of parental rights implementation and parental competencies assessment, on stereotypes which define parental roles i.e. that they should not base their decisions on prejudice, customs and other social patterns of behavior based on the notion of subordination or superiority of genders or stereotypes motivated gender roles.

3.6.2.3. Warnings and statements to the public

Excerpt from the warning to the public issued following an initiative to establish State Council for Combatting Abortion, 23 December 2016

Following the announcements that a State Council for Combatting Abortion would be established, the Commissioner for the Protection of Equality hereby brings Articles 44 and 63 of the Constitution of the Republic of Serbia to public's attention. According to Serbian Constitution each person shall have the right to freely decide on bearing children. Despite the fact that the Republic of Serbia encourages parents to have children, and without contesting the fact that birth rate in our country has been declining for years now, establishing such a body with such name and with such convocation must not lead to denying women the right to have an abortion.

The government should put reproductive health of women high on its agenda and work on awareness raising among children and young people by educating them on prevention and family planning issues, which is also a task for healthcare institutions within the existing counseling units in community centers throughout Serbia.

Warning to the public issued following misogynic and sexist statements in "Afera" weekly magazine, 8 December 2016

Following sexist and misogynic statements and views expressed by Dušan Marić, author of a column published in "Afera" weekly magazine on 7 December 2016, the Commissioner for the Protection of Equality issued a warning to the public.

The aforementioned column is not only insulting and degrading to women, it also downplays and trivializes the issue of violence. Claiming that women file "malicious and false" violence reports, an impermissible message is being sent out to the public at a time when year in year out the number of gender based violence cases with tragic outcome is on the rise. For this reason the Commissioner stressed that all stakeholders in public and political life must be held to a high standards of accountability for every word they utter in the public domain

and demonstrate the highest level of responsibility so as to decrease and prevent all forms of domestic and intimate partner violence.

Warning to the public on the occasion of the International Day for the Elimination of Violence against Women, 25 November 2016

On the occasion of the International Day for the Elimination of Violence against Women, Commissioner for the Protection of Equality Brankica Janković warned the public about an increasing number of gender based violence incidents with tragic outcome – murder. The Commissioner expressed hope that recently adopted Law on Preventing Domestic Violence would be enforced consistently and that it would provide effective victim protection mechanisms. The Commissioner also warned that the media must demonstrate the highest level of responsibility by adhering to Serbia Journalist Code of Conduct when reporting on domestic and intimate partner violence, especially to the provisions that impose protection of privacy and identity, forbid misuse of interviewee's ignorance related to consequences of publishing private data, but also to respect and protect rights and dignity of victims and their families.

Warning issued to the public following recent cases of murder in intimate partner violence, 10 March 2016

Violence against women is one of the most serious problems in our society. Combatting violence against women must be energetic and unambiguous and must imply a consensus of the whole society which must be two-pronged: efficient protection which would prevent tragic outcomes and uprooting patriarchal value system in which women must keep silent and endure hardship if they wish to stay alive, warned the Commissioner for the Protection of Equality all competent services and government authorities, following the murder of two women who were killed in intimate partner violence which occurred between 9 and 10 March 2016. These tragic events are an occasion for all relevant services and competent government authorities to take urgent measures and strengthen anti-violence protection system.

Statement to the public on the occasion of the International Women's Day, 7 March 2016

Brankica Janković, Commissioner for the Protection of Equality wished a happy International Women's Day to all women citizens of Serbia and stressed that on this day we should be reminded of all economic, scientific and other achievements of women but at the same time we should keep in mind that elsewhere in the world women are still struggling for basic human rights. In Serbia in certain areas, significant strides forward have been made, and increasing number of women are involved in public and political life. However, women find it harder to secure

employment, work in less paid jobs more frequently, the society does not value adequately the household related chores and work they perform. Expectant and new mothers, women with disabilities, older women and women from rural areas are particularly vulnerable.

Statement to the public regarding inappropriate statements targeting women politicians and women in general, 22 February 2016

Following inappropriate statements targeting women politicians which are present in the public domain, in particular those statement made by certain public figures, the Commissioner has stressed, within her legal capacities and scope of authority, that each and every person, regardless of the form and manner of communication used, has an obligation to abide by the Serbian Constitution and laws that are effective for all citizens of the Republic of Serbia. The Commissioner further said in the statement to the public that much remains to be done in terms of building a tolerant and fair society that would cease to view women only through prevailing stereotypes, traditional gender roles and through lenses of their sex, but would also perceive them through their professional achievements, individual personal capacities and knowledge, and not as a result of desire to have heavy media and public life presence.

3.6.3. Discrimination on the grounds of age

Elderly persons belong to one of the most frequently discriminated groups in Serbia, one reason for this are negative perceptions, stereotypes and prejudice that prevail against this group. Deeply rooted stereotypes about the elderly include notions that they are not productive, that they tend to be on the receiving end of assistance and support, and that for the most part they are a burden to others.

The last 2011 census data¹²⁴ show that 17,25% of population of Serbia is 65 and plus years old. 2011 – 2041 projection results indicate that in the next thirty years the population of the Republic of Serbia will continue to age. The share of young people is low with a tendency of further decline, while the share of older people is high and is on the rise.

2016 “Citizens’ perception of discrimination in Serbia” survey findings indicate that respondents perceive seniors and women as being less discriminated against when compared to the results of earlier Commissioner’s surveys. Perception of discrimination prevalence was surveyed by asking citizens to grade the level of discrimination of different groups on a scale from 1 to 5 and they were given a list

¹²⁴ 2011 Republic of Serbia Population, Household and Condominium Census – Age and gender, data by settlements, available at: <http://pod2.stat.gov.rs/ObjavljenePublikacije/Popis2011/Starost%20i%20pol-Age%20and%20sex.pdf>

of different groups of citizens to review. Women (3,2) and seniors (3,1) constitute the third group in the descending order.

In addition to discrimination of the elderly, discrimination of children is still widely spread in Serbia. Particularly vulnerable categories of children include those with disabilities living in residential institutions, especially children with intellectual impairments, Roma children and children without parents who are most frequently discriminated against in the area of education.

Despite continuous efforts, challenges in exercising equal opportunities right to education and its accessibility for all children without discrimination or any kind of exclusion, remain. Roma children continue to be victims of prejudice and different forms of discrimination, including segregation (for example, schools with majority of Roma students – the so called “Roma schools” and overrepresentation of Roma children in schools for children with developmental impairments), as one of the most severe forms of violation of the child’s right to education. The Commissioner for the Protection of Equality has detected this problem and developed publication *Preventing segregation, developing inclusive enrolment policies and desegregating schools and classrooms (international experience and proposals for improving practice in Serbia)*. Children with developmental impairments are frequently excluded from education or are sent to special education schools. Numerous prejudices about their abilities, as well as frequent practice of limiting children with developmental impairments to activities that are solely intended for them, including cross-sector problems, are all conducive to strengthening their sense of isolation, marginalization and disadvantaged social position. Children with developmental impairments attending regular schools face multiple difficulties ranging from physical inaccessibility of schools to inadequately trained teaching staff.

As for complaint procedures of the Commissioner for the Protection of Equality, in 2016 the number of complaints alleging discrimination on the grounds of age increased in comparison to the number of complaints filed on account of discrimination on the same grounds during last year. A total of 75 complaints were filed claiming discrimination on the grounds of age, which constitutes 11.8% of the overall number of filed complaints. Statistical data indicate that age is the third grounds of discrimination judging by the number of filed complaints in 2016.

The practice of the Commissioner shows that in most cases complainants were private persons (60), out of which 27 were women and 33 were men, while civil society organizations ranked second (11). Received complaints analysis indicates that the largest number of complaints was filed against discrimination of children and persons between the age of 18 and 65, followed by persons over 65 years of age.

The largest number of complaints was filed in the area of labor and employment (23) which constitutes 10.1% of the overall number of filed complaints in

this area. A considerable number of complaints on these grounds was filed in the area of education (20) which is 30.8% of the total number of filed complaints in this area, followed by complaints filed against discrimination in the area pertaining to procedures before public authorities (12) which amounts to 9.2% of filed complaints in this area. These areas are followed by the area of service extension and/or utilization of public areas and facilities (5) as well as the area of education and area of healthcare protection (4).

It should be underlined that in 2016 the Commissioner for the Protection of Equality has issued recommendations to healthcare institutions in the Republic of Serbia containing measures aimed at eliminating discrimination on the grounds of age in the process of granting residency to doctors. In addition, the Commissioner for the Protection of Equality has issued recommendations to residential institutions for adults and seniors in the Republic of Serbia to avoid, while extending their services, basing their decisions about and treatment of beneficiaries on stereotypes and prejudice related to the abilities and capacities of older persons to make decisions related to their life, in particular taking into consideration their age and health status.

3.6.3.1. Opinions and recommendations

Age as a criterion for granting residency to doctors

This opinion was issued following a complaint procedure initiated against a hospital on account of a competition for awarding residency to doctors. The complaint stated that the hospital had posted an internal competition for awarding residency to doctors and that the selection of candidates was done in line with the Rulebook on Professional Development of Staff Members and Rulebook Amending the Rulebook on Professional Development of Staff Members of this hospital.

In the course of the complaint procedure it was established that the Rulebook on Professional Development of Staff Members defines the necessary criteria for awarding residency to doctors, namely: grade point average, marks in specific subjects or areas of medicine, duration of university studies, years of service and professional history at the hospital. In addition, it was established that the Rulebook Amending the Rulebook on Professional Development of Staff Members substituted criterion “professional history in the institution” with criterion “age”. The analysis of prescribed criteria indicate that age is the only criterion which is unrelated to applicant’s professional capacities and it was found that, relative to rating on points, persons over 36 years of age are obviously at a disadvantage when compared to younger applicants. The Commissioner for the Protection of Equality was of the opinion that imposing age related criterion for applicants was not justified, as years of life are not a real and decisive condition for being

awarded a residency, taking into consideration both the nature and particular circumstances under which residency is acquired as well as conditions under which it is performed.

The Commissioner for the Protection of Equality issued an opinion stating that by imposing age related criterion in the application procedure of this hospital, the female complainant and all other applicants over 36 years of age have been discriminated against on the grounds of their personal characteristic – age. For this reason recommendation was given to the hospital to remove age criterion from its Amendments to the Rulebook on Professional Development of Staff Members, to post the Commissioner's opinion on its bulletin board available for everyone to see, and to refrain from violating provisions of the Law on the Prohibition of Discrimination when defining criteria for professional development in the future. Acting upon this complaint is currently under way.

3.6.3.2. Recommendations containing measures for achieving equality

Recommendation containing measures for achieving equality issued to residential institutions for adults and seniors

In the course of the complaint procedure, the Commissioner for the Protection of Equality has learnt that certain beneficiaries of privately established and operated residential institutions for adults and seniors, have been put in those institutions against their own free will and have not signed a contract on residential services with the institution's management despite the fact that they have not been stripped of their legal capacity, but rather that their family members (mainly children) have signed this contract with institution's management. For example, acting upon a complaint filed by a civil society organization, the Commissioner for the Protection of Equality sought explanation on this matter from a residential institution for adults and seniors. What transpired from institution's declaration was that the female beneficiary had been put in the institution in keeping with the contract signed between her son and institution's management which was against her will. In addition, the declaration stated that: "...the beneficiary has expressed her desire to leave the institution [...] However, she is incapable of living independently which is supported by doctor's report."

The Commissioner for the Protection of Equality issued a recommendation to residential institutions for adults and seniors in the Republic of Serbia to refrain from basing their decisions when deciding on and extending residential care services to their beneficiaries, on stereotypes and prejudice pertaining to the abilities and capacities of older persons to make decisions related to their life, in particular taking into consideration their age and health status. The recommendation further

states that treatment based on prejudice that seniors are incapacitated, that they are unable to care for themselves and are incapable of living independently leads to violations of fundamental human rights of older persons, namely freedom of movement, participation and independent decision making about their life. Seniors are exposed to discriminatory views which allege that they are incapacitated, unable to give back to the society and to take rational decisions. Seniors who are of frail physical and mental health are at an even greater risk of discrimination. In extreme cases, this leads to older persons being held in residential institutions without their consent and against their free will, denying them a possibility to make decisions about their life. Residential institutions for adults and seniors are extremely important service providers in the social welfare system in terms of extending support and assistance to individuals and families, in particular bearing in mind our society's current demographic structure.

The Commissioner for the Protection of Equality stressed that all service providers in the social welfare system have an obligation to fully comply with international and national anti-discrimination regulations, both in the process of taking up new residents but also during their stay in residential institutions. Residential service providers are under obligation to provide residential services to their beneficiaries without discrimination and in keeping with principles enshrined in the Law on Social Welfare Protection.

3.6.3.3. Statement to the public

Statement to the public on the occasion of the World Elder Abuse Awareness Day, 14 June 2016

Many people in our society labor under a false impression that the elderly are unproductive, that they are passive recipients of support and assistance and that they are a burden to the people around them. Such perception results in older people being a group of citizens most frequently exposed to discrimination. Combatting discrimination and abuse of older people, which are often-times interrelated, implies creating and projecting a positive image of senescence, exhibiting exemplary conduct toward older persons, awareness raising on their enormous contribution to the society and role that they had played and still play today, said the Commissioner for the Protection of Equality, Brankica Janković in a statement to the public on the occasion of the World Elder Abuse Awareness Day. According to survey findings administered by the Commissioner for the Protection of Equality in cooperation with the Red Cross of Serbia, approximately 20% of older people were exposed to some kind of abuse or neglect, which in addition to physical, sexual or psychological abuse can be of financial nature which is unfortunately widely spread in our country. In order to address cases of violence against older persons in a more efficient and effective way, in addition

to a better coordination of competent services, free-of-charge legal aid and social welfare assistance should be provided to victims of violence and abuse. There is also a need to amend laws governing legal protection against violence, primarily the Family Law and Criminal Code, as well as to define a separate criminal act of neglect and abuse of older persons, said the Commissioner.

3.6.4. Discrimination on the grounds of national affiliation

Republic of Serbia has a good legislative and institutional framework for the protection of rights of national minorities. However, according to international and national organizations survey results as well as on the basis of information resulting from acting upon complaints filed with the Commissioner, it would be safe to say that in some areas of social life certain level of ethnic distance towards members of national minorities persists.

“Citizens’ perception of discrimination in Serbia” public opinion survey results indicate that 23% of respondents when asked about a group most exposed to discrimination in Serbia said that members of Roma national minority are the first group that springs to mind.¹²⁵ These findings speak volumes of the position of the Roma national minority in our society, which is also confirmed by the number of complaints filed with the Commissioner on account of discrimination on the grounds of affiliation with the Roma national minority. More than 40% of the overall number of complaints filed with the Commissioner for the Protection of Equality on account of discrimination on the grounds of national affiliation and ethnic origin refer to the discrimination of Roma.

Ethnic distance is still most pronounced towards citizens belonging to Albanian national minority. Hence, according to the 2016 survey administered by the Commissioner, a total of 45% of respondents did not wish to have a person of Albanian ethnicity as their family member. 2013 survey findings state that a larger share of respondents were of this opinion, namely 57% of respondents, which is indicative of a shrinking ethnic distance. Ethnic and social distance towards Albanians is most prominent in South and East Serbia, while in Vojvodina it is least present. There is a very close correlation between the size of a town and social distance, namely inhabitants of smaller towns (between 5,000 and 25,000 inhabitants) exhibit a considerably higher degree of social distance towards this community than inhabitants of larger towns. When speaking about a high level of social interaction such as marriage, in addition to Albanians, citizens feel considerable social distance towards Roma (33%), Bosnians/Muslims (26%)

¹²⁵ Public opinion survey “Citizens’ perception of discrimination in Serbia”, available at: <https://drive.google.com/file/d/0B1QaDisvv7K3c19yTVd3ZlZuQ0U/view>

and Croats (23%). Survey results indicate that 26% of respondents would not like to see Albanians as their neighbors, 16% Roma, 10% Croats and 9% would not want Bosnians/Muslims as their neighbors. As many as 23% of respondents did not want Albanians as their co-workers. This percentage is slightly lower when it comes to Roma (9%), Croats (9%) and Bosnians/Muslims (7%).

A total of 60 complaints alleging discrimination on the grounds of national affiliation and ethnic origin were filed with the Commissioner for the Protection of Equality, which constitutes 9.4% of the overall number of complaints filed in 2016. These grounds of discrimination ranks fourth by the number of complaints after grounds of discrimination such as disability, gender and age. When compared to previous years, there was a tangible drop in the number of complaints filed alleging discrimination on the grounds of national affiliation and ethnic origin. During 2015, these grounds of discrimination ranked second by the number of filed complaints which constituted 18.4% of the overall number of filed complaints. In 2014 this grounds of discrimination ranked first among all grounds of discrimination.

The largest number of complaints was filed claiming discrimination of Roma (23) which is 38.3% of all complaints filed alleging discrimination on the grounds of national affiliation and ethnic origin. The number of complaints claiming discrimination on the grounds of affiliation to other national minorities is significantly lower – Croatian (7), Albanian (6), Romanian (4), Vlach (4), Hungarian (3), Bosnian (2), Greek (1), Macedonian (1), Slovak (1) and other (8).

The majority of filed complaints alleging discrimination on these grounds pertain to the area of labor and employment (22). A total of 14 complaints alleging discrimination on the grounds of national affiliation were filed in the area which pertains to procedures before public authorities. With respect to the area of service provision, in 2016 a total of 6 complaints were filed on account of discrimination on the grounds of national affiliation, while in the area of public information and media, 5 such complaints were filed. The largest number of complaints alleging discrimination on the grounds of national affiliation in the area of media and public information were related to the affiliation with the Roma national minority. In the course of two complaints procedures, discrimination in the area of media and public information on the grounds of national affiliation with the Roma national minority has been ascertained and recommendations were issued not to broadcast reports which offend the dignity of members of this national minority, but rather to broadcast such content which would strive to alter patterns, mores and practices which breed stereotypes, prejudice and discrimination towards members of this national minority. Particularly worrisome was the practice of revealing national affiliation of suspects in situations when their national affiliation is in no way related to the committed crime nor was this kind of information conducive to a better understanding of events. Such practice puts members of that particular

national minority in the spotlight (mostly Roma), they are being labeled as persons with the propensity for committing crimes which ultimately results in further entrenching negative stereotypes and discriminatory practices.

The largest number of complaints alleging discrimination on the grounds of national affiliation and ethnic origin were filed by private persons (38), out of which 23 were filed by men and 15 were filed by women. Different organizations have filed 15 complaints claiming discrimination on these grounds, while legal persons have filed 6 complaints and a group of persons has filed one such complaint.

Similarly to previous years, the largest number of complaints alleging discrimination on the grounds of national affiliation was filed due to discrimination of members of Roma national minority. Such data is consistent with 2016 “Citizens’ perception of discrimination in Serbia”¹²⁶ survey findings. According to survey findings, a whopping 39% of respondents thought that Roma are a social group which is exposed to discrimination the most. Discrimination in the area of employment or labor is a social field in which complaints are most frequently filed, followed by procedures before public authorities.

3.6.4.1. Opinions and recommendations

A television show host’s “sense of humor” helped spread negative stereotypes about Roma men and women and offended their dignity

The complaint was filed following statements made by a host of two television shows broadcasted on 20 and 23 November 2015. The complaint stated that during a television show broadcasted on 20 November 2015, the host had said: “Minister Zorana Mihajlović said that education was the key for solving problems that Roma face. Let me tell you, Roma are not interested in the key, all they care about are manhole covers!” This was followed by an apology to the Roma community in a television show broadcasted on 23 November 2015 when the host said: “... I was misinformed about Roma stealing manhole covers and those little lids on lampposts and cables, those copper ones ... so I extend my heartfelt apologies ...”

In its declaration, the television company stated that these were sitcoms, meant for entertainment and represented the so called Stand-up comedy shows, it also said that neither the television company nor the author had any intention of publicly instigating hatred and discrimination on any grounds.

In the course of the complaint procedure, it was ascertained that with his statement made during the television show broadcasted on 20 November 2015, the television host made references to the members of Roma national minority

¹²⁶ Available at: <https://drive.google.com/file/d/0B1QaDisvv7K3c19yTVd3Z1ZuQ0U/view>

to the effect that they did not need education, as they tend to earn their livelihood by engaging in criminal activities. As for the host's so called "apology" made during the television show broadcasted on 23 November 2015, it has been ascertained that the host did not actually offer his apologies to the members of the Roma national minority, but has instead demonstrated a complete lack of understanding of how serious spreading prejudice is and utter disregard of consequences such statements have on the lives of people who have already been socially marginalized.

The Commissioner for the Protection of Equality has issued an opinion stating that by saying that Roma did not need education, only manhole covers and by extending his so called "apology" on account of the controversial statement, the host has violated the dignity of the members of Roma national minority which constitutes a violation of the Law on the Prohibition of Discrimination. For this reason, recommendations were issued to the television show host and the First Serbian Television against whom the complaint had been filed, to offer a public apology during their next show to all members of Roma national minority, to refrain from broadcasting content which is insulting to members of Roma national minority and to broadcast such television content which would be conducive to effectuating changes in patterns, mores and practices which breed stereotypes, prejudice and discrimination against members of this national minority. The recommendation has not been acted upon.

Employee of Roma national affiliation and Muslim confession working for a public utility company has not been discriminated against

The complaint was filed on behalf of an employee working for a public utility company, reason being the fact that since 2009 employment contract has not been signed with him, and that he was employed on the basis of a contract which does not fall within the realm of employment contracts. According to him the reason for not signing an employment contract with him from the time he had been hired up to the point when the complaint was filed, lies with the fact that he is a member of Roma national minority and is of Muslim religion.

In its declaration, the public utility company states that an employment contract has not indeed been signed with the complainant, however, this decision was directly linked with the rightsizing process in this company. The company further stated that the complainant was not the only employee in such status and that in 2014 a total of 60 persons were hired on short term contracts, while in 2015, 82 persons were working under such contracts. In addition, the declaration further states that since the time he had been hired to work as an auto mechanic, only one person has been hired as a full time employee and that person had previously worked for the company for a longer period of time and with better performance record which is the only full time employment eligibility criterion.

In their concurrent written statements witnesses claim that they have no knowledge of the complainant being treated differently from other workers who were in the same or similar situation. Everything aforementioned leads to the conclusion that the declaration of the public utility company is neither contrary to the witnesses' accounts, nor to regulations governing the rightsizing process in public enterprises, which were effective during the time period relevant for deciding on rights of the complainant resulting from employment.

As there was no evidence that would contest statements made by the public utility company in its declaration related to reasons as to why an employment contract had not been signed with the complainant, it would not be safe to assume that in this particular case the reason for not signing the employment contract with this person lay with the national affiliation and religion of the complainant. Bearing this in mind, the Commissioner was of the opinion that in the present case the Commissioner failed to confirm that this person had not been hired on full time basis due to his national affiliation and/or religion.

3.6.4.2. Statements to the public

*Statement to the public on the occasion of International Romani Day,
8 April 2016*

On the occasion of the International Romani Day, the Commissioner for the Protection of Equality voiced her concern over the fact that the majority of national affiliation based discrimination complaints pertained to the Roma national minority, namely almost fifty percent – which is alarming as these grim figures tend to persist, year in year out. In particular, the attitude of representatives of certain public institutions towards Roma men and women gives cause for serious concern, stressed the Commissioner adding that complaints are frequently launched against those very entities whose support the Roma national minority should be able to count on. This is the reason why the attitude of the society needs to change and why it is necessary for the government to respond and take a string of adequate measures so as to ensure equal and dignified life for the Roma national minority. International Romani Day must not remain purely symbolic in its nature, but it should be an opportunity to underline once again the bleak social and economic position of this national minority.

*Statement to the public on the occasion of the International Holocaust
Remembrance Day, 27 January 2016*

This day must serve as a reminder to everyone of how dangerous discrimination can be and what catastrophic consequences it can have. Accepting differences, protecting equality and fostering tolerance are steps that pave the way

for a civilized society and such steps must be taken so as to prevent all kinds of discrimination and hatred against other people and those who are different. Education and education system play a pivotal role in this process, thus they should keep the memory of the holocaust victims alive and clearly condemn any kind of racism and anti-Semitism, said the Commissioner for the Protection of Equality on the occasion of the International Holocaust Remembrance Day.

3.6.5. Discrimination on the grounds of health status

Treating people differently on account of their physical and mental health status still persists. Expert analysis of the current healthcare system in the area of psychiatry in Serbia showed that the system is inadequate, that it is based on outdated parameters and is therefore unable to respond to the needs of patients and communities. Such state of affairs inevitably degrades the capacities of individuals and their families, but of the society as a whole. Obsolete mental health protection models are already being abandoned by developing countries in order to adopt mental health protection models that have already been developed by countries which are economically and institutionally more advanced. The new mental health protection model promoted by the World Health Organization, institutions of the European Union and relevant expert and professional organizations, targets patients' needs and includes their psycho-social rehabilitation. The review of the functioning of the new mental health protection system in developed countries and the analysis of capacities of the Serbian healthcare system, indicate that there is no reason for postponing a systematic and efficient reform process of psychiatry in our country. The final outcome of this reform would be better care for the mentally ill, respect and protection of their rights, as well as providing assistance to families affected by mental illness which would all result in a better and more humane society as a whole.¹²⁷

Due to severe forms of neglect, discrimination, invisibility and resulting consequences of such practices, patients with rare diseases need to be singled out from the rest of the population in terms of treatment, they need to be given more attention in almost all spheres of life, their needs and challenges should be catered to, all necessary and efficient measures should be undertaken aimed at protecting their life, health, dignity and social security, as well as overall equality with other groups of patients. Current measures, practices and approaches do not suffice, hence conditions need to be created in order to prevent discrimination of this extremely vulnerable group.¹²⁸

127 Manual for establishing and developing mental health protection centers in communities, Jović B. et al., Helsinki Committee for Human Rights in Serbia, Belgrade 2016. Available at: <http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2016/03/Prirucnik-za-uspostavljanje-i-razvoj-centara-za-zastitu-mentalnog-zdravlja-u-zajednici.pdf>

128 Idem, page 139

Strategy for the Prevention of and Protection against Discrimination states that in previous decades, discrimination of persons on the grounds of their health status was exacerbated by the HIV epidemic which brought to light many sensitive issues related to balancing the need for efficient disease fighting measures and public health protection on the one hand and an equally important need to respect human rights.¹²⁹ In addition, most recent survey administered by the Commissioner for the Protection of Equality indicates that citizens of Serbia still feel considerable social distance towards persons living with HIV. For example, 61% of respondent said they were against them or their descendants being married to a person living with HIV/AIDS.¹³⁰

Practice of the Commissioner for the Protection of Equality shows that persons living with HIV still experience difficulties in accessing healthcare protection in Serbia. In 2016 a situational test was administered in 64 healthcare institutions within Human Rights *Monitoring of Persons Living with HIV in the Republic of Serbia* project implemented by the Serbian Orthodox Church Charity Foundation “Čovekoljublje” and Center for Society Orientation. This project activity was implemented by “Čovekoljublje” with the help of members of 8 PLHIV associations (AID+, AS, Žena+ and USOP from Belgrade, Nova+ from Pančevo, Crvena linija from Novi Sad, Sunce from Niš and STAV+ from Subotica) so as to see in real life situations whether employees working in healthcare institutions really do adhere to the rules which prohibit discrimination when extending healthcare services to persons living with HIV/AIDS.

In addition, when compared to previous years, in 2016 a larger number of complaints in the area of healthcare protection has been filed with the Commissioner for the Protection of Equality. Some complaints alleged discrimination on one or multiple grounds (gender, age, health status, etc.) which will be elaborated on in more detail in the next section of this abbreviated version of the Regular Annual Report.

In 2016 a total of 55 complaints were filed claiming discrimination on the grounds of health status which constitutes 8.6% of the overall number of received complaints and ranks fifth in terms of the number of complaints. When compared to 2015, the number of complaints alleging discrimination on these particular grounds is larger which is undoubtedly the result of 2016 situational testing. Namely, following the aforementioned situational testing, a civil society organization filed five complaints with the Commissioner for the Protection of Equal-

129 “Official Gazette of the Republic of Serbia”, No. 60/30

130 According to the criterion which refers to exposure to discrimination of different groups as perceived by citizens, persons living with HIV belong to a group of persons most discriminated against after Roma, members of LGBT population, and persons with intellectual difficulties and mental impairments who belong to the first group. Survey is available at: <https://drive.google.com/file/d/0B1QaDisvv7K3c19yTVd3ZlZuQ0U/view>

ity on account of healthcare institutions refusing to extend medical services to persons living with HIV. Discrimination has been ascertained in four cases and opinions containing recommendations were issued to these institutions to refrain from refusing to extend healthcare services to persons living with HIV and to adhere to anti-discrimination regulations in their everyday work and activities. These recommendations have been complied with. In one case the complaint procedure was suspended as the complainant had failed to establish a probable link between personal characteristic (health status) of the volunteer discrimination tester and treatment by the healthcare institution. This situational testing included 64 institutions and five complaints were filed, unlike previous years when situational testing included 300 dental offices and when 64 complaints were filed with the Commissioner, out of which in 63 cases opinions were passed confirming that discrimination had been committed. When comparing the scope of 2016 situational testing with those done in previous years regarding same grounds of discrimination with an aim of detecting level of discrimination of persons living with HIV in the process of extending healthcare services to such persons, it would be safe to say that certain progress has been made, which is inconsistent with the Commissioner's public opinion survey "Citizens' perception of discrimination in Serbia" results. Namely, according to this survey and a general overview of results indicate that the greatest social distance exists towards LGBT persons and persons living with HIV. Regarding people living with HIV, there is an increase in the social distance in all measurement segments of relationships, in particular in the segment related to marriage and family, with 85% of respondents reporting social distance.

Out of 55 filed complaints alleging discrimination on the grounds of health status, majority of them were filed in the area of healthcare protection (19), in procedures before public authorities (13), followed by complaints claiming discrimination in the area of labor and employment (10) and in the area of education and professional development (4).

In addition, in 2016 a larger number of complaints (31 complaints) were filed with the Commissioner for the Protection of Equality in the area of healthcare protection as compared to previous years, which ranks this area fifth by the area of discrimination. Some of the complaints were filed on one or several grounds of discrimination (gender, age, health status, disability, etc.). With reference to this, when a person is discriminated against on several grounds of discrimination this leads to multiple discrimination which is a severe form of discrimination as its negative effects are much more serious. In the process of acting upon complaints, it transpired that health status as one of the grounds of discrimination most frequently occurs within multiple discrimination, in particular in combination with grounds of discrimination such as age, disability or gender, and even together with other grounds of discrimination.

Thus, for example in 2016 the Commissioner for the Protection of Equality filed criminal charges on account of discrimination on the grounds of health status and national affiliation. This case will be elaborated on in more detail in *Court Proceedings* section of this abridged version of the Regular Annual Report.

In 2016 the Commissioner for the Protection of Equality issued a recommendation containing measures for achieving equality to the Ministry of Education, Science and Technological Development regarding scholarship eligibility criterion which mandate candidates to submit a clean bill of health. The Ministry has failed to act upon this recommendation.

3.6.5.1. Opinions and recommendations

Healthcare institutions had refused to extend healthcare services to persons living with HIV

A human rights protection organization implemented situational testing in the area of healthcare protection and services accessibility. The testing was done over the phone and included 12 public and 42 private clinics in 4 cities throughout the Republic of Serbia, with an aim of ascertaining whether anti-discrimination rules were adhered to while extending healthcare services.

Bearing in mind the fact that these complaints were filed as a result of situational testing of discrimination, there is a need to further elaborate on the essence of situational testing of discrimination as well as on regulations regulating this kind of testing. The Law on the Prohibition of Discrimination introduced the institute of a volunteer discrimination tester into the legal system of the Republic of Serbia. This is a person who has consciously exposed himself/herself to discriminatory treatment with an aim of ascertaining whether in that particular case, rules on the prohibition of discrimination were being adhered to. In view of the fact that proving discrimination in the court of law and in other proceedings by customary means often yields unsatisfactory results, the Law has provided for a special method of voluntary testing of discriminatory treatment (situational testing), which facilitates the process of proving alleged discrimination. Situational testing is used for the purpose of ascertaining discriminatory treatment “on the spot”, so as to prove unequal (less favorable) treatment of persons or group of persons which is based on a personal characteristic i.e. so as to expose discriminatory practices. This method/mechanism enables detection of discrimination which is often “covert” and is justified by offering different excuses. Situational testing is a special mechanism which allows for the creation of specific situations in which a person (potential discriminator) is put in a position enabling him/her to behave towards or treat another person in a discriminatory fashion without the fear of being watched, while a tester exposes himself/herself to the treatment of a

potential discriminator and tests whether that person is behaving in a discriminatory manner in that particular situation. Situational testing has great capacity to support evidence of discriminatory treatment in individual cases and is used for public awareness raising and public policy development.

In all these cases based on which complaints were filed against healthcare institutions, a tester would first call a healthcare institution, schedule a medical service, and only then would the tester inform healthcare institution staff member on his/her HIV status. After being informed about tester's HIV status, the tester would be denied already scheduled medical service with an excuse citing lack of conditions for the provision of such service.

These tests revealed that the tester was treated unequally on the ground of his/her health status so the Commissioner for the Protection of Equality issued an opinion stating that healthcare institutions have committed an act of direct discrimination as they had refused to extend medical service to a person living with HIV without a viable reason. For this reason, healthcare institutions were issued a recommendation to refrain in the future from denying medical services to people living with HIV, to extend necessary information to such persons so that they can make an informed decision on whether to go ahead with the proposed treatment or not, namely to give to such persons information that includes a short description, purpose and benefits of the proposed treatment, duration and possible side effects of deciding to go ahead or not with the treatment, types and probability of potential risks, pain level and other temporary or permanent consequences of such treatment or lack thereof, alternative treatment options, possible changes in patient's condition following the proposed medical treatment and to adhere to anti-discrimination regulations in the future when performing work and activities within their scope of competence. These recommendations have been acted upon.

3.6.5.2. Recommendations containing measures for achieving equality

Recommendation to the Ministry of Education, Science and Technological Development containing measures to align the text of the Public call for awarding scholarships with anti-discrimination regulations

The Public call for awarding 2016/2017 academic year scholarships posted on the official website of the Ministry of Education, Science and Technological Development contained precise conditions for awarding scholarships. Item 2 posed the following condition: "The applicant must provide a clean bill of health obtained within last six months attesting that the applicant does not suffer from any contagious diseases (including HIV test results)".

The Commissioner for the Protection of Equality underlined that the conditions for awarding scholarships which require that the applicant provide a clean bill of health attesting that the applicant does not suffer from any contagious disease, including HIV test results, constitute a violation of anti-discrimination regulations. Persons living with HIV are thus discriminated against on the basis of their personal characteristic – health status in the area of education, an area which is fundamental to the life of each individual and to every society. Adequate implementation of effective regulations both in the area of healthcare and in the area of education protects population's safety and health, but also the dignity and integrity of persons living with HIV. Anything other than that, such as denying persons living with HIV the right to education, academic development and inclusion in all life aspects, finds support neither in effective legislation nor in medical research findings. On the contrary, such treatment upholds stereotypes and prejudice which further exacerbate the position of this already extremely vulnerable group.

For this reason the Ministry of Education, Science and Technological Development was issued a recommendation containing measures for achieving equality. The recommendation to the Ministry of Education, Science and Technological Development indicates states that the Ministry should take all necessary measures to align the text of the Public call for awarding 2016/2017 academic year scholarships with anti-discrimination regulations by omitting the contentious eligibility criterion and by eliminating resulting effects of such criterion. This recommendation has not been acted upon.

3.6.5.3. Statements to the public

Statement to the public on the occasion of the World AIDS Day, 1 December 2016

On the occasion of the World AIDS Day, the Commissioner for Protection of Equality Brankica Janković underlined that in most cases, persons living with HIV and AIDS are stigmatized in their everyday life and that they face discrimination in all aspects of life, from education and employment to health and social welfare protection. Misunderstanding and ignorance related to HIV, as well as refusing personal contact with people suffering from HIV, force them to hide their health condition, while the fear of discrimination and rejection by their surrounding leads to their self-isolation. All available results of public opinion polls reveal that there is significant social distance towards this marginalized group and that majority of citizens do not wish to be friends or co-workers with persons living with HIV or AIDS. In addition, due to prejudice, some healthcare workers discriminate persons living with HIV when they seek medical help which is very worrisome and that is

why education of healthcare employees is very much needed. Healthcare protection and medical assistance must be offered to all people, without discrimination and under same conditions.

These facts tell us that it is necessary to inform and educate the widest public in order to diminish stigmatization of and intolerance against persons living with HIV, because ignorance is at the very root of discriminatory behavior in most cases, concluded Commissioner Janković.

3.6.6. Discrimination on the grounds of sexual orientation

Respondents of the previously mentioned public opinion survey “Citizens’ perception of discrimination in Serbia” stated that LGBT persons are the most discriminated against group of population (12%) following closely behind Roma national minority. Such perception of citizens correlates closely with findings of measuring social distance which is also most pronounced towards LGBT persons. The perception of discrimination prevalence was surveyed in such a manner that citizens were asked to pick a number on a scale from 1 to 5 thus grading to which extent certain groups are discriminated. Members of LGBT population scored an average of 3.4, which ranked them second.

Greater social distance towards certain social groups is an indicator of low level of social communication and interaction and poses potential danger of discrimination against members of those groups. One fourth (27%) of respondents do not want LGBT persons for their co-workers, one third (34%) do not wish to be friends with them, one half (47%) would not want to see an LGBT person as an educator working with their children, while 63% of respondents would not want to see themselves or their children married to an LGBT person.

However, when it comes to informing citizens about discrimination the picture is slightly different. According to survey findings, citizens think that an overwhelming portion of media coverage is reserved for reporting on equality of LGBT persons as opposed to other vulnerable social groups.

Particular attention should be attached to the fact that on 23 November 2016 the National Assembly of the Republic of Serbia adopted the Law Amending the Criminal Code which altered certain provisions by defining violation of equality as a criminal act (Article 128) if a person, due to his/her sexual orientation or gender identity is prevented or limited in exercising his/her rights as a person and as a citizen. With reference to this, the Commissioner for the Protection of Equality noted that a step towards protecting LGBT population has been made, that further efforts need to be exerted in that direction and that members of the LGBT population need to be encouraged to report instances of discrimination to competent authorities and institutions.

Although recommendations of the Council of Europe which pertain to the adoption of regulations enabling registration of same sex marriages and governing the effects, legal consequences and termination of thus registered partnerships have not been adhered to, at a joint session of the European Union Integration Committee and the Committee for Human and Minority Rights and Gender Equality, have passed a Conclusion calling, inter alia, on the National Assembly to adopt the Declaration against Homophobia and competent authorities to adopt the National Strategy against Violence.¹³¹

In addition, adequate legal solutions protecting rights of transgender persons and enabling quick change of personal identification documents have not been designed and adopted, something the Commissioner for the Protection of Equality had mentioned in its previous reports. Although transgender persons face a myriad of problems from earliest phases of their life, administrative and bureaucratic procedures are the ones which they report as the most severe barriers in exercising their rights. Up to date chaotic and inconsistent practices associated with this issue were exhausting for transgender persons, denying them the right to work, either directly or indirectly, due to the sheer length of procedures and due to inadequate treatment they were subjected to by employees working in competent state administration bodies.¹³²

Out of the total number of complaints filed in the course of 2016, 26 of them were filed on account of discrimination on the grounds of sexual orientation. Bearing in mind that the number of complaints in 2015 alleging discrimination on this particular grounds totaled 31 as well as the fact that findings of various surveys implemented by government institutions and civil society organizations indicate that members of LGBT population are either the most vulnerable group or among the most vulnerable groups, it would be safe to say that cases of discrimination on the grounds of sexual orientation are majorly underreported. Fear of stigmatization and victimization as well as lack of trust in the operation of government institutions is widespread among the LGBT population. This is the reason why there is a need to take empowerment measures which would help them report cases of discrimination.

The majority of complaints on the grounds of sexual orientation, in excess of 70%, were filed by civil society organizations. In the area of public information and media, out of the total number of filed complaints on all grounds of discrimination, 48.4% of all complaints pertain to alleged discrimination within

131 <http://www.parlament.gov.rs/upload/documents/activities/Zakljucak%20odbora%20za%20evropske%20integracije%20i%20za%20ljudska%20i%20amnjinska%20prava%20i%20ravnopravnost%20polova.pdf>

132 Commissioner for the Protection of Equality: <http://ravnopravnost.gov.rs/analiza-propisa-od-znacaja-za-pravni-polozaj-transpolnih-osoba/>

this particular area. This is followed by area of labor and employment, area of service provision or utilization of public areas and facilities.

The analysis of complaints content indicates that social distance and negative views of the public toward LGBT population persist, which requires measures geared towards overcoming prejudice, stereotypes and discriminatory views about sexual minorities in all areas, in particular in the area of information and media. The media must be cognizant at all times of their accountability for publishing texts and broadcasting news, as well as of their obligation to refrain from propounding discriminatory views under a cloak of freedom of speech against vulnerable groups, with members of LGBT population undoubtedly being one such group.

In 2016 Pride Parade and Trans Pride were held without any incidents, while issues of respecting rights of LGBT persons enjoy more public presence.

3.6.6.1. Opinions and recommendations

Discriminatory views of Municipality Assembly members about persons belonging to LGBT population

A human rights protection organization filed a complaint against Dragan Vilimonović, Trstenik Municipality Assembly member following a statement he made on 5 February 2016 during the session of the Municipality Assembly. On that occasion the Municipality Assembly member said the following: “Allow me to look up to high Heaven and beseech mercy, as I am privy to information that LGBT population was financed from the municipality budget. Fags. I do have to ask, who in their right mind in this room thought of allocating money from the municipality budget to fags.” The complaint further states that the Municipality Assembly member ignored warnings of the Chairman of the Municipality Assembly and went on to say: “Gentlemen, I use Serbian words and I speak in Serbian. So, I am not speaking in Turkish, English or German, but in Serbian; and hey dude, those that call themselves LGBT or what have you, are called fags in Serbian. So, if somebody wants to be a fag and wants to fund that, well, let him fund that out of his own pocket, not mine, and certainly not out of the pockets of citizens of this municipality. Who is crazy enough to do that, I do have to check and see whether that is true or not. And these guys are grateful. They are grateful to the municipality for the funds.” The Municipality Assembly member said in conclusion: “Gentlemen, if that is something you have really done, then we have a zoo here. Who, the hell, funds fags? Is it at all possible that budget money was allocated for such things? What discrimination are we talking about here?” According to the complaint, the Municipality Assembly member has thus insulted and discriminated LGBT population, while at the same time he has sent out a message that members of this population should be put in an unequal position with respect to their right to be included in the municipality budget financing.

In the course of the complaint procedure it has been ascertained that during Municipality Assembly session the aforementioned Assembly member has expressed multiple discriminatory views about members of LGBT population. For this reason, the Commissioner for the Protection of Equality issued an opinion stating that the statement referring to the LGBT population which was made by Dragan Vilimonović during Trstenik Municipality Assembly session held on 5 February 2016, constitutes a violation of provisions of the Law on the Prohibition of Discrimination. A recommendation was issued to Dragan Vilimonović stating that he should meet with representatives of an LGBT organization so as to learn more about the problems members of this community face as well as to refrain in the future from violating anti-discrimination regulations. This recommendation has not been acted upon.

Chairman of a political party insulted LGBT population in his statements to the media

The Commissioner for the Protection of Equality reviewed a complaint filed against Jedinstvena Srbija political party (United Serbia political party) following a statement given by its chairman Dragan Marković in an interview to *Afera* weekly magazine on 13 January 2016. The complaint was filed on account of discrimination on the grounds of sexual orientation as the chairman of this political party, when talking about LGBT population, had said, among other things, the following: *“What population are you talking about? Those are little groups of people who have turned their and other people’s health issues into a lucrative business venture. How can I give support to something that is contrary to nature ...”*

The Commissioner for the Protection of Equality has ascertained that expressing such views constitutes an act of discrimination as it offends the dignity of persons with same sex sexual orientation and fosters a degrading and insulting environment, breeds stereotypes and prejudices and reinforces stigmatization of and intolerance against this group of people. The Commissioner underlined that the fact that this statement was given by a public duty bearer whose constitutional and legal obligation is to adhere to anti-discrimination regulations and respect the equality of all citizens, gives this statement additional weight and significance.

For this reason, opinion was issued stating that Dragan Marković, chairman of Jedinstvena Srbija political party, had violated provisions of the Law on the Prohibition of Discrimination with his statement. He was given a recommendation to extend an apology to all members of the LGBT population by publishing it in one daily newspaper with national circulation, to refrain in the future from giving statements which are insulting to the dignity of LGBT population and which uphold stereotypes about persons of same-sex sexual orientation, and to attempt to increase tolerance towards this population as well as towards all other minority groups with his actions and treatment. This recommendation has not been acted upon.

3.6.6.2. Warnings and statements to the public

Statement to the public on the occasion of International Day against Homophobia, Transphobia and Biphobia, 17 May 2016

On the occasion of the International Day against Homophobia, Transphobia and Biphobia, Brankica Janković, the Commissioner for the Protection of Equality stressed that each and every form of discrimination, including sexual orientation and gender identity, is prohibited by the law and must not be tolerated. Despite the fact that so far two Pride and one Trans Pride Parades were held without incidents, that topics related to LGBT rights are gaining public presence and that progress has been made in improving the position of this segment of population, the fact also remains that our society still suffers from homophobia and transphobia. Commissioner Janković used this opportunity to call on all media outlets to report on transgender, transsexual and all other persons of different sexual orientation without resorting to sensationalism and discrimination, to protect their dignity and privacy and to refrain from using degrading qualifications and offensive language. Unfortunately, certain media outlets continue to foster such reporting, hence this is an opportunity to underline the importance of media's role in shaping views of the general public.

Warning following an assault against LGBT activist Boban Stojanović, 24 April 2016

Commissioner for the Protection of Equality strongly condemned the assault against Boban Stojanović, an LGBT activist and called on all competent authorities to apprehend and punish the assailants. Commissioner Janković said that every type of violence, threat and hate speech against members of any minority or vulnerable group, including LGBT population, must be sanctioned adequately so that persons of different sexual orientation can live without fearing for their safety.

Warning following homophobic reporting, 18 April 2016

Commissioner for the Protection of Equality condemned insulting and belittling articles against LGBT persons which are being published in certain printed media outlets, as well as unacceptable sensationalistic reporting on violence against women. The Commissioner stresses that when reporting on violence against any social group, the rights and dignity of victims of crimes and their family members must be protected at all times.

World Health Organization struck homosexuality off the list of diseases way back in 1990 hence, newspaper articles attributing the transmission of HIV virus to homosexuals are demeaning to and violate the dignity of LGBT population. At

the same time, such perceptions are hurting persons living with HIV whose lives are additionally being made difficult by sensationalistic reporting and misinformation on the transmission of this virus. Journalists, editors and owners of media outlets were called upon to adhere to the Serbia Journalist Code of Conduct which clearly indicates that journalism is incompatible with spreading stereotypes and discrimination of any kind.

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

Reports of government institutions and civil society organizations indicate that Serbia still faces migrant crisis, but that certain progress has been made with respect to ensuring better living conditions for these people. Bearing in mind the number of refugees, migrants and asylum seekers who transited through Serbia in 2016 or who are still here and in view of the fact that the Law on the Prohibition of Discrimination makes no explicit reference to this personal characteristic, in this section of the abridged version of the Regular Annual Report a separate overview of the situation is given regarding this grounds of discrimination, although judging by the number of complaints it was not among top five grounds of discrimination.

2016 European Commission Serbia EU Accession Progress Report indicates that Serbia still faces refugee and migrant crisis, which has led to an overload in the asylum and migration system. However, although Serbia faces increased mixed migration flows and a large number of detained migrants, it has managed to continue cooperating with neighboring countries and member states, to establish an effective refugee and migrant registration system and is exerting considerable efforts towards providing accommodation and humanitarian aid with the help of international and EU support.

Keeping in mind that circumstances under which refugee/migration occurs have detrimental effects on the security and wellbeing of children and that Serbia as a country on the “Balkan route” encounters a significant increase of refugee/migrant influx, there is a need, for the purpose of protecting the interests of most vulnerable refugee/migrant children, to develop a document which would govern the procedures applied by all relevant stakeholders in organizing the protection of and support to children. As a result of strategic cooperation between the Ministry of Labor, Employment, Veteran and Social Affairs, UNICEF and IDEAS organization, *Standard Operational Procedures for the Protection of Refugee/Migrant Children (SOP)*¹³³ have been created and they constitute the basis for a coordinated

¹³³ Available at: <http://ideje.rs/wp-content/uploads/2016/09/Standardne-operativne-procedure-za-zastitu-dece-izbeglica-i-migranata.pdf>

action of all stakeholders involved in extending support and identifying particularly vulnerable children refugees/migrants.

According to ‘*Citizens’ perception of discrimination in Serbia*’ public opinion survey¹³⁴, migrants rank fourth (2.7) and refugees rank fifth (2.5) in terms of exposure to discrimination. Bearing in mind that the number of asylum seekers in our country has increased, survey shows a slight increase in social distance in certain areas, while in other areas social distance is decreasing. Hence, three years ago 20% of respondents would not have accepted migrants as citizens of Serbia, while now 31% of respondents are of this opinion. Likewise, there is an increase in those who would not want to see migrants as their neighbors (from 23% up to 30%), and a mild increase in those who would not wish to have migrants as their co-workers (from 20% up to 23%). On the other hand, findings note a decline in social distance in some other areas although social distance is still high. Thus, the number of those who would be against having migrants as their family members has decreased (from 50% down to 38%), as well as of those who would be against migrants in management positions in the government (from 47% down to 41%).

In 2016 two complaints alleging discrimination of migrants were filed with the Commissioner for the Protection of Equality in the area of public information and media and public service provision. With respect to internally displaced persons, a total of six complaints were filed pertaining to the area of employment and labor relations and to the area of procedures before public authorities.

Similar to the previous year, during 2016 complaints on behalf of migrants were filed by civil society organizations. As a result of their difficult position, language barrier and previous traumatic experiences from the country of origin and from other countries through which these persons had transited on their way to Serbia, private persons who think they had suffered discrimination, tend not to apply with government institutions hoping for anti-discrimination protection. As for internally displaced persons, civil society organizations were the ones that filed complaints on their behalf, but also private persons who thought that they have been discriminated against on the grounds of their personal characteristic.

Towards the end of 2016, situational testing was performed with respect to a public enterprise so as to verify information on alleged discrimination against migrant population in the area of public service provision. As a result of situational testing, a complaint was filed with the Commissioner for the Protection of Equality. The complaint procedure is currently under way.

134 Survey is available at: <https://drive.google.com/file/d/0B1QaDisvv7K3c19yTVd3Z1ZuQ0U/view>

3.6.7.1. Opinions and recommendation

Request to asylum seekers and other refugees to fulfill additional conditions in order to be provided with banking services

This complaint filed by a civil society organization stated that when extending MoneyGram money transfer services to asylum seekers and other migrant persons, a bank required them to meet conditions which it does not require other foreign citizens to fulfill, refusing to extend money transfer services to such persons if they did not comply thus putting them in an unequal position compared to other non-residents. By shifting the burden of proof in this case, the Commissioner for the Protection of Equality came to a conclusion and issued an opinion stating that by denying MoneyGram money transfer service this bank has violated the provisions of the Law on the Prohibition of Discrimination. Ergo, the Commissioner issued a recommendation to the Bank instructing them to extend their services to all clients under same conditions, and that in case of suspicious transactions they should be guided by relevant facts pertaining to each individual case separately without making negative generalized assumptions regarding certain nationalities. The recommendation also stated that the bank should inform all bank employees about the content of the Commissioner's opinion and recommendations within a period of 15 days following its issuance and to refrain from violating antidiscrimination regulations in the future when performing its regular activities and operations. This recommendation has been complied with.

3.6.7.2. Statement to the public

Statement to the public on the occasion of the International Day for the Elimination of Racial Discrimination, 21 March 2016

The Commissioner for the Protection of Equality said that marking the International Day for the Elimination of Racial Discrimination on 21 March this year has particular significance primarily because of the migrant crisis which is a serious challenge modern society faces today. The Commissioner for the Protection of Equality received quite a few complaints pertaining to discrimination against refugees and migrants and they were mainly related to media reporting which was seen as promoting prejudice and instigating intolerance. Although freedom of speech is a guaranteed right, the Commissioner said that such freedom does not imply the liberty to violate other person's dignity. The Commissioner stressed the significance of treating people who have fled their homes from war affected areas with tolerance and kindness, adding that the Serbian society is a good example of how human rights of refugees and migrants are being respected.

This year too, the Commissioner for the Protection of Equality received a large number of complaints related to the discrimination of the Roma national minority in different segments of life, ranging from healthcare protection to housing. UNHCR survey results give cause for concern as they indicate that internally displaced Roma are in the most disadvantaged position when compared to all other vulnerable groups in Serbia, even in comparison to the native Roma population. Because of inherent dangers that racism and xenophobia present, it is necessary to stay alert at all times and keep in mind that eradicating such tendencies is a lengthy process while tolerance and accepting differences is something that is taught from an early age. Building a tolerant and modern society with strong institutions is of paramount importance, while each and every isolated and individual act of racism must be strongly condemned by all relevant stakeholders as well as by general public in Serbia.

3.6.8. Discrimination on the grounds of other personal characteristics

In addition to personal characteristics which have been individually presented in this abridged version of the Regular Annual Report, in 2016 a total of 52 complaints were filed on account of discrimination on the grounds of marital and family status, 49 complaints on the grounds of membership in political, trade union and other organizations and 36 complaints alleging discrimination on the grounds of financial status. A total of 29 complaints were filed claiming discrimination on the grounds of religious beliefs and political convictions, 18 on the grounds of previous criminal record, 10 on the grounds of citizenship and 9 on the grounds of ancestors. In the course of 2016 the Commissioner for the Protection of Equality received 6 complaints alleging discrimination on the grounds of gender identity, 5 on the grounds of appearance, 4 on the grounds of language, 3 on the grounds of genetic characteristic and 2 complaints alleging discrimination on the grounds of race and birth.

In addition, 31 complaints alleging discrimination on the grounds of a personal characteristic not explicitly defined by the Law on the Prohibition of Discrimination were also received. This group includes complaints alleging discrimination on the grounds such as residence, affiliation with groups such as asylum seekers/persons who have been granted asylum status, migrants, and refugees.

3.6.8.1. Opinions and recommendations

Candidate's place of residence as an eligibility criterion for Republic of Serbia Ministry of Internal Affairs Police Training Center enrolment

Discrimination complaint was filed against the Ministry of Internal Affairs of the Republic of Serbia on account of discriminatory eligibility criteria for enrolment in basic police training program with the Police Training Center. The Ministry of Internal Affairs had announced a public call for enrolment of candidates into the aforementioned basic police training program setting a minimum one year residency status eligibility criterion with a particular police administration unit for candidates wishing to apply for that police administration unit. The complaint was filed by a person who had applied but failed to meet the prescribed residency criterion as defined by the Rulebook on Basic Police Training Candidate Selection Criteria. The complainant alleged that by setting such criterion, the Ministry of Internal Affairs had perpetrated an act of discrimination against potential applicants on the grounds of residency status.

In the course of the complaint procedure it has been ascertained that residency criterion was not a decisive factor for the selection of best candidates to attend basic police training program and that the measure was not proportional to the desired objective i.e. that the desired objective would have been achieved by another equally effective measure. The Commissioner for the Protection of Equality issued an opinion stating that by applying provision of Article 3, paragraph 1 item 2 of the Rulebook on Basic Police Training Candidate Selection Criteria which stipulated that a candidate applying for basic police training program must have resided for a minimum of one year prior to the basic police training program public call closing date on the territory of the police administration organizational unit the candidate was applying for, the Ministry of Internal Affairs had put the complainant in an unequal position on the grounds of his place of residence and has recommended to the Ministry of Internal Affairs to eliminate consequences of discriminatory treatment within 30 days from receiving Commissioner's recommendation containing measures for achieving equality, to harmonize provisions of Article 3, paragraph 1 item 2 of the Rulebook on Basic Police Training Candidate Selection Criteria with anti-discrimination regulations and to refrain in the future from violating anti-discrimination regulations when performing activities within its scope of authority. This recommendation has been complied with.

Republic of Serbia citizenship as an eligibility criterion for funding in-vitro fertilization

The opinion was issued following a complaint procedure against a local self-government unit on account of discrimination on the grounds of personal

characteristic – family member. In her complaint the complainant stated that she had applied for funds allocated by this local self-government unit for funding in-vitro fertilization. However, her application was rejected as she is married to a Greek citizen.

In the course of the complaint procedure it has been ascertained that the complainant, a Republic of Serbia citizen with registered domicile status on the territory of the local self-government unit against which the complaint has been filed, had applied for funds made available by this local self-government unit for funding in-vitro fertilization, together with her husband who is a Greek citizen who had been granted residency permit on the territory of the Republic of Serbia, on the territory of this particular self-government unit, for family reunification purposes. The municipality had rejected her application stating that her husband was not a Serbian citizen this being one of funds allocation eligibility criteria.

The Commissioner for the Protection of Equality issued an opinion that the local self-government unit had perpetrated an act of discrimination against the complainant on the grounds of personal characteristic of her family member. For this reason and pursuant to this opinion, the Commissioner for the Protection of Equality issued a recommendation to the local self-government unit to take all necessary measures as soon as possible so as to eliminate consequences of discriminatory treatment suffered by the complainant and enable her to become eligible for financial support for in-vitro fertilization, and to refrain in the future from violating anti-discrimination regulation when performing work and activities within its scope of authority. This recommendation has been complied with.

Imposing special obligations for using public utility company services

A complaint was filed with the Commissioner for the Protection of Equality against public utility company – Belgrade Transit Commission, on account of discrimination on the grounds of marital and family status. The complainant stated that on 5 August 2016, she boarded a bus operated by this company in Belgrade with her baby in a stroller. After she had boarded the bus, the bus driver approached her and told her that she needed to fold the stroller and take the baby in her arms, failing which he would not start the bus on its route. As she thought that such bus ride would be unsafe for both her and the baby and that the child was securely fastened in the stroller, the complainant declined to comply with the bus driver's request, following which she was forced to leave the bus as the driver had refused to start the vehicle.

In the course of the complaint procedure it has been ascertained that public utility company – Belgrade Transit Commission had put the complainant in an unequal position by imposing on her special conditions for utilizing services of this company which are neither necessary nor justified by reasons of passenger safety

as this objective could have been achieved by other means, thus, this company has breached the provisions of the Law on the Prohibition of Discrimination. For this reason, the Commissioner for the Protection of Equality issued a recommendation to the company to take all necessary measures aimed at ensuring free and safe access to its services to persons with children using strollers, to inform its public transit operators on the Commissioner's opinion containing recommendations, to refrain in the future from violating anti-discrimination regulations while providing public transit services, and to offer an apology to the complainant, either in person or in writing, for discriminatory treatment she had been exposed to. This recommendation has been complied with.

3.6.8.2. Statement to the public

Statement to the public following an attack against the House of Human Rights, 22 January 2016

The Commissioner for the Protection of Equality strongly condemned an attack against the House of Human Rights committed at its premises located in Belgrade downtown area. The Commissioner called on competent authorities to investigate circumstances under which the House of Human Rights premises were thrashed. The House of Human Rights is a hub for many important non-governmental organizations in Serbia which are our partners working together with the Commissioner for the Protection of Equality towards promoting, protecting and respecting human rights of all persons living in our country with an aim of building a functional, democratic, more equal and tolerant society, said the Commissioner following this act of vandalism.

3.6.9. Multiple discrimination

Multiple or intersecting discrimination implies discrimination of a person on the grounds of two or more personal characteristics.¹³⁵ Due to particularly grave consequences that this kind of discrimination causes, it has been defined by law as a severe form of discrimination.

In the course of 2016, a significant number of complaints were filed with the Commissioner for the Protection of Equality claiming discrimination on multiple grounds. This speaks volumes of increasing level of public awareness about the fact that in some situations discrimination is based on several grounds. Out of 102 complaints citing several personal characteristics, most of them state

¹³⁵ For example, an elderly woman can be discriminated against on the grounds of gender, age and disability.

age, followed by gender, disability, marital and family status, health status, membership in political, trade union and other organizations and financial status as grounds of discrimination.

The sheer number of complaints does not mean that multiple discrimination had in fact occurred in all cases, as complainants sometimes list several personal characteristics particularly in situations when they are unsure as to which personal characteristic had been the ground of discrimination.

3.6.9.1. Opinions and recommendations

City Council member had insulted the Mayor on account of her personal characteristics – gender and age

The complaint was filed on behalf and with the consent of Dr Jasna Avramović, Mayor of Smederevo, on account of a statement by Perica Đorđević, Smederevo City Councilor, made during the City Council session held on 24 December 2015. The complaint stated that on that particular occasion the City Councilor had said: *“A good thing would be to have A.P. as our Mayor, a young and honorable man, instead of a pompous and hysterical old cow”*.

In the course of the complaints procedure, it has been ascertained that during Smederevo City Council session, city councilor Perica Đorđević said among other things: *“(…) This is simply unbelievable. Coming from whom? From the Mayor. Wait, there is more. All the time I held back, not wishing to be obscene and to respond in an insulting manner as she had done, insulting us. This time around I will not refrain and I will say it loud and clear. She keeps repeating the name of A.P. who is running for Mayor and wishes to be Mayor, which in itself is a legitimate pursuit. (...) Well, it would be better to have an honest, honorable, young man than a hysterical, pompous old cow.”*

The Commissioner for the Protection of Equality is of the opinion that by using *“hysterical, pompous old cow”* the City Councilor had offended and depreciated the Mayor on the grounds of her personal characteristics – gender and age. Namely, by resorting to such vocabulary City Councilor had expressed his view of the Mayor through stereotypes and traditional gender roles, through the lenses of gender and age according to which a woman can be referred to, regardless of her professional and career achievements, as *“an old cow”* or as *“being hysterical”* if her work and statements collide with another person's values. The Commissioner underlined that such statements give power to sexism, reinforce gender stereotypes and foster prejudice against women in public and political life, which is impermissible and is an insult to and violation of human dignity of women. On the other hand, by saying that it would be preferable to have a young man

as a Mayor instead of “*a (...) old cow*”, the City Councilor actually expressed his view that people who are no longer young should not be appointed to important and managerial level functions, which constitutes stigmatization of older people. The Commissioner for the Protection of Equality indicates that it is unthinkable to link personal characteristics (such as gender and age) with person’s qualifications and abilities to take over any kind of public function and perform certain tasks and activities.

The Commissioner for the Protection of Equality issued an opinion stating that the statement made by City Councilor Perica Đorđević at the session of Smederevo City Council held on 24 December 2015 referring to Smederevo Mayor, constitutes violation of the Law on the Prohibition of Discrimination. A recommendation was issued to the City Councilor to apologize to the Mayor in writing within a period of 15 days from the day of delivery of this opinion containing recommendation and to refrain in the future from violating anti-discrimination regulations when performing work and activities within his scope of competence and authority. This recommendation has not been complied with.

Public job announcements and information on applicants’ personal characteristics

Electronic employment form posted on the website of a company was the reason for filing a complaint against that company. Namely, certain questions contained in the employment form pertained to sensitive data and personal characteristics of job applicants, for example: marital status, financial status and criminal record.

It has been ascertained that asking such questions in the employment form constitutes a violation of imperative anti-discrimination regulations and that personal characteristics of job applicants applying with this employer did not under any circumstances constitute a real and decisive condition for performing the job they were applying for, bearing in mind the nature and singularity of their business work and activities. It has also been ascertained that following its declaration submitted as a response to the complaint, the company has removed from its internet presentation the contentious employment form which was the subject of this complaint.

The Commissioner for the Protection of Equality issued an opinion stating that by posting the contentious electronic employment form on its website requiring personal characteristics data of job applicants, this company had perpetrated an act of discrimination in the area of labor and employment on the grounds of marital and family status, financial status and criminal record. As the electronic form contained slots asking for date and place of birth, the Commissioner for the Protection of Equality indicated that such information too did not constitute real and decisive condition for performing the job candidates were

applying for, bearing in mind the nature and singularity of their business work and activities, but that asking for such data *per se* in the electronic employment form is not explicitly prohibited by anti-discrimination regulations. Keeping in mind that in the course of the complaint procedure, aforementioned employment form was removed from the website of this company, the Commissioner for the Protection of Equality has issued a recommendation to the company to respect anti-discrimination regulations when advertising job positions and interviewing job applicants and to refrain from asking impermissible questions pertaining to candidates' personal characteristics which do not constitute a real and decisive condition for performing the job applicants are applying for. This recommendation has been complied with.

3.7. Motions to assess conformity with the Constitution

Motion to assess conformity with the Constitution of the Law on Salaries of Civil Servants and Other Employees in the Public Sector

A former local self-government public official filed a complaint with the Commissioner for the Protection of Equality stating that, by virtue of Article 56 of the Law on Salaries of Civil Servant and Other Employees in the Public Sector, she had been put in an unequal position in comparison to men who were public officials. Acting upon a complaint filed by the complainant, the Commissioner for the Protection of Equality has ascertained that the complainant's application for a three-month salary worth of transition-to-private-life compensation starting from the date her term of office ended, had been rejected, since she was 62 years old when her term of office expired thus "she was eligible for old age pension". Taking into consideration that this provision has discriminatory effect on a considerable number of women public officials, the Commissioner for the Protection of Equality launched a motion for assessing conformity with the Constitution.

Namely, Article 56 of the Law on Salaries of Civil Servants and Other Employees in the Public Sector stipulates that "until such law that would regulate salaries of officials is adopted, a person whose term of office with a Republic of Serbia Government, autonomous province or local self-government unit body to which he/she had been elected, designated or appointed had ended including those persons who, under special regulations, have the status of a public official, shall be entitled to a three-month salary worth of transition-to-private-life compensation starting from the date his/her term of office had ended, the amount of salary being the same as the salary on the day his/her term of office had ended. The right to the three month salary entitlement shall be terminated prior to the effluxion of three months if the former public official signs an employment contract or becomes eligible for retirement, but this entitlement can also be extended for additional

three months if the former public official becomes eligible for retirement during those three months.” The Commissioner for the Protection of Equality found that provisions of Article 56 of the Law on Salaries of Civil Servants and Other Employees in the Public Sector are not in accordance with provisions of the Constitution of the Republic of Serbia governing guaranteed human rights, conditions for exercising guaranteed human rights and conditions for limiting those rights, and that these provisions, contrary to anti-discrimination principle and provisions of the Constitution on conditions for limiting human and minority rights, limit social welfare protection rights of women of a certain age whose term of office with Republic of Serbia Government, autonomous province or local self-government unit body to which he/she had been elected, designated or appointed had ended including those persons who, under special regulations, have the status of a public official. Namely, provisions of Article 19a of the Law on Pension and Disability Insurance stipulates that women meet retirement eligibility criteria in terms of years of service and age earlier than men do, which gives them the right but imposes no obligation on them to retire. However, Article 56 of the Law on Salaries of Civil Servants and Other Employees stipulates that until such law that would regulate salaries of officials is adopted, a person whose term of office with a Republic of Serbia Government, autonomous province or local self-government unit body to which he/she had been elected, designated or appointed had ended including those persons who, under special regulations, have the status of a public official, shall be entitled to a three-month salary worth of transition-to-private-life compensation starting from the date his/her term of office had ended, the amount of salary being the same as the salary on the day his/her term of office had ended. The right to the three month salary entitlement shall be terminated prior to the effluxion of three months if the former public official signs an employment contract or becomes eligible for retirement, but this entitlement can also be extended for additional three months if the former public official becomes eligible for retirement during those three months. In reality, this means that women are denied the right to decide when they actually want to go into old-age retirement as defined by the Law on Pension and Disability Insurance, namely women former public official of certain age will not be entitled to salary compensation during three months after the date her term of office had expired unlike men of same age or older who have not yet become eligible for old-age retirement and who will be entitled to salary compensation following the termination of their function. For this reason the Commissioner for the Protection of Equality found that provision of Article 56 paragraph 2 of the Law on Salaries of Civil Servants and Other Employees in the Public Sector is contrary to the principle of prohibition of discrimination as defined by Article 21 of the Constitution as it affects only women, former functionaries, which constitutes discrimination of women. Bearing this in mind, the Commissioner for the Protection of Equality stresses that difference in treatment between men

and women former public officials cannot be objectively and reasonably substantiated. Namely, in view of the fact that the aim of the provision of Article 56 of the Law on Salaries of Civil Servants and Other Employees is to provide salary compensation to public officials during three months following the expiry of their term of office, in the course of which they are expected to find another source of income (through employment or retirement), it would be safe to say that the desired aim is legitimate. However, the Commissioner for the Protection of Equality indicates that in addition to this legitimate aim, the necessary means of achieving such aim must be appropriate and necessary and that there must be proportionality between the measure and the aim this measure is meant to achieve. In this particular case, it is obvious that there was no proportionality between the measure and the aim, as in real life situations this measure seems to put women former public officials in an unequal position on the grounds of their gender. Consequences for women former public officials aged between 62 and 65 years of age are such that they are denied the right to salary compensation during three months following the expiry of their term of office, while men of the same age are in no way affected by this legal provision. Hence, the Commissioner for the Protection of Equality found that such consequences are neither proportional nor appropriate for achieving the desired objective.

Constitutional Court found that provisions of Article 20 of the Law on the Manner of Determining the Maximum Number of Employees in the Public Sector are not in accordance with the Constitution of the Republic of Serbia

In 2015, due to a large number of complaints filed by citizens, trade unions, professional associations and civil society organization on account of a discriminatory provision of Article 20 of the Law on the Manner of Determining the Maximum Number of Employees in the Public Sector, the Commissioner for the Protection of Equality and the Protector of Citizens jointly filed a motion for the assessment of conformity with the Constitution of this particular provision of the law. Namely, provision of Article 20 of the Law on the Manner of Determining the Maximum Number of Employees in the Public Sector stipulates that “during the time the present law is in force, employment of an employee working in the public sector shall be terminated once he/she had met conditions pertaining to age and years of service criteria necessary for old-age pension”. In its motion for assessing conformity with the Constitution, the Commissioner for the Protection of Equality stated that provisions of Article 20 of the present law were not in accordance with the provisions of the Constitution of the Republic of Serbia governing guaranteed human rights, conditions for exercising guaranteed human rights, and circumstances under which such guaranteed rights can be limited and that these provisions, contrary to the principle of anti-discrimination and provisions of the Constitution governing circumstances under which human and minority rights can be limited, limit the right of women of certain age employed

in the “public sector” to work, their rights resulting from labor and employment, as well as their right to social welfare protection i.e. the right to social protection and insurance of an employee and her family. In a very short time following this motion, the Constitutional Court passed a decision stalling the effectuation of individual documents and acts undertaken in keeping with the provisions of Article 20 of the Law on the Manner of Determining the Maximum Number of Employees in the Public Sector until its final decision. The Constitutional Court said in its reasoning that such decision was taken so as to avoid the consequences which might transpire as a result of implementation of aforementioned provision.

Acting on this motion, the Constitutional Court passed a decision IY3 255/2015 on 30 June 2016 finding that provisions of Article 20 of the Law on the Manner of Determining the Maximum Number of Employees in the Public Sector were not in accordance with the Constitution of the Republic of Serbia. The Constitutional Court further elaborated its decision by saying that turning one legal right effective for women i.e. the right to old-age retirement under more favorable conditions, into a criterion for termination of employment constitutes a violation of anti-discrimination principle guaranteed by the Constitution which prohibits direct and indirect discrimination on the grounds of gender. In addition, the Constitutional Court reiterated that the Constitution guarantees equality of men and women and that the government guarantees the development of equal opportunities policy. Finally, the Constitutional Court found too that the contested provision is indirectly in collision with a provision of the Constitution guaranteeing accessibility of all job positions to everyone under same conditions.

3.8. Opinions on draft laws and other acts of general nature

Keeping in mind the importance new regulations have for the prevention of discrimination and promotion of equality, in 2016 the Commissioner for the Protection of Equality has intensified its work and activities with respect to giving its opinions on draft regulations (40 opinions were given). In addition, the Commissioner took part in public discussions on certain bills, either on its own accord or at the request of the sponsor.

The Commissioner for the Protection of Equality offered its opinion on following pieces of legislation: Draft Law Amending the Law on the Army of Serbia, Draft Law on the Anti-corruption Agency following a public discussion, Draft Law Amending the Law on the Manner of Determining the Maximum Number of Employees in the Public Sector, Draft Law Amending the Law on Fundamentals of the Education System, Draft Law on Financial Support to Families with Children, Draft Law Amending the Customs Law, Draft Law on Asylum and Temporary Protection, Draft Law on Housing and Maintenance of Condominium Buildings, Draft 2016 – 2025 Strategy for Social Inclusion of Roma in the Republic of Serbia,

Draft Decree on Codebook of Job Positions and Codebook of Titles and Job Positions in the Public Sector, Draft Decree on Implementing Internal and Public Advertisements for Job Positions in Bodies of the Autonomous Province and Local Self-government Units, Draft Decree on Criteria for Classification of Job Positions and Standards for the Description of Job Positions of Civil Servants Working in Autonomous Provinces and Local Self-government Units, Draft Conclusion on the Adoption of the Operational Plan of Activities Aimed at Establishing a Unified Public Register of Administrative Procedures and Other Operational Requirements, Instructions for Conducting Registration of Administrative Procedures and Form for Registration of Administrative Procedures Pertaining to Operational Activities, Action Plan for Exercising Rights of National Minorities, Draft Action Plan for Implementing Inclusive Education 2015 – 2020, Draft National Action Plan for Implementing 1325 United Nations Security Council Resolution – Women, Peace and Security in the Republic of Serbia (2016 – 2020) and Draft Action Plan for the Implementation of Strategy for Social Inclusion of Roma in the Republic of Serbia 2016 – 2025, for the period 2016 – 2018.

In its opinions on Draft Law on Unique Personal Identification Number of Citizens, Draft Law Amending the Law on Inland Waterways Navigation and Ports, Draft Law Amending the Law on Public Utilities Operation, Draft Law Amending the Law on Defense, Draft Law on the National DNA Registry, Draft Decree on Implementing Internal and Public Advertisements for Job Positions in Bodies of the Autonomous Province and Local Self-government Units, Draft Decree on Criteria for Classification of Job Positions and Standards for the Description of Job Positions of Other Employees Working in Autonomous Provinces and Local Self-government Units, Draft Decree on Criteria for Classification of Job Positions and Standards for the Description of Job Positions of Employees Working in Autonomous Provinces and Local Self-government Units and Draft Decree on Preemptive Measures for Safe and Healthy Work when Utilizing Sharp Objects Used as Medical Tools in Healthcare Services, the Commissioner stated that gender differentiated language should be used in these texts, either by using forms and words in masculine and feminine grammatical gender or by introducing a clause stating that all provisions of these legal documents pertain equally to men and women.

The Commissioner for the Protection of Equality, within the scope of its authority and competence issued opinions without any comments to the following texts: *Draft Law on Protecting Population against Contagious Diseases*, *Draft Law on Public Health*, *Draft Law on Transportation of Dangerous Goods*, *Draft Conclusion of the Government Accepting the Report of the Political Council on the Implementation of the National Action Plan for Implementing 1325 United Nations Security Council Resolution – Women, Peace and Security in the Republic of Serbia (2010 – 2015) in 2015* and *Draft Action Plan for the Implementation of the Republic of Serbia Defense Strategy accompanied by Draft Conclusion*.

In 2016 the Commissioner for the Protection of Equality issued its opinion on the *Draft Conclusion Adopting Proposal for Negotiating Position of the Republic of Serbia for Inter-governmental Conference on Accession of the Republic of Serbia to the European Union for Chapter 23 – Judiciary and Fundamental Rights* as well as on *Draft Conclusion Adopting Draft Action Plan for Negotiation Chapter 23 – Judiciary and Fundamental Rights within Pre-accession Negotiations between the Republic of Serbia and the European Union*.

At the request of public utility company – Belgrade Transit Commission from Belgrade, the Commissioner issued its opinion regarding Articles 46 and 77 of the Proposal of the Rulebook on Obligations of Employees Working in the Public Utility Company – Belgrade Transit Commission, on solutions contained in provisions of the abovementioned articles, which are relevant from the standpoint of anti-discrimination regulations.

At the request of the Institute for the Promotion of Education, in accordance with the provisions of Article 11 of the Law on Textbooks (“Official Gazette of the Republic of Serbia”, No. 68/15) and Article 4 paragraph 1 of the Rulebook on the manner and procedure for giving expert evaluation and expert opinion on the quality of textbooks, manuals and teaching materials, additional teaching tools, teaching assistive materials, didactical tools and didactical play-like tools (“Official Gazette of the Republic of Serbia”, No. 75/15), the Commissioner for the Protection of Equality issued an opinion citing possible discriminatory content in the supplementary publication to the textbook “World around us, supplementary publication to the textbook in Bosnian language for first grade of elementary school.”

In its letter dated 26 December 2016, the Office of the Deputy Prime Minister sent the Draft Law on Gender Equality asking the Commissioner for the Protection of Equality for its opinion on this document. The overview of this opinion will be given in the Commissioner’s 2017 Regular Annual Report.

In the abridged version of the 2016 Regular Annual Report of the Commissioner of the Commissioner for the Protection of Equality a detailed overview of two opinions on draft laws will be given. All opinions are available at the Commissioner’s official web site, while the majority of opinions are given in the 2016 Commissioner for the Protection of Equality Regular Annual Report.

Opinion on the Draft Law on the System of Salaries of Employees Working in the Public Sector

Acting upon requests of the Ministry of Public Administration and Local Self-government dated 23 December 2015, 20 January 2016 and 1 February 2016, three opinions were given on the Draft Law on the System of Salaries of Employees Working in the Public Sector. The first Draft Law envisaged that the Government

would use by-laws to determine the coefficient of pay grades, Catalogue of jobs positions i.e. titles in the public sector and methodology for applying criteria and standards for classification of job positions in the public sector. One of suggestions included the need to regulate these issues and provisions of the Draft Law by virtue of a law not an act enacted by the Government. With reference to the provision of the Draft Law which stipulates that the coefficient of pay grade, pay groups and years of employment with the employer (years of service) are valued through a coefficient of an employee as employee's contribution to the quality and success of performing tasks and activities associated with that particular job position, in such a way that 40 years of service spent working in a particular job position must result in an increase of a coefficient of pay grade to which the employee's job position has been classified, of at least 16%, it has been indicated that the definition of years of service is not clear i.e. the way proposed calculation of years of service is reflected on employee's salary, nor is the relation of this provision in relation to the provision of Article 108 of the Labor Law clear. It has been underlined that linking years of service to a particular job position is not justified, as this puts employees working in the public sector in a less favorable position in comparison to other employees.

With reference to the provisions of the Draft Law governing classification of job positions i.e. titles in pay groups and pay grades and criteria for valuation of jobs, which are classified into pay groups and pay grades according to the methodology defined by an act of the Government, following the opinion of the Socio-economic Council of the Republic of Serbia, a comment was given stating that it would be necessary to amend provisions of this Article so as to have civil servants working in independent government bodies classified by acts of those bodies. Some comments given by the Commissioner for the Protection of Equality were accepted in the second Draft Law on the System of Salaries of Employees Working in the Public Sector. However, the analysis of the new text of the Draft Law showed that some issues which are important for the system were regulated in a different manner but that certain singularities of independent bodies have not been taken into account hence, suggestions to that effect were made regarding concrete solutions that were proposed. The third text of the Draft Law states that being promoted while on the same job position represents achieved results and work performance which is above standard or what is expected for that particular job position, in accordance with the criteria for their evaluation based on objective and measurable criteria defined in keeping with the separate law, while criteria and standards must be defined in such a way as to expect that at least 50% of employees working with a particular employer are able to achieve standard or expected results of work and performance and that it can reasonably be expected that 15% of employees at the most are able to achieve results and attain work performance above average, out of which 5% at the most have performance and results that are considerably

above average. In addition, it is envisaged that the Law on Budget defines, out of the total amount of funds allocated for salaries, the share of funds allocated for promotion of employees working on the same job position. The Commissioner for the Protection of Equality indicated that the aforementioned provisions are not subject matter that should be regulated by this particular law, as this would result in the derogation of provisions of the Law on Civil Servants¹³⁶ pertaining to the promotion of civil servant and other employees. New criteria and standards for promotion are introduced instead of those prescribed by the Law on Civil Servants. In addition, this means that many employees who meet the necessary criteria for promotion with respect to their quality of work and performance will not be able to exercise this right to promotion due to the fact that the “number of successful ones” will be exceeded, thus they are put in a less favorable position in comparison to this group of persons.

Opinion on Draft Law Amending the Criminal Code

At the request of the Ministry of Justice, dated 6 September 2016, the Commissioner for the Protection of Equality issued its opinion on Draft Law Amending the Criminal Code. The Commissioner emphasized the importance of accepting the initiative of the Commissioner for the Protection of Equality aimed at amending Article 179 of the Criminal Code which defines criminal act of sexual assault against helpless person with the penalty for this criminal act being less severe than the penalty envisaged for the criminal act of rape as defined by Article 178 paragraph 1 of the present Code.

Regarding individual proposed solutions, the Commissioner stressed that by adopting the Law on Ratification of the Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence¹³⁷, Republic of Serbia has taken on obligations resulting from the aforementioned Convention. One of such obligations includes the duty to take necessary legislative or other measures aimed at criminalizing certain acts or conducts which constitute an act of violence against women and domestic violence. With reference to this, the Draft Law includes definitions of new criminal acts in the area of criminal acts against life and body (female genital mutilation), criminal acts against freedom of persons and citizens (stalking), criminal acts against sexual freedom (sexual harassment) and in the area of criminal acts against marriage and family (forced marriages). The Commissioner for the Protection of Equality pointed out the need to define the essence (basic form) of a criminal act as

136 “Official Gazette of the Republic of Serbia”, Nos. 79/05, 81/05, 64/07, 67/07, 11/08, 104/09 and 99/14

137 Law on Ratification of the Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence (“Official Gazette of the Republic of Serbia – International Treaties”, No. 12/13)

envisaged by Article 8 paragraph 1 of the Draft Law, in the same manner it has been defined by Article 38 a) of the Convention, so as to eliminate dilemmas as to how to apply stated criminalization in practice, i.e. what term “mutilation” implies for the purpose of this particular criminal act.

As for compatibility of the Draft Law with the Istanbul Convention, the Commissioner for the Protection of Equality in its opinion pointed to Article 9 of the Draft Law which defines a criminal act of stalking which is done by a person who “illegally and persistently stalks another person in a way that can tangibly jeopardize that person’s personal life”. Paragraph 2 defines persistent stalking, but has failed to define a situation which could be considered as “tangible endangerment of person’s life”. According to Article 34 of the Istanbul Convention stalking exists in a situation when it causes “a person to fear for his/her safety”. Bearing this in mind, the Commissioner stressed the need to define this term more precisely so as to eliminate all doubts when implementing legal provisions which criminalize stalking. In its earlier opinions on drafts of certain regulations (for example, Draft Law on Gender Equality), the Commissioner for the Protection of Equality has underlined the importance of defining stalking as a criminal act, hence the introduction of this criminal act in the Criminal Code is of paramount importance. For the purpose of harmonizing the Draft Law with the Istanbul Convention, the Commissioner has proposed in its opinion a new wording which would define this criminal act.

In addition, the Convention imposes an obligation on signatory states (Article 39b) to define forced operation aimed at or resulting in woman’s inability to naturally procreate, without her informed consent (consent must be obtained after a woman has been informed about the procedure itself, dangers associated with and consequences of sterilization) or without her fully comprehending the procedure, as a criminal act. Identical comment refers to forced marriage (Article 17 of the Draft Law) which has not been fully harmonized with the Istanbul Convention. Provisions of Article 37 of the Convention, impose an obligation on signatory states to criminalize the act of forcing an adult or child to marry as well as the act of luring an adult or child to a territory of a foreign country or a country which is not that adult’s or child’s country of residence, with an aim of forcing that adult or child to marry. The opinion states that if we were to exclude both factual and legal possibility of marriage to a person who is under 16 years of age (*eo ipso* forced marriage), what remains open is the question of the need to criminalize the act of luring a child (or a person who is under 14 years of age) or a minor to a territory of a foreign country or a country which is not the child’s country of residence with an aim of forcing that child to marry.

Proposed amendments to the Criminal Code did not include amendments to the criminal act of impermissible termination of pregnancy, although question

could arise with respect to this criminal act, as to whether it is harmonized with the Istanbul Convention, namely with Article 39 which imposes an obligation on signatory states to criminalize forced abortion. Hence, in its opinion the Commissioner pointed to the need, with respect to Article 120, paragraphs 1 and 3 of the Criminal Code, which defines a criminal act of illegal termination of pregnancy with or without pregnant woman's consent, to define more precisely, in the spirit of this Convention, the issue of pregnant woman's consent in such a way that this consent must imply that she is fully informed about the meaning, dangers and consequences of pregnancy termination, which would strengthen obligations resulting from the Law on the Procedure for Terminating Pregnancy in Healthcare Institutions¹³⁸.

In its opinion the Commissioner underscored increasing frequency of domestic violence incidents with very grave even fatal consequences. In addition, the Commissioner's practice as well as other relevant available data (coming both from the civil sector and government bodies) indicate that women, children, seniors and persons with disabilities are most frequently exposed to violence. For the purpose of preventing domestic violence and extending full criminal and legal protection to victims of violence, the Commissioner proposed for consideration the possibility to define the essence of criminal act from Article 194 paragraph 3 in such a way as to include those cases when an act, defined in paragraphs 1 and 2, has been committed against a helpless person, i.e. to have helplessness of the victim of violence defined as a qualifying circumstance. Bearing in mind the aforementioned, the opinion underlines that it would be effective to review the possibility of increasing prisons sentences for criminal act defined in Article 194 of the Criminal Code. Finally, the opinion points to the significance of introducing these criminal acts into the Criminal Code and harmonizing them with the Istanbul Convention, as each criminal act of gender based violence results in physical, sexual, psychological and economic injury to or suffering for women, including threats of such conduct. According to the General Recommendation No.19 of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) (1992) violence against women constitutes a form of discrimination in the sense of Article 1 of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and should be considered as a serious violation of human rights. Provisions of Article 1 of this Convention define discrimination against women as such that it includes gender based violence or violence directed against a woman just for being a woman or which affects women disproportionately. The opinion states that preemptive action as well as sanctioning such behavior is of crucial importance for the society.

138 "Official Gazette of the Republic of Serbia", Nos. 16/95 and 101/05 – other law

3.9. Court proceedings

In addition to the protection against discrimination achieved in the course of complaint procedure before the Commissioner for the Protection of Equality, there is also court protection against discrimination. Depending on the legal nature of violation resulting from an act of discrimination and the magnitude of its social impact, there are three types of protection against discrimination: civil legal protection, misdemeanor legal protection and criminal legal protection.

3.9.1. Litigations

Up to date, the Commissioner for the Protection of Equality has filed 13 lawsuits for the protection against discrimination, out of which seven lawsuits were filed on account of discrimination on the grounds of national affiliation with the Roma national minority, three were filed on account of discrimination on the grounds of gender, one lawsuit was filed on account of discrimination on the grounds of disability and two lawsuits were filed due to discrimination on multiple grounds. Out of 13 anti-discrimination lawsuits, seven lawsuits ended in favor of the Commissioner for the Protection of Equality where the court accepted Commissioner's claims in their entirety.

In two cases, the Commissioner for the Protection of Equality withdrew the lawsuit since in one case the respondent rescinded the contentious decision, while in the second case the respondent amended its rulebook which was the cause for lawsuit. One lawsuit was interrupted as the respondent has been struck off the Business Register. Two lawsuits ended with Commissioner's claims being rejected, while one lawsuit is still pending.

In 2016, the Commissioner for the Protection of Equality has not filed any anti-discrimination lawsuits. However, proceedings launched in 2012 by the Commissioner on account of discrimination of Roma children in a fast food restaurant are still pending.

In 2012 the Commissioner for the Protection of Equality filed a lawsuit against a fast food restaurant as the security guard did not allow Roma children to enter the restaurant with a woman wanting to buy them food. The court of first instance rejected the claim explaining that the Commissioner for the Protection of Equality did not have the consent of persons alleging that an act of direct discrimination had been perpetrated against them. Higher court in Smederevo rejected the Commissioner's appeal and confirmed the verdict of the first instance court. Deciding in the revision procedure of the Commissioner for the Protection of Equality in September 2014, the Supreme Court of Cassation

quashed the decision of the Higher Court in Smederevo and the decision of the First Basic Court in Belgrade, sending the case for retrial. The Supreme Court of Cassation found that the Commissioner for the Protection of Equality did not need a written consent in order to file a lawsuit in this particular case, in view of the fact that the lawsuit had been filed for the purpose of ascertaining discrimination against a group of persons, in this case Roma children. The Supreme Court of Cassation indicated that the Commissioner's lawsuit was not aimed at ascertaining an act of discrimination against a particular person, in which case the Commissioner would need a written consent to file a lawsuit, but its primary goal was ascertaining an act of discrimination against a group of persons. As previously mentioned, the Supreme Court of Cassation quashed the decision and returned the case to the Higher Court for retrial as it has subject matter jurisdiction over anti-discrimination lawsuits, in view of the fact that amendments to the Law on Organization of Courts ("Official Gazette of the Republic of Serbia", No. 116/08, 104/09, 101/10, 31/11 – other law, 78/11 – other law, 101/11, 101/13, 106/15, 40/15 – other law, 13/16 и 108/16) effective as of 1 January 2014, transferred subject matter jurisdiction in anti-discrimination lawsuits from basic courts to higher courts. However, by virtue of a decision dated 16 March 2015, the Higher Court in Belgrade declared itself as not having subject matter jurisdiction over this legal matter and decided to transfer the lawsuit related documentation after the decision has become final to the First Basic Court in Belgrade, as the court with subject matter and venue jurisdiction. In its decision, the Higher Court stated that pursuant to Article 23 paragraph 1 item 7 of the Law on Organization of Courts, its jurisdiction extends to lawsuits for the protection against discrimination and abuse in the work place and since this particular case was not related to work-place discrimination, adjudication in this case fell within the jurisdiction of a basic court. The First Basic Court caused the conflict of subject matter jurisdiction as it found that it was not competent to adjudicate in this legal matter and that subject matter jurisdiction laid with the Higher Court in Belgrade, hence it transferred the case to the Court of Appeal in Belgrade to decide on the conflict of subject matter jurisdiction. The decision of the Court of Appeal in Belgrade dated 1 July 2015 stated that the Higher Court in Belgrade was competent to adjudicate in this legal matter. Preparatory hearing in this case was held on 9 December 2015, three and a half years after the lawsuit had been filed. The main hearing was held in March 2016 and following two more hearings held in 2016, the case is still pending. The next session for the main hearing was scheduled for March 2017.

This case bears strategic significance for several reasons. The lawsuit was primarily filed with an aim to encourage and empower victims of discrimination to engage in anti-discrimination litigation and to raise public awareness about anti-discrimination issues and about the fact that discrimination is an illegal social phenomenon which can be adequately sanctioned. On the other

hand, strengthening case law is an important target, in much the same way as correct interpretation and implementation of anti-discrimination legislation norms. Thus, although the case is still pending, some important strategic goals have been achieved. The Supreme Court of Cassation found that the Commissioner for the Protection of Equality does not need consent when filing a lawsuit for ascertaining discrimination against a group of persons. On the other hand, all ambiguities with respect to subject matter jurisdiction have been eliminated, ergo when it comes to anti-discrimination lawsuits subject matter jurisdiction lies with the Higher Court.

In 2016 the Commissioner for the Protection of Equality filed criminal charges with the Office of the Prosecutor in three cases and misdemeanor charges in one case. In the following section an overview of one case in which criminal charges were filed and one case in which misdemeanor charges were filed, will be presented.

In addition, appeal of the Commissioner for the Protection of Equality against the decision of the misdemeanor court following a procedure lodged in 2014, has been upheld.

3.9.2. Criminal charges

Criminal charges were filed on account of discrimination on the grounds of health status and affiliation with the Roma national minority

Complainant filed a complaint with the Commissioner for the Protection of Equality stating that he was a member of Roma national minority and a person living with HIV. This fact is the reason his family members are being discriminated against by his fellow villagers with an aim of driving the whole family from the village and forcing them to relocate. The complainant stated in his complaint that his family members were frequently victims of physical assaults and that their safety was in jeopardy. Namely, the complainant stated that some villagers were known to go into their courtyard holding automatic weapons, throwing stones at their house and breaking windows, while on the night of 27-28 August 2016, a Molotov cocktail was lit and thrown into their courtyard. The complainant's family lives in constant fear for their life and is forced to find a way to move out of the village they currently live in and relocate elsewhere. The Commissioner for the Protection of Equality filed criminal charges due to reasonable doubt that unidentified perpetrators have committed a criminal act of instigating national, racial and religious hatred and intolerance as defined by Article 317 paragraph 2 of the Criminal Code.¹³⁹

¹³⁹ "Official Gazette of the Republic of Serbia", Nos. 85/05, 88/2005 – correction, 107/05 – correction, 72/09, 111/09, 121/12 and 104/13.

3.9.3. Misdemeanor proceedings

A motion to file misdemeanor charges on account of discrimination against LGBT population

Police administration of the City of Belgrade informed the Commissioner for the Protection of Equality that two persons, one of them a minor, had put up a banner at Trg Republike near monument honoring Prince Mihajlo Obrenović several days prior to the scheduled Pride Parade, sending a clear message to the LGBT population that they were not welcome and that they were sinners, which represents an instance of disturbing treatment that is insulting to the dignity of a group of persons on the grounds of their sexual orientation and at the same time generating fear, hostile and degrading environment. For this reason the Commissioner for the Protection of Equality filed a motion for filing misdemeanor charges against these persons on account of offence which is punishable by law pursuant to Article 56 paragraph 2 of the Law on the Prohibition of Discrimination.

Filing misdemeanor charges against an employer on account of discrimination against persons holding private university degrees

Acting upon complaints filed by citizens, the Commissioner for the Protection of Equality has learned that an employment site had posted a job advertisement containing discriminatory conditions for job applicants, namely the potential employer required candidates to be state established Law School graduates. For this reason, the Commissioner lodged an application for filing misdemeanor charges.

The Misdemeanor Court in Belgrade halted the procedure against the respondent, without deciding as to whether there had been a violation of Article 51 paragraph 1 of the Law on the Prohibition of Discrimination. The Commissioner for the Protection of Equality filed an appeal against such decision which the Misdemeanor Appeals Court upheld in its entirety, quashed the decision of the Misdemeanor Court in Belgrade and returned the case to the first instance court for retrial.

3.10. Other outcomes of proceedings

The Law on the Prohibition of Discrimination stipulates that the Commissioner for the Protection of Equality shall not act upon a complaint in following cases: when proceedings pertaining to the matter in question have been initiated before a court of law or an enforceable decision has been passed; when it is obvious that no violation of rights pointed to by the person having lodged the complaint has actually occurred; when steps concerning the same matter have already been taken by the Commissioner and no new evidence has been provided; when due

to the effluxion of time since the violation of rights in question, no useful purpose would be served by acting upon the complaint.

In 2016 the Commissioner for the Protection of Equality has not acted upon 68 complaints as it has no jurisdiction over those matters, while in 128 cases the Commissioner was unable to act as some complaints were incomplete and for other reasons which made it impossible to act upon a complaint. Complaints that were rejected on account of lack of jurisdiction pertain to the violation of rights which fall outside the Commissioner's scope of competence and are within the jurisdiction of other government bodies. In these cases, complainants were informed about reasons for rejection of their complaint and were given information about a government institution with jurisdiction over that particular matter. As for incomplete complaints, in most cases complainants failed to provide all the information necessary for acting upon a complaint or failed to provide proof i.e. failed to submit additional documents within the given deadline. Each complainant who had submitted an incomplete complaint was notified of the reasons as to why the complaint was incomplete as well as of the information the complainant needed to provide and/or what the complainant needed to submit with the complaint within a prescribed deadline of 15 days for amending his/her complaint. Should the complainant fail to amend the complaint within this period, the Commissioner for the Protection of Equality shall not act upon that complaint any further.

In 276 complaints it was obvious that no violation of rights alleged by the complainant had occurred, in 18 cases court proceedings have either been lodged or finalized regarding the same matter, in 4 cases the effluxion of time has rendered acting upon a complaint useless in serving a useful purpose, in 7 cases the complaint had been acted upon but no new evidence has surfaced in the meantime while in 13 cases complaints were withdrawn.

Irrespective of the fact that the Commissioner for the Protection of Equality had not acted in these cases, in terms of content these examples are important for understanding discrimination as a notion.

In this section of the abridged version of the Regular Annual Report three examples of complaints filed with the Commissioner will be presented. The Commissioner for the Protection of Equality has not acted upon them as it was obvious that no violation of rights alleged by the complainant had occurred or for other reasons envisaged by the law.

Indirect discrimination of internally displaced persons

The Commissioner for the Protection of Equality received multiple complaints against a local self-government unit following a Decision on Eligibility Criteria for

Reimbursement of Costs for In-vitro Fertilization. This Decision defines in more detail conditions, criteria, procedure and manner in which funds are reimbursed on account of in-vitro fertilization procedure. Article 3 paragraph 1 item 2 of the Decision stipulates that a couple shall be eligible for reimbursement of costs for in-vitro fertilization procedure “if they have had their place of domicile on the territory of the City of Kraljevo for at least three years prior to the submission of the application”. Complainants stated that such formulation of this provision discriminates against internally displaced persons who have their place of domicile in municipalities in Kosovo, but have their place of residence in this local self-government unit. Namely, due to the situation in Kosovo they have resided in this local self-government unit for a number of years (more than three years), which is the center of their private and business activities, but as they have the status of internally displaced persons, they have a registered place of residence, not place of domicile in this local self-government unit.

Complainants pointed to relevant provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms¹⁴⁰, 1951 Geneva Convention Relating to the Status of Refugees and United Nations Guiding Principles on Internal Displacement, stating that internally displaced persons equally enjoy same rights and freedoms according to international and national laws as all other individuals in their country.

In the course of the complaint procedure, the Chairman of the City Assembly notified the Commissioner for the Protection of Equality that the Decision on In-vitro Fertilization had been amended so as to include persons who have had their residence registered at the territory of the city for more than three years and who meet other criteria.

After the Decision has been amended the complainants withdrew their complaint and the complaint procedure was terminated.

Pursuing university studies at universities established by the Republic of Serbia as a precondition for awarding scholarships to Roma students by a local self-government unit

A civil servant of the City Administration dealing with social, financial, property and inspection activities sought the opinion of the Commissioner for the Protection of Equality regarding the Decision on Awarding Scholarships to Roma Students the local self-government was intending to put together. Namely, the civil servant was interested in whether pursuing university studies at universities established by the Republic of Serbia as a precondition for awarding scholarships

¹⁴⁰ “Official Gazette of the State Union of Serbia and Montenegro” – International Treaties“, No. 9/03

would be discriminatory, since the local self-government unit contemplated introducing this criterion bearing in mind the practice of the Ministry of Education when awarding scholarships and loans to high school and university students, as well as the established practice when awarding scholarships to talented pupils and students in Valjevo.

The Commissioner for the Protection of Equality indicated that local self-government units and the Republic of Serbia have completely different status in terms of implementing student education and financing policies, ergo their competences are not comparable. Namely, the Republic of Serbia, unlike local self-government units, is a founder of certain higher education institutions, hence the government is able to provide somewhat better education conditions to those students pursuing university studies at universities which were established by the Republic of Serbia. In another words, the fact that the government supports students who belong to marginalized groups pursuing education at universities that have been established by the Republic of Serbia is justified as the government is offering scholarships which provide for better studying conditions thus giving them support to achieve actual equality with the majority population. This in no way prejudices the rights of students studying at universities which were not established by the Republic of Serbia, as they are able to receive scholarships through other sources of funding, among which are local self-government units where those students have their registered place of domicile.

The letter sent by the civil servant working in that particular local self-government unit clearly indicates that the intention of the local self-government unit was to implement a special (affirmative) measure by awarding scholarships to members of Roma national minority, which would lead to an increase in the number of Roma men and women with higher education living on the territory of this city, which is, according the Commissioner's opinion, a very important step towards achieving full equality of this marginalized social group. Therefore, bearing in mind the objective of the city to award scholarships to Roma students and thus directly increase the number of Roma men and women with higher education, it remained unclear as to why would the local self-government unit impose a condition which would effectively lead to the exclusion of Roma students attending universities established by private entities.

Provisions of Article 14 of the Law on the Prohibition of Discrimination stipulates that special measures aimed at achieving full equality, protection and betterment of persons or groups of persons in an unequal position shall not be considered as discrimination. Furthermore, provisions of Article 4 of the Law on Higher Education¹⁴¹ defines principles of higher education, inter alia the principle

141 "Official Gazette of the Republic of Serbia", Nos. 76/05, 100/07 – authentic interpretation, 97/08, 44/10, 93/12, 89/13, 99/14, 45/15 – authentic interpretation and 68/15

of respecting human rights and civil liberties, including the prohibition of all forms of discrimination and principle of equality of higher education institutions regardless of the ownership structure i.e. irrespective of the fact who is their founder.

The Commissioner stated that by imposing a condition which makes only Roma students pursuing university studies at universities established by the Republic of Serbia eligible for scholarships, would put Roma students pursuing university studies at universities founded by private entities in an unequal position without any justification whatsoever. In both cases, clearly the persons in question are members of Roma community wishing to pursue higher education, hence the Commissioner indicated that the special (affirmative) measure aimed at awarding scholarships to Roma students is in no way related to the founder of the higher education institution Roma students are attending. Therefore, the analysis showed that imposing a condition which makes only Roma students pursuing university studies at universities established by the Republic of Serbia eligible for scholarships would be contrary to the provisions of the Law on the Prohibition of Discrimination and the Law on Higher Education.

Freedom of expression and its limits

A civil society organization filed a complaint against a well-known writer, journalist and anchor working for a national broadcaster on account of a statement she gave in an interview to a daily newspaper, saying among other things that she was against gay parade because her gay friends had told her that gay parade “*was nonsense*”. The complainant claimed that by saying “*I have nothing against homosexual couples, but in my mind’s eye those wanting to parade and those wanting to thrash them have the same tribal mindset*” and that “*in this country rights of single mothers, myself included, are very fragile and yet I would never go around parading with my child in my arms*”, she had committed an act of discrimination on the grounds of sexual orientation and that it was extremely dangerous to draw parallels between organizers and participants of Pride Parade on the one hand and those resorting to violence against this vulnerable group on the other hand.

Bearing in mind relevant international and national regulations prohibiting discrimination and guaranteeing freedom of opinion and expression, the conclusion was that it would not be safe to assume that the freedom of speech actually exists if we expect that everything anybody else says must be in line with our personal values. The essence of the freedom of speech is to have an opinion, to let it be known, but that others (including public figures and journalists) too are entitled to have and give their opinions and views. Keeping this in mind, the views of the well-known journalist, writer and anchor, expressed on the occasion of gay parade are open for discussion, ergo readers and viewers may or may not agree with her views, they can also consider them primitive, outdated or based on insufficient knowledge of rights and position of LGBT population.

In many of its decisions the European Court of Human Rights found that the freedom of expression constitutes one of fundamental values of a democratic society, a precondition for its progress and the basis for the development of each and every individual. This is the reason for setting the limits to the freedom of expression so widely, hence this right enjoys protection even in instances when certain speech could be considered as shocking, insulting or otherwise disturbing, a requirement of tolerance, pluralism and free thinking, lacking which there can be no democratic society.

Freedom of speech is very important in a democratic society and includes, primarily, entitlement to an opinion, freedom to express ideas and information, but also the freedom to receive information and ideas. This type of freedom enjoys absolute protection, i.e. it can be subject to restrictions only in exceptional circumstances and as the aforementioned regulations stipulate it could be limited for reasons of national security, territorial integrity or public safety, so as to prevent public disturbance or crime, protect public health or moral, protect reputation or rights of others, preempt dissemination of confidential information or preserve the authority and independence of the judiciary. The Committee of Ministers of the Council of Europe stated that “*all restrictions of this right are considered incompatible with the nature of a democratic society.*” In addition, according to the conclusions of the European Court of Human Rights, provision of Article 10 of the Convention does not seek to protect only information or ideas which are well received or are considered inoffensive or those which cause no adverse reactions but also those which are insulting, shocking or disturbing since those are the requirement of pluralism, tolerance and free thinking lacking which there can be no democratic society. Accordingly and in line with the facts contained in the complaint, persons on whose behalf the complaint has been filed obviously have not been exposed to unequal treatment. This however, does not mean that there had been no violation of another right which does not fall within the scope of competence of the Commissioner for the Protection of Equality.

4. Cooperation of the Commissioner for the Protection of Equality

During 2016, the Commissioner for the Protection of Equality continued with its efforts exerted towards establishing, maintaining and developing cooperation with public authorities, international and national organizations and institutions, the media, European Network of Equality Bodies (EQUINET), in particular with regional equality bodies from Montenegro, Bosnia and Herzegovina, Macedonia, Albania and Croatia aimed at protecting human rights and promoting equality as well as finding efficient and effective ways to suppress discrimination. In addition, representatives of the Commissioner for the Protection of Equality took part, both as instructors and participants, in different seminars, workshops, conferences, expert panels, lectures, presentations, trainings and education sessions with a view of increasing institution's visibility, promoting equality and awareness raising among citizens on the issue of protection against discrimination. The following part of this abridged version of the Regular Annual Report gives an overview of the most important activities in which the Commissioner for the Protection of Equality as well as staff members working in the Professional service of the Commissioner for the Protection of Equality participated in 2016.

4.1. Cooperation with public authorities

4.1.1. Cooperation with the National Assembly of the Republic of Serbia

Pursuant to the Law on the Prohibition of Discrimination, the Commissioner for the Protection of Equality has the obligation to submit to the National Assembly its Regular Annual Report on the situation in the field of protection against discrimination. 2015 Regular Annual Report was not reviewed and discussed at the session of the National Assembly. The Report was however, reviewed in detail at the Sixth Session of the Parliamentary Committee for Human and Minority Rights and Gender Equality held on 26 September 2016, as well as at the Second session of the Parliamentary Committee for the Judiciary, State Administration and Local Self-government held on 14 September 2016. This Committee reviewed the Commissioner's report together with Annual Reports of other two independent bodies, namely the Ombudsman and the Commissioner for Information of Public Importance and Personal Data Protection.

Successful cooperation with Women's Parliamentary Network continued in 2016. This network comprises female Members of the National Assembly who have come together on five common objectives: women's and family health,

combatting violence against women and children, economic empowerment of women, education of women and promotion of women's knowledge as well as women's participation in political and public life. Representatives of the Commissioner for the Protection of Equality took part in the "Gender Policy Forum – Rule of Law and Anti-discrimination" which was organized in cooperation with the Women's Parliamentary Network at the initiative of women activists and experts of the Women's Platform and was held at the National Assembly. The aim of this Forum was to discuss with women experts, activists and politicians, achievements in the area of the rule of law and anti-discrimination in the context of monitoring achievement of goals as defined by the Women's Platform for the development of Serbia.

Commissioner Janković attended the event "Importance of Informal Parliamentary Groups" organized by Woman's Platform for the development of Serbia at the National Assembly. At this event the Group for empowerment of persons with disabilities and Women's Parliamentary Network were presented. These groups are an important example of modern parliamentary action in cooperation with civil society organizations. Commissioner Janković also participated at a meeting between Members of the National Assembly, representatives of state institutions and civil society sector regarding the Draft Law on Equality of Women and Men which was in parliamentary procedure at that point in time. The meeting was organized by Women's Parliamentary Network at the initiative of women activists and experts of the Women's Platform for the development of Serbia.

4.1.2. Cooperation with representatives of the executive branch of power

Good cooperation with representatives of the executive branch of power is very important for suppressing discrimination and achieving the principle of equality. For the purpose of striving towards a more efficient preemptive action, the Commissioner for the Protection of Equality sent an official notification to all Ministries reminding them of the legal obligation state administration authorities have to submit to the Commissioner for the Protection of Equality all draft laws and proposals of other regulations so that the Commissioner can give its opinion on those drafts for the purpose of avoiding the adoption of regulations containing discriminatory provisions thus preempting discrimination of citizens in different areas of social life. With reference to the aforementioned, the outcome of this initiative was a significantly higher number of draft laws and other regulations that were submitted to the Commissioner for opinion, with an additional effect that possible systemic discrimination of citizens was prevented by eliminating such proposed provisions. There is a need for all state authorities to adhere in the future to the prescribed legal obligation contained in the legislative procedure.

Education is extremely important for fostering a tolerant society and is conducive to better understanding of differences which was confirmed at the first meeting between a newly elected Minister of Education, Science and Technological Development Mladen Šarčević and the Commissioner for the Protection of Equality Brankica Janković. Future cooperation and current issues in the area of promoting equality and role of the education system in the suppression of discrimination, were the main topics discussed at the meeting. Among other things, the Minister confirmed readiness of the Ministry of Education, Science and Technological Development to participate in a project implemented by the Commissioner for the Protection of Equality in cooperation with the UNICEF which includes the development of a manual intended for employees and parents aimed at detecting discrimination in schools, a manual intended for students, as well as the development of educational materials which would present to children and young people in an age appropriate manner the significance of combatting discrimination and their role in this process. In addition, a joint organization of trainings intended primarily for teachers but also for education advisors, inspectors and educators in general was agreed upon.

Taking into consideration the fact that instances of discrimination often occur when citizens attempt to exercise their rights before public authorities, the Commissioner for the Protection of Equality, Brankica Janković met with the newly elected Minister of State Administration and Local Self-government Ana Brnabić. The parties agreed on future joint activities related to the training of civil servants and employees working in local self-governments with respect to the implementation of anti-discrimination regulations and awareness raising among them about the practice and policies in this area. The Minister and the Commissioner agreed that knowledge about anti-discrimination legislation should be an integral part of mandatory exam for civil servants and part of training modules of the future State Administration Academy. In addition, it was agreed that the new Manual for Detecting Discrimination in Procedures before Public Authorities, Authorities of the Autonomous Province and Local Self-government would be jointly distributed to local self-governments but also to employees working in public enterprises, institutions, public agencies and other organizations entrusted with public authority.

Successful cooperation with the Ministry of Internal Affairs continued throughout 2016. In addition to other activities, a cycle of training sessions intended for police officers entitled “Detecting and Responding to Discrimination” was implemented. Eight seminars which included 160 police officers from police administrations in Belgrade, Novi Sad, Subotica, Kragujevac, Vršac, Novi Pazar and Divčibare were delivered with the assistance of the OSCE Mission to Serbia. The topics of this training included several modules aimed at strengthening attendees’ capacity to detect discrimination and respond to it. Evaluation results

indicate that following the completion of training sessions, the knowledge about discrimination increased considerably, namely the share of incorrect answers from a questionnaire administered prior and following training sessions fell from 48.5% to 16.6%, while correct answers rose from 14.2% prior to the training to 40.2% following the completion of training.

Cooperation with National Councils of National Minorities is very important not only for the Commissioner for the Protection of Equality, but also for other public authorities. The Minister for State Administration and Local Self-government had a working meeting with Chairmen of National Councils of National Minorities. Commissioner Janković and acting Director of the Office for Human and Minority Rights attended these meetings. Participants agreed that the adoption of the Action Plan for Achieving the Rights of National Minorities was one of the most important activities implemented in the area of national minorities protection. The adoption of this Action Plan was envisaged within Serbia's European Union accession process within negotiation chapter 23. Everyone agreed that the participation of national councils in the upcoming phases of Action Plan activities implementation was very important.

Cooperation with the Office for Human and Minority Rights of the Government of the Republic of Serbia continued uninterrupted in 2016, through implementation of 2013 IPA Twinning Project entitled "Support to the Promotion of Human Rights and Zero Tolerance for Discrimination".

Commissioner Janković met with Ivan Sekulović, Government of Serbia Social Inclusion and Poverty Reduction Team Manager. They discussed discrimination on the grounds of financial status, the need for a greater support to citizens at risk of poverty, the need for implementing a survey on the causes of discrimination as well as the findings of "Efficiency of System Mechanisms for Preventing Violence against Women and Children" study which was aimed at strengthening the protection and giving qualitative recommendations for tackling this problem.

Commissioner Janković took part in the public consultations process for development of the Draft National Action Plan for the Implementation of 1325 UN SC Resolution – Women, Peace and Security. During this consultation process, the institution of the Commissioner for the Protection of Equality stressed that gender equality, strengthening the rights of women and their participation in the national security system are among main principles of National Action Plan for the implementation of 1325 UN SC Resolution. In particular the Commissioner underlined the need for a better coordination between local gender equality bodies and different bodies tasked with strengthening local security, as their cooperation and coordination up to date was insufficient, which is why it is necessary to strengthen and improve the work and activities of local level security councils.

4.1.3. Cooperation with local self-government units

Cooperation between the Commissioner for the Protection of Equality and local self-government units in the Republic of Serbia is of key importance for an efficient prevention of and protection against discrimination in our society. The Commissioner and representatives of local self-government units strengthen their cooperation by implementing different activities aimed at, among other things, enhancing the capacity of local self-government units to detect different types and forms of discrimination and to combat such instances but also to get better acquainted with the institution of the Commissioner for the Protection of Equality, its scope of competence, manner of operation, options for filing a complaint and pursuing complaint procedure, issuing opinions and recommendations.

With a view to strengthening protection of citizens against discrimination at the local level, the institution of the Commissioner for the Protection of Equality took part in “Independent Institutions in Touch with People” project together with the Republic of Serbia Ombudsman and Commissioner for Public Information and Personal Data Protection. This project was implemented by Civic Initiatives civil society organization with an aim of improving accessibility of independent institutions at the local level. Project activities included information sessions in Sombor, Vranje, Požega, Novi Sad, Valjevo. The results of institutions’ work and operation, protective anti-discrimination mechanisms and real life examples of acting upon complaints were presented to the participants.

Representatives of the Commissioner for the Protection of Equality participated at a conference held in Novi Sad as part of *Stop – Protect – Help – Stronger Institutional Response to Gender Based Violence* project, which was organized by the Provincial Secretariat for Health and Kikinda Women’s Support Center.

4.2. Cooperation with civil society organizations

The Commissioner for the Protection of Equality particularly develops and strengthens cooperation with civil society organizations, as they are important partners in combatting discrimination. This section of the abridged version of the Regular Annual Report contains an overview of a segment of cooperation between the Commissioner for the Protection of Equality and civil society organizations.

In 2016 the institution of the Commissioner for the Protection of Equality continued its cooperation with the Open Society Foundation through implementing “Moot Court in the Area of Discrimination” project. The fourth consecutive moot court competition was held between October and December 2016, while semi-finals and finals were held at the Administrative Court premises in Belgrade and at the National Bank of Serbia building. As part of cooperation with the Open

Society Foundation, event marking the International Day of Older Persons, “Years do not count – promoting solidarity among different generations”, was held at Dečiji kulturni centar (Children’s Cultural Center) in Belgrade on 30 September 2016. Over 400 elementary and secondary school students from Belgrade and beneficiaries of Belgrade Gerontology Center attended the event. At the end of the event, a theater play “Dos and Don’ts of Ageing” was shown.

“Reaching the finish line in equality” was the motto used by the Commissioner for the Protection of Equality when participating at 2016 Belgrade Marathon in partnership with Belgrade Sports Association of People with Disability and Belgrade Marathon. The main objective of marathon participation was to increase the visibility and bring to public attention problems people with disabilities face in the area of sport, when using public spaces, facilities and public transportation services. Approximately 500 visitors, out of whom 300 were athletes with disabilities, visited the promotional stand of the Commissioner for the Protection of Equality and Belgrade Sports Association of People with Disability.

In September 2016, the Commissioner for the Protection of Equality in partnership with Center for Society Research and Development IDEAS, commenced the implementation of “From LGBT life to politics” project activities. This project was supported by the United Kingdom Embassy to Serbia within the program of strengthening Republic of Serbia’s resilience to internal and external changes. The aim of the project was to define modalities of influence on creating public policies that would be conducive to promotion of the position of LGBT population in our society.

The Commissioner herself and institution staff members extended their support to the rally against femicide organized by the Women’s Network against Violence with an aim of designating 18 May as the Women Victims of Domestic Violence Remembrance Day. The Commissioner for the Protection of Equality upheld this initiative stressing that the measures geared towards preventing domestic violence announced by the Government of the Republic of Serbia at that time, should establish effective mechanisms for the protection of women against violence.

In September 2016 members of Belgrade Foster Parents’ Association visited the institution of the Commissioner for the Protection of Equality and talked to Commissioner Janković and institution’s staff members about the problems foster parents face in Serbia. Seven children in foster care came to visit the institution as well and were given picture books, coloring books and brochure tackling the issue of discrimination in an age appropriate manner.

A representative of the Commissioner for the Protection of Equality participated in the “LGBTI Caravan” organized in 2016 by the association of citizens

“Egal”. The objective of this caravan was to eliminate taboos and prejudice against people with different sexual orientation and gender identity by initiating dialogue, as well as to raise public awareness on issues transgender and LGBTI persons face – instances of discrimination and multiple discrimination, violence against transgender and LGBTI persons, their causes and consequences.

In cooperation with the institution of the Commissioner for the Protection of Equality a conference of the Initiative for the Rights of Persons with Mental Disabilities MDRI-S and Initiative for Inclusion VelikiMali was organized, with an aim of promoting equality of children with developmental impairments. The importance of implementing affirmative measures geared towards improving the position of children with developmental impairments was highlighted in particular regarding the provision of necessary services in all local self-government units.

4.3. International cooperation

In 2016 international cooperation continued for the purpose of exchanging knowledge and experience with European and regional equality bodies, through bilateral meetings and continuous active participation in the work of European Network of Equality Bodies (EQUINET). The abridged version of the Regular Annual Report gives a brief and partial overview of international cooperation pursued by the Commissioner for the Protection of Equality.

At the initiative of the Commissioner for the Protection of Equality, the third meeting of the Joint Collaborative Platform on Social and Economic Rights brought together in Belgrade the Council of Europe, European Union Fundamental Rights Agency (FRA), the European Network of National Human Rights Institutions (ENNHRI), and the European Network of Equality Bodies (EQUINET) representatives. At the meeting participants discussed future perspectives and objectives for the Platform and for social rights, including the new EU Pillar of Social Rights and European Social Charter. There were also discussions on the design and use of indicators to monitor the effective enjoyment and respect of social rights.

On the occasion of the International Day of Persons With Disabilities, the Commissioner for the Protection of Equality and the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) have organized “Rights of Women and Girls with Disabilities” round table. This was an opportunity to present and analyze the position of women and girls with disabilities in Serbia, as well as the existing legislative framework and obligations assumed in keeping with international documents.

Commissioner Janković participated at “Employing Hard-to-employ Groups” regional conference organized by the National Employment Service which saw

the participation of representatives of national employment agencies from Serbia, Austria, Macedonia, Slovenia, Montenegro, Bosnia and Herzegovina, International Labor Organization, experts from the area of professional rehabilitation, representatives of the Serbian Chamber of Commerce and line Ministries. The issues of activation and support to employment of young people, professional rehabilitation and encouraging employment of persons with disabilities were topics discussed at the conference.

In October 2016 UN Special Rapporteur in the field of cultural rights Karima Bennouna visited the institution of the Commissioner for the Protection of Equality and was informed about discrimination in the area of culture on all grounds of discrimination.

On the occasion of the International Day of Human Rights, the Commissioner for the Protection of Equality in cooperation with the Embassy of the Kingdom of the Netherlands organized an exhibition on transgender identity by a well-known Dutch photographer Chris Rexen. Upon opening the exhibition Commissioner Janković said that the art was the best way to do away with prejudices, while Ambassador Hendrik van den Dool said that his country attaches special attention to rights of LGBTIQ community and thanked the Commissioner for organizing this event.

4.3.1. Cooperation with the OSCE Mission to Serbia

Intensive cooperation between the Commissioner for the Protection of Equality and the Organization for Security and Cooperation in Europe (OSCE) Mission to the Republic of Serbia continued in 2016. This cooperation is pursued in several segments which pertain to the promotion of protection of human rights of all discriminated social groups (judiciary, police, media, etc.). The OSCE Mission to Serbia particularly supports strengthening of regional cooperation between equality bodies in the region.

A project implemented in cooperation with the OSCE Mission to Serbia which is related to the training of police officers with respect to detecting and responding to discrimination commenced in 2016. This project was implemented in cooperation with the Ministry of Internal Affairs and a detailed overview thereof is given in the section “Cooperation with representatives of the executive branch of power”.

On the occasion of the International Tolerance Day on 16 November, the Commissioner for the Protection of Equality with the support of the OSCE Mission to Serbia awarded the Annual Media Prize to journalists for best media texts and reports dealing with combatting discrimination and promoting equality and tolerance.

A one year training program for judges was organized by the Judicial Academy and the Commissioner for the Protection of Equality with the support of the OSCE Mission to Serbia entitled “Train the Trainer in Non-discrimination”. The program included judges of higher courts of all four appellate divisions: Belgrade, Kragujevac, Novi Sad and Niš.

On the occasion of the International Human Rights Day, 10 December, Commissioner Janković presented the media manual “Fighting for Equality”, developed with the assistance of the OSCE Mission to Serbia. The aim of this media manual was to help all journalists reporting on human rights, anti-discrimination and tolerance related topics. This publication contains Glossary of Tolerance i.e. a list of anti-discriminatory, gender sensitive and less known terms with explanations, which could hopefully, enhance reporting and diminish discrimination in the media.

4.3.2. Cooperation with the EU Delegation to Serbia

In October 2015, the Commissioner for the Protection of Equality commenced with the implementation of “Support to the Advancement of Human Rights and Zero Tolerance for Discrimination” Twinning Project funded by the European Union. Project partners include the Government of the Republic of Serbia Human and Minority Rights Office, while implementing partners are Ludwig Boltzmann Institute for Human Rights from Austria and Office for National Minorities of the Republic of Slovenia. Project activities include, among others, strengthening institutional capacities of the Commissioner for the Protection of Equality for preventing all forms of discrimination, primarily by offering training to institution’s staff members, analyzing the Commissioner’s existing data base with a view to improving it, implementing a survey on citizen’s perception of discrimination and discriminated against groups in Serbia, pursuing campaigns aimed at promoting the protection of human rights and zero tolerance for discrimination, etc.

In 2016, one of project activities included a survey administered by the Commissioner for the Protection of Equality “Citizens’ Perception of Discrimination in Serbia”.

In addition, in March 2016, Commissioner Janković participated at a conference related to the EU integration process of Serbia and other countries of the Western Balkans. Topics of the conference included remaining challenges in the negotiation process, role of civil society organizations and geopolitical aspects of integration of the Western Balkans.

4.3.3. Cooperation with the UNICEF

In September 2012 Memorandum of Understanding was signed with the UNICEF, aimed at preventing all forms of discrimination against children. This MoU envisaged a multi annual cooperation on this particular issue and was implemented within 2011 – 2015 UNICEF Program.

With the assistance of the UNICEF, the Commissioner for the Protection of Equality developed a “Handbook on Preventing segregation, developing inclusive enrolment policies and desegregating schools and classrooms”. The handbook contains, among other things, examples of international experiences and concrete proposals for improving the existing practice in Serbia. Planned project activities include the evaluation of work and activities of the Panel of Young Commissioners for the Protection of Equality, which implies unbiased review of their performance and impact assessment measured against reasons for their establishment. Evaluation findings indicate that children, young people and adults alike are not sufficiently aware of their right to participation. Conclusion was that the Panel constitutes one of the mechanisms which encourages their participation and ensures higher share of children and young people in decision making processes, and that this mechanism should be expanded to include more children and young people, both by utilizing methods used so far but also by taking advantage of social networks towards combatting discrimination.

4.3.4. Cooperation with GIZ

German Development Agency (Deutsche Gesellschaft für Internationale Zusammenarbeit) (GIZ) supported the development of 2016 – 2020 Commissioner for the Protection of Equality Strategic Plan. In the process of developing this strategic document, a public debate was organized with the participation of civil society organizations. Suggestions received from representatives of the non-governmental sector (Bibija, YUCOM, Belgrade Center for Human Rights, Center for Independent Living of Persons with Disabilities, etc.) contributed to the quality of this document which was elaborated on previously in this report.

Commissioner Janković participated at a round table “Promoting Human Rights by Dispelling Stereotypes in Education, Culture and the Media” was organized by “Education for the XXI Century” with the support of GIZ and at “Discrimination of Roma Men and Women – Experience of the Commissioner for the Protection of Equality” event.

One of the outcomes of cooperation with GIZ was the publication of the “Handbook for Detecting Discrimination in Procedures before Public Authorities”.

4.3.5. Cooperation with the Council of Europe

The Commissioner for the Protection of Equality and the Council of Europe Office in Belgrade continued their cooperation in 2016 on “Don’t judge a book by its cover – Living Library in Serbia” project. Representatives of the Ministry of Youth and Sports also participated in this project which started in 2012. Since September 2014, the Commissioner for the Protection of Equality assumed project coordination role and continued with the implementation and promotion of established standards in project activities implementation aimed at reducing the impact of negative stereotypes and prejudices as main causes of discrimination in a society.

In 2016, twelve “Living Library” events were held in Belgrade (7), Pančevo (1), Šabac (1), Leskovac (2) and Ivanjica (1). Almost 1000 readers, 100 volunteers and 120 living books attended these events. The most popular books included a gay person, a vegan and a person living with HIV. This project was presented for the fifth time in a row at the Belgrade Fair within the Education and Teaching Materials Fair, on 29 and 30 October 2016.

4.4. Other forms of cooperation

The Commissioner for the Protection of Equality maintains cooperation with other relevant players which, with their work, activities and pursuits, give positive contribution to fighting discrimination, appreciation of differences and respect of the equality principle. The Commissioner has so far successfully pursued cooperation with the Red Cross of Serbia which included a survey on the position of elderly persons living in rural areas, while the cooperation with the European Roma Rights Center from Budapest (ERRC) has yielded a viable implementation of internship program for Roma interns with the Professional Service of the Commissioner for the Protection of Equality.

4.4.1. Cooperation with the European Network of Equality Bodies (EQUINET)

In 2016 the Commissioner for the Protection of Equality continued its cooperation with the EQUINET by participating at working meetings, trainings and seminars organized by this network of equality bodies. Much like in previous years, the Commissioner for the Protection of Equality played an important role within this network by having its representative as one of the members of EQUINET’s Executive Board, attending and participating in the annual meeting, actively taking part in the work of Working Groups, participating in different seminars

and trainings organized by this network aimed at creating practical policy measures, gender equality, communication, anti-discrimination rights in practice and strategic development.

4.4.2. Regional cooperation geared towards enhancing equality

In 2016 within regional cooperation framework, Commissioner Janković attended "Legal Protection against Discrimination in South-east Europe" regional conference held in Montenegro. Results of the regional project "Legal Protection against Discrimination" were presented at the conference and the aim of this project was to improve the methodology and strengthen the capacity of key players in the anti-discrimination area. In addition, Commissioner Janković attended the conference "Equal in Differences" held in Sarajevo on the occasion marking the 20th anniversary of establishing the Institution of Human Rights Ombudsman of Bosnia and Herzegovina.

In the framework of regional cooperation Commissioner Janković also participated at a regional conference entitled "Femicide Watch – Preventing Femicide in the Republic of Croatia" which was organized by Republic of Croatia Gender Equality Ombudswoman on the occasion 25 November, the International Day for the Elimination of Violence against Women.

4.4.2.1. Annual conference of the Commissioner for the Protection of Equality on the occasion of the International Tolerance Day

On the occasion of 16 November the International Tolerance Day, the Commissioner for the Protection of Equality organized a conference entitled "Regional Conference of Equality Bodies in South-east Europe", with organizational support of the OSCE Mission to Serbia and Open Society Foundation. More than 200 representatives of state institutions, regional equality bodies, diplomatic missions, the EQUINET, civil sector, the media and other stakeholders attended the conference.

A joint Statement on Cooperation between Equality Bodies in South-east Europe was signed at the conference. This Statement was an important step towards establishing an effective model of regional cooperation between equality bodies in the South-east Europe. Speakers at the conference included the Speaker of the National Assembly of the Republic of Serbia, Maja Gojković, Head of the OSCE Mission to Serbia, Andrea Orizio, EQUINET Executive Director Anne Gaspard and representatives of institutions for the protection of equality from Albania, Bosnia and Herzegovina, Croatia, Macedonia and Montenegro.

At the conference Annual Media Awards for Tolerance were awarded to journalists by Commissioner Janković and Ambassador Orizio, while the sponsors of these awards were the institution of the Commissioner for the Protection of Equality and OSCE Mission to Serbia. This year, for the first time, the best piece of reporting by students was awarded.

5. Media coverage

Among other things, activities pursued by the Commissioner for the Protection of Equality generated increased media interest in issues related to equality, tolerance and human rights protection. In 2016 media outlets continued to follow closely work and activities of the institution of the Commissioner for the Protection of Equality, often finding issues to write about and report on in recommendations, warnings and statements made by Commissioner Janković. Unfortunately, two of the issues most reported on were violence in intimate partner and family relations and discrimination of women. One of the reasons these topics garnered so much attention was the fact that a large number of women were killed as a result of intimate partner and domestic violence, but also due to the fact that the Law on Preventing Domestic Violence was about to be adopted and the Law Amending Criminal Code was also in parliamentary procedure. On numerous occasions, Commissioner Janković highlighted this problem as well as the need for a more efficient protection by participating in different panel discussions, events and TV and radio shows.

In conclusion, judging from the standpoint of the Commissioner for the Protection of Equality, despite the fact that in 2016 the media has made certain forward strides in reporting, there are still some media outlets which are only marginally interested in discrimination as such. In terms of reporting on activities and actions of the Commissioner for the Protection of Equality, the media was mostly interested in the regional conference marking the International Tolerance Day, journalist tolerance awards, presentation of public opinion survey findings on citizens' perception of discrimination in Serbia, the event marking the International Day of Older Persons and promotion of the media manual. In addition, cooperation with journalist associations and Printed Media Council has improved the quality of reporting on the importance of respecting human rights and promoting equality.

Despite the fact that a certain number of texts, articles and dispatches continued to breed and perpetuate stereotypes, prejudices and discriminatory views, it would be safe to say that in 2016 there was a considerable increase in the number of texts and dispatches which demonstrated a higher level of awareness with respect to issues of discrimination, equality and tolerance as well as cognizance not only of ways in which they can inform but of ways they can educate and promote values and appreciation of differences.

6. Publications of the Commissioner for the Protection of Equality

For the purpose of strengthening equality and improving citizens' awareness on the work of the institution, the Commissioner for the Protection of Equality has published several publications and brochures in 2016. All of these manuals, collections of papers and brochures are available in electronic form, on the official Internet presentation of the Commissioner for the Protection of Equality, namely at www.ravnopravnost.gov.rs:

- 1) *"Citizens' Perception of Discrimination in Serbia"* public opinion survey – part of European Union funded 2013 IPA Twinning Project.
- 2) *Handbook for Detecting Discrimination in Procedures before Public Authorities* – with the support of GIZ.
- 3) *Manual for journalists: Fighting for Equality* – with the support of the OSCE Mission to Serbia.
- 4) *Preventing segregation, developing inclusive enrolment policies and desegregating schools and classrooms – international experience and proposals for improving practice in Serbia* – developed as a result of cooperation with the UNICEF.
- 5) *Collection of student essays – conference on the occasion of the International Day of Older Persons* – as part of a project funded by the Open Society Foundation Serbia.
- 6) *Brochure of the Commissioner for the Protection of Equality* – in Serbian (Cyrillic script and Latin script), Romani and Hungarian languages, with the support of GIZ's Legal and Judicial Reform Program.

7. Complying with Obligations in Accordance with the Law on free access to information of public importance

The Commissioner for the Protection of Equality ensures free access to information by acting upon requests seeking free access to information of public importance, by posting its Information Booklet on its work and activities and other information which are all available on the Commissioner's official web site, by reporting to the National Assembly, by notifying the public, by organizing press conferences and by resorting to other adequate means of providing information of public importance.

In 2016 a total of 12 requests for free access to information of public importance have been submitted which were all acted upon within legally prescribed deadline.

Table showing the number of requests submitted by categories:

O.N.	Requests by	Number of submitted requests	Number of accepted/ partially accepted requests	Number of dismissed request	Number of rejected requests
1.	Citizens	5	4	-	1
2.	Media	1	1	-	-
3.	Non-governmental organizations and other civil society organizations	3	3	-	-
4.	Political parties	-	-	-	-
5.	Public administration	-	-	-	-
6.	Other	3	3	-	-
7.	Total	12	11	-	1

In providing requested information, particular care was taken to protect personal data in keeping with the Law on Personal Data Protection¹⁴². Party to the procedure before the Commissioner for the Protection of Equality is entitled to confidentiality of all of his/her private data in documents submitted to the Commissioner and data made available to the Commissioner by the party or other authorizes person.

¹⁴² "Official Gazette of the Republic of Serbia", No. 97/08, 104/09 – other law, 68/12 – decision of the CC and 107/12

Information Booklet of the Commissioner for the Protection of Equality is available at its internet presentation (www.ravnopravnost.gov.rs). For the purpose of making access to information of public importance easier, the citizens are encouraged to visit our website and download forms and examples used for filing request for free access to information of public importance. The request may be filed both in writing, but also without filling out the form. The important point which must be included in the request is what information is sought and/or what the information precisely pertains to, i.e. a precise and detailed description of the information which is being requested. The request may contain, although it is not mandatory, reasons for filing the request as well as other information which facilitate the search for information being sought. Inspection of a document containing the desired information is free-of-charge.

The request for access to information of public importance which pertains to or is the result of Commissioner's work and activities, may be submitted in writing at: Commissioner for the Protection of Equality, Bulevar kralja Aleksandra 84, 11 000 Beograd or by e-mail at: poverenik@ravnopravnost.gov.rs.

8. Report on the Implementation of the Financial Plan

A total amount of RSD 81,255,000 was allocated to the Commissioner for the Protection of Equality in keeping with 2016 Law on the Budget of the Republic of Serbia for the implementation of “Promotion and Protection of Human and Minority Rights and Freedoms” Program.

By including undisbursed funds from last year’s donations as well as those from new donations in 2016, a total of RSD 84,200,412 was available in the budget for the Program i.e. on current appropriations.

According to the source of funding, relative share of funds in the total budget was as follows:

- source 01 96%
- other sources 05,06,08,15 4%

Source 01 was used to fund:

§ *Program activity “Effective Suppression of and Protection against Discrimination”* – Funds were used to finance regular activities and functioning of the Professional Service of the Commissioner for the Protection of Equality, in keeping with the Financial Plan and Public Procurement Plan. Total amount of budget execution was RSD 58.532.387 or 73.08%. The structure of the Program Activity was as follows: salaries, additional payments and reimbursements for employees – 75.03%, goods and services and other expenditures – 24.24% and expense for non-financial assets – 0.73%.

§ *“Do not judge a book by its cover – Living Library in Serbia”* project – Total execution of funds for this project was: RSD 330,812 or 63.99% of available funds.

§ *“Reaching the finish line in equality”* project – Total execution of funds for this project was: RSD 174.960 or 45.68% of available funds.

Following projects were financed from other sources:

§ *“Moot Court in the Area of Protection against Discrimination”* project – This project was represented in the Financial Plan as much as the funds remaining for its completion permitted, bearing in mind the fact that it began and was financed in 2015. Budget execution for that portion of donated funds was at 92.43%. In mid-2016 the project continued with the help of funds from a new donation amounting to RSD 1,576,260, but its execution, due to the schedule of activities defined by the project, was 25.62% at the end of the year. The project will continue in 2017.

§ „Prevention and Protection of Children against Discrimination“ UNICEF project – Funds for this project in the amount of RSD 479,700 were made available to the Commissioner for the Protection of Equality at the end of October. No disbursements were made in this project as activities which will be paid for next year were being implemented until the end of 2016. Project end date is December 2017.

The 2016 budget execution structure, both by sources of funding and by programs, program activities and projects is given in the following tables.

2016 BUDGET EXECUTION

BUDGET STRUCTURE BY SOURCES OF FUNDING

Source of funding	Program	Program activity/ project	Economic classification	DESCRIPTION	*Initial appropriation	**Current appropriation	Budget execution	% of execution (8:7)
1	2	3	4	5	6	7	8	9
01 – 15	1001		I-VI	2016 TOTAL BUDGET	81.255.000	84.200.412	60.508.998	71,86
01,05,15	1001		I-III	TOTAL REVENUES – SOURCE 01,05,15	80.919.000	80.990.072	59.038.159	72,90
01,05,15	1001	0012	I	TOTAL – Program activity 0012	80.019.000	80.090.072	58.532.387	73,08
01	1001	0012	411	Salaries, additional payments and reimbursements to employees	45.337.000	44.402.000	34.836.584	78,46
01	1001	0012	412	Social insurance contributions by the employer	8.000.000	7.835.000	6.234.137	79,57
01	1001	0012	413	Reimbursements in kind	100.000	100.000	97.200	97,20
01	1001	0012	414	Social dispensations to employees	700.000	700.000	311.279	44,47
01	1001	0012	415	Reimbursements of employees' expenses	3.000.000	3.000.000	2.255.598	75,19
01	1001	0012	416	Employee bonuses	300.000	300.000	181.210	60,40
01	1001	0012	421	Regular expenses	4.897.000	4.547.000	2.711.042	59,62
01,05	1001	0012	422	Travel expenses	2.085.000	1.885.000	987.650	52,40
01	1001	0012	423	Contracted services	7.690.000	8.790.000	6.675.114	75,94
01	1001	0012	424	Specialized services	255.000	255.000	33.360	13,08
01	1001	0012	425	Current repairs and maintenance	2.350.000	2.900.000	1.156.470	39,88
01	1001	0012	426	Material	2.825.000	2.825.000	2.286.497	80,94
01	1001	0012	462	Subsidies to international organizations	130.000	130.000	124.132	95,49
15	1001	0012	465	Other subsidies and transfers	100.000	171.072	171.072	100,00

1	2	3	4	5	6	7	8	9
01	1001	0012	482	Taxes, mandatory fees and fines	200.000	200.000	13.350	6,68
01	1001	0012	483	Fines according to court rulings	100.000	100.000	28.500	28,50
01	1001	0012	512	Machinery and equipment	1.700.000	1.700.000	429.192	25,25
01	1001	0012	515	Invisible assets	250.000	250.000	0	0,00
01	1001	4004	II	TOTAL – <i>Living Library Project</i>	517.000	517.000	330.812	63,99
01	1001	4004	422	Travel expenses	176.000	176.000	116.787	66,36
01	1001	4004	423	Contracted services	341.000	341.000	214.025	62,76
01	1001	4005	III	TOTAL – <i>Reaching the finish line in equality project</i>	383.000	383.000	174.960	45,68
01	1001	4005	423	Contracted services	383.000	383.000	174.960	45,68
06 – 15	1001		IV-VI	TOTAL REVENUES – OTHER SOURCES	336.000	3.201.340	1.470.839	45,82
06	1001	4007	IV	Donations from international organizations source 06	0	479.700	0	0,00
06	1001	4007		TOTAL – UNICEF project Prevention and Protection of Children against Discrimination	0	479.700	0	0,00
06	1001	4007	422	Travel expenses	0	1.000	0	0,00
06	1001	4007	423	Contracted services	0	478.700	0	0,00
08	1001	4003	V	Donations from non-governmental organizations source 08	0	1.576.260	403.842	25,62
08	1001	4003		TOTAL – MOOT COURT project <i>Moot Court</i>	0	1.576.260	403.842	25,62
08	1001	4003	422	Travel expenses	0	769.260	199.810	25,97
08	1001	4003	423	Contracted services	0	807.000	204.032	25,28
15	1001		VI	Funds transferred from previous years source 15	336.000	1.154.380	1.066.997	92,43
15	1001	4003		TOTAL – MOOT COURT project <i>Moot Court</i>	336.000	1.154.380	1.066.997	92,43
15	1001	4003	422	Travel expenses	336.000	557.760	482.411	86,49
15	1001	4003	423	Contracted services	0	596.620	584.586	97,98

Note* – Initial appropriation was approved by 2016 Law on the Budget of the Republic of Serbia (“Official Gazette of the Republic of Serbia”, No. 103/15).

Note ** – Current appropriation represents the initial appropriation increased for the amount of new donations as well as for the amount of transferred non-disbursed funds remaining from the previous year.

2016 BUDGET EXECUTION

BUDGET STRUCTURE BY PROGRAMS, PROGRAM ACTIVITIES AND PROJECTS

Source of funding	Program	Program activity/ Project	DESCRIPTION	* Initial appropriation	**Current appropriation	Budget execution	% of execution (8:7)
1	2	3	4	5	6	7	8
01 – 15	1001		<u>PROGRAM</u> : Promotion and Protection of Human and Minority Rights and Freedoms	81.255.000	84.200.412	60.508.998	71,86
01,05,15		0012	<u>PROGRAM ACTIVITY</u> : Effective Suppression of and Protection against Discrimination	80.019.000	80.090.072	58.532.387	73,08
08,15		4003	<u>PROJECT</u> : MOOT COURT in the Area of Protection against Discrimination	336.000	2.730.640	1.470.839	53,86
01		4004	<u>PROJECT</u> : Do not judge a book by its cover – LIVING LIBRARY	517.000	517.000	330.812	63,99
01		4005	<u>PROJECT</u> : REACHING THE FINISH LINE IN EQUALITY	383.000	383.000	174.960	45,68
06		4007	<u>PROJECT</u> : UNICEF, Prevention and Protection of Children against Discrimination	0	479.700	0	0,00

Note* – Initial appropriation was approved by 2016 Law on the Budget of the Republic of Serbia („Official Gazette of the Republic of Serbia“, No. 103/15).

Note ** – Current appropriation represents the initial appropriation increased for the amount of new donations as well as for the amount of transferred non-disbursed funds remaining from the previous year.

9. Recommendations for Combating Discrimination and Achieving Equality

Based on data collected in the course of complaint procedures and having noted key challenges in achieving and protecting equality, a total of 19 recommendations were given in 2015 Regular Annual Report, the implementation of which would be conducive to a more efficient and effective prevention and suppression of discrimination.

It would be safe to say that last year much like in previous years, the trend of partial implementation of general nature recommendations contained in Commissioner's Regular Annual Reports persists, unlike specific recommendations issued in concrete cases of discrimination which have a high compliance rate.

In 2016 some recommendations given by the Commissioner for the Protection of Equality in its 2015 Regular Annual Report were acted upon, while some recommendations have been complied with only in part.

During the reporting period following legislation was enacted: Law on Preventing Domestic Violence¹⁴³, *Law on Amending the Criminal Code*¹⁴⁴, *Law on Employees Working in Autonomous Provinces and Local Self-government Units*¹⁴⁵, 2016 – 2020 National Gender Equality Strategy¹⁴⁶, 2016 – 2025 Republic of Serbia Roma Social Inclusion Strategy¹⁴⁷, *Rulebook on criteria and procedures for Roma students high school enrolment under more favorable conditions for the purpose of achieving full equality*¹⁴⁸, *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*¹⁴⁹, *Rulebook on detailed criteria for detecting discrimination by staff members, children, students or third parties in an educational institution*¹⁵⁰, *Rulebook on the manner and procedure for giving 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 tools and didactical play tools*¹⁵¹ and the Commissioner for the Protection of Equality has implemented training of duty

143 "Official Gazette of the Republic of Serbia", No. 94/16

144 "Official Gazette of the Republic of Serbia", No. 94/16

145 "Official Gazette of the Republic of Serbia", No. 21/16

146 "Official Gazette of the Republic of Serbia", No. 4/16

147 "Official Gazette of the Republic of Serbia", No. 26/16

148 "Official Gazette of the Republic of Serbia", No. 12/16

149 "Official Gazette of the Republic of Serbia", No. 42/16

150 "Official Gazette of the Republic of Serbia", No. 22/16

151 "Official Gazette of the Republic of Serbia", No. 75/16

bearers in the judiciary, police, state administration as well as those in a number of working services in the area of education and social welfare protection.

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 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 functioning of the system for protection against discrimination

2. Initiate 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 disabilities 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 all the 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 the Child, in particular with respect to 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 the culture of peace, tolerance, understanding and appreciation of differences, gender

equality and non-discrimination, into school curricula and syllabi. Remove discriminatory content which breeds stereotypes and prejudice from school curricula and syllabi. 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 the father will 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 leave or parental leave of absence; and by improving other provisions of this law with an aim of 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 triggering of all forms of support and assistance.

18. Take measures aimed at promoting the position of persons with previous criminal record 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 from a citizen to provide a criminal history record or criminal record clearance form.

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. Enact 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 the ethnic structure of population living on that particular territory and take measures aimed at managing national, ethnic, religious, language and other diversity.

22. Pursue continuing anti-discrimination 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 anti-discrimination regulations uniformly and duly, in accordance with international standards and practices 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 Communautaire*. In addition, the amendments should define adequate instruments for overriding problems and difficulties detected in the course of its implementation.

Appendix: Statistical data expressing activities of the Commissioner for the Protection of Equality in 2016

Number of cases in 2016

CASES	2016
Complaints	626
Recommendations containing measures	665
Opinions on draft law and other legal documents	40
Proposals for the assessment of conformity with the Constitution	1
Criminal charges	3
Misdemeanor charges	1
Motions to amend laws	1
Warnings	9
Statements to the public*	25
TOTAL number of cases*	1346

* Statements to the public were not included in the total number of cases

Complainants

Private persons as complainants	Number	%
Men	287	58,0
Women	209	42,0
Total	496	100,0

Other complainants	Number	%
Private persons	496	79,2
Organizations	83	13,3
Legal persons	34	5,4
Government bodies	7	1,1
Group of persons	6	1,0
Total number of complainants	626	100,0

Grounds of discrimination (personal characteristic)

Complaints by the grounds of discrimination	Number	%
Complaints which cite a personal characteristic	505	81,9
Complaints which do not cite a personal characteristic	121	18,1
Total number of complaints	626	100,0

Grounds of discrimination (personal characteristic)

Complaints by the grounds of discrimination	Number
Complaints which cite one personal characteristic	403
Complaints which cite multiple personal characteristics	102
Total number of complaints which cite a personal characteristic	505

Complaints which cite a personal characteristic	Number	%
Disability	82	12,9
Gender	82	12,9
Age	75	11,8
National affiliation or ethnic origin	60	9,4
Health status	55	8,6
Marital and family status	52	8,2
Membership in political, trade union or other organizations	49	7,7
Financial status	36	5,7
Other personal characteristic	31	4,9
Religious or political belief	29	4,6
Sexual orientation	26	4,1
Previous criminal record	18	2,8
Citizenship	10	1,6
Ancestors	9	1,4
Gender identity	6	0,9
Appearance	5	0,8
Language	4	0,6
Genetic characteristics	3	0,5
Race	2	0,3
Birth	2	0,3
Total	636	100,0

* In 102 complaints several personal characteristics were cited as grounds of discrimination.

Complaints which cite personal characteristic by complainant	Number	%
Disability	82	12,9
Private persons	61	
men 36		
women 25		
Organizations	14	
Legal persons	3	
Government bodies	2	

Group of persons	2	
Gender	82	12,9
Private persons	75	
men 18		
women 57		
Legal persons	3	
Group of persons	2	
Organizations	2	
Age	75	11,8
Private persons	60	
men 33		
women 27		
Organizations	11	
Group of persons	2	
Government bodies	1	
Legal person	1	
National affiliation or ethnic origin	60	9,4
Private persons	38	
men 23		
women 15		
Organizations	15	
Legal persons	6	
Group of persons	1	
Health status	55	8,6
Private persons	45	
men 30		
women 15		
Organizations	7	
Legal persons	2	
Government bodies	1	
Marital and family status	52	8,2
Private persons	47	
men 15		
women 32		
Organizations	2	
Legal persons	2	
Government bodies	1	
Membership in political, trade union and other organizations	49	7,7

Private persons	30	
men 18		
women 12		
Organizations	16	
Legal persons	3	
Financial status	36	5,7
Private persons	35	
men 18		
women 17		
Legal persons	1	
Other personal characteristics	31	4,9
Private persons	24	
men 17		
women 7		
Organizations	4	
Legal persons	3	
Religious or political beliefs	29	4,6
Private persons	28	
men 18		
women 10		
Legal persons	1	
Sexual orientation	26	4,1
Private persons	5	
men 4		
women 1		
Organizations	19	
Government bodies	2	
Previous criminal record	18	2,8
Private persons	18	
men 17		
women 1		
Citizenship	10	1,6
Private persons	7	
men 2		
women 5		
Organizations	2	
Government bodies	1	
Ancestors	9	1,4

Private persons	9	
men	9	
women	0	
Gender identity	6	0,9
Private persons	4	
men	1	
women	3	
Organizations	1	
Legal persons	1	
Appearance	5	0,8
Private persons	4	
men	1	
women	3	
Legal persons	1	
Language	4	0,6
Private persons	4	
men	4	
women	0	
Genetic characteristics	3	0,5
Private persons	3	
men	3	
women	0	
Race	2	0,3
Private persons	2	
men	1	
women	1	
Birth	2	0,3
Private persons	2	
men	2	
women	0	
Total number of complainants by listed personal characteristics**	636	100,0

**In 102 complaints several personal characteristics were cited as grounds of discrimination.

Grounds of discrimination – national affiliation

Complaints – national affiliation	Number	%
Roma national minority	23	38,3
Croatian national minority	7	11,7
Albanian national minority	6	10,0

Romanian national minority	4	6,7
Vlach national minority	4	6,7
Hungarian national minority	3	5,0
Bosnian national minority	2	3,3
Macedonian national minority	1	1,7
Slovak national minority	1	1,7
Greek national minority	1	1,7
Other national minorities	8	13,3
Total number of complaints	60	100,0

Grounds of discrimination – age

Complaints – age	Number	%
Older persons – over 65 years of age	17	22,6
Children – up to 18 years of age	30	40,0
Between 18 and 65 years of age	28	37,3
Total number of complaints	75	100,0

Area of social relations to which complaints refer

Complaints by areas of discrimination	Number	%
In the employment procedure or workplace discrimination	212	33,9
Procedures before public authorities (court, municipality, Ministry...)	146	23,3
When extending public services or using public facilities and spaces	59	9,4
Education and professional training	47	7,5
Healthcare protection	31	5,0
Public information and the media	29	4,6
Public domain/General public	24	3,8
Social welfare protection	18	2,9
Other	12	1,9
Area not cited	12	1,9
Private relations	11	1,8
Property rights and relations	5	0,8
Culture, arts, sports	5	0,8
Pension and disability insurance	4	0,6
Trade unions, political parties, NGOs and other organizations related actions/activities	3	0,5
Housing	4	0,6

Exercising collective minority rights	1	0,2
Exercising religious rights	1	0,2
Judiciary	2	0,3
Total number of complaints	626	100,0

Areas of discrimination by complainants

Areas of discrimination by complainants	Number	%
In the employment procedure or workplace discrimination	212	33,9
Private persons	180	
men 85		
women 95		
Organizations	19	
Legal persons	10	
Government bodies	3	
Procedures before public authorities (court, municipality, Ministry, commissions)	146	23,3
Private persons	126	
men 94		
women 32		
Organizations	10	
Legal persons	8	
When extending public services or using public facilities and spaces	59	9,4
Private persons	46	
men 32		
women 14		
Organizations	8	
Group of persons	2	
Legal persons	2	
Education and professional training	47	7,5
Private persons	34	
men 17		
women 17		
Organizations	9	
Group of persons	4	
Healthcare protection	31	5,0
Private persons	22	

men	14		
women	8		
Organizations		6	
Government bodies		2	
Legal persons		1	
Public information and the media		29	4,6
Private persons		8	
men	5		
women	3		
Organizations		20	
Legal persons		1	
Public domain/General public		24	3,8
Private persons		18	
men	6		
women	12		
Organizations		4	
Legal persons		2	
Other		12	1,9
Private persons		11	
men	7		
women	4		
Government bodies		1	
Social welfare protection		18	2,9
Private persons		15	
men	7		
women	8		
Organizations		3	
Private relations		11	1,8
Private persons		11	
men	2		
women	9		
Property rights and relations		5	0,8
Private persons		4	
men	2		
women	2		
Government bodies		1	
Culture, arts, sports		5	0,8
Private persons		4	

men	3		
women	1		
Legal persons		1	
Pension and disability insurance		4	0,6
Private persons		3	
men	2		
women	1		
Organizations		1	
Trade unions, political parties, NGOs and other organizations related actions/activities		3	0,5
Private persons		1	
men	1		
women	0		
Organizations		1	
Legal persons		1	
Housing		4	0,6
Private persons		3	
men	3		
women	0		
Legal persons		1	
Exercising collective minority rights		1	0,2
Private persons		1	
men	1		
women	0		
Exercising religious rights		1	0,2
Private persons		1	
men	1		
women	0		
Judiciary		2	0,3
Legal persons		1	
Private persons		1	
men	1		
women	0		
Area not cited		12	1,9
Total		626	100,0

Area of labor and employment

Note: Values expressed in percentages represent cited personal characteristics and have been computed in relation to the number of complainants for complaints

in which a personal characteristic has been cited, and not in relation to the total number of complaints for that particular area.

Complainants in the area of labor and employment	Number	%
Gender	35	15,4
Private persons	34	
men 5		
women 29		
Legal persons	1	
Membership in political, trade union and other organizations	35	15,4
Private persons	24	
men 10		
women 14		
Organizations	11	
National affiliation or ethnic origin	22	9,7
Private persons	14	
men 7		
women 7		
Organizations	5	
Legal persons	3	
Age	23	10,1
Private persons	22	
men 13		
women 9		
Organizations	1	
Religious or political beliefs	14	6,2
Private persons	13	
men 4		
women 9		
Legal persons	1	
Marital and family status	35	15,4
Private persons	32	
men 7		
women 25		
Organizations	2	
Government bodies	1	
Disability	14	6,2
Private persons	13	
men 9		

women	4		
Government bodies		1	
Other personal characteristic		12	5,3
Private persons		10	
men	7		
women	3		
Organizations		1	
Legal persons		1	
Financial status		11	4,8
Private persons		11	
men	3		
women	8		
Health status		10	4,4
Private persons		10	
men	4		
women	6		
Ancestors		7	3,1
Private persons		7	
men	7		
women	0		
Previous criminal record		3	1,3
Private persons		3	
men	3		
women	0		
Genetic characteristics		1	0,4
Private persons		1	
men	1		
women	0		
Appearance		1	0,4
Private persons		1	
men	1		
women	0		
Gender identity		2	0,9
Private persons		2	
men	1		
women	1		
Sexual orientation		2	0,9
Government bodies		1	

Private persons	1	
men	1	
women	0	
Total	227	100,0

Treatment by public authorities

Note: Values expressed in percentages represent cited personal characteristics and have been computed in relation to the number of complainants for complaints in which a personal characteristic has been cited, and not in relation to the total number of complaints for that particular area.

Personal characteristics in complaints in the area of treatment by public authorities	Number	%
National affiliation or ethnic origin	14	10,7
Private persons	10	
men	8	
women	2	
Organizations	4	
Gender	15	11,5
Private persons	11	
men	7	
women	4	
Legal persons	2	
Organizations	2	
Previous criminal record	14	10,7
Private persons	14	
men	13	
women	1	
Financial status	12	9,2
Private persons	11	
men	8	
women	3	
Legal persons	1	
Other personal characteristic	12	9,2
Private persons	9	
men	6	
women	3	
Organizations	2	
Legal persons	1	

Age		12	9,2
Private persons		12	
men	10		
women	2		
Religious or political beliefs		9	6,9
Private persons		9	
men	9		
women	0		
Health status		13	9,9
Private persons		12	
men	10		
women	2		
Legal persons		1	
Marital and family status		8	6,1
Private persons		7	
men	4		
women	3		
Legal persons		1	
Disability		9	6,9
Private persons		8	
men	4		
women	0		
Organizations		1	
Citizenship		5	3,8
Private persons		4	
men	1		
women	3		
Organizations		1	
Genetic characteristics		2	1,5
Private persons		2	
men	2		
women	0		
Ancestors		2	1,5
Private persons		2	
men	2		
women	0		
Membership in political, trade union and other organizations		1	0,8
Private persons		1	

men	1		
women	0		
Language		1	0,8
Private persons		1	
men	1		
women	0		
Race		1	0,8
Private persons		1	
men	0		
women	1		
Birth		1	0,8
Private persons		1	
men	0		
women	1		
Total		131	100,0

Complainants in the area of information and media

Note: Values expressed in percentages represent cited personal characteristics and have been computed in relation to the number of complainants for complaints in which a personal characteristic has been cited, and not in relation to the total number of complaints for that particular area.

Complainants in the area of information and media	Number	%
Sexual orientation	15	48,4
Organizations	15	
National affiliation or ethnic origin	5	16,1
Private persons	2	
men	1	
women	1	
Organizations	3	
Membership in political, trade union and other organizations	3	9,7
Private persons	1	
men	1	
women	0	
Legal persons	1	
Organizations	1	
Disability	3	9,7
Private persons	1	
men	1	

women	0		
Organizations		2	
Gender		3	9,7
Private persons		3	
men	1		
women	2		
Age		1	3,2
Private persons		1	
men	1		
women	0		
Religious or political beliefs		1	3,2
Private persons		1	
men	1		
women	0		
Total		28	100,0

Provision of services and/or utilization of public spaces and facilities

Note: Values expressed in percentages represent cited personal characteristics and have been computed in relation to the number of complainants for complaints in which a personal characteristic has been cited, and not in relation to the total number of complaints for that particular area.

Complainants in the area of service provision and/or utilization of public spaces and facilities	Number	%
Disability	18	31,7
Private persons	14	
men	12	
women	2	
Organizations	3	
Legal persons	1	
National affiliation or ethnic origin	6	10,9
Private persons	5	
men	4	
women	1	
Group of persons	1	
Membership in political, trade union and other organizations	5	9,1
Private persons	3	
men	3	
women	0	

Organizations	2	
Gender	5	9,1
Private persons	4	
men 0		
women 4		
Group of persons	1	
Age	5	9,1
Private persons	5	
men 4		
women 1		
Citizenship	3	5,5
Private persons	2	
men 1		
women 1		
Organizations	1	
Financial status	2	3,6
Private persons	2	
men 1		
women 1		
Language	2	3,6
Private persons	2	
men 2		
women 0		
Gender identity	2	3,6
Organizations	1	
Legal persons	1	
Sexual orientation	2	3,6
Private persons	1	
men 1		
women 0		
Organizations	1	
Health status	2	3,6
Private persons	1	
men 1		
women 0		
Organizations	1	
Marital and family status	1	1,8
Private persons	1	

men	0		
women	1		
Other personal characteristic		1	1,8
Private persons		1	
men	1		
women	0		
Birth		1	1,8
Private persons		1	
men	1		
women	0		
Language		2	3,6
Private persons		2	
men	1		
women	0		
Total		55	100,0

Education and professional training

Note: Values expressed in percentages represent cited personal characteristics and have been computed in relation to the number of complainants for complaints in which a personal characteristic has been cited, and not in relation to the total number of complaints for that particular area.

Complainants in the area of education and professional training	Number	%
Disability	24	36,9
Private persons	16	
men	3	
women	13	
Organizations	6	
Group of persons	2	
Age	20	30,8
Private persons	12	
men	4	
women	8	
Organizations	6	
Group of persons	2	
National affiliation or ethnic origin	5	7,7
Private persons	3	
men	2	
women	1	

Organizations	2	
Health status	4	6,2
Private persons	3	
men 2		
women 1		
Organizations	1	
Financial status	3	4,6
Private persons	3	
men 3		
women 0		
Gender	3	4,6
Private persons	2	
men 0		
women 2		
Group of persons	1	
Other personal characteristic	2	3,1
Private persons	2	
men 2		
women 0		
Marital and family status	1	1,5
Private persons	1	
men 0		
women 1		
Language	1	1,5
Private persons	1	
men 1		
women 0		
Sexual orientation	1	1,5
Private persons	1	
men 1		
women 0		
Religious or political beliefs	1	1,5
Private persons	1	
men 1		
women 0		
Total	65	100,0

Defendants

Defendants	Number	%
Government bodies	242	38,9
Legal persons	190	30,5
Private persons	126	20,3
Body/Institution	34	5,5
Group of persons	18	2,9
Organizations	12	1,9
Total	622	100,0

***In four complaints, the discriminator has not been ascertained.

Number of cases with one discriminator	590
Number of cases with more than one discriminator	32
Total	622

Number of complaints by regions

Number of complaints by regions	Number	%
Belgrade region	186	29,7
Vojvodina region	80	12,8
Šumadija and Western Serbia region	77	12,3
Southern and Eastern Serbia region	73	11,7
Kosovo and Metohija region	19	3,0
Unknown region*	191	30,5
Total number of complaints	626	100,0

*Region is considered unknown in cases when the complaint was sent via e-mail and the complainant did not indicate his/her municipality of domicile.

Complaint procedure outcomes

Complaint procedure outcomes	2016
Motion filed with the Constitutional Court	1
Misdemeanor proceedings lodged	1
Criminal charges filed	3
Lack of jurisdiction	68
Incomplete (deficiencies)	128
No violation of rights	276
Court proceedings are either under way or have been finalized	18
The complaint had already been acted upon but no new evidence has surfaced	7
Due to the effluxion of time no useful purpose would have been served by acting upon the complaint	4

Complaint withdrawn	13
Complaints which ended in issuing an opinion	51
Opinion containing recommendations	46
Opinion not containing recommendations	5

Note: Some 2015 complaints were finalized in 2016

Complying with recommendations

Complying with recommendations	Number	%
Cases in which recommendations were complied with	33	76,7
Cases in which recommendations were not complied with	10	23,2
Total	43	100,0

In remaining cases, deadline for complying with recommendations has not expired

Complying with recommendations containing measures	Number	%
Cases in which recommendations containing measures were complied with	434	93,9
Cases in which recommendations containing measures were not complied with	28	6,1
Total	462	100,0

In remaining cases, deadline for complying with recommendations containing measures has not expired

Acting upon complaints

Acting upon complaints	Number	%
Finalized	570	91,0
Pending***	56	8,9
Total	626	100,0

