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# INTRODUCTION

Esteemed Members of the National Assembly,  
Dear readers,

This is eighth *Abridged Regular Annual Report of the Commissioner for the Protection of Equality of the Republic of Serbia*. Behind us is another year of intensive work and active participation in activities aimed at prevention of and protection against discrimination, as well as those geared towards promoting the equality principle in all fields and in all areas, in accordance with the mandate and competencies which the Commissioner for the Protection of Equality has been entrusted with.

In 2017, the Commissioner acted upon complaints that were submitted to out institution by citizens, as well as civil society organizations and other legal entities. In accordance with her authorizations and instruments for combating discrimination, and having in mind the importance of the development of the case law, the Commissioner for the Protection of Equality initiated several strategic litigations before High Courts in the Republic of Serbia in 2017.

The largest number of complaints in 2017 was submitted due to the disability discrimination, nearly one fifth of the total number, mostly due to physical barriers that prevent people with disabilities from using certain services or facilities. The second place is reserved for age discrimination, which is followed by gender as the basis for discrimination according to the number of submitted complaints. In the fourth place is discrimination on the grounds of health and in the fifth is discrimination on the grounds of national affiliation or ethnic origin, with the largest number still being related to discrimination against the Roma national minority.

In terms of the area in which discrimination is most prominent, the trend continues and the first place is still reserved for labour and employment, which is the basis for almost every third complaint. The next area relates to actions before public authorities with one fifth of the total number of complaints, and the third place is for complaints against discrimination in the provision of public services and the use of facilities and public spaces.

Bearing in mind that labour market and employment is the area in which most complaints have been submitted to us for years, we have created manual *Equality Code Practice – Guidelines for Developing the Antidiscrimination Policy of Employers in Serbia*, which was presented to the public and companies in June, at conference “We Do Not Discriminate”. On that occasion, companies also presented their experience and good practices, highlighting that the most successful companies take care of their employees, because they are aware of the need for

a good and harmonious working environment, and that business and human rights are not on different rather on the same page.

In 2017, we conducted an analysis “Gender equality in decision-making positions in local self-governments – an overview of the situation in the implementation of recommendations of measures to local self-government units for achieving gender equality”, and survey “Aging in cities – challenges of the modern society” and “Position of elderly women in Serbia”. The obtained data provide an insight into the situation concerning practising equality and show in which direction certain activities should be taken to improve and further create data-based public policies.

This year also we successfully cooperated with international and domestic organizations and institutions, public authorities and the media. We participated in the work of the European Network of Equality Bodies (EQUINET), which this year marked 10 years of work. In addition, we have worked to further improve regional cooperation with the institutions for the equality in South East Europe. Also, this year, for the third time, the Annual Media Prize for Tolerance was awarded to the Commissioner for the Protection of Equality and OSCE.

The Commissioner for the Protection of Equality has organized a significant number of training in particular for labour inspectors and employees in local self-government units. Education of police officers throughout Serbia has continued, as well as of students from different faculties. The Commissioner for the Protection of Equality presented and participated in over 650 conferences, round tables, workshops, forums, debates, panels and other events. The fifth competition in the simulation of a trial was held for students of law faculties. Also, the Commissioner participated in the Belgrade Marathon to point to the importance of involving persons with disabilities in sports activities.

I believe that our work will in the future be marked with an adequate and efficient protection against discrimination of every citizens, and that we will further promote equality as the only principle of a democratic and just society. We are aware of the fact that there is still a lot of work ahead of us to achieve zero tolerance to discrimination and to fully respect the equality principle.

Brankica Janković  
Commissioner for the Protection of Equality

## SUMMARY

In 2017, the Commissioner for the Protection of Equality, with her statutory powers, continued with activities aimed at combating all forms and cases of discrimination as well as those geared towards promoting equality.

The Commissioner for the Protection of Equality handled a total of 1,098 cases in 2017. The Commissioner received 532 complaints and, in addition to acting upon citizens' complaints, the Commissioner, in accordance with her authorizations and instruments for combating discrimination, provided 501 recommendations of measures aimed at achieving equality, she submitted three claims for protection against discrimination, a proposal to the Constitutional Court for the assessment of constitutionality, three criminal charges, one application to initiate misdemeanour proceedings, and in once case it was proposed to initiate a mediation procedure (conciliation). For purpose of uniform development of anti-discrimination case law, the Commissioner has not used her privileged local authority this year, or a legal possibility to file a claim to the High Court of Belgrade, instead, she filed claims in different cities of Serbia. Strategic actions or claims for protection against discrimination were filed due to discrimination on various grounds e.g. the Roma, health and disability, gender and sexual orientation. In 2017, the Commissioner issued two initiatives for amendments to regulations, as well as 41 opinions on draft laws and other acts of general nature. She also issued 13 warnings and 20 statements to the public. Opinions were issued in 51 cases following the completion of complaints procedure, out of which 33 opinions with a recommendation and 18 opinions without a recommendation of measures. In 33 cases in which recommendations of measures were provided, in 32 cases was determined that provisions of the Law on the Prohibition of Discrimination were violated, and in one case no violation of the Law was determined, however, a recommendation for achieving equality was provided. An opinion was issued in 18 cases stating that an act of violation of the Law on the Prohibition of Discrimination did not occur. According to the recommendations of the Commissioner, a total of 22 cases were acted upon (75.86%), where in seven cases (24.14%) no actions were taken, and in four cases the time limit for taking actions based on a recommendation has not expired yet. Opinions were issued in 14 cases stating that an act of discrimination against a group of persons has been ascertained (persons with disabilities, women, Roma, LGBT, refugees, migrants, asylum seekers, etc.), whereas in other cases an individual has been the object of discrimination. Regarding recommendations pertaining to the achievement of equality submitted to public authorities and other persons, a total of 91.6% cases were acted upon which, together with actions on the basis of recommendations provided in individual cases, on average amounts to 83.73%.

The largest number of complaints against discrimination received by the Commissioner for the Protection of Equality comes from natural persons. Similar to previous years, out of all complaints filed by natural persons, men complain more often than women, and they prevail with 59.3%, while women constitute 40.7% of all complainants. In 2017, civil society organizations filed more complaints compared to the previous year, whereas the number of legal persons that filed complaints reduced this year compared to 2016. In 2017, the Commissioner received a large number of citizens in the Commissioner's reception office, and the number of citizens who requested information via phone or e-mail has also increased. The reason for this is that the Commissioner took actions to increase the visibility and accessibility of the institution, and also the fact that from October 2016, the Commissioner's reception office is located at the seat of this state body.

The largest number of complaints this year was filed due to discrimination on the grounds of disability (18%), age (11.8%), gender (11.2%), followed by complaints alleging discrimination on the grounds of health (10.1%), national affiliation or ethnic origin (9.8%), marital and family status (7.6%), sexual orientation (6.6%), membership in political, trade union and other organizations (5.2%), religious or political beliefs (3.6%), property status (3.5%), whereas other grounds for discrimination were less present.

As for the area of social relations in which complaints have been filed most often, the trend continues, and the area of labour and employment is still on the first place, with a share of 31.2%. Similar to previous years, procedures before public authorities is an area of discrimination which with 21.4% occupies the second place. The next area in which citizens most often file complaints alleging discrimination are the areas of the provision of public services and utilization of facilities and public spaces (12%), education and professional training (7.9%), public information and the media (7%), healthcare protection (5.1%), social welfare (4.5) whereas a number of complaints in other areas of social relations are also present, but to a lesser extent, mostly below 3%.

Similar to previous years, the largest number of complaints were filed against public authorities (43%), which is slightly higher compared to the previous year. This is followed by complaints against legal persons (28.7%) and natural persons (17.8%). The rest are groups of persons, organizations and institutions, to a considerably lower extent.

The largest number of complaints were received from the Belgrade region (40%), which is even more than in the previous year, followed by Vojvodina region (18.98%), where also a larger number of complaints were filed compared to 2016. The regions of Šumadija and West Serbia (14.47%) and the region of South and East Serbia (13.53%) have marked an increase in the number of complaints compared to the previous year, while complaints from the region of Kosovo and

Metohija and from unknown regions (a region is unknown when a complaint was filed electronically, and the applicant did not indicate the municipality of residence) marked a drop in 2017.

Based on submitted complaints in 2017, it can be concluded that discrimination is most often present in case of persons with disabilities, which is confirmed by published surveys. However, the main challenges in improving the position of persons with disabilities are: accessibility to facilities, public areas, services and information, employment, reasonable adjustment of workplaces and jobs, access to education and professional training, the number and scope of services of health care and social welfare, inability of independent decision-making and other challenges, particularly multiple discrimination against persons with disabilities is most often combined with personal characteristics such as gender, health, age, national affiliation and similar.

Discrimination on the grounds of age is also present to a great extent, and according to the number of complaints on these grounds, it is on the second place. In 2017, discrimination on the grounds of age is immediately behind discrimination on the grounds of disability and points to the disadvantaged position of children (mostly of children with disabilities or difficulties in development) in the field of education. Also, the position of citizens aged 50–65 is also unfavourable in the field of labour and employment, and of citizens over 65 years of age. Having in mind the position of elderly citizens, the Commissioner conducted a survey “Aging in cities – challenged of the modern society” (in cooperation with the Red Cross of Serbia) and “Position of elderly women in Serbia” (with the support of the United Nations Agency for Gender Equality and Empowerment of Women). Findings of conducted surveys show that a large number of physical, social and economic barriers, prejudices and stereotypes, and the lack of inclusive public policies that include representatives of all ages and groups in the planning and development of cities, make it more difficult for elderly people to fully exercise their rights.

Gender-based complaints, which are mostly filed by women, are submitted in a slightly smaller percentage compared to the previous year. The number of complaints in which gender has been stated as the grounds for discrimination, has for years made up the largest percentage in the total number of complaints. Regarding areas of discrimination, labour and employment is still the most dominant area in which complaints are filed on these grounds. Similar to previous years, women submitted a larger number of complaints on these grounds because their gender and family status prevented them from progress at work, or, after they returned from the maternity leave, or after being absent from work due to child care, they were fired or re-assigned to other workplaces that are, as a rule, of a lower rank and with a smaller salary. In 2017, a certain number of complaints were submitted by men and women due to the opinion of centers for social work and decisions of courts on the exercise of the parental right, and for this reason, this area in which

actions should be taken in front of public authorities according to the number of complaints, follows the area of labour and employment. Also, the practice of the Commissioner and a large number of surveys has shown that, in practice, gender equality is hard to achieve without the proportionate and direct participation of women in the decision-making process in all areas of public life and at all levels. The Commissioner recommended to municipalities / cities in the Republic of Serbia a recommendation to take all measures and activities within their jurisdiction to ensure inclusion and promotion of equal representation of women and men in all areas of political and public decision-making in the exercise of public offices in local self-government units. In addition, the survey showed that we still face the problem of domestic violence. Special attention should be paid to further strengthening and capacity building of all competent authorities, both the police and centers for social work, prosecutor's offices and courts. The Commissioner specifically points to the lack of human resources in the social protection system. Also, attention should be paid to responsible reporting about domestic violence and violence in partnership, as well as to promote support and assistance to those at risk of violence or those that have suffered some form of violence.

In the last two years, discrimination on the grounds of health has been one of four most common grounds for complaints alleging discrimination. Also, reports by international organizations and human rights organizations point to the need to improve the situation in this area, particularly when it comes to combating stigmatization of people living with HIV/AIDS. In the handling of complaints, it was noticed that health, as one of the grounds for discrimination, most often occurs in multiple discrimination, mainly with age, disability or gender, and sometimes with other grounds of discrimination, and that discrimination on these grounds is present in the area of labour and employment which is why, among other things, the Commissioner initiated a strategic lawsuit in 2017.

Compared to 2016, the same number of complaints on the grounds of national affiliation or ethnic origin was filed in 2017, whereas, compared to 2015, this number has reduced. Any other complaint alleging discrimination on the grounds of national affiliation refers to discrimination against Roma men and women. The Action Plan Exercising of the Rights of National Minorities and the Action Plan for the Implementation of the Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia were adopted in 2017.

Similar to previous years, in 2017 citizens stated the marital and family status as a personal characteristics and one of first six grounds for discrimination. It is evident that a few years back the largest number of complaints on these grounds was submitted in the area of labour and employment. Based on published surveys, it may be concluded that the problem of harmonizing parenting with labour and employment responsibilities still prevails. The share of women-mothers on the

labour market is lower than that of women without children, whereas the share of fathers on the labour market is larger than that of men without children.

In terms of sexual orientation as the grounds for discrimination, similar to previous years, the largest number of complaints were submitted due to discrimination against LGBT persons in the area of public information and the media, and in most cases complainants were civil society organizations, which speaks about their significance and role in the protection of the rights of members of the LGBT population.

In terms of the number of complaints, the next ones are complaints alleging discrimination on the grounds of membership in political, trade union and other organizations, religious or political beliefs, property status, other personal characteristics, gender identity, appearance, previous convictions, citizenship, genetic characteristics, language, ancestors and birth.

Results of the analysis of the Commissioner for the Protection of Equality “Gender equality in decision-making positions in local self-governments – an overview of the situation in the implementation of recommendations of measures to local self-government units for achieving gender equality” show that women are under-represented in the political and public life of Serbia although there great positive development can be seen at the national level. However, the situation is very different when it comes to the regional and local government level where women are under-represented in places where it is possible to exercise greater influence on the creation of policies of relevance for the whole community. In terms of participation of women and men, the greatest difference is on the highest position in municipalities/cities, on the position of the head of a municipality, i.e. the mayor. Namely, out of 169 local self-development units, there are in total 12 heads of municipalities/mayors (Čoka, Pećinci, Sombor, Vršac, Odžaci, Kovin, Lučani, Smederevo, CM Savski Venac, Surdulica, Svrljig and Merošina), or 7.1%, which shows the ratio between genders in the selection of persons for the highest management position in local self-governments. Also, only 14% of women are on the position of the Chairman of the Municipality/City Assembly. The image is different when it comes to the operational level because 57.7% of women is on the position of the secretary of a municipal assembly, and 55% are heads of municipal administrations. A total of 51% of women are heads of public institutions, however, this is three times less (15.5%) women on leading positions in public companies. The lowest representation of women is in local communities – 7.11% i.e. 245 of women perform the function of the head of a local community out of a total of 3,445 places.

In view of the fact that practical experience of the Commissioner, survey data, as well as reports by international and national organizations, show that discrimination is most prevalent in areas such as labour 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 of protection against discrimination and further education of employees in public authority bodies, particularly in local self-government units. Then, by promoting examples of good practice, especially in the private sector and by motivating employers to create and conduct the anti-discrimination policy in accordance with the guidelines prepared by the Commissioner in order to combat discrimination in the area of labour and employment. Also, the Commissioner's practice shows that through recommendations, the Commissioner efficiently implements preventive actions, taking into consideration the percentage of treatments under these recommendations.

In the course of 2017, 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 organizing numerous training sessions, lectures, conferences and expert meetings, issuing publications, etc. Cooperation with public authorities, civil society organizations, other institutions as well as the media has also been strengthened.

Twinning project "Support to the Promotion of Human Rights and Zero Tolerance for Discrimination", financed from EU funds, among other things, included the development of manual *Equality Code Practice – Guidelines for Developing the Antidiscrimination Policy of Employers in Serbia*. The Manual was designed as a tool and assistance to employers in ensuring protection against discrimination and equality promotion, and at the beginning of June 2017, conference "We Do Not Discriminate" was organized, on which the *Equality Code Practice* was presented to employers, representatives of public authorities and professional public.

In addition, successful cooperation between the Commissioner and the European Network of Equality Bodies (EQUINET) continues by institution's participation in the work of the Annual EQUINET Assembly meeting, as well as by taking part in the work of working groups of this body. The Commissioner actively participated in the development and implementation of standards of the equality bodies, whose application and development should help equality institutions to achieve full potential. These standards have been preparing since 2016, and the first time they were presented and published at the Regional Conference of the Commissioner in 2016 in Belgrade as EQUINET draft document "Development of Standards for Equality Bodies". In May 2017, the Commissioner participated in a strategic meeting of all EQUINET members in which it was discussed about further steps in the development of standards. The meeting was held before the seminar of the European Commission against Racism and Intolerance (ECRI) on the revision of the General Policy Recommendation No. 2 (the recommendation refers to specialized bodies combating



racism, xenophobia, anti-semitism and intolerance at the national level). At the seminar, a decision was made to approach the revision of General Recommendation No. 2, which was initially adopted in 1997. The European Commission against Racism and Intolerance adopted the revised recommendation in December 2017, in an effort to help member states of the Council of Europe to further strengthen bodies in order to achieve equality and social cohesion.

Years long cooperation with the Council of Europe Belgrade Office continued through further implementation of project “Do Not Judge a Book by Its Cover – Live Library in Serbia”. “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 survey “Aging in cities – challenges of the modern society”, with the financial support of the United Nation Population fund (UNFPA). Survey “Position of elderly women in Serbia” was conducted with the financial support of the United Nations Entity for Gender Equality and the Empowerment of Women – UN Women, with the aim of gaining a better insight in the position of elderly women in the Republic of Serbia. The United Kingdom Government’s Good Governance Fund, through the UK Embassy in Belgrade, supported activities of the Commissioner for the Protection of Equality through the implementation of project “Strengthening human rights and combating discrimination against vulnerable groups through support to the implementation of anti-discrimination legal framework”. The framework included, among other things, the implementation of campaign “Make Equality Reality” in which public figures from the world of sports, culture and art participated and through recorded video and posters sent a message to the public about harmful effects of discrimination and importance of tolerance.

On the occasion of the International Tolerance Day, on 16 November, the Commissioner for the Protection of Equality organized an annual conference about the situation in achieving equality in the Republic of Serbia. The conference was supported by the OSCE Mission to Serbia and the topic of this year’s gathering was improvement of gender equality and equal participation of men and women in the political and social life at all levels.

For the third time this year, Annual Media Awards for Tolerance were awarded to journalists during the conference where they received the awards from Commissioner Janković and Ambassador Oricio, Head of the OSCE Mission to Serbia. Journalists were awarded in three categories – for the best TV/radio coverage, the best printed/online text and the best reportage/documentary.

Media reporting on activities of the Commissioner for the Protection of Equality and work of the institution only in 2017 marked an increasing trend and resulted in an increased interest of the media in topics of equality and protection of human rights. In particular, it should be noted that some daily and weekly newspapers are increasingly choosing specialized weekly or periodical additions dedicated to

a particular marginalized group or population, like the elderly or women. Commissioner's visits to municipalities and cities in Serbia have also intensified local media reporting which strengthened contribution to the promotion of equality.

As part of project "Improving the opportunities for Roma integration and education in Serbia, promoting employment of young Roma and integration of returnees", the Commissioner for the Protection of Equality and the Roma Education Fund for the third time organized a six-month internship program in the Professional Service of the Commissioner for interns of the Roma nationality.

In accordance with the 2017 Republic of Serbia Budget Law ("Official Gazette of the RS", No. 99/16), a sum of RSD 104,166,000 was allocated to the Commissioner for the Protection of Equality for program "Promotion and Protection of Human and Minority Rights and Freedoms". Total spent funds at the end of 2017 amounted to RSD 69,488,579.

Specific recommendations were entirely implemented in 2017 which the Commissioner provided in its 2016 Annual Report, and some recommendations were implemented only to a certain extent.

During the reporting period, the following legislation was enacted: Strategy for the prevention and suspension of trafficking in human beings, particularly women and children and protection of victims for period 2017–2022,<sup>1</sup> Strategy for measures and activities for increasing of quality of services in the field of geospatial data and registration of property rights in official state register – reform path of Republic Geodetic Authority by 2020,<sup>2</sup> Strategy for development of postal services in the Republic of Serbia for period 2017–2020,<sup>3</sup> Strategy for development of information security in the Republic of Serbia for the period 2017–2020,<sup>4</sup> Strategy for development of public internal financial control in the Public Sector in the Republic of Serbia for the period 2017–2020,<sup>5</sup> Law on Biomedical Assisted Fertilization,<sup>6</sup> Law on Foundations of the Educational System,<sup>7</sup> Law on Higher Education,<sup>8</sup> Law on Dual Education,<sup>9</sup> Law on Preschool Education,<sup>10</sup> Law on Amendments to the Law on Primary Education,<sup>11</sup> Law

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1 "Official Gazette of the RS" No. 77/17.

2 "Official Gazette of the RS" No. 8/17.

3 "Official Gazette of the RS" No. 84/17.

4 "Official Gazette of the RS" No. 53/17, part 3. Priority areas and strategic objective, section 3.2. Safety of citizens while using technology, sub-section 3.2.1. Safety of children on the Internet.

5 "Official Gazette of the RS" No. 51/17.

6 "Official Gazette of the RS" No. 40/17.

7 "Official Gazette of the RS" No. 88/17.

8 "Official Gazette of the RS" No. 88/17.

9 "Official Gazette of the RS" No. 01/17.

10 "Official Gazette of the RS" No. 101/17.

11 "Official Gazette of the RS" No. 101/17.

on Secondary Education,<sup>12</sup> Law on Electronic Document, Electronic Identification and Trusted Services in Electronic Commerce,<sup>13</sup> Law on Public Sector Employment,<sup>14</sup> Law on Amendments to the Law on Administration Fees,<sup>15</sup> Law on Financial Support to Families with Children,<sup>16</sup> Agreement on the Establishment of the Regional Youth Cooperation Office, the Statute of the Regional Youth Cooperation Office,<sup>17</sup> Regulation on Determining Hazardous Child Labour,<sup>18</sup> Regulation on the National Program for the Preservation and Promotion of Health Care for the Elderly,<sup>19</sup> Regulation on the National Program for the Preservation and Promotion of Sexual and Reproductive Health of the Citizens of the Republic of Serbia,<sup>20</sup> Rulebook on the enrolment of students in the secondary school,<sup>21</sup> Rulebook on the manner of adapting the content and/or the format of textbooks,<sup>22</sup> Rulebook on the National Education Framework,<sup>23</sup> Rulebook on incentives for programs for income diversification and improvement of life quality in rural areas through support to young farmers,<sup>24</sup> Rulebook on amendments to the Rulebook on entry in the Register of Agricultural Households and registration renewal, as well as on conditions for the passive status of agricultural holdings,<sup>25</sup> Rulebook on measures of providing assistance in ports and on ships to persons with disabilities and persons with reduced mobility<sup>26</sup>, amendments to the Public Notary Tariff.<sup>27</sup>

In 2017, the Commissioner continued to educate holders of judicial functions, police officers, public administration employees, employees in the education system, health and social care system and employees in inspection services in the field of anti-discrimination law.

Taking into account data received in complaint procedures in 2017 and based on other relevant and available data pertaining to challenges related to achieving equality, the Commissioner for the Protection of Equality has issued 29 recommendations that are given at the end of this Report.

12 "Official Gazette of the RS" No. 101/17.

13 "Official Gazette of the RS" No. 94/17.

14 "Official Gazette of the RS" No. 113/17.

15 "Official Gazette of the RS" No. 113/17.

16 "Official Gazette of the RS" No. 13/17.

17 "Official Gazette of the RS – International Treaties" No 4/17.

18 "Official Gazette of the RS" No. 53/17.

19 "Official Gazette of the RS" No. 8/17.

20 "Official Gazette of the RS" No. 120/17.

21 "Official Gazette of the RS" No. 38/17, 51/17 и 81/17.

22 "Official Gazette of the RS" No. 55/17.

23 "Official Gazette of the RS" No. 98/17.

24 "Official Gazette of the RS" No.29/17.

25 "Official Gazette of the RS" No. 46/17.

26 "Official Gazette of the RS" No. 29/17.

27 "Official Gazette of the RS" No. 91/14, 103/14, 138/14, 12/16, 17/17, 67/17 and 98/17.

# 1. About the Commissioner for the Protection of Equality

The Commissioner for the Protection of Equality (hereinafter: the Commissioner) is a singular state body, established by the Law on the Prohibition of Discrimination,<sup>28</sup> independent and autonomous in conducting activities determined by the law. The Commissioner has a wide scope of authorities which makes it a central national institution specialized in the prevention and suppression of all forms of discrimination.

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 has no powers to penalize discriminators if they fail to observe recommendations, 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, one of the main Commissioner's competencies is to act upon complains 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 before the Commissioner is free of charge. In the course of acting upon a complaint the Commissioner 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 is authorized to initiate the so called strategic litigation proceedings for the protection against discrimination. In addition, the Commissioner is authorized to file misdemeanour 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

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28 "Official Gazette of the RS" No.. 22/09.

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

## **1.1. Professional Service of the Commissioner**

The Law on the Prohibition of Discrimination prescribes that the Commissioner shall have a professional service which shall assist in the execution of its authorities and duties. Since its establishment, the Professional Service of the Commissioner has been developing and strengthening its capacities, taking care of planning and rational increase in staffing capacities.

The capacity of the Professional Service of the Commissioner in terms of job posts availability according to the job classification is at 60%, i.e. 36 full time employees. The dynamics and scope of activities performed by the Professional Service of the Commissioner indicate that staffing capacities need to be further strengthened, hence, the Commissioner plans to fill in places in the Professional Service within the available budget resources.

Continuous commitment to the building of institution capacities is in accordance with the objectives set forth in the Strategic Plan of the Commissioner for the Protection of Equality for the period 2016–2020. In the past year, the employees in the Commissioner's Professional Service attended a large number of workshops, training sessions and professional seminars organised in order to improve work and professional competencies of employees.

The achieved level of competence, expertise and experience of the employees in the Professional Service enables them to organize training sessions and seminars in the field of anti-discrimination law for different professional groups and the general public.

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

### 2.1. Overview of effective regulations

Appreciating the significance of respecting human rights and adhering to the equality principle, in the previous years the Republic of Serbia has established an adequate antidiscrimination framework and ratified most important universal and regional treaties in the area of human rights and prohibition of discrimination.

The Constitution of the Republic of Serbia prohibits discrimination,<sup>29</sup> while this constitutional prohibition of discrimination has been elaborated in detail by the Law on the Prohibition of Discrimination.<sup>30</sup> In 2017, the Commissioner organized two debates about amendments and addenda to the Law on the Prohibition of Discrimination, which were attended by professors from law faculties, judges, representatives of civil society organizations, and representatives of relevant ministries. The draft version of the Law on amendments to the Law on the Prohibition of Discrimination was prepared by the Ministry of Labour, Employment, Veteran and Social Policy in order to fully harmonize it with EU directives referring to the prohibition of discrimination, and based on the comments provided by the European Commission. Considering that it directly implements the Law on the Prohibition of Discrimination, the Commissioner also suggested certain amendments to overcome the issues observed in the application of the Law so far. When suggesting amendments, the Commissioner used the analysis of compliance of the Law on the Prohibition of Discrimination with EU regulations, and the analysis of the current implementation of the Law on the Prohibition of Discrimination in Serbia, and it took the stated activities in order to execute obligations determined by the Action Plan for negotiating Chapter 23 – Judiciary and fundamental rights within the framework of accession negotiations of the Republic of Serbia with the European Union.

The achievement of equality is especially supported by special anti-discrimination laws as well as with anti-discrimination provisions contained in many laws governing specific areas of social relations.

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

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29 "Official Gazette of the RS", No. 98/06.

30 "Official Gazette of the RS", No. 22/09.

## 2.2. Normative amendments in 2017

In 2017, the Commissioner provided opinions about draft documents in which she stated remarks on certain provisions of the law, some of which have been adopted and incorporated in adopted texts of laws, while others have not. All opinions of the Commissioner are available on the official website of the institution.<sup>31</sup>

In 2017, a set of regulations in the field of education was adopted, which is important for protection against discrimination and promotion of equality. The following is adopted: the Law on Fundamentals of the Education System, the Law on Higher Education, the Law on Dual Education, the Law on Preschool Education, the Law on amendments to the Law on Primary Education and the Law on Secondary Education. All stated laws in the field of education were delivered to the Commissioner during the phase of submission for opinion. Certain remarks of the Commissioner have been adopted, while others have not.

In 2017, some other laws were also adopted: the Law on Biomedically Assisted Reproduction,<sup>32</sup> the Law on Electronic Document, Electronic Identification and Trusted Services in Electronic Business,<sup>33</sup> the Law on Employment in the Public Service,<sup>34</sup> the Law on amendments to the Law on Republic Administrative Fees,<sup>35</sup> the Law on Financial Support to Families with Children,<sup>36</sup> and the Agreement on the Establishment of the Regional Youth Cooperation Office, with the Statute of the Regional Youth Cooperation Office.<sup>37</sup>

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31 Available at: <http://ravnopravnost.gov.rs/rs/misljenja-i-preporuke-lat/zakonodavne-inicijative-i-misljenje-o-propisima-lat/>

32 "Official Gazette of the RS", No. 40/17.

33 "Official Gazette of the RS", No. 94/17.

34 "Official Gazette of the RS", No. 113/17.

35 "Official Gazette of the RS", No. 113/17.

36 "Official Gazette of the RS", No. 113/17.

37 "Official Gazette of the RS – International Treaties", No. 4/17.

### 3. Description of the current situation in achieving and protecting equality

for the purpose of gaining an insight in the current situation with achieving and protecting equality, the prevalence of discrimination, its features and forms, the most common victims, perpetrators and areas where it most often occurs, this section of the abridged version of the Regular Annual Report of the Commissioner briefly presents certain findings of surveys, first of all, some findings of surveys which the Commissioner realised in cooperation with partners in 2017, and then reports of the European Union, relevant documents of international organizations, reports and surveys of non-governmental organizations in the Republic of Serbia, the practice of the European Court of Human Rights, and the practice of the Commissioner for the Protection of Equality. A description of the situation with achieving and protecting equality is complemented with a brief overview of key issues in achieving protection against discrimination, based on the findings obtained from procedures which the Commissioner conducted on the basis of complaints, as well as on other sources.

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

In 2017, two important surveys were implemented on the prevalence of discrimination and achievement of equality in the Republic of Serbia, and Commissioner's analysis "Gender equality in decision-making positions in local self-governments – an overview of the situation in the implementation of recommendations of measures to local self-government units for achieving gender equality"<sup>38</sup>, "Aging in cities – challenges of the modern society"<sup>39</sup> and "Position of elderly women in Serbia"<sup>40</sup>. Implementation of such analyses, surveys and making of an overview of the situation is Commissioner's attempt to provide continuous monitoring and viewing of the current situation, and measurable presentation of changes in achieving equality and the level of prevalence of discrimination. The findings of these surveys are a good tool in creating and implementing public data-based policies and they enable the Commissioner, and other relevant actors in the society, to determine priorities in the plan for the elimination of causes of discrimination and its effective suppression, and to create affirmative measures to reach full equality of discriminated and marginalized social groups.

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38 Available at: <http://ravnopravnost.gov.rs/rodna-ravnopravnost-u-jedinicama-lokalne-samouprave/>

39 Available at: <http://ravnopravnost.gov.rs/izvestaji-i-publikacije/publikacije/>

40 Available at: [www.redcross.org.rs/vesti/predstavljanje-rezultata-istra%C5%BEivanja-starenje-u-gradovima-izazovi-savremenog-dru%C5%A1tva/](http://www.redcross.org.rs/vesti/predstavljanje-rezultata-istra%C5%BEivanja-starenje-u-gradovima-izazovi-savremenog-dru%C5%A1tva/)



### ***3.1.1. Commissioner's analysis "Gender equality in decision-making positions in local self-governments – an overview of the situation in the implementation of recommendations of measures to local self-government units for achieving gender equality"***

Starting from legally prescribed competencies of the Commissioner<sup>41</sup> to monitor the implementation of laws and other regulations, and to recommend to public authorities and other persons measures for achieving equality in order to implement and promote protection against discrimination, in April 2017, the Commissioner provided a recommendation of measures for the achievement of equality<sup>42</sup> to all local self-government units in the Republic of Serbia. The Commissioner then submitted to all local self-government units a *Questionnaire* in order to monitor the implementation of recommendations and situation in the area of achieving gender equality in local self-government units.

Replies to answers which local self-government units submitted to the Commissioner pointed to the percentage of representation of women and men in the political and public life, in performing public and all other functions in local self-government units and public companies, as well as in public institutions founded by a municipality/city.

#### **3.1.1.1. Participation of women and men at the highest positions in the management of local self-government units**

Women are under-represented in the political and public life in the Republic of Serbia. Although there are positive developments, particularly at the national level, when it comes to the regional and local level of the government, there is a disproportionately higher percentage of men on places with a greater influence on the creation of policies relevant for the whole community.

It terms of percentage of women and men, the greatest difference is at the highest positions in municipalities/cities, particularly at the position of the head of a municipality, i.e. the mayor. Namely, out of 169 local self-development units, there are in total 12 in which women are heads of municipalities/mayors (Čoka, Pećinci, Sombor, Vršac, Odžaci, Kovin, Lučani, Smederevo, CM Savski Venac, Surdulica, Svrlijig and Merošina) or 7.1%.

Also, only 14% of women are at the position of the Chairman of the Municipality/City Assembly.

<sup>41</sup> Law on the Prohibition of Discrimination – "Official Gazette of the RS", No. 22/2009.

<sup>42</sup> See section 3.6.2.2. of the Report.

In addition to the stated, an analysis of the questionnaire for the monitoring of implementation of recommendation of measures has shown that women have a slightly greater chance of being appointed a deputy. In 17% of cases women are deputy heads of municipalities/deputy mayors, and in 24% of cases women are Deputy Chairmen of the Municipality/City Assembly.

Also, according to submitted data, in 57.7% of cases women are secretaries of the Municipal/City Assembly, whereas in 64.6% of cases women are at the position of a deputy secretary of a municipality/city.

### 3.1.1.2. Composition of Municipality/City Assembly

The subject of the analysis carried out by the Commissioner was also the ratio between the number of men and women members of local parliaments. Considering that the Law on Local Elections requires that the electoral list among three candidates in the order on the list (the first three places, the second three places and so on, until the end of the list) must have at least one candidate – of the gender that is less represented on the list, i.e. one of three members (~33.33%) must be a person whose gender is less represented, the Commissioner's analysis showed that is approximately similar to the quota set by the law.-

The findings show that the percentage of female members of municipal/city assemblies in the Republic of Serbia is 34.8%, and male members 65.2%.

However, in as many as 68 municipalities/cities (40.2%) the number of female members is below the values set forth by the law.

### 3.1.1.3. Composition of the authority for conducting election in local self-government units

The analysis showed that women are less represented and, on average, make up 37% of members of the electoral commission in the permanent composition when electing for the current convening of the municipality/city assembly. There are local self-government units which do not have a single female member in the electoral commission (Brus, Bojnik, Kučevo, Kuršumljija and Golubac), whereas the largest percentage of women was recorded in Nova Varoš, where the number of women is 10 (77%), and the number of men is 3. Examples of good practice are Sevojno (8 women and 8 men) and Kikinda (12 women and 12 men).

Somewhat encouraging is the fact that 43.2% of women were the heads of electoral commissions in the permanent composition when electing for the current convening of the municipality/city assembly.<sup>43</sup>

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43 Out of total 169 local self-government units which submitted data, the function of the president of the election commission is performed by 67 women and 88 men, whereas for 14 of them there are not data.

#### 3.1.1.4. Composition of management of working bodies of municipality/city authorities

The analysis showed that, in terms of managing position in standing and occasional working bodies, the percentage of male managers of working bodies is 64.2%, whereas the percentage of female managers of working bodies is 35.8% - which is one third less.

#### 3.1.1.5. Composition of Municipality/City Council

The Commissioner's analysis showed that local self-government units in the Republic of Serbia are 19% made of women, 81% of men as members of the municipal/city council, which means that only one woman on every four men has a chance to become a member of a municipal/city council.

#### 3.1.1.6. The women/men ratio on the positions of heads of municipality/city administrations and administrations of certain areas

A somewhat different picture, which also points to possible directions of action, is visible when it comes to heads of municipality/city administrations, i.e. administrations for certain areas, who are appointed after conducting a public tender.

An analysis showed that women occupy 47.5% of positions of heads of administrations, i.e. 56.5% of heads of administrations for certain areas. It should be kept in mind that the positions of the heads of administrations, i.e. heads of administrations for certain areas, are positions that are characterized by a high level of operability and large amount of workload, and the number of women on these positions is similar to, i.e. larger than the number of men.

An analysis of the number of candidates for the head of municipal/city administrations showed that 46.5% of candidates are women and 53.5% men. These percentages point to possible directions of actions, because they present women's success during the selection for a position for which the law prescribes that there should be a tender procedure.

#### 3.1.1.7. Composition of the management of internal organizational units of a municipality/city

Managers of these units in administration are appointed by the head,<sup>44</sup> and women occupy most of the positions as managers of departments and other services

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44 Article 57 of the Law on Local Self-Government.

in the municipality/city administration. Women occupy 56.6%, and men 43.4% of manager positions in internal organizational units in local self-governments.

### 3.1.1.8. Composition of councils of local communities

Based on the current situation, in the municipalities/cities in the Republic of Serbia that are the subject of an analysis, women take up 10.7% (2,652), and men 89.3% (22,059) of all councils of local communities.

Currently there are only 7.1% of women on the position of the head of local communities/councils of local communities.<sup>45</sup>

These are significant data that point to a large disparity in gender representation at the lowest level of local government, where an initiation is made to resolve specific, life issues, which means that specific problems and experience of women are excluded from the process of making decisions on everyday life. At the same time, such a small percentage of women's participation at the lowest level of local government is also an indicator of decision-makers, i.e. public policy-makers, in which direction measures and activities need to be pointed.

### 3.1.1.9. Composition of the management of public companies founded by a municipality/city

An analysis conducted by the Commissioner showed that women are managers of public companies founded by a municipality/city in 15.5% of cases, and men in 84.5% of cases. This means that in the Republic of Serbia, the management of public companies founded by local self-governments, consists of approximately one woman and five men.

Regarding supervisory boards, women make up 28.9% and men 71.1% of members of supervisory boards of public companies. The function of the chairmen of supervisory boards is executed 83.1% by men and only 16.9% by women.

### 3.1.1.10. Composition of the management of public institutions and organizations founded by a municipality/city

Concerning the composition of the management of public institutions and organizations founded by a municipality/city, an analysis of the situation showed that management positions are occupied 51.2% by women, and 48.8% by men.

The boards of directors of public institutions/organizations consist 51.2% of women, and 48.8% of men, and the share of women in the total number of the

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45 Out of total 3445 local communities, the function of the head of the council is executed by 245 women.

chairmen of the boards of directors of institutions/organizations founded by a municipality/city - 43.4% women, and 56.6% men.

The composition of the supervisory boards of public institutions/organizations is 47.8% women, and 52.2% men. Regarding the management of supervisory boards of public institutions/organizations, it's 41.5% women and 58.5% men on the positions of the chairman of the supervisory board.

Although women are represented in a satisfactory number in public institutions/organizations, their appointment for the chairman of the board of director and supervisory board is considerably smaller in number.<sup>46</sup>

### 3.1.1.11. Organization and structure of working bodies for gender equality

An analysis of the Commissioner showed that local self-government units do not have a standardized procedure and form of establishment of permanent working bodies for gender equality. They are most often established in the form of a commission, council or board by the head of a municipality, municipality assembly, or municipality council, and a large portion of established working bodies is not permanent.

It was determined that about one half of municipalities/cities did not establish a body that deals exclusively with gender equality issues.<sup>47</sup> Among local self-government units that have fulfilled this legal obligation and established a working body for gender equality, almost two thirds are in the form of a commission, and the smaller number (38%) are councils and boards for gender equality.<sup>48</sup>

Local self-government units that have established working bodies for gender equality were asked about the number of men and female members. There is a significant number of municipalities/cities (31.6%) whose working bodies for gender equality do not have a single male member. On the other hand, there are

46 Summing up the number of women and men on senior positions in public companies and public institutions/organizations, the following results were obtained: directors of all public companies whose founder is a municipality/city – 79 women, and 431 men; members of the supervisory boards of public companies – 415 women, and 1023 men; chairmen of supervisory bodies of public companies – 96 women, and 472 men; directors of public institutions and organizations founded by a municipality/city – 545 women, and 512 men; members of boards of directors of public institutions/organizations – 2662 women, and 2513 men; chairmen of boards of directors of institutions/organizations – 448 women, and 580 men; members of supervisory bodies of public institutions/organizations – 1204 women, and 1315 men; chairmen of supervisory boards of institutions/organizations – 361 women, and 510 men.

47 Out of total 169 LSGU that submitted data, 81 LSGU established a permanent working body for gender equality, 82 of them do not have it, and 6 of them do not have data about this.

48 Out of 81 LSGUs that established the working body for gender equality, 47 LSGUs established the body in the form of a commission, 28 in the form of a council, 5 in the form of a board, whereas 1 reported some other form or did not report a form of establishment of a working body.

examples of working bodies for gender equality that do not have a single female member, or have extremely small number of female members. On average, in all local self-government units, women make up 80% of members of working bodies in charge of the promotion of gender equality.<sup>49</sup> An average number of male and female members in working bodies for gender equality is seven.

In 38.4% of municipalities/cities there is a person that deals with gender equality issues. An analysis showed that the appointment of the employees does not depend on the existence of working bodies for gender equality, which means that some municipalities/cities have an established working body and an appointed employee (19.4%), whereas other municipalities/cities do not have a working body or an employee for gender equality (32.1%). On the other hand, 112 municipalities/cities (67.9%) have an established working body for gender equality or an appointed employee, or there have both, whereas 5 municipalities/cities have no data.<sup>50</sup>

Finally, the nature of workplaces of the employees appointed for gender equality issues was also explored. Workplaces were divided into those that directly deal with gender equality issues and to those where gender equality issues are a side activity. An example of the workplaces that directly deal with gender equality issues are “Head of the Gender and Minority Equality Division” and “Independent Advisor for Gender Equality Affairs”. Examples of workplaces that indirectly deal with gender equality issues are “Educational Inspector”, “Head of Division for Children, Social and Health Care”, etc. which in fact speaks of the lack of understanding of importance and the lack of knowledge and planned approach to gender equality issues.

#### 3.1.1.12. Existence of documents about gender equality in local self-government units

The obligation of the enactment and adoption of an act about gender equality in local self-government units is not explicitly defined by the Law on Gender Equality, however, adoption of this act is useful and important for the achievement of gender equality at the local level, because it demonstrates the unambiguous commitment of a municipality/city to ensure application of the principle of equal opportunities for men and women, and determine accountability and responsibilities for this. Even though 114 municipalities/cities (67.5%) did not adopt a decision on gender equality, there are encouraging data that 30 municipalities/cities (26.3% of municipalities/cities that have not yet adopted the decision) stated that they plan to adopt a decision on gender equality.

49 Out of 626 male and female members of working bodies for gender equality, 499 are women, and 127 men.

50 The working body for gender equality was established by 81 LSGUs, the employee for gender equality issues was appointed by 63 LSGUs, whereas both mechanisms exist in 32 LSGUs.

### 3.1.1.13. Measures planned to be executed by local self-government units for the promotion of gender equality

Based on submitted data, 83.4%<sup>51</sup> of local self-government units stated that they plan to take certain measures for the promotion of gender equality at the local level, i.e. to act according to the Commissioner's recommendation of a measure.

The most frequent responses of municipalities/cities to the question what measure for the achievement of gender equality they plan to take are the following: adoption of a decision on gender equality, implementation of projects in the field of gender equality, creating working bodies, building capacities of established working bodies, greater inclusion of women on decision-making positions, raising awareness, education of employees and citizens, and adoption of the local action plan. Also, examples of good practice, collected from submitted replies, include measures such as: establishing women's council networks at the local level, increased efforts in including women from rural areas and women with disabilities, and fight against gender-based violence.

Some of replies to the question related to the measures which locals self-government units plan to take to improve the position of women referred to the introduction of gender budgeting. In this regard, it is necessary to make efforts to build capacities of local self-government units for proper application of the gender budgeting principle, i.e. adequate definition of gender-responsive goals and indicators in budget programs, as well as their integration in all local policies.

### 3.1.2. Survey *"Aging in cities – challenges in the modern society"*

Survey "Aging in cities – challenges in the modern society" was conducted by the Red Cross of Serbia and the Commissioner, with the support of the United Nations Population Fund (UNFPA), as a continuation of cooperation that started in 2015 when survey "Well-kept family secret – abuse of elderly people" was conducted, i.e. a survey of the position of elderly people in rural areas in the Republic of Serbia conducted in 2016.

The objective of the new survey conducted in September and October 2017 was to test the needs of elderly people in urban areas in the Republic of Serbia, in order to determine the availability of services, primarily healthcare and social welfare, as well as other public services, including transport, and then to offer recommendations for the improvement of the quality of their life, and to point out and promote examples of good practice.

51 141 LSGUs plan to take measures for the promotion of equality in the followig period, and 28 municipalities/cities need to submit additional explanations to the Commissioner.

The findings of the survey show that a large number of physical, social and economic barriers, prejudices and stereotypes, as well as the lack of inclusive public policies which include representatives of all age groups in the planning and development of cities, make harder for elderly people to fully exercise their rights.

Respondents in the survey were older more than 65 years old, from 16 urban areas, evenly regionally represented from the entire country.

The findings of the survey showed that elderly people in cities have the greatest need for care services in their own homes, but also for a greater availability of health care and public transport services.

A total of 27% of elderly people currently need support, and one third (33%) of elderly people in 2017 had a need for care in their homes. About one fourth of respondents (23%) stated that they were looking for institutional help and support, whereas most of them looked for help and support from their close ones – from the family (43%) or from their relatives (10%).

Also, the findings of the survey show that public space and facilities (post offices, banks, centers for social work, etc.) are completely inaccessible for 16% of respondents. A total of 17% of respondents have no possibility to use public transport in the cities in which they live, and in cities where public transport exists, it is unavailable for 22% of elderly people.

Most of the elderly (46%) rate their health as “neither good nor bad” and 30% of the elderly assesses their health as poor. A total of 36% have difficulties in moving. Most of respondents have a chronic disease for a longer period of time (76%), and for more than a half (55%), chronic diseases are obstacles for doing daily activities.

When it comes to the availability of services to elderly citizens, they are relatively well informed about institutions for help and support, and they are better informed about healthcare services than about social welfare services.

Every tenth respondent has income below the absolute poverty line, and 8% of elderly people in urban areas are at the borderline of the absolute poverty line. One fifth of them have a strong sense of subjective poverty (21%), and almost half of the surveyed elderly people (46%) rated themselves as living in difficult or very difficult conditions and “makes ends meet” with their total income.

One third of respondents (33%) believe that age-based discrimination is frequent and that some citizens cannot exercise their rights only due to their age. The question about personal experience with age discrimination was replied by 9% of the elderly who said that they were often exposed to discrimination due to their age, and 23% of them stated that they have sometimes been discriminated against.



The respondents were dissatisfied with the treatment of elderly people mostly in municipal services (21%), in health institutions (19%) and in other institutions in the city (15%).

When it comes to expectations from the state, the largest number of respondents believe that more attention should be paid to the care of the elderly, through help and services (20%) and ensurance of better health care of the elderly (13%).

The findings of the survey point to the conclusion that it is necessary to invest in the urban infrastructure, free of architectural barriers, which will ensure free and safe movement of pedestrians, make larger investments in more accessible public transport, encourage social engagement of the elderly through work, education, volunteering, art and recreation, ensure equal development of the network of primary health care institutions, ensure information to the elderly about changes in the health care system and other services aimed at them, organize training for informal care takers, promote healthy lifestyle and fight against discrimination.

### ***3.1.3. Survey of the position of elderly women in Serbia***

A survey of the position of elderly women in Serbia was conducted with the support of the United Nations Entity for Gender Equality and the Empowerment of Women – UN Women in October 2017. The purpose of this survey was obtain a better insight into the position of elderly women in the Republic of Serbia and to provide more detailed information about their position in the following areas: health, social and economic position, formal and informal work, use of social protection services, safety and violence, education and development, community life and social relations, use of transport and movement, participation in legal affairs.

The survey was conducted on a representative sample consisting of women over 65 years of age living in the Republic of Serbia. The methodology of the survey included quantitative research through the field one-to-one survey, after which three focus groups were created.

#### **3.1.3.1. Health**

An analysis of the findings of the survey showed that 21% of elderly women rate their health as good or very good. A relatively large number of female respondents rated their health as satisfactory (37.9%), whereas 41.1% of elderly women rate their health as poor or very poor.

The largest number of female respondents say that they have chronic diseases and conditions that cause pain (45.5%), which is followed by difficulties in performing physical activities (31%).

As part of the focus groups that were held as part of the survey, female respondents pointed out several problems they face with when exercising the right to health care – like discrimination in using the ambulance service, long waiting time for specialist services, unkind and disrespectful behaviour of doctors-specialists, referral from state health care institutions to private health care places in which doctors work, and high prices of medicines.

### 3.1.3.2. Living conditions and material situation

An analysis showed that in marriage, the husband is in 71.3% of cases the owner of the real state in which spouses live, and the woman is in 14.5% of cases. The real estate ownership is connected to the structure of the household, and the woman is more often a real estate owner if she lives alone (69.7%), whereas in other situations, real estate is more often in the ownership of the husband.

The elderly women state that their most frequent source of income is their old age pension (57.3%), which is followed by the family pension (29%), 3.9% of women did not have personal income, and 1.1% used financial social assistance.

If the total percentage of elderly women who stated that their economic situation is very unsatisfactory (19.3%) or unsatisfactory (35.1%) is observed, it may be concluded that more than half of women who participated in the survey are not satisfied with their economic situation (54.4%).

### 3.1.3.3. Formal and informal work

An analysis of collected data showed that some of the women who participated in the survey, 86.5% of them, are retired, 9.4% were unemployed, and 4.1% worked. Paid and unpaid work, apart from household and agricultural tasks, was in the last six months done by 10.2% of women, and 16.7% of women stated that they would work in accordance with their competencies, if they had an opportunity to do so.

According to the findings of the survey, women aged 65 - 69 (17.9%) most often worked, and none of the women older than 79 worked. Paid and unpaid work was mostly done by women with higher education (17.6%). It decreases with the level of education, hence, only 3.6% of female respondents that worked had unfinished elementary school. Participation in paid and unpaid jobs is also linked to the size of a household, hence, women from large households more often stated that they worked. According to the statements of female respondents, mostly women aged 65-69 (24.4%) were interested in work, and women aged 80 - 84 also stated this. Women who graduated from university (29.8%) were the ones who were most interested in work.

The largest number of elderly women, whose work was paid, worked without the employment contract (70.8%). Most often women with completed primary school stated that they worked without the employment contract (69.2%), as well as women who graduated from secondary school (62.8%), while 21.4% of women who graduated from university worked without the employment contract. Working engagement of female respondents most often did not imply full-time work – 44% stated they worked 20 hours/week, 42.6% that they worked 20 to 40 hours/week, and 13.1% of elderly women stated that they worked over 40 hours/week.

A total of 11.5% of women in the last six months performed agricultural tasks daily or almost daily, and 8% of them performed them occasionally. Housework was performed by 88.3% of women and, on average, they spent 21 hours/week doing housework. Based on this, it can be concluded that elderly women spend time doing housework that is equivalent the work done in half the amount of working hours. However, most women consider that they work at home as much as they like (62%), and 28.2% of female respondents believe that they have more work than they like.

#### 3.1.3.4. Self-reliance in functioning and support for the life in the community

Although 58.9% of elderly women rate their health as satisfactory or good, only 38.6% of them stated that they can perform their daily activities smoothly. In other words, two thirds of elderly women (61.4%) are to a greater or lesser extent limited to perform their daily activities.

Elderly women most often perform their in-house and garden tasks with difficulties (45%), then food supply-related activities (33.4%), and slightly less than one fifth has a need to support and maintain personal hygiene, dress and move around the house (17.5%). A total of 12.5% of elderly women need support in the use of transport.

Social protection services are used by 4.5% of elderly women. The use of social protection services is connected to the self-reliance of beneficiaries, and services are mostly used by elderly women who say they have a limited ability to perform daily activities (8.8%), somewhat smaller number of women with a slightly less limited ability to perform daily activities (5.3%), and 0.6% of women that are self-reliant use some of social protection services.

#### 3.1.3.5. Safety and violence

An analysis of the findings showed that 14% of elderly women experienced some form of violence, 4.9% of who said that they were exposed to multiple violence and 7.2% of women were exposed to neglect.

A total of 8.6% female respondents said that they were exposed to some form of financial violence (theft, fraud, coercion), and 91.1% of elderly women said that they did not have such an experience. In addition, 4.1% of elderly women said that they were exposed to physical violence.

#### 3.1.3.6. Possibility of education and development

In the past six months 4.1% of elderly women participated in activities aimed at acquiring new knowledge, whereas 14.5% of women were interested in such activities.

The findings of the survey showed that these types of activities first of all included women who graduated from university (11.9%), whereas women with the lower level of education were very rarely involved in activities related to acquiring new knowledge and skills. Similarly, the most commonly involved in learning activities were women who live alone and who have never been married (12.5%). Women aged 65-69 (19.5%) are most interested in educational activities, then women aged 70-74 (12.3%), followed by women who graduated from university (30.2%) and secondary school (15.3%). Women with lower education were mostly not interested in these activities. Similarly, women living in urban areas (16.7%) were more interested in educational activities, compared to women living in rural areas (9.2%).

#### 3.1.3.7. Community life and social relations

Community activities such as visits to the theatre, a concert, an exhibition and other cultural events, have in the past six months included 16.8% of elderly women. The participation of women in these activities decreases with age, and varies from 24.3% among women aged 65 - 69, to 2.4% among women aged 85 or more.

Cultural activities more include women living in urban areas (21%) and less women living in rural areas (6.7%).

#### 3.1.3.8. Use of transport and movement in the community

The findings of the conducted survey showed that, when using public services, 40.8% of elderly women had no problems, and 27.9% had significant difficulties or were completely unable to go to the post office, bank, doctor, etc. Difficulties in the use of public services increase with age. Whereas a total of 14.7% of women aged 65-69 have significant or complete difficulties, they also exist with 69.1% of women aged 85 and more. Women with lower education face significantly greater difficulties in accessing public services, and 51.5% of women without the elementary school and 15.7% of women who graduated from university have complete or significant difficulties. The analysis showed that women who live

alone (41.6%) are more likely to face difficulties than women who live in multi-member families, and only 13.2% of women from families counting six or more members have significant or complete difficulties in accessing public services. The women living in rural areas (34.4%) face slightly more difficulties than women living in urban areas (25.1%).

In addition, a larger percentage of women in rural areas cannot use public transport although they need it (37.1%), compared to elderly women living in urban areas (22.4%).

Female respondents stated that most often they cannot use public transport because they find it difficult to get into the vehicle (46.2%) or because public transport does not exist in the area in which they live (30.3%).

### 3.1.3.9. Participation in legal proceedings

A total of 4.6% of elderly women participated in legal proceedings at the time of the survey, with additional 4.3% claiming that they needed protection in legal affairs in the past year, but they did not receive it.

Female respondents stated that the most common reason was that they did not have money to afford legal aid (55.9%), whereas other reasons were less common.

### 3.1.3.10. Women's opinion about the support of the society

The findings of the conducted survey showed that the largest number of female respondents believe that the society does not take sufficient care of the position of elderly women (80.2%). This opinion is not related to any demographic variable, and it can be said that it is common for all women regardless of their characteristics.

The survey resulted in recommendations for the improvement of the position of elderly women in the Republic of Serbia in the field of health care and social welfare, and the improvement of their social and economic position, as well as recommendations for measures for the prevention of violence against women.

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

The *European Commission's Report on progress of the Republic of Serbia in implementing Action Plans for Chapters 23 and 24* from May 2017<sup>52</sup> states that, in the forthcoming period, the Republic of Serbia should increase its efforts in the field

<sup>52</sup> *Non-paper on the state of play regarding chapters 23 and 24 for Serbia*, May 2017. – available at: [www.mei.gov.rs/upload/documents/eu\\_dokumenta/non\\_paper\\_23\\_24/non\\_paper\\_ch23\\_24\\_eng.pdf](http://www.mei.gov.rs/upload/documents/eu_dokumenta/non_paper_23_24/non_paper_ch23_24_eng.pdf)

of judicial reform. In addition, it was pointed out that the legislative framework needs to be improved in the area of gender equality, free legal aid and protection of minorities. In the next semi-annual Report on the progress of the Republic of Serbia in the process of European integration and implementation of Action Plans for Chapters 23 and 24 from November 2017<sup>53</sup>, the European Commission estimated that it is necessary to make additional amendments to the Law on the Prohibition of Discrimination in order to be fully harmonized with EU acquis. The Report stipulates that the full capacity of the Commissioner for the Protection of Equality to exercise jurisdiction in accordance with the Law on the Prohibition of Discrimination has not yet been achieved, i.e. the number of employees in the institution is still lower than the number envisaged by systematization.

The European Commission particularly emphasized in the Report that ensuring adequate mechanisms for protection against violence against women is still a priority. Regarding the position of children, it was estimated that the deinstitutionalization process is progressing and that 90% of children are placed in foster families, and only 10% is in institutions.

In addition, it was estimated that there are still challenges in the exercising of the rights of persons with disabilities, including justice, education and employment, as well as the problem concerning forced placement in health care institutions and the lack of funds for deinstitutionalization and support within the community. The activities related to the prevention of discrimination against LGBT people were commended, particularly the appointment of the National Liaison Officer at the Ministry of Internal Affairs, keeping regular contacts with the civil society in Belgrade and other municipalities in the Republic of Serbia, as well as the organization of the third consecutive Pride Parade that took place without an incident.

The European Commission pointed out progress in the preparation and printing of textbooks for national minorities, although there are still problems that need to be addressed, particularly in terms of Albanian and Bosniak national minorities. It was also emphasized that the process of desegregation and provision of incentives for preschool and early development remain a priority, as well as the need to better target active employment measures, including transition from education to the labour market.

In March 2017, the United Nations Human Rights Committee considered the Report of the Republic of Serbia on the application of the International Covenant on Civil and Political Rights and adopted the *Concluding observations of the UN Human Rights Committee on the Third Periodic Report on the Application of the International Covenant on Civil and Political Rights*.<sup>54</sup> The Committee commended

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53 *Non-paper on the state of play regarding chapters 23 and 24 for Serbia*, November 2017. – available at: [www.mei.gov.rs/upload/documents/eu\\_dokumenta/non\\_paper\\_23\\_24/non\\_paper\\_23\\_24.1.pdf](http://www.mei.gov.rs/upload/documents/eu_dokumenta/non_paper_23_24/non_paper_23_24.1.pdf)

54 *Concluding observations on the third periodic report of Serbia*, Human Rights Committee, UN, CCPR/C/SRB/CO/3, 10 April 2017. – available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=->

positive development in the field of human rights protection in the Republic of Serbia, particularly the improvement of the legal framework and adoption of strategic documents. However, in concluding observations, the Committee expressed concern over delay in the implementation of the Strategy for Prevention and Protection against Discrimination and made recommendations for taking specific measures towards the timely and effective implementation of the Action Plan for the implementation of the Strategy. It was emphasized that adequate regulation of indirect discrimination is needed to be conducted through planned amendments to anti-discrimination regulations, as well as by building capacities of the Commissioner for the Protection of Equality.

The Committee also made specific recommendations for the social inclusion of the Roma, promotion of gender equality and position of persons with disabilities, prevention of hate crimes, suspension of discrimination against LGBT persons and persons living with HIV/AIDS, prevention of family and partner violence, etc.

In August 2017, the United Nations Committee on Economic, Social and Cultural Rights adopted *General Comment No. 24 on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities*<sup>55</sup>. Part of this comment relates to the obligations of states in terms of prevention of discrimination, bearing in mind that discrimination was detected in exercising economic, social and cultural rights in the field of labour market and workplaces, as well as in the field of housing and renting apartments.

In December 2017, the United Nations Committee on the Elimination of Racial Discrimination adopted the *Concluding Observations on the Combined II–V Periodic Report of the Republic of Serbia on the application of the International Convention on the Elimination of All Forms of Racial Discrimination*.<sup>56</sup> The Committee commended the efforts of the Republic of Serbia in improving policies and measures it is implementing in order to ensure better implementation of the Convention, including adoption of important strategic documents in this field.

In May 2017, within the framework of the fifth monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published the *Report*

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55 *General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities*, Committee on Economic, Social and Cultural Rights, UN, E/C.12/GC/24, 10 August 2017. – available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1a0Szab0oXTdImnsJZZVQcIMOuuG4TpS9jwIhCJcXiuZlYrkMD%2fSj8YF%2bSXo4mYx7Y%2f3L3zvM2zSUbw6ujlnCawQrJx3hlK8Odk6DUwG3Y>

56 *Concluding observations on the combined second to fifth periodic reports of Serbia*, Committee on the Elimination of Racial Discrimination, UN, CERD/C/SRB/CO/2-5, 3 January 2018. – available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkGld%2fPPRiCAqhKb7yhslztXd5Nnh5GF9yFH9jwvvl9B8B1l%2fuXci8LTQu0fj4OYldtZ8n4OMBwtQDg7SZF6eFXhilq9YdxBd%2bRQfdDSZnBiSnXOW3tWQbHMJqen0>

on human rights in the Republic of Serbia.<sup>57</sup> In the *Report*, the Republic of Serbia was commended for making progress in a number of fields, however, a list of recommendations was also provided, two of which were specific recommendations that required priority implementation. The ECRI recommended that the National Assembly of the Republic of Serbia and the Government adopt codes of conduct that prohibit the use of hate speech, allow the suspension of mandates and other sanctions for the violation of their provisions, and the establishment of effective reporting channels. The second specific recommendation refers to prioritizing in employment and engaging the proportional number of the Roma and representatives of other minorities in the civil service.

In addition, ECRI recommendations addressed to the Republic of Serbia also refer to the need to harmonize anti-discrimination legislation with General Recommendation No. 7. One of the recommendations refers to the need to extend the competencies of the Commissioner for the Protection of Equality in order to enable the institution to initiate proceedings for protection against discrimination *ex officio*. The ECRI recognized Commissioner's important role in the implementation of preventive measures for the promotion of equality and sent a recommendation to the Republic of Serbia for organizing intensive trainings of journalists about the Code of Ethics, which should involve the Commissioner, in addition to the Press Council and the Regulatory Authority of Electronic Media. In addition, ECRI recommended that the police and prosecutors designate contact persons throughout the country who shall, together with the Commissioner, establish and maintain a regular dialogue with groups of people who are particularly exposed to hate speech and hate crimes, in order to ensure adequate reporting, investigation and prosecution of perpetrator of these crimes.<sup>58</sup>

In December 2017, the European Commission against Racism and Intolerance (ECRI) published general guidelines for strengthening the body for equality in fight against discrimination and intolerance.

In November 2017, the Commissioner for Human Rights of the Council of Europe, Nils Muižnieks, published an overview of the *Human Rights in Europe: from Crisis to Renewal?*,<sup>59</sup> which includes a period of his six-month mandate. In the part of the report referring to the situation in the Republic of Serbia, special

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57 *ECRI report on Serbia (fifth monitoring cycle)*, Council of Europe, adopted on 22 March 2017 – published on 16 May 2017. – available at: [www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Serbia/SRB-CbC-V-2017-021-ENG.pdf](http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Serbia/SRB-CbC-V-2017-021-ENG.pdf)

58 *ECRI report on Serbia (fifth monitoring cycle)*, Council of Europe, adopted on 22 March 2017, published on 16 May 2017, crp. 39, Available at: [www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Serbia/SRB-CbC-V-2017-021-ENG.pdf](http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Serbia/SRB-CbC-V-2017-021-ENG.pdf)

59 "Human rights in Europe: from crisis to renewal?" by Nils Muižnieks Commissioner for Human Rights, Council of Europe, November 2017 – Available at: <https://rm.coe.int/human-rights-in-europe-from-crisis-to-renewal/-/168077fb04>



attention was paid to the issue of desegregation, and appointment of a police liaison officer with the LGBT community was estimated as an example of good practice.

In 2017 was created report “Responsibility of States” in the OSCE Office for Democratic Institutions and Human Rights (ODIHR) concerning protection of human rights defenders in OSCE member states (2014–2016) and representing an analysis of the implementation of international standards listed in the ODIHR Guidelines on the Protection of Human Rights Defenders.<sup>60</sup>

The *2017/18 Report on the State of the World’s Human Rights*<sup>61</sup> created by international organization Amnesty International presents findings of the state of human rights in 159 countries and territories worldwide. Part of the Report that refers to the Republic of Serbia, *inter alia*, presents an assessment of the state in the field of freedom of speech, rights of LGBT persons, position of migrants and refugees, discrimination of Roma people, and the issue of violence against women and girls.

The *World Report of International Organization Human Rights Watch (HRW)*<sup>62</sup> provides an overview of key challenges in exercising human rights in more than 90 countries and territories worldwide, including in the Republic of Serbia, for the period from the end of 2016 until November 2017. The Report positively assessed organization of the Pride Parade which took place without an incident, in the presence of the first female head of the Government who declared herself a member of the LGBT community. Additionally, in the Report was stated that the Republic of Serbia in July 2017 became 67<sup>th</sup> country that approved the Safe Schools Declaration by committing itself to the protection of education during armed conflicts.

### 3.3. Reports and surveys by national institutions and organizations

In the *Report of the Republic of Serbia for the Third Cycle of the Universal Periodic Overview*, which the Government of the Republic of Serbia adopted in October 2017<sup>63</sup>, is pointed out that during the comprehensive reform in the pro-

60 “The Responsibility of States: Protection of Human Rights Defenders in the OSCE Region (2014–2016)“, ODIHR, 2017, Available at: [www.lgbti-era.org/sites/default/files/pdfdocs/0329%202017%20ODIHR%20Report%20on%20protection%20of%20HRDs%20in%20the%20OSCE%20Region.pdf](http://www.lgbti-era.org/sites/default/files/pdfdocs/0329%202017%20ODIHR%20Report%20on%20protection%20of%20HRDs%20in%20the%20OSCE%20Region.pdf)

61 “Annual Report 2017/18 – State of the World’s Human Rights“, Amnesty International – available at: [www.amnesty.org/en/latest/research/2018/02/annual-report-201718/](http://www.amnesty.org/en/latest/research/2018/02/annual-report-201718/)

62 “World Report 2018 – Serbia/Kosovo Events of 2017“, Human Rights Watch – available at: [www.hrw.org/world-report/2018/country-chapters/serbia/kosovo](http://www.hrw.org/world-report/2018/country-chapters/serbia/kosovo)

63 *Third Cycle of Universal Periodic Overview*, Report of the Republic of Serbia created in accordance with paragraph 5 of the Annex of Resolution 16/21 of the UN World for Human Rights, 31 October 2017,

cess of accession of the Republic of Serbia to the European Union, special attention should be paid to the promotion of the rule of law and protection of human rights, as well as to the promotion of the legal framework for the adoption of the best standards and achievements of the modern society, building institutional capacities and free media, and promotion of human rights.

In addition, the Report emphasizes progress in the protection and promotion of gender equality, and improvement of the position of the Roma, persons with disabilities, LGBT persons, migrants, refugees and members of national minorities, which was to a large extent conditioned by the existence of new institutional mechanisms, strengthening inter-sectoral cooperation and cooperation with civil society organizations in the field of prevention of discrimination.

In 2017, the Social Inclusion and Poverty Reduction Unit of the Government of the Republic of Serbia (SIPRU) issued publication *Monitoring Social Inclusion in the Republic of Serbia*.<sup>64</sup>

In September 2017, the Office for Human and Minority Rights published the *Fifth Report on Monitoring the Implementation of the Action Plan for the Implementation of 2014-2018 Strategy for Prevention and Protection against Discrimination for the first and second quarter of 2017*.<sup>65</sup> In the Report was estimated that out of 122 measures, including special measures for vulnerable groups that needed to be conducted in the reporting period, 51.7% of the measures were executed, they were not executed in 18% of cases, they were partially executed in 12.3% of cases, and in 18% of cases there are no data about the execution of measures.

In the *Annual Report on Work of the Lawyers' Committee for Human Rights – YUCOM*<sup>66</sup> was given an assessment of the level of exercise of human rights in the Republic of Serbia, as well as an overview of selected cases of representation in which this organization provided free legal aid.

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available at: [www.ljudskaprava.gov.rs/sr/press/vesti/vlada-usvojila-izveshtaj-za-tretshi-ciklus-univerzalnog-periodichnog-pregleda-upr](http://www.ljudskaprava.gov.rs/sr/press/vesti/vlada-usvojila-izveshtaj-za-tretshi-ciklus-univerzalnog-periodichnog-pregleda-upr)

64 *Monitoring social inclusion in the Republic of Serbia (third updated edition)*, Team for social inclusion and poverty reduction of the Government of the Republic of Serbia (SIPRU), October 2017 – available at: [http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2017/10/Pracenje\\_socijalne\\_ukljucenosti\\_u\\_Republici\\_Srbiji\\_trece\\_dopunjeno\\_izdanje.pdf](http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2017/10/Pracenje_socijalne_ukljucenosti_u_Republici_Srbiji_trece_dopunjeno_izdanje.pdf)

65 *Fifth report on the monitoring of implementation of the Action Plan for the implementation of the Strategy for Prevention and Protection against Discrimination for the period 2014-2018 – for the first and second quarter 2017*, the Office for Human and Minority Rights of the Government of the Republic of Serbia, Belgrade, September 2017 – available at: [https://view.officeapps.live.com/op/view.aspx?src=http%3A%2F%2Fwww.ljudskaprava.gov.rs%2Fsites%2Fdefault%2Ffiles%2Fdokument\\_file%2Fv\\_izvestaj\\_antidiskriminacija\\_-\\_nacrt.doc](https://view.officeapps.live.com/op/view.aspx?src=http%3A%2F%2Fwww.ljudskaprava.gov.rs%2Fsites%2Fdefault%2Ffiles%2Fdokument_file%2Fv_izvestaj_antidiskriminacija_-_nacrt.doc)

66 *YUCOM 2016/17 Report on Work*, Lawyers' Committee for Human Rights, Belgrade 2017 – available at: [www.yucom.org.rs/wp-content/uploads/2017/11/YUCOM-izvestaj-o-radu-2016-17.-20-godina-YUCOM-a.pdf](http://www.yucom.org.rs/wp-content/uploads/2017/11/YUCOM-izvestaj-o-radu-2016-17.-20-godina-YUCOM-a.pdf)

In 2017, YUCOM organization prepared *Guidelines for self-representation of citizens – litigation procedure and proceedings before independent institutions*.<sup>67</sup>

Citizens' opinion about the availability of public services was the subject of a survey conducted by the European Movement and the European Policy Center. Survey *Citizens' opinion about satisfaction with public services in primary health care*<sup>68</sup> analysed several relevant fields in terms of citizens' satisfaction with health services at the level of primary health care: efficiency and quality, satisfaction and expectation, misuse, discrimination and awareness.

### 3.4. Practice of the European Court of Human Rights in the field of protection against discrimination

In 2016, the European Court of Human Rights reviewed the existence of discrimination in several interesting cases, which are entirely available in Commissioner's Regular Annual Reports for 2017: *Carvalho Pinto de Sousa Morais v. Portugal*, *Khamtokhu and Aksenchik v. Russia*, *Balsan v. Romania*, *Talpis v. Italy*, *Alexandru Enache v. Romania*, *Bayev and Others v. Russia*, *Orlandi and Others v. Italy*, *A. H. and others against Russia*, *Ribač v. Slovenia*, *M.F. against Hungary*, *Škorjanec v. Croatia*, *Grigoryan and Sergeyeva v. Ukraine*, *Volter and Sarfert v. Germany*, *Mitzinger v. Germany*, *Tsartsidze and Others v. Georgia*, *Alković v. Montenegro*, *Saumier v. France*, *Gouri v. France*, *Ndidi v. the United Kingdom*, *K2 v. the United Kingdom*, *Fabian vs. Hungary*, *Kasper Novakovsky v. Poland*, *Klein and Others v. Germany*.

### 3.5. Practice of the Commissioner for the Protection of Equality

In 2017, the Commissioner for the Protection of Equality acted upon 1,098 cases. The Commissioner received a total of 532 complaints and, in addition to acting upon complaints filed by citizens, the Commissioner, in keeping with its authorizations and anti-discrimination instruments, has passed 501 recommendations of measures for achieving equality, submitted three claims for protection against discrimination, gave a proposal to the Constitutional Court for the assessment of constitutionality, three criminal charges, one request for initiation

<sup>67</sup> *Guidelines for self-representation of citizens – litigation procedure and proceedings before independent institutions*, Lawyers' Committee for Human Rights, Belgrade 2017 – available at: [www.yucom.org.rs/wp-content/uploads/2017/07/Vodic-za-samozastupanje-1.pdf](http://www.yucom.org.rs/wp-content/uploads/2017/07/Vodic-za-samozastupanje-1.pdf)

<sup>68</sup> *Citizens' opinion about satisfaction with services in primary health care – presentation of the findings of the survey*, European Movement in Serbia and European Policy Center, Belgrade 2017 – available at: [www.zdravlje.gov.rs/downloads/2017/April/analiza.pdf](http://www.zdravlje.gov.rs/downloads/2017/April/analiza.pdf)

of misdemeanour proceedings, and in one case was proposed initiation of the mediation procedure (conciliation). For purpose of uniform development of the anti-discrimination case law, the Commissioner has not used its privileged local authority this year, or a legal possibility to file a claim to the High Court of Belgrade, instead, it filed claims to different High Courts in the Republic of Serbia. Strategic actions or claims for protection against discrimination were filed due to discrimination on various grounds e.g. the Roma, health and disability, gender and sexual orientation. In 2017, the Commissioner issued two initiatives for amendments to regulations, as well as 41 opinions on draft laws and other acts of general nature. A total of 13 warnings and 20 statements to the public were also issued. Opinions were issued in 51 cases following the completion of complaints procedure, out of which 33 opinions with a recommendation and 18 opinions without a recommendation of measures. Out of 33 cases in which recommendations of measures were provided, in 32 cases was determined that provisions of the Law on the Prohibition of Discrimination were violated, and in one case no violation of the Law was determined, however, a recommendation for achieving equality was provided.

The largest number of complaints this year was submitted on the grounds of discrimination against disability, 114 complaints, which is 18% of the total number of complaints. According to the number of complaints, disability was first in terms of the grounds for discrimination in the past year, together with gender, and it has been among first four grounds for years by the number of filed complaints.

It was noticed that the trend of the number of complaints on these grounds has been increasing in previous years. In 2016, a total of 82 complaints were submitted, whereas in 2015, a total of 73 complaints were submitted on the grounds of discrimination against disability. The largest number of complaints alleging discrimination against disability was submitted due to discrimination during the provision of services or using facilities and public areas – 27 complaints (35.5%), where most complaints refer to the existence of physical barriers which prevent persons with disabilities from using certain services and facilities. A total of 26 complaints were submitted in actions before public authorities, which is 18.6%; 19 complaints in the employment procedure or at work, which is 12.8%; 17 complaints in education and professional training, which is 19.3% out of the total number of filed complaints. Fields of discrimination which people stated in their complaints are also fields which were in national and foreign surveys identified as social spheres with the greatest challenges for equal inclusion of persons with disabilities. Surveys by international organizations and national civil society organizations and institutions and practice of the Commissioner show that persons with disabilities are most often discriminated against in the field of exercising rights to education, work and accessibility of public facilities and areas, as well as services.

Age comes second in terms of the number of filed complaints, with the same number of complaints as last year (75) and with a share of 11.8% in the total

number of complaints. The analysis shows that the largest number of complaints (48%) pertain to the discrimination of children, whereas 33.3% of complaints were submitted due to discrimination of persons over 65 years of age, and 18.7% of complaints were filed due to discrimination of persons older than 18 and younger than 65 (considering that the largest number of complaints in this group were filed by persons between the age of 50 and 65). Practice of the Commissioner shows that, the same like last year, natural persons filed the largest number of complaints (61), 26 were women and 35 men, and different civil society organizations filed 13 complaints. Persons exposed to multiple forms of discrimination are particularly vulnerable (the Roma, persons with disabilities, women, etc.).

Gender as the grounds of discrimination this year is the third in terms of the number of filed complaints and with 71 complaints makes 11.2% of the total number of complaints, as compared the previous year when it was first by the number of filed complaints. The reason for an increase in the number of complaints in previous years when gender was stated as the grounds for discrimination is due to the fact that the Law on the Manner of Determining the Maximum Number of Employees in the Public Sector<sup>69</sup> contained discrimination provisions (Article 20) pertaining to the retirement of employees in the public sector. Just to reiterate, in 2015 the Commissioner and the Protector of Citizens jointly filed a proposal for the assessment of the conformity with the Constitution of this particular provision of the law. On this occasion, the Constitutional Court of the Republic of Serbia passed a decision IUz 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. By analysing persons who this year filed a complaint to the Commissioner alleging discrimination on the grounds of gender, it was determined that the largest number of complaints were filed by natural persons (58), 36 women and 25 men. In terms of the fields in which these complaints were filed, it was noticed that, similar to previous years, the largest number of complaints alleging discrimination on the ground of gender was filed in the field of labour and employment, i.e. in 2017 a total of 37 complaints were filed. Similar to previous years, in 2017 women filed complaints mostly due to assignment to lower ranking workplaces or because their employment contract was terminated after they returned from the parental leave or due to the absence from work because of child care. In terms of other fields in which complaints were filed due to discrimination on the grounds of gender as personal characteristics, the following ones are actions before public authorities (16.9%), health, and then public information and the media. In 2017, the Commissioner received a certain number of complaints which men and women filed due to an opinion of the centers for social work and court decisions on exercising the parental right. Similar to previous grounds, international and national surveys point to the problems in the same fields that occur in

69 "Official Gazette of the RS", No. 68/15.

in the Commissioner's practice. The analysis of complaints shows that gender as the grounds for discrimination occurred in several cases in 2017 in combination with other personal characteristics (the Roma, marital and family status, etc.).

Discrimination on the grounds of health is fourth in terms of the number of complaints, after disability, age and gender. There was an increase in the number of complaints on these grounds compared to the previous year. The Commissioner for the first time initiated a strategic lawsuit, i.e. it filed an appeal for protection against discrimination on the grounds of health and disability in the field of labour and employment. Men and women filed almost the same number of complaints on these grounds. Similar to previous years, the largest number of complaints on these grounds was filed by natural persons, then civil society organizations. This fact is not surprising considering that discrimination on the grounds of health includes discrimination of persons living with HIV/AIDS. In almost all cases, civil society organizations file complaints on behalf of a group of persons – persons living with HIV/AIDS, whereas mostly, for years, there have been no complaints filed by persons living with HIV/AIDS on their own behalf or on behalf of a specific person.

There was an evident stagnation and drop in the number of complaints claiming discrimination on the grounds of national affiliation and ethnic origin. In 2014, these grounds of discrimination came in first, and in 2015, they were second grounds in terms of the number of filed complaints, with a share of 18.4% in the total number of complaints. In 2016, these grounds for discrimination were fourth grounds, and in 2017, with a share of 9.8% in the total number of complaints, these grounds ranked fifth. Similar to previous years, the largest number of complaints were filed alleging discrimination against the Roma (33), which is 53.2% of all complaints filed on the grounds of discrimination against national affiliation and ethnic origin. Persons belonging to Croatian national minority filed seven complaints in 2017, which is 11.3% compared to complaints on the grounds of national affiliation and ethnic origin as personal characteristic. In 2017, members of Bosniak national minority filed seven complaints, which represent an increase in the number of complaints compared to the previous year when two complaints were filed. Similar to 2016, this year the largest number of complaints on the grounds of national affiliation or ethnic origin were submitted in the field of labour and employment and actions before public authorities.

Marital and family status ranks sixth with its share of 7.6% in the total number of complaints, the same like last year. Similar to the previous year, the largest number of complaints were filed by natural persons (43), which were followed by civil society organizations which this year filed slightly more complaints on these grounds compared to 2016. These grounds for discrimination are often stated as one of the grounds in cases of multiple discrimination. The data from the stated surveys show that certain vulnerable groups, particularly women, girls, female

members of the Roma national minority, due to their marital and family status, as well as due to the dominant patriarchal image of the role of women in the family, are at greater risk of being exposed to cases of multiple discrimination. The largest number of complaints on these grounds was filed in the field of labour and employment, which matches the findings of the largest number of surveys listed in this report. Then, in addition to this field, a large number of complaints on these grounds were filed due to actions before public authorities. It was noticed that in 2017, fathers of children whose mothers are foreign citizens filed complaints related to the exercise of the right to parental allowance, which is why the Commissioner sent a recommendation of measures for the achievement of equality to local self-government units (196) which will be elaborated in Chapter “Discrimination on the grounds of marital and family status” of this Report.

In terms of other ground for discrimination, sexual orientation is the grounds for discrimination that makes up 6.6% of the total number of filed complaints, followed by membership in political, trade union and other organizations as the grounds for discrimination with 5.2% share in the total number of filed complaints, religious and political beliefs that are the grounds of discrimination in 3.6% of complaints, real estate is 3.5% of complaints, gender identity is 2.8%, appearance 2.1%, conviction 1.3%, and citizenship 1.1%. The number of individual complaints per remaining fields does not exceed 1%. There is also a decrease in the number of complaints based on some personal characteristic not explicitly stated in the Law on the Prevention of Discrimination (2.7%, whereas in 2016 it was 4.9%, and in 2015 it was 8.8%). Such a tendency may be attributed to raising awareness of citizens regarding this notion and grounds of discrimination.

Regarding the field of social relations in which complaints are filed most often, the trend continues, and the field of labour and employment is convincingly first, with a share of 31.2%.

Similar to previous years, actions before public authorities is a field of discrimination that is at the very top in terms of the number of complaints, and ranks second with 21.4% of complaints. The next field in which citizens most often file complaints alleging discrimination is the provision of public services and use of facilities and public areas. The number of complaints referring to this field is larger compared to the previous year and makes up 12% of complaints. Having in mind the position of persons with disabilities in our society and the inaccessibility of certain public and other facilities that have the most diverse purposes and satisfy various needs, an increase in the number of complaints in their field is not surprising, and it is the product of work of raising awareness about the right to free access to facilities and services without discrimination.

Similar to previous year, the field of education and professional training is fourth, considering that 7.9% of complaints refer to this sphere of social relations,

followed by public information and the media (7%) which have marked growth compared to the previous year, health (5.1%), social welfare (4.45), whereas individual complaints in other fields of social relations are slightly smaller in their percentage, mostly below 1%.

Similar to previous years, the largest number of complaints were filed against government authorities, i.e. public authorities – 43%, which is slightly higher compared to the previous year. This is followed by legal entities (28.7%) and natural persons (17.8%). The remaining complaints pertain to groups of persons, organizations and institutions, which are represented with a considerably lower percentage.

The number of complaints per regions is presented in the Summary.

The Law on the Prohibition of Discrimination introduced the concept of a voluntary discriminator (tester) into the legal system of the Republic of Serbia. This is a person who is consciously exposed to discriminatory treatment with the intention to directly check application of the rule of prohibition of discrimination in a specific case. Considering that in court and in other proceedings providing evidence of discrimination using standard proofs often does not give satisfactory results, the Law established a special method of voluntary testing of discrimination (situational testing), which facilitates the process of proving discrimination. Situational testing is used for determining “on-the-spot” discrimination in order to prove unequal (unfavourable) treatment of a person or groups of persons based on a personal characteristic, or in order to make discriminatory practices visible. This method/mechanism enables detection of discrimination that is often “concealed” and is justified by different excuses. Situational testing is a special mechanism that involves creation of a particular situation in which a person (potential discriminator) is brought into a position to be able to behave/act discriminatively, without fear of someone watching them, and testers are those who are exposed to the behaviour of a potential discriminator and check if the discriminator behaves discriminatively in a given situation. Situational testing has great potential for strengthening evidence of discriminatory treatment in individual cases, and it is used for raising public awareness and developing public policies.

In 2017, civil society organizations conducted three situational tests, one test in the field of provision of services to persons living with HIV/AIDS, the second test in the field of housing, in Belgrade, related to the rental of residential buildings to members of the Roma national minority, and the third test in the field of provision of services or leasing catering facilities to LGBT organizations in Serbia. According to the reports of civil society organizations dealing with the protection of human rights, and after conducted situational testing which were reported to the Commissioner in accordance with the Law, in all three situational tests was stated that cases of discrimination were not registered. These facts are particularly encouraging given that there were registered cases of discrimination in previous



years according to reports on conducted situational tests in these fields of social life. As a result of situational testing, certain number of complaints were submitted to the Commissioner in previous years (for example, in 2013, 64 complaints, in 2014, 52 complaints, etc.), which also reflected on the total number of complaints filed to the Commissioner in the stated years.

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 a complainant is informed about why their complaint could not be acted upon, but at the same time they are provided with information where to apply and how to protect their rights.

### **3.6. Key challenges in achieving equality and protection against discrimination**

In order to successfully combat discrimination and achieve equality, all anti-discrimination mechanisms must function efficiently, primarily the institution of the Commissioner for the Protection of Equality and the courts, but also all public authorities must fully 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 and policies must be closely followed. Another element of paramount importance is that citizens must be well informed and aware of the fact that discrimination is prohibited by law, and of the significance that achieving the principle of equality has for the overall social and economic development and for the improvement of the quality of life of all citizens.

For further improvements to materialize in this area, the Commissioner has, *inter alia*, issued a recommendation in both the current and previous annual reports stating that there is a need to establish and operationalize a unified, centralized and standardized system for the collection, recording and analysis of data relevant for monitoring the phenomenon of discrimination and the way legal protection against discrimination operates. Establishing this system requires amendments to the Law on the Prohibition of Discrimination.

Regarding anti-discrimination institutions and mechanisms, in addition to the Commissioner as the central anti-discrimination state body, the courts play an extremely important role. The Commissioner has recognized the importance of uniform development of anti-discrimination court practices. Although the law prescribes privileged local competence by place of residence, and/or seat of the

prosecutor, the commissioner initiated three strategic court cases during 2017 before various higher courts in Serbia. Continuous improvements are necessary to court practices in this field, in order to encourage individuals to seek protection from discrimination in this way.

Respecting the legal norms prescribing urgency in action still remains a significant challenge in anti-discrimination proceedings before courts. Therefore, it is necessary to register cases of discrimination that would have a designated legal obligation of urgent action. Likewise, as stated, this would facilitate the monitoring and registration of cases of discrimination.

Regarding court-based protection from discrimination and in addition to trial courts, the importance of misdemeanour courts also needs to be emphasized. A number of proceedings initiated by the Commissioner before misdemeanour courts has ended due to the statute of limitations, which in turn is decreasing the efficiency of legal misdemeanour protection from discrimination.

Society still faces significant challenges in the field of improving equality, despite clear progress regarding protection from discrimination. The existing anti-discrimination legislation in Serbia provides a strong base for improving equality and combating discrimination, but this legal framework needs to be improved and harmonized with the European Union *acquis* and international standards.

Likewise, improving the legal framework for increasing the efficiency of protection from discrimination and its harmonization with European Union regulations requires the adoption or improvement of other regulations that may affect the achievement of equality and improvement of the status of certain marginalized groups (e.g. adopting the Law on Free Legal Aid, amendments to the Law on Extrajudicial Proceedings, Family Law, Law on Social Welfare, etc.)

Based on complaints filed during 2017, the group of persons most exposed to discrimination are persons with disabilities, as confirmed by a number of surveys. According to these surveys, persons with disabilities are one of the most vulnerable and discriminated social groups in all walks of public and private life. The main challenges regarding the improvement of the status of persons with disabilities are: accessibility of facilities, surfaces, services and information, employment, reasonable adaptation of workplaces and jobs, access to education and professional training, number and scope of healthcare and social protection services, prevention from independent decision-making and other challenges, particularly discrimination on multiple grounds against persons with disabilities most frequently in combination with personal characteristics, such as sex, health status, age, national affiliation or similar. Likewise, a constant promotion is necessary of the capabilities and capacities of persons with disabilities, providing for independent decision-making and support for independent living, along with

a continued process of deinstitutionalization. According to studies, persons with disabilities are one of the groups at a higher risk of violence, and thus particular attention must be paid to their protection, as well as the opportunities for reporting violence through accessible mechanisms and efficient systems for calls to emergency services, such as ambulances, police and fire-fighting services, support services, etc. Likewise, regulations limiting the legal competence of persons with disabilities represents a limitation of human rights, since declarations of complete legal incompetence compromise respect for private life, and these regulations must be harmonized with Article 12 of the Convention on the Rights of Persons with Disabilities. Furthermore, the institutionalization of persons with disabilities is leading to their stigmatization and social marginalization and represents a violation of the right to independent living in the community.

Discrimination based on age is also present to a considerable extent. According to the number of complaints, these grounds held second place in 2017, whereas in 2016 they were third. Having in mind the status of elderly citizens, the Commissioner, in cooperation with the Red Cross of Serbia, implemented the survey “Ageing in Cities - the Challenges of Modern Society”, and with the support of the United Nations Agency for gender equality and women’s empowerment, the Commissioner implemented the survey “Status of Elderly Women in Serbia”. Survey results show that a large number of physical, social and economic barriers, ingrained prejudice and stereotypes, as well as a lack of inclusive public policies covering representatives of all ages and groups in the planning and development of towns, make it difficult for elderly persons to fully enjoy their rights. Survey findings indicate the need to invest into urban infrastructure, without architectural barriers, providing for the free and safe movement of pedestrians, greater investments into accessible public transport, stimulating the social engagement of the elderly through work, education, volunteering, arts and recreation, uniform development of the network of healthcare institutions in primary healthcare, providing information for elderly persons on changes to the system of healthcare and other services aimed at them, organizing trainings for informal caretakers, promotion of healthy living habits and combating age-based discrimination. Likewise, it should be noted that the practice of the Commissioner shows that in 2017 the Commissioner received complaints in the field of employment and labour from citizens in the 50 to 65 year age group, representing a harder-to-employ category of persons. Affirmative employment measures have shown certain results, however achieving equality for this group of persons requires, in addition to undertaking affirmative measures in employment, measures of permanent inspection supervision, as well as rapid and efficient court protection in case of rights violations.

In addition to the above, it bears noting that the highest number of complaints have also been filed due to discrimination based on age related to children, most frequently in the area of education and professional development, as well as service

provision. This trend is also notable in surveys indicating the need to work on improving all forms of support to children with disabilities and developmental impairments, support to creative, artistic, cultural and sports programmes with the participation of children, to sensitising experts and the general public about the experiences and rights of children living and working on the street, the prevention and protection of children from all forms of violence involving child labour, child marriage or other forms of exploitation and social exclusion, as well as the prohibition of corporeal punishment.

The number of complaints listing gender as the grounds has been in the very top of the total number of complaints for years. By area of discrimination, the area of labour and employment is still dominant as the area where complaints were most often filed in. During 2017, just as during previous years, women have submitted a higher number of complaints on these grounds because, due to their gender and family status, they were either barred from promotions at work, or they were let go after returning from maternity or childcare leave, or because they were appointed to other jobs that were, as a rule, of a lower rank and with a smaller salary. Likewise, according to the report by the Statistical Office of the Republic of Serbia, the employment rate for women is 14.7 percentage points lower than the employment rate for men, with unemployment most frequent among young women, where the rate of unemployment has reached 39.5%. Furthermore, the pay gap between women and men in 2014 was 8.7%, meaning that women were paid 8.7% less than men.<sup>70</sup> Likewise, the Commissioner has also received a number of complaints in 2017 filed by both men and women regarding the opinions of social work centres and court decisions on exercising parental rights, thus the area of treatment before public authorities follows immediately after the area of labour and employment by number of complaints. Likewise, the practice of the Commissioner and numerous surveys have shown that, in practice, gender equality is difficult to attain without the proportional and direct participation of women in the decision-making process in all walks of public life and at all levels. The Commissioner has issued a recommendation to municipalities/towns in the Republic of Serbia to undertake all measures and activities under their competence to ensure inclusion and to stimulate equal representation of women and men in all spheres of political and public decision-making in the exercise of public authority in bodies of local self-government units. The Council of Europe Gender Equality Commission report (using 2016 data) – Balanced participation of women and men in decision-making<sup>71</sup> states that the Republic of Serbia has shown progress in this field, having in mind that the percentage of elected women

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70 *Women and Men in Serbia*, Statistical Office of the Republic of Serbia – available at: [http://socijalnouklju-civanje.gov.rs/wp-content/uploads/2017/11/Zene\\_i\\_muskarci\\_u\\_Republici\\_Srbiji\\_web\\_2017.pdf](http://socijalnouklju-civanje.gov.rs/wp-content/uploads/2017/11/Zene_i_muskarci_u_Republici_Srbiji_web_2017.pdf)

71 *Balanced participation of women and men in decision-making, Analytical report - 2016 data*, Gender Equality Commission (GEC), Council of Europe, September 2017 – available at: <https://rm.coe.int/analytical-report-data-2016-/1680751a3e>

in 2016 was 34.4%, while in 2008 it was 21.6%.<sup>72</sup> Regarding executive powers, the situation in the Republic of Serbia has been labelled as positive, having in mind that our country was the only one to achieve gender balance with a 50-50 distribution regarding the Deputy Prime Minister or Vice President.<sup>73</sup> However, this report further states that the percentage of women mayors in the Republic of Serbia has decreased since 2008, while at the same time the Republic of Serbia is among the eight of 35 countries where the percentage of women representatives in local authorities is under 20%.<sup>74</sup> Data on the gender structure of constitutional courts indicate that the Republic of Serbia is one of seven countries to achieve the minimum of 40%.<sup>75</sup>

In addition to the above, surveys show that the Republic of Serbia is still facing the issue of domestic violence. Data on the number of reported cases of violence,<sup>76</sup> measures issued since the adoption of the Law on the Prevention of Domestic Violence and Intimate Partner Violence can lead to the conclusion that the law has achieved a certain effect, and that the coordinated action of system institutions in the provision of protection from domestic violence and other forms of gender-based violence has been improved, with the goal of fully implementing the law. It is necessary to strengthen all (quantitative and qualitative) capacities of social work centres so that they can provide quality mapping of needs, timely activation of all forms of support and assistance, and improvement of support and assistance to those at risk of violence or having suffered some form of violence. Particular attention should be given to responsible reporting on domestic violence and violence in intimate partner relations, as well as to implementing trainings for all relevant stakeholders competent for the prevention of violence and acting in cases of violence.

During the past two years discrimination based on health status was among the four most frequent grounds listed in discrimination complaints filed with the Commissioner. Furthermore, reports by international and human rights organizations indicate the need for improvements in this field, particularly in combating the stigmatization of persons living with HIV/AIDS. The survey also shows that some of the key issues faced by this vulnerable group are stigmatization and discrimination, not just in Serbia, but worldwide. One aggravating circumstance is

<sup>72</sup> *Ibid*, p. 24

<sup>73</sup> *Ibid*, p. 42

<sup>74</sup> *Ibid*, p. 53

<sup>75</sup> *Ibid*, p. 70

<sup>76</sup> According to a statement by the Minister of the Interior of 24 November 2017 ([www.blic.rs/vesti/hronika/stefanovic-ove-godine-ubijeno-26-zena-u-porodicnom-nasilju/9qbbymj](http://www.blic.rs/vesti/hronika/stefanovic-ove-godine-ubijeno-26-zena-u-porodicnom-nasilju/9qbbymj)), and a report by the Network of Women against Violence ([www.zeneprotivnasilja.net/images/pdf/FEMICID-Saop%C5%A1tenje\\_2017\\_godina.pdf](http://www.zeneprotivnasilja.net/images/pdf/FEMICID-Saop%C5%A1tenje_2017_godina.pdf)) there were 26 women killed in 2017, and according to the statement by the Minister of Justice of 21 September 2017, 9,000 cases of domestic violence have been analysed (<http://rs.ninfo.com/a329523/Vesti/Vesti/Kuburovic-Razmatrano-9.000-slucajeva-nasilja-u-porodici.html>)

that victims of discrimination are frequently unwilling to start the process of filing complaints and proving the occurrence of discrimination, especially because of the risk of disclosure of their status to the broader community, thus increasing the risk of repeat discrimination. On the other hand, the results of the situational survey implemented in 2017 in the field of service provision are encouraging, registering no cases of discrimination and thus representing progress compared to the results of situational testing implemented in 2014, where discrimination was found in a large number of cases in the same field.

Acting upon the complaints has shown that health status, as one of the grounds for discrimination, occurs most frequently in discrimination on multiple grounds, mainly together with age, disability or gender as the grounds for discrimination, and sometimes with other forms of discrimination. This type of discrimination is most frequent in the field of labour and employment, leading to the Commissioner initiating strategic litigation in 2017. Likewise, an analysis of the practice of the Commissioner in 2017 has shown the importance and need for improving palliative care with the aim of improving the quality of life of patients and preserving dignity during the last days of life. Furthermore, the need has been noted for further informing citizens on the need for implementing both preventive, as well as screening examinations with the aim of early discovery of disease and improving the overall health of the population.

According to the number of complaints filed during 2017, citizens have also listed national affiliation or ethnic origins as grounds for discrimination. Nearly the same number of complaints have been submitted in 2017 on these grounds as in 2016, whereas in comparison with 2015 the number of complaints of this type has decreased. One out of two complaints for discrimination based on national affiliation is related to the discrimination of Roma persons. Among the total number of complaints in this area, the majority of complaints were in regards to treatment before public authorities, followed by employment procedures or treatment at work, and thereafter other walks of social life. Numerous surveys indicate that Roma women are particularly vulnerable, and that their reproductive health is affected by numerous pregnancies, poverty, violence and other factors. Surveys also indicate that few Roma girls finish primary or secondary schools, and that the number of Roma without personal documents has been significantly reduced, but they still occur, and activities are required for Roma employment in public services and institutions, as well as for improving living conditions and social welfare. Furthermore, surveys show that affirmative measures have contributed to a higher participation of Roma children in the education system, and to an increase in the number of children enrolling in preschool programmes, but further work is required on preventing the segregation of Roma children.

Positive steps have been made regarding the status of national minorities, both in the normative and institutional sense. The Action Plan for the Exercise

of National Minority Rights and the Action Plan for the Implementation of the Strategy for the Social Inclusion of Roma in the Republic of Serbia have been adopted in 2017. The surveys furthermore show that national minority councils are active, but further work is necessary on improving intersectoral cooperation and adequate implementation of existing regulations.

Citizens also listed marital and family status as a personal characteristic among the top six grounds during 2017, just as it was during previous years. During the past several years the highest number of complaints on these grounds have been filed in the field of labour and employment. Furthermore, a large number of complaints of this type were filed due to treatment before public authorities. The published surveys indicate that, much like in the European Union, the problem of harmonizing parenting with labour and employment obligations still persists. The share of mothers in the labour market is lower than the share of women with no children, while the share of fathers in the labour market is higher than that for men without children. Regardless of education, women spend twice as much time on household chores. To achieve full equality and combat discrimination based on marital or family status it is necessary to provide labour contracts with flexible working time, create community-based services that involve care for children and the elderly, increase active participation in all walks of social life, and to promote and stimulate the implementation of measures involving work leave for men caring for children. Furthermore, particular attention should be given to the status of women in rural areas, and to working on improving the situation and creating specific measures for this category of the population.

Like in previous years, the highest number of complaints was filed due to discrimination of LGBT persons in the field of public information and media, with the majority of complaints filed by civil society organizations, showing their importance and role in protecting the rights of members of the LGBT population. According to a report by the United Nations Development Programme in the Republic of Serbia,<sup>77</sup> LGBT persons list personal security as their highest priority, and state they are exposed to psychological violence and harassment, as well as physical assault due to their sexual orientation and gender identity. In this regard it is necessary to ensure full implementation of regulations, particularly regarding the provisions of Article 54a of the Criminal Code on sentences for hate crimes. Furthermore, improvements are required to regulations related to changes of personal names in official documents, making it possible for transgender persons to live in accordance with their own gender identity. Particular attention should be given to responsible reporting, i.e. reporting not characterized by hate speech, sensationalism, discriminatory attitudes, and insulting reports on persons of a different sexual orientation or gender identity, or other marginalized social groups.

<sup>77</sup> The report *To be an LGBTI person in Serbia*. Available at: [www.rs.undp.org/content/serbia/sr/home/library/poverty/izve\\_taj-biti-lgbti-u-srbiji.html](http://www.rs.undp.org/content/serbia/sr/home/library/poverty/izve_taj-biti-lgbti-u-srbiji.html)

Survey respondents also perceive impoverished citizens as one of the three social groups most discriminated against. However, the number of complaints based on wealth is negligible and they are mainly filed by natural persons.

Regarding the areas of social relations referenced in the complaints, the area of labour and employment remains the most frequent. Having in mind that this has been the area most frequently listed by citizens in their complaints for years, the Commissioner issued a manual in 2017 intended for employers in Serbia - the Code of Equality containing guidelines for developing an anti-discrimination policy code for employers in Serbia. Treatment before public authorities is in second place by number of discrimination complaints, followed by the area of provision of public services and use of facilities and surfaces. The area of education and professional training is in fourth place, as it was last year. The educational system affects the formation of opinions in children and has an important role in the construction, as well as deconstruction of stereotypes that frequently cause discrimination. According to the practice of the Commissioner, the area of education and professional training is followed by the area of public information and media, registering an increase compared to last year, while the number of individual complaints in the remaining areas of social relations is showing a somewhat lower percentage. The role of media in contemporary society in the formation of opinions and values is significant, thus media inevitably shape individual opinions on equality and discrimination. The practice of the Commissioner shows that the targets of hate speech in media are the most vulnerable social groups, particularly women, LGBT and Roma.

The overview by grounds of discrimination will present the state of play through surveys, reports by relevant organizations and institutions, and the practice and actions of the Commissioner to combat discrimination and promote equality. Furthermore, in order to bring the issue of discrimination closer to members of parliament and citizens in general, the report presents examples of certain opinions, recommended measures, warnings issued and notices given in 2017. The Commissioner provides a number of recommendations under the segment entitled Recommendations for combating discrimination and promoting equality, aimed at improving the status of marginalized social groups and improving equality.

Thereafter the report will briefly present the activities of the Commissioner related to the submission of proposals for the assessments of constitutionality; initiatives for legislative amendments; opinions on draft laws and other general regulations; on court proceedings (litigation, misdemeanour, criminal), as well as the outcomes of proceedings pursued by the Commissioner. Detailed statistical data on the work of the Commissioner is provided at the end of the Abridged Report, under the title Statistical Overview of the Commissioner's Work in 2017. In addition to this segment of the report, presenting cases where the Commissioner took part, all opinions and recommendations, as well as all other documents adopted by the Commissioner, have been published on the website of the Commissioner.



### 3.6.1. Discrimination on the grounds of disability

According to the Census of the Population, Households and Dwellings<sup>78</sup> there were 571,780 persons with disabilities living in Serbia in 2011<sup>79</sup> of the total of 7,186,862 citizens, representing approximately 8% of the total population. Regarding gender, there is a higher percentage of women than men among persons with disabilities (58.2%). According to type of impairment, the highest percentage are those reporting mobility impairments, and the least number with communication impairments. Based on assessments by the European Agency for Reconstruction<sup>80</sup>, for 2006 as the baseline year for the implementation of the First Strategy,<sup>81</sup> there are between 700,000 and 800,000 persons with disabilities living in the Republic of Serbia (this is also the average number of persons with disabilities in EU countries - between 8% and 12% of the total population).<sup>82</sup>

The status of persons with disabilities in the Republic of Serbia in general and the problems they face have been analysed by the UN Committee on the Rights of Persons with Disabilities, issuing relevant recommendations in order to improve the situation and attain a higher degree of implementation of the UN Convention on the Rights of Persons with Disabilities. Among the major challenges recognized by this Committee are: employment of persons with disabilities in general and in the open labour market with reasonable adaptation of workplaces in particular, prevention of discrimination on multiple grounds, particularly of women and girls with disabilities, deinstitutionalization of children with disabilities, promotion of the capabilities of persons with disabilities and enabling independent decision-making, the development of a comprehensive plan of accessibility and encouragement of the use of universal design in all areas, collection and processing of statistical data on persons with disabilities and services provided to them, and others. The need to act within various systems - such as the system of education, social welfare, healthcare, employment, accessibility, participation and overall development of diverse social welfare services, particularly at the local level, is also indicated in the abovementioned publication by the Belgrade Centre for Human Rights *Human Rights in Serbia in*

78 *Census of the Population, Households and Dwellings in 2011 in the Republic of Serbia – Volume 8: Disability*, Statistical Office of the Republic of Serbia, available at:

[www.stat.gov.rs/WebSite/Public/PublicationView.aspx?pKey=41&pLevel=1&pubType=2&pubKey=1741](http://www.stat.gov.rs/WebSite/Public/PublicationView.aspx?pKey=41&pLevel=1&pubType=2&pubKey=1741)

79 According to data from the Statistical Office of the Republic of Serbia, the census in 2011 was not implemented within the territory of the AP Kosovo and Metohija, whereas the municipalities of Preševo and Bujanovac register a reduced scope of census units due to the boycott by the majority Albanian community.

80 *Feasibility study for improving the employment of persons with disabilities in the Republic of Serbia*, 2006.

81 Strategy for the Improvement of the status of persons with disabilities in the Republic of Serbia, "Official Gazette of RS", No. 1/07.

82 *Draft Strategy for the improvement of the status of persons with disabilities in the Republic of Serbia for the period until 2020* – available at: [www.noois.rs/pdf/zakoni/Predlog\\_Strategija\\_OSI\\_2020.pdf](http://www.noois.rs/pdf/zakoni/Predlog_Strategija_OSI_2020.pdf)

2016 – law, practice and international human rights standards.<sup>83</sup> This publication states that certain issues remain in the process of deinstitutionalization, and that, according to data from the Republic Institute for Social Protection, among the total of 14,663 adult beneficiaries in 2015 89% were in institutional, and only 11% in family accommodation, a consequence of the fact that specialized fostering and the system of local support services for children and adults with development impairments and their families is not being developed. The publication particularly notes that persons with physical disabilities are faced with obstacles in everyday activities, such as using transportation, entering and moving through private and public buildings, using household appliances, electronic and digital systems, services and products.<sup>84</sup> The problem of employment of persons with disabilities was also noted, as well as the poor social inclusion and insufficient employment of persons with disabilities. According to data from the Ministry of Labour, Employment, Veteran and Social Affairs, 70% of persons with disabilities in the Republic of Serbia are poor, and more than half live off various social benefits. A total of 4,778 persons with disabilities have found jobs through the National Employment Service in 2016, an increase of 45% compared to the previous year.<sup>85</sup>

The need for improving the situation regarding the provision of various services to persons with disabilities was also emphasized in the study *Ensuring healthcare protection for persons with mental impairments in accordance with human-rights standards*<sup>86</sup> indicating the need to strengthen connections and coordination of activities, i.e. an intersectoral approach to healthcare and social welfare services, particularly in care for persons with mental and intellectual impairments in institutions or the community. In addition to strengthening connections between individual systems, the full inclusion of particular categories of persons with disabilities in the community requires further development of specific community-based services - day centres, work centres, day-care, etc. The status of women with disabilities is also the topic of the publication *Even the walls have ears here – testimonials of women with mental disabilities on gender-based violence in residential institutions*<sup>87</sup> stating that life in residential institutions is

83 *Human Rights in Serbia in 2016 – law, practice and international human rights standards*, Belgrade Center for Human Rights, Belgrade 2017. – available at [www.bgcentar.org.rs/bgcentar/wp-content/uploads/2013/04/Ljudska-prava-u-Srbiji-2016.pdf](http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2013/04/Ljudska-prava-u-Srbiji-2016.pdf)

84 *Human Rights in Serbia in 2016 – law, practice and international human rights standards*, Belgrade Center for Human Rights, Belgrade 2017, p. 62 Available at: [www.bgcentar.org.rs/bgcentar/wp-content/uploads/2013/04/Ljudska-prava-u-Srbiji-2016.pdf](http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2013/04/Ljudska-prava-u-Srbiji-2016.pdf)

85 *Ibid*, p. 63

86 *Ensuring healthcare protection for persons with mental impairments in accordance with human-rights standards*, Association of lawyers for medical and healthcare law of Serbia – Supram from Belgrade. Available at: [www.supram.org.rs/projekti/projekat-obezbedivanje-zdravstvene-zastite-osoba-sa-mentalnim-smetnjama-smestenim-u-rezidencijane-ustanove-srbije-u-skladu-sa-ljudskopravnim-standardima/uvid-u-istrazivanje/](http://www.supram.org.rs/projekti/projekat-obezbedivanje-zdravstvene-zastite-osoba-sa-mentalnim-smetnjama-smestenim-u-rezidencijane-ustanove-srbije-u-skladu-sa-ljudskopravnim-standardima/uvid-u-istrazivanje/)

87 *Even the walls have ears here – testimonials of women with mental disabilities on gender-based violence in residential institutions*, Initiative for the rights of persons with mental disabilities MDRI-S, August 2017 – available at: [www.mdri-s.org/wp-content/uploads/2017/09/Ovde-i-zidovi-imaju-usi\\_za-sajt.pdf](http://www.mdri-s.org/wp-content/uploads/2017/09/Ovde-i-zidovi-imaju-usi_za-sajt.pdf)

characterized by a lack of privacy, inability to make decisions about one's own life, social exclusion and violation of basic human rights and dignity, as well as high risk of violence, abuse and neglect.. The publication states that women with disabilities are being discriminated in all walks of public and private life, invisible in public life, encountering obstacles in education, healthcare and social welfare, they are more impoverished and more frequently unemployed than men with disabilities, victims of psychological, physical, sexual, economic and institutional violence, with the presence of stereotypes and prejudice regarding their gender roles, particularly marital and family relations and parenthood. The Commissioner spoke of these issues at the conference "Rights of Women and Girls with Disabilities" organized in 2016 by the Commissioner for the Protection of Equality in cooperation with UN Women.

The creation and enabling of the provision of relevant community-based services is particularly important regarding children with disabilities, as stated in the *Situation Analysis: Status of children with development impairments and disabilities in exercising their rights in the Republic of Serbia*.<sup>88</sup> Children and families of children with disabilities are facing various difficulties regarding the availability and quality of social, healthcare and educational services, and families of children with development impairments/disabilities are particularly affected by problems of discrimination, poverty and limited financial support.

This analysis indicates that families and children with development impairments and disabilities are frequently facing negative attitudes, thus 45% of the parents state that they or their children have experienced some form of insults, demeaning behaviour or harassment because of the development impairments of the child. Furthermore, 29% of the children, most frequently with physical impairments, experienced rejection when trying to use public services, with discrimination primarily related to treatment in the education system, representing the system the children are most frequently in contact with. The significant degree of negative attitudes is also indicated by the results whereby one third of the respondents (32%) believe that children with mental and intellectual disabilities have a negative effect on other children in the family. However, it is encouraging that more than 90% of citizens believe children with development impairments/disabilities can succeed with adequate support.<sup>89</sup>

The data related to discrimination in this report is particularly interesting. It states that responding to the direct question on which group of citizens do they see as most vulnerable, respondents replied with the Roma (20%) and members

88 *Status of children with development impairments and disabilities in exercising their rights in the Republic of Serbia*, National Organization of Persons with Disabilities of Serbia (NOOIS), Belgrade 2017 – available at: [www.noois.rs/pdf/aktivnosti/Polozaj\\_dece\\_sa\\_smetnjama\\_u\\_razvoju\\_i\\_invaliditetom\\_u\\_Republici\\_Srbiji](http://www.noois.rs/pdf/aktivnosti/Polozaj_dece_sa_smetnjama_u_razvoju_i_invaliditetom_u_Republici_Srbiji)

89 *Ibid*, p. 19

of the LGBT population (16%), followed by the poor (11%), women (8%) and persons with intellectual difficulties and mental impairments (8%).<sup>90</sup> It also states that a cause for concern is that as many as 16% of citizens believe discrimination towards certain groups is acceptable, and this opinion is also expressed among students in Serbia (18%).

Data from the National Employment Service (NES) indicates that in late 2017 there were a total of 14,983 persons with disabilities on the unemployment records.<sup>91</sup> A total of RSD 550,000,000.00 was allocated for active employment policy programmes for persons with disabilities in 2017, with a total of 6,806 persons covered. It is indicative that professional practice programmes were planned to cover 30 persons, with 12 involved throughout the year; programmes for the acquisition of practical knowledge were planned to cover 70, and involved eight persons; labour market trainings were planned to cover 580, and involved only 41 person; while trainings for known employers were planned to cover 20 persons, yet involved no persons with disabilities. The greatest problem in employing persons with disabilities is the low qualifications structure of these persons, a narrow range of occupations in special programme vocational schools and insufficient financial incentives. Because of this situation in the labour market, as well as to create an inclusive society, the Commissioner is constantly insisting on fully inclusive education. Likewise, practice is still showing a low level of employer motivation to hire this category of persons, mainly based on prejudice.<sup>92</sup>

However, positive progress can be noted having in mind that 19.3% more persons with disabilities have been employed from NES records in 2016 compared to the previous year (a total of 5,860 persons with disabilities, with 40,37% women), and five times as many as in 2009.<sup>93</sup>

The publication by the Serbian Association of Employers Status of Persons with Disabilities regarding Labour and Employment in the Republic of Serbia and the Guide for Employers - Employment of Persons with Disabilities<sup>94</sup> state that

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90 *Status of children with development impairments and disabilities in exercising their rights in the Republic of Serbia*, National Organization of Persons with Disabilities of Serbia (NOOIS), Belgrade 2017, p. 21 Available at: [www.noois.rs/pdf/aktivnosti/Polozaj\\_dece\\_sa\\_smetnjama\\_u\\_razvoju\\_i\\_invaliditetom\\_u\\_Republici\\_Srbiji](http://www.noois.rs/pdf/aktivnosti/Polozaj_dece_sa_smetnjama_u_razvoju_i_invaliditetom_u_Republici_Srbiji)

91 Official data from the National Employment Service have been presented at the roundtable "Improvement of the Status and Inclusion of Persons with Disabilities in Society" on 4 December 2017. The roundtable was organized by the Association of Persons with Disabilities Belgrade at the Assembly of the City of Belgrade, on the occasion of the International Day of Persons with Disabilities.

92 *Ibid.*

93 *Report by the competent authorities of RS regarding the implementation of recommendations No. 34 and No. 54 Committee for the Rights of Persons with Disabilities regarding the Initial Report of RS on the Implementation of the Convention on the Rights of Persons with Disabilities regarding recommendation 54*, Government of the Republic of Serbia, 8 May 2017, p. 4 and 5. Available at: [www.ljudskaprava.gov.rs/sh/node/19868](http://www.ljudskaprava.gov.rs/sh/node/19868)

94 Serbian Association of Employers - publications available at: [www.poslodavci.rs/category/reviews/](http://www.poslodavci.rs/category/reviews/)

among the currently unemployed persons with disabilities (who participated in the survey) nearly half never worked, while those who had working experience, in the majority of cases, have been trying to find a job for four to 20 years,<sup>95</sup> indicating a deficit in the supply of jobs, as well as a number of other difficulties, such as the employers not being ready to hire these persons, stereotypes and prejudice among employers and the general community, etc. The findings of this survey indicate a lack of adequate education and training of persons with disabilities, particularly regarding practical work training and acquisition of experience. Three out of four companies that participated in the survey do not organize professional practical training for persons with disabilities, while in 98% of the surveyed companies there are currently no persons with disabilities attending professional practical training<sup>96</sup>.

In addition to the above reports and analyses, the project “Strengthening Political Participation by Persons with Disabilities in Serbia”<sup>97</sup> indicates the need to improve the accessibility of the election processes for persons with disabilities through active participation in the reform of the electoral system and establishing cooperation with political parties, the Republic Electoral Commission, civil society organizations and other bodies developing and implementing measures contributing to the accessibility of the electoral process. The guide to the electoral post with dignity and independence has been developed with this in mind.<sup>98</sup>

The problems faced by persons with disabilities, highlighted in the above reports and publications, are also confirmed by the practice of the Commissioner. Namely, by frequency of complaint, disability is in first place in 2017 as grounds for discrimination. Likewise, during the past years the share of complaints on these grounds was among the top four. However, it is clear that the number of complaints on these grounds is increasing. The number of complaints on these grounds in 2014 was 10.1%, in 2015 it was 11.3%, while in 2016 there were 82 complaints filed on these grounds (12.9%). An increased number of complaints does not mean that persons with disabilities are discriminated against more, it indicates instead the empowerment of persons with disabilities and their associations to recognize discrimination and seek protection.

95 *Status of Persons with Disabilities regarding Labour and Employment in the Republic of Serbia*, Serbian Association of Employers, Belgrade 2017, p. 6 Available at: [www.poslodavci.rs/vodic-za-poslodavce-zaposljavanje-osoba-sa-invaliditetom/](http://www.poslodavci.rs/vodic-za-poslodavce-zaposljavanje-osoba-sa-invaliditetom/)

96 *Status of Persons with Disabilities regarding Labour and Employment in the Republic of Serbia*, Serbian Association of Employers, Belgrade 2017, p. 8 Available at: [www.poslodavci.rs/vodic-za-poslodavce-zaposljavanje-osoba-sa-invaliditetom/](http://www.poslodavci.rs/vodic-za-poslodavce-zaposljavanje-osoba-sa-invaliditetom/)

97 The project is being implemented by the Centre for Independent Living of Persons with Disabilities of Serbia and the National Organization of Persons with Disabilities of Serbia, with the support of the United States Agency for International Development.

98 *To the electoral post with dignity and independence*, Centre for Independent Living of Persons with Disabilities of Serbia and the National Organization of Persons with Disabilities of Serbia. Available at: [http://noois.rs/pdf/publikacije/Vodic\\_zaglasanje\\_zaglasanje\\_OSI.pdf](http://noois.rs/pdf/publikacije/Vodic_zaglasanje_zaglasanje_OSI.pdf)

There were 114 complaints filed for discrimination based on disability in 2017, making these grounds 18% of the total number of grounds based on frequency of complaint. Among the total number of complaints filed in 2017 on these grounds, natural persons have submitted 81 complaints (52 by men, 29 by women), while various organizations for the protection of rights have submitted 31 complaints. One complaint was filed by a group of persons, and one by a state body. Multiple complaints (77) were filed due to the discrimination of a specific natural person, while the remaining number of complaints were filed due to the discrimination of a group of persons.

The highest number of complaints against discrimination based on disability was filed due to discrimination in the provision of services or the use of facilities and surfaces - 27 complaints (35.5%), with most complaints related to the existence of physical barriers preventing persons with disabilities from using certain services or facilities. There were 26 complaints filed in procedures before public authorities due to discrimination on these grounds (18.6%), 19 in the process of employment or at work (12.8%), and 17 in education and professional development (19.3%). There were seven complaints filed in the field of healthcare (23.3%), six in the field of social welfare (18.2%), while in other areas of social life the number of complaints filed was lower.

In addition to action based on the complaints of citizens, the Commissioner issued nine opinions on draft laws and other legislation in 2017 regarding the protection from discrimination of persons with disabilities, such as the Strategy for the Improvement of the Status of Persons with Disabilities, the Law on the Fundamentals of the Education System, Law on Pre-School Education and others. During 2017 the Commissioner, through the Office for Human and Minority Rights, submitted comments to the UN Committee on the Rights of Persons with Disabilities on the Adopted Plan of Development of General Comment No. 6 on the rights of persons with disabilities to equality and non-discrimination.

Likewise, in accordance with competences, the Commissioner initiated litigation in 2017 (strategic litigation) due to discrimination on these grounds.

Analysing the difficulties faced by persons with disabilities, the Commissioner also issued 107 recommendations on measures for achieving equality for persons with disabilities. The highest number of recommended measures (96) were issued to providers of medical services.

## Opinions and recommendations

### *Polling place inaccessible to wheelchair user*

The complaint was filed against the Municipality of Šid for discrimination based on disability. The complainant stated that she was a wheelchair user and

could not exercise her voting rights the same as other persons, since the polling place was organized within an inaccessible primary school building. The procedure has shown that the primary school building where the elections were organized was inaccessible to persons with disabilities, particularly those using wheelchairs or with impaired mobility, since entering the school building requires climbing a number of steps. The Commissioner issued an opinion whereby the Municipality of Šid, failing to ensure accessible entry into the school building, has discriminated against persons with disabilities since, according to mandatory international standards and domestic regulations, persons using wheelchairs for mobility have the right to access public facilities under equal conditions. The Municipality of Šid was recommended to issue a letter of apology to the complainant, to undertake all necessary measures to ensure accessible entry into the school building used as a polling place, and to undertake measures to ensure future accessibility of public facilities where voting takes place to persons with mobility impairments, and/or wheelchair users. Based on this recommendation the president of the municipality of Šid forwarded the written apology issued to the complainant to the Commissioner, along with evidence of the complainant having received the apology. The president of the municipality also notified the Commissioner that the Municipality of Šid will undertake all necessary measures to ensure accessible entry into the school building to persons with disabilities, along with measures to make entrances to all polling places within this municipality accessible to persons with disabilities.

*The City of Zaječar failed to provide additional support – a personal assistant to a primary school student*

A complaint against the City Administration of Zaječar stated that the city administration failed to implement additional social support – a personal assistant for a boy, even though the opinion of the Commission for the assessment of the need to provide additional educational, healthcare or social support to the child/student proposed securing this form of additional support. The procedure has established that the individual support plant of the Intersectoral Commission assessed that the child needed to be provided with personal assistance, but the city of Zaječar failed to secure funds to finance this form of additional support. The Commissioner issued the opinion that by failing to provide additional support by personal assistants for children and students who require this form of support the city of Zaječar prevented the boy from receiving the necessary additional support for education, thereby violating the provisions of articles 6 and 19 of the Law on the Prohibition of Discrimination. Therefore the city was recommended to undertake all necessary actions and measures to ensure the engagement of a personal assistant for the boy, a primary school student, and in the future, when performing tasks within their competence, to not violate anti-discrimination regulations. The city administration notified the Commissioner that the City Council of the City of

Zaječar established a draft decision on social protection and the above draft was submitted to the City Assembly for adoption. The notice also states that the City Assembly failed to adopt this proposal and did not change its decision because of a need for additional financial analyses. The procedure is under way.

### 3.6.1.1. Recommendation of measures

#### *Recommendation of measures for achieving equality of persons with disabilities in the process of using the services of public notaries*

The Commissioner received a notice stating the problems faced by blind and vision-impaired persons in exercising their rights, particularly in the domain of service provision. Namely, in order for a person with disability to complete a legally binding document or certify a signature, transcription or manuscript in accordance with the regulations in force, it is necessary to ensure the presence of witnesses (one or two) or an interpreter during the procedure before a public notary, and to pay an increased reimbursement for the work of the public notary for their presence. Such an obligation of paying an increased reimbursement in an identical legal situation, i.e. on completing a document or certification within the premises of a public notary during working hours, does not exist for other citizens. Analysing the provisions of the Public Notary tariff from the aspect of implementation of anti-discrimination regulations, persons with disabilities have been placed in an unequal position compared to all other citizens who do not have the obligation for the identical service to, in addition to the reimbursement for the work of the public notary and reimbursement of expenses, pay an increased reimbursement for the participation of a witness or interpreter in the procedure. The Commissioner, therefore, issued a recommendation of measures to the Ministry of Justice and the Public Notary Chamber of Serbia to undertake all measures and activities under their competence to harmonize the Public Notary tariff<sup>99</sup> with anti-discrimination regulations by having persons with disabilities who, when completing documents in non-litigation proceedings, and/or the process of certifying signatures, manuscripts and transcripts for the legal validity of actions undertaken need to ensure the presence of witnesses or interpreters, exempt from the obligation of paying an increased reimbursement for the work of the public notary due to the participation of the invited witnesses or interpreters. Based on the recommendation of the Commissioner, the Ministry of Justice and the Public Notary Chamber promptly undertook activities to amend the Public Notary tariff. Amendments were introduced to the Public Notary tariff, by prescribing that public notaries have no right to an increased reimbursement for the participation of the witnesses and interpreters invited when completing a public notary document for a vision-impaired party or party unable to hear or speak.

99 "Official Gazette of the RS", No. 91/14, 103/14, 12/16 and 17/17.



*Recommendation of measures to the Ministry of Labour, Employment, Veteran and Social Affairs, Ministry of Health and Ministry of Education, Science and Technological Development for amendments to the Rulebook on the additional educational, healthcare and social support to the child and student*

The Commissioner for the Protection of Equality issued a recommendation to the Ministry of Labour, Employment, Veteran and Social Affairs (hereinafter: Ministry of Labour), the Ministry of Education, Science and Technological Development (hereinafter: Ministry of Education) and the Ministry of Health to amend the Rulebook on additional educational, healthcare and social support to a child and student under the segment related to the engagement of chaperones for personal assistance to the child, in order to eliminate any uncertainty regarding the establishment and provision of this form of additional support. A further recommendation to the ministries was that the amendments to the Rulebook on additional educational, healthcare and social support to the child and student prescribe who decides on the engagement of a personal chaperone for the child, on persons who may provide this type of support and under what conditions, the financing of personal chaperones and control of the provision of this special form of support to the child and student.

Namely, while acting upon citizens' complaints, the Commissioner has discovered that certain local self-governments, as well as parents of children with development impairments, face numerous uncertainties regarding the establishment and provision of additional support by chaperones to children and students with development impairments. These uncertainties are reflected in the fact that certain local self-governments are not sure how to use the funds intended for chaperones to children and students with development impairments in a legal and correct manner, while certain other local self-governments have found a way to implement the procedure of securing this additional form of support, but still feel uncertain regarding the prescribed procedures and believe the regulations in this area are not harmonized.

The statement issued by the Ministry of Education to the Commissioner, inter alia, lists the measures the Ministry has taken to date. Analysing the regulations relevant for the definition and procedure for establishing and providing a chaperone to the child, and/or student with development impairments, the Commissioner has discovered terminological inconsistencies in designating these support measures, as well as differences in the tasks, i.e. activities the chaperone of a child with a disability, and/or development impairments, is to perform. To harmonize the terminological inconsistency, the recommendation by the Commissioner notes the need to correctly designate the name of this additional form of support to the child or student with disabilities, and/or development impairment. Thereafter, as the Commissioner states, it is necessary to clearly identify all activities covered by this form of support, as well as whether this person is providing support to the

child only in educational activities, or does and/or can do this at the child's home and in locations intended for spending free time. According to the Commissioner's opinion, only then will any uncertainty be eliminated, and the competent bodies and parents of children with disabilities will be certain of what form of support they need to establish and secure, as well as what they can expect from it.

An analysis of relevant regulations in this field has shown that the Rulebook on additional educational, healthcare and social support to the child and student prescribes that the evaluation of the child's needs for the provision of additional support is to be implemented by an intersectoral commission upon the request of the parent, and/or caretaker of the child and based on official duties, and/or the initiative of competent bodies. However, the Law on Social Welfare prescribes that the procedure for the use of social protection services provided by the local self-government unit is to be implemented by the social work centre, deciding on the use of a service by decision. The Commissioner noted that the work of these two competent bodies - the intersectoral commission and social work centre, when deciding on the provision of support by a personal chaperone of a child with disabilities, need to be clearly delineated and their relationship clarified, with particular clarification of who makes the final decision on whether the child will be provided with the support of a personal chaperone.

The Commissioner's recommendation also notes the importance of detailed regulation of the issue of who may be a personal chaperone to a child, and how and under what conditions should local self-governments engage providers of this additional form of support. Noticing that for certain children with disabilities their personal chaperones are their parents or other relatives, contrary to the provisions of the Rulebook on further conditions and standards for the provision of social protection services, the Commissioner noted the need for detailed regulation and clarification of who may be a personal chaperone to a child, the training this person is to complete, and who holds such trainings, as well as how and under what conditions should local self-governments hire organizations, and/or natural persons to provide personal chaperone support to the child.

Having in mind the significance of this additional form of support to the child and student, the Commissioner concluded that it is of great importance to clearly define the competent body that will control the method of provision of this service, to avoid the danger of the service being provided inadequately and against the best interests of the child.

The Ministry of Education informed the Commissioner that it has initiated the establishment of a Joint Body, with participating members being representatives of the Ministry of Education, Ministry of Labour, Ministry of Health, Ministry of Public Administration and Local Self-Government, as well as representatives of civil society organizations, in order to regulate the procedure for making use

of the right and financing the service of personal chaperone to a child and other forms of support to children and students. The Rulebook was not amended in this regard by the end of 2017.

*Recommendation of measures for achieving equality of persons with disabilities issued to providers of media services*

The Commissioner noticed that certain providers of media services failed to make their programme accessible to persons with sensory disabilities, thereby placing these persons on an unequal footing and preventing them from following media content. An analysis of the regulations that apply to the area of media, particularly regulations on obligations of media providers regarding the accessibility of programming and contents for persons with hearing impairments, has shown that there is a legal obligation for all media service providers to secure, in accordance with their financial means, daily monitoring of available programming and contents for persons with sensory disabilities. In regards to the above, analysing all the circumstances and starting from the importance and role of media in informing citizens, the Commissioner issued 96 recommendations on measures to achieve equality for providers of media services. The Commissioner issued a recommendation to media service providers to, in accordance with their financial and technical capacities, make their programming and content accessible to persons with hearing impairments, and/or persons with visual impairments, as well as to work on creating the conditions to provide for monitoring of audio-visual media services by providing daily monitoring of accessible programming and content to the greatest possible extent.

### 3.6.1.2. Statements

The Commissioner welcomed the decision by the Ministry of Justice to appoint 17 standing court interpreters for sign language,<sup>100</sup> and on the occasion of the International Day of Persons with Disabilities she noted the need to improve the status of persons with disabilities in all walks of social life.<sup>101</sup>

### 3.6.2. Discrimination on the grounds of age

According to data from the Statistical Office of the Republic of Serbia on the population by age group, there were 1,911,727 persons older than 60 years in Serbia in 2016 (27.08%), while the age group of 0-19 years comprised a total of

<sup>100</sup> Statement on the occasion of the appointment of 17 court interpreters for sign language, 14 March 2017 – available at: <http://ravnopravnost.gov.rs/rs/saopstenje-povodom-postavljanja-sudskih-tumaca/>

<sup>101</sup> Statement regarding the International Day of Persons with Disabilities, 3 December 2017 – available at: <http://ravnopravnost.gov.rs/rs/saopstenje-povodom-medunarodnog-dana-osoba-sa-invaliditetom-5/>

19.41%, i.e. 1,370,001 persons.<sup>102</sup> Likewise, data based on the age classification used to produce economic indicators show that there were 1,352,948 persons older than 65 years of age (19.17%) in Serbia in 2016, while children aged 0-14 numbered 1,016,579, i.e. 14.4%.<sup>103</sup> This data clearly shows that Serbia belongs among demographically old countries.

Having in mind that during the previous period there was a notable increase in the number of complaints because of discrimination based on age, the Commissioner implemented two surveys on the status of elderly persons in the Republic of Serbia in 2017: *Aging in cities – challenges of contemporary society*,<sup>104</sup> implemented in cooperation with the Red Cross of Serbia, and the “Status of Elderly Women in Serbia”, implemented by the Commissioner with the support of the United Nations Agency for gender equality and empowerment of women - UN Women (results provided under chapters 3.1.2 and 3.1.3).

The quality of life of elderly persons from elderly households in urban environments in the Republic of Serbia was also the subject of the survey *Dimmed city lights - Study of the status and needs of elderly households in Novi Beograd*.<sup>105</sup> Survey results indicate that the percentage of persons in need of mobility assistance, as expected, is increasing with age, and ranges from 9% for those aged 65 to 69 years, to 55.9% for those above 85 years of age.<sup>106</sup> The elderly believe the most important of the existing support programmes is assistance in the home, however, 23 local self-governments have not established these services at all, while in 30 local self-governments they are not being provided continuously. Day-care services for elderly persons in 2015 operated in only 10 local self-governments, numbering 559 beneficiaries. The demand for services and support services for the elderly significantly exceeds existing capacities.<sup>107</sup> Responding to the question on whether they personally have been discriminated against in any aspect during the last year, three quarters of respondents replied in the negative, against one sixth that replied positively. Among those stating to have personal experience with discriminatory behaviour, the most notable difference is among the elderly from the aspect of income - elderly persons with the lowest income are in the worst

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102 Available at: [www.stat.gov.rs/WebSite/Public/ReportResultView.aspx?rptKey=indId%3d18010202IND01%26102%3dRS%2640%3d0-19%2c60%262%3d201600%266%3d1%2c2%2623%3d0%26sAreaId%3d18010202%26dType%3dName%26lType%3dSerbianCyrillic](http://www.stat.gov.rs/WebSite/Public/ReportResultView.aspx?rptKey=indId%3d18010202IND01%26102%3dRS%2640%3d0-19%2c60%262%3d201600%266%3d1%2c2%2623%3d0%26sAreaId%3d18010202%26dType%3dName%26lType%3dSerbianCyrillic)

103 Source: SORS database, available at: [www.stat.gov.rs/WebSite/Public/MethodologyHelp.aspx?IndicatorID=18010202IND01&sAreas=false](http://www.stat.gov.rs/WebSite/Public/MethodologyHelp.aspx?IndicatorID=18010202IND01&sAreas=false)

104 Available at: <https://www.redcross.org.rs/vesti/predstavljanje-rezultata-istra%C5%BEivanja-starenje-ugradovima-izazovi-savremenog-dru%C5%Altva/>

105 *Dimmed city lights - Study of the status and needs of elderly households in Novi Beograd*, Citizens' Association “Power of Friendship” – Amity, Belgrade, October 2017 – available at: [www.amity-yu.org/wp-content/uploads/2017/10/Prigusena-svetla-grada.pdf](http://www.amity-yu.org/wp-content/uploads/2017/10/Prigusena-svetla-grada.pdf)

106 *Ibid*, p. 13

107 *Ibid*, p. 22

position. The largest number of elderly who said they were discriminated against have experienced this in healthcare institutions, followed by public administration. This survey notes that the elderly often, without justification, feel like they are a burden to society, and their daily life is defined by scarcity.

Data from the survey *They have the same rights - what elderly women have to say about their right to not be discriminated, to be equal and free from violence, abuse and neglect*<sup>108</sup> with the participation of 250 women from 19 countries (including the Republic of Serbia) indicates that elderly women are exposed to discrimination in the field of employment, healthcare, financial services, access to development programmes, ownership and management of property and inheritance, with discriminatory attitudes particularly notable regarding widows or elderly women living alone, with disabilities, from rural areas and migrants. The respondents stated that they were exposed to violence, abuse and neglect, both in their homes, as well as institutions and public transport.

Furthermore, the Practicum for the public – *Stop discrimination and violence against elderly women*<sup>109</sup> notes that elderly women, in comparison with elderly men, are at a higher risk of abuse, neglect and violence, most frequently domestic, necessitating the implementation of all measures necessary to encourage them not to stay silent when faced with violence and to undertake efficient measures of protection from violence. On the other hand, age-based discrimination involves analysing the level of equality achieved for youth, particularly children. Regarding the status of children in the Republic of Serbia, the UN Committee for the Rights of the Child adopted the Concluding observations on the combined second and third periodic reports on the implementation of the Convention on the Rights of the Child in the Republic of Serbia<sup>110</sup> and provided recommendations for further improvement of the status of children and compliance with obligations undertaken through the ratification of the Convention on the Rights of the child and Facultative Protocols. The concluding remarks commend the progress achieved by the Republic of Serbia in various areas relevant for exercising the rights of the child, referring to continued work on implementing the recommendations issued in 2008. Among the recommendations given in these remarks we note: the need to adopt a policy towards children, since the National Action Plan expired

108 *They have the same rights - what elderly women have to say about their right to not be discriminated, to be equal and free from violence, abuse and neglect*, Red Cross of Serbia and HelpAge, 2017. Available at: [www.redcross.org.rs/media/2467/imaju-ista-prava-pdf.pdf](http://www.redcross.org.rs/media/2467/imaju-ista-prava-pdf.pdf)

109 *Practicum for the public – Stop discrimination and violence against elderly women*, Citizens' Association "Power of Friendship" – Amity, Belgrade. Available at: [www.amity-yu.org/wp-content/uploads/2017/08/ZaustavimoNasiljeDiskriminacijuNadStarima20170821.pdf](http://www.amity-yu.org/wp-content/uploads/2017/08/ZaustavimoNasiljeDiskriminacijuNadStarima20170821.pdf)

110 *Concluding observations on the combined second and third periodic reports of Serbia*, CRC/C/SRB/CO/2-3, Committee on the Rights of the Child, UN, 7 March 2017 – available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsvbbsmSbdrUo%2fjYBx5OfDhOO7%2bQBbV19wXsq7oeQOPr3yRlBxm1Q3VRQ0E1ojTHB4LQ132IHm6hUqzJFgcBHRPmU1SL7tU8kh6tVRiAPRZJu>

in 2015, strengthening the role of the Government Council for the rights of the child in coordinating intersectoral cooperation; establishing a budget with clearly visible allocations intended for children; adopting a regulation on the protection of the rights of the child, as well as the prohibition of corporeal punishment in all settings, including the family.

In order to improve the status of children, in June 2017 the United Nations Committee on the Rights of the Child adopted General Comment No. 21 on children in street situations.<sup>111</sup> This comment provides guidelines for drafting comprehensive and long-term national strategies for children in street situations by applying a holistic approach based on the rights of the child, engaged in both prevention, as well as a response to specific issues. The Committee notes that discrimination is precisely one of the main reasons why children are found in street situations - the grounds is social origin, social status, birth or other status, leading to life-long negative consequences. States should provide: for children in street situations to be equal before the law; that any discrimination regarding street situation be prohibited; to resolve the issue of encouraging discrimination and harassment; that children in street situations and their families not be arbitrarily stripped of their property; as well as to make prohibitions of staying in the street after a certain hour legitimate, proportional and non-discriminatory, and to not consider special temporary measures for accelerating or achieving de facto equality of children in a street situation to be discrimination.

The study Violence against children in Serbia - determinants, factors and interventions, National Report - UNICEF,<sup>112</sup> was published in 2017, providing an overview of those aspects of violence against children that were not the focus of policies to date - determinants and factors that initiate violence.

During 2017 the Ministry of Education, Science and Technological Development formed a working group for drafting the new Rulebook on institutional actions in case of suspicion or established discriminatory treatment, with the participation of the Commissioner as an observer. This rulebook prescribes the actions of an institution when suspecting or establishing discriminatory treatment, methods for implementing preventive and interventional activities, obligations and responsibilities of the child, student, adult, parent, and/or other legal representative, employee, third person in the institution, bodies of the institution and other issues of importance for protection from discrimination. Furthermore, in order to improve equality in the field of education, the Commissioner started working on the development of additional educational materials in the area of protection

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111 *General comment no. 21 on children in street situations*, United Nations Committee on the Rights of the Child – available at: <http://www.ljudskaprava.gov.rs/sr/node/143>

112 *Determinants and factors of violence affecting children in Serbia*; Available at: <http://www.unicef.org/serbia/en/reports/determinants-and-factors-violence-affecting-children-serbia>

from discrimination, namely three manuals for recognizing and reacting to discrimination - for teaching staff, parents and students.

According to the practice of the Commissioner in 2017, the majority of complaints (48%) were in regards to discrimination of children, 33.3% of the complaints were submitted for discrimination of persons over 65 years of age, while 18.7% of complaints have been submitted for the discrimination of persons older than 18, and younger than 65 years of age.

The practice of the Commissioner shows that age as a grounds for discrimination was listed in 75 complaints in 2017, making these grounds 11.8% of the total number of stated grounds in complaints filed with the Commissioner, and the second most frequent grounds for discrimination by number of complaints this year. The number of complaints filed with the Commissioner due to discrimination based on age in 2017 is identical to the number of complaints filed in 2016.

Furthermore, the practice of the Commissioner shows that, just like last year, natural persons (61) filed the highest number of complaints, 26 by women and 35 by men, while various civil society organizations have filed 13 complaints, and one was filed by a state body.

Among the total number of complaints where complainants listed these grounds, the highest number of complaints were in regards to the area of education and professional development, where children and youth up to 18 years of age face discrimination most frequently. There were 24 complaints filed in the area of social relations, comprising 27.3% of the total number of complains in this field based on all grounds for discrimination. This area is followed by the area of provision of public services and/or use of public facilities and services, with 18 complaints filed on these grounds, representing 23.7%, while 12 complaints have been submitted in the area of labour and employment, comprising 8.1%, and 10 complaints have been filed regarding treatment before public authorities, representing 7.1% of the total number of complaints in this area for all grounds of discrimination, followed by other areas. There is a noticeable increase in the number of complaints in the field of provision of public services and/or use of public facilities and surfaces compared to 2016. In the majority of complaints in this area the complainants stated that they were discriminated for being over 40, and/or over 50 years of age. In addition to these areas, complaints stating age as a personal characteristic were also filed because of activities in unions, political parties, NGOs and other organizations (3), as well as in the field of social welfare (2), private relations (2) and healthcare (1).

The analysis of the complaints filed indicates that age as a grounds for discrimination occurs frequently with other personal characteristics - disability, health status, and others.

### 3.6.2.1. Opinions and recommendations

#### *A daily newspaper published a text expressing opinions insulting to the dignity of elderly persons*

The opinion was adopted under the procedure regarding a complaint about a text titled “Old voters”, published in a daily newspaper. The complaint was filed by the Gerontological Society of Serbia on behalf of a group of persons. The complainant believes the text is “extremely ageist” because, *inter alia*, it demands the revocation of voting rights for those older than 65, stating that they are “poor, miserable and unsatisfied”, and they always vote for “despotically oriented candidates”, so in order to prevent this we should “limit voting rights for the elderly”. The Commissioner issued the opinion that the text “Old voters” expressed opinions that are upsetting and demeaning and insult the dignity of elderly persons, i.e. that this text violates the provisions of the Law on the Prohibition of Discrimination. The main editor of the daily newspaper was recommended to publish an apology to elderly persons in this daily newspaper within 15 days of receiving this opinion with the recommendation, and in the future not to publish content that insults the dignity of members of the older generation, and to have their content contribute to changes in patterns, customs and practices leading to stereotypes, prejudice and discrimination of elderly persons. Actions have been taken based on this recommendation.

#### *No discrimination was found based on a complaint filed against the Social Work Centre because they acted in accordance with the city decision they must comply with*

The opinion was adopted in a procedure regarding a complaint against the Social Work Centre of the City of Čačak. The procedure showed that by way of a decision by the Social Work Centre the sister of the complainant no longer holds the right to the service of a day-care for children, youth and adults with development impairments at the Day-Care Institution for Children, Youth and Adults with Development Impairments. The explanation is that this service is terminated through the implementation of Article 86 of the Decision on the rights and services in social protection under the competence of the City of Čačak, prescribing that day-care services for adults with development impairments shall be provided for persons aged 25 to 55 years of age with development impairments (bodily, intellectual, mental, sensory speech-linguistic, socio-emotional and multiple impairments).

Having in mind that the complaint was filed against the Social Work Centre of the City of Čačak, and not against the party adopting the Decision in question, the Commissioner adopted the opinion that in the given case the Social Work



Centre acted in accordance with the Decision on the rights and services in social protection under the competence of the city, one they have an obligation to comply with. Therefore, the Commissioner issued the opinion that by adopting the decision terminating the right to the day-care service for children, youth and adults with development disabilities to the sister of the complainant at the Day-Care Institution for Children, Youth and Adults with Development Impairments the Social Work Centre of the city they live in did not violate the provisions of the Law on the Prohibition of Discrimination. The Commissioner then made use of the powers conferred under Article 33, item 9 of the Law on the Prohibition of Discrimination and issued a recommendation of measures for improving equality to the City of Čačak.

### 3.6.2.2. Recommendation of measures

*Recommendation of measures to the City of Čačak to amend the Decision on the rights and services in social protection under the competence of the City of Čačak, under the segment related to prescribing an age limit to beneficiaries of day-care services for children, youth and adults with development impairments.*

The Commissioner issued a recommendation of measures to the City of Čačak to amend the Decision on the rights and services in social protection under the competence of the City of Čačak, under the segment related to prescribing a limitation regarding age to beneficiaries of day-care services for children, youth and adults with development impairments. Based on an analysis of regulations, the Commissioner has found that prescribing this type of age limit is contrary to anti-discriminatory provisions, as well as that this limitation is unfamiliar to both the Law on Social Welfare, as well as the Rulebook on further conditions and standards for providing social protection services. Denying the right to day-care services for persons solely due to the fact they have reached 55 years of age is not justified either from the aspect of the goal, or from the aspect of consequences produced by this limit, nor can it be justified by objective reasons. No action has been taken based on this recommendation.

### 3.6.2.3. Warnings and statements

The Commissioner issued a public statements regarding World Elder Abuse Awareness Day<sup>113</sup>, the International Day of Older Persons<sup>114</sup> and *World Children's*

113 Notice regarding Elder Abuse Awareness Day, 15 June 2017 – available at: <http://ravnopravnost.gov.rs/rs/saopstenje-povodom-dana-borbe-protiv-nasilja-nad-starijima/>

114 Notice regarding the International Day of Older Persons, 1 October 2017 - available at: <http://ravnopravnost.gov.rs/rs/saopstenje-povodom-medunarodnog-dana-starijih-osoba-2/>

Day<sup>115</sup>. Furthermore, the Commissioner issued a public warning regarding a statement from the head of the emergency service of the hospital in Čačak denying the quality of work by women due to their age.<sup>116</sup>

### 3.6.3. *Discrimination on the grounds of gender*

Data from reports and surveys published in 2017 confirm that women in the Republic of Serbia are still in an unfavourable position compared to men in all walks of social life, with discrimination particularly pronounced in the labour market, in decision-making, in the economic sphere and education, along with gender-based violence against women.

The Republic of Serbia has been maintaining gender-sensitive statistics since 2005 to monitor the state of play in society and gender relations. This involves displaying statistical data by gender, with the end goal of using statistical data to create and implement policies aimed at eliminating gender inequality and promote equal opportunities for all. This data, covering various areas, has been published in the *2017 Report by the Statistical Office of the Republic of Serbia – Women and Men in Serbia*<sup>117</sup>. Regular and comprehensive monitoring and presentation of gender-sensitive data should provide for an analysis of the social situation regarding gender-based discrimination, i.e. establishing whether and to what extent does inequality between women and men exist. At the same time, the World Economic Forum publication *Global Gender Gap Report 2017*<sup>118</sup> presents indices on the size of gender disparities and monitors their progress in time. According to these measurements, Serbia holds a very good position on the scale, above the average value of 32% of disparity (last year the average value was 31.7% of disparity, so the situation has slightly deteriorated this year), holding overall 40th place with a score of 0.727.<sup>119</sup>

Gender equality in the Republic of Serbia is also covered by the Council of Europe Gender Equality Report *Balanced participation of women and men in decision-making*<sup>120</sup>. This report analyses data on the implementation of the Recommendation

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115 Notice regarding World Children's Day, 20 November 2017 - available at: <http://ravnopravnost.gov.rs/rs/saopsten%D1%98e-povodom-svetskog-dana-deteta/>

116 *Public warning regarding the statement by the head of the emergency service of the hospital in Čačak*, 26 April 2017, – available at: <http://ravnopravnost.gov.rs/rs/upozorenje-za-javnost-povodom-izjave-nacelnice-urgentne-sluzbe-cacanske-bolnice/>

117 *Women and Men in Serbia*, Statistical Office of the Republic of Serbia, Belgrade 2017 – available at: [http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2017/11/Zene\\_i\\_muskarci\\_u\\_Republici\\_Srbiji\\_web\\_2017.pdf](http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2017/11/Zene_i_muskarci_u_Republici_Srbiji_web_2017.pdf)

118 *The Global Gender Gap Report 2017*, World Economic Forum, 2017. – available at: [www3.weforum.org/docs/WEF\\_GGGR\\_2017.pdf](http://www3.weforum.org/docs/WEF_GGGR_2017.pdf)

119 Ibid, p. 10

120 *Balanced participation of women and men in decision-making*, Analytical report – 2016 data, Gender Equality Commission (GEC), Council of Europe, September 2017 – available at: <https://rm.coe.int/analytical-report-data-2016-/1680751a3e>

on the equal participation of women and men in political and public decision-making (mandating member states to undertake measures and achieve equality regarding the participation of women and men in political and public life, establishing a minimum representation of 40% for the under-represented gender). The report states that the Republic of Serbia has shown progress in this field, having in mind that the percentage of women in executive authorities in 2016 was 34.4%, while in 2008 it was at 21.6%.<sup>121</sup> Regarding executive powers, the report findings indicate that positions at the very top of political authority in Europe in 2016 are almost exclusively dominated by the male gender, since less than 11% of countries have met the recommendation on the minimum representation of 40% of the under-represented gender. The situation in the Republic of Serbia has been labelled as positive in the report, having in mind that only our country has achieved a gender balance with a 50-50 distribution regarding the Deputy Prime Minister or Vice President.<sup>122</sup> However, this report further states that the percentage of women mayors in the Republic of Serbia has decreased from 26.3% in 2008 to 5.5% in 2016,<sup>123</sup> while at the same time the Republic of Serbia is among the eight of 35 countries (22.9%) where the percentage of women representatives in local authorities is under 20%.<sup>124</sup>

The frequency of gender-based discrimination is one topic of the Report on Human Rights Practices in Serbia 2016<sup>125</sup> by the United States Department of State, noting that regulations envisage the same legal status and rights for women as for men, but this is not being implemented in full in practice. Women are broadly discriminated against in employment, access to financial services, salaries, ownership or management of businesses, education and housing.

The analysis Status of Women in the Labour Market<sup>126</sup>, published in October 2017, notes the need to improve the situation and create specific measures, not just of active employment policies, but also in other areas, having in mind that over 40% of working age women in the Republic of Serbia are excluded from the labour market. Men and women in the Republic of Serbia, this analysis states, do not have equal employment opportunities, with the gender gap present for all indicators in all regions, and most expressed in inactivity rates (the inactivity

121 Ibid, p. 24.

122 Ibid, p. 42.

123 Ibid, p. 50.

124 Ibid, p. 53.

125 *Country Reports on Human Rights Practices for 2016 – Serbia*, US Department of State, Bureau of Democracy, Human Rights and Labor – available at: [www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265470](http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265470)

126 Jovana Pantović, Sarita Bradaš and Ksenija Petovar, *Status of Women in the Labour Market*, Centre for Democracy and Friedrich-Ebert-Stiftung, Belgrade, October 2017 – available at: <http://library.fes.de/pdf-files/bueros/belgrad/13759.pdf>

rate is higher by 15 percentage points compared to the inactivity rate of men) and employment (the employment rate for working age women in 2016 was 48.4%, 13.5 percentage points below the employment rate of men).<sup>127</sup> The publication *Labour Market in Serbia – Status of 45+ Women - Denial of the right to dignified work*<sup>128</sup> states that women in the Republic of Serbia accept jobs below their level of qualification. Thus one fourth of highly educated employed women over 45 years of age work in jobs below their qualifications, and the survey on differences in salaries between women and men implemented based on data from the Labour Force Survey indicates that women in the Republic of Serbia are better qualified than men, but earn less.<sup>129</sup> According to data from the survey on the use of time (one of the key sources for monitoring gender inequalities in the sphere of private life), women spend somewhat fewer hours doing paid work than men, but significantly more doing unpaid household work and caring for family members. Thus their total working day is longer, and they have less free time.<sup>130</sup> This publication also states that women in rural areas working in agriculture have a marginalized status.

Domestic violence, sexual violence and other forms of gender-based violence still represent one of the most severe forms of violating women's rights, as indicated in reports at the level of the European Union, international organizations and treaty bodies. Therefore, the Committee on the Elimination of Discrimination against Women published General recommendation No. 35 on gender-based violence against women, updating General recommendation No. 19<sup>131</sup> on 14 July 2017. Gender-based violence is defined as “violence aimed against a woman because she is a woman, or disproportionately affecting women.”<sup>132</sup> This general recommendation was issued for the more efficient elimination of violence against women, recognized as “gender-based violence against women”, with multiple forms, including actions and omissions, regardless of whether premeditated or not, that may lead to death or physical, sexual, psychological or economic suffering, and also covers threats of such actions, harassment, coercion, and arbitrary denial of freedom. The recommendation expresses the need to direct full state responsibility towards acts of gender-based violence against women, covering legal norms,

127 *Ibid*, p. 8

128 *Labour Market in Serbia – Status of 45+ Women - Denial of the right to dignified work*, Association “Women at a Turning Point” and SeConS group for development initiative, Belgrade, 2017 – available at: [www.secons.net/files/publications/78-publication.pdf](http://www.secons.net/files/publications/78-publication.pdf)

129 *Ibid*, p. 26.

130 *Labour Market in Serbia – Status of 45+ Women - Denial of the right to dignified work*, Association “Women at a Turning Point” and SeConS group for development initiative, Belgrade, 2017, p. 27. Available at: [www.secons.net/files/publications/78-publication.pdf](http://www.secons.net/files/publications/78-publication.pdf)

131 *General recommendation no. 35 on gender-based violence against women, updating General recommendation No. 19*, CEDAW/C/GC/35, Committee on the elimination of discrimination against women, 14 July 2017 – available at: [www.ljudskaprava.gov.rs/sites/default/files/dokument\\_file/preporuka\\_35\\_sedow\\_srb.pdf](http://www.ljudskaprava.gov.rs/sites/default/files/dokument_file/preporuka_35_sedow_srb.pdf)

132 Article 1 of the Convention on the Elimination of Discrimination Against Women.

policies, programmes, institutional frameworks and mechanisms, both from the legislative, as well as executive and judicial authorities.

Furthermore, the Committee for the Elimination of Discrimination against Women, in its General recommendation No. 36 on the right of girls and women to education<sup>133</sup> from November 2017, noted that education has a key, transforming and empowering role in promoting the values of human rights and represents a path towards gender equality and women's empowerment. Within the recommendation the Committee stated the need to improve compliance with Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women and the need to integrate education on women's human rights and the Convention itself in curricula at all levels. It particularly emphasizes the need to adopt regulations ensuring the right to lifelong education for all girls and women, including all vulnerable groups, as well as the adoption of regulations establishing the minimum age for marriage at 18 years old for girls.

The issue of violence against women in the Republic of Serbia is also one topic of the publication *Achieved progress and deficiencies of the criminal legal protection system (after harmonization with the Council of Europe Convention on the Prevention and Elimination of Violence against Women and Domestic Violence)*,<sup>134</sup> published by the Autonomous Women's Centre in December 2017. Data from the Network of Women against Violence indicate that at least 26 women have been killed in 2017 in the Republic of Serbia in a family-intimate partner context.<sup>135</sup> Over 20,000 cases of domestic violence have been analysed during the first six months of implementation of the Law on the Prevention of Domestic violence, more than 7,000 urgent measures have been issued and more than 4,000 individual plans of victim protection have been developed.<sup>136</sup> This data can lead to the conclusion that the law has achieved a certain effect, and that the coordinated action of institutions of the system in the provision of protection from domestic violence and other forms of gender-based violence has been improved, with the goal of fully implementing the law.

The Provincial Secretariat for Social Policy, Demographics and Gender Equality implemented a survey and presented its results in the Study on the forms of reaction

133 *General recommendation No. 36 (2017) on the right of girls and women to education*, CEDAW/C/GC/36 – available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/36&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/36&Lang=en)

134 *Femicide in Serbia in 2017*, Network of Women against Violence ([http://www.zeneprotivnasilja.net/images/pdf/FEMICID-Saop%C5%A1tenje\\_2017\\_godina.pdf](http://www.zeneprotivnasilja.net/images/pdf/FEMICID-Saop%C5%A1tenje_2017_godina.pdf))

135 *Ibid.*

136 Official data from the Ministry of Justice, presented at the conference "Effects of the implementation of the Law on the Prevention of Domestic Violence and practical challenges", 21 December 2017 – available at: <http://www.srbija.gov.rs/vesti/vest.php?id=310554>

and expert opinions on the treatment of women victims of violence<sup>137</sup> (presented in December 2017). The results of this survey show that representatives of the healthcare and education system encounter the fewest cases of violence against women, while social welfare, police, prosecution and judiciary staff encounter the most, and that combating violence against women involves the harmonized cooperation of state institutions, international organizations and civil society to achieve the planned results.

Civil society organizations and certain professional associations provide a significant contribution to combating gender-based violence. An active approach to resolving this issue is also provided by the Manual for healthcare institution practices *Violence against women – my professional responsibility*, by the Autonomous Women's Centre<sup>138</sup> noting particularly the role of healthcare workers and their responsibility towards women victims of violence.

Having in mind that during the past three years gender has been among the most frequently listed grounds for discrimination in complaints handled by the Commissioner, the institution has paid particular attention to analysing the state of play in achieving gender equality in the Republic of Serbia (more details in section 3.1 of the Report).

During 2017 the Commissioner received 71 complaints for gender-based discrimination, making these grounds 11.2% of the total number of complaints in all areas for all grounds of discrimination and is the third grounds of discrimination by number of complaints during this year. Analysing the types of persons filing complaints with the Commissioner for gender-based discrimination during the reporting year, the majority have been natural persons (58), with more complaints filed by women (36) compared to men (22), unlike previous years. For example, this ratio was 57:18 in 2016, while in 2015 the difference was even more marked towards women - 108:21. Although women are still more frequently filing complaints for gender-based discrimination, men still file complaints more frequently in general.

Regarding the area where these complaints have been filed, it is noticeable, just like during previous years, that the majority of gender-based discrimination complaints have been filed in the area of labour and employment, i.e. 37 complaints have been filed on these grounds in 2017. We may conclude that this number did not change significantly compared to last year, since the number of

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137 The study is the result of the project "Integrated response to violence against women in Serbia II", implemented jointly by the Provincial Secretariat for Social Policy, Demographics and Gender Equality, the Coordination Body for Gender Equality of the Government of RS and UN agencies in Serbia. Available at: [www.socijalnapolitika.vojvodina.gov.rs/%D1%80%D0%B5%D0%B7%D1%83%D0%BB%D1%82%D0%B0%D1%82%D0%B8](http://www.socijalnapolitika.vojvodina.gov.rs/%D1%80%D0%B5%D0%B7%D1%83%D0%BB%D1%82%D0%B0%D1%82%D0%B8)

138 *Violence against women – my professional responsibility*, Autonomous Women's Centre – available at: [www.womenngo.org.rs/images/vx.pdf](http://www.womenngo.org.rs/images/vx.pdf)

complaints filed for gender-based discrimination in the field of labour and employment in 2016 was 35. During 2017, just like during previous years, women have mostly filed complaints due to being assigned to a lower-ranking job or having their employment terminated after returning from maternity or child care leave. Regarding other areas where complaints have been filed due to gender-based discrimination, 12 complaints have been filed due to proceedings before public authorities, representing 8.6% of the total number of complaints in this area for all grounds for discrimination, slightly lower than in 2016, when the number was 15. The Commissioner received a certain number of complains in 2017 filed by both women and men regarding the opinions of social work centres and court decisions on parental rights. Five complaints have been filed in 2017, representing 9.4%, due to gender-based discrimination in media and public information, while there were three complaints in this sphere in 2016. The presence of inadequate and sexist statements in media was also noted during 2017. The Commissioner condemned these statements and noted the responsibility of media in shaping and forming public opinions, and the role of media in society. The same number of complaints (5) were filed in the area of healthcare, amounting to 16.7% of the total number of complaints in this area for all grounds for discrimination, followed by other areas of social relations, where the number of complaints filed was lower.

Analysing the complaints filed, we may state that gender, as a grounds for discrimination, also occurred in 2017 in conjunction with other personal characteristics - national affiliation, marital and family status, health status, etc. Certain opinions of the Commissioner on these grounds will be presented in the report section titled: “Discrimination on the grounds of marital and family status” and “Discrimination on multiple grounds”. During 2017 the Commissioner initiated court proceedings - strategic litigation due to discrimination on the grounds of gender and sexual orientation in the field of public information and media. This case is presented in the report section “Court proceedings”. The following segments will briefly review certain opinions, recommendations, statements and warnings issued by the Commissioner on the grounds of age as a personal characteristic.

### 3.6.3.1. Opinions and recommendations

#### *Lawyer discriminates female lawyers at a session of the Chamber of Attorneys based on gender*

The opinion was adopted under the procedure regarding a complaint by two female lawyers against a male lawyer for gender-based discrimination. The complaint states that the lawyer the complaint was filed against issued a number of insulting and demeaning comments to the female lawyers that requested to speak at the assembly of the Chamber of Attorneys held on 24 September 2016. Among others, the following comments have been listed: “I’ll become a woman

so I could fight”, “Now you want to rape us here”, “What you want I cannot give you”, etc. After implementing the procedure and analysing the evidence the above statements by the lawyer made at the session of the assembly of the Chamber of Attorneys held on 24 September 2016 were found to represent harassment and demeaning treatment of the complainants based on their personal characteristic - gender. Therefore the Commissioner issued the opinion that these statements violate the provisions of the Law on the Prohibition of Discrimination, and the lawyer was recommended to issue an apology regarding the discriminatory statements made at the assembly of the Chamber of Attorneys to the complainants at the session of the assembly of the Chamber of Attorneys, and to avoid violating legal anti-discrimination regulations within his regular work and activities. During the procedure of acting upon the recommendation the lawyer against whom the complaint was filed has died.

*The Ministry of Trade, Tourism and Telecommunications and the association of citizens did not violate the provisions of the Law on the Prohibition of Discrimination by providing free-of-charge training for re-qualification and additional qualification of women in the field of information-communication technologies*

The opinion was adopted under the procedure regarding a complaint against the Ministry of Trade, Tourism and Telecommunications and an association of citizens for discrimination based on gender as a personal characteristic. The complaint states that the complainant received a notice from an association of citizens about a re-qualification course for the post of Junior Front End Developer, and checking the conditions for free attendance of the course they discovered that only females may attend the course free of charge, and that this part of the programme is financed by the Ministry of Trade, Tourism and Telecommunications. The statement by the Ministry of Trade, Tourism and Telecommunications states that based on the Law on Associations, Regulation on funds for incentives for programmes or missing part of funds for financing programmes of public interest implemented by associations and the Rulebook on the selection of programmes of public interest in the field of development of information society implemented by associations, the Ministry issued a Public call for awarding funds to programmes in the field of the development of information society in the Republic of Serbia in 2017, with the goal of promoting ICT occupations among women, and increasing the number of women in ICT occupations. The statement further notes that the National Gender Equality Strategy 2016-2020 defines an objective aimed at improving the economic status of women and the status of women on the labour market, envisaging, as special measures in the field of access to the use of modern knowledge and skills: encouraging and supporting the participation of girls and women in education for occupations producing significant added value, such as engineering and new technologies; increasing the engagement of girls and women in areas such as science,



technology, engineering and mathematics and support and promotion for women's achievements in science and technology, eliminating the discrimination of women in these fields and ensuring measures for women's progress in science. Furthermore, the National Employment Action Plan for 2017, adopted by the Government of the Republic of Serbia, states that women are harder-to-employ persons from particularly vulnerable categories of the unemployed, and they are envisaged to be included in active employment policy measures and programmes in a way providing for their integration in the labour market and improvement of their quality of life. It further states that the Constitution, Law on the Prohibition of Discrimination, and Law on Gender Equality prescribe that the introduction of special measures is not considered discrimination. The Law on Gender Equality prescribes that the adoption of special measures to eliminate and prevent the unequal status of women and men and achieve equal opportunities for the sexes shall not be considered discrimination or a violation of the principle of equal rights and obligations. The statement notes that women comprise merely 20% of those employed in information-communication technologies (ICT) and that support to programmes for the re-qualification and additional qualification of women in this area, in accordance with the above, represents an affirmative measure to improve the status of women in the field of ICT. The statement by the association of citizens notes that the association applied for the public call by the Ministry of Trade, Tourism and Telecommunication for funds for programmes in the field of information society, and/or in the field of re-qualification and additional qualification of women in ICT, and that they comply with the conditions of the call and contract they signed with the Ministry. The procedure established that prescribing a free-of-charge training programme of re-qualification and additional qualification in the ICT sector for women represents a special (affirmative) measure to eliminate and prevent the unequal status of women and men and achieve equal opportunities for the sexes in ICT occupations. Therefore the Commissioner issued the opinion that by providing free-of-charge training for the re-qualification and additional qualification of women in the field of information-communication technologies (ICT), the Ministry of Trade, Tourism and Telecommunications, as well as the association of citizens the complaint was filed against, did not violate the provisions of the Law on the Prohibition of Discrimination.

### 3.6.3.2. Recommendation of measures for achieving equality

#### *Recommendation of measures to local self-government units to ensure equal representation of women and men*

The Commissioner for the Protection of Equality issued a recommendation of measures in 2017 to local self-government units to undertake all measures and activities under their competence to ensure the inclusion and encouragement

of equal representation of women and men in all spheres of political and public decision-making in undertaking public functions in local self-government bodies, institutions, and/or public enterprises founded by the local self-government, as well as to undertake all measures and activities under their competence to encourage equal representation of women and men from diverse environments (urban and rural) and marginalized groups in all spheres of political and public decision-making in undertaking public functions in local self-government bodies, institutions, and/or public enterprises founded by the local self-government.

The Commissioner stated that the National Gender Equality Strategy 2016-2020, *inter alia*, notes that in many executive councils of municipalities and towns there are no women, i.e. there are only 5% of women holding the posts of president of municipality or mayor, and they are rarely in management positions in public enterprises and legal entities with significant financial power and in profitable areas of business. Therefore, their presence is increasing at lower decision-making levels, particularly in executive positions without effect on decision-making. Discrimination represents an obstacle to the equal participation of women in political, economic and cultural life, it holds back further social progress, negatively affects the economy and hampers the full development of abilities and creative potential of women.<sup>139</sup>

The recommendation of measures for achieving equality issued to the local self-government units by the Commissioner notes the necessity of creating the option for women, just like men, to engage in public duties at all levels of authority and in accordance with the constitutional guarantee of equality of men and women.

### 3.6.3.3. Warnings and statements

During 2017 the Commissioner issued several public warnings due to the increased frequency of violence against women and discriminatory and sexist publications in media.<sup>140</sup> Furthermore, on the occasion of the International Girls' Day<sup>141</sup>, International Women's Day<sup>142</sup> and the International Day of Combating Violence against Women<sup>143</sup> the Commissioner directed public attention towards the unequal status of women in Serbia.

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139 National Gender Equality Strategy 2016-2020. ("Official Gazette of RS", no. 4/16).

140 All warnings are available at: <http://ravnopravnost.gov.rs/rs/misljenja-i-preporuke-lat/upozorenja-lat/>

141 *Statement regarding International Girls' Day*, 11 October 2017 - available at: <http://ravnopravnost.gov.rs/rs/saopstenje-povodom-medunarodnog-dana-devojica-2/>

142 *Statement regarding International Women's Day* 8 March 2017, available at: <http://ravnopravnost.gov.rs/rs/saopstenje-povodom-medjunarodnog-dana-zena/>

143 *Statement regarding the International Day of Combating Violence against Women*, 27 November 2017, available at: <http://ravnopravnost.gov.rs/rs/saopstenje-povodom-medunarodnog-dana-borbe-protiv-nasil%D0%88a-nad-zenama/>

### 3.6.4. *Discrimination on the grounds of health status*

Unequal treatment and unjustified differentiation on account of people's psychological and mental health status still persists. It should be noted that discrimination on the grounds of health status has been for the past two years among the top four grounds quoted in discrimination complaints that the Commissioner for the Protection of Equality acted upon. In addition, reports made by international and human rights organisations point to the need for improvement in this area, particularly when it comes to suppressing stigmatisation of persons living with HIV/AIDS.

The Union of PLHIV Organisations of Serbia (USOP) has established procedures and instruments for monitoring the provision of services to people living with the HIV infection in the framework of the project "Towards standardization of community-based social services provision for people living with HIV/AIDS in Serbia".<sup>144</sup> The publication entitled "Support service for people living with HIV/AIDS in the community: assessment of outcomes" sums up the results of conducted surveys and states that one of the innovations in this area is a "peer counselling" service, which is supposed to improve the position of these people and is provided by trained persons living with HIV/AIDS. The survey says that stigma and discrimination are among key problems faced by this vulnerable group, not only in our country but worldwide, this being illustrated by the information that only 7.7 per cent of the population of the Republic of Serbia does not have a discriminatory attitude towards people living with HIV/AIDS. The experience of having been stigmatized and/or discriminated against is almost continually reported by 20-25 per cent of people living with HIV/AIDS. In most cases this implies gossips, insults, rejection by friends, but also to a large degree being deprived of a service in the systems of social or health protection or education. However, such experiences have often not been reported to anyone and if they have, they were reported to an association dealing with the protection of rights of persons living with HIV/AIDS. The aggravating circumstance is the fact that victims of discrimination are often unwilling to get involved in the complaints procedure or the process of proving the discriminatory conduct, particularly due to the risk that their status will become known to a wider public, thus increasing the risk of being exposed to discrimination again. One of the ways to avoid unwanted experience of stigma and discrimination is to hide or keep secret the HIV positive status. Few members of this vulnerable group publicly speak of their health status, only 3-4 per cent. In addition to the attending physician and infectious disease specialist, approximately half of the respondents have disclosed their status to their immediate family, much more women than men.

<sup>144</sup> *Support service for people living with HIV/AIDS in the community: assessment of outcomes*, Union of PLHIV organisations of Serbia (USOP) – available at: <http://unijaplhiv.rs/parnjacko-savetovanje-standard/>

In the publication of the Belgrade Centre for Human Rights entitled *Human Rights in Serbia 2016*,<sup>145</sup> published in 2017, it has been assessed that the accessibility to health protection is one of the major problems in the Republic of Serbia, bearing in mind that, for example, only between 200 and 300 new patients per year receive a prescription drug for Hepatitis C treatment, although more than 2,000 persons suffering from this disease have been registered. As for oncology, it has been stated that the lack of funds limits the availability of resources for high-priced drugs, while in addition to the reduced number of indications on the Drug List (the costs of drugs being covered by the Health Fund), the available quantities of such drugs are also limited. On the other hand, this publication states that “HIV is among chief current challenges when it comes to the health of gay population and that at present in the Republic of Serbia young gay males born between 1985 and 1995 are the key population affected by the HIV epidemic”.<sup>146</sup> The report also says that the “Institute for Public Health ‘Dr Milan Jovanović Batut’ reported that in 2015 a sudden increase in the number of diagnosed persons was observed, and that the same year 178 newly diagnosed persons were registered compared to 130 in 2014 (the majority of diagnosed cases were among males having sexual intercourses with other males – 73 per cent)”.<sup>147</sup> It was also pointed out that the National Strategy for Combating HIV/AIDS had expired, that the Action Plan for its implementation had not been adopted and that no funds were allocated for the activities aimed at the prevention and suppression of the epidemic, while after the withdrawal of the Global Fund to Fight AIDS, Tuberculosis and Malaria the number of programmes offered by the civil sector drastically decreased.<sup>148</sup>

The practice of the Commissioner shows, according to the number of complaints filed by citizens, that this ground for discrimination ranked fourth in 2017 following disability, age and gender. In 2017, 64 complaints were filed where health status was cited as a ground of discrimination, which accounts for 10.1 per cent of the total number of complaints in this area, as per all grounds of discrimination. The number of complaints on this ground was slightly larger compared to the previous year, although the percentage remained the same. As particularly relevant information, when it comes to this personal characteristic, we can note that this year the Commissioner launched for the first time the lawsuit for the protection against discrimination (strategic lawsuit) because of discrimination on the grounds of health status as a personal characteristic in the area of labour and employment. An overview of this case will be presented under the chapter Court proceedings.

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145 *Human Rights in Serbia 2016 – Law, Practice and International Human Rights Standards*, Belgrade Centre for Human Rights, Belgrade, 2017 – available at: [www.bgcentar.org.rs/bgcentar/wp-content/uploads/2013/04/Ljudska-prava-u-Srbiji-2016.pdf](http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2013/04/Ljudska-prava-u-Srbiji-2016.pdf)

146 *Human Rights in Serbia 2016 – Law, Practice and International Human Rights Standards*, Belgrade Centre for Human Rights, Belgrade, 2017, p. 336 – available at: [www.bgcentar.org.rs/bgcentar/wp-content/uploads/2013/04/Ljudska-prava-u-Srbiji-2016.pdf](http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2013/04/Ljudska-prava-u-Srbiji-2016.pdf)

147 *Ibid*, p. 337

148 *Ibid*.

Out of 64 complaints filed for discrimination on the grounds of health, the majority were filed in the procedures before public authorities – 19 complaints, which is 13.6 per cent, in the area of education and professional development – 10 complaints, which is 17 per cent, in the area of labour and employment – 10 complaints, which is 6.7 per cent, and the area of service provision or utilisation of public areas and facilities – 8 complaints, which is 10.5 per cent, of the total number of complaints in this area on all discrimination grounds. As per complainants' profile, it can be said that the majority of them are private persons (53), while as per gender structure it may be concluded that more males (29) asked for protection than females (24). In addition to private persons, complaints were also filed by civil society organisations (10).

Some complaints were filed for discrimination on one or more grounds (gender, age, health status, disability, etc.). When acting upon complaints, it was noted that health status, as one of the grounds of discrimination, most frequently occurs within multiple discrimination, mostly in combination with age, disability or gender, as grounds of discrimination, and sometimes together with other grounds. The text below will provide brief overviews of individual opinions, recommendations, statements to the public and warnings issued by the Commissioner regarding health status as a personal characteristic.

#### 3.6.4.1. Situational testing

Between 11 and 15 September 2017, "Equality", an organisation dealing with the protection of human rights, carried out a situational testing in the area of service provision to HIV persons in the territory of Belgrade. The testing was conducted in order to establish the presence of discrimination and to collect evidence in the area of provision of body care services, the sample being eight beauty parlours. The testers were involved in the testing on a voluntary basis. According to the report on conducted situational testing, there were not any cases of discrimination observed. In comparison with the situational testing that was carried out for a similar reason in 2014, it may be concluded that some progress has been made in this area. Namely, the organisation dealing with the protection of human rights of persons living with Hepatitis C conducted in 2014 a situational testing of discrimination in Belgrade beauty parlours, after which 52 complaints were filed against those beauty parlours.

#### 3.6.4.2. Opinions and recommendations

##### *A primary school discriminated against a pupil on the grounds of health status*

The opinion was issued following the procedure regarding the complaint that was filed on behalf of a minor pupil with health problems by his mother against a primary school. In the course of the procedure it was established that the first

grader of a primary school was diagnosed in November 2016 with “a developmental activity and attention disorder accompanied with prolonged behavioural disorder and likely learning disabilities”, and that from the beginning of the school year he had some difficulties regarding accepting and meeting school-related obligations. It was also established that as of February 2017 the pupil attended lectures accompanied by his mother and that as of March 2017 his school day was shortened. The procedure established, inter alia, that the number of lessons was reduced for the child although the individual education plan had not been designed for him, nor did the school have the necessary opinion of the Inter-Ministerial Commission to do so. Following the procedure, the Commissioner established that the school failed to take measures in accordance with the provisions of the Law on the Fundamentals of the Education and Upbringing System and the Rulebook on detailed instructions on establishing the right to the individual plan of education thus putting the boy in an unequal position compared to other children regarding the exercise of the right to education and upbringing. The Commissioner issued the opinion that by failing to create the conditions that would allow the boy on whose behalf the complaint was made to attend the classes of all subjects, in accordance with the first grade teaching plan, the primary school violated the provisions of the Law on the Prohibition of Discrimination. The primary school was recommended to take all necessary actions and measures, pursuant to the law, to create the conditions for the boy to attend the classes in all subjects to the extent optimal to him, and to ensure that it does not violate anti-discrimination legal provisions in the future in the course of its regular affairs and activities. This recommendation has been acted upon.

*A primary school discriminated against a pupil by preventing him from attending the extended day program*

The opinion was issued following the procedure regarding the complaint filed against a primary school by a lawyer engaged by legal representatives of a minor boy. The complaint alleged that the first grader, on whose behalf the complaint was filed, was a child with hyperkinetic disorder. It was also stated that the Head Teacher ordered the class teacher to “expel” the pupil from the extended day program in the said school, the justification being that the Inter-Ministerial Commission had not approved his attendance of the extended day program. The Head Teacher and the class teacher declared that they acted in accordance with the opinion of the Inter-Ministerial Commission which did not advise additional support in the form of the extended day program. However, in the course of the procedure it was established that the primary school prevented the minor boy from attending the extended day program on 20 April 2017. In this regard, the Commissioner pointed out that according to the regulations in force, attending the extended day program represents a form of education and upbringing activity, rather than additional support for the pupil and that, depending on the expressed

parents' needs and its own capacities, the school is obliged to ensure that all children attend the extended day program, irrespective of a child's personal characteristics. Therefore, the Commissioner issued the opinion that, by preventing the pupil from attending the extended day program, the primary school violated the provisions of the Law on the Prohibition of Discrimination, so it was recommended that the school take all necessary actions and measures to ensure that all staff of that school undergo training / professional development course regarding the prohibition of discrimination, focusing on education of children with developmental issues, and to ensure that it does not violate the anti-discrimination legal provisions in the future in the course of its regular affairs and activities, i.e. to refrain from unjustified differentiation or unequal treatment or failure to act (exclusion, restriction or favouring) in respect of a person or groups of persons on the grounds of a personal characteristic. This recommendation has been acted upon.

#### 3.6.4.3. Recommendations of measures

*Measures recommended to the Ministry of Health, National Health Insurance Fund and Special Hospital for Internal Diseases Vrnjačka Banja in terms of ensuring the right to the provision of health care to persons treated with dialysis*

In the procedure regarding the complaint filed by a civil society organisation, the Commissioner learnt that the Special Hospital for Internal Diseases Vrnjačka Banja had dialysis equipment, but due to some problems did not perform dialysis, due to which persons with disabilities who were treated with dialysis were deprived of this medical service. In order to establish the reasons due to which the Special Hospital for Internal Diseases Vrnjačka Banja did not provide the dialysis service to patients, the Commissioner addressed the hospital and the National Health Insurance Fund asking them to explain why the Dialysis Ward in this hospital was not functional and available to patients. Given the anti-discrimination regulations, the Commissioner pointed out that persons with disabilities who are treated with dialysis are in a particularly grave position since in order to preserve life and health it is necessary for them to regularly undergo dialysis. The Commissioner indicated that persons with disabilities were not allowed to undergo dialysis in this hospital, due to which they were forced to travel several times a week dozens of kilometres to reach other remote health centres in order to be provided with the medical service concerned, which made their life more difficult and jeopardised their health. The situation also affected the workload in the centres providing the medical service concerned, both in terms of the number of clients and in terms of overuse of the existing apparatuses. In particular, the Commissioner noted that, on one hand, there were funds allocated by the National Health Insurance Fund and a medical establishment with all preconditions being met for the functioning

of the Dialysis Ward, equipment procured and staff employed, while on the other hand, there were citizens who were treated with dialysis, who needed this service and who, for this reason and at the cost of the National Health Insurance Fund, travelled to other health centres to be provided with the service concerned, which additionally lowered the quality of their lives and affected their overall health status. Opening of this Ward would allow adequate treatment of all persons with disabilities who were treated with dialysis, both those living in Vrnjačka Banja and nearby and those visiting this spa town. This would ensure that persons with disabilities have equal treatment as other citizens in terms of access to medical services, as well as services that were provided in the framework of recreational, tourist, free time and sports activities in line with the relevant regulations and the Convention on the Rights of Persons with Disabilities. In addition to the fact that opening of this Ward would significantly contribute to improving the quality of life of persons with disabilities and would have a positive impact on advancing their status, it would also have an impact on the development of spa tourism and medical tourism and the development of the place itself where such service is provided. Therefore the Commissioner was of the opinion that the Ministry of Health should, by taking measures in its competence, together with the National Health Insurance Fund and Special Hospital for Internal Diseases Vrnjačka Banja, address the problem that had arisen between the National Health Insurance Fund and Special Hospital for Internal Diseases Vrnjačka Banja regarding non-functioning of the Dialysis Ward, so that it can become operational thus allowing persons being treated with dialysis to exercise their right to enjoyment of equal position and equal care. Given the above, the Commissioner recommended that the Ministry of Health, National Health Insurance Fund and Special Hospital for Internal Diseases Vrnjačka Banja take all measures and activities in their respective competence so as to overcome the above problems. This Commissioner's recommendation has been acted upon to some extent; however, this Ward of the Special Hospital for Internal Diseases Vrnjačka Banja has not yet started providing the dialysis service.

#### 3.6.4.4. Statements to the public

On the occasion of the World AIDS Day, the Commissioner reminded the public that persons living with HIV/AIDS are still exposed to discrimination in almost all areas of life.<sup>149</sup> Also, regarding the case when a child with autism was not allowed to board the plane, she drew the attention of the public to the problems that children with autism encounter on a daily basis.<sup>150</sup>

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149 *Announcement regarding the World AIDS Day*, 1 December 2017 – available at: <http://ravnopravnost.gov.rs/rs/saopstenje-povodom-svetskog-dana-borbe-protiv-aids-a-3/>

150 *Announcement regarding the restriction of airplane boarding to child with autism*, 9 August 2017, available at: <http://ravnopravnost.gov.rs/saopstenje-dete-s-autizmom-avion/>



### 3.6.5. Discrimination on the grounds of national affiliation and ethnic origin

The assessment of equality and of degree of exercise of the rights of national minorities in the Republic of Serbia is given in the report entitled *Third Cycle of the Universal Periodic Review*<sup>151</sup> of the Office for Human and Minority Rights. This report has positively assessed the adoption of important strategic documents in this area and stated that the institutional framework for the protection of the rights of national minorities has been improved. In addition, the report stated that national minorities are provided with education in 15 languages, at all three levels of education, while more than 60,000 children are included in the learning process in the 2017/2018 school year. There are 11 minority languages in official use in 42 local government units. More than 18,000 hours per month of radio and television program are broadcast for members of national minorities in 16 different languages, while more than 100 print media are published in the languages of national minorities.<sup>152</sup> However, the report has noted that, in order to achieve the equality of national minorities, in addition to establishing appropriate legislative and strategic frameworks for the prohibition of discrimination and new protection mechanisms, as well as enhanced inter-ministerial cooperation and cooperation with civil society, there are still areas where additional efforts need to be made that, above all, have to focus on the adequate application of existing regulation. The Report on the Implementation of the Action Plan for the Exercise of the Rights of National Minorities<sup>153</sup> states, inter alia, that in order to improve the situation in this area activities are under way in terms of amending a number of regulations, such as the Law on the Protection of Rights and Freedoms of National Minorities, Law on National Minority Councils and Law on Registries. The report states that for a number of members of national minorities, primarily Roma people, residence was registered at the addresses of the competent social care centres, and that continuous activity has been noted regarding effective investigations, adequate recognition of the degree of crime and effective prosecution of perpetrators of offences with elements of ethnic hatred and intolerance as well as discrimination based on the race, religion, etc. The report also states that the improvement of the manner of work of local government authorities in the entire territory of the Republic of Serbia is evident, irrespective of the language in official use. Continued activities

151 *The Universal Periodic Review Third Cycle Report* was compiled in accordance with paragraph 5 of the Annex to the 17/21 Human Rights Council Resolution. A new mechanism for monitoring the observance of human rights in UN Member States is implemented by examining three main documents (national human rights report, OHCHR report based on reports submitted by UN treaty bodies and OHCHR report based on information supplied by NGOs and other entities) and in spoken dialogue with government delegations. This report was presented in late October 2017 to the Council for Monitoring the Implementation of the Recommendations of the UN Human Rights Mechanisms.

152 *Universal Periodic Review – Third Cycle – Report of the Republic of Serbia*, p. 15

153 The fifth reporting cycle took place between 4 September and 2 October 2017.

are under way regarding improving the model of education in the languages of national minorities, employment and encouraging entrepreneurship, media visibility and ensuring participation of national minorities in the election process.

The Concluding observations on the combined second to fifth periodic reports of the Republic of Serbia regarding the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination of the UN Committee on the Elimination of Racial Discrimination dated December 2017<sup>154</sup> underline the particular significance of collecting and sharing statistical data and information about complaints and the relevant procedure outcomes pertaining to racial discrimination that were filed with the Commissioner for the Protection of Equality.

The study entitled *Towards a Comprehensive EU Protection System for Minorities*<sup>155</sup> of the European Parliament Committee on Civil Liberties, Justice and Home Affairs, published in 2017, points to widespread and institutional forms of Roma discrimination both in EU Member States and in other European countries. The Republic of Serbia has been ranked among the countries where racial segregation in Roma education persists and remains unsanctioned, which has been also observed in the area of housing with the cases of forced eviction with a lack of approach to adequate housing. Striking health inequalities are observed between Roma and non-Roma, and discrimination in access to health care is not addressed, whilst Roma women and girls are in most cases affected by multiple discrimination.<sup>156</sup> In the country-specific review of the Republic of Serbia,<sup>157</sup> the study says that racially motivated attacks against Roma continue to be a problem given that although criminal legislation to fight hate crime is in place, it is not fully implemented in practice. Roma suffer from widespread discrimination, poverty and exclusion, particularly in the areas of education and housing. The study notes that few Roma girls complete their primary and secondary education and that the number of Roma without identity documents has significantly reduced, but they are still present. Detailed anti-discrimination provisions in legislation in the areas of housing and social protection are missing. There are no Roma employed in important public service institutions<sup>158</sup>

154 *Concluding observations on the combined second to fifth periodic reports of Serbia*, Committee on the Elimination of Racial Discrimination, UN, CERD/C/SRB/CO/2-5, 3 January 2018 – available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhslztXd5Nnh5GF9yFH9jwvil9B8B1l%2fuXci8LTQu0fj4OYldltZ8n4OMBwtQDg7SZF6eFXhiiq9YdxBd%2bRQfdDSZnBiSnXOW3tWQbBHMJqen0>

155 *Towards a Comprehensive EU Protection System for Minorities*, European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs, 2017 – available at: [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/596802/IPOL\\_STU\(2017\)596802\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/596802/IPOL_STU(2017)596802_EN.pdf)

156 *Ibid*, p. 75

157 According to the Council of Europe data from July 2012, the estimated number of Roma in Serbia is 600,000 or 8.23% of the entire population. In the 2002 census, 108,193 individuals declared themselves as Roma. *Towards a Comprehensive EU Protection System for Minorities*, p. 133

158 *Towards a Comprehensive EU Protection System for Minorities*, European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs, 2017, pp. 133-135 – available at: [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/596802/IPOL\\_STU\(2017\)596802\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/596802/IPOL_STU(2017)596802_EN.pdf)

According to the data from the report of the World Health Organisation, the estimated mortality rate of infants among children in Roma settlements is 13 deaths per 1,000 live births, which is twice as many compared to national average. The report deals with reproductive health of Roma women and girls which is directly affected by the number of pregnancies, abortions, and births, motherhood, poverty, violence and other factors.<sup>159</sup>

The publication of the European Roma Rights Centre entitled *Family Life Denied – Overrepresentation of Romani Children in State Care in Serbia*<sup>160</sup> presented the fact that disproportionate numbers of Roma children are placed in foster care compared to the total number of Roma people in Belgrade. A third of children who are provided with some form of care in Belgrade come from Roma families, while Roma people make up less than two per cent of the total population of the city, which further indicates that Roma families fall victims to indirect discrimination and stereotyping. Roma children often live in inadequate housing, their parents are poor and unemployed, and their access to education is hard, all of which play a significant role in the decision to remove the children from their families, while at the same time questions whether the volume of community support that these families receive to stay together is sufficient.

The study entitled *the Implementation of Affirmative Action Measures in the Area of Primary Education for Roma Men and Women in the Territory of the Autonomous Province of Vojvodina*<sup>161</sup> presents the data about the increased number of Roma children being enrolled in pre-school program (273 per cent for the period 2006-2016), first grade of primary school (146 per cent), and secondary schools (on average 10 per cent per year).<sup>162</sup> It was assessed that the implementation of affirmative measures, in addition to larger presence of Roma children in the education system, contributes to a greater Roma visibility in the community and to awareness-raising among the majority population about the need to improve their position, as well as to promoting the values of respect for diversity and inclusion.

According to the survey entitled *Citizens' satisfaction with public services in primary health care – An overview of survey findings*<sup>163</sup> citizens perceive Roma people, poor and unemployed citizens as the three groups who access the necessary health services with more difficulty compared to other citizens (40 per cent for the poor, 33 per cent for the unemployed and 30 per cent for Roma people).

<sup>159</sup> *Sexual and reproductive health*, World Health Organization – available at: <http://who.int/reproductivehealth/en/>

<sup>160</sup> Published in December 2017

<sup>161</sup> *Implementation of Affirmative Action Measures in the Area of Primary Education for Roma Men and Women in the Territory of the AP Vojvodina, A Survey Report*, Province Ombudsman, Novi Sad, 2017 – available at: [www.ombudsmanapv.org/riv/attachments/article/1900/Afirmativne-mere-Romi.pdf](http://www.ombudsmanapv.org/riv/attachments/article/1900/Afirmativne-mere-Romi.pdf)

<sup>162</sup> *Ibid*, p. 30

<sup>163</sup> *Citizens' satisfaction with public services in primary health care – An overview of research findings*, European Movement in Serbia and European Policy Centre, Belgrade, 2017 – available at: [www.zdravlje.gov.rs/downloads/2017/April/analiza.pdf](http://www.zdravlje.gov.rs/downloads/2017/April/analiza.pdf)

In 2017 nearly the same number of complaints were filed with the Commissioner as in 2016, while compared to 2015 the number of complaints on this grounds decreased, which was the year when this ground of discrimination ranked second as per number of filed complaints, with the share of 18.4 per cent in the total number of grounds. Namely, the Commissioner received 62 complaints in 2017 wherein national affiliation and ethnic origin were cited as the grounds of discrimination, which made up 9.8 per cent of the total number of complaints as per different grounds of discrimination. This ground of discrimination ranks as fifth most cited, being preceded by disability, age, gender, and health status. The majority of complaints were filed due to affiliation to the Roma national minority (33), which represents 53.2 per cent of all complaints filed for discrimination on the grounds of national affiliation and ethnic origin. When it comes to the number of filed complaints, those citing affiliation to the Bosniak national minority as the ground of discrimination are in the second position (57), followed by affiliation to Croatian (7), Albanian (4), Romanian (3), and other minorities. In these cases less than two complaints each were filed.

The majority of complaints claiming discrimination on these grounds related to the procedures before public authorities (17), employment or labour (14), public sphere and general public (8), area of private relations (6), followed by all other areas wherein fewer complaints were filed.

The largest number of complaints alleging discrimination on the grounds of national affiliation and ethnic origin were filed by private persons (47), of which 33 males and 14 females. In 15 cases in 2017 complaints were filed by civil society organisations. As in previous years, the majority of complaints on the grounds of national affiliation were filed for discrimination against members of the Roma national minority. Such information relates to the findings of the above mentioned surveys. Compared to the previous year when due to discrimination against members of the Roma national minority the Commissioner was mostly addressed by civil society organisations, 2017 saw an increase in the number of private persons who turned to the Commissioner for this reason.

#### 3.6.5.1. Situational testing

Between 23 June and 10 July 2017, *Equality*, an organisation dealing with the protection of human rights, carried out a situational testing in the area of housing in the territory of Belgrade. Two female Roma testers tested the renting of dwelling units, the sample being between three to six flats. According to the report on conducted situational testing that was submitted by this organisation, there were not any cases of discrimination observed.

Bearing in mind that in 2013 a situational testing in the area of housing was also conducted, when the violation of the rights laid down in the Law on the

Prohibition of Discrimination on these grounds was established, it may be concluded that some progress has been made in this area.

### *3.6.5.2. Opinions and recommendations*

#### *A hospital discriminated against a member of the Roma national minority in the course of the employment procedure*

The opinion was issued following the procedure regarding the complaint of a private person against a hospital for discrimination on the grounds of affiliation to the Roma national minority. The complainant claimed that, despite applying several times for job announcements made by this hospital, submitting the requested papers and meeting all the requirements, he did not manage to get employed with that hospital due to his affiliation to the Roma national minority. The proofs were enclosed with the complaint. Given the fact that the act of discrimination was made likely, the burden of proof that in this case the principle of equality had not been violated was shifted to the hospital. The hospital declared that public job announcements contained the relevant requirements – general and specific ones – that were equal for all candidates so the hospital did not violate legal provisions. When making the decision on employment, the hospital claimed to have taken into account the requirements of the job announcement and the needs of the hospital itself. In the course of the procedure the hospital did not present any facts or evidence to prove that it had examined the job application submitted by the complainant or additional documents furnished in accordance with the public job announcement and that he had not been employed due to objective reasons that were not related to his national affiliation. Bearing in mind the stated facts and presented evidence, as well as the statistical data about the status of members of the Roma national minority in the labour market, stereotypes and prejudice about work habits of Roma people, and the fact that there is still a strong social distance towards this social group, the Commissioner issued the opinion that the hospital, in the course of the employment procedure following the public job announcement for the work post of nurse-technician discriminated against the complainant on the grounds of his personal characteristic of being a member of the Roma national minority. The hospital was recommended to take measures within its competence so as to eliminate the consequences of its discriminatory treatment towards the complainant, and not to violate the anti-discrimination legal provisions in the course of its regular affairs and activities. This recommendation has not been acted upon.

#### *Complaint made by the National Council of the Roma national minority regarding the adoption of the Provisional Conclusion on the provision of accommodation for a minor*

The opinion was issued following the procedure regarding the complaint made by the National Council of the Roma national minority, on behalf and with

consent of a private person, against the City Social Welfare Centre, New Belgrade Department, regarding the adoption of the Provisional Conclusion on the provision of accommodation for a minor. The complaint claimed that the decision was made without any evidence, solely on the basis of prejudice and stereotypes pertaining to Roma people. The City Social Welfare Centre, New Belgrade Department, declared that the reason for adopting the Provisional Conclusion on the provision of accommodation for a minor had not been a personal characteristic of the minor girl or her parents, the proofs of which were furnished by the Centre. Following the procedure the Commissioner issued the opinion that the City Social Welfare Centre, New Belgrade Department, did not violate the provisions of the Law on the Prohibition of Discrimination.

### 3.6.5.3. Warnings and statements to the public

#### *Warning following the assault against a Romani pupil, 13 June 2017*

On the occasion of the International Romani Day, the Commissioner pointed to the problems which members of the Roma population encounter in their daily lives.<sup>164</sup> In addition, she most strongly condemned the incident which had taken place in the schoolyard of a Belgrade primary school when a group of eighth-graders had beaten a seventh-grader just because he is Romani.<sup>165</sup>

### 3.6.6. Discrimination on the grounds of marital and family status

The state-of-play analysis in the area of enjoyment of equality in the Republic of Serbia indicates that discrimination on the grounds of marital and family status is particularly pronounced in the area of labour and employment, with females being more frequently subject to this form of unequal treatment. The major causes can be the economic situation in the country, as well as the present practice among some employers to ask unjustified questions about family and marital status when applying for a job, in job announcements and during job interviews or to automatically exclude women due to the assumption that it is impossible for them to meet both private and work obligations.

Discrimination on the grounds of marital and family status and the position of women in the area of labour and employment were analysed by the European Institute for Gender Equality in its study entitled *Gender in Employment*<sup>166</sup> which

164 *Announcement on the occasion of International Roma Day*, 7 April 2017 – available at: <http://ravnopravnost.gov.rs/rs/saopstenje-povodom-medunarodnog-dana-roma/>

165 *Warning regarding the attack against a Roma pupil*, 13 June 2017 – available at: <http://ravnopravnost.gov.rs/rs/upozorenje-povodom-napada-na-romskog-ucenika/>

166 *Gender in employment*, European Institute for Gender Equality – available at: <http://eige.europa.eu/rdc/eige-publications/gender-employment>

points out that while considerable progress has been made in relation to women's labour market participation over the past decades, deeply entrenched inequalities persist. The study states that the European Commission is of the opinion that the major reason for women's low employment rates is the challenge of reconciling work, family and private life. The labour market participation of mothers is 11.5 per cent lower than that of women without children, while the rate for fathers is 8.5 per cent higher than that for men without children. According to the European Commission report on the progress on gender equality, almost one third of women in the EU with family care responsibilities are either in part-time work or inactive in the labour market. According to the European Foundation for the Improvement of Living and Working Conditions (Eurofound), women spend 26 hours per week in unpaid work, against 9 hours for men.<sup>167</sup> In order to achieve full equality and to suppress discrimination on the grounds of marital or family status, the study gives recommendations for implementing different measures, such as employment contracts with flexible working-time arrangements, inclusion of the provisions on childcare in employment contracts, creation of community services implying long-term care for children and the elderly, allowing more active participation in all areas of social life, promoting and encouraging the taking of *parental leave of absence* by men too.<sup>168</sup>

The activities taken by the Commissioner indicate that discrimination on the grounds of marital and family status was often cited as one of the grounds in cases of multiple discrimination. Moreover, data from a number of different sources lead to the conclusion that some vulnerable groups, particularly Romani women and girls, are due to their marital and family status and dominant patriarchal image of the women's role in the family under a higher risk of being exposed to multiple discrimination.

In the above-mentioned report of the Serbian Statistical Office entitled *Women and Men in Serbia*,<sup>169</sup> it was mentioned, inter alia, that the surveys on time consumption conducted in 2010 and 2015 in the Republic of Serbia confirmed stereotypes – irrespective of the fact whether they are employed or not, women spend twice as much time compared to men doing housework, while half as much time on paid jobs. For working women housework becomes the second shift. Regardless of their education, women spend four and a half hours doing housework, against about two hours for men. In addition, the analysis entitled *The Position of Women in the Labour Market*<sup>170</sup> underlines that women in rural areas are in

<sup>167</sup> *Ibid*, p. 5

<sup>168</sup> *Ibid*, p. 6-7

<sup>169</sup> *Women and Men in Serbia*, Statistical Office of the Republic of Serbia, Belgrade, 2017 – available at: [http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2017/11/Zene\\_i\\_muskarci\\_u\\_Republici\\_Srbiji\\_web\\_2017.pdf](http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2017/11/Zene_i_muskarci_u_Republici_Srbiji_web_2017.pdf)

<sup>170</sup> *The Position of Women in the Labour Market*, by Jovana Pantović, Sarita Bradaš and Ksenija Petovar, Center for Democracy Foundation with the support of Friedrich Ebert Stiftung – available at: [www.crnabelo.com/preuzimanje/fcd-polozaj-zena-na-trzistu-rada.pdf](http://www.crnabelo.com/preuzimanje/fcd-polozaj-zena-na-trzistu-rada.pdf)

a specific position, they very often do not enjoy health (12%) and pension (60%) insurance,<sup>171</sup> while at the same time cannot be co-holders of agricultural holdings together with their spouses. The analysis says that women who are holders of registered agricultural holdings are deprived of some basic rights in the area of social protection, such as maternity protection and child care, which leads to their inequality in the exercise of these rights. Therefore, it has been pointed out that the situation needs to improve and that specific measures need to be developed in the area of employment, rural and social policies.

Suppression of discrimination on the grounds of marital and family status is linked with addressing the issue of child and juvenile marriages. The study entitled *Violence against Children in Serbia – Determinants, Factors and Interventions – A National Report*,<sup>172</sup> says that higher percentage of child marriages was observed in rural areas, in the poorest and multi-member households. Among women living in Roma settlements (between 20 and 49 years of age), 17% were married before the age of 15 and 57% before turning 18. In the general population child marriages are much less present (0.8% and 6.8% before the age of 15 and 18 respectively).<sup>173</sup>

That some progress and changes have been made regarding patriarchal patterns and deeply rooted stereotypes about the role of women in family life, which often cause discrimination, can be seen from unofficial data according to which in the Republic of Serbia more than 300 men each year use *parental leave of absence* instead of their spouses. This figure is constantly on the rise since 10 years ago there were only 17 cases where fathers were absent from work in order to take care of their children.<sup>174</sup>

In 2017 the Commissioner received 48 complaints claiming discrimination on the grounds of marital and family status, which is 7.6 per cent of the total number of complaints in this area as per all grounds of discrimination. The statistical data show that the number of complaints on the grounds of marital and family status is slightly lower than the number of respective complaints filed a year before when 52 complaints were made, which is 8.2 per cent.

The majority of complaints were filed by private persons (43), with notably more women (26) than men (17) as complainants, followed by civil society organisations (5). It is evident that for several years now the majority of complaints claiming discrimination on this ground have been filed in the area of labour and

171 *Ibid.*, p. 21

172 *Violence against Children in Serbia – Determinants, Factors and Interventions – A National Report*, UNICEF – available at: [http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2017/09/Nasilje\\_prema\\_deci\\_u\\_Srbiji\\_Nacionalni\\_izvestaj.pdf](http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2017/09/Nasilje_prema_deci_u_Srbiji_Nacionalni_izvestaj.pdf)

173 *Determinants and Factors of Violence against Children in Serbia – An Overview of Findings*, UNICEF, p. 4 – available at: [http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2017/09/Nasilje\\_prema\\_deci\\_u\\_Srbiji\\_Pregled\\_nalaza.pdf](http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2017/09/Nasilje_prema_deci_u_Srbiji_Pregled_nalaza.pdf)

174 Available at: [www.srbijadanas.com/vesti/info/pre-dceniju-ih-je-bilo-17-visestruko-povecanje-broja-muskaraca-iz-srbije-koji-odlaze-na-porodiljsko-2017-11-26](http://www.srbijadanas.com/vesti/info/pre-dceniju-ih-je-bilo-17-visestruko-povecanje-broja-muskaraca-iz-srbije-koji-odlaze-na-porodiljsko-2017-11-26)



employment. In 2017, 20 complaints in the area of labour and employment were received, which is 13.4 per cent compared to the total number of complaints in this area as per all grounds of discrimination. In addition to this area, a large number of complaints on this ground were filed because of the procedures before public authorities. Namely, 13 complaints were filed in this area, which is 9.3 per cent of the total number of complaints in this area as per all grounds of discrimination, followed by the area of social protection with 9 complaints, which is 27.3 per cent, while in other areas there were fewer complaints.

Upon analysing the filed complaints, it may be noted that marital and family status, as a basis of discrimination, appeared in 2017 in several cases combined with some other personal characteristic, most frequently gender.

### 3.6.6.1. Opinion

*It was not established that the Belgrade City Social Welfare Centre, Zvezdara Department, discriminated against a female complainant on the grounds of marital and family status*

The opinion was issued following the procedure regarding the complaint against the Belgrade City Social Welfare Centre, Zvezdara Department, wherein the complainant claimed that her application for adoption had been rejected as ungrounded, based on wrongly determined factual situation, prejudice and arbitrary reasons for claiming her unsuitable for being an adopter, whereby she was deprived of the possibility to fulfil herself as a parent. She believed that the explanatory part of the decision offered an arbitrary and unfounded assessment of her family situation and relations in her primary family regarding which she claimed that, in addition to not being true, they were not relevant to the case, while expressing her doubts that the outcome of the procedure was affected by the fact that she was to enter the adoption procedure alone, without a partner, and that she wanted to adopt a Romani child.

In the course of the procedure it was established that the reports made by the members of the expert team of the guardianship authority were based on the reasons and facts that were not directly related to the marital and family status of the complainant, but were stated as facts based on a comprehensive analysis and the complainant's capacity assessment, without evaluating her status as either positive or negative. Therefore, the Commissioner for the Protection of Equality issued the opinion that the complaints procedure did not establish that the decision of the Belgrade City Social Welfare Centre, Zvezdara Department, rejecting the application for adoption as ungrounded due to the absence of general suitability for being an adopter, discriminated against the complainant on the grounds of marital and family status.

### 3.6.6.2. Recommendation of measures

*Recommended measures to the National Health Insurance Fund to align the provision of Article 2, paragraph 4, of the Rulebook on standard material for dialysis covered by the compulsory health insurance with anti-discrimination regulations*

Acting upon a complaint filed by a civil society organisation, the Commissioner for the Protection of Equality found that pregnant patients suffering from renal insufficiency need a larger number of dialysis sessions than the monthly number as prescribed by the Rulebook on standard material for dialysis covered by the compulsory health insurance.<sup>175</sup> The complaint claimed that in this manner pregnant women who are treated with dialysis are put in less favourable position compared to other patients, on the grounds of gender, marital and family status, and health status, as grounds of discrimination. Successful pregnancies among women on haemodialysis are very rare and pregnant women who are treated with dialysis need to be provided with additional material for dialysis. In this regard, the Commissioner asked for a declaration from the National Health Insurance Fund. In the course of the procedure it was established that pregnant women who are covered by insurance and who, in order to maintain pregnancy, need a larger number of dialysis sessions than the monthly number prescribed for all those covered by insurance, are in a notably different situation compared to other insured people suffering from renal insufficiency who are treated with dialysis. Namely, if a pregnant woman who is treated with dialysis has medical indications for more than 15 dialysis sessions per month, it is clear that such indications imply that a larger number of dialysis sessions are needed to maintain pregnancy and preserve the pregnant woman's health. According to available information in this area,<sup>176</sup> pregnancy among women on dialysis is a rare phenomenon i.e. only between 0.3 and 3 per cent of women treated with dialysis get pregnant. It was underlined that the foetal survival rate is doubled if dialysis lasts longer than 20 hours per week. The Commissioner indicated that, when prescribing the maximum number of haemodialysis sessions per month, the National Health Insurance Fund failed to take into account the special status of pregnant women who in some cases need more than 15 dialysis sessions in order to maintain extremely complicated pregnancy, nor relevant international and national regulations that guarantee special protection for pregnant women and new mothers. Taking into account all circumstances, and in order to ensure the principle of equality and protection of reproductive health of women who are treated with dialysis, the Commissioner recommended that the NHIF should take all measures and actions within its competence in order to align the provision of Article 2, paragraph 4, of the Rulebook

<sup>175</sup> "Official Gazette of the RS", No. 88/12, 41/13, 36/14, 37/14, 37/14 – corrigendum and 88/15

<sup>176</sup> Ljubinko Todorović, MD/PhD, *Dialysis – A manual for patients and medical staff*, 2015

on standard material for dialysis covered by the compulsory health insurance with anti-discrimination regulations, making sure that insured pregnant women can have the necessary number of haemodialysis sessions at the cost of the compulsory health insurance if due to their pregnancy there are medical indications for a larger number of haemodialysis sessions than the maximum number prescribed by the said Rulebook. This recommendation has been acted upon. The National Health Insurance Fund has started the procedure for amending the Rulebook. The Management Board of the National Health Insurance Fund passes rulebooks on the basis of the consent given by the Minister of Health.

*Recommended measures to municipal/city administrations regarding the father's right to parental allowance when the child's mother is a foreign national*

Acting upon a number of citizens' complaints, the Commissioner noted that some municipal/city administrations prevent fathers from exercising the right to parental allowance when the child's mother is a foreign national although the child's father meets all the requirements prescribed by the Law on Financial Support to Families with Children. This way city / municipal administrations without any justification put those families where the mother is a foreign national in a less favourable position compared to other families with children where the mother is a Serbian national, and the father is a Serbian or foreign national, which is contrary to the provisions of the Law on the Prohibition of Discrimination. On the other hand, preventing the child's father from exercising the right to parental allowance when the child's mother is a foreign national is not in compliance with either the Decision of the Constitutional Court of the Republic of Serbia no. IUz-40/2012 dated 11 July 2014 or the Instruction for municipal/city administrations regarding implementation and enforcement of the Decision of the Constitutional Court of the Republic of Serbia no. IUz-40/2012 passed by the Ministry of Labour, Employment, Veteran and Social Affairs no. 011-00-00554/2015-13 dated 21 September 2015, which governs the obligations of municipal/city administrations in the procedure of exercise of the right to parental allowance when the mother is a foreign national. The Commissioner points out that preventing fathers from exercising the right to parental allowance when the mother is a foreign national, although the child's father meets all the requirements prescribed by the Law on Financial Support to Families with Children, affects such families given the fact that this way they are put in a less favourable position compared to other families with children where the mother is a national of the Republic of Serbia. Taking into account all the above circumstances and acting in accordance with Article 33, item 9, of the Law on the Prohibition of Discrimination, the Commissioner issued a recommendation to municipal/city administrations to post on their notice boards or other places available for everyone to see the information that the right to parental allowance can be exercised by the child's father also when the child's

mother is a foreign national if the father meets other prescribed requirements. It was also recommended that the heads of municipal/city administrations should brief their staff about the Decision of the Constitutional Court of the Republic Serbia no. IUz-40/2012 dated 11 July 2014 and the Instruction for municipal/city administrations regarding implementation and enforcement of the Decision of the Constitutional Court of the Republic of Serbia no. IUz-40/2012 passed by the Ministry of Labour, Employment, Veteran and Social Affairs no. 011-00-00554/2015-13 dated 21 September 2015.

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

Surveys and reports of government authorities and civil society organisations conclude that homophobia and transphobia are deeply rooted in the society, which is also indicated by the findings of public opinion polls on discrimination that are periodically conducted by the Commissioner for the Protection of Equality, which tell that the social distance of citizens of the Republic of Serbia is most prominent precisely towards members of this vulnerable group.<sup>177</sup>

Also, the report entitled *Being LGBTI in Serbia*<sup>178</sup> by the United Nations Development Programme (UNDP) in the Republic of Serbia indicates that that the LGBTI population is one of the most discriminated against groups in Serbia, and that Roma LGBTI people and LGBTI people living with HIV are particularly stigmatized and exposed to multiple discrimination, while intersex people are practically invisible.

The Commissioner for the Protection of Equality took part in the development of the report entitled *National Human Rights Institutions and the Protection of LGBTI Rights in the Western Balkans – Experiences, Challenges and Good Practices*.<sup>179</sup>

The publication of the Centre for Social Research and Development IDEAS entitled *From Life to Politics – Guidelines for Effective Response by the Institutions of the Republic of Serbia regarding Improvement of the Quality of Life and Integration of LGBTI Citizens*<sup>180</sup> states that expressed negative attitudes and existing

177 Public opinion survey report on *Citizens' Perception of Discrimination in Serbia*, Commissioner for the Protection of Equality, Belgrade 2016 – available at: [https://drive.google.com/file/d/1w5UfenxRlyMNzIbAd\\_bLZMBxoJ6Jhdc/view](https://drive.google.com/file/d/1w5UfenxRlyMNzIbAd_bLZMBxoJ6Jhdc/view)

178 The report was presented at the joint session of the National Assembly Committees, 14 September 2017. Available at: [www.rs.undp.org/content/serbia/sr/home/library/poverty/izve\\_taj-bit-lgbti-u-srbiji.html](http://www.rs.undp.org/content/serbia/sr/home/library/poverty/izve_taj-bit-lgbti-u-srbiji.html)

179 *National Human Rights Institutions and the Protection of LGBTI Rights in the Western Balkans – Experiences, Challenges and Good Practices*, Sarajevo Open Centre, September 2017. Available at: <http://soc.ba/site/wp-content/uploads/2017/10/HRP-BOS-institucije-za-zastituWEB.pdf>

180 *From Life to Politics – Guidelines for Effective Response by the Institutions of the Republic of Serbia regarding Improvement of the Quality of Life and Integration of LGBTI Citizens*, Centre for Social Research and Development IDEAS, Belgrade 2017. Available at: [http://ideje.rs/Od\\_zivota\\_do\\_politike.pdf](http://ideje.rs/Od_zivota_do_politike.pdf)

discrimination towards LGBTI people affect every aspect of their lives, and that such attitudes are almost becoming a cultural norm that is applied in almost every situation in life, from family to interaction with other citizens and social systems.

In addition, within the project entitled *Networked to Improve the Position of LGBT persons in Serbia*<sup>181</sup>, implemented by LABRIS, an organisation defending lesbian rights, it was noted that local networks had been established to prevent the discrimination of and support LGBT people in Serbia. LABRIS has conducted a survey<sup>182</sup> mapping strategic documents in seven cities in the Republic of Serbia on the basis of which it was observed that in local government units the most frequent topics were social protection, employment, children's rights, Roma issues, and migration. The least discussed topic was gender equality, while the survey has shown that the LGBT issue is not addressed by any local governments.

That LGBT people are not safe, irrespective of their growing presence in everyday life, was indicated by the data published by the *Let it be known! Association* in its publication *One step forward, two steps back – The role of police in strengthening the prevention and protection mechanisms against homophobic and transphobic hate crimes in Serbia*.<sup>183</sup> Holding of the Pride Parade was assessed as a significant development in the improvement of the position of LGBT people. The report underlines the importance of sensitizing police who are the first to contact a victim of violence and/or discrimination, indicating that in 2017 the Ministry of Internal Affairs issued the *Manual for Police Conduct towards the LGBT Population*, thus significantly improving communication and cooperation between MIA's organisational units and the LGBT community and organisations dealing with the protection of this vulnerable group.<sup>184</sup>

Of the total number of complaints filed with the Commissioner in 2017, 42 complaints claimed discrimination on the grounds of sexual orientation, which is 6.6 per cent of the total number of submitted complaints. Bearing in mind the above findings of different surveys wherein the LGBT population is mentioned as one of the most vulnerable social groups, it may be noted that discrimination cases on the grounds of sexual orientation are still rarely reported, and that there is an evident disproportion between the number of reported cases of discrimination

181 Civil society organizations from seven cities throughout Serbia, Belgrade, Novi Sad, Subotica, Niš, Kragujevac, Novi Pazar and Pančevo took part in this project which was implemented with the support of the USAID.

182 Available at: [www.labris.org.rs/sites/default/files/MAPIRANJE%20%20JAVNIH%20%20POLITIKA%20%20NA%20%20LOKALNOM%20%20NIVOU.pdf](http://www.labris.org.rs/sites/default/files/MAPIRANJE%20%20JAVNIH%20%20POLITIKA%20%20NA%20%20LOKALNOM%20%20NIVOU.pdf)

183 *One step forward, two steps back – The role of police in strengthening the prevention and protection mechanisms against homophobic and transphobic hate crimes in Serbia*, Let it be known! Association, Belgrade, 2017 – available at: [https://dasezna.lgbt/attachments/Izvestaj\\_Srpski.pdf](https://dasezna.lgbt/attachments/Izvestaj_Srpski.pdf)

184 Report no. 3/2107 on the Implementation of the Action Plan for Chapter 23, Council for the Implementation of the Action Plan for Chapter 23, November 2017, p. 520

and their real number. When it comes to the Commissioner's practice, the total number of complaints claiming this basis of discrimination increased in 2017 compared to 2016. The majority of complaints claiming discrimination on the grounds of sexual orientation were filed by civil society organisations, while regarding the areas of discrimination as much as 54.8 per cent of complaints claiming this basis of discrimination are in the area of public information and media. In the area of information and media the share of complaints citing sexual orientation as the grounds of discrimination, compared to the complaints citing any other personal characteristic, is 43.4 per cent. This is followed by the areas of education and professional training with seven complaints, which is 7.1 per cent of the total number of complaints in this area as per all forms of discrimination, followed by the area of labour and employment with four complaints, which is 2.7 per cent, which is again followed by other areas to a smaller extent.

Also, there is an evident increase in the number of complaints citing gender identity as a personal characteristic, in addition to sexual orientation as the grounds for discrimination. This information is related to the majority of complaints filed in the area of public information and media because of disturbing and humiliating texts that violate the dignity of members of the LGBT community. In 2017 in cases where the Commissioner gave her opinion that the provisions of the Law on the Prohibition of Discrimination had been violated on these grounds, the recommendations were mostly not acted upon, due to which the Commissioner issued warnings, and in cases where it was not acted upon within the time period laid down in the warning, the Commissioner issued public statements. In 2016 six complaints were filed claiming discrimination on the grounds of gender identity, while in 2017 there were 17 complaints citing gender identity as a personal characteristic.

As in the previous years, the Commissioner received complaints on the grounds of gender identity filed by civil society organisations, which is an on-going trend. Civil society organisations filed complaints claiming discrimination on the grounds of sexual orientation and gender identity in 33 and 17 cases respectively.

In May 2017 a Trans Pride took place under the title Pride Parade, while on 11-17 September the Pride Week was organised which culminated in the Pride Parade. Before the Pride Parade, the Commissioner's Expert Service staff were present at the Info-Pride Centre, the first public location at the city centre where citizens were able to get information about the position of the LGBT people and activities of the organisations addressing the rights of this community. Citizens were able to make queries about the procedure and manner of protection against discrimination. The Pride Parade was for the first time attended by the Prime Minister of the Republic of Serbia and several ministers. In addition, representatives of other government authorities, diplomatic corps and public figures attended the event.

In 2017 the Commissioner filed a lawsuit for discrimination on the grounds of gender and sexual orientation in the area of public information and media.

### 3.6.7.1. Situational testing

Between 10 and 25 August 2017, *Equality*, an organisation dealing with the protection of human rights, in collaboration with *Let it be known* organisation, carried out a situational testing in the area of service provision (lease of catering establishments) to organisations dealing with the protection of rights of members of the LGBT community in the territory of Serbia. According to the situational testing report made by these organisations, there were not any cases of discrimination encountered on the sample between 15 and 20 facilities. Compared to earlier situational testings on similar grounds, it may be concluded that some progress has been made in this area.

### 3.6.7.2. Opinions and recommendations

#### *A journalist discriminated against members of the LGBT population in his copyright article*

The opinion was issued following the procedure regarding the complaint made by a civil society organisation against Miša Đurković, regarding the article in the Views column, under the title “A School Manual against Homosexuality”. When analysing the article, the Commissioner did not make an assessment of the value of educational manuals, but analysed the text and messages it conveys from the point of view of anti-discrimination regulations. Bearing in mind the entire context of the article, the terms that are associated with homosexual orientation, questioning the adoption of the regulations governing the prevention of violence as well as the conclusion of the article which says that “Serbs are not a violent nation. However, there are limits when the oppression and violence executed by men of power against us and our families cannot be endured any longer. The law on mandatory immunisation, the law on domestic violence and these satanic educational packages have brought us dangerously close to such limits...”, the Commissioner issued the opinion that the article “A School Manual against Homosexuality”, under the Views column, expresses positions that are disturbing and humiliating, violating the dignity of persons of a sexual orientation which differs from a heterosexual one, thus creating fear and a hostile, humiliating and insulting environment, which is a violation of the provision of Article 12 of the Law on the Prevention of Discrimination. For this reason the author of the text was recommended to publish an apology to members of the LGBT population within 15 days from the date of the receipt of the opinion and the accompanying recommendation, and not to express his positions and ideas

in his texts in the future which are disturbing and humiliating, and violate the dignity of members of the LGBT population. The recommendation has not been acted upon.

*A well-known retail chain did not discriminate against members of the LGBT community*

### 3.6.7.3. Warnings and statements to the public

The opinion was issued following the procedure regarding the complaint filed by a civil society organisation against a retail chain because of the delay in the delivery of goods which the organisation had bought in a store of this retail chain for the project of the OSCE Mission in Serbia addressing the improvement of the position of the LGBT community. The complainant believed that the delay in the delivery of goods occurred because the purchase was made for the project dedicated to members of the LGBT community. In the declaration regarding the complaint, the retailer said that the customer did not take over the goods on the day of payment since it was made on the last work day of the week to the retailer's headquarters after the working hours of the HQ staff, pursuant to the Decision on Working Hours. It was also stated that this was the case of bank transfer where purchased goods is taken over after the receipt of confirmation that the payment had been deposited on the account. The declaration explained the procedure of bank transfer claiming that, in order to hand over the goods to the buyer, the seller has to have the payment put on record which is the result of the transfer of funds from the buyer's account to the seller's account. Otherwise, that would be the case of deferred payment purchase which requires a written contract to be concluded, which was not the case here. Looking into the documents enclosed with the complaint and the declaration, and pursuant to the provisions of Article 2, paragraph 1, of the Law on Payments Made by Legal Entities, Sole Traders and Natural Persons Who Do not Perform Business Activity, Article 35 of the Law on Payment Services, and Articles 454 and 475 of the Law on Contracts and Torts, it was established that the reasons for the delay in the delivery of goods were objective and justified and that there were not any causal links between the above reasons and any real or assumed personal characteristics of the complainant. Therefore, the Commissioner issued the opinion that in the case concerned the provisions of the Law on the Prevention of Discrimination were not violated.

On the occasion of the International Pride Day<sup>185</sup> and International Day against Homophobia and Transphobia,<sup>186</sup> the Commissioner reminded that discrimina-

185 *Announcement on the occasion of International Pride Day*, 27 June 2017 – available at: <http://ravnopravnost.gov.rs/rs/saopstenje-povodom-medunarodnog-dana-ponosa-3/>

186 *Statement on the occasion of International Day against Homophobia and Transphobia*, 17 May 2017, available at: <http://ravnopravnost.gov.rs/rs/saopstenje-povodom-medunarodnog-dana-borbe-protiv-transfobije-i-homofobije/>



tion on the grounds of sexual orientation and gender identity is intolerable and forbidden by law. Besides that, regarding brutal physical attacks against transgender persons that occurred in early May, the Commissioner issued a statement to the public with a warning and expressed her expectations that the competent institutions would find and sanction the perpetrators.<sup>187</sup>

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

*The European Commission's report on the progress of Serbia in implementing the Action Plans for Chapters 23 and 24*<sup>188</sup> states that the Republic of Serbia has significantly contributed to the management of mixed migration flows, having an active and constructive role in this process, at the same time effectively cooperating with neighbouring countries and EU Member States. The report also underlines that the Republic of Serbia continues putting efforts to ensure provision of basic humanitarian needs for third-country nationals in line with European standards.

The publication entitled *Serbia on the refugee route – the humanitarian response and legal adjustments*<sup>189</sup> notes huge humanitarian and security challenges regarding the protection and support of migrants and refugees the influx of whom occurred as a consequence of armed conflicts in the Middle East, who in large numbers seek refuge primarily in EU countries.

In September 2016 the Government of the Republic of Serbia passed the Plan of Response to the increased number of migrants in the territory of the Republic of Serbia for the period October 2016 – March 2017. This plan is aligned with the sectorial approach of the *UNHCR Regional Refugee and Migrant Response Plan for Europe*.<sup>190</sup>

The survey entitled *Violence against Women and Girls among Refugee and Migrant Population in Serbia*,<sup>191</sup> conducted in early 2017, indicates the difficult position of refugee women whose situation requires particular attention since they are marginalised

187 *Warning regarding attacks against transgender persons*, 9 May 2017 – available at: <http://ravnopravnost.gov.rs/rs/upozorenje-napadi-trans-osobe/>

188 *Non-paper on the state of play regarding chapters 23 and 24 for Serbia*, May 2017 – available at: [www.mei.gov.rs/upload/documents/eu\\_dokumenta/non\\_paper\\_23\\_24/non\\_paper\\_ch23\\_24\\_eng.pdf](http://www.mei.gov.rs/upload/documents/eu_dokumenta/non_paper_23_24/non_paper_ch23_24_eng.pdf)

189 *Serbia on the refugee route – the humanitarian response and legal adjustments*, European Movement in Serbia, Forum for International Relations, Friedrich Ebert Stiftung – available at: <http://library.fes.de/pdf-files/bueros/belgrad/12941.pdf>

190 *UNHCR Regional Refugee and Migrant Response Plan for Europe*, UNHCR, January–December 2017 – available at: [www.unhcr.rs/media/docs/2017/januar/RMRPSerbiaSRP.pdf](http://www.unhcr.rs/media/docs/2017/januar/RMRPSerbiaSRP.pdf)

191 *Violence against Women and Girls among Refugee and Migrant Population in Serbia*, by Jelena Marković and Marija Cvejić, Atina – Citizens' Association for Combating Trafficking in Human Beings and All Forms of Violence against Women, available at: [www.atina.org.rs/sites/default/files/Nasilje%20nad%20C5%BEenama%20i%20devoj%20C4%8Dicama%20u%20migrantskoj%20populaciji%20u%20Srbiji.pdf](http://www.atina.org.rs/sites/default/files/Nasilje%20nad%20C5%BEenama%20i%20devoj%20C4%8Dicama%20u%20migrantskoj%20populaciji%20u%20Srbiji.pdf)

and discriminated against at several levels. According to collected and processed data, of the total number of respondents, 64.8 per cent have survived a form of physical violence while 24 per cent of respondents confirmed having been exposed to sexual violence, which altogether is a high and statistically relevant sample.<sup>192</sup>

In 2017 the Commissioner received four complaints alleging discrimination of refugees, internally displaced persons, migrants and asylum seekers. Three complaints were in the area of provision of public services and one complaint addressed the conduct of public authorities. As earlier, civil society organisations were the ones to file complaints with the Commissioner on behalf of refugees, migrants and asylum seekers. Difficult position, language barrier, and prior traumatic experiences in the country of origin and other countries of transit of these people on their way to Serbia result in private persons who believe they experienced discrimination not addressing government authorities for the protection against discrimination. When it comes to internally displaced persons, one complaint was filed by a private person. If we compare the number of complaints filed in 2017 with the number of complaints claiming discrimination on these grounds in 2016, it may be noted that there has been a decrease in their number. Namely, eight complaints were filed with the Commissioner in 2016.

#### 3.6.8.1. Opinions and recommendations

##### *A public enterprise refused to sell a travel ticket to a foreign national-asylum seeker*

The opinion was issued following the procedure regarding the complaint filed by an organisation involved in the protection of human rights against a legal person engaged in passenger transport. In the course of the procedure it was established that on 19 November 2016 a voluntary discrimination tester who was a foreign national seeking asylum in the Republic of Serbia tried to buy a train ticket at a ticket office to travel from Belgrade to Šid, but failed to do so. Immediately after that, the controller of the situational testing was sold a travel ticket for the same destination at the same ticket office. Further, it was established that in 2015 the company had been restructured and that a new company was established responsible for passenger railway transport. In its declaration the company did not deny that the voluntary discrimination tester had not been sold the ticket claiming that “it was possible” that due to the “situation created on the ground” (at Šid), the employees at the ticket office had some “doubts” about how to act and “possibly made mistakes at work”. The Commissioner issued the opinion that, by refusing to sell a travel ticket to a foreign national who sought asylum in the Republic of Serbia because he was an asylum seeker / migrant, this company violated the provisions of the Law on the Prohibition of Discrimination. For this reason the

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<sup>192</sup> *Ibid*, pp. 14-15

company was recommended to brief all its employees selling tickets about the Commissioner's opinion and recommendation within 15 days from the date of the receipt of the opinion and accompanying recommendation, and to make sure not to violate the anti-discrimination provisions in the future in the course of their regular affairs and activities. This recommendation has been acted upon.

### 3.6.8.2. Statements to the public

In her statement on the occasion of migrant and refugee children starting school, the Commissioner expressed expectations that conditions would be created for equal exercise of the right to education for all children.<sup>193</sup>

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

In addition to personal characteristics which have been individually presented in this Report, in 2017 the Commissioner received 33 complaints on account of discrimination on the grounds of membership in political, trade union and other organisations, 23 complaints on account of discrimination on the grounds of religious beliefs and political convictions, and 22 complaints claiming discrimination on the grounds of financial status. The Commissioner received 13 complaints on account of discrimination on the basis of appearance, while eight complaints were filed on account of discrimination on the grounds of having a previous criminal record. In 2017 the Commissioner also received seven complaints alleging discrimination on the grounds of citizenship, six on the grounds of genetic characteristics, five on account of language, three complaints claiming discrimination on the grounds of ancestry and three on the grounds of birth. In addition, 17 complaints alleged discrimination on the grounds of a personal characteristic not explicitly defined by the Law on the Prohibition of Discrimination. This group includes complaints alleging discrimination on the grounds of residence or affiliation with groups such as persons being granted asylum status / asylum seekers, migrants, and refugees. The text below provides an overview of some opinions.

#### 3.6.9.1. Opinions and recommendations

#### ***Initiative to amend Article 7 of the Law on Pupils' and Students' Standard***

Acting upon a citizens' complaint, the Commissioner ascertained that the provision of Article 7 of the Law on Pupils' and Students' Standard<sup>194</sup> stipulates

<sup>193</sup> Press release on the occasion of migrant and refugee children starting school in Serbia, 13 September 2017 – available at: <http://ravnopravnost.gov.rs/rs/saopstenje-povodom-polaska-u-skolu-dece-migranata-i-izbeglica/>

<sup>194</sup> "Official Gazette of the RS", No. 18/10 and 55/13

that the right to three-meal board a day belongs with the students who meet the general requirements under Article 4 of this Law whose place of residence is not the same as the place of study, while the right to one-meal board a day belongs with the students who meet the general requirements under Article 4 of this Law whose place of residence is the same as the place of study. Thus a distinction was made between some categories of students who meet the general requirements, i.e. between the students whose place of residence is not the same as the place of study and those whose place of residence is the same as the place of study.

The Commissioner underlined in the initiative that, inter alia, all students irrespective of their place of residence and place of study have the same needs for adequate nutrition in the course of studying, so differentiation between students on the grounds of their residence is not related to the goals that are desired to be achieved through the concept of students' standard i.e. the right of students to board.

Given the above, the Commissioner made a proposal to the Ministry of Education, Science and Technological Development to accept the initiative and propose amendments to Article 7 of the Law on Pupils' and Students' Standard thus allowing all students who meet the general requirements of the Law to exercise their right to three meals per day, so as to ensure the implementation of the principle of equal rights and obligations. The Ministry informed the Commissioner that it cannot accept the proposed initiative quoting, inter alia, the lack of spatial and financial capacities as the reason for non-acceptance.

*The complainant was not allowed to erect a pyramid-shaped tombstone for her late father*

The opinion was issued following the procedure regarding a citizen's complaint against "Gradska čistoća" Public Utility Company of Novi Pazar because the company did not allow the erection of a pyramid-shaped tombstone for her late father and still living mother at the cemetery near the Church in Novi Pazar. The reason stated by the company was that for this cemetery, in accordance with the contract concluded by and between the city of Novi Pazar and the Church, five types (shapes) of tombstones had been designated, all of them in the shape of a cross. The complainant stated that the cross-shaped tombstones were unacceptable for her family because her late father was a member of the Union of Communists, a party leader, and in this context an atheist, due to which they wanted to erect a pyramid-shaped rather than a cross-shaped tombstone. The declaration issued by the Public Utility Company said that the parish for the region of Raška in Novi Pazar, based on the contract dated 13 July 2013, had leased real estate to the City of Novi Pazar on an open-ended basis and free of charge for the purpose of establishing a cemetery, however, under certain conditions. In the course of the complaints procedure it was established that, by forcing the complainant to choose one of the five types of cross-shaped tombstones, "Gradska čistoća" Public Utility

Company of Novi Pazar violated the provisions of the Law on the Prohibition of Discrimination on the grounds of a personal characteristic of a member of her family – namely, religious beliefs. For this reason “Gradska čistoća” Public Utility Company of Novi Pazar was recommended to extend a written apology to the complainant because of discriminatory treatment towards her, to undertake all necessary measures to terminate discriminatory treatment, i.e. to allow her erect the tombstone in line with the religious beliefs of her late father, and to make sure not to violate the anti-discrimination provisions in the future in the course of its regular affairs and activities. This recommendation has not been acted upon.

*A legal entity discriminated against its employee on the grounds of membership of a trade union*

The opinion was issued following the procedure regarding the complaint made by an employee against the employer on account of discrimination on the grounds of membership of a trade union. The complainant stated in his complaint that the management of the store where he works, ever since his appointment as commissioner of the company's trade union, hindered his trade union actions by means of threats and blackmails the explanation being "that the HQ had ordered them to do so". Also, when he was appointed as commissioner of the trade union he was transferred to another job and handed a warning preceding termination of the employment contract. In his declaration regarding the complaint, the chief of branch of this legal entity stated, inter alia, that the complainant's allegations that the management of the store prohibited his colleagues from communicating with him were not true. The chief also stated that he did not have any information that anyone near the complainant acted unfairly, threatening him, hindering the trade union's activity or discriminating against in any way. The statement of the CEO denied the complainant's allegations that he and other members of the trade union in that company were subject to any pressure because of membership of the trade union. It was also stated that the relationship between the complainant and his colleagues was his personal matter which was something that he, as a manager, could not and must not interfere with. In the course of the procedure the complainant submitted evidence making the act of discrimination likely, while facts and evidence furnished by the legal person did not provide sufficient grounds for making the conclusion that the warning preceding termination of the employment contract and transfer to another job were based on objective and justified reasons that were not related to the fact that the complainant is a member of a trade union. Furthermore, in its declarations the legal person did not furnish evidence to deny the allegations that the complainant had been subject to numerous insulting and humiliating acts by the management of the store. Bearing in mind that the above acts of the management of the store had taken place following the appointment of the complainant as commissioner of the trade union, and that the employer did not furnish evidence denying the allegations in the complaint,

the Commissioner issued the opinion, following the procedure and applying the rule of transfer of burden of proof, stating that the legal person against which the complaint was filed violated the provisions of the Law on the Prohibition of Discrimination in its actions towards the complainant on the grounds of his personal characteristic – membership of a trade union. For this reason the legal person was recommended to take all necessary measures in order to eliminate the consequences of its discriminatory conduct towards the complainant, to pass the Code of Equality in order to prevent discrimination and improve equality among the employer's staff and not to violate the anti-discrimination regulations in the future when performing activities within its scope of authority. This recommendation has been acted upon.

### ***3.6.10. Multiple discrimination***

Individuals can be discriminated on the grounds of two or more personal characteristics. Those are the cases of multiple or intersecting discrimination – a severe form of discrimination which is considered particularly dangerous for the community.<sup>195</sup>

According to surveys, victims of multiple discrimination are most often women with disabilities, elderly women and Roma women.

In 2017 there was an increase in the number of complaints filed with the Commissioner on account of multiple discrimination, consequently, there were more opinions issued in cases of discrimination on the grounds of several personal characteristics. In 2017, 138 complaints were filed claiming multiple grounds of discrimination. The majority of complaints contained, as one of the grounds of discrimination, age (64), followed by disability (56), marital and family status (42), health status (40), gender (35), sexual orientation (17), religious beliefs or political convictions and gender identity (14 each), national affiliation or ethnic origin and appearance (12 each), financial status (11), membership of political organisations, trade unions and other organisations (7), genetic characteristic (5), birth (3), ancestry (2), having a previous criminal record or another personal characteristic (1 each). The Commissioner's practice shows that complaints were in most cases filed due to multiple discrimination in the course of the employment procedure or at work, most often on the grounds of gender, and marital and family status of women. It was noted that the complaints were also filed on account of multiple discrimination on various grounds before public authorities. 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

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<sup>195</sup> Nevena Petrušić, Ivana Krstić, Tanasije Marković, *Comment on the Law on the Prohibition of Discrimination*, Judicial Academy, Belgrade, 2014, p. 85

in situations when they are not sure as to which personal characteristic was the ground of discrimination. The text below provides brief overviews of individual opinions, recommendations and statements.

### 3.6.10.1. Opinions and recommendations

#### *The Belgrade City Social Welfare Centre, Zvezdara Department, discriminated against a mother and daughter on the grounds of gender and national affiliation*

The opinion was issued following the procedure regarding the complaint filed by a civil society organisation against the Belgrade City Social Welfare Centre, Zvezdara Department, for the discrimination against a mother and her minor daughter on the grounds of gender and affiliation with the Roma national minority. The complaint claimed that the staff of this institution had refused to take a statement on domestic violence from the woman on whose behalf the complaint was filed and that such conduct was a consequence of the stereotype of the roles and behaviour of women and prejudice towards the Roma population, their customs and lifestyle. For that reason, the complaint claimed, the violence to which female representatives of this group are exposed is minimized, while professionals are discouraged from taking *ex officio* measures. The declaration from the head of the Belgrade City Social Welfare Centre, Zvezdara Department, stated that “the mother’s statement had not been taken given the fact the she was rather upset and angry, and spoke incoherently, but she was referred to the psychologist of a primary health care centre and to a civil society organisation to be provided with psychological and legal assistance”. The declaration also said that the case handlers assessed the manner of provision of assistance and support taking into account precisely her marginalised position resulting from her social, economic and educational status, origin and gender, and that very often, without any appointment or prior notice, she used to be listened to and counselled both by professionals-in-charge and emergency staff. In the course of the procedure it was established that the Belgrade City Social Welfare Centre, Zvezdara Department, failed to furnish facts and evidence on the basis of which it might be determined that there had been objective reasons present for the refusal of the statement made by the woman on whose behalf the complaint on domestic violence was filed, which was confirmed by the opinion of the Commission of the Ministry of Labour, Employment, Veteran and Social Affairs which established that in the case concerned the Department had some professional oversights. Furthermore, in the course of the procedure it was established that the staff she turned to knew that her former partner had been convicted of domestic violence, but despite that they failed to take her statement on domestic violence but rather referred her to a civil society organisation for assistance. Following the procedure, and based

on the presented evidence, available statistical data in this area, and rules on the burden of proof, the Commissioner issued the opinion that by refusing on the part of professional staff of the City Social Welfare Centre, Zvezdara Department, to take the statement from the woman on whose behalf the complaint on domestic violence was filed, the City Social Welfare Centre, Zvezdara Department, committed multiple discrimination on the grounds of her personal characteristics – gender and national affiliation. For this reason the City Social Welfare Centre, Zvezdara Department, was recommended to take all necessary measures in order to eliminate the consequences of its discriminatory conduct, to extend a written apology for discriminatory conduct within 15 days from the date of the receipt of the decision and the accompanying recommendation, to organise training for all employees of the City Social Welfare Centre, Zvezdara Department, on discrimination with a view to sensitizing and educating the staff how to work with the Roma population and women victims of domestic violence and intimate partner relations, and not to violate the anti-discrimination provisions in the future when performing activities within its scope of authority. This recommendation has been acted upon. *A text published in a weekly violated the dignity of Roma women and LGBT population*

The opinion was issued following the procedure regarding the complaint filed by two civil society organisations against a weekly and its editor-in-chief with reference to the text entitled “A Con’s Diary – A Sexual Insult and a Hot Gipsy Woman”. The Commissioner conducted the procedure analysing the allegations contained in the complaint, as well as the declarations, the published text and the messages it conveyed. Following the procedure, the Commissioner issued the opinion that the text expressed ideas and views that were disturbing and humiliating, violating the dignity of members of the LGBT community and female members of the Roma national minority, thus creating a humiliating and insulting environment for the members of these social groups, and violating the provisions of Article 12 of the Law on the Prohibition of Discrimination. For this reason the weekly and its editor-in-chief were recommended to publish an apology to Roma women and members of the LGBT community because of the views expressed in the text, and not to publish texts in the future insulting the dignity and encouraging prejudice towards these social groups, and to contribute through their texts to changing patterns, customs and practices which are breeding grounds for stereotypes, prejudice and discrimination towards these social groups. This recommendation has been acted upon.

### 3.6.10.2. Statements

On the occasion of 15 October, International Day of Rural Women, the Commissioner for the Protection of Equality recalled the difficult position of women in rural areas in Serbia.<sup>196</sup>

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<sup>196</sup> *Announcement on the occasion of the International Day of Rural Women, 15 October 2017* – available at: <http://ravnopravnost.gov.rs/rs/saopstenje-povodom-medunarodnog-dana-zena-na-selu/>



### 3.7. Proposals for Assessing the Constitutionality

#### *Proposal for assessing the constitutionality of Article 28a of the Law on Pension and Disability Insurance*

The Commissioner received a complaint from the person who stated that they were informed in the branch of the Pension and Disability Insurance Fund that they did not have the right to apply for a family pension because they did not fulfil the requirements referred to in Article 28a of the Law on Pension and Disability Insurance. The complainant stated that he and his wife had been married for 30 years, 28 of which in an extramarital union and less than two years in a marital union registered in the municipality (the wife died three days before the anniversary of two full years of marriage).

The Provision of Article 28a of the Law on Pension and Disability Insurance stipulates that “if a deceased insured person or deceased beneficiary of an old-age, premature old-age or disability pension at the time of solemnisation of marriage, has reaches the age referred to in Article 19, Item 1) of this Law, a spouse may acquire the right to family pension provided they have a child together or that the marriage lasted for at least two years.”

Starting from the fact that the Provision of Article 28a of the Law on Pension and Disability Insurance requires additional terms for persons who have decided to enter into marriage with the insured persons who have attained the age of 65, the Commissioner, pursuant to Article 168, Paragraph 1 of the Constitution of the Republic of Serbia, Article 29, Paragraph 1, Item 1 and Article 50, Paragraph 1 of the Law on the Constitutional Court, in 2017, submitted a proposal for assessment of the constitutionality of the Provision of Article 28a of the Law on Pension and Disability Insurance.

As for the duration of the marriage, that is, the requirement to have a child with the deceased insured, the Commissioner pointed out that by imposing additional conditions for persons who decided to enter into marriage with insured persons who have reached the age of 65, these persons are put in an unequal position just because they concluded the marriage with a person who was 65 years of age. Bearing in mind that the right to retirement, including family pension, is one of the key elements of the constitutional principle of social justice, that Article 70, Paragraph 2 of the Constitution of the Republic of Serbia stipulates that the Republic of Serbia shall provide the economic security of pensioners, which includes financial security and social security of the surviving spouse, and that by interpreting the controversial provision it is concluded that such rules for acquiring the right to family pension do not apply to persons who have concluded a marriage with younger insured persons, even if they were 64 years and 11 months old at the

moment of conclusion of the marriage. The Commissioner believes that making additional requirements for the spouse of the deceased insured who at the time of the conclusion of the marriage reached 65 years of age can not be justified by any objective reason and that these persons have been discriminated against on the basis of the personal character of a spouse (deceased insured person) - age. The proceedings are still in progress.

*Decision of the Constitutional Court on the proposal of the Commissioner for the assessment of the constitutionality of Article 56, Paragraph 2 of the Law on Salaries of Civil Servants and Employees from 2016*

In December 2016, the Commissioner for the Protection of Equality submitted to the Constitutional Court a proposal for assessing the constitutionality of the provision of Article 56, Paragraph 2 of the Law on Salaries of Civil Servants and Employees.<sup>197</sup>

In the proposal for the assessment of constitutionality, the Commissioner stated that the said provisions were incompatible with the provisions of the Constitution of the Republic of Serbia on the guaranteed human rights, conditions for the exercise of the guaranteed human rights and conditions for restricting these rights (Articles 18 and 20), and that these provisions restrict the right in the field of social protection (Article 69, Paragraphs 2 and 3 of the Constitution of the Republic of Serbia) to women of a certain age who have ceased to discharge a function in an authority of the Republic of Serbia, an autonomous province or a local self-government unit for which they had been elected, nominated or appointed, including a person who, according to special regulations, has a position of an official, contrary to the prohibition of discrimination (Article 21) and the provisions of the Constitution on the conditions for restricting human and minority rights (Article 20). The Commissioner pointed out that there was no objective and reasonable justification for such a distinction between former male and female officials. On July 25, 2017, the Constitutional Court passed the Decision No. IUz-293/2016, rejecting the proposal for establishing unconstitutionality and non-compliance with the ratified international agreement, the provision of Article 56 of the Law on Salaries of Civil Servants and Employees.

### **3.8. Opinions on draft laws and other general acts**

Bearing in mind the importance enacted regulations have for the prevention of discrimination and the promotion of equality, in 2017 the Commissioner continued to undertake activities related to giving opinions on drafts and proposals

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<sup>197</sup> "Official Gazette of the RS", No. 62/06, 63/06 – correction, 115/06 – correction, 101/07, 99/10, 108/13 and 99/14)

of acts in the scope of their competence. During 2017, the Commissioner gave 41 opinions on draft acts, participated in public hearings on individual draft laws, either on their own initiative or at the request of the proposer. In the past few years, the Commissioner has recorded a significant increase in the number of opinions given to draft acts. For example, in 2014, two opinions were given on draft acts, while in 2017 there were 41 opinions.

In giving the opinion, the Commissioner used the opportunity to point out the necessity of amending or supplementing certain provisions of the current regulations that were not included in the proposed amendments, with the aim of their harmonisation with the provisions of the Law on the Prohibition of Discrimination. The integral texts of the given opinions were published on the Commissioner's website.

### 3.9. Court proceedings

In addition to the protection against discrimination that is exercised before the Commissioner for the Protection of Equality in the complaints proceedings, there is also judicial protection against discrimination. Depending on the legal nature of the violation resulting from the act of discrimination, and from the extent of its social danger, we distinguish civil, misdemeanor and criminal legal protection against discrimination.

#### 3.9.1. *Civil proceedings*

The Commissioner is an independent state authority with active procedural legitimacy. It is authorised to file a lawsuit to the court for violating regulations prohibiting discrimination on its own behalf and with the consent and for the account of the discriminated person. The Commissioner initiates anti-discrimination litigation in the general interest, and it itself assesses when and in which cases to press charges for protection against discrimination, bearing in mind the fact that the aim and the purpose of the litigation initiated exceed the importance it has in terms of the protection of the rights of the discriminated persons themselves or groups of people. This is *strategic litigation* initiated and led by the Commissioner in the public interest, with the aim of contributing to the consistent application of regulations and the improvement of legal practice, to further stimulate and encourage victims of discrimination to initiate anti-discrimination litigation, and to legally educate and sensitise the public to the problem of discrimination. Additionally, the Commissioner's goal is to obtain passage of favorable court verdicts through its procedural activity, which, in addition to providing legal protection to discriminated persons, send a clear message to the public that discrimination is prohibited and that it is effectively sanctioned. On the other hand, the aim or

purpose of strategic litigation should be to ensure proper interpretation or proper application of anti-discrimination legislation, and hence to clarify the meaning of a particular regulation through judicial practice or to indicate by this practice that a certain regulation needs to be amended, supplemented or improved.<sup>198</sup>

During 2017, the Commissioner filed three claims for protection against discrimination. In the procedures for protection against discrimination, the law prescribes the privileged jurisdiction of the court according to the seat or place of residence of the plaintiff. However, the Commissioner decided to use the general local jurisdiction of the courts in litigation initiated in 2017 in order to contribute to the development of jurisprudence throughout the Republic of Serbia.

Litigation procedures initiated by the Commissioner in 2017 will be presented in this section.

### *A lawsuit for the construction of a wall around the Roma settlement in Kruševac*

In June 2017, the Commissioner filed a lawsuit against four defendants for discrimination on grounds of belonging to the Roma national minority. In the lawsuit, among other things, it was stated that in the period from 5<sup>th</sup> to 8<sup>th</sup> November 2016, a concrete wall had been erected directly alongside the Roma settlement and parallel to the street, so that the Roma settlement was actually enclosed. The Commissioner stated in the lawsuit that there was a non-Roma settlement across the road, along which there was a road of the same category, frequency and speed limit, but, neither the sound nor the peripheral wall was built on that section of the road. The preparatory hearing was held on September 12<sup>th</sup>, 2017. After that, by the end of 2017 three hearings were held for the main hearing.

### *Lawsuit for discrimination based on health status in the area of labor*

In July 2017, the Commissioner filed a lawsuit against the employer with the Higher Court in Belgrade for discriminating against the female complainant on the grounds of health and disability in the field of labor and employment. The complaint stated that the Commission of the Evaluation Authority of the National Pension and Disability Insurance Fund had found in the procedure of assessment of working ability that the said person with a disability was employed under general conditions and was not capable for jobs requiring working in shifts or long hours, night work, heavy physical stress and working with carcinogens substances of any kind, and that with these limitations, they were capable of working in their own profession in the

<sup>198</sup> *The importance and role of strategic litigation in protection against discrimination in the Republic of Serbia*, Brankica Janković, Commissioner for the Protection of Equality, Prof. Ivana Krstić, PhD, Regional Conference “Exchange of Best Practices in Resolving Human Rights Violations with a Special Focus on Combating Discrimination”, Sarajevo, 15-16th February 2018.

morning shift. In the decision on the termination of the employment contract, the defendant stated that the employee was terminated her employment due to “organisational changes with the employer, inability of the employee to perform her tasks anymore due to the her health condition and the employer’s inability to apply the measures for recruitment of redundant employees stipulated in Article 155, Paragraph 1. Item 5 of the Labor Law”. The respondent also stated in a plea to the complaint that they could not afford at the very beginning to have employees who had such a health problem that made it difficult for them to do their job. Having in mind the characteristics of the discrimination carried out, the overall circumstances of the case and the need to provide effective protection against discrimination, in accordance with their authorities, using the active procedural legitimization, the Commissioner filed a lawsuit at the Higher Court in Belgrade for violation of Art. 6, 16 and 26 of the Law on the Prohibition of Discrimination. By the end of 2017, one hearing was held.

*The lawsuit for discrimination against women and LGBT persons in the article “Domestic Violence and Violence Against Family”*

A lawsuit against the author of the text from 8<sup>th</sup> November, 2017, The Commissioner initiated proceedings before the Higher Court in Novi Sad for violation of Art. 12 and 20 of the Law on the Prohibition of Discrimination, and on the grounds of discrimination based on gender and sexual orientation. The lawsuit stated that the respondent sent a message in the text that the protection against domestic violence was not justified in all cases, and that it should be selective, depending on whether a woman is strong or weak, nervous, capricious or in high spirits, whether she has a lover or not, whether she earns for living or is a kept woman, whether she had some dowry when she entered into a marriage or she moved into a husband’s flat, etc. The lawsuit also states that the attitude that only the “weak” deserve protection, that is, that women deserve protection only if they are “weak” is based on stereotypes and the generalisation of the role of women, which implies that women necessarily need to be weaker in order to enjoy protection. In this text, the respondent qualifies the LGBT population and the activities they organise in the form of protest walks as well as their sexuality, which is different from heterosexual, as “primitive”, “violent” and “vulgar”. It also publicly advocates, or implies, the restriction of the right to freedom of movement and gathering of this social group as well as the right to protection, the rights which are guaranteed by international regulations as rights that belong to each individual without discrimination.

The Higher Court in Novi Sad did not order a preparatory hearing by the end of 2017.

### **3.9.2. Criminal charges**

During 2017, the Commissioner filed three criminal charges against the members of the Roma national minority to the competent prosecutor’s office.

### ***3.9.3. Criminal proceedings***

In 2017, one request for initiation of a misdemeanor procedure was filed for discrimination of male and female members of the LGBT population. Also, a misdemeanor proceeding was suspended following the Commissioner's request from 3<sup>rd</sup> November 2011, due to the obsolescence of a case for the conduct of misdemeanor proceedings.

### **3.10. Other outcomes of the proceedings**

During 2017, the Commissioner did not act in 51 complaints due to lack of jurisdiction, and in 138 of them due to incomplete complaints and other reasons that prevent the acting upon the complaint. Complaints that were dismissed due to lack of jurisdiction referred to violations of rights that were not within the competence of the Commissioner, but other state authorities. In these cases, the complainants are informed of the reasons for the dismissal of the complaint, and they are given information about which authority is competent in the specific case.

Each complainant is notified of the reasons why their complaint is incomplete, as well as about what information it is necessary to provide and / or what should be attached to the complaint, while providing a deadline of 15 days to supplement the complaint. If the applicant fails to remedy the deficiencies within the time limit, the Commissioner shall not act further on the complaint. In 163 complaints, it was obvious that there was no violation of the right to which the complainant indicated, in 34 cases the court proceedings were instituted or terminated in the same case; in one case, it was not acted upon due to the passage of time, which was why it was not possible to achieve the purpose of acting in seven cases upon appeal, so they were processed but new evidence was not provided, and in 12 cases the complaint has been withdrawn.

Examples relevant for the understanding of the notion of discrimination, from complaints addressed to the Commissioner, which the Commissioner did not process further because it was obvious that there was no violation of the rights that the complainant indicated or for other reasons prescribed by law, are shown in the Regular Annual Report of the Commissioner for Protection Equality for 2017.<sup>199</sup>

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<sup>199</sup> Regular Annual Report of the Commissioner for the Protection of Equality for 2017 - available at the internet address [http://ravnopravnost-5bcf.kxcdn.com/wp-content/uploads/2018/03/RGI-2017\\_PZR\\_FINAL\\_14.3.2018-1.pdf](http://ravnopravnost-5bcf.kxcdn.com/wp-content/uploads/2018/03/RGI-2017_PZR_FINAL_14.3.2018-1.pdf)

## 4. Cooperation of the Commissioner

During 2017, the Commissioner for the Protection of Equality continued to cooperate with relevant social actors in order to improve equality and exercise of right to equality guaranteed by the Constitution. During 2017, the Commissioner for the Protection of Equality, as well as the Professional Service employees participated in more than 650 events (conferences, round tables, workshops, debates, forums, actions, etc.). At most of these events, the representatives of the Commissioner presented in their addressing the activities of the institution and contributed to the conclusions of the meetings.

### 4.1. Cooperation with public authorities

#### *4.1.1. Cooperation with the National Parliament of the Republic of Serbia*

In accordance with the Law on the Prohibition of Discrimination, the Commissioner for the Protection of Equality shall submit to the National Parliament an annual report on the situation in the field of protection of equality. The regular annual report for 2016 was not considered at the session of the National Parliament. It was discussed in detail at the 11th session of the Committee on Human and Minority Rights and Gender Equality of the National Parliament of the Republic of Serbia, held on July 20<sup>th</sup>, 2017.

In addition, at the 23rd session of the Committee for Administrative, Budgetary and Mandate-Immunity Issues of the National Parliament of the Republic of Serbia, regarding the determination of the maximum number of employees for an indefinite period in the calendar year 2017, the female Commissioner explained the Proposal on determining the maximum number of employees in the Professional Service of the Commissioner for the protection of equality, in view of the adopted Financial and Personnel Plan for the institution for 2017. The competent committee adopted a decision approving the proposal of the Commissioner.

At the request of the Chairman of the Parliamentary Stabilisation and Association Committee, the Commissioner also prepared a report on the protection of fundamental rights and freedoms, with a focus on gender equality and domestic violence, as well as on the role and functioning of this independent institution. The report was prepared for the preparation of members of the National Parliament delegation for the sixth meeting of the Parliamentary Steering Committee for Stabilisation and Association of the European Union and Serbia, held in September 2017 in Strasbourg, at the seat of the European Parliament. The Declaration was adopted at the meeting and recommendations were referred to the Stabilisation and Association Council and the institutions in Serbia and the European Union.

The Declaration, among other things, under Item 11 *again emphasises the importance of independent state authorities, organizations and bodies in ensuring accountability and oversight of the work of the executive authorities; it emphasises the importance of full political and administrative support to their work and the adherence to their recommendations*. The Children's Rights Committee of the National Parliament of the Republic of Serbia and the Commissioner jointly organised a ceremonial session on the occasion of October 1 - International Day of the Elderly - dedicated to intergenerational solidarity. At the session, awards were given to the winners of the competition entitled "The Bridge of Understanding - Intergenerational Solidarity" organised by the Commissioner for pupils from the sixth to the eighth grade of primary schools in the territory of the Republic of Serbia. Prizes were awarded for best literary works, fine art works and photographs. In addition to the female Commissioner for the Protection of Equality and the lady President of the National Parliament, the Minister of Education, Science and Technological Development, as well as the Minister of Labor, Employment, Veterans' and Social Affairs addressed the present pupils, teachers and other guests.

The seminar entitled "Cooperation of the Commissioner for the Protection of Equality and the National Parliament of the Republic of Serbia in the field of combating discrimination (with particular reference to the scope of work of the Committee on Defence and Internal Affairs and Security Services Control Committee)" was held in September 2017, with the support of the OSCE Mission in Serbia. The lady Commissioner held several lectures on the role and work of the Commissioner for the Protection of Equality in Combating Discrimination and the Promotion of Equality.

At the 18th session of the Committee on Labour, Social Affairs, Social Inclusion and Poverty Reduction of the National Parliament, the activities of the Commissioner aimed at improving the position of persons with disabilities were presented. The meeting was entitled "Transformation towards a society that is sustainable and adapted to everyone", marking the International Day of Persons with Disabilities.

Successful cooperation continued with the Women's Parliamentary Network in 2017 as well. The lady Commissioner took part in the 5th National Annual Conference of the Women's Parliamentary Network in the House of the National Parliament of the Republic of Serbia on the issues of combating violence against women, the adoption of laws on gender equality, economic empowerment and the position of women in the countryside, the issues of women's health, as well as the relation between women and the environment.

#### ***4.1.2. Cooperation with the representatives of executive authorities***

The lady Commissioner met in the first half of the year with the then Prime Minister Aleksandar Vučić. They discussed the activities to achieve full equality



of all citizens of the Republic of Serbia, primarily to improve conditions and equal opportunities in employment and the labour market, with special attention to the most vulnerable groups.

During 2017, cooperation with the Ministry of Internal Affairs continued in the training program for police officers entitled “Recognition and Response to Discrimination”. With the support of the OSCE Mission in Serbia, from April to June 2017, four more trainings were organised for police officers, in Šabac, Vrnjačka Banja, Zlatibor and Srebrno jezero. The trainings included 114 members of the Criminal and Traffic Police<sup>200</sup>, from various police administrations<sup>201</sup>. Evaluation of the training showed that the participants adopted knowledge about the concept and forms of discrimination, and excellent results were observed in recognizing personal characteristics and cases of discrimination.

Bearing in mind that the field of education is of great importance for building a tolerant society and a better understanding of diversity, the Commissioner actively cooperated with the Ministry of Education, Science and Technological Development in 2017. In cooperation with this ministry, the Commissioner announced a prize competition for pupils from the 6th, 7th and 8th grades from primary schools in Serbia with the theme of intergenerational solidarity.<sup>202</sup>

Also, in April, the day before the World Roma Day, the lady Commissioner visited the Ministry of Education, Science and Technological Development with a group of male and female Roma students and discussed with the Minister the possibilities for promoting affirmative measures for enrolment into faculties of male and female students belonging to this minority. It was agreed to jointly define possible solutions in the coming period, which will precisely determine the criteria for the application of affirmative measures in studying. It is important to point out that in the school year 2017/2018, students belonging to the Roma national minority acquired the right to accommodation in student dormitories.

*Bearing in mind that since the establishment of the Commissioner, discrimination is the most prevalent in the field of labour and employment, four trainings for labor inspectors under the title “Application of Anti-Discrimination Regulations” were completed with the support of the OSCE Mission in Serbia and in cooperation with the Ministry of Labor, Employment, Veterans’ Affairs and Social Affairs,. The trainings were realised in Belgrade, Novi Sad, Kragujevac and Niš and included 100 participants.*

<sup>200</sup> With training conducted in 2016, the total number of police officers covered by the training program amounts to more than two hundred and seventy.

<sup>201</sup> A total of 15 police administrations - Novi Sad, Šabac, Ruma, Sremska Mitrovica, Valjevo, Jagodina, Pirot, Kragujevac, Leskovac Užice, Čačak, Prijepolje, Zaječar, Bor and Belgrade.

<sup>202</sup> More about the implementation of the competition is provided in part 4.1.1 *Cooperation with the National Parliament of the Republic of Serbia*.

*The Commissioner realises continuous cooperation with other state authorities in the process of Eurointegration and monitoring and implementation of activities related to the negotiation process for the accession of the Republic of Serbia to the European Union.*

#### **4.1.3. Cooperation with local self-government units**

During 2017, in cooperation with the Ministry of Public Administration and Local Self-Government and the Standing Conference of Towns and Municipalities, the Commissioner held 10 regional seminars entitled “Protection against Discrimination - Recognising and Preventing Discrimination in the Work of Local Self-Government” in Belgrade, Zrenjanin, Nis, Leskovac, Subotica, Užice, Zaječar, Loznica, Kragujevac and Novi Pazar. Through the training program, concepts and forms of discrimination, mechanisms for protection against discrimination, roles, missions and the competence of the Commissioner’s institution were presented. More than 130 employees from 75 local self-government units were informed in detail about the manner of submitting a complaint to the Commissioner, the complaints procedure, as well as examples from the Commissioner’s practice related to the work of the local self-government. The evaluation showed that the level of knowledge about discrimination after one-day training increased by 16%.

#### **4.2. Cooperation with civil society organisations**

The Programme “Moot Court in the area of protection against discrimination” is successfully implemented by the Commissioner in partnership with the Open Society Foundation of Serbia. For the fifth year in a row, the National Competition in the simulation of the “Condemn Discrimination” trial was conducted for students of basic and master studies of law at accredited faculties in Serbia.

Within the 30th Belgrade Marathon, the Commissioner organised the sixth in a row action within the project “Equally to the goal”, in cooperation with the Sports Association of Persons with Disabilities of Belgrade. For the organisation of this promotional campaign and the traditional participation in the Belgrade Marathon, the organising committee of the Belgrade Marathon has awarded a recognition certificate to the Commissioner, and this year, for the first time, the Sports Federation of Persons with Disabilities of Belgrade has awarded a special recognition to the institution of the Commissioner for great contribution to the development of sports for persons with disabilities and improvement of the status of athletes with disabilities in the Republic of Serbia.

The Commissioner continued to coordinate activities under the program “Do not judge a book by its cover - Living library in Serbia”, which has been

implemented in partnership with the Council of Europe and non-governmental organisations since 2012.

In the capacity of a mentor, the lady Commissioner Janković participated in one-year mentoring program entitled “Share Your Skills”, implemented by the European Movement in Serbia since 2010, with the support of the United States Embassy, Erste Bank and the OSCE Mission to Serbia. The programme focuses on professional and personal empowerment of women through exchange of experience and knowledge and mutual support, and female mentors worked voluntarily with trainees, young women who are still building their careers throughout the year.

Shortly before the International Women’s Day, the lady Commissioner Janković signed the Women’s Development Platform of Serbia, which defined the development goals in various areas of social life, in order to focus the direction of development towards improving the quality of everyday life of women and men in Serbia in the period 2014-2020. The lady Commissioner supported the international campaign “Inspiring Girls”, implemented in Serbia by the civil society organisation CRTA - Center for Research, Transparency and Accountability. In addition, during the year, civil society organisations held a series of conferences, forums, professional and other meetings with the theme of the promotion of gender equality, attended by the Commissioner. Through cooperation with the Vojvodina Roma Center for Democracy, the Roma Education Fund and the Belgrade Open School, voluntary practice was provided in the Commissioner’s Professional Service for several students and graduates of social studies faculties.

At the invitation of the National Organisation of Persons with Disabilities, the Commissioner, as an observer, participated in the meetings of the Steering Committee of the project “Creating a Situation Analysis on the Status of Children with Disabilities/Developmental Issues in Serbia”. The Commissioner supported the Centre for the Independent Living of Persons with Disabilities in the implementation of the project “Strengthening the political participation of people with disabilities in Serbia”, with the aim of improving the exercise of electoral rights of persons with disabilities.

The Association of Blind People of Serbia awarded the lady Commissioner for the Protection of Equality, Brankica Janković, the recognition certificate of this association for the improvement of the position of blind and visually impaired persons and her contribution to protection against discrimination and the promotion of equality.

In addition, cooperation has been established with the Association of People with Kidney Disabilities of the Republic of Serbia and the Association of Deaf and Auditory Impaired Persons of Serbia in order to overcome the problems persons with disabilities encounter in the process of education, employment and the obtaining of health care.

*The Commissioner for the Protection of Equality gave support to the Committee for Human Rights Lawyers (YUCOM) for participation in the DRIM project (Danube Regional Information Platform for the Economic Integration of Migrants). The Commissioner is a contributor to the Centre for the Advancement of Legal Studies, which is responsible for the project “Support to Members of the Most Discriminated Social Groups and Their Organisations” financed by EuropeAid.*

*In addition to the regular participation of the lady Commissioner and employees in the Professional Service at the September Pride Parade, the lady Commissioner supported the opening of the Pride-Info Centre, the first public space in the center of the city where citizens could be informed about the status of LGBT people and the activities of organisations dealing with the rights of this community. Employees in the Commissioner’s Professional Service directly provided information in the Pride-Info Centre on the procedure for filing complaints for discrimination, as well as other activities of the Commissioner.*

### **4.3. International cooperation**

During 2017, the Commissioner continued international cooperation with European and regional equality bodies, through bilateral meetings and active participation in the work of the European Network of Equality Bodies (EQUINET).

The United Kingdom Government’s *Good Governance Fund*, through the UK Embassy in Belgrade, supported the Commissioner’s activities through the implementation of the project “Strengthening human rights and combating discrimination against vulnerable groups by supporting the implementation of the anti-discrimination legal framework”. One of the objectives of the project is to develop indicators of discrimination that will serve as a tool for improving the policy making and specific activities of the Commissioner for combating discrimination in the Republic of Serbia. In addition, within the project, the campaign “To make equality a reality” was held in which public celebrities from the world of sports, culture and art participated.

The lady Commissioner and the Ambassador of the Kingdom of Norway Mr Arne Sanes Bjornstad signed an agreement in late December on the implementation of the project entitled “Strengthening Local Anti-Discrimination Capacities and Institutional Capacity of the Commissioner for the Protection of Equality”, supported by the Kingdom of Norway.

At the beginning of September, the lady Commissioner participated in the international conference entitled “Women’s Rights, Religions and Refugees: European Cities Between Welcome and Rejection Culture”, organised by FemSitiz network and the City of Vienna. The meeting showed various approaches that European cities apply in addressing the key issues refugee women are facing.

Cooperation with German equality institutions, primarily with the Federal Anti-Discrimination Agency of the Federal Republic of Germany (FADA), was significantly improved in 2017. The lady Commissioner visited the FADA in a working visit at the invitation of Director Kristina Luders in mid October, and she participated in an expert conference dedicated to the attitude of the police and other representatives of the executive authorities towards Roma and Sinti.

In addition, in the framework of cooperation with FADA, the representative of the Commissioner participated in the conference entitled “Diversity as a Force - Diversity as a Challenge”, organised as a part of the annual programme to support the advancement of the LGBTTIK population in Germany.

With the support of GIZ, a study visit to FADA, the Office for the Protection of Equality of the City of Berlin (LADS) and the organisation of the “LGBTI Federation in Germany (LSVD)” was organised“.

#### ***4.3.1. Cooperation with the Delegation of the European Union to the Republic of Serbia***

Within the framework of cooperation with the Delegation of the European Union to the Republic of Serbia, in October 2015 the Commissioner started the implementation of a two-year twinning project entitled “Support to the promotion of human rights and zero tolerance to discrimination”, financed from EU funds. Partners on the project were the Office for Human and Minority Rights of the Government of the Republic of Serbia, the “Ludvig Bolcman” Institute for Human and Minority Rights from Austria and the Office for Human and Minority Rights of the Government of the Republic of Slovenia.

In addition, as one of the key activities within the project, a manual entitled “The Code of Equality - Guidelines for the Drafting of the Anti-Discrimination Policy of Employers in Serbia” was prepared.

The European Commission Expert Mission visited the Commissioner’s institution in order to get acquainted with the situation regarding the exercise of the rights of national minorities in the Republic of Serbia. The key topic of the meeting was the social inclusion of Roma men and women.

After assuming the office of the new Head of the Delegation of the European Union to the Republic of Serbia, Ambassador Sem Fabrizi met with the lady Commissioner in mid-November. During the talks, the progress in improving the position of minority and marginalised groups, attitude towards discrimination and tolerance in all areas of life were discussed, as well as the Commissioner’s contribution in promoting the importance of human rights and equality and the importance of the institution in the process of Eurointegration.

### ***4.3.2. Cooperation with the OSCE Mission in Serbia***

The Commissioner continued with the implementation of activities under the project started in 2016, aiming to train police officers for recognising and responding to discrimination. In addition, four trainings were held for labour inspectors with the topic of recognising and responding to discrimination. The activities are described in more detail in section 4.3.3 of this report.

Furthermore, in March 2017, in cooperation with the OSCE Mission, a conference was held on the importance of gender aspects in the sphere of security and reduction of the risk of elements under the title “Safety and Gender in Emergency Situations”. The themes of the conference were the advantages of introducing gender-sensitive policies aimed at reducing the risk of natural disasters and gender aspects in crisis situations. The conference presented the publication “Media, Gender and Reporting in Emergency Situations”, prepared by the Commissioner with the support of the OSCE Mission to Serbia.

With the support of the OSCE Mission in the year 2017, the Commissioner gave the award for the best media texts and articles on the topic of fight against discrimination and the promotion of equality and tolerance for the third time.

The OSCE Mission in Serbia continued to support the regional cooperation of the equality bodies. At the end of November, a visit of the Commissioner’s official delegation was organised to the Commission for the Protection against Discrimination of the Republic of Bulgaria<sup>203</sup>, as well as the participation of the Commissioner at the Second Regional Conference of the Equality Bodies of South-East Europe in Zagreb.

At the beginning of June, the lady Commissioner participated in the work of the Second Inspection Conference on Gender Equality at the OSCE Headquarters in Vienna. The lady Commissioner took part in the panel on “Gender Perspective of the Conflict Cycle”. In addition, the lady Commissioner participated in the Implementation Meeting of the Human Dimension of the OSCE in Warsaw and presented the activities of the Commissioner aimed at educating children and young people.

The lady Commissioner for the Protection of Equality, Brankica Janković, won the “Personality of the Year” Prize in 2017 for her contribution to the fight against discrimination and the promotion of equality and tolerance awarded by the OSCE Mission in Serbia.

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203 More on this bilateral visit in section 4.4.2 *Regional cooperation on the promotion of equality*.

### ***4.3.3. Cooperation with the United Nations Children's Fund - UNICEF***

In order to improve the equality and protection of the rights of a child in the Republic of Serbia, in the course of 2017 the implementation of the project activities foreseen by the Statement on Cooperation between the Commissioner for the Protection of Equality and the United Nations Children's Fund - Offices in Serbia continued.

The Commissioner has published the third supplementary edition of the publication *Do not tolerate discrimination! Ask for protection and react !*, and started working on the development of a handbook for recognising discrimination in schools, intended for parents, teaching staff and students of lower and upper grades.

The lady Commissioner held the last ministerial session within the framework of UNICEF's early childhood development conference entitled "The best investment in the future of the nation - the development of children of the youngest age".

The Commissioner also participated in the conference "Improving the Rights of the Child through Strengthening the Justice and Social Protection System in Serbia", organized by UNICEF.

### ***4.3.4. Cooperation with the Red Cross***

During 2017, the Commissioner continued cooperation with the Red Cross of Serbia. Within the project entitled "Aging in Cities" and joint action to improve the status of elderly people in the Republic of Serbia, a new survey "Aging in Cities - Challenges of Modern Society" was conducted. The lady Commissioner took part in training of representatives of 16 local Red Cross organisations, who conducted a survey in their local communities. The research methodology also included the organisation of focus groups in several cities, where the mandate of the Commissioner and the procedure for filing complaints for protection against discrimination were presented. The findings of the survey were presented to the public at the end of December at a conference in Belgrade.<sup>204</sup>

Within the framework of cooperation with the Red Cross of Serbia, the role and competence of the Commissioner were presented at the forum "Dignified Aging" within the Autumn Festival of Health, as well as at the conference "Social Inclusion of the Elderly - Factor of Society's Development".

In addition, the female representative of the Commissioner was part of a delegation led by the Red Cross of Serbia at an international conference in Zagreb

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<sup>204</sup> The most important findings of this survey are presented in section 3.1.2 of this report

entitled “Psychological first aid and psychosocial support in crisis situations”. The Commissioner’s proposals on the importance of accurate and timely information to the public through the media, as well as on improving the cooperation of state authorities with the Red Cross in crisis situations, were included in the conclusions of the conference.

#### **4.4. Other forms of cooperation**

The special focus of the Commissioner in 2017 was to suppress discrimination in the field of labour and employment, since the most reported cases of discrimination were in this area. Thus, among other things, considerable attention was paid to enhancing cooperation with trade unions and companies that have approached the adoption of the Code and came to the Commissioner for assistance. Also, the Commissioner continued successful cooperation with national councils of national minorities. The Regular Annual Report of the Commissioner gives an overview of other most important activities realised in cooperation with various partners.

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

The Commissioner continued the cooperation with the European Network of Equality Bodies (EQUINET)<sup>205</sup> in 2017, through participation in the work of the Annual Assembly, thematic platforms (the Council of Europe’s Platform for Cooperation, EQUINET, ENHRI and the European Union Agency for Fundamental Rights for the Advancement of Social and Economic Rights and Equality), seminars and working groups.

*At the beginning of May 2017, the Commissioner participated in a strategic meeting of all EQUINET members to discuss further steps in developing the standards of the equality bodies.*

*In October 2017, the lady Commissioner took part in the regular Annual EQUINET Assembly, as well as in a formal conference on the occasion of 10 years of networking.*

*In 2015, the European Commission adopted a list of activities to improve the equality of members of the LGBTI community, which proved to be a useful tool for the effective implementation of public policies at the European Union level in this area. With regard to this, EQUINET’s Working Group for the Creation of Practical Policies has created and published a brochure listing the activities of the European*

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<sup>205</sup> The European Network of Equality Bodies - EQUINET consists of 46 institutions from 34 European countries, which have the authority to fight discrimination.



*Equality Bodies, which are contributing to their implementation. The practice of the Commissioner in the field of protection of the rights of members of the LGBTI population took a significant place in the brochure itself.*<sup>206</sup>

The focus of the Working Group on Communication Strategy and Practice in 2017 was the development of communication tools when it comes to issues of non-discrimination and the promotion of equality. Two meetings of this Working group were held in 2017.

Within the Gender Equality Working Group, in addition to regular meetings, training on discrimination in the field of labour entitled “How to build arguments for cases related to equal pay” was held. At the next meeting of the Working Group on Gender Equality, the European Commission’s *work-life balance* initiative was considered as well as a two-day seminar entitled “Glass Ceiling Breakthrough: Career Advancement of Women”.

In 2017, the Working Group on the Law on the Prohibition of Discrimination worked on the preparation of a Handbook entitled *Discrimination Based on Religion and Belief* which will include: legal framework, employment, education, service provision, public expression of religious and other beliefs, acting before public authorities. In addition to this, a two-day training in strategic litigation was held.

The Commissioner also participates in the work of two *ad hoc* bodies of EQUINET: Cluster for Research and Analytics and Cluster for the quasi-judicial function.

During the year 2017, the fourth and fifth meeting of the Council of Europe Cooperation Platform, EQUINET, ENHRI and the European Union Agency for Fundamental Rights for the Promotion of Social and Economic Rights and Equality were held. Participation of the Commissioner in the work of this platform enables participation in policy making together with the member states of the European Union.

#### ***4.4.2. Regional cooperation on the promotion of equality***

During 2016, the Commissioner initiated activities to establish an effective regional cooperation model for human rights institutions, and one of the most important is the signing of the Declaration of Cooperation of the nine bodies for the protection of equality in South East Europe and the organisation of a regional conference on the topic of effective suppression of discrimination and advancement of equality.

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<sup>206</sup> Available on the Internet address: [www.equineteurope.org/IMG/pdf/equinet\\_lgbti-factsheet-a4\\_def-web.pdf](http://www.equineteurope.org/IMG/pdf/equinet_lgbti-factsheet-a4_def-web.pdf)

In addition to the participation of the lady Commissioner in several conferences and expert meetings in the region, in October 2017, another conference of regional bodies for equality in South-East Europe was held, entitled “Challenges of collecting statistics based on discrimination”.

Moreover, at the invitation of the Commission for Protection Against Discrimination of the Republic of Bulgaria, representatives of the Commissioner visited this independent body, exchanged experiences in the field of protection and promotion of equality and agreed to continue further cooperation at the bilateral level, primarily in the area of protection against discrimination in the field of labour and employment. The Commissioner Brankica Janković and the Chairwoman of the Commission for the Prohibition of Discrimination Ana Džumalijeva signed a Cooperation Statement that included exchange of experience and good practice, as well as joint participation in projects to promote observance of human rights.

#### ***4.4.3. Annual Conference of the Commissioner on the occasion of the International Day of Tolerance***

On the occasion of November 16th, International Day of Tolerance, the Commissioner organised an annual conference dedicated to the state of equality exercise in the Republic of Serbia. The conference was supported by the OSCE Mission to Serbia.

In the thematic part of the conference, data from the analysis of the Commissioner for the Protection of Equality “Gender equality in decision-making positions in local self-government units” was presented.<sup>207</sup>

At the conference, the annual media awards for tolerance were awarded for the third time, and the credentials to the award-winning male and female journalists were handed over by the Commissioner Janković and the head of the OSCE Mission to Serbia, Andrea Orizio. Journalists were awarded in three categories - for best TV / radio feature, best printed / online text and for the best report / documentary.

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207 The results of the analysis are shown in section 3.1.1 of this report.

## 5. Media reporting on equality topics and activities of rapporteurs

Media reporting on the activities of the lady Commissioner for the Protection of Equality and the Work of the Institution in 2017 had a growing trend and resulted in increased interest in the media in terms of issues of equality and human rights protection. It is important to note that the traditional journalist award of the Commissioner for the Protection of Equality and the OSCE Mission has proven to be a good incentive and motivation for the media to report more about the equality of all vulnerable and sensitive groups. The media were also interested in two conferences of our institution: the first at which the Code of Equality for Employers was presented, and the second, on the occasion of the International Day of Tolerance, at which the results of the analysis of data on representation of women at the local level were presented. These two events were the reason for the media to continuously point to cases of discrimination in the field of labour and employment, as well as to issues of gender equality.

Male and female journalists during 2017 were engaged in intense hate speech in the media, reporting on the warnings of the lady Commissioner and emphasising the role of the Commissioner for the Protection of Equality. These are cases where serious and heavy allegations were used, which are humiliating and offensive, especially when it came to LGBT people and women, in the public space, in shows and prime time periods, but also in columns in daily newspapers.

*The position of women in the labour market, their discrimination at work or during employment procedure, violence in family and partner relations, representation of women in politics and business, unequal pay of women and men, economic empowerment of women, draft of new law on gender equality - many topics were covered by media in the previous year in which they published statements, stances and interviews of the lady Commissioner, which were focused on women's human rights. The Law on the Prevention of Domestic Violence was in the focus of interest of journalists who, in almost every text or feature, cited the lady Commissioner, including warnings and statements on the need for effective protection. Problems faced by pregnant women and women on maternity leave, as well as women who are still planning a family, the importance of greater involvement of men in family life, women's reproductive rights were also topics covered by printed and electronic media.*

Media interest in the status of elderly citizens in the previous year has somewhat increased and resulted in a greater number of announcements about the importance of intergenerational solidarity, and an important source for intensive writing about the elderly was also the research of the Commissioner for the Protection of Equality and the Red Cross of Serbia entitled "The Position of the Elderly in the Countryside "and" Aging in Cities".

The status of citizens with disabilities, their discrimination in employment, architectural barriers and inaccessibility to facilities and public spaces are topics that the media reported about to a considerable extent in the previous year. There is a certain shift in the way this sensitive group is written about, because there were fewer texts that describe this population from the aspect of health diagnosis or with a note of pity, but the problems of people with disabilities were spoken about through the prism of inequality and the denial of some right, but affirmative measures as well.

When it comes to reporting on the *rights of national minorities*, the impression is that the media with national coverage have dealt with these issues to a lesser extent, while local and regional media have more intensively published texts and articles primarily on the improvement of the situation of the Roma community. The media were also interested in topics related to the inclusion of Roma children in the education system as well as the employment of Roma.

Topics dedicated to the status and rights of the LGBT population in 2017 as will continue to be frequent in all media. From the aspect of keeping up with the work of the Commissioner for the Protection of Equality, the activities of the lady Commissioner were regularly published.

It should be noted that the media also reported on the announced amendments to the Law on the Prohibition of Discrimination, and that a great interest in 2017 prompted a regular conference on the occasion of the International Day of Tolerance and the awarding of annual media rewards, broadcast by the national broadcaster of the Radio Television of Serbia.

## **6. Execution of obligations under the law on free access to information of public importance**

The Commissioner for the Protection of Equality shall provide free access to information by acting on requests for free access to information of public importance, publishing the Information booklet on work and other information on the website, reporting to the National Parliament, informing the public through press releases, publications, holding press conferences and in other appropriate ways.

In terms of transparency in the work and affirmation of the importance of the right to free access to information of public importance, the reward given to the Commissioner during the marking of the International Day of the Right of the Public to Know held on 28<sup>th</sup> September and organised by the Commissioner for Information of Public Importance and Personal Data Protection, the OSCE Mission to Serbia, the Coalition for Freedom of Access to Information, the Association of Journalists of Serbia and the Independent Journalists Association of Serbia was very important, when the Commissioner for the Protection of Equality was awarded the “Acknowledgment for Contribution to Affirmation of the Right of Access to Public Information and Transparency in the Work of the National Public Authorities Category” reward.

In 2017, the Commissioner was submitted 24 requests for free access to information of public importance, which were dealt with within the legal deadline.

Information booklet on the work of the Commissioner for the Protection of Equality is available on the website ([www.pravnopravnost.gov.rs](http://www.pravnopravnost.gov.rs)). The request for access to information of public importance referring to the work of the Commissioner or arising in connection with their work may be submitted in writing to the following address: Commissioner for the Protection of Equality, 8 Bulevar Kralja Aleksandra Blvd., 11000 Belgrade or by e-mail to: [poverenik@pravnopravnost.gov.rs](mailto:poverenik@pravnopravnost.gov.rs).

## **7. Report on the execution of the financial plan**

The Law on the Budget of the Republic of Serbia for 2017 ("Official Gazette of the Republic of Serbia", No. 99/16), the Commissioner for the Protection of Equality was earmarked funds in the amount of 104,166,000 RSD.

The structure of the budget execution for 2017, both by sources of funding and by programme, programme activity and projects, is presented in the Regular Annual Report of the Commissioner for 2017.

## 8. Recommendations for combating discrimination and improving equality

In this section of the report, for the sake of better view, we highlight the recommendations made by the Commissioner on the basis of the insights gained during the complaints procedure during 2017, as well as on the basis of other relevant available data on problems in achieving equality (already provided in the Summary of this report):

1. To approve the preparation of strategic documents and action plans whose validity expired in the previous period or expires in 2018. This primarily refers to the adoption of a strategy for improving the status of persons with disabilities, people living with HIV / AIDS, strategies for aging, strategies for the development of adult education and strategies that will improve the protection of mental health. New strategic documents should be based on the evaluation of prior valid strategies and with respect to the current situation and needs of social groups to which they refer. When preparing all strategic documents, goals and activities should be defined realistically, sources of financing provided, and a wide consultation process with all relevant actors conducted.

2. to adopt the Law on Free Legal Aid, which will provide an effective approach to justice, without discrimination on any ground, including access to justice for victims of discrimination.

3. to intensify work on the improvement of architectural and informational accessibility and the application of universal design in all areas, with the aim of enabling people with disabilities to access public facilities and spaces, transport, information, communications and services. We should ensure that information on the work of all public authorities is available in appropriate formats, including the content of internet presentations, increase the number of media content that is translated into the sign language, as well as communication through the sign language interpreter. It is necessary to provide people with disabilities with the conditions for full exercise of all guaranteed rights (electoral rights, right to education, employment, etc.) and, in accordance with the Law on Electronic Communications, equal opportunities for access to emergency services, information services and public telephone directories.

4. to continue the process of de-institutionalisation by providing adequate support for people with disabilities to live independently in the least restrictive environment, with the development of services at the local level and by continuously developing the cooperation of the social and health care, education and employment systems. To disable forced or non-consensual accommodation in health and social care institutions. To work further to reduce the number of children, especially children with disabilities in institutions.

5. to take measures to improve / harmonise the legal framework regarding the exercise of the rights of persons with disabilities in accordance with international standards and recommendations. In the shortest possible time, to amend the regulations that regulate the issue of deprivation of legal capacity and guardianship of adult persons, with the provision of independent decision-making and promotion of the ability of persons with disabilities. To adopt regulations related to spatial technical conditions, professional qualifications of employees and other conditions for the work of the work center, as well as the engagement of persons with disabilities on the basis of the Law on Vocational Rehabilitation and Employment of Persons with Disabilities.

6. to continue with the implementation of measures of active employment policy and measures and activities of professional rehabilitation of persons with disabilities through the implementation of appropriate training, different forms of professional practice, training and socialisation of persons with disabilities in order to acquire practical knowledge and skills for work at specific workplaces in the open labour market.

7. It is necessary for competent state authorities to take all necessary actions and measures within their competences to ensure the engagement of a pedagogical assistant for children and pupils who need additional support in education and continue to work on the development of inclusive education in accordance with the principles of equality and availability in education at all levels. As soon as possible, the conditions for the work of pedagogical assistants should be prescribed. To increase the number of educational advisers in order to better support and promote inclusive education and take measures to provide timely textbooks in customised formats.

8. to improve the normative framework for protecting the rights of the child in terms of compliance with the Convention on the Rights of the Child, in particular with regard to defining the notions of the prohibition of corporal punishment.

9. to ensure greater accessibility of primary and secondary education to children from vulnerable social groups, by taking affirmative measures specifically directed towards Roma children and “children of the street” in order to increase the number of enrolled children and to reduce drop-outs from the education system. At the same time, activities aimed at involving adults from vulnerable social groups into the education system should be carried out.

10. to continuously work to ensure equal opportunities in accessing higher education to young people from marginalised social groups by introducing special measures and supplementing standards for accreditation of higher education institutions, in particular with regard to accessibility of space, providing assistive technologies and appropriate support services for students.



11. to take measures to integrate topics into the curricula and teaching materials that develop a culture of peace, tolerance, understanding and appreciation of diversity, gender equality and non-discrimination. To eliminate discriminatory content and content that supports stereotypes and prejudices from teaching materials. Health education and reproductive and sexual health education should be introduced into the school curricula, while encouraging the adoption of values of equality and tolerance through civic education.

12. It is necessary to strengthen all (quantitative and qualitative) capacities of the centres for social work in order for them to be able to respond in a timely manner to all tasks in the field of social and family legal protection and ensure quality mapping of needs, recognition of social exclusion and timely activation of all forms of support and assistance increasing accessibility and diversity of social protection services, especially in rural areas. To raise awareness of social security and health rights and services, simplify procedures for the provision of these services, improve the use of information technology for the purpose of assistance. To amend the Law on Social Protection.

13. to intensify work on improving the status of the elderly, especially in rural and inaccessible areas. It is necessary to increase the availability of health services (home treatment and care, strengthening of visiting and assisting services for old people, telephone counselling, etc.) and social care for the elderly (introduction of mobile and innovative services that meet the specific needs of the elderly, such as teleassistance, informal carers, temporary and temporary accommodation services, etc.). It is also necessary to better link donations with services, as well as to improve transport, which is a condition for better access to services and prevention of social exclusion.

14. It is necessary to prescribe the obligation to integrate gender perspectives into public policies, in order to ensure the elimination of causes of gender inequality and to prescribe the obligation of all public authorities and private employers to develop internal mechanisms for the suppression and protection against discrimination and the conduct of gender-balanced personnel policies.

15. Measures and activities should be taken to ensure inclusion and fostering of equal representation of women and men in all spheres of political and public decision-making in the exercise of public office in local government bodies, institutions or public enterprises founded by local self-government, as well as inclusion and encouragement of equal representation of women and men from different communities (urban and rural) and marginalised groups.

16. For the economic empowerment of women, it is necessary to continuously take measures to encourage employment of women and women entrepreneurship, to protect women from discrimination in the labour market, with particular

attention to achieving equality of women in access to jobs, equal conditions for promotion and achieving equal wages, as well as the promotion and promoting measures for work and parenting.

17. to take measures and activities for the implementation of UN Security Council Resolution 1325 - Women, Peace and Security in the Republic of Serbia (2017-2020).

18. It is necessary to continue taking measures, coordinated and efficient functioning of the institutions of the system in providing protection from domestic violence and other forms of gender-based violence, with the aim of full implementation of the law. It is also necessary to work on developing a service that will deal with the support of victims of violence and child witnesses of violence.

19. to take measures and activities with the aim of further developing and improving the system of palliative care of patients and providing support to their families throughout the territory of the whole of the Republic of Serbia, as well as measures and activities for providing conditions for providing services to users who, due to their specific social and health status are in need of social care and permanent health care or supervision by prescribing standards for providing services in accordance with the Law on Social Protection.

20. to analyse the possibilities for providing more effective therapies and medicines of the newer generation at the expense of the National Health Insurance Fund for people living with HIV, while ensuring greater availability of psychological support, promoting counselling and testing for HIV and other sexually transmitted diseases throughout the year and throughout the territory of the Republic of Serbia.

21. to take all necessary measures to ensure that the composition of state authorities, local self-government authorities and other public authorities corresponds to the national composition of the population in their area, and take measures to manage national, ethnic, religious, linguistic and other diversity.

22. to actively work on improving the status of Roma and especially Roma women in the provision of personal documents, access to adequate housing, health, education and social protection services, as well as employment, with the establishment of inter-sectoral cooperation between all actors in the system of protection and exercise of certain rights at all levels.

23. to improve the legal status of transgender persons in order to allow transgender persons to fully integrate the new identity in their private and professional life, with full respect of the right to privacy.

24. to adopt regulations enabling the registration of same-sex couples and regulate the effects, legal consequences and manner of termination of registered partnerships, in accordance with the recommendations of the Council of Europe.

25. to ensure the full implementation of the regulations regarding the application of the provision of Article 54a of the Criminal Code in the sense of imposing sanctions for criminal offences committed as a result of hatred.

26. to take measures to improve the status of convicted persons and their full social inclusion, without stigmatisation, especially in the recruitment process. This also implies appropriate normative changes in order to fully ensure compliance with the provision of Article 102 of the Criminal Code, which stipulates that no one shall have the right to demand from citizens to submit evidence of police clearance.

27. to continuously work on education of the holders of judicial functions, police officers, civil servants, employees in the education system, health and social protection and employees in the inspection services in the field of anti-discrimination law, in order to ensure proper and uniform interpretation and application of anti-discrimination regulations, in accordance with international standards and practice of international institutions.

28. to pay special attention to responsible reporting that must not be characterised by hate speech, sensationalism, sexism, misogyny, discriminatory attitudes and offensive reporting of persons of different sexual orientation and gender identity and other marginalised social groups. To intensify measures and activities in educating journalists on the prohibition of discrimination, as well as on the importance of the principle of equality.

29. In order to achieve full compliance with the *acquis communautaire*, we should amend the Law on the Prohibition of Discrimination, begin drafting a new prevention and protection strategy against discrimination in cooperation with the Commissioner for the Protection of Equality. Amendments to the Law on the Prohibition of Discrimination should prescribe adequate solutions to overcome the problems and difficulties identified in the application of the law, as well as lay down the basis for the establishment and operation of a single, centralised and standardised system for collecting and analysing relevant data to monitor the occurrence of discrimination and efficiency of the system of protection against discrimination.



# Annex: Statistical review of the work of the Commissioner in 2017

## Number of cases in 2017

CASES	2017
Complaints	532
Recommended measures	501
Lawsuits	3
Mediation	1
Opinions on draft acts	41
Proposal to the Constitutional Court	1
Criminal charges	3
Offence charges	1
Initiatives for change of regulations	2
Warnings	13
Announcements *	20
TOTAL number of cases *	1,098

\* Announcements are not included in the total number of cases

## Complainants

Natural entities as complainants	number	%
Men	246	59.3
Women	167	40.7
Total number	413	100

Other complainants	number	%
Natural entities	413	77.6
Organisations	105	19.7
State authorities	10	1.9
Authority – institution	2	0.4
Legal entities	1	0.2
Groups of people	1	0.2
Total number of complainants	532	100

## Grounds for discrimination (personal quality)

Complaints grounded in discrimination	number	%
Complaints stating the personal quality	424	79.7
Complaints not stating the personal quality	108	20.3
Total number of complaints	532	100

## Grounds for discrimination (personal quality)

Complaints grounded in discrimination	number
Complaints stating one personal quality	286
Complaints stating more personal qualities	138
Total number of complaints stating the personal quality	424

Complaints stating the personal quality	number	%
Disability	114	18
Age	75	11.8
Gender	71	11.2
Health status	64	10.1
National affiliation or ethnic origin	62	9.8
Marital and family status	48	7.6
Sexual orientation	42	6.6
Membership in political, trade union and other organisations	33	5.2
Religious and political beliefs	23	3.6
Property status	22	3.5
Some other personal quality	17	2.7
Gender identity	17	2.7
Appearance	13	2.1
Previous conviction	8	1.3
Citizenship	7	1.1
Genetic features	6	0.9
Language	5	0.8
Ancestors	3	0.5
Birth	3	0.5
Total	633	100

\* In 138 complaints more personal qualities were stated as grounds for discrimination.

## Areas of social relations to which complaints refer

Grounds for discrimination	number	%
In employment procedure or at work	166	31.2
Procedure before public authorities (court, municipality, ministry, commissions ...)	114	21.4
In providing public services or using facilities and area	64	12
Education and vocational training	42	7.9
Public information and media	37	7
Health care	27	5.1
Social protection	24	4.5
Private relations	16	3

Grounds for discrimination	number	%
Public sphere / General public	15	2.8
Culture, art, sport	7	1.3
Actions/ activities in trade unions, political parties, NGOs and other organisations	5	0.9
Other	5	0.9
Housing	5	0.9
Property rights and relations	2	0.4
Pension and disability insurance	2	0.4
Exercise of collective minority rights	1	0.2
<b>Total number of complaints</b>	<b>532</b>	<b>100</b>

### Discrimination areas by complainants

Discrimination areas by complainants	number	%
<b>In employment procedure or at work</b>	<b>166</b>	<b>31.2</b>
Natural entities	144	
men 84		
women 60		
Organisations	16	
State authority	6	
<b>Procedure before public authorities (court, municipality, ministry, commissions ...)</b>	<b>114</b>	<b>21.4</b>
Natural entities	99	
men 65		
women 34		
Organisations	13	
Group of people	1	
State authority	1	
<b>In providing public services or using facilities and area</b>	<b>64</b>	<b>12</b>
Natural entities	47	
men 27		
women 20		
Organisations	16	
State authority	1	
<b>Education and vocational training</b>	<b>42</b>	<b>7.9</b>
Natural entities	34	
men 20		
women 14		
Organisations	7	
State authority	1	
<b>Public information and media</b>	<b>37</b>	<b>7</b>
Natural entities	6	

Discrimination areas by complainants	number	%
men 3		
women 3		
Organisations	30	
State authority	1	
<b>Health care</b>	<b>27</b>	<b>5.1</b>
Natural entities	17	
men 7		
women 10		
Organisations	7	
Authority/institution	2	
Legal entities	1	
<b>Social protection</b>	<b>24</b>	<b>4.5</b>
Natural entities	22	
men 13		
women 9		
Organisation	2	
<b>Private relations</b>	<b>16</b>	<b>3</b>
Natural entities	16	
men 8		
women 8		
<b>Public sphere / General public</b>	<b>15</b>	<b>2.8</b>
Natural entities	9	
men 9		
women 0		
Organisations	6	
<b>Culture, art, sport</b>	<b>7</b>	<b>1.3</b>
Natural entities	5	
men 3		
women 2		
Organisations	2	
<b>Actions/ activities in trade unions, political parties, NGOs and other organisations</b>	<b>5</b>	<b>0.9</b>
Natural entities	5	
men 4		
women 1		
<b>Other</b>	<b>5</b>	<b>0.9</b>
Natural entities	2	
men 0		
women 2		
Organisations	3	
<b>Housing</b>	<b>5</b>	<b>0.9</b>



Discrimination areas by complainants	number	%
Natural entities	5	
men 2		
women 3		
<b>Property rights and relations</b>	<b>2</b>	<b>0.4</b>
Organisations	2	
<b>Pension and disability insurance</b>	<b>2</b>	<b>0.4</b>
Natural entities	2	
men 1		
women 1		
<b>Exercise of collective minority right</b>	<b>1</b>	<b>0.2</b>
Organisations	1	
<b>Total</b>	<b>532</b>	<b>100</b>

### Labour and employment area

Note: The percentage values of the listed personal qualities are calculated in relation to the number of complainants for complaints in which the personal property is stated, and not in relation to the total number of complaints for the given area.

Complainants in the area of labour and employment	number	%
<b>Gender</b>	<b>37</b>	<b>24.8</b>
Natural entities	33	
men 10		
women 23		
Organisations	2	
State authority	2	
<b>Membership in political, trade union and other organisations</b>	<b>20</b>	<b>13.4</b>
Natural entities	11	
men 6		
women 5		
Organisations	8	
State authority	1	
<b>Marital and family status</b>	<b>20</b>	<b>13.4</b>
Natural entities	18	
men 4		
women 14		
Organisation	2	
<b>Disability</b>	<b>19</b>	<b>12.8</b>
Natural entities	17	
men 10		
women 7		
Organisations	2	

<b>Complainants in the area of labour and employment</b>	<b>number</b>	<b>%</b>
<b>National affiliation or ethnic origin</b>	<b>14</b>	<b>9.4</b>
Natural entities	14	
men 11		
women 3		
<b>Age</b>	<b>12</b>	<b>8.1</b>
Natural entities	12	
men 6		
women 6		
<b>Health status</b>	<b>10</b>	<b>6.7</b>
Natural entities	10	
men 4		
women 6		
<b>Religious and political beliefs</b>	<b>6</b>	<b>4.0</b>
Natural entities	6	
men 5		
women 1		
<b>Some other personal quality</b>	<b>4</b>	<b>2.7</b>
Natural entities	3	
men 3		
women 0		
Organisation	1	
<b>Sexual orientation</b>	<b>4</b>	<b>2.7</b>
Natural entities	3	
men 2		
women 1		
State authority	1	
<b>Property status</b>	<b>2</b>	<b>1.3</b>
Natural entities	2	
men 1		
women 1		
<b>Previous conviction</b>	<b>1</b>	<b>0.7</b>
Natural entities	1	
men 1		
women 0		
<b>Total</b>	<b>149</b>	<b>100</b>

### Acting of public authorities

Note: The percentage values for the listed personal qualities are calculated in relation to the number of complainants for complaints in which the personal property is stated, and not in relation to the total number of complaints for the given area.

Personal qualities in complaints in the area of acting of public authorities	number	%
<b>Disability</b>	<b>26</b>	<b>18.6</b>
Natural entities	21	
men 12		
women 9		
Organisation	4	
Group of people	1	
<b>Health status</b>	<b>19</b>	<b>13.6</b>
Natural entities	19	
men 11		
women 8		
<b>National affiliation or ethnic origin</b>	<b>17</b>	<b>12.2</b>
Natural entities	13	
men 11		
women 2		
Organisations	4	
<b>Marital and family status</b>	<b>13</b>	<b>9.3</b>
Natural entities	13	
men 6		
women 7		
<b>Gender</b>	<b>12</b>	<b>8.6</b>
Natural entities	11	
men 5		
women 6		
Organisations	1	
<b>Age</b>	<b>10</b>	<b>7.1</b>
Natural entities	9	
men 6		
women 3		
Organisations	1	
<b>Religious or political beliefs</b>	<b>9</b>	<b>6.4</b>
Natural entities	9	
men 4		
women 5		
<b>Property status</b>	<b>7</b>	<b>5</b>
Natural entities	7	
men 6		
women 1		
<b>Previous conviction</b>	<b>6</b>	<b>4.3</b>
Natural entities	5	
men 5		

Personal qualities in complaints in the area of acting of public authorities	number	%
women 0		
State authorities	1	
<b>Other personal qualities</b>	<b>5</b>	<b>3.6</b>
Natural entities	5	
men 3		
women 2		
<b>Membership in political, trade union and other organisations</b>	<b>5</b>	<b>3.6</b>
Natural entities	4	
men 0		
women 4		
Organisation	1	
<b>Ancestors</b>	<b>3</b>	<b>2.1</b>
Natural entities	3	
men 3		
women 0		
<b>Appearance</b>	<b>2</b>	<b>1.4</b>
Natural entities	2	
men 1		
women 1		
<b>Sexual orientation</b>	<b>2</b>	<b>1.4</b>
Natural entities	1	
men 1		
woman 0		
Organisation	1	
<b>Genetic features</b>	<b>1</b>	<b>0.7</b>
Natural entities	1	
men 1		
women 0		
<b>Language</b>	<b>1</b>	<b>0.7</b>
Natural entities	1	
men 1		
women 0		
<b>Birth</b>	<b>1</b>	<b>0.7</b>
Natural entities	1	
men 0		
women 1		
<b>Gender identity</b>	<b>1</b>	<b>0.7</b>
Organisation	1	
<b>Total</b>	<b>140</b>	<b>100</b>

**Providing services and / or using public spaces and facilities**

Note: The percentage values for the listed personal qualities are calculated in relation to the number of complainants for complaints in which the personal property is stated, and not in relation to the total number of complaints for the given area.

Complainants in the area providing services and / or using public spaces and facilities	number	%
<b>Disability</b>	<b>27</b>	<b>35.5</b>
Natural entities	18	
male 13		
female 5		
Organisations	9	
<b>Age</b>	<b>18</b>	<b>23.7</b>
Natural entities	15	
male 11		
female 4		
Organisations	3	
<b>Health status</b>	<b>8</b>	<b>10.5</b>
Natural entities	6	
male 5		
women 1		
Organisations	2	
<b>Some other personal quality</b>	<b>5</b>	<b>6.6</b>
Natural entities	2	
male 0		
women 2		
Organisations	3	
<b>Religious or political beliefs</b>	<b>4</b>	<b>5.3</b>
Natural entities	3	
male 2		
female 1		
State authority	1	
<b>Gender</b>	<b>3</b>	<b>3.9</b>
Natural entities	3	
male 2		
female 1		
<b>Property status</b>	<b>3</b>	<b>3.9</b>
Natural entities	3	
male 1		
female 2		
<b>Sexual orientation</b>	<b>3</b>	<b>3.9</b>
Natural entities	1	
male 1		

Complainants in the area providing services and / or using public spaces and facilities	number	%
female 0		
Organisation	2	
National affiliation or ethnic origin	2	2.6
Organisations	2	
Membership in political, trade union and other organisations	2	2.6
Natural entities	2	
male 0		
female 2		
Appearance	1	1.3
Natural entities	1	
male 1		
female 0		
Total	76	100

### Education and professional development

Note: The percentage values for the listed personal qualities are calculated in relation to the number of complainants for complaints in which the personal property is stated, and not in relation to the total number of complaints for the given area.

Complainants in the area of education and professional development	number	%
Age	24	27.3
Natural entities	16	
male 7		
female 9		
Organisations	7	
State authority	1	
Disability	17	19.3
Natural entities	9	
male 5		
female 4		
Organisations	7	
State authority	1	
Health status	15	17
Natural entities	9	
male 4		
female 5		
Organisations	6	
Sexual orientation	7	8.1
Natural entities	1	

Complainants in the area of education and professional development	number	%
male 1		
female 0		
Organisations	6	
<b>Appearance</b>	<b>7</b>	<b>8</b>
Natural entities	6	
male 6		
female 0		
Organisations	1	
<b>Gender identity</b>	<b>6</b>	<b>6.8</b>
Organisations	6	
<b>Genetic features</b>	<b>3</b>	<b>3.4</b>
Natural entities	3	
male 3		
female 0		
<b>National affiliation or ethnic origin</b>	<b>2</b>	<b>2.3</b>
Natural entities	1	
male 1		
female 0		
Organisations	1	
<b>Language</b>	<b>2</b>	<b>2.3</b>
Natural entities	1	
male 0		
female 1		
Organisations	1	
<b>Membership in political, trade union and other organisations</b>	<b>1</b>	<b>1.1</b>
Natural entities	1	
male 0		
female 1		
<b>Birth</b>	<b>1</b>	<b>1.1</b>
Natural entities	1	
male 0		
female 1		
<b>Some other personal quality</b>	<b>1</b>	<b>1.1</b>
Natural entities	1	
male 1		
female 0		
<b>Property status</b>	<b>1</b>	<b>1.1</b>
Natural entities	1	
male 0		
female 1		

Complainants in the area of education and professional development	number	%
Religious or political beliefs	1	1.1
Natural entities	1	
male 1		
female 0		
Total	88	100

### Complainants in the area of public information and media

Note: The percentage values for the listed personal qualities are calculated in relation to the number of complainants for complaints in which the personal quality is stated, and not in relation to the total number of complaints for the given area.

Complainants in the area of public information and media	number	%
Sexual orientation	23	43.4
Organisations	22	
State authority	1	
Gender identity	10	18.9
Organisations	10	
Gender	5	9.4
Natural entities	3	
male 1		
female 2		
Organisations	2	
National affiliation or ethnic origin	3	5.7
Natural entities	1	
male 1		
female		
Organisations	2	
Disability	3	5.7
Natural entities	2	
male 2		
female 0		
Organisations	1	
Membership in political, trade union and other organisations	2	3.7
Natural entities	2	
male 0		
female 2		
Religious or political beliefs	2	3.7
Natural entities	1	
men 1		
women 0		



Complainants in the area of public information and media	number	%
Organisations	1	
Health status	1	1.9
Organisations	1	
Age	1	1.9
Organisations	1	
Birth	1	1.9
Organisations	1	
Property status	1	1.9
Organisations	1	
Marital and family status	1	1.9
Organisations	1	
Total	53	100

### Complaints filed against

Complaints filed against	number	%
State authority	238	43.04
Legal entities	159	28.75
Natural entities	99	17.90
Authority/Institution	34	6.15
Organisations	14	2.53
Group of people	9	1.63
Total	553	100
Number of cases with one discriminator		399
Number of cases with more discriminators		154
Total		553

### Number of complaints by regions

Number of complaints by regions	number	%
Belgrade region	213	40.04
Vojvodina region	101	18.98
Region of Šumadija and Western Serbia	77	14.47
Region of Southern and Eastern Serbia	72	13.53
Kosovo and Metohija region	4	0.75
Unknown region *	64	12.03
Total number of complaints by regions	531	
Foreign countries	1	0.19
Total number of complaints	532	100

\* The region is unknown when the complaint has been sent by e-mail and the applicant does not indicate the municipality of residence.

## Outcomes of proceedings

Outcomes of proceedings by complaints	2016
Proposal submitted to the Constitutional Court	1
Instigated misdemeanor procedure	1
Filed criminal charges	3
Incompetence	51
Incompleteness (deficiencies)	138
No violation of right	163
Judicial proceeding in progress or completed	34
Already acted upon but no new evidence was provided	6
Due to the passage of time, it was not possible to achieve the purpose of the action	1
Withdrawn complaint	12
Complaints in which the opinion was given	51
opinion with recommendations	33
opinion without recommendations	18
In progress: submitted for opinion and amendment required	21

## Acting on recommendations

Acting on recommendations	number	%
Acted on recommendation	22	75.86
Not acted on recommendation	7	24.14
Total number	29	100

In the remaining cases, the deadline for acting upon recommendations has not expired

Acting on recommendations of measures	number	%
Acted on recommendation	338	91.60
Not acted on recommendation	31	8.40
Total number	369	100

In the remaining cases, the deadline for acting upon recommendations has not expired



