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Ombudsman

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REGULAR ANNUAL REPORT
OF THE PROTECTOR OF CITIZENS
FOR 2018

Belgrade, 15 March 2019

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Regular Annual Report of the Protector of Citizens for 2018
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1. INTRODUCTION

1.1. FOREWORD

Respectable Representatives of the National Assembly,

You are hereby presented with the 12th Regular Annual Report of the Protector of Citizens, which I submit to you pursuant to Article 33, Paragraph 1 of the Law on the Protector of Citizens.

The Regular Annual Report for 2018 contains information on the observed shortcomings and irregularities in the operations of administrative authorities during the reporting year, as well as the proposals for the improvement of human and minority rights before administrative authorities. The document which is hereby submitted to the Representatives of the National Assembly of the Republic of Serbia and made available to the public provides an overview in the state of observance of human rights based on citizens' complaints pertaining to the actions of administrative authorities in Serbia. Statistical information on the activities of the institution and the assessment of the status of human rights, on the other hand, document the investigations launched by the Protector of Citizens upon citizens' complaints or upon his own initiative.

The Protector of Citizens' campaigns "Open doors" of conducted in Belgrade and "Days of the Ombudsman" conducted in smaller towns and municipalities in Serbia proved a complete success and satisfied their goals. With the aim of bringing back the institution of the Protector of Citizens closer to its citizens and protecting them more efficiently from the potential abuse of executive power, I expanded the Belgrade-based campaign to other cities and municipalities of Serbia. During the reporting year, on a regular basis as well as on extraordinary occasions, I met with almost two thousand citizens in Belgrade and other cities and municipalities of Serbia. During these talks citizens complained about maladministration, the the procedure of obtaining identity documents taking too long, abuse of power in the operations of civilian enforcement officers which leads the citizens to the very edge of existence, the problems with inspection oversight, the efficiency of court administration, local self-government, tax administration and health care administration. The practice of reception of citizens has proved a success, since they wanted personally to inform me about their problems which, as they stressed,

were neither “seen” nor “heard”, let alone understood, in the procedures of bureaucratic labyrinth,. These talks provided me and my associates with a more in-depth insight not only in the problems of citizens in the exercise of their rights, but also in the work of public authorities and potential omissions in their actions. In accordance with my competences, I spoke with the representatives of public authorities and local self-governments about the omissions the citizens complained about in the operations of these authorities and requested that these omissions be corrected.

The second priority in my work was strengthening the capacities of the Protector of Citizens, which was partially accomplished by the adoption of the Rulebook on Internal Organization and Systematization of Job Positions in the Secretariat of the Protector of Citizens. New systematization in December 2018 stipulated the establishment of the Department for Emergency Responses, which, based upon the call, citizens’ complaint, available information and on his own initiative deals with the cases that require urgent action. This organizational unit makes the Secretariat more efficient and accessible to citizens, which is visible in its first results in addressing issues in the protection of child rights, rights of persons with disabilities and the elderly as well as property-legal affairs.

Furthermore, a special organizational unit in the Secretariat of the Protector of Citizens which performs the tasks of the National Preventive Mechanism is strengthened by the increase of the number of employees who work on the improvement and protection of rights of persons deprived of their liberty and the prevention of torture. This department shall, in accordance with its increased capacities, increase the number of visits, especially the unannounced ones, to the facilities where persons deprived of their liberty are or may be placed in order to increase oversight of all closed-type institutions and departments. Even though the status of convicts in prison and detention units, as well as persons detained by the police remain in the focus of this department, in future equal attention will be given also to residential care institutions and psychiatric hospitals, their closed departments which accommodate the most vulnerable categories of citizens, such as psychiatric patients, the elderly, children and adults with mental and intellectual disabilities and in which the cases of serious violations of the rights of beneficiaries and patients may and, as witnessed more frequently, they do occur. Apart from that, the National Preventive Mechanism shall continue and intensify the cooperation with the civil society organizations committed to the protection of human rights and also establish the cooperation with academic community and conduct surveys aimed at providing a comprehensive insight into the status of these vulnerable categories.

The following step is the adoption of the amendments to the Law on the Protector of Citizens, which is the obligation stipulated by the Action Plan for Chapter 23 in the negotiations with the European Union. The amendments to the Law should strengthen the mandate and guarantees of the independence of the institution.

One of the highlights of the reporting year was also the signing of the Memorandum of Understanding with fellow colleagues from four states. Bilateral agreements were signed with the ombudsman institutions from Bulgaria, Turkey, Slovakia and Russia. They stipulate further strengthening of friendly relations and cooperation between institutions in the area of the protection of human rights and freedoms. Memorandums define the procedures and cooperation of ombudsman institutions in the cases of violation of rights and freedoms of the citizens of Serbia in the territory of the other party's country and vice versa. The exchange of experiences of the best practices and information pertaining to handling complaints was agreed upon as well as the organization of joint events at the communication platforms of the International Ombudsman Institute and the European Ombudsman Institute and other organizations and networks. The implementation of joint projects and programs, organization of mutual visits, internships, training and provision of practical assistance in the area of the protection of citizens' rights are also envisaged.

I initiated the establishment of the Balkan Ombudsman Network with the aim of better networking with the ombudsman institutions in the countries of the region as well as identifying common problems that the Balkan countries face. The status of migrants, refugee status, discrimination and protection of the rights of vulnerable groups are the human rights issues that all neighbouring countries are faced with. Since November 2018 and the meeting in Sofia, these issues have been recognized as the ones which require the improvement of the cooperation of ombudsman institutions from the region, which is the main reason for the establishment of the Network.

During the reporting year, more than 9,000 citizens contacted this institution and more than 3,000 complaints in which citizens indicated to the violation of their rights were received. In the majority of cases citizens complained about the violation of rights in the area of good administration, economic and property rights as well as the social rights. Complaints of citizens mostly pertain to the violation of rights in the area of tax administration, unlawful actions of civilian enforcement officers as well as inefficient court administration the Protector of Citizens does not have the authority to oversee.

PROTECTOR OF CITIZENS

Zoran Pašalić, MSc

2. GENERAL ASSESSMENT OF THE OBSERVANCE OF CITIZENS' RIGHTS IN 2018

Human rights are the language of basic human needs, and their observance and protection affect the daily lives of citizens, especially members of vulnerable groups: women, victims of violence in family and intimate partner relationships, children and youth, persons with disabilities, persons deprived of their liberty, the elderly, members of LGBTI population, members of national minorities, primarily the Roma, refugees and other migrants.

The Protector of Citizens notes that during the reporting period citizens¹ mostly complained about the violations of principles and standards of good administration, especially the violations of rights to the observance of the law, right to the observance of accomplished legal expectations and right to efficient activities of authorities, whereas one third of all complaints refers to the violations of economic and property as well as social and cultural rights.

CHILD RIGHTS

In the reporting period, the Protector of Citizens notes that the received complaints in the greatest number of cases pertained to the maintenance of personal relations of children and parents with whom the child does not live, as well as to the education. Almost a quarter of total number of received complaints in the field of child rights pertains to the violence against children, so the Protector of Citizens observes that the prevalence of the violence against children requires the intensification of efforts made by the authorities.

In the reporting period the Protector of Citizens presented a Special Report on the status of child rights in the Republic of Serbia, which especially indicated the need for the improvement of the protection of children from violence, apparent lack of services for children and professionals who provide the services of support to children, widespread children poverty, the need for the improvement of the normative framework in different areas and insufficient interdepartmental cooperation.

¹ All terms which are expressed in the text in grammatical masculine gender refer to natural masculine and feminine gender of persons they refer to.

The existence of child and early marriages and sexual abuse of children are not followed by adequate normative and practical measures intended for the suppression and prevention, while the physical punishment of children is still a widespread educational method. Children living in poverty, children with developmental delays, and Roma children are still marginalized and very frequently socially excluded and adequate services and forms of support and assistance are either not developed or offered.

Even apart from the apparent progress, the education of children who need additional support requires more intensive activities, especially at a local level. It is the conclusion of a special report "Inclusive Education – Services of Additional Support to Children and Students in Education", which was presented by the Protector of Citizens on 14th November, 2018.

GENDER EQUALITY

During 2018 in this area the Report indicated the violation of the right to the salary compensation during the absence due to pregnancy leave, child-birth leave and child care, rights of pregnant women and nursing mothers, as well as domestic and partner violence.

The Protector of Citizens published a special report "Representation of Women at Decision-Making Positions and the Status and Activities of Local Mechanisms for Gender Equality at Local Self-Government Units in Serbia", which indicated underrepresentation women, especially women from vulnerable groups at decision-making positions at local self-government units as well as the lack of functionality of the mechanisms for gender equality at a local self-government. In particular, as causes of this condition, the Protector of Citizens recognized also the lack of a comprehensive Law on Gender Equality but also the shortcomings of the existing Law on Gender Equality. This body indicated, on several occasions, that it was necessary to adopt the Law on Gender Equality and the concern about its not being adopted yet was also expressed by the UN Human Rights Committee.

RIGHTS OF LGBTI PERSONS

The Protector of Citizens observes that the laws which regulate same-sex partnerships and legal implications of sex reassignment surgery still have not been adopted, as well as that LGBTI persons are still very frequently victims of discrimination, prejudice and stereotypes. The Law on Textbooks contains the provision on equal possibilities and prohibition of discrimination, but despite the opinion of the Protector of Citizens it does not contain the explicit prohibition of discrimination based on sexual orientation and

gender identity, or the explicit prohibition of the content which discriminates a group or a person and encourages creation of prejudice and stereotypes.

Traditionally, also in 2018, the Protector of Citizens celebrated the International Day of the Fight against Homophobia, Biphobia and Transphobia by placing the rainbow flag and trans-movement flag at his building.

RIGHTS OF PERSONS WITH DISABILITIES

The low employment rate of persons with disabilities is still one of the most important problems of this part of population.

Furthermore, it is necessary to indicate to especially difficult status of persons with autism. In the Republic of Serbia there are only two inpatient facilities for accommodation of persons with autism whereas the needs, based on the number of requests for the accommodation here are much greater.

The system of services of support to persons with disabilities and the elderly is still not adequate so the Protector of Citizens believes that a financially sustainable system of services of support to persons with disabilities and the elderly should be developed and in it all services of social protection will be provided systematically, not just sporadically and they will be provided to everyone who need them, not just to a certain number of beneficiaries for whom financial funds are provided.

Accessibility, as one of the fundamental preconditions for full and equal participation of persons with disabilities in all fields of social life is still not developed enough, despite solid legislation and strategic framework. It is one of the conclusions of the Special Report of the Protector of Citizens "Accessibility for All", published in October 2018.

When it comes to the rights of persons deprived of their work ability, the tendency of frequent application of this institute is still noticeable.

RIGHTS OF NATIONAL MINORITIES

During the reporting period, the Protector of Citizens published special reports on the official use of the Albanian and Hungarian language and script. Both reports are the result of the survey conducted by the Protector of Citizens and contain recommendations issued to the competent authorities with the aim of the improvement and complete realization of legally prescribed use of the official language and script.

The report on the official use of the Albanian language and script showed that the obstacles in the exercise of the right to the official use of language and script are the lack of staff and financial funds at local self-governments and of necessary notifications for citizens as well as inappropriate awareness

of republic authorities towards their obligations to have official boards with names of authorities with all languages in official use. On the other hand, the Report on the official use of the Hungarian language and script showed that the right to the official use of the Hungarian language and script the right to the entering of personal name in the language and script of a national minority are exercised in many municipalities/citizens to a great extend. The Protector of Citizens believes that the execution of a personal name catalogue in Albanian and Hungarian and regular information for citizens on the exercise of rights of national minority members would greatly prevent irregularities in the entering of personal names and contribute to a more complete exercise of the right to official use of language and script.

RIGHTS OF PERSONS DEPRIVED OF LIBERTY

During the reporting period in the Republic of Serbia the tendency of the improvement of the protection of rights of persons deprived of their liberty, application of police authorizations as well as the prevention of torture and other forms of abuse was continued.

Trainings of civil servants who deal with persons deprived of their liberty contributed to the raising of their awareness that any form of abuse represents prohibited activity so the Protector of Citizens did not confirm in any procedure initiated upon the complaints of persons deprived of their liberty in 2018 that the actions of an overseen administrative authority resulted in the violation of rights of the complainant to the invulnerability of physical and mental integrity.

Among persons deprived of their liberty the most endangered are still those deprived of their liberty in psychiatric institutions and residential care institutions.

The complaints of convicts who are at the institutes for the execution of criminal sanctions referred primarily to the dissatisfaction by the provided health protection and treatment work, while the complaints of persons in detention referred mostly to the violation of the right to trial within a reasonable deadline and right to fair trial², as well as to health protection.

Female convicts and minors are accommodated in special institutes, the only institutes for this purpose in the Republic of Serbia, so that the rule of serving their sentence as close as possible to their place of residence is not applied to them.

² Taking into consideration that the Protector of Citizens is not competent for the oversight of the legality and regularity of the work of courts, the complainants were instructed to address competent authorities with regards to that.

With regards to the normative framework, with the aim of further improvement, it is necessary to harmonize the provisions of the Criminal Code with the definition of torture from Article 1 of The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

NATIONAL PREVENTIVE MECHANISM (NPM)

In the reporting period NPM confirmed that inadequate premises for the execution of the measure of police detention are still a burning issue.

In this reporting period NPM also confirmed during visits that in big residential care institutions for accommodation there are many beneficiaries accommodated for a long period of time, even though for it there is no proper legal basis. Furthermore, it is necessary to invest far greater effort in order to implement successfully the procedure of deinstitutionalization.

JUSTICE AND JUDICIARY

In this area, during 2018 citizens mostly addressed the Protector of Citizens asking for legal assistance with regards to the ongoing proceedings or the proceedings they intend to initiate before courts and other competent bodies.

The complaints also indicated to problems with regards to the oversight implemented by the Ministry of Justice of the work of court administration, court activities in cases within prescribed deadlines and actions upon complaints and dispositions of citizens.

The violation of the right to fair trial and the indication to certain irregularities in the conducting of the proceedings by the assigned judge, as well as irregularities in court decisions are still the subject of complaints. Most frequently, citizens complain about wrongly determined factual state and misapplication of regulations. However, it is noticed that complaints about improper conducting of the proceedings or shortcomings of the court ruling are frequently the result of wrong perception of citizens emerged from insufficient legal education or lack of professional legal assistance. It is not a rare case that in the complaints the statements indicating to the existence of corruption in judiciary are presented.

FINANCES

The need for the improvement of written communication with citizens by tax authorities was detected, both in deciding about their requests and in the situations when citizens wants to obtain information about their tax debt and other issues with regards to the calculation and payment of tax.

A certain number of complainants indicated to the delay of tax bodies in deciding about requests for transfer of excessively paid tax as well as to the delay in the implementation of the decision which approved the transfer. In the most unfavorable position are entrepreneurs who had their interest rate calculated to their tax debt, while at the same time they had overpayment on other accounts, which was not timely transferred.

ECONOMIC AND PROPERTY RIGHTS

In the reporting period the Protector of Citizens observes that citizens very frequently complain about the exercise of their economic and property right. Especially noticeable are the problems with regards to the failure to execute administrative decisions on tearing down, entering of the property right at the facilities constructed without construction permit, as well as the return of consolidated land.

The Protector of Citizens supports initiated procedures of the country in the field of economic and property rights, with the readiness for comprehensive cooperation and assistance with the aim of the improvement of the citizen rights in these areas. Simultaneously, this body indicates to the importance of timely critics and indication to the shortcomings and omissions both in the work of the administrative authorities and in the normative framework.

ENVIRONMENTAL PROTECTION

In the field of environmental protection, in the previous year as well, the Protector of Citizens received complaints which indicate to identical problems related to the water, air and land pollution, unpleasant smells, noise (mostly from catering facilities), communal waste disposal, as well as the quality of drinking water. The complaints still express the dissatisfaction of citizens by performed measuring (the level of noise or polluting substances in the air).

SOCIAL PROTECTION, PENSION AND DISABILITY INSURANCE

The condition in the field of social protection in this reporting period as well was marked by inadequate number of employees at the residential care institutions and poor work conditions. The number of complaints of beneficiaries of service and rights from the field of social protection was increased,

which indicates to untimely and unprofessional activities of social protection employees. There are an insufficient number of support services at the local level, which should improve the status of the beneficiaries in the community.

In the reporting period through filed complaints citizens indicated to the same problems in the work and actions of the Republic Pension and Disability Insurance Fund which they also faced in previous years, such as: untimely actions in deciding on requests, retroactive determination of the obligation of contribution payment, return of the excessive payment for pensions without passing a decision, determination and cessation of the category of insured farmers.

THE YOUTH

Apart from a series of measures and activities implemented by the Ministry of Youth and Sports, young people still face unemployment and economic issues, lack of harmony between knowledge, skills and competences acquired during education on one side and needs of the labor marked on the other side as well as low social inclusion. More specifically, the burning issues this part of the population in the Republic of Serbia faces are insufficiently developed services of the prevention of substance dependence and risky behavior, services of assistance and support to the young in especially vulnerable situations, prevention and protection of the mental and reproductive health and inability to use health protection at the burden of the mandatory health insurance for young persons who are unemployed and are not regular students and live with members of their family.

THE ELDERLY

The elderly still have difficulties in the exercise of their rights from the field of health and social protection, pension insurance, right to information and financial independence, but also to the right to protection from abuse and violence.

The lack of existence of services and support is still present, especially home assistance services, frequently needed to this population, taking into consideration that very frequently the elderly live alone and do not have relatives to take care of them. Many beneficiaries of nursing homes are accommodated at nursing homes without their own but with the consent of their children or closest relatives, even if the person who accommodates at this institution is not deprived of business capability.

KOSOVO AND METOHİJA

The Protector of Citizens is still not able to exercise his competences at the territory of the Autonomous Province Kosovo and Metohija, in the manner which is prescribed by the Constitution and law. According to the available information and based on the allegations from complaints, the citizens of Kosovo and Metohija, especially those of non-Albanian nationality, who live at enclaves, still face serious violation of human rights and freedom.

FREEDOM OF SPEECH

The condition in the field of the freedom of speech and media has not been changed in comparison to the previous period. In this year as well the Protector of Citizens states that the professional work and position of journalists is deteriorated by their material status, as well as by physical and any other form of attack to the media representatives, hate speech and discriminatory terminology. Especially, vulgar verbal attacks to female journalists who expressed critical attitudes in public were noted. Instead of the response and dialogue, female journalists were offended in the most primitive manner. Journalists and media experts agree in the assessment that media freedoms have been endangered for a longer period of time, which is evidenced by international reports. In the report of the European Commission on the current state in Chapters 23 and 24 from 2018 it was emphasized that the cases of threats, intimidations and violence against journalists is still worrisome and that the environment is still not convenient for the realization of the freedom of speech and freedom of media.³ The mission consisting of the representatives of the European Federation of Journalists (EFJ), South East Europe Media Organization (SEEMO) and International Press Institute (IPI) issued in January 2018 recommendations for the improvement of the condition in the field of media freedom among which, *inter alia*, there is the recommendation that the journalism and media, i.e. complaints of journalists should be classified within the competence of the national ombudsman.

According to the information of press associations in Serbia during the reporting year in Serbia there were 102 attacks to journalists.⁴ The attacks were categorized in a range of types, from physical and attacks to property, via pressures, to threats to property and verbal threats. In the majority of documented threats there are pressures (72) to media representatives.

³ „Non paper” on the current state in chapters 23 and 24 for Serbia, November 2017, available at: <https://bit.ly/2SofukO>.

⁴ Available at: <http://www.bazenuns.rs/srpski/napadi-na-novinare>.

The last month of 2018, *inter alia*, there were two attacks to the journalist in whose garage of the house a fire was set, then in his rented apartment, where he lived with his family, a fire was set. After a month the president of one Belgrade municipality and simultaneously a party official of the ruling party were arrested under suspicion that he ordered these crimes and he was put in detention. Also, the suspects as executors of the criminal act were also arrested as well as their assistanceers, while the investigation is still ongoing.

The Protector of Citizens in his public statements warned on several occasions the public to the suppression of media freedom and freedom of speech and requested the apprehension of those who were responsible for threats, as well as of those who committed the violence and intimidation of journalists.

The Protector of Citizens warned about a difficult material status of journalists and media employees, which is additionally aggravated by their social status. Many journalists still work based on inconvenient contracts, and the amount of their salaries is below the republic average level. Journalists work in the conditions where there are no special mechanisms of protection of professional rights, which has a special impact on the endangering of media freedom.

The Press Council states that in the reporting period journalists “made the greatest mistakes referring to child rights, especially of victims, by not protecting their identity”, while the most frequent offence was the violation of the assumption of innocence.⁵

OFFICIAL USE OF THE SERBIAN LANGUAGE AND CYRILLIC SCRIPT

The Protector of Citizens notes that in 2018 he received a smaller number of complaints referring to the official use of the Serbian language and Cyrillic script than in previous years, so it may be stated that the condition in this area has been improved.

In the reporting period, citizens contacted the Protector of Citizens expressing also dissatisfaction by the activities of private enterprise and stores which in the placement of the names of companies, issuing of receipts and other written notifications used the Latin script. Since it is not in the competence of the Protector of Citizens to oversee the work of private enterprise, the complainants were instructed whom to contact.

⁵ Available at: http://www.savetzastampu.rs/latinica/press/93/2019/02/26/2089/savet-zastampu_sunovrat-stampe-nize-od-dna.html

FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

Complaints and addressing of citizens due to violation of religion freedom and rights, as in previous years, were not numerous, various and without the basis for actions by the Protector of Citizens.

INTERNALLY DISPLACED PERSONS FROM THE TERRITORY OF YUGOSLAVIA

The Republic of Serbia in this reporting period also continued to face the problems of solving the issue of the status of internally displaced persons and refugees. Their complaints to the Protector of Citizens indicate that there are no major changes in the status of these persons, i.e. that they are still in extremely difficult social and economic position.

As in previous years, the Protector of Citizens indicates to the necessity of more efficient implementation of programs for residential accommodation of refugees and programs of economic strengthening of these persons.

The procedure of closing of collective centers was not completed in 2018 and the complaints received by the Protector of Citizens indicate to bad living conditions in some of collective centers (cutoff of electricity, water, etc.)

MIGRANTS

During 2018 the number of migrants/refugees coming to Serbia reduced but simultaneously the period of their staying here got longer. During the staying in Serbia migrants are not deprived of their liberty, but they are provided with the accommodation with open institutions designed for this purpose. According to the information of the Ministry of Interior, the total number of registered migrants in the period January-December 2018 was 8,031 and 593 of who were women.

With the activities of tracking the status of migrants, the Protector of Citizens paid special attention to female migrants, especially minors or those who travelled alone or without adult family members, pregnant women and nursing mothers, elderly migrants as well as female migrants with disabilities.

In the reporting period the Protector of Citizens also acted upon the complaint of migrants to the work of the Commissariat for Refugees and Migration and the Ministry of Interior which referred to the violation of rights to freedom and safety, right to the inviolability of physical and mental integrity and the access to the asylum procedure and the possibility of filing the request for asylum. The complainants addressed the Protector of Citizens via non-governmental organizations and/or in person.

3. BASIC STATISTICAL REVIEW

3.1. TOTAL NUMBER AND CLASSIFICATION OF COMPLAINTS

In 2018 the Protector of Citizens was contacted totally by 9,120 citizens, of whom discussions were held with 2,432, telephone conversation with 3,350 and the number of received cases amounted to 3,338, 3,282 of which were cases were complaints and 56 cases initiated upon own initiative. The Protector of Citizens completed the work on 2, 346 cases. At the same time, approximately 2,720 cases from previous years were worked on and 1,443 cases of which were closed, which means that in 2018 totally 3,789 cases were closed.

Table 1 – Information on contact with citizens in 2018

Type of appeal	number	percentage
Number of complaints (cases)	3,338	37%
Number of telephone conversations with citizens	3,350	37%
Number of citizens received in person	2,432	27%
Total number of contacts with citizens	9,120	100%

Table 2 – Information on the investigated cases⁶ in 2018

Number of received cases	3,338
Number of completed cases	2,346
Number of cases in progress	992

⁶ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

Table 3 – Number of cases⁷ from previous years investigated in 2018

Number of investigated cases from previous years	2,720
Number of completed cases from previous years	1,443
Number of cases in progress from previous years	1,277

Table 4 – Number of cases⁸ received in 2018 classified by departments of the Protector of Citizens with the percentage of the total number of cases in 2018

Department of the Protector of Citizens	number	percentage
Department for the Protection of Economic and Property Rights	1,220	36.55%
Department for the Protection of Civil and Political Rights	891	26.69%
Department for the Protection of Social and Cultural Rights	483	14.47%
Department for Child Rights	254	7.61%
Department for the Rights of Persons Deprived of Liberty	165	4.94%
Department for the Protection of the Rights of Persons with Disabilities and the Elderly	150	4.52%
Department for Gender Equality	84	2.52%
Department for the Protection of National Minority Rights	64	1.92%
Other	26	0.78%
TOTAL DEPARTMENTS	3,338	100%

Note: In Table 4, under “Other”, there are cases related to complaints about the work of independent public authorities, security services and areas which are not recorded according to the existing classification.

⁷ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

⁸ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

Table 5 – Number of cases⁹ received in 2018 classified according to areas of work with the percentage of the total number of cases in 2018

	Area of Work of the Protector of Citizens	number	percentage
1	Local self-government	380	11.38%
2	Labor and labor relations	290	8.69%
3	Real estate cadastre	286	8.57%
4	Justice and judiciary	266	7.97%
5	Child rights	254	7.61%
6	Finances	177	5.30%
7	Rights of persons deprived of liberty	165	4.94%
8	Pension insurance	163	4.88%
9	Construction and infrastructure	160	4.79%
10	Rights of persons with disabilities and the elderly	150	4.49%
11	Energy and mining	130	3.89%
12	MoI –Police affairs	127	3.80%
13	MoI –Administrative affairs	90	2.70%
14	Gender equality	84	2.52%
15	Health	84	2.52%
16	Consumer protection	83	2.49%
17	National minority rights	64	1.92%
18	Social protection	56	1.68%
19	Education and science	48	1.44%
20	Economy	42	1.26%
21	Culture	32	0.96%
22	Environmental protection	32	0.96%
23	Defense	29	0.87%
24	Restitution	20	0.60%
25	Agriculture	20	0.60%
26	Transportation and transportation infrastructure	20	0.60%
27	Refugees and displaced persons	17	0.51%

⁹ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

28	Public administration	15	0.45%
29	Foreign affairs and diaspora	12	0.36%
30	Expropriation	11	0.33%
31	Youth and sport	11	0.33%
32	Natural disasters	7	0.21%
33	Serbian language and Cyrillic	5	0.15%
34	Security services	5	0.15%
35	Independent state authorities bodies	2	0.06%
36	Whistleblower protection	1	0.03%
	Total areas	3,338	100%

Table 6 – The outcome of the cases¹⁰ from 2018

Outcome	number	%
Inadmissible complaints	1,649	70.3%
Unfounded complaints	391	15.9%
Cases contained in the recommendations from the expedited oversight procedure	192	8.2%
Withdrawal of the complaint due to the standoff of the complainant	62	2.6%
Informed and advised complainant	40	1.7%
Cases contained in the recommendations from the oversight procedure	20	0.9%
Opinion	8	0.3%
Suspension due to the death of the complainant	1	0%
Emerged legislative initiative	1	0%
Total	2,348	100%

The greatest number of received complaints of the Protector of Citizens is unaccepted because the legally prescribed conditions or actions upon them are not fulfilled. Complaints are rejected because of incompetence, untimeliness, prematurity, anonymity and irregularity. A very important segment of the activities of the Protector of Citizens upon complaints is the provision of

¹⁰ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

advisory and legal assistance, which is provided by the Protector of Citizens even when the complaint is rejected due to incompetence or prematurity.

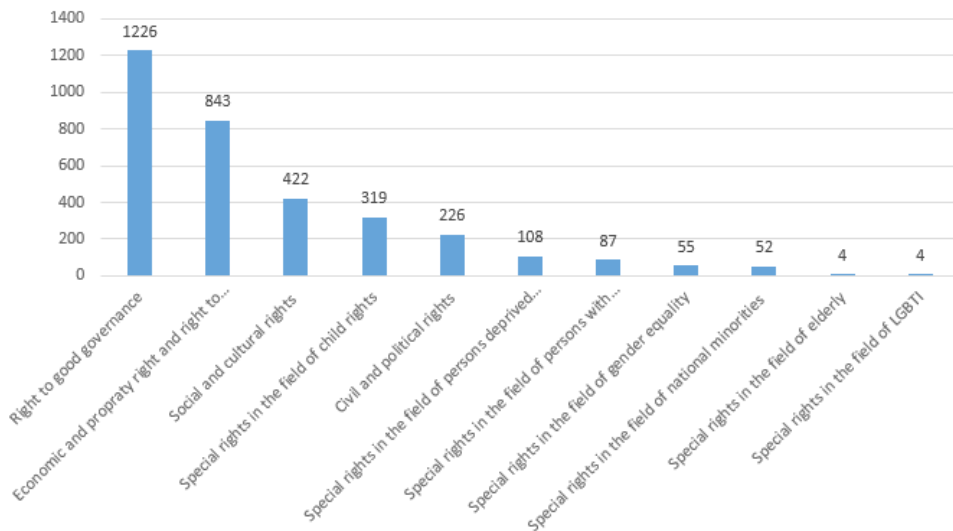
The advisory assistance was provided to citizens in **72%** of rejected cases in this area. The Protector of Citizens sends in these cases complainants to the competent authority or advises them on the available legal means.

Table 7 – Review of inadmissible complaints in 2018

Inadmissible complaints	Number
Incompetence	687
Unused legal remedies	559
Irregular complaint	314
Untimeliness	36
Anonymous complaint	33
Unauthorized applicant	20
Total	1,649

In 3,338 cases during 2018 it was indicated to totally 3,495 violations of rights, the majority of which are the violations of principles of good administration and violation of economic and property rights.

Chart 1 – Number and classification of complaints according to rights violated



The majority of complaints refer to the work of the executive authority representatives, especially ministries –**19.90%** of all complaints. Citizens mostly complained about the work of authorities and organizations in the field of pension and disability insurance, education, economy, employment, health protection, social protection, tax authorities, public enterprise and institutions, judiciary authorities and administrative authorities at local self-governments.

**Table 8 – Complaints to various authorities and organizations
on whose work citizens complain and their percentage
in relation to the total number of complaints**

Types of authorities and organizations	number	percentage
Ministries	1,275	19.90%
Other authorities and other	1,087	16.97%
Institutions and other public services	1,072	16.73%
Agencies, institutes, funds, administrative authorities	969	15.12%
Local self-government	815	12.72%
Judicial bodies	676	10.55%
Public enterprise	353	5.51%
The highest republic authorities (the Government, the National Assembly)	72	1.12%
Autonomous republic authorities and independent bodies	71	1.11%
Autonomous provinces	16	0.25%
National councils of national minorities	1	0.02%
Total all authorities	6,407	100%

3.2. RECOMMENDATIONS, OPINIONS AND LEGISLATIVE INITIATIVES OF THE PROTECTOR OF CITIZENS

RECOMMENDATIONS

During 2018, the Protector of Citizens issued in total **497** recommendations to administrative authorities, **305** of which were in the oversight procedure and **192** in the expedited oversight procedure.

Table 9 – Information on the actions of administrative bodies upon recommendations in 2018

	issued	due	accepted	% of accepted due recommendations
Recommendations issued in the oversight procedure	305	53	41	77%
Recommendations issued in the expedited oversight procedure	192	192	192	100%
Total accepted recommendations in oversight procedures	497	245	233	95%
Recommendations issued in preventive capacity (National Preventive Mechanism)	296	164	148	90%
Total	793	409	381	93.15%

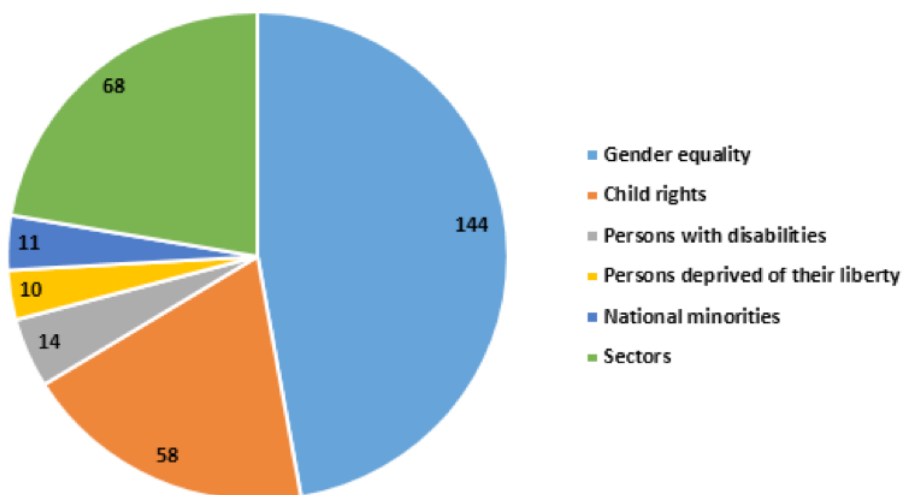
Note: Issued recommendations are all recommendations sent to the authorities during 2018. Due recommendations are all those recommendations whose deadline for the action given in the text of the recommendation expired in 2018, irrespective of when the recommendation was issued. The accepted recommendations are all those recommendations implemented by administrative authorities or they notified the Protector of Citizens that they accepted them.

Recommendations are recorded depending on the field of rights they refer to, i.e. whether they refer to the protection and improvement of the rights of vulnerable groups (persons deprived of their liberty, children, persons

with disabilities, members of national minorities, field of gender equality) or they refer to the observance of the principles and standards of good administration.

Among all issued recommendations, the majority – **144**, almost **50%** refer to the improvement of the observance of gender equality.

Chart 2 – Overview of recommendations by areas of law to which they refer in 2018



During 2018, in the field of rights of persons deprived of their liberty, by performing the activities of the National Preventive Mechanism, the Protector of Citizens issued to competent authorities 296 recommendations so the total number of recommendations is **793**, whereas the total number of recommendations in the field of rights of persons deprived of their liberty is 306.

The percentage overview of the implementation of the recommendations of the Protector of Citizens by areas is given in the following tables.

Table 10 – Overview of issued recommendations by departments in 2018

Area	Total number of recommendations	Due	Percentage	Within the deadline	Percentage
Gender equality	144	12	8.33%	132	91.67%
Child rights	58	6	10.34%	52	89.66%
Rights of persons with disabilities and the elderly	14	12	85.71%	2	14.29%
Rights of persons deprived of liberty	10	10	100%	0	0%
Rights of national minorities	11	0	0%	11	100%
Administrative sectors	68	19	27.94%	49	72.06%
Total	305	59	19.34%	246	80.66%

Table 11 – Outcome of actions upon due recommendations

Area	Total due	Accepted	Percentage of accepted	Unaccepted	Percentage of unaccepted
Gender equality	12	10	83.33%	2	16.67%
Child rights	6	4	66.67%	2	33.33%
Rights of persons with disabilities and the elderly	12	4	33.33%	8	66.67%
Rights of persons deprived of liberty	10	9	90%	1	10%
Rights of national minorities	0	0	0%	0	0%
Administrative sectors	19	17	89.47%	2	%
Total	59	44	74.58%	15	25.42%

The authorities acted in **44** recommendations within the deadline (**74.58%**). The number of unaccepted recommendations was **15**, while for **246** recommendations the deadline given to the authorities to act has not expired yet.

OPINIONS

In 2018, the Protector of Citizens issued 37 opinions to the public authorities as follows:

Twelve (12) opinions, using the legal provision that by giving advice and opinions on the issues within his competence he acts in a preventive manner in order to improve the work of administrative bodies, and to improve the protection of human freedom and rights:

- The opinion issued to the Ministry of Finance with regards to the amendment to the Law on taxes to usage, possession and carrying of goods;
- The opinion issued to the Republic Fund for Health Insurance with regards to the manner and process of inclusion into mandatory health insurance of persons who are not with mandatory insurance;
- The opinion with regards to mandatory children vaccination;
- The opinion issued to the Ministry of Finance –Tax Administration Headquarters with regards to the violation of rights of complainants on the basis of work;
- The opinion issued to the Ministry of Environmental Protection and Environmental Protection Agency with regards to the breakout of fire at the Vinča landfill;
- The opinion issued to Tax Administration with regards to peaceful resolution of labor relation disputes;
- The opinion issued to the Commissariat for Refugees and Migration and Ministry of Labor, Employment, Veteran and Social Affairs about the improvement of interests of women and children in a vulnerable position;
- The opinion with regards to different conduct toward citizens who have in their first name letter Đ on the occasions of passport issuing;
- The opinion with regards to the improvement of the accomplishment of the rights of students in the procedure of selection of the best student of the generation;
- The opinion issued to the Ministry of Health, Ministry of Labor, Employment, Veteran and Social Affairs with regards to the improvement of the status of female entrepreneurs in the field of health care;

- The opinion issued to the Government Appeals Board with regards to passing of decision upon complaints of civil servants to first-degree decisions which are passed to decide on their rights and duties;
- The opinion issued to the Ministry of Labor, Employment, Veteran and Social Affairs, Office for Kosovo and Metohija and Republic Pension and Disability Insurance Fund with regards to the exercise of rights from the pension and disability insurance of citizens who accomplished one part or complete years of service at Kosovo and Metohija;

Twenty-five (25) opinions, based on the legal provision to give his opinion to the Government and the National Assembly on the bills and other regulations in the process of preparation of regulations, if they regulate the issues of importance for the protection of citizen rights:

- The opinion about the Draft of the Law on Textbooks;
- The opinion about the Draft of the Law on amendments to the Law on Birth Registers;
- The opinion about the Proposal of the Decision on the amendments to the Strategy for the Public Administration Reform in the Republic of Serbia with the Action Plan for the implementation of the Strategy for the Public Administration Reform for the period from 2018 to 2020;
- The opinion about the Draft of the Law on Amendments to the Law on Discrimination Prohibition;
- The opinion about the Draft of the Law on Amendments to the Law on National Councils of National Minorities;
- The opinion about the Draft of the Law on Sanitary Oversight;
- The opinion about the Draft of the Law on Strikes;
- The opinion about the Proposal of the conclusion on the adoption of the Migration Profile of the Republic of Serbia for 2017;
- The opinion about the Draft of the Law on Amendments to the Law on the Prevention of Violence and Misconduct at Sports Events;
- The opinion about the Draft of the Law on Amendments to the Law on Psychoactive- Controlled Substances;
- The opinion about the Draft of the Law on Amendments to the Law on Detective Activities;
- The opinion about the Draft of the Law on Amendments to the Law on Private Security;

- The opinion about the Proposal of the Strategy for the Prevention and Control of HIV Infection and AIDS in the Republic of Serbia (2018-2025) with the Action Plan for the implementation of the Strategy for the Prevention and Control of HIV Infection and AIDS in the Republic of Serbia for the period 2018-2021;
- The opinion about the Draft of the Law on Salaries of Civil Servants and Employees;
- The opinion about the Draft of the Law on Amendments to the Law on Civil Servants;
- The opinion about the Draft to the Law on Subjects of General Use;
- The opinion about the Draft of the Law on Professions of Special Interest for the Republic of Serbia and Conditions for their Performance;
- The opinion about the Draft of the Law on Amendments to the Law on Social Protection;
- The opinion to the Draft of the Law on Amendments to the Law on Planning and Construction;
- The opinion about the Draft of the Law on Amendments to the Law on Facility Legalization;
- The opinion about the Draft of the Law on Amendments to the Law on Fundamentals of the Education System;
- The opinion about the Draft of the Law on Population Central Registrar;
- The opinion about the Draft of the Law on Amendments to the Law on Student Standard;
- The opinion about the Draft of the Law on the Amendment to the Law on Weapons and Munitions;
- The opinion about the Draft of the Law on Amendments to the Law on Asylum and Temporary Protection.

LEGISLATIVE INITIATIVES

The Protector of Citizens uses his right of the legislative initiative under two cumulative fulfilled conditions:

- Where it is necessary to amend the text of the law or bill in order to ensure the complete and undisturbed exercise of citizen rights guaranteed by the Constitution and other laws, regulations and general acts as well as ratified international contracts and generally accepted rules of the international law.

- When another authorized proposer, competent for a specific field (most frequently the Government), does not use their legislative initiative in the manner which provides observance, exercise, protection and improvement of the citizen rights, and there is a threat of damage from postponement.

Proposing amendments and laws at the National Assembly is the final step taken by the Protector of Citizens, as a rule, only when it is estimated that the authorized proposer of the “first order” shall not, based on the initiative, recommendation or another proposal of the Protector of Citizens take necessary steps to the benefit of citizen rights.

Therefore, the legislative activity of the Protector of Citizens most frequently is reflected in sending comprehensive initiatives to state administrative authorities –whose work is overseen by the Protector of Citizens –to prepare and propose legislative changes. Only exceptionally, the Protector of Citizens addresses the National Assembly directly with the legislative proposals.

Table 12 – Types of issued legislative initiatives of the Protector of Citizens in 2018

Type of legislative initiative	number	Percentage
Referral of amendment to the competent committee of the National Assembly as the proposer (<i>Article 157, Paragraph 6 of the Rules of Procedure of the National Assembly</i>)	0	0
Submission of amendments to bills to the National Assembly (<i>Article 161 and 162 for the Rules of Procedure of the National Assembly</i>)	0	0
Proposing of the laws to the National Assembly (<i>Article 150 Paragraph 2 of the Rules of Procedure of the National Assembly</i>)	0	0
Initiatives for passing or amending laws and other regulations submitted to the Government, the National Assembly or line ministries	5	100%
Motion to the Constitutional Court to assess constitutionality and lawfulness	0	0
Total	5	100%

Table 13 – Outcome of actions upon the legislative initiatives in 2018

	number	Percentage
Accepted legislative initiatives	0	0%
Unaccepted legislative initiatives	1	20%
Pending initiatives	4	80%
Total	5	100%

4. EXERCISE OF THE RIGHTS OF PARTICULARLY VULNERABLE GROUPS

4.1. CHILD RIGHTS

STATISTICS

In the field of child rights, in 2018 the Protector of Citizens investigated 254 cases, 228 of which were complaints from citizens and 26 own initiative investigations. The cases in this field account for 7.61 percent of the total number of investigated cases. The Protector of Citizens issued 58 recommendations to administrative authorities, 6 of which were due for implementation during the reporting period¹¹. Administrative authorities acted upon 4 of these recommendations, which makes 66.67 percent of accepted recommendations.

Among 254 cases investigated in 2018 the Protector of Citizens closed 166 cases.

Table 14 –Child rights: the overview of cases investigated in 2018

Number of received cases in 2018	254
Number of closed cases in 2018	166
Number of ongoing cases in 2018	88

Table 15 – Overview of issued recommendations from the field of child rights in 2018

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations
58	6	4

¹¹ The Protector of Citizens observes received recommendations as recommendations with expired deadline for actions during 2018 given in the text of recommendations.

In 2018 the work *was also terminated on 138 cases from previous years*. The ways of closing cases from 2018 are presented in the following table.

Table 16 – Child rights: the outcome of closed cases in 2018

	number	percentage
Inadmissible complaints –Unused legal remedies	82	49.40%
Inadmissible complaints –Incompetence	25	15.06%
Unfounded complaints	16	9.64%
Inadmissible complaints –Formally deficient complaint	13	7.83%
Inadmissible complaints –Unauthorized applicant	9	5.42%
Informed and advised complainant	6	3.61%
Cases closed by recommendations from oversight procedure	5	3.01%
Inadmissible complaints – Anonymous complaint	4	2.41%
Inadmissible complaints – Competence of another ombudsman	2	1.20%
Cases closed by recommendations from the expedited oversight procedure	2	1.20%
Opinion	2	1.20%
Total	166	100 %

The greatest number of received complaints the Protector of Citizens rejects because the legally prescribed conditions for acting upon them are not fulfilled. Complaints are rejected because of incompetence, untimeliness, prematurity, anonymity and formal deficiency.

A very significant segment of activities performed by the Protector of Citizens upon complaints is the provision of advisory-legal assistance, which is provided by the Protector of Citizens even when the complaint is rejected because of incompetence or prematurity. This type of advisory assistance was provided to citizens in **79.26** percent of rejected cases in this field. The Protector of Citizens in these cases sends the complainant to the competent body or advises him about available legal means.

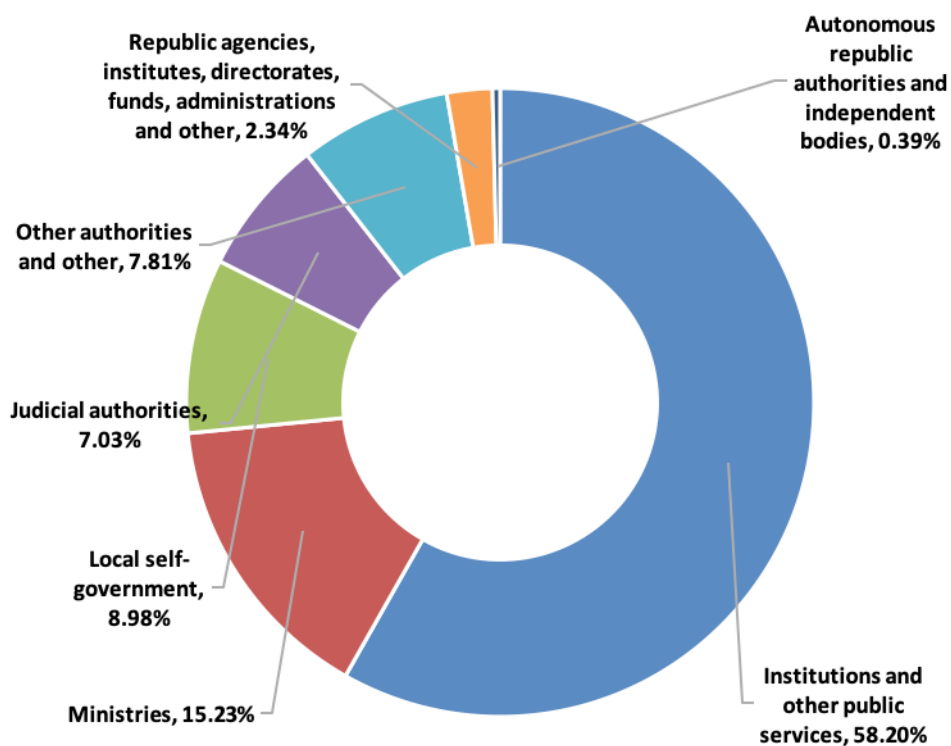
In the field of child rights in 254 cases it was indicated to 385 violations of rights, whose greatest part refers to special rights in the field of child rights (319 violations of rights), which is presented in percentages in Table 17.

Note: Presented in Chart 1 – Classification of complaints according to rights violated at page 25

Table 17 – Special rights in the field of child rights and their percentage

Type of violated right	percentage	Type of violated right	Percentage
Right to respect of the best interests of a child	48.59%	Child right to live with parents	0.94%
Right to protection against violence, abuse and negligence	15.67%	Right to protection from parental child abduction	0.63%
Child's right to maintain personal relations with the parent with whom (s)he does not live	10.97%	Child right to psychological recovery	0.63%
Right to proper development of a child	5.64%	Prohibition of child discrimination because of parents	0.63%
Child's right to an adequate standard of living	4.39%	Child right to protection against sexual exploitation	0.63%
Rights of a child with developmental disorders to quality life and special protection by the state	2.82%	Child right to maintain personal relation with biological family and close persons	0.31%
Assistance to family in the exercise of the child right to an adequate standard of living	2.19%	Child right to personal identity	0.31%
Parenting assistance to parents	1.88%	Rights of a refugee child	0.31%
Right to check the arrangements for the care of a child under government oversight	1.25%	Child right in conflict with the law	0.31%
Child right to expression of own opinion	0.94%	Child right to a healthy environment	0.31%

Chart 3 – Categories of authorities and organizations most frequently complained about by the citizens in the field of the child rights



ACTIVITIES OF THE PROTECTOR OF CITIZENS

In 2018 the Protector of Citizens prepared the Special Report on the condition of child rights in the Republic of Serbia¹² which represents the review of the condition in this field and refers to accomplished progress and the shortcomings, challenges and obstacles for full exercise of child rights. The report especially indicates to the need for improvement of the protection of children from violence, apparent lack of services for children and professionals, who provide services of support to children, widespread poverty of children, need for improvement of normative framework in different areas and insufficient multi-department cooperation. This report was represented to the public on 20th November, 2018 and contains both recommendations of the Protector of Citizens and recommendations of children and youth.

¹²Available at: <https://ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/5949-p-s-b-n-izvsh-z-sh-i-ni-gr-d-n-s-nju-pr-v-d>.

In the reporting period the Protector of Citizens recognizes that received complaints in majority of cases referred to the keeping of personal relations of children and the parent with whom the child does not live, as well as education. Almost a quarter of the total number of received complaints in the field of child rights refer to the violence against children.

Since the Protector of Citizens in the Special Report on the condition of the child rights analyzed in details the accomplishment and protection of child rights, in the part of this report key systemic challenges in this area are emphasized.

Amendments to the Law on Budget System¹³ led to the limitations in the employment at public services remaining on force while many of them do not even have the appropriate number of employees for the provision of services for children. The Protector of Citizens indicated on several occasions to detrimental consequences of this limitation for children who do not have sufficiently available services due to savings measures and by the end of November 2018, he issued the recommendations to competent ministries with the aim of the provision of an adequate number of employees at social protection.

The Protector of Citizens recognizes that the prevalence of violence towards children requires intensification of the efforts of public authorities. By determining numerous individual and systemic omissions in the procedure of protection of children from violence and after the examinations of 30 cases of domestic and partner violence and violence against children, the Protector of Citizens issued numerous recommendations to public authorities.¹⁴

The existence of child and early marriages and sexual abuse of children are not followed by sufficient normative and practical measures intended for the suppression and prevention, and physical punishment of children is still a widespread educational method. Children in poverty, children with developmental delays and Roma children are still marginalized and very frequently socially excluded, whereas adequate services and forms of support and assistance are not developed or not provided.¹⁵ More detailed information on problems which children face in the exercise of their rights may be seen in the Special Report of the Protector of Citizens on the condition of child rights.

¹³ "Official Gazette of RS", no. 95/18.

¹⁴ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5985-u-vrd-ni-pr-pus-i-u-r-du-n-dl-znih-u-bl-s-i-z-sh-i-zr-v-u-sluc-vi-p-r-dicn-g-i-p-r-n-rs-g-n-silj>.

¹⁵ In one case, the custody body received recommendations after the Protector of Citizens determined that the custody body failed to take and provide measures and services of support for children and their families who live in severe poverty. Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6019-c-n-r-z-s-ci-lni-r-d-sh-b-c-d-d-n-s-i-pri-ni-r-p-ci-i-p-drsh-d-ci-i-njih-v-p-r-dici-zivi-u-sh-sir-sh-vu>.

Even apart from the apparent progress, education for children who need additional support requires more intensive activities, especially at the local level. The Special Report of the Protector of Citizens “Inclusive Education –Services of Additional Support for Children and Students in Education”¹⁶ which was presented on 14th November, 2018, presents the condition of inclusive education in the Republic of Serbia. The Special Reports shows that there still are problems and shortcomings, primarily in the field of insufficiently developed services of additional support at the local level, especially for the children who live in poverty, Roma children, children pedestrians and gifted children. Furthermore, services intended for children with developmental delays are established but this process should be far more effective.



Picture 1 – Presentation of the Special Report “Inclusive Education –Services of Additional Support for Children and Students in Education” in Belgrade

The Government prepared the Bill on the procedure of determination of facts on the status of newborn children who are doubted to have been missing from maternity hospitals, which is still in progress. The Protector of Citizens continually, even since the presentation of the Special Report on

¹⁶ Available at: <https://ombudsman.rs/index.php/izvestaji/posebni-izvestaji/5927-in-luzivn-br-z-v-nj-uslug-d-d-n-p-drsh-d-ci-i-uc-nici-u-br-z-v-nju>.

“missing babies” in 2010 has emphasized the importance of passing of this law and establishment of the mechanism for the investigation of cases of “missing babies”, which was pointed out by the European Court for Human Rights in the verdict *Zorica Jovanovic versus Serbia*.¹⁷

In the week dedicated to human rights, the meeting of the Panel of Young Advisors of the Protector of Citizens was held and during this meeting the participation of the institution at the “Global Child” project was presented. Its aim was to develop a comprehensive platform for the monitoring of child rights. In the direct conversation with children the issues relevant for their growing up, development and education were emphasized and the children gave their assessments of the indicators and measures for the exercise of these rights.



**Picture 2 – Meeting of the Panel of Young Advisors
of the Protector of Citizens**

Deputy Protector of Citizens for child rights participated in the work of the Bureau of the European Network of Ombudsmen for Children. With-in activities of this Network body, she participated at numerous meetings with representatives of institutions of the European Union (European Parliament, intergroup of the European Parliament for child rights, European

¹⁷ Available at: <http://www.zastupnik.gov.rs/cr/articles/presude/u-odnosu-na-rs/presuda-zorica-jovanovic-protiv-srbije-predstavka-br.-21794-08.html>.

Commission) and Council of Europe. The Protector of Citizens was the bearer of the activities at the execution of the documents of the European Network of Ombudsmen for Children on education of children on the move and Head of the Working Group for education of children on the move. Draft of the document executed by the Protector of Citizens was adopted unanimously at the session of the General Assembly of the European Network of Ombudsmen for Children in Paris in September 2018.¹⁸

PROPOSALS FOR THE IMPROVEMENT OF CHILD'S POSITION IN RELATION TO ADMINISTRATIVE AUTHORITIES

Even though pursuant to Article 17 Paragraph 3 of the Law on the Protector of Citizens, the Protector of Citizens is not authorized to oversee the work of the National Assembly and the Government, the Protector of Citizens believes that it would be useful that the stated bodies review his proposals.

- **The Government** should prepare and the National Assembly should adopt: amendments to the Criminal Code which will provide that the Law on Special Measures for the Prevention of Execution of Criminal Acts against Sexual Freedom towards Minors is applied for all crimes which contains sexual activities involving children; amendments to the Law on the Prevention of Domestic Violence which should prescribe special provisions on actions in case of violence towards children, including the provisions which prescribe that the child is a victim of violence every time when they are exposed to domestic violence against a member of family or close person, and also a unique record on cases of violence against children should be established; amendments to the Law on Public Order and Safety which should provide that children in street situation are not treated as executors of crimes but as victims of violence, abuse and negligence; amendments to existing regulations or passing of new ones which will provide new rights and measures of support for parents of gravely ill children and children with developmental delays and disabilities who need constant care and assistance, in accordance with proposals and recommendations of the Protector of Citizens and that the right to the salary compensation due to absence for the special child care should not be conditioned by the fact that the child failed to exercise the right to the allowance for the assistance and care of another person;
- **The Government** should plan and take measures of economic policy without endangering the rights of children in the manner which will not re-

¹⁸ Document available at: <http://enoc.eu/wp-content/uploads/2018/09/ENOC-2018-Statement-on-Children-on-the-Move-Education-FV-Serbian-cyr.pdf>.

duce reached standards in the exercise of child rights and change passed measures of economic savings and regulations which limited employment in public institutions; pass new National Plan of actions for children and National Strategy for prevention and protection of children from violence, pursuant to recommendations of the Protector of Citizens and UN Committee for child rights;

- **The Ministry of Health, Ministry of Labor, Employment, Veteran and Social Affairs and Ministry of Education, Science and Technological Development** should, in cooperation with other bodies, provide the number of health care employees, professional employees and professional associates at schools which are adequate for the needs of children;
- **The Ministry of Health** should, in cooperation with other bodies, provide the availability of developmental counseling clinics and clinics for adolescents for each child and young persons, with the aim of the accomplishment of the efficient preventive health protection of children;
- **The Ministry of Health, Ministry of Education, Science and Technological Development, Ministry of Labor, Employment, Veteran and Social Affairs, Ministry of Culture and the Media, and Ministry of Justice** should, in cooperation with other authorities take joint measures intended for consistent adherence to the obligation of vaccination of children and increase of the volume of population included in the mandatory vaccination;
- **The Ministry of Health** should take measures of regular, continual and complete notification of citizens pursuant to the opinion of the Protector of Citizens with regards to mandatory vaccination of children;¹⁹
- **The Ministry of Justice, High Judicial Council and State Prosecutors Council, Ministry of Interior, Ministry of Labor, Employment, Veteran and Social Affairs** should intensify efforts to establish efficient system of the execution of court decisions referring to children and adjusted for children;
- **The Ministry of Justice, Ministry of Interior, Ministry of Labor, Employment, Veteran and Social Affairs, Ministry of Health, Ministry of Education, Science and Technological Development, High Judicial Council and State Prosecutors Council** should establish adequate and coordinated mechanisms for identification, recording and protection of children victims, including systematic and timely exchange of information among competent officials so as to ensure that children victims of abuse, ex-

¹⁹ Opinion available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5742-n-dl-zni-d-spr-v-du-ivn-s-i-u-cilju-p-diz-nj-buhv-d-c-b-v-zn-v-cin-ci-i-s-rucn-g-inf-r-is-nj-gr-d-n>.

ploitation and human trafficking obtain specialized care, support and adequate accommodation and shelter, as well as services and measures of rehabilitation and protection of secondary traumatization and victimization and their reintegration into the community, in accordance with the recommendations of the UN Committee for child rights, as well as ratified international documents;

- **The Ministry of Justice, Ministry of Interior, Ministry of Labor, Employment, Veteran and Social Affairs, Ministry of Health, Ministry of Education, Science and Technological Development, High Judicial Council and State Prosecutors Council** should establish adequate and coordinated mechanisms for the prevention and suppression of child and early marriages, detrimental practices, child labor and life and work in the street, as well as mechanisms for the protection of children in these cases;
- **The Ministry of Labor, Employment, Veteran and Social Affairs, Ministry of Health, Ministry of Justice and Ministry of Education, Science and Technological Development** should establish inter-department cooperation with the aim of development of unique mechanisms and procedures for the collection of quality and reliable information, classified according to, inter alia, age, sex, disability, geographic position, ethnic and national origin, socio-economic status, as well as the system for the exchange of these information, with the aim of tracking of the effects of the implementation of policies, programs and measures for the improvement of the status of Roma children, child victims, children in street situation and with developmental delays, as well as children with disease;
- **The Ministry of Labor, Employment, Veteran and Social Affairs and Ministry of Education, Science and Technological Development** should intensify activities on deinstitutionalization and transformation of residential institutions for children, reduction of the number of children accommodated here and reduction of the number of children with developmental delays and Roma children at schools, classes and groups for the education of children with developmental delays and disabilities;
- **The Ministry of Labor, Employment, Veteran and Social Affairs** should prevent omissions during decision making by centers for social work on the separation of children and their families and that the separation is implemented only exclusively for legally stipulated reasons;
- **The Ministry of Labor, Employment, Veteran and Social Affairs, Republic Institute for social protection and bodies of territorial autonomy and local self-government units** should increase the support to children and youth who abandon institutional and alternative care, services and programs for their independence and interaction in the society through

the provision of the access to adequate residence, employment, legal, health and social services as well as the opportunities of further education, professional improvement and other training;

- **The Ministry of Education, Science and Technological Development** should prescribe and regulate via amendments to educational laws the child right to the participation in educational institutions and obligations of institutions and authorities to provide the participation of children and students at all levels;
- **The Ministry of Education, Science and Technological Development, Ministry of Labor, Employment, Veteran and Social Affairs and bodies of territorial autonomy and local self-government units** should intensify activities and increase investments with the aim of the establishment of services of inclusion into the community and regular system of education for children with developmental delay and disability, Roma children, poor children or children in street situation;
- **The Ministry of Education, Science and Technological Development and educational inspections** should control to a significantly greater extent and more effectively the activities of the institutions of education in cases of violence against students, especially with the aim of determination of personal responsibility of employees and heads of institutions for the violation of the prohibition of violence, abuse and negligence and violation of work obligation for omissions in the implementation of the measure of protection of a child from violence, abuse and negligence;
- **The Ministry of Education, Science and Technological Development** should provide with amendments to the Law on Fundamentals of the Educational System that costs of preschool education are borne or predominantly borne by local self-government units, autonomous province and Republic, so that this educational level is made available to children;
- **The Ministry of Interior, Ministry of Labor, Employment, Veteran and Social Affairs, The Ministry of Education, Science and Technological Development and Ministry of Health** should take comprehensive measures of prevention and suppression of life and work of children in streets and the provision of the access for these children to available services for the accomplishment of rights, in accordance with the recommendations of the Protector of Citizens and recommendations of UN Committee for child rights;
- **The Ministry of Interior, Ministry of Justice, High Judicial Council and State Prosecutors Council and Ministry of Labor, Employment, Veteran and Social Affairs** should provide that the existing possibilities of the pro-

tection of children from secondary traumatization are used to a greater extent and that new possibilities are developed;

- **The Ministry of Interior, Ministry of Labor, Employment, Veteran and Social Affairs, Ministry of Justice, High Judicial Council and State Prosecutors Council** should take measures with the aim of efficient and fast conducting of proceedings and making of decisions which temporarily and permanently regulate the family-legal status of children and provide the protection of child rights, as well as with the aim of efficient and quick execution of these decisions;
- **The Ministry of Interior, Ministry of Labor, Employment, Veteran and Social Affairs, Ministry of Health, Ministry of Finance and Ministry of Justice** should act upon recommendations of the Protector of Citizens²⁰ pertaining to additional employment, training on employees, and passing of guidelines and instructions on actions in cases of domestic, partner and violence against children and work oversight of competent bodies and institutions;
- **The Ministry of Youth and Sports** should pass the Special Protocol for the protection of children from abuse and negligence in sports.

²⁰ Act no. 13-1-1657/2018, available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5985-u-vrd-ni-pr-pus-i-u-r-du-n-dl-znih-u-bl-s-i-z-sh-i-zr-v-u-sluc-vi-p-r-dicn-g-i-p-r-n-rs-g-n-silj>.

4.2. GENDER EQUALITY AND RIGHTS OF LGBTI PERSONS

STATISTICS

In the field of gender equality, in 2018, the Protector of citizens investigated 84 cases²¹, 74 of which were complaints from citizens and 10 own initiative investigations. The cases in this field account for 2.52 percent of the total number of investigated cases. The Protector of Citizens issued 144 recommendations to administrative authorities, 12 of which were due for implementation in the reporting period.²² Administrative authorities acted upon 10 recommendations, which makes 83.33 percent of accepted recommendations.

Among 84 cases investigated in 2018, the Protector of Citizens closed 65 cases.

Table 18 – Gender equality: the overview of cases investigated in 2018

Number of received cases in 2018	84
Number of closed cases in 2018	65
Number of ongoing cases in 2018	19

Table 19 – Overview of issued recommendations from the field of gender equality

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations
144	12	10

In 2018 *the work was closed on 90 cases from previous years*. The ways of closing cases from 2018 are presented in the following table.

²¹ The case refers to the cases emerged from the actions upon complaints and own initiatives in individual area/department

²² The Protector of Citizens observes received recommendations as recommendations with expired deadline for actions during 2018 given in the text of recommendations.

**Table 20 – Gender equality:
the outcome of acting upon closed cases in 2018**

	number	percentage
Inadmissible complaints –Unused legal remedies	19	29.23%
Unfounded complaints	13	20.00%
Cases closed by recommendations from oversight procedure	10	15.38%
Inadmissible complaints –Incompetence	9	13.85%
Informed and advised complainant	6	9.23%
Cases closed by recommendations from the expedited oversight procedure	4	6.15%
Inadmissible complaints –Competence of the Commissioner for the protection of gender equality	2	3.08%
Inadmissible complaints – Unauthorized applicant	1	1.54%
Withdrawal of complainant	1	1.54%
Total	65	100 %

The greatest number of received complaints by the Protector of Citizens is rejected because the legally prescribed conditions for actions upon them are not fulfilled. Complaints are rejected because of incompetence, untimeliness, prematurity, anonymity and formal deficiency. A very important segment of actions of the Protector of Citizens upon complaints is the provision of advisory-legal assistance, which is provided by the Protector of Citizens even when the complaint is rejected due to incompetence or prematurity. This type of advisory assistance was provided to citizens in 90.32 percent of rejected cases in this field. In these cases the Protector of Citizens instructs the complainant to address the competent body or advises them on available legal means.

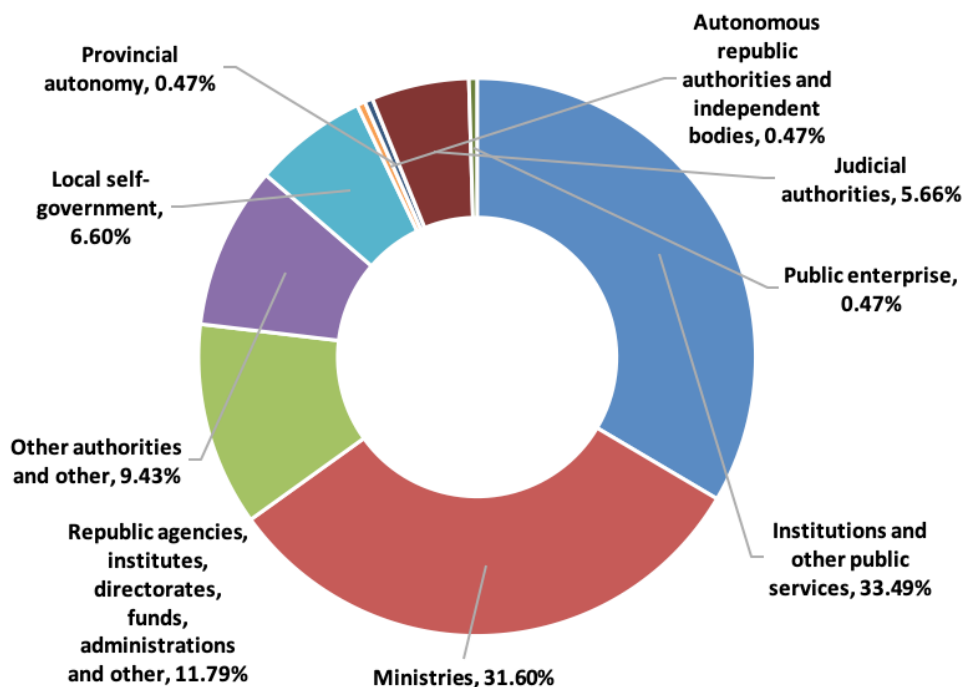
In the field of gender equality, in 84 cases 121 violations of rights were recognized and their good part refers to special rights in the field of gender equality (55 violations of rights), which is presented in percentage in Table 21.

Table 21 – Special rights in the field of gender equality and their percentage

Note: Presented in Chart 1 – Classification of complaints according to rights violated at page 25

Type of violated right	percentage
Right to salary compensation during pregnancy leave, childbirth leave and childcare leave	43.64%
Domestic violence	27.27%
Rights of pregnant women and nursing mothers	27.27%
In vitro fertilization	1.82%
Total	100%

Chart 4 – Categories of authorities and organizations most frequently complained about by the citizens in the field of gender equality



ACTIVITIES OF THE PROTECTOR OF CITIZENS

During 2018, in this field it was most frequently indicated to the violation of the right to the salary compensation during the absence due to pregnancy leave, childbirth leave and child care leave, rights of pregnant women and nursing mothers as well as partner and domestic violence.

The Protector of Citizens executed the Special report "Presence of Women and Decision-Making positions and Activities of Local Mechanisms for Gender Equality in Local Self-Government Units in Serbia"²³ which was presented during November 2018 in Belgrade, Šabac, Kragujevac, Niš and Novi Sad. The report indicates to the insufficient presence of women, especially of women from vulnerable groups at decision-making positions at local self-government units as well as to the lack of functionality of the mechanism for gender equality in local self-governments. As the cause of such condition, the Protector of Citizens identifies the lack of a comprehensive Law on Gender Equality, and also the shortcomings of the existing Law on Gender Equality. This body indicated on several occasions to the necessity of the adoption of the Law on Gender Equality and the concern about the failure of its passing was also expressed by the UN Committee for Human Rights.²⁴

With the support of the OSCE Mission in Serbia, the Protector of Citizens has conducted since September 2018 the survey on the enforcement of certain provisions of the Law on the Prevention of Domestic Violence²⁵, which, to a certain extent, resulted in the respect of recommendations, opinions, proposals and initiatives, which were issued by the Protector of Citizens during previous years.²⁶ The survey primarily refers to the activities of the City Center for Social Work Belgrade within the protection and support to victims of domestic violence.

The Protector of Citizens in the reporting period issued recommendations to public authorities after confirmation of many individual and systemic omissions in 30 examined cases of femicide, violence in families and partner relationships and abuse and negligence of children.²⁷ Among other things, the Protector of Citizens determined that an adequate number of

²³ Available at: <https://www.ombudsman.rs/attachments/article/5902/Zastitnik%20gradjana%20engleski.pdf>.

²⁴ Concluding remarks on the third periodical report of Serbia on the enforcement of the International Pact on Citizen and Political rights, available at: http://www.ljudskaprava.gov.rs/sites/default/files/dokument_file/zakljucna_zapazanja_komitetaccpr_c_srb_co_3_27019_e_srp.pdf.

²⁵ "Official Gazette of RS", no. 94/16.

²⁶ Recommendations available at: <http://www.ombudsman.rs/index.php/2012-02-07-14-03-33/4869-z-sh-i-ni-gr-d-n-pr-p-zn-i-n-silj-u-p-r-dici>. Special Report available at: <http://www.zastitnik.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/3710-2015-02-24-13-35-38>.

²⁷ Recommendations available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5985-u-vrd-ni-pr-pus-i-u-r-du-n-dl-znih-u-bl-s-i-z-sh-i-zr-v-u-sluc-vi-p-r-dicn-g-i-p-r-n-rs-g-n-silj>.

professionals at centers for social work was not provided; that professionals did not attend the training on the enforcement of the Law on the Prevention of Domestic Violence and that the number of trainings organized for police officials is not proportionate to the number of police officials who act upon violence charges; that even apart from the accomplished progress, there are still no cooperation and timely exchange of information among competent bodies; that the cases when competent bodies act improperly, untimely and ineffectively or do not act at all are still very frequent; as well as that strong influence of personal attitudes to the assessments and decisions on actions is still present. The Protector of Citizens also indicated to the shortcomings in the system of protection of both women and children victims of the violence and prevention of violence in the reports for international bodies.²⁸

National Employment Action Plan for 2018²⁹ stipulates programs and measures of active policy of employment, which, inter alia, in conformity with the recommendations of the Protector of Citizens from the Special Report on the Enforcement of the General and Special Protocols for the protection of women from violence, prescribe subsidies for the employment of unemployed persons from the category of the less employable, including the victims of domestic violence, who are also in 2018 with the status of less employable persons. They will, in accordance with the assessment of employability, have the advantage in the inclusion in the measures of activities of the employment policy.

The adoption of the Law on the Financial Support to Families with Children³⁰ in 2017 resulted in a significant step forward in the exercise of the rights on the basis of pregnancy, birth and care of a child, which meant action in conformity with the recommendation of the Protector of Citizens from the Regular Annual Report for 2016³¹ and opinion of the Protector of Citizens.³² Nevertheless, also during 2018 numerous problems in this area were also noticed, since the Law still contains shortcomings which prevent the complete exercise of these rights. Employed women, female entrepreneurs, female agricultural workers and women who perform temporary and occasional jobs are not in the equal position with regards to the exercise of rights to the salary compensation, which was paid attention to by the Protector of Citizens even in the period of the preparation of the Law.³³ The Protector of Citizens at that point especially indicated to the

²⁸ Reports of the Protector of Citizens for the UN Committee for the Elimination of Woman Discrimination, GREVIO Committee, as well as for the Report of the European Commission on Progress.

²⁹ Available at: <https://www.srbija.gov.rs/dokument/45678/strategije.php>.

³⁰ "Official Gazette of RS", no. 113/17.

³¹ Available at: <http://www.ombudsman.rs/index.php/izvestaji/godisnji-izvestaji>.

³² Opinion of the Protector of Citizens no. 183-25/2017 ref. no. 37867 dated 13th October, 2017.

³³ Opinion of the Protector of Citizens no. 183-25/2017 ref. no. 37867 dated 13th October, 2017.

illegality, irregularity towards children and families and special unfairness and multiple damage of the provision which prescribes that the right to the salary compensation during the absence from work due to special child care cannot be exercised for the children for whom the right to the allowance for assistance and care of another person has already been exercised.³⁴

Even though as early as in 2013 the Protector of Citizens issued the recommendations because of the omissions in the activities of public authorities in the situations when the employer failed to fulfill the legal obligation of calculation and payment of the salary compensation for nursing mothers, he continued to receive complaints of female citizens which indicate to similar problems. By confirming that there are systemic shortcomings and individual omissions in the work of competent bodies, the Protector of Citizens issued again recommendations to competent bodies.³⁵

The Protector of Citizens confirmed that due to shortcomings of the normative framework, pregnant women and nursing mothers –female entrepreneurs in health care cannot completely exercise the right to salary compensation due to illness or complications with regards to pregnancy as well as during the child birth leave and child care leave. Therefore the Protector of Citizens issued to the competent authorities the opinion³⁶ about the necessity of regulation by law and legally based regulations the status of female entrepreneurs in the field of health care.

During 2018 the Government passed the Strategy of Birth Incitement³⁷, which prescribes the goals, measures and activities in accordance with the recommendations of the Protector of Citizens from regular annual reports and “Special Report of the Protector of Citizens on Reproductive Health of Roma Women with Recommendations”. In 2018 the Strategy of the Public Health of the Republic of Serbia³⁸ was passed as well and it also prescribes the enforcement and tracking of the National Program of preservation and improvement of sexual and reproductive health of the citizens of the Republic of Serbia, as well as the support to the birth incitement. The Ministry of Education, Science and Technological Development, the Ministry of Health, the City of Belgrade, the City of Niš, and the Municipality of Novi Bečej initiated the activities upon the recommendations of the Protector of Citizens from the Special Report of the Protector of Citizens on Reproductive Health of Roma Women with

³⁴ Opinion of the Protector of Citizens no. 183-25/2017 ref. no. 37867 dated 13th October, 2017.

³⁵ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5977-n-dl-zni-rg-ni-d-b-zb-d-ispl-u-n-n-d-z-r-d-pri-uzi-lj-sh-uv-s-v-ru-u-pr-v-n-n-n-du-z-r-d-zb-g-rudnic-g-b-l-v-nj-i-dsus-v-s-r-d-zb-g-p-r-d-n-g-d-i-p-s-bn-n-g-d>.

³⁶ Available at: https://www.rodnaravnopravnost.rs/index.php?option=com_content&view=featured&Itemid=2.

³⁷ Available at: <https://www.srbija.gov.rs/dokument/45678/strategije.php>.

³⁸ Available at: <https://www.srbija.gov.rs/dokument/45678/strategije.php>.

Recommendations³⁹ which were issued with the aim of the improvement of prevention and protection of sexual and reproductive health of Roma women and girls. The Protector of Citizens especially finds that it is necessary to permanently regulate the status of female health care mediators.

In the Action Plan for period 2018-2019 for the implementation of the Development Strategy of the Ministry of Interior for period 2018-2023⁴⁰ in accordance with the recommendations of the Protector of Citizens, the activities for the strengthening of the suppression of violence in family and partner relations were prescribed. Nevertheless, even apart from the recommendations of the Protector of Citizens, specific measures intended for the improvement of the status of LGBTI persons and other vulnerable social groups often exposed to threats, violence, hate speech and hate crimes were not prescribed.

The Protector of Citizens observes that the laws which regulates same-sex unions and legal consequences of the adjustment (change) of sex and gender identity are still not adopted, so LGBTI persons are frequently victims of discrimination, prejudice and stereotypes. The Law on Textbooks contains one provision on equal opportunities and discrimination prohibition, but despite the opinion of the Protector of Citizens, it does not contain also the explicit prohibition of the content which is used for the performance of discrimination of groups and persons, incitement of the creation of prejudice and stereotypes.

The Law on Free Legal Assistance⁴¹ was also adopted in accordance with recommendations of the Protector of Citizens issued on multiple occasions and persons in vulnerable position, inter alia, children, victims of violence in family and partner relations and human trafficking, persons with disabilities were prescribed as categories of beneficiaries, but among them there were no LGBTI persons, who face frequent violations of their rights in different fields of life, which is continually indicated to by the Protector of Citizens.

In accordance with the opinion of the Protector of Citizens about the Draft of the Law on Foreigners⁴², in the Law⁴³ as especially endangered persons there are victims of violence in family and partner relations, which can be caused by sex, gender, sexual orientation and gender identity, persons who face in their mother country the danger of torture, inhuman or degrading

³⁹ Available at: <http://ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/5536-p-s-b-n-izv-sh-z-sh-i-ni-gr-d-n-r-pr-du-ivn-zdr-vlju-r-inj-s-pr-p-ru>

⁴⁰ Available at: <https://www.srbija.gov.rs/dokument/45678/strategije.php>.

⁴¹ "Official Gazette of RS", no. 87/18.

⁴² Opinion available at: <https://www.ombudsman.rs/attachments/article/5350/Misljenje%20ZG%20i%20NPM.PDF>.

⁴³ "Official Gazette of RS", no. 24/18.

treatment or punishment due to their sexual orientation or gender identity.⁴⁴ In accordance with the stated opinion, it is prohibited to forcibly remove the foreigner to the territory where there is a threat of their exile, inter alia, due to their sex, sexual orientation or gender identity, religion, nationality, citizenship, affiliation to a certain social group or political opinion.⁴⁵



Picture 3 – Inter-sex flag on the Protector of Citizens’s headquarters in support of the International day of the awareness

Traditionally, also in 2018, the Protector of Citizens marked the International Day of the fight against homophobia, biphobia and transphobia by placing the rainbow flag and flag of trans-movement. Furthermore, female representatives of the Secretariat of the Protector of Citizens supported the right of LGBTI persons to free gathering by participation at the Pride. For the first time, the International day of the awareness was celebrated as the support for inter-sex persons, and the organization SPECTRUM XY held a lecture for the female representatives of the Protector of Citizens on the status of inter-sex persons and the problems these persons face.

⁴⁴ Article 3 Item 24 of the Law on Foreigners, "Official Gazette of RS", no. 24/18.

⁴⁵ Article 83 of the Law on Foreigners, "Official Gazette of RS", no. 24/18.

PROPOSALS FOR THE PROMOTION OF GENDER EQUALITY AND IMPROVEMENT OF THE STATUS OF LGBTI PERSONS IN RELATION TO ADMINISTRATIVE AUTHORITIES

Even though pursuant to Article 17 Paragraph 3 of the Law on the Protector of Citizens, the Protector of Citizens is not authorized to oversee the work of the National Assembly and the Government, the Protector of Citizens believes that it would be useful that the stated bodies review his proposals.

- **The Government** should adopt the National Strategy for the prevention and suppression of violence in families and partner relations and the accompanying Action Plan; to propose and the National Assembly to adopt the Law on Gender equality, the law which regulates same-sex unions and the law which regulates legal consequences of adjustment (change) of sex and gender identity; to harmonize the Criminal Code with the Convention of the Council of Europe on the prevention and fight against violence against women and domestic violence and propose the amendments to the Criminal Code which will, in all criminal actions whose goal is the punishment and prevention of racism and intolerance, incriminate the activity of the execution of criminal actions also based on the sexual orientation and gender identity; to continually implement the measures and activities intended for the raising of the awareness of the public on gender equality and the measures for the improvement of the status of women; to provide actions upon recommendations issued in the Special Report of the Protector of Citizens on the trainings for the acquisition and improvement of knowledge and competences for prevention, suppression and protection of women from the violence in families and partner relations;
- **The Government, Coordination Body for Gender Equality, Ministry of Labor, Employment, Veteran and Social Affairs, Ministry of State Administration and Local Self-Government, authorities of autonomous provinces and bodies of local self-government units** should provide actions upon recommendations issued in the Special Report of the Protector of Citizens on the presence of women at decision-making positions and activities of local mechanisms for gender equality at local self-government units in Serbia“;
- **The Government, authorities of autonomous provinces and bodies of local self-government units** should provide full exercise of LGBTI rights in the field of freedom of speech, peaceful gathering, protection of their physical and mental integrity, education, employment, health care, social protection, legal organization of life communities and legal consequences of the adjustment (change) of sex and gender identity, as well as continual implementation of measures and activities dedicated to raising of the awareness of the public on the necessity of the observance of rights of LGBTI persons;

- **The Ministry of Labor, Employment, Veteran and Social Affairs, Tax Administration and National Employment Agency** should provide full exercise of the right to salary compensation during pregnancy leave, childbirth leave and child care and special child care leave;
- **The Ministry of Labor, Employment, Veteran and Social Affairs** should, in cooperation with local self-government units and civil society organizations, provide the establishment of the support service for the young LGBTI persons who had to leave their homes because their families rejected them after finding out about their sexual orientation and gender identity;
- **The Ministry of Health and Republic Health Insurance Fund** should take measures so as to provide for all women the accessibility of health services at all levels of health protection;
- **The Ministry of Health** should provide activities upon all recommendations from Special Report of the Protector of Citizens on reproductive health of Roma women and provide permanent work engagement of female health mediators in the health care system of the Republic of Serbia;
- **The Ministry of Interior, Ministry of Labor, Employment, Veteran and Social Affairs, Ministry of Health, Ministry of Finance and Ministry of Justice** should act upon recommendations of the Protector of Citizens⁴⁶ pertaining to additional employment, training of employees and passing of guidelines and instructions on acting in cases of domestic, partner violence and violence against children and oversight of work of competent bodies and institutions.
- **The Ministry of Interior** should prepare the amendment to the Law on Police which shall introduce the prohibition of discrimination based on sexual orientation;
- **The Ministry of Interior** should provide trainings for employees of the police with the aim of the sensibilization toward LGBTI persons, recognition of the hate crime, inter alia, based on the sexual orientation and gender identity and adequate reactions with the aim of the prevention of secondary victimization of LGBTI persons and identification of attackers to these persons;
- **The Ministry of Education, Science and Technological Development** should provide for employees in educational institutions with the aim of sensibilization toward LGBTI persons;
- **Bodies of local self-government units** should include LGBTI persons in local action plans explicitly and prescribe measures for the improvement of the status of these persons as well as that for these activities certain budget funds should be allocated.

⁴⁶Actno. 13-1-1657/2018, available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5985-u-vrd-ni-pr-pus-i-u-r-du-n-dl-znih-u-bl-s-i-z-sh-i-zr-v-u-sluc-vi-p-r-dicn-g-i-p-r-n-rs-g-n-silj>.

4.3. RIGHTS OF PERSONS WITH DISABILITIES AND RIGHTS OF THE ELDERLY

STATISTICS

In the field of rights of persons with disabilities and the elderly, in 2018 the Protector of Citizens investigated 150 cases⁴⁷, 149 of which were complaints from citizens and 1 own initiative investigation. The cases in this field account for 4.49 percent of the total number of received cases. The Protector of Citizens issued 14 recommendations to administrative authorities, 12 of which were due for implementation in the reporting period⁴⁸. Administrative authorities acted upon 4 recommendations, which makes 33.33 percent of accepted recommendations.

Among 150 cases investigated in 2018 the Protector of Citizens closed 78 cases.

Table 22 – Rights of persons with disabilities and the rights of the elderly: the overview of cases investigated in 2018

Number of received cases in 2018	150
Number of closed cases in 2018	78
Number of ongoing cases in 2018	72

Table 23 – Overview of issued recommendations from the field of rights of persons with disabilities and the rights of the elderly

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations
14	12	4

In 2018 *the work was closed also on 66 cases from previous years*. The ways of closing cases from 2018 are presented in the following table.

⁴⁷ The case refers to the cases emerged from the actions upon complaints and own initiatives in individual area/department.

⁴⁸ The Protector of Citizens observes received recommendations as recommendations with expired deadline for actions during 2018 given in the text of recommendations.

**Table 24 – Rights of persons with disabilities and the elderly
– the outcome of acting upon closed cases in 2018**

	number	percentage
Inadmissible complaints –Incompetence	23	29.49%
Inadmissible complaints –Unused legal remedies	21	26.92%
Inadmissible complaints –Formally deficient complaint	10	12.82%
Unfounded complaints	7	8.97%
Cases closed by recommendations from the expedited oversight procedure	6	7.69%
Withdrawal of complainant	3	3.85%
Inadmissible complaints –Competence of the Commissioner for the protection of equality Unauthorized applicant	2	2.56%
Inadmissible complaints – Untimeliness	2	2.56%
Informed and advised complainant	2	2.56%
Opinion	1	1.28%
Cases closed by recommendations from oversight procedure	1	1.28%
Total	78	100 %

The greatest number of received complaints the Protector of Citizens rejects because the legally prescribed conditions for acting upon them are not fulfilled. Complaints are rejected because of incompetence, untimeliness, prematurity, anonymity and formal deficiency. A very important segment of activities of the Protector of Citizens upon complaints is the provision of advisory-legal assistance, which is provided by the Protector of Citizens even when a complaint is rejected because of incompetence or prematurity. This kind of advisory assistance was provided for citizens in **75.86** percent of rejected cases in this field. The Protector of Citizens in these cases sends the complainant to the competent body or provides advice on available legal means.

In the field of right of persons with disabilities and the elderly in 151 cases it was indicated to 154 violations of rights, whose greatest part referred to special rights of persons with disabilities (87 violations of rights) and the elderly (4 violations of rights), which is presented in tables 25 and 26 in percentage.

Table 25 – Special rights in the field of the rights of persons with disabilities and their percentage

Note: Presented in Chart 1 – Classification of complaints according to rights violated at page 25

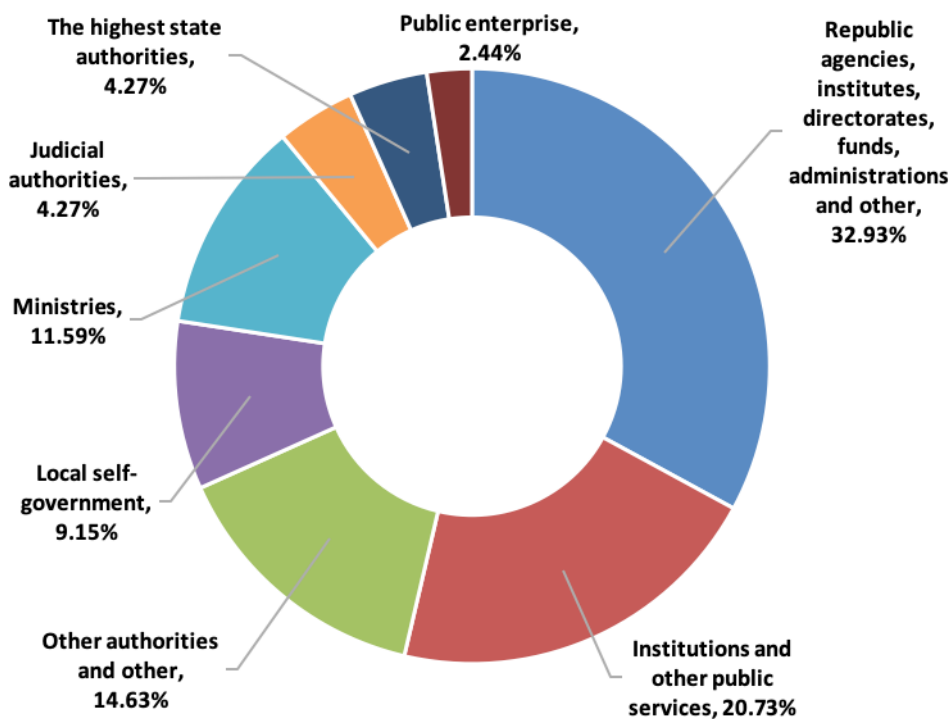
Type of violated right	percentage	Type of violated right	percentage
Right to disability pension	19.54%	Right to public transportation discounts and benefits	3.45%
Right to employment and professional rehabilitation	11.49%	Right to involvement in decision-making	3.45%
Rights of persons deprived of their capacity to work	11.49%	Right to discounts and benefits in public transportation of PWDs' caretakers	2.3%
Right to financial compensation for custodial care	10.34%	Discrimination based on disability	2.3%
Right to equal accessibility of services	9.2%	Right to orthopedic or other aids	1.15%
Architectural accessibility of buildings	6.9%	Right to increased allowance for custodial care	1.15%
Right to financial compensation for bodily injury	6.9%	Right to customs and fiscal benefits and privileges	1.15%
Right to allowance for custodial care	4.6%	Right to the status of a veteran of war	1.15%
Right arising from the status of a veteran of war	3.45%	Total	100%

Table 26 – Special rights in the field of the elderly and their percentage

Note: Represented in Chart 1 –Classification of complaints according to rights violated at page 25

Type of violated right	percentage
The rights of the elderly in social and healthcare institutions	25%
Age-based discrimination	25%
The right to social protection services for the elderly	50%
Total	100%

Chart 5 – Categories of authorities and organizations most frequently complained about by the citizens in the field of the right of persons with disabilities and the elderly



ACTIVITIES OF THE PROTECTOR OF CITIZENS

In many initiated oversight procedures, the Protector of Citizens confirmed that numerous difficulties which citizens face in the exercise of their rights to financial compensation for the assistance and care of another person are the consequence of prescription of the possibility of the exercise of this right in two different laws, before two different bodies and on two different legal bases, even though it is essentially the same right which may be exercised pursuant to the Law on Pension and Disability Insurance before the Republic Pension and Disability Fund, as the right to financial compensation for the assistance and care of another person and pursuant to the Law on Social Protection before the Center for Social Work as the right to the allowance for assistance and care of another person but with the prescription of the same condition for its realization with regards to the health condition. Nevertheless, due to that, it occurs that this right is “lost” after the change of circumstances, and fulfillment of formal conditions (e.g. the acquisition of the right to pension) for the exercise before another body. It occurs despite the previous need for the same was permanently established and the health condition of beneficiaries has not changed. When in practice the right is lost, it results in the absence of receiving required financial funds for a certain time period or the complete loss of possibilities of the exercise of this right. Thus, the Protector of Citizens issued to the Government a legislative initiative⁴⁹ in which he indicated to the need for the regulation of the exercise of the right to someone else’s care and assistance in a unique and precise manner and under equal conditions and criteria and before the same body. This is the only manner in which the sense of social protection would be accomplished – the provision of the assistance and care of another person to persons who need them. The Ministry of Labor, Employment, Veteran and Social Affairs stated that this initiative is considered justified, simultaneously emphasizing that it reviewed the manners of resolving this issue, as well as the necessity of implementing an comprehensive analysis which would show the body before which it would be the most meaningful to conduct the procedure.

Based on the complaints of citizens which referred to the manner and conditions for the exercise of the right to disability pension, the Protector of Citizens determined that a certain group of the insured, due to decisions contained in the provisions of the valid Law on Pension and Disability Insurance, cannot exercise the right to either disability or age pension. Namely,

⁴⁹Available at: <https://www.ombudsman.rs/index.php/zakonske-i-druge-inicijative/5743-inicijiv-z-sh-i-ni-gr-d-n-z-iz-nu-i-d-punu-pr-pis-i-s-r-gulish-s-v-riv-nj-pr-v-n-n-vc-n-d-v-nj-z-p-c-i-n-gu-drug-g-lic>.

the problem occurs with those insured persons who had their labor relation ceased automatically due to the loss of the ability because of the disability caused by an injury not related to work or illness. Also, the insured person does not have sufficient number of years of service in order to exercise the right to age pension, while, on the other hand, they cannot even exercise the right to disability pension because they lost their work ability after they reached the age necessary to exercise the right to age pension. In order to have this category of the insured within the reach of the law, the Protector of Citizens issued to the Ministry of Labor, Employment, Veteran and Social Affairs the initiative⁵⁰ for the amendment to the Law on Pension and Disability Insurance, which was not accepted by the Ministry.

Accessibility, as one of the basic preconditions for full and equal participation of persons with disabilities in all the fields of social life is still not developed enough. Despite solid legislative and strategic framework, as well as many initiatives of the public and civil sector, persons with disabilities in performing everyday activities face obstacles in moving, using transportation as well as the exercise of the right to information and communication. It is not rare occurrence that the institutions which the citizens should have access to in order to exercise their elementary rights are inaccessible. The design of facilities and services, taking into account the accessibility standards, makes these facilities safer and more user-friendly, not just for persons with disabilities but for all citizens of this state.

The Protector of Citizens in cooperation with the Association for the Accessibility Revision, the project "Accessibility for All" was accomplished so that it would primarily raise the awareness on the importance of the accessibility itself but also encourage bodies and institutions to invest greater efforts in solving of this important problem. The specific goal of the project is the improvement of local policies in the field of accessibility in accordance with international standards as well as the contribution to the accomplishment of the full social inclusion of persons with disabilities, the elderly and other persons with difficulties in movement through increased opportunity of access to the public-use facilities. Within the project the information of accessibility of the public-use facilities in 26 cities and municipalities at the territory of the Republic of Serbia chosen based on the knowledge the Protector of Citizens obtained during previously implemented oversight procedures were collected. The information collected during the visits paid to chosen local self-governments and facilities of public importance –health centers, centers for social work, affiliates/offices of the Republic PDI Fund

⁵⁰ Available at: <https://www.ombudsman.rs/index.php/zakonske-i-druge-inicijative/5686-inicijiv-z-iz-nu-i-d-punu-z-n-p-nzi-s-i-inv-lids-sigur-nju>.

and administrative centers (municipality/city administration) as well as during direct conversations with local self-government and civil society organization representatives, were processed and presented in the Special Report of the Protector of Citizens "Accessibility for All" published in October 2018⁵¹. The Protector of Citizens in this report indicated to the accomplished results in practice, as well as to the problems and obstacles in the creation of an accessible environment and issued specific recommendations to competent bodies.



Picture 4 – Accessibility award ceremony

Pursuant to the signed Agreement on Cooperation with Standing Conference of Cities and Municipalities and Team for Social Inclusion and Poverty Reduction of the Government of the Republic of Serbia, the Protector of Citizens granted awards to local self-government units which, in the previous calendar year, made the greatest contribution to the development of all forms of accessibility at their territory. The awards for 2017 were given to cities and municipalities Svilajnac, Novi Sad, Kruševac, Kragujevac, and CM Vračar and for the representatives of these local self-governments the study

⁵¹ Available at: <https://www.osobesainvaliditetom.rs/attachments/article/202/Poseban%20izvestaj%20PRISTUPACNOSTI%20final.pdf>.

visit to Slovenia and the City of Ljubljana was organized⁵². Ljubljana, as an example of the integration of the accessibility concept into the policies of the city was awarded the second European Award for Accessibility in 2018, which is an award given by the European Commission. The study visit aimed at the introducing members of the delegation with examples of good practice and decisions which they may implement at their local self-governments afterwards as well as the models of accessibility and contemplating on satisfying the needs of citizens at the local community in a comprehensive manner.

The low rate of the employment of persons with disabilities is still one of the most important problems when it comes to the social status of this part of population. The application of the special law which regulates the rehabilitation and employment of persons with disabilities in previous years, for as long as the subject regulation⁵³ is in force, has not given any results in this field. Therefore, the Protector of Citizens issued to the Ministry of Labor, Employment, Veteran and Social Affairs recommendations⁵⁴ to, without any further delay, pursuant to the law, prescribe the conditions and manner of work engagement as a work-therapy activity of persons with disabilities at the residential care institution for the accommodation of beneficiaries and at the employer via working center, as well as spatial-technical conditions, professional skill of employees and other conditions for the operation of the working center. The Ministry failed to respond to the recommendation of the Protector of Citizens within the legal deadline.

Even though it should represent the backbone of the entire procedure of deinstitutionalization, the system of services of support to persons with disabilities and the elderly is still not adequate and sufficiently developed. The inexistence of certain services of support or their lack of existence to an adequate extent and the fact that they are not adjusted to the needs of beneficiaries, inadequate level of professional skill with employees of the service provider, are just some of the problems citizens face when it comes to support services. Taking into consideration that the lack of financial funds is one of the main reasons for this condition, the Protector of Citizens believes that a financially sustainable system of services of support, where the services of social protection will be provided systematically, not sporadically, to everyone who need them, not just to a certain number of beneficiaries for whom financial funds are provided, should be developed. Only in this manner an

⁵² Available at: https://www.osobesainvaliditetom.rs/index.php?option=com_content&view=article&id=196:nagrada-svilajncu-novom-sadu-i-kruševcu-za-doprinos-razvoju-svih-oblika-pristupačnosti-osobama-sa-invaliditetom&catid=3:aktivnosti&Itemid=6.

⁵³ Law on Professional Rehabilitation and Employment of Persons with Disabilities, "Official Gazette of RS", no. 36-09 and 32-13.

⁵⁴ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5881-inis-rs-v-z-r-d-z-p-shlj-v-nj-b-r-c-i-s-ci-ln-pi-nj-d-b-zb-di-d-n-sh-nj-dg-v-r-ucih-p-dz-ns-ih>.

efficient system of social protection of especially vulnerable groups of citizens such as persons with disabilities and the elderly may be accomplished.

When it comes to the status of persons with disabilities in the Republic of Serbia, it is necessary to emphasize the especially difficult status of persons with autism. In the Republic of Serbia there are only two institutions for the accommodation of persons with autism, and these are the Accommodation institution in Zemun within the Center for accommodation and daily residence of children and youth with developmental delays and the Institution for children and youth in Šabac, while the needs, based on the number of requests for the accommodation in these institutions, are much higher. Their capacities are not big enough for permanent accommodation of persons with autism and both institutions have long waiting lists. As a consequence of insufficient capacities, many persons with autism are accommodated at institutions with mental disabilities, which are not adequate and specialized for the work with them.

Despite the policy of inclusive education of children with disabilities or with developmental delays proclaimed by the Law on Fundamentals of the Educational System⁵⁵, in practice it is not implemented in accordance with set principles and goals. Obstacles are present everywhere, starting with physical obstacles for children and youth in wheelchair or with difficulties in movement, via insufficiently professional, trained or motivated teaching staff and insufficiently engaged professional associates. The Protector of Citizens, in this, as well as in previous reporting periods, emphasizes that there are not enough personal companions of children, while even when there are personal companions, they are rather unmotivated for the professional performance of their job due to low salaries. Local self-government units are entrusted with the provision of funds for the work of personal companions, but among them several units have not even provided this service by passing required regulations from their competence and provision of funds for these purposes.

However, when it comes to legal parties deprived of business abilities, the tendency of frequent application of this institute is still noticeable. Even though the Law prescribes the possibility and partial deprivation of business ability, most frequently in the proceedings the persons are deprived of business abilities, in which case it deprives them of the right to any decision making. Namely, in practice very frequently there is "abuse" of this institute so that certain persons are accommodated into the residential care institutions since such activities in practice do not require consent of the person

⁵⁵ "Official Gazette of RS" no. 88/17 and 27/18 – other laws.

deprived of business ability. Furthermore, the consent and acceptance of the proposed treatment measure are not asked from the person deprived of business ability, even though international tendencies and standards impose that as an obligation. Even though the revision of the court decision on the deprivation of the business ability is prescribed by law, and then after the completed revision the business ability is completely or partially returned to a very small number of persons.

Even though they include a significant part of the population in the Republic of Serbia, the elderly are not recognized enough in the society as especially vulnerable category of population. According to all surveys, the elderly are among the most frequently discriminated groups in Serbia, which is supported by stereotypes and prejudice about this group. This group of the population still has difficulties in the exercise of their rights from the field of health and social protection, pension insurance, rights to information and financial independence, but also the right to protection from abuse and violence. The most frequent problems the elderly face are poverty and negligence within their family, including the disposal of the property without their consent, discontent with the exercise of the right to material support when they are in difficult financial and life situation due to the lack of income or insufficient amount of income and when their health condition is bad, the exercise of the right to assistance and care of another person is aggravated. The lack of services of support is still present, especially of the service of assistance at home, which is very frequently necessary for this population, taking into account that very often they live alone and do not have relatives to take care about them. A great number of beneficiaries of nursing homes are accommodated there without their own but with the consent of their children or closest relatives, even though the person accommodated in this institution is not deprived of the business capability. There are still illegal nursing homes which do not fulfill the prescribed work conditions, do not have required licenses and work permits. Their unprofessional and uncontrolled work in enormous number of cases violates guaranteed rights of the elderly accommodated in such institutions.

PROPOSALS FOR THE IMPROVEMENT OF THE STATUS OF PERSONS WITH DISABILITIES AND THE ELDERLY IN RELATION TO ADMINISTRATIVE AUTHORITIES

Even though pursuant to Article 17 Paragraph 3 of the Law on the Protector of Citizens, the Protector of Citizens is not authorized to oversee the work of the National Assembly and the Government, the Protector of Citizens believes that it would be useful that the stated bodies review his proposals.

- **The Government** should, in cooperation with other competent bodies, conduct a comprehensive analysis of the condition, needs and possibilities and make a clear and accurate plan of the implementation of "deinstitutionalization" procedure in the Republic of Serbia, and that it is systemically and completely implemented at the entire territory of the state; take measures with the aim of creating a legal framework and other preconditions for the establishment of a precise and complete register of persons with disabilities; take measures with the aim of the establishment of an independent mechanism for overseeing the enforcement of the UN Convention on the rights of persons with disabilities; create clear and accurate policy aimed at the establishment of a more efficient system of social protection for elderly citizens which is harmonized with their needs;
- **The Ministry of Labor, Employment, Veteran and Social Affairs** independently and in cooperation with other public authorities should provide financially sustainable system of services of support to persons with disabilities and the elderly;
- **The Ministry of Labor, Employment, Veteran and Social Affairs, Ministry of Health, and the Republic Pension and Disability Insurance Fund** should improve and harmonize bylaws and acting upon them in the process of the exercise of rights to disability pension, employment and rehabilitation of persons with disabilities;
- **The Ministry of Labor, Employment, Veteran and Social Affairs** should, in cooperation with other relevant public authorities, provide that the residential care institutions for permanent accommodation of persons with disabilities and the elderly have at their disposal an adequate number of professionally skilled persons in accordance with the needs of institutions, especially provide additional capacities for permanent accommodation of persons with autism;
- **The Ministry of Education, Science and Technological Development** should take measures from its competence so that educational institutions are provided with the sufficient number of pedagogical assistants in conformity with results and opinions of inter-department commissions;

- **The Republic PDI Fund** should, within the shortest period of time adjust to undisturbed functioning and movement of persons with difficulties in movement all facilities of affiliates and offices of the Fund where citizens exercise their rights while the existing lifting platforms set at the entrance to the Fund facilities should be made functional and their usage permit as well as the conditions for regular maintenance should be provided;
- **Local self-government units** should take measures from their competence and plan funds for the provision of a sufficient number of personal companions of children with developmental delays; and their families;
- **Local self-government units** should continually take measures so that public-use facilities would be made completely accessible to persons with disabilities
- **Local self-government units** should provide an adequate space for undisturbed operation of centers for social work, which will in accordance with the accessibility principle and individualization of social protection, meet all accessibility standards, as well as execute local action plans for the reconstruction of existing facilities, according to the priority list;
- **Local self-government units** should take all measures from their competence which provide persons with disabilities with undisturbed reception of information dedicated to the public in an appropriate form and corresponding technology, as well as provide funds and other conditions for the work of the local media which publish information in sign language or Braille or in some other manner provide these persons with conditions to exercise their right to public information without any obstacles.

4.4. NATIONAL MINORITY RIGHTS

STATISTICS

In the field of national minority rights, in 2018 the Protector of Citizens investigated 64 cases⁵⁶, 62 of which were complaints from citizens and 2 own initiative investigations. The cases in this field account for 1.92 percent of the total number of investigated cases. The Protector of Citizens issued 11 recommendations to administrative authorities, which are still within the execution deadline in the reporting period⁵⁷.

Among 64 cases investigated in 2018, the Protector of Citizens closed 36 cases.

Table 27 – National minority rights: the overview of cases investigated in 2018

Number of received cases in 2018	64
Number of closed cases in 2018	36
Number of ongoing cases in 2018	28

Table 28 – Review of issued recommendations in 2018 in the field of national minority rights

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations
11	0	0

In 2018 *the work was closed also on 27 cases from previous years*. The ways of closing cases from 2018 are presented in the following table.

**Table 29 – National minority rights
– the outcome of completed cases in 2018**

	number	percentage
Inadmissible complaints –Unused legal remedies	11	30.56%
Informed and advised complainant	11	30.56%
Inadmissible complaints –Incompetence	8	22.22%

⁵⁶ The case refers to the cases emerged from the actions upon complaints and own initiatives in individual area/department.

⁵⁷ The Protector of Citizens observes received recommendations as recommendations with expired deadline for actions during 2018 given in the text of recommendations.

Inadmissible complaints –Anonymous complaint	2	5.56%
Unfounded complaints	2	5.56%
Inadmissible complaints –Competence of the Commissioner for the Protection of Gender Equality	1	2.78%
Opinion	1	2.78%
Total	36	100%

The greatest number of received complaints the Protector of Citizens rejects because legally prescribed conditions for acting upon them are not fulfilled. Complaints are rejected because of incompetence, untimeliness, prematurity, anonymity and formal deficiency. In **86.36** percent of rejected cases in this field the Protector of Citizens issued complainants to the competent body or advised them on available legal means.

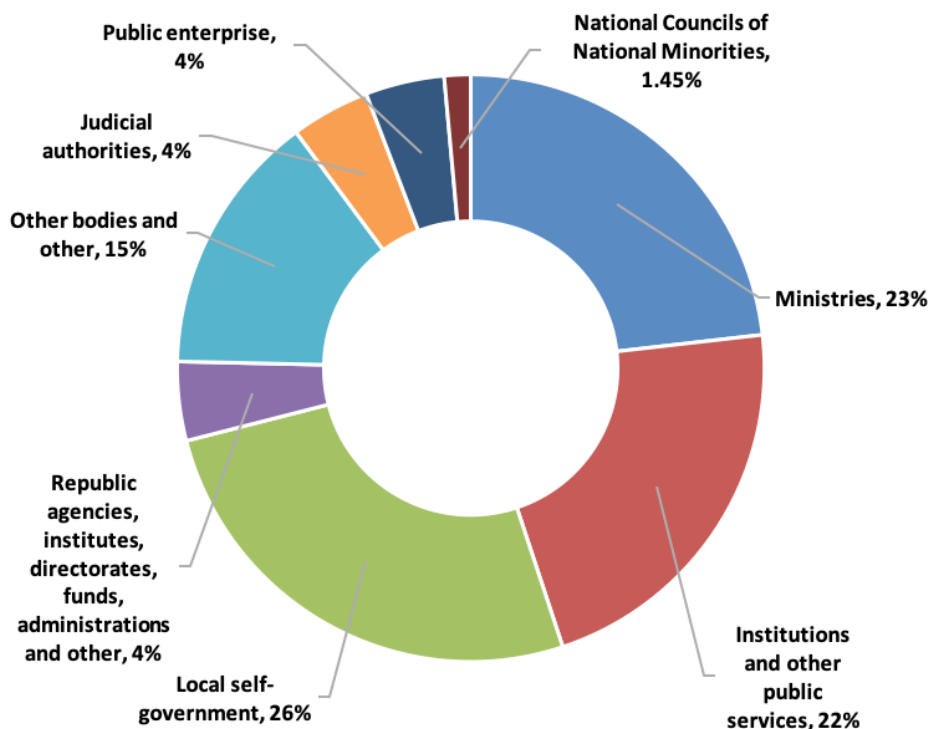
In the field of national minority rights in 64 cases it was indicated to 63 violations of rights, whose greatest part refers to special rights in the field of national minority rights (52 violations of rights), which is presented in percentages in Table 30.

Table 30 – Special rights in the field of national minority rights and their percentage

Note: Presented in Chart 1 –Classification of complaints according to rights violated at page 25

Type of violated right	percentage	Type of violated right	Percentage
Special rights of Roma people	59.62%	Right to education in mother tongue	3.85%
Prohibition of discrimination on the national basis	21.15%	Right to information in mother tongue	3.85%
Right to direct election of members of the national councils of national minorities	5.77%	Prohibition of violent assimilation	1.92%
Right to exercise jurisdiction of the NCNMs	3.85%		

Chart 6 – Categories of authorities and organizations most frequently complained about by the citizens in the field of national minority rights



ACTIVITIES OF THE PROTECTOR OF CITIZENS

The Protector of Citizens indicates to the importance of the adoption of amendments to the Law on the Protection of Rights and Freedom of National Minorities, the Law on National Councils of National Minorities and Law on the Official Use of Language and Script in June 2018.⁵⁸ After the adoption of these amendments, the legal basis for the entrance of the information on nationality of employees in the public administration was created, which would enable planning and tracking of the application of measures with the aim of the exercise of rights of national minority members to proportional presence in the employment at public administration.

Even though a significant progress was made and amendments to the Law on the Official Use of Language and Script were adopted, the Protector of Citizens emphasizes the problems with regards to the exercise of the right to

⁵⁸ "Official Gazette of RS", no. 47/18.

the official use of language and script, especially the rights to entering personal names in the language and script of the national minority. In practice, it was noticed that there is still uneven activities and lack of understanding with regards to this field.

The Protector of Citizens during the reporting period conducted the survey on the official use of the Albanian language and Script and competent bodies in 2018 issued the Special Report on the Official Use of the Albanian Language and Script with recommendations⁵⁹ which was presented in Bujanovac on 23rd March, 2018.⁶⁰



Picture 5 – Presentation of the Special Report on the official use of the Albanian language and Script in Bujanovac

This survey indicated that the shortage of human and financial resources at the local self-governments is an important reason due to which the official use of the Albanian language and script is not completely accomplished in the manner prescribed by the law, about which the Protector of Citizens warns for years back. The lack of necessary notifications to citizens is an

⁵⁹ Report available at: <https://www.ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/5690-p-s-b-n-izv-sh-z-sh-i-ni-gr-d-n-sluzb-n-up-r-bi-lb-ns-zi-i-pis>.

⁶⁰ More information on the presentation of the Report available at: <https://www.pravamanjina.rs/index.php/691-заштитник-грађана-представио-посебан-извештај-о-службеној-употреби-албанског-језика-и-писма-у-бујановцу>.

obstacle to complete and more efficient exercise of the right to the entrance of the personal name into the ID card and other documents and official records in the Albanian language and orthography. The survey indicated that republic bodies do not have an adequate awareness on the importance and responsibility towards their obligation that boards with names of the bodies are written in all languages in the official use, in this specific case, in the Albanian language and script.

Furthermore, in practice certain shortcomings were noticed with regards to the exercise of the right to the entrance of the personal name related to the letter and orthography of the language of the national minority. In the survey it was noticed that there are certain difficulties in the process of the electronic reporting on the birth of a baby when the information on the personal name of the child is entered in the Albanian language and orthography. The inadequate work position and insufficient level of skill of health care employees who perform this work, may be detrimental for the citizen rights. It is necessary to accurately state that it is indispensable to have only the person who previously completed all trainings working on the electronic reporting of a baby's birth so as to prevent unprofessional and/or persons without any previous training from performing such an important task and be responsible for the accuracy of entered information, such as national minority or personal name in the language and script of the minority the child belongs to.

Due to the lack of the catalog of personal names written according to the language and orthography of the Albanian language as an official document, it is a good practice, with the aim of the properly entered personal name of the child, to ask parents to enter themselves the name and surname of the newborn baby in the language and script of the minority they belong to before the entrance of the information into the electronic application, so as to avoid that in the case of the Albanian minority the entrance is in Latin script but not according to the orthography of this language or according to sound. Also, the Protector of Citizens sees as a very useful practice, which should be continued and expanded, to require from parents to check and approve the entrance of the personal name before the conclusion of the entrance compared to what they wrote. For the purpose of credibility, if the capacities allow that, the necessity of documenting the information obtained in this manner should be considered.

On the other hand, it is realistic that parents cannot do this, which is why the preparation of the catalog of the most frequent personal names written correctly in the Albanian language and orthography, with phonetic pronunciation, according to understanding of the Protector of Citizens is the best and the right manners of solving problems noticed so far. In fact, it is possible

to apply this solution also in case of other minority languages whose orthographic rules differ from the rules of the Serbian language.

In the reporting period, the Protector of Citizens conducted also the survey on the official use of the Hungarian language and script. In November 2018 the Special Report of the Protector of Citizens on the official use of the Hungarian language and script was published and presented in Subotica on 26th November, 2018.⁶¹ In this report, the Protector of Citizens especially dealt with the right to the use of the Hungarian language and script before the bodies of the local self-government units (LSU), conducting of the administrative procedure, right to the entrance of personal names in the Hungarian language and script, but also the collection of the information with regards to the official use of the Hungarian language and script in the work of the Republic Health Insurance Fund, as well as the subject of issuing of health insurance cards in the Hungarian language and Script

The conducted survey confirmed earlier results of the Protector of Citizens that at the territory of the AP Vojvodina the rights to the official use of minority languages and scripts as well as the right to the entrance of the personal name in the language and script of the national minority are exercised in many municipalities/cities at a very high level, especially in comparison to cities/municipalities at the territory of Central Serbia.

Also, it may be concluded that members of the Hungarian national minority know about their guaranteed rights, which is certainly owing to the National Council of the Hungarian National Minority, which has conducted for years a great number of activities and campaigns of importance for the official use of language and script and entrance of personal names in the Hungarian language and script as well as the work of local and provincial authorities.

However, this report too shows that even apart from the high level of awareness, the opinion that the use of the national minority languages in administrative procedures slows down even "aggravates" the conducting of a procedure. The collected information indicate that members of the Hungarian national minority very rarely in most of municipalities/cities decide to provide request in their mother tongue. What certainly contributes to this is the shortage of human and financial resources, especially in those local self-governments with smaller percentage of Hungarian population.

All municipalities/cities where the Hungarian language is introduced into the official use may take all available measures so that citizens could timely, completely and efficiently exercise their rights, and public authorities could

⁶¹ Report available at: [https://www.pravamanjina.rs/attachments/article/697/Poseban%20izvestaj%20\(srpski\).pdf](https://www.pravamanjina.rs/attachments/article/697/Poseban%20izvestaj%20(srpski).pdf).

enforce consistently the Law on the Official Use of Language and Script. The Protector of Citizens especially emphasizes that municipalities/cities which have the Hungarian population less present as residents cannot consider the lack of the capacity as justified due to the lack of citizen requests. Apart from the stated, the Protector of Citizens indicates that there is still need for the unification of the practice of activities within the procedure of personal name entrance in the language and script of the national minority.

The information of citizens on the exercise of rights of the members of national minorities should be done continually and the Protector of Citizens still believes that it is necessary to have notifications always placed at visible locations both at municipal administrations on the right to the personal name entrance in the language and script of the national minority and at the affiliates/offices of the Republic Health Insurance Fund on the right to the issuance of the health insurance card in minority languages, regardless of whether there is a high awareness on the existence of these rights and many requests or not.

Furthermore, National Council of the Hungarian National Minority paid attention of the Protector of Citizens to the model which exists in Hungary, where the catalog of Hungarian names and surnames was prepared. This model could also be applied in the Republic of Serbia by making the catalog of Hungarian names and surnames available to all registrars and the catalog would be open for alterations and additions. Therefore, incorrect entrance of personal names would be prevented to a great extent.

The Protector of Citizens indicates that a certain number of organizational units of republic bodies still does not adhere to their obligation that board with names of bodies are written in all languages in the official use. More specifically, in majority of municipalities/cities which were visited, the boards with the name of the Republic Health Insurance Fund were with the name written in the Serbian language and script only.

During the reporting period the Protector of Citizens continued with regular practice of the reception of complaints in Roma areas all around Serbia. The reception of complaints was organized in Roma areas in Čačak, Leskovac, Novi Pazar, Bujanovac and Belgrade. Problems which members of the Roma national minority face have been present for years, despite the strategic decision of the state to improve their status. Competent bodies in the previous decade took a series of measures and activities in the field of education, health care, personal documents, etc. which contributed to a significant improvement of the status of the members of Roma community. However, ethnic distance towards Roma population is not decreased and as a national minority they are exposed to discrimination to the greatest extent.

PROPOSALS FOR THE IMPROVEMENT OF THE STATUS OF NATIONAL MINORITIES IN RELATION TO ADMINISTRATIVE AUTHORITIES

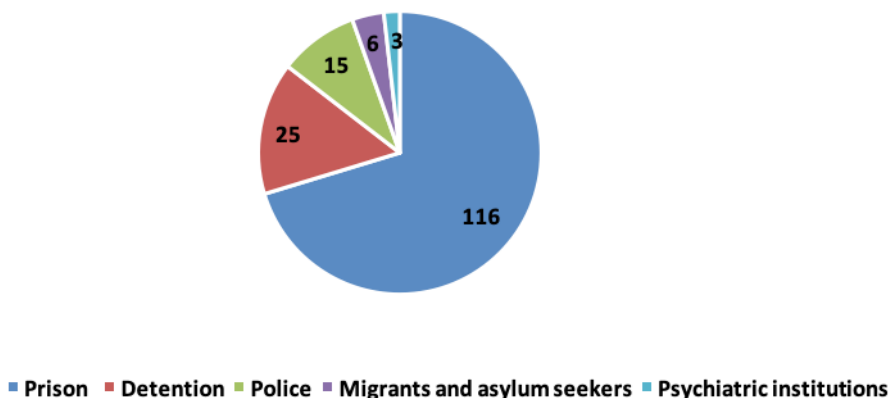
- **The Ministry of State Administration and Local Self-Government, in cooperation with the National Council of the Albanian National Minority,** should consider the need and manner how to execute the catalog of names and surnames in the Albanian language and script which would be an assisting tool for registrars in work on these entrances;
- **The Ministry of State Administration and Local Self-Government, in cooperation with the National Council of the Hungarian National Minority,** should consider the need and manner how to execute the catalog of names and surnames in the Hungarian language and script which would be an assisting tool for registrars in work on these entrances;
- **The Ministry of State Administration and Local Self-Government and the Ministry of Health** should organize additional trainings for registrars and employees at health centers who perform tasks of electronic application of the child birth with regards to the entrance of the personal name in the language and script of the national minority;
- **The Ministry of State Administration and Local Self-Government** should send the instruction to local self-government units where languages of national minorities are in the official use, to place notifications on the right to the entrance of the personal name in the language and letter of the national minority and right to conductance of the administrative procedure in the mother tongue, with the aim of complete, accurate and timely information of citizens;
- **Republic Health Insurance Fund** should send the instruction to all affiliates/offices that it is necessary for them to place the notification on the right of the members of national minorities to give them the health insurance cards in the language and script of the national minority, with the aim of complete, accurate, and timely information of citizens;
- **Republic Health Insurance Fund** should confirm the number of affiliates/offices which do not have boards placed in accordance with valid legal regulations, plan the funds for their provision, especially multilingual boards for affiliates/offices which are situated at local self-governments where the language of the national minority is also in the official use and replace them within a reasonable deadline.

4.5. RIGHTS OF PERSONS DEPRIVED OF LIBERTY

STATISTICS

In the field of rights of persons deprived of liberty, the Protector of Citizens in 2018 investigated 165 cases⁶², 163 of which were complaints from citizens and 2 own initiative investigations. The cases in this field account for 4.95 percent of the total number of investigated cases as following: 116 complaints to the treatment of persons serving their prison sentence, 25 complaints to the treatment of persons subjected to the execution of the detention measure, 15 complaints to the treatment of detained persons and persons subjected to the application of police authorizations, 6 complaints to the treatment of migrants and 3 complaints to the treatment of persons at the treatment in psychiatric institutions.

Chart 7 – The overview of received cases



The Protector of Citizens issued 10 recommendations to the administrative authorities and they were all due during the reporting period⁶³. Administrative authorities acted upon 9 recommendations, which account for 90 percent of accepted recommendations.

Among 165 cases investigated in 2018 the Protector of Citizens closed 124 cases.

⁶² The case refers to the cases emerged from the actions upon complaints and own initiatives in individual area/department.

⁶³ The Protector of Citizens observes received recommendations as recommendations with expired deadline for actions during 2018 given in the text of recommendations.

**Table 31 – Rights of persons deprived of their liberty
– the overview of cases investigated in 2018**

Number of received cases in 2018	165
Number of closed cases in 2018	124
Number of ongoing cases in 2018	41

**Table 32 – The overview of recommendations issued in 2018 in the field of
rights of persons deprived of liberty**

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations
10	10	9

In 2018 the work was closed also on *44 cases from previous years*. The ways of closing the cases from 2018 are presented in the following table.

**Table 33 – Rights of persons deprived of liberty: the outcome of closed
cases handled from 2018**

	number	percentage
Inadmissible complaints –Unused legal remedies	38	30.65%
Inadmissible complaints -Incompetence	29	23.39%
Inadmissible complaints –Formally deficient complaint	25	20.16%
Unfounded complaints	25	20.16%
Inadmissible complaints –Anonymous complaint	2	1.61%
Cases covered by recommendations from an expedited oversight procedure	1	0.81%
Complaint dropped by the complainant	1	0.81%
Informed and advised complainant	1	0.81%
Inadmissible complaints –Untimeliness	1	0.81%
Inadmissible complaints –Unauthorized complainant	1	0.81%
Total	124	100 %

The greatest number of received complaints is rejected by the Protector of Citizens because the legally prescribed conditions for acting upon them are not met. Complaints are rejected due to incompetence, untimeliness, prematurity, anonymity and formal deficiency.

A very important segment of actions of the Protector of Citizens upon complaints is the provision of advisory-legal assistance, which is provided by the Protector of Citizens even then when the complaint is rejected because of incompetence or prematurity. This advisory assistance was provided to citizens in **69.79** percent of rejected cases in this field and the Protector of Citizens sent the complainant to the competent authority or advised him on available legal means.

ACTIVITIES OF THE PROTECTOR OF CITIZENS

During the reporting period in the Republic of Serbia the tendency of improvement of the protection of rights of persons deprived of liberty, application of police authorizations as well as the prevention of torture and other forms of abuse was continued. Institutions where the persons deprived of their liberty are accommodated and which were the subject of oversight procedures of the Protector of Citizens mostly accomplished good cooperation with this body, which enabled undisturbed realization of its mandate.

Trainings of civil servants who provide treatment of persons deprived of liberty contributed to raising of their awareness that any form of abuse represents a prohibited treatment, so the Protector of Citizens did not confirm in any procedure initiated upon the complaints of persons deprived of liberty in 2018 that the treatment of oversight administrative authorities resulted in the violation of rights of the complainant to the invulnerability of physical and mental integrity.

In the context of effective and efficient investigation of allegations on the violation of rights of citizens by illegal work of administrative authorities, especially the investigation of the allegations of any form of abuse, as well as with the aim of prevention of the violation of rights of citizens, the Protector of Citizens indicates once again that pursuant to the Convention against Torture and Other Cruel, Inhuman or Degrading Punishments and Treatment⁶⁴, it is necessary to prescribe the obligation of sound and visual recording: the use of coercion means by police officials; application of authorizations which deprive citizens of their freedom, especially bringing, apprehension, police arrest and detention, especially hearing of the suspect in pre-investigative procedure by police officials; the application of coercion measures by employees of security services at institutes for the execution of criminal sanctions; the application of coercion means and apprehension of citizens by communal policemen.

⁶⁴ Law on Ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Punishments and Treatment ("Official Gazette of SFRY-International contracts", no. 9/91)

With regards to normative framework, with the aim of further improvement, it is necessary to harmonize the provisions of the Criminal Code with the definition of torture from Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Punishments and Treatment.

In accordance with the good practice so far, police accepted and implemented the recommendations of the Protector of Citizens in the field of the application of police authorizations which are used to deprive citizens of their liberty. In one of the oversight procedures, the Protector of Citizens determined the shortcomings in the treatment of a person deprived of liberty and issued to the overseen body recommendations⁶⁵ that in future work the decision on detention should be passed in case of detention of a person caught in the performance of violation so that the citizen is enabled to file the complaint to the misdemeanor court against the decision on detention, in order to examine the legality of apprehension, freedom deprivation and detention. Furthermore, it is necessary to issue the written notification on rights to the apprehended and detained person, so that the citizen would be familiar with the rights they are entitled to from the beginning of the freedom deprivation.

By passing bylaws the improvement of the normative framework important for the work of police and status of police officials and other employees at the Ministry was continued.⁶⁶ With regards to the treatment of apprehended and detained persons and the observance of rights of citizens during detention,

⁶⁵ Recommendations available at: <https://www.ils.rs/attachments/article/439/Preporuka.doc>.

⁶⁶ Rulebook on the Form and Content of the Form of the Questionnaire on Identification Information ("Official Gazette of RS", no. 48/18); the Rulebook on the Criteria and Manner of Acting in the Process of Provision of the Psychological Assistance and Support to Employees at the Ministry of Interior ("Official Gazette of RS", no. 88/18); the Rulebook on the Manner of Control of the Application and Change of the Property Status at the Ministry of Interior ("Official Gazette of RS", no. 49/18); the Rulebook on the Manner of Performance of Individual Police Tasks ("Official Gazette of RS", no. 63/18 and 72/18); the Rulebook on the Manner of Conduct and Personal Appearance of Police Officials and Other Employees at the Ministry of Interior ("Official Gazette of RS", no. 13/18); the Rulebook on the Manner of Conducting the Integrity Test ("Official Gazette of RS", 39/18); the Rulebook on the Manner of Execution of Internal Control ("Official Gazette of RS", no. 39/18); the Rulebook on Awards at the Ministry of Interior ("Official Gazette of RS", no. 38/18); the Rulebook on the Conditions which Should be Met by the Premises for Detention of Persons ("Official Gazette of RS", no. 34/18); the Instruction on the Methodology for the Implementation of the Analysis of the Risk from Corruption at the Ministry of Interior ("Official Gazette of RS", no. 94/18); the Regulation on the Career Development of Political Officials ("Official Gazette of RS", no. 42/18 and 91/18); the Regulation on the Measurements for the Schedule of Managing Job Positions of Police Officials ("Official Gazette of RS", no. 8/17 and 39/18); Regulation on Salaries of Political Officials ("Official Gazette of RS", no. 91/18); Regulation on Special and Individual Police Units ("Official Gazette of RS", no. 47/18, 59/18 and 91/18); Regulation on Professional Education and Training at Additional Education at the Ministry of Interior ("Official Gazette of RS", no. 42/17 and 56/18).

the Protector of Citizens also in previous reports indicated to the necessity of performing detention at premises designed for that, performance of necessary adaptations of premises for detention at those police stations where the premises do not fulfill valid standards when it comes material conditions and provision of detained citizens with the staying in adequate and safe conditions and police officials with conditions for undisturbed performance of their work. In this respect, the passing of the Rulebook on the Conditions which should be Met by the Premises for Detention of Persons is of special importance.⁶⁷

In relation to the implementation of a thorough, effective and efficient investigation of charges and complaints about the abuse of police authorizations and abuse in any form, the Rulebook on the Manner of Performance of Internal Control was passed.⁶⁸ In the previous Annual Report the Protector of Citizens indicated to the need for passing the Rulebook. The department of internal control continued, as in the earlier reporting period, to submit to the Protector of Citizens monthly report on the cases in which it was confirmed that in the activities of police officials there was abuse of police authorizations which violated the rights protected by the Protector of Citizens as well as the information on filed criminal and misdemeanor charges. The obligation of the submission of the report to the Protector of Citizens is prescribed by Article 227 Paragraph 2 of the Law on Police.

During the reporting period the Protector of Citizens continued to implement oversight procedures of legality and regularity of the work of Administration for the Execution of Criminal Sanctions, upon complaints of convicted and detained persons. What is encouraging is the fact that among employees at institutes for the execution of criminal sanctions the awareness on the prohibition of any form of abuse is improved. Complaints of convicts accommodated at the institutes for the execution of criminal sanctions referred predominantly to the dissatisfaction with the provided health protection and treatment work, and the complaints of detained persons, primarily to the violation of the right to trial within a reasonable deadline and right to fair trial⁶⁹, as well as to health protection.

As in previous reporting periods, the Protector of Citizens indicates that female detainees, due to their relatively small number, in some cases serve their measure of detention in isolation so what is a disciplinary measure for

⁶⁷ "Official Gazette of RS", no. 34/18.

⁶⁸ "Official Gazette of RS", no. 39/18.

⁶⁹ Taking into account that the Protector of Citizens is not authorized to oversee the legality and correctness of the work of courts, complainants were sent to address competent bodies with regards to that.

convicts, for female detainees is the regular manner of implementation of the measure of detention.

Female convicts and minors are accommodated at special institutes, the only institutions for this purpose in the Republic of Serbia, so that the rule of serving the sentence close to their place of residence does not apply to them. The Protector of Citizens indicates that in these circumstances it is necessary to pay special attention to the exercise of rights to visits of minors to mothers as well as of parents to minors, with the aim of preserving and improving the relationship between parents and children, adequate realization of the confirmed program of actions and reintegration of female convicts and minors into the family, so the lack of material funds for travel and other expenses would not be an obstacle in keeping parent-child contact. With regards to that, the use of technological progress, adjustment to contemporary technologies and creation of a normative framework for the expansion of communication forms (e.g. via internet), would significantly contribute to the exercise of the rights of female convicts and minors to the contact with their family, and right of children to keeping personal contact with their mother or parents.

By the amendment to the Law on the Execution of Out-of-Institute Sanctions and Measures⁷⁰, the period in which the accused subjected to the application of the measure of house detention may stay outside the premises where the measure is applied is extended from one hour to two hours per day (in the period from 7AM to 5PM). Therefore, the status of the accused during the application of this measure is improved.

In the oversight procedures at some institutes for the execution of criminal sanctions the improvement in the treatment by doctors in the performance of medical examination after the application of the coercive measure was noticed. The improvement is reflected in the fact that reports on performed examinations the injuries are described, often photographed and marked at the schematic presentation of human body, the statement of the convict on the manner how the injury was caused are entered, and the doctor expresses their opinion on the connection between the statement of the convict and incurred injuries.

⁷⁰ "Official Gazette of RS", no. 55/14 and 87/18.



Picture 6 – Representatives of the Protector of Citizens at the meeting with the warden of the new Penitentiary-Correctional Institution in Pančevo

Among persons deprived of their liberty there still are as the most endangered the ones deprived of their liberty at psychiatric institutions and residential care institutions. The Protector of Citizens received several complaints of persons deprived of liberty to the work of these institutions, but this fact itself is not an indicator of the satisfactory observance of the rights of persons deprived of their liberty at psychiatric institutions and residential care institutions. The Protector of Citizens, acting upon his own initiative, after implemented oversight procedure of the work of the Psychiatric clinic of the Clinical Center of Vojvodina, confirmed shortcomings in the application of the measure of physical restraining to the person with mental disabilities and thus violating the right of the person to health protection and right to dignity. Recommendations in which the Protector of Citizens indicates to the importance of the understanding of the need for documenting the legality and regularity of the treatment of persons with mental disabilities by health care employees were issued.⁷¹

⁷¹ Confirmations and recommendations available at: <https://www.ombudsman.rs/attachments/article/5883/preporuka%20psihijatrijska%20klinika.doc>.

The status of persons deprived of their liberty at psychiatric institutions and residential care institutions is endangered, inter alia, as a consequence of shortcomings in the legal framework which regulates this field.

Even though the Law on the Protection of Persons with Mental Disabilities⁷² is harmonized to a great extent to valid international standards, its improvement is necessary, especially with regards to the creation of conditions for as short as possible keeping of patients with mental disabilities at great psychiatric hospitals. For this reason, it is necessary to create efficient and sustainable system of “deinstitutionalization”, which except for the health aspect includes the social aspect and the creation of adequate conditions for care and necessary support for persons with mental disabilities and their families for life outside psychiatric institutions, in an environment which is to the least possible extent designated by their mental obstructions.

The shortcomings of the legal framework especially become prominent when it comes to the treatment of beneficiaries of social protection of home type, which was indicated to by the Protector of Citizens in the Opinion to the Draft of the Law on Amendments to the Law on Social Protection.⁷³ The Protector of Citizens thinks that the isolation of beneficiaries at the residential care institutions is inadequate measure, contrary to valid standards of human rights and practice of international institutions which oversee their implementation. The application of the measure of isolation of persons with severe or acute mental disabilities, according to standards formed in practice of international institutions which oversee the implementation of provisions on human and minority rights⁷⁴, is not allowed and their isolation in any duration represents a cruel, inhuman or degrading treatment.

With regards to the limitation of the freedom of movement, even though it is not disputable that individual beneficiaries depending on specific circumstances need to have their freedom of movement limited, the Protector of Citizens emphasizes that the rights of citizens may be limited only by law and that this case in which someone's business ability was taken does not mean that this person automatically was deprived of their liberty and this person may, without any special, legally based decision of a competent body be limited in terms of freedom of movement. Namely, in the legal system of the Republic of Serbia, based on existing regulations, the decision on the deprivation of freedom may only be passed by police, public prosecutor and

⁷² “Official Gazette of RS”, no. 45/13.

⁷³ Opinion available at: <https://www.ombudsman.rs/attachments/article/5973/Misljenje%20Zastitnika%20gradjana.pdf>.

⁷⁴ Report of the UN Committee against torture, 47th and 48th session, UN Doc A/67/44 (2012); Report of the Special Rapporteur of the UN for torture for 2012, UN Doc A/22/53 (2013).

court, under legally prescribed conditions as well as psychiatrist and consulting body of the psychiatric institution in the process of detention without consent, i.e. accommodation of persons with mental disabilities into psychiatric institution, pursuant to the Law on the Protection of Persons with Mental Disabilities. There are no regulations authorizing any other body or enabling the third party to pass legally relevant decision on someone's deprivation of freedom, which means that such decision cannot be passed by residential care institutions and that there is no legal basis for these institutions to deprive of liberty their beneficiaries who are accommodate there based on their consent or the consent of their guardians.

PROPOSALS FOR THE IMPROVEMENT OF THE STATUS OF PERSONS DEPRIVED OF THEIR LIBERTY IN RELATION TO ADMINISTRATIVE AUTHORITIES

- **The Ministry of Interior** should continue with the implementation of activities from its competence with the aim of adaptation of existing and construction of new premises for detention, in accordance with valid standards;
- **The Ministry of Interior** should continue with the improvement of operations of internal oversight mechanisms;
- **The Ministry of Justice** should without any further delay implement activities from its competence with the aim of harmonization of provisions of the Criminal Code with generally accepted definition of torture from Article 1 of the UN Convention against torture;
- **The Ministry of Justice** should **in cooperation with the Ministry of Health** implement activities with the aim of organizational dislocation of services for health protection from the institute for the execution of criminal sanctions;
- **The Ministry of Justice, the Administration for the Execution of Criminal Sanctions** should continue with the improvement of material conditions of the accommodation of persons deprived of liberty, at those institutes for the execution of criminal sanctions where these conditions are not completely harmonized with valid standards (this especially refers to the condition at 4th Pavilion of the Punishment-Correctional Institute in Sremska Mitrovica);
- **The Ministry of Justice, the Administration for the Execution of Criminal Sanctions** should provide detainees and convicts allocated at prison departments of the prison enough available activities as well as the

staying during the day at communal premises with other convicts and detainees with whom due to the conducting of the criminal proceedings the court did not limit the contact;

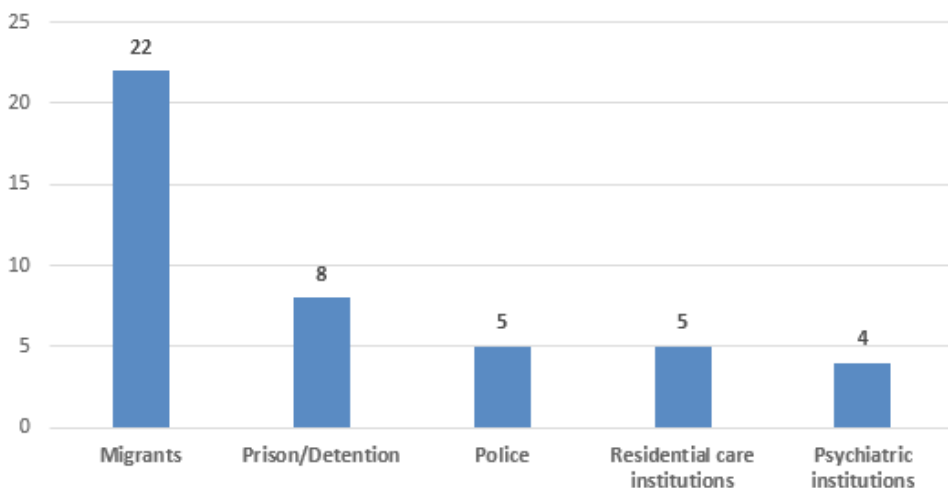
- **The Ministry of Justice, the Administration for the Execution of Criminal Sanctions** should improve the implementation of the treatment of convicts, especially individual and group educational work;
- **The Ministry of Justice, the Administration for the Execution of Criminal Sanctions** should continue with the improvement of the provision of health protection to convicted and detained persons;
- **The Ministry of Justice, the Administration for the Execution of Criminal Sanctions** should provide that female convicts and minors serve their sentence as close as possible to their place of residence or in existing circumstances to take activities for the purpose of the expansion of forms of communication in the direction of realistic accomplishment of the rights of female convicts and minors to the contact with the family and child rights to keeping personal relations with their mother;
- **The Ministry of Justice, the Administration for the Execution of Criminal Sanctions** should provide that all persons with mental delays who serve the prison sentence are dislocated from the regular prison regime;
- **The Ministry of Health** should take measures from its competence with the aim of the improvement of the application of the measure of physical restraining by tying the patient at psychiatric hospitals;
- **The Ministry of Health and Ministry of Labor, Employment, Veteran and Social Affairs** should, in the process of cooperation, improve regulations with the aim of implementation of efficient “deinstitutionalization”;
- **The Ministry of Labor, Employment, Veteran and Social Affairs** should implement activities from its competence with the aim of the amendment of the Law on Social Protection so that conditions, competence and procedure for coercive accommodation and keeping of beneficiaries at the residential care institutions are prescribed;
- **The Ministry of Labor, Employment, Veteran and Social Affairs** should take measures from its competence with the aim of passing regulations which would regulate the conditions and process of limitation of the freedom of movement and physical restraining (tying) of beneficiaries accommodated at the residential care institutions;
- **The Ministry of Labor, Employment, Veteran and Social Affairs** should implement activities from its competence with the aim of prescribing the prohibition of the application of isolation of beneficiaries in the residential care institutions;

- **The Ministry of Labor, Employment, Veteran and Social Affairs** should improve the activities of centers for social work with regards to the provision of efficient guardian protection for beneficiaries in institutions;
- Competent authorities should increase the number of employees at bodies/institutions so that persons deprived of liberty could be provided with the treatment in accordance with regulations and standards;
- Competent authorities should improve the activities of internal oversight mechanisms.

4.5.1. NATIONAL PREVENTIVE MECHANISM

During the reporting period, National Preventive Mechanism (NPM) paid 44 visits to institutions where persons deprived of their liberty are accommodated. In total, visits were paid to 5 police administrations and stations,⁷⁵ 8 institutes for the enforcement of criminal sanctions,⁷⁶ 4 residential care institutions, one institution of which was visited twice during the year⁷⁷ and 4 psychiatric hospitals/departments.⁷⁸ Also, 22 visits were paid with the aim of tracking of the treatment of refugees and migrants.⁷⁹

Chart 8 – Visits paid by NPM



Totally 40 reports were prepared on paid visits. Totally 4 of these reports refer to the treatment of apprehended and detained persons by the police, 8 to the treatment of persons in detention and persons serving their prison sentence, 9 reports refer to the operations of psychiatric institutions and

⁷⁵ PA Kruševac, PA Užice, PS Zemun, PA Novi Pazar, and PA Sombor.

⁷⁶ DP Kruševac, PCI Šabac, DP Užice, PCI Belgrade –Padinska Skela, DP Zrenjanin, DP Novi Sad, DP Novi Pazar and PCI Sombor.

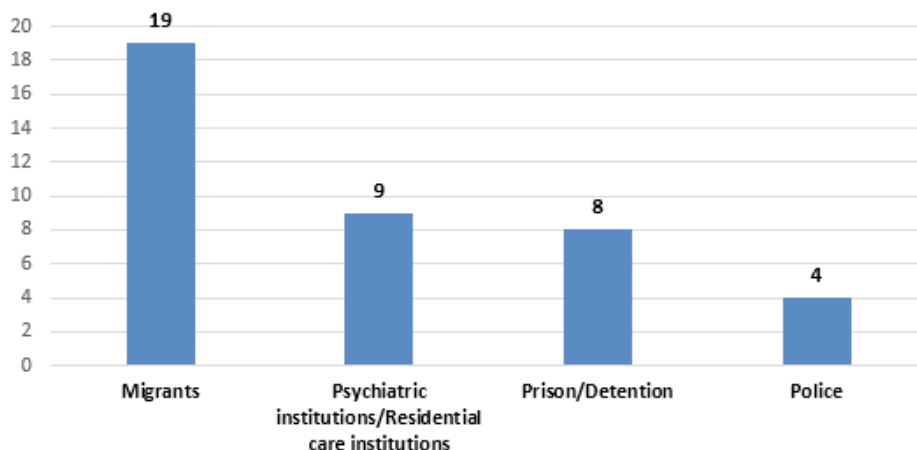
⁷⁷ GC Kruševac, GC Bežanijska kosa, Home for persons with mental developmental delay Tutin and Institution for children and youth “Sremčica” in the regular and *follow-up* visit.

⁷⁸ Psychiatric service of the General Hospital Kruševac, Psychiatric service of the General Hospital “Dr Laza K. Lazarević” –Šabac, Special hospital for psychiatric diseases “Kovin” and Specialist clinic for mental health of the General Hospital in Pančevo.

⁷⁹ CA Bogovođa, RC Banja Koviljača, RC Preševo, RC Bujanovac, RC Vranje, RC Bosilegrad, RC Principovac, RC Adaševci, RC Piro, RC Dimitrovgrad, RC Obrenovac (one visit of which was paid on the International Migrant Day), RCBP towards Bulgaria, RC Divljana, RC Subotica, RC Sombor, RC Kikinda, BP Horgoš, BP Kelebija, CA Tutin, CA Sjenica, SBP Belgrade and transit zone at the “Nikola Tesla” airport.

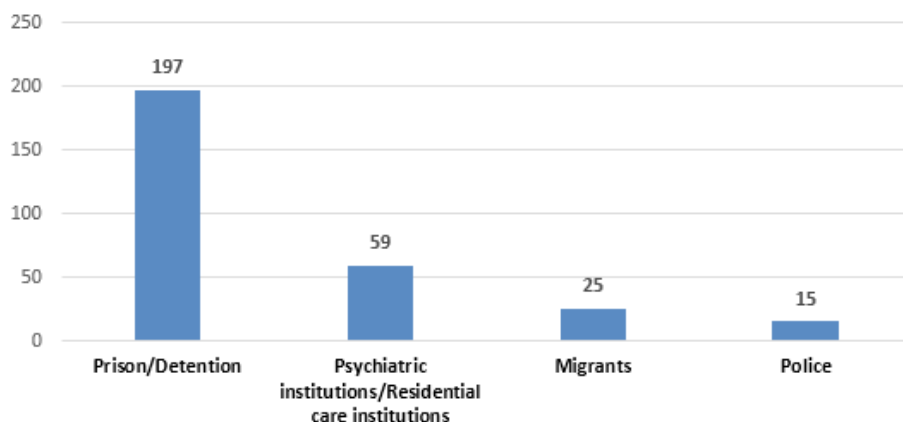
residential care institutions, while 19 reports refer to the treatment of migrants/ asylum-seekers by competent authorities.

Chart 9 – NPM reports in 2018



In the reports from visits 296 recommendations were issued. Totally 197 of these recommendations refer to the treatment of persons at the execution of the measure of detention or prison sentence, 15 recommendations for the persons subjected to the application of police authorizations –apprehension and detention at police stations, 59 recommendations refer to the treatment of persons accommodated and treated at psychiatric institutions and beneficiaries accommodated at the residential care institutions and 25 recommendations refer to the improvement of the condition in the field of migrations.

Chart 10 – Recommendations issued by NPM in 2018



ACTIVITIES OF THE NATIONAL PREVENTIVE MECHANISM

In the reporting period the continual problem with regards to police detention were the premises for the execution of this measure. However, the Ministry of Interior assumed activities with the aim of the improvement of the situation with premises, since in 2018 the Rulebook on the Conditions which should be Met by the Premises for Detention of Persons was passed,⁸⁰ and 12 premises within 4 police administrations were renovated⁸¹. NPM praises and encourages the Ministry to keep up with the improvement of the conditions for residence of detained citizens.

The Instruction on the Treatment of Apprehended and Detained Persons,⁸² despite numerous recommendations of NPM is still not harmonized with the standards for the Council of Europe, since according to the Instruction police officials are obliged to attend medical examinations of citizens and tie all transported citizens. Apart from that, NPM finds omissions of police officials in keeping of the documentation on the procedure of citizen detention.

During the visit paid to PA Sombor, it was determined that police officials of this PA had a training on the treatment of persons with mental disabilities, which is especially praised by NPM, taking into account that for several years it is indicated to the need for this specific training at the level of entire police.

Pursuant to recommendations of NPM issued in previous years, new Punishment-Correctional Institute in Pančevo was opened in October 2018. However, in the Republic of Serbia there are still many inadequate facilities used for the accommodation of persons deprived of liberty. During its visits NPM identified efforts of the institute to improve material conditions in which persons deprived of their liberty reside, but at some institutes⁸³ they are still not harmonized with domestic and international standards. Also, closed departments are mostly overcrowded. Convicts from closed departments and detainees are still for most of the day closed at their dormitories, with minimum number of organized activities.

In most of the visited institutes the lack of employees at the Health protection service was detected, while the employees of the treatment apart from the performance of regular tasks with convicts at the institute are still hired to work at commissioner offices. Due to this, NPM during the reporting period issued recommendations to institutes and Administration for the Execution of Criminal Sanctions recommendations for the increase of the number

⁸⁰ "Official Gazette of RS", number 34/18.

⁸¹ PA Sremska Mitrovica, PA Kragujevac, PA Subotica and SI for the city of Belgrade.

⁸² Number 7898/12-10 dated 10th December, 2012.

⁸³ PCI Belgrade – Padinska Skela, DP Užice, DP Zrenjanin, PCI Sombor, DP Kruševac and DP Novi Pazar.

of employees, which according to the statements of the Administration and visited institutes were implemented or their realization was planned for 2019.

During the visits in this reporting period NPM confirmed that in big residential care institutions there were many beneficiaries of accommodation for a long period of time, even though there was no proper legal basis for that and that there was no significant progress in the process of deinstitutionalization. Furthermore, in certain residential care institutions⁸⁴ accommodation conditions and conditions for preservation of user privacy are still unsatisfactory and not in accordance with valid standards. Pursuant to the recommendations of NPM, certain institutions⁸⁵ responded to the Protector of Citizens that with the assistance of the competent ministry they will find the resources so as to perform required reconstructions and improve accommodations conditions for beneficiaries. One of the problems, which is still current in certain institutes of social protection⁸⁶ is the lack of employees for the immediate work with beneficiaries. Pursuant to issued recommendations, the visited institutions informed the NPM on the application of the measure of fixation pursuant to valid regulations and standards, exclusively as a final measure.

After the visit to psychiatric departments of general hospitals⁸⁷ and Special Hospital for Psychiatric Diseases "Kovin", NPM obtained the notification from visited institutions that there were actions upon issued recommendations and that material conditions enabling positive therapy environment were provided. The Ministry of Health informed NPM that projects for complete reconstructions of buildings in the worst condition at the Kovin Special Hospital were done. The stated reconstructions will provide smaller rooms with fewer beds and thus adhere to standards and adhere to NPM recommendations.

During the reporting period NPM continued with tracking of the status of migrants in Serbia. During 2018, the trend of the decrease of the number of migrants arriving in Serbia continued,⁸⁸ and also their route of movement towards the European Union states changed. Due to the smaller number of arriving migrants, the Commissariat for Refugees and Migrations temporarily closed three reception centers.⁸⁹ Also, with the decrease of the number of migrants, the hygiene at centers was significantly improved which was one of NPM recommendations. According to the information of the Ministry of

⁸⁴ Home for persons with mental developmental delay Tutin and Institution for children and youth "Sremčica".

⁸⁵ Institution of children and youth "Sremčica".

⁸⁶ Home for persons with mental developmental delay Tutin.

⁸⁷ General Hospital in Šabac and General Hospital in Kruševac.

⁸⁸ According to the information of MOI, since the beginning of 2018 only 251 persons filed the request for asylum in the Republic of Serbia.

⁸⁹ Reception Center in Preševo, Reception Center in Dimitrovgrad and Reception Center in Divljani.

Interior, the total number of migrants registered by the police since the beginning of 2018 was 8,432. Totally 2,475 of these were minor migrants and 559 adult female migrants. In the procedure of readmission, the Republic of Serbia in 2018 took totally 2,631 persons (2,165 its citizens and 466 third-world country citizens). Most of them entered the state via "Nikola Tesla" airport -1,849 of them. At the same time period, 23 foreign citizens were returned from the Republic of Serbia in the Republic of Bulgaria. Totally 174 persons were sent during 2018 to the Reception Center for Foreigners.

The Commissariat for Refugees and Migrations, acting upon recommendations of NPM⁹⁰, established the record of extraordinary events, which NPM believes is significant for proper reaction to events at centers for accommodation of migrants. Furthermore, acting upon recommendations of NPM⁹¹, the Commissariat paid special attention to migrant nutrition at reception centers.

The new Law on Foreigners⁹² which expands the NPM competences was adopted during the reporting period. The new Law stipulates the oversight of NPM of the procedure of coercive removal of foreigners. In accordance with that, two representatives of NPM had training "Monitoring of coercive return", organized by FRONTEX⁹³ and other international organizations dealing with the protection of refugees and migrants. With the aim of the improvement of the treatment of migrants, by the end of the reporting period, NPM issued to the Ministry of Interior the opinion about the Draft of the Law on Amendments to the Law on Asylum and Temporary Protection.⁹⁴

NPM representatives participated in numerous international activities in 2018 so on the occasion of the 10th anniversary of NPM Slovenia and NPM Armenia, the Protector of Citizens participated at the conferences organized with regards to these anniversaries in Ljubljana and Yerevan, as well as at the regional meeting of national mechanisms for prevention of torture and organization of civil society of countries participants at OSCE Milan under the name "Joining Forces with the Aim of Prevention of Torture and Other Forms of Abuse in the Context of Immigration Detention". Apart from that, NPM representatives attended the work meeting organized by the European Network of National Human Rights Institutions (ENNHRI) with the aim of updating the information on the condition and status of migrants in the member states of the working group for asylum and migration; at

⁹⁰ Report on the visit to RC Bujanovac, no. 281-36/18; Report on the visit to CA Tutin, no. 281-74/18; Report on the visit to CA Sjenica 281-73/18.

⁹¹ Report on the visit to RC Adaševci, no. 281-42/18; Report on the visit to RC Bosilegrad, 281-38/18; Report on the visit to RC Bujanovac, no. 281-36/18; RC Pirot, 281-41/18; RC Principovac, no. 281-43/18; RC Vranje, no. 281-37/18.

⁹² Article 82, "Official Gazette of RS", number 24/182.

⁹³ The European Border and Coast Guard Agency

⁹⁴ No. 183-54/18 dated 25th December, 2018.

the conference “Monitoring of the Homes for Accommodation of the Elderly”, which was held in Germany in co-organization of NPMs of Germany and Austria as well as at the workshop “Strengthening of the NPM Recommendation Tracking” in Copenhagen, organized by the International Ombudsman Institute, Ombudsman of Denmark and the Association for the Prevention of Torture. The NPM representative completed three-month course at NPM Slovenia, within the Program for employees at the state bodies of Western Balkan countries organized by the European Fund for the Balkans.

During the reporting period the Protector of Citizens attended also two meetings of NPM Network of the Southeast Europe countries, organized by NPM Montenegro, which presided over the Network during the reporting period. The issues of the Network meeting were “Detention in the Context of Migrations and Effective Alternatives” and “Prevention of Suicide and Overdose at Detention Institutions”. During the reporting period NPM Serbia presided over the Network Medical Group.



Picture 7 – Meeting of the NPM Network of the Southeast Europe in Podgorica

Representatives of the National Ombudsman of the Kingdom of the Netherlands visited the Protector of Citizens in the reporting period so as to be introduced to the status of migrants and asylum seekers in Serbia.

During the year the representatives of the association Observatory of national preventive mechanisms against torture⁹⁵ continued the assessment of the NPM Serbia operating efficiency initiated in 2017. This time the Association representatives tracked the manner of performance of visits of several institutions of different types and reporting on performed visits.

The Protector of Citizens concluded the agreements on cooperation with associations for protection and improvement of human rights and freedom in performing NPM activities, which were chosen by the procedure of election upon the Public invitation of the Protector of Citizens.⁹⁶ The Protector of Citizens concluded individual agreements with Belgrade Center for Human Rights, Committee of Advocates for Human Rights, Mental Disabilities Rights Initiative of Serbia (MDRI-S) and International Aid Network (IAN). These associations participate in the visits to locations where persons deprived of their liberty are accommodated or may be, prepare reports and recommendations to visited institutes and competent ministries.

⁹⁵ Observatory of national preventive mechanisms against torture (NPM Obs.).

⁹⁶ Available at: <https://npm.rs/attachments/article/769/Javni%20poziv%20NPM%202018.pdf>.

5. OTHER ACTIVITIES IN THE AREAS OF WORK OF THE PROTECTOR OF CITIZENS

5.1. AREA OF CIVIL AND POLITICAL RIGHTS

ACTIVITIES OF THE PROTECTOR OF CITIZENS

Justice and judiciary

The Protector of Citizens was contacted by citizens asking for legal assistance with regards to proceedings they initiated or intend to initiate before courts and other competent bodies. In previous annual reports the Protector of Citizens indicated to the National Assembly to the need for regulation of the field of free legal assistance. The impossibility of the exercise of the right to legal assistance represents a barrier in the access to justice for many citizens, especially for those in need for material support and vulnerable groups. After a series of attempts to regulate this field, during 2018 the Law on Free Legal Assistance was adopted⁹⁷ and its enforcement begins on 1st October, 2019.

In complaints it is indicated also to problems with regards to the oversight performed by the Ministry of Justice of the operations of court administration, acting of courts in cases within prescribed deadline and acting upon complaints and presentations of citizens. Citizens who use legal means stipulated by the Law on Courts⁹⁸ and Court Rules⁹⁹ express dissatisfaction believing that the oversight mechanisms, especially of the last instance –the Ministry of Justice, are not effective since the oversight is most frequently terminated by sending the report of the president of a lower or immediately superior court to complainant, without taking the stand of the Ministry on the probable cause of the complaint.

⁹⁷ "Official Gazette of RS" no. 87/18.

⁹⁸ "Official Gazette of RS" no. 116/08, 104/09, 101/10, 31/11, 78/11, 101/11, 101/13, 106/15, 40/15, 13/16, 108/16, 113/17, 65/18, 87/18 and 88/18.

⁹⁹ "Official Gazette of RS" no. 110/09, 70/11, 19/12, 89/13, 96/15, 104/15, 113/15, 39/16, 56/16, 77/16, 16/18 and 78/18.

The violation of rights to fair trial and indication to certain irregularities in the conducting of proceedings by the assigned judge as well as irregularities in court decisions are still the subject of complaints. Most frequently it is indicated to wrongly confirmed factual state and misapplication of regulations. However, it is noticeable that complaints to improper conducting of proceedings or shortcomings of court decisions are often the result of the wrong perception of citizens emerged from insufficient legal education or lack of professional legal assistance. It is not rare that complaints present statements which indicate to the existence of corruption in judiciary.

The Protector of Citizens issued to the Ministry of Justice the initiative¹⁰⁰ for taking measures from their competence so as to amend the provisions of the Law on Offences¹⁰¹, by explicitly prescribing that offence order of the person who does not accept the responsibility for the offence must be signed so that the procedure of court deciding would be initiated. Simultaneously, the adjustment of the Rulebook on the Offence Order Form¹⁰² was suggested if the Law is amended.

The Protector of Citizens was contacted by citizens expressing doubt in the regularity and legality of civilian enforcement officer activities, as well as dissatisfaction with the operations of the Ministry of Justice with regards to acting upon complaints about the operations of civilian enforcement officers and oversight of their operations. Taking into account that the Protector of Citizens is not authorized for the oversight of the operations of civilian enforcement officers, in these cases complaints were rejected due to incompetence and citizens were advised to address competent authorities.

Based on the complaints to the operations of the Ministry of Justice, with regards to acting of the Ministry upon complaints to the operations of civilian enforcement officers and oversight of their operations, the Protector of Citizens stated that there is no sufficient functionality in the activities of the Ministry and consistent application of regulations which regulate this field, and that in certain number of cases the Ministry does not inform complainants about the outcome of acting upon complaints, but only sends them statements obtained from civilian enforcement officers. After the initiation of the oversight procedure, the Ministry removed the stated omissions. The Protector of Citizens therefore indicated to the Ministry of Justice to the need for consistent application of valid regulations, especially the Rulebook on the Oversight of the Operations of Civilian Enforcement Officers¹⁰³, and

¹⁰⁰ Initiative available at: <https://ombudsman.rs/index.php/zakonske-i-druge-inicijative/5817-inici-iv-z-sh-i-ni-gr-d-n-z-iz-nu-z-n-pr-rsh-i-i-pr-vilni-br-scu-pr-rsh-n-g-n-l-g>.

¹⁰¹ "Official Gazette of RS" no. 65/13, 13/16 and 98/16.

¹⁰² "Official Gazette of RS" no. 13/14.

¹⁰³ "Official Gazette of RS" no. 32/16.

the need to clearly and timely notify complainants in acting upon complaints about the operations of civilian enforcement officers about the outcome of acting upon complaint, pursuant to the Rulebook.

Complaints indicating to negligent or unprofessional work of lawyers are relatively frequent, but the conclusion cannot always be reached about whether citizens used available legal means and with what outcome. In situations when legal means were used, citizens complain about untimely deciding by bar associations upon complaints about the work of lawyers as well as to untimely activities of the Bar Association of Serbia as the second-instance body. In oversight procedures bar associations accomplished legally prescribed cooperation with the Protector of Citizens and removed noticed shortcomings.

Finances

In this reporting period, on numerous occasions the Protector of Citizens initiated oversight procedures of the operations of the Ministry of Finance due to failure to decide in legally prescribed deadline about complaints of citizens about the decisions of Tax Administration and local tax administrations. The Ministry of Finance accomplished good cooperation with the Protector of Citizens and removed noticed shortcomings, but also at the same time indicated to insufficient number of officials engaged at the jobs of second-instance deciding. The Protector of Citizens reported about this problem earlier.

The need for the improvement of the written communication with citizens by tax authorities was noticed, both in deciding about their requests and in situations when citizens want to be informed about the condition of their tax debt and other issues with regards to tax calculation and payment. A special attention should be paid to the application of regulations on the submission of tax administrative acts, taking into account that committed errors may lead to major detrimental consequences to rights and interests of citizens.¹⁰⁴

A certain number of complainants indicated to the delay of tax authorities in deciding about requests for the transfer of overpaid tax as well as to the delay in the enforcement of the decision which approves the transfer. In the most unfavorable position are entrepreneurs who had their interest calculated to tax debt while at the same time they had overpayment at other accounts, which was not timely transferred.

One part of complaints referred to the dissatisfaction with regards to determination of the tax to gun licenses for citizens who claim that their guns were stolen or temporarily taken. The activities of the Protector of Citizens

¹⁰⁴ Recommendation available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/5856-p-r-s-upr-v-c-n-r-l-privr-n-duz-l-pib-gr-d-ninu-li-g-ni-b-v-s-il>.

in the review of the existing legal framework and considering of justifiability of its amendments are in progress, with the aim of reaching a higher level of legal security and more efficient protection of rights and interests of tax payers. The Ministry of Finance was issued the opinion¹⁰⁵, which indicated to the necessity of the amendment to the regulation on determination of location-related competence of tax authorities in determination of this tax.

Not even this reporting period could pass without complaints to the operations of Tax Administration with regards to acting upon complaints of citizens against employers, due to unpaid contributions for mandatory social insurance. Even though this problem appears to a smaller extent than in previous years, the Protector of Citizens believes that it is necessary for Tax Administration to continually take all measures and activities from its competence so that owed contributions could be paid on time by employers who do not fulfill their legal obligations.¹⁰⁶

Complainants, inter alia, emphasized that at time they had worked for the employer who had not paid contributions regularly. In order to exercise the right to pension, they were forced to pay for the contributions themselves. Later, "the connection of the years of service", and the payment of the contribution based on the decision of the Government¹⁰⁷ resulted in the contributions being paid twice for the same period. Complainants therefore contacted Tax Administration with requests for the return of the funds they paid. Tax Administration rejected these requests also during 2018 with explanation that contributions were paid with tax ID number of the employer as reference number instead of the personal ID number, even though complainants filled in their payment orders in accordance with the instruction of the Republic Pension and Disability Insurance Fund (RPDIF). These examples give reasons to doubt in the functionality of the agreed mechanism of cooperation between Tax Administration and RPDIF, which aimed at solving mentioned situations to the best interest of insured persons.

During 2018 the Protector of Citizens conferment certain omissions with regards to the exercise and protection of rights from the labor relations of tax officials so in his opinions¹⁰⁸ he indicated to Tax Administration to manners of their solving.

¹⁰⁵ Opinion available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/5653-ishlj-nj-z-sh-i-ni-gr-d-n-n-z-n-p-r-zi-n-up-r-bu-drz-nj-i-n-sh-nj-d-b-r>.

¹⁰⁶ Recommendation available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/5862-p-r-s-upr-v-d-b-zb-di-d-p-sl-d-v-c-izvrshi-upl-u-d-prin-s>.

¹⁰⁷ Conclusion no. 401-6303/2015-2 dated 18th June, 2015.

¹⁰⁸ Opinions available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/5788-r-sp-r-div-nj-z-p-sl-n-g-n-sn-vu-pr-vn-g-i-pr-s-d-s-pri-nju-n-z-ni> <https://ombudsman.rs/index.php/2011-12-11-11-34-45/5819-p-sl-bus-vlj-n-g-disciplins-g-p-s-up-p-r-s-upr-v-bil-u-b-v-zi-d-pri-uzi-c-vr-i-n-r-d>.

Internal affairs

The Protector of Citizens estimates that during the reporting period to a certain extent there was an improvement of the activities by the Ministry of Interior pursuant to the Law on General Administrative Procedure¹⁰⁹ (LAP), so, unlike previous years, , deciding about requests of citizens other than the form legally imposed was noticed to a smaller extent. However, also in 2018 it was noticed that citizens were informed by letters instead decisions that their request cannot be adopted, which deprived them of the possibility of using the legal means –complaint (two instances in decision making) and prevented subsequent conducting of an administrative dispute. After initiated procedures of oversight, MOI removed the shortcomings and with regards to such requests passed administrative acts. The continued education of police officials regarding consistent and unified application of LAP in all situations when legal conditions for that are met is of great importance.

The Protector of Citizens also believes that a thorough and critical analysis of the second-instance procedures at MOI is needed. In certain cases, shortcomings in the first-instance deciding are apparent, the second-instance authorities rejected complaints. It was stated that in the explanations of second-instance decisions the typical formulations repeated, independently from the determined factual state and regulations which were applied in the specific case, which definitely does not contribute to the realization of legally-established oversight of the work of first-instance authorities.

The Protector of Citizens stated that in answers which MOI sends to complainants complaining about the operations of police officials most frequently they do not either mention the activities taken with regards to the complaint or present the facts important for deciding on its probable cause. Even apart from that, it is noticed that conducting of complaint procedures to a certain extent is improved in comparison to the previous reporting period. Formally, this procedure is conducted pursuant to the provisions of the Law on Police¹¹⁰ and the Rulebook on the Manner of Acting during the Complaint Procedure¹¹¹, while in material sense occasionally there are deviations in comparison to the rules of profession and principles of good administration. It was pointed out on several occasions to the Ministry that it is to the best interest of citizens, police officials and Ministry itself to conduct complaint procedures pursuant to the law, without the existence of doubt in their course or outcome. It is necessary that MOI develop or strengthen internal mechanisms of the oversight of its operations, which is why the Commission

¹⁰⁹ "Official Gazette of RS" no. 18/16 and 95/18.

¹¹⁰ "Official Gazette of RS" no. 6/16, 24/18 and 87/18.

¹¹¹ "Official Gazette of RS" no. 54/17.

for solving complaints should pay attention to reasons why complainant does not agree with minutes on the investigation of the complaint. It is necessary to consider also situations when the decision of the Commission differs from the minutes on the investigation of the complaint and to examine reasons for the existence of different attitudes.

In 2018 the Law on Police¹¹² was altered and the Law on Records and Information Processing in the Field of Internal Affairs was passed¹¹³. The Protector of Citizens received in the reporting period a certain number of complaints referring to the Law on Guns and Munitions¹¹⁴. Dissatisfaction of citizens referred both to the content and to the application of the provisions of this law and complicated procedure of re-registration of guns and to a certain extent to activities of police officials upon filed requests. It was noticed that MOI passed decisions on confiscation of guns pursuant to the regulations on general administrative procedure, but in many cases the guns were confiscated for safety reasons. In such cases the Protector of Citizens suggested the Ministry to pay special attention to the situations when guns are confiscated based on discretion estimation of police officials and based on previously completed safety check.

During the reporting period, control procedures were conducted in a number of cases where the Ministry of the Interior failed to, within the legal deadline, decide on applications for citizenship, release from citizenship, passport approval¹¹⁵, change in the place of residence, vehicle registration, acquisition of license for the performance of duties of security officers¹¹⁶, etc. In addition, several complaints were received expressing dissatisfaction with the obligation to replace the registration plates containing the Latin letters Č, Ć, Š, Ž, Đ, Y and W. The Protector of Citizens consequently issued to the Ministry of Interior an initiative¹¹⁷ to delete the relevant provisions of the Rulebook on the Registration of Motor and Towed Vehicles¹¹⁸, in order to equalize the period of validity of registration plates containing the letters with those which do not.

Part of the complaint was in relation to the rejection of citizens' requests for deleting information from the Ministry of Interiors' operational records.

¹¹² Law on amendments to the Law on Police, "Official Gazette of RS", no. 24/18 and the Law on Amendments to the Law on Police, "Official Gazette of RS", no. 87/18.

¹¹³ "Official Gazette of RS" no. 24/18.

¹¹⁴ "Official Gazette of RS" no. 20/15.

¹¹⁵ Recommendations available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/5951-inis-rs-v-unu-r-shnjih-p-sl-v-d-l-ni-n-d-s-prili-izd-v-nj-p-s-sh-gr-d-ni-i-u-sv-licn-i-nu-i-u-sl-v-d>.

¹¹⁶ Recommendations available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/5892-up-n-sn-v-n-dbi-z-h-v-pri-uzi-c-z-izd-v-nj-lic-nc-z-p-sl-v-sluzb-ni-b-zb-d-nj>.

¹¹⁷ Initiative available at: <https://ombudsman.rs/index.php/zakonske-i-druge-inicijative/5974-inici-iv-z-sh-i-ni-gr-d-n-z-iz-n-pr-vilni-r-gis-r-ci-i-rnih-i-pri-ljucnih-v-zil>

¹¹⁸ "Official Gazette of RS", no. 69/10, 101/10, 53/11, 22/12, 121/12, 42/14, 108/14, 65/15, 95/15, 71/17, 44/18 and 63/18

Bearing in mind that in 2018, a Law on records and information processing in the field of internal affairs¹¹⁹ was adopted, continuous education of police officers and a more complete review and control of the implementation of the aforementioned law within the Ministry of Interior were required.

The complaints of citizens who are dissatisfied with the fact that, in their opinion, the Ministry of Interior has ungrounded filed requests for initiating offence proceedings against them were investigated. Even though the responsibility of these persons is decided upon by the competent offence court, whereby the Protector of Citizens is not authorized to control the operations of judicial authorities, in certain cases, and after the completed inspection, it was estimated that the claims were made on the basis of the assumptions, rather than clear and completely established factual situation, and that in some cases the articles of the Law were wrongly specified in relation to the factual description of the offence. The Protector of Citizens believes that it is necessary for the Ministry of Interior to continuously monitor the outcome of the initiated offence procedures, as well as the court practice of the offence courts, bearing in mind that the expenses for an unfounded offence procedure shall come from the budget funds, that is, all citizens.

In 2018, the Protector of Citizens received a large number of complaints from employees in the Ministry of Interior who expressed dissatisfaction over the failure to respond to requests for a decision on the annual work assessment. In a number of cases, the Ministry remedied the omissions after the initiation of control procedures. Complaints from employees in the Ministry of Interior also pointed to the rejection of requests for the exercise of the right to solidarity allowance, that is, of the untimely handling of appeals against decisions that have been decided upon on the rights and obligations of the employees. In relation to the problems identified, the Protector of Citizens pointed to the Ministry's obligation to respect the prescribed deadlines for handling requests and complaints of employees, especially having in mind the need for timely realization and protection of their rights. In that respect, the opinion¹²⁰ was also issued to the Appeals Commission of the Government.

The issue of police officers who have had their employment terminated in accordance with previously applicable regulations, for security interference or initiation of criminal proceedings, and who have not been judicially convicted for the actions they have been charged with, that is, who are relieved from their responsibilities, is not yet solved. Former police officers have addressed that they are seeking to return to work.

¹¹⁹ "Official Gazette of RS", no. 24/18

¹²⁰ Opinion available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/5966-dr-db-z-n-n-d-pr-v-z-lb-n-isi-i-vl-d-d-n-d-n-s-r-sh-nj-z-lbi>

Defense

During the reporting period, normative assumptions have been created for the purpose of solving the long-standing problem of military pension beneficiaries who, due to the shortcomings in the legal regulations, have had the pension calculations done in a less favorable manner due to the lost information on the levels of personal income during the NATO bombing.

Amendments to the Law on Pension and Disability Insurance¹²¹, which came into force in 2018, stipulate a different way of calculating the annual personal coefficient for insured persons for which the information on earnings, compensation, that is, the insurance base are not determined in the civil registry for certain calendar years. As a result of the adopted legal solutions, as well as the information published on the website of the Ministry of Labor, Employment, Veteran and Social Affairs¹²² it can be concluded that the in order to calculate the annual personal coefficient in years for which there are no earnings information, instead of the average or the lowest or guaranteed salary, which was the case up to now, the average annual personal coefficient of the insured will be used.

The reason for addressing the Protector of Citizens was also statements on illegality and / or irregularities in the regulations regulating the right to compensation for increased housing costs, as well as the unequal exercise of the right to financial allowance. Over time, the Rulebook on Resolving Housing Needs of employees in the Ministry of Defense and the Serbian Armed Forces, as well as the conditions for resolving their housing issues, have been changed. The current Rulebook excludes the possibility of obtaining a loan as a way of settling the housing issue, resulting in dissatisfaction of the plaintiffs. The Ministry of Defense informed the Protector of Citizens that a work group was formed to draft a new Rulebook on Housing Needs in the Ministry of Defense and the Serbian Armed Forces¹²³, which will consider all modalities and received housing solution initiatives, including the possibility of granting loans. The Protector of Citizens hopes for regulations whose adoption is expected to eliminate the problems identified and contribute to a more complete and efficient solution for the housing needs of the employees.

In a number of cases, when it comes to complaints in relation to the exercise of employment rights, the plaintiffs were often referred to the Defense Inspectorate as a body in charge of inspecting the implementation of laws

¹²¹ "Official Gazette of RS", no. 73/18

¹²² Available at: <https://www.minrzs.gov.rs/sr/aktuelnosti/obavestenja/obaveze-rfpio-prema-zatecenim-korisnicima-i-osiguranicima-po-zakonu-o-izmenama-i-dopunama-zakona-o-pio-stupio-na-snagu-3092018-godine>.

¹²³ "Official Army Gazette", no. 14/14, 31/15 and 9/17

and other regulations regulating labor relations, having in mind that the plaintiffs did not use the available remedies prior to addressing the Protector of Citizens.

The cooperation between the Ministry of Defense and the Protector of Citizens can be assessed as constructive, with a certain number of control procedures being terminated through suspension after remedying the noted deficiencies.

Health

During 2018, citizens pointed to the impossibility of exercising the rights within the compulsory health insurance and in connection with the scheduling of consultative examinations with the specialists due to an insufficient number of available appointments.

Despite the fact that, in 2016, a special report by the Protector of Citizens on the operations of mechanisms for the protection of patients' rights with recommendations¹²⁴ was made and which, among other things, pointed out the legal obligation of the Health Council, the annual operating report for 2016 and 2017 was delivered only by around fifty local health councils. The received reports differ in content and form, and in most cases do not provide significant information on the basis of which the functioning of the mechanism for the protection of patients' rights could be determined. Also, much of the advice is concerned solely with monitoring the operations of advisers for protecting patients' rights and considering his report, despite a much wider range of authority.

Acting on complaints, the Protector of Citizens noticed the problem encountered by more than twenty healthcare institutions from the Plan of the Health Institution Network¹²⁵, as well as their employees due to the blockade of accounts due to debts that these health facilities were unable to recover. In connection with this, the Ministry of Health has explained that it is the adoption of two systemic laws in the procedure – the Law on Health Care and the Law on Health Insurance, through which the Ministry is trying to find a solution for any observed omissions in managing health institutions.

The Protector of Citizens, acting on the complaint, found that the payment of contributions for persons who are included in compulsory health insurance¹²⁶ is done directly to the account of the Republic Health Insurance Fund

¹²⁴ Available at: <https://ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/4608-2016-02-22-12-37-32>.

¹²⁵ According to the information of the Ministry of Health submitted in the case 133-215/17, appendix of the act no. 072-00-80/2018-05 dated 6th December, 2018.

¹²⁶ Article 23 of the Law on Health Insurance, "Official Gazette of RS", no. 107/05, 109/05 – correction, 57/11... and 10/16 – another law

(RHIF), and that the body does not have complete information on paid contributions for these persons. In the opinion¹²⁷ issued to RHIF, the Protector of Citizens pointed out that it is necessary for the said body to take all the necessary measures for amending the by-law¹²⁸ and creating the conditions for unhindered and complete insight into the information on payments made to the organization of compulsory health insurance by the RHIF organizational units, and for the purpose of enabling the certification of health insurance documents to those persons included in compulsory health insurance without submitting evidence that the contribution is due for payment. RHIF, following the opinion of the Protector of Citizens, passed the Rulebook on the Manner and Procedure of Inclusion in Mandatory Health Insurance of Persons without Mandatory Insurance.¹²⁹

During the reporting period, the Protector of Citizens issued an opinion to the Ministry of Health on the Proposal for the Strategy for the Prevention and Control of HIV Infection and AIDS in the Republic of Serbia (2018-2025), with the Action Plan for the Implementation of the National Strategy in the period of 2018-2021.¹³⁰ The efforts and the decision of the Ministry to propose the adoption of the National Strategy to the Government were welcome, primarily because this body, on the basis of the information available to the general public, as well as notifications received from representatives of the civil sector, noticed the problems people infected with HIV were facing. The Protector of Citizens, acting on their own initiative, requested the Ministry of Health, the Republic Fund for Health Insurance and the Public Health Institute of Serbia – “Dr Milan Jovanović Batut”, to provide information on the issues of public health significance.¹³¹ Through the National Strategy, as one of the measures to ensure a specific goal, a reduction in the number of new HIV infections is foreseen – availability of PEP (post-exposure prophylaxis) and PrEP (pre-exposition prophylaxis) to all persons requiring prophylaxis of antiretroviral drugs (ARVs). The Protector of Citizens emphasized that they believe this measure will enable the full implementation of relevant regulations that regulate the protection of the population against infectious diseases, that is, chemoprophylaxis. Also, the Protector of Citizens is of the

¹²⁷ Opinion available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/5667-p-r-bn-iz-n-pr-vilni-n-cinu-i-p-s-up-u-u-ljuciv-nj-u-b-v-zn-zdr-vs-v-n-sigur-nj-lic-nisu-b-v-zn-zdr-vs-v-n-sigur-n>

¹²⁸ Article 7 of the Rulebook on the Manner and Procedure of Inclusion into Mandatory Health Insurance of Persons without Mandatory Health Insurance, “Official Gazette of RS”, no. 24/06, 68/06 – another rulebook, 95/07 and 23/09

¹²⁹ “Official Gazette of RS”, no. 44/18.

¹³⁰ Available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/5827-hiv-aids>.

¹³¹ Act of the Protector of Citizens no. 24631 dated 26th June, 2017 and no. 22254 dated 10th July, 2018

opinion that the adoption of the Guide for the diagnosis and treatment of people living with HIV, providing access to treatment for all people diagnosed with HIV in accordance with the Guide, the inclusion of additional modern ARV medicine registered in Serbia and modification of indications for the use of ARV medicine from the List of Medicines, which are prescribed and issued at the expense of compulsory health insurance, represents a significant improvement in the treatment of people infected with HIV.

PROPOSALS FOR THE IMPROVEMENT OF THE STATUS OF CITIZENS IN RELATION TO ADMINISTRATIVE AUTHORITIES

- **The Ministry of Justice** should ensure the functionality of oversight of the operations of the court administration, that is, oversight of the conduct of courts in cases within the prescribed deadlines and on the handling of complaints and applications by citizens;
- **The Ministry of Justice** should ensure the functionality of oversight of the operations of public enforcement officers and the consistent application of regulations that regulate the handling of complaints against the operations of public enforcement officers and the oversight of their operations;
- **The Ministry of Finance** and administrative bodies in its composition should improve the realization of written communication with citizens, which among other things implies consistent application of the regulations on state administration, general and special administrative procedures and office operations, with the proper qualification of received submissions and timely decision-making and submission of written responses to the applicants;
- **The Tax Administration** should consistently implement all measures and activities within its competence in order to achieve timely and efficient collection of contributions for compulsory social insurance in situations where the employer does not do so;
- **Local self-government units** should, when planning their own source income, take into account the economic situation and material conditions of taxpayers, and **local tax administrations** should pay more attention to communicating with citizens, to legally and properly decide on their requirements;
- **The Ministry of Interior** should ensure the full and consistent application of regulations on administrative procedures when deciding on rights, obli-

gations and legal interests of citizens, both in the first instance and in the second instance procedures;

- When deciding using free assessment, **the Ministry of Interior** should take into account the limits and the purpose of its authority;
- **The Ministry of Interior** should ensure that administrations within the Police Directorate regularly communicate, educate and control the police administrations by line of operations, and in particular with regard to the handling of the requests of the parties;
- **The Ministry of Interior** should further develop and strengthen the mechanisms for the control of its operations, that is, the treatment of the Complaints Commission;
- **The Ministry of Interior** should ensure the full and consistent application of regulations when deciding on the rights and obligations of police officers and other employees in the Ministry;
- **The Ministry of Health and the local self-government units** should continuously provide the necessary conditions for the smooth and quality work of counselors for the protection of patients' rights and the fights of the health councils;
- **The Ministry of Health** should conduct regular periodic analyses of the effects of the implementation of the Law on Patients' Rights, with the aim of effectively and lawfully exercising the rights of patients and improving the operations of mechanisms for the protection of their rights.

5.2. AREA OF ECONOMIC AND PROPERTY RIGHTS

ACTIVITIES OF THE PROTECTOR OF CITIZENS

Construction

Failure to respond to citizens' requests in the manner and within the deadlines prescribed by the Law on General Administrative Procedure as well as acting contrary to the principles of good administration remains the main reason for addressing the Protector of Citizens in this area.

In order to prevent further unjustified prolongation of the adoption of legal decisions as a consequence of such actions, the Protector of Citizens issued a recommendation to the Secretariat for Urban Planning and Construction of the city of Belgrade to decide without delay on the plaintiff's proposal for the repetition of the procedure, upon which the body has acted.¹³² Also, from a similar processing situation, a complaint about the operations of the municipal administration of the municipality of Čajetina arose, which failed to decide on the proposal to repeat the proceedings. In this case, after the referral was made, the controlled body made a decision on the plaintiff's request.

Due to the long-standing failure of the Municipal Administration of the Municipality of Bujanovac to act on the orders of the second instance authority (Ministry of Construction, Transportation and Infrastructure) and delaying the decision-making in the retrial, the Protector of Citizens issued a recommendation on which this unit of local self-government did not act.¹³³

Such cases indicate that the administrative authorities, ignoring the submitted requests of citizens or disregarding the instructions of the second instance bodies, continue to act arbitrarily and contrary to the interests of the citizens, although the law clearly stipulates the obligation to review, as well as the deadlines for deciding on any submitted request.

The new amendments to the Law on the legalization of facilities¹³⁴ envisage the possibility for cities that have urban municipalities to have the power to entrust the implementation of this procedure to said city municipalities. These changes aim to contribute to greater efficiency, and it remains to be seen whether they will provide the expected effects in relation to the completion of the legal proceedings. However, the Protector of Citizens noted that other objects were out of reach when it comes to amendments to the

¹³² Recommendation available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5722-s-r-ri-z-urb-niz-i-gr-d-vins-p-sl-v-gr-d-b-gr-d-b-z-dl-g-nj-d-p-n-vi-p-s-up-p-z-h-vu-pri-uzi-c>.

¹³³ Recommendation available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5723-psh-ins-upr-v-psh-in-bu-n-v-c-n-pri-r-n-dug-ni-dlucil-p-z-h-vu-gr-d-nin>.

¹³⁴ "Official Gazette of RS", no. 96/15 and 83/18

Law on Legalization and were enacted on the basis of the Law on Special Conditions for the Registration of Ownership Rights in Buildings without Construction Permit¹³⁵, and for which no request for legalization was submitted, as pointed out by submitting the opinion.¹³⁶

Failure to enforce administrative decisions on demolition and following the recommendations of the Protector of Citizens¹³⁷ (even in cases when the request for legalization has been legally rejected), due to failure to foresee an adequate budget for these purposes, as well as untimely and unsuccessful implementation of public procurement procedures for the selection of the executors of these works, remain a constant obstacle to the consistent application of the Law on Planning and Construction.¹³⁸

Cadastre

The effects of improvement of the normative framework in this field, by switching to the system of electronic registration in the real estate cadastre since July 1st, 2018, cannot be fully considered from the point of view of the complaints received, given the short application time.

Considering that the real estate cadastre office, as the first instance body and the Republic Geodetic Institute, in relation to their second instance jurisdiction for resolving appeals against the decisions of real estate cadastre office, have not yet provided the conditions for up-to-date procedures, thus having the prescribed deadlines for decision making continuously violated. With the Protector of Citizens responding to complaints related to the failure to comply with statutory deadlines, a large number of citizens were able to exercise their rights more effectively. Having learned that the Protector of Citizens has initiated a procedure for controlling their operations, the competent authorities have taken the necessary measures within their jurisdiction for the purpose of efficient and timely treatment, thus removing omissions in their work.

The uneven practice and inconsistent application of the provisions of the Law on General Administrative Procedure in the real estate cadastre office and the disrespect of the rights of citizens to equal legal protection and remedy is especially expressed in terms of handling the requests for correction of errors in maintaining the real estate cadastre.

¹³⁵ "Official Gazette of RS", no. 25/13 and 145/14

¹³⁶ Available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/5827-hiv-aids>

¹³⁷ Recommendation available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/3383-2014-06-26-14-01-44>.

¹³⁸ "Official Gazette of RS", no. 72/09, 81/09 – correction, 64/10 – CC Decision, 24/11, 121/12, 42/13 – CC Decision, 50/13 – CC Decision, 98/13 – CC Decision, 132/14, 145/14 and 83/18.

Environmental protection

In the field of environmental protection, the Protector of Citizens received complaints in the past year as well, pointing to identical problems related to pollution of water, air and soil, unpleasant smells, noise (mainly from catering facilities), disposal of municipal waste, as well as the quality of drinking water. Complaints continue to emphasize citizens' dissatisfaction with measurements taken (noise levels or pollutants in the air), suspecting that they are being manipulated.

Significant legislative activities from sector-related laws in this field were also lacking in 2018, but it is important to highlight two innovations. The first one is regarding the adoption of the Law on Construction Products¹³⁹ which is in force since November 6th, 2018, one of the reasons for the adoption of which is the standardization of construction products in such a way that only those products that meet, among other things, the requirements of environmental protection, which was the subject matter of the opinion of the Protector of Citizens¹⁴⁰. The second one deals with the adoption of the Law on Fees for the Use of Public Goods¹⁴¹ in which all the fees that were previously in the individual regulations, including environmental fees, were combined with the intention of introducing a more transparent system of public revenue, as well as the predictability of operating costs. Bearing in mind that the application of this law started on January 1st, 2019, with the provisions relating to compensation for the protection and improvement of the environment, starting from March 2nd, 2019, the effects of the application of this regulation are still to be seen.

Despite the provision of financial support by the Ministry of Environmental Protection to the units of local self-government through the Green Fund¹⁴², the lack of human and financial capacities, which is the main factor of stumbling in achieving the desired environmental conditions, is still present.

On the basis of initiated control procedures, the Protector of Citizens found that noise reports were becoming more and more frequent, as well as that there is an insufficient number of inspectors, but also that citizens often express doubts and fears about the correctness and accuracy of the performed noise measurements. Despite these problems, the long-announced

¹³⁹ "Official Gazette of RS", no. 83/18.

¹⁴⁰ Opinion available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/3530-2014-10-31-14-27-09>.

¹⁴¹ "Official Gazette of RS", no. 95/18.

¹⁴² Decision on the establishment of the Green Fund of the Republic of Serbia ("Official Gazette of the Republic of Serbia", no. 91/16).

amendments to the Law on the Protection Against Noise in the Environment¹⁴³, to remove these defects, have not yet been made.

In order to protect the citizens' rights, guaranteed by the constitution, to a healthy environment and to protect the right to be fully and objectively informed about its status, the Protector of Citizens, in its opinion¹⁴⁴ issued to the Ministry of Environmental Protection and the Environmental Protection Agency, stressed the need to take all necessary measures in order to establish and maintain the National Register of Pollutants and the National Inventory of unintentionally released long-term organic pollutants, which will contain all the information on all of the pollutants that are being reported, as well as the budget emission values of all unintentional discharges of long-term organic pollutants.

Restitution

Citizens' complaints in the field of restitution point to, even in this reporting period, the problem of restitution of property in relation to the return of consolidated land. The Government of the Republic of Serbia passed the Regulation in the past year¹⁴⁵, through which a more detailed criteria for the return of agricultural, or forest land, that was subject to consolidation were regulated, thus improving the normative framework in this field. This way, the criteria that have so far been unclear in the restitution procedure have now been specified, and due to which the Protector of Citizens has once, for the same reason, that is, the fact that it was difficult to identify the parcels in the process of returning the land, as early as March 12th, 2015, issued the Proposal for Amendments to the Law on Restitution of Seized Property and Compensation to the National Assembly of the Republic of Serbia.¹⁴⁶

Economy

Since October 1st, 2018, the Business Registers Agency has been applying (without exception) the provisions of the Companies Act on initiation and conduct of procedures of enforced liquidation ex officio, in case of failure to submit financial statements by business entities. With this, it began to act on the recommendations of the Protector of Citizens¹⁴⁷, after more than a year.

¹⁴³ "Official Gazette of RS", no. 36/09 and 88/10.

¹⁴⁴ Opinion available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5805-ishlj-nj-z-sh-i-ni-gr-d-n-n-spr-v-d-n-n-r-l-r-d-rg-n-u-v-zi-s-izbi-nj-p-z-r-n-d-p-ni-i-vinc-u-b-gr-du>.

¹⁴⁵ Regulation on the Criteria for the Designation of the Agricultural or Forestry Land in the Process of Return of the Confiscated Property ("Official Gazette of RS", no. 29/2018).

¹⁴⁶ Draft of the amendments to the Law available at: <https://www.ombudsman.rs/index.php/zakonske-i-druge-inicijative/3728-2015-03-12-09-16-12>

¹⁴⁷ Recommendations available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/4710-2016-04-27-11-37-10> и <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/4828-2016-07-25-12-57-26>.

Complaints to the Protector of Citizens indicate that the issue of the status of the companies for professional rehabilitation and employment of persons with disabilities remains unresolved, and which are exempted from the privatization procedure by the Privatization Law. These companies have been unable to survive on the market without the assistance of the country for a long time, resulting in fear of being completely shut down.

Also, the Ministry of Economy and the Ministry of Finance have not yet established a model for payment of receivables recorded in accordance with the Regulation on recording due unsettled liabilities of companies under executive decision for claims from employment relations.

Mining and energy

Regarding the electricity supply, the most frequent complaints that citizens refer to the operations of PE "Elektroprivreda Srbije" are in relation to the unjustified suspension of electricity supply, the disconnection from the distribution system and the initiation of the forced collection procedure for the receivables for the delivered electricity through public enforcement agents.

Also, PE "Elektroprivreda Srbije" does not act promptly in some cases when it comes to requests of citizens for changing the meter user, compensation for the damage caused or an objection to the suspension of the electricity supply, which is why the citizens are requesting assistance from the Protector of Citizens. After the initiation of the procedure for oversight of their operations, this public company would, as a rule, submit the requested decision or response.

The problem of the lack of the possibility of reaching an agreement and debt settlement using installments is still not solved, especially in the situations when the correction of the invoice is due to the mistake of the authorized persons of the distributor, bearing in mind the financial impacts that the irregularities can make on the customers, which was pointed out by the Protector of Citizens, is the reason for drawing up a special report.¹⁴⁸

Also, amendments to the Decree on the Conditions of Delivery and Supply of Electricity need to enable citizens who became property rights owners in the procedure of restitution, and who are burdened with unpaid debt for consumed electricity, to conclude an agreement on electricity supply.

¹⁴⁸ Special Report of the Protector of Citizens "Problems in the Exercise of Consumer Right –Customers of Electrical Energy with Recommendations" available at: <http://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/4288-2015-08-19-13-26-56>.



**Picture 8 – Protector of Citizens Mr. Zoran Pašalić
in conversation with citizens in Loznica**

Local self-government

As in the previous reporting periods, a significant number of complaints in this field continue to testify to the dissatisfaction of citizens with the efficiency of the actions performed by the inspection bodies of local self-government units according to the initiatives for performing inspection oversight of the application of local and republic regulations, and especially on the continued practice of non-enforcement of executive solutions, primarily municipal and construction inspections.

During the reporting period, the Protector of Citizens, in the recommendations addressed to certain city municipalities of the City of Belgrade (the Administration of the Municipality of Palilula, the Administration of the Municipality of Zvezdara, the Administration of the Municipality of Zemun) found that, similar to previous years, one of the main obstacles to the compulsory enforcement of the executive solutions was the lack of material resources, while in cases where these funds were secured, they were primarily directed at the execution of solutions that endanger the public interest. In this sense, through the recommendations to the municipal authorities, as well as the Secretariat for Inspection Affairs of the City Administration of

the City of Belgrade¹⁴⁹, it has been pointed out to the need for proactive action aimed at securing material resources and undertaking other measures in order to enforce executive decisions as soon as possible.

During this reporting period, there was a noticeable lack of cooperation between individual local self-government units and the Protector of Citizens, despite the legal obligation. Namely, in certain cases, the information necessary for the realization of Protector of Citizens' control, i.e. preventive role, were delivered only after several letters issued with subsequent deadlines for providing the requested information. This was the case with the Municipality of Velika Plana, the Municipality of Bujanovac and the Municipality of Zemun, while in certain cases the absence of cooperation was complete (the Municipality of Priboj, the City Administration of the City of Belgrade).

When it comes to complaints from the domain of source jurisdiction of local self-government units, they mostly relate to the performance of utility activities and the operations of the executors of these activities, that is, public utility companies. Also, citizens have often pointed to the insufficient engagement of local self-government units in order to provide adequate communal and road infrastructure, especially in rural areas. Bearing in mind that the founders of public utility companies are units of local self-government that oversee the operations of the above mentioned, it is necessary that local self-government units undertake a greater degree of engagement in controlling the operations of local public companies. It is also noticeable that this domain of the local self-government unit's jurisdiction has a problem with insufficient funds in its budget which makes it difficult to implement projects and improve living standards, especially in rural areas.

Public administration

Based on the received complaints in the past year, it was noted that the administrative inspection within the Ministry of State Administration and Local Self-Government did not undertake all the measures and authorities envisaged by the Law on Administrative Inspection¹⁵⁰, resulting in the Pro-

¹⁴⁹ Recommendation available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5627-psh-in-p-lilul-d-b-z-dl-g-nj-spr-v-di-r-sh-nj-un-ln-insp-ci-i-s-ps-v-n-dlu>.

Recommendation available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5705-psh-in-zv-zd-r-b-z-dl-g-nj-d-spr-v-di-r-sh-nj-un-ln-insp-ci-i-s-ps-v-n-dlu>;

Recommendation available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5759-upr-v-gr-ds-psh-in-z-un-d-pr-duz-sv-r-z-spr-v-d-nj-d-inis-r-ivn-g-izvrshn-g-r-sh-nj-d-lj-nj-z-insp-ci-s-p-sl-v>

¹⁵⁰ "Official Gazette of RS", no. 87/11

ector of Citizens sending a recommendation to the Administrative Inspectorate, and according to which the body acted and took measures with the goal of improving the operations of the bodies.¹⁵¹

PROPOSALS FOR THE IMPROVEMENT OF THE STATUS OF CITIZENS IN RELATION TO ADMINISTRATIVE AUTHORITIES

Even though pursuant to Article 17 Paragraph 3 of the Law on the Protector of Citizens, the Protector of Citizens is not authorized to oversee the operations of the National Assembly and the Government, the Protector of Citizens believes that it would be useful that the stated bodies review his proposals.

- **The Government** should continue with the work on reforming of bankruptcy legislation, so as to find the model which will provide the most complete and efficient control of bankruptcy administrators' operations during the conducting of bankruptcy procedure;
- **The Government and Ministry of Economy** should as urgent as possible find and start applying the best model for the payment of receivables recorded pursuant to the Regulation on Recording of Due Unsettled Obligations of Social Companies upon Executive Verdicts for Receivables from Labor Relations;
- **The Government and Ministry of Economy** should terminate the privatization procedure of private-owned companies classified as subjects of the privatization of strategic importance;
- **The Ministry of Construction, Transportation and Infrastructure** should provide sufficient financial funds in budgets at all levels of authority for administrative execution of decisions on demolition of illegal buildings;
- **The Ministry of Construction, Transportation and Infrastructure** should take measures with the aim of strengthening of the preventive function of construction inspection;
- **The Ministry of Environmental Protection and the Environmental Protection Agency** should take all necessary measures with the aim of establishment and maintaining of the National inventory of involuntarily discharged long-term organic polluting substances in such a manner so that they contain the information on all polluting substances which are reported about;

¹⁵¹Recommendation and received answers of authorities available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5948-upr-vni-insp-r-ni-spr-v-insp-ci-s-i-n-dz-r-i-r-sp-l-g-sluzb-ni-s-zn-nji>.

- **The Ministry of Environmental Protection and the Environmental Protection Agency** should take all necessary measures with the aim of passing missing strategies and plan acts from the field of environmental protection;
- **The Ministry of Environmental Protection** should use all available mechanisms with the aim of further provision of financial support to local self-government units in the field of waste management;
- **The Ministry of Environmental Protection** should take all necessary measures with the aim of passing announced amendments to the Law on Noise Protection in the Environment;
- **The Ministry of Mining and Energy** should propose an amendment to the Regulation on the conditions of delivery and supply with electricity so that citizens who in the procedure of restitution became the holders of the right to the property of the real estate which are burdened with unsettled debt for consumed electric energy would be provided with the conclusion of the contract on the electricity supply, while the payment of unsettled receivables the energy subject would have to require from the person who created the debt;
- **Republic Geodetic Authority** should take necessary measures from their competence with the aim of establishment of the mechanism of efficient and timely activities upon stated complaints, pursuant to the provisions of the Law on General Administrative Procedure;
- **Republic Geodetic Authority** should provide that services for the real estate cadastre, taking into account justified and reasonable expectations of citizens, reply timely to requests and letters of citizens paying attention to correct and complete information on their rights and obligations they submit to citizens in the response;
- **PC "Elektroprivreda Srbije"** should, pursuant to the Law on Energy, provide that complaints of citizens are investigated in the manner which provides legal, correct, conscientious, fair, unbiased and timely activities and restraining of energy subject from all activities which, during the settling of consumer dispute, may do material and non-material damage to the consumer;
- **Local self-government units** during the adoption of the budget should plan sufficient amount of funds for administrative execution of passed decisions on demolition of illegally constructed buildings as well as the execution of decisions of communal inspections;
- **Local self-government units** should provide that public purchase procedures for the execution of works at the demolition of buildings are implemented in legal frameworks and deadlines;

- **Local self-government units** should, with the aim of more efficient implementation of own decisions, consider the option of establishing public companies which would within their scope of business deal with coercive implementation of decisions and in cases where there already are public companies fulfilling the legal, staff and technical conditions for coercive implementation of decisions, entrust them with the execution of these activities;
- **Local self-government units** should timely and responsibly plan budget funds with the aim of even execution of all obligations emerging from legally stipulated, source or trusted competence;
- **Local self-government units** should adhere to the legally stipulated obligation of cooperation with the Protector of Citizens in activities implemented by this body by contributing in this manner to the common goal of protection and improvement of citizen rights;
- **Local self-government units** should provide timely and coordinated work of all its bodies and services, but performing oversight of their work and determine individual responsibility of employees for emerged omissions as well as to compensate the damage which was the result of the omission to citizens;
- **Local self-government units** should use all their legal authorizations in the oversight of the operations of companies which they entrusted with the performance of communal activities and take measures so as to provide that these companies act in every aspect in accordance with the law and bylaws which regulate a specific field;
- **Local self-government units** should pursuant to the Law on Local Self-government organize services of legal assistance and in this manner provide citizens with the exercise of the right to legal assistance guaranteed by the Constitution;
- **Secretariat for legalization of facilities of Belgrade City Administration** should in its future operations fulfill the obligation of cooperation with the Protector of Citizens, by responding to acts of this body timely and submitting all information at its disposal and of importance for the procedures conducted by the Protector of Citizens;
- **Competent authorities** should assume responsibility for inadequate keeping of the archive material due to which citizens in the restitution procedure suffer damage by not being able to obtain necessary documents and propose the manner how this shortcoming would be removed (amendment to the law so as to stipulate a subsidiary manner as the evidence on confiscated property).

5.3. AREA OF SOCIAL AND CULTURAL RIGHTS

ACTIVITIES OF THE PROTECTOR OF CITIZENS

Rights of the youth

Young people still face unemployment and economic problems, lack of adjustment of knowledge, skills and competences acquired during education with the needs of the labor market and low social inclusion despite a series of measures and activities implemented by the Ministry of Youth and Sport. More specifically, the burning issues which this part of the population faces in the Republic of Serbia are insufficiently developed services of the prevention of substance dependence and risky behavior, services of assistance and support to the youth in especially vulnerable situations, prevention and protection of mental and reproductive health, impossibility of health protection at the burden of mandatory health insurance of young persons who are not employed, not regular students and live with the members of their family.

Rights on the basis of labor

In this reporting period as well as in previous years, citizens complained to the Protector of Citizens mostly about unpaid or not regularly paid salaries and failure to have contributions for social insurance paid, workplace abuse as well as the termination of the labor contract. Due to lack of financial resources for settlement of the obligations of the employer towards employees, the employees most frequently cannot collect their receivables from the labor relation, especially in situations when it is the company undergoing the restructuring procedure or bankruptcy procedure and whose accounts are blocked.

Citizens also complained about the operations of the labor inspection due to untimely and inefficient work which is also the result of insufficient number of inspectors in the Republic of Serbia. The existing number of inspectors is not sufficient for successful performance of both control and preventive function of the stated body.

Upon his own initiative, the Protector of Citizens initiated the procedure of oversight of the authorities due to frequent cases of severe employee injuries.¹⁵² The Government of Serbia adopted the Strategy of Occupational

¹⁵² Available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/5865-p-sh-lic-r-zi-hi-n-dg-v-r-n-dl-znih-z-b-zb-dn-s-i-z-sh-i-u-r-dni-n-r-du>.

Safety and Health for the period from 2018 o 2022 with the Action Plan¹⁵³, and the Minister for Labor, Employment, Veteran and Social Affairs established the Working Group for the execution of the Draft of the Law on Occupational Injury Insurance for the purpose of damage compensation¹⁵⁴, since it was noticed in practice that employees who suffer an occupational injury may exercise their rights related to the damage compensation only by initiating long-term court proceedings and families of employees whose injuries are with death outcome have difficulties in the exercise of these rights.

During the oversight of the operations of the National Employment Agency this body confirmed that the stated organization in the process of deciding upon requests for the participation at public calls for the realization of the program of professional practice does not make elaborated decision with the instruction on legal remedy. The Protector of Citizens finds that it is indispensable for the National Employment Agency to introduce its activities in cases of the realization of public calls referring to the active employment policy into the framework of the administrative procedure and thus he issued the recommendation that in future the Agency should pass the decisions upon the requests related to public calls referring to the implementation of the measures of active employment policy in the form of an elaborated administrative act with the instruction on legal remedy.¹⁵⁵ There were no actions upon the recommendation of the Protector of Citizens.

The Protector of Citizens issued the opinion about the Draft of the Law on Amendments to the Law on Civil Servants¹⁵⁶ for the purposes of the improvement of individual stipulated decisions. More specifically, it was indicated that the principle of equal availability of job positions should be accomplished to the full extent by prescribing in a special provision affirmative measures for groups of citizens who are in uneven position in the society, as it was done in the valid Law on Employees at Public Services.

Furthermore, the opinion to the Draft of the Law on Salaries of Civil Servants and Employees¹⁵⁷ was issued with the aim of improvement and strengthening of the official system and of the removal of noticed shortcomings in the organization of individual rights of employees at state bodies

¹⁵³ Available at: https://www.minrzs.gov.rs/sites/default/files/201901/strategija_bezbednosti_i_zdravlja_na_radu_u_rs_za_period_2018-2022._godine__1_.pdf.

¹⁵⁴ Available at: <https://www.minrzs.gov.rs/sr/aktuelnosti/vesti/zelimo-najbolje-za-nase-gradjane>.

¹⁵⁵ Recommendation available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5967-nsz-d-d-n-si-dlu-s-br-zl-z-nj-i-p-u-pr-vn-l-u>.

¹⁵⁶ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5873-ishlj-nj-z-sh-i-ni-gr-d-n-n-n-cr-z-n-iz-n-i-d-pun-z-n-drz-vni-sluzb-nici>.

¹⁵⁷ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5864-ishlj-nj-z-sh-i-ni-gr-d-n-n-n-cr-z-n-pl-drz-vnih-sluzb-ni-i-n-sh-ni>.

such as the right to salary. With regards to that, the Protector of Citizens provided support to the efforts to strengthen the control functions of the authorities, believing that it is necessary to stipulate also for civil servants at the Secretariat of the Protector of Citizens the possibility of the increase of coefficient due to the responsibility and realization of control function, which is stipulated by the Draft of the law for certain control bodies. Also, the Protector of Citizens presented the remarks in the part which prescribes the budget limitations to salaries, compensations and other earnings of civil servants and employees. It should be said here that the delay of the application of the framework law in this area –the Law on the Salary System of Employees at Public Sector –occurred again, which resulted in the delay of the equalization of salaries at the public sector based on the principle “the same salary for the same job”.

Supporting the efforts of proposers to improve the social dialog for the purpose of the protection of social, economic and labor relation rights, the Protector of Citizens issued to the Ministry of Labor, Employment, Veteran and Social Affairs the opinion about the Draft of the Law on Strike,¹⁵⁸ emphasizing the need to amend certain provisions of the Draft as well as to make them more precise and harmonized with the Labor Law.

Pension and disability insurance

In the reporting period via submitted complaints, citizens indicated to the same problems in operations and activities of the Republic Pension and Disability Insurance Fund (hereinafter: PDI Fund), which they faced in previous years, such as: untimely activities in deciding upon requests, retroactive determination of the obligation of contribution payment, return of overpaid amount of pension without passing a decision, determination and termination of the status of insured agricultural producers, impossibility of the exercise of rights from pension and disability insurance of persons who spent a part or entire years of service in Kosovo and Metohija due to the lack of the information on their years of service and salary.

In order to accomplish the improvement of the work and remove identified omissions, the Protector of Citizens issued to the PDI Fund the recommendation to keep in future a proper and updated record on insured persons, payers of mandatory contributions and beneficiaries of the rights and verify the accuracy of the information entered into the application for registrar in the manner stipulated by the law. It was recommended to the PDI fund to

¹⁵⁸ Available at: <https://www.ombudsman.rs/attachments/article/5802/Nacrt%20zakona%20o%20strajku.pdf>.

make decisions within the legally stipulated deadline and always, in the line of duty, pass an elaborated administrative act on the overpaid amount of pensions, with the instruction on legal remedy. There were no actions upon this recommendation of the Protector of Citizens.¹⁵⁹

The Protector of Citizens issued to the Ministry of Labor, Employment, Veteran and Social Affairs, Office for Kosovo and Metohija and PDI Fund the opinion about the exercise of the rights from pension and disability insurance of persons who had their years of service, completely or partially in Kosovo and Metohija¹⁶⁰, but which due to generally known circumstances was not recorded in the registrar of the PDI fund and thus is not recognized as the insured years of service.

On 29th September, 2018 the National Assembly passed the Law on Pension and Disability Insurance.¹⁶¹ This law solves some of the problems which the Protector of Citizens presented to the competent ministry and PDI Fund, and which were identified during the work on complaints from the field on pension and disability insurance for years. Coming to force of these alternations terminates the authorization of the Fund to coercively charge unpaid contributions by the suspension of one third of pension. The control of the payment of contributions for social insurance is in the competence of the Tax Administration and beneficiaries will receive their pension proportionally to the periods of insurance for which contributions are paid. One of significant changes is the limitation of the temporality of the decision on pension. It means that if within three years since the validity of the temporary decision the missing facts are not determined, the amount of pension becomes final in the line of duty. Citizens indicated since the beginning of work of this body to the problem of the great number of temporary decisions, which was frequently by the occurrence of overpaid amount upon the decision on the final amount of pension.

One of the frequent reasons for contacting this body, during the past year, was the lack of the information on the years of service, salaries, and earnings compensations for certain periods of time, which is why the pension beneficiaries could not have their pensions determined to the full extent. This problem was significantly decreased by the alteration of Article 66 Paragraph 2 of the Law on Pension and Disability Insurance, which prescribes that for all these insured persons, instead of the unit or the lowest base, their average

¹⁵⁹ Recommendation available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5921-n-zurni-r-d-rf-pi-rshi-n-c-l-pr-vn-sigurn-s-i-gr-d-n>.

¹⁶⁰ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5964-z-sh-i-ni-gr-d-n-upu-i-ishlj-nj-inis-rs-vu-z-r-d-z-p-shlj-v-nj-b-r-c-i-s-ci-ln-pi-nj-nc-l-ri-i-z-s-v-i-hi-u-i-r-public-f-ndu-z-p-nzi-s-i-inv-lids-sigur-nj>.

¹⁶¹ "Official Gazette of RS", no. 73/18.

annual personal coefficient, which certainly represents a fairer manner of calculation. Most frequently it is the case with complainants who accomplished part of their years of service in the area of Kosovo and Metohija, members of the MoI and military personnel, but also with all those who worked in companies which ceased to exist and the documentation on their employment does not exist even in archives. The amendments also prescribe that the stated provision will also refer to the found beneficiaries, who may address the PDI Fund with regards to that, by requesting to amend the decision pursuant to this provision, not later than one year since the day this law comes into force.

Pursuant to the Decision of the Constitutional Court¹⁶², which was passed upon the proposal of the Protector of Citizens and which determines that the provision of Article 4 of the Decision on the Determination of the Status of the Insured Person and Obligation of Payment of the Contribution for Mandatory Pension and Disability Insurance¹⁶³ is not in accordance with the Constitution and Law, PDI Fund initiate passing of the decision which terminates the suspension of one third of the monthly amount of pensions of the insured persons.

The greatest interest among pensioner is in the abolishment of the Law on Temporary Organization of the Manner of Payment of Pensions, which ceased to be valid by Article 53 Paragraph 1 of the Law on Amendments to the Law on Pension and Disability Insurance¹⁶⁴.

Education

As in previous years, in this reporting period the good cooperation between the Protector of Citizens and the Ministry of Education, Science and Technological Development as well as the educational institutions and higher-education institutions continued. Educational authorities and institutes answer to the requests of the Protector of Citizens timely and submit requested information and practice of solving successfully and effectively at joint meetings was continued.

Educational bodies and institutions in great number of cases removed the omissions in their work immediately after learning that the Protector of Citizens initiated the oversight procedure of their work. However, in this reporting period it was noticed that the bodies and institutes failed to effectively and within legally prescribed deadlines respond to all requests and presentations of citizens.

¹⁶² IUO-279/2016, dated 21st December, 2017.

¹⁶³ "Official Gazette of RS", no. 43/11.

¹⁶⁴ "Official Gazette of RS", no. 73/18.

The problem which remains is the problem of untimely actions of the Ministry of Education, Science and Technological Development and ENIC/NARIC Serbia (Center for Information on the Recognition of Foreign Higher-Education and High-School Documentation and Recognition for the Purpose of Employment) upon requests for the recognition of foreign higher-education documentation for the purpose of employment. The Protector of Citizens during this reporting period through the procedures of oversight monitored the solving of problems of those who contacted him with regards to the procedure of professional recognition of foreign higher-education documentation in the field of rights. For the recognition of foreign higher-education documentation in the field of rights, in the Republic of Serbia so far there was no adequate legal framework and with the aim of overcoming the problem, the working group was formed with the aim of defining the standards of the professional recognition in the field of rights. The results of the operations of the working group were incorporated in the Law on Professions of Special Interest for the Republic of Serbia¹⁶⁵. Passing of bylaws which will regulate the procedure is in progress.

Complaints also indicated to the problems with regards to issuing of higher-education documentation, untimely actions of higher-education institutions upon presentations and requests of students and employees, as well as irregularities and illegalities in the procedures of election to the position of professors and associates at higher-education institutions. The problems graduate students faced with regards to the exercise of the right to the exemption from the obligation of the return of the student loan were solved after the meeting between the Protector of Citizens and the representatives of the Ministry of Education, Science and Technological Development.

During the reporting period the Law on the National Framework of the Qualifications of the Republic of Serbia was passed.¹⁶⁶ National Framework of the Qualifications of the Republic of Serbia includes all levels and types of qualifications and their integration and coordination is enabled. At the same time, the National Framework of Qualifications is the foundation for the improvement of the educational system and functional connecting of the education and labor market. The Protector of Citizens in his previous annual reports indicated to the need of the establishment of the National Framework of Qualifications of the Republic of Serbia.¹⁶⁷

The employees at the educational institutions in this reporting period also

¹⁶⁵ "Official Gazette of RS", no. 73/18.

¹⁶⁶ "Official Gazette of RS", no. 27/18.

¹⁶⁷ Annual reports of the Protector of Citizens available at: <https://www.ombudsman.rs/index.php/izvestaji/godisnji-izvestaji>.

addressed the Protector of Citizens due to inability of the completion of the working hours norm and takeover, reduction of the number of classes, termination of the labor relation, irregularities in the procedure of implementation of the competition for the beginning of the labor relation, initiation of disciplinary procedures, exercise of the right to severance pay. Also, a certain number of complaints which indicate to the workplace abuse were received. The Protector of Citizens was contacted by the representatives of representative unions in education indicating, inter alia, to the problems which occurred in the process of determination of the representative position, which were removed after the meeting between the Protector of Citizens and representatives of the Ministry of Labor, Employment, Veteran and Social Affairs.

The ongoing problem is the fact that because of the reduction of the number of educational inspectors of the Ministry of Education, Science and Technological Development and increased volume of work, it is not possible in the expected scope to accomplish the oversight of the operations of educational inspectors who are in charge of the work. There still are cases in which educational inspections do not determine factual state accurately or impose inadequate measures which result in the violation of the rights of citizens. In one case, the Protector of Citizens confirmed that the educational inspector, based on incompletely confirmed factual state, imposed to the school the measure which was impossible to execute., The educational inspection acted upon the recommendations which the Protector of Citizens issued and removed the omission in work.

In the reporting period the Protector of Citizens issued to the Ministry of Education, Science and Technological Development the opinion about the Draft of the Law on Textbooks¹⁶⁸ and Draft of the Law on Amendments to the Law on Student Standard¹⁶⁹, with the aim of the improvement of the quality of education and higher level of the exercise of student rights.

Social protection

The condition in the field of social protection in this reporting period too is marked by inadequate number of employees at the residential care institutions and poor work conditions. The number of complaints of the beneficiaries of services and rights from the field of social protection is on increase

¹⁶⁸ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5641-ishlj-nj-z-sh-i-ni-gr-d-n-n-s-n-cr-z-n-udzb-nici>.

¹⁶⁹ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5932-ishlj-nj-z-sh-i-ni-gr-d-n-n-s-n-cr-z-n-iz-n-i-d-pun-z-n-uc-nic-i-s-ud-n-s-s-nd-rdu>.

and they indicate to untimely and unprofessional activities of employees in social protection. There is no sufficient number of services of support at the local level which would improve the status of beneficiaries in the community. For this reason, the Protector of Citizens initiated the oversight procedures of centers for social work and local self-government units during which in certain number of cases the omissions were removed, especially when it comes to the services of material nature. So, acting upon the recommendation of the Protector of Citizens, the Center for Social Work in Merošina removed the omissions in work and improved the activities in the reception of requests and deciding on the rights in the field of social protection, by making more accurate in its internal act the activities of employees in the reception of requests.

The Protector of Citizens with the aim of the improvement of the citizen rights in this field issued to the Ministry of Labor, Employment, Veteran and Social Affairs the opinion about the Draft of the Law on Amendments to the Law on Social Protection.¹⁷⁰ In the opinion it was indicated to possible directions of improvement of proposed solutions in the Draft of this law and additional accuracies in individual provisions from the aspect of improvement and protection of human rights.¹⁷¹

Culture

The Protector of Citizens in this period as well received many complaints about untimely activities of the Public Media Institution Radio and Television of Serbia. Saving measures and legal limitation of employment in public sector significantly aggravate activities upon the requests of citizens for the exemption from the obligation of payment of the fee for public media service.¹⁷²

Acting upon the complaints of citizens as well as upon his own initiative, the Protector of Citizens noticed that media frequently publish the media content which offends the honor, dignity, reputation or privacy, as well as the content which offends the dignity of a victim and that there is no adequate protection of human rights and child rights in these cases. With the aim of overcoming the stated problem, the Protector of Citizens issued to the Ministry of Culture and the Media the opinion that by amendments to the Law on Public Information and the Media, which would prescribe adequate

¹⁷⁰ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5973-ishlj-nj-z-sh-i-ni-gr-d-n-n-cr-u-z-n-iz-n-i-d-pun-z-n-s-ci-ln-z-sh-i-i>.

¹⁷¹ The Draft of this law still has not been passed.

¹⁷² Note: in solving the stated problem the Protector of Citizens in 2016 sent recommendations to the Public Media Institution Radio and Television of Serbia.

sanctions for the violation of obligations and prohibitions prescribed by this law, improve the exercise and protection of right to privacy as well as the right of children to the protection from detrimental content and information prescribed by the UN Convention on child rights¹⁷³.

PROPOSALS FOR THE IMPROVEMENT OF THE STATUS OF CITIZENS IN RELATION TO ADMINISTRATIVE AUTHORITIES

- **The Ministry of Health** should, in cooperation with other public authorities, intensify activities on the suppression, prevention and support to the young in fighting substance dependence and all forms of violence;
- **The Ministry of Health и the Republic Health Insurance Fund** should provide that young persons, as especially vulnerable population, obtain health insurance as members of the family of insured persons and to the burden of the budget of the Republic of Serbia, when they cannot obtain the insurance on another basis;
- **The Ministry of Youth and Sport, Ministry of Labor, Employment, Veteran and Social Affairs, National Employment Agency and the Ministry of Education, Science and Technological Development** should take measures so as to provide higher accessibility of the secondary and higher education, professional training, employment and self-employment of the young;
- **The Ministry of Labor, Employment, Veteran and Social Affairs and Tax Administration** should realize more quality cooperation and consider the creation of more efficient mechanisms so that employees would send their earnings and contributions for mandatory social insurance to employees;
- **The Ministry of Labor, Employment, Veteran and Social Affairs** should take all activities with the aim of strengthening the status of the Inspectorate for Labor, primarily by employment of a higher number of labor inspectors;
- **The Ministry of Labor, Employment, Veteran and Social Affairs** should take measures and provide a higher number of preventive oversight and measures in the field of protection and safety at work;
- **The Ministry of Labor, Employment, Veteran and Social Affairs in cooperation with the Ministry of Agriculture and PDI Fund** should prepare alterations of the existing normative framework, with the aim of solving the problems of agricultural insured persons and beneficiaries of agricultural pensions;

¹⁷³ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/6000-ishlj-nj-z-sh-i-ni-gr-d-n-iz-n-i-d-pun-z-n-vn-inf-r-is-nju-i-di-i>.

- **The Ministry of Labor, Employment, Veteran and Social Affairs** should oversee the legality of work and acts of the PDI fund with regards to the recommendations issued by the Protector of Citizens;
- **The Ministry of Labor, Employment, Veteran and Social Affairs** should take measures so as to provide an adequate number of employees at the residential care institutions so as to improve their work and legal and material position;
- **The Ministry of Labor, Employment, Veteran and Social Affairs и Republic Institute for Social Protection** should provide different forms of trainings and professional courses for employees, especially taking into consideration previously given recommendations of the Protector of Citizens;¹⁷⁴
- **The Ministry of Labor, Employment, Veteran and Social Affairs** should provide that residential care institutions decide on the rights from the field of social protection timely;
- **The Ministry of Labor, Employment, Veteran and Social Affairs and local self-government units** should provide the conditions and take all activities, independently or in cooperation, in order to increase the number of support services at the local level;
- **The Ministry of Labor, Employment, Veteran and Social Affairs and local self-government units** should enable more accessible and faster exercise of the right to material support to citizens who are in the status of severe life and material vulnerability;
- **The Ministry of Education, Science and Technological Development** should intensify the activities on the application of the principle of inclusive education at all the levels of educational process, including higher education;
- **The Ministry of Education, Science and Technological Development** should provide that all citizen requests issued to the Ministry, educational institutions and institutions of higher education receive effective replies within legally prescribed deadlines.
- **The Ministry of Education, Science and Technological Development** should provide timely and effective activities of educational inspectors;

¹⁷⁴ Recommendations given in the Special Report on Training for the Acquisition and Improvement of Knowledge and Competences for the Prevention, Suppression and Protection of Women from the Violence in Family and Partner Relations, available at: <http://www.zastitnik.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/4613-2016-02-26-10-48-42>.

- **The Ministry of Education, Science and Technological Development** should provide and establish an effective system for regular and timely fulfillment of obligations of the Republic and local self-government units towards educational institutions;
- **The Ministry of Education, Science and Technological Development** should take all measures so as to improve the status of educational employees, quality of education and exercise and protection of student rights;
- **The Ministry of Education, Science and Technological Development and higher-education institutions** should take measures with the aim of effective informing of students on their rights and protection mechanisms;
- **The Ministry of Education, Science and Technological Development** should provide that the decision upon citizen requests for professional recognition of foreign higher-education documentation is passed within legally prescribed deadline;
- **The Ministry of Education, Science and Technological Development** should intensify the activities on the application of the principles of inclusive education at all the levels of educational process, including higher education;
- **The Ministry of Education, Science and Technological Development** should take measures in order to provide greater availability of the secondary and higher education, professional training, employment and self-employment of the young;
- **The Ministry of Culture and the Media and the Regulatory body for electronic media** should, immediately upon learning about possible violation of the law by written or electronic media, take legally stipulated measures with the aim of the protection of citizen rights and sanctioning of illegal activities; **Public Media Institution Radio and Television of Serbia** should ensure that passed decisions are clear and explained, as well as that it is acted upon the citizen requests within legally prescribed deadlines;
- **The Regulatory body for electronic media** should take care of the protection of minors and respect of the personal dignity in programs broadcast via radio and television and take legally prescribed measures against the broadcasters not acting in accordance with the law;
- **PDI Fund** should realize effective cooperation with other organizations of mandatory social insurance and Tax Administration, with the aim of the information exchange and harmonization of the work and activities, with the aim of more efficient and comprehensive exercise of rights of citizens from pension and disability insurance;

- **PDI Fund** should continue to take actions with the aim of the improvement of work, more timely keeping of the Registrar and more efficient acting upon citizen requests for the exercise of rights from pension and disability insurance, with the improvement of cooperation of affiliates and more efficient cooperation with foreign funds;
- **National Employment Agency** should in all cases of deciding on the rights completely act in accordance with the principles of general administrative procedure and principles of good administration;
- **Competent bodies** should by the end of 2019 complete the long-term process of the development and improvement of the clerical system in the public administration based on de-politization, professionalization and principle “the same salary for the same job” and start with full implementation.

6. COOPERATION BY THE PROTECTOR OF CITIZENS

6.1. COOPERATION WITH PUBLIC AUTHORITIES EXCLUDED FROM THE OVERSIGHT BY THE PROTECTOR OF CITIZENS

In the past four years the National Assembly did not review the Annual Report of the Protector of Citizens, contrary to the provision of Article 58 of the Law on the National Assembly¹⁷⁵ and provisions of Articles 238 and 239 of the Rules of Procedure of the National Assembly.¹⁷⁶

In July 2014, the National Assembly set the fundamentals of the system for tracking of the execution of recommendations of the Protector of Citizens by the Decision. The Decision designated the obligation of the Government to inform the National Assembly once in six months about the execution of recommendations of the Protector of Citizens. The Protector of Citizens does not have the information whether the Government acted according the Decision of the National Assembly in 2018.

The Protector of Citizens accomplished the cooperation with the Board for Judiciary, State Administration and Local Self-Government which in May 2018 reviewed the Annual Report for 2017. The Board for Child Rights did not review the Annual Report of the Protector of Citizens for 2017 in the part referring to child rights, which is of special importance for the exercise of child rights in the Republic of Serbia.

The Protector of Citizens emphasizes the cooperation with the Board for Administrative-Budget and Mandate-Immunity Affairs, which as of 2nd March 2018 approved to the Protector of Citizens the requested number of employees for indefinite period of time at the Secretariat of the Protector of Citizens for 2018, pursuant to the Law on the Manner of the Designation

¹⁷⁵ "Official Gazette of RS", no. 9/10.

¹⁷⁶ "Official Gazette of RS", no. 20/12 – revised text.

of the Maximum Number of Employees at the Public Sector and the Rulebook on the Internal Organization and Systematization of Job Positions at the Secretariat of the Protector of Citizens, which contributed to the improvement of staff capacities of the Secretariat of this independent body. Furthermore, the Board for Administrative-Budget and Mandate-Immunity Affairs on 26th October, 2018 supported the proposal of the Protector of Citizens about passing of the Decision on Amendments to the Decision on Establishment and operations of the Secretariat and Rulebook on the Internal Organization and Systematization of Job Positions at the Secretariat of the Protector of Citizens which stipulates the reorganization of the operations of the Secretariat within the determined maximum number of employees, which was adopted at the plenum of the National Assembly of the Republic of Serbia on 7th December, 2018.

The Board for Judiciary, State Administration and Local Self-Government, the Board for Child Rights and Board for Human and Minority Rights and Gender Equality at the joint session on 18th December, 2018 reviewed the Report on the Work of the National Preventive Mechanism for 2017, which was submitted by the Protector of Citizens on 5th December, 2018.

In October 2018, the Protector of Citizens submitted to the National Assembly the requested information from his competence with the aim of the preparation of the meeting of the Parliamentary Board for stabilization and accession.

In the reporting period, too, the Protector of Citizens issued initiatives to competent bodies for amendment to laws and other regulations from his competence.¹⁷⁷ The Protector of Citizens issued also numerous opinions to competent bodies to proposals of regulations in the process of their preparation, pursuant to the Law on the Protector of Citizens.¹⁷⁸

¹⁷⁷ Article 18, Paragraph 2 of the Law on the Protector of Citizens, "Official Gazette of RS", no. 79/05 and 54/07.

¹⁷⁸ More details in the part of the Annual Report named Basic Statistical Review.

6.2. INTERNATIONAL COOPERATION AND PROJECTS

The Protector of Citizens maintains intensive international cooperation at multilateral and bilateral level, both with the representatives of international organizations (the United Nations, Organization for Security and Cooperation in Europe, the Council of Europe and European Union), and with other ombudsmen.

The Protector of Citizens is a member of various professional international networks; Global Alliance of National Human Right Institutions (GANHRI), European Network of National Human Right Institutions (ENNHRI), International Ombudsman Institute (IOI), Association of Mediterranean Ombudsmen (AOM), European Ombudsman Institute (EOI), European Network of Ombudsmen (ENO), European Network of Ombudsmen for Children (ENOC), Children Rights Ombudsmen Network in South-East Europe and Ombudsman Network for Environmental Protection.

The Protector of Citizens is the National Institution for the Promotion and Protection of Human Rights in Serbia, accredited with the highest "A" status by the Global Alliance of National Human Right Institution (GANHRI) for the improvement and protection of human rights. With this status, during 2018, the Protector of Citizens cooperated with the mechanisms of the United Nations in the field of human rights. The Protector of Citizens submitted report to the UN Committee for the Elimination of Discrimination of Women on the application of the Convention on Elimination of All Forms of Discrimination of Women. In the reporting year, the cooperation with special procedures of the United Nations was also continued. This body also issued responses to various questionnaires of the UN Office of the High Commissioner for human rights (OHCHR).¹⁷⁹ During 2018 the representative of the Secretariat of the Protector of Citizens participated at the special six-month program of training at the UN Office of the High Commissioner for human rights in Geneva. Also, two representatives of the Secretariat of the Protector of Citizens spent three months at the Secretariat of the Ombudsman of Slovenia while one representative was hosted by the Ombudsman of Portugal for the same period of time whining the program of exchange and professional training at the institutions of the European Union member states, organized by the European Fund for the Balkans.

During 2018 the Protector of Citizens maintained continual participation in reporting of the Republic of Serbia with regards to the accession to the

¹⁷⁹ Questionnaires referred to the following issues: prevention and elimination of all forms of violence against women and girls; statelessness right; status of the young; child and early marriages; physical and mental health; access to information on the environment.

European Union. In the reporting period, the Protector of Citizens issued answers to the questionnaire on the implementation of the Convention of the Council of Europe against violence against women and domestic violence (Istanbul Convention) to the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO).

During 2018 the mechanisms of cooperation with ombudsmen of other countries were established, improved, primarily at regular conferences, round tables, seminars, trainings, educational and other summits organized in the country and abroad.

The Protector of Citizens in 2018 deepened and intensified cooperation with ombudsmen at bilateral level and signed agreements on cooperation with ombudsmen of Turkey, Russia, Bulgaria and Slovakia. The signed agreements defined the activities and cooperation of ombudsmen in cases of violation of rights and freedom of citizens of the Republic of Serbia at the territory of Turkey, Bulgaria, Slovakia and the Russian Federation and citizens of these countries at the territory of the Republic of Serbia.

In 2018 ombudsmen of Turkey and Bulgaria paid official visits to the Protector of Citizens. Apart from that, the Protector of Citizens had bilateral meetings with the Public Defender of the Czech Republic, Public Defender of Slovakia, and Commissioner for Fundamental Rights of Hungary and High Commissioner for Human Rights of the Russian Federation. The Protector of Citizens participated at international and regional summits organized by ombudsmen of Bosnia and Herzegovina, Macedonia, Russia and Azerbaijan. So the Protector of Citizens, upon the invitation of the Ombudsman of Macedonia and presiding of the Association of Mediterranean Ombudsmen (AOM), the ombudswoman of Albania, attended official celebration of the 20th anniversary of the Ombudsman of Macedonia as well as the jubilee 10th session of AOM. Upon the invitation of the High Commissioner for Human Rights of Russia, the Protector of Citizens participated at the international conference in Moscow dedicated to the 75th anniversary of the adoption of the Universal Declaration on Human Rights and 25th anniversary of the Constitution of the Russian Federation. Apart from that, the Protector of Citizen was invited by the High Commissioner for Human Rights of Russia to attend the parliamentary hearing, which was held at the State Duma of the Russian Federation. The Ombudsman of Serbia had the opportunity to address MPs and other invitees at this gathering and introduce them to the operations of the institution of the Protector of Citizens.

Representatives of the National Ombudsman of the Kingdom of the Netherlands visited the Protector of Citizens twice in 2018. During these visits, they were especially interested in the protection of the rights of migrants and asylum-seekers, as well as for activities and procedures of the operations at the Secretariat of the Protector of Citizens.

Within the activities of the National Preventive Mechanism, the Protector of Citizens participated at the regional conferences in Italy (Milan) and Montenegro (Podgorica) as well as at international conferences in Armenia and Germany.

The Protector of Citizens participated also at the conference of the European Network of Ombudsmen in Brussels, organized by the European Ombudsman. At the conference it was discussed about the future of the European Union, current and future challenges which ombudsmen face as well as decisions of cross-border issues for EU citizens.



Picture 9 – Participants of the conference of the European Network of Ombudsmen in Brussels

The Protector of Citizens actively participated in the operations of the Bureau of the European Network of Ombudsmen for Children (ENOC) and was in charge of the activities on the execution of documents of the European Network of Ombudsmen for Children on children education in movement and Head of the Working Group for the Education of Children in Movement.

The draft of the document executed by the Protector of Citizens was unanimously adopted at the session of the General Assembly of the European Network of Ombudsmen for Children in Paris, in September, 2018.¹⁸⁰

¹⁸⁰ Document available at: <http://enoc.eu/wp-content/uploads/2018/09/ENOC-2018-Statement-on-Children-on-the-Move-Education-FV-Serbian-cyr.pdf>.

The Protector of Citizens as a national institution for human rights in Serbia participated in 2018 at the international conference of national institutions for human rights in Marrakesh (Morocco) organized by GANHRI and during this event the Marrakesh Declaration on the Status of Human Right Defendants, as well as at the annual assembly of the European Network of National Human Right Institutions (ENNHRI) in Athens, Greece where apart from the exchange of best practices the heads of the Network in the following period were selected.

In November 2018, the Protector of Citizens participated at the regional summit of ombudsmen in Sofia where the "Sofia Declaration on Cooperation of Ombudsmen from the Balkan Region" was adopted. At this summit the Network of the Balkan Ombudsmen, whose members are, apart from Serbia, also Montenegro, Macedonia, Croatia, Bulgaria, Romania, Turkey and Moldavia, was established. The goal of the establishment of the network was to exchange faster the information on issues referring to the protection of citizen rights and freedom, exchange of the information on national regulations, institutional practices and regional survey, participation at regional conferences and round tables, expansion of the European values and unique application of the European Union law in the field of human rights, exchange of the European practice, experience and accomplishments, creation of efficient manners to contact and communicated.



Picture 10 – Participants of the regional meeting of ombudsmen in Sofia

By continuing his traditional participation in the operations of the International Conference of Ombudsmen for Armed Forces (ICOAF), the representative Protector of Citizens participated at the tenth conference which was held in the South African Republic in 2018. At the conference it was discussed about the changed role of armed forces and implications of such development to ombudsmen. Furthermore, the representative Protector of Citizens participated at the conference "Human Rights at Digital Age" held in Tallinn (Estonia) at the beginning of 2018, where he held a speech to the issue of the security sector control.

PROJECTS

Within the Danish Human Rights Institute, funded by the European Union, during 2018 the Protector of Citizens implemented in cooperation with the Association for Accessibility Revision the project "Accessibility for All". The goal of the project is to contribute to the improvement of the implementation of local regulations on the accessibility of public-purpose facilities to persons with disabilities as well as to strengthening of the capacity of the Protector of Citizens as a national institution of human rights, for monitoring and reporting in the field of accessibility. During five months from competent authorities and representatives of civil society organizations from 26 chosen cities and municipalities the information on the implementation of accessibility standards at the local level were collected. Based on the analysis of these information the Special Report of the Protector of Citizens on accessibility with recommendations for the improvement was prepared, published and issued to competent authorities.

The United Nation Children's Fund (UNICEF) in 2018 supported the efforts of the Protector of Citizens in the creation of preconditions for more efficient exercise of child rights. In relation to this, the Protector of Citizens published the Special Report on the condition of child rights for 2017 with recommendations of improvement, which was issued to competent bodies. Apart from that, UNICEF enabled greater visibility of the Protector of Citizens in the operations of the European Network of Ombudsmen for Children (ENOC), to be more precise, the participation at the ENOC regular annual conference with the issue of mental health of children, the presence at the meeting of the Network Bureau as well as the participation at the seminar of the preparation of ENOC standpoint on the education of children about personal relations and sexuality.

In May 2018 the Protector of Citizens signed with the Embassy of the Republic of Bulgaria in Belgrade the agreement on non-refundable funds for the implementation of the project "Increase of the accessibility of the Protector

of Citizens to citizens who live in the interior of Serbia". The signing of the agreement was also attended by the Ombudswoman of the Republic of Bulgaria. The Protector of Citizens initiated in 2018 the implementation of the project which will last for 18 months and contribute to the increased availability and visibility of this institution in towns and municipalities all around Serbia. During the project, the Protector of Citizens will visit 13 selected towns and municipalities and discuss with relevant participants at the local level on key problems in the exercise of citizen rights. During these visits, citizens will have the opportunity to discuss with the Protector of Citizens and his associates on the problems they face and submit complaints to the operations of the public authorities. In 2018 the Protector of Citizens visited with his associates Loznica, Paraćin, and Ruma and on these occasions discussed the improvement of the exercise of citizen rights in these communities with citizens, representatives of city and municipal authorities, public institutions and civil society organizations.

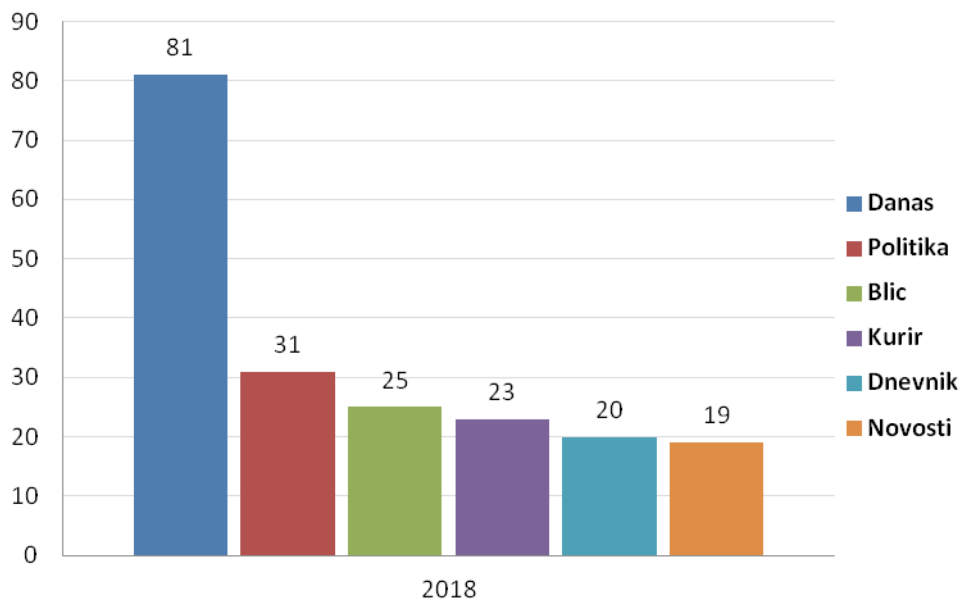
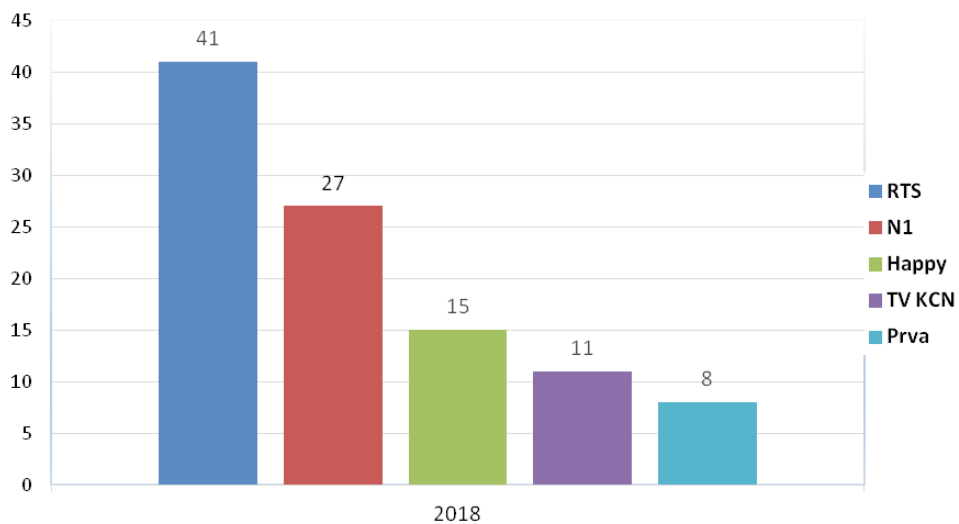
6.3. PROTECTOR OF CITIZENS IN THE MEDIA

In 2018 with expected interest, the media dealt with individual issues with regards to the operations and activities of the Protector of Citizens. There was a special interest in the campaign "Open doors" within which the Protector of Citizens received citizens once a month to talk to them in person about their dissatisfaction with the operations of public administration, and great attention, especially to local media was paid to the visits of the Protector of Citizens and his associates to cities and municipalities of Serbia. Furthermore, very affirmative were the texts on the activities of the institution on the protection of children and women from domestic violence, on the activities in the field of inclusive education of children and youth, gender equality and protection of employee rights.

Media reports on the operations of the institutions as well as statements and reactions of the institution were published in informatively neutral manner. Several negative texts which were published were articles, comments or statements of expert individuals, who presented opposing attitudes to the institution, such as the example of the name of the citizenship at travel documents of the citizens of Serbia or expansion of the competence of the Protector of Citizens to certain segments of court activities.

The analysis was done, when it comes to printed media, on 13 dailies and weeklies, in which 241 articles of different styles, comments, articles, announcements, news, statements with regards to the operations of the institution were published. The greatest majority of texts, just like in previous years, were published in the daily Danas, then in Politika, Blic, and Kurir. In total 14 comments to the operations of the institution were published predominantly in Danas or Politika. The papers published seven interviews and articles by the Protector of Citizens.

In the electronic media with national coverage, in total 9 televisions we oversaw during the last year, 115 reports were broadcast, from news via statements and participation in TV shows to announcements of the Protector of Citizens and his deputies. Most frequently they were broadcast by the National Public Service of Serbia (RTS), television N1 and Happy. There were 11 participations of the Protector of Citizens and his deputies in TV shows, mostly in RTS and Prva television.

Chart 11 – Number of announcements in daily newspapers**Chart 12 – Number of television reports**

ANNEX I

– LEGAL FRAMEWORK AND THE SCOPE OF WORK OF THE PROTECTOR OF CITIZENS

LEGAL FRAMEWORK

The Protector of Citizens of the Republic of Serbia is an independent and autonomous state body introduced in the legal system of the Republic of Serbia in 2005 via the Law on the Protector of Citizens.¹⁸¹ The status of the institution is reinforced by the Constitution of the Republic of Serbia¹⁸² from 2006, in accordance with the best international experiences. The Constitution guarantees the Protector of Citizens independence. The Protector of Citizens is subject, pursuant to the provision of the Constitution, to the oversight of the National Assembly. In exercising oversight, the National Assembly is not authorized, the same as any other body, organization or individual, to influence the operations and actions of the Protector of Citizens.¹⁸³

The Law on the Amendments to the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹⁸⁴ stipulates that the Protector of Citizens is designated to carry out the activities of the National Preventive Mechanism.

The Constitution of the Republic of Serbia defines the nature and competence of the Protector of Citizens, a circle of public authorities that are exempt from the control function of this body; prescribes that the Protector of Citizens is appointed and removed from office by the National Assembly, to which he/she is accountable for his/her work; guarantees immunity to the Protector of Citizens as a member of parliament and directs to the adoption of a special (organic) Law on the Protector of Citizens. The Constitution also prohibits the Protector of Citizens to be a member of a political party and authorizes him to submit draft laws under his competence.

Constitutional Law on the Implementation of the Constitution of the Republic of Serbia¹⁸⁵, inter alia, prescribes the obligation of the newly elected convocation of the National Assembly to harmonize the law governing the

¹⁸¹ Law on the Protector of Citizens – hereinafter LoPoC, “Official Gazette of the RS”, no. 79/05 and 54/07.

¹⁸² “Official Gazette of the RS”, no. 98/2006 (Part five – Governance, Section 5 “Protector of Citizens”, Article 138).

¹⁸³ Article 2, paragraph 2 of the Law on the Protector of Citizens

¹⁸⁴ “Official Gazette of the RS – International agreements”, number 07/11.

¹⁸⁵ Article 5 paragraph 1 of the Constitutional Law for the Implementation of the Constitution of the Republic of Serbia, “Official Gazette of the RS”, no. 98/06.

Protector of Citizens with the Constitution during the first session after the election of the Government and to appoint the (first) Protector of Citizens.

The Law on the Protector of Citizens prescribes in detail the competence of the Protector of Citizens, his/her appointment and removal from office, investigations handled by the Protector of Citizens, the duty to report to the National Assembly and cooperate with other bodies, the right to salaries, funds for work, and the work of the Secretariat of the Protector of Citizens.

The Law on the Amendments to the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 28 July 2011, stipulates that the Protector of Citizens carries out the activities of the National Preventive Mechanism in cooperation with Ombudsmen of Autonomous Provinces and associations whose statute foresees that the intended aim of association is the promotion and protection of human rights and freedoms.

The Law on the National Assembly¹⁸⁶ stipulates, among other things, that the National Assembly, in its voting capacity, elects and dismisses the Protector of Citizens and, within its oversight capacity, oversees the work of the Protector of Citizens.

The Law on the Serbian Armed Forces¹⁸⁷ stipulates that the Protector of Citizens also executes democratic civilian oversight of the Army.

The Criminal Procedure Code¹⁸⁸ stipulates that the Protector of Citizens has the right to visit detainees freely and to talk to them without the presence of other persons, and that the detainee cannot be prohibited from having correspondence in writing with the Protector of Citizens. The law also envisages the obligation of a penal judge, or another judge assigned by the president of the court to inform the Protector of Citizens without delay of any irregularities observed during the visit to the institution.

Law on the Enforcement of the Prison Sentence for Criminal Offences of Organized Crime¹⁸⁹ stipulates, inter alia, that the oversight of the work of the Special Units carried out by the authorized officers of the Administration and the committee appointed by the National Assembly, in accordance with the Law on Enforcement of Penal Sanctions, as well as by the Protector of Citizens, in accordance with the Law on the Protector of Citizens; inmates have the right to be visited by the Protector of Citizens once a month, which

¹⁸⁶ Article 15 Paragraph 2 Item 6) and Paragraph 3 Item 4), "Official Gazette of RS", no. 9/10.

¹⁸⁷ Article 29 Paragraph 3 of the Law on the Serbian Armed Forces, "Official Gazette of the RS", no. 116/07, 88/09 and 101/10 – another law, 10/15, 88/15 – decision of CC and 36/18.

¹⁸⁸ Article 219 Paragraph 3, 220, Paragraph 2 and 222 of the Criminal Procedure Code, "Official Gazette of the RS", no. 72/11, 101/11, 121/12, 32/13, 45/13 and 55/14.

¹⁸⁹ Article 35 Paragraph 2, 37, Paragraph 4. and 54, Paragraph 1 of the Law on the Enforcement of the Prison Sentence for Criminal Offences of Organized Crime, "Official Gazette of the RS", no. 72/09 and 101/10.

is exempted from the otherwise legal obligation for audio-visual surveillance and recording, and that the inmates have the right to hold correspondence with the Protector of Citizens, and that correspondence is not subject to surveillance.

The Law on Civil Servants¹⁹⁰ prescribes that the employment of a civil servant is terminated, inter alia, if the body or authority responsible for the appointment of a civil servant accepts the public recommendation of the Protector of Citizens for the dismissal of a civil servant from his position.¹⁹¹

The Law on Information Confidentiality¹⁹² prescribes in which cases the Protector of Citizens, as a public authority appointed by the National Assembly, is authorized to access information of all degrees of confidentiality that are necessary for the performance of tasks within his competence without a security check, as well as cases where a security check is required.

The Law on the Form and Use of the Coat of Arms, Flag and Anthem of the Republic of Serbia¹⁹³ stipulates that the Large Coat of Arms is to be used on the building, in the offices, on the stamp and on invitations, congratulatory cards, etc. of the Protector of Citizens.

Law on the Seal of the State and Other Bodies¹⁹⁴ regulates the purpose, content, appearance and use of seals used by the Protector of Citizens in the performance of his duties.

The Law on Political Parties¹⁹⁵ stipulates that the Protector of Citizens cannot be a member of a political party.

The Law on the Anti-Corruption Agency¹⁹⁶ stipulates that the members of the Agency's Board are appointed by the National Assembly, inter alia, at the proposal of the Protector of Citizens and the Commissioner for Information of Public Importance and Personal Information Protection.

Law on Patients' Rights¹⁹⁷ stipulates that the Health Council, formed

¹⁹⁰ Article 78, Paragraph 2 of the Law on Civil Servants, "Official Gazette of the RS", no. 79/05, 81/05 – correction, 83/05 – corrigendum, 64/07, 67/07 – correction, 116/08, 104/09, 99/14, 94/17 and 95/18.

¹⁹¹ Article 16, Paragraph 2 of the Law on the Amendments to the Law on Civil Servants, "Official Gazette of the RS", no. 99/2014.

¹⁹² The Law on Information Confidentiality, "Official Gazette of the RS", number 104/09.

¹⁹³ Article 13 and 15 of the Law on the Form and Use of the Coat of Arms, Flag and Anthem of the Republic of Serbia, "Official Gazette of the RS", number 36/09.

¹⁹⁴ Article 1 of the Law on the Seal of the State and Other Bodies, "Official Gazette of the RS", number 101/07.

¹⁹⁵ Article 21 of the Law on Political Parties, "Official Gazette of the RS", number 36/09 and 61/15 – decision of the CC.

¹⁹⁶ The Law on the Anti-Corruption Agency, "Official Gazette of the RS", no. 97/08, 53/10, 66/11 – decision of the Constitutional Court, 67/13 – decision of the Constitutional Court and 112/13 – authentic interpretation and 8/15 – decision of the Constitutional Court.

¹⁹⁷ Article 42, "Official Gazette of the RS", number 45/13.

by the local self- government unit, shall submit its annual work report and measures taken to protect the rights of patients to the Protector of Citizens for the purpose of exchanging information and achieving the necessary cooperation.

Under **the Law on Public Property**¹⁹⁸ administrative authorities and organizations within the meaning of that Law are deemed to include, inter alia, the Protector of Citizens.

The Law on Amendments to the Law on the Budget System¹⁹⁹ stipulates that the Protector of Citizens must seek the approval of the National Assembly Committee in charge of administrative and budget-related matters for engaging or hiring every new person.

Law on the Method of Determining the Maximum Number of Employees in the Public Sector²⁰⁰ prescribes that the maximum number of employees in the Secretariat of the Protector of Citizens is determined by the decision of the National Assembly Committee in charge of administrative and budget-related matters, at the proposal of the Protector of Citizens.

The Law on General Administrative Procedure²⁰¹ which came into force on 1st June 2017 provides for a new extraordinary legal remedy in the administrative procedure – Annulment, revocation or alteration of a final decision at the recommendation of the Protector of Citizens. By the provisions of the Law, it was prescribed that at the recommendation of the Protector of Citizens, in order to comply with the law, a new decision may annul, revoke or amend a final decision, if the party whose rights or obligations are the subject of that decision, as well as the opposing party, accept it and if it does not offend the interest of a third party. If the body does not consider it necessary to act upon the recommendation of the Protector of Citizens, it shall immediately inform him about it. The annulment, revocation or amendment of the decision at the recommendation of the Protector of Citizens is not limited by a deadline.

Action Plan for Chapter 23²⁰² defines the reports of the Protector of Citizens, annual and special, as well as reports of the National Preventive Mechanism, for the impact indicators on the basis of which the activities planned in the process of accession of the Republic of Serbia to the European Union

¹⁹⁸ Article 47 Paragraph 1 of the Law on Public Property, "Official Gazette of the RS", no. 72/11, 88/13, 105/14, 104/16 – another law, 108/16, 113/17 and 95/18.

¹⁹⁹ Independent Article 6[c5] of the Law on Amendments to the Law on the Budget System, "Official Gazette of RS", no. 54/09, 73/10, 101/10, 101/11, 93/12, 62/13, 63/13 – correction, 108/13, 142/14, 68/15 – another law, 103/15, 99/16, 113/17 and 95/18.

²⁰⁰ Article 5, "Official Gazette of the RS", no. 68/15, 81/16 – decision of CC and 95/18

²⁰¹ Article 185, "Official Gazette of the RS", no. 18/2016 and 95/18 – authentic interpretation.

²⁰² Conclusion of the Government 05 Number: 337-11484/2015, dated 23 November 2015.

are assessed.

In its Screening Report for Chapter 23, the European Commission issued a recommendation to “Strengthen the capacities of the Protector of Citizens (especially with regard to his role as a national preventive mechanism), the provincial local ombudsmen services” (Recommendation 3.2.1 in the Action Plan on Chapter 23). For the purpose of implementing recommendation 3.2.1, the Action Plan envisages measures related to strengthen the capacities of the Protector of Citizens through the amendments of the Law on the Protector of Citizens which would reinforce independence and specify his powers in accordance with the achieved degree of development of this institution; through the human resources capacity building of the institution in terms of adopting a new Rulebook on Internal Organization and Systematization of Job Positions in the Secretariat of the Protector of Citizens; providing permanent premises for the institution of the Protector of Citizens; as well as measures aimed at strengthening the Protector of Citizens’ influence by imposing a duty to report to the European Commission on the compliance of public authorities with the recommendations issued by this independent state body, both in the capacity of the Protector of Citizens and in capacity of the National Preventive Mechanism.

The Protector of Citizens is also mentioned in over 20 strategies and action plans: the National Security Strategy of the Republic of Serbia²⁰³, National Anti-Corruption Strategy in the Republic of Serbia for the Period 2013-2018²⁰⁴, Public Administration Reform Strategy of the Republic of Serbia²⁰⁵, Strategy for Social Inclusion of the Roma Men and Women in the Republic of Serbia for the Period from 2016 to 2025²⁰⁶, Strategy for Prevention and Protection against Discrimination²⁰⁷, Strategy on the Implementation of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters– the Aarhus Convention²⁰⁸, the Penal Sanctions Enforcement System Development Strategy in the Republic of Serbia by 2020²⁰⁹, National Strategy for the Prevention and Protection of Children from Violence²¹⁰, Action Plan for the Implementing the Strategy on Implementation of the Aarhus Convention²¹¹, the Action Plan for Implementing the National Sustainable Development Strategy for

²⁰³ “Official Gazette of RS”, no. 88/09.

²⁰⁴ Chapter 4, Goal 4.8, “Official Gazette of the RS”, number 57/13

²⁰⁵ “Official Gazette of RS”, no. 09/14, 42/14 – correction, and 54/18.

²⁰⁶ “Official Gazette of RS”, no. 26/16.

²⁰⁷ “Official Gazette of RS”, no. 60/13.

²⁰⁸ “Official Gazette of RS”, no. 103/11.

²⁰⁹ “Official Gazette of RS”, no. 114/13.

²¹⁰ “Official Gazette of RS”, no. 122/08.

²¹¹ “Official Gazette of RS”, no. 103/11.

the Period 2011-2017²¹², Action Plan for the Exercise of Rights of National Minorities, the Action Plan for the Implementation of the Strategy for the Social Inclusion of Roma Men and Women in the Republic of Serbia for the Period 2016-2025, for the Period 2017-2018²¹³ etc.

The legal framework governing the work of the Protector of Citizens includes a body of secondary legislation that governs in detail the actions and operation of this institution, some of which are: Rules of Procedure of the National Assembly²¹⁴, the Government's Rules of Procedure²¹⁵, Decision on the Formation and Operation of the Secretariat of the Protector of Citizens²¹⁶, Decision on the Formation of Local Offices in Preševu, Bujanovac and Medveđa²¹⁷, Decree on the implementation of internal and public competition procedures for filling vacancies in state bodies²¹⁸, Special collective agreement for state authorities²¹⁹, Rules on the management in public prosecutor's offices²²⁰, Rulebook on the House Rules of the Penitentiary-Correctional Institutions and District Prisons²²¹, Rulebook on the House Rules of Juvenile Correctional Facilities²²², etc.

The Protector of Citizens adheres in his work to the principles and standards adopted between ombudsmen and national human rights institutions, including, the "Belgrade Principles on the Relationship between the National Human Rights Institutions and Parliaments"²²³ and the "Ljubljana Conclusions on the Relationship between the Ombudsman and the Judicial Bodies".

The Constitution and the Law on the Protector of Citizens reflect the majority of the standards contained in the key international documents which regulate and promote and propose standards for ombudsmen and national human rights institutions.²²⁴ The Protector of Citizens is accredited with the

²¹² "Official Gazette of RS", no. 62/11.

²¹³ The Government of the Republic of Serbia adopted the Action Plan at its session held on 7 June 2017

²¹⁴ the Rules of Procedure of the National Assembly, "Official Gazette of the RS", no. 20/12 – revised text.

²¹⁵ Article 39a and 46 of the Government's Rules of Procedure, "Official Gazette of RS", no. 61/06-revised text, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13 and 76/14.

²¹⁶ "Official Gazette of RS", no. 105/07 and 99/18.

²¹⁷ "Official Gazette of RS", no. 91/09.

²¹⁸ "Official Gazette of RS", no. 2/19.

²¹⁹ "Official Gazette of RS", no. 25/15, 50/15, 20/18 and 34/18.

²²⁰ Article 60 Paragraph 1, "Official Gazette of RS", no. 110/09, 87/10, 5/12, 54/17 and 14/2018.

²²¹ "Official Gazette of RS", no. 110/14 and 79/16.

²²² "Official Gazette of RS", no. 71/06.

²²³ Available at: http://www.ombudsman.rs/attachments/2181_Beogradski%20principi.pdf

²²⁴ UN General Assembly Resolution 48/134, so-called "Paris Principles", available at: <http://www.un.org/documents/ga/res/48/a48r134.htm>; UN General Assembly Resolution 66/169 on national institutions for the protection and promotion of human rights, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/468/96/PDF/N1146896.pdf?OpenElement>;

highest “A” status with the International Coordinating Committee of National Human Rights Institutions (renamed to Global Alliance of National Human Rights Institutions) for results and independence in his work.²²⁵

International documents emphasize the importance of financial independence and the necessity to provide adequate resources for the smooth and efficient work of the Protector of Citizens. Supporting this is the report of the Secretary General²²⁶ as well as the United Nations General Assembly Resolution²²⁷ from 2017 on the establishment and functioning of the Protector of Citizens, i.e. national institutions for the protection of human rights. The Paris Principles, adopted as an annex to the UN General Assembly Resolution 48/134 in December 1993, represent the most complete document dealing with national human rights institutions so far. It unambiguously proclaims the importance of financial independence.²²⁸

The Council of Europe in its Recommendation 1615 from 2003, adopted by the Parliamentary Assembly, “concludes that some characteristics are essential for the efficient operation of the Ombudsman institution”, and among them also includes “guaranteed resources to carry out all tasks entrusted to the Ombudsman ... and a complete autonomy of his budget and staff.”²²⁹ The Resolution of the Parliamentary Assembly on the institution of the Ombudsman, adopted in October 2013, reaffirmed this stand by calling on member states to “provide the institutions of the Ombudsman with sufficient financial and human resources to enable them to carry out their tasks effectively.”²³⁰ In light of the economic crisis, “the Assembly calls on member states

General Assembly Resolution 67/163 on the role of the Ombudsman, mediators and other national institutions for the protection and promotion of human rights, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/488/38/PDF/N1248838.pdf?OpenElement>; Resolution of the Parliamentary Assembly 1959/13 on strengthening the Ombudsman institution in Europe, available at: <http://www.assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=20232&lang=en>; Recommendation of the Parliamentary Assembly 1615/03 on the institution of the Ombudsman, available at: <http://assembly.coe.int/main.asp?link=/documents/adoptedtext/ta03/erec1615.htm>; Venice Commission of the Council of Europe, A collection of documents on the institution of the Ombudsman, available at: [http://www.venice.coe.int/web-forms/documents/CDL\(2011\)079-e.aspx](http://www.venice.coe.int/web-forms/documents/CDL(2011)079-e.aspx).

²²⁵ The Certificate was awarded to him in 2016 by the Global Alliance of National Institutions for the Promotion and Protection of Human Rights (hereinafter: GANHRI), whose accreditation process is overseen by the United Nations

²²⁶ Available at: https://digitallibrary.un.org/record/1301905/files/A_72_230-EN.pdf

²²⁷ Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/72/186

²²⁸ Resolution 48/134 containing the Paris Principles available at: <http://www.un.org/documents/ga/res/48/a48r134.htm>.

²²⁹ Recommendation of the Parliamentary Assembly 1615/03 on the institution of the Ombudsman, available at: <http://assembly.coe.int/main.asp?link=/documents/adoptedtext/ta03/erec1615.htm>.

²³⁰ The Resolution in Serbian and English is available on the website of the Ombudsman:

to make maximum efforts to avoid budget cuts that would lead to the loss of independence of the Ombudsman institutions."²³¹ The Venice Commission of the Council of Europe also firmly insists on its opinion that financial independence of ombudsmen must be ensured by legislative texts as specifically and as completely as possible.²³²

NECESSITY FOR THE AMENDMENTS TO THE LEGAL FRAMEWORK ON THE PROTECTOR OF CITIZENS

Considering the fact that the Constitution of the Republic of Serbia was passed in 2006, and that the Protector of Citizens started working one year later, after more than ten years of experience, the Protector of Citizens pointed to the need for the constitutional amendments, as well as the amendments to the Law on the Protector of Citizens, to regulate in more detail the competence and status of the institution.

In this regard, the experts of SIGMA²³³ and TAIEX²³⁴ have, in cooperation with the Ministry of Public Administration and Local Self-Government of the Republic of Serbia, made special reports. The overall assessment of both missions indicates that it is necessary to ensure the full independence of the Protector of Citizens – organizational, functional and financial.

The newly elected Protector of Citizens²³⁵ as one of his priorities outlined the work on amendments to the Law on the Protector of Citizens.

COMPETENCE AND MANNER OF WORK

The Protector of Citizens shall act within the framework of the Constitution, laws, other regulations and general acts, as well as ratified international treaties and generally accepted rules of international law²³⁶. The task, or competence of the Protector of Citizens, is defined by the Constitution and the Law twofold: **to protect** the rights of citizens and **to control** the legality and regularity of the work of the authorities²³⁷ and organizations to which pub-

<http://www.zastitnik.rs/index.php/lang-sr/2011-12-25-10-17-15/3057-2013-10-25-10-34-49..>

²³¹ Ibid.

²³² See the Collection of documents on the Ombudsman institution of the Venice Commission, available at: [http://www.venice.coe.int/webforms/documents/CDL\(2011\)079-e.aspx](http://www.venice.coe.int/webforms/documents/CDL(2011)079-e.aspx).

²³³ More details at: <http://www.sigmaweb.org/>

²³⁴ Special Department within the Directorate-General for enlargement of the European Commission – Bureau for Technical Assistance and Information Exchange

²³⁵ MSc Zoran Pašalić was elected as the Protector of Citizens on 20 July 2017.

²³⁶ Article 2, paragraph 2 of the LoPoC.

²³⁷ Article 17, paragraph 2 of the LoPoC.

lic powers have been delegated (hereinafter—public authorities and organizations²³⁸). The Law on the Protector of Citizens also specifies that the Protector of Citizens should “protect and **promote** human and minority freedoms and citizen rights”.

There is no citizens’ right or freedom exempted from the protection, oversight and promotion role of the Protector of Citizens.

In his work, the Protector of Citizens follows the principle of equity within the framework of positive law. Much more than just formally observing the law, the Protector of Citizens examines ethics, conscientiousness, impartiality, expertise, purposefulness, effectiveness, respect for the dignity of parties, and other characteristics that need to characterize the public administration, which the citizens fully expect as tax payers.

The Protector of Citizens oversees the work of government agencies, the body authorized for legal protection of property rights and interests of the Republic of Serbia and other bodies and organizations, enterprises and institutions which have been delegated public authority (public authorities and organizations) The Protector of Citizens, according to the provisions of the Constitution and the Law, among all bodies and organizations of public authorities and organizations, is not authorized to oversee only the work of the National Assembly, the President of the Republic, the Government, the Constitutional Court, the courts and the public prosecutor's offices.²³⁹

The Protector of Citizens, with the appropriate personal security clearance certificate, is guaranteed access to information of all levels of confidentiality, which are necessary for the performance of tasks from his/her competence.²⁴⁰

In addition to the right to launch and conduct the investigations of overseeing the work public authorities and organizations, the Protector of Citizens may also act preemptively by providing good services, mediating between citizens and administrative bodies and giving advice and opinions on

²³⁸ The Law on the Protector of Citizens (Article 1), when determining the circle of entities whose work the Protector of Citizens is authorized to control, for state administration bodies, the body competent for legal protection of property rights and interests of the Republic of Serbia, as well as other bodies and organizations, enterprises and institutions which are entrusted with public authorizations, introduces the abbreviated label “administrative authorities”. However, the use of this term causes confusion if it is not known that Article 1 of the LoPoC determines its content (and this is different from commonly accepted legal theory and practice). In order to avoid such confusion in the case of partial reading of this report, the wording “public authorities and organizations” will be used for entities subject to control by the Protector of Citizens, as their circle is defined by the Constitution and the Law.

²³⁹ Article 138, Paragraph 2 of the RS Constitution, Article 17, paragraph 3 of the Law on the Protector of Citizens.

²⁴⁰ Article 38, Paragraph 1 and 2 of the Law on Information Confidentiality, “Official Gazette of the RS”, number 104/09.

issues within his competence, with a view to improving the work of the public authorities and protecting human rights and freedoms. The powers of the Protector of Citizens to act preemptively are evident in particular in his role as the National Preventive Mechanism, in accordance with the Law amending the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Protector of Citizens also has the right of legislative initiative. He is authorized to propose laws within its competence, submit initiatives for amending or adopting new regulations if he considers that the violation of citizens' rights arises because of their shortcomings or if it is significant for the realization and promotion of citizens' rights. The Protector of Citizens is authorized to give opinions to the Government and the National Assembly on the regulations in preparation. Also, the Protector of Citizens is authorized to initiate proceedings before the Constitutional Court for the assessment of the constitutionality and legality of laws, other regulations and general acts.

Procedure

In the *sui generis* procedure (of its own kind, unique) which is exempted from excessive formalities, the Protector of Citizens oversees the respect of the rights of citizens, identifies violations committed by enactments, actions or failure to act on behalf of the administrative authorities, insofar as they involve violations of national-level laws, other regulations and general acts.

The Protector of Citizens initiates the above-mentioned procedure *ex-officio* (in exceptional cases when serious violation of the rights or violation of the rights of a large number of citizens has occurred) or on the basis of citizens' complaints. For the efficient conduct of the investigation, broad powers of the Protector of Citizens have been secured by provisions of the Law –a request for written pronouncement of the authorities, direct conversation with civil servants, officers and officials, the right of unannounced visit, insight into official acts and documents, etc. In his actions, the Protector of Citizens is primarily guided by the idea of cooperation with public authorities, and in case of lack of cooperation, the Protector of Citizens, on a case-by-case basis, assesses the need and effect of applying other powers.

If public authorities acted unlawfully and improperly in matters concerning rights, freedoms or citizens' interests based on the law, the Protector of Citizens identifies the omission and recommends how to rectify it in such and other cases.

Legal nature of acts passed by the Protector of Citizens

The Protector of Citizens does not decide on the rights, obligations and lawful interests of the citizens, but investigates (oversees) the work of public authorities and organizations and, if he finds an omission, influences on them to rectify it. Hence instruments passed by the Protector of Citizens are not subject to appeal or other remedies.

The recommendations, stands and opinions of the Protector of Citizens are not legally binding. The job of the Protector of Citizens is not to force anyone into compliance, but to use the power of arguments, as well as institutional and personal authority, in order to make the case for rectifying omissions and improving the way of work.

Public authorities and organization, however, are required under the law to cooperate with the Protector of Citizens, allow him access to their offices and make available any and all relevant information they possess, regardless of the classification level (when this is important for the ongoing investigations).

The Protector of Citizens may recommend the removal of the official who he/she considers responsible for the violation of the rights of citizens, initiate the disciplinary proceedings against employees of public authorities, file reports or petitions for initiation of criminal, infringement or other relevant proceedings.

Relationship with other independent bodies

In the protection of certain rights and freedoms, for which specialized independent branches have been established by the law (the Commissioner for Information of Public Importance and Personal Information Protection; the Equality Commissioner and others), the Protector of Citizens cooperates with these authorities on improving the exercise and protection of the rights, and acts upon complaints of violation of these rights only after the citizens have used the opportunity to contact a specialized independent body. The Protector of Citizens is authorized to decide to launch the oversight procedure, exceptionally, even before the citizens turn to another, specialized independent body, if he finds that some special circumstances envisaged by the Law on the Protector of Citizens are present (if the complainant was inflicted with irreparable damage or if the complaint relates to a violation of the principle of good administration, especially the incorrect attitude of the administrative authorities towards the complainant, untimely work or other violations of the rules of ethical behavior of employees in administrative bodies). Citizens have the right to contact the Protector of Citizens with a

complaint to other independent, specialized bodies for the protection of citizens' rights, if they feel that their rights have been violated by their unlawful or irregular conduct.

Under the Law on the Protector of Citizens, Ombudsmen of the Autonomous Province, that is, the local self-government units are required to receive complaints from citizens, even if they fall under the competence of the Protector of Citizens, and to forward such complaints without delay to the Protector of Citizens for handling and vice versa.

Performance of activities outside the seat of the body

Under the Law on the Protector of Citizens, the Protector of Citizens may, by his decision, establish offices outside the institution's head office. The possibilities for doing so are objectively limited by the size of the Protector's Secretariat, which is determined by the job classification rules and the budget.

1. The Protector of Citizens regularly performs duties within his competence in the head office and in three offices outside the head office (in Bujanovac, Preševo and Medveđa).

For the purpose of conducting procedures of oversight, preventive and educational activities, the Protector of Citizens and employees in his Secretariat travel to cities and towns throughout the Republic on a daily basis. In addition to receiving citizens at the head office of the Institution, as well as in offices outside the head office, the Days of the Ombudsman are also periodically organized, during which the Protector of Citizens speaks with citizens and representatives of the civil sector, and holds meetings with representatives of public authorities pointing to the need to improve the respect for citizens' rights.

ANNEX II – FINANCIAL STATEMENT

Pursuant to the Law on the budget of the Republic of Serbia for 2018 the Protector of Citizens is granted financial funds in the amount of RSD 195,294,000.00 which is a decreased amount by 10.6 percent in comparison to RSD 215,998,000.00 of provided financial fund for 2017.

The total expenditure of the Protector of citizens for 2018 amount to RSD 180,720,058.00, i.e. 92.54 percent of the provided budget fund (in percentage, the expenditure of budget funds is higher by 13.65 percent in comparison to the expenditure for 2017 when total expenditure was RSD 170,396,899.00.

The funds stipulated by the budget were used for financing of the regular activities of the Protector of citizens, pursuant to the financial plan.

Table 35 - Budget execution for 2018

Account position	Description	Approved	Accomplished	%
411	Salaries, bonuses, compensations			
411111	Salaries based on the labor cost		102,021,117.56	79.01
411112	Bonus for work longer than full working hours		3,166,359.35	2.45
411113	Bonus for work on the state holiday and religious holiday		30,822.30	0.02
411115	Bonus for the time spent at work (years of service)		5,738,408.96	4.44
411117	Sick leave up to 30 days		1,606,138.55	1.24
411118	Earning compensation for the time of absence from work –annual vacation, paid leave		13,634,823.89	10.56
411119	Other bonuses and compensation for employees		2,760,427.56	2.14
Total 411		129,132,000.00	128,958,098.17	99.87

Account position	Description	Approved	Accomplished	%
412	Contributions			
412111	Contributions for PDI		14,702,429.64	66.64
412211	Contributions for health insurance		6,309,792.86	28.60
412311	Contributions for unemployment		918,902.48	4.16
Total 412		22,063,000.00	21,931,124.98	99.40
413	Compensations in kind			
413000	Compensations in kind		122,000.00	69.32
Total 413		176,000.00	122,000.00	69.32
414	Social benefits for employees			
414111	Maternity leave		619,723.81	24.78
414121	Sick leave over 30 days		-874.14	-0.03
414314	Assistance in case of the death of employee or an immediate family member		296,799.00	11.87
414411	Assistance in medical treatment of employee or an immediate family member		461,111.55	18.44
414419	Other forms of assistance to employees		110,497.78	4.42
Total 414		2,501,000.00	1,487,258.00	59.47
415	Compensations for employees			
415112	Commuting transportation compensation		3,341,882.64	83.23
Total 415		4,015,000.00	3,341,882.64	83.23

Account position	Description	Approved	Accomplished	%
416	Rewards for employees and other special expenses			
416111	Jubilee awards		496,445.78	82.74
Total 416		600,000.00	496,445.78	82.74
421	Constant expenses			
421121	Costs of bank services		22,400.00	0.46
421211	Electricity service		21,884.90	0.45
421225	Central heating		106,942.09	2.20
421323	Property protection services		600,233.10	12.37
421622	Lease of administrative equipment		0.00	0.00
421411	Telephone, telex and fax		496,030.20	10.22
421412	Internet and similar		223,614.67	4.61
421414	Cell phone services (<i>cell phones, internet</i>)		1,499,985.72	30.91
421422	Delivery services		766,452.00	15.79
421512	Vehicle insurance		133,748.00	2.76
421513	Equipment insurance		23,082.00	0.48
421521	Employee insurance in case of work accident		30,250.00	0.62
421522	Health insurance		134,000.00	2.76
421523	Liability insurance		33,450.00	0.69
421911	Radio-television subscription		10,000.00	0.22
Total 421		4,853,000.00	4,102,072.68	84.53
Total 421 NPM		300.000,00	0,00	0.00
422	Travel costs			
422111	Business trip daily allowance cost		23,400.00	0.39

Account position	Description	Approved	Accomplished	%
422121	Domestic business trip transportation costs		23,307.55	0.39
422131	Business trip accommodation costs		73,500.00	1.23
422199	Other costs of domestic business trips		85,299.50	1.42
422211	Business trip abroad daily allowance costs		470,714.51	7.85
422221	Business trip abroad transportation costs		1,808,942.69	30.15
422231	Business trip abroad accommodation costs		1,845,294.16	30.75
422299	Other costs for business trips abroad		137,551.07	2.29
Total 422		6,000,000.00	4,468,009.48	74.47
422 НПМ				
422111	Business trip daily allowance costs		7,650.00	0.37
422131	Business trip accommodation costs		114,065.00	5.51
422199	Other costs for domestic business trips		900.00	0.04
422211	Business trip abroad daily allowance costs		65,813.43	3.18
422221	Business trip abroad transportation costs		475,063.94	22.95
422231	Business trip abroad accommodation costs		402,401.44	19.44
422299	Other costs for business trips abroad		7,717.24	0.37
Total 422 NPM		2,070,000.00	1,073,611.05	51.87
423	Contracted services			
423111	Translation services		892,826.46	8.69

Account position	Description	Approved	Accomplished	%
423212	Software maintenance services		257,356.00	2.50
423221	Computer maintenance services		195,570.00	1.90
423291	Other computer services		98,516.00	0.96
423321	Seminar fee		85,864.00	0.84
423391	Expenses of professional exams		38,000.00	0.37
423413	Publication printing services		799,900.00	7.78
423419	Other printing services		167,592.00	1.63
423421	Public information services		132,000.00	1.28
423449	Other media services		319,963.00	3.11
423432	Tender and informative advertisements publication		5,890.50	0.06
423539	Other legal services		49,500.00	5.12
423599	Other professional services (<i>engagement of external associates, experts</i>)		526,229.32	5.12
423621	Catering services (<i>organization of conferences, round tables, meetings</i>)		929,210.31	9.04
423711	Representation (<i>organization of conferences, round tables, meetings</i>)		387,788.59	3.77
423712	Gifts		70,416.04	0.69
423911	Other general services		398,777.28	3.88
Total 423		10,277,000.00	5,355,399.50	52.11
423 НПМ				
423111	Translation services		112,924.80	5.97
423413	Publication printing services		380,050.00	20.11

Account position	Description	Approved	Accomplished	%
423432	Tender and informative advertisements publication		54,747.00	2.90
423531	Court expertise services		89,568.00	4.74
423621	Catering services		28,605.50	1.51
Total 423 NPM		1,890,000.00	665,895.30	35.23
425	Repairs and maintenance			
425219	Other repairs and maintenance of transportation equipment		127,474.00	23.18
425229	Other repairs and maintenance of administration equipment		126,287.00	22.96
Total 425		550,000.00	253,761.00	46.14
426	Material			
426111	Office supplies		948,437.87	15.94
426311	Professional reference books for regular use of employees		308,436.00	5.18
426312	Professional reference books for education of employees		499,710.00	8.40
426411	Fuel		1,618,095.75	27.19
426412	Diesel fuel		450,000.00	7.56
426191	Other administrative material		408,028.00	6.86
426491	Other material for means of transportation		14,280.00	0.24
426912	Spare parts		362,000.00	6.08

Account position	Description	Approved	Accomplished	%
426919	Other material for specific purposes		21,189.19	0.36
Total 426		5,950,000.00	4,630,176.81	77.82
462	Grants for international organizations			
462121	Current grants for international membership fees		1,218,009.57	67.67
Total 462		1,800,000.00	1,218,009.57	67.67
482	Taxes, mandatory fees, and penalties			
Total 482		300,000.00	0.00	0.00
485119	Other damage compensation		108,724.34	98.84
Total 485		110,000.00	108,724.34	98.84
512	Machines and equipment			
5122221	Computer equipment		1,528,137.90	59.76
512232	Telephones		3,552.00	0.00
512232	Cell phones		826,080.00	32.31
Total 512		2,557,000.00	2,357,769.90	92.21
512 НПМ	Machines and equipment			
512221	Computer equipment		149,818.80	99.88
Total 512 NPM		150,000.00	149,818.80	99.88
TOTAL		195,294,000.00	180,720,058.00	92.54

ANNEX III

– HUMAN AND MATERIAL RESOURCES

For the performance of professional and administrative activities within the competence of the Protector of Citizens, by the Decision on the Establishment and Operation of the Secretariat of the Protector of Citizens²⁴¹, and pursuant to Article 38 Paragraph 1 of the Law on the Protector of Citizens²⁴², the Secretariat of the Protector of Citizens was created.

With the aim of the accomplishment of a higher efficiency and better work organization, the Protector of Citizens passed in 2018 a new Rulebook on Internal Organization and Systematization of Job Positions in the Secretariat of the Protector of Citizens, number 213-558/2018-32833 dated 19th October, 2018, to which the National Assembly gave consent by Decision RS number 71 dated 7th December, 2018²⁴³. The Rulebook stipulates the systematization of 61 job positions with totally 106 employees, 11 of whom were civil servants with official positions, 91 at operational job positions and four employees whose job positions refer to accompanying assisting technical activities.

On 31st December, 2018, there were in total 98 employees at the Secretariat of the Protector of Citizens as follows: 10 civil servants with official positions, 84 civil servants at operational job positions (seven of whom were civil servants employed for definite period of time due to the increase of the volume of work and three at the office during mandate of the Protector of Citizens) and four employees. The stated number does not include the Protector of Citizens, Zoran Pašalić, MSc.

Among all employees at the Secretariat, 80 perform the job with university education, 18 with high-school education, 74 are women and 24 men.

By Decision of the Board for administrative-budget and mandate-immunity issues 21 number 112-254/18 dated 2nd March, 2018 it is designated that the maximum number of employees for indefinite period of time at the Secretariat of the Protector of Citizens during the calendar 2018 is 106 as well as that, within the maximum number of employees, the Protector of Citizens may have the number of employees for indefinite period of time for whom he has the sum of funds for the payment of salaries designated by the Law on Budget of the Republic of Serbia for 2018.

²⁴¹ "Official Gazette of RS", no. 105/07 and 99/18.

²⁴² "Official Gazette of RS", no. 79/05 and 54/07.

²⁴³ "Official Gazette of RS", no. 95/18.

Within the accession process to the European Union and the fulfillment of recommendations issued to the Republic of Serbia by the European Commission, the Government of the Republic of Serbia adopted the Action Plan for Chapter 23 on 27th April, 2016. The Action Plan contains also the recommendations referring to the strengthening of the capacities of the Protector of Citizens to the level required for the performance of activities from his competence in full capacity.

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