



Protector of Citizens
Ombudsman

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**REGULAR ANNUAL REPORT
OF THE PROTECTOR OF CITIZENS
FOR 2017**

Belgrade, 15 March 2018

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1. INTRODUCTION

1.1. FOREWORD

Respectable Members of Parliament,

You are hereby presented with the eleventh regular Annual Report of the Protector of Citizens, the first one that I personally submit in accordance with the provisions of Article 33, paragraph 1 of the Law on the Protector of Citizens.

According to the methodology applied in writing the document, the regular Annual Report for 2017 contains information on the activities of the Protector of Citizens and the observed shortcomings in the operations of relevant authorities, as well as the proposals for improvement of citizens' status vis-à-vis relevant authorities. The report is an overview of the state of observance of human and minority rights by the administrative authorities in Serbia and a document on the method of operating and results of the work of this independent and oversight institution.

I believe that the consideration of the report in the National Assembly, as well as in the community of experts and the wider public in the coming period, will also influence the improvement of relevant authorities in all segments of their operations and treatment of citizens and that it will enable better cooperation of all institutions in the human rights protection system in Serbia.

On 20 July 2017, when I took up office as the Protector of Citizens and took over the management of this independent institution, one of my priorities was to make it more accessible to citizens, allowing for their direct communication with the Protector of Citizens. The following month regular reception of citizens was introduced at the premises of the Protector of Citizens, once a month at first, then in extraordinary monthly times. By the end of the year I talked to more than 220 citizens in Belgrade, and during 6 working visits to the cities and municipalities in Serbia, which I realized with my associates, I became aware of the problems of more than 100 citizens. At the same time, I spoke with the representatives of state authorities and local self-governments about the problems mostly stressed by the citizens and in accordance with the law I pointed out the omissions in the operations of these authorities and requested that the observed irregularities be corrected.

The second priority are the amendments to the Law on the Protector of Citizens, which is an obligation foreseen by the Action Plan for Chapter 23 in the negotiations with the EU, with the aim of strengthening the capacities of the Protector of the Citizens. Legal changes aim to affirm the institution of the Protector of Citizens in the area of protection and respect for human and minority rights and the visibility of shortcomings in the human rights protection system, which is only possible through strengthening its independence and autonomy, but also strengthening its authority and recognisability in society. In talks between the Protector of Citizens and the representatives of international organizations and senior foreign officials, the importance of the oversight function of this institution in strengthening the rule of law and legal security of citizens, the fundamental values and principles on which the European community of people is based, was especially emphasized. Support to the Protector of Citizens was announced in all segments of its work and modalities of future cooperation were proposed.

Violence, which most often affects women and children in family and intimate partner relationships, is currently the most severe form of human rights violation – i.e. the right to life, the right to physical integrity and peace of mind. Of the total number of complaints in the area of gender equality, which have been received by this institution, one third relates to family violence and intimate partner violence. Hence my decision to renew the “Make Violence Visible” initiative, whose practical goal is to facilitate the process of proving violence against women through introducing specialists in forensic medicine, so that the criminal prosecution of the perpetrators would get more certain outcome and end in determining the appropriate punishment.

In 2017, in addition to the issue of women and children who were victims of violence, the Protector of Citizens focused specifically on other most vulnerable groups of our fellow citizens, such as persons with disabilities and the elderly, Roma men and women, LGBTI population, persons deprived of their liberty, as well as migrants and refugees. They continue to face numerous barriers in exercising their human rights guaranteed by law, from poorly developed support services and invisibility in public life, through educational and employment barriers, to poverty and still rooted prejudices.

During the report year, more than 12,000 citizens have contacted this institution and over 4,000 complaints have been received in which the citizens pointed out the violations of their rights. Most citizens complained about the violation of human rights in the area of good governance, as well as in the economic and property, social and cultural spheres. Citizens’ complaints related to their existential problems and unemployment, but also to inefficient state administration which keeps “silent” when it should act in favour of citizens.

The Annual Report for 2017 has an altered structure compared to previous reports. It was my intention to provide the public with a more systematic and concise overview of the work and activities of this body, and also to present those areas of human rights that are most often violated and the institutions and authorities that are at the forefront of such violation. I believe that a report containing this type of data will be useful to both citizens and public authorities.

THE PROTECTOR OF CITIZENS

Zoran Pašalić, MSc

2. GENERAL ASSESSMENT OF THE OBSERVANCE OF CITIZENS' RIGHTS IN 2017

Human rights are the language of basic human needs, and their observance and protection affect the daily lives of citizens, especially the 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 the LGBTI population, members of national minorities, primarily the Roma, refugees and other migrants.

The Protector of Citizens notes that during the reporting period citizens mostly complained about violations of economic and property rights, as well as social and cultural rights, while one third of all appeals related to violations of the principles of good governance, first of all to the misapplication of the law and the established legal expectations, as well as to the ineffective response of the authorities.

CHILD RIGHTS

In the reporting period the Protector of Citizens points to the continuing decline in childhood mandatory immunization rates, which culminated in the smallpox epidemics and endangered the health of a larger number of citizens and children. Another worrying fact is the increased rate of poverty to which children are particularly exposed, as well as the ubiquitous violence in schools. Austerity measures particularly affect certain vulnerable categories of population, such as families who look after a severely ill member or a child with disabilities.

The legislative framework for the protection of children against violence in family, abuse and neglect has been improved, but its implementation is not at the required level.

The Protector of Citizens notes that in media children are increasingly recognized as victims of violence, including the cases when they witness the violence in their family. In contrast, the tabloid-style of reporting on domestic violence or violence in schools is characterized by the publication of information in a manner which allows for the identity of the child to be determined, thus violating his/her right to privacy.

GENDER EQUALITY

Violence against women and children remains extremely widespread, and relevant authorities and institutions do not implement effectively and timely the existing regulations and operation standards. Also, there is no coordinated multidisciplinary cooperation and information exchange between the competent bodies in ensuring adequate protection for victims of violence. Despite the large number of women killed, the Government did not adopt the Action Plan for the Implementation of the National Strategy to Prevent and Combat Violence against Women in Family and Intimate Partner Relationships from 2011, and in the meantime the Strategy ceased to be valid.

The position of women in our society is still characterized by widespread gender-related stereotypes and insufficient participation of women in managerial and decision-making positions. Women living in rural areas, women with disabilities and Roma women whose lives are most often characterized by exclusion from education, early school dropping out, early marriage, multiple pregnancies with a small time interval between them, information inaccessibility, and financial and other dependencies on older family members and partners are in a particularly difficult position.

The Protector of Citizens believes that the image of women in the Serbian media is highly stereotypical and discriminatory, and reporting is often sexist. Women are rarely in the role of the subject of the news dealing with political or economic issues (dominant in the Serbian media), and more often are interlocutors on the topics such as fashion, celebrities etc. However, women are most often found in the local crime news section of the newspapers as victims of family or intimate partner violence, and the media still do not hesitate to make profits on these very topics – by unscrupulously analysing the victim, her family and the event itself.

RIGHTS OF LGBTI PERSONS

It is significant that during the reporting period, the Pride Parade was held peacefully, allowing the LGBTI population to exercise the right to freedom of assembly. However, full exercise of this population's rights in the area of education, employment, health care, social welfare, legal regulation of their cohabitation and the legal consequences of gender change and gender identity, as well as protection of their physical and psychological identity is still not noticeable.

The Protector of Citizens observes that the attitude of the media toward LGBTI people, their position and rights compared to the previous years is changing and improving – the number of neutral and positive texts being increased. However, the LGBTI population often appears in the media in a tabloid-format newspapers and using words with extremely negative connotations.

RIGHTS OF PERSONS WITH DISABILITIES

Persons with disabilities experience many barriers in exercising their rights, primarily their right to access the facilities which has not been sufficiently ensured. The fact is that no decision and plan for deinstitutionalization has been made, nor the support services and service systems which should contribute to this process have been adequately developed.

In the Republic of Serbia there are no adequate institutes for early diagnosis and treatment of people with autism, and the educational plan and programming for the inclusion of students with autism in the general classroom does not meet the needs of children with autism nor it contributes to the development of their talents.

Despite the legal framework and subsidies from the relevant authorities to encourage employers to hire people with disabilities, the employment rate is still low for this population segment. Therefore, the Protector of Citizens considers that unenviable material status, lack of social welfare services, discrimination and inaccessibility make the position of persons with disabilities more difficult, placing them on the very margin of the society.

The Protector of Citizens estimates that the position, rights and needs of people with disabilities continue to generate little media interest, mainly only when marking international days devoted to them¹ or reporting on certain sensationalistic events, while regular topics and columns are rare. In the media a person with disabilities is still not a source of information on almost any social topic or phenomenon, except for his/her own disability.

NATIONAL MINORITY RIGHTS

In this reporting period, the opportunity to achieve the integration of the members of national minorities into the society as a whole in accordance with their needs, interests and possibilities was not used. The Protector of Citizens emphasizes that the exceeding of the deadlines for the improvement of legal regulations stipulated by the Action Plan for the Realization of National Minority Rights continued resulting in the postponement of fulfilment of the normative prerequisites for the realization of other measures and activities stipulated by the Action Plan. Efforts need to be made to raise the level of expertise, staff capacities and financial resources, as well as understanding regarding the importance of timely, complete and effective exercise of the right to the official use of mother tongue. Also, the Protector of

¹ "Tomorrow is the International Day of Persons with Disabilities", Danas, 2 December 2017, available at: http://www.danas.rs/drustvo.55.html?news_id=363935&title=Sutra+je+me%C4%91unarodni+dan+osoba+sa+invaliditetom.

Citizens points out that it is necessary to solve some of the problems related to the Strategy for Social Inclusion of Roma.

The Protector of Citizens believes that reporting about the Roma is characterized by texts about their social status, and that stereotypes regarding hygiene, education and the way of life of the Roma community in general cannot be missed by almost any news reports, even when they are in general positive².

RIGHTS OF PERSONS DEPRIVED OF THEIR LIBERTY, USE OF POLICE POWER, AND PREVENTION OF TORTURE

During the reporting period, the improvement trend in the protection of the rights of persons deprived of their liberty, the use of police power, and the prevention of torture and other forms of abuse continued in the Republic of Serbia. Undeniably, the significant steps have been taken in the Republic of Serbia towards preventing torture and other forms of abuse, and there is no organized torture or torture encouraged by state authorities. However, it is necessary to harmonize the provisions of the Criminal Code with the generally accepted definition of torture under Article 1 of the UN Convention against Torture, and to improve the implementation of internal control mechanisms within government entities, in particular the effectiveness of the public prosecutor's offices and courts in the fight against torture.

The Protector of Citizens draws attention to the financial conditions and certain actions of the relevant authorities towards persons deprived of their liberty, which is a result of the system shortcomings and its non-compliance with the applicable standards.

JUSTICE

The Republic of Serbia remains one of few countries that has not regulated provision of free legal aid by passing the laws regulating this area.

The Protector of Citizens notes that during the reporting period the trend of citizens' complaints and numerous media titles regarding the conduct of public trustees continued. The Protector of Citizens considers, based on the complaints regarding the work of the Ministry of Justice, that the functionality in carrying out the supervision of the Ministry has not been provided, and that an effective and timely internal control mechanism within the Public Enforcement Chamber is lacking. Also, there is no consistent implementation of the law that regulates this area, and in most cases the Ministry fails to inform the complainants about the outcome of the complaint handling procedure, it only forwards declarations obtained from public enforcement officers to them instead.

² Settlement in Niš "Street of Fear", Večernje novosti, 23 April 2017, available at: <http://www.novosti.rs/vesti/srbija.73.html:661885-Svakondeveni-horor-kraj-stocnog-trga>.

Although under the applicable law, the Protector of Citizens is not competent to control the work of the judiciary, and this reporting period was marked with numerous complaints and appeals of citizens expressing their dissatisfaction because of the violation of the right to a fair trial and the right to a trial within a reasonable time. At the same time, the past year was marked by a debate and disagreement over the proposed amendments to the Constitution with regard to the judiciary, as well as over the election of judicial officials. The problems that the citizens are drawing the Protector of Citizens' attention to and the information they provide in the above mentioned appeals can greatly contribute to the improvement of this debate.

Despite having no competence in controlling the work of the Government or the National Assembly, during this reporting period, the Protector of Citizens received complaints by all interested parties in the process of election of judges and public prosecutors, which on the one hand, speaks about the trust in the work of the Protector of Citizens, and on the other hand testifies to the fact that time has no impact on the problems that continuingly stifle the position, role and work of the judiciary in the Republic of Serbia.

FINANCES

The Protector of Citizens notes that bureaucratic obstacles are placed before the citizens in exercising their right on refunding for wrong tax or excess tax paid together with the charged interest, which are the result of insufficient and untimely cooperation between the state authorities. Also, there is a lack of timely informing the citizens about their rights and obligations.

The citizens, the so called "old foreign currency savers", did not exercise their right to have their deposits refunded this year either, while a significant number of them claim that it is becoming increasingly difficult for them to pay the taxes for the immovable property they live in. Therefore, it is necessary to take care not only about the revenue portion of the budget, but also about the expenditure portion of the budget, with a fair distribution of burdens and public funds, respecting all social specificities.

ECONOMIC AND PROPERTY RIGHTS

The problems in exercising and protecting economic and property rights were the most frequent reason for citizens to address the Protector of Citizens during 2017. Particular emphasis was placed on the problems related to the legalization of illegally constructed buildings, delay in rendering services by the cadastral offices, debt settlement by instalments, and restitution.

The Protector of Citizens supports the processes initiated by the state in the area of economic and property rights, and is willing to cooperate fully and to help in promoting the rights of the citizens in these areas, and is also ready and legally obliged to criticise and indicate shortcomings and omissions both in the work of the relevant bodies and in the normative framework for the purpose of exercising and protecting the rights of the citizens.

This is especially important due to the fact that this area, together with the estimations in the area of finance, are considered to be crucial to solving many problems in the society, as well as being a stronghold and starting basis.

ENVIRONMENTAL PROTECTION

By establishing a new separate Ministry of Environmental Protection in 2017, the state recognized the importance of environment protection, not only within the fulfilment of obligations from the accession negotiations with the EU, but also as a part of the promotion of general awareness of the importance of preserving and protecting the environment. Budget allocations for the Ministry, which were foreseen for 2018, remain insufficient, although they have been significantly increased in comparison to the previous year.

As in the previous years, the Protector of Citizens received complaints about the environment protection in 2017 as well, whose content indicated problems of pollution of water, air and soil, unpleasant smells, noise and vibration due to performing various economic activities, disposal of municipal waste, poor quality of drinking water, and how the inspection bodies from the area of environment protection acted upon the reports of individuals or groups of citizens. When visiting certain areas in the Republic of Serbia, the Protector of Citizens was personally convinced that the issue of environment protection is of great importance for the citizens.

SOCIAL WELFARE, AND PENSION AND DISABILITY INSURANCE

In the area of social welfare, a positive step was made by passing the Law on Financial Support to the Families with Children, which enabled the realization of salary compensation during maternity leave, absence from work for child care reasons and for special child care reasons, and also for women agricultural producers who are holders of the registered agricultural households, and women who have temporary jobs. However, the main shortcoming of this law is that it has not changed the provisions relating to the compensation of other revenues.

The employment restrictions in the public sector have led to insufficient number of employees in health care and social welfare. In a situation of widespread violence, poverty and other problems, the adequate provision of social welfare services is at significant risk due to insufficient number of employees.

The relevant authorities do not take all necessary measures against employers who fail to fulfil their obligations regarding payment of wages, as well as calculation and payment of social insurance, so the employees are deprived of their right to wages, their pension and disability insurance rights, and their right to health care. Citizens often cannot exercise a full pension insurance right, because for a certain period of time their employers did not fulfil their legal obligation to pay contributions for pension and disability insurance. In their complaints, the citizens often point out that because of unpaid contributions by their employers they become socially vulnerable categories of the population, regardless of the fact that they have fulfilled the statutory conditions for retirement.

THE YOUTH

Young people still face high unemployment rates, poverty and poorly developed services for the prevention of addiction and risky behaviour, assistance and support services in particularly vulnerable situations, as well as services for the prevention and protection of mental and reproductive health. Unemployed young people, as well as those who are not in education, and who live with their family members, are not able to exercise the right to health care under the compulsory health insurance.

THE ELDERLY

Poverty and neglect of elderly people within their family are the most serious problems these people are facing in the Republic of Serbia. It is disturbing that the elderly are often placed in retirement homes without their consent, and many of these homes do not meet, among other things, working conditions. Also, the senior home care services are poorly developed, although the elderly often live alone and have no relatives to care about them. Numerous surveys point to the fact that older people, in addition to persons with disabilities, are one of the most discriminated groups in Serbia.

The Protector of Citizens stresses out that older fellow citizens are least visible of all vulnerable groups in the media. Stereotypical reporting is a typical example of media interest for this social group³, and regular columns or TV

³ "Pensioners demand that their income is adjusted for inflation", Dnevnik, 28 November 2017, available at: www.dnevnik.rs/drustvo/penzioneri-traze-da-im-prihodi-prate-inflaciji-28-11-2017

programming that systematically deal with the situation of the elderly, their needs, and the level to which they execute their rights remain a rarity on the media scene.

KOSOVO AND METOHIA

The Protector of Citizens is still unable to exercise his competence in the territory of the Autonomous Province of Kosovo and Metohia, in the manner stipulated by the Constitution and the law. According to available information and based on allegations from complaints, the citizens in Kosovo and Metohia, especially the non-Albanian nationalities who live in enclaves, continue to face serious violations of their human rights and freedoms.

FREEDOM OF SPEECH

The Protector of Citizens notes that the situation in the area of freedom of speech and the media has not changed in comparison to the previous reporting years. Journalists and media experts agree that media freedom has been threatened for a long period of time, as reported by the international reports. The 2017 European Commission's report on the current state in Chapters 23 and 24 emphasized the need for full implementation of media legislation. Transparent ownership and financing of private media, state media financing and co-financing of media content, including those at the local level, must be carried out in accordance with existing legislation⁴.

A joint international mission which consists of the representatives of the European Federation of Journalists (EFJ), the International Press Institute (IPI) and the SouthEast Europe Media Organization (SEEMO), made recommendations after visiting Serbia in January 2018, one of which concerns the Protector of Citizens. Namely, the mission recommends "classifying journalism and the media as a special issue for the institution of the National Ombudsman – an independent state body whose task is to promote and protect the rights of citizens – in order to enable them to deal more effectively with journalism and media issues."⁵

Threats, violence and intimidation of journalists are key issues that continue to worry media representatives and the public. According to the data of

⁴ "Non paper" on current situation in Chapters 23 and 24 for Serbia, November 2017, available at: http://www.mei.gov.rs/upload/documents/eu_dokumenta/non_paper_23_24/non_paper_23_24_novembar_srp.pdf.

⁵ Fact finding mission to Serbia on media freedom and safety of journalists, Belgrade, 18–19 January 2018, available at: <http://www.savetzastampu.rs/doc/fact-finding-mission-to-serbia-final-statement.pdf>. и http://www.savetzastampu.rs/cirilica/vesti/52/2018/01/25/1654/efj_-svi-mediji-da-postuju-odluke-saveta-za-stampu.html.

news organizations⁶ in Serbia, 92 attacks on journalists were recorded during the reporting year. Attacks are categorized from physical attacks and attacks on property, to pressure, to threats to property, and to verbal threats. In the majority of documented threats, there are pressures (62) on media representatives. In public statements, the Protector of Citizens repeatedly warned the public of the suppression of media freedoms and freedom of speech, and demanded that the perpetrators of the threats, violence and intimidation of journalists are brought to justice.

Journalists and media workers in Serbia work in difficult material conditions. They are mostly hired without a contract of employment, and when they have it, the amount of their salary is below the republican average. They work in conditions in which there are no special mechanisms for the protection of their professional rights, which particularly affects media freedom.

In 2017, according to the Press Council survey, print media journalists violated the codex in 4,717 texts.

FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

It is encouraging that during the reporting period, as well as in the past few years, complaints and appeals of citizens for violation of religious freedoms and rights are few, diverse and without grounds for the actions of the Protector of Citizens.

OFFICIAL USE OF SERBIAN LANGUAGE AND CYRILLIC SCRIPT

Although the so called language rights in Europe have been considered as an attainment, the Republic of Serbia is yet to adopt a modern and easily applicable regulation that should solve the issues raised so far – what is considered a public use, and what is considered an official use of the language; what does the use of the Latin script imply in accordance with the law; as well as to provide the necessary capacities for the effective, full and timely exercise of the right to the official use of the languages and scripts of national minorities.

The Protector of Citizens, as an illustration of such a situation, indicates that the valid legal regulations still do not specify which body at the republic level is competent to monitor the application of the law, and to propose and undertake measures to improve the official use of the language and script, as is confirmed by the complaints that the Protector of Citizens received in 2017.

⁶ Available at: <http://www.bazenuns.rs/srpski/napadi-na-novinare>.

INTERNALLY DISPLACED PERSONS FROM THE TERRITORY OF THE FORMER YUGOSLAVIA

During this reporting period, the Republic of Serbia continued to face the problems arising from resolving the situation of internally displaced persons and refugees. Their complaints to the Protector of Citizens indicate that there are no significant changes in the position of these persons, that is, they are still in a very difficult socio-economic situation.

As in previous years, the Protector of Citizens can only conclude that the process of closing collective centres was not completed in 2017, and the complaints he received relate to bad living conditions in some of the collective centres (power and water cut off etc.). Therefore, the Protector of Citizens once again emphasizes the need for more effective implementation of refugee housing programs, as well as programs for their economic empowerment.

Although the Protector of Citizens has repeatedly urged the relevant authorities to undertake measures and take care of the internally displaced Roma from the territory of AP Kosovo and Metohia, who have lived in informal settlements since 1999 without any infrastructure, they still remain in a particularly unfavourable situation.

MIGRANTS

During 2017, the inflow of migrants was significantly reduced while the period of their stay in Serbia was prolonged. According to data from December 2017, between 4,500 and 5,000 migrants stayed in Serbia. The Protector of Citizens continually monitors the position and protection of children on the move, refugees and migrants, who make 40% of the total number of migrant and refugee population.

In many centres, works on housing capacity expansion and provision of accommodation in more solid structures have been carried out. During the year, three more reception centres were opened, so in Serbia there are 18 centres for the reception and care of migrants and refugees, with the total housing capacity for 6,000 people.

3. BASIC STATISTICAL REVIEW

3.1. TOTAL NUMBER AND CLASSIFICATION OF COMPLAINTS

In 2017, the Protector of Citizens was addressed by 12,181 citizens, out of which 2,897 were received in person; a telephone conversation was conducted with 5,155 citizens; and the number of received cases was 4,129, out of which 4,060 were complaints and 69 own initiative cases. The Protector of Citizens has completed work in 2,687 cases. At the same time, about 1,136 cases from the previous years were investigated, out of which work was completed on 384, which means that in 2017, work was completed on a total of 3,071 cases.

Table 1 – Data on contact with citizens in 2017

Type of Appeal	Number	Percentage
Number of citizens received in person	2,897	23.78%
Number of telephone conversations with citizens	5,155	42.32%
Number of complaints	4,129	33.90%
Total number of contact with citizens	12,181	100%

Table 2 – Data on the investigated cases from 2017

Number of Received Cases	4,129
Received complaints	4,060
Own initiatives	69
Number of finished cases	2,687
Number of cases in progress	1,442

Table 3 – Number of cases⁷ from previous years investigated in 2017

Number of investigated cases from previous years	1,136
Number of completed cases from previous years	384
Number of cases in progress from previous years	752

⁷ The same.

Table 4 –Number of cases⁸ received in 2017 classified by departments of the protector of citizens with a percentage of the total number of cases in 2017

Departments of the Protector of Citizens	Number	Percentage
Department for Protection of Economic and Property Rights	1,401	33.93%
Department for Protection of Civil and Political Rights	1,091	26.42%
Department for the Protection of Social and Cultural Rights	736	17.83%
Department of Child Rights	340	8.23%
Department for the Protection of the Rights of Persons with Disabilities and the Elderly	193	4.67%
Department for the rights of persons deprived of their liberty	177	4.29%
Department for Gender Equality	118	2.86%
Department for the Protection of National Minority Rights	61	1.48%
Other	12	0.29%
TOTAL DEPARTMENTS	4,129	100%

Note: In Table 4, under "Other", there are cases related to complaints on the work of independent state bodies and security services.

Table 5 – Number of cases⁹ received in 2017 sorted out by sectors with a percentage of the total number of cases in 2017

	Area of Work of the Protector of Citizens	Number	Percentage
1	Local self-government	422	10.22%
2	Justice	382	9.25%
3	Work and working relationships	346	8.38%
4	Child rights	340	8.23%
5	Real Estate Cadastre	276	6.68%
6	Finances	214	5.19%

⁸ The cases include items arising from complaints handling and own-initiatives investigations in a particular area/department.

⁹ The cases include items arising from complaints handling and own-initiatives investigations in a particular area/department.

7	Pension insurance	195	4.72%
8	The rights of people with disabilities and the elderly	193	4.67%
9	Construction and infrastructure	191	4.62%
10	Rights of persons deprived of their liberty	177	4.28%
11	Energy and mining	158	3.83%
12	MoI – Police affairs	146	3.53%
13	Health	135	3.27%
14	Consumer protection	134	3.24%
15	Gender equality	118	2.26%
16	MoI – Administrative affairs	106	2.58%
17	Education and science	75	1.81%
18	Social Welfare	62	1.50%
19	National Minority Rights	61	1.48%
20	Economy	58	1.40%
21	Culture	52	1.26%
22	Environmental protection	42	1.02%
23	Foreign Affairs and Diaspora	35	0.85%
24	Defence	34	0.82%
25	Agriculture	31	0.75%
26	Restitution	26	0.63%
27	State Administration	22	0.53%
28	Refugees and displaced persons	21	0.51%
29	Transport and transport infrastructure	18	0.44%
30	Serbian language and Cyrillic	18	0.44%
31	Natural disasters	14	0.34%
32	Expropriation	9	0.28%
33	Security services	7	0.17%
34	Independent state bodies	5	0.12%
35	Youth and sports	5	0.12%
36	Protection of the excisers	1	0.024%
	TOTAL AREAS	4,129	100%

Table 6 – The outcome of the cases¹⁰ from 2017

Outcome	Number	%
Inadmissible complaints	1,978	73.89%
Unfounded complaints	381	14.23%
Cases completed with recommendations from procedure in the expedited oversight procedure	234	8.74%
Cases completed with recommendations from the oversight procedure	9	0.34%
The drop of the complaint due to the withdrawal of the complainant	45	16.81%
Opinion	4	0.15%
Informed and advised complainant	24	0.90%
Suspension due to the death of the complainant	2	0.07%
Total	2,677	100%

The largest number of complaints received by the Protector of Citizens is inadmissible because conditions stipulated by the law for acting on them had not been fulfilled. Complaints are dismissed due to incompetence, timeliness, prematureness, anonymity and irregularities. A very significant segment of the Protector of Citizens' handling of complaints implies the provision of advisory and legal assistance, which is provided by the Protector of Citizens even after the complaint has been dismissed due to lack of competence or prematureness.

Such advisory assistance was provided to citizens in 73.89% inadmissible cases in this area. In these cases the Protector of Citizens referred them to the relevant authorities or advised them on the available legal remedies.

Table 7 – Review of inadmissible complaints in 2017

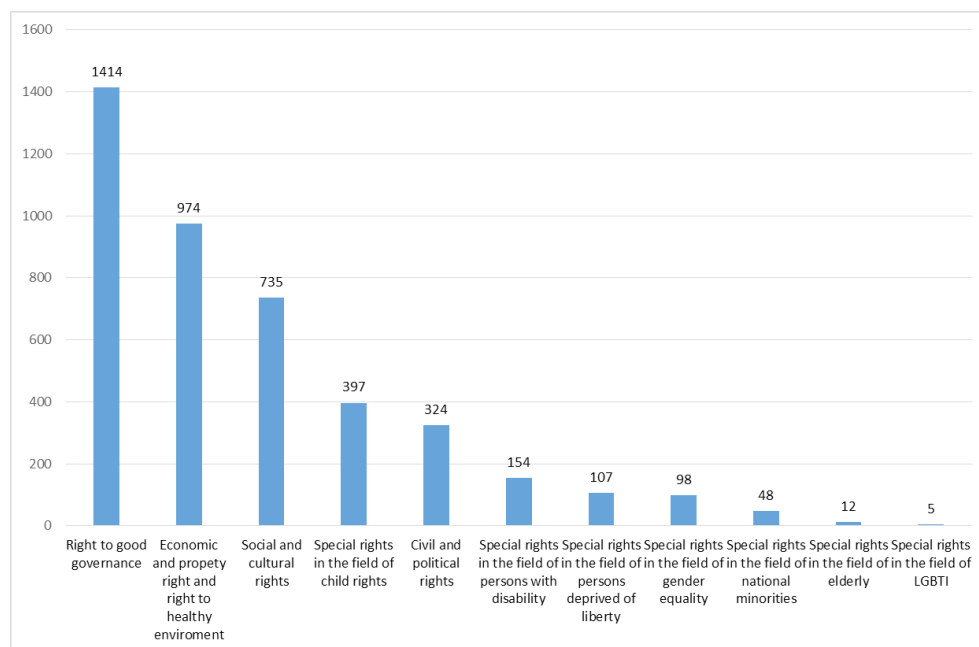
Inadmissible Complaints	Number
Incompetence	849
Unused legal remedies	617
Irregular complaint	394
Untimeliness	48
Anonymous complaint	41
Unauthorized applicant	29
Total	1,987

¹⁰ The cases include items arising from complaints handling and own-initiatives investigations in a particular area/department.

CLASSIFICATION OF COMPLAINTS ACCORDING TO VIOLATED RIGHTS

While reviewing 4,129 cases during 2017, a total of 4,268 violations of rights were found, out of which the largest number constitute the violations of the good governance principle, and violation of economic and property rights. This is confirmed by the fact that the good governance principles are violated in all administrative bodies before which the citizens, including those belonging to vulnerable groups, exercise their rights, which makes the problem of violation of these rights right even more sensitive and difficult.

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



CLASSIFICATION OF COMPLAINTS TO AUTHORITIES TO WHOSE WORK THEY ARE RELATED

The largest number of complaints relates to the work of the representatives of the executive authorities, ministries in particular – **20.59%** of all complaints. Citizens most often complained about the work of the authorities and organizations in the area of pension and disability insurance, employment, health care, education, social welfare, tax authorities, public enterprises and institutions, judicial authorities and administrative bodies in local 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	%
Ministries	20.59%
Agencies, institutes, funds, administrations	18.49%
Institutions and other public services	16.20%
Local self-government	13.05%
Other authorities	12.50%
Judicial bodies	9.87%
Public enterprises	7.16%
Independent republic authorities and independent bodies	0.97%
The highest republic authorities (the Government, the National Assembly)	0.83%
Autonomous provinces	0.31%
National Councils of National Minorities	0.024%
Total all authorities	100%

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

RECOMMENDATIONS

During 2017, the Protector of Citizens referred a total of **490** recommendations to the administrative bodies, **256** in the control procedure, and **234** in the shortened control procedure. While carrying out the work within the National Mechanism for the Prevention of Torture, the Protector of Citizens sent **309** recommendations to the competent bodies in 2017, so the total number of its recommendations is **799**.

Table 9 – Data on the actions of administrative bodies by recommendations in 2017

	Referred	Received	Accepted	% Accepted Received
Recommendations issued in the oversight procedure	256	130	99	76.15%
Recommendations issued in the expedited oversight procedure	234	243	234	100%
Total accepted recommendations in oversight procedures	490	373	333	89.76%
Recommendations issued in preventive capacity (National Preventive Mechanism)	309	183	169	92.35%
Total	799	554	502	90.61%

Note: Referred recommendations are all recommendations sent to the authorities during 2017. Received recommendations are all those recommendations whose deadline for the action given in the text of the recommendation expired in 2017, irrespective of when the recommendation was referred. The accepted recommendations are all the recommendations implemented by the administrative authorities, or they notified the Protector of Citizens that they accepted them.

Recommendations are recorded depending on the area of the right to which they relate, i.e. whether they relate to the protection and promotion of the rights of vulnerable groups (persons deprived of their liberty, children, persons with disabilities, national minorities, the area of gender equality), or they relate to respecting the principles of good administration.

Out of the total number of recommendations issued, the largest number – **283**, almost **60%** refer to the improvement of respect for the good governance principles.

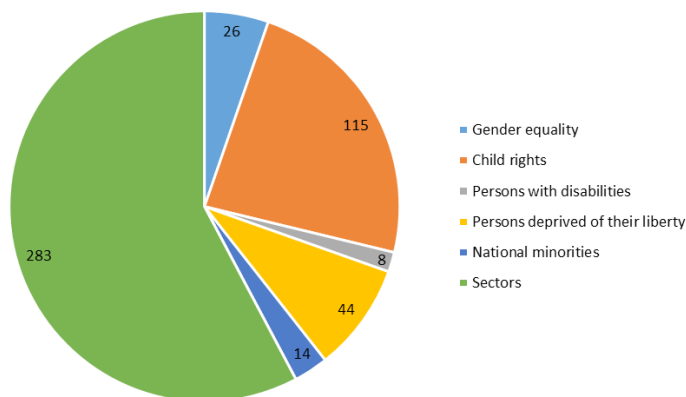


Chart 2 – Presentation of recommendations by areas of law to which they refer in 2017

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

Table 10 – An overview of the issued recommendations by departments in 2017

Area	Total Number of Recommendations	Received	Percentage	Within the Deadline	Percentage
Gender equality	26	9	34.62%	17	65.38%
Child rights	115	58	50.43%	57	49.57%
Rights of persons with disabilities and the elderly	8	8	100%	0	0.00%
Rights of persons deprived of their liberty	44	30	68.18%	14	31.82%
Rights of national minorities	14	14	100.00%	0	0.00%
Sectors	283	247	86.06%	40	14,04%
Total	490	366	74.09%	128	25.91%

Table 11 – Outcome of received recommendations

Area	Total Received	Accepted	Percentage of Received	Unaccepted	Percentage of Unaccepted
Gender equality	9	5	55.56%	4	44.44%
Child rights	58	55	94.83%	3	5.17%
Rights of persons with disabilities and the elderly	8	6	75%	2	25%
Rights of persons deprived of their liberty	30	26	86.67%	4	13.33%
Rights of national minorities	14	6	42.86%	8	57.14%
Sectors	247	235	95.14%	12	4.86%
Total	366	333	90.98%	33	9.02%

The authorities acted in **333** recommendations within the deadline (**90.98%**). The number of unaccepted recommendations was **33**, while for **128** recommendations deadline given to the authorities to act has not expired yet.

OPINIONS

In 2017, the Protector of Citizens sent 32 opinions to the public authorities, as follows:

Eight (8) opinions, using the legal provision that by giving advice and opinions on issues within their competence they act in a preventive manner in order to improve the work of administrative bodies, and to improve the protection of human freedoms and rights:

- Opinion sent to the Ministry of Justice and the Ministry of Health regarding the protection and promotion of the rights of prisoners suffering from serious mental disorders, who are on executing their prison sentence;
- Opinion sent to the Ministry of Education, Science and Technological Development on the occasion of the altering the procedure for conducting the entrance exam for enrolment in secondary schools;

- Opinion sent to the Ministry of Health and the Republic Health Insurance Fund on the need for greater availability of innovative medicines for patients with hepatitis C;
- Opinion sent to the Republic Health Insurance Fund regarding the insured persons who are referred to prolonged rehabilitation;
- Opinion sent to the Ministry of Interior regarding the decision on detaining suspects who were not explained the reasons for their detention, and the absence of written documentation on the content of communication with the public prosecutor;
- Opinion sent to the Ministry of Justice on the need to amend the Law on Judicial Experts;
- Opinion sent to the Ministry of Interior and the Ministry of Foreign Affairs on the exercise of the right to obtain necessary travel documents of the citizens of the Republic of Serbia;
- Opinion sent to the Ministry of Health and the Republic Health Insurance Fund about the need to change the titles of professional bodies to destigmatize LGBTI persons.

Twenty-four (24) opinions, based on a legal provision to give their opinion to the Government and the National Assembly on the bills and other regulations in the procedure of preparation of regulations, if they regulate issues that are significant for the protection of citizens' rights:

- Opinion on the Bill on Gender Equality;
- Opinion on the Bill on the National DNA Register;
- Opinion on the Proposal of the Intellectual Property Strategy of the Republic of Serbia for the period from 2017 to 2021 with the Action Plan for Implementation of the Strategy for the period from 2017 to 2021;
- Opinion on the Proposal of the Strategy for Improving the Status of Persons with Disabilities in the Republic of Serbia until 2024 with the Action Plan for Implementation of the Strategy for the period from 2017 to 2020;
- Opinion on the Draft 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 from 2016 to 2025, for the period from 2017 to 2018
- Opinion on the Bill on Registration in the Cadastre;
- Opinion on the Bill on Foreigners;
- Opinion on the Bill on Higher Education;

- Opinion on the Proposal for a Conclusion on the Adoption of the Migration Profile of the Republic of Serbia for 2016;
- Opinion on the Bill on the Unique Master Citizen Number;
- Opinion on the Bill on Health Insurance;
- Opinion on the Bill on Amendments to the Law on Police;
- Opinion on the Bill on the Procedure for Registration in the Real Estate Cadastre;
- Opinion on the Bill on Financial Support to the Families with Children;
- Opinion on the Bill on Public Service Employees;
- Opinion on the Bill on Amendments to the Law on Citizenship of the Republic of Serbia;
- Opinion on the Bill on Amendments to the Law on Trademarks;
- Opinion on the Bill on Amendments to the Law on Peaceful Settlement of Labour Disputes;
- Opinion on the Bill on Border Control;
- Opinion on the Bill on Amendments to the Law on the Army;
- Opinion on the Bill on Amendments to the Law on Defence;
- Opinion on the Bill on Health Care;
- Opinion on the Bill on records and data processing in the field of internal affairs;
- Opinion on the Bill on the National Academy for Vocational Training in Public Administration, the Bill on Amendments to the Law on Civil Servants and the Bill on Amendments to the Law on Employees in Autonomous Provinces and Local Self-Government Units.

LEGISLATIVE INITIATIVES

The Protector of Citizens uses its legislative initiative right under two cumulatively fulfilled conditions:

- When it is necessary for the text of a law or a bill to be amended to ensure the full and unimpeded exercise of the rights of citizens guaranteed by the Constitution and other laws, regulations and general acts, as well as by ratified international treaties and generally accepted rules of international law.
- When the other authorized proposer competent for the specific area (usually the Government) does not use its legislative initiative in a

manner that ensures respect, realization, protection and promotion of citizens' rights, and harm caused by delay threatens.

Proposing amendments and laws to the National Assembly is the last step that the Protector of Citizens undertakes, as a rule, only when it estimates that the authorized "first-order" proposer will not take the necessary steps in favour of citizens' rights on the basis of an initiative, recommendation or other proposal by the Protector of Citizens.

For this reason, the legislative activity of the Protector of Citizens is most often reflected in its sending comprehensive initiatives to the state administrative authorities – whose work the Protector of Citizens overviews – 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 legislative initiatives of the protector of citizens in 2017

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>)	7	70%
Submission of amendments to bills to the National Assembly (<i>Article 161 and 162 of 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	3	30%
Motion to the Constitutional Court to assess constitutionality and lawfulness	0	0
Total	10	100%

Table 13 – The outcome of the legislative initiatives in 2017

	Number	Percentage
Accepted legislative initiatives	1	10%
Legislative initiatives which were not accepted	6	60%
Pending initiatives	3	30%
Total	10	100%

4. EXERCISING THE RIGHTS OF PARTICULARLY VULNERABLE GROUPS

4.1. CHILD RIGHTS

STATISTICS

In the field of child rights, in 2017, the Protector of Citizens handled 340 cases¹¹, 314 of which were complaints from the citizens and 26 own-initiative investigations. The cases from this field account for 8.23% of the total number of cases handled. The Protector of Citizens issued 115 recommendations to administrative authorities, 58 of which were due during the reporting period¹². Out of this number, administrative authorities acted upon 55 recommendations, which makes 94.83% of accepted recommendations.

Out of 340 cases handled in 2017, the Protector of Citizens has closed 197 cases.

Table 14 – Child rights – The overview of cases handled from 2017

The number of received cases in 2017	340
The number of closed cases from 2017	197
The number of ongoing cases from 2017	143

Table 15 –The overview of recommendations issued in 2017 in the field of child rights

The number of issued recommendations	Number of due recommendation	Number of accepted recommendations
115	58	55

¹¹ The cases include items arising from complaints handling and own-initiatives investigations in a particular area/department.

¹² The term “due recommendations” will be understood to include all recommendations whose deadline for acting upon them expired over the course of 2017, taking into account the deadline provided in the wording of the recommendation.

In 2017, 181 cases from earlier years have been closed. The manners how the cases from 2017 were closed are given in the following table.

Table 16 – Child rights – The outcomes of closed cases handled from 2017

	Number	Percentage
Inadmissible complaints–Unused legal remedies	76	38.58%
Inadmissible complaints – Incompetence	28	14.21%
Inadmissible complaints– Unauthorized complainant	21	10.66%
Inadmissible complaints– Formally deficient complaint	20	10.15%
Inadmissible complaints – Anonymous complainant	4	2.03%
Inadmissible complaints – Untimeliness	3	1.52%
Unfounded complaints	27	13.71%
Cases closed by recommendations from expedited oversight procedure	8	4.06%
Complainant advised and informed	5	2.54%
Complaint dropped by the complainant	4	2.03%
Cases closed by recommendations from oversight procedure	1	0.51%
Total:	197	100 %

The majority of received complaints are found inadmissible by the Protector of Citizens because the conditions for acting upon them provided for by the Law are not met. The complaints are inadmissible due to incompetence, untimeliness, prematureness, anonymity of complainant or formal deficiencies.

Assistance in the form of legal advice accounts for a significant share of the actions taken by the Protector of Citizens pursuant to complaints, he provides this type of assistance even in the cases where the complaint is inadmissible because of the lack competence or prematureness. This kind of legal advice was provided to the citizens in 68.42% of inadmissible cases in this field. In such cases, the Protector of Citizens refers the complainant to the competent authority or provides advice on available legal remedies.

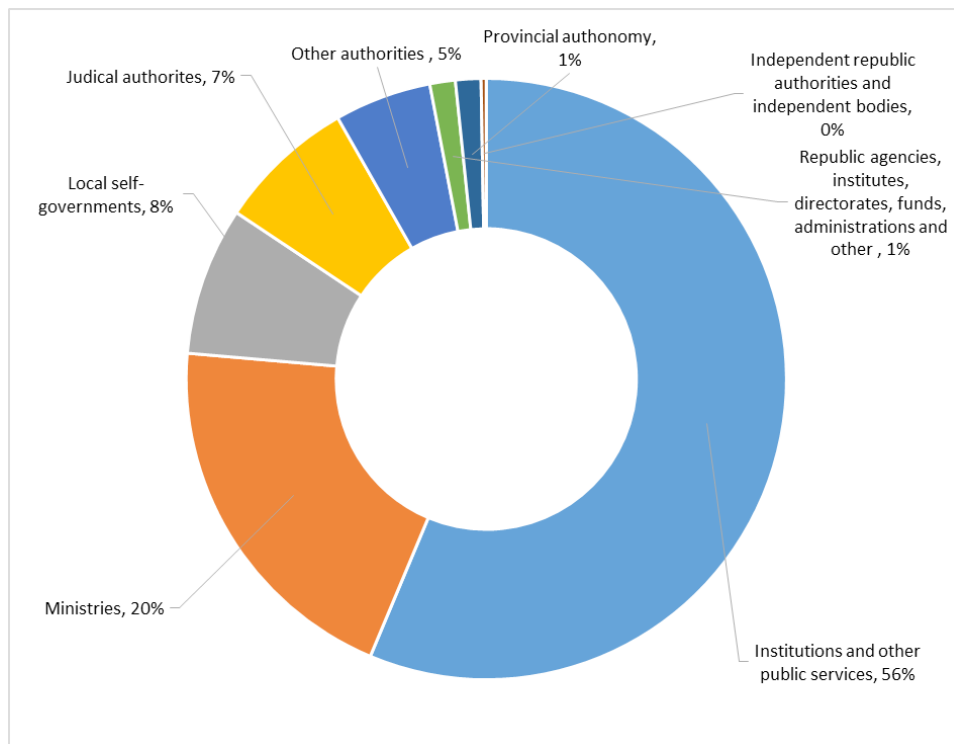
In the field of child rights protection 476 violations of rights have been identified in 340 cases. The largest number of cases pointed to special rights in the field of child rights (397 rights violations) which is given in Table 17 in percentages.

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

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

Type of right violated	percentage	Type of right violated	percentage
Right to respect the best interests of a child	45.90%	Child's right to maintain personal relation with the biological family and close persons	2.05%
Right to protection against violence, abuse and neglect	14.62%	Child's right to an adequate standard of living	1.54%
Right to maintain personal relations with the parent with whom he/she does not live	12.82%	Child's right to live with parents	1.54%
Rights of children with developmental disorders to quality of life and special protection by the state	4.62%	Right to protection from parental child abduction	1.03%
Right to proper development of a child	4.36%	Child's right to personal identity	0.77%
Parenting assistance to parents	2.56%	Child's right to express his/her opinion	0.77%
Right to check the arrangements for the care of a child under governmentsupervision	2.31%	Child's right to psychological recovery	0.26%
Right to leisure and recreation	0.51%	Child's right to family reunification	0.51%
Rights of a child in case of adoption	0.26%	Child's right in conflict with the law	0.26%
Child's right to know who his/her parents are	0.26%	Child's right to a healthy environment	0.26%
Right of a child refugee	0.26%	Child's right to protection against sexual exploitation	0.26%

Chart 3 – Authorities and organisations most frequently complained against by the citizens in the field of child rights



ACTIVITIES OF THE PROTECTOR OF CITIZENS

In the field of child rights, the complaints filed to the Protector of Citizens referred to the failure to enforce legally binding judgments on entrusting the child to sole exercise of parental rights, child's maintaining personal relations with the parent he/she does not live with, child support and protecting the child against violence and this enabled further violation of child rights, neglect, abuse and parental abuse. The Protector of Citizens has already issued recommendations to the competent Ministry of Labor, Employment, Veteran and Social Policy and Social Welfare Centers¹³ which were not completely implemented.

Competent Ministries did not implement or they partially implemented Recommendations by the Protector of Citizens¹⁴ to rectify systemic omissions

¹³ Recommendations available at: <http://www.ombudsman.rs/index.php/2012-02-07-14-03-33/4974-d-c-n-gu-bi-i-zr-v-n-r-sh-nih-pr-bl-unu-r-ins-i-uci-rg-n-z-s-r-ljs-v%20trga>

¹⁴ 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> and <http://www.ombudsman.rs/index.php/2012-02-07-14-03-33/4833-2016-07-28-08-59-32>

in the protection against domestic violence, abuse and neglect of children by the police, social welfare centers and health care institutions in the majority of cases. The Protector of Citizens still receives complaints about violence in schools which indicates the frequent failure to take measures in school or that measures are not taken adequately or promptly, and education inspections do not ensure a necessary, timely, efficient and effective control of implementing proscribed measures for the cases of violence, abuse and neglect¹⁵.

Social Welfare Centers have entered 2017 with an additional decrease by about 7.5% in the number of all expert workers and 10% decrease in the number of case managers compared to previous year¹⁶. The Committee on the Rights of the Child recommended¹⁷ to the state to amend the regulations limiting the employment in the public institutions in order to ensure that the provisions of these regulations and the adopted austerity measures do not hinder the quality and efficacy of services for children. The limitation of the employment in the public sector has been extended¹⁸ to December 31st, 2018. The Ministry of Labor, Employment, Veteran and Social Policy did not act upon the recommendations of the Protector of Citizens for rectifying omissions in the organization of expert work in social welfare centers some of which are the result of understaffing¹⁹ and inadequate organization²⁰. With regard to the economic and social position of children, the Protector of Citizens issued a Report at the request of the UN High Commissioner for Human Rights in May 2017, for the purpose of Global Review of the UN Agenda on Sustainable Development by 2030.

The Protector of Citizens continuously monitors the position and protection of children on the move, refugees and migrants, who account for 40%

¹⁵ Rulebook on the Protocol of Treatment in the Institution in response to violence, abuse and neglect "Official Gazette of the Republic of Serbia" No. 30/10

¹⁶ The Report on the Work of Social Welfare Centers for 2016, available at: http://www.zavodsz.gov.rs/PDF/izvestaj2017/CSR%202016_final.pdf

¹⁷ Concluding observations UN Committee on the Rights of the Child on the combined second and third periodic report of the Republic of Serbia, available at <http://www.ljudskaprava.gov.rs/sr/node/143>

¹⁸ Article 5, Paragraph 1 of the Law on Amendments to the Law on the Budget System, "Official Gazette of the Republic of Serbia" No. 113/2017, Article 35, Paragraph 1 of the Law on the Method of Determining the Maximum Number of Employees in the Public Sector, Official Gazette of the Republic of Serbia No. 68/2015 and 81/2016- Constitutional Court decision

¹⁹ Due to the lack of expert employees in Social Welfare Centre Žitište, an incompetent employee (graduate of the Faculty of Law) was irregularly appointed to supervisory jobs, thus, he did not perform these jobs competently, which is contrary to the provisions of Article 58 of the Rulebook on the Organization, Norms and Standards of Work in Social Welfare Centers, "Official Gazette of the Republic of Serbia", No. 59/08, 37.10. 39/11, 1/12

²⁰ Available at: <http://www.ombudsman.rs/index.php/2012-02-07-14-03-33/4974-d-c-n-gubi-i-zr-v-n-r-sh-nih-pr-bl-unu-r-ins-i-uci-rg-n-z-s-r-ljs-v> и <http://www.ombudsman.rs/index.php/2012-02-07-14-03-33/4833-2016-07-28-08-59-32>

of total number of migrant and refugee population (in December 2017, 5000 persons were in Serbia)²¹. More than 500 children started attending school, and the Ministry of Health provided general medical examinations for them. Unaccompanied minors and families with children are taken care of separately from adults in reception centers, shelters and asylum center which have adequate conditions. Psychological support, overcoming traumas and stress, protection in the case of violence, abuse, neglect, trafficking, exploitation legal aid and guardianship are not provided. Recommendations by the Protector of Citizens (to Asylum Center in Koviljača and Belgrade, Reception Centres in Bosilegrad, Divljane, Pirot and Dimitrovgrad and Kikinda) refer to insufficient capacities and resources for the protection of their rights.

By acting upon the opinion of the Protector of Citizens²², a Draft Law on Border Control has been improved, since the provision stipulating that a certified authorization of both parents, as a condition for crossing the state border of a minor when travelling alone or accompanied by a person other than parent or legal guardian, is necessary only if parents jointly exercise parental right. Thus, the question of crossing state border of minors was harmonized with the provisions of Family Law²³ and the Law on Travel Documents²⁴. Taking into account the Opinion of the Protector of Citizens²⁵, the Law on the Financial Support to the Families with Children stipulated that the mother, who is not a Serbian citizen (while child and father are) and has the status of a foreigner with permanent residency, can exercise the right to parental allowance, and that single-parent families are entitled to the right to financial support when it is not possible to ensure enforcement of judgment by using available legal remedies which define child support, and in this case the amount of allowance is not calculated into the family income, the amount of which is a condition for exercising the right.

In 2017, the Protector of Citizens' Youth Advisory Panel, which gathers 30 children aged 13 to 17 from all parts of Serbia, has held two regular meetings. The topics of the meetings were the preparations for conducting research on peer violence in schools and peer education on the child rights over the course of Children's Week which was realized through visits to 5 elementary and 5 secondary schools in Apatin, Sremska Mitrovica, Kučevo, Užice and Kruševac.

²¹ See more in the section on National Preventive Mechanism

²² Opinion available at: <http://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5554-o-2>

²³ Article 78 of the Family Law, "Official Gazette of the Republic of Serbia" No. 18/2005, 72/2011 and 6/2015

²⁴ "Official Gazette of the Republic of Serbia" No. 90/2007, 116/2008, 104/2009, 76/2010 and 62/2014

²⁵ The Opinion on the Draft Law on Financial Support to Families with Children, ref.no. 37867 dated 13 October, 2017



Picture 1 – Deputy Protector of Citizens for Children's Rights and Gender Equality Gordana Stevanović at Children's Week

PROPOSALS FOR IMPROVING CHILD'S POSITION IN RELATION TO ADMINISTRATIVE AUTHORITIES

Even though the Protector of Citizens, according to the Article 17, paragraph 3 of the Law on the Protector of Citizens, has no authority to oversee the work of the National Assembly and the Government, the Protector of Citizens believes that it would be useful for the mentioned authorities to consider his proposals.

- **The National Assembly** should consider bills of amendments to the Labor Law and the Law on Financial Support to Families with Children submitted by the Protector of Citizens with the aim of improving support to families with children with developmental disorders and with disabilities;
- **The Government** should consider the initiative by the Protector of Citizens and draft and submit to enactment the Bill on Ratification of the Optional Protocol to the UN Convention on the Rights of the Child on the procedure for filing complaints with the Committee on

the Rights of the Child; should review the implementation and evaluate the expired National Action Plan for Children and adopt a new one in accordance with the Recommendations of the Protector of Citizens and the UN Committee on the Rights of the Child; should evaluate the efficiency and implementation of the expired National Strategy for the Prevention and Protection of Children against Violence and adopt a new document; should change the adopted austerity measures which hinder children's standard of living, reduce the number and quality of services for children and the number of employees expert for providing these services to children, and should plan and take economic policy measures in a manner that will not reduce the achieved standards in exercising child's rights, in accordance with the Recommendations by the Protector of Citizens and the Recommendation by the UN Committee on the Rights of the Child; should propose the adoption of the Law that will introduce a legal ban on corporeal punishment of children in any environment, take measures in organizing awareness raising campaigns and extending public knowledge on the harmfulness of corporeal punishment of a child and on nonviolent methods of upbringing and educating a child and ensuring expert aid and support to parents in upbringing the children through social and healthcare services mechanisms (counseling for parents, "parenting schools"), in accordance with the Recommendation of the Protector of Citizens and the UN Committee on the Rights of a Child;

- **The Ministry of Justice** should prepare an amended Bill on the procedure of finding facts on the status of new born children thought to have disappeared from birth clinics in Serbia, in accordance with the Recommendations of the Protector of Citizens, the judgments of the European Court of Human Rights and decisions of the Committee of Ministers of the Council of Europe;
- **The Ministry of Justice** should, in accordance with the initiative and recommendations by the Protector of Citizens, prepare amendments to the Criminal Code and the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles for the purpose of the harmonization with the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and Convention on the Rights of the Child and Advancement of the Position of Children in Criminal Procedures;
- **The Ministry of Interior** should prepare amendments to the Law on Public Peace and Order which will decriminalize the children involved in child begging and other forms of exploitation and grant them the status of a victim, in accordance with the Convention on the Rights of

the Child, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and International Labor Organization Convention on the Worst Forms of Child Labor;

- **The Ministry of Labor, Employment, Veteran and Social Policy, the Ministry of Justice, the Ministry of Health, the Ministry of the Interior and the Ministry of Education, Science and Technological Development** should take comprehensive measures of preventing and eliminating early, arranged and forced child marriages and of ensuring the access of these children to the available services for exercising the rights, in accordance with the Recommendations of the Protector of Citizens and the Recommendations of the UN Committee on Child Rights;
- **The Ministry of Labor, Employment, Veteran and Social Policy, the Ministry of Justice, the Ministry of Health, the Ministry of the Interior and the Ministry of Education, Science and Technological Development** should take comprehensive measures of preventing and eliminating the life and work of children in the streets and of securing these children's access to available services for exercising rights, in accordance with the Recommendations by the Protector of Citizens and the Recommendations by the UN Committee on Child Rights;
- **The Ministry of Justice, the Ministry of Labor, Employment, Veteran and Social Policy and the Ministry of Interior** should intensify the efforts on establishing an efficient and child-friendly system of enforcing court decisions related to children;
- **The Ministry of Health** should analyze and document the implementation of the Regulation on the Program of Health Care Protection of Population against Communicable Diseases before the outbreak and during the epidemic of measles.
- **The Ministry of Health** should ensure that the institutions of primary healthcare in every municipality have developmental counseling and adolescent counseling services, in order to realize more efficient preventive health care protection of children;
- **The Ministry of Justice, the Ministry of Labor, Employment, Veteran and Social Policy, the Ministry of the Interior and the Ministry of Health** should improve the control of the implementation of proscribed measures and protocols of procedure for the protection of children against violence, abuse and neglect;
- **The Ministry of Education, Science and Technological Development** and education inspections should control more effectively and considerably more the acting of the educational institutions in the cases of

violence against pupils and, particularly for the purpose of determining personal responsibility of the employees for the violation of the prohibition of violence, abuse and neglect and the breach of working obligation for the omissions in implementing measures to protect the children from violence, abuse and neglect;

- **The Ministry of Education, Science and Technological Development** should change the Rulebooks since they do not provide for an adequate and necessary number of professional associates and coordinate them to the needs of the pupils, particularly in implementing inclusive education, additional support in education and the protection of children and pupils from violence, abuse and neglect;
- **The Ministry of Education, Science and Technological Development, The Ministry of Health, The Ministry of Labor, Employment, Veteran and Social Policy and local self-government units** should ensure appropriate forms of support in education to children, as well as financial resources for providing proscribed services;
- **The Ministry of Education, Science and Technological Development** should amend the provisions of the Law on the Foundations of the Education System in accordance with the provisions of the Family Law which define parental right;
- **The Ministry of Education, Science and Technological Development** should amend the provisions of the Law on Dual Education so that the pupils educated in accordance with this Law exercise the same scope of rights and mechanisms of rights protection as pupils of other secondary schools, particularly in the fields of additional support to pupils in education and training and in protection against violence, abuse and neglect;
- **The Ministry of Education, Science and Technological Development** should amend the provisions of the Law on Dual Education which exclude part of the educational process from the responsibility of the competent administrative authorities and to secure a control of supervisory and inspection educational mechanisms of the country over the entire process of dual education;
- The competent authorities should ensure the functioning of the Shelter for Emergency Care of Human Trafficking Victims²⁶, as part of the Centre for Human Trafficking Victims Protection.

²⁶ Available at: <http://www.centarzztlj.rs/index.php/o-nama/o-centru>.

4.2. GENDER EQUALITY AND RIGHTS OF LGBTI PERSONS

STATISTICS

In the field of gender equality, in 2017 the Protector of Citizens handled 118 cases²⁷, 102 of which were complaints from the citizens and 16 own-initiative investigations. The cases from the field account for 2.86% of the total number of cases handled. The Protector of Citizens issued 26 recommendations to the administrative authorities, 9 of which were due during the reporting period²⁸. Out of this number, administrative authorities acted upon 5 recommendations, which makes 55.56 % of accepted recommendations.

Out of 118 cases in 2017, the Protector of Citizens has closed the work on 57 cases.

Table 18 – Gender equality – The overview of cases handled in 2017

Number of received cases in 2017	118
Number of closed cases from 2017	57
Number of ongoing cases from 2017	61

Table 19 – The overview of issued recommendations from the field of gender equality

Number of issued recommendations	Number of due recommendation	Number of accepted recommendations
26	9	5

In 2017, 78 cases from earlier years were closed. The manners how these cases from 2017 were closed are given in the following table.

²⁷ The cases include items arising from complaints handling and own-initiatives investigations in a particular area/departement.

²⁸ The term "due recommendations" will be understood to include all recommendations whose deadline for acting upon them expired over the course of 2017, taking into account the deadline provided in the wording of the recommendation.

Table 20 – Gender equality– The outcomes of closed cases handled from 2017

	number	percentage
Inadmissible complaints-Unused legal remedies	31	54.39%
Inadmissible complaints– Incompetence	5	8.77%
Inadmissible complaints– Formally deficient complaint	3	5.26%
Inadmissible complaints – Unauthorized complainant	2	3.51%
Inadmissible complaints – Anonymous complainant	1	1.75%
Inadmissible complaint – Untimeliness	0	0%
Unfounded complaints	6	10.53%
Cases closed by recommendations from an expedited oversight procedure	5	8.77%
Complaint dropped by the complainant	2	3.51%
Cases closed by recommendations from the oversight procedure	1	1.75%
Complainant informed and advised	1	1.75%
Total	57	100 %

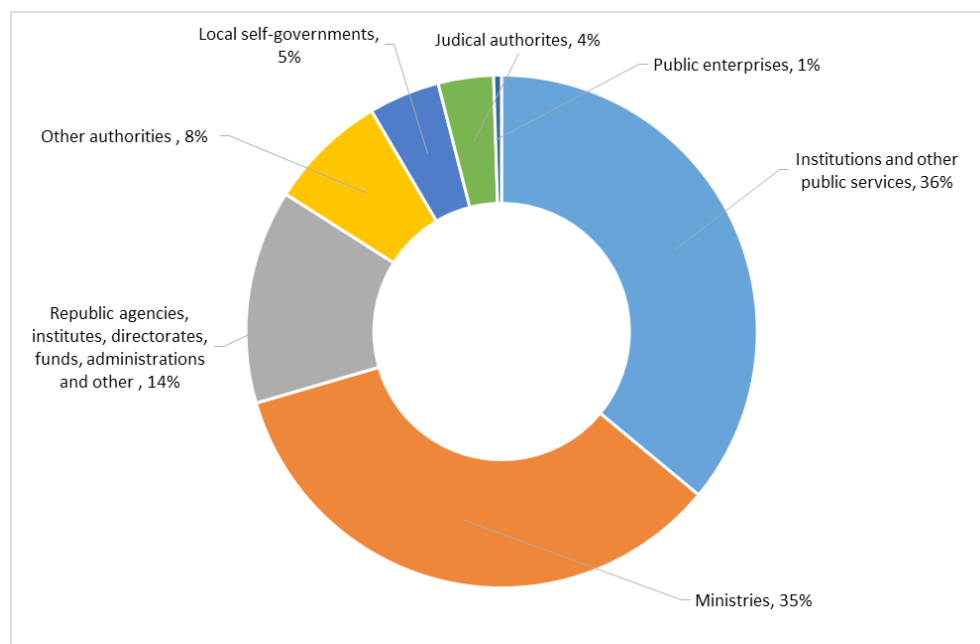
The majority of received complaints are found inadmissible by the Protector of Citizens because the conditions for acting upon them provided for by the Law are not met. The complaints are inadmissible due to the incompetence, untimeliness, and prematureness, anonymity of complainant or formal deficiencies. Assistance in the form of legal advice accounts for a significant share of the actions taken by the Protector of Citizens pursuant to complaints, he provides this type of assistance even in the cases where the complaint is inadmissible because of the incompetence or prematureness. This kind of legal advice was provided to the citizens in 83.33% of inadmissible cases in this area. In such cases, the Protector of Citizens refers the complainant to the competent authority or provides advice on available legal remedies.

In the field of gender equality, 174 violations of rights have been identified in 118 cases. The largest number of cases pointed to special rights in the field of gender equality (98 rights violations) which is given in percentages in Table 21.

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

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

Type of right violated	percentage
Right to salary compensation during pregnancy leave, childbirth leave and childcare leave	43.82%
Domestic violence	38.2%
Rights of pregnant women and nursing mothers	15.73%
Sexual violence	1.12%
In vitro fertilization	1.12%
Total	100%

Chart 4 – Authorities and organisations most frequently complained against by the citizens in the field of gender equality

ACTIVITIES OF THE PROTECTOR OF CITIZENS

The Law on Gender Equality is still not adopted which was indicated by this body through the reports issued to the international bodies, and the Committee for Human Rights expressed concerns for this matter as well.²⁹

With the support of the OSCE mission, the Protector of Citizens conducted research in 2017 on local mechanisms for gender equality and the representation of women in local self-government units³⁰ (hereinafter: LSU). The results of the research indicate that the bodies for gender equality have not been established in every local self-government unit, they are not organized in the same way or active in all local self-government units, and that the participation of women in decision making is still insufficient, and the quota as an affirmative measure for the less represented gender in the decision making positions is applied in only 33 local self-government units. In 92.1% of local self-government units, men occupy the post of the president of the municipality/city Mayor; there are 2 women and 7 men on average in municipality or city councils, and in 16 local self-government units there are no women in municipality/city council.³¹ There are only 11.4% of women participating in local communities' councils, and only 5% of women chairing the local communities' councils.

In accordance with the recommendation of the Protector of Citizens from the regular Annual Reports for 2015 and 2016³², the Government adopted the National Action Plan for the Implementation of the UN Security Council Resolution 1325 –Women, Peace and Security in the Republic of Serbia (2016-2020)³³.

²⁹ Concluding Observations on the third periodic report of Serbia on the implementation of the International Covenant on Civil 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

³⁰ http://www.rodnaravnopravnost.rs/index.php?option=com_content&view=article&id=277-%D0%BF%D0%BE%D1%87%D0%B5%D0%BB%D0%BE-%D0%B8%D1%81%D1%82%D1%80%D0%B0%D0%B6%D0%B8%D0%B2%D0%B0%D1%9A%D0%B5-%D0%B7%D0%B0%D1%88%D1%82%D0%B8%D1%82%D0%BD%D0%B8%D0%BA%D0%B0-%D0%B3%D1%80%D0%B0%D1%92%D0%B0%D0%BD%D0%B0-%D0%BE-%D0%B7%D0%B0%D1%81%D1%82%D1%83%D0%BF%D1%99%D0%B5%D0%BD%D0%BE%D1%81%D1%82%D0%B8-%D0%B6%D0%B5%D0%BD%D0%B0-%D1%83-%D0%BE%D1%80%D0%B3%D0%B0%D0%BD%D0%B8%D0%BC%D0%B0-%D1%98%D0%B5%D0%B4%D0%B8%D0%BD%D0%B8%D1%86%D0%B0-%D0%BB%D0%BE%D0%BA%D0%B0%D0%BB%D0%BD%D0%B5-%D1%81%D0%B0%D0%BC%D0%BE%D1%83%D0%BF%D1%80%D0%B0%D0%B2%D0%B5&-catid=2&Itemid=7.

³¹ Kikinda, Majdanpek, Osečina, Ada, Bojnik, Bujanovac, Golubac, Malo Crniće, Petrovac on the Mlava, Priboj, Senta, Smederevska Palanka, Vlasotince, Vrnjačka Banja, Čičevac and Žitorađa

³² Available at: <http://www.ombudsman.rs/index.php/izvestaji/godisnji-izvestaji>.

³³ Conclusion of the Serbian Government was adopted on 19 May, 2017 and available at: http://www.mod.gov.rs/multimedia/file/staticki_sadrzaj/dokumenta/akcioni_planovi/2017/

In accordance with the Opinion of the Protector of Citizens on the Draft Law on Employees in the Public Sector³⁴, the Law on the Employees in the Public Sector³⁵ sets out affirmative measures when electing the candidates so that the proclaimed principle of equal availability of vacant places would be realized completely. This Law stipulates that, if more candidates have fulfilled the criteria proscribed for the election with the same best result, the advantage for employment is given to the candidate who belongs to a group of persons in an unequal position, such as the victims of domestic and intimate partner violence, persons with disabilities, Roma national minority, and the law regulating the work of the public service i.e. the collective agreement can determine other groups of persons in an unequal position³⁶.

The Government adopted the Regulation on the National Program for Safe-guarding and Improving Sexual and Reproductive Health of the Citizens of the Republic of Serbia³⁷. The Recommendations by the Protector of Citizens in the part of the National Program related to the situation and activities in the field of sexual and reproductive health and reproductive rights, activities related to the protection from violence in intimate partner relationship, other forms of sexual violence and exploitation, as well as the protection and support to the victims of violence.³⁸

The implementation of the Law on Prevention of Domestic Violence which significantly followed the Recommendations, Opinion, Proposals and Initiatives issued by the Protector of Citizens³⁹ started on June 1st, 2017. In relation to this, the Council for the Suppression of Domestic Violence⁴⁰ has been established with the task to follow the implementation of the Law on the Prevention against Domestic Violence and to improve the coordination among competent bodies and services; however, there still is not publicly available information on the Council's activities⁴¹.

Zakljucak%20Vlade%20o%20usvajanju%20NAP%20za%20primenu%20R_1325%20SB%20UN%20u%20R_Srbiji.pdf

³⁴ Opinion available at: <http://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5501-ishlj-nj-z-sh-i-ni-gr-d-n-n-s-n-cr-z-n-z-p-sl-ni-u-vni-sluzb>

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

³⁶ Article 58 of the Law on the Employees in the Public Service, "Official Gazette of RS" No. 113/17.

³⁷ "Official Gazette of the RS", No. 120/17.

³⁸ Special Report of the Protector of Citizens on the Reproductive Health of Roma Women with the Recommendations and Special Report on the Implementation of General and Special Protocols for the Protection of Women Against Violence, available at: <http://www.ombudsman.rs/>.

³⁹ 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 is available at: <http://www.zastitnik.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/3710-2015-02-24-13-35-38>.

⁴⁰ "Official Gazette of the RS", No. 69/17

⁴¹ Available at: <https://www.womenngo.org.rs/vesti/1096-cetvrti-nezavisni-izvestaj-o-prime-ni-zakona-o-sprecavanju-nasilja-u-porodici>.

In the numerous reports, the Protector of Citizens pointed out the lack of comprehensive and efficient protection of women and children violence victims to international bodies, as well as the need for the state to secure them through legal and other measures in accordance with the international standards and recommendations⁴².

With the support of the OSCE mission, the Protector of Citizens organized debates on "The Protection of Women against Domestic and Intimate Partner Violence and the Protection of Children from Family Abuse and Neglect" focused on the exchange of experiences, identifying problems and shortcomings in the operation of the protection system and proposing measures for rectifying them.

The adoption of the Law on Financial Support to Families with Children⁴³ enabled women farmers who are the registered holders of farms and women engaged in temporary and occasional work to exercise the right to salary compensation during maternity leave, leave for child care and special child care, and thereby complied with the recommendation by the Protector of Citizens from the regular annual report for 2016⁴⁴ and the Opinion of the Protector of Citizens^{45,46}.

With regard to the International Human Rights Day, the Protector of Citizens presented the Special Report on the Reproductive Health of the Roma Women with Recommendations⁴⁷ which was issued to competent bodies. The Report includes the results of the research related to the exercise of the right to healthcare of Roma women and highlights burning issues in this field: exclusion from the education, early school dropping out, marriage at early age, multiple pregnancies with short inter-pregnancy intervals, lack of information and financial and other dependence on the older member of the family and partner. Furthermore, counseling services for young Roma men and women have not been developed. The Protector of Citizens issued a number of recommendations to the Ministry of Health and bodies of the local self-government units which were encompassed by the research in order to improve the prevention and the protection of sexual and reproductive

⁴² The Reports of the Protector of Citizens for the Third Cycle of the UN Universal Periodical Review, Human Rights Committee, GANHRI, High Commissioner for Human Rights on the Rights of the Young Persons, UN Special Rapporteur on the Rights of Persons with Disabilities, as well as the Progress Report of the European Commission

⁴³ "Official Gazette of the RS" No 113/17.

⁴⁴ Available at: <http://www.ombudsman.rs/index.php/izvestaji/godisnji-izvestaji>.

⁴⁵ The Opinion of the Protector of Citizens No. 183-25/2017 from October 13th, 2017

⁴⁶ For more details, please see part of the Annual Report for the Protection of Social and Cultural rights.

⁴⁷ 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>.

health of Roma girls and women, as well as regulation of legal position of health mediators.

The Government adopted the Action Plan for the Implementation of Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia 2017-2018⁴⁸ which, within the framework of Operational Objective 3 and in accordance with the Recommendations by the Protector of Citizens, sets out the improvement of the health of Roma men and women in the field of reproductive health and improvement of the access to quality health care protection without discrimination.

In the reports issued by the Protector of Citizens, it was pointed out to the UN bodies and treaty bodies to shortcomings in exercising and protecting the rights of LGBTI persons such as the lack of law regulating same sex communities; lack of laws regulating legal consequences of sex reassignment and gender identity; the lack of law regulating the rules of conduct and sanctions for holders of public functions for the discriminatory or hate speech; the lack of law on free legal aid to the persons in a vulnerable positions, particularly women, children, LGBTI persons and violence and human trafficking victims; the lack of a network of services for the LGBTI persons, particularly for the young and homeless; the lack of education of children and the young about sexual and reproductive health, as well as about the position and rights of LGBTI persons at all levels of education; absence of a national campaign for awareness raising of the public on the position and rights of LGBTI persons, etc⁴⁹.

By flying the rainbow flag on the Institution's building, the Protector of Citizens has traditionally marked the International Day against Homophobia, Biphobia and Transphobia in the 2017, reminding that the persons of different sexual orientation and gender identity are still exposed to different forms of rights violation, social exclusion and violence. Furthermore, he supported the right of LGBTI persons to freely assemble by participating in the Pride Parade.

A new Law on the Foundations of the Education System was enacted⁵⁰ which, in accordance with the Recommendations issued by the Protector of Citizens from the regular Annual Reports, explicitly specifies the prohibition of the discrimination on the grounds of both sexual orientation and gender identity⁵¹. The Law does not stipulate that social violence is diversity-based

⁴⁸ Available at: http://www.srbija.gov.rs/vesti/dokumenti_sekcija.php?id=45678.

⁴⁹ The reports of the Protector of Citizens for the Third Cycle of a Universal Periodic Review and to the UN Human Rights Committee with the recommendation proposals.

⁵⁰ "Official Gazette of the Republic of Serbia", No. 88/17.

⁵¹ Article 110 of the Law on the Foundations of the Education System, "Official Gazette of the RS" No. 88/17.

non acceptance, denial of information, isolation from the community and peer group. Certain Proposals by the Protector of Citizens were adopted in this Law, but contrary to them, it does not proscribe that the basic goals of education are respect for and development of human rights and freedoms, respect for everyone, particularly respect for the equality of persons of different sexual orientation and gender identity, developing tolerance and non violent and constructive solution of conflicts and non discrimination⁵².

Acting upon the Opinion of the Protector of Citizens⁵³ issued in August 2017, National Health Insurance Fund adopted the Rulebook on the Manner and Procedure of Exercising Rights under Mandatory Health Insurance⁵⁴ which changed the name of the commission, formed by this body and giving expert opinion on fulfilling the conditions for the inclusion of insured persons in the process of sex reassignment for medical reasons, to "Commission for Transgender States" instead of its former name "Commission for Transgender Disorders"⁵⁵.

⁵² Article 12 of the Law on the Foundations of the Education System, "Official Gazette of the RS" No. 88/17.

⁵³ Available at: <http://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5417-iz-ni-i-n-ziv-s-rucnih-l-r-di-d-s-ig-iz-ci-lgb-i-s-b>.

⁵⁴ "Official Gazette of RS" No. 10/10, 18/10 – rev, 46/10, 52/10 – rev, 80/10, 60/11 – Constitutional Court decision, 1/13 and 108/17.

⁵⁵ Article 42a of the Rulebook on the Manner and Procedure of Exercising Rights under Compulsory Health Insurance, "Official Gazette of RS" No. 10/10, 18/10 – rev., 46/10, 52/10 – rev., 80/10, 60/11 – Constitutional Court decision, 1/13 and 108/17.



Picture 2 – Flying the rainbow flag on the Protector of Citizens building to mark International Day against Homophobia, Biphobia and Transphobia

PROPOSALS FOR PROMOTING GENDER EQUALITY AND IMPROVING THE POSITION OF LGBTI PERSONS IN RELATION TO ADMINISTRATIVE AUTHORITIES

Even though the Protector of Citizens, according to the Article 17, paragraph 3 of the Law on the Protector of Citizens, has no authority to oversee the work of the National Assembly and the Government, the Protector of Citizens believes that it would be useful for the mentioned authorities to consider his proposals.

- **The Government** should adopt a National Strategy for the Prevention and Combating Domestic and Intimate Partner Violence and, by following the Action Plan for the coming period, should propose and National Assembly adopt, the Law on Gender Equality which will ensure implementation of gender perspective into every area of the society, observing the international standards of gender equality and the principle of equal possibilities which will proscribe the measures for realization of the principles of gender equality, including the obligation of

forming mechanisms for gender equality and performing jobs of creating equal opportunities and measures to protect from gender-based violence; should propose and the National Assembly adopt the Law regulating provision of free legal aid whereby it will include persons in a vulnerable position as beneficiaries categories, particularly women, children, LGBTI persons and violence and human trafficking victims; should propose and National Assembly adopt amendments to the Criminal Code so as to harmonize it completely with the Council of Europe Convention on Preventing and Combating Violence against women and domestic violence; should propose and National Assembly adopt amendments to the Criminal Code whereby in all criminal acts aiming at sanctioning and preventing racism and intolerance it will incriminate the action of committing these criminal offences on the grounds of both sexual orientation and gender identity; should continuously implement measures and activities devoted to raising public awareness on gender equality and measures for improving the position of women; should ensure acting upon recommendations issued by Special Report on Training for Acquiring and Improving Knowledge and Competences for Prevention, Elimination and Protection of Women from Domestic and Intimate Partner Violence, ensure full exercise of rights to LGBTI persons in the field of freedom of expression and peaceful assembly, the protection of their physical and psychological integrity, education, employment, health care, social welfare, legal regulation of life communities and legal consequences of sex reassignment;

- **The Government, autonomous province authorities and local self-government units** should ensure continuous implementation of measures and activities aimed at raising public awareness on the necessity of respecting the right of LGBTI persons;
- **The Ministry of Health and the National Health Insurance Fund** should put in place measures to ensure that every woman has access to health services at all levels of health protection;
- **The Ministry of Health** should ensure acting upon recommendations from the Special Report of the Protector of Citizens on the Reproductive Health of the Roma Women;
- **The Ministry of Health** should ensure permanent working engagement of health mediators in the health system of the Republic of Serbia ;
- **Ministry of Labor, Employment, Veteran and Social Policy, the Ministry of Justice, the Ministry of Interior, the Ministry of Health, judi-**

cial organs, local self-administrative authorities and local self-government units should provide for a more effective protection of women from domestic and intimate partner violence and adequate training of the employees on the protection of women against domestic and intimate partner violence and the content and implementation of General Protocol and Special Protocols on the Protection of Women against Violence, in compliance with the recommendations by the Protector of Citizens;

- **Ministry of Labor, Employment, Veteran and Social Policy** should rectify the omission in its work and calculate and pay out salary to mothers in compliance with the methodology of calculating specified under positive legal regulations;
- **Ministry of Labor, Employment, Veteran and Social Policy** in cooperation with local self-governments and civil society organizations, should establish support services for young LGBTI persons who had to leave their homes after being disowned by their families upon coming out with their sexual orientation and gender identity;
- **The Ministry of Labor, Employment, Veteran and Social Policy** should provide trainings for the employees in social welfare centers on the adequate implementation of the new Law on the Prevention of Domestic Violence, on the contents and full implementation of General Protocol and Special Protocols for the Protection of Women Against Violence, and the full implementation of the existing regulations and responsibilities of case workers in the case of non implementing them⁵⁶;
- **The Ministry of Public Administration and Local Self-Government and Republic Secretariat for Legislation** should propose measures for introducing gender-sensitive language in the work of public authorities, including the drafting of laws and other acts;
- **The Ministry of Education, Science and Technological Development** should ensure trainings for the employees in the educational institutions with a view to making them more emphatic towards LGBTI persons;

⁵⁶ Available at: <http://www.zastitnik.rs/index.php/zakonske-i-druge-inicijative/1529-2011-10-14-09-40-39>, <http://www.zastitnik.rs/index.php/izvestaji/godisnji-izvestaji>, <http://www.zastitnik.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/3710-2015-02-24-13-35-38.n>, <http://www.rodnaravnopravnost.rs/attachments/article/230/Poseban%20izvestaj%20Zastitnika%20gradana%20%D0%BE%20obukama.pdf> systemic recommendations of the Protector of Citizens in relation to domestic violence and child abuse and neglect, <http://www.rodnaravnopravnost.rs/attachments/article/229/preporuka%20nasilje%20zbirna.doc>

- **The Ministry of Justice, the Ministry of Public Administration and Local Self-Government, the Ministry of Labor, Employment, Veteran and Social Policy and the Ministry of Education, Science and Technological Development** should prepare draft regulations specifying legal consequences of sex and gender reassignment;
- **The Ministry of Interior** should prepare amendments to the Law on Police which will enact an explicit ban on discrimination on the grounds of sexual orientation;
- **The Ministry of Interior** should provide trainings for the police employees with the aim of making them more emphatic to LGBTI persons, identifying hate crimes, inter alia, on the grounds of their sexual orientation and gender identity and adequate reaction with the view to preventing secondary victimization of LGBTI persons and identifying their attackers;
- **The Ministry of Interior** should adopt the Action Plan for implementation of the Community Policing Strategy for the coming period, since the old one ceased to be valid, it would follow the evaluation of the previous AP success, and the AP should put in place measures to improve the status of LGBTI persons;
- **Local self-government units** should enable greater representation of women in decision-making positions in the bodies of local self-government units;
- **Local self-government units** should explicitly include the rights of LGBTI persons in their local action plans, and put in place measures for improving the status of these persons, and allocate adequate budget means for these activities;
- **Local self-government units**, which have not done this up to now, should establish permanent working bodies, i.e. should appoint a person for gender equality.

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

STATISTICS

In the field of the rights of persons with disabilities and the rights of the elderly, in 2017, the Protector of Citizens handled 193 cases⁵⁷, 191 of which were complaints from the citizens and 2 of which were own-initiatives investigations. The cases from this field account for 4.67% of total number of cases handled. The Protector of Citizens issued 8 recommendations to the administrative authorities all of which were due during the reporting period⁵⁸. Out of this number, administrative authorities acted upon 6 recommendations, which accounts for 75% of accepted recommendations.

Out of 193 cases handled in 2017, the Protector of Citizens closed 116 cases.

Table 22 – The rights of persons with disabilities and the rights of the elderly – The overview of cases handled in 2017

Number of received cases in 2017	193
Number of closed cases from 2017	116
Number of ongoing cases from 2017	77

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

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations
8	8	6

In 2017, 102 cases from earlier years were closed. The manners how the cases were closed are given in the following table:

⁵⁷ The cases include items arising from complaints handling and own-initiatives investigations in a particular area/department.

⁵⁸ The term "due recommendations" will be understood to include all recommendations whose deadline for acting upon them expired over the course of 2017, taking into account the deadline provided in the wording of the recommendation.

Table 24 – The rights of persons with disabilities and the elderly – The outcome of acting upon closed cases from 2017

	Number	Percentage
Inadmissible complaints – Unused legal remedies	32	27.59%
Inadmissible complaints – Incompetence	20	17.24%
Inadmissible complaints – Unauthorized complainant	17	14.66%
Inadmissible complaint – Formally deficient complaint	5	4.31%
Inadmissible complaint – Anonymous complainant	2	1.72%
Inadmissible complaint – Untimeliness	1	0.86%
Unfounded complaints	24	20.69%
Complaint dropped by the complainant	6	5.17%
Cases closed by recommendations from the expedited oversight procedure	6	5.17%
Complainant informed and advised	2	1.72%
Death of the complainant	1	0.86%
Cases closed by recommendations from oversight procedure	0	0%
Total	116	100 %

The majority of complaints received are found inadmissible by the Protector of Citizens because the conditions for acting upon them provided for by the Law are not met. The complaints are inadmissible due to incompetence, untimeliness, prematureness, anonymity or formal deficiencies. Assistance in the form of legal advice accounts for a significant share of the actions taken by the Protector of Citizens pursuant to complaints, he provides this type of assistance even in the case where the complaint is inadmissible due to incompetence or prematureness. This kind of legal advice was provided to the citizens in **67.53%** of inadmissible cases in this field. In these cases, the Protector of Citizens refers the complainant to the competent authority or provides advice on the available legal remedies.

Within the field of the rights of persons with disabilities and the elderly, 238 violations of rights have been identified in 193 cases. The largest number of the violations of rights refers to special rights within the field of rights of persons with disabilities (154 violations of rights) and the elderly (12 violations of rights) which is given in percentages in Tables 25 and 26.

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

Note: Given in Chart 1- Classification of complaints according to rights violated at page 25

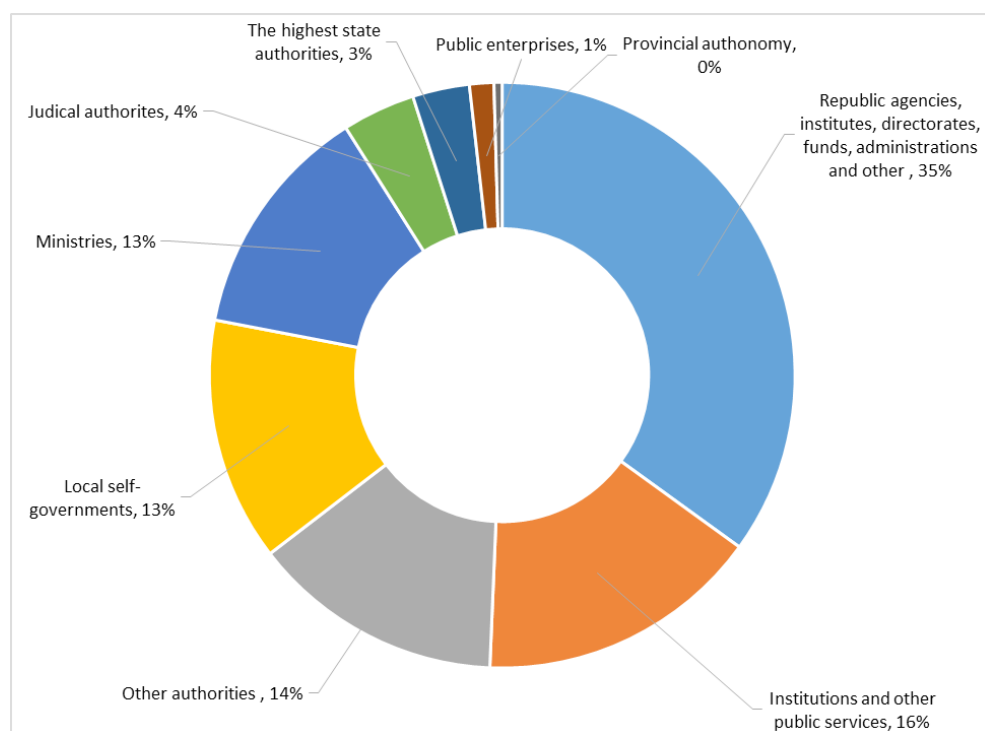
Type of right violated	percentage	Type of right violated	percentage
Right to disability pension	15.97%	The right to discounts and benefits in public transport of PWDs' carers	1.99%
Disability based discrimination	14.57%	Right to orthopaedic or other aids	1.99%
Right to equal accessibility of services	11.26%	Right to public transport discounts and benefits	1.99%
Right to financial compensation for custodial care	9.93%	Architectural accessibility of buildings	1.99%
Right to employment and professional rehabilitation	9.27%	The right to the financial compensation for bodily injury	1.32%
Rights of persons deprived of their capacity to act	5.30%	The right to customs and fiscal benefits and privileges	1.32%
Rights arising from the status of a veteran of war	4.64%	Right to the status of a veteran of war	0.66%
The right to increased allowance for custodial care	3.97%	Right to participation in decision-making	0.66%
The right to allowance for custodial care	3.97%	Total	100%

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

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

Type of the violated right	Percentage
The right to the old-age pension	27.27%
The rights of the elderly in social and healthcare institutions	27.27%
Age-based discrimination	18.18%
The right to social welfare services for the elderly	18.18%
The right to financial independence	9.09%
Total	100%

Chart 5 – Authorities and organisations most frequently complained against by the citizens in the field of the right of persons with disabilities and the elderly



ACTIVITIES OF THE PROTECTOR OF CITIZENS

During this reporting period, the Protector of Citizens promoted the “Accessibility Map” which was created in cooperation with the Accessibility Audit Association, with a view to raising awareness on the importance of the accessibility per se, prompting bodies and Institutions to commit themselves as much as possible to solving this problem, and including local self-governments, non-governmental organizations and citizens in collecting as much data as possible on the accessibility of facilities in Serbia. Furthermore, the Protector of Citizens, in accordance with Cooperation Agreement concluded with the Standing Conference of Towns and Municipalities and the Social Inclusion and Poverty Reduction Unit of the Government of the Republic of Serbia, awarded the prizes to local self-government units which have contributed the most to the development of different forms of accessibility on their own territory in the last year. For the year 2016, the prizes were awarded to the following cities: Kragujevac, Pirot and Niš, so a study visit has been organized to Milan and Alessandria in Italy for the representatives of these cities, to the winners of the European Commission award for the development of accessibility. In this way, the examples of good practice have been promoted as well as the exchange of experiences in the local level with respect to improving accessibility of public facilities, offices and services to the persons with disabilities and communication and movement difficulties⁵⁹.

The Protector of Citizens issued the Opinion to the Ministry of Education, Science and Technological Development on the wording of the Draft Law on Higher Education⁶⁰. It was pointed out in the Opinion that it is necessary to regulate the right to employment of particular vulnerable groups by the implementation of affirmative measures, under equal conditions for candidates, both for teaching and non-teaching staff of a higher education institution. It was also pointed out to the need of proscribing the ban on all forms of discrimination. It was also suggested that students with disabilities and their needs should be put in the focus by a norm that would guarantee them the right through obliging the institution to create and improve conditions for studying to the persons with disabilities and other vulnerable groups.

Even though the Law on the Foundations of the Education System was amended in 2017, the fact that pedagogical assistants, necessary for the support in education to children and pupils with disabilities and developmental disorders, are not engaged in schools still imposes a problem.

⁵⁹ For more details, please see: <http://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-25-10-19-19/5234-z-sh-i-ni-gr-d-n-p-s-bnu-p-znju-p-sv-cu-z-sh-i-i-pr-v-r-njivih-grup-gr-d-n-du-i-su-i-s-b-s-inv-lidi-vl-d-n-vic-z-d-n-s>.

⁶⁰ Available at: <http://ombudsman.rs/index.php/2011-12-11-11-34-45/5411-ishlj-nj-z-sh-i-ni-gr-d-n-n-s-n-cr-z-n-vis-br-z-v-nju>.



Picture 3 – Deputy Protector of Citizens Vladana Jović at the Roundtable dedicated to the adoption of the new Law on Social Welfare

Despite the fact that the Protector of Citizens indicated on multiple occasions to the inconsistency of regulations and bylaws regulating the exercise of rights to disability pension, employment and professional rehabilitation of persons with disabilities and acting upon them⁶¹, this problem still appears in complaints filed to this body.

With respect to the announced adoption of the new Law on Social Welfare, the Protector of Citizens organized a roundtable in June 2017 with the aim that the representatives of Association of Persons with Disabilities in the Republic of Serbia, through constructive dialogue and exchange of opinions and experiences, inform the representatives of competent Ministries and the City of Belgrade Secretariat about the problems they are faced with, and about the proposals for improving the position of persons with disabilities through legislative changes.

Within the activities in 2017, the Protector of Citizens visited a number of social welfare institutions for accommodation of persons with disabilities, such as Day Care "Dr Olga Hadži-Antonović" Center for Daycare and Accommodation of Children and Youth with Developmental Disorders in

⁶¹ <http://ombudsman.rs/index.php/izvestaji/godisnji-izvestaji/5191-2016-pdf>.

Belgrade and Stationery Institution in Zemun, the Institution for Children and the Youth in Sremčica, Home Accommodation "Veternik", as well as the Institute for the Accommodation of Adults "Male pčelice" in Kragujevac. It was determined on this occasion that certain institutions are mostly old and inadequately equipped. In this light, the efforts of the management of certain institutions to find not only budgetary, but other resources as well, sometimes through the organization of charity actions can be seen. Special problems were highlighted and these are the lack of expert, medical, therapeutic and nursing staff, as well as the tendency of downsizing the number of working posts i.e. not filling vacancies due to lack of approval by the competent ministry.

In this reporting period, the Protector of Citizens has devoted significant amount of attention to the cooperation with the Associations of Persons with Disabilities. This was done primarily by having a meeting with the representatives of the Association of Persons with Disabilities where, inter alia, following problems were mentioned: problems of housing and accommodation of persons with disabilities, providing access to public institutions, education, employment, as well as solving the problems of the association head office, improving the services of public transport and parking for persons with disabilities. The Protector of Citizens held several meetings, during which most frequent problems which the persons with autism face were considered, with the representatives of the Association for Improving the Status of Persons with Autism and competent bodies.

Over the course of 2017, the Protector of Citizens had good cooperation with the Department for Inspection from the Sector for Family Care and Social Welfare of the Ministry of Labor, Employment, Veteran and Social Policy which, in any case where the beneficiaries of the institutions would file complaint to the Protector of Citizens about the conditions of life and accommodation, acted and conducted oversight and informed the Protector of Citizens about the potentially identified shortcomings and suggested measures.

Although they account for a significant population segment in the Republic of Serbia, the elderly are not identified as a particularly vulnerable population category in the society. Based on all surveys⁶², the elderly are one of the groups most frequently discriminated against in Serbia, and stereotypes and prejudices about this group contribute to this. What is particularly worrying is the fact that a large number of the elderly recognize that they are being discriminated against, but they consider it "normal" and this is why

⁶²Surveys: "The Status of the Elderly in Towns" and "Well-kept family secret - abuse of the elderly"; see more at: <https://www.redcross.org.rs/media/1670/dobro-cuvana-porodicna-tajna-e-knjiga.pdf>.

they rarely decide to use a legal remedy in order to protect their rights. In this reporting period, the Protector of Citizens identified the fact that this part of the population still has difficulties in exercising their rights from the fields of healthcare and social welfare, pension insurance, right to be informed and financially independent, but also the right on the protection against abuse and violence. The biggest problems that the elderly persons face are poverty and neglect within family, including disposition of property without their consent, dissatisfaction when exercising the right to financial support when they are in a difficult material or life situation due to the lack of allowances or insufficient amount of allowances and in the situation of bad medical condition, difficulties in exercising the right to in-house care. The lack of or failure to provide certain services and support tools to the elderly results in the difficulties in exercising or failure to exercise their other rights. An example of that service would be "in-home help" service which is often necessary to this part of the population since they usually live alone and with no relatives to look after them. A number of beneficiaries of nursing homes for the elderly is accommodated there without their consent, but with the consent of their children or their closest relatives, regardless of the fact that the person being accommodated in this sort of institution is not deprived of his/her capacity to act. There still exists illegal home accommodation for the elderly which does not meet the proscribed working conditions and do not have licenses and working permits, whose uncontrolled and unprofessional work massively violates the rights guaranteed to the elderly accommodated in these institutions. Despite amendments to the Law⁶³ which contribute to the slight increase of pensions, the austerity measures still cause the lack of sufficient material means which results in the fact that the elderly cannot afford necessary medication, food and other basic life needs. Apart from measures of providing means for this group of citizens, planned funds allocated by the state are insufficient for improving the quality of life.

⁶³ The Law on Budget System, "Official Gazette Of the Republic of Serbia" No. 54/09, 73/10, 101/10, 101/11, 93/2012, 62/13, 63/13 – as amended 103/15, 99/16 и 113/17



Picture 4 – Deputy Protector of Citizens Vladana Jović at meeting with representatives of Council of Europe

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

Even though the Protector of Citizens, according to the Article 17, paragraph 3 of the Law on the Protector of Citizens, has no authority to oversee the work of the National Assembly and the Government, the Protector of Citizens believes that it would be useful for the mentioned authorities to consider his proposals.

- **The Government**, in cooperation with other competent bodies, should conduct a comprehensive analysis of the situation, needs and possibilities and adopt a clear and precise plan for the implementation of the “deinstitutionalization” process in the Republic of Serbia, and to implement it systemically and completely at the entire territory of the country; in cooperation with other competent authorities it should undertake corresponding measures with the aim of creating a new legal framework and other preconditions for setting up a precise and complete register of persons with disabilities, it should take measures for establishing an independent mechanism for monitoring the implementation of the UN Convention on Persons with Disabilities;

- **The Ministry of Labor, Employment, Veteran and Social Policy**, independently and in cooperation with other public authorities, should ensure a financially sustainable system of services and tools to support persons with disabilities and the elderly;
- **The Ministry of Labor, Employment, Veteran and Social Policy, the Ministry of Health and the National Pension and Disability Insurance Fund** should advance and harmonize the bylaws and acting upon them in the procedure of exercising rights to disability pension, employment and rehabilitation of persons with disabilities;
- **The Ministry of Labor, Employment, Veteran and Social Policy**, in cooperation with other relevant public authorities, should ensure that social welfare institutions for the permanent residence of persons with disabilities and the elderly have on their disposal an adequate number of experts in accordance with the needs of the institutions;
- **The Ministry of Labor, Employment, Veteran and Social Policy**, independently and in cooperation with other institutions should secure additional capacities for the permanent care for persons with autism;
- **The Ministry of Labor, Employment, Veteran and Social Policy and local self-government units** should take measures to evenly establish adequate community-based support services to children and adults with autism and their families in the territory of the Republic of Serbia;
- **The Ministry of Health**, independently and in cooperation with other relevant bodies and institutions, should take measures under its competence with the aim of establishing a reference institution for early diagnosis and treatment of persons with autism;
- **The Ministry of Health**, in cooperation with other relevant bodies and institutions, should provide conditions for providing dental services to persons with autism in a larger number of healthcare institutions, not only in the Oral Surgery Clinic of the Faculty of Dental Medicine in Belgrade;
- **The Ministry of Education, Science and Technological Development** should take measures under its competence in order to provide for a sufficient number of pedagogical assistants in educational institutions in accordance with the findings and opinions of interdepartmental commission;
- **The Ministry of Education, Science and Technological Development** should take measures under its competence with the aim of amending the bylaws regulating the criteria for determining the prices of services

in elementary and secondary schools in order to predict for more professional staff;

- **The Ministry of Education, Science and Technological Development**, in cooperation with local self-government units, should ensure that an inclusive program for children with autism and developmental disorders is implemented in a larger number of pre-school institutions in the Republic of Serbia;
- **Local self-government units** continually need to take measures in order to make public facilities completely accessible to the persons with disabilities;
- **Local self-government units** should develop community based systems of supporting persons with disabilities and the elderly;
- **Local self-government units** should undertake measures under their competence and plan the resources for providing a sufficient number of personal carers to the children with developmental disorders;
- **Local self-government units** should provide for organized transport for pre-school children and their carers;
- **Local self-government units** should undertake measures under their competence in order to set up all the proscribed services to the elderly and provide timely the service of home help to all persons entitled to it by the competent bodies' Act.

4.4. NATIONAL MINORITY RIGHTS

STATISTICS

In the filed of national minority rights, in 2017, the Protector of Citizens handled 61 cases⁶⁴ of which there were 58 complaints from the citizens and 3 own-initiatives investigations. The cases from this field account for 1.48% of the total number of cases handled. The Protector of Citizens issued 14 recommendations to the administrative authorities, which were due during the reporting period⁶⁵. Out of this number, the administrative authorities acted upon 6 recommendations, which makes for 42.86% of accepted recommendations.

Out of 61 cases handled in 2017, the Protector of Citizens has closed 49 cases.

Table 27 –National minority rights – The overview of cases handled from 2017

Number of cases received in 2017	61
Number of closed cases from 2017	49
Number of ongoing cases from 2017	12

**Table 28 – Review of issued recommendations in 2017
in the area of national minority rights**

Number of issued recommendations	Number of received recommendations	Number of accepted recommendations
14	14	6

Work on 21 cases from earlier years have been closed in 2017. The manners how the cases from 2017 were closed are given in the following table.

Table 29 – National minority rights–The outcome of completed cases from 2017

	number	percentage
Inadmissible complaints–Incompetence	12	24.49%
Inadmissible complaints–Unused legal remedies	6	12.24%
Inadmissible complaints–Formally deficient complaint	6	12.24%

⁶⁴ The cases include items arising from complaints handling and own-initiatives investigations in a particular area/department.

⁶⁵ The term “due recommendations” will be understood to include all recommendations whose deadline for acting upon them expired over the course of 2017, taking into account the deadline provided in the wording of the recommendation.

Inadmissible complaints– Unauthorized complainant	0	0%
Inadmissible complaints– Anonymous complainant	0	0%
Inadmissible complaints– Untimeliness	0	0%
Unfounded complaints	15	30.61%
Cases completed with recommendations from an expedited oversight procedure	6	12.24%
Complainant informed and advised	4	8.16%
Cases closed by recommendations from the oversight procedure	0	0%
Total	49	100 %

The majority of received complaints are found inadmissible by the Protector of Citizens because the conditions for acting upon them provided for by the Law are not met. The complaints are inadmissible due to incompetence, untimeliness, prematureness, anonymity of complainant or formal deficiencies. In 75% of inadmissible complaints in this area, the Protector of Citizens referred the complainant to a competent authority or provided advice on the available legal remedies.

In the field of national minority rights, 61 violations of rights have been identified in 61 cases. The largest number of investigations pointed to special rights in the field of minority rights (48 rights violations) which is given in Table 30.

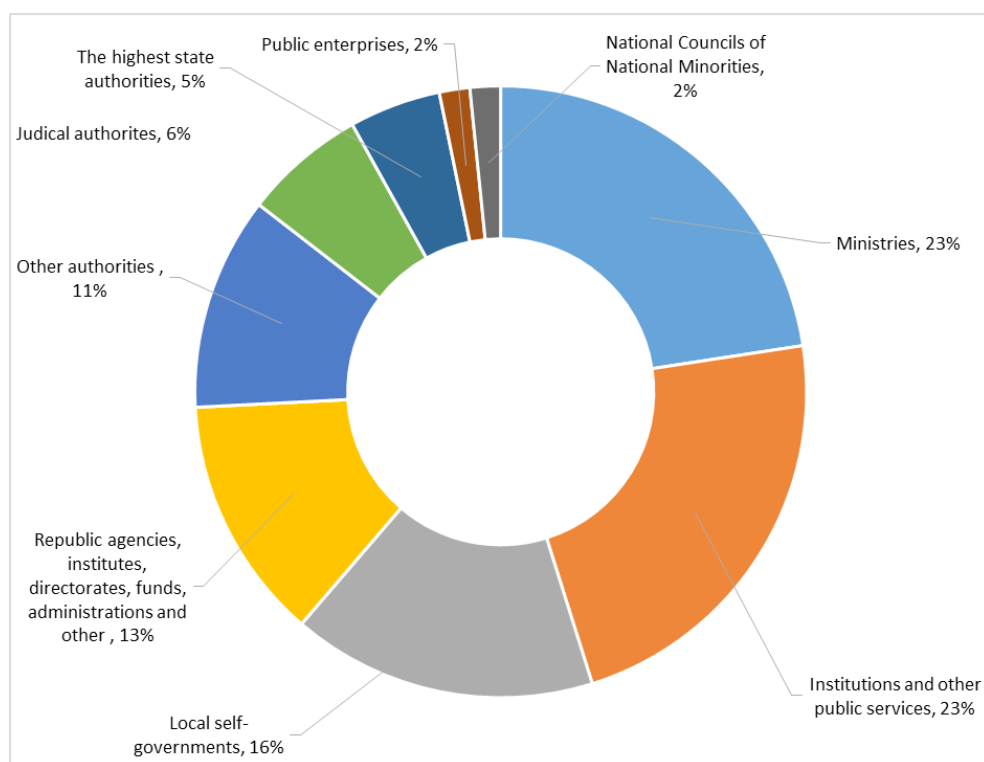
Table 30 – Special rights in the field of national minority rights and their percentage

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

Type of right violated	percentage	Type of right violated	percentage
Special rights of Roma people	58.70%	Equality in the conduct of public affairs	2.17%
The right to official use of spoken and written language of national minorities	13.04%	The right to education in their mother tongue	2.17%
Prohibition of discrimination on a national basis	8.70%	Individual rights of national minorities	2.17%

The right to exercise jurisdiction of the NCNMs	4.35%	The right to directly elect members of the national councils of national minorities	2.17%
The right to enter own name into public documents	4.35%	Legally invisible persons	2.17%

Chart 6 – Authorities and organisations most frequently complained against by the citizens in the field of national minority rights



ACTIVITIES OF THE PROTECTOR OF CITIZENS

During the reporting period, the Protector of Citizens conducted a research on the work of the councils for inter-ethnic relations, based on which he prepared the Special Report on the Councils for Inter-ethnic Relations⁶⁶, which recommended measures to rectify identified irregularities and shortcomings

⁶⁶ Report available at: <http://www.ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/5371-p-s-b-n-izv-sh-s-v-i-z-dun-ci-n-ln-dn-s>.



Picture 5 – Deputy Protector of Citizens Robert Sepi at meeting with representatives of expert mission on minority rights

in order to ensure consistent implementation of the Law. Establishment of councils for inter-ethnic relations in multiethnic local self-governments, in addition to being a legal obligation, is also defined as an obligation under the Action Plan for Chapter 23 of Serbia's accession to the European Union⁶⁷.

The findings of the Protector of Citizens from the mentioned report indicate that these bodies do not function in practice, primarily because of their lack of understanding of their role. Also, certain multiethnic units of local self-government have not even fulfilled their legal obligation to set up a council. In practice, local self-government units that have established a council do not submit proposals of decisions concerning national equality to the council for opinion.

Bearing in mind that the competent Ministry of Public Administration and Local Self-Government did not observe recommendations by the Protector of Citizens given in the Special Report, the Protector of Citizens organized training sessions in the previous year, with the support of the OSCE Mission in Serbia, in ten local self-governments⁶⁸. As a result of the training, in

⁶⁷ Action Plan, 3.8.1.2 sub-item 12, available at: <https://www.mpravde.gov.rs/tekst/9849/finalna-verzija-akcionog-plana-za-pregovaranje-poglavlja-23-koja-je-usaglasena-sa-poslednjim-preporukama-i-potvrdjena-od-strane-evropske-komisije-u-briselu-.php>.

⁶⁸ Training sessions organized in Bački Petrovac, Bеојin, Bor, Vršac, Dimitrovgrad, Źabalj, Źitište, Petrovac na Mlavi, Priboj and Šid.

2017, meetings of the councils for inter-ethnic relations were held in local self-governments whereas the founding the council has never met. Also, some local governments have prepared amendments to the Decision on the establishment of councils for inter-ethnic relations in order to achieve greater efficiency of the councils. The training provided members of the councils and representatives of the competent local self-government departments to become acquainted with the decisions to be delivered to the council for opinion.

The Protector of Citizens conducted a survey on the official use of the spoken and written Albanian language, on the basis of which a Special Report will be published in 2018. The results of the survey point to problems in exercising the right to the official use of spoken and written language, especially the right to register a personal name in the language of the national minority, which is essential for the preservation of identity of national minorities.

During the reporting period, the Protector of Citizens continued with the regular practice of receiving complaints from Roma settlements throughout Serbia. Reception of complaints was organized in Roma settlements in Bujanovac, Kragujevac, Kraljevo and Kruševac.

The Protector of Citizens specifically draws attention to the case of building the concrete wall around the "Marko Orlović" Roma settlement in Kruševac. After the conducted oversight procedure of the authorities that carried out the building of the wall, the Protector of Citizens issued a special report with recommendations⁶⁹ pointing out that it is necessary to look at the procedures and the decisions making processes for this and similar situations, because the existing ones do not guarantee that the need to prevent ghettoization of the Roma population will be taken into account when making a decision.

The Protector of Citizens received complaints in 2017 that indicate that ethnic distance and peer violence towards the Roma remain at a high level. The Protector of Citizens issued a statement regarding the racist graffiti in the center of Kragujevac that such graffiti must be seen as an unacceptable and a very dangerous phenomenon that requires timely reaction and preventive measures in order to avert the possibility that such incidents obtain higher proportions.

The position of health mediators is not regulated, as pointed out by the Protector of Citizens in the Special Report on the reproductive health of Roma women⁷⁰. The Special Report also pointed out to some local governments that did not systematize the positions of coordinators for Roma issues.

⁶⁹ Report available at: <http://www.ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/5230-p-s-b-n-izv-sh-u-v-zi-s-p-diz-nj-b-ns-g-zid-r-s-g-n-s-lj-r-rl-vic-u-rush-vcu>.

⁷⁰ 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>



Picture 6 – Deputy Protector of Citizens Robert Sepi with students of School of Human Rights “Vojin Dimitrijević”

PROPOSALS FOR IMPROVING THE POSITION OF NATIONAL MINORITIES IN RELATION TO ADMINISTRATIVE AUTHORITIES

Even though the Protector of Citizens, according to the Article 17, paragraph 3 of the Law on the Protector of Citizens, has no authority to oversee the work of the National Assembly and the Government, the Protector of Citizens believes that it would be useful for the mentioned authorities to consider his proposals.

- **Ministry of Public Administration and Local Self-Government**, in cooperation with other competent authorities, should ensure that all activities from the Action Plan for the Enforcement of Rights of National Minorities are implemented within the planned deadlines and adopt amendments to laws regulating the status of national minorities, such as the Law on the Protection of Rights and Freedoms of National Minorities, the Law on National Councils of National Minorities and the Law on the Official Use of Spoken and Written language.
- **Ministry of Public Administration and Local Self-Government** should consider the Special Report of the Protector of Citizens on the councils

for inter-ethnic relations and in accordance with the recommendations by the Protector of Citizens⁷¹, start working on the preparation of the amendments to the law, as well as on the implementation of available measures within its competence in order to improve the functioning of the councils in practice.

- **Ministry of Public Administration and Local Self-Government** should consider the possibility of organizing training for members of the Council for Inter-ethnic Relations and representatives of local self-governments in as many nationally mixed local self-governments as possible, 72 of which are obliged to establish a council for inter-ethnic relations.
- **Ministry of Construction, Transport and Infrastructure** should consider the Special Report of the Protector of Citizens concerning the construction of the concrete wall around the Roma settlement "Marko Orlović" in Kruševac and take measures to prevent the ghettoization of Roma settlements.
- Competent authorities should harmonize the practice of dealing with the registration of a personal name in languages of national minorities.
- Competent authorities should amend Article 98 of the Law on Local Self-Governments regarding the functioning of the councils for inter-ethnic relations in order to improve their functioning and more precisely define their role in local self-governments.

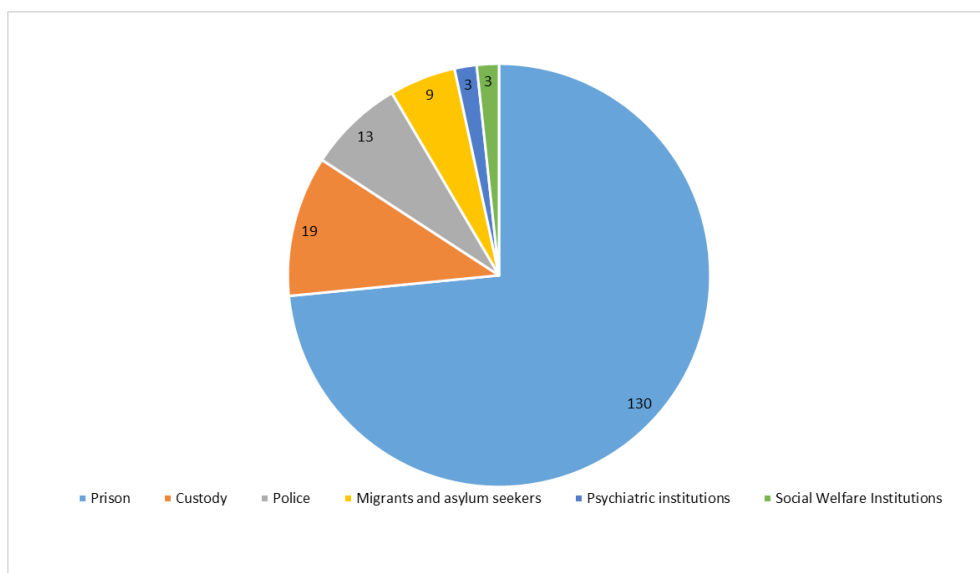
⁷¹ Recommendations given in the Special Report of the Protector of Citizens on the Councils for Inter-Ethnic Relations, available at: <http://www.ombudsman.rs/index.php/izvestaji/posebni-izvestaji/5371-p-s-b-n-izv-sh-s-v-i-z-dun-ci-n-ln-dn-s>.

4.5. RIGHTS OF PERSONS DEPRIVED OF LIBERTY

STATISTICS

In the field of the rights of persons deprived of liberty, in 2017, the Protector of Citizens handled 177 cases⁷², 172 of which were complaints from the citizens and 5 own-initiatives investigations. The cases from this filed account for 4.28% of the total number of cases handled, which are: 130 complaints about the treatment of persons who were in prison, 19 complaints about the treatment of persons who were in detention, 13 complaints about the treatment towards detained persons and persons onwhom the police exercised their powers, 9 complaints about the treatment of migrants, 3 complaints about treatment of persons who were in treatment in psychiatric institutions and 3 complaints about treatment of persons who were in a social welfare institutions.

Chart 7 –The overview of received cases



The Protector of Citizens issued 44 recommendations to the administrative authorities, 30 of which were due within the reporting period⁷³. Out of this

⁷² The cases include items arising from complaints handling and own-initiatives investigations in a particular area/department

⁷³ The term “due recommendations” will be understood to include all recommendations whose deadline for acting upon them expired over the course of 2017, taking into account the deadline provided in the wording of the recommendation.

number, the authorities acted upon 26 recommendations, which accounts for 86.67% of accepted recommendations.

Out of 177 cases handled in 2017, the Protector of Citizens closed 127 cases.

Table 31 – Rights of persons deprived of their liberty–The overview of cases handled in 2017

Number of received cases in 2017	177
Number of closed cases from 2017	127
Number of ongoing cases from 2017	50

Table 32 –The overview of recommendations issued in 2017 in the field of rights of persons deprived of liberty

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations
44	30	26

In 2017, 46 cases from earlier years were closed. The manners how the cases from 2017 were closed are given in the following table

Table 33 – Rights of persons deprived of liberty–The outcome of closed cases handled from 2017

	number	percentage
Inadmissible complaints –Incompetence	29	22.83%
Inadmissible complaints–Unused legal remedies	28	22.05%
Inadmissible complaints – Formally deficient complaint	24	18.90%
Inadmissible complaints – Untimeliness	2	1.57%
Inadmissible complaints– Unauthorized complainant	0	0%
Inadmissible complaints– Anonymous complainant	0	0%
Unfounded complaints	39	30.71%
Cases covered by recommendations from an expedited oversight procedure	2	1.57%
Complaint dropped by the complainant	2	1.57%
Cases covered by recommendations from the oversight procedure	1	0.79%
Total	127	100 %

The majority of received complaints are found inadmissible by the Protector of Citizens because the conditions for acting upon them provided for by the Law are not met. The complaints are inadmissible due to incompetence, untimeliness, prematureness, anonymity of complainant or formal deficiencies.

Assistance in the form of legal advice accounts for a significant share of the actions taken by the Protector of Citizens pursuant to complaints, he provides this type of assistance even in the cases where the complaint is inadmissible because of the lack of competence or prematureness. This kind of legal advice was provided to the citizens in 68.67% of inadmissible cases in this field. In such cases, the Protector of Citizens refers the complainant to the competent authority or provides advice on available legal remedies.

ACTIVITIES OF THE PROTECTOR OF CITIZENS

After many years of exercising the mandate established by the Law on the Protector of Citizens, the Protector of Citizens concluded that during the reporting period in the Republic of Serbia the situation regarding the protection of rights of persons deprived of liberty, the use of police powers as well as the prevention of torture and other forms of abuse has continued to improve.

Based on the conducted oversight procedures upon complaints and his own-initiative investigations, the Protector of Citizens concludes that in the Republic of Serbia there is no torture as an organized phenomenon incited by state authorities.

It is an encouraging fact that over the past few years the civil servants who treat persons deprived of their liberty, as well as their managers, became aware that torture is an unlawful act. In this regard, there are numerous testimonies of randomly interviewed persons deprived of their liberty, especially in prisons, that they were not victims of torture.

However, this does not mean that the torture or other forms of abuse do not exist in the Republic of Serbia. Individual cases of torture or ill-treatment are always possible, and it can be expected that they will happen. Namely, torture, as well as any other form of abuse, is situational, and in this sense persons deprived of their liberty are continuously exposed to high risk. It is undeniable that significant steps have been taken in the Republic of Serbia in terms of preventing torture and other forms of abuse, as well as improving the treatment of persons deprived of their liberty. In order to further improve, it is necessary to align the provisions of the Criminal Code with the definition of torture under Article 1 of the UN Convention against Torture. Also, it is necessary to considerably improve the treatment of internal

control mechanisms in the bodies, and above all the efficiency of the prosecutor's offices and courts in the fight against torture.

The Protector of Citizens indicates that the institutions in which persons deprived of their liberty are kept, and where he conducted the oversight procedures, have achieved very good cooperation with the Protector of Citizens, which enabled the unobstructed exercise of his mandate.

During 2017, the Protector of Citizens continued exercising his mandate by conducting oversight procedures of the police work. It is encouraging that, in accordance with previous practice, the police implements a large majority of the recommendations by the Protector of Citizens. The Protector of Citizens issued an Opinion⁷⁴ pointing to the need to supplement the Instructions on the Treatment of Persons Brought In and Detained, with regard to the complaints on the retention order, by specially regulating procedures for submitting the appeal on the detention order via the police authorities, issuing a confirmation of receipt of appeals and taking actions in order to promptly deliver the appeal of the detained person to the competent court.

Within the reporting period, the Protector of Citizens continued with the implementation of oversight procedures of the work of the Administration for the Enforcement of Penal Sanctions. As in the previous period, the prison administration continued to act upon the recommendations made by the Protector of Citizens. Complaints of detainees were, as in the previous reporting periods, primarily related to the length of detention, violation of the right to a trial within a reasonable time and violation of the right to a fair trial⁷⁵. Female detainees, due to their relatively small number, are in some cases detained in solitary confinement, thus, a disciplinary measure for convicts is actually a regular way of detention for female detainees.

The Protector of Citizens identified shortcomings in the actions of doctors at institutions when performing medical examinations after coercive measures were applied⁷⁶, as well as in taking legal actions when they find that there are injuries on the body, that is, when they discover indications that the convicted person was violently treated⁷⁷. Recommendations have been issued that medical examinations of convicted persons after the application of coercive measures, as well as whenever an injury is found on the body of the convicted person, should be conducted in accordance with the

⁷⁴ <http://www.ombudsman.rs/attachments/article/5548/preporuka%20final%202.doc>.

⁷⁵ Bearing in mind that the Ombudsman is not authorized to control the legality and regularity of the work of the courts, the complainants were referred to the competent authorities in this regard.

⁷⁶ <http://www.ombudsman.rs/attachments/article/5257/Preporuka%20novo.docx>.

⁷⁷ <http://www.ombudsman.rs/attachments/article/5523/preporuka.doc>.

Istanbul Protocol⁷⁸, that the identified injuries should be photographed and described in detail in the medical records and the special report on the identified injuries that the doctor sends to the warden, as well as that the doctor should present the allegations of the convicted person regarding the manner of getting the injuries and then give his opinion on the correlation between the allegations of the convicted person and the injuries themselves. Also, in order to prevent violation of the right to privacy, health care and protection against abuse, it was recommended that medical examinations of convicts should not be performed in the presence of non-medical staff⁷⁹.

Female convicts and juveniles are housed in special institutions, the only ones for those purposes in the Republic of Serbia, so unlike other prisoners, the rule that they should serve the sentence as close as possible to their place of residence, does not apply.

Regarding the position of convicted prisoners who suffered severe mental disorders after being sentenced, the Protector of Citizens issued an Opinion pointing out that this group of persons represents a particularly vulnerable category of convicted persons, with whom a regular program of treatment can not be used, nor can the purpose of executing a prison sentence be achieved⁸⁰.

The Administration for the Enforcement of Penal Sanctions has, by adopting the preventive recommendation of the Protector of Citizens, regulated the procedure and manner of exercising the right to free access to information of public importance⁸¹.

Amendments to the Rulebook on the House Rules of the Special Department for Serving Prison Sentences for Organized Crime Offences⁸² prescribe that when a convicted person has a visit by an adult child or a minor accompanied by another parent, it will be conducted in a room that has not been fitted with a safety glass⁸³.

The Protector of Citizens notes that among persons who are deprived of their liberty, the most vulnerable ones are those who have been deprived of liberty in psychiatric institutions and social welfare institutions. The existing

⁷⁸ Manual for Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment – available at: <http://www.unhchr.ch/pdf/8istprot.pdf>.

⁷⁹ Except at the request of a doctor, for security reasons, which a member of the Security Service is obliged to inform the doctor about. At the request of a doctor, the examination may be attended by members of the Security Service, but not those who directly applied coercive measures.

⁸⁰ <http://www.ombudsman.rs/attachments/article/5287/Misljenje%20Ils.doc>

⁸¹ <http://www.ombudsman.rs/attachments/article/5199/preventivno%20obraćanje.doc>

⁸² "Official Gazette of the Republic of Serbia", number 76/17.

⁸³ In this way, in accordance with international standards, the position of convicts who serve their sentence in the Special Department has been improved, in terms of possibility of direct contact with their children.

Law on the Protection of Persons with Mental Disorders is important because, after many years of preparation, it finally regulates this area, which is a major step forward in the protection of rights of persons with mental disorders, including those who are hospitalized in psychiatric hospitals. It is necessary to make amendments to the Law in order to create an efficient and sustainable system of “deinstitutionalisation”, which besides the health aspect, among other things, also implies a social aspect to a large extent. In the long-term and lifelong accommodation of patients in psychiatric institutions, the distance of these institutions from inhabited places significantly impedes the patients’ contact with the family and other people they are close with. Inadequate conditions for accommodation of such institutions give them a character of an asylum, which in itself, in individual cases, can take on the context of inhuman or degrading treatment.

The Protector of Citizens continues to point out that it is necessary to regulate forced accommodation and detention of beneficiaries in social welfare institutions of residential type by law, which has not been done to date. The existing Law on Social Welfare should be improved with regard to the regulation of the system of “deinstitutionalisation”.

As before, during the reporting period, the Protector of Citizens received a negligible number of complaints from persons deprived of their liberty about the work of psychiatric institutions and social welfare institutions. In addition, the oversight procedures on these few complaints did not identify any significant shortcomings in the work of the institutions.



Picture 7 – Deputy Protector of Citizens Miloš Janković with colleagues visiting Institute for the Accommodation of Adults “Male pčelice”

The treatment of refugees and migrants

During 2017, the inflow of migrants / refugees to Serbia was greatly reduced⁸⁴, but the period of their stay became significantly longer. Namely, the restrictive measures of the neighboring countries largely prevented them from passing further to their desired destinations in the countries of the European Union⁸⁵.

The Protector of Citizens emphasizes that during the reporting period migrants were not being deprived of their liberty during their stay in Serbia, instead, accommodation was provided for them in open-type dedicated institutions.

During the reporting period, the Protector of Citizens received a slightly higher number of complaints than last year regarding the position of

⁸⁴ According to the MOI data, during 2017, 6,199 confirmations of expressed intentions for seeking asylum were issued, 2,628 of which were for minors (156 of them unaccompanied) and 628 confirmations for adult females.

⁸⁵ During the year, the number of migrants received daily by the Hungarian authorities has been reduced to 10, and to weekdays only. However, almost twice as many are returned to Serbia, either after their requests for refuge have been rejected, or after being caught while illegally entering Hungary.

migrants in the Republic of Serbia. They addressed this body mainly through non-governmental organizations, and the complaints were related to the work of the Asylum Office and the Commissariat for Refugees and Migration, primarily the violation of the right to liberty and security, the right to the inviolability of physical and mental integrity and the exercise of rights for the duration of the asylum procedure (the right to accommodation in the asylum center and the right to the certificate of the submitted asylum application for the purpose of exercising the right to work). Citizens also addressed the Protector of Citizens, pointing out to their personal and property vulnerability to migrants. Acting upon complaints received, the Protector of Citizens did not identify illegalities and irregularities in the work of the controlled administrative authorities.

PROPOSALS FOR IMPROVING THE POSITION OF PERSONS DEPRIVED OF THEIR LIBERTY IN RELATION TO ADMINISTRATIVE AUTHORITIES

- **Ministry of Justice** should carry out activities within its competence in order to align the provisions of the Criminal Code with the generally accepted definition of torture under Article 1 of the UN Convention against Torture;
- **Ministry of Justice** should take measures to ensure that female detainees, due to their relatively small number, do not serve their sentence in solitary confinement.
- **Ministry of Justice** should, **in cooperation with the Ministry of Health** conduct activities aimed at organizing the relocation of the Health Care Services away from the Administration for the Enforcement of Penal Sanctions;
- **Ministry of Health** should take measures within its competence in order to improve the application of measures of physical restraint of patients in psychiatric hospitals;
- **Ministry of Health** and the **Ministry of Labour, Employment, Veteran and Social Policy** should, in the process of achieving mutual cooperation, improve the regulations in order to establish effective deinstitutionalization;
- **Ministry of Labour, Employment, Veteran and Social Policy** should carry out activities within its competence in order to amend the Law on Social Welfare, so that it regulates the conditions, competence and procedures for forcible accommodation and care of beneficiaries in

social welfare institutions such as residential homes. Also, it is necessary to legally prescribe the conditions and the procedure for physical restraint(tying) users in those institutions.

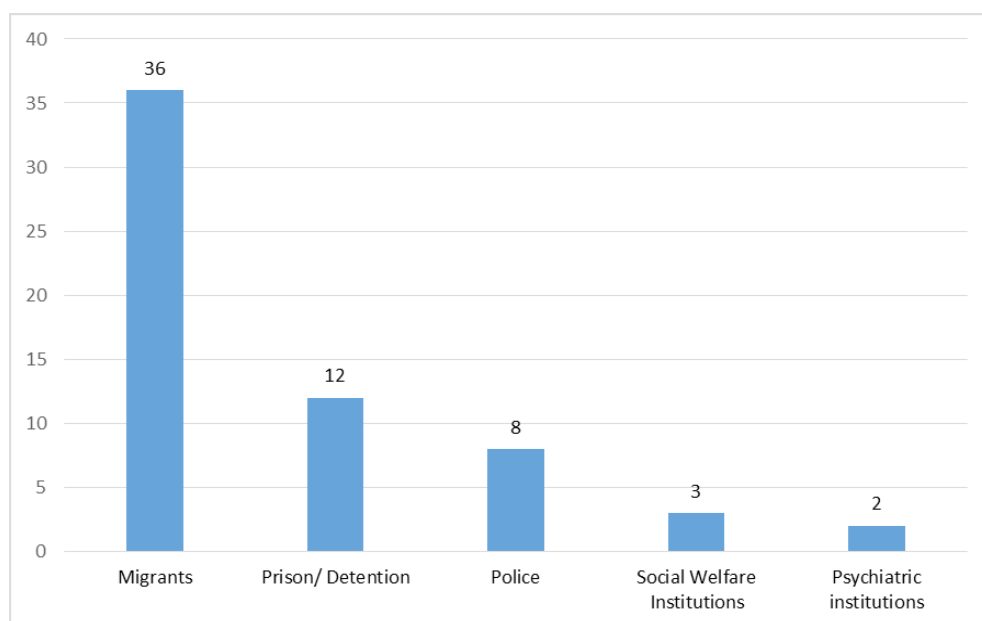
- **Ministry of Labour, Employment, Veteran and Social Policy** should take measures within its competence in order to adopt regulations that will regulate the conditions and procedure of restricting the freedom of movement and physical restraint of beneficiaries accommodated in residential social welfare institutions ;
- **Ministry of Labour, Employment, Veteran and Social Policy** should improve the service of social welfare centers in terms of providing effective guardian care for the beneficiaries of those institutions;
- **Ministry of Interior** should carry out activities within its competence in order to amend the Law on Police so that it only regulates the organization, competence, conduct and work of the police;
- **Ministry of Interior** should carry out activities within its competence in order to pass the remaining regulations necessary for the implementation of the Law on Police, regulations that will systematically regulate the prescribed technical characteristics and the manner of using the means of coercion, as well as a corresponding regulation that will align existing Instructions on Treating Brought In and Detained Persons with applicable standards;
- **Ministry of Interior** should ensure that the police always state the decisive reasons on which they base their decision in the explanations of the decisions;
- **Ministry of Interior** should carry out activities within its competence so that, having in mind the factual situation, the status of all foreigners is regulated – migrants who find themselves in the territory of the Republic of Serbia;
- **Administration for the Enforcement of Penal Sanctions** should enable detainees and convicts held in closed prison departments to have sufficient available activities, and to stay during the day in the communal rooms with other convicts, or detainees, who the court did not limit the contact with because of the criminal procedure;
- **Administration for the Enforcement of Penal Sanctions** should improve the conduct of medical examinations after the application of coercive measures;
- **Administration for the Enforcement of Penal Sanctions** should improve the transfer of convicts to a more favorable educational group;

- **Administration for the Enforcement of Penal Sanctions** should allow female convicts and juveniles to serve their sentence as closely as possible to their place of residence;
- **Administration for the Enforcement of Penal Sanctions** should ensure that all persons with mental disabilities serving the sentence of imprisonment are removed from the regular prison regime;
- Competent authorities should improve the material conditions for the accommodation of persons deprived of their liberty;
- Competent authorities should increase the number of employees in the bodies/ institutions in order to allow persons deprived of their liberty to act in accordance with regulations and standards;
- Competent authorities should improve the procedures of internal control mechanisms;

4.5.1. NATIONAL PREVENTIVE MECHANISM

During the reporting period, within the field of work of the National Preventive Mechanism, the authorities that treat persons deprived of their liberty were also controlled through 61 preventive procedures – NPM visits. 8 police stations were visited⁸⁶, 12 administrations for the enforcement of penal sanctions⁸⁷, 3 social welfare institutions such as residential homes⁸⁸, 2 psychiatric hospitals⁸⁹ and 36 visits were conducted to oversee the treatment of refugees and migrants.⁹⁰

Chart 8 – Preventive procedures of the NPM



⁸⁶ PS Stari grad, PS Savski venac, 3 PSs within the PD Pančevo, PD Novi Pazar, PSSurdulica and PD Niš.

⁸⁷ DP Pančevo, DP Novi Pazar, JDC Kruševac, CF Čuprija, CF Sremska Mitrovica, DP Vranje, CF Niš, DP Novi Sad, DP Belgrade, SPH Belgrade, CF Belgrade and CF Belgrade – Padinska Skela.

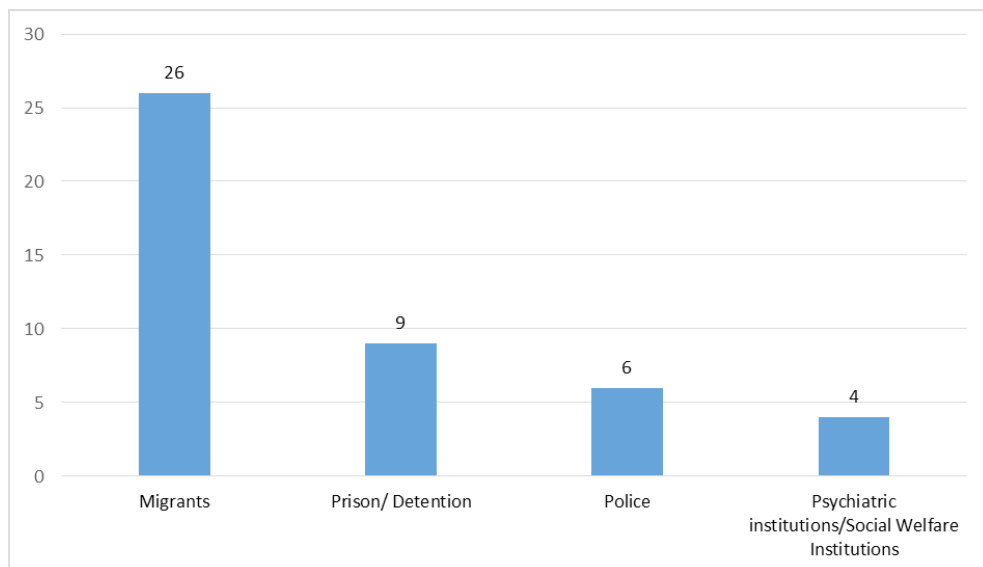
⁸⁸ Residential home "Otthon" Stara Moravica, Residential home "Veternik" and "Male Pčelice".

⁸⁹ Special hospital "Gornja Toponica" and the clinic "Dr Laza Lazarević".

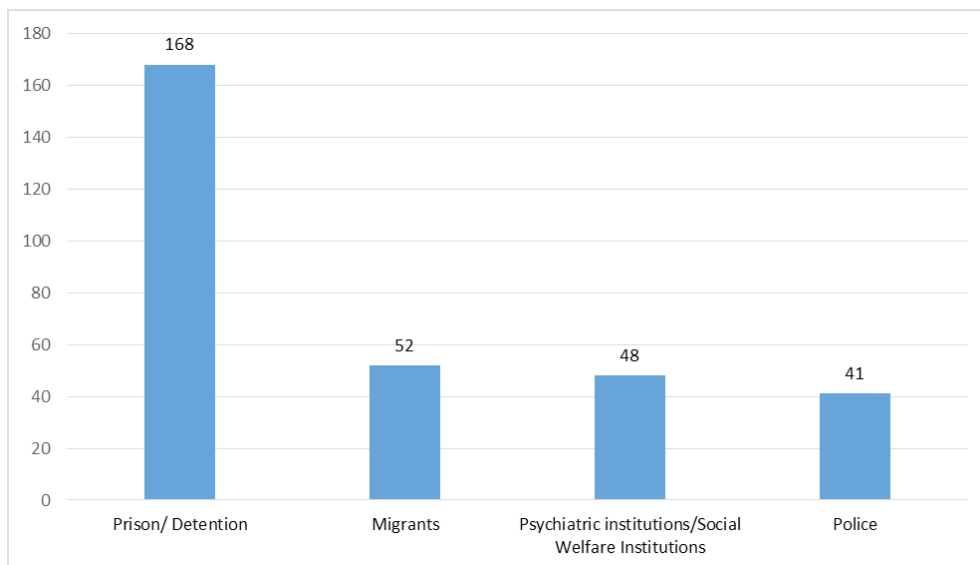
⁹⁰ Asylum centers in Banja Koviljača and Krnjača, reception centers in Obrenovac, Dimitrograd, Pirot, Šid, Bosilegrad, Divljani, Kikinda, Vranje, Preševo, Bujanovac, Principovac, Adaševci, Subotica and Sombor, Reception center for foreigners, Airport "Nikola Tesla", Regional Centre of Border Police towards Bulgaria, Foreign office of the Belgrade PD, Institute for the Education of Children and Youth Niš and Border crossing Horgoš and Kelebija.

A total of 45 reports were compiled on the visits that were conducted within the framework of preventive procedures for overseeing the work of the bodies. 6 reports deal with the actions of the police, 9 reports deal with the treatment of detainees and persons serving prison sentences, 4 deal with the work of psychiatric institutions and institutions that provide residential home services and 26 reports deal with the treatment of migrants.

Chart 9 – NPM reports from 2017



During the reporting period, in the conducted procedures, 309 recommendations were issued in the preventive procedures. Out of these, 168 were related to the treatment of persons who were detained and serving the prison sentence, 48 were sent to the persons who were on treatment in psychiatric institutions and persons who were using services of social welfare institutions, 41 towards detained persons and persons to whom police powers were applied and 52 to migrants.

Chart 10 – Issued recommendations of the NPM in 2017

ACTIVITIES OF THE NATIONAL PREVENTIVE MECHANISM

In carrying out the activities of the National Preventive Mechanism, during visits to the authorities, it has been established that citizens who are detained pursuant to the Criminal Procedure Code are mainly placed in institutions for the execution of criminal sanctions, most often together with female detainees, and on other legal bases in the premises of police stations. Many detention premises at the police stations are not in accordance with the standards, while in some police administrations there are not enough rooms.

The NPM submitted to the Ministry of Interior an initiative for passing regulations that will further regulate the technical characteristics and the manner of using the coercive measures⁹¹.

In most of the visited institutions for the enforcement of penal sanctions, the NPM noted a positive relationship between the persons deprived of their liberty and members of the Security Service. The detainees were mostly complaining about the duration of the court proceedings, and the convicts about the inability to advance to more favorable treatment groups and to achieve health care.

⁹¹ No. 286-98/17, dated 20 November 2017 http://npm.rs/index.php?option=com_content&view=article&id=741:иницијатива-за-уређење-примене-средстава-принуде&catid=108:2012-01-18-20-51-23&Itemid=71.

Improvement of housing conditions in prisons has continued⁹² and overcrowding was reduced by expanding capacities. However, some facilities are old, ruined and non-hygienic, without an adequate supply of natural light and ventilation, and the video surveillance system in most institutes is poor. Closed units are mostly overpopulated. Convicts and detainees spend most of their time closed in their dorms⁹³ and generally receive inadequate number of trainings and courses.

In most of the visited institutions, a lack of officers was identified, primarily in the Security Service, which leads to overburdening of the existing staff. Training for prison officers for people from various departments has been initiated.

Health care services have not been relocated from the Ministry of Justice to the Ministry of Health, but more frequent supervision of the work of health services within the institutes has been recorded by the Ministry of Health.

In the reporting period, the NPM found that in larger institutions of social protection and psychiatric hospitals there are still many users and long-term patients, and the community does not provide sufficient conditions for their stay in the process of deinstitutionalization. In addition, there are still waiting lists in some institutions⁹⁴. The process of deinstitutionalization is also hampered by the insufficient number of mental health centers in local communities that would take care of patients after completing hospital treatment.

One of the problems which the social protection institutions such as social welfare institutions and psychiatric hospitals are facing for many years is the lack of staff, especially medical staff, as well as poor housing conditions and the lack of medical-technical aids, so moving users and preserving their privacy is hampered in such circumstances.

In this reporting period, the NPM paid special attention to the situation of migrants and refugees. It was noticed that during 2017 their inflow was significantly reduced⁹⁵ and the period of their stay in Serbia was prolonged. The Commissariat for Refugees and Migration continued to take measures to accommodate migrants in official centers. In many centers, works on

⁹² The NPM visited the renovated premises of the DP Belgrade, CF Sremska Mitrovica, JDC Kruševac, CF Niš and SPH Belgrade.

⁹³ According to the Annual Report of the Administration for the Execution of Criminal Sanctions for 2016, 68% (5,299) of the convicts were sent to closed departments.

⁹⁴ For example, in the "Male Pčelice" Institution, there are 130 users on the waiting list.

⁹⁵ According to the Ministry of the Interior data, 6,199 certificates of expressed intentions for seeking asylum were issued in 2017, 2,682 of which were certificates for minors (156 of them unaccompanied) and 628 certificates for adult female persons.

capacity expansion and provision of accommodation in solid objects have been carried out. Three more reception centers were opened during the year, so in Serbia there are 18 centers for the reception and care of migrants and refugees, with the capacity of about 6,000 places. According to the Commissariat data, in December 2017, about 4,000 migrants were staying in official centers, out of a total of 4,500-5,000 of them in Serbia, according to various estimates.

Some migrants, mostly adult men who travel without other family members, refuse to be accommodated in official centers, and reside near the border with Croatia and Hungary, where they are supposedly trying to illegally enter those countries. During the visits to the border crossings, it was established that there are no more improvised camps that used to be located along the border line.⁹⁶ In the centers, migrants are provided with a greater amount of content and activities, especially children. Special attention is paid to the care of newborns, so in most centers, support for mothers is provided through counseling and other types of help. More than 500 children enrolled in 27 primary schools in Serbia.⁹⁷ The problem in many centers is inter-migrant violence, especially domestic violence. According to NPM recommendations⁹⁸, the Commissariat has provided psychological support in most centers, established better monitoring of incidents and other extraordinary events and a procedure for submitting complaint on the center staff. In order to protect vulnerable groups of migrants, recommendations were also made for stronger engagement of local social welfare centers.⁹⁹ In 2017, the Protector of Citizens issued the Opinion on the Draft Law on Foreigners¹⁰⁰.

During 2017, the NPM met with the European Committee for the Prevention of Torture, which was visiting Serbia, as well as with the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, on which occasion he commended the work of the Protector of Citizens.¹⁰¹ The NPM of Serbia was the chair of the NPM Network of South-east European countries.

⁹⁶ Report on the visit to the Reception Center in Suboticanu. 281-96/17 dated 4 December 2017.

⁹⁷ <http://www.kirs.gov.rs/articles/navigate.php?type1=3&lang=SER&id=3074&date=0>.

⁹⁸ Report on the visit to the RC Vranje, no. 281-67/17; Report on the visit to the RC Krnjača, no. 281-49/17 and the Report on the visit to the RC Principovac, Šid and Adaševci, no. 281-98/16.

⁹⁹ For example the Report on the visit to the RC Dimitrovgrad, no. 281-7/17.

¹⁰⁰ <http://npm.rs/attachments/article/705/Misljenje.pdf>.

¹⁰¹ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22453&LangID=E>.



Picture 8 – Meeting of NPM Network of Southeast European countries in Belgrade

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

5.1. AREA I—DEPARTMENT FOR CIVIL AND POLITICAL RIGHTS OF CITIZENS

ACTIVITIES OF THE PROTECTOR OF CITIZENS

Justice and judiciary

The Law on Free Legal Aid was not passed until the end of this reporting period. There are numerous references to citizens who ask the Protector of Citizens to provide legal assistance in relation to the procedures they are conducting or intend to initiate before courts and other competent authorities in order to exercise and protect their rights. Seeing how the Protector of Citizens does not have the authority to provide legal assistance to citizens, he refers them to the lawyers and legal assistance services of the local self-government units. The problem of exercising the right to legal aid is particularly important when it is brought up by members of vulnerable groups and materially endangered citizens.

Some of the problems that the Protector of Citizens has already pointed out regarding the exercise of the right to rehabilitation and compensation before the Ministry of Justice, i.e. the Rehabilitation and Compensation Commission, are still current. Compared to the previous reporting periods, in 2017, the complaints were mostly related to dissatisfaction with the proposals of the Rehabilitation and Compensation Agreement drafted by the Ministry, as they contained a provision which stipulates that the applicants should waive their right to claim a higher amount than the amount specified in the proposal of the agreement, on the basis of rehabilitation and compensation.

In this reporting period, the Protector of Citizens received a large number of complaints in which the citizens expressed dissatisfaction with the actions of the Ministry of Justice in relation to the implementation of the Law on Court

Experts¹⁰², and this is most often related to the procedure for appointing court experts, as well as to handling complaints about the work of the experts and substantiated proposals for dismissal of court experts. Therefore, the Protector of Citizens issued an Opinion¹⁰³ to the Ministry of Justice pointing out the need for amendments to the Law on Court Experts, in order to more fully regulate the procedure for appointing and dismissing court experts, rights, obligations and responsibilities of the persons performing the expertise.

Complaints to the Protector of Citizens continue to point to problems related to the supervision that the Ministry of Justice conducts over the work of the court administration, the actions of courts in cases within the prescribed deadlines and the handling of complaints of citizens.

Finances

During 2017, the Protector of Citizens received complaints about the work of the Tax Administration branches because of their refusal to refund overpaid taxes, irregularly paid contributions for retirement and disability insurance and the refusal of a claim for the refund of overpaid or wrongly paid taxes. In addition, the Protector of Citizens noted unequal treatment of tax authorities in the control procedures.

Internal affairs

During the reporting period, the Protector of Citizens initiated oversight procedures in several cases where the Ministry of Interior (hereinafter: MOI) did not decide on the requests of the parties in accordance with the Law on General Administrative Procedure (hereinafter: LGAP)¹⁰⁴. Instead, the citizens were informed that they could not exercise a certain right. In this way, they were deprived of the possibility of using a legal remedy – appeals (two-step decision-making) and were prevented from eventually initiating an administrative dispute.

From the procedures conducted by the Protector of Citizens and the official contacts with the MOI representatives, there was a need to strictly apply the regulations on the administrative procedure when deciding on the rights, obligations and legal interests of citizens.

¹⁰² "Official Gazette of the RS", no. 44/10.

¹⁰³ Opinion available at <http://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5585-ishlj-nj-z-sh-i-ni-gr-d-n-p-r-bi-iz-n-z-n-suds-i-v-sh-ci>.

¹⁰⁴ During the reporting period, until 1 June 2017, the Law on General Administrative Procedure was applied "Official Gazette of the FRJ", no. 33/97 and 31/01; "Official Gazette of the RS", No. 30/10), and after 1 June 2017, the Law on General Administrative Procedure "Official Gazette of the RS" No. 18/16 was applied.

During the reporting period, the Protector of Citizens received several complaints from citizens for confiscating their weapons in accordance with the Law on Weapons and Ammunition¹⁰⁵. In the aforementioned cases, the Ministry of Interior issued decisions on confiscation in accordance with the regulations on the general administrative procedure. However, in several cases in which the Protector of Citizens made an insight into the relevant documentation, it was noted that these persons were not legally prosecuted, nor were there complaints filed against them, instead, their weapons were seized because of "security reasons". In these cases, the Protector of Citizens suggested to the Ministry to comprehensively and objectively examine the situations when seizing a weapon, based on the discrete assessment of police officers, and especially on the basis of a security check.

Regarding complaints of citizens for failure to respond to requests for admittance, establishment and release from citizenship, the Ministry has, in a number of cases after initiating the control procedure, made decisions which resolved these requests positively.

During the reporting period, the Protector of Citizens noted that the acts the MOI refer to the complainants regarding the work of police officers, do not always state all the actions taken, nor do they present to the complainant all the established facts that are relevant for deciding on the merits of the complaint.

The Protector of Citizens also received complaints from employees of the Ministry of Internal Affairs who expressed dissatisfaction over the failure of the MOI to request the examination of the case files in proceedings, which were related to their employment status, or the exercise of employment rights. During the control procedures, the shortcomings were rectified, with the Protector of Citizens referring the Ministry to its obligation to comply with these requirements, especially having in mind the need for timely realization and protection of employees' rights.

Defense

During the reporting period, the majority of complaints against the work of the Ministry of Defense were received from citizens who were employed or formerly employed in that department. Dissatisfaction of active members of the Serbian Armed Service is mostly related to irregularities in resolving status issues, while the most common reasons for which military pensioners complain are the omissions in the work of the authorities when exercising their right to retirement, due to the lack of legal regulations in determining the legal basis

¹⁰⁵ "Official Gazette of the RS", number 20/15.

for calculating the level of pensions in situations where the data about the amount of personal income was destroyed during the NATO bombing.

The reasons for addressing the Protector of Citizens were also statements of illegality and/or irregularities in the regulations governing the right to compensation for increased housing costs, as well as for the unequal exercise of the right to financial assistance.

At the end of 2017, the Protector of Citizens issued an Opinion to the Ministry of Defense on the Draft Law on the Amendments to the Law on the Serbian Armed Forces¹⁰⁶, as well as the Opinion on the Draft Law on the Amendments to the Law on Defense¹⁰⁷.

In this reporting period, there was also a significant number of complaints pointing to a violation of the rights to the quality of services provided and a violation of the rights of patients, as well as medical, professional and diagnostic mistakes made during the treatment of patients in military medical institutions. In most cases, the complainants were referred to the use of mechanisms for the protection of patients' rights.

Health

The Protector of Citizens has discovered, acting on the complaint of the association of patients, that the current regulations of the Republic of Serbia do not allow people with hepatitis C virus to be treated with innovative drugs. In the Opinion¹⁰⁸ issued to the National Health Insurance Fund and the Ministry of Health, the Protector of Citizens pointed out that amendments are required to the Rulebook on the List of Medicinal Products, which are prescribed and issued at the expense of compulsory health insurance.¹⁰⁹

During this reporting period, the Protector of Citizens received a number of complaints in which citizens point to the problems they face in the process of exercising the right to medical rehabilitation. It was noted that these problems occur due to the fact that health workers fail to make suggestions for referring the patients to the commission within the prescribed deadlines. The Protector of Citizens issued an Opinion¹¹⁰ to the National Health Insurance Fund stating that it is necessary for the healthcare institutions to point

¹⁰⁶ Opinion available at: <http://www.ombudsman.rs/attachments/article/5584/Misljenje.PDF>.

¹⁰⁷ Opinion available at: <http://www.ombudsman.rs/attachments/article/5586/Misljenje.PDF>.

¹⁰⁸ Opinion available at: <http://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5316-p-ci-n-i-b-l-li-d-h-p-i-is-c-p-r-bn-v-c-d-s-upn-s-in-v-ivni-l-vi>.

¹⁰⁹ "Official Gazette of the RS", number 45/17.

¹¹⁰ Opinion available at: <http://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5543-p-s-up-p-pr-dl-zi-z-upuciv-nj-sigur-nih-lic-n-pr-duz-nu-r-h-bili-ci-u-nc-v-i-bl-g-vr-n-n-v-di-s-u-ishlj-nj-z-sh-i-ni-gr-d-n-upuc-n-rfz-u>.

out the importance and obligation of healthcare workers to act within the prescribed deadlines when submitting proposals for referring patients to the medical commission.

In 2017, the Protector of Citizens handled complaints of citizens indicating that the National Health Insurance Fund did not act within the legal deadline regarding requirements for issuing a health card and replacing the health booklet with a health card. During the conducted oversight procedures, in such individual cases, insured persons were provided with health insurance cards.

PROPOSALS FOR IMPROVING THE POSITION OF CITIZENS IN RELATION TO ADMINISTRATIVE AUTHORITIES

- **Ministry of Justice** should prepare the Law on Free Legal Aid;
- **Ministry of Justice** should enable citizens who meet legal requirements to obtain the first rehabilitation compensation provided by that body, in accordance with the regulations and principles of good administration, without aggravating the legal position of applicants, as well as to adopt an act determining the composition of the Commission for Rehabilitation Compensation and to regulate its work in more detail;
- **Ministry of Finance** and administrative authorities within this Ministry 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 correct qualification of received submissions and timely decision-making and submission of written replies to the applicants;
- **Ministry of Interior** should take measures and activities within its competence in order to pass a law that will regulate the collection and processing of personal data in the Ministry of Internal Affairs;
- **Ministry of Interior** should ensure the full and consistent implementation of regulations on administrative procedures when deciding on rights, obligations and legal interests of citizens both in the first and in the second instance procedures;
- **Ministry of Interior** should, when making a decision based on a free assessment, take into account the limits and the purpose of its powers;
- **Ministry of Interior** should further develop and strengthen the mechanisms for controlling its work, the the Complaints Handling Commission and the operations of the Sector of Internal Control;

- **Ministry of Interior** should, in a timely manner and in accordance with applicable regulations, act upon requests for the examination of case files;
- **Ministry of Defense**, in cooperation with the **Ministry of Labour, Employment, Veteran and Social Policy** should establish an effective mechanism for determining the pension level of professional military personnel by amending the existing normative framework, in cases when the Ministry of Defense and the Serbian Armed Forces do not have data on the amount of personal income;
- **Ministry of Defense** and the **Ministry of Labour, Employment, Veteran and Social Policy** should effectively cooperate in solving the problem of determining the level of pension of professional members of the Serbian Armed Forces in cases of "failure to submit cards on the amount of personal income";
- **Ministry of Defense** and the **Ministry of Health** should effectively cooperate in solving problems related to the implementation of regulations related to the execution of the inspection supervision over the work of military health institutions;
- **Ministry of Health** and the bodies of the **local self-government units** should take all necessary measures to ensure the fulfillment of necessary conditions for the continuous work of health councils and counselors for the protection of patients' rights;
- **Ministry of Health** should conduct regular, periodic analyses of the effects of the implementation of the Law on Patients' Rights in order to effectively and legally exercise the rights of patients and to improve the work of mechanisms for the protection of their rights;
- **Tax Administration** should take into account both the protection of the public interest and the protection of the rights of parties, whereby the decisions in tax procedures will be based exclusively on applicable regulations, and the content of which will not be affected by acts aimed at equalizing practice;
- **Tax Administration** should provide conditions for the return of overpaid or wrongly paid tax together with the relevant interest whenever legal requirements are met, especially considering that in the tax procedure, the use of legal remedies does not delay enforcement of the decision, so citizens are charged interest for exceeding the payment deadlines;
- **Local self-government units** should, when planning their own source revenues, take into account the economic situation and material con-

ditions of taxpayers, and **local tax administrations** should pay more attention to communicating with citizens and to making legal and proper decisions on their requirements;

- The competent authority should, without further delay, endeavor to fulfill the obligations established by the pilot-judgement of the European Court of Human Rights no. 60642/08 dated 16 July 2014, and thus to definitely solve the problem of a large number of domestic and foreign citizens in accordance with the Law on the Regulation of Public Debt of the Republic of Serbia on the basis of unpaid foreign currency savings citizens deposited with banks located in the territory of the Republic of Serbia and their branches in the territories of the former republics of the SFRY.¹¹¹

¹¹¹ "Official Gazette of the RS", no. 108/16 and 113/17.

5.2. AREA II – DEPARTMENT FOR ECONOMIC AND PROPERTY RIGHTS

ACTIVITIES OF THE PROTECTOR OF CITIZENS

Construction

In 2017 citizens addressed the Protector of Citizens in connection with the problems in the process of legalization of illegally built facilities due to violation of the principle of good administration.

Citizens also complained about the non-implementation of decisions to demolish buildings that do not meet the requirements for legalization. Likewise, the complainants complained about the violations of the right to peaceful usage of their property as a result of illegal construction of buildings without respect to regulations related to the placement of the plot, the construction at an insufficient distance from a border, the unauthorized number of floors, the lack of infrastructure for facilities (parking places, garages, communal infrastructure) and illegal construction which endangers the stability and security of existing, neighbouring buildings.

On the other hand, due to the lack of deadlines for the implementation of planned documents, citizens have been prevented from exercising their property rights for an indefinite period. In order to promote and protect the rights of citizens, by using the mediating powers, the Protector of Citizens asked the Ministry of Construction, Transport and Infrastructure to take measures to rectify the shortcomings in the normative framework, which the Ministry accepted and entered into the Draft Law on Amendments to the Law on Planning and Construction.

Cadastre

In the area of the cadastre, the citizens in their complaints most often pointed out to the inadequate behaviour of the real estate cadastre upon submitted requests. During this reporting period, the number of complaints increased, indicating the untimely making of decisions of the Republic geodetic authority on the appeals related to the solutions of the real estate cadastre and the multiple over exceedings of deadlines for the adoption of a second instance decision. Following the initiated procedure of control by the the Protector of Citizens, the authorities rectified the shortcomings in their work.

In the previous period, the Ministry of Construction, Transport and Infrastructure presented the Draft Law on the Procedure for Registration in the Real Estate Cadastre and the cable duct cadastre. It partially incorporated

the remarks made in the Opinion of the Protector of Citizens¹¹² in relation to prescribing shorter deadlines for Services than the ones prescribed by the Law on General Administrative Procedure when completing the procedure for registration in the cadastre.

Natural disasters

In the area of natural disasters, there has been a significant reduction in the number of complaints in 2017. Complaints filed to the Protector of Citizens during the reporting period indicated that the authorities of the local self-government units have not acted upon the requests of citizens and that the conduct of the Commission for Determining the Damage from Natural Disasters upon filed complaints against the decisions of the local self-government units was untimely. These shortcomings were rectified by the authorities immediately after being informed by the Protector of Citizens. Also, the addressings of citizens due to problems with landslides that were activated in the vicinity of their houses due to the effects of natural disasters were more frequent.

Agriculture and environmental protection

As in the earlier years, in this reporting period, the Protector of Citizens received complaints from the field of environmental protection regarding the problem of pollution of water, air and soil, unpleasant smells, noise and vibration caused by various economic activities (transport, cutting of wood, pellet production, mining in quarries, catering activities), disposal of municipal waste, quality of drinking water, and the actions of inspection bodies in the field of environmental protection based on the complaints of individuals or groups of citizens. In many units of local self-government, citizens complain to wild and illegal dumpsites, which, as they state, represent the basic form of disposing of municipal and other waste.

Many of the complaints in the area of environmental protection continue to point to the problem of noise from catering facilities, and they express dissatisfaction with the conduct of the environmental inspection, as well as other inspection bodies at the level of the local self-government unit. On the basis of initiated oversight procedures, the Protector of Citizens found that the complaints about noise are more and more frequent, that there is an insufficient number of inspectors and that the biggest problem are the current provisions of the Law on Environmental Protection related to noise.

¹¹² Available at: <http://www.ombudsman.rs/attachments/article/5615/Misljenje%20Zastitnika%20gradjana.pdf>.

In the field of agriculture, certain complaints during the reporting period also pointed to the unreliability of the work of commissions of the local self-government units for the return of agricultural land that has become a part of the public property, based on the agricultural land fund and the confiscation due to unfulfilled obligations from compulsory purchase of agricultural products, which refers to the excessive length of the duration of the individual procedures for returning before the mentioned commissions.

In 2017, the Protector of Citizens initiated several procedures for controlling the work of municipalities and cities on the basis of citizens' complaints which indicate an insufficient number of shelters for abandoned animals in local self-government units.

Economy

In 2017, the number of complaints to the Protector of Citizens regarding the work of authorities responsible for conducting the bankruptcy proceedings was reduced.

In this reporting period, as in the previous one, citizens' complaints about the work of state administration authorities in the field of economy were related to the untimely handling of citizens' requests or to their submissions being ignored.

Mining and energy

The highest number of complaints received by the Protector of Citizens in the field of energy relates to the lack of the possibility of reaching an agreement on settling the debt by installments, especially in situations where the correction of the amount occurs due to the mistake of the authorized persons of the distributor, bearing in mind the financial impacts that the irregularities committed can have on the customers, which the Protector of Citizens pointed out for years, and which a special report was compiled about¹¹³.

Complaints regarding the achievement of the status of an energy-endangered buyer refer to the financial expenses that members of the socially vulnerable categories of the population have in collecting and verifying the documentation necessary for submitting a request for obtaining this status, since the amount of the envisaged expenditures depends on the decision of the local self-government unit which is in charge of making decisions about those requests. There was a lack of uniformity in the actions of local

¹¹³ Special Report of the Protector of Citizens "Problems in Exercising Consumer Rights – Buyers 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>.

self-government units when exercising the rights of citizens to tax reliefs when purchasing energy products.

This year, the Protector of Citizens also received a large number of complaints of buyers of real estate, burdened with debts owed by the previous owners, due to which they were not allowed to conclude contracts on electricity supply.

Local self-government

During this reporting period, the Protector of Citizens received a large number of complaints in the field of local self-government, which mostly related to the actions of local self-government units in performing tasks that fall under the original competence of these units. In this regard, the citizens most often expressed their dissatisfaction with the performance of communal activities and the work of the public utility companies and other economic entities entrusted with performing the stated activities by decision of the unit of local self-government. A significant number of citizens' complaints related to the lack of municipal infrastructure in some local self-government units, which prevented the population in those areas from accessing water and sewage networks thus preventing them from meeting their basic needs.

Also, the competence of local self-government units regarding the execution of tasks related to the construction, reconstruction, maintenance and protection of local roads and streets was the subject of complaints by citizens, since certain local self-government units did not take appropriate measures to enable citizens to build the road infrastructure. In addition, the Protector of Citizens also recorded a significant number of complaints in which citizens pointed to the ineffectiveness of actions of local self-government bodies, mainly the communal inspection and the communal police, in procedures related to reports of noise from catering facilities, illegal dumpsites, emissions of unpleasant smells and violations of house rules in residential buildings.

When it comes to the tasks of inspection and supervision, which the local self-government units perform privately, citizens' complaints were mostly related to problems in the field of environmental protection, construction and infrastructure. Among the main reasons for addressing the Protector of Citizens, is the non-enforcement of executive decisions, untimely handling of complaints, requests and submissions of citizens, failure to refer the documents to other, competent authorities, either locally or on the level of the republic.

The complaints of citizens received in 2017, which fall under the domain of occupancy rights, indicate that the local self-government units still fail to act upon their legal obligation to take urgent measures to maintain buildings and, accordingly, the obligation to act on its own, executive decisions.

PROPOSALS FOR IMPROVING THE POSITION OF CITIZENS IN RELATION TO ADMINISTRATIVE AUTHORITIES

Even though the Protector of Citizens, according to the Article 17, paragraph 3 of the Law on the Protector of Citizens, has no authority to oversee the work of the National Assembly and the Government, the Protector of Citizens believes that it would be useful for the mentioned authorities to consider his proposals.

- **The Government** should propose, and the National Assembly should adopt, a law that would ensure the improvement, strengthening and dissemination of the defense system against natural disasters; continuation of work on the reform of bankruptcy legislation in order to find a model that will provide the most complete and effective control of the work of the bankruptcy administrators during the conduct of bankruptcy proceedings; adoption of a Preventive action plan as well as a Crisis plan to ensure a safe supply of natural gas; adoption of a new regulation that will simplify the procedure for obtaining the status of an energy-endangered customer and expand the circle of persons who can achieve the given status and use the provided benefits;
- **Government** and the **Ministry of Economy** should take measures in order to pay off the receivables registered in accordance with the Regulation on Registration of Matured Liabilities of Socially-owned Enterprises by way of writs of execution for employment-related claims; to complete the privatization process of companies declared to be subjects of privatization of strategic importance;
- **Ministry of Construction, Transport and Infrastructure** should provide sufficient financial resources in budgets at all levels of government for the administrative enforcement of the decision to demolish illegal buildings;
- **Ministry of Construction, Transport and Infrastructure** should take measures in order to strengthen the preventive function of the construction inspection;
- **Ministry of Construction, Transport and Infrastructure** should, with the active participation of the Republic geodetic authority, enable the citizens to smoothly obtain documents proving the basis for changes made on immovable property, by taking appropriate measures and activities in order to finally consolidate the land registry records and collections of documents from the period in which land registration was in force;
- **Ministry of Environmental Protection** should take all necessary measures within its competence in order to ensure the full operability of

the Green Fund of the Republic of Serbia and the adequate use of the received and collected funds;

- **Ministry of Environmental Protection** should take all measures with the aim of adopting the missing strategies and planning documents in the field of environmental protection;
- **Ministry of Environmental Protection** should take all necessary measures in order to strengthen the capacity of local self-government units in the implementation of municipal waste management responsibilities;
- **Ministry of Environmental Protection** should use all available mechanisms in order to provide personnel and financial capacities in order to fully implement the regulations in the field of environmental protection;
- **Ministry of Environmental Protection** should take measures in order to amend the Law on Environmental Protection, in order to specify the methods and ways of enforcing control, that is, the authority of the inspectors for environmental protection when it comes to noise from catering facilities;
- **Ministry of Environmental Protection** and the **Ministry of Construction, Transportation and Infrastructure** should undertake joint measures with the aim of passing laws and bylaws which will regulate the quality of construction materials in order to protect the environment;
- **Ministry of Environmental Protection** and the **Ministry of Health** should undertake joint measures with the aim of passing laws and bylaws which will regulate the quality of indoor air;
- **Ministry of Agriculture, Forestry and Water Economy** should take all necessary measures in order to ensure the functioning and operation of the Commission for the Restitution of Agricultural Land in order to complete the procedures for returning agricultural land in the shortest possible time;
- **Ministry of Economy** and the **Development Agency of Serbia** should rectify the irregularities that occurred when concluding an employment contract with new employees in the Development Agency of Serbia and enable all former employees of the National Agency for Regional Development to equally apply for employment in the Development Agency of Serbia;
- **Ministry of Mining and Energy** should propose an amendment to the Provision on the Terms and Conditions of Electricity Supply so that citizens who in the process of restitution became legal owners of prop-

erty rights on real estate which was burdened with unpaid electricity bills, may conclude a new contract on electricity supply, while the energy provider may request the payment of due obligations from the person who actually incurred the debt in the first place;

- **Republic Geodetic Authority** should ensure that the real estate cadastre offices carry out the tasks within their jurisdiction in full scale, in a high-quality manner and within the prescribed deadlines;
- **Republic Geodetic Authority** should take the necessary measures within its competence in order to establish a mechanism for effective and timely handling of complaints, in accordance with the provisions of the Law on General Administrative Procedure;
- **Public Enterprise "Electric Power Industry of Serbia"** should, in accordance with the Law on Energy, ensure that the complaints of citizens are handled in a way that ensures the lawful, correct, conscientious, fair, impartial and timely execution and should refrain from all activities that, during the period of handling the consumer dispute, may cause the consumer material and non-material damage;
- **Public Investment Management Office** should take all necessary measures in order to more effectively implement the landslide rehabilitation procedures;
- **Local self-government units** should, when adopting the budget, provide sufficient amount of funds for the administrative enforcement of the decisions envisaged by the Plan and the program for demolition of illegally constructed facilities;
- **Local self-government units** should allocate more funds from their for remediation of damage caused by natural disasters on a smaller scalesince there are no regulations which would put an obligation to the state to do so;
- **Local self-government units** should ensure that public procurement procedures for carrying out demolition works are carried out within the legal frameworks and deadlines;
- **Local self-government units** should, within the deadline and according to clear criteria, adopt the Plan and program for demolition of objects and be consistent in adhering to it;

5.3. AREA III – DEPARTMENT FOR SOCIAL AND CULTURAL RIGHTS

ACTIVITIES OF THE PROTECTOR OF CITIZENS

Labour and employment relations

In this reporting period, citizens most often complained to the Protector of Citizens about abuse at work, cancellation of work contracts, non-payment or irregular payment of salaries, as well as non-payment of social security contributions. Through the oversight procedures carried out by the Protector of Citizens, it was noticed that the cooperation of the bodies competent for the protection of labor and social security rights was still underdeveloped, namely the Ministry of Labour, Employment, Veteran and Social Policy, the Ministry of Finance and the Pension and Disability Insurance Fund of the Republic of Serbia, which complicates the exercise of rights of employees.

As part of the reform of labor relations and salaries in public services, the Law on Civil Servants¹¹⁴ was adopted. The adopted resolutions accepted certain objections of the Protector of Citizens given in the Opinion on the Draft Law on Civil Servants¹¹⁵ and the Initiative of the Protector of Citizens for the submission of an amendment to the Law on Civil Servants, and above all a decision which would introduce affirmative measures in the employment of members of certain sensitive social groups¹¹⁶.

¹¹⁴ *The same.*

¹¹⁵ Opinion available at <http://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5501-ishlj-nj-z-sh-i-ni-gr-d-n-n-s-n-cr-z-n-z-p-sl-ni-u-vni-sluzb>.

¹¹⁶ Initiative available at <http://www.ombudsman.rs/index.php/zakonske-i-druge-inicijative/5578-s-upsh-ins-i-db-ri-upuc-n-inici-iv-z-p-dn-sh-nj-nd-n-n-pr-dl-g-z-n-z-p-sl-ni-u-vni-sluzb>.



Picture 9 – Conversation of Protector of Citizens Zoran Pašalić, MSc, with citizens in Prijepolje

Pension and disability insurance

In the reporting period, the citizens pointed out in the complaints to the same problems in the work and conduct of the Pension and Disability Insurance Fund of the Republic of Serbia (hereinafter: SPDIF), which they faced in the past years, such as: unpaid contributions for pension and disability insurance, untimely handling of citizens' requests, transfer of legal obligation to pay contributions from the employer to citizens, retroactive determination of the obligation to pay contributions for agricultural insurance, inappropriate length of proceedings until the issuance of decisions on the final amount of the pension, the failure to reach decisions on the overpaid amount.

Ministry of Labour, Employment, Veteran and Social Policy, in cooperation with the SPDIF, did not prepare long announced amendments to the Law on Pension and Disability Insurance, which would overcome most of the previously mentioned problems that the Protector of Citizens pointed out in his work so far.

The Constitutional Court accepted the Proposal of the Protector of Citizens to assess the constitutionality and legality of the decision¹¹⁷ by which the SPDIF self-expanded its statutory jurisdiction in determining the

¹¹⁷ Decision of the Constitutional Court in case no. IYo-279/2016 adopted at a session held on 21 December 2017.

status of an insured person¹¹⁸ and determined that it was not in accordance with the Constitution and laws.¹¹⁹ The Protector of Citizens referred this Proposal for the assessment of constitutionality and legality to the Constitutional Court after it established that the SPDIF has, by passing the Decision on determining the status of insured persons and the obligation to pay contributions for pension and disability insurance, arbitrarily expanded the legally prescribed liability of the Fund to, in certain cases, determine the obligation of citizens to pay contributions, which it did in some cases that were not legally prescribed. The Constitutional Court also issued a Decision to postpone the publication of this Decision dated 21 December 2017 in the "Official Gazette of the Republic of Serbia" by six months from the date of its adoption.¹²⁰

In complaints to the SPDIF the citizens pointed to the lack of data on work experience, earnings and salary benefits for certain periods, which makes it impossible for pension beneficiaries to determine their full-time pension. Here, the most frequent are the complainants who have spent some years of service in the territory of Kosovo and Metohia, members of the MOI and military personnel, as well as those who worked in companies that no longer exist, and documentation of their employees does not exist in the archives.

The actions of the SPDIF in case of overpaid pension amounts is still the subject of complaints that are issued to the Protector of Citizens. The Protector of Citizens issued recommendations to the SPDIF that, in the event of omissions in the work of the SPDIF employees, which negatively affect the rights and interests of citizens, the Pension and Disability Insurance Fund should apologize and rectify the consequences of the omission as quickly as possible, and inform the citizens about his right to an appropriate remedy.¹²¹

Citizens often can not exercise their right to a pension in its full amount, because for certain periods of service their employers failed to fulfill their legal obligation to pay contributions for pension and disability insurance, which is why they usually have a temporary retirement decision for several years.

¹¹⁸ Article 4 of the Decision on Determining the Status of Insured Persons and the Obligation to Pay Contributions for Pension and Disability Insurance "Official Gazette of the RS", no. 43/11.

¹¹⁹ Available at: <http://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/5629-us-vni-sud-prihv-i-pr-dl-g-z-sh-i-ni-gr-d-n-z-c-nu-us-vn-s-i-dlu-u-bl-s-i-p-nzi-s-inv-lids-g-sigur-nj>.

¹²⁰ Official website of the Constitutional Court of the Republic of Serbia, available at: <http://www.ustavni.sud.rs/page/view/sr-Latn-CS/80-102435/saopstenje-sa-25-sednice-ustavnog-suda-odrzane-21-decembra-2017-godine-kojom-je-predsedavala-vesna-ilic-prelic-predsednica-ustavnog-suda>.

¹²¹ Recommendations available at <http://www.ombudsman.rs/index.php/2012-02-07-14-03-33/1345-2011-04-19-07-46-29>.

Social protection

By adopting the Law on Financial Support to Families with Children¹²², it became possible to realize salary compensation during maternity leave, absence from work for child care and special care for infants, to female farmers who are holders of the registered agricultural holdings and women who perform temporary and occasional jobs, there by following the recommendation of the Protector of Citizens¹²³ and the Opinion of the Protector of Citizens¹²⁴. However, the Law did not change the provisions related to the compensation of other income so that employed women, women entrepreneurs, female farmers and women performing temporary and occasional jobs may be in the same legal position when exercising the right to salary compensation, that is, compensation for income during maternity leave, absence from work for child care and absence from work for special care of the child.

The number of complaints of beneficiaries of social service rights in the area of social welfare has also been increased, which points to problems in exercising the right to social welfare before institutions, which are, among other things, conditioned by insufficient number of employees. The number of professionals in the social welfare centers is constantly decreasing due to the natural outflow of employees and restrictions on employment in the public sector, prescribed by the Law on the Method of Determining the Maximum Number of Employees in the Public Sector.

Education

The Protector of Citizens, acting upon the complaints of citizens, noted that the Ministry of Education, Science and Technological Development, higher education institutions and universities still inform students about their rights and mechanisms of protection incompletely and untimely, and that these bodies act untimely to their requests in a large numbers of cases.

In particular, the complaints related to issues regarding the issuance of higher education documents, the untimely conduct of higher education institutions upon receiving submissions and requests of students and employees, as well as irregularities and illegalities in the procedures of election of teachers and teacher associates at higher education institutions. Also, the students addressed the Protector of Citizens regarding the problems they faced in the process of enrollment in higher education institutions, as well

¹²² "Official Gazette of the RS", no. 113/17.

¹²³ Available at: <http://www.ombudsman.rs/index.php/izvestaji/godisnji-izvestaji>.

¹²⁴ Opinion of the Protector of Citizens no. 183-25/2017 ref. no. 37867 dated 13 October 2017.

as at several levels of studies, and different study programs. Apart from that, the inflow of complaints regarding the exercise of the right to be relieved from the obligation of returning student loans has continued.

In this reporting period, there was also a problem regarding the failure of the Ministry of Education, Science and Technological Development and ENIC/NARIC Serbia (Center for Information on Nostrification of Foreign Higher and Secondary School Documents and Nostrification for the Purpose of Employment) to act upon requests for recognition of foreign higher education documents for the purpose of employment. More specifically, the complaints indicate that more than a year has passed since the submission of the request, and that the competent ministry and the mentioned centers have not acted. The number of complaints indicating that the authorities and institutions did not effectively respond to all requests and submissions of citizens in the prescribed deadlines was also not lower.

The employees in the institutions of education also addressed the Protector of Citizens because of the impossibility of supplementing the norm of working hours, the termination of employment, reduction of the number of working hours, the establishment of an employment contract for a definite and indefinite time, irregularities in the procedures of competitions for the employment, initiation of disciplinary proceedings, fulfillment of the right to a jubilee award, and non-recognition of the coefficient of work after the subsequent completion of the studies. During the reporting period, a number of complaints have also been received indicating abuse at work.

This reporting period was also characterized by the absence of full control over the performance of entrusted tasks of educational inspection supervision. Bearing in mind the recommendations made, the Ministry informed the Protector of Citizens that due to the reduced number of educational inspectors of that body and the increased volume of work, it is physically impossible to achieve the expected scope of supervision of the work of the educational inspectors entrusted with the job.

Good cooperation between the Protector of Citizens and the Ministry of Education, Science and Technological Development, as well as the institutions of education and higher education institutions, has continued in this reporting period as well. Educational authorities and institutions respond to the requests of the Protector of Citizens in a timely manner and successfully provide the requested information, and the practice of resolving issues successfully and efficiently at joint meetings has continued, while the omissions are rectified by acting upon the recommendations of the Protector of Citizens in expedited oversight procedures. Also, during the process of creating the Draft Law on the Foundations of the Educational System and the Draft Law on Dual Education, the Protector of Citizens held a series of meetings

with representatives of the Ministry of Education, Science and Technological Development, where proposals were given for improving and amending the submitted draft laws.

At the same time, the Protector of Citizens issued an Opinion on the Draft Law on Higher Education¹²⁵ to the Ministry of Education, Science and Technological Development with the aim of improving the quality of education and achieving better realization of students' rights. The Ministry has adopted certain proposals by the Protector of Citizens, so the law now more fully provides accurate, timely and correct information for students and ensures respect for the personality, dignity, honor and reputation of students, as well as the right to freeze student rights and obligations in case the student needs to take special care of a child or is in the process of biomedicine-assisted fertilization. By introducing the latest changes, the Ministry acted in accordance with the views expressed in the Opinion of the Protector of Citizens¹²⁶.

Culture

In the area of protection of cultural rights, during the reporting period, the Protector of Citizens received a large number of complaints regarding the outdated conduct of the Public Radio Television of Serbia.

Sport

The highest number of complaints that the Protector of Citizens received during this reporting period in this area concerned the inappropriate conduct of sports inspectors, the illegal actions of sports associations, and the so-called "administrative silence". The Protector of Citizens welcomes the adoption of the Rulebook¹²⁷ that closely regulates certain issues regulated by the Law on Sport in order to facilitate its implementation in practice.

¹²⁵ Opinion available at: <http://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5411-ishlj-nj-z-sh-i-ni-gr-d-n-n-s-n-cr-z-n-vis-br-z-v-nju>.

¹²⁶ Opinion available at: <http://www.ombudsman.rs/index.php/2011-12-11-11-34-45/4614-2016-02-26-12-24-50>.

¹²⁷ Rulebook on the Contents and Manner of Maintaining Uniform Records of Associations and Organizations of Entrepreneurs in the Field of Sport, "Official Gazette of the RS", number 108/2017; Rulebook on Amendments to the Rulebook on Sports Industries and Sports Areas in the Republic of Serbia and Sports Disciplines within the Sports Industries and Sports Areas, "Official Gazette of the RS", number 84/2017 and the Rulebook on Submission of Reports on Approved and Implemented Programs and Projects which Meet the Needs and Interests of Citizens in the Field of Sports, "Official Gazette of the RS", number 73/2017; available at: <http://www.mos.gov.rs/public/>

PROPOSALS FOR IMPROVING THE POSITION OF CITIZENS IN RELATION TO ADMINISTRATIVE AUTHORITIES

- **Ministry of Labour, Employment, Veteran and Social Policy** and the **Tax Administration** should be more efficient in handling employee complaints and acting after finding out about possible violations of labor rights;
- **Ministry of Labour, Employment, Veteran and Social Policy** should ensure more efficient work of the labor inspection through various measures, including amending regulations;
- **Ministry of Labour, Employment, Veteran and Social Policy** in cooperation with the **Pension and Disability Insurance Fund** should prepare amendments to the existing normative framework in order to establish an effective mechanism for overcoming problems in exercising the rights from pension and disability insurance;
- **Ministry of Labour, Employment, Veteran and Social Policy** should prepare amendments to the Law on Pension and Disability Insurance related to more efficient data exchange between the Pension and Disability Insurance Fund and the Tax Administration;
- **Ministry of Labour, Employment, Veteran and Social Policy** should supervise the legality of the work and acts of the Pension and Disability Insurance Fund in relation to the recommendations made by the Protector of Citizens;
- **Ministry of Labour, Employment, Veteran and Social Policy** should, in cooperation with other bodies, take measures within its competence so that the number of employees in the social welfare institutions suits the needs of citizens and the scope of work in that area, and in order to improve the labor, legal and material status of workers in social protection;
- **Ministry of Labour, Employment, Veteran and Social Policy** should provide effective control over the work and acts of the Pension and Disability Insurance Fund, as well as to take all necessary measures in monitoring the conduct of that body according to the recommendations of the Protector of Citizens;
- **Ministry of Labour, Employment, Veteran and Social Policy** and the **Republic Institute for Social Protection** should provide various forms

of training and professional development for employees, especially given the the Protector of Citizens' earlier recommendations;¹²⁸

- **Ministry of Labour, Employment, Veteran and Social Policy** should take appropriate measures to prevent the possible abuses during the working engagement of beneficiaries of financial social assistance;
- **Ministry of Labour, Employment, Veteran and Social Policy** should ensure that social welfare institutions decide on social welfare rights promptly and timely and that the decisions they make are clear and justified;
- **Ministry of Education, Science and Technological Development** should ensure that all requests by citizens addressed to the Ministry, educational institutions and higher education institutions are answered effectively and within the legally prescribed deadlines.
- **Ministry of Education, Science and Technological Development** should ensure timely and effective conduct of educational inspectors;
- **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 the institutions of education;
- **Ministry of Education, Science and Technological Development** should continue with activities to establish a single National Qualifications Framework;
- **Ministry of Education, Science and Technological Development** should take all measures to improve the position of educational workers, the quality of education and the realization and protection of students' rights;
- **Ministry of Education, Science and Technological Development and higher education institutions** should take measures in order to effectively inform students about their rights and mechanisms of protection;
- **Ministry of Education, Science and Technological Development** should ensure that, according to citizens' requests for profession-

¹²⁸ Recommendations given by the Special Report on training for acquiring and improving knowledge and competencies for the prevention, suppression and protection of women against domestic violence and in partnership relations, available at: <http://www.zastitnik.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/4613-2016-02-26-10-48-42>.

al recognition of foreign higher education documents, decisions are made within the legally prescribed deadline;

- **Ministry of Education, Science and Technological Development** should undertake activities aimed at defining clear standards of professional recognition of foreign higher education documents in the field of law;
- **Ministry of Education, Science and Technological Development** should intensify activities to apply the principle of inclusive education at all levels of the educational process, including higher education;
- **Ministry of Education, Science and Technological Development** should take measures to ensure greater availability of secondary and higher education, vocational training, employment and self-employment of young people;
- **Ministry of Health** should consider the possibility for young people, as a particularly vulnerable population, to be provided with health insurance as members of the family of insured persons, that is, at the expense of the budget of the Republic of Serbia, when they can not be insured on other grounds;
- **Tax Administration, Pension and Disability Insurance Fund of the Republic of Serbia, National Health Insurance Fund and the Labour Inspectorate** should establish coordinated, effective, timely and efficient cooperation and prompt exchange of information concerning the rights of employees on the basis of their work, and especially their rights to social insurance;
- **Pension and Disability Insurance Fund** should continue to undertake activities aimed at improving work, making keeping of records more up-to-date and more efficient handling citizens' requests for exercising pension and disability insurance rights, while enhancing the mutual cooperation of the branch offices and making the cooperation with foreign funds more efficient;
- **Pension and Disability Insurance Fund** should issue a decision determining the obligation to pay outstanding debts in the name of contributions, only in cases where the legally prescribed conditions for that have been fulfilled;
- **Pension and Disability Insurance Fund** should determine and collect debts for unpaid contributions only in the cases prescribed by Article 63 of the Law on Mandatory Social Security Insurance Contributions;

- **Pension and Disability Insurance Fund** should ensure that all of its organizational units consistently apply the Instructions for dealing with obsolete rights for determining and collecting contributions;
- **Pension and Disability Insurance Fund** should, in all cases, ex officio, adopt an individual decision establishing a new way of making pension payments, according to the Law on Temporary Regulation of the Manner of Pension Payments.
- **Pension and Disability Insurance Fund** should abolish the practice of collecting the overpaid amounts of pensions that were incurred solely by the actions of the authority, as the methods of collecting the overpaid amounts make the already difficult position of the majority of pensioners even harder;
- **Pension and Disability Insurance Fund** should make a decision determining the obligation to pay outstanding debts in the name of contributions, only in cases when the conditions stipulated by law are fulfilled, that is, when determining the property of the insured person, while in other cases it should fully accept the certificates on the state of the citizens' debt for unpaid contributions that are issued by the competent authority – Tax Administration;
- **Public media institution Radio-television of Serbia** should make additional efforts to ensure that the decisions they make are clear and justified, and should act according to citizens' requests, within the prescribed deadlines;
- Competent authorities should intensify activities on suppression and prevention, and give support to young people in the fight against addiction and all forms of violence.

6. LEGAL FRAMEWORK AND THE SCOPE OF WORK OF THE PROTECTOR OF CITIZENS

6.1. 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.¹²⁹ The position of the institution is reinforced by the Constitution of the Republic of Serbia¹³⁰ 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 supervision of the National Assembly. In exercising supervision, the National Assembly is not authorized, the same as any other body, organization or individual, to influence the work and actions of the Protector of Citizens.¹³¹

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 Punishment¹³² 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 determines 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

¹²⁹ Law on the Protector of Citizens – hereinafter LoPoC, “Official Gazette of the RS”, no. 79/05 and 54/07.

¹³⁰ The Decision on the Proclamation of the Constitution of the Republic of Serbia was published in the “Official Gazette of the RS”, no. 83/06 and 98/06 (Part five – Governance, Section 5 “Protector of Citizens”, Article 138).

¹³¹ Article 2, paragraph 2 of the Law on the Protector of Citizens.

¹³² “Official Gazette of the RS – International agreements”, number 07/11.

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 Serbia¹³³, *inter alia*, prescribes the obligation of the newly elected convocation of the National Assembly to harmonize the law governing the 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 Punishment¹³⁴, 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 Assembly¹³⁵ 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 Forces¹³⁶ stipulates that the Protector of Citizens also executes democratic civilian oversight over the Army.

The Criminal Procedure Code¹³⁷ 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 appointed by the president of the court to inform the Protector of Citizens without delay of any irregularities observed during the visit to the institution.

¹³³ 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.

¹³⁴ "Official Gazette of the RS – International agreements", number 07/11.

¹³⁵ Article 15, "Official Gazette of the RS", number 09/10.

¹³⁶ 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 – state law.

¹³⁷ Art. 219 para. 3, 220, para. 2 and 222, para. 2 of the Criminal Procedure Code, "Official Gazette of the RS", no. 72/11, 101/11, 121/12, 32/13 and 45/13.

Law on the Enforcement of the Prison Sentence for Criminal Offences of Organised Crime¹³⁸ stipulates, inter alia, that the oversight over 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 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 Servants¹³⁹ 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.¹⁴⁰

The Law on Data Confidentiality¹⁴¹ prescribes in which cases the Protector of Citizens, as a public authority appointed by the National Assembly, is authorised to access data 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 Use of the Coat of Arms, Flag and Anthem of the Republic of Serbia¹⁴² 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 Bodies¹⁴³ 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 Parties¹⁴⁴ stipulates that the Protector of Citizens cannot be a member of a political party.

¹³⁸ Art. 35 para.2, 37, para.4. and 54, para 1 of the Law on the Enforcement of the Prison Sentence for Criminal Offences of Organised Crime, "Official Gazette of the RS", no. 72/09 and 101/10.

¹³⁹ Article 78, paragraph 2 of the Law on Civil Servants, "Official Gazette of the RS", no. 79/05, 81/05 – corrigendum., 83/05 – corrigendum, 64/07, 67/07 – corrigendum, 116/08 and 104/09.

¹⁴⁰ Article 16, paragraph 2 of the Law on the Amendments to the Law on Civil Servants, "Official Gazette of the RS", no. 99/2014.

¹⁴¹ The Law on Data Confidentiality, "Official Gazette of the RS", number 104/09,.

¹⁴² Art. 13 and 15 of the Law on the Use of the Coat of Arms, Flag and Anthem of the Republic of Serbia, "Official Gazette of the RS", number 36/09.

¹⁴³ Article 1 of the Law on the Seal of the State and Other Bodies, "Official Gazette of the RS", number 101/07.

¹⁴⁴ Article 21 of the Law on Political Parties, "Official Gazette of the RS", number 36/09.

The Law on the Anti-Corruption Agency¹⁴⁵ 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 Data Protection.

Law on Patients' Rights¹⁴⁶ stipulates that the Health Council, formed 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 Property¹⁴⁷, administrative authorities and organisations within the meaning of that Law are deemed to include the Protector of Citizens

The Law on Amendments to the Law on the Budget System¹⁴⁸ 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 Sector¹⁴⁹ 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 Procedure¹⁵⁰ which came into force on 1 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

¹⁴⁵ 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.

¹⁴⁶ Article 42, "Official Gazette of the RS", number 45/13.

¹⁴⁷ Article 47 paragraph 1 of the Law on Public Property, "Official Gazette of the RS", no. 72/11 and 88/13.

¹⁴⁸ "Official Gazette of the RS", no. 54/09, 73/10, 101/10, 101/11, 93/12, 62/13, 63/13 – corrigendum and 108/13.

¹⁴⁹ Article 5, "Official Gazette of the RS", number 68/15.

¹⁵⁰ Article 185, "Official Gazette of the RS", no. 18/2016.

of the decision at the recommendation of the Protector of Citizens is not limited by a deadline.

Action Plan for Chapter 23¹⁵¹ defines the reports of the Protector of Citizens, annual and special, as well as reports of the National Mechanism for the Prevention of Torture, 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 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 Work Places 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 Serbia¹⁵², National Anti-Corruption Strategy in the Republic of Serbia for the Period 2013-2018¹⁵³, Public Administration Reform Strategy of the Republic of Serbia¹⁵⁴, Strategy for Improving the Status of Roma in the Republic of Serbia¹⁵⁵, Strategy for Prevention and Protection against Discrimination¹⁵⁶, 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 Convention¹⁵⁷, the Penal Sanctions Enforcement System Development

¹⁵¹ Conclusion of the Government 05 Number: 337-11484/2015, dated 23 November 2015.

¹⁵² “Official Gazette of the RS”, number 88/09.

¹⁵³ Chapter 4, Goal 4.8, “Official Gazette of the RS”, number 57/13.

¹⁵⁴ “Official Gazette of the RS”, number 09/14.

¹⁵⁵ “Official Gazette of the RS”, number 27/09.

¹⁵⁶ “Official Gazette of the RS”, number 60/13.

¹⁵⁷ “Official Gazette of the RS”, number 103/11.

Strategy in the Republic of Serbia by 2020¹⁵⁸, National Youth Strategy¹⁵⁹, National Strategy for the Prevention and Protection of Children from Violence¹⁶⁰, the Action Plan on Implementation of the Recommendations contained in the 2013 Serbia Progress Report of the European Commission, the Action Plan for the Implementing the Strategy on Implementation of the Aarhus Convention¹⁶¹, the Action Plan for Implementing the National Sustainable Development Strategy for the Period 2011-2017¹⁶², the 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 2017-2018¹⁶³ 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 Assembly¹⁶⁴, the Government's Rules of Procedure of¹⁶⁵, Decision on the Formation and Operation of the Secretariat of the Protector of Citizens¹⁶⁶, Decision on the Formation of Local Offices in Preševo, Bujanovac and Medveđa¹⁶⁷, Decree on the implementation of internal and public competition procedures for filling vacancies in state bodies¹⁶⁸, A special collective agreement for state authorities¹⁶⁹, Rules on the management in public prosecutor's offices¹⁷⁰, Rulebook on the House Rules of the Penitentiary-Correctional Institutions and District Prisons¹⁷¹, Rulebook on the House Rules of Juvenile Correctional Facilities¹⁷², etc.

The Protector of Citizens adheres in his work to the principles and standards adopted between ombudsmen and national human rights institutions,

¹⁵⁸ "Official Gazette of the RS", number 114/13.

¹⁵⁹ "Official Gazette of the RS", number 55/08.

¹⁶⁰ "Official Gazette of the RS", number 122/08.

¹⁶¹ "Official Gazette of the RS", number 103/11.

¹⁶² "Official Gazette of the RS", number 62/11.

¹⁶³ The Government of the Republic of Serbia adopted the Action Plan at its session held on 7 June 2017

¹⁶⁴ Article 150 of the Rules of Procedure of the National Assembly, "Official Gazette of the RS", no. 52/10 and 13/11 and 20/12 – officially consolidated text.

¹⁶⁵ Art. 39a and 46. of the Rules of Procedure of the National Assembly, "Official Gazette of the RS", no. 61/2006 – consolidated text, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13 and 76/14.

¹⁶⁶ Article 150 "Official Gazette of the RS", no. 52/10 and 13/11 and 20/12 – officially consolidated text.

¹⁶⁷ "Official Gazette of the RS", number 91/09.

¹⁶⁸ "Official Gazette of the RS", no. 41/07 – consolidated text and 109/09.

¹⁶⁹ Article 1, "Official Gazette of the RS", no. 23/98, 11/09 and 15/12 – agreement.

¹⁷⁰ Article 60, paragraph 1, "Official Gazette of the RS", no. 110/09, 87/10 and 5/12.

¹⁷¹ "Official Gazette of the RS", no. 72/10 and 06/12.

¹⁷² "Official Gazette of the RS", number 71/06.

including, the “Belgrade Principles on the Relationship between the National Human Rights Institutions and Parliaments”¹⁷³ and the “Ljubljana Conclusions on the Relationship between the Ombudsman and the Judicial Bodies”.

The Constitution and the Law on the Protector of Citizens¹⁷⁴ reflect the majority of the standards contained in the key international documents which regulate and/or promote and propose standards for ombudsmen and national human rights institutions. The Protector of Citizens is accredited with the 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.¹⁷⁵

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 General,¹⁷⁶ as well as the United Nations General Assembly Resolution¹⁷⁷ 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.¹⁷⁸

The Council of Europe in its Recommendation 1615 from 2003, adopted by the Parliamentary Assembly, “concludes that some characteristics are

¹⁷³ Available at: http://www.ombudsman.rs/attachments/2181_Beogradski%20principi.pdf

¹⁷⁴ 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>; 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).

¹⁷⁵ 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.

¹⁷⁶ Available at: https://digitallibrary.un.org/record/1301905/files/A_72_230-EN.pdf

¹⁷⁷ Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/72/186

¹⁷⁸ Resolution 48/134 containing the Paris Principles available at: <http://www.un.org/documents/ga/res/48/a48r134.htm>.

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."¹⁷⁹ 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."¹⁸⁰ In light of the economic crisis, "the Assembly calls on member states to make maximum efforts to avoid budget cuts that would lead to the loss of independence of the Ombudsman institutions."¹⁸¹ 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 possible¹⁸².

¹⁷⁹ 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>.

¹⁸⁰ The Resolution in Serbian and English is available on the website of the Ombudsman: <http://www.zastitnik.rs/index.php/lang-sr/2011-12-25-10-17-15/3057-2013-10-25-10-34-49..>

¹⁸¹ The same.

¹⁸² 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).

THE NEED TO AMEND THE LAW 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 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 position of the institution.

In this regard, the experts of SIGMA¹⁸³ and TAIEX¹⁸⁴ 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 Citizens¹⁸⁵, as one of his priorities, outlined the work on amendments to the Law on the Protector of Citizens.

¹⁸³ More details at: <http://www.sigmaweb.org>.

¹⁸⁴ Special Department within the Directorate-General for enlargement of the European Commission— Bureau for Technical Assistance and Information Exchange

¹⁸⁵ MSc Zoran Pašalić was elected as the Protector of Citizens on 20 July 2017.

6.2. 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 law¹⁸⁶. 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 authorities¹⁸⁷ and organizations to which public powers have been delegated (hereinafter—public authorities and organizations¹⁸⁸). 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, control 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 controls 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 organisations, enterprises and institutions which have been delegated public authority (public authorities and organisations) The Protector of Citizens, according to the provisions of the Constitution and the Law, out of all bodies and organizations of public authorities and organizations, is not authorized to control 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.¹⁸⁹

¹⁸⁶ Article 2, paragraph 2 of the LoPoC.

¹⁸⁷ Article 17, paragraph 2 of the LoPoC.

¹⁸⁸ 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 organisations”. will be used for entities subject to control by the Protector of Citizens, as their circle is defined by the Constitution and the Law.

¹⁸⁹ Article 38, paragraph 2 of the RS Constitution, Article 17, paragraph 3 of the Law on the Protector of Citizens.

The Protector of Citizens, with the appropriate personal security clearance certificate, is guaranteed access to data of all levels of confidentiality, which are necessary for the performance of tasks from his/her competence.¹⁹⁰

In addition to the right to launch and conduct the investigations of controlling the work public authorities and organizations, the Protector of Citizens may also act pre-emptively by providing good services, mediating between citizens and administrative bodies and giving advice and opinions on 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 pre-emptively 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 exempt from excessive formalities, the Protector of Citizens controls 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

¹⁹⁰ Article 38, para. 1 and 2 of the Law on Data Confidentiality, "Official Gazette of the RS", number 104/09.

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 a 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 instruments 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 (controls) 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 Data 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 authorised 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.

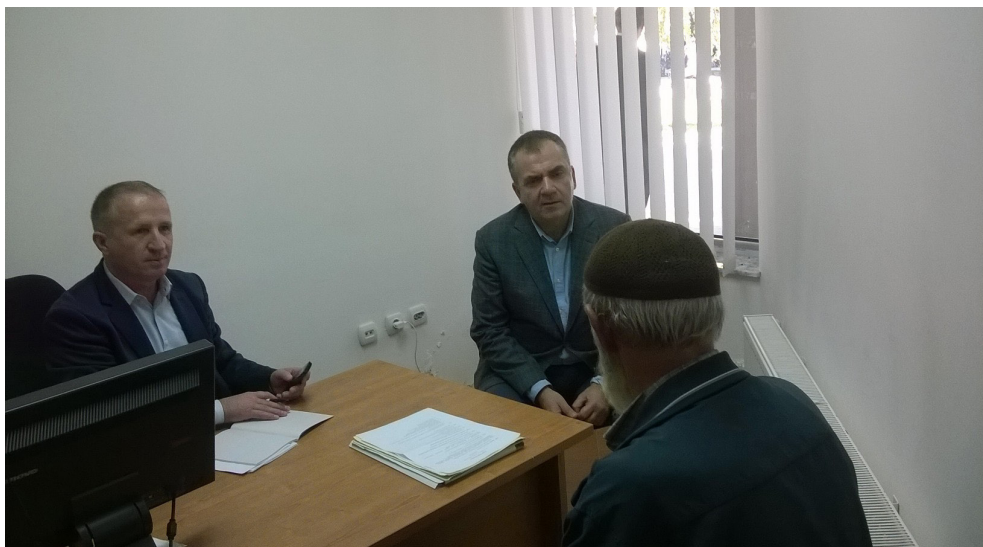
Under the Law on the Protector of Citizens, Ombudsmen of the Autonomous Province, that is, the local self-government units are required to receive complaints from citizens, even if they fall under the competence of the Protector of Citizens, and to forward such complaints without delay to the Protector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

Work outside the head office

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.

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 control, preventive and educational activities, the Protector of Citizens and employees in his professional service 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.



**Picture 10 – Conversation of Protector of Citizens Zoran Pašalić, MSc,
with citizens in Bujanovac**

7. COOPERATION BY THE PROTECTOR OF CITIZENS

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

In the past three years, the National Assembly has not reviewed the Annual Report of the Protector of Citizens, contrary to the provisions of Article 58 of the Law on the National Assembly and the provisions of Art. 238 and 239 of the Rules of Procedure of the National Assembly.¹⁹¹

In July 2017, the Constitutional Affairs and Legislation Committee considered the proposals of parliamentary groups for electing a new Protector of Citizens and forwarded its proposal to the National Assembly for consideration and adoption at the plenum. The new Protector of Citizens was appointed on 20 July 2017.

The Protector of Citizens records the cooperation with the Committee on Labor, Social Issues, Social Inclusion and Poverty Reduction, with which he discussed the issue of the current situation in the care of asylum seekers – migrants. Cooperation was also established with the Committee on Human and Minority Rights and Gender Equality and the Committee on European Integration when presenting the United Nations Development Program Report on the topic “Being LGBTI in Serbia”, in the preparation of which the Protector of Citizens participated.

The Protector of Citizens also noted the absence of cooperation with the Committee on the Rights of the Child in 2017.

The Committee on Administrative, Budgetary, Mandate and Immunity Issues approved to the Protector of Citizens the required number of employees for an indefinite period of time in the Secretariat of the Protector of Citizens for 2017, in accordance with the Law on the Method of determining the

¹⁹¹ “Official Gazette of the RS”, number 20/12 – consolidated text.

Maximum Number of Employees in the Public Sector,¹⁹² in accordance with the Rulebook on Internal Organization and Systematization of Work Places in the Secretariat of the Protector of Citizens.

In the reporting period, the Protector of citizens also issued initiatives to the competent authorities for amending the laws and other regulations within his competence¹⁹³. The Protector of Citizens also submitted numerous opinions to the competent authorities on the draft regulations in the process of their preparation, in accordance with the Law on the Protector of Citizens.¹⁹⁴¹⁹⁵

¹⁹² Article 5 of the Law on Determining the Maximum Number of Employees in the Public Sector, "Official Gazette of the RS", number 68/15, 81/16 – decision of the Constitutional Court

¹⁹³ Article 18, para. 2 of the Law on the Protector of Citizens, "Official Gazette of the RS" no. 79/2005 and 54/07

¹⁹⁴ Article 18, para. 4 of the Law on the Protector of Citizens, "Official Gazette of the RS" no. 79/2005 and 54/07

¹⁹⁵ More data in the part of the Annual Report: Basic statistical data

7.2. INTERNATIONAL COOPERATION AND PROJECTS

In 2017, the Protector of Citizens cooperated with the United Nations treaty bodies in the area of human rights. He sent an independent report to the UN Human Rights Committee on the implementation of the International Covenant on Civil and Political Rights in Serbia. An independent report was also submitted to the UN Committee on the Elimination of Racial Discrimination, as well as a report on the third cycle of the Universal Periodic Review performed under the auspices of the UN Human Rights Council.¹⁹⁶ The Protector of Citizens issued responses to various questionnaires to the Office of the High Commissioner for Human Rights of the United Nations (OHCHR) and continued to cooperate with the United Nations special procedures.

Also, the Protector of Citizens continuously participates in the reports of the Republic of Serbia regarding the accession to the European Union.

The Protector of Citizens maintains intensive international cooperation on a multilateral and bilateral level, with representatives of the European Union, the Organization for Security and Co-operation in Europe, the United Nations, the Council of Europe and other international officials, as well as with ombudsmen from the region. Cooperation with regional and European international organizations and institutions, as well as their specialized bodies, has been further strengthened. The Protector of Citizens is a member of several professional networks: Global Alliance of National Human Rights Institutions, European Network of National Human Rights Institutions, International Ombudsman Institute, Association of Mediterranean Ombudsmen, European Ombudsman Institution, European Ombudsman Network, European Network of Ombudspersons for Children, Children's Rights Ombudsmen Network in South-East Europe and the Ombudsman Network for Environmental Protection. The Deputy Protector of Citizens for children's rights was elected in 2017 as a member of the Bureau of the European Network of Ombudspersons for Children, the main governing body of this organization.

¹⁹⁶ Universal Periodic Review is a specific mechanism of the United Nations for human rights, in which member states refer to one another recommendations for the promotion of the realization of human rights.



Picture 11 – Meeting between Protector of Citizens Zoran Pašalić, MSc, and UNICEF Representative in Serbia Michel Saint-Lot

PROJECTS

At the end of 2017, the Protector of Citizens issued a special report on the reproductive health of Roma women with recommendations for improvement, to the competent authorities. The report was based on the data on availability of adequate health care for Roma women, which this institution collected, in cooperation with the Roma Women's Center Bibija, and with the financial support of the United Nations Population Fund (UNFPA), during visits to Roma settlements throughout Serbia, focus group meetings with the Roma women and interviews with relevant stakeholders at a national and local level.

In 2017, the Protector of Citizens also achieved intensive cooperation with the OSCE Mission to Serbia (Organization for European Security and Cooperation). Special attention was paid to the promotion of gender equality at the local level and to the promotion of the rights of persons belonging to national minorities. As part of the gender equality component, five intersectorial round tables were held on the protection of women against domestic violence and partnership relations, and a survey was also conducted on the functioning of local mechanisms for gender equality and representation of women in units

of local self-government. The collected data will be an integral part of the Special Report of the Protector of Citizens to be published in 2018. Within the component of the promotion of rights of members of national minorities, the Protector of Citizens carried out a series of activities aimed at strengthening the capacity and role of councils for inter-ethnic relations and improving the realization of the rights of the Albanian national minority to the official use of spoken and written language. On the basis of the collected data, a special report of this institution was made and published on the councils for inter-ethnic relations with recommendations for improvement, which was submitted to the competent authorities. A special report on the official use of the Albanian language and letter will be published in the first quarter of 2018.



Picture 12 – Presentation of Protector of Citizens' special report on National Minority Councils

The project for enhancing cooperation between the Protector of Citizens and the civil sector has entered the last year of implementation. In 2017, civil society organizations and scientific research organizations dealing with the promotion of human rights made and submitted to the Protector of Citizens a number of expert analyses in the areas of the rights of persons deprived of their liberty and especially vulnerable groups, public administration reform, defense and internal affairs and children's rights and education. These analyses allow insight into the views of the professional community and represent an important element in the preparation of legislative initiatives of the Protector of Citizens. The project is funded by the Swiss Agency for Development and Cooperation.

7.3. COOPERATION OF THE PROTECTOR OF CITIZENS WITH CIVIL SOCIETY ORGANIZATIONS

The Protector of Citizens emphasizes the continuous good cooperation with civil society organizations that have, since this independent body started working, given full support to its establishment, development and improvement of the framework of activities.

The Protector of Citizens records joint activities with civil society organizations through projects, participation in conferences and round tables of civil society organizations and the proposals for improving the protection of human rights in various fields of work of the Protector of Citizens.

After the election of a new Protector of Citizens in July 2017, meetings were held with representatives of non-governmental organizations dealing with the protection and promotion of human rights and he expressed the belief that the cooperation will continue successfully. The Protector of Citizens called on civil society organizations to contribute to the amendments of the Law on the Protector of Citizens in order to further strengthen the independence of this institution and its capacities for the promotion and protection of citizens' rights.

7.4. PROTECTOR OF CITIZENS IN THE MEDIA

In 2017, the media continued with topics of great interest related to the work of the Protector of Citizens. First of all, they carefully monitored the election of a new Protector of Citizens, and after his appointment, they were interested in how the new Protector of Citizens would take on the new function. Also, the media reported on the activities of this independent state body in the form of news or communicated statements with the views of the institution regarding the current social developments in the country. Most of the texts were posted in an informative and neutral way, and the announcements of the institution were in a large measure transmitted in a positive context.

As far as the printed media are concerned, 712 articles of different genres were published in the analyzed 12 daily and weekly newspapers. As in previous years, most of the articles were published in the daily Danas, then in Blic, Kurir and Dnevnik. Eighteen comments on the work of the Protector of Citizens were published in the press, mostly in the newspapers Danas and Blic. The newspapers published ten interviews with the protector of citizens and his deputies, and they also provided space for three authorial texts on their pages.

There were twelve visits to televisions with national coverage, mostly on TV N1 and RTS. In electronic media, 460 reports were published, and they were mostly broadcast by the Public Service of Serbia (RTS), Television N1, TV Pink and O2 (B92).

Chart 11 – Number of announcements in daily papers

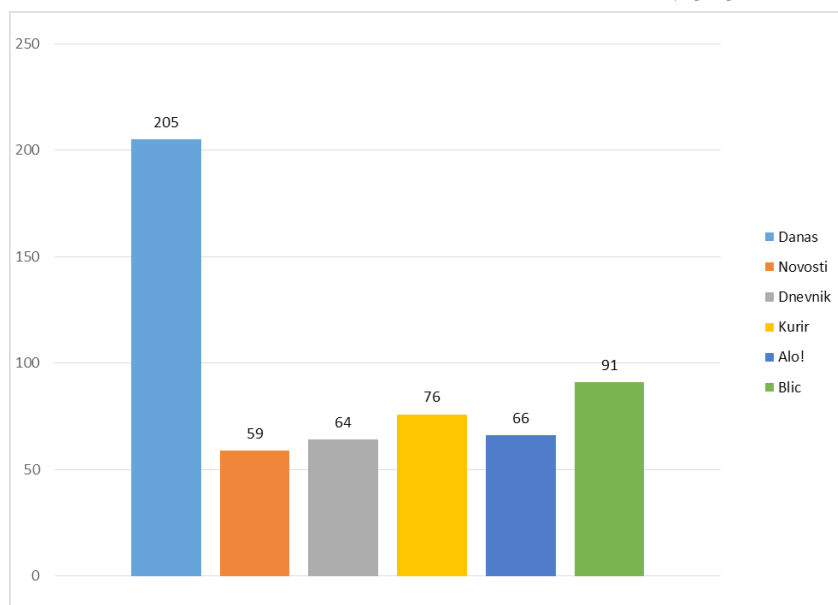
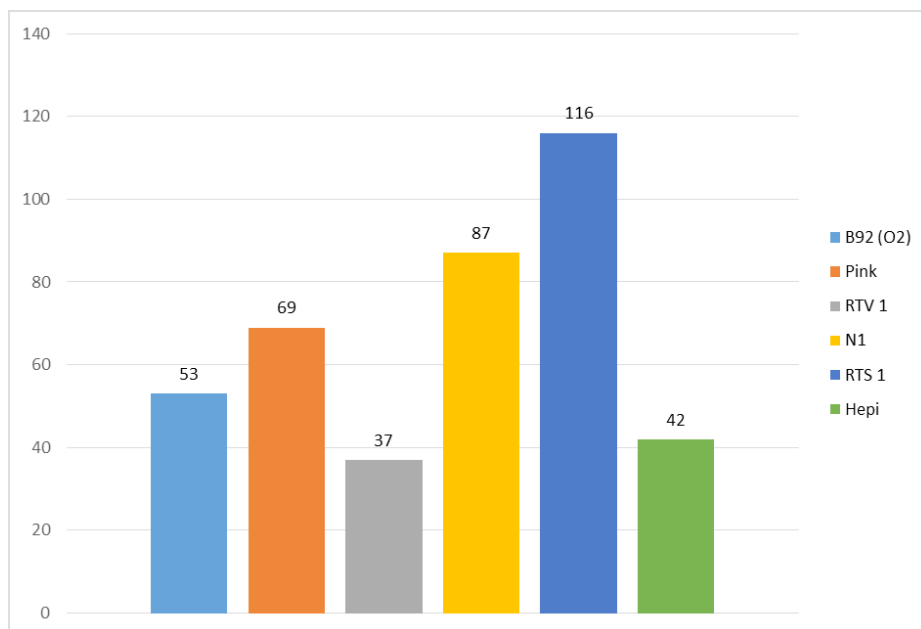


Chart 12 – Number of television reports



ANNEX I – HUMAN AND MATERIAL RESOURCES

For performing professional and administrative tasks within the competence of the Protector of Citizens, by Decision on Establishment and Work of the Secretariat of the Protector of Citizens ("Official Gazette of the Republic of Serbia", No. 105/2007 dated 13 November 2007), pursuant to Article 38, paragraph 1 of the Law on the Protector of Citizens ("Official Gazette of the Republic of Serbia", no. 79/2005 and 54/2007), the Secretariat of the Protector of Citizens was created.

By decision of the National Assembly of the Republic of Serbia RS number 49 dated 16 November 2015 ("Official Gazette of the RS" number 94/2015), consent was given to the Rulebook on Internal Organization and Systematization of Work Places in the Secretariat of the Protector of Citizens number 48-709/2014 dated 22 October 2014, issued by the Protector of Citizens. The Rulebook on Internal Organization and Systematization of Work Places in the Secretariat of the Protector of Citizens envisages a total of 76 systematized job positions, with a total of 106 employees, out of which there are 6 civil servants in office positions, 95 in executive positions (4 civil servants working on the affairs of the NPM) and 5 employees whose positions consist of supporting auxiliary technical tasks.

On 31 December 2017, there were a total of 95 employees in the Secretariat of the Protector of Citizens: 6 civil servants in office, 84 civil servants in executive positions (out of which 6 civil servants were employed on a temporary basis due to the increased workload) and 5 employees.

Out of the total number of employees in the Professional Service, 78 performs tasks with high and 17 with secondary education, 73 are women and 22 men.

By the decision of the Committee on Administrative, Budgetary, Mandate and Immunity Issues of the National Assembly of the Republic of Serbia, number 21 112-147/17, dated 10 May 2017, it was established that the maximum number of employees for an indefinite period of time in the Secretariat of the Protector of Citizens in the calendar year 2017 is 106, and that, within the maximum number of employees, the Protector of Citizens may have a number of employees for an indefinite period of time for which he has a guaranteed mass of funds for payment of salaries determined by the Law on the Budget of the Republic of Serbia for 2017.

Within the EU accession process and meeting the recommendations made by the European Commission to the Republic of Serbia, the Government of the Republic of Serbia adopted the Action Plan for negotiating Chapter 23 on 27 April 2016. The Action Plan contains recommendations related to strengthening the capacity of the Protector of Citizens to the level necessary for performance of duties from his competence in full capacity (recommendation 3.2.1.).

ANNEX II – FINANCIAL STATEMENT

According to the Law on the Budget of the Republic of Serbia for 2017, the Protector of Citizens received funds in the amount of RSD 215,998,000.00 for 2017, which represented an increase of 10.31% compared to RSD 209,447,000 of secured funds in 2016.

In 2017, the Protector of Citizens spent a total of RSD 170,396,899.49, or 78.89% of the provided budget funds (a percentage increase in the consumption of budget funds by 10.20% in relation to consumption in 2016), by spending a total of RSD 154,621, 240.66. The stated realization of the budget was the result of the fact that in 2017 there was no filling of vacancies on the basis of the staffing plan for 2017.

The funds envisaged by the budget were used to finance regular activities of the Protector of Citizens in accordance with the financial plan.

Table 34 – Realization of the budget for 2017

Account position	Description	Allocated	Spent	%
411	Salaries, allowances, fees			
411111	Salaries based on labor costs		97,505,021.81	66.10
411112	Supplement for overtime work		2,031,764.87	1.38
411113	Supplement for work on national and religious holidays		14,928.71	0.01
411115	Supplement for time spent at work (years of service)		4,957,976.18	3.36
411117	Sick leave up to 30 days		1,531,558.38	1.04
411118	Salary compensation for absence from work-vacation, paid leave		8,649,461.26	5.86
411119	Other supplements and employee benefits		3,301,437.02	2.24
Total 411		147,502,000.00	117,992,148.23	79.99

Account position	Description	Allocated	Spent	%
412	Contributions			
412111	Contributions for the Pension and Disability Insurance Fund		13,322,443.44	55.48
412211	Health insurance contributions		5,693,775.48	23.71
412311	Contribution for unemployment		829,190.67	3.45
Total 412		24,012,000.00	19,845,409.59	82.65
413	In-kind reimbursements			
413000	In-kind reimbursements		187,313.00	86.72
Total 413		216,000.00	187,313.00	86.72
414	Social benefits for employees			
414111	Maternity leave		1,305,837.10	52.21
414121	Sick leave over 30 days		-0.05	0.00
414314	Assistance in case of death of an employee or an immediate family member		64,162.00	2.57
414411	Assistance in the medical treatment of an employee or a close family member		375,417.22	15.01
414419	Other assistance to employees		262,166.67	10.48
Total 414		2,501,000.00	2,007,582.94	80.27
415	Employee compensations			
415112	Compensation for transportation to and from work		3,224,509.99	72.54
Total 415		4,445,000.00	3,224,509.99	72.54
416	Employee awards and other special expenses			
416111	Jubilee awards		366,780.27	91.70
Total 416		400,000.00	366,780.27	91.70

Account position	Description	Allocated	Spent	%
421	Fixed costs			
421121	Banking services costs		22,708.74	0.50
421211	Electricity services		18,625.53	0.41
421225	Central heating		102,370.84	2.27
421323	Asset protection services		459,543.48	10.21
421325	Cleaning services		28,800.00	0.64
421411	Telephone, telex and fax		569,029.13	12.65
421412	Internet, etc.		224,187.56	4.98
421414	Mobile phone services (mobile phones, the Internet)		1,325,443.23	29.45
421422	Delivery services		810,452.00	18.01
421512	Vehicle insurance		254,739.00	5.66
421513	Equipment insurance		37,600.00	0.84
421521	Insurance of employees in the event of an accident at work		149,150.00	3.31
421621	Lease of traffic equipment		65,899.00	1.46
421622	Lease of administrative equipment		306,000.00	6.80
421911	Radio-television subscription		10,000.00	0.22
Total 421		4,500,000.00	4,384,548.51	97.43
422	Travel expenses			
422111	Costs of daily allowances for business trips		40,500.00	0.68
422121	Transportation costs for business trips within the country		95,994.29	1.60
422131	Accommodation costs for business trips		135,846.00	2.26
422199	Other expenses for business trips in the country		139,664.00	2.33

Account position	Description	Allocated	Spent	%
422211	Costs of daily allowances for business trips abroad		244,241.32	4.07
422221	Transportation costs for business trips abroad		563,039.00	9.38
422231	Accommodation costs for business trips abroad		601,097.23	10.02
422291	Public transport services		2,111.88	0.04
422299	Other expenses for business trips abroad		32,349.75	0.54
Total 422		6,000,000.00	1,854,843.47	30.91
422 NPM				
422111	Costs of daily allowances for business trips		11,550.00	0.56
422131	Accommodation costs for business trips		869,039.00	42.29
422199	Other expenses for business trips in the country		210.00	0.01
422211	Costs of daily allowances for business trips abroad		75,436.08	3.67
422221	Transportation costs for business trips abroad		589,228.00	26.67
422231	Accommodation costs for business trips abroad		143,422.37	6.98
422299	Other expenses for business trips abroad		19,641.27	0.96
Total 422 NPM		2,055,000.00	1,708,526.72	83.14
Account position	Description	Approved	Realized	%
423	Contract services			
423111	Translation services		1,032,073.98	9.91
423212	Software maintenance services		135,494.00	1.30

Account position	Description	Allocated	Spent	%
423221	Computer maintenance services		300,130.83	2.88
423291	Other computer services		222,828.77	2.14
423311	Education and training of employees services		143,601.24	1.38
423321	Registration fee for seminars		1,000.00	0.01
423391	Expenses for professional exams		126,000.00	1.21
423399	Other expenses for vocational education		15,000.00	0.14
423413	Services of printing publications		450,621.60	4.33
423419	Other printing services		563,284.00	5.41
423449	Other media services		300,600.00	2.89
423432	Publication of tenders and informative advertisements		4,504.50	0.04
423531	Expert services		19,862.00	0.19
423542	Other financial services		94,936.71	0.91
423599	Other professional services (<i>engagement of external associates, experts</i>)		2,096,651.85	20.14
423621	Catering services (<i>organization of conferences, round tables, meetings</i>)		1,090,499.26	10.48
423711	Representation (<i>organization of conferences, round tables, meetings</i>)		713,909.96	6.39
423712	Gifts		16,530.00	0.16
423911	Other general services		446,093.72	4.29
Total 423		10,410,000.00	7,773,622.42	74.67

Account position	Description	Allocated	Spent	%
423 NPM				
423111	Translation services		515,071.69	20.60
423413	Services of printing publications		62,535.00	2.50
423531	Expert services		226,906.00	9.08
423621	Catering services		779,269.95	31.17
423911	Other general services		23,315.34	0.93
Total 423 NPM		2,500,000.00	1,607,097.98	64.28
425	Repairs and maintenance			
425211	Mechanical repairs		4,500.00	0.50
425219	Other repairs and maintenance of traffic equipment		121,456.00	13.50
425229	Other repairs and maintenance of administrative equipment		66,708.60	7.41
425291	Current repairs and maintenance of production, motor, immovable and non-motor equipment		3,000.00	0.33
Total 425		900,000.00	195,664.60	21.74
426	Material			
426111	Office material		1,359,278.81	23.85
426311	Professional literature for regular staff needs		564,704.90	9.91
426312	Professional literature for the education of employees		218,673.50	3.84
426411	Petrol		2,551,597.26	44.76
426412	Diesel fuel		150,000.00	2.63
426413	Oils and lubricants		1,440.00	0.03

Account position	Description	Allocated	Spent	%
426491	Other materials for transportation vehicles		15,170.00	0.27
426819	Other materials for maintaining hygiene		80,016.00	1.40
426912	Spare parts		188,760.00	3.31
426919	Other material for special purposes		6,745.00	0.12
Total 426		5,700,000.00	5,136,385.47	90.11
462	Grants to international organizations			
462121	Current grants for international membership fees		1,412,872.76	78.49
Total 462		1,800,000.00	1,412,872.76	78.49
482	Taxes, mandatory fees, fines and penalties			
Total 482		300,000.00	0.00	0.00
485	Compensation for injury or damage caused by state authorities			
Total 485		50,000.00	0.00	0.00
512	Machines and equipment			
5122221	Computer equipment		2,549,593.54	99.71
Total 512		2,557,000.00	2,549,593.54	99.71
512 NPM	Machines and equipment			
512221	Computer equipment		150,000.00	100
Total 512 NPM		150,000.00	150,000.00	100
TOTAL		215,998,000.00	170,396,899.49	78.89

CIP – Каталогизација у публикацији
Народна библиотека Србије, Београд