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REGULAR ANNUAL REPORT
OF THE PROTECTOR OF CITIZENS
FOR 2020

Belgrade, 15th March, 2021

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1. INTRODUCTION

1.1. FOREWORD

Respectable Representatives of the National Assembly,

Pursuant to Article 33 Paragraph 1 of the Law on the Protector of Citizens I hereby submit for the review the Regular Annual Report of the Protector of Citizens for 2020.

The reporting year was marked by the pandemic of COVID-19 infective disease which altered the lives of all citizens in economic, social and existential sense, but also in the sense of the exercise of human rights. The pandemic imposed worldwide, and therefore in the Republic of Serbia, the situation which requested measures of protection which limited in certain segments and for certain time period individual human rights.

In newly emerged life circumstances, which due to changeable epidemiologic situation have remained to the present time as well, the Protector of Citizens aimed all its capacities at urgent and direct assistance to citizens so that they could exercise their guaranteed rights to the greatest possible extent. The general assessment of the state of human rights in 2020 in the Republic of Serbia is that the state from the beginning of the year was significantly improved until the end of the reporting year.

The exclusive orientation of the Protector of Citizens towards the exercise of citizen rights in this difficult situation resulted in the increase of the citizen trust in this institution which recorded in 2020 the increase of contacts by more than 67 percent in comparison to 2019. During the reporting year the greatest number of complaints referred to the exercise of rights of members of vulnerable groups: children, the youth, women, domestic violence victims, chronically ill patients, persons with disabilities and the elderly, persons deprived of their liberty, LGBTI population and national minority members, primarily the Roma.

Diligent and hard work during entire year had an impact on great increase of trust of citizens in the institution I manage, which was confirmed by two separate surveys of public opinion. The first one, conducted immediately upon the termination of the state of emergency in May 2020, showed that citizens had most trust in the Protector of Citizens with regards to the protection of their rights¹, while the second research conducted in December of the same year showed that the Protector of Citizens is the institution which the citizens would contact first².

Despite altered conditions of work within which I temporarily suspended the practice of reception of citizens at the seat of institution, the Protector of Citizens was contacted in 2020 by 18,165 citizens which is by 67 percent more than in the previous year when 10,862 of them did so. Of the total number, due to the measures for the prevention of spreading of COVID-19 infectious disease, telephone conversations were made with 11,467 citizens, whereas in the periods of more favorable epidemiologic situation, 1,642 citizens were received in the seat of the institution and offices for Bujanovac, Preševo and Medveđa.

In 2020 the Protector of Citizens received 5,056 complaints, which is an increase by approximately 54 percent in comparison to 2019 and the work was completed in 4,015 cases.

¹ Available at: <https://tritacke.org/srp/page/istrazivanje>.

² Available at: <http://www.bgcentar.org.rs/predstavljeno-istrazivanje-ljudska-prava-u-ocima-gradana-i-gradanki-srbije/>.

The greatest number of citizen complaints referred to the work of executive authorities, ministries to be more precise – almost 21 percent. Apart from regular actions upon complaints and own initiative, the Protector of Citizens completed in 2020 the work on numerous actions from previous years, as well and of almost 2,000 cases from previous years, the work was completed in 1,441 of them. By comparison, unlike 2019, the number of handled cases from 2020 and previous years was increased by 33.52 percent while the number of completed cases increased by 7.48 percent.

Even though the Protector of Citizens is getting more recognized as the institution which they may contact both directly in the immediate conversation with the Protector of Citizens, Deputies of the Protector of Citizens and employees in the Secretariat of the Protector of Citizens, citizens are still not sufficiently familiar with the competences of this institution, which is evidenced by the percentage of inadmissible complaints in 2020, most frequently due to incompetence or failure to use legal remedies, which amount to approximately 63 percent. Nevertheless, in cases of complaints inadmissible due to incompetence or failure to use available legal remedies, as well, the Protector of Citizens provides complainants with counselling and legal assistance, which was done in almost 79 percent of inadmissible cases in the reporting year.

The Protector of Citizens in 2020, marked by altered and limited work possibilities due to epidemiologic situation, completed almost 80 percent of cases, which in comparison to the number of received cases in 2019 is the increase by nearly 12 percent and issued almost by 15 percent more recommendations than a year earlier. The greatest number of recommendation (45 percent) referred to the administration department, child rights (28.96 percent) and gender equality (8.6 percent) as well as to the national minority rights (6.79 percent).

We submitted to competent ministries and National Assembly of the Republic of Serbia during the reporting year several opinions and legislative initiatives for amendments to the law and other acts, starting with the opinion to the Proposal of the strategy for prevention and protection of children from violence for the period from 2020 to 2023, Opinion to the execution of the draft of the law which would enable legal regulation of same-sex relationships, as well as the Opinion to the amendment to the provisions of the Law on Financial Support to Families with Children, legislative initiatives for the amendment to the Law on the Rights of Veteran, Military Invalids and Civilian Invalids of War and members of their families and other.

The Protector of Citizens reacted at the beginning of epidemiologic crisis when all forms of international transportation were suspended, so that, owing to bilateral contacts with ombudsmen of other countries, it would contribute to the return of our citizens from abroad to the Republic of Serbia. During the state of emergency, we initiated several alterations of regulations after which it was allowed to children and parents of children with autism to move unimpededly during the prohibition of movement, as well as to children and the parent with whom the child does not live to keep personal relations.

Furthermore, after the initiative of the Protector of Citizens persons who take care of the elderly, immobile persons and persons with disability were allowed to move during the prohibition of movement, the movement was allowed to the victims of violence at the time of the prohibition of movement for the purpose of the protection against violence, and the procedure of providing information to families on the health condition of the patients ill with COVID-19 infectious disease who were accommodated at the Clinical Center Niš was altered.

During almost two months of the state of emergency, the Protector of Citizens intensified the monitoring in the area, extended the working hours to all seven days of the week and introduced five new telephone lines where citizens could call from 8AM to 10PM. By control

activities “on site” we inspected the conditions of citizens, especially vulnerable groups - children, persons with disability, the Roma, migrants as well as persons deprived of their liberty.

During the state of emergency but also by the end of 2020, I continued with the regular practice of international cooperation with the ombudsmen from the countries of the region, Europe and Euro-Asian Alliance of Ombudsmen via videoconferences. Main topics of these videoconferences were the protection of human and minority rights, especially the rights of sensitive groups (elderly population, children, migrants, persons with disabilities and persons deprived of their liberty), but also the challenges in operation which the institutions of ombudsman face on a daily basis after the declaration of COVID-19 infectious disease pandemic.

In 2020, as in previous two years, citizens contacted the Protector of Citizens mostly for the purpose of protection of economic and property rights (30 percent) which is an indication of the unfavorable economic position of citizens, but also of the operational shortcomings of competent authorities in this area. The violations of the rights referring to the principles of good administration and social and cultural rights are also with high ranking, while the number of violations of civil and political rights was almost doubled in comparison to the previous year.

The exercise of child rights in 2020 was significantly aggravated, so a major part of the activities of the Protector of Citizens was aimed at the mitigation of the effect of epidemiologic measures in the area of protection and exercise of child rights, especially sensitive groups of children. The number of handled cases was almost twice as high as in 2019 whereas the number of issued recommendations in the area of child rights was increased by almost 50 percent in comparison to the previous year. In the reporting year, the efficiency of the Protector of Citizens in handling the cases in the area of child rights was increased by almost 18 percent in comparison to 2019, which is evidenced by the number of closed cases in comparison to the total number of cases in this area.

The members of the Youth Advisory Panel of the Protector of Citizens, whose operation includes the participation of children representatives from all parts of Serbia, indicated to the problems of children and youth when it comes to online learning. We also indicated to the necessity of the extension of the deadline for the initiation of court procedures per the Law on determination of facts on the status of newborns suspected of missing from the maternity hospitals in the Republic of Serbia. Furthermore, after our recommendation the employment of a greater number of expert employees in social welfare system in the Republic of Serbia was approved.

In the area of gender equality and rights of LGBTI persons, the Protector of Citizens in 2020 handled 140 cases, which is by 62 percent more than in the previous year. The number of issued recommendations in this area was increased by 111 percent compared to 2019, whereas the efficiency of the Protector of Citizens in handling the cases in this area was increased by more than 12 percent in comparison to 2019, which is evidenced by the number of closed in comparison to the total number of cases in this area.

The National Strategy for the Prevention and Suppression of Domestic and Partner-Relation Violence and accompanying Action Plan have not been adopted in this reporting period either and the problem of violation of the rights of pregnant women and nursing mothers by unscrupulous employers is still present to a great extent. LGBTI persons are still frequently exposed to discrimination, violence, prejudice and stereotypes due to which they often face attacks, threats and hate speech and other severe violations of rights and there is high level of intolerance towards them by the young noticeable. The amendments to the Law on Police still

haven't been completed and they would prohibit also sexual orientation-based discrimination and the Ministry of Health still hasn't started with the implementation of the program of de-pathologizing of trans-identity.

In the area of the rights of persons with disability and the elderly, the Protector of Citizens reviewed in the reporting year 200 cases, even by 60 percent more than in 2019. The efficiency of the Protector of Citizens in handling the cases in this area was increased by almost 20 percent in comparison to 2019, which is evidenced by the number of closed cases in comparison to the total number of cases in this area. The authorities acted upon all recommendations of the Protector of Citizens in this area which were due for execution in 2020. In the reporting year as well, persons with disability struggle with the prominent risk of poverty and social exclusion due to limited access to education, labor market and services. Many public institutions in the Republic of Serbia where they should exercise their elementary rights are still not accessible to them. The elderly still face poverty, discrimination and violence and a special problem is the lack of special services and support services, especially home assistance services.

In the area of the national minority rights, in 2020 the Protector of Citizens handled 46 cases. The efficiency of the Protector of Citizens in handling the cases in this area was increased by almost 28 percent in comparison to 2019, which is evidenced by the number of closed cases in comparison to the total number of cases in this area and 15 recommendations were issued to administrative authorities. In the conditions of epidemiologic measures, I maintained regular contacts with the representatives of national councils of national minorities with the aim of protection of their rights. Members of sensitive social groups, who include the inhabitants of Roma settlements are particularly affected by COVID-19 infectious disease pandemic, and a great number of the population in informal settlements still does not have access to water, electricity or internet and they are not able to provide their children with distance learning.

In the area of the rights of persons deprived of their liberty, in 2020 the Protector of Citizens handled 325 cases, which is an increase by nearly 77 percent in comparison to 2019. The administrative authorities acted upon all due recommendations of the Protector of Citizens in this area. The most frequent complaints referred to the treatment of persons serving their sentence of imprisonment, treatment of persons in custody and treatment of persons in pre-trial detention.

Within its preventive function, the National Preventive Mechanism (NPM) paid in 2020 by 20 percent more visits than in 2019 to the locations where persons deprived of their liberty are accommodated, police stations, institutes for the execution of penal sanctions, institutions of social welfare of home type and psychiatric institutions. Furthermore, visits were paid with the aim of overseeing the treatment of refugees and migrants as well as numerous oversights of the procedures of forced removal of foreigners. In the reporting year the number of recommendations issued by the NPM was higher by almost 74 percent in comparison to 2019.

In the reporting period the Protector of Citizens records the increase in the number of complaints of persons deprived of their liberty and what contributed to that were, inter alia, the measures which were taken by the Republic of Serbia to the interest of the protection of public health. The rights of persons in big psychiatric hospitals and institutions of social welfare of home type due to pandemic are additionally limited considering poor material conditions and insufficient number of staff, long-term hospitalization and institutionalization and observance of their human rights and patient rights in such circumstances is not always possible to realize entirely.

Even though the control of the operation of courts and public prosecutors' offices is not within the scope of competence of the Protector of Citizens, this reporting period, too, was marked by complaints about the work of these bodies. Citizens most frequently complained about the violation of the right to fair trial and trial within a reasonable period. The measures introduced with the aim of the prevention of COVID-19 infectious disease spreading had a significant impact on the exercise of the rights in this area so with regards to the exercise of the right to fair trial the Protector of Citizens approached to competent authorities to enable access to alternative means and manners of communication, primarily via Skype application, between the accused and defender, in a special premise, without the presence of a third party.

In the reporting period, COVID-19 infectious disease pandemic imposed great challenges to the health care system in the Republic of Serbia and the access to health protection became far more complex for many citizens. The received complaints in this period indicate to aggravated functioning of the mechanism for protection of patient rights due to epidemiologic situation.

The greatest number of complaints from the area of economic and property rights in 2020 referred to local self-government units, more specifically to the insufficiently efficient operation of bodies and services of cities and municipalities within their original and entrusted competences, which is especially prominent in the activities of the inspection bodies. In the area of environmental protection, the greatest number of complaints received by the Protector of Citizens in 2020 referred to the problem of air, water and soil pollution, waste management and acting of competent inspection bodies upon the reports of citizens.

COVID-19 infectious disease pandemic resulted in the increase of the number of complaints in the area of the exercise of social and cultural rights and citizens complained most about the endangerment of the rights from the area of labor relations, which was especially prominent in the private sector.

The department for the reception of citizens where citizens are received for conversation and provision of professional assistance in executing a complaint, received by around 50 percent more complaints than in the previous year, which is the consequence of greater visibility of the Protector of Citizens, but also greater trust of citizens in the operation of this institution. The number of complaints handled by this department is higher by around 45 percent in comparison to 2019 and what is noticeable is the increased efficiency of the Department by 7.3 percent, which is evidenced by the number of closed cases in comparison to the number of handled cases.

The reporting year was significant for the Protector of Citizens also because of the intensification of the activities in the execution of the new Law on the Protector of Citizens, which was executed pursuant to Venice principles from March 2019 and with the professional assistance and suggestions of SIGMA representatives. The new Law on the Protector of Citizen is the result of realistic needs emerged from the work of the institution in previous 13 years and fulfillment of the obligations of the Republic of Serbia in the accession process to the European Union.

Considering the instability of the epidemiologic situation and uncertainty of the quality and continuity of everyday life in such conditions, I indicate in this regular annual report to the necessity of the improvement of the operation of all competent authorities with the aim of the exercise of the civil rights, especially those belonging to especially vulnerable population categories.

From my side, as the Protector of Citizens of the Republic of Serbia, I will, as the head of an independent public body with entrusted concern on the protection and promotion of human and minority rights and freedoms, continue to respond to all omissions of competent

authorities and submit initiatives for the amendment of applicable regulations. Especially because the improvement of operation I indicate to is necessary and it can be very useful and functional if similar situations, which require different organization of the operation of competent authorities and due to which the exercise of human rights may be aggravated, occur in future.

In the following period we plan to direct the experience acquired in newly-emerged situation to the assistance to citizens in the exercise of rights which were so far and still are guaranteed by the Constitution of the Republic of Serbia and also to finding systemic solutions for the situations and challenges which citizens face in altered circumstances due to COVID-19 infectious disease pandemic.

I believe that the review of the report at the National Assembly as well as in professional and wide audience shall impact on the improvement of the operation of public authorities in all segments of operation as well as that by adoption of the new Law on the Protector of Citizens the protection of civil rights will be promoted and this independent public institution dealing with the protector of citizens rights and therefore the authority of the National Assembly as the institution in which via their representatives citizens exercise their sovereignty reinforced.

THE PROTECTOR OF CITIZENS

Zoran Pašalić, MSc

2. GENERAL ASSESSMENT OF THE OBSERVANCE OF CITIZENS' RIGHTS IN 2020

The COVID-19 infectious disease pandemic had a major impact on the state of human rights in the Republic of Serbia in 2020. With regards to this, the Protector of Citizens directed all available resources and activities especially to the protection of human rights during the state of emergency declared with the aim of suppression of coronavirus pandemic, which is presented in details in the Special report on the activities of the Protector of Citizens during the state of emergency³ so this Annual report contains only a short overview of certain activities from the stated period.

In the reporting period the exercise of rights of vulnerable groups was particularly endangered: women, nursing mothers, victims of domestic and partner-relation violence, chronic patients, children and youth, persons with disability, persons deprived of their liberty, the elderly, homeless, members of LGBTI population, national minorities, primarily the Roma as well as refugees and migrants.

Even in this challenging year citizens⁴ relied on the Protector of Citizens as the institution they trust and therefore they most frequently contacted it for the purpose of protection and promotion of their rights. Namely, in 2020 the Protector of Citizens was contacted by 18,165 citizens and the number of citizen contacts was increased by more than 67 percent in comparison to 2019. Therefore, the Protector of Citizens closed almost 80 percent of received cases from 2020 and thus the operational efficiency in cases was increased by more than 10 percent compared to the previous year. Moreover, in 2020 almost by 15 percent more recommendations were issued in comparison to 2019. Even though the number of inadmissible complaints is still high, the Protector of Citizens provided in almost 79 percent of inadmissible complaints advisory assistance and referred complainants to competent bodies or advised on available legal remedies. The number of issued opinions and legislative initiatives in comparison to 2019 was reduced by 44 percent due to extraordinary circumstances which impacted the manner and organization of the operation of competent authorities to which the Protector of Citizens normally issues opinion to laws and other regulations and legislative initiatives.

As in previous two years, in 2020 the Protector of Citizens received cases primarily in the area of economic and property rights, which, inter alia, indicates to the unfavorable economic position of citizens but also to the shortcomings in the work of competent authorities in this area. With regards to violation of rights, almost 30 percent of received complaints refers to the violation of economic and property rights and violations of rights referring to good administration principles and social and cultural rights are with high ranking, whereas the number of violations of civil and political rights are almost twice as high as in previous year.

³ Available at: <https://www.ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/6643-p-s-b-n-izv-sh-ivn-s-i-z-sh-i-ni-gr-d-n-v-nr-dn-g-s-nj>.

⁴ All terms which are expressed in the text in grammatical masculine gender refer to natural masculine and feminine gender of persons they refer to.

CHILD RIGHTS

The exercise of child rights was significantly aggravated in 2020 by the measures taken by competent authorities of the Republic of Serbia with the aim of the prevention of the spreading of infectious disease caused by coronavirus. Therefore, a significant part of activities of the Protector of Citizens in the reporting period was aimed at the mitigation of the effect of extraordinary measures in the area of protection and exercise of child rights, especially sensitive groups of children, which was reported to the public by the Protector of Citizens in detail in the Special report on the activities of the Protector of Citizens during the state of emergency⁵.

Moving to distance learning and later to online classes, had a negative impact on children and youth rights to quality education as well as to the right to gathering and vacation. These problems as well as the emergence of the sense of alienation among children/students were highlighted by the members of the Youth Advisory Panel of the Protector of Citizens at regular meetings which were held with the Protector of Citizens during 2020. As the first public authority which included children and youth in its operation, the Protector of Citizens will pay special attention in the following period to respect and consideration of the opinion of children and youth in decision making related to measures for the prevention of COVID-19 infectious disease spreading in situations when these measures influence the exercise of their rights.

The National Assembly of the Republic of Serbia passed in 2020 the Law on determination of facts on the status of newborns suspected of missing from the maternity hospitals in the Republic of Serbia ("Missing babies Law")⁶, which is the action of the Republic of Serbia upon the verdict of the European Court for Human Rights in the case *Zorica Jovanović vs. Serbia*⁷. Among other things, the Protector of Citizens is authorized by this law to submit to competent courts on behalf of parents proposals for determination of facts on the status of newborns suspected of missing from maternity hospitals in the Republic of Serbia. Due to COVID-19 infectious disease pandemic, the Protector of Citizens issued an appeal to competent courts to take into consideration the Regulation of the Government of the Republic of Serbia on the deadlines in court proceedings during the state of emergency declared on 15th March, 2020⁸ after which the deadline for the submission of the proposals for the initiation of the procedure which is prescribed by this law (6 months since the Law comes into force) was extended for additional 47 days.

The inadequate number of employees in the social welfare system is one of the problems which has been indicated to by the Protector of Citizens for years now, both in its regular reports and in the recommendations issued to competent public authorities. After the recommendation issued by the Protector of Citizens to the Ministry of Labor, Employment, Veteran and Social Policy and the Ministry of Finance, the employment of a higher number of expert employees in the social welfare system, in bodies and institutions in all parts of Serbia was approved. In this manner, the advancement was made, but the number of expert employees is still insufficient for the provision of the exercise of child rights and provision of

⁵ Available at: <https://ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/6643-p-s-b-n-izv-sh-ivn-s-i-z-sh-i-ni-gr-d-n-v-nr-dn-g-s-nj>

⁶ "Official Gazette of RS", number 18/20.

⁷ By the verdict of the European Court for Human Rights in the case *Zorica Jovanović against Serbia*, the Republic of Serbia was obliged within the period of one year since the final verdict to assume all corresponding measures with the aim of the establishment of the mechanism for the provision of individual redress to all parents who were in the same or similar situations. By passing of the law, the monitoring of the Committee of ministers of the Council of Europe, which monitored the execution of the mentioned verdict, was terminated.

⁸ "Official Gazette of RS", number 38/20.

services of social welfare in full scope. The number of insufficient number of expert employees is one of the reasons why even after 7 years since passing of the decision of the Government of the Republic of Serbia on the network of institutions of social welfare centers for family accommodation and adoption have not been established, which would provide adequate support to children and guardian families. Even though in practice the need for the provision of social and health care services was recognized, the institutions which would provide this type of services, whose establishment is stipulated by the Law on Social Welfare even eight years ago, still have not been established.

In the Special report of the Protector of Citizens on the work of the Groups for coordination and cooperation⁹ at the territory of the City of Belgrade¹⁰ it was confirmed that children exposed to domestic or partner violence are still not recognized as victims of violence, abuse and neglect because of which there is the lack of measures for their protection, provision of assistance and support to child victim. In accordance to this, the Protector of Citizens recommended that by amendments to the Law on the prevention of domestic violence, special provisions on acting in cases of violence against children, especially provisions which prescribe that a child is a victim of violence always when witnessing domestic violence against a family member or close person be prescribed.

Furthermore, after launching own initiative control investigation, the Protector of Citizens confirmed that children victims of criminal offences are not adequately interviewed in the proceedings before competent public authorities and indicated to the violation of guaranteed child rights, primarily the right to privacy, both by the authorities before which the proceedings are conducted and by the media which reported about that. The Protector of Citizens issued to public authorities the opinions in which it was indicated to the need for taking activities and measures in order to promote the operation of public authorities in the area of protection of child rights and at the same time prevent additional victimization of children victims.

GENDER EQUALITY

The adoption of the comprehensive Law on Gender Equality, which would contain the instruments for the application of legal norms and corresponding sanctions in case of the failure of their implementation and be adjusted with corresponding international standards would contribute to the adoption of the principle of gender equality to the full extent. Apart from the Protector of Citizens, the United Nations Committee for Human Rights¹¹ and the United Nations Committee for Elimination of Discrimination of Women¹² indicated to the importance of the adoption of this law.

The Protector of Citizens asked from the Ministry of Interior, Ministry of Justice and Ministry of Labor, Employment, Veteran and Social Policy information on the application of the Law

⁹ These Groups consist of the representatives of competent social welfare centers, police administrations and basic public prosecution offices. They consider every case of domestic violence which is not terminated by final court decision as well as cases when it is necessary to provide support and protection of victims of domestic violence .

¹⁰ Available at <https://ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/6804-p-s-b-n-izv-sh-z-sh-i-ni-gr-d-n-r-du-grup-z-rdin-ci-u-i-s-r-dnju-n-p-druc-u-gr-d-b-gr-d>.

¹¹ Concluding observations on the Third periodical report of Serbia on the application of the International pact 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.

¹² Concluding observations of the Committee for elimination of discrimination of women with regards to the Fourth periodical report on the application of the Convention on elimination of all forms of discrimination of women, available at: <https://www.ljudskaprava.gov.rs/sr/node/156>.

on the Prevention of Domestic Violence during the state of emergency, number of cases of reported domestic violence, taken measures of protection and support as well as services available to victims of domestic violence. Based on the data submitted by the competent authorities, it can be noticed that the number of reported cases, taken measures of protection and support to victims of domestic violence did not significantly deviate from the period before the state of emergency. Nevertheless, the Protector of Citizens received information indicating to the increase of violence during the state of emergency.

National Strategy for Preventing and Combating Violence against Women in Family and in Intimate Partner Relations and accompanying Action plan have not been adopted even in this reporting period. The lack of these strategic documents leads to the situation in which the activities of competent authorities are not sufficiently coordinated and defined within certain deadlines which results in the lack of comprehensive protection of victims and prevention and suppression of violence. The Criminal Code¹³ is still not completely harmonized with the Convention of the Council of Europe on the prevention and suppression of violence against women and domestic violence and Convention of the Council of Europe on the protection of children against sexual exploitation and sexual abuse, especially in the manner which defines the beings of criminal acts against sexual freedom, which is what this independent public authority indicated to as early as in 2011 by issuing to the Ministry of Justice the initiative for amendments to the Criminal Code¹⁴.

Criminal offences Incest and Extramarital union with a minor person are not categorized as criminal offences against sexual freedom, so there is not possibility to apply the Law on Special Measures for Prevention of the Criminal Offences against Sexual Freedom toward Minors, because it prescribes its application "towards offenders of criminal offences against sexual freedom committed towards minors". The criminal offence of Prohibited sexual actions committed towards a child is still punishable in certain cases with a fine and short prison sentence, so it is suitable for suspended sentencing and application of the institute of postponement of prosecution.

There is still present to a great extent the problem of violation of the rights of pregnant women and nursing mothers by unscrupulous employers. The authorities partly acted upon recommendations of the Protector of Citizens¹⁵ issued by the end of 2018 due to shortcomings in the operation of authorities in cases when the employer fails to execute legal obligation of the calculation and payment of the earnings compensation to a nursing mother. The authorities indicated that misdemeanor and criminal charges are reported to a greater extent but also that the punitive policy is mild and that it is not rare that there are no actions upon the charge due to outdatedness of the misdemeanor/ criminal prosecution. Neither labor inspection nor Tax Administration receive feedback on imposed penalties, number and amount of the penalty, so the effects of such activities remain unknown. The submitted complaints to the Protector of Citizens indicate that the problems of the exercise of the rights of nursing mothers caused by the activities of unscrupulous employers remain unsolved so in

¹³ "Official Gazette of RS" no. 85/05 and 88/05 – corr, 107/05 - corr, 72/09, 111/09, 121/12, 104/13, 108/14, 94/16 and 35/19.

¹⁴ Available at: https://www.pravdeteta.com/index.php?option=com_content&view=article&id=186:2012-05-20-21-48-39&catid=42&Itemid=87.

¹⁵ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5977-n-dl-zni-rg-ni-d-b-zb-d-ispl-u-n-n-d-z-r-d-pri-uzi-lj-sh-uv-s-v-ru-u-pr-v-n-n-n-du-z-r-d-zb-g-rudnic-g-b-l-v-nj-i-dsus-v-s-r-d-zb-g-p-r-d-n-g-d-i-p-s-bn-n-g-d>.

2020 the Protector of Citizens issued to competent authorities new recommendations¹⁶. Moreover, the Protector of Citizens believes that effective and timely cooperation of competent authorities with the labor inspection would provide efficient sanction for employers who infringe the law and establishment of the legality in their operation as well as the prevention of further infringement of the law and tricking of the authority of the state.

The amendments to the Law on the Election of Members of the Parliament¹⁷ and the Law on Local Elections¹⁸ which prescribe that the ticket list must contain 40% of the less present gender are harmonized with some of numerous recommendations of the Protector of Citizens dedicated to greater representation of women at decision-making positions in public authorities, including the authorities of the local self-government unit, contained in the Special Report of the Protector of Citizens¹⁹ from 2018. The report indicated to insufficient presence of women, especially women of sensitive groups at decision-making positions at local self-government units and lack of functionality of the mechanism for gender equality in them. The ambiguity of the legal framework and lack of a clear recommendation with regards to the type, form, competences and role of local mechanisms at the level of the law is recognized as an obstacle for the establishment and functionality of the authority for gender equality, so one part of recommendations of the Protector of Citizens refers exactly to the creation of legal and bylaw framework for the establishment and functioning of gender mechanisms at all local self-government units. The second part of recommendations refers to more precise organization of the relations of gender mechanisms, both with competent bodies of local self-government and with civil society organizations, all with the aim of strengthening of the role of these mechanisms in the realization of the policies of gender equality and equal opportunities at the local level, while a part of recommendations indicates to the need for the provision of greater presence of women, especially women from sensitive groups at decision-making positions at the bodies of local self-government units and to the obligation of local self-government units to take measures with the aim of accession to the European charter on gender equality and provide its application in practice. However, the majority of recommendations from this report still has not been acted upon by the authorities.

In accordance with recommendations of the Protector of Citizens repeated on multiple occasions that the Government should continually implement measures and activities dedicated to raising the public awareness on gender equality and measures for the improvement of the position of women, the Action plan for the implementation of the Strategy of the development of the system of public information in the Republic of Serbia for the period 2020-2025 in the period 2020-2022²⁰ contains measures and activities dedicated to media visibility and non-discriminatory reporting of the media on women and other sensitive social groups, as well as the measures dedicated to raising of gender equality in the public media service and greater presence of women at decision-making positions at public media services. The Protector of Citizens indicated on several occasions that even though by passing of regulations in the media sphere the normative framework was improved, the reporting of the media on women is overburdened by sensationalism and gender stereotypes, without respect

¹⁶ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6766-s-n-ci-nis-i-n-dg-v-rn-p-sl-d-vc-l-ni-i-sis-s-n-d-s>.

¹⁷ "Official Gazette of RS", no. 35/00 and 57/03 – CC decision, 72/03 – state law, 75/03 – corr. of state law, 18/04, 101/05 – state law, 85/05 – state law, 28/11 – CC decision, 36/11, 104/09 – state law, 12/20 and 68/20.

¹⁸ "Official Gazette of RS" no. 129/07 and 34/10 – CC decision, 54/11, 12/20 and 16/20 – authentic interpretation and 68/20.

¹⁹ Available at: <https://ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/5901-p-s-b-n-izv-sh-z-sh-i-ni-gr-d-n-z-s-uplj-n-s-z-n-n-s-i-dluciv-nj-i-p-zici-i-ivn-s-i-l-lnih-h-niz-z-r-dnu-r-vn-pr-vn-s-u-dinic-l-l-n-s-upr-v-u-srbi-i>.

²⁰ Available at: <https://www.srbija.gov.rs/dokument/45678/strategije.php>.

of a woman's privacy, her dignity and integrity. Systemic measures for eradication of gender stereotypes, which are very spread, including the speech of public persons and media reporting, are not taken. There is a lack of measures which should be taken by the competent, the Ministry of Information and Regulatory body for electronic media regarding numerous cases of sensationalistic and reporting which does not respect privacy, dignity and integrity of women and children, apart from many recommendations of the Protector of Citizens.

By the end of 2017 the Protector of Citizens published and issued to the authorities a Special report on reproductive health of Roma women with recommendations. The Report contains the research results related to the exercise of rights to health protection of Roma women and indicates to key problems in this area. The Protector of Citizens issued several recommendations to the Ministry of Health and bodies of local self-government units which were included in the research in order to improve prevention and protection of sexual and reproductive health of Roma women and girls, including the regulation of the legal position of health care female mediators for Roma men and women, but their position still has not been regulated²¹.

RIGHTS OF LGBTI PERSONS

LGBTI persons are still frequently exposed to discrimination, violence, prejudice and stereotypes due to which they face attacks, threats, hate speech and other severe violations of rights in different spheres of life on a daily basis. What is also noticeable is the high level of intolerance of the young towards LGBTI persons. It is evidenced by the investigations conducted by the Protector of Citizens during 2020 after learning from the media, upon its own initiative and which refer to the violation of the rights of LGBTI persons. The law regulating same-sex unions is still not adopted nor is the law regulating legal consequences of the adjustment (change) of sex to gender identity whereas the amendments to the Criminal Code which would incriminate the executions of criminal actions and on the basis of sexual orientation and gender identity still haven't been enforced.

Even though the World Health Organization removed the transgender identity from the list of mental illnesses, and the very notion of transgender is replaced by the notion of gender incongruence, due to current epidemiologic situation the Ministry of Health still has not started with the implementation of the program of de-pathologizing of trans identity.

The amendments to the Law on Police²² still haven't been enforced and they would prohibit discrimination and on the basis of sexual orientation. The Law on Free Legal Aid²³, which would introduce as a category of beneficiaries in sensitive position LGBTI persons and amendments to the Law on Textbooks²⁴, which would explicitly prohibit discrimination on the basis of sexual orientation and gender identity and contents which encourage formation of prejudice and stereotypes, which was indicated to by the Protector of Citizens on several occasions in its annual reports and the Opinion from 2015 still haven't been adopted.²⁵

²¹ The role of health care female mediators is to keep the record of the health condition of the inhabitants of informal villages, to work with them on raising of the awareness on the necessity of vaccination of children, as well as the importance of proper nutrition and hygienic habits. Health care female mediators should provide better insight of health care institutions into the state of these villages and indicate to inhabitants to the importance of timely contacting of doctors. The health care female mediator is not a medical worker (doctor, nurse), she connects the health care system and population of informal villages.

²² "Official Gazette of RS", number 6/16, 24/18 and 87/18.

²³ "Official Gazette of RS", number 87/18.

²⁴ "Official Gazette of RS", number 27/18.

²⁵ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/3756-2015-03-26-08-07-55>.

When it comes to the protection of rights of intersex persons, the Law on the Prohibition of Discrimination and other relevant laws still do not contain the provision which explicitly prohibits discrimination of intersex persons and discrimination on the basis of sexual characteristics, even though the Republic of Serbia in the Third Cycle of the Universal Periodical Overview of the United Nations received the recommendation to include into regulations the protection of LGBTI persons against discrimination on the basis of intersex status. The Protector of Citizens indicated to this obligation in the regular annual report for 2019.

Even apart from the attitude of the Protector of Citizens that the Rulebook on more detailed conditions, criteria and the manner of selection, testing and assessment of the donors of reproductive cells and embryos²⁶ contains the provisions which are not in compliance with adopted standards of the exercise of human rights and non-discrimination when it comes to LGBTI persons, this bylaw is still not amended.

RIGHTS OF THE PERSONS WITH DISABILITY

Due to limited access to education, labor market and services, persons with disabilities are under prominent risk of poverty and social exclusion. Moreover, they also face different physical, information and communicational and other obstacles when it comes to the exercise of their rights, including voting at elections and referendums due to which it is aggravated or completely impossible for them to have equal participation in decision making and to express their political will.

Apart from the existing legal framework, many public institutions in the Republic of Serbia where citizens should exercise their elementary rights, such as affiliates of the Republic Fund for Pension and Disability Insurance, health care institutions, institutions in the area of social welfare and education, police stations, administrative authorities or judiciary authorities as well as other facilities, surfaces, services and information remain inaccessible or hardly accessible to persons with disability or difficulties in movement and communication.

The process of de-institutionalization, which is supposed to represent the backbone of the entire system of services and support to persons with disabilities and the elderly is still not adequate and sufficiently developed. This process is not terminated because a certain number of persons with disabilities is accommodated at residential institutions, which is contrary to the commitments assumed by the Republic of Serbia by confirming the Convention on rights of persons with disabilities.

Total deprivation of the business capability is still a legal practice contrary to the provisions of the United Nations Convention on the rights of persons with disabilities and Concluding observations of the Committee for the rights of persons with disabilities²⁷. Furthermore, despite recommendations of the Committee, the concept of decision making with support is still not introduced into the legal system of the Republic of Serbia. Despite the announcements of competent bodies, the Family Law, Law on Extrajudicial Proceedings and other laws and regulations which introduced and maintained the institute of deprivation of business capability were not amended.

²⁶ "Official Gazette of RS", number 27/19.

²⁷ Concluding observations of the Committee for the rights of persons with disability on the Initial report on Serbia, May 2016 available at:

https://ljudskaprava.gov.rs/sites/default/files/dokument_file/zakljucna_zapazanja_komiteta_za_prava_osoba_sa_invaliditetom_srb.pdf.

Even though the Law on Pension and Disability Insurance²⁸ suffered many amendments, the activities upon the Initiative²⁹ of the Protector of Citizens still have not been taken. This initiative, inter alia, suggests the introduction of a special right to temporary financial compensation (disability allowance) to insurance holders with the remaining work capability due to injury at work, while they are not employed.

RIGHTS OF THE ELDERLY

The elderly still face poverty, discrimination and violence and a special problem is the lack of special services of support, especially the home assistance service. The stated problems are especially expressed in rural areas where elderly women live in households alone or are most often dependent on other family members in the realization of their needs, since most often they do not have property rights to immovable and movable property, income and their access to services in the community is not adequately provided in the locations without established traffic and public transportation structure.

Violence and neglect against the elderly is still insufficiently reported to public authorities, both because the elderly cannot, are not supported or do not want to report violence they suffer from the closest members of their family, most frequently children, and because of insufficient recognition of emotional, social and economic violence against the elderly.

NATIONAL MINORITY RIGHTS

Members of sensitive social groups which include inhabitants of Roma settlements are especially affected by COVID-19 infectious disease pandemic so it is necessary to take additional measures to protect their rights. The fact that many members of the population of informal settlements and in the Republic of Serbia there are almost six hundreds of them, do not have access to water, power or Internet and they are not able to maintain basic hygiene let alone allow children to attend school classes.

The strategy for the social inclusion of Roma men and women set realistic foundations in this area however, even though a certain progress is achieved, if these accomplishments are analyzed from the perspective of the realization of measures and activities designated by the Government of the Republic of Serbia for the purpose of suppression of the poverty of Roma and reduction of social and economic differences, the results are very limited. New Action Plan for the implementation of the Strategy for social inclusion of the Roma men and women is still not adopted which aggravates the very implementation of activities and measures at the local level.

During the state of emergency introduced due to the COVID-19 infectious disease pandemic, the Protector of Citizens was in the constant touch with representatives of national councils of national minorities in order to be informed about the exercise of individual and collective rights. During the state of emergency, the Protector of Citizens did not receive complaints of the national minorities related to the deprivation of the right to information in mother tongue or with regards to the realization of school lessons in national minority languages. To be more specific, with regards to the realization of the lessons in national minority languages, the Protector of Citizens was informed that the Ministry of Education, Science and Technological Development, in cooperation with national councils of national minorities, Radio – television Vojvodina (RTV) and local and minority media, on 30th March, 2020 the recording and

²⁸ “Official Gazette of RS”, no. 34/03, 64/04 – CCRS decision, 84/04 – state law, 85/05, 101/05 – state law, 63/06 – CCRS decision, 5/09, 107/09, 101/10, 93/12, 62/13, 108/13, 75/14, 142/14, 73/18, 46/19 – CC decision and 86/19.

²⁹ Available at: <https://ombudsman.rs/attachments/article/6123/inicijativa.pdf>.

broadcasting of the lessons in eight minority languages – Albanian, Bosnian, Bulgarian, Croatian, Hungarian, Romanian, Rusyn and Slovakian language.

RIGHTS OF PERSONS DEPRIVED OF LIBERTY

Even though in the Republic of Serbia there is not torture as an organized phenomenon encouraged by public authorities, there are individual cases of torture or abuse still present, which is why the Protector of Citizens indicates to the need that internal control mechanisms and competent authorities should invest additional effort in order to fulfill their role in the fight against the impunity for torture and other forms of abuse and illegal actions.

The complaints of persons in pre-trial detention, as in previous reporting periods, referred to the length of the duration of pre-trial detention, violation of the right to trial within reasonable period and violation of the right to fair trial, while the complaints of convicts situated in the institutes for the execution of criminal sanctions referred predominantly to the dissatisfaction with the provided health protection and treatment work.

Among persons deprived of their liberty still the most endangered are the ones deprived of their liberty in psychiatric institutions and institutions of social welfare of home type. Therefore, the Protector of Citizens, as in previous years, indicates again to the need to improve activities with regards to creating conditions for efficient and sustainable functioning of the system of deinstitutionalization, which, apart from the health care, includes social aspect, that is the creation of adequate conditions for accommodation and necessary support to persons with mental disorders and their families for the life outside psychiatric institutions, in an environment which is as little as possible designated by their mental disorders. The Program of the protection of mental health in the Republic of Serbia for the period from 2019 to 2026³⁰, passed by the Government of the Republic of Serbia should greatly contribute to that provided that it is implemented in accordance with stipulated activities.

In the reporting period there were no activities of competent authorities aimed at the promotion of the normative framework and valid regulations referring to the deprivation of liberty. The provisions of the Criminal Code are not in compliance with the definition of torture from Article 1 of the United Nation Convention against Torture, provisions of the Family Law in the part of guardianship (and substitute decision making) are not in compliance with the Convention on the Rights of Persons with Disabilities and the provisions of the Law on the Protection of Persons with Mental Disorders are not amended, despite the fact that the Protector of Citizens has indicated to this need for several years.

NATIONAL PREVENTIVE MECHANISM (NPM)

Based on the results of the paid visits of the NPM in the reporting period, it may be confirmed that the treatment of persons in custody by the Ministry of Interior has been improved, both in terms of keeping of the records on the process of custody and exercise of rights of the persons in custody and in terms of the conditions of staying in numerous premises for custody which were renovated in compliance with valid regulations and standards. Moreover, the realization of training of criminalist inspectors on hearing techniques commenced but the hearings are still not conducted at the premises equipped with technical equipment for audio and/or video recording.

With regards to the rights of persons with imposed pre-trial detention measure or who serve the imprisonment sentence, the Administration for the execution of criminal sanctions

³⁰ Available at: https://www.zdravlje.gov.rs/view_file.php?file_id=1199&cache=sr.

continued to invest in material conditions of accommodation and increase of the capacity of the institute for the execution of criminal sanctions, but the lack of staff is still present in almost all services, which may have a negative impact on the protection and exercise of rights of persons deprived of their liberty.

In one part of big psychiatric hospitals and institutions of social welfare of home type, in poor material conditions and with insufficient number of staff, patients and beneficiaries with intellectual and mental difficulties are hospitalized and institutionalized in long term and the observance of their human rights and rights of patients in existing conditions is still not possible to exercise completely. Due to COVID-19 infectious disease epidemics, the rights of this especially sensitive group are additionally limited. At the same time, systemic activities in terms of deinstitutionalizations are not implemented and the conditions for accommodation and support to persons with intellectual and mental difficulties and their families were not provided at local communities

During the conducted oversight investigations of the forced removal of foreigners, it was noticed that the foreigners in the process of return do not always have the possibility to indicate to the existence of the fact which would indicate to the obstructions to forced removal in a certain country and the existence of these facts is not confirmed, which may lead to the violation of Article 3 of the Convention against torture and other cruel, inhuman or degrading treatment or punishment.

CIVIL AND POLITICAL RIGHTS

The measures by the Government of the Republic of Serbia prescribed with the aim of the prevention of COVID-19 infectious disease spreading had a significant impact on the exercise of rights in the area of justice and judiciary. With regards to the exercise of the right to fair trial³¹ the Protector of Citizens approached to competent authorities to provide access to alternative means and manners of communication (Skype) between the accused and defender at a special premise, without the presence of third parties, with the oversight only by watching, not listening, without limitation of the communication duration to 30 minutes, with the aim of creating necessary conditions for the conducting of confidential conversation and preparation of the defense of the accused.

Significant efforts and resources aimed at the provision of the assistance package to citizens and economy with the aim of the reduction of negative effects caused by COVID-19 infectious disease pandemic, based on the regulations of the Government of the Republic of Serbia.

In the area of internal affairs, in comparison to the previous reporting period there was no improvement of the control and examination of regularity and legality of first-instance decisions in the second-instance proceedings. Furthermore, a certain number of verdicts of the Administrative courts with annulled final and executive decisions of the Ministry of Interior is noticeable, which also indicates that this body should improve first instance and second-instance administrative procedures. The decision-making process on the requests for naturalization of the Republic of Serbia was expedited, but there is still a great number of requests for naturalization, confirmation of citizenship or discharge on which the decision has not been made for many years.

ECONOMIC AND PROPERTY RIGHTS

The greatest number of complaints in this area referred to local self-government units, Republic Geodetic Institute and public authorities. A significant number of complaints in the

³¹ Available at: <https://ombudsman.rs/attachments/article/6554/ministarstvo%20pravde%20misljenje.pdf>.

area of local self-government referred to insufficient work efficiency of bodies and services of cities and municipalities in original and entrusted competences. The stated is especially prominent with activities of inspection authorities upon requests for the performance of inspection oversight of the application of local and republic regulations as well as the failure to implement executive decisions in the area of work of construction and public utility inspection. Furthermore, citizens complained about the duration of procedures before the services for real estate cadaster and difficulties in the exercise of rights.

Crucial problems in the exercise of civil rights in the area of construction are multiple. The Ministry of Construction, Transportation and Infrastructure still has not provided to a sufficient extent the conditions for efficient enforcement of the Law on Building Legalization. Executive decisions on the removal of illegally constructed buildings are not implemented pursuant to the Law on Planning and Construction. Financial funds are not sufficiently provided for local self-government units to perform entrusted activities, especially for the implementation of executive decisions on demolition. The legally prescribed obligation of cooperation of the City Administration of the City of Belgrade with the Protector of Citizens in most cases is not established at a satisfactory level. The City of Belgrade failed to provide financial and staff conditions for the efficient realization of assumed inspection activities in the area of building construction³².

Even though the intention of the legislator to make the activities of the real estate cadaster services faster through digitalization and many services available in electronic form, the experience of two-year enforcement of the Law on the Registration Procedure with the Cadaster of Real Estate and Utilities³³ indicate that digitalization failed to solve the problem of the outdatedness and untimeliness of the actions of first-instance and second-instance bodies. Namely, the obligations of the Republic Geodetic Institute emerged from the laws passed before the Law on the Registration Procedure with the Cadaster of Real Estate and Utilities resulted in multiple increase of the number of administrative cases, both in first instance and second-instance procedure.

The complaints received by the Protector of Citizens in 2020 in the area of environmental protection mostly refer to the problem of air, water and soil pollution, waste management, acting of competent inspection bodies upon the citizen reports, negative impacts on the environment such as noise, vibration and emission of dust particles in the performance of the operations of different business entities.

Due to the lack of capacities in the sense of financial funds as well as human resources, competent authorities frequently fail to act preventively, and these preventive actions are of special importance in this area. Local self-government units in a certain number of cases fulfill untimely or do not fulfill at all the legally prescribed obligations referring to the execution of strategic documents in this area, so the Protector of Citizens acting upon its own initiative towards several local self-government units because of the air pollution confirmed that they failed to pass the Air Quality Plan and Short-Term Action Plan. The Protector of Citizens is of the opinion that there is room for optimization both of the system of automatic monitoring of air quality in such manner that it comprises all local self-government units at the territory of

³² Article 172 Paragraph 5 of the Law on Planning and Construction prescribes that the City of Belgrade is entrusted with the inspection oversight performance also in the area of constructions up to 800 m² and construction of facilities for which the decision on the construction permit is issued by the city municipality within the City of Belgrade whereas Article 171 of the same law prescribes that the decision on the removal of facilities or their parts which is passed on the basis of this law, is passed by republic, provincial or local self-government unit body competent for the activities of construction inspection.

³³ "Official Gazette of RS", no. 41/18, 95/18, 31/19 and 15/20.

the Republic of Serbia and of the information of public stakeholders and citizens about the results of monitoring.

By forming the Department for cooperation with local self-government units and Department of information and cooperation with civil society at the Ministry of Environmental Protection, this authority undoubtedly indicates to the fact that it recognizes the importance of the improvement of the cooperation with local self-governments and civil sector organizations, especially providing assistance and support to local self-government units with the aim of as efficient as possible activities in the area of environmental protection. Such actions are an example of the improvement of the operation of public authorities. Simultaneously with the opening of the chapters in negotiations on the accession to the European Union, the awareness of citizens on the importance of environmental protection and manners how they can exercise their right to healthy environment guaranteed by the Constitution grows, which is indicated by the increased number of contacts of citizens and greater number of different topics of the complaints issued to the Protector of Citizens.

SOCIAL AND CULTURAL RIGHTS

COVID-19 infectious disease pandemic resulted in the increase of the number of complaints in the area of the exercise of social and cultural rights. Citizens indicated predominantly to the violation of the rights in the area of labor relations which was especially prominent in the private sector. Complaints and questions of citizens mostly referred to the problems with regards to the exercise of rights to work of employees who have their labor contracts signed for definite period of time and those who had engagement on the contract-basis. The Protector of Citizens was contacted also by citizens who were in process of the gaining of the right to pension as well as citizens in difficult financial and material positions who wanted to exercise their right to the assistance provided by the state for those who needed it most.

Even though the system of salaries and labor and legal relations in public sector is organized, the reform of salaries and labor and legal relations was postponed again. Namely, the National Assembly of the Republic of Serbia adopted the laws which regulate the labor and legal status and salaries of employees in the public sector but adopted amendments to the law postpones the beginning of their enforcement to 1st January, 2022. This postponement was the result of, primarily, complicated epidemiologic situation caused by COVID-19 infectious disease pandemic due to which it is impossible to implement necessary measures and activities required for the transition to new salary system in 2021.

The pandemic significantly influenced the manner of implementation of educational work, which was indicated by citizens in numerous contacts of the Protector of Citizens. With the aim of the compliance with the new Law on the Personal Data Protection³⁴ in this reporting period the Law on the Amendments to the Law on Foundations of Educational System was passed. The Law on Amendments to the Law on the National Qualification Framework of the Republic of Serbia was also amended in the parts referring to the provisions about the Qualification Agency, decision on the recognition of the foreign school document and procedure for professional recognition of foreign higher education documents. The Law on the Amendments to the Law on High School Education was amended in the parts referring to the practical lessons and vocational practice, foreign language lessons, general graduation and vocational and artistic graduation. The Law on Amendments to the Law on Dual Education adjusted the provisions on gender equality, stating accurately that the learning through work cannot be performed as night work and a special emphasis is on the area of occupational safety

³⁴ "Official Gazette of RS" number 6/20.

and health and it was confirmed which are the jobs that would endanger health and safety of students.

KOSOVO AND METOHİJA

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

FREEDOM OF EXPRESSION

Physical and verbal attacks, belittling humiliation and discreditation of journalists continued in 2020 and their records, as in previous years is not unified. Based on the reports of journalists, the Serbian Journalist Association in its database records the increase of the number of attacks against journalists -111, which is an increase by around 20 percent in comparison to the previous year. According to the records of this association, only in July 2020 during the protests in Belgrade, Niš and Novi Sad, 28 journalists, cameramen and photo reporters who reported on the protests were attacked while doing their jobs, while 14 of them were injured, of whom six requested urgent medical help. In its database, the Serbian Independent Journalist Association recorded 189 attacks against journalists among which there are mostly pressures, 92 of them³⁵. In comparison to 2019, according to the records of this association, the total number of attacks was increased by around 60 percent.

In May 2020, the Protector of Citizens with seven media associations and three journalist syndicates signed the Agreement on the establishing of the platform for recording cases of safety endangerment and pressures on journalists and other media participants. The agreement was signed with the Serbian Journalist Association, Serbian Independent Journalist Association, Independent Journalist Society of Vojvodina, Independent Electronic Media Association, Media Association, Online Media Association, Business Association of Local and Independent Media Association "Local Press", Serbian Journalist Syndicate, Branch Culture, Art and Media Syndicate "Independence" and Autonomous Syndicate of Employees in Serbian Graphic, Publishing, Informative Activity and Cinematography.

The goal of the creation of the platform is to establish unique database on the attacks against journalists and more efficient mechanism of protection of journalist safety. Accurate recording of every individual case of endangerment of the safety and any form of pressure against journalists and media workers shall contribute to more effective actions of competent public authorities in cases of journalist safety endangerment. Collected information would enable more efficient reaction of the Protector of Citizens to activities of competent authorities upon reported cases of violation of the freedom of media and freedom of expression. The data on the assumed measures would be available at any moment with the aim of oversight of the removal of potential detrimental consequences to the safety of media workers. In December 2020, the Protector of Citizens became a member of newly formed Working group for the protection and safety of journalists which was established under the auspices of the Ministry of Culture and Information and the Government of the Republic of Serbia. The Working group should enable more efficient responses of competent authorities in cases of attack against

³⁵ Available at: <http://www.bazenuns.rs/srpski/napadi-na-novinare>.

journalists and oversee implementation of all activities assumed with the aim of the protection of their safety.

During the state of emergency at the time of COVID-19 infectious disease pandemic, the Protector of Citizens responded in case of the custody of journalist Ana Lalić and in conversation with her and her lawyer he asked for the information on actions of the police during the custody. Furthermore, it was indicated to the detriment of tabloid reporting and publication of names and photos of first patients affected by coronavirus. In its actions, the Protector of Citizens approached to all the public life participants not to disclose patient personal data and to leave decisions on health protection of patients to competent persons in the health protection system. Moreover, the Protector of Citizens reacted with a statement to verbal attacks against journalist Žaklina Tatalović condemning insults and threats sent to her in a television show.

According to the evaluation of the European Commission, the adopted media strategy was executed in a transparent and inclusive manner, however, its application has not started yet and no progress within the comprehensive environment for the freedom of expression can be noticed. "As identified in the media strategy, the cases of threats, intimidation and violence against journalists are still the source of serious concern. The transparency of the ownership of the media and allocation of public funds, especially at the local level are yet to be confirmed,"³⁶ says the European Commission in the report on the Republic of Serbia for 2020.

These data indicate that in the area of the freedom of speech and expression in the Republic of Serbia in the reporting year no progress was made. The position and status of journalists and media workers is additionally endangered by their poor material status. The Press Council received in 2020 in total 163 complaints, which is the highest number of complaints so far. Eight dailies with national coverage violated the Serbian Journalist Code in 3,724 articles. Most of the violations were made in chapters referring to the truthfulness of reporting, discrimination and assumption on innocence and protection of privacy.³⁷

³⁶ Available at: <http://europa.rs/godisnji-izvestaj-o-srbiji-2020/>.

³⁷ Available at: <https://savetzastampu.rs/pres/savet-za-stampu-u-2020-godini-stigle-163-zalbe-kodeks-prekrsen-u-3-724-teksta>.



Signing of the Agreement on establishing a platform for recording cases of security threats and pressure on journalists and other media actors

HUMAN RIGHTS IN THE MEDIA

In 2020 the media reported about tragic and difficult life stories of the citizens of the Republic of Serbia and in certain cases this reporting was not in accordance with the rules of journalistic profession and ethics. The Protector of Citizens responded by initiating the investigations of control of the regularity and legality of the work of competent authorities³⁸ in cases when the public was informed in an inappropriate manner or when the news in the media contained discriminatory messages or offences. The media occasionally broadcast also inappropriate contents too, which referred to especially vulnerable groups of citizens³⁹.

Via social networks and then via other media, insults to the account of dissidents in public life were broadcast and they did not leave unaffected their families and children⁴⁰. There was also verbal violence against women present in the media in the form of sexist and discriminatory statements issued especially to women in public life⁴¹, most frequently to female journalists and politicians. What is also prominent in the media and on social networks is reporting about

³⁸ Available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/6753-z-sh-i-ni-gr-d-n-p-r-nu-p-s-up-up-p-dn-rivicnu-pri-vu-pr-iv-u-ub-r>
<https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/6624-a-10>.

³⁹ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6825-r-gul-rn-l-z-l-r-ns-di-pr-rshil-dr-db-z-n-l-r-ns-i-di-i-i-z-n-z-sh-i-ni-u-gr-d-n>.

⁴⁰ Available at: <https://www.ombudsman.rs/index.php?start=395>.

⁴¹ Available at: <https://nova.rs/zena/lifestyle/darija-kisic-tepavcevic-seksizam-uvrede>.

migrants participating in illegal actions⁴². Even though rarely, there are headlines in the media which, if it is about criminal offence, emphasize the nationality of the offender, as a rule, from the Roma national minority⁴³.

⁴²Available at: <https://www.novosti.rs/vesti/hronika/926768/migranti-napali-devojkku-brankovom-mostu-naneli-joj-povrede-glavi-telu>.

⁴³Available at: <https://www.alo.rs/vesti/hronika/grupa-pripadnika-romske-nacionalne-manjine-u-centru-beograda-napala-obezbedenje-i-opljackala-butik-zestok-sukob-trajao-desetak-minuta-video/378658/vest>.

3. BASIC STATISTICAL REVIEW

3.1. TOTAL NUMBER AND CLASSIFICATION OF COMPLAINTS

In 2020 the Protector of Citizens was contacted by 18,165 citizens, of whom telephone conversation were held with 11,467 citizens; discussions were held with 1,642 citizens, and the number of received cases amounted to 5,056 of which were 4,892 complaints and 164 cases initiated upon own initiative. The altered organization of the institution operation in compliance with the recommendations of competent authorities for the prevention of COVID-19 infectious disease spreading had an impact on fewer citizens received for discussion in comparison to 2019.

Table 1 – Comparative overview of contact with citizens in 2020 and 2019

Type of approach	2020		2019	
	number	%	number	%
Telephone conversations with citizens	11,467	63.13%	4,054	37.32%
Complaints	5,056	27.83%	3,276	30.16%
Citizens received in person	1,642	9.04%	3,532	32.52%
Total	18,165	100%	10,862	100%

The table data indicate the growth in the number of contacts issued to the Protector of Citizens by even 67 percent in comparison to 2019. The implementation of epidemiologic measures for the purpose of the prevention of COVID-19 infectious disease spreading resulted in fewer citizens received for discussion which is why the Protector of Citizens intensified the communication with citizens via telephone.

Table 2 – Comparative overview of handling cases⁴⁴ received in 2020 and 2019

	2020	2019
Number of cases	5,056	3,276
Number of completed cases	4,015	2,227
% of completed cases	79.41%	67.98%
Number of cases in progress	1,041	1,049

The table of comparative overview of handling cases received in 2020 and 2019 indicates that the efficiency of the Protector of Citizens in handling cases from 2020 increased by almost 12 percent in comparison to 2019, which is evidenced by the percentage of closed cases compared to the total number of cases.

Simultaneously, in 2020 in total 1,909 cases from previous years were handled and 1,441 cases were closed. Consequently, the Protector of Citizens handled during the reporting period in total 6,965 cases of which 5,456 cases were closed, i.e. 78.33 percent.

⁴⁴ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

Table 3 – The overview of handling all the cases in 2020

	2020	From previous years	Total
Number of cases	5,056	1,909	6,965
Number of closed cases	4,015	1,441	5,456 (78.33%)
Number of cases in progress	1,041	468	1,509

By comparison, in 2019 the number of all handled cases in 2020 was increased by 33.52 percent compared to 2019 whereas the percentage of closed cases in comparison to the total number of cases was higher by 7.48 percent. These data are shown in the table below.

Table 4 – The comparative overview of handling all the cases in 2020 and 2019

	Number of cases	Number of closed cases	% of closed	Number of cases in progress
Cases from 2020 and previous years	6,965	5,456	78.33%	1,509
Cases from 2019 and previous years	5,224	3,701	70.85%	1,523

Table 1 – Number of cases ⁴⁵ received in 2020 classified by areas of operation and departments

Area of operation of the Protector of Citizens	number	percentage
1. Area of economic and property rights	1602	31.69%
1.1. Local self-government	454	8.98%
1.2. Real estate cadaster	389	7.69%
1.3. Consumer protection	235	4.65%
1.4. Construction and infrastructure	112	2.22%
1.5. Energy and mining	144	2.85%
1.6. Public administration	89	1.76%
1.7. Environmental protection	72	1.42%
1.8. Economy	39	0.77%
1.9. Transportation and transportation	27	0.53%
1.10. Restitution	23	0.45%
1.11. Agriculture	12	0.24%
1.12. Expropriation	3	0.06%
1.13. Natural disasters	3	0.06%
2. Area of civil and political rights	1253	24.78%
2.1. Justice and judiciary	317	6.27%
2.2. Health	281	5.56%

⁴⁵ Ibid.

2.3. Finances	217	4.29%
2.4. MoI –Administrative affairs	161	3.18%
2.5. MoI –Police affairs	132	2.61%
2.6. New judiciary professions	64	1.26%
2.7. Defense	39	0.77%
2.8. Refugees and displaced persons	20	0.40%
2.9. MoI – Labor relations	12	0.24%
2.10. Foreign affairs and diaspora	10	0.20%
3. Area of social and cultural rights	894	17.68%
3.1. Labor and labor relations	356	7.04%
3.2. Pension insurance	256	5.06%
3.3. Social welfare	143	2.83%
3.4. Education and science	121	2.39%
3.5. Culture	9	0.18%
3.6. Serbian language and Cyrillic	5	0.10%
3.7. Youth and sport	4	0.08%
4. Child rights	427	8.45%
5. Rights of persons deprived of their liberty	325	6.43%
6. Rights of persons with disability and the elderly	200	3.96%
7. Gender equality and rights of LGBTI persons	140	2.77%
8. Rights of national minorities	46	0.91%
9. Other	169	3.34%
9.1. Independent public authorities and bodies	159	3.14%
9.2. Security services	6	0.12%
9.3. Protection of whistleblowers	4	0.08%
Total	5,056	100%

Note: In Table 3 under “Other” there are cases stated referring to complaints about the work of independent public authorities, security services and areas which were not recorded in the existing classification.

Table 2 – The outcome of the handing of closed cases ⁴⁶ from 2020

Outcome	Number	%
1. Inadmissible complaints	2,549	63.49%
1.1. Incompetence	1,194	46.84%
1.2. Unused legal remedies	816	32.01%
1.3. Irregular complaint	367	14.40%
1.4. Anonymous complaint	66	2.59%
1.5. Unauthorized applicant	54	2.12%
1.6. Untimeliness	52	2.04%
2. Unfounded complaints	752	18.73%

⁴⁶ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

3. Cases contained in the recommendations from the expedited oversight investigation	363	9.04%
4. Informed and advised complainant	239	5.95%
5. Cases contained in the recommendations from the oversight investigation	52	1.30%
6. Withdrawal of the complaint due to the standoff of the complainant	44	1.09%
7. Opinion	8	0.20%
8. Suspension due to the death of the complainant	6	0.15%
9. Statement of the Protector of Citizens	2	0.05%
Total	4,015	100%

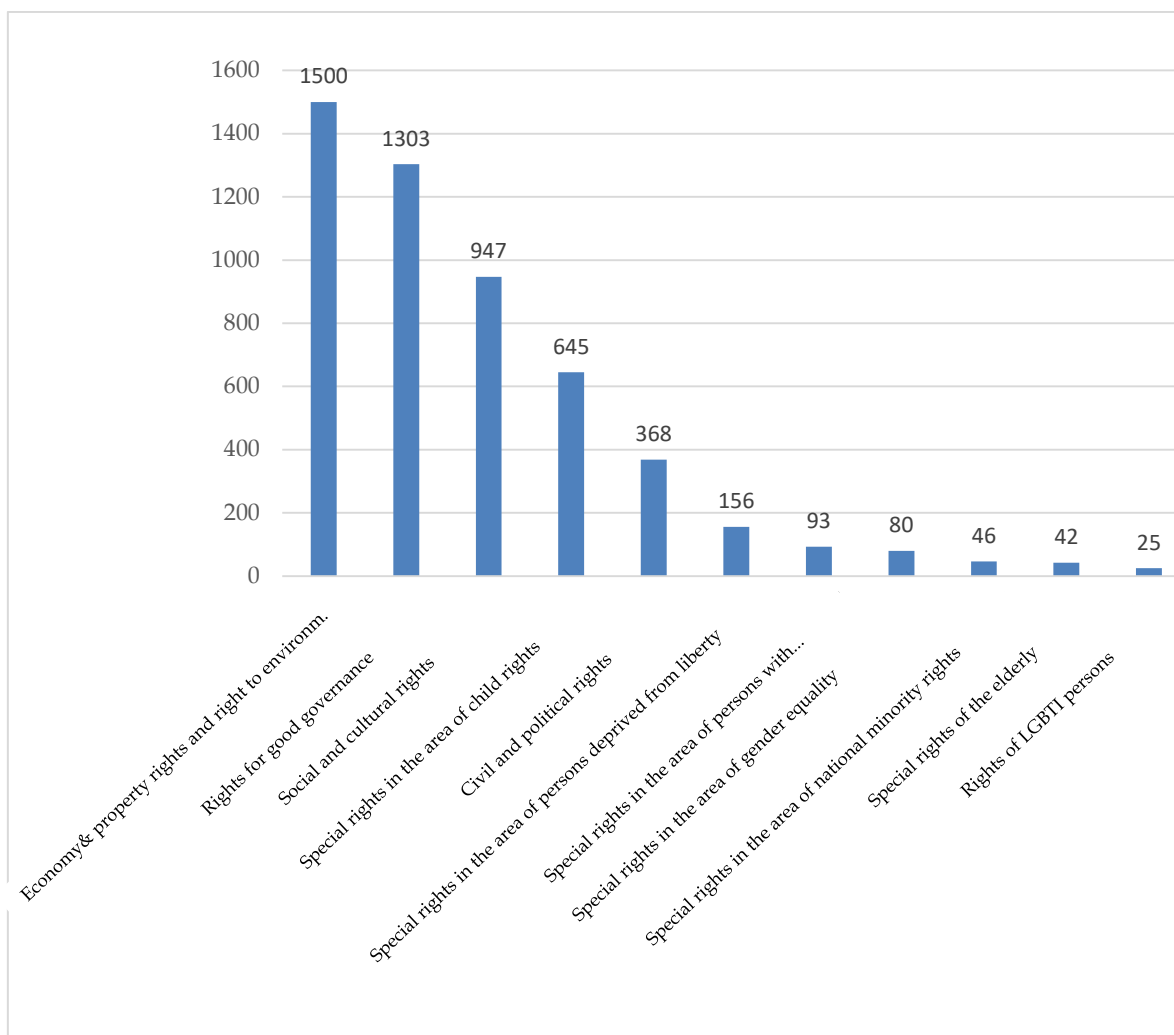
The majority of received complaints is inadmissible by the Protector of Citizens because legally prescribed conditions for handling them were not fulfilled. The complaints are inadmissible due to incompetence, untimeliness, prematurity, anonymity and formal deficiency.

A very important segment of acting of the Protector of Citizens upon complaints is the provision of advisory-legal assistance which is provided by the Protector of Citizens even when the complaint is inadmissible because of incompetence or prematurity. Such advisory assistance is provided to citizens in 78.85 percent of inadmissible cases (2,549). In such cases the Protector of Citizens refers the complainant to the competent body or advises them on available legal remedies.

THE CLASSIFICATION OF COMPLAINTS ACCORDING TO VIOLATED RIGHTS

By handling 5,056 cases during 2020 it was confirmed that there were in total 5,205 violations of rights, of which the majority are violations of economic and property rights, good administration principles, and social and cultural rights. It confirms the fact that good administration principles are violated within all administrative authorities before which citizens, including the vulnerable groups, exercise their rights, which makes the problem of the violation of this right even more sensitive and difficult.

Chart 1 – Number and classification of complaints by violated rights



The majority of complaints refers to the work of executive authority representatives, especially ministries – almost 21 percent of all complaints. Citizens most frequently complained about the work of the authorities and organizations in the area of pension and disability insurance, education, economy, employment, health protection, social welfare, tax authorities, public enterprise and institutions, judicial authorities and local self-government administrative authorities.

CLASSIFICATION OF COMPLAINTS ON WHOSE WORK CITIZENS COMPLAIN

Table 7 - Complaints to various authorities and organizations on whose work citizens complain

Types of authorities and organizations	%
Ministries	20.78%
Agencies, institutes, funds, administrative authorities	17.58%
Institutions and other public services	17.54%
Other authorities and other	16.12%

Local self-government	12.40%
Judicial bodies	7.18%
Public enterprise	5.84%
The highest republic authorities (the Government, the National Assembly)	1.30%
Autonomous republic authorities and independent bodies	0.85%
Autonomous provinces	0.41%
Total all authorities	100%

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

RECOMMENDATIONS

During 2020, the Protector of Citizens issued in total 726 recommendations to administrative authorities, 221 of which were in the oversight investigation and 505 in the expedited oversight investigation.

Table 8 –Comparative overview of handling recommendations in 2020 and 2019

		Issued	Due	Accepted	Inadmissible	% of accepted due recommendations
2020	Recommendations issued in the oversight investigation	221	112	86	26	76.78%
	Recommendations issued in the expedited oversight investigation	505	505	505	0	100%
	Total	726	617	591	26	95.78%
	Recommendations issued in preventive capacity (NPM)	344	178	160	18	89.89%
	Total	1.070	795	751	44	94.46%
2019	Recommendations issued in the oversight investigation	239	98	81	17	82.65%
	Recommendations issued in the expedited oversight investigation	497	497	497	0	100%
	Total	736	595	578	17	97.14%
	Recommendations issued in preventive capacity (NPM)	198	70	57	13	81.43%
	Total	934	665	635	30	95.48%

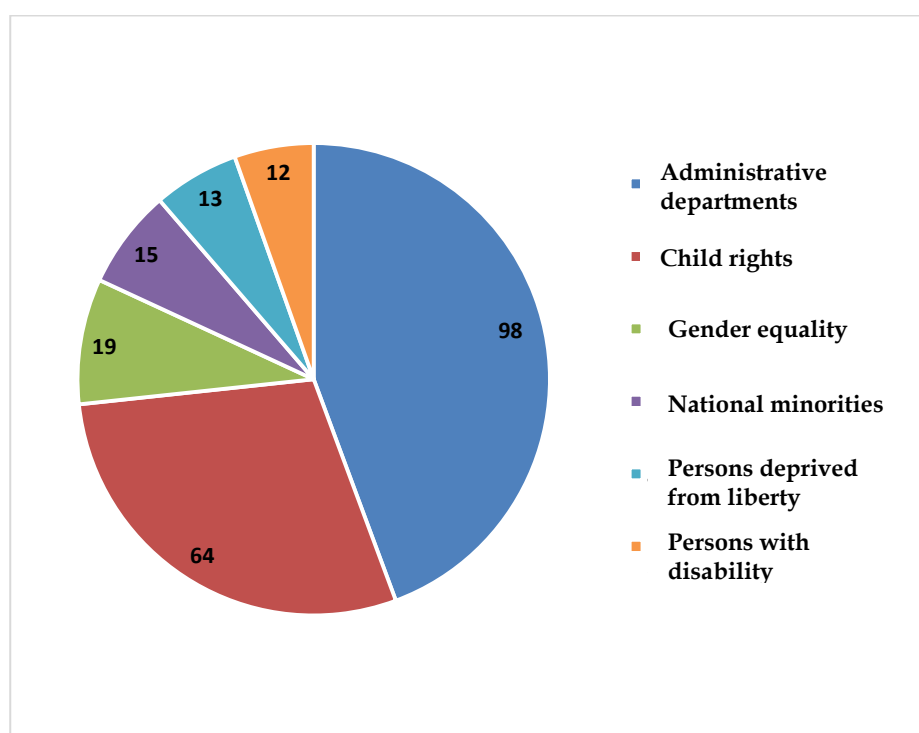
Note: Issued recommendations are all recommendations sent to the authorities during 2020. Due recommendations are all those recommendations whose deadline for the action given in the text of the recommendation expired in 2020, irrespective of when the recommendation was issued. The accepted recommendations are all those recommendations implemented by administrative authorities or they notified the Protector of Citizens that they accepted them.

The data in the table indicate that the total number of issued recommendations in 2020 was higher by 15 percent in comparison to 2019 whereas the number of accepted recommendations was almost the same.

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

Of the total number of issued recommendations, the majority – 98, almost 45 percent refers to administrative department. In the area of child right 28.96 percent of recommendations were issued, in the area of gender equality 8.60 percent, in the area of national minority rights 6.79 percent, in the area of the rights of persons deprived of their liberty 5.88 percent and in the area of the rights of persons with disability 5.43 percent of recommendations.

Chart 2 – Overview of issued recommendations by departments



In the area of rights of persons deprived of their liberty, by performing the activities of the National Preventive Mechanism, the Protector of Citizens issued to competent authorities during 2020 in total 344 recommendations so the total number of issued recommendations was 1070, and the total number of recommendations in the area of persons deprived of their liberty was 357.

The percentage overview of the execution of recommendation of the Protector of Citizens according to the areas is issued in the following tables.

Table 9 – Overview of issued recommendations from oversight investigation by departments

Area	Total number of recommendations	Due	Accepted	Inadmissible	% of accepted
Child rights	64	36	27	9	75%
Gender equality	19	9	8	1	88.89%
Rights of persons with disabilities and the elderly	12	6	6	0	100%
Rights of persons deprived of their liberty	13	10	10	0	100%
Rights of national minorities	15	0	0	0	0
Administrative sectors	98	51	35	16	68.63%
Total	221	112	86	26	76.79%

The authorities issued within deadline in 86 recommendations (**76.79%**). The number of inadmissible recommendations is 26, whereas for 109 recommendations the deadline for the authorities to handle them still has not expired.

OPINIONS

During 2020 the Protector of Citizens issued to public authorities 24 opinions as follows:

Sixteen (16) opinions, using the legal provision to act in a preventive manner by giving advice and opinions from its competence, with the aim of the improvement of public authority work and promotion of the human freedoms and rights protection:

- Opinion with recommendation issued to the Ministry of Culture and Information with regards to the obligation of the media to show the greatest possible level of caution in reporting about violence against children;
- Opinion issued to the city of Bor for the purpose of solving residential needs of the inhabitants of “Sever” area in Bor;
- Opinion issued to the Ministry of Finance, Tax Administration and Republic Pension and Disability Insurance Fund with regards to the payment of the contributions for pension and disability insurance;
- Opinion issued to PUC “Infostan tehnologije” and the city of Belgrade with the aim of taking measures for the purpose of termination of the practice of engagement of lawyer firms in the coercive charging of due receivables to the name of provided public utility services;
- Opinion issued to the Ministry of Labor, Employment, Veteran and Social Affairs with regards to the amendment of the provisions of the Law on Financial Support to Families with Children;

- Opinion with recommendations issued to the City Administration of the City of Čačak, City Administration of the City of Valjevo, City Administration of the City of Kragujevac, City Administration of the City of Kraljevo and City Administration of the City of Pančevo for the purpose of providing the purchase of flats for the refugees from former republics of SFRY with the aim of the realization of their permanent integration;
- Opinion issued to the Ministry of Labor, Employment, Veteran and Social Affairs – Inspectorate for Labor for the intensified inspection oversight of “Jura” corporation during the pandemic of COVID-19 infectious disease;
- Opinion issued to the City of Belgrade with the aim of taking measures for more detailed regulation of conditions referring to the regulation and equipment of hospitality facilities for the extraction of smoke, steam and smells as well as other odors;
- Opinion with recommendations issued to the Ministry of Environmental Protection with the aim of the establishment of trust of citizens in legal and proper work of public administration in the area of environmental protection;
- Opinion with recommendations issued to the City of Belgrade for the purpose of the improvement of air quality at the territory of Belgrade area;
- Opinion with recommendations issued to the Municipal administration of Ljubovija municipality for the purpose of the sanction of local uncategorized road;
- Opinion issued to the Republic Fund for Pension and Disability Insurance with regards to illegal operation at the expense of the complainant;
- Opinion with recommendations issued to the Ministry of Human and Minority Rights and Social Dialog for the purpose of the promotion of the position of LGBTI persons;
- Opinion issued to the Ministry of Justice with regards to the amendments of the Court Rules of Procedure for the purpose of the promotion of the exercise and protection of child rights;
- Opinion issued to the City of Belgrade with the aim of providing assistance to all citizens living in Novogradska street, who suffered damage after the detrimental event in July 2018;
- Opinion issued for the purpose of consistent enforcement of existing regulations in the protection and prevention of additional victimization and traumatization of children victims of criminal acts and improvement of the operation of competent authorities.

Eight (8) opinions, pursuant to the legal provision stipulating its issuing of the opinion to the Government and National Assembly in the process of preparation of regulations to the bills and drafts of other regulations, if they are to regulate the matters of importance for the protection of citizen rights:

- Opinion to the Proposal of the Strategy for the prevention and protection of children against violence from 2020 to 2023;
- Opinion to the Proposal of the Strategy of the improvement of the position of persons with disability in the Republic of Serbia for the period from 2020 to 2024;
- Opinion on the enforcement of the provisions of the Law on Social Welfare;
- Opinion to the Proposal of the Regulation on preventive measures for safe and healthy work on the prevention of the spread of COVID-19 infectious disease;

- Opinion to the Draft of the Action plan for Negotiating Chapter 23: Judiciary and fundamental rights;
- Opinion to the Draft of the Action plan for Negotiating Chapter 24: Rights, Freedoms and Safety;
- Opinion to the Draft of the Action Plan for the implementation of the Strategy of promotion of the position of persons with disability in the Republic of Serbia for the period from 2021 to 2022;
- Opinion to the Social Card Bill.

LEGISLATIVE INITIATIVES

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

- When it is necessary that the text of the law or bill be amended in order to provide complete and smooth exercise of the rights of citizens guaranteed by the Constitution and other laws, regulations and general acts as well as ratified international treaties and generally acceptable rules of international law.
- When other authorized proposal-giver, competent for the specific area (most frequently the Government), does not use their legislative initiative in the manner which provides observance, exercise, protection and promotion of citizen rights and there is the threat of the damage due to delay.

By proposing the amendment and law to the National Assembly, the final step which is taken by the Protector of Citizens, by the rule when he estimates that the authorized proposal-giver “of the first order” shall not take necessary steps to the benefit of the citizen rights on the basis of the initiative, recommendation or other proposal of the Protector of Citizens.

Therefore, the legislative activity of the Protector of Citizens is most frequently reflected in issuing of meaningful initiatives to the public administrative authorities – whose work is controlled by the Protector of Citizens is overseen – to prepare and propose normative amendments. Only exceptionally, the Protector of Citizens addresses with legislative proposal directly to the very National Assembly.

Table 10 - Types of issued legislative initiatives of the Protector of Citizens in 2020

Type of legislative initiative	Number
Referral of amendment to the competent committee of the National Assembly as the proposer ⁴⁷	0
Submission of amendments to bills to the National Assembly ⁴⁸	4
Proposing of the laws to the National Assembly ⁴⁹	0
Initiatives for passing or amending laws and other regulations submitted to the Government, the National Assembly or line ministries	5
Motion to the Constitutional Court to assess constitutionality and lawfulness	0
Total	9

Table 11 - Outcome of actions upon the legislative initiatives

	Number
Accepted legislative initiatives	3
Inadmissible legislative initiatives	0
Pending initiatives	6
Total	9

⁴⁷ Article 157, Paragraph 6 of the Rules of Procedure of the NS.

⁴⁸ Article 161 and 162 for the Rules of Procedure of the National Assembly.

⁴⁹ Article 150 Paragraph 2 of the Rules of Procedure of the National Assembly.

4. EXERCISE OF THE RIGHTS OF PARTICULARLY VULNERABLE GROUPS

4.1. CHILD RIGHTS

STATISTICS

In the area of child rights, in 2020 the Protector of Citizens handled 427 cases⁵⁰, of which there were 373 citizen complaints and 54 cases initiated upon own initiative. Cases from this area make 8.45 percent of the total number of handled cases in 2020 compared to total of 6.81 percent of the handled cases in 2019. In 2020 the work was completed in 337 cases from 2020 and 107 cases from previous years.

The Protector of Citizens issued 64 recommendations to administrative authorities, of which 36 were due for execution in the reporting period⁵¹. Of this number, the administrative authorities acted upon 27 recommendations, which is 75 percent of accepted recommendations.

The cases handled in the reporting period the outcome of handling of closed cases and outcome of the actions upon recommendations are presented in the tables below

Table 10 – Comparative overview of handling of received cases in 2020 and 2019

	2020	2019
Total number of cases	427	223
Number of closed cases	337	137
Number of ongoing cases	90	86

In 2020, the efficiency of the Protector of Citizens in handling the cases in this area was increased by almost 18 percent in comparison to 2019, which is evidenced by the number of closed cases in comparison to the total number of cases.

Table 11 – Comparative overview of acting upon recommendations in 2020 and 2019

	2020	2019
Number of issued recommendations	64	43
Number of due recommendations	36	43
Number of accepted recommendations	27	43
% of accepted	75%	100%

The data in the table show that the number of issued recommendations in the area of child rights in 2020 was increased by almost 50 percent in comparison to 2019.

⁵⁰ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

⁵¹ The Protector of Citizens observes received recommendations as recommendations with expired deadline for actions during 2020 given in the text of recommendations.

Table 12 – The outcome of acting upon closed cases in 2020

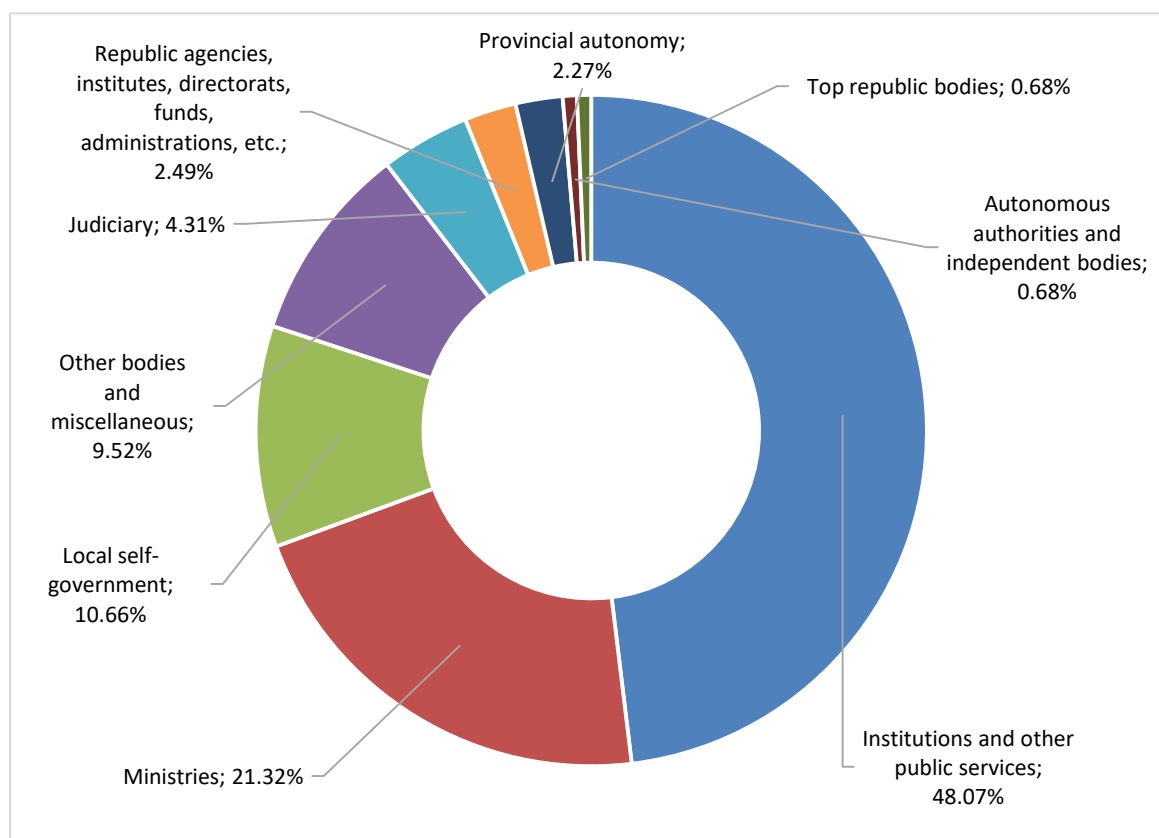
	number	percentage
1. Unfounded complaints	135	40.06%
2. Inadmissible complaints	132	39.17%
2.1. Unused legal remedies	75	56.82%
2.2. Incompetence	29	21.97%
2.3. Unauthorized applicant	16	12.12%
2.4. Formally deficient complaint	10	7.58%
2.5. Anonymous complaint	2	1.52%
3. Informed and advised complainant	42	12.46%
4. Cases closed by recommendations from the expedited oversight investigation	15	4.45%
5. Cases closed by recommendations from oversight investigation	7	2.08%
6. Withdrawal of the complainant	4	1.19%
7. Opinion of the Protector of Citizens	2	0.59%
Total	337	100%

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

A very important segment of acting of the Protector of Citizens upon complaints is the provision of advisory-legal assistance which is provided by the Protector of Citizens even when the complaint is inadmissible because of incompetence or prematurity. Such advisory assistance is provided to citizens in 78.79 percent of inadmissible cases (132) in this area. In such cases the Protector of Citizens refers the complainant to the competent body or advises them on available legal remedies.

In the area of child rights in 427 cases it was indicated to 645 violations of rights, whose greatest part refers to observance of the child's best interests, right to protection against abuse and negligence and the right to maintaining personal contacts with parents with whom the child does not live.

Chart 3 – Categories of authorities and organization about whose work citizens most frequently complained in the area of child rights



ACTIVITIES OF THE PROTECTOR OF CITIZENS

Not even after 12 years since passing of the Guardianship Rulebook⁵² and nine years since passing of the new Law on Social Welfare⁵³, the guardianship in our country is not developed as nearly as stipulated and enabled by the normative framework. Namely, even after seven years since passing of the decision of the Government of the Republic of Serbia, competent authorities have not managed to establish centers for family accommodation and adoption. Because of this, the Protector of Citizens asked for urgent establishment of all centers for support to guardianship and provision of an adequate number of expert employees which would enable adequate support to children and guardian families.

With regards to this, the Protector of Citizens confirmed that of stipulated eight, seven centers for family accommodation and guardianship at the territory of the Republic of Serbia were established and only one of them performs the activity in the area of guardianship at the entire territory for which purpose it was founded. None of the centers has adequate number of employees so more than half of children at family accommodation and more than half of guardian families do not have provided specialized support. The inadequate number of employees is the consequence of legal limitation of the employment in public sector and these consequences are felt more and more from one year to another. The amendments to the Law on Budget⁵⁴ do not entirely abolish the limitation to the employment in the public sector, but

⁵² "Official Gazette of RS", number 36/08.

⁵³ "Official Gazette of RS", number 24/11.

⁵⁴ Article 3. "Official Gazette of RS", number 149/20.

there was a progress made. With the aim of the improvement of the condition in this area, the Protector of Citizens issued recommendations⁵⁵ to competent authorities, inter alia, regarding the work on the development of specialized forms of guardianship such as family accommodation with intensive and additional support, occasional and urgent family accommodation, provision of continual, specialized training for employees at centers for family accommodation and adoption, as well as strengthening of the support to children and youth through programs of emancipation and employment. Although in practice the need for the provision of social and health care services was recognized, the institutions which would provide this type of service, and whose foundation was stipulated by the Law on Social Welfare even eight years ago, still have not been established.



Deputy Protector of Citizens Jelena Stojanović visiting the Center for Social Work in Trstenik

⁵⁵ Available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6822-hi-n-f-r-ir-i-sv-c-n-r-z-p-drsh-u-hr-ni-ljs-vu-i-b-zb-di-i-d-v-n-br-s-rucnih-r-dni>.

In the Special report of the Protector of Citizens on the work of the groups for coordination and cooperation at the territory of the City of Belgrade⁵⁶, published in October, 2020, it was stated that the Law on the Prevention of Domestic Violence⁵⁷ prescribes the framework for better protection and position of children victims of domestic violence. However, children exposed to domestic or partner violence are still not recognized as victims of violence, abuse and negligence, which is why the measures of their protection, assistance provision and support to child-victim are most frequently missing. Therefore, the Protector of Citizens recommended that amendments to the Law on the Prevention of Domestic Violence prescribes special provisions on the activities in case of the violence against children, particularly the provisions which prescribe that a child is a victim of violence every time it is present during domestic violence against a family member or a close person.

The Protector of Citizens issued to the Ministry of Justice the opinion⁵⁸ in which it was indicated to the need that the valid Court Rules of Procedure should be amended in such manner that it will explicitly prescribe that, in information to the public on the court operation, information which directly or indirectly make the identity of a child who is a victim of a criminal offence recognizable, as well as the information whose publication is not in compliance with the best interest of the child, cannot be issued.

In the opinion issued to competent authorities, the Protector of Citizens reminded once again to the legally stipulated option to use in interviewing of a child witness/ victim of a criminal offence technical means for the transmission of image and should in order to prevent additional victimization and traumatization of a child victim through multiple hearings before different authorities and by different persons.

The right of children to protection against all forms of violence and protection against excessive interference into their privacy and the right of the child victim of violence to recovery and reintegration represent for the media the obligation to show in reporting about the violence against children the highest possible level of caution. In the opinion⁵⁹ issued to the Ministry of Culture and Information, the Protector of Citizens indicated once again that the Ministry is obliged to take measures aimed at the media which during reporting do not provide prescribed measures of child protection.

After conducted oversight investigation and confirmed omissions in operation, the Protector of Citizens issued a recommendation⁶⁰ to competent bodies of local self-government with the aim of the promotion of the protection of child rights, in the specific case of their safety while using facilities and equipment designed for use in entertainment programs. The recommendation indicates to the need for the amendment of existing regulations so that their provisions could prescribe adequate sanctions also for the persons who failed to obtain required approval of the competent authority for the placement of facilities and equipment designed for use in entertainment programs on a non-public surface, as well the oversight investigation of placement and operation of these facilities, which was not stipulated so far.

⁵⁶ Available at: <https://ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/6804-p-s-b-n-izv-sh-z-sh-i-ni-gr-d-n-r-du-grup-z-rdin-ci-u-i-s-r-dnju-n-p-druc-u-gr-d-b-gr-d>

⁵⁷ "Official Gazette of RS", number 94/16.

⁵⁸ Available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6894-z-sh-i-ni-gr-d-n-r-zi-iz-nu-suds-g-p-sl-vni-zb-g-z-sh-i-pr-v-d>

⁵⁹ Available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6715-inis-rs-v-ul-ur-d-p-n-v-r-z-ri-i-pr-ud-n-s-pr-duzi-nj-r-pr-lis-u-v-c-rnj-n-v-s-i>

⁶⁰ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6788-gr-d-s-b-r-n-pr-vi-pr-pus-n-sh-u-pr-v-d>

A significant number of complaints issued to the Protector of Citizens in the area of child rights still indicates to the violation of child right to maintaining personal relations with a parent with whom the child does not live as well as the failure to execute court decisions on the commitment of a child and the decision on the manner of organization of personal relations of a child and parent. This was especially prominent during the state of emergency, declared due to COVID-19 infectious disease pandemic, which was the topic of the Special report on the activities of the Protector of Citizens during the state of emergency⁶¹. At the initiative of the Protector of Citizens, children who live with one parent are allowed, on the basis of a court decision and on the basis of the agreement with the other parent, to sell the other parent and do that regardless of the introduced prohibition of movement.

Recommendation of the Protector of Citizens⁶² for the correction of the omissions made in the adoption of a minor, apart from the termination of this adoption procedure to the best interest of a child contributed to the initiation of the removal of systemic shortcomings which were noticed in this case, and whose removal may impact more efficient work of competent authorities in future adoption procedures. Acting upon the recommendation of the Protector of Citizens, the Ministry of Labor, Employment, Veteran and Social Affairs passed new Instruction on the manner of operation of centers for social work in the adoption procedure, which supersedes the previous one from 2006. The ministry also informed the Republic Institute for Social Welfare on the need for organization of constant and continual trainings of experts at centers for social work in adoption procedures, as recommended by the Protector of Citizens. Also, upon the recommendation of the Protector of Citizens on the update of a Unique personal register of adoption. The competent ministry issued a deadline of five days to all centers for social work to contact all future adopters from the record and verify if they have given up on the adoption.

In the investigation initiated upon its own initiative, the Protector of Citizens confirmed that the social welfare center, by not performing its duty during the state of emergency declared due to COVID-19 infectious disease pandemic, denied the rights to protection against sexual exploitation, violence, abuse and negligence of children whose family was under corrective oversight of that center, and the problems of families are known for years. In relation to this, the Protector of Citizens issued to the competent social welfare center a recommendation⁶³ in which, inter alia, it was indicated to the fact that child rights cannot be limited and that the state of emergency cannot be justification for leaving children without protection and called competent authorities to make the plan of work and service provision to citizens in extraordinary circumstances.

The Ministry of Labor, Employment, Veteran and Social Affairs refused to act upon the recommendation⁶⁴ of the Protector of Citizens for putting out of force the work order from 2018 issued to all centers for social work in the Republic of Serbia, which stipulates their responsibility to take from parents or foster parents children who live and work in the street in an urgent procedure, initiate court proceedings with the aim of deprivation of

⁶¹ Available at: <https://ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/6643-p-s-b-n-izv-sh-ivn-s-i-z-sh-i-ni-gr-d-n-v-nr-dn-g-s-nj>.

⁶² Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6730-z-sh-i-ni-gr-d-n-z-p-c-l-nj-nj-sis-s-ih-n-d-s>.

⁶³ Available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6779-v-nr-dn-s-nj-n-z-bi-i-pr-vd-nj-z-s-vlj-nj-d-c-b-z-z-sh-i>.

⁶⁴ Available at: https://www.pravadeteta.com/index.php?option=com_content&view=article&id=970:заштитник-грађана-тражи-стављање-ван-снаге-одлуке-о-одузимању-деце-улице-по-хитном-поступку&catid=40:поступци-контроле&Itemid=85.

parenthood right, prohibition of contacts of parents and children, impose measures of protection against violence and submit criminal charges against parents. By the end of February 2020, the Protector of Citizens confirmed that the competent Ministry by issuing the work order acts contrary to the United Nations Convention on the rights of the child⁶⁵, and significantly narrows the level of the exercise of child right in the Republic of Serbia and directs centers for social work to illegal activities. The Protector of Citizens believes that automatic taking of children away from parents is not a solution, but the activities of the system must be aimed at finding and removal of causes which lead to the situation in which children are in the street, and not the consequences.

The child right to be accompanied during the inpatient treatment, stipulated by the Law on Health Insurance⁶⁶, is not provided in all inpatient health care institutions in the Republic of Serbia, which was confirmed by the Protector of Citizens in the recommendation⁶⁷ issued to the Ministry of Health. This right is exercised depending on the institution where the child is treated, which leads to uneven practice in work of health care institutions in the Republic of Serbia. The Ministry of Health is obliged to take measures from its competence to remove this omission in the work of health care institutions where children have inpatient treatment and to order health care institutions to adjust their rules of conduct with the provisions of the regulations in the area of health protection and therefore enable children up to the age of 15 to be accompanied at the institution during the treatment. The recommendation is still within the deadline for acting.

The Ministry of Education, Science and Technological Development failed to act upon several recommendations⁶⁸ in which this authority is asked to take legally prescribed measures after confirmed illegalities in the operation of several school principals. Namely, even though competent educational inspections and school administrations confirmed irregularities in the operation of school principals and informed the Minister of Education about it, the principals were not relieved of duty and such decision was not explained by the Ministry. By the failure to take stipulated measures in specific cases, the rights of children and students were not protected and simultaneous the message was sent that illegal activities of directors may go unpunished. The Ministry failed to act upon issued recommendations.

The Protector of Citizens issued a recommendation⁶⁹ to competent authorities because they failed to change regulations pursuant to which parents of a child who did not get a place in a state-owned kindergarten are refunded a part of the expenses for the staying of the child in a private-owned kindergarten. Namely, by refusing to issue a rejection notice, competent authorities prevented parents from exercising this child right stipulated by the general act and thus brought the child into enforced an unequal position in comparison to other children who exercised this right. Competent authorities failed to act upon the issued recommendation.

In the investigation initiated upon its own initiative, the Protector of Citizens confirmed that competent authorities (social welfare center, provincial secretariat, ministry and primary school) had some omissions in operation due to which six children in plain sight of all public authorities and institutions were left on their own because they were not provided with adequate and timely protection. In the recommendation⁷⁰ issued to competent authorities, the

⁶⁵ Available at:

https://www.paragraf.rs/propisi/zakon_o_ratifikaciji_konvencije_ujedinjenih_nacija_o_pravima_deteta.html.

⁶⁶ Article 55 Paragraph 1 Item 8 "Official Gazette of RS", number 25/19.

⁶⁷ Case number: 132-5474/16.

⁶⁸ Case numbers: 132-1587/18., 132-2943/18 and 132-3680/17.

⁶⁹ Case number: 321-127/19.

⁷⁰ Available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6746-n-dl-zni-rg-ni-p-s-up-li-n-pr-viln-ziv-i-b-zb-dn-s-d-c-bili-ugr-z-ni>.

Protector of Citizens, beside the statement on their untimely actions, indicated that the confirmed omissions resulted in the endangerment of the life and safety of children and recommended taking of activities and measures in order to avoid such omissions in future.



Signing of the Agreement on Cooperation between the Protector of Citizens and the Network of Organizations for Children of Serbia

In the promotion of child rights and position in the Republic of Serbia through the cooperation with civil society organizations, early in 2020 the Protector of Citizens concluded the Agreement on Cooperation and Understanding⁷¹ with the Network of Organizations for Children of Serbia (NOCS) which gathers around one hundred civil society organizations. The Agreement stipulates quarterly thematic meetings of the representatives of the Protector of Citizens and NOCS where the issues in different areas of child rights, such as education, health protection, social support, culture, information, etc. shall be reviewed.

In the reporting period the Deputy of the Protector of Citizens for child rights attended the meetings of the European Network of Ombudsmen for Children (ENOC) where, inter alia, the protection of child rights in the members states of the Network in the circumstances of COVID-19 infectious disease pandemic. The Deputy of the Protector of Citizens emphasized on this occasion that is very important that decision makes in every country “look through the prism” of child rights, to consult children and youth in passing of policies which have an impact on them and the exercise of their rights, that in designing the changes via new legal solutions or measure they should always think whether and in which manner the newly-emerged changes could impact on the life of every child individually.

⁷¹Available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/6510-z-sh-i-ni-gr-d-n-i-r-z-rg-niz-ci-z-d-cu-srbi-p-pis-li-sp-r-zu-s-r-dnji>.

The Protector of Citizens, in the reporting period, organized several online meetings with the members of the Panel of Young Advisors, where children and youth, inter alia, stated that COVID-19 infectious disease pandemic deprived them primarily of the right to quality education, then the right to gathering and the right to rest and health protection and emphasized that, in such circumstances, children and youth should be more asked about their needs and rights. The return to school, regular lessons and gathering with peers are main wishes of students of primary and high schools in all parts of Serbia.

On the occasion of the International Day for the Elimination of Violence against Women, the National Coalition for the Termination of Child Marriages, where the Protector of Citizens takes part, initiated the campaign "Child Marriage is not a Roma Tradition". The campaign is aimed at raising of the public awareness on the problem of early marriages, whose root is primarily extreme poverty, not tradition or customs, as it is frequently explained publicly.

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

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

- **Government** should plan and take measures of economic policy without endangering of child rights and in the manner which will not reduce accomplished standards in the exercise of child rights and provide the number of health care employees, professional employees at the institutions of social welfare and professional associates at the educational institutions which correspond to the child needs;
- **Government** should adopt a new National Action Plan for Children in accordance with recommendations of the Protector of Citizens and UN Committee on the Rights of the Child;
- **Government** should propose amendments to the Law on the Prevention of Domestic Violence which should prescribe special provisions on acting in cases of violence against children, including the provisions which prescribe that the child is always the victim of violence when s/he is exposed to domestic violence against a family member or close person and establish also a unique record on cases of violence against children;
- **Government** should propose amendments to the Law on Public Peace and Order which should provide that children in street situation are not treated as criminal offenders, but as victims of violence, abuse and negligence;
- **Government** should propose amendments to existing regulations or passing of new ones which should provide new rights and measures of support for parents of gravely ill children and children with developmental delays and disabilities who need constant care and assistance, in accordance with proposals and recommendations of the Protector of Citizens and not to condition the right to the earning compensation due to absence for the purpose of special child care by the fact that the child did not exercise the right to the allowance of assistance and care of another person;
- **Ministry of Labor, Employment, Veteran and Social Affairs and the Ministry of Finance** should, without any further delay, provide an adequate number of employees at centers for social work as well as the centers for family accommodation and adoption in

order to provide full application of standards of expert work and adequate activities of centers in the area of social welfare;

- **Ministry of Labor, Employment, Veteran and Social Affairs** should ensure that centers for social work timely act in the protection of child rights, take measures with the aim of the prevention of isolation of children from their family, especially when it comes to children who live and work in the street as well as that they implement them exclusively for legally stipulated reasons;
- **Ministry of Labor, Employment, Veteran and Social Affairs** should ensure that the competent centers for social work, immediately upon learning that at the territory of their competence there is a minor unaccompanied minor, without further delay provide the minor with foster protection;
- **Ministry of Labor, Employment, Veteran and Social Affairs** and **Provincial Secretariat for Social Policy, Demographics and Gender equality** in cooperation with **Republic Institute for Social Welfare** and **Provincial Institute for Social Welfare**, as well as **other relevant public authorities and institutions**, should, with mandatory inclusion of experts who provide direct support to children and guardian families, work on the development of specialized forms of guardianship, such as family accommodation with intensive and additional support, occasional and urgent family accommodation;
- **Ministry of Interior, Ministry of Justice, High Judiciary Council, State Prosecutorial Council, Ministry of Health, Ministry of Education, Science and Technological Development** and **Ministry of Labor, Employment, Veteran and Social Affairs** should ensure that existing possibilities of the protection of children from secondary traumatization are used and that new mechanisms of the protection of children from secondary traumatization and victimization and services for rehabilitation of children victims and their reintegration are developed;
- **Ministry of Interior, Ministry of Labor, Employment, Veteran and Social Affairs, Ministry of Justice, High Judiciary Council and State Prosecutorial Council** should take measures with the aim of efficient and fast conduct of the procedure and passing of decisions which temporarily and permanently regulate the family-legal status of children and provide protection of child rights as well as with the aim of efficient and fast execution of these decisions;
- **Ministry of Justice, High Judiciary Council, State Prosecutorial Council, Ministry of Interior** и **Ministry of Labor, Employment, Veteran and Social Affairs** should intensify efforts in the establishment of efficient and child-friendly system of execution of court decisions which refer to children;
- **Ministry of Justice, Ministry of Interior, Ministry of Labor, Employment, Veteran and Social Affairs, Ministry of Health, Ministry of Education, Science and Technological Development, High Judiciary Council and State Prosecutorial Council** should establish adequate and coordinated mechanisms for prevention and suppression of child and early marriages, detrimental practices, child labor and life and work in the street, as well as mechanisms for the protection of children and these cases.

4.2. GENDER EQUALITY AND RIGHTS OF LGBTI PERSONS

STATISTICS

In the area of gender equality and rights of LGBTI persons, in 2020 the Protector of Citizens handled 140 cases⁷², of which 120 were citizen complaints and 20 cases upon its own initiative. The cases in this area comprise 2.77 percent of the total number of handled cases in 2020, compared to 2.62 percent of handled cases in 2019. In 2020 the work was completed in 138 cases, of which 94 cases from 2020 and 44 cases from previous years.

The Protector of Citizens issued 19 recommendations to the authorities of which nine were due for execution in the reporting period. Of this number, administrative authorities acted upon eight recommendations which comprises 88.89 percent of accepted recommendations. The cases handled in the reporting period, the outcome of acting upon closed cases and the outcome of acting upon recommendations are presented in the tables below.

Table 13 – Comparative overview of acting upon received cases in 2020 and 2019

	2020	2019
Total number of cases	140	86
Number of closed cases	94	47
Number of ongoing cases	46	39

In 2020, the efficiency of the Protector of Citizens in acting upon the cases in this area was increased by more than 12 percent in comparison to 2019 which is evidenced by the number of closed cases in comparison to the total number of cases.

Table 14 – Comparative overview of acting upon recommendations in 2020 and 2019

	2020	2019
Number of issued	19	9
Number of due	9	0
Number of accepted	8	0
% of accepted	88.89%	Not applicable

The data in the table indicate that the number of issued recommendations in the area of gender equality and rights of LGBTI persons in 2020 was increased by 111 percent in comparison to 2019.

Table 15 – The outcome of acting upon closed cases in 2020

	number	percentage
1. Unfounded complaints	42	44.68%
2. Inadmissible complaints	27	28.72%
2.1. Unused legal remedies	7	25.93%
2.2. Unauthorized applicant	7	25.93%
2.3. Incompetence	6	22.22%

⁷² The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

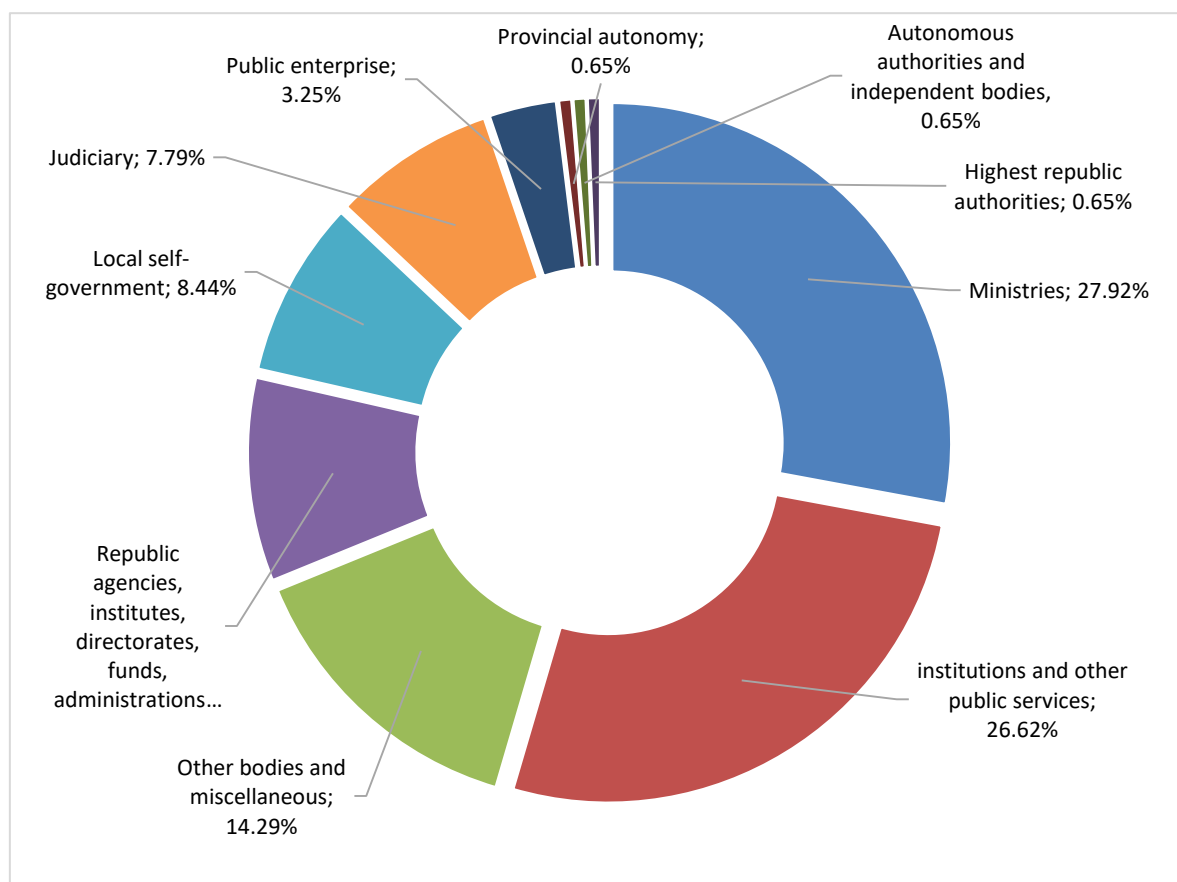
2.4. Anonymous complaint	4	14.81%
2.5. Formally deficient complaint	3	11.11%
3. Informed and advised complainant	16	17.02%
4. Cases closed by recommendations from the expedited oversight investigation	4	4.26%
5. Cases closed by recommendations from oversight investigation	4	4.26%
6. Withdrawal of the complainant	1	1.06%
Total	94	100%

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

A very important segment of acting of the Protector of Citizens upon complaints is the provision of advisory-legal assistance which is provided by the Protector of Citizens even when the complaint is inadmissible because of incompetence or prematurity. Such advisory assistance is provided to citizens in 48.15 percent of inadmissible cases (27) in this area. In such cases the Protector of Citizens refers the complainant to the competent body or advises them on available legal remedies.

In the area of gender equality in 140 cases it was indicated to 140 violations of rights whose significant part refers to domestic violence, rights of pregnant women and nursing mothers and the right to earning compensation at the time of absence due to pregnancy leave, maternity leave and child care, hate speech, violence against LGBTI persons and change of data in vital records.

Chart 4 - Categories of authorities and organizations about whose operations citizens complained most frequently in the area of gender equality and LGBTI rights



ACTIVITIES OF THE PROTECTOR OF CITIZENS

Gender equality

As in previous years, during 2020 in the area of gender equality it was indicated most frequently to the violations of rights to earnings compensation during the absence due to pregnancy leave, maternity leave and childcare, rights of pregnant women and nursing mothers as well as domestic and partner violence. Moreover, the previous period was also marked by the activities in the overseeing of the implementation of measures introduced during the state of emergency declared due to COVID-19 infectious disease pandemic.

The Protector of Citizens asked the Ministry of Interior, Ministry of Justice and Ministry of Labor, Employment, Veteran and Social Affairs the information on the enforcement of the Law on the Prevention of Domestic Violence During the State Of Emergency, number of reported cases of domestic violence, taken measures of protection and support as well as services available to victims of domestic violence. On the basis of obtained information, it can be noticed that the number of reported cases, taken measures of protection and support to victims of domestic violence does not deviate significantly from the previous period before the state of emergency.

With the aim of overseeing the enforcement of the Law on the Prevention of Domestic Violence⁷³ and acting of competent authorities in cases of domestic violence, the Protector of

⁷³ "Official Gazette of RS", number 94/16.

Citizens published in October 2020 the Special report on the operation of the groups for coordination and cooperation at the territory of the City of Belgrade with recommendations⁷⁴. The Protector of Citizens expects that recommendations and conclusions from the Special Report will be useful for the improvement of the operation of the authorities competent for the prevention of domestic violence, especially for the organization of additional professional trainings for representatives of the prosecutor's office, police administrations and centers for social work which consists of groups for coordination and cooperation.



Presentation of the Special Report of the Protector of Citizens on the work of groups for coordination and cooperation in the city of Belgrade

In the investigation initiated upon its own initiative on the occasion of the murder of three persons and one child in May 2020, the Protector of Citizens confirmed numerous omissions in the operation of the Ministry of Labor, Employment, Veteran and Social Affairs and the centers for social work in the process of protection against violence and abuse of children from the family which was in the records of the center. More specifically, the Protector of Citizens confirmed that the competent center for social welfare center during nine years of work with the family failed to initiate a single procedure with the aim of the protection against domestic violence or deprivation of parent right, whereas the Ministry failed to provide expert assistance to guardianship authorities timely, which it was obliged to do. Moreover, there was no timely exchange of information on the level of risk for victims of violence, abuse and negligence and the protection of beneficiaries was not provided pursuant to regulations and standards of the expert work in the area of family and legal and social welfare. The Protector

⁷⁴ Available at: <https://ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/6804-p-s-b-n-izv-sh-z-sh-i-ni-gr-d-n-r-du-grup-z-rdin-ci-u-i-s-r-dnju-n-p-druc-u-gr-d-b-gr-d>.

of Citizens issued a recommendation⁷⁵ to the Ministry of Labor, Employment, Veteran and Social Affairs and competent centers for social work with the aim of the removal of identified omissions. Competent authorities acted upon the recommendation.

As in the reports, recommendations⁷⁶ and opinion⁷⁷ issued so far to competent authorities, the Protector of Citizens issued in this reporting period, too, a recommendation⁷⁸ in which it was indicated to the obligation of the state to provide in centers for social work an adequate number of expert employees, which would provide full application of the expert work standard and adequate activities of the centers for social work in cases of domestic and partner-relations violence, violence, abuse and neglect of children and performance of other expert activities. Competent authorities acted upon recommendations of the Protector of Citizens with regards to obtaining of the consent for new employment and additional work engagement at the centers for social work and institutions of social welfare. The Ministry of Labor, Employment, Veteran and Social Affairs, acting upon recommendations, indicated that by the Commission Conclusion of the Government for issuing consent to new employments and additional work engagement at the public fund beneficiaries⁷⁹ the consent was issued for the occupation of totally 187 available and vacant job positions at the public fund beneficiaries which are within the scope of competence of this Ministry – Sector for Family Care and Social welfare, of which 108 job positions are at centers for social work.

Pursuant to recommendations issued by the Protector of Citizens in the Special report on the application of General and special protocols for the protection of women against violence, the National Employment Action Plan for 2020⁸⁰ stipulates programs and measures of active employment policies which prescribe subsidies for the employment of domestic violence victims. However, the Rulebook on more detailed content of the data and manner of keeping of the records in the area of employment⁸¹ still does not expressly prescribe that the status, as one of the personal data on the unemployed whose record is kept includes also that the unemployed person is domestic violence victim.

Apart from recommendations of the Protector of Citizens repeated on several occasions, there are still amendments to the Law on Financial Assistance to Families with Children⁸² which are not adopted and thus cannot enable exercise of the right to allowance for assistance and care of another person. Therefore, the Protector of Citizens issued an opinion⁸³ to the Ministry of Labor, Employment, Veteran and Social Affairs. The Protector of Citizens indicated to everything stated also in his opinion on the Draft of the Law on Financial Assistance to Families with Children from 2017.⁸⁴

⁷⁵ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6789-u-vr-di-i-dg-v-rn-s-s-rucnih-r-dni-u-n-dl-zni-c-n-ri-i-inis-rs-vu-z-r-d-p-sl-r-g-di-u-l-s-vcu>.

⁷⁶ Recommendations no. 13-1-3273/16 dated 27th July, 2016, 13-1-2005/16 dated 25th August, 2016, 13-1-1657/18 dated 30th November, 2018 and 321-74/20 dated 27th August, 2020.

⁷⁷ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/6184-z-sh-i-ni-gr-d-n-upu-i-ishlj-nj-n-dl-zni-z-un-pr-d-nj-r-d-u-z-sh-i-i-d-n-silj-u-c-n-ru-z-zil-rnj-c>.

⁷⁸ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6798-c-n-r-u-s-b-nji-b-z-s-ci-lnih-r-dni-inis-rs-v-z-r-d-d-hi-n-b-zb-di-n-v-z-p-sl-nj>.

⁷⁹ Dated 28th October, 2020.

⁸⁰ "Official Gazette of RS", number 94/19.

⁸¹ "Official Gazette of RS", number 15/10, 7/19 and 51/19.

⁸² "Official Gazette of RS", number 113/17 and 50/18.

⁸³ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/6703-us-l-di-i-z-n-r-di-s-v-riv-nj-z-g-r-n-v-nih-pr-v-r-di-lj-d-c-s-s-nj-u-r-zv-u-d-c-s-inv-lidi-i-sh-b-l-sn-d-c>.

⁸⁴ Opinion of the Protector of Citizens no. 183-25/2017 ref. no. 37867 dated 13th October, 2017

Rights of LGBTI persons

Given that, beside the recommendations of the Protector of Citizens issued on several occasions, same-sex unions and the consequences of the adjustment (change) of sex and gender identity are still not legally regulated, this independent public authority issued the opinion with recommendations⁸⁵ to the Ministry of Human and Minority Rights and Social dialog urging it to execute law drafts which would remove these shortcomings for the purpose of the improvement of the position of LGBTI persons in the Republic of Serbia. In the recommendations the Protector of Citizens states that this Ministry should execute and submit to the Government of the Republic of Serbia the Proposal of the Strategy of Prevention and Protection against Discrimination and accompanying Action Plan for the following period, with specific measures and activities for the promotion of the position of LGBTI persons and other sensitive social groups, since these strategic documents ceased to be valid in 2018, and the new ones still have not been adopted.

Pursuant to the opinion⁸⁶ of the Protector of Citizens, the Strategy for prevention and protection of children against violence for the period from 2020 to 2023⁸⁷ recognizes LGBTI children as children from sensitive groups in risk of violence due to their sexual orientation and gender identity. However, contrary to the suggestions of the Protector of Citizens, the Strategy does not stipulate sufficient number of activities dedicated to the protection and promotion of the position of LGBTI children.

Acting upon its own initiative and on the occasion of the information from the media on the “attack” to the premises of the Pride info center in Belgrade early in 2020⁸⁸, the Protector of Citizens confirmed that the Ministry of Interior found the offenders and took measures for their processing, which was the first time that the offenders were identified after totally 11 “attacks” to this facility.

Acting upon its own initiative and after the information in the media that a group of around two hundred high-school children in Leskovac protested because of the news that a Pride will be held in their town, that there were incidents during the protest as well as that gathered high school children yelled inappropriate and offensive slogans, the Protector of Citizens confirmed that the Ministry of Education, Science and Technological Development took measures within its competence in this case. However, in the act issued to this authority, the Protector of Citizens once again reminded about the exceptional importance of education and sensibilization of employees at educational institutions with the aim of development of the tolerance and raising of the awareness on the rights of the LGBTI persons.

In the process initiated upon the complaint due to inability of the registration of adjustment- change of sex performed abroad in the vital records of the Republic of Serbia, the Protector of Citizens confirmed omissions in the operation of the Office for trans-gender conditions of the Ministry of Health in the application of the Rulebook on the manner of issuance and confirmation form of the health care institution on the sex change⁸⁹. According to this, the Protector of Citizens asked the Ministry of Health to take all legal measures in

⁸⁵ Available at: <https://ombudsman.rs/attachments/article/6882/Misljenje.doc>.

⁸⁶ Available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6477-2020-2023>.

⁸⁷ Available at: <https://www.srbija.gov.rs/dokument/45678/strategije.php>.

⁸⁸ According to the allegations of the media, a group of young men on 29th February, 2020 in the evening hours attacked Pride info center by kicking the window and destroyed the entrance door lock and part of the inventory.

⁸⁹ “Official Gazette of RS”, number 103/18.

order to correct confirmed irregularities so that omissions such as this one would not happen in future, which was done.

Respecting the attitudes of the Protector of Citizens that the Rulebook on more detailed conditions, criteria and manner of selection, testing and assessment of the donor of reproductive cells and embryos⁹⁰, contains the provisions which are not in compliance with adopted standards of the exercise of human rights and non-discrimination when it comes to LGBTI persons, the Biomedicine Administration expressed the readiness to amend this bylaw and submitted to the Protector of Citizens the proposal of the new text of disputable provisions, agreed with by this body. Apart from the time period past, this bylaw still has not been amended, nevertheless, the Protector of Citizens was informed that the Rulebook shall be amended in 2021.

Apart from the recommendation of the Protector of Citizens from the regular annual report for 2019, there is still a great problem of the maintenance of the hormonal status of trans persons, women who underwent hysterectomy, women in menopause and all women with low level of estrogen. Acting upon its own initiative, the Protector of Citizens took measures toward the Ministry of Health, Republic Health Insurance Fund and Republic Expert Commission for Transgender Conditions of the Ministry of Health in order to solve this problem.

Within the project of the Council of Europe "Promotion of Diversity and Equality", which is implemented with the financial support of the European Union, the Protector of Citizens and Rainbow Associations conducted seven trainings for employees at local self-government units dedicated to the inclusion of LGBTI persons into local action plans. The training is one of the first steps in the realization of the recommendation repeated several times to local self-government units to expressly include LGBTI persons into local action plan and prescribe measures for the improvement of the position of these persons as well as to allocate for these activities certain budget funds and thus enable LGBTI persons to exercise in this manner their rights guaranteed by the Constitution and laws in their local community. So far, the trainings were attended by male and female representatives of 16 local self-government units⁹¹.

⁹¹ Kragujevac, Vlasotince, Ražanj, Kruševac, Boljevac, Valjevo, Mionica, Užice, Zrenjanjin, Požarevac, Novi Sad, Sombor, Senta, Vranje, Vrbas and Kraljevo.



Raising of the rainbow flag on the building of the Protector of Citizens on the occasion of the International Day against Homophobia, Biphobia and Transphobia

In this reporting period too, the Protector of Citizens, traditionally, by displaying the rainbow color flag, flag of trans movement and flag of intersex movement in its facility celebrated the International day against homophobia, biphobia and transphobia.

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

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

- **Government** should plan and take measures of economic policy without endangering the rights of citizens in sensitive position and in the manner which will not reduce accomplished standards in the achievement of gender equality and rights of LGBTI persons and to provide the number of health care employees, professional employees at institutions of social welfare and professional associates at educational institutions who fit the needs of citizens in sensitive position;
- **Government** should adopt the National strategy for the prevention and suppression of domestic violence and violence in partner relations and Strategy of prevention and protection against discrimination and accompanying action plans;
- **Government** should propose, and the National Assembly adopt the Law on Gender Equality, the law which regulate same-gender unions and the law which regulate legal consequences of adjustment (change) of sex and gender identity;

- **Government** should entirely adjust the Criminal Code with the Convention of the Council of Europe on the Prevention and Suppression of the Violence against Women and Domestic Violence and propose amendments to the Criminal Code which would in all criminal offences whose aim is punishment and prevention of racism and intolerance incriminate the action of execution of these criminal offences also on the basis of the sexual orientation and gender identity;
- **Government** should continually implement measures and activities dedicated to raising of the public awareness on gender equality and measures of the promotion of the position of women;
- **Competent authorities** should ensure acting and/or act upon recommendations issued in the Special report of the Protector of Citizens on the work of groups for coordination and cooperation at the territory of the City of Belgrade;
- **Government, Coordination body for gender equality, Ministry of Human and Minority rights and social dialog, Ministry of Public Administration and Local Self-Government, authorities of autonomous province and authorities of local self-government units** should provide acting upon recommendations issued by the Special Report of the Protector of Citizens on the Presence of Women at Decision-Making positions and Activities of Local Mechanisms for Gender Equality at Local Self-Government Units in Serbia;
- **Government, authorities of the autonomous province and authorities of local self-government units** should provide full exercise of rights of LGBTI persons in the area of the freedom of expression and peaceful gathering, protection of their physical and mental integrity, education, employment, health care, social welfare, legal regulation of life communities and legal consequences of adjustment (change) of sex and gender identity, as well as continual implementation of measures and activities dedicated to raising of public awareness on the necessity of the observance of rights of LGBTI persons;
- **Ministry of Labor, Employment, Veteran and Social Affairs** should, in cooperation with local self-government units and civil society organizations, provide establishment of support service for young LGBTI persons who were forced to leave their homes, because their families rejected them after finding out about their sexual orientation and gender identity;
- **Ministry of Health and Republic Health Insurance Fund** should take measures so as to provide all women with accessibility of health care services at all levels of health protection;
- **Ministry of Health** should ensure acting upon all recommendations from the Special Report of the Protector of Citizens on Reproductive Health of the Roma females and provide permanent engagement of female health mediators in the health care system of the Republic of Serbia;
- **Ministry of Health** should take measures with the aim of the implementation of de-trans-identity pathologizing program, pursuant to the revision of the International Disease Classification (IDF 11) of the World Health Organization which removed the transgender identity from the list of mental illnesses;
- **Ministry of Health and Republic Health Insurance Fund** should provide adequate medicines for the maintenance of the hormonal status of trans persons;
- **Ministry of Health – Biomedicine Administration** should propose to the Government the amendment of disputable provision of the Rulebook on more detailed conditions,

criteria and manner of selection, testing and assessment of the donor of reproductive cells and embryos, which violate the rights of LGBTI persons;

- **Ministry of Interior** should prepare the amendment to the Law on Police which would introduce explicit prohibition of the discrimination on the basis of sexual orientation;
- **Ministry of Interior** should provide trainings for employees at police with the aim of sensibilization to LGBTI persons, recognition of hate crimes, inter alia, on the basis of sexual orientation and gender identity and adequate responding with the aim of prevention of secondary victimization of LGBTI persons and identification of the attacker of this person;
- **Ministry of Education, Science and Technological Development** should provide trainings for employees in educational institutions with regards to sensibilization to LGBTI persons;
- **Local self-government unit bodies** should expressly include into local action plans LGBTI persons and prescribe measures for the promotion of the position of these persons, as well as to allocate adequate budget funds for these activities.

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

STATISTICS

In the area of rights of persons with disabilities and the elderly, in 2020 the Protector of Citizens handled 200 cases⁹², of which there were 185 complaints of citizens and 15 cases initiated upon own initiative. The cases from this area make 3.95 percentage of the total number of handled cases in 2020, compared to 3.82 percent of cases handled in 2019. In 2020 195 cases were completed, out of which 145 cases were from 2020 and 50 ones from previous years.

The Protector of Citizens issued 22 recommendations to administrative authorities, six of which reached execution during reporting period. Out of that number, the administrative authorities acted on six recommendations, which makes 100% of the accepted recommendations. The cases considered in the reporting period, the outcome of the proceedings on completed cases and the outcome of the proceedings on the recommendations are shown in the tables below.

Table 16 – Comparative overview of cases handled in 2020 and 2019

	2020	2019
Total number of cases	200	125
Number of closed cases	145	66
Number of ongoing cases	55	59

In 2020, the efficiency of the Protector of Citizens in handling cases in this area increased by almost 20% compared to 2019, as indicated by the number of completed cases in relation to the total number of cases.

Table 17 – Comparative overview of acting on recommendations in 2020 and 2019

	2020	2019
Number of issued	12	22
Number of received	6	4
Number of accepted	6	0
% of accepted	100%	0.00%

The number of issued recommendations in 2020 is lower compared to 2019 because 13 recommendations from 2019 are the result of research on the accessibility of public facilities for people with disabilities, conducted by the Protector of Citizens in cooperation with the Association for Accessibility Audit. The fact that all recommendations issued to the competent authorities in 2020 have been accepted can be an indicator of improved cooperation with the Protector of Citizens, as well as improved actions of the competent authorities in the protection of citizens' rights in this area.

⁹² The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

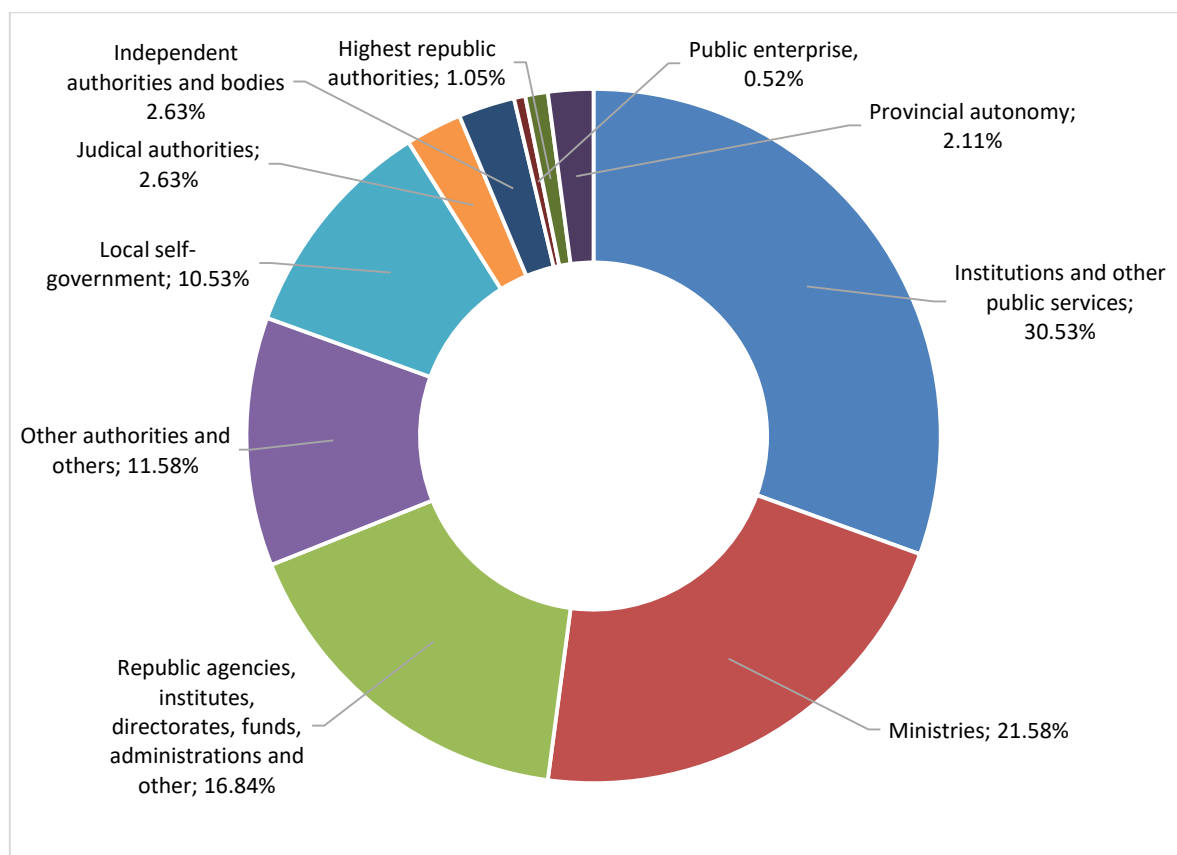
Table 18 – the outcome of acting upon closed cases in 2020

	Number	Percentage
1. Unfounded complaints	52	35.86%
2. Inadmissible complaints	43	29.66%
2.1. Incompetence	18	41.86%
2.2. Unused legal remedies	10	23.26%
2.3. Formally deficient complaint	8	18.60%
2.4. Unauthorized complainant	4	9.30%
2.5. Untimeliness	2	4.65%
2.6. Anonymous complaint	1	2.33%
3. Informed and advised complainant	25	17.24%
4. Cases closed by recommendations from the expedited oversight investigation	16	11.03%
5. Cases closed by recommendations from the oversight investigation	5	3.45%
6. Withdrawal of the complainant	4	2.76%
Total	145	100%

The greatest number of received complaints is inadmissible by the Protector of Citizens because the legally prescribed conditions for acting upon them are not fulfilled. The complaints are inadmissible due to incompetence, untimeliness, prematurity, anonymity and formal deficiency. A very important segment of acting of the Protector of Citizens upon complaints is the provision of advisory-legal assistance which is provided by the Protector of Citizens even when the complaint is inadmissible because of incompetence or prematurity. Such advisory assistance is provided to citizens in 65.12 percent of inadmissible cases (43) in this area. In such cases the Protector of Citizens refers the complainant to the competent body or advises them on available legal remedies.

In the area of rights of persons with disabilities and the elderly in 200 cases it was indicated to 224 violations of rights, whose greatest part refers to the right to employment and professional rehabilitation, the right to equal access to services and the rights of persons deprived of legal capacity, breaches of the elderly's rights, i.e. the elderly's rights in social and health care institutions, the right to social care services for the elderly and the right to special health care for the elderly.

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



ACTIVITIES OF THE PROTECTOR OF CITIZENS

Rights of persons with disabilities

The practice of the Protector of Citizens indicates that there are still systemic problems that prevent the realization of the rights of persons with disabilities, which this independent state body pointed out in previous annual reports. The most noticeable are insufficient accessibility of public facilities, incomplete process of deinstitutionalization, and insufficient development of the system of support services, the practice of complete deprivation of legal capacity, poverty and social exclusion of persons with disabilities, including employment problems.

The Protector of Citizens joined the appeal of the National Organization of Persons with Disabilities addressed to the competent authorities to ensure the smooth functioning of community support services such as supported housing, service of personal assistants, personal companions of children and geriatric caregiver during the state of emergency. In addition, the Protector of Citizens asked the Ministry of Labor, Employment, Veteran and Social Policy for information on the measures taken to ensure the smooth functioning of support services and on that occasion received the answer that in cooperation with other authorities to oversee and issue movement permits to all persons who provide the above services with appropriate protection measures.

The Protector of Citizens considers as significant the adoption of the new Strategy for the Advancement of Persons with Disabilities in the Republic of Serbia for the period from 2020 to 2024⁹³, which is based on the provisions of the United Nations Convention on the Rights of Persons with Disabilities⁹⁴, as well as general comments, concluding observations and recommendations⁹⁵ of the Committee on the Rights of Persons with Disabilities. Accordingly, the Protector of Citizens issued an opinion to the Ministry of Labor, Employment, Veteran and Social Policy on the Draft Strategy⁹⁶, the Draft Action Plan⁹⁷ and the Proposed Action Plan⁹⁸, in which he agreed to perform the function of the National Independent Mechanism for Monitoring the Implementation of the Convention on the Rights of Persons with Disabilities⁹⁹. In order to implement this Strategy, the Protector of Citizens emphasizes that it is necessary to adopt an Action Plan for its implementation as soon as possible.

At the initiative of the National Organization of Persons with Disabilities of Serbia (NOPDS), the Protector of Citizens submitted to the National Assembly amendments to the Draft Law on Games of Chance¹⁰⁰ in order to ensure the full and unhindered exercise of the rights of persons with disabilities and other vulnerable social groups in a state of social need in the form of an explicit guarantee of directing part of the income from games of chance into the budget financing of the work of organizations of persons with disabilities and improving the quality of their lives. Funds obtained from games of chance represent a significant source that can greatly contribute to improving the position of persons with disabilities and other vulnerable social groups in a state of social need. The National Assembly of the Republic of Serbia accepted the suggestions of the Protector of Citizens and adopted the Law on Games of Chance¹⁰¹.

In the reporting period, the Law on the Rights of Veterans, Military Invalids, Civilian War Invalids and Their Families¹⁰² was adopted with accompanying bylaws, which provided better legal protection and improved quality of life to beneficiaries of veteran-disability protection, combining four hitherto valid laws regulating veteran-disability protection. Acting upon citizens' complaints regarding the manner in which the right to disability allowance is regulated, the Protector of Citizens submitted to the National Assembly an Initiative to amend this law¹⁰³ in order to enable military invalids who have acquired the right

⁹³ "Official Gazette of RS", No. 44/20.

⁹⁴ Available at: <https://www.minrzs.gov.rs/sr/dokumenti/predlozi-i-nacrti/sektor-za-zastitu-osoba-sa-invaliditetom/strategije>.

⁹⁵ Available at:

https://www.paragraf.rs/propisi/zakon_o_potvrđivanju_konvencije_o_pravima_osoba_sa_invaliditetom.html.

⁹⁶ Available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6522-2020-2024>

⁹⁷ Available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6711-z-sh-i-ni-gr-d-n-p-drz-v-sniv-nj-i-izgr-dnju-n-ci-n-ln-g-n-z-visn-g-h-niz-z-pr-c-nj-spr-v-d-nj-nv-nci-un-pr-vi-s-b-s-inv-lidi-u-r-publici-srbi-i-pri-ins-i-uci-i>

⁹⁸ Available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6973-z-sh-i-ni-gr-d-n-p-zdr-vlj-sniv-nj-n-ci-n-ln-g-h-niz-z-pr-c-nj-spr-v-d-nj-nv-nci-un-pr-vi-s-b-s-inv-lidi>.

⁹⁹ In accordance with Article 33 of the Convention and the recommendation of the Committee on the Rights of Persons with Disabilities from the Concluding Observations on the Initial Report of the Republic of Serbia, available at:

https://ljudskaprava.gov.rs/sites/default/files/dokument_file/zakljucna_zapazanja_komiteta_za_prava_osoba_sa_invaliditetom_srb.pdf.

¹⁰⁰ Available at: <https://www.ombudsman.rs/index.php/zakonske-i-druge-inicijative/6509-z-sh-i-ni-gr-d-n-p-dn-nd-n-n-pr-dl-g-z-n-igr-n-sr-cu>.

¹⁰¹ "Official Gazette of RS", No. 18/20.

¹⁰² "Official Gazette of RS", No. 18/20.

¹⁰³ Available at: <https://www.ombudsman.rs/index.php/zakonske-i-druge-inicijative/6919-z-sh-i-ni-gr-d-n-p-dn-n-r-dn-s-upsh-ini-srbi-inici-ivu-z-d-punu-z-n-pr-vi-b-r-c-v-nih-inv-lid-civilnih-inv-lid-r-i-cl-n-v-njih-vih-p-r-dic>.

to a pension to exercise the right to disability allowance and have not yet reached the age of 65, i.e. to be on an equal footing with other categories of war invalids recognized by law as potential beneficiaries of this right - military invalids who have reached 65 years of age (whether retired or not), employed military invalids and unemployed military invalids.

In accordance with the recommendation of the Protector of Citizens from the Regular Annual Report for 2019, the Law on Ratification of the Marrakesh Agreement was adopted to enable access to published works by persons who are blind, partially sighted or otherwise unable to use printed materials¹⁰⁴. After acting on the complaint, it was determined that the Republic Pension and Disability Insurance Fund and the Provincial Fund did not enable the expertise of medical facts on which the decision on rights from the social welfare system depends to be performed in a facility accessible to persons with disabilities, the protector of Citizens recommended that the Provincial Fund take all necessary measures and activities in order to enable medical expertise of persons with disabilities to be performed in a facility that is accessible, primarily architecturally and urban, as well as in terms of information and communication¹⁰⁵. This recommendation has been acted upon.

Acting on the complaints, in his opinion¹⁰⁶ issued to the Ministry of Labor, Employment, Veteran and Social Policy, the Protector of Citizens reiterated the need to harmonize the Law on Financial Support to Families with Children with the Labor Law in order to provide parents of children with disabilities and seriously ill children, for whom the right to an allowance for assistance and care of another person has been exercised to exercise the right to salary compensation during absence from work for special child care, since these are rights that are not mutually exclusive. As a reminder, the Protector of Citizens pointed out all of the above in 2017 in his opinion¹⁰⁷ on the Draft Law on Financial Support to Families with Children.

The Ministry of Labor, Employment, Veteran and Social Affairs acted on the recommendation of the Protector of Citizens regarding the exercise of the right to allowance for assistance and care of another person to persons who have not been paid contributions to the Republic Pension and Disability Insurance Fund, although at one time they were registered for insurance¹⁰⁸. In the future, the Centers for Social Work will decide on requests for allowance for assistance and care of another person in case the applicant has years of age to exercise the right to an old-age pension and at least 15 years of insurance, but cannot exercise the right to pension due to unpaid contributions for pension and disability insurance or for any other reason. In such situations, the competent centers will no longer reject requests for recognition of the right to allowance for assistance and care of another person due to the existence of another legal basis but will make a decision on this right after the procedure in accordance with the Law on Social welfare.

The National Organization of Persons with Disabilities of Serbia (NOPDS) addressed the Protector of Citizens regarding the payment of one-time financial assistance to all adult citizens of the Republic of Serbia in order to reduce the negative effects caused by the COVID-19 pandemic. Representatives of NOPDS stated that the guardians of persons with disabilities, many of whom are autistic, in the branches of the Postal Savings Bank, contrary

¹⁰⁴ "Official Gazette of RS – International agreements", No. 1/20.

¹⁰⁵ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6706-p-r-ins-i-f-nd-pi-v-sh-c-nj-dicins-ih-cinj-nic-b-vlj-u-usl-vi-p-vr-du-u-d-s-ns-v-i-pr-v-n-priv-n-s-b-s-inv-lidi>.

¹⁰⁶ Available at: <https://www.osobesainvaliditetom.rs/index.php?limitstart=9>.

¹⁰⁷ The opinion of the Protector of Citizens No. 183-25/17 ref. No. 37867 dated October 13, 2017.

¹⁰⁸ Available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6685-rg-ni-upr-v-n-pr-viln-u-cili-z-n>.

to the instructions of the National Bank of Serbia, are required additional documentation to be able to withdraw money and thus enable persons with disabilities or partially deprived of legal capacity, as well as persons whose parental right has been extended to exercise their right to one-time financial assistance. After the Protector of Citizens pointed out this problem to the National Bank of Serbia, persons with disabilities were enabled to exercise the right to one-time financial assistance without additional bureaucratic procedures.



The Protector of Citizens, Zoran Pašalić, MSc, at the award ceremony for local self-government units for the development of accessibility

Again this year in order to contribute to raising awareness of the importance of accessibility, The Protector of Citizens, in cooperation with the Standing Conference of Towns and Municipalities and the Team for Social Inclusion and Poverty Reduction of the Government of the Republic of Serbia, awarded local self-government units that mostly contributed to development of all forms of accessibility in its territory. The city municipality of Vracar received the main award, while the municipality of Svilajnac received recognition for its continuous work on timely planning and improving accessibility and the city of Niš received recognition for its contribution to improving the accessibility of the city center.

In the reporting period, the Protector of Citizens, in order to improve the election process for its full accessibility to persons with disabilities, participated in the work of the Consultation Group on Inclusive Election Process and Rules organized within the project *Work as You Speak with Persons with Disabilities*.

In 2020, the representative of the Protector of Citizens participated in several online meetings of the Working Group of the European Network of Independent Institutions for the Protection of Human Rights for the Implementation of the United Nations Convention on the Rights of Persons with Disabilities (ENNHRI CRPD WG) and presented the activities of the Protector

of Citizens done in order to improve the position of the persons with disabilities in the Republic of Serbia.

The rights of the elderly

In this reporting period the Protector of Citizens notes that the most common problems faced by the elderly are poverty and violence as well as neglect within the family, including disposing of property without their consent, dissatisfaction with exercising the right to material support due to difficult financial and living situation, difficult exercising the right for help and care of another person. Accordingly, the Protector of Citizens believes that it is necessary to establish a more efficient social welfare system in line with the needs of the elderly, provide financially sustainable services and special support services and take all available measures and activities to provide the elderly with adequate health care in both regular and emergency circumstances.

Many of these problems were particularly pronounced during the state of emergency imposed by the COVID-19 infectious disease pandemic, when due to the measures of restriction of movement elderly people with mental and physical disabilities who need the support of formal and informal caregivers had the most difficulties to meet basic living needs.

Numerous problems were also experienced by the elderly in a state of social need, especially those who needed urgent accommodation at the time of the ban on admission to gerontology centers and nursing homes, then the elderly who needed the help of geriatric caregivers, but also elderly homeless people due to the impossibility of admission to shelters and other social institutions.

The Protector of Citizens emphasizes that the key measures that should be taken to protect the elderly in emergencies are higher amounts of social benefits, improving the quality of health and social care services, the possibility of alternative accommodation for the elderly who need urgent care, providing support services to those who are not in the social welfare system, employment of a larger number of skilled workers in social work centers and social welfare institutions.

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

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

- **The government** should plan and take economic policy measures without compromising the rights of persons with disabilities and the elderly and provide a number of health workers, professionals in social welfare institutions and professional associates in education institutions that meet the needs of vulnerable citizens;
- **The Government** should, in cooperation with other competent bodies, conduct a comprehensive analysis of the situation, needs and opportunities and adopt a clear and precise plan for the implementation of the deinstitutionalization process in the Republic of Serbia and systematically and fully implement it throughout the country;
- **The Government** should take all available measures, in order to create a legal framework and other preconditions for the establishment of an accurate and complete register of persons with disabilities;

- **The Government** should create a clear and precise policy aimed at establishing a more efficient social welfare system for the elderly that is tailored to their needs;
- The **Government** should provide a financially sustainable system of support services for people with disabilities and the elderly;
- **The Government** should prepare and submit to the National Assembly bills introducing the institute of decision-making with support and extinguishing the possibility of deprivation of legal capacity;
- **The Government** should intensify activities to establish an adequate system of community-based services, in particular family support services, independence support services, and family and family-based alternative care services;
- **The Ministry of Labor, Employment, Veterans and Social Affairs, the Ministry of Health, the Provincial Secretariat for Social Policy, Demography and Gender Equality and the Provincial Secretariat for Health** should establish a social and health service in accordance with the law;
- **The Republic Pension and Disability Insurance Fund** should, without delay, adjust all facilities of the Fund's branches in which citizens exercise their rights to the smooth functioning and movement of persons with disabilities;
- **Local self-government units** should continually take all available measures so that the facilities in public use and public surfaces are made completely accessible to persons with disabilities;
- **Local self-government units** should continually take measures in order to establish, maintain and develop services in the community in compliance with needs of persons with disabilities and the elderly;
- **Local self-government units** should take all the measures from their competence which provide persons with disabilities with undisturbed reception of information designated for public in an appropriate form and corresponding technology as well as to provide funds and other conditions for the work of the local media which publish information in the sign language or Braille alphabet or in another manner to provide that these persons exercise in an undisturbed manner their right to public information;
- **Local self-government units** should take all the measures from their competence and provide an interpreter for sign language who will enable deaf persons to use the sign language in proceedings before all public authorities established by the local self-government
- **Local self-government units** should during amendments to the regulation which regulates the organization of the public transportation at the local level introduce the accessibility of facilities and means of transportation as the precondition of the performance of business activities in the public transportation.
- **Local self-government units** should until the completion of full accessibility of means of transportation, provide the transportation service to persons with disabilities;
- **Authorities competent for keeping and updating of electoral registers and authorities competent for the implementation of elections** should provide conditions so that persons with disabilities could exercise without any obstacles their election right and the right to immediate statement making and decision making.

- **The competent authorities** should continuously take measures to make health care facilities, social welfare and education institutions, police stations, administrative bodies and judicial authorities fully accessible to persons with disabilities.

4.4. NATIONAL MINORITY RIGHTS

STATISTICS

In the area of national minority rights, the Protector of Citizens in 2020 handled 46 cases¹⁰⁹, of which there were 43 citizen complaints and three cases initiated upon own initiative. The cases in this area make almost 1 percent of the total number of cases handled in 2020, compared to 2.17 percent of cases handled in 2019. In 2020 75 cases were closed, out of which 38 cases were from 2020 and 37 ones from previous years.

The Protector of citizens issued 15 recommendations to administrative authorities which are still within the execution deadline. The cases handled in the reporting period, the outcome actions upon completed cases and the outcome of acting upon recommendations are presented in the following tables.

Table 19 – Comparative overview of cases handled in 2020 and 2019

	2020	2019
Total number of cases	46	71
Number of closed cases	38	39
Number of ongoing cases	8	32

In 2020, the efficiency of the Protector of Citizens in handling cases in this area increased by almost 28 percent compared to 2019, as indicated by the number of completed cases in relation to the total number of cases.

Table 20 – Comparative overview of acting upon recommendations in 2020 and 2019

	2020	2019
Number of issued	15	24
Number of received	0	0
Number of accepted	0	0
% of accepted	N/A	N/A

Table 21 – The outcome actions upon completed cases in 2020

	Number	Percentage
1. Inadmissible complaints	18	47.37%
1.1. Incompetence	10	55.56%
1.2. Unused legal remedies	5	27.78%
1.3. Formal deficient complaint	3	16.67%
2. Informed and advised complainant	9	23.68%
3. Unfounded complaints	7	18.42%
4. Cases closed by recommendations from oversight investigation	2	5.26%

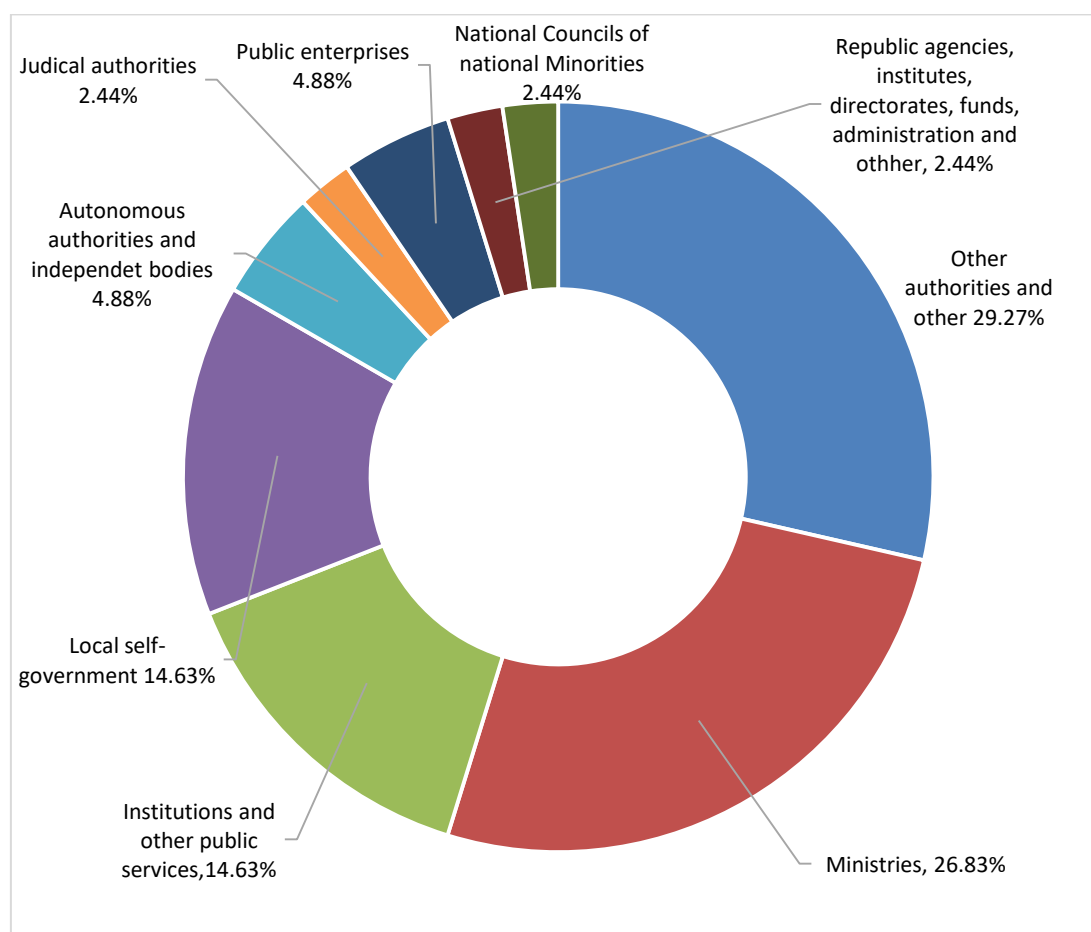
¹⁰⁹ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

5. Cases closed by recommendations from the expedited oversight investigation	2	5.26%
Total	38	100%

The greatest number of received complaints is inadmissible by the Protector of Citizens because the legally prescribed conditions for acting upon them are not fulfilled. The complaints are inadmissible due to incompetence, untimeliness, prematurity, anonymity and formal deficiency. A very important segment of the Protector of Citizen's handling of complaints is advisory-legal assistance, which the Protector of Citizens provides even when a complaint is inadmissible due to incompetence or prematurity. Such advisory assistance was provided to citizens in 83.34 percent of inadmissible cases (18) in this area. In these cases, the Protector of Citizens refers the complainant to the competent authority or advises on available legal remedies.

In the area of national minority rights in 46 cases it was indicated to 46 violations of rights, whose greatest part referred to special rights in the area of national minority rights: special rights of Roma, prohibition of discrimination, individual rights of persons of national minorities.

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



ACTIVITIES OF THE PROTECTOR OF CITIZENS

The research on the work of national councils of national minorities conducted by the Protector of Citizens during 2019 showed that national councils in the previous period mostly exercised their powers in the area of education and the official use of languages and alphabet. The result of this research is a Special Report of the Protector of Citizens with recommended Analysis of the situation in the area of exercising public authority of national councils of national minorities for the period from 2014 to 2018, which was published on February 7, 2020¹¹⁰.

The data collected during this research are similar to the findings collected by the Protector of Citizens through the proceedings he conducted following complaints from national councils of national minorities. More specifically, the analysis of the data showed that there are powers that no national council has used in the previous period, as well as that they mostly become active when they are asked for an opinion at the level of local self-government units, ministries or provincial bodies. Furthermore, the councils do not show enough initiative to address issues in areas where they have public powers, and some of them cannot even use certain powers because they do not have a standardized language, or the language of a national minority has not been introduced into official language and alphabet.



Presentation of the Special Report of the Protector of Citizens on the situation in the field of exercising public authority of national councils of national minorities from 2014 to 2018

Also, a number of national councils of national minorities do not have media that inform in the language of the national minority, while most of them do not have a functioning website, so it can be concluded that the community itself does not have enough information about the

¹¹⁰ Available at:

<https://www.ombudsman.rs/attachments/article/6484/POSEBAN%20IZVESTAJ%20ZG%20ANALIZA%20O%20STANJU%20U%20OBLASTI%20VRSENJA%20JAVNIH%20OVLASCENJA.pdf>.

existence of councils, their activities and powers. The Protector of Citizens points out that in the process of creating policies, strategies as well as in the decision-making process and creating activities aimed at preserving the collective identity, councils do not have established mechanisms for contact with the community, and few have a strategic approach in their work. Very rarely there are those who define their work goals by developing strategies.

It is also noticeable that a number of national councils of national minorities do not have enough knowledge about their powers, and in situations when there are objective possibilities to use them, they do not have the professional capacity to implement it in practice. Also, the lack of financial as well as administrative and technical capacities certainly affects the quality of work of the council, and thus the realization of the rights of the national minority they represent. The Protector of Citizens believes that, in addition to raising the capacity of national councils of national minorities, contact and work in the community is important, and, consequently, the availability of information on the role and public powers of national councils in the community they represent, but also in the majority population.

During the state of emergency introduced due to the COVID-19 infectious disease pandemic, the Protector of Citizens was in constant contact with representatives of national councils of national minorities in order to be informed about the exercise of individual and collective rights. During the state of emergency, the Protector of Citizens did not receive complaints from members of national minorities due to the denial of the right to information in their own language or in connection with the implementation of classes in the languages of national minorities. More specifically, in connection with the implementation of teaching in the languages of national minorities, the Protector of Citizens was informed that the Ministry of Education, Science and Technological Development in cooperation with national councils of national minorities, Radio Television of Vojvodina (RTV) and local and minority media on March 30, 2020 began recording and broadcasting classes in eight minority languages - Albanian, Bosnian, Bulgarian, Croatian, Hungarian, Romanian, Rusyn and Slovak.

For the purpose of preventive action during the state of emergency, the Protector of Citizens organized meetings with the President of the National Council of the Roma National Minority, the Minister of Labor, Employment, Veteran and Social Policy and called on them to undertake the necessary activities in all settlements where the Roma population lives and provide basic living conditions, especially water for drinking and hygiene, food and hygiene packages. Also, the Protector of Citizens sent letters to all local self-government units to take all measures without delay in order to protect residents of informal Roma settlements.

The Protector of Citizens collected information on the situation in Roma settlements, and after learning about problems with access to water and poor hygiene conditions in the Roma settlement Cukaricka Suma in the city municipality Cukarica, he contacted the president of city municipality of Cukarica and pointed out this problem, after which water tanks have been provided for this settlement.

Representatives of the Secretariat of the Protector of Citizens organized visits to Roma settlements during the pandemic of the infectious disease COVID-19, respecting all protection measures¹¹¹. The aim of the visit was primarily to determine the hygienic conditions in the settlements, especially during the pandemic, access to water and electricity, as well as the needs of residents to provide additional assistance measures in the form of packages and

¹¹¹ Visits were organized in the period April – May 2020 in the following local self-government units: Belgrade, City municipality Čukarica, Kovin, Pančevo, Požarevac and Kostolac. In these five cities and municipalities the visits were organized in totally 10 Roma villages (Čukarička šuma, Cigan mala, Mali rit 1, Mali rit 2, Sutjeska, Kanal, Stari Kostolac, Hotel Kostolac, Uzun Mirkova and Đurđev rupe).

social benefits. Based on the data collected in the area, a Special Report of the Protector of Citizens was prepared with recommendations: Conditions in Roma settlements in a state of emergency and the application of protection measures due to the coronavirus epidemic¹¹².

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

- **The Ministry of Human and Minority Rights and Social Dialogue**, in cooperation with other competent bodies, should organize trainings for members of national councils of national minorities in order to raise their professional capacities and improve their work;
- **The Ministry of Labor, Employment, Veterans and Social Policy** should prepare the final version of the new Action Plan for the implementation of the Strategy for Social Inclusion of Roma Men and Women and send it to the Government of the Republic of Serbia for adoption;
- **The Ministry of Education, Science and Technological Development** should, in cooperation with educational institutions and local self-government units, take all available measures to ensure that children in Roma settlements can attend classes regularly and without problems;
- **The Ministry of Health** should, as soon as possible, provide the necessary conditions for health mediators to continue working in Roma settlements;
- **National councils of national minorities** should make their activities available to the general public and develop strategies and measures to achieve visibility and publicity;
- **The competent centers for social work** should, in cooperation with local self-government units, take all available measures in order to ensure the payment of one-time financial assistance to the inhabitants of Roma settlements as often as possible;
- **The competent authorities** should provide better information to the inhabitants of Roma settlements on protection measures in the event of an outbreak of infection.

¹¹² Available at: <https://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/6607-l-lni-s-upr-v-upuc-n-p-s-b-n-izv-sh-s-pr-p-ru-usl-vi-u-r-s-i-n-s-lji-u-si-u-ci-i-v-nr-dn-g-s-nj-i-pri-n-r-z-sh-i-usl-d-p-nd-i-r-n-virus>.

4.5 RIGHTS OF PERSONS DEPRIVED OF LIBERTY

STATISTICS

In the area of rights of persons deprived of liberty, the Protector of Citizens in 2020 handled 325 cases¹¹³, among which there were 293 citizen complaints and 32 cases initiated upon own initiative. In 2020 the work was completed on 300 cases, of which 271 cases from 2020 and 29 cases from previous years.

Cases from this area comprise 6.43 percent of the total number of handled cases in 2020 in comparison to the total of 5.62 percent handled in 2019 in total 215 complaints about the treatment of persons serving the prison sentence, 48 complaints about the treatment of persons in custody subject to police authorizations, 29 complaints about the treatment of persons with custody measure execution, 26 complaints to the treatment of migrants, four complaints about the treatment of persons accommodated at the social welfare institutions and three complaints about the treatment of persons accommodated at the psychiatric institutions.

The Protector of Citizens issued 13 recommendation to administrative authorities, of which 10 were due for execution in the reporting period. Out of this, administrative authorities acted upon 10 recommendations, which is 100 percent of actions upon due recommendations. The cases handled in the reporting period, the outcome of actions upon closed cases and the outcome of acting upon recommendations are presented in the chart and tables below.

¹¹³ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

Chart 7 – Overview of received cases

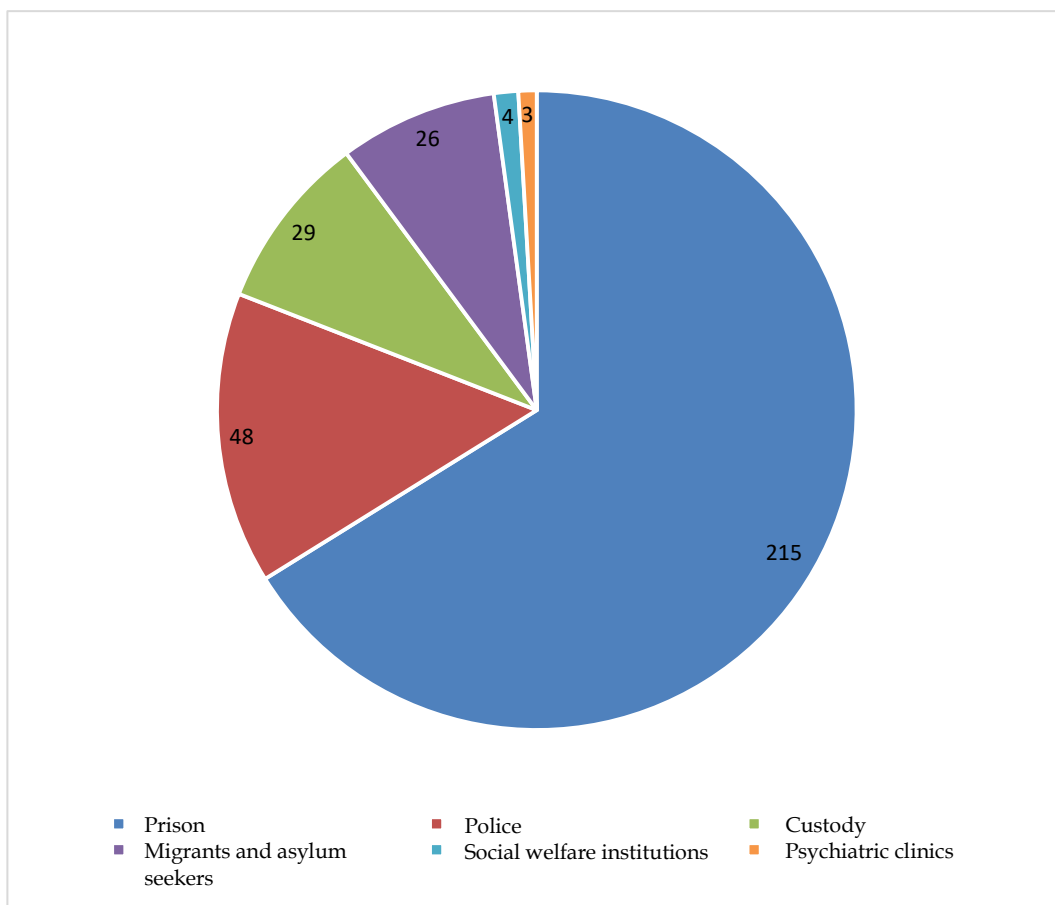


Table 22 – Comparative overview of acting upon received cases in 2020 and 2019

	2020	2019
Total number of cases	325	184
Number of closed cases	271	152
Number of ongoing cases	54	32

Table 23 – Comparative overview of acting upon recommendations in 2020 and 2019

	2020	2019
Number of issued	13	23
Number of due	10	9
Number of accepted	10	9
% of accepted	100%	100%

Table 24 – The outcome of acting upon terminated cases from 2020

	number	percentage
1. Inadmissible complaints	157	57.93%
1.1. Unused legal remedies	60	38.22%
1.2. Incompetence	37	23.57%
1.3. Formally deficient complaint	36	22.93%
1.4. Unauthorized complainant	15	9.55%
1.5. Anonymous complaint	6	3.82%
1.6. Untimeliness	3	1.91%
2. Unfounded complaints	69	25.46%
3. Cases covered by recommendations from an expedited oversight investigation	22	8.12%
4. Informed and advised complainant	16	5.90%
5. Cases covered by recommendations from an oversight investigation	5	1.85%
6. Withdrawal of the complainant	2	0.74%
Total	271	100%

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

A very important segment of acting of the Protector of Citizens upon complaints is the provision of legal-advisory assistance provided by the Protector of Citizens even when the complaint is inadmissible due to incompetence or prematurity. Such advisory assistance is provided to citizens in 61.79 percent of inadmissible cases (157) in this area. The Protector of Citizens in these cases refers the complainant to the competent authority or advises them about available legal remedies.

ACTIVITIES OF THE PROTECTOR OF CITIZENS

In the reporting period the Protector of Citizens received an increased number of complaints of persons deprived of their liberty to which the contribution gave, inter alia, the measures taken by the Republic of Serbia to the interest of public health protection¹¹⁴ and which had an impact also to the rights and positions of persons deprived of their liberty. Namely, persons deprived of their liberty were recognized as an especially risky group, so the competent authorities took numerous activities with the aim of their protection and the level of the exercise of rights was reduced in the scope which was necessary for the purpose of the prevention of potential spreading of virus at the institutions where persons deprived of their liberty are accommodated or may be accommodated.

During the state of emergency as well as in regular circumstances, persons deprived of their liberty, in most of the cases, indicated to dissatisfaction with the provided health protection.

¹¹⁴ During the state of emergency declared due to COVID-19 infectious disease pandemic.

Furthermore, the Protector of Citizens initiated, where there was a basis for this, oversight investigations of the operation of the institute for the execution of criminal sanctions and Commissariat for refugees and migrants of the Republic of Serbia with regards of the treatment of persons deprived of their liberty and migrants in reception centers and centers for asylum.

The allegations from the complaints of persons deprived of their liberty were received via telephone and/or mail were verified during the visits to institutes during the state of emergency in the conversations with persons deprived of their liberty who contacted the Protector of Citizens as well as by the insight into the relevant documentation.

The complaints of detained persons, as in previous reporting periods, mostly referred to the detention duration, violation of the right to the trial within a reasonable deadline and the right to fair trial¹¹⁵, as well as to the violation of the right to health protection. The complaints of the convicts accommodated at the institutes for the execution of criminal sanctions referred predominantly to their dissatisfaction because due to epidemiological measures they could not exercise granted out-of-institute rights and benefits or have work engagement out of the institute or receive visits of families and other close persons in one period.

The reporting period was also marked by public gatherings of citizens in July 2020 and for this reason, the Protector of Citizens, via NPM teams and Department for urgent actions, attended the gatherings in order to monitor treatment of citizens by the police. Moreover, a representative of the Protector of Citizens attended in the public capacity certain trials before Magistrates Court in Belgrade in misdemeanor proceedings conducted against individual citizens who took part at the protests and against whom the Ministry of Interior filed the request for the initiation of the misdemeanor proceedings.

On the basis of the information received from the public media and video recordings published on social media referring to the treatment of the citizens who participated in public gatherings by the police, the Protector of Citizens initiated upon its own initiative eight oversight investigations of legality and regularity of the operation of the Ministry of Interior. During the oversight investigation, it was confirmed that, inter alia, individual police officers of the Ministry of Interior illegally and irregularly treated some citizens, in the manner which violated their right to inviolability of the physical and mental integrity and the right to dignity. Pursuant to the stated, the Protector of Citizens issued recommendations¹¹⁶ so that the identified shortcomings could be removed, with the aim of the promotion of the operation of administrative authorities and prevention of similar omissions in future.

Apart from the stated, the Protector of Citizens initiated also 25 oversight investigations on the basis of citizen complaints about illegal actions of the police and excessive use of force during July public gatherings toward complainants.

The institutions where persons deprived of their liberty are accommodated and subject to oversight investigations conducted by the Protector of Citizens, established good cooperation with this independent public authority, which enabled undisturbed exercise of the competence in the protection of rights of persons deprived of their liberty through the oversight of the operation of administrative authorities.

¹¹⁵ Taking into account that the Protector of Citizens is not authorized to control the operation of courts, complainants were referred to contact competent authorities in this respect.

¹¹⁶ Available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/6974-u-vrdi-i-dg-v-rn-s-z-n-z-ni-i-n-pr-viln-p-s-up-nj-p-lici-s-ih-sluzb-ni>.

Acting upon its own initiative, the Protector of Citizens in the oversight investigation of the operation of the Ministry of Interior, Police Directorate, Police Administration for the City of Belgrade, Police Station Vračar confirmed shortcomings with regards to the treatment of the apprehended and detained person by police officers¹¹⁷. Therefore, the Protector of Citizens issued recommendations¹¹⁸ so that noticed shortcomings could be removed for the purpose of the improvement of the operation of administrative authorities and prevention of similar omissions in future. In the response to issued recommendations the Ministry of Interior stated that the police officers of the Police Station Vračar will in future treat persons in the manner which provides full respect of their right to inviolability of the physical and mental integrity and right to dignity, that there was a training from teaching areas of the Commission for the implementation of the standard of police activities in the area of torture prevention and Police authorization organized and it was attended via e-Classroom by 102 police officers and it will be continued in the following period as well as that the activities were taken in order to ensure that decisions on the custody up to 24 hours pursuant to the Law on Misdemeanor¹¹⁹ states that the beginning of the custody is the moment when the police authorization of apprehension is initiated and all persons in custody are obligatorily given the written notification on their rights.

In the implemented procedure of operation oversight of the Ministry of Interior, Police Directorate, Novi Sad Police Administration, the Protector of Citizens confirmed some shortcomings in the activities of police officers of the Police Outpost Stari Grad which consists of illegal and irregular as well as late, unconscientious and inefficient activities during operation in solving a criminal offence and failure to take necessary measures and activities with the aim of solving of the case and finding the perpetrator in the manner in which the findings about the event in which a citizen was severely injured not all necessary measures were taken without delay to find the perpetrator of the criminal act so that they don't hide or flee, to identify and provide evidence and collect all notifications which may be useful for successful conduct of criminal proceedings. Taking into consideration the stated, the Protector of Citizens issued recommendation¹²⁰ to competent authorities with the aim of the removal of identified irregularities.

The Protector of Citizens, during the reporting period, continued with the implementation of the oversight control of the operation of the Administration for the execution of criminal actions upon the complaints of convicts and persons in custody. What is encouraging is the fact that among employees at the institutions for the execution of criminal sanctions, the awareness was raised on the prohibition of any form of abuse, so the Protector of Citizens did not confirm in any of the investigations initiated upon the complaints of convicts or persons in custody in 2020 that there was any activity of a controlled administrative authority which caused violation of rights of the complainants to the inviolability of the physical and mental integrity.

¹¹⁷ These shortcomings are reflected in the illegal and degrading treatment during apprehensions, which violates the civil right to the inviolability of the physical and mental integrity and the right to dignity as well as in irregular and incomplete documenting of the duration of the application of police authorization, irregular calculation of the beginning of custody, omission to inform the person in custody in writing on all the rights they are entitled to as a person in custody as well as the omission to enter into the notification form on the rights of the apprehended person the information on the time of the information and handing in of the notification and to enter false information on the beginning of the custody in the decision on the custody and omission to enter all stipulated data of importance for the exercise of the right of the apprehended person and person in custody into the form of the decision on custody.

¹¹⁸ Available at: <https://ombudsman.rs/attachments/article/6697/Preporuka%20PS%20Vracar.docx>.

¹¹⁹ "Official Gazette of RS", no. 65/13, 13/16, 98/16 – CC decision, 91/19 and 91/19 – state law.

¹²⁰ Available at: <https://ombudsman.rs/attachments/article/6890/Preporuka.docx>.



Female representatives of the Protector of Citizens visiting the PCI Sremska Mitrovica

In one of the oversight investigations initiated upon the complaint received by the Protector of Citizens from a person in custody of District Prison in Prokuplje, where it was indicated to the illegal actions of the police officers of Police Administration in Prokuplje during his arrest, the Protector of Citizens confirmed that the medical examination at the reception of the complainant to District Prison in Prokuplje was not conducted in compliance with regulations and standards, which is one of more important mechanisms of protection against potential abuse. Namely, in the report on completed medical examination, the stated injuries were not described in details and the opinion of the doctor on the connection between the allegations of the person in custody and caused injuries was not stated, which is the manner which violates the rights of the complainant to the protection against abuse. After confirmation of all relevant facts and circumstances, the Protector of Citizens confirmed the shortcomings in the operation of the Administration for the execution of criminal sanctions, District Prison in Prokuplje and issued recommendations¹²¹ for the removal of identified shortcomings. Acting upon issued recommendations, the Administration for the execution of criminal sanctions of the Ministry of Justice took the activities with the aim of the provisions of the observance of Istanbul Protocol by the health care service of District Prison in Prokuplje and the Protector of Citizens issued a recommendation to the Center for Training of the Administration for the execution of criminal sanctions so that all employees at the prison would be included in the training on valid regulations and standards in the area of the rights of persons deprived of their liberty and abuse prohibition.

Moreover, in oversight investigations in certain institutes for the execution of criminal sanctions, it was noticed that there was an improvement in the activities of doctors during medical examinations after the application of coercive measure. The improvement is reflected in the reports on performed examinations of injuries where they describe, frequently photograph and label in a schematic overview of a human body, enter the allegations of the convict on the manner how the injuries were caused and the doctor gives his opinion on the connection of allegations of the convict and caused injuries.

¹²¹ Available at: <https://ombudsman.rs/attachments/article/6521/Preporuka%20OZ%20Prokuplje.docx>.

During the reporting period the Administration for the execution of criminal sanctions continued to invest in material conditions of the accommodation of the persons deprived of their liberty and increase of the capacity of the institutes for the execution of criminal sanctions. The works were completed in the construction of pavilions at PCI Požarevac – Zabela, construction of a facility in PCI for women in Požarevac, works on the new pavilion at PCI Sremska Mitrovica and DP Leskovac whereas the works are in progress in the construction of a new institute in Kragujevac.

Among persons deprived of their liberty still the most endangered ones are at psychiatric institutions and institutions of social welfare of home type, which was especially prominent at the time of the epidemics caused by COVID-19 infectious disease. This year too, the Protector of Citizens received a number of complaints of persons deprived of their liberty about the operation of these institutions, but it cannot be regarded as a real indicator of the condition with regards to the observance of rights of persons deprived of liberty in these institutions. Moreover, during the reporting period no progress was noticed in the area of de-institutionalization.

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

- **Ministry of Interior** should continue with the implementation of activities from its competence with the aim of the adaptation of the existing and construction of new premises for detention, in compliance with valid standards;
- **Ministry of Interior** should continue with the improvement of the operation of internal control mechanisms;
- **Ministry of Interior** should via continual trainings ensure that all police officers in the application of police authorizations act in accordance with the law and other regulations and observe the standards set by the United Nations European Convention for the Protection of Human Rights and Fundamental Freedoms, United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, European Code of Police Ethics and other international acts referring to the police.
- **Ministry of Justice** should without further delay implement the activities from its competence with the aim of the adjustment of the provisions of the Criminal Code with the generally accepted definition of torture from Article 1 of the UN Convention against Torture;
- **Ministry of Justice** should, in collaboration with **the Ministry of Health**, implement activities with regards to the organizational dislocation of health protection services from the institute for the execution of criminal sanctions;
- **Ministry of Justice, Administration for the Execution of Criminal Sanctions** should continue with the improvement of material conditions of accommodation of persons deprived of their liberty, in those institutes for the execution of criminal sanctions in which these conditions are not completely adjusted to valid standards;
- **Ministry of Justice, Administration for the Execution of Criminal Sanctions** should provide detained persons and convicts accommodated and closed departments of prison with enough available activities as well as the residence during the day at common

premises with other convicts and detained persons with whom due to conducting of the criminal proceedings the court did not limit the contact;

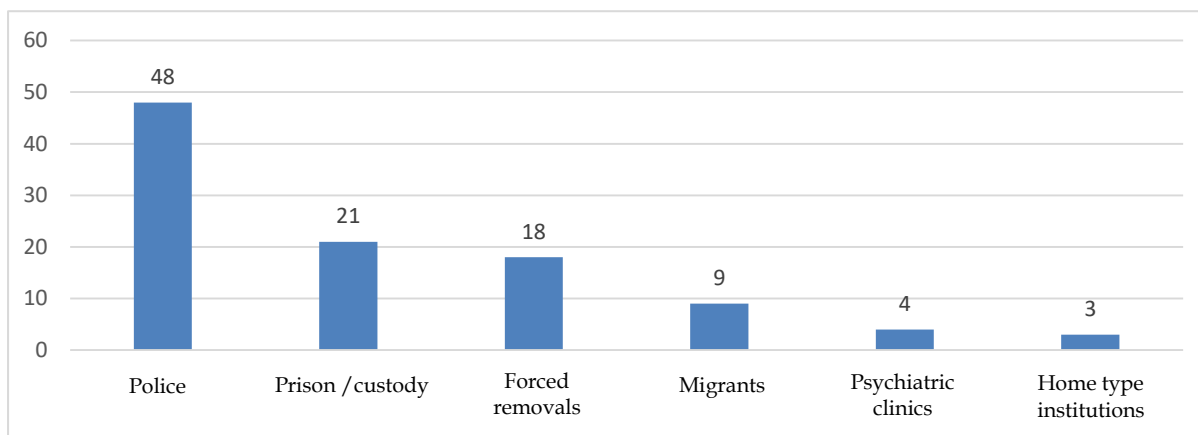
- **Ministry of Justice, Administration for the Execution of Criminal Sanctions** should improve the implementation of the treatment toward convicts, especially individual and group educational work;
- **Ministry of Justice, Administration for the Execution of Criminal Sanctions** should continue with the improvement of the provision of health protection to convicts and detained persons;
- **Ministry of Justice, Administration for the Execution of Criminal Sanctions** should provide that female convicts and minors serve their sentence as close to the place of their residence as possible or within the existing circumstances take activities for the purpose of the expansion of the forms of communication in the direction of the actual exercise of rights of convicts and minors to the contact with family and rights of children to maintaining personal relations with mothers;
- **Ministry of Justice, Administration for the Execution of Criminal Sanctions** should provide that all persons with mental disabilities who serve the prison sentence are dislocated from regular prison regime;
- **Ministry of Health and Ministry of Labor, Employment, Veteran and Social Affairs** should, in the process of cooperation, improve the regulations with the aim of implementation of efficient “deinstitutionalization”;
- **Ministry of Labor, Employment, Veteran and Social Policy** should implement the activities from its competence with the aim of the amendment to the Law on Social welfare, so as to prescribe conditions, competence and procedure for coercive accommodation and keeping of beneficiaries at the institutions of social welfare of home type;
- **Ministry of Labor, Employment, Veteran and Social Affairs** should take measures from its competence with the aim of passing of regulations which would regulate the conditions and procedure of limitation of the freedom of movement and physical restraint (binding) of beneficiaries accommodated at the institutions of social welfare of home type;
- **Ministry of Labor, Employment, Veteran and Social Affairs** should implement the activities from its competence with the aim of prescribing of the prohibition of the application of isolation of the beneficiaries at the institution of social welfare of home type;
- **Ministry of Labor, Employment, Veteran and Social Affairs** should improve activities of the centers for social work with regards to the provision of efficient guardianship protection to beneficiaries at institutions;
- **Competent authorities** should increase the number of employees at the bodies/institutions in order to enable persons deprived of their liberty to act completely in accordance with regulations and standards.

4.5.1.NATIONAL PREVENTIVE MECHANISM

ACTIVITIES OF THE NATIONAL PREVENTIVE MECHANISM

During the reporting period, the National Preventive Mechanism (hereinafter: NPM) paid 85 visits to the institutions which accommodate persons deprived of their liberty and 18 oversights of the investigations of coercive removals of foreign citizens. In total 48 visits were paid to police stations¹²², 21 to the institutes for the execution of criminal sanctions¹²³, three to the institutions of social welfare of home type ¹²⁴, three to psychiatric institutions, and a visit was paid to Special Prison Hospital¹²⁵. Furthermore, nine visits were paid with the aim of the oversight of the treatment of refugees and migrants¹²⁶. In the reporting period the NPM oversaw the activities of the police during public gatherings of citizens in Belgrade in July¹²⁷. The manner in which the treatment of the citizens by the police was followed as well as the very protest included following of the application of police authorizations, primarily: arrests, apprehension and exercise of rights of persons in custody and persons deprived of their liberty at police stations, District prison Belgrade and Penal-Correctional Institute in Belgrade – Padinska skela were interviewed.

Chart 1 – Visits and oversights of NPM in 2020



In the reporting period 39 reports on paid visits and supervisions of the coercive removal of foreign citizens were executed. In individual cases unique reports for more visited institutions were executed, for the reasons of need for systemic comprehension of a certain problem. In

¹²² PS Novi Beograd (three times), PS Stari Grad (three times), PS Zemun (twice), PS Čukarica (twice), PS Rakovica, PS Zvezdara (twice), PS Palilula (twice) PA Belgrade – seat (three times), PS Vračar (twice), PS Savski venac (three times), PS Voždovac (twice), PA Sremska Mitrovica – seat, PA Novi Sad (seat and PO Novo Naselje), PA Kraljevo-seat, PA Smederevo (seat and PO), PA Čačak (seat, PO and PS Gornji Milanovac), PS Sjenica, PA Kikinda (PS Kanjiža, PS Čoka, PS Novi Kneževac), PA Niš – seat (twice), PS Aleksinac, PS Doljevac, PS Grocka, PO Kaluđerica, PS Obrenovac, PA Valjevo-seat.

¹²³ PCI Niš, PCI Sremska Mitrovica (three times), PCI Požarevac- Zabela, DP Belgrade (four times), DP Kraljevo, DP Smederevo, DP Novi Sad (twice), PCI in Belgrade (twice), DP Čačak, PCI Belgrade – Padinska Skela (twice), PCI Pančevo (twice), PCI Valjevo.

¹²⁴ Gerontology center Pančevo, Educational Institute for Children and Youth Belgrade -Vasa Stajić, Jovan Jovanović Zmaj home.

¹²⁵ Special hospitals for psychiatric diseases in Vršac, Novi Kneževac and Gornja Toponica.

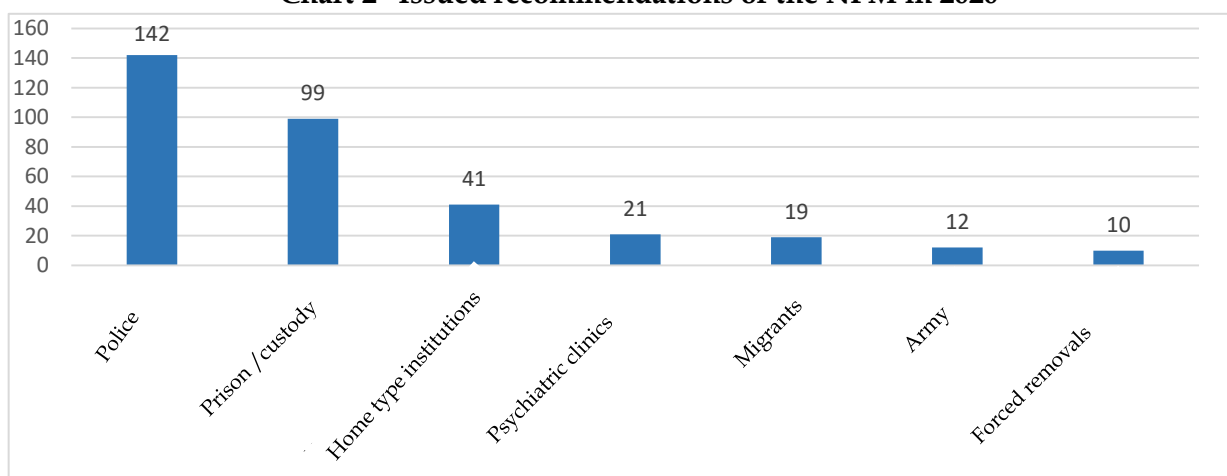
¹²⁶ Reception center for foreigners (twice), “Nikola Tesla” Airport in Belgrade (twice), Reception center in Obrenovac, Reception center in Adaševci, Asylum center in Bogovađa, Asylum center in Sjenica, Asylum center in Krnjača

¹²⁷ As of 8th July, 2020 until 25th July 2020 the NPM attended gatherings every evening with the aim of overseeing the treatment of citizens by the police.

compliance with this, 22 reports were executed on the basis of paid visits to police administrations and stations which are part of these, five reports were executed on the basis of visits paid to institutes for the execution of criminal sanctions, four reports were executed on the basis of visits paid to institutions of social welfare¹²⁸, two reports were executed on the basis of the visits to psychiatric clinics and departments within general hospitals paid in 2019¹²⁹, whereas three reports refer to the treatment of migrants by competent authorities. With regards to the coercive removal of foreigners, two group reports were executed. In this year, one more thematic report on the visits to military facilities paid in 2019 was executed.

In total, 344 recommendations were issued, of which 334 are from the report on paid visits to locations where persons deprived of their liberty are or may be accommodated, and 10 recommendations are from the area of the oversight of the coercive removal of foreigners.

Chart 2 –Issued recommendations of the NPM in 2020



In the reporting period, on the basis of conducted public call¹³⁰ the Protector of Citizens concluded the agreements on the cooperation with six associations¹³¹ with which the activities of the NPM shall be jointly performed. This year too, the NPM cooperated with the Provincial Ombudsman through the participation of their representatives in the visits to the institutions of the AP Vojvodina.

With the aim of the establishment of the continual dialogue with regards to potential measures of implementation of recommendations of the NPM and promotion of the cooperation in the area of torture prevention, individual meetings were held with the representatives of the Commission for the implementation of the standard of police treatment in the area of torture prevention of the Ministry of Interior, Ministry of Labor, Employment, Veteran and Social Affairs, Commissariat for Refugees and Migrations, Border Police Administration, Nikola Tesla Airport, International Red Cross Committee and United Nations High Commissariat for Refugees (UNHCR).

The NPM representatives participated in two meetings of the NPM Network of South-Eastern Europe countries which were dedicated to the treatment of police towards apprehended and

¹²⁸ Among them there is the thematic report on the visits to institutions of social welfare of home type published in 2019.

¹²⁹ Clinical Center of Vojvodina – Clinics for Psychiatry and General Hospital in Jagodina – Department for Psychiatry.

¹³⁰ Published at the Internet page of the Protector of Citizens on 4th June, 2020

¹³¹ Human Rights Advocate Committee, Serbian Victimology Society, A11 – Economic and Social Matters Initiative, Center for Youth Integration, Helsinki Board for Human Rights in Serbia and Human Rights Board Valjevo.

persons in custody in the first hours of their deprivation of liberty as well as the oversight of the actions upon recommendations (follow-up) and responses to the challenges in the realization of the NPM mandate at the time of COVID-19 infectious disease pandemic. Apart from that, as the chairman of the Medical Group of the Network, the Serbian NPM on 22nd December, 2020 organized the Network meeting in order to highlight the need of the oversight of the treatment of addicts to psychoactive substances as an especially sensitive subcategory of persons deprived of their liberty and on this occasion the Thematic report Treatment of Addicts to Psychoactive Substance at the Institution for the Execution of Criminal Sanctions¹³² was presented.

Moreover, three online meetings of the Working group for Asylum and Migrants of the European Network of National Human Rights Institutions (ENNHRI) were held and the NPM representative took part in them. The NPM representatives participated in the sixth meeting of the Independent Police Complaints Authority Network (IPCAN), which was held on 16th December, 2020.

RESULTS OF THE NATIONAL PREVENTIVE MECHANISMS

In the reporting period, the Ministry of Interior, acting in compliance with the Rulebook on the conditions which should be met by the premises for the persons in custody¹³³, continued with the improvement of the conditions for staying of persons in custody at the premises for custody, so in total 63 premises for custody were adapted.

During the reporting period, the NPM paid visits to police administrations and police stations included in these administrations with the aim following of the activities according to recommendations of the European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which were issued after the visit to the Republic of Serbia in 2017. With regards to that, at police administrations and police stations included in these administrations visited by the NPM, it was noticed that in most of the cases special premises for hearing of persons are designated, but they are not equipped with technical equipment for audio and/or video recording of the hearing, even though the existence of these premises and the stated equipment is one form of preventive actions and important measure of protection of persons deprived of their liberty against potential prohibited treatment by police officers.

The NPM paid both night and early morning unannounced visits to police stations for the purpose of following the treatment of apprehended and persons in custody with regards to the adherence to fundamental rights which are simultaneously the guarantee against abuse: the rights to access to a lawyer and doctor, the rights to inform a close person on the deprivation of liberty and familiarization with the rights. During the reporting period, the NPM interviewed over 100 persons deprived of their liberty, both in pre-trial detention and persons in custody on the treatment by police officers during the deprivation of liberty during custody and during the application of other police authorizations. With regards to that, what is encouraging is the fact that the most of interviewed persons stated that they were not victims of torture or other forms of abuse by police officers, that in most of the cases they did not complain about the possibility of the exercise of their rights so by the insight into documentation it was confirmed that these rights are observed in the majority of cases and that the records of the police station kept for persons in custody are improved.

¹³² Reference number 40489, dated 18th December, 2020

¹³³ "Official Gazette of RS", no. 34/18.



Detention room of PS Voždovac and Room for medical examination of detained persons at the headquarters of the PA of the city of Belgrade

However, with regards to the treatment of persons deprived of their liberty by the police during public gatherings in July 2020 in Belgrade, the NPM held interviews without surveillance with 28 persons deprived of their liberty, of which 17 persons complained about the police treatment during the deprivation of their liberty. The persons said that unknown police officers kicked them, hit them with rubber stick on the head and body, offended them, threatened them and treated them in an inhuman and degrading manner. Moreover, certain persons deprived of their liberty stated that they were asked questions without the presence of their defense attorney and that police officers were present during medical examinations. The NPM executed the Thematic report about the stated¹³⁴ with 11 recommendations for the removal of shortcomings and improvement of the condition in the area of which nine refer to the Ministry of the Interior.

The Administration for the execution of criminal sanctions continued to invest in material conditions of the accommodation of persons deprived of their liberty and increase of the capacity of the institute for the execution of criminal sanctions. However, the NPM confirmed that the “IV pavilion” facility at PCI Sremska Mitrovica was overcrowded and fails to meet the conditions for the accommodation of convicts pursuant to valid regulations and standards and issued recommendations¹³⁵. Special attention during the visits to institutes for the execution of criminal sanctions was paid to the manner of the conducting of the first inspection upon the reception into the institute, taking into account the importance of the role the services for health protection have in the combat against abuse.

During the reporting period the NPM paid thematic visits with the aim of overseeing the application of the principle of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on the treatment of persons deprived

¹³⁴ Reference number 31929, dated 28th September, 2020

¹³⁵ Available at: <https://npm.rs/attachments/article/994/42421%20preporuka%20IV%20paviljon.pdf>.

of their liberty at the time of the corona virus pandemic¹³⁶. With regards to the stated, the NPM executed the Thematic report: *The application of the CPT principle on the treatment of persons deprived of their liberty at the time of coronavirus pandemic*¹³⁷ where the recommendation was issued to allow all persons deprived of their liberty during the prohibition of family visits to continue to maintain contacts with family members and other close persons via telephone more than it is in regular circumstances. Furthermore, if the prohibition of visits lasts longer, it is necessary to provide other alternative manners of communication, including the communication via the Internet.

Moreover, the NPM paid visits to the institutions for the execution of criminal sanctions with the aim of overseeing the treatment of addicts to psychoactive substances¹³⁸ and executed the thematic report with eight recommendations.

The NPM paid also thematic visits in this period to the institutions where forensic patients are treated with the aim of overseeing the treatment of persons at the execution safety measures of mandatory psychiatric treatment and keeping at the health care institution, mandatory treatment of drug addicts and mandatory treatment of alcoholics, as well as at the execution of corresponding protective measures imposed in a misdemeanor proceedings¹³⁹. The thematic report of the NPM from these visits shall be issued in 2021.

With regards to the recommendations of the NPM for the Ministry of Health to take the activities with the aim of the establishment of the center for the protection of mental health at the community, with the provision of necessary sources, for the purposes of prevention, treatment and rehabilitation of patients at the community and the promotion of mental health, this ministry informed the Protector of Citizens that the formation of the Working group for the implementation and enforcement of the Action Plan of the Program for the protection of mental health for the period 2019-2026 was in progress.

In this reporting period the NPM was not able to completely exercise its mandate at the institutions of social welfare of home type, taking into consideration that the Ministry of Labor, Employment, Veteran and Social Affairs did not enable the mandate realization referencing to the act of the Minister of Health on the prohibition of visits¹⁴⁰ and the Instruction of the competent ministry with regards to the prevention of COVID-19 infectious disease pandemic spreading at the institutions of social welfare of home type as well as a great number of preventive measures which the institutions of social welfare of home type are obliged to implement related to it.

In this period the NPM paid visits to reception centers for migrants and centers for asylum for the purpose of checking of the state and conditions in them, treatment of persons accommodated at these centers and measures taken by the Commissariat for Refugees and Migrations with the aim of the protection against the spreading of corona virus and on this occasion executed the report with 12 recommendations issued to competent authorities¹⁴¹. This year the attention was also paid to visits for the purpose of the oversight of the treatment of unaccompanied minor migrants, which will be reported in a thematic report during 2021.

¹³⁶ In this manner visits were paid to DP Belgrade, PCI Belgrade, PCI Belgrade – Padinska skela, PCI Sremska Mitrovica and Reception center for foreigners in Padinska skela.

¹³⁷ Available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/6627-o-3>.

¹³⁸ Visits were paid to: PCI Sremska Mitrovica, PCI Belgrade, PCI Pančevo, PCI Niš. PCI Požarevac – Zabela, DP Čačak, DP Kraljevo, DP Novi Sad, DP Smederevo, DP Belgrade.

¹³⁹ Visits were paid to: SHPD “Dr Slavoljub Bakalović” in Vršac, SHPD “Gornja Toponica” in Gornja Toponica, SHPD “Sveti Vračevi” in Novi Kneževac and SPH in Belgrade .

¹⁴⁰ “Official Gazette of RS”, no. 28/20, 66/20 and 87/20.

¹⁴¹ Available at: <https://npm.rs/attachments/article/934/Izvestaj.pdf>

Within the performance of the oversight of the coercive removal of foreigners the NPM continued with the cooperation with the Ministry of Interior – Border Police Administration and especially, the Reception center for Foreigners in Padinska Skela. The support to this cooperation was provided also by UNHCR who provided translators to the NPM. During the performed oversight investigations, it was noticed that police officers who perform removals respect the integrity and dignity of foreigners and show a high level of professionalism in the performance of this task. As the greatest problem in the procedure of coercive removal, the NPM confirmed that the foreigners in the procedure of refoulment do not always have the possibility to indicate to the existence of the facts which would indicate to the obstruction to coercive removal to a certain country or to the confirmation of the existence of these facts, which may lead to the violation of Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Punishments and Treatment.¹⁴² The NPM issued to the Ministry of Interior the recommendation with regards to the full observance of the principle of *non-refoulement*.

During the reporting period the NPM oversaw the activities of border authorities at the Nikola Tesla Airport and the conditions where the persons deprived of their liberty at the transition zone stay. With regards to this, the works on the reconstruction of the Airport which include the construction of new premises for the accommodation of foreigners whose entrance into the country is prohibited and which will be in accordance with valid standards is in progress.



Representatives of the NPM at the meeting of the NPM Network of Southeast European countries

During the reporting period the NPM executed and issued the report on the visits to military facilities paid during 2019 for the purpose of oversight of the treatment of the members of the Serbian Armed Forces at the execution of disciplinary sanctions which may be deprivation of liberty¹⁴³. As a result of acting upon issued recommendation, material conditions at disciplinary premises were improved, the provisions of the instructions regulating the manner of sanction execution and organized written documenting of information on the

¹⁴² Ratified by the Law published in "Official Gazette of SFRY – International Treaties", number 9/91.

¹⁴³ Available at: <https://npm.rs/attachments/article/948/izvestaj%20vojni%20objekti.pdf>.

treatment of the sanctioned soldier and important events during the execution of the sanction were reviewed and updated. There is the daily regime of activities of the sanctioned soldier placed at the premises, it is enabled to have private visits, and the mandatory medical examination before the sanction execution was introduced, as well as the conversation with a psychologist. It is regulated that the therapy distribution is performed exclusively by the medical staff and there is the stipulated obligation of information of sanctioned soldiers on the possibility of the submission of a complaint to the Protector of Citizens.

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

5.1 AREA OF CIVIL AND POLITICAL RIGHTS

ACTIVITIES OF THE PROTECTOR OF CITIZENS

Justice and judiciary

Although the control of the work of courts and public prosecutor's offices was excluded from the competence of the Protector of Citizens, this reporting period was also marked by complaints about the work of those bodies. In these complaints, citizens most often point to violations of the right to a fair trial and to a trial within a reasonable time, expressing their views on the existence of irregularities related to the conduct and course of court proceedings, as well as dissatisfaction with the decisions made. More specifically, these complaints express the expectation that the Protector of Citizens will control the work of judicial bodies, primarily courts, and decisions made, to initiate appropriate proceedings against judicial office holders in order to determine their responsibility, as well as to influence or order changes in court decisions. Bearing in mind the competencies of this independent state body and their limitations, the role of the Protector of Citizens in dealing with such complaints is reflected in providing general information on procedures, legal remedies and competent bodies through which control of legality of courts and public prosecutor's offices is ensured.

Complaints about the work of the Ministry of Justice continue to point to problems related to the supervision of the Ministry of Justice pursuant to the Law on Organization of Courts¹⁴⁴ and the Court Rules of Procedure¹⁴⁵ over the work of court administration, court proceedings in cases within prescribed deadlines and handling complaints and petitions of citizens. Citizens who addressed the Ministry of Justice in accordance with the mentioned regulations generally express dissatisfaction, believing that the envisaged supervision mechanisms are not effective and efficient. In that sense, they usually indicate untimely handling of complaints, as well as that in situations where their complaints are assessed by the competent authorities as justified (especially in terms of the duration of the procedure), the measures taken do not give expected results. The Ministry of Justice remedied the deficiencies in the complaints on the basis of which the control procedures were initiated. However, it is important to note that some citizens who address complaints to the Ministry of Justice about the work of judicial bodies unreasonably expect the Ministry to influence the course of proceedings before the court, i.e. the public prosecutor's office, as well as to review the decisions of those bodies.

¹⁴⁴ "Official Gazette of RS", No. 116/08, 104/09, 101/10, 31/11, 78/11, 101/11, 101/13, 106/15, 40/15, 13/16, 108/16, 113/17, 65/18, 87/18 and 88/18.

¹⁴⁵ "Official Gazette of RS", No. 110/09, 70/11, 19/12, 89/13, 96/15, 104/15, 113/15, 39/16, 56/16, 77/16, 16/18, 78/18, 43/2019 and 93/19.

In this reporting period as well, citizens addressed complaints about the work of public executors whose work the Protector of Citizens is not authorized to control. Complainants are most often citizens who have the status of an enforcement debtor in the enforcement procedure, or the status of a participant in the procedure who claims that they have a right to the subject of enforcement that prevents enforcement (third party).

The most common problems that the citizens pointed out still refer to the delivery of letters in the enforcement procedure, as well as to the fact that they find out about the decision on enforcement only when the deadline for filing a legal remedy has expired. Complaints also point to doubts about compliance with the limits on enforcement of earnings / salaries and pensions. In that part, the cause of dissatisfaction and confusion among citizens regarding the amounts up to which enforcement can be carried out, lies in the fact that the Law on Amendments to the Law on Enforcement and Security¹⁴⁶ changed the amounts of enforcement restrictions, and that enforcement and security procedures will start before the day of application of this law and end according to the regulations that apply until the day of application of this law.

Also, the complaints referred to the work of the Ministry of Justice and the Chamber of Public Executors in connection with the actions of these bodies on complaints about the work of public executors and the supervision of their work. Complaints indicate untimely action of the Ministry and the Chamber on the submitted complaints and non-delivery of notifications on actions in a longer period of time than the submission of the complaint. The Protector of Citizens notes that these shortcomings have been eliminated through control investigations.

Remarks on the action of the Chamber of Public Executors on complaints about the work of public executors also referred to the content of the acts by which the Chamber informs citizens about the action on complaints. Acting on these complaints, the Protector of Citizens could state that the Chamber in the formal-legal sense, in accordance with the regulations governing the handling of complaints after examining the complaint informs a submitted in writing about the complaint. However, citizens in these cases also express doubts about the work of the Chamber, pointing out that the notices are typical, that they do not contain essential explanations and do not provide information and arguments on which the notices are based.

In this area as well bearing in mind the expectations of citizens expressed through complaints, the Protector of Citizens could notice that some citizens are not sufficiently familiar with the authorizations of public executor supervisory authorities. Ignorance of regulations and insufficient information lead citizens to turn to the Ministry of Justice and/or the Chamber of Public Executors asking them to take actions and make decisions concerning the enforcement procedure itself, i.e. to revoke or change the decision of the public enforcement agent which is not within the competence of these bodies, which ultimately results in betrayed expectations and dissatisfaction of citizens.

Finances

During the reporting period, the finance department marked a significant activity of administrative bodies within the Ministry of Finance - Treasury and Tax Administration to implement state aid to citizens and the economy in order to reduce the negative effects caused by the COVID-19 pandemic based on decrees of the Government of the Republic of Serbia. Complaints against the work of the Ministry of Finance and the bodies within this Ministry referred to the failure to submit feedback to the submitted complaints. The Protector of Citizens notes that in most cases, the shortcomings and omissions of the authorities were

¹⁴⁶ "Official Gazette of RS", no. 54/19

eliminated during the control investigations by respecting the complaints and enabling the citizens to exercise their right to assistance.

A large number of citizens addressed the Protector of Citizens with complaints about the actions of the Tax Administration and the Republic Pension and Disability Insurance Fund due to the impossibility to return the several paid contributions paid in person. After the control investigation, the Protector of Citizens determined that the citizens, based on the instructions of the Republic Pension and Disability Insurance Fund, paid the unpaid contributions to the employer's personal identification number, and not to the employee's personal identification number. After the Ministry of Finance subsequently paid the missing contributions from the bankruptcy estate of the employer, the citizens asked the Tax Administration to refund the amount they had personally paid, but these requests were rejected. Accordingly, the Protector of Citizens issued a recommendation¹⁴⁷ to the competent authorities to establish a mechanism of mutual cooperation and exchange of data that would enable citizens to return more paid contributions. The recommendation was not followed.

During the reporting period, written communication with citizens was improved, both when deciding on their requests, and in situations when citizens want to be informed about the status of their tax debt and other issues related to the calculation and payment of taxes. The Protector of Citizens notes that the importance of written communication came to the fore especially during the state of emergency, when most state bodies did not receive citizens. The number of complaints filed due to the administration's silence decreased, and complaints were filed due to dissatisfaction with the factual situation stated in the acts of the authorities.

As in previous years, this reporting year citizens most often turned to the Protector of Citizens for tax collection by the Tax Administration and the local tax administration. Citizens in their complaints most often indicate that they were not aware of the obligation to pay taxes and contributions or were not aware of the amount of debt or due to the passage of time were convinced that the obligations on that basis ceased due to obsolescence. The legal obligation of the Tax Administration and local tax administrations is to determine the obsolescence of taxes and ancillary tax obligations ex officio. The practice of the authorities is different, because the termination of the tax liability due to the obsolescence of collection is usually determined by the authorities at the request of taxpayers, most often after addressing citizens in the regular tax collection procedure or after addressing citizens to the Protector of Citizens.

In the reporting period, citizens addressed with complaints about the work of organizational units of the Tax Administration due to non-decision within the legal deadlines or untimely decision-making in the repeated procedure. Also, the citizens' complaints referred to the work of the Ministry of Finance, as a second instance body, due to non-decision within the legal deadline on citizens' complaints against the decisions of the Tax Administration and local tax administrations.

Internal affairs

During the state of emergency, a large number of citizens addressed the Protector of Citizens with complaints about the work of the Ministry of Interior, expressing dissatisfaction with the rejection of requests for movement permits during the ban (so-called curfew) and the inability to submit requests and take personal documents or obtain some other rights within the competence of the Administration for Administrative Affairs of the Ministry of the Interior. Also, the citizens pointed out the impossibility of vehicle registration in certain municipalities.

¹⁴⁷ Available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6525-gr-d-ni-d-s-vr-i-p-vr-c-d-prin-s-p-r-s-upr-v-i-rf-pi-d-s-r-du-u-u-njih-v-in-r-su>.

Citizens over the age of 65 also expressed dissatisfaction in their complaints due to the impossibility of registering vehicles and giving powers to other persons.

Citizens also pointed out the problem of detention at border crossings. In constant addresses to the Protector of Citizens during the state of emergency, citizens also expressed dissatisfaction with the determination of the measure of self-isolation and daily control of police officers, which they perceived as harassment. Citizens dissatisfied with the actions of certain police administrations and police stations also addressed the Protector of Citizens. The Protector of Citizens acted thoroughly and efficiently on all the above-mentioned complaints about the actions of the Ministry of the Interior and its organizational units but did not identify significant omissions in the work of the competent body.

During the reporting period, the Protector of Citizens conducted control investigations in several cases in which the Ministry of Interior did not decide within the legal deadline on citizens' requests for exercising status and other rights within the competence of this body.

In the reporting period, the actions of the Ministry of the Interior in accordance with the Law on General Administrative Procedure¹⁴⁸ were improved, and unlike in previous years, decision-making on citizens' requests without respecting the legal form is less noticeable. However, the practice is still present that citizens are informed in free form, instead of decisions, that their request cannot be accepted, which deprives them of the opportunity to use the appeal as a regular legal remedy and prevents them from conducting an administrative dispute later. After the Protector of Citizens initiated control investigations, the Ministry of Interior eliminated the shortcomings and issued administrative acts regarding such requests.

The Protector of Citizens received a small number of complaints related to the issuance of travel documents, with the proviso that these complaints did not relate to the Law on Travel Documents, but to the conduct of police officers. In these cases, we instructed the citizens to file a complaint against the work of police officers in accordance with the Law on Police.

In the reporting period, the Protector of Citizens also received a number of complaints from foreigners who were banned from entering the Republic of Serbia by decisions of border police stations. After reviewing the complaints, the Protector of Citizens determined that the Border Police Administration acted in accordance with the Law on Foreigners and banned entry to foreign citizens in writing - by a decision. Foreign citizens had the right to appeal the decisions of the Border Police Administration.

Compared to the previous year, the complaint procedure has not been improved despite the fact that the implementation of the new Rulebook on Complaint Procedure in the Ministry of Interior has begun. The Protector of Citizens determined that the complaint procedures are conducted in accordance with the Law on Police and the Rulebook on Complaint Procedure in the Ministry of Interior, but that the responses sent by this body to the complainants on the work of police officers neither state the actions taken in the complaint procedure nor are they presented with facts relevant to deciding on its merits. The Protector of Citizens believes that in the complaint procedure in the material sense, there are occasional deviations in relation to the rules of the profession and the principles of good governance, which is aimed at avoiding possible disciplinary responsibility of police officers. The Ministry has been repeatedly suggested that it is in the interest of citizens, police officers and the Ministry itself that complaints procedures be conducted in accordance with the law, without any doubt as to their course or outcome.

¹⁴⁸ "Official Gazette of RS", No. 18/16 and 95/18.

The Protector of Citizens received a large number of complaints related to the application of the Law on Weapons and Ammunition. Citizens pointed to the complicated procedure of re-registration of weapons, and to a lesser extent they also complained about the actions of police officers according to the submitted requests. Citizens were also dissatisfied because they received decisions on confiscation of weapons and weapons for "security reasons". In these cases, the Protector of Citizens took care of whether all legal remedies were used and when the conditions in accordance with the law were met, control investigations were initiated which were not completed by the end of the reporting period.

Certain number of complaints in the reporting period also referred to the failure to decide on citizens' requests to delete data from the operational and criminal records of the Ministry of the Interior. Pursuant to the allegations from the complaints, the Protector of Citizens initiated control investigations and the Ministry of the Interior eliminated the deficiencies, while in one case a recommendation was made that the Ministry of the Interior acted on.

The Protector of Citizens was addressed by citizens who believe that the Ministry of Interior unfoundedly submitted requests for initiating misdemeanor proceedings against them. After reviewing the received complaints, the Protector of Citizens determined that the requests were made on the basis of assumptions instead of on the basis of clearly and completely established facts, and that in some cases the articles of the law were incorrectly stated in relation to the factual description of violations. In these cases, citizens are instructed to file a complaint against the work of the Ministry of the Interior or to exercise their rights in court, bearing in mind that citizens can prove their claims before the Misdemeanor Court.

After initiating the control investigation upon the citizen's complaint, the Protector of Citizens issued a recommendation¹⁴⁹ to the Ministry of Interior to decide on the complainant's request for legal rehabilitation, and to inform the complainant about the legal remedy available to him for possible rebuttal of the said decision. The Ministry was also recommended to qualify citizens' submissions according to their content in future work and to decide on them in the form prescribed by law. The Ministry of the Interior informed the Protector of Citizens that it had acted on the recommendation.

In this reporting period as well the Protector of Citizens was addressed by police officers whose employment was terminated in accordance with previously valid regulations because they were assessed as posing a security threat or criminal proceedings were initiated against them, regardless of the fact that these officers were not convicted of offenses or acquitted.

Defense

In the reporting period in the area of defense, in their complaints citizens most often pointed out still unresolved housing issue, violation of employment rights and discrimination. Bearing in mind that they did not exhaust all available legal remedies before filing the complaint, citizens were instructed to first contact the competent authorities, and they were also provided with detailed information on the competencies of the Protector of Citizens and the possibility of re-appeal.

Acting on the complaints of a large number of citizens who believe that their rights have been violated due to shortcomings in current legal regulations, the Protector of Citizens submitted an Initiative to the National Assembly to amend the Law on the Rights of Veterans, War

¹⁴⁹Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6723-up-ni-u-f-r-i-upr-vn-g-dlucil-z-h-vu-pri-uzi-c-z-spr-v-d-nj-p-s-up-z-ns-r-h-bili-ci>.

Invalids, Civilian War Invalids and Members of Their Families¹⁵⁰. The Protector of Citizens is of the opinion that the amendment to this law would ensure equality in the exercise of the rights of all war invalids, which would also contribute to their more favorable economic situation.

In the reporting period, in their complaints about the work of the Ministry of Defense citizens pointed out irregularities in the assessment which they considered was not in accordance with the Decree on the assessment of professional military personnel¹⁵¹ - the complainant asked whether the fact that the assessment was performed by the superior and signed the form the second superior, represents an irregularity that should be the basis for taking measures within the competence of the Defense Inspectorate, as well as whether a professional military person is allowed to declare a legal remedy against the decision of the commission made upon his objection to the assessment and if so, in what way. In the specific case, the Protector of Citizens issued an act to the Ministry of Defense indicating the observed irregularities, so that they would not be repeated in the future work of the body. Also, it was emphasized that the actions of the officers of professional military personnel, contrary to the provisions of the Decree on the evaluation of professional military personnel, represent an omission that is inadmissible in the work of state administration bodies. However, since the given assessment is final, as well as the period for conducting a new assessment has already begun at the time of submitting the complaint, the Protector of Citizens concluded that any further action on the complaint would be inexpedient and would have no effect in terms of a different assessment outcome.

In a number of complaints, the citizens pointed out the incorrect conduct of the Administration for Infrastructure of the Ministry of Defense on the requests for solving the housing needs of the complainants. According to the allegations from the complaints, there were cases in which the Administration for Infrastructure did not consider the situation on the ground before deciding on the requests, so it would be found out later that the apartment does not have a construction or use permit. The complainants also pointed out that the complainants did not receive an answer to all addresses to the Ministry of Defense and the Administration for Infrastructure. After the investigation of control of the work of the Ministry of Defense, the Protector of Citizens did not determine that the body made omissions, i.e. the allegations of the complainants were not confirmed, and the proceedings were terminated due to lack of grounds for further action of the Protector of Citizens.

Insufficiently efficient cooperation between the Ministry of Defense and other bodies, and even between certain bodies within the Ministry of Defense, in this case led to the fact that the complainant was not paid contributions for insurance period with increased duration, despite the fact that he was entitled to that payment. Proceeding on this complaint is still ongoing.

Health

In the reporting period, the COVID-19 infectious disease pandemic imposed great challenges on the health system in the Republic of Serbia, and access to health care became far more complex for many citizens. Complaints received during this period indicate the difficult functioning of mechanisms for the protection of patients' rights due to the epidemiological situation.

¹⁵⁰ Available at: <https://www.ombudsman.rs/index.php/zakonske-i-druge-inicijative/6919-z-sh-i-ni-gr-d-n-p-dn-n-r-dn-s-upsh-ini-srbi-inici-ivu-z-d-punu-z-n-pr-vi-b-r-c-v-nih-inv-lid-civilnih-inv-lid-r-i-cl-n-v-njih-vih-p-r-dic>.

¹⁵¹ "Official Gazette of RS", No. 17/16.

During the state of emergency through certain addresses, the citizens asked for advice from the Protector of Citizens on what preventive measures to take in order to protect themselves and close family members from the danger of spreading the infectious disease COVID-19. The Protector of Citizens provided citizens with advisory and legal assistance, as well as in cases of rejection of a complaint due to incompetence or prematurity, he referred them to the competent authority and/or advised them on available legal remedies.

In the reporting period, there was an increase in the number of complaints in which the complainants pointed out the alleged omissions in the treatment of their relatives which, in their opinion, resulted in death. At the same time, they expressed suspicion about the quality control investigations of the provided health services conducted in health institutions and were referred to the Ministry of Health in order to initiate the procedure of external quality control of professional work.

A large number of citizens' complaints related to delays in the provision of health care and health interventions that are not urgent. In connection with this problem, a number of citizens pointed to the alleged denial of the right to use health care at the expense of compulsory health insurance and the inability to reimburse the costs they paid for health care provided to them in a private health institution, because they could not be served in a health institution from the Plan of the network of health institutions. The Protector of Citizens pointed out to the complainants the necessity of prior appeal to the Republic Health Insurance Fund, as the really competent body for resolving the requests for reimbursement of treatment costs.

When exercising the rights from health insurance in the reporting period, the insured first faced certain problems primarily due to the difficulty of obtaining information, and due to the changed work regime of the competent organizational units of the Republic Health Insurance Fund, caused by the epidemiological situation.

Based on the received complaint of the female citizen who was temporarily prevented from working due to complications related to pregnancy that there was no information whether the employer had submitted the calculation of compensation to the Republic Health Insurance Fund, the Protector of Citizens noticed that the insured were no longer able to verify that information on the official website of the Fund. Namely, acting on the recommendation of the Protector of Citizens from 2015, the Republic Health Insurance Fund opened a new section containing information regarding the payment of wages to pregnant women and all other insured persons during temporary incapacity for work due to illness starting from the 31st day of temporary incapacity¹⁵². However, during the reporting period, this type of information was not available to citizens in this way.

Immediately after the introduction of the state of emergency, the Protector of Citizens was addressed by employees of health care institutions who pointed out the difficulty of exercising and/or restricting certain employment rights. Citizens employed in health care institutions, but also with other employers who are chronically ill, single parents and/or parents of children under 12 years of age requested information from the Protector of Citizens on whether they can be released from work on that basis. In such situations, the Protector of Citizens pointed out to the citizens that in order to solve the problem, it is necessary to contact the health institution where they are employed.

Based on the information from the received complaint and using his legal powers, the Protector of Citizens through mediation between the complainant - a health worker with a disability (blind person) and two health institutions, contributed to the health institutions to

¹⁵² See at: <https://ombudsman.rs//index.php/lang-sr/2012-02-07-14-03-33/3796-2015-04-16-08-39-50>.

enable her place of work to be closer to her place of residence, which significantly facilitated the exercise of labor rights at the time of the epidemic.

In this reporting period, the Protector of Citizens continued long-term quality cooperation with the Union of Organizations of Serbia dealing with the protection of persons living with HIV / AIDS (USOP). Given the epidemiological situation that marked the reporting year, the Protector of Citizens within its statutory competencies monitored and paid special attention to the realization of the rights of people living with HIV, as well as access to legal protection mechanisms to prevent or respond to violations of HIV-related human rights. Also, the focus of the Protector of Citizens during the reporting period was monitoring the actions of competent state bodies, primarily the Ministry of Health and the Republic Health Insurance Fund, in relation to preventive measures that would enable persons at increased risk of infection access to PEP and PrEP to all persons who need prophylaxis of antiviral drugs in order to reduce the risk of HIV infection after exposure, which is also predicted by the Strategy for Prevention and Control of HIV Infection and AIDS in the Republic of Serbia 2018-2025¹⁵³.

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

- **The Ministry of Justice** should ensure efficient and up-to-date handling of complaints about the work of judicial bodies and the functionality of supervision over the work of the court administration;
- **The Ministry of Justice and the Chamber of Public Executors** should strengthen the mechanisms of control over the work of public executors and ensure efficient and up to date handling of complaints about the work of public executors as well as the functionality of supervision over their work;
- **The Ministry of Interior** should ensure full and consistent application of regulations on administrative procedure when deciding on the rights, obligations and legal interests of citizens, both in the first and second instance proceedings;
- **The Ministry of Interior** should, when deciding on a free assessment, take into account the limits and purpose of its powers, especially when it comes to "security clearance";
- **The Ministry of Interior** should ensure that administrations within the Police Directorate regularly communicate, educate and control police administrations along the lines of work, especially with regard to acting upon requests from parties;
- **The Ministry of Interior** should develop and strengthen mechanisms for controlling its work, i.e. further improve the complaint procedure in the formal and material sense;
- **The Ministry of Interior** should pay special attention when submitting requests for initiating misdemeanor proceedings, as well as to consider the introduction of records on the manner of completion of initiated misdemeanor proceedings in future work;
- **The Ministry of Interior** should continuously monitor the outcome of initiated misdemeanor proceedings as well as the case law of misdemeanor courts, bearing in mind that the burden of costs of unfounded misdemeanor proceedings falls on the budget;

¹⁵³ Official Gazette of RS", No. 61/18.

- **The Ministry of Interior** should continuously monitor the outcome of initiated misdemeanor proceedings as well as the case law of misdemeanor courts, bearing in mind that the burden of costs of unfounded misdemeanor proceedings falls on the budget;
- **The Ministry of Interior** should decide more efficiently on applications for citizenship of the Republic of Serbia;
- **The Ministry of Interior** should act without delay on final and enforceable judgments of the competent courts and avoid initiating enforcement proceedings, bearing in mind that the costs of enforcement proceedings are borne by all taxpayers of the Republic of Serbia;
- **The Ministry of Interior** should continuously monitor the judgments of the competent courts and in that sense improve the work in the first and second instance proceedings in accordance with the law.
- **The Ministry of Interior** should provide continuous training of police officers in order to more fully review and control the application of the Law on Records and Data Processing in the area of internal affairs;
- **The Ministry of Health and the bodies of local self-government units** should continuously provide the necessary conditions for the smooth and quality work of counselors for the protection of patients' rights and health councils;
- **The Ministry of Finance** should provide staff and financial conditions for deciding on citizens' complaints within the legally prescribed period;
- **The Tax Administration** should ensure that organizational units formally and substantially act upon the requests of citizens in accordance with the law, and in repeated proceedings in a timely manner and in accordance with the views of the legal understandings of higher instances;
- **The Tax Administration** should consistently implement all measures and activities within its competence in order to timely and efficiently collect contributions for compulsory social insurance in situations when the employer does not do so;
- **The Republic Health Insurance Fund** should ensure on its official website the smooth and continuous functioning of the section containing information regarding the payment of wages to pregnant women and all other insured persons during temporary incapacity for work due to illness starting from the 31st day of temporary incapacity;
- **Local self-government units**, when planning source revenues, should take into account the economic situation and material opportunities of taxpayers, and local tax administrations should pay more attention to communicating with citizens and legally and correctly deciding on their requests.

5.2 AREA OF ECONOMIC AND PROPERTY RIGHTS

ACTIVITIES OF THE PROTECTOR OF CITIZENS

Construction

In this reporting period, the Protector of Citizens notes the inefficient actions of the Secretariat for the Activities of Facility Legalization of the City Administration of the City of Belgrade, both in terms of the duration of the proceedings, without clear indications when they will be completed, and in terms of complete absence of actions on citizens' requests.

The unsatisfactory level of cooperation with the Protector of Citizens on complaints about the work of the City Administration of the City of Belgrade, despite the issued recommendation¹⁵⁴, remains a feature of this reporting period. In their complaints to the Protector of Citizens, citizens also pointed to violations of the right to peaceful enjoyment of property as a consequence of building illegal buildings without complying with regulations regarding occupation of plots, construction at insufficient distance from the border, illegal stories of buildings, failure to provide infrastructure for facilities (parking lots, garages, utility infrastructure) which endangers the stability and security of existing, neighboring facilities.

Amendments to the Law on Planning and Construction¹⁵⁵ did not contribute to more efficient sanctioning of illegal construction in this reporting period, as indicated by the large number of citizens who expressed dissatisfaction with the failure of the construction inspection of the Secretariat for Inspection Affairs of the Belgrade City Administration. Citizens' complaints regarding the execution of administrative decisions on demolition, which mostly related to the area of the city of Belgrade, point to the conclusion that the reasons for postponing the execution, even after the recommendation of the Protector of Citizens¹⁵⁶, are failure to provide sufficient funds for those purposes and untimely expanding human resources. Also, the failure of the announced public procurements for those needs, the vagueness of positive legal regulations¹⁵⁷, especially the interpretation of the "public interest" standard, leaves room for a selective approach when making a decision on which solution will be enforced as a priority.

The Protector of Citizens notes that in this reporting period citizens expressed dissatisfaction with the content of the adopted planning documents and the transparency of their adoption, pointing out especially with regard to construction in the city of Belgrade, that the existing

¹⁵⁴ Recommendation of the Protector of Citizens 3121-387/19, dated December 5, 2019

¹⁵⁵ Coming into force of the amendments to the Law on Planning and Construction, the competence for the inspection supervision in the area of construction for the facilities up to 800 m², and for the facilities for which the decision on construction permit is issued by the city municipality within the City of Belgrade, passed to the Secretariat for Inspection Activities of the City Administration of the City of Belgrade.

¹⁵⁶ Available at <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6449-n-c-lni-gr-ds-upr-v-b-gr-d-d-u-vrdi-dg-v-rn-s-p-s-up-uc-g-sluzb-ni-i-n-p-sr-dn-dg-v-r-n-z-rsh-nj-b-v-z-s-r-dnj-s-z-sh-i-ni-gr-d-n>

¹⁵⁷ Rulebook on the procedure for adopting and the content of the facility removal program, "Official Gazette of RS", No. 27/15.

construction reduces the number of green areas and endangers springs, which significantly decreases quality of life in the capital.

Real Estate Cadaster

The reporting period was marked by the pandemic of the infectious disease COVID-19, which put the timely and efficient functioning of all administrative bodies to a kind of test. Due to the above circumstances, the Government of the Republic of Serbia adopted the Decree on the application of deadlines in administrative proceedings in conditions of a declared state of emergency¹⁵⁸, which the Protector of Citizens took into account and left to the Real Estate Cadaster Service and the Republic Geodetic Authority a longer deadline.

The total number of cases in this area in the reporting year is higher by more than 30% compared to 2019.

Amendments to the Law on the Procedure for Registration in the Real Estate and Lines¹⁵⁹ Cadaster precisely regulate the issue of proper delivery sent by registered mail and should remove doubts and different actions of the service during delivery, which occurred during this reporting period. An example of this is the failure of the Real Estate Cadaster Service in Lazarevac to deliver the decision in accordance with the applicable legal regulations, in connection with which the Protector of Citizens issued a recommendation¹⁶⁰ to the Republic Geodetic Authority. Also, the Decree on the conditions for issuing excerpts from the list of real estate and lists of waters from the geodetic-cadastral information system by notaries and geodetic organizations¹⁶¹, more closely defines the conditions and manner of issuing excerpts from the list of real estate and water lists from the database of the Geodetic Cadastral Information System Geodetic Authority by notaries and geodetic organizations.

Untimely and out-of-date actions of the real estate cadaster services, as well as untimely actions of the competent second-instance body of the Republic Geodetic Authority, still represent the most common violation of the rights due to which citizens addressed the Protector of Citizens in large numbers. More specifically, although the Republic Geodetic Authority fulfills its legal obligation to cooperate with the Protector of Citizens and, after learning that the body has initiated the procedure of labor control, usually takes the necessary measures to eliminate omissions indicated in the complaints, control investigations in some cases had referrals made. Such is the case with the failure of the Real Estate Cadaster Service of Batočina to, in the execution of the second-instance decision, bring a new decision despite an inappropriately long period of time¹⁶². As a reason for not acting, the Real Estate Cadaster Service of Batočina stated the lack of staff with an appropriate educational profile. There was a partial lack of cooperation with the Protector of Citizens in the procedure in which it was determined that the Republic Geodetic Authority did not ex officio remove from legal circulation the first instance decision by which the Voždovac Real Estate Cadaster Service, not

¹⁵⁸ "Official Gazette of RS", No. 41, dated March 24, 2000 and March 27, 2020.

¹⁵⁹ "Official Gazette of RS", No. 41/18, 95/18, 31/29 and 15/20.

¹⁶⁰ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6809-r-public-i-g-d-s-i-z-v-d-ni-d-s-vi-r-sh-nj-u-s-l-du-s-v-z-ci-z-ns-i-pr-pisi>

¹⁶¹ "Official Gazette of RS", No. 55/05, 71/05 – correction, 101/07, 65/08, 16/11, 68/12 – US, 72/12, 7/14 – US, 44/14 and 30/18.

¹⁶² Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6872-sluzb-z-s-r-n-p-r-n-s-i-b-cin-d-b-z-dl-g-nj-d-n-s-n-vu-dlu-u-p-sh-u-uci-pri-db-drug-s-p-n-g-rg-n>

respecting the order of precedence in resolving administrative matters, decided request for registration of property rights on real estate¹⁶³.

Environmental protection

In this reporting period, the Protector of Citizens records an increase in the number of appeals and complaints related to environmental protection, which indicates the recognizability of this independent state body in protecting the constitutionally guaranteed right to a healthy environment, increased awareness of the need for its protection and greater awareness of citizens on the environment condition, which is especially important bearing in mind that the chapter on negotiations on accession to the European Union is open, which refers precisely to this area.

In this reporting period, the Protector of Citizens conducted a series of control investigations, supervising the application of the provisions of the law that protects the environment, and most of which are investigations conducted on his own initiative due to poor quality and air pollution.

Acting on his own initiative, the Protector of Citizens initiated control investigations of the Ministry of Environmental Protection and several local self-government units due to air pollution, as the main addressees of legal obligations in the implementation of air protection provisions.

Acting on citizens' complaints, the Protector of Citizens initiated investigations to determine the legality of actions during inspections of the operation of plants that may cause harmful effects on the environment, as well as actions of competent authorities on citizens' complaints due to construction of mini-hydro power plants and waste management. Proceedings are still ongoing.

In the control investigation over the work of the Ministry of Environmental Protection, it was determined that the Ministry committed an omission to the detriment of the right of citizens to a healthy environment, because it did not timely monitor the actions of local self-government units regarding the application of the Law on Air Protection¹⁶⁴. Those local self-government units that have not fulfilled the obligation prescribed by the aforementioned law to adopt air quality plans and short-term action plans. Based on the identified shortcomings in the work, the Protector of Citizens issued recommendations¹⁶⁵ to the Ministry of Environmental Protection in order to eliminate the observed omissions. The competent Ministry accepted the recommendations of the Protector of Citizens and submitted data on the actions of local self-government units regarding the fulfillment of legal obligations provided by the Law on Air Protection and stated that it would consider applying penal provisions provided by the Law on Air Protection in case the local self-government unit does not fulfill its obligations. In his opinion, the Protector of Citizens also pointed out that it is necessary for the Ministry of Environmental Protection, in cooperation with other competent bodies, to regularly and completely inform the public about the state of air quality, all measures taken to protect the air and refer citizens to reliable sources of information about air

¹⁶³Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6923-rgz-ni-u-s-l-du-s-z-n-p-s-upi-p-sluzb-n-duzn-s-i>

¹⁶⁴ "Official Gazette of RS", No. 36/09 and 10/13.

¹⁶⁵Available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6869-z-sh-i-pr-v-n-zdr-vu-ziv-nu-sr-dinu-n-z-bi-i-pr-d-pr-is-n-ph-dn-fi-sn-bl-g-vr-n-i-pr-v-n-ivn-p-s-up-nj-u-bl-s-i-z-sh-i-v-zduh>.

quality and the state of the environment, all with the aim of establishing citizens' trust in the legal and proper work of the state administration in the area of environmental protection. Also, the Protector of Citizens believes that it is necessary to consider the possibility of improving the existing air quality monitoring system of the state system, and possibly the possibility of establishing a network for automatic air quality monitoring in all local governments, which would further create conditions for comprehensive data, proceed without delay and take all necessary measures in the shortest possible period of time in relation to all established exceedances of the values of pollutants in the air. In response to the Protector of Citizens, the Ministry of Environmental Protection stated that in order to protect, preserve and improve air quality in the Republic of Serbia, it will continue with the started activities, support and undertake new activities within its competence, in order to strengthen and improve cooperation with other competent authorities and organizations to address air pollution. Also, the Ministry stated that the operational monitoring of air quality in the state network is continuously carried out by the Environmental Protection Agency, as well as the presentation of the results of monitoring to the public.

In the investigations of controlling the actions of the competent bodies of local self-government units regarding the fulfillment of legally prescribed obligations concerning the preparation of strategic documents in the area of air protection, the Protector of Citizens identified omissions in the work of competent bodies of Belgrade, Kragujevac, Nis and Kosjerić. The competent authorities of the City of Belgrade failed to adopt a short-term action plan, which is why the Protector of Citizens issued recommendations with an opinion¹⁶⁶ indicating that the omission should be eliminated by taking all necessary measures without delay to adopt or adopt a short-term action plan, and to act in a timely manner and fulfill all legally prescribed obligations in the area of environmental protection. The Protector of Citizens stated in the Opinion that it is necessary for the city of Belgrade to undertake additional efforts through the competent authorities and provide adequate financial resources in order to protect the air and improve its quality on the territory of the Belgrade agglomeration. The City of Belgrade informed the Protector of Citizens that the Air Quality Plan and the Short-Term Action Plan had been prepared, and the Protector of Citizens believes that this eliminated the omission that was determined in the actions of the competent authorities of the City of Belgrade.

The cities of Niš and Kragujevac, as well as the municipality of Kosjerić, made the same gross omissions to the detriment of the rights of citizens to a healthy environment by failing to adopt air quality plans or short-term action plans. On this occasion, the Protector of Citizens issued recommendations¹⁶⁷ to the competent authorities of these local self-government units to adopt the stated strategic documents without delay, as basic instruments in the protection of air quality. The City of Kragujevac informed the Protector of Citizens that the Short-Term Action Plan and the Air Quality Plan in the Kragujevac Agglomeration are being drafted, and that after drafting the documents, they will be submitted to the Ministry of Environmental Protection in accordance with the law. The Municipality of Kosjerić submitted a draft of the Short-Term Action Plan to the Ministry of Environmental Protection in order to obtain the necessary consent, and the decision on the supplementary budget of the Municipality of Kosjerić envisages funds for the development of the Air Quality Plan. The City of Niš submitted to the Ministry of Environmental Protection the Air Quality Plan for the Niš Agglomeration with all submitted remarks, opinions and suggestions for approval. The

¹⁶⁶ Available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6870-gr-d-b-gr-d-pr-pus-i-d-d-n-s-r-r-cni-ci-ni-pl-n>.

¹⁶⁷ Available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6848-nish-r-gu-v-c-i-s-ric-n-fi-sni-u-upr-vlj-nju-v-li-v-zduh>.

Protector of Citizens believes that the competent authorities of the cities of Niš and Kragujevac and the municipality of Kosjerić have taken measures in order to act on the recommendations, and that such actions have taken into account the position and recommendations of this body..

On the occasion of the address of the citizens of the city of Prokuplje, the Protector of Citizens initiated a control investigation against that unit of local self-government in connection with the protection of air quality. However, despite the explicit legal obligation to cooperate with the Protector of Citizens and submit information relevant to the proceedings, the mayor of Prokuplje did not submit the requested statement on repeated requests, which made it impossible to establish facts relevant to the proceedings conducted by the Protector of Citizens. Accordingly, the Protector of Citizens determined the omission and issued recommendations¹⁶⁸ indicating the legal obligation to cooperate with this body and instructed the city of Prokuplje to inform the organizational units of the city administration with the content of the above recommendations in order to prevent the same or similar illegal actions in the future. The Protector of Citizens notes that the recommendations were followed.

Mining and energy industry

In the area of mining and energy industry, citizens' complaints referred to the work of the Public Company "Elektrodistribucija Srbije" Belgrade and the Distribution System Operator "EPS Distribucija" d.o.o. Belgrade. Complaints express dissatisfaction with the issued invoices for consumed electricity, especially in connection with the calculation and presentation of debt from the previous period, dissatisfaction with the handling of complaints and objections to the issued invoices, as well as the procedures of forced collection of receivables. Citizens also point out the difficulties related to reaching an agreement in order to settle the debt in installments.

Also, the complaints indicate dissatisfaction due to the suspension of electricity supply and disconnection from the electricity distribution system. At the same time, some citizens point out that the disconnection lasts for several years, that there is no possibility of reconnection until the full settlement of the debt, that they are constantly issued additional amounts on behalf of the remaining debt, and that they are left unclear facts and manner on which the remaining debt is calculated. The complaints also pointed to the untimely handling of the complaint regarding the exclusion of the facility from the system.

In cases of change of ownership of real estate, the new owners cannot conclude a contract for the supply of electricity until all previous debts have been settled, which the complainants point out as a problem.

A number of complaints also referred to the handling of requests for connection to the system, but also disconnection from the system at the request of the customer. Deficiencies have been eliminated in the control investigations initiated due to non-compliance, i.e. non-delivery of answers to requests and complaints of citizens addressed to energy entities.

Local self-government

In the reporting period, citizens most often expressed their dissatisfaction with the actions of utilities, i.e. local public companies, in terms of performing communal activities such as heat supply, water supply, sewerage, municipal waste collection, parking and public transport. In these cases, the citizens were clearly and in detail informed which competent bodies they

¹⁶⁸ Available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6810-gr-d-n-c-lni-pr-uplj-ni-ispuni-z-n-pr-pis-nu-b-v-zu-s-r-dnj-s-z-sh-i-ni-gr-d-n>.

could turn to for the protection of their rights, or the complaints were forwarded to the ombudsman of the local self-government unit, where such a body exists.

Also, it is noticeable that in this area of competence of local self-government units, there is a problem with insufficient funds in the budget, which makes it difficult to implement projects and improve living standards.

In this reporting period, the Protector of Citizens completed the control investigation over the work of local self-government bodies, which refer to the actions of certain bodies - commissions at local self-government units, responsible for land consolidation procedures, as well as actions for land return requests. The subject of control of this body was also the implementation of the procedure of administrative execution of its own decisions by the unit of local self-government.

Citizens also submitted complaints to the Protector of Citizens against the work of local self-government units due to non-compliance with the submitted applications and requests, as well as untimely handling of the submitted submissions. The Protector of Citizens, through preventive action, cooperation and performing the control function, influenced the efficiency and legality of the actions of the bodies regarding the requests of the citizens. It was noticed that most of the bodies of local self-government units, after receiving the letter from this independent state body, eliminated the shortcomings in their work. On the other hand, in some control investigations of local self-government bodies, despite the explicit legal obligation, there was no cooperation with the Protector of Citizens, which made it impossible to fully establish all facts relevant to this body's assessment of the omission in this case which point to the omission and the need to establish efficient and functional cooperation with the Protector of Citizens¹⁶⁹.

The City Administration of the City of Leskovac failed to decide on the complainant's request in the form of an administrative act, which violated the law, the principles of administrative procedure and the principle of good administration, as well as the right to equal protection of rights and remedies. The Protector of Citizens issued recommendations¹⁷⁰ to the body which were not fully complied with.

The Municipal Administration of the Municipality of Ljubovija made an omission in its work which caused a gross violation of the principles of good administration and the principle of administrative procedure by failing to conduct the procedure of administrative execution of the decision of the Traffic and Roads Inspector of the Municipal Administration of Ljubovija, thus violating the right to create the legal expectations of citizens and jeopardized the principle of legal security in this case. The Protector of Citizens issued recommendations¹⁷¹ and opinions to the body and monitors the procedure according to the issued acts.

The Protector of Citizens issued recommendations¹⁷² to the Commission for Land Restitution of the Municipality of Čičevac, which made a mistake in its work by not being in a specific

¹⁶⁹ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6935-n-p-sh-v-nj-b-v-z-s-r-dnj-upr-v-gr-ds-psh-in-br-n-v-c-s-z-sh-i-ni-gr-d-n-rsh-nj-z-ns-ih-b-v-z-i-p-vr-d-princip-d-br-upr-v>.
<https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6920-n-p-sh-v-nj-b-v-z-s-r-dnj-psh-ins-upr-v-psh-in-s-nic-s-z-sh-i-ni-gr-d-n-rsh-nj-z-ns-ih-b-v-z-i-p-vr-d-princip-d-br-upr-v>.

¹⁷⁰ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6926-gr-ds-upr-v-l-s-vc-pr-uzr-v-l-p-vr-du-z-n-n-c-l-upr-v-g-p-s-up-i-princip-d-br-upr-v>.

¹⁷¹ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6959-grub-p-vr-d-princip-d-br-upr-v-i-n-c-l-upr-vn-g-p-s-up-psh-in-ljub-vi>.

¹⁷² Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6824-n-fi-sn-p-s-up-nj-isi-z-vr-c-nj-z-ljish-psh-in-cic-v-c>.

case, and at the request of citizens decided to reopen the land, thus violating the principles of administrative procedure, good governance and property rights. The Protector of Citizens monitors the actions of the Commission in accordance with the issued recommendations.

The commission for the implementation of land consolidation for the cadastral municipality of Šašinci failed to decide in the new procedure of land consolidation at the request of the complainant, which violated his right to property. Accordingly, the Protector of Citizens issued recommendations¹⁷³ which were followed.

Acting on the citizens' complaints, the Protector of Citizens issued recommendations¹⁷⁴ to the Municipal Administration of the Municipality of Plandiste to take the necessary measures within its powers to form the Commission for Land Restitution, bearing in mind that the local self-government unit failed to form the Commission in time. The recommendations were followed.

The Protector of Citizens determined in the control investigation of the work of the Municipal Administration of the Municipality of Lebane that it did not act efficiently in the formation of the Commission for consolidation, which resulted in delays in the procedure, failure to make a law-based decision and violation of the complainant's right to property. Accordingly, the Protector of Citizens issued recommendations¹⁷⁵ which were followed.

Public administration

During 2020, the number of citizens' appeals was reduced due to dissatisfaction with the work of the Ministry of State Administration and Local Self-Government. Acting upon the complainant's address, the Protector of Citizens determined that the Ministry of State Administration and Local Self-Government and the City Administration of the City of Loznica had committed omissions to the detriment of the complainant's rights because during conducting of the procedure upon her request for correction of newly assigned personal identification number, they fail to present evidence by hearing the party, which prevented the complainant from continuing to use personal identification number she had been using for a full 79 years. The Ministry was recommended to reconsider its decision, taking into account the fact that the Department for General Administration of the City Administration of the City of Loznica did not present evidence by hearing the party, after which it will make a new decision. The Ministry fully complied with the issued recommendation, i.e. annulled the first-instance decision and returned the case for a new procedure in which, after the presentation of evidence by hearing the parties, a new decision will be made.

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

- **The Ministry of Construction, Transport and Infrastructure** should provide sufficient financial resources at all levels of government for the administrative execution of decisions on the demolition of illegally constructed buildings;
- **The Ministry of Construction, Transport and Infrastructure** should take the measures prescribed by law in order to ensure more efficient work of the Secretariat

¹⁷³ Recommendation: 3127-608/19, ID No. 28478, dated August 27, 2020.

¹⁷⁴ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6745-psh-in-pl-ndish-n-pr-vd-n-dug-b-z-isi-z-vr-c-nj-z-ljish>.

¹⁷⁵ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6827-iz-s-n-dlu-u-z-ns-r-u-zb-g-pr-pus-u-r-du-psh-ins-upr-v-psh-in-l-b-n>.

for Legalization of the City Administration of the City of Belgrade in performing the entrusted tasks;

- **The Ministry of Construction, Transport and Infrastructure** should take measures in order to strengthen the organizational and personnel structure of the Republic Geodetic Authority and create conditions for greater accessibility of its services to citizens;
- **Public company "Elektroprivreda Srbije" and Distribution System Operator "EPS Distribucija"** should provide legal, conscientious, impartial, efficient and timely handling of requests, complaints and reclamations of citizens;
- **The City of Belgrade** should in accordance with the entrusted competencies, ensure the creation of financial and personnel conditions in order to enable the competent organizational unit to carry out consistent sanctioning of illegally constructed facilities, especially taking into account the need for priority administrative execution of previously demolished decisions;
- **The City Administration of Belgrade** should ensure that the organizational units within its future work fulfill their obligation to cooperate with the Protector of Citizens, in terms of timely response to the acts of this body and making available all data relevant to the actions of the Protector of Citizens;
- **The Secretariat for Legalization of the Facilities of the City Administration of the City of Belgrade** should consider each submission to the procedure of a party or an interested party that contains a certain request, and send a reasoned response to it;
- **Local self-government units** should envisage a sufficient amount of funds when adopting the budget for the administrative execution of the adopted decisions on the demolition of illegally constructed buildings;
- **Local self-government units** should ensure that public procurement procedures for the execution of demolition works are carried out within the legal framework and deadlines;
- **Local self-government units** should, in order to more efficiently implement their own solutions, consider the possibility of establishing public companies that would deal with the enforcement of solutions within their activities, i.e. in cases where there are already public companies that meet legal, personnel and technical requirements for enforcement. to entrust them with the execution of these tasks;
- **Local self-government units** should be more engaged in solving communal problems faced by citizens in their areas;
- **Local self-government units** should inform citizens about their rights and ways of exercising them, as well as inform them about the possibilities of filing a complaint if they are dissatisfied with the actions of employees in the bodies of the local self-government unit;
- **Local self-government units** should take care of more efficient handling of requests, letters, reports and complaints of citizens, and to act on them within the legally prescribed deadlines;
- **Local self-government units** should fully respect administrative procedures and principles of good governance when deciding on the rights, obligations and legal interests of natural and legal persons.

5.3 AREA OF SOCIAL AND CULTURAL RIGHTS

ACTIVITIES OF THE PROTECTOR OF CITIZENS

Rights on the basis of labor

In the reporting period, citizens most often complained to the Protector of Citizens about non-payment, i.e. irregular payment of salaries and non-payment of social security contributions, arbitrariness and illegality when making a decision on termination of employment and harassment at work. In fear of losing their job, employees usually report their dissatisfaction only when they lose their job and when proving their rights is possible only in a court procedure that takes a long time and presupposes material costs. Also, the Protector of Citizens came to the information through citizens' addresses that a large number of employees cannot collect their claims from employment, since these are employees of companies that are in restructuring and bankruptcy and whose accounts have been blocked.

Based on the received complaints in this reporting period as well, the Protector of Citizens noticed that employees do not use the existing legal options for protection of their rights - such as addressing the labor inspection, the Republic Agency for Peaceful Settlement of Labor Disputes, seeking judicial protection. In these situations, citizens are informed about what legal remedies are available to them.

As in the previous reporting period, in 2020, citizens complained about the inaccurate conduct of the Labor Inspectorate. Based on the statement of the Labor Inspectorate, the Protector of Citizens concluded that the efficiency and quality of work of this body is, among other things, affected by the number of labor inspectors, which is not sufficient for efficient and quality work in its competence.

In order to improve the conditions of safety and health at work of employees in the conditions of spreading the infectious disease COVID-19, the Protector of Citizens issued to the Ministry of Labor, Employment, Veteran and Social Policy an opinion on the Proposal of Decree on preventive measures for safe and healthy work for prevention and spreading of infectious disease COVID-19 in which he presented his remarks and suggestions on the text of the Proposal for a Regulation¹⁷⁶.

Despite the fact that in this reporting period there were tragic events with some employers that led to injuries and deaths of some employees, although the then Minister of Labor, Employment, Veteran and Social Policy announced that he would submit a new proposal to the National Assembly of the Republic of Serbia. According to the Law on Insurance in the case of injuries at work, which should envisage preventive action and improve the system of protection of employees from injuries at work, the announced bill did not enter the legal procedure.

Since the competent authorities from 2018 until today have not taken the necessary measures to amend the regulations to ensure timely action of the authorities in case the employer circumvents the laws and makes himself inaccessible to the competent authorities, the Protector of Citizens issued to the Ministry of Labor, Employment, Veterans and social issues

¹⁷⁶ Opinion available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6606-covid-19-sars-cov-2>.

and the Tax Administration recommendation¹⁷⁷, in cooperation with other bodies, to ensure fast and efficient finding of employers and their responsible persons and to eliminate systemic shortcomings in cases of violation of citizens' rights by employers and, in case of suspicion that some crimes were committed, act in accordance with the Code of Criminal Procedure.

Pension and disability insurance

The Protector of Citizens notes that the largest number of citizens' complaints still refers to the "administrative silence", i.e. untimely action on the submitted requests for exercising the right to a pension. Also, the promptness of the Republic Pension and Disability Insurance Fund is evident in terms of dealing with cases in connection with which the Protector of Citizens initiates the control investigation over the work of this body.

Citizens often addressed due to the failure to make a decision on the final amount of pension, due to the lack of data on the entire length of service and salaries, which is especially noticeable for the period of the last decade of the 20th century. Due to this problem, citizens are not able to receive a full pension. Given the importance of determining the entire length of insurance on which the amount of pension depends, the Protector of Citizens in each case, through obtaining information from other bodies (Tax Administration, Historical Archives, National Bank of Serbia, Treasury), tried to contribute to determining length of service for periods not entered in the registry of the Republic Pension and Disability Insurance Fund.

The citizens also expressed dissatisfaction with the failure to act on their requests due to the fact that proceedings are underway before the Administrative Court regarding their previously submitted requests related to another legal matter. Due to the long duration of proceedings before the Administrative Court, citizens cannot exercise rights that are not conditioned by the decision of that body.

A large number of citizens addressed the Protector of Citizens due to the untimely actions of the Republic Pension and Disability Insurance Fund on the submitted requests for exercising the right to a pension, which is why they did not exercise the right to a one-time financial assistance in the amount of 5,000 dinars determined by the conclusion of the Government of the Republic of Serbia¹⁷⁸. Namely, the Republic Pension and Disability Insurance Fund failed to make a decision on exercising their right to a pension within 60 days, which is why they could not be considered pensioners on the day set as the day on which the right to this financial assistance can be achieved.

Regarding this legal matter, the Protector of Citizens issued a recommendation to the Republic Pension and Disability Insurance Fund to find a way to pay the complainant a sum of money in the amount of one-time financial assistance to pensioners determined based on the conclusion of the Government of the Republic of Serbia. However, this body stated that it would not act on the issued recommendation, because the complainant's right to a pension was not decided until the day prescribed by the Conclusion as the day until which all citizens who exercised the right to a pension, exercise the right to this benefit. The Fund completely ignored the fact that this situation was caused by the untimely and inefficient work of that body and did not take these circumstances into account in its statement on acting on the recommendation, nor did it recognize them as particularly alarming when it comes to citizens' right to effective action, as well as to act within the legally prescribed deadlines.

¹⁷⁷ Recommendation available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6766-s-n-ci-nis-i-n-dg-v-rn-p-sl-d-vc-l-ni-i-sis-s-n-d-s>.

¹⁷⁸ 05 No. 401-10922/2019 dated October 31, 2019.

Education

During the state of emergency, one of the problems that citizens pointed out in their addresses to the Protector of Citizens was the implementation of educational work by distance learning. In these situations, the Protector of Citizens provided parents with additional explanations on the ways how to organize schooling in accordance with the Operational Plan of the Ministry of Education, Science and Technological Development. The Protector of Citizens also addressed the Ministry of Education, Science and Technological Development for information on how classes are organized in situations where students cannot attend classes at distance, i.e. when it comes to children with disabilities.

In this reporting period, the Protector of Citizens received complaints from students who expressed dissatisfaction with the actions of higher education institutions and the Ministry of Education, Science and Technological Development, as well as complaints from employees in educational institutions, which indicated violations of employment rights. The largest number of student complaints related to the procedure of issuing public documents, while employees in educational institutions, in this reporting period, pointed to the failure of the educational inspection on reports in which they pointed to illegal conduct of institutions and violations of employment rights, illegal termination of employment. relations, impossibility to supplement the norm of working hours, irregularities in the procedure of conducting the competition for employment and irregularities in the procedure of conducting the competition for election to the title at higher education institutions.

After conducting the control investigation of the work of the Faculty of Veterinary Medicine of the University of Belgrade, the Protector of Citizens determined that the mentioned institution acted contrary to its own Rulebook on the manner and procedure of acquiring the title and employment of teachers and associates. It was also determined that in the procedure of conducting the competition, it enabled arbitrary action, because its internal act did not precisely regulate the procedure and deadlines for decision-making, and even after a year from the end of the competition where no candidate was proposed, it did not announce a new competition for associate professor although this is explicitly prescribed by the applicable regulations. Accordingly, the Protector of Citizens issued recommendations¹⁷⁹ to the Faculty of Veterinary Medicine to announce a new competition for the election to the title of associate professor as soon as possible, to clearly and precisely regulate the course of the procedure, conditions and evidence to be submitted and when announcing the competition and deciding, to fully apply the same regulations and procedures.

In the conducted control investigation, the Protector of Citizens determined that the Ministry of Education, Science and Technological Development did not take measures within its competence towards the director of the school to which it was obliged by law. Therefore, the Protector of Citizens issued a recommendation to the Ministry that in the future, in all cases when it receives a notification of violation of the law by the director, to take measures in accordance with the powers given by law¹⁸⁰.

Social welfare

In the reporting period, the largest number of complaints in the area of social welfare referred to untimely and inefficient work of social welfare institutions due to insufficient number of

¹⁷⁹ Recommendation available at:

<https://ombudsman.rs/index.php/2012-02-07-14-03-33/6529-f-ul-v-rin-rs-dicin-ub-u-sh-r-c-r-u-d-r-spish-n-vi-n-urs-z-izb-r-u-zv-nj-v-nr-dn-g-pr-f-s-r-z-uzu-n-ucnu-bl-s-b-l-s-i-p-p-r>

¹⁸⁰ See Child Rights enclosure.

employees, which the Protector of Citizens pointed out in previous annual reports, especially when deciding on rights to various types of material support.

Bearing in mind that the centers for social work continue to work with a reduced number of skilled workers in relation to the current staffing norms, and that according to the report of the relevant Ministry of Labor, Employment, Veteran and Social Policy the number of social welfare beneficiaries has increased and issued a recommendation to the Ministry of Finance to take the necessary measures in order for the number of professional workers in the guardianship bodies to enable full application of the standards of professional work and adequate action of the social welfare center¹⁸¹.

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

- **The Ministry of Labor, Employment, Veteran and Social Policy and the Republic Institute for Social welfare** should provide training and professional development for employees¹⁸²;
- **The Ministry of Labor, Employment, Veteran and Social Policy** should ensure that social welfare institutions decide on social welfare rights promptly and in a timely manner, and that decisions deciding on these rights are clear and reasoned.
- **The Republic Fund for Pension and Disability Insurance** should take measures and activities in order for each submitted request to be acted upon within the legally prescribed period, and thus guarantee the security of citizens that they will exercise their right to a pension immediately upon fulfillment of conditions;
- **The Republic Pension and Disability Insurance Fund** should, in case that proceedings have been initiated before the Administrative Court, keep copies of the case file in order to act unhindered on the complainants' requests relating to another administrative matter;
- **The Republic Fund for Pension and Disability Insurance** should make decisions on the final amount of the pension as soon as the conditions for that are met, striving to work intensively on obtaining the missing data in each individual case;
- **The Ministry of Education, Science and Technological Development** should, in cooperation with relevant factors, take all available measures to increase the number of education inspectors and ensure their timely, efficient and effective action;
- **The Ministry of Labor, Employment, Veteran and Social Policy and the Republic Institute for Social welfare** should provide training and professional development for employees;
- **The Ministry of Labor, Employment, Veteran and Social Policy** should ensure that social welfare institutions decide on social welfare rights promptly and in a timely manner, and that decisions deciding on these rights are clear and reasoned.

¹⁸¹ Recommendation available at:

<https://ombudsman.rs/index.php/2012-02-07-14-03-33/6798-c-n-r-u-s-b-nji-b-z-s-ci-lnih-r-dni-inis-rs-v-z-r-d-d-hi-n-b-zb-di-n-v-z-p-sl-nj>.

¹⁸² Recommendations given by the Special Report on Trainings for Acquisition and Improvement of Knowledge and Competences for the Prevention, and Combating Violence Against Women in Family and Intimate Partner Relationships, available at: <http://www.zastitnik.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/4613-2016-02-26-10-48-42>.

6. SECTOR FOR THE RECEPTION OF CITIZENS

The Sector performs tasks of receiving citizens for interviews as well as providing professional assistance in drafting a complaint. Also, during the conversation, the citizens were informed in detail about the competencies of the Protector of Citizens and were referred to the competent bodies and procedures if they did not use all legal means before addressing this body. The reception of citizens is done in the reception office at the headquarters of the body, as well as in the local offices that were formed in the area of Bujanovac, Preševo and Medveđa.

In addition to coming to the headquarters of the body or the local office, the citizens of Leskovac, Uzice, Novi Pazar and Cacak have the opportunity to address the Protector of Citizens via a video link from public libraries in those cities.

In this reporting period, 13,109 citizens addressed the Protector of Citizens, of which 1,642 were interviewed, while telephone and video contact was made with 11,467 citizens. The Sector for the Admission of Citizens answered 504 questions from citizens who were interested in the possibilities and ways of exercising their rights or freedoms.

Table 25 – Comparative overview of actions in 2020 and 2019

	Number of complaints received¹⁸³	Number of complaints submitted to other organizational units	Number of complaints considered by the Sector	Number of completed complaints in the Sector
Actions in 2020	4. 892	3.190	1.702	1.412
Actions in 2019	3.189	2.018	1.171	886

The data in the table show that the number of received complaints in 2020 increased by more than 50% compared to 2019, which can be explained by greater visibility and accessibility of the Protector of Citizens as well as greater trust of citizens in the work of this institution. Consequently, the number of complaints submitted to other organizational units in the Professional Service of the Protector of Citizens has increased. The number of complaints considered by the Sector for Reception of Citizens in 2020 increased by more than 45% compared to 2019, and the efficiency of the Sector increased by 7.3%, which is indicated by the number of completed cases .

After reviewing and distributing the received written appeals of citizens, 3,190 complaints were submitted to other organizational units of this body. During the reporting period, the Sector received 1,702 complaints, of which 1,412 complaints were terminated by submitting

¹⁸³ The table shows only the number of complaints received and not cases initiated on own initiative in 2020 and 2019

an act rejecting the complaint, because they did not meet the conditions for further action, having in mind the prescribed competencies of this body. Also, the work on 451 cases that were received during 2019 has been completed. The reasons for rejecting the complaints were, above all, incompetence and prematurity. Also, there were no grounds for dealing with complaints due to disorder, anonymity and untimeliness.

Until the declaration of the state of emergency¹⁸⁴ during August and September 2020, citizens had the opportunity to talk directly with the Protector of Citizens at the scheduled time according to the request submitted in advance. During the state of emergency, as well as in the period when epidemiological measures recommended the reduction of contacts in order to prevent the spread of the infectious disease COVID-19 and protect the health of citizens, the direct admission of citizens was suspended. During that time, the Protector of Citizens introduced five new telephone lines that citizens could turn to for help every day in the period from 8 am to 10 pm. One of these lines was used to provide psychological support to citizens in crisis situations, and support was provided by a psychologist from the Sector for Children's Rights and Gender Equality, while one of the lines was intended for the National Mechanism for the Prevention of Torture.

Citizens had expectations from this body to provide them with legal assistance before the competent authorities in the form of advice or drafting submissions, as well as financial support in order to overcome the currently poor financial situation. The citizens of the municipality of Bujanovac and the municipality of Preševo addressed themselves due to the impossibility of exercising the right to free legal aid. Complainants were referred to the competent authorities and procedures when it was assessed that there were no grounds for initiating proceedings before using all legal remedies, because the complaint did not refer to violation of the principles of good administration, especially incorrect attitude of administrative bodies, untimely work or other violations of ethical conduct by those employed at administrative bodies nor was there a possibility of irreparable damage.

In direct communication with citizens, it could be noticed that more and more citizens pointed to the violation of citizens' rights to property and its peaceful enjoyment by public executors, in such a way that when executing funds in the bank account, they do not check or ask the bank for information on whether the execution is already being carried out on the funds of the given bank and what is the basis for the payment of those funds, i.e. whether the basis is in the realized right in the area of social welfare. Citizens also had objections to the work of lawyers and the actions of notaries public during the verification of the sales contract and the implementation of probate proceedings.

There is a noticeable increase in the number of citizens' appeals regarding personal data protection, not noticing the difference between the competencies of the Commissioner for Information of Public Importance and Personal Data Protection and the Protector of Citizens.

As in previous reporting periods, citizens most often applied for the realization and protection of economic, social and cultural rights. They mostly complained about the exercise of labor rights in the private sector, pointing out that they are prevented from using days off on the basis of overtime work, denied the right to daily, annual and weekly rest, not paid salaries, including social security contributions, holiday pay, severance pay. Citizens also complained about the fact that not all jobs are available under equal conditions to all citizens, as well as that after working for a certain period of time for 24 months or longer, there is no employment for an indefinite period. They also pointed out irregularities in the procedure in case of dismissal. As far as labor relations in state bodies are concerned, citizens most often

¹⁸⁴ The state of emergency on the territory of the Republic of Serbia was declared on March 15, and lifted on May 6, 2020.

complained about the results of the conducted competitions. Although they addressed the labor inspection regarding the violation of rights, the citizens stated in the address to the Protector of Citizens that the inspection is inefficient, does not act in accordance with the law and does not perform supervision in certain activities such as pharmacy private practice.

There is a fear of citizens to turn to the labor inspection for fear of possible harmful consequences at work in the form of termination of employment contracts and the like. The Protector of Citizens instructed citizens to first turn to the labor inspection, supervisory body or to file a complaint or lawsuit against an individual act of the employer or the competent authority when the circumstances from the complaint did not indicate that it was necessary to act on the complaint before the available legal remedies were used.

It is noticeable that a number of citizens found themselves in a poor living and financial situation, pointing to the financial problems they and their families faced due to termination of employment or insufficient income, all of which reflected on the inability to provide basic living needs, including adequate housing space.

Citizens expressed dissatisfaction with the exercise of rights in the area of pension and disability insurance and rights from social welfare, due to the length of proceedings and decisions made, including objections to improper conduct of employees in social work centers and objections to the work of dormitories. In this reporting period, it is noticeable that citizens expressed dissatisfaction with the difficult exercise of the right to health care, because they could not perform the necessary medical examinations in health centers, due to changes in work organization due to measures and activities to prevent the spread of COVID-19. If citizens are not instructed to file a complaint to the Protector of Citizens, they are instructed, first of all, to address the competent authorities by submitting a complaint or petition, to file a complaint or lawsuit against an individual act of the mentioned administrative bodies or to contact the advisor for protection of patients' rights (patient advisor for short).

A significant number of citizens addressed in order to protect the rights of consumers, pointing out the illegal actions of mobile telephony service operators, cable operators, PE "Electric Power Industry of Serbia" and public utility companies. In that sense, they pointed out that companies in the area of telecommunications determine the rights and obligations by an adhesion contract, the provisions of which citizens consider to be illegal, and which they notice only when there is a problem in performing, i.e. non-performing or terminating the obligation by the company. Citizens expressed dissatisfaction with the manner of performance, quality and amount of the price of providing communal activities, such as heating, calculation of water consumption, parking and the like. As these matters are in the original competence of the local self-government, the citizens were referred to the competent bodies of the local self-government unit while the complaints were forwarded to the local ombudsmen.

In their complaints citizens pointed to violations of the right to a healthy environment with a special focus on air pollution in urban areas and noise pointing to various sources, from noise produced by individuals and restaurants in the course of business, to industrial plants and construction machinery in phases of infrastructure network construction. Citizens whose houses are located in the immediate vicinity of the construction site especially emphasized their unfavorable position, due to the lack of adequate protection from noise, dust and waste generated during the mentioned construction works. Citizens were informed about the activities of this body and its recommendations regarding air pollution in urban areas.

Due to the proclamation of the COVID-19 infectious disease pandemic, there were also complaints about the recommendations of the Crisis Staff measures for the suppression of the

infectious disease COVID-19¹⁸⁵ and the application of these measures, primarily the introduced obligation to wear protective masks indoors and in schools. Citizens expressed dissatisfaction with the functioning of the so-called Covid infirmaries, long waiting for several hours and sometimes several days for examination and diagnosis, inadequate access to healthcare institutions, without provided conditions for a large number of people to stay outdoors under adverse weather conditions, especially in periods of increasing the number of patients. Also, citizens asked for information and legal advice regarding the realization of salary compensation in the period of temporary incapacity for work due to the existence of the COVID-19 disease and during the period of self-isolation, stating that they receive conflicting information from their employers. They also addressed the application of the moratorium of the National Bank of Serbia, the impossibility of exercising the right to one-time financial assistance and financial support to companies issued in order to mitigate the negative consequences caused by the epidemic. In these situations, citizens are instructed about the possibilities and ways of exercising or protecting their rights before the competent authorities.

Those citizens who tried to protect their rights before the competent administrative bodies, primarily inspections and services for the real estate cadaster, expressed dissatisfaction with the efficiency of acting on their requests, reports and petitions, pointing out the incorrect attitude. They also expressed dissatisfaction with the work of local self-government bodies, complaining mainly about the work of inspection services in terms of respect for the law and administrative silence.

Persons with disabilities applied for help and support in exercising the right to work and on the basis of work, being interested in obtaining financial support for the purchase of certain medical and technical aids. In direct communication, the elderly sought protection in the process of exercising the right to someone else's care and assistance, where there were cases when a person who was immobile and 85 years old was waiting for a decision from the competent social welfare center or the Republic Pension and Disability Insurance Fund for more than six months. The Protector of Citizens was addressed by persons deprived of liberty or members of their families, expressing doubts about the quality of health care in institutions for enforcement of penal sanctions and non-implementation of measures against infectious diseases COVID-19, pointing out that they were denied visits by family members for months. As for child rights most of the complaints were about the realization of the right to respect the best interests of the child. The complaints also referred to the unprofessional conduct of police officers in conducting proceedings after reporting attacks on minors belonging to the Roma national minority.

¹⁸⁵ Decision on Formation of the Crisis Staff, "Official Gazette of RS", No. 132/20.

7. EMERGENCY RESPONSE DEPARTMENT

The work of the Emergency Response Department in 2020 is marked among other things, by dealing with complaints about irregularities in the procedure of reporting and payment of one-time financial assistance intended for all adult citizens of the Republic of Serbia, assistance in resolving long-standing problems conducted against the Ministry of the Interior due to torches on the roofs of buildings and excessive use of coercive means during the July demonstrations, as well as the actions of the competent authorities towards migrants and asylum seekers who found themselves in the Republic of Serbia after the COVID-19 infectious disease pandemic.

In the reporting period, the Emergency Response Department received 429 complaints, of which 376 were completed. At the same time, the department undertook many activities after the outbreak of the COVID-19 infectious disease pandemic in order to protect and promote the rights of citizens¹⁸⁶. A comparative overview of the actions of the Emergency Response Department in 2020 and 2019 is given in the table below.

Table 26 – Comparative overview of actions in 2020 and 2019

	No. of received cases	Finalized cases	% of finalized	Ongoing cases
Cases from 2020	429	376	87,64%	53
Cases from 2019	281	196	69,75%	85

The number of received cases in 2020 that require an urgent response and do not suffer delay has increased by more than 50% compared to 2019. Also, the efficiency in handling cases has increased by almost 18% compared to 2019, which is indicated by the percentage of completed cases in relation to the total number of received cases.

When it comes to the area of internal affairs, i.e. control of the work of the Ministry of Interior, the Protector of Citizens in the reporting period in the own-initiative control investigation determined that the Police Administrations in Belgrade, Niš and Novi Sad, i.e. employed police officers, acted untimely and inefficiently regarding reports of citizens submitted in the period from April 29, 2020 to May 3, 2020, when the ban on movement in public places was in force, failed to prevent gatherings of unknown persons in the evening on the roofs of residential buildings. Due to the aforementioned omissions in the work of police officers, the identity of persons who are potential perpetrators of violations against public order and peace, which are regulated by the Law on Public Order and Peace¹⁸⁷ and violations against the ban on movement during the state of emergency prescribed by the Decree on measures during the state of emergency¹⁸⁸ was not determined. For these reasons, recommendations¹⁸⁹ were issued to the Ministry of the Interior, which were not fully complied with.

¹⁸⁶ See the Special Report on the activities of the Protector of Citizens during the state of emergency, available at: <https://www.ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/6643-p-s-b-n-izv-sh-ivn-s-i-z-sh-i-ni-gr-d-n-v-nr-dn-g-s-nj>.

¹⁸⁷ The Law on Public Order, "Official Gazette of RS, No. 6/16 and 24/18.

¹⁸⁸ Recommendation available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6850-n-fi-sn-r-g-v-nj-p-lici-n-uplj-nj-n-p-zn-ih-s-b-n-r-v-vi-zgr-d>.

¹⁸⁹ Recommendation available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6850-n-fi-sn-r-g-v-nj-p-lici-n-uplj-nj-n-p-zn-ih-s-b-n-r-v-vi-zgr-d>.

In the area of the rights of migrants and asylum seekers, the Protector of Citizens initiated the investigation of control of the Commissariat for Refugees and Migration and the Ministry of Interior due to the manner in which a group of migrants was transferred from the Asylum Center in Tutin to the Reception Center Preševo on April 3, 2020. After the procedure, an omission was made in the work of the Commissariat for Refugees and Migration, because it did not inform the Ministry of Interior and the Serbian Army that sixteen migrants left the procedure of reception and accommodation in the Preševo Police Station, from where they headed in an unknown direction. Also, officers of the Ministry of Interior who transferred the mentioned persons from the Asylum Center in Tutin to the Preševo Police Station made an omission in their work by interrupting the performance of their official task before the persons entrusted to them passed the registration procedure and were admitted to the Preševo Police Station. In this way, mentioned administrative bodies failed to prevent free movement of persons who might be potential carriers of coronavirus and thus increased the danger of its spread on the territory of the Republic of Serbia. Accordingly, the Protector of Citizens issued recommendations¹⁹⁰ to the Commissariat for Refugees and Migration and the Ministry of the Interior that were complied with.

In the other procedure conducted against the Bogovađa Asylum Center and the Inter-Municipal Social Welfare Center for the municipalities of Ljig, Lajkovac and Mionica, it was determined that the mentioned bodies made omissions in their work because they did not take appropriate measures regarding the physical violence of security workers against unaccompanied minor migrants under the guardianship of the Inter-Municipal Social Welfare Center, who were accommodated in the Bogovađa Asylum Center, nor did they inform the police and the competent prosecutor's office about this information. Regarding the identified omissions, the Protector of Citizens issued recommendations¹⁹¹ to the mentioned bodies, which were not fully acted upon.

When it comes to labor relations, the Protector of Citizens in the reporting period on its own initiative initiated the control investigation of the Labor Inspectorate of the Ministry of Labor, Employment, Veteran and Social Policy regarding the actions of inspection bodies in controlling the application of all prescribed measures and recommendations against infectious diseases of the COVID-19 pandemic in the "Jura" corporation - in the plants in Niš and Leskovac. The Protector of Citizens determined that the conducted inspections and the undertaken inspection authorizations did not ensure safe and healthy work in the supervised entity, nor did they fulfill their preventive role. Accordingly, the Protector of Citizens, by issuing an opinion¹⁹² to the Labor Inspectorate of the Ministry of Labor, Employment, Veteran and Social Policy pointed out the need to strengthen inspection supervision in the coming period, while the COVID-19 infectious disease pandemic lasts.

In the control investigation conducted according to the Republic Geodetic Authority, a failure in the work of that body was determined to the detriment of 228 employed civil servants, because during the decision to work from home due to the declared state of emergency and COVID-19 infectious disease pandemic, a collective decision was made for all employees, with its integral part, i.e. the list of employees with chronic diseases. Sending the said decision to all employees via official e-mail, together with the list of employees suffering from chronic

¹⁹⁰ Available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6811-irs-i-up-rs-nisu-spr-cili-sl-b-dn-r-nj-igr-n-prili-pr-sh-iz-dn-g-u-drugi-c-n-r-z-zil>

¹⁹¹ Available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6663-z-sh-i-ni-gr-d-n-r-zi-d-up-srbi-u-vr-di-sv-ln-s-i-fizic-g-zi-s-vlj-nj-l-l-nih-igr-n>

¹⁹² Available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6718-covid-19-yura-corporation>

diseases and stating the diseases in the way the employees transmitted to the employer, the dignity and right to privacy of employed civil servants and the provisions of the Law on Personal Data Protection¹⁹³ were violated. Recommendations¹⁹⁴ have been issued to the Republic Geodetic Authority, but the Protector of Citizens has not yet received a statement on acting on the recommendations.

In another case, a complaint was filed with the Protector of Citizens because cold water was not provided for health workers and patients at the Savski Venac Health Center on weekends. After the Protector of Citizens initiated the appropriate control investigation, he was informed by the complainant that a cold-water supply was provided at the Health Center.

In the area of construction and infrastructure, the Protector of Citizens acted on complaints related to the dissatisfaction of tenants for an indefinite period of time with apartments owned by citizens with certain solutions contained in the provisions of the Law on Housing and Building Maintenance¹⁹⁵ governing their position. The Association of Citizens for the Protection of the Rights of Protected Tenants in Private Ownership pointed out that the existing provisions of the Law not only contain unjust solutions, but also that the current dynamics of eviction and relocation from apartments owned by citizens, as well as the availability of publicly owned housing indicate that the problem of tenants for an indefinite period of time in the apartments of citizens will not be solved within the legally prescribed deadlines, i.e. by the end of 2026. The valid provisions of Article 145 are marked as unfair due to inadequate standardization of the term appropriate apartment, which in most cases results in a large reduction in size when relocating tenants (protected tenants) and represents a significant deterioration in housing conditions, which is an obstacle to completing most eviction. Taking the position that it is necessary to improve the protection of the right to home and family life of tenants for an indefinite period of time in the apartments owned by citizens, the Protector of Citizens issued an initiative¹⁹⁶ to the Ministry of Construction, Transport and Infrastructure to amend the Law on Housing and Building Maintenance.

Also, acting on the complaints of citizens, the Protector of Citizens learned that a large number of citizens face the problem of inability to connect to the electricity distribution network, because these are apartments in illegally built residential buildings (for which legalization is underway) and for which the investor is not timely, i.e. before the amendments to the Law on Legalization of Facilities¹⁹⁷ on November 6, 2018 came into force, submitted a request for connection to the distribution system, or, although submitted, has not been decided before the these amendments came into force. Considering that in that way a certain group of citizens was brought into an unequal position in relation to other owners of illegal buildings who are in the same legal situation, i.e. for which legalization proceedings are being conducted in accordance with the Law on Legalization, the Protector of Citizens issued an initiative¹⁹⁸ to the Ministry of Construction, Traffic and Infrastructure to amend the Law on Legalization of Buildings.

Acting on the complaints of citizens in which the problems faced by the tenants in Novogradska Street No. 19 in Zemun regarding the consequences of the breakdown in the

¹⁹³ The Law on Personal Data Protection, "Official Gazette of RS", number 87/18.

¹⁹⁴ Available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6726-u-zbirn-r-sh-nju-z-r-d-d-uc-i-hr-nicn-b-l-s-i-z-p-sl-nih>.

¹⁹⁵ "Official Gazette of RS", No. 104/16 at 9/20 – state law.

¹⁹⁶ Initiative is available at: <https://ombudsman.rs/index.php/zakonske-i-druge-inicijative/6728-z-sh-i-ni-gr-d-n-inicir-r-sh-v-nj-pr-bl-z-sh-ic-nih-s-n-r>.

¹⁹⁷ The Law on Legalization of Facilities, "Official Gazette of RS", No. 96/15, 83/18 and 81/20 – CC decision

¹⁹⁸ Available at: <https://ombudsman.rs/index.php/zakonske-i-druge-inicijative/6922-z-sh-i-ni-gr-d-n-b-zb-di-i-d-v-n-ziv-ni-s-nd-rd-gr-d-n-i-z-sh-i-i-p-s-bn-r-njiv-grup>.

water supply network were pointed out, the Protector of Citizens requested statements from the City Administration of Belgrade. According to the allegations from the submitted complaints, the team of PUC "Beogradski vodovod i kanalizacija" appeared only six hours after the failure, but due to the repair, the pipes burst again and during the pumping of water, the residential buildings sank, and the walls of the buildings cracked. Having in mind the nature of the problem faced by the citizens in Novogradska Street, which has not been resolved and overcome even after more than two years since the event in which the buildings were damaged and are in a condition that endangers human life and health, safety of neighboring buildings, as well as the fact that the City of Belgrade created the expectations of the citizens that it would provide them with assistance in overcoming and solving the problems they faced, the Protector of Citizens issued an opinion¹⁹⁹ to the city of Belgrade.

In the area of finance, the subject of the Protector of Citizens was the problems of citizens when reporting and paying one-time financial assistance intended for all adult citizens of the Republic of Serbia in order to reduce the negative effects caused by the COVID-19 pandemic. In most cases, citizens pointed out the rejection of the application because it was already registered in the system or because of incorrectly entered data, as well as its non-payment to persons deprived of liberty who are serving their sentences in penitentiaries. All proceedings initiated on the complaints of persons deprived of their liberty were successfully completed so that, after the Protector of Citizens addressed the competent authorities²⁰⁰, the deficiency in work was eliminated and the payment of one-time financial assistance was subsequently made. Furthermore, in other cases, in which, after initiating the control investigation by the Protector of Citizens, the Treasury of the Ministry of Finance determined that all conditions prescribed by the Decree on the establishment of a temporary register and the manner of payment of one-time financial assistance to all adult citizens of Serbia negative effects caused by the pandemic of the infectious disease COVID-19, the payment of one-time financial assistance was made and thus the shortcomings pointed out by the citizens in their complaints were eliminated.

The Protector of Citizens also controlled the work of the Tax Administration - Vranje Branch, during which it was determined that the Vranje Branch, as the first instance body in the procedure of determining taxes and contributions, against which an appeal was filed, acted contrary to the laws governing the submission of second instance tax administrative act and by improper and illegal conduct violated the rights and legal interests of the complainant, by delaying the proceedings caused him damage and prevented the complainant from protecting his rights with available legal remedies. Recommendations²⁰¹ were issued to the administrative body that were acted upon.

In the area of social welfare, the Protector of Citizens requested information from the Municipal Administration of the Municipality of Kovin regarding the case of a citizen, a social assistance beneficiary who is a person with a disability and lives in an unconditional, dilapidated house that is dangerous for his safety, without electricity and water. In its response, the Municipal Administration of the Municipality of Kovin informed the Protector of Citizens that it had initiated the procedure of procuring container for housing with the necessary connections, in order to provide normal living conditions for the said person. In an

¹⁹⁹ Opinion is available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6904-n-dl-zni-rg-ni-d-pr-duz-u-sv-r-bi-p-gli-gr-d-ni-u-r-sh-v-nju-pr-bl-s-i-s-su-c-v-u>.

²⁰⁰ To the Ministry of Finance and the Administ. for the Enforcement of Penal Sanctions of the Ministry of Justice.

²⁰¹ Available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6461-fili-l-p-r-s-upr-v-u-vr-nju-h-l-d-n-pl-i-p-r-z-i-ni-urucil-r-sh-nj-gr-d-ninu>.

additional statement, the Municipal Administration of the Municipality of Kovin informed the Protector of Citizens that a container for housing had been procured.

In the area of environmental protection, the Protector of Citizens initiated a procedure based on complaints from citizens in which it was pointed out that two mines are active on the territory of the municipality of Bosilegrad, which discharge wastewater into the Brankovska and Ljubatska Rivers without treatment. The procedure resulted in the implementation of inspection supervision over the actions of two companies that exploit the mentioned mines and the adoption of a decision by the Ministry of Environment which ordered the controlled entities to eliminate illegalities.

During 2020, there was a tendency of administrative bodies in various areas to act untimely on citizens' appeals, i.e. to fail to make appropriate decisions on their requests. Thus, in one case, the Ministry of the Interior did not act upon the complainant's request for citizenship of the Republic of Serbia, which she submitted to the Police Administration in Smederevo on December 15, 2016, and only after the initiated control investigation of its work did it take measures in order to determine the fulfillment of the stated conditions and brought a positive decision. An investigation was launched against the Ministry of Health - Sector for Inspection Affairs - Department for Health Inspection - Department in Niš and certain omissions were determined due to the fact that the complainant was not notified of the outcome of the inspection procedure, which violated the complainant's right to reply and principles of good governance were violated. Recommendations were issued to the administrative body, which were fully acted upon. A control investigation was conducted on the complaint against the work of the Republic Pension and Disability Insurance fund, because the Fund did not act upon the request for exercising the right to someone else's care and assistance for a minor, which was submitted on November 15, 2019. Immediately after initiating the control investigation of the work of the Fund, the complainant informed the Protector of Citizens that the said body had issued a decision approving the request submitted for her son.

In the investigation of controlling the legality and regularity of the work of the Tax Administration of the Ministry of Finance, the Protector of Citizens determined that the Tax Administration - Zemun Branch forwarded the appeal to the second instance body only on March 25, 2019, which the complainant timely filed in 2010 against the decisions of this branch. October 2010. After the omission was determined in the conducted procedure, the second-instance body, i.e. the Sector for second-instance tax and customs procedure of the Ministry of Finance as a second-instance body, made appropriate decisions on November 26 and 27, 2019, eight months after submitting the appeal. Based on the identified omissions in the work, the Protector of Citizens issued to the Tax Administration of the Ministry of Finance - Tax Administration and the Zemun Branch recommendations for action according to which the said bodies acted within the set deadline.

8. COOPERATION BY THE PROTECTOR OF CITIZENS

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

In 2020, the National Assembly considered the Annual Report of the Protector of Citizens for the second year in a row, after not having previously considered it for 2014, 2015, 2016 and 2017. In the Conclusion²⁰² adopted after considering the Regular Annual Report for 2019, the National Assembly recommended that the Government continue with continuous: supervision over the work of the court administration, public executors and consistent application of regulations governing the handling of complaints about their work; improving communication with citizens; monitoring the consistent application of regulations in all areas; analyzing the effects of the application of the law, in order to effectively and legally exercise the rights of citizens and improve mechanisms for the protection of their rights, and called on the Government to continuously report to the National Assembly on the implementation of these conclusions.

Representatives of the Protector of Citizens attended a public hearing on the Draft Law on Amendments to the Law on Election of Deputies and the Draft Law on Amendments to the Law on Local Elections before the Committee on Constitutional Affairs and Legislation, held on February 4, 2020.

²⁰² "Official Gazette of RS", No. 70/20.

8.2. INTERNATIONAL COOPERATION AND PROJECTS

The Protector of Citizens continued to strengthen regional and international cooperation at the bilateral and multilateral level with relevant partners in the area of human rights protection. Cooperation with ombudsmen of other countries in 2020 was particularly strengthened through bilateral and multilateral online meetings that were primarily dedicated to the protection of human rights during the COVID-19 infectious disease pandemic.

The Protector of Citizens is a member of various professional international networks: Global Alliance of National Human Rights Institutions (GANHRI), European Network of National Human Rights Institutions (ENNHRI), International Ombudsman Institute (IOI), Association of the Mediterranean Ombudsmen (AOM), European Ombudsman Institute (EOI), European Network of Ombudsmen (ENO), European Network of Ombudspersons for Children (ENOC), Children Rights Ombudsmen Network in South-East Europe (CRONSEE), Ombudsman Network for Environmental Protection and Eurasian Alliance of Ombudsman (EOA). He actively cooperated with other members of these networks by exchanging experiences and examples of good practice, with a special focus on the protection of human rights during the COVID-19 infectious disease pandemic.

Experiences and challenges in the protection of human rights during the pandemic of infectious disease COVID-19 the Protector of Citizens shared with the Ombudsmen of the Russian Federation, Bosnia and Herzegovina and Montenegro at online meetings on which the improvement of mutual cooperation and systemic and individual problems citizens in exercising their rights were discussed.

In order to encourage further cooperation at the bilateral level, the Protector of Citizens concluded an Agreement on Cooperation with the National Committee for Human Rights of Qatar in early 2020. The signed agreement defines the procedures and cooperation of the ombudsman in cases of violation of the rights and freedoms of the citizens of the Republic of Serbia on the territory of the State of Qatar and the citizens of this state on the territory of the Republic of Serbia. The significance of this agreement is reflected in the more efficient handling of the ombudsman's complaints and more intensive development of further mutual cooperation.

In January 2020, the Protector of Citizens met with the Chairman of the Austrian Board of Ombudsmen. The meeting focused on the future cooperation of the two institutions in the exchange of experience in the protection of human rights in the work on complaints, especially of our citizens who are temporarily working in the Republic of Austria. At the invitation of the National Committee for Human Rights of Qatar, in February 2020, the Protector of Citizens participated in the international conference "Social Media: Challenges and Ways to Promote Freedoms and Protect Activists".

The Protector of Citizens is the National Institution for the Protection of Human Rights in the Republic of Serbia (NHRI), which was awarded the highest "A" status by the Global Alliance of National Institutions for Human Rights. This status was originally granted to the Protector of Citizens in 2010, and in 2015 it was re-accredited for the period until 2020. At the session of the Subcommittee for Accreditation of the United Nations in December 2020²⁰³, the decision on granting the status of the Protector of Citizens was postponed to October 2021.

²⁰³ Due to the COVID-19 infectious disease pandemic, the session of the United Nations Accreditation Subcommittee was held in December 2020 instead of March.

In cooperation with the United Nations contracting authorities, in 2020 the Protector of Citizens submitted enclosures for the preparation of responses to the VI - IX report of the Republic of Serbia on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and a list of additional issues related to the Third Periodic Report of the Republic of Serbia on the implementation of the International Convention on Economic, Social and Cultural Rights. Also, the Protector of Citizens participated in the preparation of the Fourth National Report on the Implementation of the Convention on Access to Information, Public Participation in Decision-Making and the Right to Legal Protection in Environmental Matters (Aarhus Convention) and contributed to the report on the implementation of the United Nations Convention against Corruption, within the fifth year of the second cycle.

As a national human rights institution, the Ombudsman continued to actively cooperate with other United Nations human rights mechanisms during the reporting period, primarily through the reporting process, and responded to thematically different questionnaires from the Office of the United Nations High Commissioner for Human Rights (OHCHR) and special procedures, had the opportunity to present the results of its work and to assess the state of human rights during 2020.

As part of the activities carried out by international networks, the Protector of Citizens participated in online conferences of the Eurasian Ombudsman Alliance in April to mark the 75th anniversary of the victory in World War II and in November on "Protection of human rights in Eurasia: exchange of best practices between ombudsmen." Also, the Protector of Citizens participated in the preparation of the publication of the European Network of National Human Rights Institutions entitled The State of the Rule of Law in Europe - Reports of National Human Rights Institutions²⁰⁴.

The Protector of Citizens continued to maintain encouraging cooperation with representatives of international and regional organizations - the United Nations, the Organization for Security and Cooperation in Europe, the Council of Europe and the European Union. In cooperation with the Council of Europe, the Protector of Citizens provided answers to questions from the Fifth Evaluation Cycle of GRECO (Group of States against Corruption). Also, in the reporting period, the Protector of Citizens held a meeting with the Head of Mission of the Council of Europe.

In order to contribute to the process of accession of the Republic of Serbia to the European Union, the Protector of Citizens actively participated in online meetings of committees and subcommittees for the implementation of the Stabilization and Association Agreement and contributed to reporting by the Republic of Serbia on this process.

PROJECTS

During this reporting period, the Protector of Citizens participated in the implementation of a joint project of the Council of Europe and the European Union entitled "Horizontal Funds for the Western Balkans and Turkey". More precisely, within the component "Promotion of Diversity and Equality in Serbia", with the aim of more efficient implementation of relevant national strategies at the local level, the Protector of Citizens in cooperation with the civil society organization Rainbow Association, carried out activities to strengthen the capacity of local governments to integrate LGBT rights in local strategic documents.

²⁰⁴ The report is available in English: <http://ennhri.org/rule-of-law-report/>.

On a representative sample of local self-government units and city municipalities from the entire country, an analysis of existing local public policies in the areas of gender equality, youth rights and development of social welfare was conducted to identify opportunities for their improvement when it comes to LGBT needs. Based on the collected data, seven trainings were designed and held in traditional and online format, which were attended by 47 representatives of 16 local self-government units in charge of drafting local strategic documents in the above areas. All participants were presented with examples of measures and activities in the areas of violence against LGBT people, homophobia and institutional discrimination that could be included in relevant local action plans and for the implementation of which it is necessary to allocate appropriate financial resources in city and municipal budgets.

All units of local self-government participating in the project were provided with mentoring support in order to include measures and activities in the area of LGBT rights in the development of new or amendments to existing local action plans. The Protector of Citizens and the Rainbow Association will continue to monitor the implementation of this process in 2021, and it is planned to include a larger number of local self-government units in the project.

In cooperation with the Forum of Judges, the Protector of Citizens participates in the project of the Autonomous Women's Center "Effective Policies and Harmonized Practice in Providing Support and Assistance to Victims of Domestic Violence" funded by the Embassy of the Kingdom of the Netherlands with cooperation and coordination of all services in the victim protection system. As the first activity of the project, a Special Report of the Protector of Citizens on the work of groups for coordination and cooperation in the city of Belgrade was presented in November. The report was made on the basis of the analysis of the actions of the groups for coordination and cooperation in the area of Belgrade, which was conducted in 2018 in cooperation with the Autonomous Women's Center, and with the financial support of the OSCE Mission to Serbia.

Earlier that year, thanks to the financial support of the OSCE Mission to Serbia, the Protector of Citizens published a Special Report on the situation in the area of exercising public authority of national councils of national minorities for the period from 2014 to 2018. The report is based on a survey conducted by the Protector of Citizens in 2019 in order to review the way in which national councils of national minorities exercise their public powers under the law

At the end of 2020, the Government of the Republic of Bulgaria approved funds for the implementation of the project of the Protector of Citizens entitled "Children to children - know your rights" which aims to contribute to a better understanding of the concept of children's rights in the Republic of Serbia, as well as to improved promotion and strengthening of participation as one of the major principles of United Nations Convention on the Rights of the Child. The project is expected to last 18 months and to include a series of activities in the implementation of which the Panel of Young Advisers of the Protector of Citizens will play a key role as a form of permanent participation of children in the activities of this body.

8.3. PROTECTOR OF CITIZENS IN THE MEDIA

Media coverage of the activities of the Protector of Citizens in 2020 has multiplied compared to 2019 - almost seven times, which is a consequence of the more efficient work of this independent state institution. Electronic, print and internet media published 3,894 reports on the actions of the Protector of Citizens on citizens' complaints and on their own initiative during the reporting year, which is seven times more than in 2019, when 513 publications were recorded.

Out of the total number of publications, almost a third of the texts referred to the work of the Sector for Children's Rights and Gender Equality of the Protector of Citizens, a total of 1,196, which indicates great public interest in protecting child rights as the most vulnerable, protecting women from violence, equality rights and protecting gender-sensitive groups. It is in these areas that the Protector of Citizens, based on media knowledge, initiated a large number of proceedings on his own initiative, and the media in addition to timely and accurate public information, contributed to faster and more efficient actions of the Protector of Citizens on issues of public interest.

Most reports on the work of the Protector of Citizens in 2020 were published in the Internet media - 3,082, which provided information on the work of the institution with regard to the type of media and availability via mobile devices, reaching citizens much faster. Both electronic (radio, television, news agencies) and print media expressed increased interest in the work of the Protector of Citizens, so in the reporting year they published 771 texts on the work of this independent state body. 41 posts about the activities of the Protector of Citizens were published on the social networks of domestic media. In the reporting year, the Protector of Citizens had 51 guest appearances on television and radio shows.

Reports and information on the activities of the Protector of Citizens in the media were mostly placed in a positive context (3,596 publications), neutral were the announcements on activities in which the Protector of Citizens is one of the participants (271 publications), while 27 publications were critical or otherwise seeing the role and manner of work of this independent state institution. Newspaper texts and media reports on the initiatives of the Protector of Citizens were in most cases affirmative.

The media visibility of the Protector of Citizens, compared to the previous reporting year, was especially increased in the media based in Belgrade (3,393 publications). Also, a significant positive increase in the media visibility of the Protector of Citizens was recorded in the local media in the Republic of Serbia (410 publications), which most often reported on activities related to their geographical position and very often on activities of general importance. Media procedures from the region and the diaspora also reported on certain procedures for controlling the regularity and legality of the work of competent institutions in the Republic of Serbia, which were initiated by the Protector of Citizens on his own initiative (91 publications).

Media attention is increasingly focused on the activities of the Protector of Citizens at the beginning of the Covid-19 virus pandemic, i.e. since the introduction of the state of emergency on March 15, 2020, when many citizens' rights were restricted due to state measures to suppress the spread of this infectious disease. In that emergency situation, the Protector of Citizens was among the institutions to which the citizens of the Republic of Serbia most often turned in order to exercise their rights, which attracted a lot of attention from the domestic media.

During the state of emergency, the media regularly published announcements and broadcast statements of the Protector of Citizens, M.Sc. Zoran Pašalić, from various areas of protection

of guaranteed rights. In that period, a total of 117 texts and articles about the activities of the institution were published in the print and electronic media with national coverage. 45 texts were published in the print media, and 72 television reports were broadcast. The Protector of Citizens, M. Sc. Zoran Pašalić, was a guest 12 times in television shows. About 60 texts about the activities of the Protector of Citizens in this period were published on the website and subsites of the institution.

After the end of the state of emergency, the media reported on the activities of the Protector of Citizens primarily on the basis of procedures and results of control of regularity and legality of work of competent institutions, and then on the basis of statements of the Protector of Citizens, his deputies and other actors. From the middle until the end of 2020, the media published reports with special interest in the area of protection of child rights and gender equality, and then protection of the right to a healthy environment, protection of the right of persons with disabilities and the elderly, and the establishment of a single platform for protection of journalists initiated by the Protector of Citizens.

In the area of protection of journalists' right to work, the Protector of Citizens spoke by phone with journalist Ana Lalic²⁰⁵ in April 2020 after her arrest in order to check whether there were any objections to the actions of members of the Serbian Ministry of Interior, whose regularity and legality of work the Protector of Citizens can control. He also officially reacted to verbal attacks on journalist Zaklina Tatalovic and condemned the insults and threats made to her in a television show²⁰⁶.

In the reporting year, having in mind the numerous pressures suffered by journalists but also the need to improve the rights of media workers and freedom of expression in the Republic of Serbia, the Protector of Citizens initiated development of "The Platform for recording cases of security threats and pressures on journalists and other media actors". In May 2020²⁰⁷, the Protector of Citizens signed an agreement with representatives of seven media associations and all three journalists' unions on the establishment of this platform, which will unite all attacks and pressure on journalists in one place, and for the first time will record economic pressures to which journalists are most exposed today. After launching this initiative, and in order to increase the efficiency of response in cases of attacks and pressure on journalists, in December 2020, the Protector of Citizens became a member of the newly formed Working Group for Security and Protection and Journalists, established by the Government of Serbia.

²⁰⁵ Available

at: https://ombudsman.rs/attachments/article/6645/Poseban%20izveštaj%20ZG_vanredno%20stanje.pdf
p.27

²⁰⁶ Available at: <https://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/6853-p-sh-lic-u-z-g-d-n-vn-g-v-ru>.

²⁰⁷ Available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/6617-z-sh-i-ni-gr-d-n-p-pis-s-n-vins-i-udruz-nji-s-ci-ci-i-sindi-i-sp-r-zu-usp-s-vlj-nju-pl-f-r-z-vid-nci-u-sluc-v-ugr-z-v-nj-b-zb-dn-s-i-i-pri-is-n-n-vin-r-i-s-l-di-s-r>.

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

LEGAL FRAMEWORK

The Protector of Citizens of the Republic of Serbia is an independent and autonomous state body introduced in the legal system of the Republic of Serbia in 2005 via the Law on the Protector of Citizens²⁰⁸. The position of the institution was reinforced by the Constitution of the Republic of Serbia²⁰⁹ from 2006, in accordance with the best international experiences. The Constitution guarantees the Protector of Citizens independence. The Protector of Citizens is subject, pursuant to the provision of the Constitution, to the oversight of the National Assembly. In exercising oversight, the National Assembly is not authorized, the same as any other body, organization or individual, to influence the operations and actions of the Protector of Citizens²¹⁰.

The Constitution of the Republic of Serbia determines the nature and competence of the Protector of Citizens, the circle of public authorities that are excluded from the control function of this body, prescribes that the Protector of Citizens is elected and dismissed by the National Assembly, guarantees immunity to the Protector of Citizens special (organic) law on the Protector of Citizens. The Constitution also prohibits the Protector of Citizens from membership in political parties and authorizes him to submit draft laws within his competence.

The Constitutional Law on the Implementation of the Constitution of the Republic of Serbia²¹¹, 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, PC remark) 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 salary, 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 Punishment²¹², 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.

²⁰⁸ Law on the Protector of Citizens, "Official Gazette of RS", no. 79/05 and 54/07.

²⁰⁹ "Official Gazette of RS", number 98/2006 (Part Five – Regulation of Power, Section 5 "The Protector of Citizens" Article 138).

²¹⁰ Article 2 Paragraph 2 of the Law on the Protector of Citizens.

²¹¹ Article 5 Paragraph 1 of the Constitutional Law for the Enforcement of the Constitution of the Republic of Serbia, "Official Gazette of RS", no. 98/06.

²¹² Already stated in footnote No. 4.

The Law on Aliens²¹³ stipulates that the Protector of Citizens, in accordance with the competencies from the Law on the Protector of Citizens and the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, supervises the procedure of forced removal of an alien.

The Law on the National Assembly²¹⁴ 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 Forces²¹⁵ stipulates that the Protector of Citizens also executes democratic civilian oversight of the Army, as well as that the regulations on the Protector of Citizens referring to the protection and exercise of rights of citizens are also applied to the professional members of the Serbian Armed Forces.

The Law on Police²¹⁶ prescribes that when the work of the Internal Control Sector determines that during the actions of a police officer police powers were violated, thus violating the rights protected by the Protector of Citizens, the Protector of Citizens is notified.

The Criminal Procedure Code²¹⁷ stipulates that the Protector of Citizens has the right to visit detainees freely and to talk to them without the presence of other persons, and that the detainee cannot be prohibited from having correspondence in writing with the Protector of Citizens. The law also envisages the obligation of a penal judge, or another judge assigned by the president of the court to inform the Protector of Citizens without delay of any irregularities observed during the visit to the institution.

The Law on the Enforcement of the Prison Sentence for Criminal Offences of Organized Crime²¹⁸ stipulates, inter alia, that the oversight of the work of the Special Units carried out by the authorized officers of the Administration and the committee appointed by the National Assembly, in accordance with the Law on Enforcement of Penal Sanctions, as well as by the Protector of Citizens, in accordance with the Law on the Protector of Citizens; inmates have the right to be visited by the Protector of Citizens once a month, which 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 Servants²¹⁹ 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.

The Law on Information Confidentiality²²⁰ prescribes in which cases the Protector of Citizens, as a public authority appointed by the National Assembly, is authorized to access information of all degrees of confidentiality that are necessary for the performance of tasks

²¹³ Article 82 of the Law on Aliens, "Official Gazette of RS", No. 24/18 and 31/19.

²¹⁴ Article 15 Paragraph 2 Item 6) and Paragraph 3 Item 4), "Official Gazette of RS", no. 9/10.

²¹⁵ Article 29 Paragraph 3 and 4 of the Law on Army of Serbia, "Official Gazette of RS", no. 116/07, 88/09, 101/10, – state law, 10/15, 88/15 – CC Decision, 36/18 and 94/19.

²¹⁶ Article 227 of the Law on Police, "Official Gazette of RS", No. 6/16, 24/18 and 87/18.

²¹⁷ Art. 219. Par. 3, 220. Par. 2 and 222. Par. 2 of the Criminal Procedure code, "Official Gazette of RS, No. 72/11, 101/11, 121/12, 32/13, 45/13, 55/14 and 35/19.

²¹⁸ Art. 35. Par. 2, 37. Par. 4 and 54. Par. 1 of the Law on the Enforcement of the Prison Sentence for Criminal Offences of Organized Crime, "Official Gazette of RS", No. 72/09 and 101/10.

²¹⁹ Article 78 Paragraph 2 of the Law on Civil Servants, "Official Gazette of RS", no. 79/05, 81/05 - corr., 83/05 - corr., 64/07, 67/07 - corr., 116/08, 104/09, 99/14, 94/17, 95/18 and 157/20.

²²⁰ Law on Classified Data, "Official Gazette of RS", no. 104/09.

within his competence without a security check, as well as cases where a security check is required.

The Law on the Form and Use of the Coat of Arms, Flag and Anthem of the Republic of Serbia²²¹ 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.

The Law on the Seal of the State and Other Bodies²²² 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 Parties²²³ stipulates that the Protector of Citizens cannot be a member of a political party.

The Law on Establishing Facts on the Status of Newborn Children Suspected of Missing from a Maternity Hospital in the Republic of Serbia²²⁴ prescribes, inter alia, that a proposal to initiate proceedings to establish facts on the status of a newborn child suspected of missing from a maternity hospital in the Republic of Serbia may to be submitted by the parent of the newborn child, if by the day of entry into force of this Law he/she addressed the state authorities or the maternity hospital regarding the status of the newborn child suspected of having disappeared from the maternity hospital in the Republic of Serbia; that if no parent is alive, the proceedings may be instituted by the brother, sister, grandfather or grandmother of the missing newborn child, regardless of whether they have addressed the state authorities or the maternity hospital regarding the status of the newborn child; then that the proposal can be submitted by a person who doubts his/her origin, regardless of whether he/she has addressed the state authorities regarding his/her family status; and that the proposal on behalf of these persons may be submitted by the Protector of Citizens.

The Law on Patients' Rights²²⁵ 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.

The Law on Public Property²²⁶ stipulates that administrative authorities and organizations within the meaning of that Law are deemed to include, inter alia, the Protector of Citizens.

The Law on the Budget System²²⁷ 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.

The Law on General Administrative Procedure²²⁸ stipulates that the 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

²²¹ Article 13 and 15 of the Law on the Appearance and Use of Coat of Arms, Flag and Anthem of the Republic of Serbia, "Official Gazette of RS", no. 36/09.

²²² Article 1 of the Law on the Seal of Public and Other Authorities, "Official Gazette of RS", no. 101/07.

²²³ Article 21 of the Law on Political Parties, "Official Gazette of RS", no. 36/09 and 61/15 - CC decision.

²²⁴ Article 15 of Law on Establishing Facts on the Status of Newborn Children Suspected of Missing from a Maternity Hospital in the Republic of Serbia, "Official Gazette of RS", No. 18/20.

²²⁵ Article 42, "Official Gazette of RS", No. 45/13 and 25/19 - state law.

²²⁶ Article 47 Paragraph 1 of the Law on Patients' Rights, "Official Gazette of RS", No. 72/11, 88/13, 105/14, 104/16 - state law, 108/16, 113/17 and 95/18 and 153/20.

²²⁷ Article 27k of the Law on the Budget System, "Official Gazette of RS", No. 54/09, 73/10, 101/10, 101/11, 93/12, 62/13, 63/13 - corr. 108/13, 142/14, 68/15 - state law, 103/15, 99/16, 113/17, 95/18, 31/19 и 72/19 and 149/20.

²²⁸ Article 185 of the Law on General Administrative Procedure, "Official Gazette of RS", No. 18 /16 and 95/18 - authentic interpretation.

was prescribed that at the recommendation of the Protector of Citizens, in order to comply with the law, a new decision may annul, revoke or amend a final decision, if the party whose rights or obligations are the subject of that decision, as well as the opposing party, accept it and if it does not offend the interest of a third party. If the body does not consider it necessary to act upon the recommendation of the Protector of Citizens, it shall immediately inform him about it. The annulment, revocation or amendment of the decision at the recommendation of the Protector of Citizens is not limited by a deadline

Action Plan for Chapter 23²²⁹ defines the reports of the Protector of Citizens, annual and special, as well as reports of the National Preventive Mechanism, for the impact indicators on the basis of which the activities planned in the process of accession of the Republic of Serbia to the European Union 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 strengthening of the capacities of the Protector of Citizens through the amendments of the Law on the Protector of Citizens which would reinforce independence and specify his powers in accordance with the achieved degree of development of this institution; through the human resources capacity building of the institution in terms of adopting a new Rulebook on Internal Organization and Systematization of Job Positions in the Secretariat of the Protector of Citizens; providing permanent premises for the institution of the Protector of Citizens; as well as measures aimed at strengthening the Protector of Citizens’ influence by imposing a duty to report to the European Commission on the compliance of public authorities with the recommendations issued by this independent state body, both in the capacity of the Protector of Citizens and in capacity of the National Preventive Mechanism

The Protector of Citizens is also mentioned in over 20 strategies and action plans: Public Administration Reform Strategy of the Republic of Serbia for the period 2018-2020²³⁰, Strategy for Social Inclusion of Roma in the Republic of Serbia for the Period from 2016 to 2025²³¹, Strategy for Development of Public Information System in the Republic of Serbia for the period 2020 to 2025²³², Strategy for Prevention and Protection against Discrimination²³³, Strategy on Improvement of Disabled Persons Position for the period from 2020 to 2024²³⁴, Strategy on the Implementation of the Convention on Access to Information, Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters– the Aarhus Convention²³⁵, the Penal Sanctions Enforcement System Development Strategy in the Republic of Serbia by 2020²³⁶, National Strategy for Preventing and Protecting Children from Violence²³⁷, Action Plan for the Implementing the Strategy on Implementation of the Aarhus Convention²³⁸, Action Plan for the Exercise of Rights of

²²⁹ Government adopted the Strategy for Development of Court Administration for the period 2020-2025, “Official Gazette of RS”, No. 101/20.

²³⁰ “Official Gazette of RS”, No. 09/14, 42/14 – correction and 54/18.

²³¹ “Official Gazette of RS”, No. 26/16.

²³² “Official Gazette of RS”, No. 11/20.

²³³ “Official Gazette of RS”, No. 60/13.

²³⁴ “Official Gazette of RS”, No. 44/20.

²³⁵ “Official Gazette of RS”, No. 103/11.

²³⁶ “Official Gazette of RS”, No. 114/13.

²³⁷ “Official Gazette of RS”, No. 122/08.

²³⁸ “Official Gazette of RS”, No. 103/11.

National Minorities, the Action Plan for the Implementation of the Strategy for the Social Inclusion of Roma in the Republic of Serbia for the Period 2016-2025, 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 Assembly²³⁹, the Government's Rules of Procedure²⁴⁰, Decision on the Formation and Operation of the Secretariat of the Protector of Citizens²⁴¹, Decision on the Formation of Local Offices in Preševo, Bujanovac and Medveđa²⁴², Decree on the implementation of internal and public competition procedures for filling vacancies in state bodies²⁴³, Special collective agreement for state authorities²⁴⁴, Rules on the management in public prosecutor's offices²⁴⁵, Rulebook on the House Rules of the Penitentiary-Correctional Institutions and District Prisons²⁴⁶, Rulebook on the House Rules of Juvenile Correctional Facilities²⁴⁷, etc.

The Protector of Citizens adheres in his work to the principles and standards adopted between ombudsmen and national human rights institutions, including, the "Belgrade Principles on the Relationship between the National Human Rights Institutions and Parliaments"²⁴⁸ and the "Ljubljana Conclusions on the Relationship between the Ombudsman and the Judicial Bodies".

The Constitution and the Law on the Protector of Citizens reflect the majority of the standards contained in the key international documents which regulate and promote and propose standards for ombudsmen and national human rights institutions²⁴⁹. 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 work²⁵⁰.

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

²³⁹ Rules of Procedure of the National Assembly, "Official Gazette of RS", No. 20/12 – clear text.

²⁴⁰ Articles. 39a and 46 of the Government's Rules of Procedure, "Official Gazette of RS", 61/06 – clear text, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13, 76/14 and 8/2019.

²⁴¹ "Official Gazette of RS", No. 105/07 и 99/18.

²⁴² "Official Gazette of RS", No. 91/09.

²⁴³ "Official Gazette of RS", No. 2/19.

²⁴⁴ "Official Gazette of RS", No. 38/19 and 55/20.

²⁴⁵ Article 60. Par. 1 of Rules on the management in public prosecutor's offices, "Official Gazette of RS", No. 57/19.

²⁴⁶ "Official Gazette of RS", No. 110/14 and 79/16.

²⁴⁷ "Official Gazette of RS", No. 71/06.

²⁴⁸ Available at: http://www.ombudsman.rs/attachments/2181_Beogradski%20principi.pdf.

²⁴⁹ Resolution of the General Assembly UN48/134, so-called "Paris Principles" available at: <http://www.un.org/documents/ga/res/48/a48r134.htm>; Resolution of the General Assembly UN 66/169 on national institutions for protection and promotion of human rights available at: <http://daccess-ddsny.un.org/doc/UNDOC/GEN/N11/468/96/PDF/N1146896.pdf?OpenElement>; Resolution of the General Assembly 67/163 on the role of ombudsman, mediator and other national institutions for the protection and promotion of human rights available at: <http://daccess-ddsny.un.org/doc/UNDOC/GEN/N12/488/38/PDF/N1248838.pdf?OpenElement>; Resolution of Parliamentary Assembly 1959/13 on the strengthening of the institution of ombudsman 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 ombudsman available at: <http://assembly.coe.int/main.asp?link=/documents/adoptedtext/ta03/erec1615.htm>; Venice Commission of the Council of Europe, the Compilation of documents on the institution of ombudsman 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).

²⁵⁰ The certificate was handed in 2016 by the Global Alliance of National Institutions for the Promotion and Protection of Human Rights (hereinafter: GANHRI), whose accreditation process is supervised by the United Nations.

Citizens. Supporting this is the report of the Secretary General²⁵¹ and Resolution of the United Nations General Assembly²⁵² 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 independence²⁵³.

The Council of Europe in its Recommendation 1615 from 2003, adopted by the Parliamentary Assembly, “concludes that some characteristics are essential for the efficient operation of the Ombudsman institution”, and among them also includes “guaranteed resources to carry out all tasks entrusted to the Ombudsman ... and a complete autonomy of his budget and staff.”²⁵⁴ 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.”²⁵⁵ 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.”²⁵⁶ 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 possible²⁵⁷.

Venice Commission of the Council of Europe adopted in March 2019 a set of 25 guidelines crucial for the establishment and functioning of the ombudsman institution in democratic society titled “Principles of Protection and Promotion of the Ombudsman Institution”, i.e. “Venice Principles”. The purpose of the principles is to consolidate and empower the ombudsman institutions which have a key role in strengthening of democracy, rule of law, good administration as well as protection and promotion of human and minority rights.

In December 2020, the United Nations General Assembly adopted a Resolution on the role of ombudsman institutions and mediators in the promotion and protection of human rights, good governance and the rule of law. The resolution provides strong support for key principles of ombudsman institutions, such as independence, autonomy, fairness and transparency, and is an important first step towards ensuring international recognition of the work of ombudsman institutions in promoting human rights, the rule of law and good governance.

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

Considering the fact that the Constitution of the Republic of Serbia was passed in 2006, and that the Protector of Citizens started working one year later, after more than ten years of

²⁵¹ Available at: https://digitallibrary.un.org/record/1301905/files/A_72_230-EN.pdf.

²⁵² Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/72/186.

²⁵³ Resolution 48/134 that contains Paris Principles available at: <http://www.un.org/documents/ga/res/48/a48r134.htm>.

²⁵⁴ Recommendation of Parliamentary Assembly 1615/03 on ombudsman institution, available at: <http://assembly.coe.int/main.asp?link=/documents/adoptedtext/ta03/erec1615.htm>.

²⁵⁵ Resolution in Serbian and English language available at: <http://www.zastitnik.rs/index.php/lang-sr/2011-12-25-10-17-15/3057-2013-10-25-10-34-49>.

²⁵⁶ *Ibid.*

²⁵⁷ See the Compilation of documents on the institution of ombudsmen 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).

experience, the Protector of Citizens pointed to the need for improvement of the legal framework.

The amendments to the Law on the Protector of Citizens are one of the obligations of the Republic of Serbia in the process of accession to the European Union within the Action Plan for Chapter 23 – judiciary and fundamental rights whose enforcement has been postponed since 2016.

With the aim of further strengthening of independence, objectivity, fairness and impartiality of the institution operation, the Protector of Citizens in consultation with SIGMA representatives executed the working version of the new law on the Protector of Citizens which respects the international principles of protection and promotion of the ombudsman institution of contained in the Venice Principles of the Council of Europe²⁵⁸. The working version of the new law envisages a public call for proposing candidates for the Protector of Citizens and prescribes the conditions for the election which enable a wider circle of candidates for the Protector of Citizens than is the case now. At the same time, the working version of the new Law contains provisions that would enable a wider circle of citizens to exercise their rights before the Protector of Citizens, as well as provisions that would improve the efficiency of handling complaints, shortening the deadline for the Protector citizens and extension of the deadline for filing a complaint.

The working version of the new Law on the Protector of Citizens pays special attention to the promotion of child rights so that the Deputy Protector of Citizens for the Child Rights has greater independence in his work. Also, it is planned to strengthen human and financial capacities through the allocation of funds from the budget within the budget of the Protector of Citizens. The Protector of Citizens has the position of a special body for the protection and promotion of the child rights, which builds on the long-term successful work of this institution in this area.

The working version of the new Law on the Protector of Citizens envisages that the Protector of Citizens performs the duties of the National Referenda in the area of human trafficking, which is a mechanism established by the Convention on Action against Human Trafficking²⁵⁹ of the Council of Europe and the Action Plan for the implementation of the Strategy for the prevention and suppression of Human Trafficking, especially women and children and the protection of victims. The Strategy for the Advancement of Persons with Disabilities envisages that the Protector of Citizens performs the function of the National independent mechanism for monitoring the implementation of the United Nations Convention on the rights of persons with disabilities²⁶⁰. In accordance with the new competencies, the working version of the Law on the Protector of Citizens envisages additional strengthening of the financial and personnel capacities of the Professional Service of the Protector of Citizens.

Given that citizens' complaints mostly indicate violations of economic and social rights, and a large number of proceedings initiated by the Protector of Citizens on his own initiative are related to the violation of these rights, the working version of the new Law on the Protector of Citizens envisages strengthening the capacity of employees at the Secretariat of the Protector of Citizens in these areas.

One of the goals of the new law is to provide that persons from the widest circle of candidates be elected as the protector of citizens, deputies to the protector of citizens and job positions

²⁵⁸ Adopted on the 118th plenary session (Venice, March 15 – 16, 2019).

²⁵⁹ Available at: <https://rm.coe.int/168064899d>.

²⁶⁰ Establishing of this mechanism was also predicted by the Article 33 of the United Nations Convention on the rights of persons with disabilities.

and to prevent the performance of these functions and job positions in the Protector of Citizens, as an independent state body, from turning “into occupation”.

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 law²⁶¹. 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 authorities²⁶² and organizations to which public powers have been delegated (hereinafter–public authorities and organizations²⁶³). The Law on the Protector of Citizens also specifies that the Protector of Citizens should “protect and promote human and minority freedoms and citizen rights”.

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

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

The Protector of Citizens oversees the work of government agencies, the body authorized for legal protection of property rights and interests of the Republic of Serbia and other bodies and organizations, enterprises and institutions which have been delegated public authority (public authorities and organizations) The Protector of Citizens, according to the provisions of the Constitution and the Law, among all bodies and organizations of public authorities and organizations, is not authorized to oversee only the work of the National Assembly, the President of the Republic, the Government, the Constitutional Court, the courts and the public prosecutor's offices²⁶⁴.

The Protector of Citizens, with the appropriate personal security clearance certificate, is guaranteed access to information of all levels of confidentiality, which are necessary for the performance of tasks from his/her competence.²⁶⁵

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

²⁶¹ Article 2, paragraph 2 of the Law on the Protector of Citizens.

²⁶² Article 17, paragraph 2 of the Law on the Protector of Citizens.

²⁶³ The Law on the Protector of Citizens (Article 1), when determining the circle of entities whose work the Protector of Citizens is authorized to control, for state administration bodies, the body competent for legal protection of property rights and interests of the Republic of Serbia, as well as other bodies and organizations, enterprises and institutions which are entrusted with public authorizations, introduces the abbreviated label “administrative authorities”. However, the use of this term causes confusion if it is not known that Article 1 of the LoPoC determines its content (and this is different from commonly accepted legal theory and practice). In order to avoid such confusion in the case of partial reading of this report, the wording “public authorities and organizations” will be used for entities subject to control by the Protector of Citizens, as their circle is defined by the Constitution and the Law.

²⁶⁴ Article 138, Paragraph 2 of the RS Constitution, Article 17, paragraph 3 of the Law on the Protector of Citizens.

²⁶⁵ Article 38, Paragraph 1 and 2 of the Law on Information Confidentiality, “Official Gazette of the RS”, number 104/09.

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

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

Procedure

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

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

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

Legal nature of acts passed by the Protector of Citizens

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

The recommendations, attitudes 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 - 138 - 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 Commissioner for the Protection of Equality and others), the Protector of Citizens cooperates with these authorities on improving the exercise and protection of the rights, and acts upon complaints of violation of these rights only after the citizens have used the opportunity to contact a specialized independent body. The Protector of Citizens is authorized to decide to launch the oversight procedure, exceptionally, even before the citizens turn to another, specialized independent body, if he finds that some special circumstances envisaged by the Law on the Protector of Citizens are present (if the complainant was inflicted with irreparable damage or if the complaint relates to a violation of the principle of good administration, especially the incorrect attitude of the administrative authorities towards the complainant, untimely work or other violations of the rules of ethical behavior of employees in administrative bodies). Citizens have the right to contact the Protector of Citizens with a complaint to other independent, specialized bodies for the protection of citizens' rights, if they feel that their rights have been violated by their unlawful or irregular conduct.

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

Performance of activities outside the seat of the body

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

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

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

ANNEX II – FINANCIAL STATEMENT

Pursuant to the Law on Amendments to the Law on the Budget of the Republic of Serbia for 2020 the Protector of Citizens is granted financial funds in the amount of RSD 208.023.000,00 which is a decreased amount by 0.86 percent in comparison to RSD 209.818.000,00 of provided financial fund for 2019.

The total expenditure of the Protector of citizens for 2020 amount to RSD 193.341.591,31, i.e. 92.94 percent of the provided budget fund (in percentage, the expenditure of budget funds is higher by 4.11 percent in comparison to the expenditure for 2019) when total expenditure was RSD 186.381.605,57. The higher expenditure of funds in 2020 in comparison to 2019 occurred because in 2020 three deputies of the Protector of Citizens were appointed.

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

Table 27 – Budget execution for 2020

Account position	Description	Approved	Accomplished	%
411	Salaries			
411111	Salaries based on the labor cost		112.054.017,58	59,02
411112	Bonus for work longer that full working hours		3.822.955,77	2,63
411113	Bonus for work on the state holiday and religious holiday		57.144,97	0,04
411115	Bonus for the time spent at work (years of service)		5.844.205,00	4,03
411117	Sick leave up to 30 days		2.621.557,75	1,81
411118	Earning compensation for the time of absence from work – annual vacation, paid leave		16.691.188,37	11,50
411119	Other bonuses and compensations for employees		1.940.263,84	1,34
Total 411		145.176.000,00	143.031.333,28	98,52
412	Contributions			

412111	Contributions for PDI		15.731.488,56	65,84
412211	Contributions for health insurance		7.044.970,80	29,48
Total 412		23.895.000,00	22.776.459,36	95,32
413	Compensations in kind		0	
413000	Compensations in kind		335.730,00	95,92
Total 413		350.000,00	335.730,00	95,92
414	Social benefits to employees			
414121	Sick leave over 30 days		82.436,62	3,35
414311	Retirement awards		570.326,25	23,17
414314	Assistance in case of the death of an employee or an immediate family member		279.156,00	11,34
414411	Assistance in medical treatment of an employee or an immediate family member		248.148,42	10,08
414419	Other forms of assistance to employees		238.874,00	9,70
Total 414		2.462.000,00	1.418.941,29	57,63
415	Compensations for employees			
415112	Commuting transportation		2.216.085,35	57,56
Total 415		3.850.000,00	2.216.085,35	57,56
416111	Jubilee awards		641.540,67	71,28
Total 416		900.000,00	641.540,67	71,28
421	Constant expenses			
421121	Costs of bank services		16.497,38	0,34

421211	Electric power service		22.700,33	0,46
421225	Central heating		111.550,05	2,28
421323	Property protection services		1.167.875,03	23,91
421411	Telephone, telex and fax		403.953,14	8,27
421412	Internet and similar		255.430,98	5,23
421414	Cell phone services (cell phones, internet)		1.336.701,48	27,37
421422	Delivery services		700.300,00	14,34
421512	Vehicle insurance		218.556,00	4,47
421513	Equipment insurance		36.516,00	0,75
421521	Employee insurance in case of work accident		28.875,00	0,59
421522	Health insurance		134.000,00	2,74
421523	Liability insurance		33.450,00	0,68
421911	TV and radio subscription		9.000,00	0,18
Total 421		4.884.000,00	4.475.405,39	91,63
421 NPM				
421622	Administrative equipment lease		0,00	0,00
Total 421 NPM		50.000,00	0,00	0,00
422	Travel costs			
422111	Business trip daily allowance cost		3.675,00	0,18
422121	Domestic business trip transportation costs		11.998,61	0,60
422131	Business trip accommodation costs		44.740,00	2,22
422199	Other costs for domestic business trips		100.274,50	4,98

422211	Business trip abroad daily allowance costs		80.493,24	3,99
422221	Business trip abroad transportation costs		-19.802,00	-0,98
422231	Business trip abroad accommodation costs		-14.026,62	-0,70
422299	Other costs for business trips abroad		43.242,35	2,15
Total 422		2.015.000,00	250.595,08	12,44
422 NPM				
422111	Business trip daily allowance costs		3.075,00	0,31
422131	Business trip transportation costs		112.837,00	11,28
Total 422 NPM		1.000.000,00	115.912,00	11,59
Account position	Description	Approved	Accomplished	
423	Contracted services			
423111	Translation services		849.631,11	7,51
423212	Software execution services		327.261,00	2,89
423221	Computer maintenance services		170.353,50	1,51
423291	Other computer services		437.000,00	3,86
423321	Seminar fee		154.014,11	1,36
423391	Expenses for professional exams		30.000,00	0,27
423399	Other expenses for professional education		17.500,00	0,15
423413	Publication printing services		718.512,00	6,35
423419	Other printing services		339.811,50	3,00

423421	Public information services		493.509,67	4,36
423422	Public relations		154.076,38	1,36
423432	Tender and informative advertisements publication		241.876,50	2,14
423449	Other media services		302.400,00	2,67
423599	Other professional services (engagement of external associates, experts)		2.269.322,56	20,06
423621	Catering services (organization of conferences, round tables, meetings)		338.748,52	2,99
423711	Representation (organization of conferences, round tables, meetings)		240.647,52	2,13
423712	Gifts		144.069,05	1,27
423911	Other general services		476.371,13	4,21
Total 423		11.314.000,00	7.705.104,55	68,10
423 NPM				
423111	Translation services		63.944,98	4,13
423413	Publication printing services		283.800,00	18,31
423531	Court expertise services		424.513,00	27,39
423599	Other professional services		188.679,24	12,17
423621	Catering services		2.058,00	0,13
423911	Other general services		62.400,00	4,03
Total 423 NPM		1.550.000,00	1.025.395,22	66,15

425	Repairs and maintenance			
425219	Other repairs and maintenance of transportation equipment		149.862,00	21,53
425229	Other repairs and maintenance of administrative equipment		70.932,88	10,19
Total 425		696.000,00	220.794,88	31,72
426	Material			
426111	Office supplies		563.017,80	10,37
426191	Other administrative material		264.532,00	4,87
426311	Professional reference books for regular use of employees		366.203,00	6,74
426312	Professional reference books for education of employees		518.399,00	9,55
426411	Fuel		2.738.990,83	50,44
426412	Diesel fuel		230.000,00	4,24
426491	Other material for means of transportation		92.232,00	1,70
426812	Hygiene maintenance supplies		207.714,58	3,83
426911	Consumables		4.045,00	0,07
426912	Spare parts		271.076,00	4,99
426919	Other material for specific purposes		22.674,48	0,42
Total 426		5.430.000,00	5.278.884,69	97,22
462	Subsidies to international organizations			
462121	Current subsidies for international memberships		1.309.074,70	83,43
Total 462		1.569.000,00	1.309.074,70	83,43

465111	Other current subsidies and transfers		0,00	0,00
4651	Other current subsidies and transfers		0,00	0,00
465	Other current subsidies and transfers	1.000,00	0,00	0,00
482	Taxes, mandatory fees, fines and penalties			
482132	Cell phone tax		0,00	0,00
482211	Republic fee		0,00	0,00
Total 482		100.000,00	0,00	0,00
485	Damage compensation for injury or damage caused by public authorities			
485119	Other damage compensations		180.651,25	99,81
Total 485		181.000,00	180.651,25	99,81
512	Machines and equipment			
512221	Computer equipment		1.391.400,00	
5122231	Telephone exchanges with associated installations and devices		199.200,00	8,30
5122232	Telephones		400.020,00	16,67
5122241	Electronic equipment		264.000,00	26.400,00
Total 512		2.399.000,00	2.254.620,00	93,98
Total 15		1.000,00	0,00	0,00
512 NPM	Machines and equipment			
512242	Photo equipment		105.063,60	52,53
Total 512 NPM		200.000,00	105.063,60	52,53
TOTAL		208.023.000,00	193.341.591,31	92,94

ANNEX III – HUMAN AND MATERIAL RESOURCES

For the performance of professional and administrative activities within the competence of the Protector of Citizens, by the Decision on the Establishment and Operation of the Secretariat of the Protector of Citizens²⁶⁶, and pursuant to Article 38 Paragraph 1 of the Law on the Protector of Citizens²⁶⁷, the Secretariat of the Protector of Citizens was created.

The new Rulebook on Internal Organization and Systematization of Job Positions in the Secretariat of the Protector of Citizens²⁶⁸, to which the National Assembly by Decision RS number 14 dated 25th April, 2019²⁶⁹ gave consent²⁷⁰, stipulates the systematization of 62 job positions with totally 106 employees, 11 of whom were civil servants with official positions, 91 at operational job positions and four employees whose job positions refer to accompanying assisting technical activities.

On 31st December, 2020, there were in total 84 employees at the Secretariat of the Protector of Citizens as follows: 75 to indefinite period of time (of which three civil servants at official positions and three employees), three civil servants are employed for a definite period of time at the Office of the Protector of Citizens during his mandate and six for a definite period of time. Out of total 84 employees, 68 of them perform their jobs with university degree, two with college degree and 14 with high-school degree. Out of 84 employees, 66 are women and 18 men. The stated number does not include the Protector of Citizens, Zoran Pašalić, MSc and three Deputies of the Protector of Citizen, Jelena Stojanović, Slobodan Tomić and Nataša Tanjević, PhD.

²⁶⁶ "Official Gazette of RS", No. 30/19.

²⁶⁷ "Official Gazette of RS", No. 79/05 and 54/07.

²⁶⁸ No. 363-241/2019, ref. No. 6417 dated March 1, 2019.

²⁶⁹ "Official Gazette of RS", No. 30/19.

²⁷⁰ "Official Gazette of RS", No. 95/18 and 72/19.

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