



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
3411- 141 / 20
B e l g r a d e



Заштитник грађана
Zaštitnik građana

Ref. No. 9619 Date: 15th March, 2020

REGULAR ANNUAL REPORT
OF THE PROTECTOR OF CITIZENS
FOR 2019

Belgrade, 15th March, 2020

TABLE OF CONTENTS

1. INTRODUCTION	3
1.1. FOREWORD	3
2. GENERAL ASSESSMENT OF THE OBSERVANCE OF CITIZENS' RIGHTS IN 2019	6
3. BASIC STATISTICAL REVIEW	19
3.1. TOTAL NUMBER	19
AND CLASSIFICATION OF COMPLAINTS	19
CLASSIFICATION OF COMPLAINTS ACCORDING TO RIGHTS VIOLATED	22
3.2. RECOMMENDATIONS, OPINIONS AND LEGISLATIVE INITIATIVES OF THE PROTECTOR OF CITIZENS.....	24
OPINIONS	26
4. EXERCISE OF THE RIGHTS OF PARTICULARLY VULNERABLE GROUPS	31
4.1. CHILD RIGHTS.....	31
4.2. GENDER EQUALITY AND RIGHTS OF LGBTI PERSONS	43
4.3. RIGHTS OF PERSONS WITH DISABILITIES AND RIGHTS OF THE ELDERLY ..	52
4.4. NATIONAL MINORITY RIGHTS.....	61
4.5.1. NATIONAL PREVENTIVE MECHANISM	75
5. OTHER ACTIVITIES IN THE AREAS OF WORK OF THE PROTECTOR OF CITIZENS	82
5.1. AREA OF CIVIL AND POLITICAL RIGHTS	82
5.2. AREA OF ECONOMIC AND PROPERTY RIGHTS	93
5.3. AREA OF SOCIAL AND CULTURAL RIGHTS	104
6. SECTOR FOR THE RECEPTION OF CITIZENS.....	113
7. DEPARTMENT FOR EMERGENCY RESPONSES	116
8. COOPERATION BY THE PROTECTOR OF CITIZENS	122
8.1. COOPERATION WITH PUBLIC AUTHORITIES EXCLUDED FROM THE OVERSIGHT BY THE PROTECTOR OF CITIZENS.....	122
8.2. INTERNATIONAL COOPERATION AND PROJECTS	124
8.3. PROTECTOR OF CITIZENS IN THE MEDIA	128
ANNEX I - LEGAL FRAMEWORK AND THE SCOPE OF WORK OF THE PROTECTOR OF CITIZENS.....	130
COMPETENCE AND MANNER OF WORK	136
ANNEX II - FINANCIAL STATEMENT	139
ANNEX III - HUMAN AND MATERIAL RESOURCES.....	146

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 2019.

In the previous year, there were many challenges for the Protector of Citizens as independent public authority whose task is the protection of citizen rights and control the work of public administration bodies, body authorized for legal protection of property rights and interests of the Republic of Serbia, as well as all other bodies and organizations, enterprise and institutions which have been delegated public authority. The institution of the Protector of Citizens responded to all these challenges in compliance with the Constitution of the Republic of Serbia, Law on the Protector of Citizens and numerous international documents which regulate and promote and propose standards for ombudspersons and national institutions for human rights.

Preserving the principle of independence of the public authority with entrusted care about the protection and promotion of human and minority rights and freedoms, in 2019 the work with citizens was promoted by solving numerous complaints, increase of the availability of the institution itself to citizens who live in smaller towns and municipalities in Serbia and by the increase of the number of reactions upon own initiative.

During the last year the Protector of Citizens was contacted by approximately 11,000 citizens and more than 3,200 complaints were received and in these citizens presented the violations of their rights. The complaints predominantly refer to the violation of rights in economic-property field, good administration field and social and cultural rights. The complaints of citizens mostly refer to the violation of rights to the property protection, right to receiving of the decision within legal deadline as well as of the right to the respect of the best interests of a child.

Within the project of the increase of availability of the Protector of Citizens, I visited 12 cities and municipalities and made the competences of the institution and manners in which they may exercise their rights closer to citizens.

The exercise of economic-property rights is the field in which citizens for years back have the greatest difficulties to exercise their rights, so I have discussed this issue with 2,600 citizens in Serbia and with our people who are on temporary work abroad since I took the office of the protector of citizens. The discussions were organized every last Friday of the month, when the citizens had the opportunity personally to present the problems they face.

Simultaneously, the number, especially of unannounced visits of the National Preventive Mechanism (NPM) to the locations where persons deprived of their liberty are accommodated or may be accommodated with the aim of the discouragement of public authorities and civil servants from any form of torture or any other form of abuse, as well as with the aim of directing the public authorities towards the creation of accommodation and other living conditions at the institutions where the persons deprived of liberty are accommodated in accordance with valid regulations and standards. In 2019, the NPM paid 77 visits to the institutions which accommodate persons deprived of liberty and eight supervisions of the procedures of forced return of foreigners. Four visits were paid with the aim of tracking of the treatment of refugees and migrants. For the first time since its establishment, the NPM paid

also 16 visits to military facilities and premises for the execution of disciplinary measures which involve the prohibition of the removal from special premises at the military facility.

In only one year since its establishment, the Department for Emergency Responses, established at the beginning of 2019, the actions were taken in 281 cases which required solution without any delay. These are the cases regarding which there was an assumption that the complainants' life or health were threatened when their rights were grossly violated or who were led into an extremely difficult position or they could suffer material or another damage of greater extent.

Furthermore, apart from women and children victims of violence, special attention was dedicated to persons with disabilities and elderly, Romani men and women and LGBTI population. We issued many recommendations for the promotion of the operation of administrative authorities in order to remove the obstacles which these vulnerable groups still face: insufficiently developed support services, invisibility in public life, obstacles in education and employment, poverty and prejudice.

We indicated to competent bodies to the need for the promotion of the rights of veterans, military and civil disabled persons and members of their families as well as to the detrimental consequences of high amounts of tariffs of public enforcement officers which endangered the existential security of citizens.

With special attention, the Protector of Citizens considered the announced adoption of the law which would stipulate the introduction of another new independent institution – The Protector of Child Rights, despite exceptional accomplishments of the Protector of Citizens in this field so far. The multiplication of such institutions, especially in the situation when the existing body successfully performs this job and when the state does not have sufficient financial resources to provide children and families with assistance and support is not considered necessary by the Protector of Citizens.

Also, in the field of international and regional cooperation, the year of 2019 may be considered successful for the Protector of Citizens. In total five memoranda of understanding were signed, with ombudsmen of Romania, Greece, Bosnia and Herzegovina, Montenegro and Northern Macedonia. These treaties define the actions and cooperation of ombudsmen in cases of failure to observe the rights and freedoms of the citizens of the Republic of Serbia at the territory of signatories, as well as citizens of these countries at the territory of the Republic of Serbia. We agreed on the further reinforcement of friendly relations and mutual cooperation between institutions in the field of the protection of human rights and freedoms.

I deem as a success the selection of three deputies of mine by the end of 2019 which initiated the reorganization of this institution to even greater functionality and availability to citizens. In December 2019, the National Assembly of the Republic of Serbia appointed as deputies of the protector of citizens Slobodan Tomić, Nataša Tanjević, PhD and Jelena Stojanović.

In the following period we plan to direct the knowledge, experience and energy of the representatives and employees at the institution of the Protector of Citizens to the activities referring to finding of the best solutions which should also be included in the new Law on the Protector of Citizens. All proposals shall be in compliance with the Venice Principles dated 15th and 16th March, 2019 and with the consultations of international institutions, specifically SIGMA representatives¹. The obligation of the country based on the Action Plan for Chapter

¹ SIGMA program is a joint initiative of the Organization for Economic Cooperation and Development and the RU, whose fundamental role is to provide support to strengthening of public administrations and implementations of reforms of management in the countries candidates for the accession to the European Union.

23 is also the provision of the adequate space for undisturbed work of employees at the institution of the Protector of Citizens in compliance with valid standards in the world.

I believe that the review of the report at the National Assembly and with professional and wide audience will influence the improvement of the operation of public authorities in all segments of operation as well as that the offered solution stipulated by the working draft of the new Law on the Protector of Citizens will strengthen the authority of the National Assembly as the institution in which via representatives the citizens will exercise their sovereignty.

PROTECTOR OF CITIZENS

Zoran Pašalić, MSc

2. GENERAL ASSESSMENT OF THE OBSERVANCE OF CITIZENS' RIGHTS IN 2019

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

The Protector of Citizens notes that during the reporting period citizens², most frequently complained about the violations of economic-property rights, violations of principles of good administration and social-cultural rights.

CHILD RIGHTS

The limitation to the employment in public sector introduced in 2014 endangered and aggravated the exercise of child right and to a great extent crumbled already sensitive systems where the protection to the most sensitive groups of people is provided. Therefore, the number of employees at centers for social work since 2014 was reduced by almost a fifth, while the number of beneficiaries in the same period was increased by 11 percent. Especially concerning is the information that the number of cases of domestic violence reported to the centers for social work was increased by 161 percent in comparison to the year of 2014³. The prohibition of employment in public sector influenced also the education system, so the number of professional associates at educational institutions is not even sufficient for the provision of services of additional support to children and students. Therefore, the service of the personal attendants is not available to all the children who need it – a great number of local self-government units did not implement the personal attendant service and in the city of Belgrade there still are “waiting lists”. The Protector of Citizens issued recommendations⁴ to the Ministry of Labor, Employment, Veteran and Social Affairs, especially in the field of the protection against violence. The Ministry of Labor, Veteran and Social Affairs, acting upon the recommendations of the Protector of Citizens, submitted the request for additional employment, but it was not adopted. Even apart from the assurance that as of January 2020 the situation will change, the rigorous and linear limitation of employment was prolonged⁵ without the implemented assessment of the influence to children, which endangers and aggravates the exercise and protection of child rights.

Children in families where domestic violence takes place are not recognized as victims of domestic violence and therefore no adequate measures of protection toward them are not planned or applied and children victims are exposed to secondary traumatization. According

² All terms which are expressed in the text in grammatical masculine gender refer to natural masculine and feminine gender of persons they refer to.

³ Available at:

<http://www.zavodsz.gov.rs/%D0%B1%D0%B8%D0%B1%D0%BB%D0%B8%D0%BE%D1%82%D0%B5%D0%BA%D0%B0/%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98%D0%B8%D0%B8%D0%B7%D1%81%D0%B8%D1%81%D1%82%D0%B5%D0%BC%D0%B0/%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98%D0%B8%D0%B8%D0%B7%D1%81%D0%B8%D1%81%D1%82%D0%B5%D0%BC%D0%B0-2018/>.

⁴ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5985-u-vrd-ni-pr-pus-i-u-r-du-n-dl-znih-u-bl-s-i-z-sh-i-zr-v-u-sluc-vi-p-r-dicn-g-i-p-r-n-rs-g-n-silj>.

⁵ Article 4 Paragraph 2 of the Law on the Amendments to the Law on Budget System “Official Gazette of RS”, no. 72/19.

to the allegations from complaints and information with which the Protector of Citizens is familiar, after the reporting of sexual abuse of child, children are interrogated on many occasions and they are not provided with the protection from the encounter with the suspect / convicted nor protective measures are used (one-time interrogation with the use of audio/video technology, interrogation in a special facility, etc.) these data indicate to the possibility that the children are exposed to multiple re-traumatization, despite the existence of legal provisions which enable the child victim of a criminal offense against sexual freedom to be interrogated in the manner which prevents secondary traumatization and protects the well-being of the child who suffered the trauma.

However, the criminal-legal protection of children is still not entirely in compliance with the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse. Also, the initiative of the Protector of Citizens for the amendments to the Criminal Code was not entirely accepted⁶, due to which some of the crucial problems still exist: the level of criminal-legal protection of the child victim depends on the age of a child; the criminal offences of the Extramarital community with a minor and Incest, even though in its essence they refer to sexual activities with a child, are not prescribed as criminal offences against sexual freedom so for them there is no possibility of the application of the Law on Special Measures for the Prevention of Criminal Offences against Sexual Freedom to Juveniles⁷. In this manner, the lower level of protection of children against detrimental practices and violation of rights in early and coercive marriages is stipulated in comparison to the improved protection which is prescribed for other forms of criminal offence of sexual harassment, abuse and exploitation committed against children.

The Protector of Citizens during the reporting year took active participation in solving of the cases of “babies disappeared from maternity hospitals” in the Republic of Serbia.

THE ATTITUDE OF THE PROTECTOR OF CITIZENS REGARDING THE ANNOUNCED ESTABLISHMENT OF THE PROTECTOR OF CHILD RIGHTS

During 2019, on multiple occasions, it was announced that the law which would introduce into the legal system new independent institution – the Protector of Child Rights would be adopted. The draft of the Law on Child Rights and Protector of Child Rights which was provided for public insight does not offer a single new mechanism for the protection of child rights in comparison to the existing one within the competence of the Protector of Citizens of the Republic of Serbia.

The Protector of Citizens presented the attitude that it is not of the public or citizen interests that at the moment of the implementation of economic measures of savings whose effects of the reduction of funds for children and a number of employees in the public sector, including also the fields vital for children, the institutions which would deal with protection, promotion, monitoring and improvement of child rights are doubled. The allocation of budget funds for the establishment of a new body which would deal with the activities already performed by the existing body, in the situation of insufficient financial resources of the state to provide children and families with assistance and support is not only irrational spending of

⁶ “Official Gazette of RS”, no. 85/05, 88/05 - corr., 107/05 - corr., 72/09, 111/09, 121/12, 104/2013, 108/14, 94/16 and 35/19.

⁷ Official Gazette of RS”, no. 32/13.

insufficient financial funds, but also inadequate attitude towards all citizens, especially children.

Precisely out of the understanding of various economic contexts of the countries signatories of the Convention on the Rights of the Child, the Committee of the United Nations on the Rights of the Child in its General comment no. 2 provided the following interpretation: „Specialist independent human rights institutions for children, ombudspersons or commissioners for children’s rights have been established in a growing number of States parties. Where resources are limited, consideration must be given to ensuring that the available resources are used most effectively for the promotion and protection of everyone’s human rights, including children’s, and in this context development of a broad-based NHRI that includes a specific focus on children is likely to constitute the best approach. A broad-based NHRI should include within its structure either an identifiable commissioner specifically responsible for children’s rights, or a specific section or division responsible for children’s rights.”

In the report of Global Alliance of National Human Rights Institutions (GANHRI) and UNICEF “Children’s Rights in National Human Rights Institutions”⁸, the Protector of Citizens is indicated as an example of good practice according to various criteria⁹. One of the accomplishments according to which the Protector of Citizens is internationally recognized because of the manner of provision of participation of children is also the work of the Youth Advisory Panel of the Protector of Citizens, which consists of the children of 12 to 18 years of age. The Protector of Citizens is the first state body in the Republic of Serbia which included children in its operation.

Due to insufficient financial funds because of the implementation of economic measures, the services for children are not developed and some of them are abolished. For instance, one of the first savings measures in the city of Belgrade was termination of funding of the Daycare center for children from the street and a significant number of local self-government units did not implement the service of personal attendants for children and other forms of support to education of children, due to lack of financial funds. The lack of financial funds and economic limitations are the reason for decreasing number of employees at services and institutions of home type who deal with children (for instance, professional employees at centers for social work, professional associates at schools, health care employees for children, educators and care takers at homes for children).

More than six years ago, the Protector of Citizens submitted to the National Assembly the Proposal of the Law on Amendments to the Law on Financial Assistance to Families with Children, with the aim of expanding and introduction of new rights for parents who immediately take care of their gravely ill children and children with developmental delays and disabilities who need constant parent care. This initiative was repeated by the Protector of Citizens on many occasions, the last time providing proposals for the improvement of the working version of the Draft of the Law on Amendments of the Law on Social Protection. This proposal was not adopted precisely due to financial reasons.

⁸ „Children’s Rights in National Human Rights Institutions: A Mapping Exercise“, GANHRI, UNICEF, 2018, available at:

<https://nhri.ohchr.org/EN/News/Documents/GANHRI%20UNICEF%20-%20Children%E2%80%99s%20Rights%20in%20National%20Human%20Rights%20Institutions.pdf>.

⁹ „Children’s Rights in National Human Rights Institutions: A Mapping Exercise“, GANHRI, UNICEF, 2018, pp. 23, 24, 32, 35, 41.

Therefore, the Protector of Citizens presented the opinion that new institution in the protection of child rights in Serbia could not solve the problems and challenges in the exercise of child rights to which the Protector of Citizens has been indicating for years, but it would be one institution more which would also indicate to them.

GENDER EQUALITY

The authorities acted upon systemic recommendations issued by the Protector of Citizens in 2018 after the examination of 30 cases of femicide, domestic and partner relation violence and abuse and neglect of children confirmed numerous individual and systemic shortcomings, such as inadequate cooperation of the authorities competent for the suppression of domestic violence, inadequate risk assessment, implementation of measures which do not correspond confirmed and assessed risks, lack of exchange of information, failure to recognize violence, failure to take measures and activities which the authorities are obliged to take. Children present during domestic violence are not treated as victims of violence, due to which the measures which are prescribed for the protection of victims are not taken.¹⁰ The Administration for the Enforcement of Penal Sanctions of the Ministry of Justice implemented the supervision at the institutions for the execution of criminal sanctions and introduced them with the content of the recommendations of the Protector of Citizens and the implementation of these recommendations will be followed by the Department for the inspection of the Administration during the conducting of supervision. The Administration instructed the institutions to have a more intensive cooperation and exchange of information with area centers for social work and competent police departments and stations. The Ministry of Labor, Employment, Veteran and Social Affairs issued an order to directors of centers for social work to provide and experts of the centers for social work in the procedures of protection against domestic violence to adopt and apply standards for professional work to which the Protector of Citizens indicated. This Ministry, in accordance with the recommendations of the Protector of Citizens and on the basis of the analysis of the data on the number of vacant job positions, submitted the Proposal of the Conclusion to the Ministry of Finance and the Government Commission for providing consent for new employment and additional work engagement at the centers for social work and institutions of social protection, but employment did not take place. The Republic Institute for Social Protection, pursuant to the recommendations of the Protector of Citizens, planned in reporting period to implement trainings with regards to domestic violence but with the focus on the protection of children from domestic violence, abuse and neglect. The Criminal Investigations Directorate of the Ministry of Interior issued the instruction decree passed in 2019 to all police departments and organizational units at the seat of the Ministry with guidelines for actions of police officers in the cases of domestic violence. The health inspection of the Ministry of Health announced the conducting of supervision at all health care institutions included in recommendations.

In the Evaluation report regarding the assessment of measures taken by the authorities of the Republic of Serbia with respect to all the aspects of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, the Expert Group of the Council of Europe on Action against Violence against Women and Domestic Violence (GREVIO) recommended to Serbian authorities to, inter alia, take special care that

¹⁰ Recommendations available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5985-u-vrd-ni-pr-pus-i-u-r-du-n-dl-znih-u-bl-s-i-z-sh-i-zr-v-u-sluc-vi-p-r-dicn-g-i-p-r-n-rs-g-n-silj>.

the recommendations of the Protector of Citizens are implemented and followed up on a regular basis¹¹.

The shortcomings which prevent full exercise of the rights on the basis of pregnancy, child birth and child care are still present, which is indicated by the Protector of Citizens for years.¹² Among these shortcomings especially prominent are the illegality and irregularities toward children and families and especial unfairness and multiple detriment of the provisions which prescribes that the right to the earnings compensation during the absence from work with the aim of special child care cannot be exercised for the child for whom the right to the allowance for the assistance and care of another person. The amendments to the Law on Financial Support to Families with Children¹³ still have not been adopted so that these omissions could be removed.

RIGHTS OF LGBTI PERSONS

The communities of the same gender were not legally regulated even in this reporting period nor the consequences of the adjustment (change) of sex and gender identity, and also other essential measures and activities contained in the Action Plan for the Implementation of the Strategy of Prevention and Protection against Discriminations were not implemented, even though this strategic document ceased to be valid and a new one still has not been adopted.

The high level of intolerance of young people toward persons of different sexual orientation and gender identity is still noticeable, but, despite the opinion of the Protector of Citizens, in the Law on Textbooks the provision which contains explicit prohibition of discrimination on the basis of sexual orientation and gender identity has not been included or the explicit prohibition of the contents which incite the formation of prejudice and stereotypes and the employees at educational institutions are not trained with the aim of sensibilization and corresponding treatment of LGBTI persons. The persons of different sexual orientation and gender identity still face attacks, threats, hate speech and hate crimes, due to rooted stereotypes and prejudice, and the institute of hate crime and measures dedicated to raising of the awareness on their rights are insufficiently applied. In accordance with repeated recommendations of the Protector of Citizens, the amendments to the Criminal Code are necessary so that by them in all criminal acts whose goal is punishment and prevention of racism and intolerance the action of execution of these criminal offences will be incriminated also on the basis of sexual orientation and gender identity as well as the amendment to the Law on Police with the aim of prevention of discrimination and on the basis of sexual orientation. LGBTI persons still face difficult situations after their biological or foster families learn about their sexual orientation and gender identity as well as after leaving the institutions of social protection, but there are still no adequate services of support for young LGBTI persons. The problem related to maintenance of hormonal status of trans-gender persons, is still noticeable, refugees and migrants of different sexual orientation and gender identity are in specific position and there is the need on raising of the awareness on the rights of intersex persons.

¹¹ Available at: <https://rm.coe.int/grevio-report-on-serbia/16809987e3>, Chapter C. Material right A. Civil law 1. Civil legal remedies against state – provision of due attention (Article 29) Item 31 Paragraph 159.

¹² Opinion of the Protector of Citizens no. 183-25/2017 ref. no. 37867 dated 13th October, 2017.

¹³ "Official Gazette of RS", no. 113/17 and 50 /18.

RIGHTS OF PERSONS WITH DISABILITIES

Accessibility, as one of the fundamental preconditions for equal participation of persons with disabilities in all fields of social life is still underdeveloped. Even apart from the existing legal framework, in the Republic of Serbia many public institutions, facilities, surfaces, services and information remain inaccessible to persons with disabilities and difficulties in movement and communication. It occurs rather frequently that exactly the institutions where citizens are to exercise their elementary rights, such as affiliates of the Republic Fund for Pension and Disability Insurance, health care institutions, institutions in the field of social protection and education, police stations, administrative authorities or judiciary authorities are inaccessible or hardly accessible.¹⁴

The process of de-institutionalization is not terminated so a certain number of persons with disabilities is accommodated at residential institutions, which is contrary to the obligation assumed by the Republic of Serbia by confirming the Convention on the Rights of Persons with Disabilities. Although it was supposed to represent the backbone of the entire process of de-institutionalization, the system of services for the support of persons with disabilities and the elderly is still not adequate and sufficiently developed.

Full deprivation of legal capacity is still a legal practice contrary to the provisions of the Convention on the Rights of Persons with Disabilities and Concluding observations of the Committee on the Rights of Persons with Disabilities¹⁵. 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 legal capacity were not amended.

NATIONAL MINORITY RIGHTS

Taking into consideration the important role assumed by the national councils of national minorities in the exercise of the rights of national minorities, the Protector of Citizens established in 2019 the practice of holding quarterly meetings with representatives of all national councils of national minorities which are constituted in the Republic of Serbia. In 2019 the meetings were held in Belgrade, Bosilegrad, Novi Pazar and Subotica. These meetings are an opportunity for the discussion about the position of national minorities, problems national councils face, planned activities of national councils as well as the cooperation with the Protector of Citizens.

During 2019, the Protector of Citizens collected also the data on distinguished members of national minorities who contributed to the affirmation and promotion of the rights of national minorities in wider public and this activity shall be continued in 2020.

In this reporting period as well, the Protector of Citizens paid special attention to the members of Roma national minority. Apart from the regular practice of visits to Roma villages across

¹⁴ See Special Report of the Protector of Citizens „Accessibility for All“, available at: <https://www.ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/5893-p-s-b-n-izv-sh-z-sh-i-ni-gr-d-n-pris-up-cn-s-z-sv>.

¹⁵ Concluding observations of the Committee for rights of persons with disabilities on the Initial Report about Serbia, May 2016, available at: https://ljudskaprava.gov.rs/sites/default/files/dokument_file/zakljucna_zapazanja_komiteta_za_prava_osoba_sa_invaliditetom_srb.pdf.

Serbia and reception of complaints, during last year, the research was conducted on the implementation of the Strategy for Social Inclusion of Roma at 20 local self-government units. Based on this research, the Special Report of the Protector of Citizens on the implementation of the Strategy for Social Inclusion of Roma with recommendations¹⁶ was prepared and published on 11th December, 2019 and after publication it was issued to competent bodies with the purpose of acting upon recommendations.

Should the collected data be related to the findings of the previous Report of the Protector of Citizens on the implementation of the Strategy for Improvement of the Status of Roma, the apparent but insufficient progress to which the measures of public policies contributed with regards to the improvement of the status of the Roma is noticeable.

RIGHTS OF PERSONS DEPRIVED OF LIBERTY

During the reporting period in the Republic of Serbia the tendency of the promotion of the protection of rights of persons deprived of liberty is continued as well as of the application of police authorizations as well as prevention of torture and other forms of abuse, through the alteration of the existing legal framework, by strengthening of professional and human resource capacities, increase of accommodation capacities, etc.

Even though in the Republic of Serbia there is no torture as an organized phenomenon incited by public authorities, there still are individual cases of torture or abuse present. The Protector of Citizens in two control procedures initiated upon complaints of persons deprived of liberty in 2019 confirmed that actions of the controlled administrative authority resulted in the violation of the rights of the complainant who submitted the complaint about the sanctity of physical and mental integrity.

During the reporting year the amendments to the Criminal Code were adopted but there was the failure to adjust the provisions of the Criminal Code to the definition of torture from Article 1 of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment., despite the fact that the Protector of Citizens indicated to this need for several years.

The complaints of persons in custody, just like in previous reporting periods referred to the custody duration, violation of rights to trial in a reasonable deadline and to the violation of the right to righteous trial as well as to the violation of the right to health care while the complaints of the convicted located at 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 liberty the most endangered ones are still the ones deprived of liberty in psychiatric institutions and residential care institutions. The inconvenient position of persons deprived of liberty at psychiatric institutions and residential care institutions, inter alia, is the consequence of the existence of the shortcomings in normative framework which regulates this field. Furthermore, what is noticeable is the lack of personnel for the work with beneficiaries alongside still unsatisfactory accommodation conditions at certain institutions.

¹⁶ Available at: <https://pravamanjina.rs/attachments/article/705/Posebna%20izvestaj.pdf>.

NATIONAL PREVENTIVE MECHANISM (NPM)

During the reporting period the NPM confirmed that the problem of non-existent training for criminalistic inspectors about the techniques of hearing of suspects is still present, that most of police department s and police stations visited by the NPM allocated the premises for hearing of persons but that these are not equipped with technical equipment for audio and/or visual recording of the hearing procedure as well as that in a greater number of police stations the objects taken with regards to the criminal act are kept at the offices of criminalistic inspectors, not at special premises designated for their keeping so that there is the need for the improvement of the actions with regards to taken objects emerging from the criminal act. Furthermore, the NPM confirmed that the Ministry of Interior initiated the activities on the improvement of the conditions for staying of detained persons at the premises for detention and that in a number of police stations the premises were renovated in compliance with standards.

With regards to the rights of persons who have been ordered custody or who are serving the sentence of imprisonment, the Administration for the Enforcement of Penal Sanctions continued with the investments in material conditions of accommodation of persons deprived of liberty and increase of the capacities of the institute for the execution of criminal sanctions, but the lack of personnel in almost all services is still presents, which has a negative impact on the protection and exercise of rights of persons deprived of liberty.

In the visited residential care institutions there are still many beneficiaries accommodated there for a long period of time, the lack of personnel for the work with beneficiaries is apparent and accommodation conditions in individual institutions of social protection are still unsatisfactory. Furthermore, the application of restrictive measures toward beneficiaries is continued, even though the stated is not prescribed by the law and the application of the measure of restraint of beneficiaries is frequently used by the medical staff who did not pass the special training, and in some cases also by non-medical staff.

In the visited psychiatric institutions the need for better recording of the data on the application of the measure of physical constraint by execution of special forms for informed consent of the patient to subsequently introduced medical measure was noticed, as well as for continual specialistic education of medium medical staff and establishment of the institution for stationary treatment of children under the age of 14 who are addicted to psychoactive substances.

During the reporting period the NPM initiated the supervision of the forced return of foreigners and with regards to this established the cooperation with the MoI- Border Police Directorate and especially with the Reception center for foreigners at Padinska Skela. During the performed supervisions it was noticed that police officers who implement the removals respect the integrity and dignity of foreigners and show a high level of professionalism in performance of this activity. However, there are certain shortcomings identified during the preparation of foreigners for removal, which are reflected in untimely information of foreigners on the forthcoming removal, inability of foreigners to inform third persons about it, difficulties in communication of police officers with foreigners due to lack of translators, as well as shortcomings in the provision of health protection at the Reception center for foreigners, since at this institution there is no constantly present medical staff.

JUSTICE AND JUDICIARY

In the complaints to the Protector of Citizens, citizens still indicate to problems with regards to the supervision implemented by the Ministry of Justice over the work of judiciary administration, acting of courts in cases within prescribed deadlines and acting upon complaints and dispositions of citizens. Citizens who use legal remedies stipulated by the Law on Court Organization¹⁷ and Court Rules of Procedure¹⁸ to express dissatisfaction considering that stipulated supervision mechanisms are not effective and efficient, since frequently in the situations when their complaints are evaluated as founded by competent instances, the measures taken do not result in expected effects. The expectations of citizens with regards to the authorizations of the Ministry of Justice in acting upon complaints to the work of judiciary authorities are frequently unfounded and with no legal grounds, since citizens expect the Ministry, by filing complaints to the Ministry, predominantly to the work of courts, to influence the court proceedings and review court decisions.

Citizens also submitted complaints to the Protector of Citizens regarding the work of public enforcement officers, whose work is not in the competence of the Protector of Citizens to control. The most frequent problems indicated by citizens with regards to the work of public enforcement officers referred to the height of the enforcement expenses, especially the Public Enforcement Tariff¹⁹, unjustified increase of expenses, as well as problems with regards to the submission of documents in the process of enforcement. Furthermore, complaints referred to the work of the Ministry of Justice and work of the Chamber of Public Enforcement Officers, with regards to acting upon complaints to the work of public enforcement officers and supervision of their work. Taking into consideration the importance of the mentioned problems, the Protector of Citizens issued the Opinion to the Ministry of Justice and the Chamber of Public Enforcement Officers²⁰. The Protector of Citizens is of belief, on the basis of complaints to the work of the Ministry of Justice with regards to the supervision of the work of public enforcement officers, that the functionality in the supervision of the Ministry is not provided as well as that the consistent application of regulations which regulate this field is missing so in certain number of cases the Ministry does not inform complainants about the outcome of acting upon complaint, but only issues the statements obtained from public enforcement officers.

When it comes to the supervision of the work of public enforcement officers, through complaints of citizens the Protector of Citizens confirmed that citizens are not entirely familiar with the authorization of supervision authorities so it is frequently expected from the Ministry/ Chamber to pass through control procedures decisions referring to the very process of enforcement, i.e. to abolish or amend the decision of the public enforcement officer.

FINANCES

An important segment which marked the field of finances in the reporting period is the tendency to promote the normative framework and remove shortcomings which influenced to a great extent the exercise and protection of citizen rights by adopting a set of tax legislations and reorganization of Tax Administration with the aim of more efficient and

¹⁷ "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.

¹⁸ "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 93/2019.

¹⁹ "Official Gazette of RS", no. 59/2016.

²⁰ Opinion available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6342-z-sh-i-ni-gr-d-n-upu-i-ishlj-nj-inis-rs-vu-pr-vd-i-ri-vnih-izvrshi-lj>.

effective operation, in the public interest and interest of taxpayers. The effects of the stated changes shall be closely followed by the Protector of Citizens in the following period, too.

The comprehensive social and economic circumstances – are reflected on the economic power of taxpayers, citizens and economy and simultaneously on the activities of bodies in the field of finances, through the settlement of fiscal obligations. The accumulation of tax obligations is not the interest of taxpayers or the state, so timely information on the condition of tax debt and regular payment of this should be the priority in the operation of the bodies in the field of finances.

Apart from obvious progress in this field, the Protector of Citizens believes that the rights of employees on the basis of work – the right to earnings which refers to the settlement of contributions for mandatory social insurance are inviolable and that it is the obligation of the state to express zero tolerance towards the violation of such rights.

ECONOMIC AND PROPERTY RIGHTS

The exercise and protection of economic and property rights were the most frequent reasons of the contacting of the Protector of Citizens during 2019. The long duration of the procedure of the legalization of illegally constructed facilities, outdated and untimely actions of cadaster services as well as the lack of the termination of the restitution procedure of the confiscated property within reasonable deadlines remain the most frequent problems in this field.

The Protector of Citizens welcomes the initiated processes in the creation of normative conditions for the regulation of fields of economic and property rights, with the readiness, through indication to noticed shortcomings in the realization as well as the improvement of legislative framework, to contribute to protection and further promotion of these rights, especially aware of the fact that the inability of the exercise of these rights still has negative impact on other problems in the society.

ENVIRONMENTAL PROTECTION

Within this reporting period the public was reasonably disturbed by frequent occurrences of excessive air pollution at a great number of local self-governments in the Republic of Serbia. Therefore, special attention was paid to air protection at cities where there are great polluters for decades and traditionally high level of pollution, such as Smederevo, Bor and Kolubara. Key problems of such condition, which was also indicated in the recommendations and opinions of the Protector of Citizens is the fact that the Ministry of Environmental Protection and local self-government units do not implement adequate inspection supervision, do not apply measures of prohibitions toward polluters, and also that local self-governments do not pass adequate local measures which would contribute to the solution to systemic problems.

The construction and planning of the construction of small hydroelectric power plants primarily in protected areas, such as special reservations and natural parks, which were in 2019 the subject of dissatisfaction and protest of citizens. With the aim of prevention of further negative consequences and protection and keeping of natural diversity, the Protector of Citizens issued to the Ministry of Environmental Protection opinion and recommendations on the need to review the construction of small hydroelectric power plants at protected areas, orders to take over compensation measures as well as passing of the missing by-law which would regulate minimum sustainable flow of watercourses where the construction is planned.

SOCIAL PROTECTION, PENSION AND DISABILITY INSURANCE

During 2019 citizens mostly contacted the Protector of Citizens because of the abuse at workplace, failure to pay or irregular payment of earnings and failure to pay contributions for social insurance and injury at workplace. Citizens indicated also to untimely actions of the labor inspection, whose efficiency and quality of operation is certainly influenced by the number of labor inspectors which is insufficient for efficient and quality performance of activities.

In this reporting period, too, citizens continued to complain about untimely actions of the Republic Pension and Disability Insurance Fund, inability to exercise rights to pension at full scale due to lack of the data about years of service, earnings and compensations of earnings for certain periods, absence of cooperation of the PDI Fund and Tax Administration when it comes to obtaining of the evidence on the facts on which the volume of the exercise of the right to pension depends.

In the field of social protection, the main problem continues to be the lack of employees at centers for social work in comparison to the needs of citizens, which reflects on the quality of provided services and aggravates the work of employees.

THE ELDERLY

The inexistence of services of support is still present, especially the service of assistance at home which are frequently necessary for this population, taking into account that frequently the elderly live alone and do not have relatives who would take care about them. These problems are especially prominent in rural areas where elderly women who live in the household alone. The elderly women who live in families most often depend on other family members in the realization of their needs, taking into account that they most often do not have property rights to movable or immovable property, income, and their access to services in the community is not adequately provided in villages without established traffic and public transportation infrastructure.

Violence and neglect against the elderly is still “unnoticed” by the 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.

KOSOVO AND METOHIJA

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

FREEDOM OF EXPRESSION

In the field of the freedom of speech and expression, there was no progress recorded in Serbia in the previous year. In this sphere of social life, especially in the field of the freedom of media, we witnessed many violations of rights and endangerments of media freedom. The position and status of journalists and media workers is compromised not only by their poor material

status, but also by pressures, offensive and degrading treatment, direct threats and physical assaults by the participants of the public space.

Such assessment of the condition in the sphere of media in Serbia was also confirmed by international reports. The European Commission in its six-month report²¹, published in November 2019, stated that Serbia needed to improve the freedom of expression, because the cases of threats, intimidation and violence against journalists as well as political and economic impacts on the media were concerning.

In the previous year, journalist associations presented different data on the number of attacks on journalists. The Independent Journalists' Association of Serbia (NUNS) in its database²² recorded 119 attacks on journalists among which predominant are pressures, even 80 of them. The Journalists' Association of Serbia (UNS) in the database²³ for 2019 recorded 90 cases in which journalists and media workers complained to the association about attacks, pressures and threats or these incidents were published in the media. This association estimated also that the number of attacks and pressures on journalists in 2019 increased in comparison to two years before.

Simultaneously, the Press Council issued a statement²⁴ that in the second half of the last year eight printed dailies violated the journalist code in 5,057 cases, which resulted in the trend of increase of the number of violations of the code continuing in 2019. The Council states that most frequently the violations of the code refer to the violation of innocence assumption, direct or indirect revelation of victim identity and publishing of the assumptions without evidence support.

The Protector of Citizens during previous year on a few occasions warned about more frequent and brutal attacks on the media, starting with attacks and threats on social networks, via prevention of journalist teams to attend events and direct attacks on journalists and editorials, to one-day physical blockade of TV station. In public statements, the Protector of Citizens reminded about poor work conditions of media workers, work under inconvenient contracts and lack of developed mechanisms of protection of the safety of journalists, which does not contribute to strengthening of media freedoms and establishment of responsible and independent media.

Human rights in the media

In 2019 also the trend of reporting about tragic events in lives of our citizens in which there was multiple violation of their rights continued and among them dominant are articles about children. Media content in which cases of sexual abuse of children, lives of children who grew up in poverty, violence within family or school are reported contain published data which disclose the identity of children and destroy their dignity and dignity of their families.

Furthermore, the Protector of Citizens for years has been warning in his reports about children being exposed to detrimental content which include both pornographic and violence scenes

²¹ „Non paper“ on current condition in Chapters 23 and 24 for Serbia, November 2019 available at: http://www.mei.gov.rs/upload/documents/eu_dokumenta/non_paper_23_24/non_paper_pg_23_24_19_sr.pdf.

²² Available at: <http://www.bazenuns.rs/srpski/napadi-na-novinare>.

²³ Available at: <http://www.uns.org.rs/desk/UNS-news/93323/uns-prosle-godine-90-napada-na-novinare-i-medijske-radnike.html>.

²⁴ Available at: <http://www.savetzastampu.rs/cirilica/monitoring-postovanja-kodeksa-novinara-srbije/132/2020/02/19/2265/-rezultati-monitoringa-postovanja-kodeksa-novinara-u-dnevnim-novinama-od-jula-do-decembra-2019.html>.

in certain media and times of day contrary to prescribed. Moreover, on several occasions he also warned about these contents having extremely harmful impact on physical, moral and mental development of minors.

The measures so far and imposed punishments did not have results; therefore, the Protector of Citizens will dedicate special attention in the following period to the media content in which rights of citizens, especially of the most sensitive ones, children, are violated.

OFFICIAL USE OF THE SERBIAN LANGUAGE AND CYRILLIC SCRIPT

The Protector of Citizens received also in 2019 a significant number of complaints which indicate to the fact that public administrative authorities do not act in accordance with the Constitution and law and that in official acts except the Serbian language and Cyrillic script they use Latin script, contrary to the law. As in previous years, citizens contacted the Protector of Citizens expressing dissatisfaction with the use of Latin script by business banks, which is not within the competence of this body.

FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

As in previous years, the Protector of Citizens received a small number of complaints and citizen contacts due to the violation of religious freedoms and rights, but there were no groups for acting upon them.

INTERNALLY DISPLACED PERSONS FROM THE TERRITORY OF YUGOSLAVIA

In the reporting period the Protector of Citizens received a small number of complaints of refugees from the territory of former Yugoslavia and internally displaced persons from AP Kosovo and Metohija, which indicates to the fact that a certain number of these persons still resides in inadequate facilities. As in previous years, even though a progress was made, it is necessary to implement more efficiently programs for housing of refugees, especially programs for their economic empowerment.

Moreover, based on the data collected by field work, the Protector of Citizens confirmed that internally displaced Roma people from AP Kosovo and Metohija are in especially difficult position, since in certain situations they cannot even exercise the right to financial social assistance if they have the accommodation in the collective center provided.

MIGRANTS

In this reporting period as well, the Protector of Citizens continued with tracking of the position of migrants in the Republic of Serbia. According to official data, in 17 reception centers and centers for asylum there were 5,199 migrants accommodated, although a small number of them were the actual asylum seekers.

The Protector of Citizens in his activities of tracking of the position of migrants paid special attention to unaccompanied minors, especially minors who travel alone or without adult family members, pregnant women and nursing mothers, elderly female migrants as well as female migrants with disabilities.

3. BASIC STATISTICAL REVIEW

3.1. TOTAL NUMBER AND CLASSIFICATION OF COMPLAINTS

In 2019 the Protector of Citizens was contacted by 10,862 citizens, of whom discussions were held with 3,532 citizens, telephone conversation was held with 4,054 citizens and the number of received cases amounted to 3,276, of which were 3,189 complaints and 87 cases initiated upon own initiative. The Protector of Citizens completed the work on 2,227 cases. Simultaneously, 1,948 cases from previous years were also worked on, of which 1,474 were completed, which means that in 2019 in total 3,701 cases were closed.

Table 1 – Information on contact with citizens in 2019

Type of appeal	number	Percentage
Number of complaints	3,276	30.16%
Number of telephone conversations with citizens	4,054	37.32%
Number of citizens received in person	3,532	32.52%
Total number of contacts with citizens	10,862	100%

Table 2 – Information on the investigated cases ²⁵ in 2019

Number of received cases	3,276
Number of completed cases	2,227
Number of cases in progress	1,049

Table 3 – Number of cases ²⁶ from previous years investigated in 2019

Number of investigated cases from previous years	1,948
Number of completed cases from previous years	1,474
Number of cases in progress from previous years	474

Table 4 – Number of cases ²⁷ received in 2019 classified by areas of operation with the percentage in comparison to the total number of cases in 2019

	Area of operation of the Protector of Citizens	number	Percentage
	Area of Economic and Property Rights	1,178	35.96%
	Area of Civil and Political Rights	899	27.44%
	Area of Social and Cultural Rights	502	15.32%
	Child Rights	223	6.81%
	Rights of Persons Deprived of Liberty	184	5.62%
	Rights of Persons with Disabilities and the Elderly	125	3.82%

²⁵ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

²⁶ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

²⁷ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

Gender Equality and rights of LGBTI persons	86	2.63%
National Minority Rights	71	2.17%
Other	8	0.24%
TOTAL	3,276	100%

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

Table 5 – Number of cases²⁸ received in 2019 classified according to areas of work with the percentage in comparison to the total number of cases in 2019

Area of Work of the Protector of Citizens	number	Percentage
Local self-government	298	9.10%
Real estate cadaster	291	8.88%
Justice and judiciary	249	7.60%
Child rights	223	6.81%
Pension and disability insurance	191	5.83%
Finances	190	5.80%
Rights of persons deprived of liberty	184	5.62%
Consumer protection	172	5.25%
Construction and infrastructure	131	4.00%
Labor and labor relations	131	4.00%
Rights of persons with disabilities and the elderly	125	3.82%
Health	121	3.69%
MoI –Administrative affairs	99	3.02%
MoI –Police affairs	95	2.90%
Education and science	83	2.53%
Energy and mining	79	2.41%
Gender equality	76	2.32%
National minority rights	71	2.17%
Social protection	70	2.14%
New professions in judiciary	58	1.77%
Defense	46	1.40%
Economy	44	1.34%
Environmental protection	40	1.22%
Transportation and transportation infrastructure	36	1.10%
Public administration	35	1.07%
Restitution	21	0.64%
Agriculture	21	0.64%
Culture	17	0.52%
Refugees and displaced persons	16	0.49%
MoI – Labor relations	16	0.49%
Rights of LGBTI persons	10	0.30%

²⁸ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

Foreign affairs and diaspora	9	0.27%
Serbian language and Cyrillic	6	0.18%
Expropriation	5	0.15%
Natural disasters	5	0.15%
Security services	4	0.12%
Youth and sport	4	0.12%
Independent state authorities and bodies	4	0.12%
TOTAL	3,276	100%

Table 6 – The outcome of the cases²⁹ from 2019

Outcome	number	%
Inadmissible complaints	1,333	59.86%
Unfounded complaints	467	20.97%
Cases contained in the recommendations from the expedited oversight procedure	238	10.69%
Informed and advised complainant	136	6.11%
Withdrawal of the complaint due to the standoff of the complainant	30	1.75%
Cases contained in the recommendations from the oversight procedure	13	0.58%
Opinion	8	0.36%
Suspension due to the death of the complainant	1	0.04%
Statement of the Protector of Citizens	1	0.04%
Total	2,227	100%

The greatest number of received complaints is rejected by the Protector of Citizens because the legally prescribed conditions for acting upon them are not fulfilled. The complaints are rejected 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 rejected because of incompetence or prematurity. Such advisory assistance is provided to citizens in **81.47 percent** of rejected cases (1,333). In such cases the Protector of Citizens refers the complainant to the competent body or advises them on available legal remedies.

Table 7 – Review of inadmissible complaints in 2019

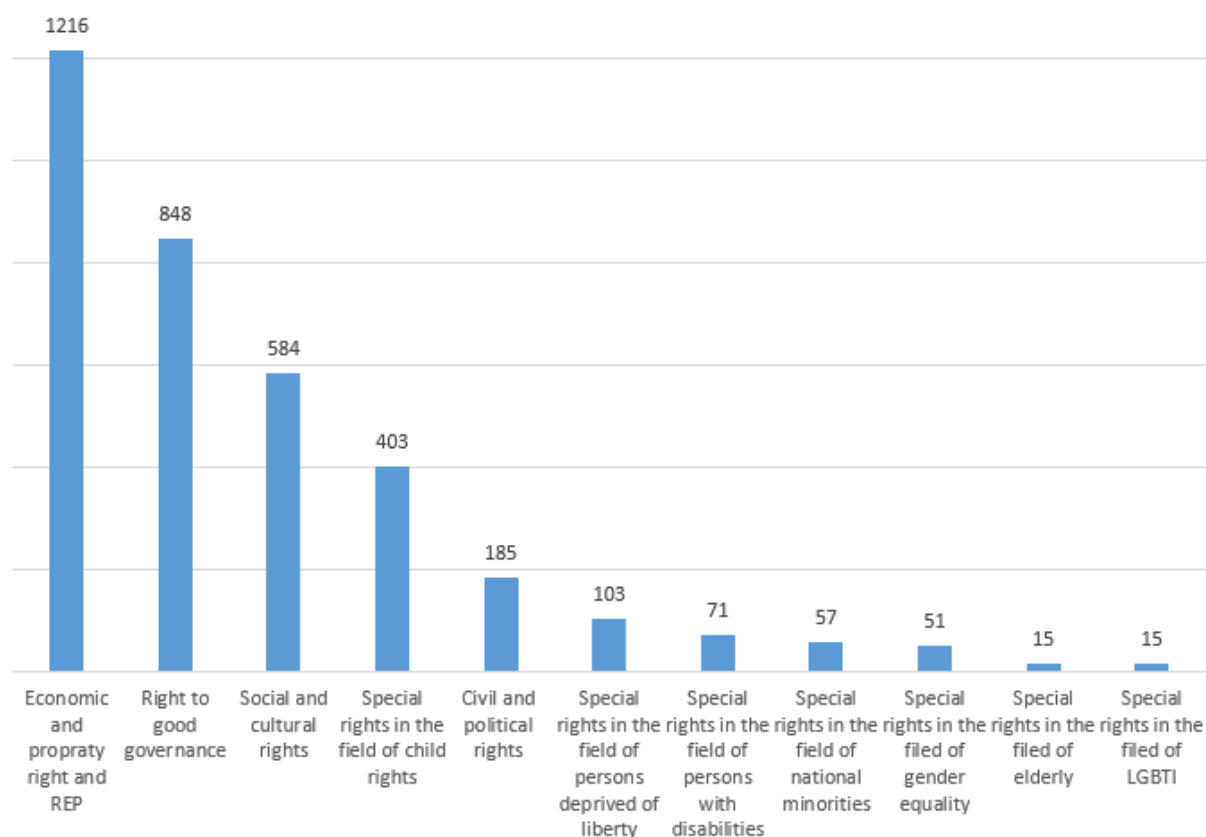
Inadmissible complaints	Number
Incompetence	627
Unused legal remedies	459
Irregular complaint	164
Untimeliness	32
Unauthorized applicant	31
Anonymous complaint	20
Total	1,333

²⁹ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

CLASSIFICATION OF COMPLAINTS ACCORDING TO RIGHTS VIOLATED

In totally 3,276 cases during 2019 it was indicated to in total 3,753 violations of rights, of which the greatest number are violations of economic-property rights, violations of the principle of good administration and social-cultural rights. The principles of good administration are violated at all administrative authorities before which citizens, among them the ones belonging to sensitive groups, exercise their rights.

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



CLASSIFICATION OF COMPLAINTS ON WHOSE WORK CITIZENS COMPLAIN

Table 8 - Complaints to various authorities and organizations on whose work citizens complain

Types of authorities and organizations	%
Agencies, institutes, funds, administrative authorities	20.52%
Ministries	20.46%
Institutions and other public services	15.98%
Local self-government	13.03%
Other authorities and other	12.53%
Judicial bodies	10.20%
Public enterprise	5.29%
The highest republic authorities (the Government, the National	0.93%
Autonomous republic authorities and independent bodies	0.78%
Autonomous provinces	0.25%

National councils of national minorities	0.03%
Total all authorities	100%

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

RECOMMENDATIONS

During 2019, the Protector of Citizens issued in total **736** recommendations to administrative authorities, **239** of which were in the oversight procedure and 497 in the expedited oversight procedure.

Table 9 - Information on the actions of administrative bodies upon recommendations in 2019

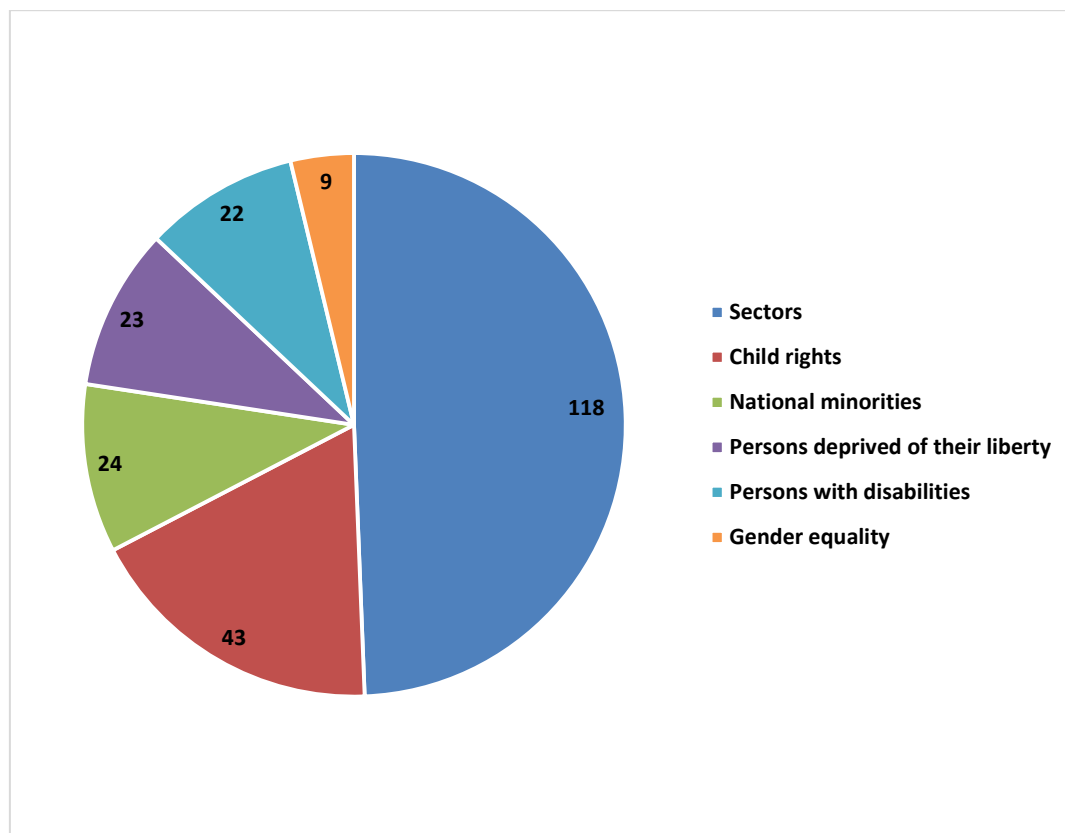
	issued	due	accepted	% of accepted due recommendations
Recommendations issued in the oversight procedure	239	98	81	82,65%
Recommendations issued in the expedited oversight procedure	497	497	497	100%
Total accepted recommendations in oversight procedures	736	595	578	97,14%
Recommendations issued in preventive capacity (National Preventive Mechanism)	198	70	57	81,43%
Total	934	665	635	95,48%

Note: Issued recommendations are all recommendations sent to the authorities during 2019. Due recommendations are all those recommendations whose deadline for the action given in the text of the recommendation expired in 2019, irrespective of when the recommendation was issued. The accepted recommendations are all those recommendations implemented by administrative authorities or they notified the Protector of Citizens that they accepted them.

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

Among the total number of issued recommendations the majority – **118**, almost **50 percent** refers to the administration department.

Chart 2 – Overview of recommendations by areas of law to which they refer in 2019



In the field of rights of persons deprived of their liberty, by performing the activities of the National Preventive Mechanism, the Protector of Citizens issued to competent authorities during 2019 in total 198 recommendations so the total number of recommendations was **934** and the total number of recommendations in the field of persons deprived of liberty is 221.

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

Table 10 – Overview of issued recommendations from oversight procedure by departments

Area	Total number of	Due	Within the deadline
Gender equality	9	0	9
Child rights	43	43	0
Rights of persons with disabilities and the elderly	22	4	18
Rights of persons deprived of liberty	23	9	14
Rights of national minorities	24	0	24
Administrative sectors	118	42	76
Total	239	98	141

Table 11 – Outcome of actions upon due recommendations from the oversight procedure

Area	Total due	Accepted	Percentage of accepted	Unaccepted	Percentage of unaccepted
Gender equality	0	0	0	0	0
Child rights	43	43	100%	0	0
Rights of persons with disabilities and the elderly	4	0	0	4	0
Rights of persons deprived of liberty	9	9	100%	0	0
Rights of national minorities	0	0	0	0	0
Administrative sectors	42	29	69.05%	13	30.95%
Total	98	81	82.65%	17	17.35%

The authorities issued within deadline in **81** recommendations (**82,65%**). The number of inadmissible recommendations is **17** whereas for **141** recommendations the deadline for the authorities to act upon them still has not expired.

OPINIONS

In 2019 the Protector of Citizens issued to public authorities 44 opinions as follows:

Twenty-nine (29) opinions, using the legal provision that by issuing advice and opinion on the issues from his competence he acts in a preventive manner with the aim of the improvement of the operation of administrative authority and promotion of the protection of human freedoms and rights:

- The opinion issued to the Ministry of Culture and Information with regards to the amendments to the Law on Public Information and Media with the aim of the protection of the child rights in the media and media reprotings;
- The opinion issued to the Ministry of Justice with regards to the manner of organization of the bar exam;
- The opinion with recommendations issued to the Center for social work in Bela Palanka with the aim of providing accessibility to persons with disabilities;
- The opinion with recommendations issued to the Center for social work in Vladičin han with the aim of providing accessibility to persons with disabilities;
- The opinion with recommendations issued to the Center for social work in Dimitrovgrad with the aim of providing accessibility to persons with disabilities;
- The opinion with recommendations issued to the Center for social work in Zrenjanin with the aim of providing accessibility to persons with disabilities;
- The opinion with recommendations issued to the Center for social work in Jagodina with the aim of providing accessibility to persons with disabilities;

- The opinion with recommendations issued to the Center for social work in Lebane with the aim of providing accessibility to persons with disabilities;
- The opinion with recommendations issued to the Center for social work in Leskovac with the aim of providing accessibility to persons with disabilities;
- The opinion with recommendations issued to the Center for social work in Kanjiža with the aim of providing accessibility to persons with disabilities;
- The opinion with recommendations issued to the Center for social work in Pirot with the aim of providing accessibility to persons with disabilities;
- The opinion with recommendations issued to the Center for social work in Svilajnac with the aim of providing accessibility to persons with disabilities;
- The opinion with recommendations issued to the Center for social work in Sombor with the aim of providing accessibility to persons with disabilities;
- The opinion with recommendations issued to the Center for social work in Subotica with the aim of providing accessibility to persons with disabilities;
- The opinion with recommendations issued to the Center for social work in Trstenik with the aim of providing accessibility to persons with disabilities;
- The opinion with recommendations issued to the Ministry of Environmental Protection, the Ministry of Agriculture, Forestry and Water Management and the Ministry of Mining and Energy with regards to the construction of small hydroelectric power plants;
- The opinion issued to the Ministry of Construction, Transport and Infrastructure, Secretariat for Transportation of the City of Belgrade and PC Roads of Serbia with regards to the improvement and provision of the higher level of security of participants in traffic at the location of LC Siva stena;
- The opinion issued to the Ministry of Construction, Transport and Infrastructure for the removal of understatement in legislative solutions for the realization of the supervision function of construction inspectors in full capacity;
- The opinion with recommendations issued to the Ministry of Environmental Protection with regards to the inspection supervision of sanitary landfills;
- The opinion issued to the Commissariat for Refugees and Migration, Ministry of Interior, Ministry of Labor, Employment, Veteran and Social Affairs and Ministry of Finance with regards to the promotion of the protection against violence at the Krnjača Center for Asylum;
- The opinion with recommendations issued to the Ministry of Education, Science and Technological Development with regards to the organization of the final exam;
- The opinion issued to the Ministry of Labor, Employment, Veteran and Social Affairs and Ministry of Agriculture, Forestry and Water Management on the potentials of overcoming problems of insured agricultural producers and beneficiaries of pensions on the basis of agricultural insurance;
- The opinion with recommendations issued to the Ministry of Construction, Transportation and Infrastructure with regards to final dislocation of the reloading equipment from the Old Port location;
- The opinion with recommendations issued to the Commissariat for Refugees and Migration with regards to the promotion of the position of refugees and migrants;

- The opinion with recommendations issued to Inspectorate for Labor with regards to the promotion of the protection of rights of persons with disabilities in the field of labor relations;
- The opinion issued to the Ministry of Justice and Chamber of Public Enforcement Officers with regards to the compensation for labor and compensation of expenses of public enforcement officers, by the system of delivery in the enforcement procedure as well as mechanisms of control of the operation and responsibility of public enforcement officers;
- The opinion issued to the Ministry of Environmental Protection and Ministry of Mining and Energy and the City of Bor with regards of the living conditions of the citizens who live in the exploitation zone of mines Veliki Krivelj, Bor and Cerovo;
- The opinion issued to the Ministry of Environmental Protection, Ministry of Mining and Energy and Public Enterprise Electric Power Industry of Serbia with regards of the relocation of all remaining inhabitants of Veliki Crljeni, Zeoci and Medoševci who live near Mining basin "Kolubara";
- The opinion issued to the Ministry of Finance with regards to amendments to the Property Taxes Law.

Thirteen (13) opinions, on the basis of the legal provision to issue opinion to the Government and National Assembly in the process of the preparation of regulations to bills and other regulations, if they regulate the issues of importance for the protection of citizen rights:

- Opinion to the Proposal of the Rulebook on Police Authorizations;
- Opinion to the Proposal of the Rulebook on Closer Conditions on the Manners of Recognition of the Forms of Assault, Abuse, Discrimination and Violence against Children in Sport;
- Opinion to the Draft of the Law on Dual Model of Studies in Higher Education;
- Opinion to the Draft of the Law on Amendments to the Law on Travel Documents;
- Opinion to the Draft of the Law on Student Organizations;
- Opinion to the Draft of the Law on Child Rights and Protector of Child Rights;
- Opinion to the Proposal of the Rulebook on the Manner and Conditions of the Application of Police Authorizations to Juveniles;
- Opinion to the Draft of the Law on Social Card;
- Opinion to the Draft of the Law on Health Protection and Health Insurance of Military Insurance Beneficiaries;
- Opinion to the Draft of the Law on Amendments to the Law on Waste Management;
- Opinion to the Draft of the Law on Rights of Veterans, Disabled Veterans and Disabled War Civilians and Members of their Families;
- Opinion to the Proposal of the Strategy for the Development of the Public Information System in the Republic of Serbia in the period from 2020 to 2025;
- Opinion to the Draft of the Law on Consumer Protection.

During 2019 the Protector of Citizens by performing the function of the National Preventive Mechanism issued two opinions (2) pursuant to Article 19 Paragraph 1 Item C of the Optional

Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrating Treatment and Punishments:

- Opinion to the Draft of the Law on the Protection of Rights of Persons with Mental Obstructions, Beneficiaries of the Services of Accommodation in Social Protection;
- Opinion to the Proposal of the Rulebook on Police Authorizations.

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 12 – Types of issued legislative initiatives of the Protector of Citizens in 2019

Type of legislative initiative	Number	Percentage
Referral of amendment to the competent committee of the National Assembly as the proposer (<i>Article 157, Paragraph 6 of the Rules of</i>	0	0
Submission of amendments to bills to the National Assembly (<i>Article 161 and 162 for the Rules of Procedure of the National Assembly</i>)	2	13.33%
Proposing of the laws to the National Assembly (<i>Article 150 Paragraph 2 of the Rules of Procedure of the National Assembly</i>)	0	0
Initiatives for passing or amending laws and other regulations submitted to the Government, the National Assembly or line ministries	13	86.67%
Motion to the Constitutional Court to assess constitutionality and lawfulness	0	0
Total	15	100%

Table 13 - Outcome of actions upon the legislative initiatives in 2019

	number	percentage
Accepted legislative initiatives	3	20%
Unaccepted legislative initiatives	6	40%
Pending initiatives	6	40%
Total	15	100%

4. EXERCISE OF THE RIGHTS OF PARTICULARLY VULNERABLE GROUPS

4.1. CHILD RIGHTS

STATISTICS

In the field of child rights, in 2019 the Protector of Citizens handled 223 cases³⁰, of which there were 188 citizen complaints and 35 cases initiated upon own initiative. The cases from this field make 6.81 percent of the total number of handled cases. The Protector of Citizens issued 43 recommendations to administrative authorities, of which all 43 were due to execution in the reporting period³¹. Administrative authorities acted upon all 43 recommendations, which is 100 percent of actions upon due recommendations.

Of 223 handled cases in 2019, the Protector of Citizens completed the work on 137 cases.

Table 14 –Child rights: the overview of cases handled in 2019

Number of received cases in 2019	223
Number of closed cases in 2019	137
Number of ongoing cases in 2019	86

Table 15 - Overview of issued recommendations from the field of child rights in 2019

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations
43	43	43

In 2019 *the work was completed also on 95 cases from previous years*. The manners of closing of cases from 2019 are presented in the following table.

Table 16 – The outcome of acting upon closed cases in 2019

	number	percentage
Unfounded complaints	52	37.96%
Inadmissible complaints –Unused legal remedies	30	21.90%
Informed and advised complainant	15	10.95%
Inadmissible complaints –Incompetence	13	9.49%
Cases closed by recommendations from the expedited oversight procedure	12	8.76%
Inadmissible complaints –Unauthorized applicant	7	5.11%
Inadmissible complaints –Formally deficient complaint	3	2.19%
Withdrawal of the complainant	3	2.19%
Cases closed by recommendations from oversight procedure	1	0.73%

³⁰ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

³¹ The Protector of Citizens observes received recommendations as recommendations with expired deadline for actions during 2019 given in the text of recommendations.

Inadmissible complaints – Anonymous complaint	1	0.73%
Total	137	100%

The greatest number of received complaints is rejected by the Protector of Citizens because the legally prescribed conditions for acting upon them are not fulfilled. The complaints are rejected 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 rejected because of incompetence or prematurity. Such advisory assistance is provided to citizens in **79.63 percent** of rejected cases in this field. In such cases the Protector of Citizens refers the complainant to the competent body or advises them on available legal remedies.

In the field of child rights in 223 cases it was indicated to 485 violations of rights, whose greatest part refers to special rights in the field of child rights, whose percentages are presented in Table 17.

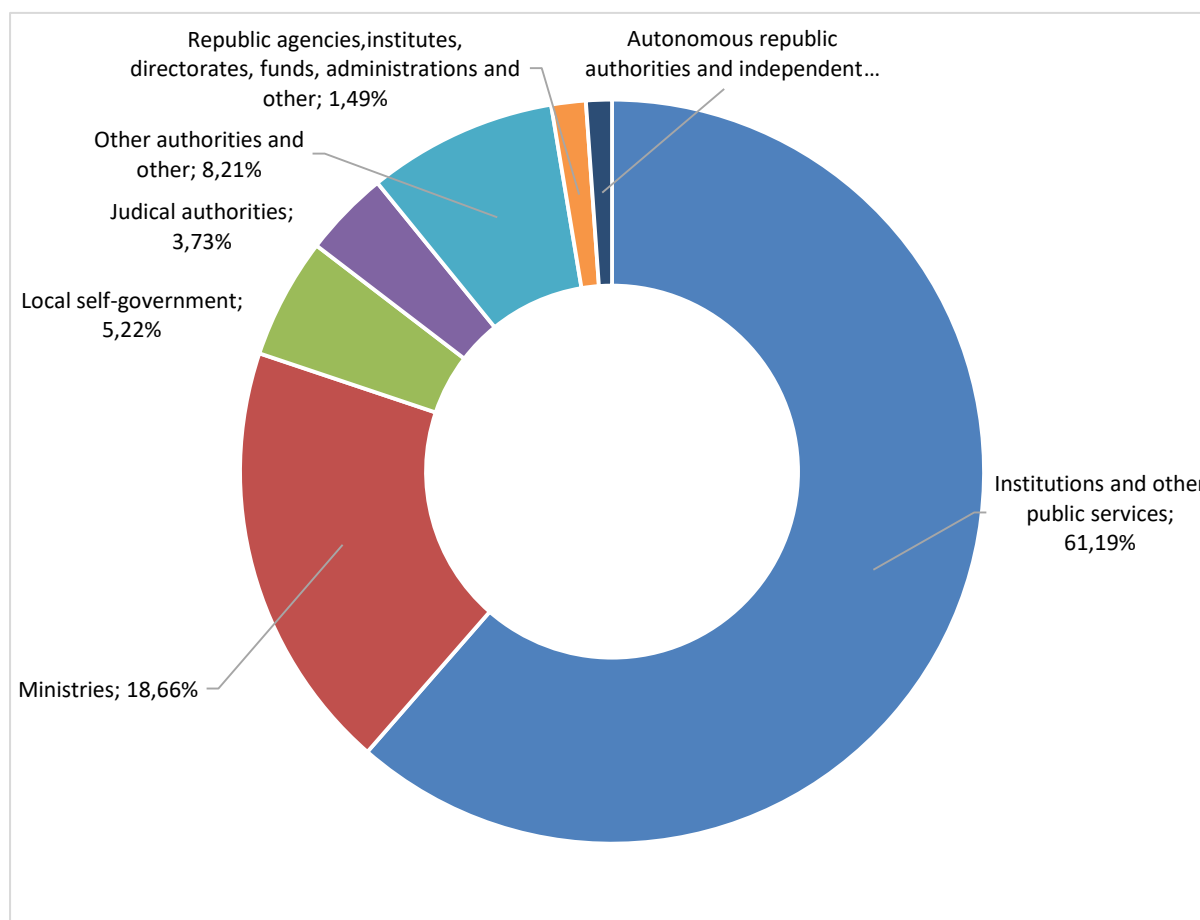
Table 17 – Special rights and their percentage

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

Type of violated right	percentage
Right to respect of the best interests of a child	45.41%
Right to protection against violence, abuse and negligence	13.90%
Child's right to maintain personal relations with the parent with whom (s)he does not live	7.94%
Right to proper development of a child	6.70%
Parenting assistance to parents	4.96%
Rights of a child with developmental disorders to quality life and special protection	3.72%
Child's right to an adequate standard of living	2.48%
Right to check the arrangements for the care of a child under government	2.48%
Assistance to family in the exercise of the child right to an adequate standard of living	2.23%
Child right to live with parents	1.74%
Child right to a healthy environment	1.24%
Child right to protection against exploitation	0.99%
Child right to personal identity	0.99%
Child right to maintain personal relation with biological family and close persons	0.74%
Special protection of motherhood	0.74%
Child right to protection against sexual exploitation	0.50%
Child right to expression of own opinion	0.50%
Child right to joining of the family	0.50%
Right to protection from parental child abduction	0.50%
Prohibition of child discrimination because of parents	0.25%
Child right in conflict with the law	0.25%

Child right to psychological recovery	0.25%
Child right to the protection against the participation at war	0.25%
Rights of a refugee child	0.25%
Child right to leisure and recreational activities	0.25%
Child right to preserving of the personal identity	0.25%
Total	100%

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



ACTIVITIES OF THE PROTECTOR OF CITIZENS

The limitation to the employment in the public sector which was introduced in 2014 endangered and aggravated the exercise of the child right and greatly eroded the sensitive systems where the protection to the most sensitive groups of population is provided. Therefore, the number of employees at centers for social work has reduced since 2014 by almost a fifth while the number of beneficiaries in the same period increased by 11 percent. What is especially concerning is that the number of reported cases of domestic violence at centers for social work has increased by 161 percent in comparison to 2014³². The prohibition

³² Available at:

<http://www.zavodsz.gov.rs/%D0%B1%D0%B8%D0%B1%D0%BB%D0%B8%D0%BE%D1%82%D0%B5%D0%BA%D0%B0/%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98%D0%B8%D0%B8%D0%B7>

to employment at public sector also influenced the educational system so the number of professional associates at educational institutions is not even remotely sufficient for providing of services of additional support to children and students. Thus, the service of personal attendant is not available to all the children who need it – many local self-government units failed to establish the service of personal attendant and at the city of Belgrade there is still a “waiting list”. The Protector of Citizens issued recommendations³³ to the Ministry of Labor, Employment, Veteran and Social Affairs with the aim of providing the number of professional employees proportional to the needs of citizens, especially in the field of protection against violence. The Ministry of Labor, Employment, Veteran and Social Affairs, acting upon recommendations of the Protector of Citizens filed the request for additional employment but it was not adopted. Even beside the assurance that as of January 2020 the situation would change, the rigid and linear limitation to employment³⁴ without implemented assessment of the influence to children, which endangered and aggravated the exercise and protection of child rights.

As in previous years, a significant number of complaints in the field of child rights still indicate to the violation of child rights, maintaining of personal relations with parents with whom the child does not live, as well as failure to execute court decisions on entrusting a child and decision on the manner of regulation of personal relations of a child and parent. In October 2019 the European Court of Human Rights passed the verdict in which the Republic of Serbia is declared responsible³⁵ because of the inability of the complainant to be reunited with children and exercise parent right and because of the violation of the right to family life. Passing of this verdict confirms the fact to which the Protector of Citizens has been indicating in annual reports that it is necessary to establish and provide an efficient system of passing and executing of court decisions which refer to family-legal position of children, especially in situations of parent conflict and domestic violence.

Corporal punishment of children is not introduced into the legal system of the Republic of Serbia and services of support to parents for the purpose of their information and education on alternatives and far more efficient educational methods despite clear attitude of the profession on detriment of this educational method are not developed.

Children in families where domestic violence occurs are not recognized as victims of domestic violence and therefore adequate protective measures towards them are neither planned nor applied, and children victims are exposed to secondary traumatization. According to allegations from complaints and information which are known to the Protector of Citizens, after reported sexual harassment of a child, children go through multiple interrogations and they are not provided with protection from the encounter with the suspected/convicted and protective measures are not used (one-time interrogation with the use of audio/video technique, interrogation at special premises, etc.). these pieces of information indicate to the possibility that children are exposed to multiple re-traumatization despite the existence of

%D1%81%D0%B8%D1%81%D1%82%D0%B5%D0%BC%D0%B0/%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98%D0%B8%D0%B8%D0%B7%D1%81%D0%B8%D1%81%D1%82%D0%B5%D0%BC%D0%B0-2018/.

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

³⁴ Article 4 Paragraph 2 of the Law on Amendments to the Law on Budget System „Official Gazette of RS“, no. 72/19.

³⁵ Available at: <http://www.zastupnik.gov.rs/cr/articles/presude/u-odnosu-na-rs/prikaz-presude-u-predmetu-milovanovic-protiv-srbije-broj-56065-10.html>

legal provisions³⁶ which provide that the child victim of a criminal offence against sexual freedom be interrogated in the manner which prevents secondary traumatization and protects the well-being of a child who suffered the trauma.

Sensationalistic reporting about violence against children, apart from violating the right of the child to the protection of identity, privacy and personal data protection, additionally victimizes the child. The Protector of Citizens issued to the Ministry of Culture the Opinion³⁷ that by prescribing sanctions for the violation of provisions of Article 77 and 79 of the Law on Public Information and Media³⁸ and consistent implementation of legal obligation and prohibition in practice, the Republic of Serbia would contribute to the promotion of observance of human rights and child rights in public media space and improve the protection of these rights.

The Protector of Citizens in his operation during the previous period indicated that children on the move,³⁹ and children who live and work in the street in the group of persons are in extremely sensitive position and more frequently are victims of various forms of violence and that it is the obligation of authorities of the Republic of Serbia to provide them to the greatest possible extent the protection from every form of violence, services of support and assistance.

There is still the practice that individual health care institutions do not provide health protection to children without verified health card. The Protector of Citizens in immediate communication with institutions asked for immediate interruption of the practice of refusal to provide health care services to children and indicated to the obligations of institutions to provide health care services to children to the full extent regardless of whether the obligations from health insurance are settled, pursuant to the Law on the Exercise of Rights to Health Protection of Children, Pregnant Women and Nursing Mothers.⁴⁰

The Protector of Citizens issued the recommendation⁴¹ to the Ministry of Education, Science and Technological Development regarding the postponement of the final exam in mathematics during the 2018/2019 school year, finding that the Ministry of Education, Science and Technological Development should take measures to ask for the procedure of organization and conduct of the final and entrance exam and state exam within the scope of control and responsibility of the Ministry and educational authorities, institutions and organizations as well as to pass guidelines and standards on the information of children and public in crisis situations.

By oversight procedures and in meetings with students, the Protector of Citizens confirmed that adequate measures of protection against violence at school are frequently not taken, so

³⁶ The Criminal Procedure Code, "Official Gazette of RS", no. 72/11, 101/11, 121/12, 32/13, 45/13, 55/14, 35/19. and Law on Juvenile Offenders and Criminal-Legal Protection of Juveniles, "Official Gazette of RS", no. 85/05.

³⁷ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/6000-ishlj-nj-z-sh-i-ni-gr-d-n-iz-n-i-d-pun-z-n-vn-inf-r-is-nju-i-di-i>

³⁸ "Official Gazette of RS", no. 83/14, 58/15 and 12/16.

³⁹ The term children on the move refers to all children who migrate from their countries of origin to the territory of a European country, with the aim of survival, reaching security, realization of better life conditions, education, economic possibilities, protection from exploitation and abuse, joining of families or combination of these factors. They may travel with their family or alone of other persons who are not family members. They are potential asylum-seekers, victims of trafficking, and it is possible that they do not have personal documents with them. The status of children on the move is different in different stages of their travel and they may face different sensitive situations (This definition of the notion „children on the move“ is adopted on the European level and is used by the organizations of the Council of Europe and European Union, including the European Network of Ombudspersons for Children).

⁴⁰ "Official Gazette of RS", no. 104/13.

⁴¹ Available at: <https://www.pravdeteta.com/attachments/article/894/misljenje.doc>.

teams for the protection against violence are not functional or do not implement actions according to the prescribed procedure, do not perform adequate violence estimations and do not plan adequate measures and frequently there is no adequate cooperation and joint actions of schools and centers for social work. Due to confirmed omissions in operation in several cases the Protector of Citizens recommended to competent inspections⁴² to provide additional trainings for educational inspectors with the aim of better recognition of violence and more adequate application of regulations in the protection of children against violence.

Several cases about which the media reported indicated to insufficient recognition of problems and inadequate control of entrance into educational institutions. The Protector of Citizens believes that students on-call assignments cannot be the manner in which schools provide this type of control, so in one case he recommended to an educational institution⁴³ to avoid student on-call assignments emphasizing that this activity is not in the interest of children nor it is of educational character.

In the reporting period numerous regulations referring to the level of exercise of child right are amended and new ones were passed. However, the Strategy for the prevention and protection of children against violence expected for several years is still not adopted.

An important amendment to the Criminal Code⁴⁴ is the provision that criminal prosecution and execution of punishment does not become out of date for criminal offences for which the punishment of lifetime imprisonment the punishment is prescribed. Among these criminal offences there are criminal offences committed to the detriment of children, such as rape, statutory rape of powerless person, statutory rape by the abuse of position and statutory rape of a child. The legal minimum is increased to 5 years if due to the execution of the criminal offence of domestic violence a family member died and if a minor family member died, the prison sentence cannot be below 10 years. Nevertheless, the criminal-legal protection of children is still not in compliance with the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse . The initiative of the Protector of Citizens for the amendments to the Criminal Code⁴⁵ is not entirely accepted, which resulted in perseverance of some of key problems: the level of criminal-legal protection of a child victim depending on age; criminal offences Extramarital community with a juvenile and Incest, even though in its essence they refer to sexual activities with a child, are not prescribed as criminal offences against sexual freedom so for them there is no option of application of the Law on Special Measures for the Prevention of Criminal Offences against Sexual Freedom to Juveniles⁴⁶. In this manner the lower level of protection of children against detrimental practices and violation of rights in early and coercive marriages is stipulated, in comparison to the improved protection which is prescribed for other forms of criminal offences of sexual harassment, abuse and exploitation committed against children.

What is important is the new provision of the Law on Enforcement and Provision⁴⁷ which prescribes that a child, in execution proceedings of handover of the child, takes and submits

⁴² Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6129-s-r-ri-z-br-z-v-nj-i-d-c-u-z-sh-i-u-gr-d-b-gr-d-ubuduc-d-spr-v-di-insp-ci-s-n-dz-r-pr-viln-z-ni-fi-sn-i-p-pun>.

⁴³ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6099-sn-vn-sh-l-p-r-cic-d-b-zb-di-d-uc-nici-n-b-vlj-u-d-zurs-v-u-sh-li>.

⁴⁴ Law on Amendments to Criminal Code, "Official Gazette of RS", no. 35/19.

⁴⁵ "Official Gazette of RS", no. 85/05, 88/05 - corr., 107/05 - corr., 72/09, 111/09, 121/12, 104/2013, 108/14, 94/16 and 35/19.

⁴⁶ "Official Gazette of RS", no. 32/13.

⁴⁷ Law on Amendments to the Law on Enforcement and Provision "Official Gazette of RS", no. 54/19 which shall come into force on 1st January, 2020.

the guardianship body with the presence and supervision of the court, not as by now, the execution judge in cooperation with the psychologist of the guardianship body.

A novelty was introduced into the Law on Travel Documents⁴⁸ which stipulates amended conditions for issuing of a travel document to a minor without consent of the other parent if, inter alia, the parent who files the request submits the confirmation of a competent authority that the issuing of the passport is in the interest of a child. Even though the Protector of Citizens in the opinion about the Draft of the Law on Amendments to the Law on Travel Documents indicated that it is necessary to adjust the terminology to the Family Law, the text of the Law keeps that “the parent to who was granted with guardianship of the minor”.

The Ministry of Interior improved the practice of issuing of personal ID cards to children older than 16 years of age, who pursuant to the Law on ID Card are obliged to have this document. The instruction was issued to police departments to order actions upon requests for issuing of personal ID card to a child of more than 16 years of age even when one parent refuses to participate in the procedure or is unavailable or is not possible to provide his oral or written consent so to issue to the child the ID card in such situation. The Ministry of Interior executed also the Draft of the Law on Amendments to the Law on ID card which prescribes that the child of more than 16 years of age is issued ID card without consent of the other parent. In this manner, the possibility that the child has the obligation of possessing ID card be without it is removed due to lack of responsibility or unavailability of one parent.

The Protector of Citizens supports passing of the Rulebook on the Manner and Conditions of the Application of Police Authorizations to Juveniles⁴⁹, which to the greatest extent integrated proposals of the Protector of Citizens issued in the Opinion⁵⁰ to the Proposal of this Act. Passing of this rulebook is the progress in the exercise of rights of children in conflict or in contact with the law, since it regulates in greater details than so far the manner in which police authorizations shall be applied towards children and the Rulebook is significantly adjusted to standards of juvenile justice and restorative justice.

The Protector of Citizens supports efforts of the Ministry of Youth and Sport that by passing the bylaw which would prescribe more detailed conditions on the manners of recognition of forms of harassment, abuse, discrimination and violence against children. Finding that complete protection of children from any form of violence, abuse and discrimination in accordance with valid domestic and international regulations from the field of child right requires that, except the manner of recognition of cases, the manner of actions of the authority, organizations and institutions in case of doubt or finding about violence, harassment, abuse and discrimination of children is also clearly prescribed, the Protector of Citizens issued to the competent Ministry the Opinion⁵¹ in which potential directions of improvement of solution and additional specification of individual provisions included in the Proposal of the Rulebook are presented.

By passing of the Rulebook on Pedagogic Assistant and Andragogic Assistant⁵² the regulation in the field of inclusive education was improved and the Rulebook on Professional Pedagogic Supervision⁵³ which regulates the manner of providing professional assistance and support

⁴⁸ Law on Amendments to the Law on Travel Documents “Official Gazette of RS”, no. 81/19.

⁴⁹ “Official Gazette of RS”, no. 83/19.

⁵⁰ Available at: <https://ombudsman.rs/attachments/article/6294/Misljenje%20Zastitnika%20gradjana.pdf>.

⁵¹ Available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6144-z-sh-i-ni-gr-d-n-d-s-vi-inis-rs-vu-l-din-i-sp-r-ishlj-nj-n-pr-dl-g-pr-vilni-blizi-usl-vi-n-cini-pr-p-zn-v-nj-bli-zl-s-vlj-nj-zl-up-r-b-is-ri-in-ci-i-n-silj-n-d-d-c-u-sp-r-u>.

⁵² “Official Gazette of RS”, no. 87/19.

⁵³ “Official Gazette of RS”, no. 87/19.

to institutions brought improvement in the execution of this form of supervision of the operation of educational institutions because this procedure is normatively regulated for the first time. By passing the Rulebook on the Manner of Performance of Organized Transportation of Children⁵⁴ the conditions for a safer transportation of children/students are created, the safety of children is improved and the Rulebook on the Protocol of Actions at Institution in Response to Violence, Abuse and Neglect⁵⁵ improved the normative framework of protection of children against violence, through better defining of violence and its forms and more precise and adequate organization of interventional and other activities.

In the reporting period, the Protector of Citizens issued reports to international organizations and bodies about the condition in the field of child rights: the report on the accomplishment of goals of sustainable development, on child, early and coercive marriages, culpability of the promotion and sale of sex dolls, on the position of children in street situation, on education of children, on the position of children on the move, on sexual exploitation of children and on good practices in the protection of the rights of children on the move.

In the reporting period the Protector of Citizens selected in the public call new members of the Youth Advisory Panel among students of the sixth and seventh grade of primary school taking into account regional presence, presence of children from sensitive social groups and equal presence of boys and girls. Also, the Youth Advisory Panel is a permanent forum of children aged from 13 to 15 who participate in the work of the Protector of Children. Their main role is to communicate to the Protector of Citizens topics of importance for children and the young, to indicate to problems which children face, to present attitudes, ideas and proposals of children and initiate questions of importance for the improvement of the position of children and the young in Serbia and also to pass to their environments and schools what they learn at the Protector of Citizens on child rights and other topics of importance for children.

With the Youth Advisory Panel the workshop was held to the topic of prevention and protection from violence and narcotic drugs and other harmful substances and the opinions of children were presented within the project "Global Child" for the development of the platform for monitoring of the child rights and indicators of application of the Convention on Rights on the Child, within which the consultations with children and the young were conducted. Two trainings of members of the Youth Advisory Panel were held and children were trained how to formulate and present specific ideas for solving of the problems they have. The training is followed by a long-term activity of the Protector of Citizens and Youth Advisory Panel "Participation in Action" which will last by the end of 2020.

In interactive workshops with students and student parliaments of primary and high schools, the Protector of Citizens introduced students to their rights and international and domestic documents which presented obligations of the state in the field of child right, mechanisms of the protection of the rights of children and students and role of the institution of the republic Protector of Citizens in this system. The workshops on the participation of children were held with students and student parliaments, which initiated the activity "Participation in action". With this activity, The Protector of Citizens aims at contributing to the reinforcement of the student participation and their greater inclusion in the processes of decision-making at schools and communities and through specific results of the children participation to raise the awareness on children and the young as an important resource of every community and the importance and role of participation of children and the young

⁵⁴ "Official Gazette of RS", no. 52/19 and 61/19.

⁵⁵ "Official Gazette of RS", no. 46/19.

Insufficient participation of children in the media is not problematized enough and the participation of children in the media and public space is also the condition for more adequate protection. By the event related to the World Child Day, organized by the Protector of Citizens which was dedicated to the dialog of children and the media, under slogan “Become/Remain Friends of Children”, members of the Youth Advisory Panel called the media to report more on children as active members of the society, their accomplishments and success and their contribution to communities where they live and schools they attend.

Members of the Children’s Rights Ombudsmn Network in South-Eastern Europe gathered in October 2019 in Tirana (Albania) when it was indicated again to the difficult position of children on the move. The network of ombudsmen called on competent authorities and international organizations to intensify efforts so that to the greatest possible extent the consequences of traumas would be reduced, and children be provided with a dignified life. Apart from that members of the Network initiated additional activities with the aim of finding the operation modality of the Network in self-sustainable and permanent manner.⁵⁶

The representative of the Protector of Citizens, at the Annual Conference of the European Network of Ombudspersons for Children (ENOC), which was held in Belfast (Northern Ireland) presented accomplishments of Serbia in the exercise of child rights in digital environment and as a member of ENOC Working Group participated in the execution of the document on the prohibition of deprivation of children of freedom due to immigration status.⁵⁷

The representative of the Protector of Citizens is the member of the National Coalition for Suppression of Child Marriages, which was established with the aim of initiating of the work on the establishment and development of institutional mechanisms for the prevention of child marriages and their suppression, considering that the problem of child marriages requires a high level of engagement of all institutions and systemic approach which Serbia is missing at this point.

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 protection and professional associates at the educational institutions which correspond to the child needs; to adopt a new National Action Plan for children and National Strategy for the prevention and protection of children against violence, in accordance with recommendations of the Protector of Citizens and UN Committee on the Rights of the Child; to provide the number of health care employees, professional employees at the institutions of social protection and professional employees at educational institutions which correspond the needs of children; to propose amendments to the law which would prescribe and regulate the right of the child to participation in educational institutions and obligations of institutions and

⁵⁶ Available at: <https://www.pravadeteta.com/index.php?limitstart=14&limit=7>.

⁵⁷ Available at: <https://www.pravadeteta.com/index.php?limitstart=28&limit=7>.

authorities to provide participation of children and students at all levels; to propose amendments to the Criminal Code which should provide that with all criminal offences which comprise sexual activities against and toward children the Law on Special Measures for the Prevention of Criminal Offences against Sexual Freedom to Juveniles is applied; to 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; to 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 neglect; to 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 Health** should, in cooperation with other authorities, provide the availability of developmental advisory centers and advisory centers for adolescents to every child and young persons for the purpose of the accomplishment of efficient preventive health protection of children;
- **Ministry of Health** should take measures of regular, continual and complete information of citizens in accordance with the Opinion of the Protector of Citizens with regards to mandatory vaccination of children⁵⁸.
- **Ministry of Labor, Employment, Veteran and Social Affairs** should ensure that centers for social work implement separation of children from families exclusively for legally stipulated reasons;
- **Ministry of Labor, Employment, Veteran and Social Affairs, Republic Institute for Social Protection and authorities of territorial autonomy and local self-government units** should increase the support to children and the young who leave institutional and alternative concern, as well as programs for their independence and integration into society, by providing them with the access to adequate housing, employment, legal, health and social services and possibilities for further education, professional advancement and other trainings;
- **Ministry of Labor, Employment, Veteran and Social Affairs, Ministry of Health, Ministry of Interior, Ministry of Justice and Ministry of Education, Science and Technological Development** should establish inter-sectoral cooperation for the purposes of the development of unique mechanisms and procedures for the collection of quality and reliable data, classified according to, inter alia, age, sex, disability, geographic position, ethnic and national origin, and socioeconomic status, as well as the system of exchange of these data, with the aim of tracking of the effects of the implementation of policies, programs and measures for the improvement of the position of Roma children, victim children, children in street situation and with developmental delays as well as ill children;

⁵⁸ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5742-n-dl-zni-d-spr-v-du-ivn-s-i-u-cilju-p-diz-nj-buhv-d-c-b-v-zn-v-cin-ci-i-s-rucn-g-inf-r-is-nj-gr-d-n>.

- **Ministry of Labor, Employment, Veteran and Social Affairs and Ministry of Education, Science and Technological Development** should intensify activities in de-institutionalization and transformation of residential circumstances for children, reduction of the number of children who are accommodated here and reduction of the number of children with developmental delays, Roma children at schools, classes and groups for the education of children with developmental delays and disabilities;
- **Ministry of Education, Science and Technological Development and educational inspection** should to a significantly greater extent and more effectively control actions of educational institutions in cases of violence against students, especially with regards to confirming of personal responsibilities of employees and heads of institutions for the violation of the violence, abuse and neglect prohibition, and violation of work obligation for omissions in the implementation of measures of the protection of children against violence, abuse and neglect;
- **Ministry of Education, Science and Technological Development, Ministry of Labor, Employment, Veteran and Social Affairs and authorities of territorial autonomy and local self-government units** should intensify activities and increase investment with the aim of the establishment of services of the inclusion in the community and regular education system for children with developmental delays and disabilities, Roma children, poor children and children in street situation;
- **Ministry of Interior, Ministry of Labor, Employment, Veteran and Social Affairs, Ministry of Education, Science and Technological Development and Ministry of Health** should take comprehensive measures of prevention and suppression of the life and work of children in the street and provision of the access of children in street situation to available services for the exercise of rights, in accordance with recommendations of the Protector of Citizens and recommendations of the UN Committee on the Rights of the Child.
- **Ministry of Interior, Ministry of Justice, High Court Council and 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 Court 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 Court Council, State Prosecutorial Council, Ministry of Interior and 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 Court 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 field of gender equality and rights of LGBTI persons, in 2019 the Protector of Citizens handled 86 cases⁵⁹, of which there were 79 complaints of citizens and seven cases initiated upon own initiative. The cases from this field make 2.63 percent of the total number of handled cases. The Protector of Citizens issued nine recommendations to administrative authorities which are still within the execution deadline.

Of 86 cases handled in 2019, the Protector of Citizens completed the work on 47 cases.

Table 18 -The overview of cases handled in 2019 in the field of gender equality

Number of received cases in 2019	86
Number of closed cases in 2019	47
Number of ongoing cases in 2019	39

Table 19 – Overview of issued recommendations in 2019 from the field of gender equality

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations
9	0	0

In 2019 *the work was also completed in 19 cases from previous years*. The manners of the completion of cases from 2019 are presented in the following table.

**Table 20 – The outcome of acting upon closed cases in 2019
in the field of gender equality**

	number	percentage
Unfounded complaints	18	38.30%
Cases closed by recommendations from the expedited oversight procedure	8	17.02%
Informed and advised complainant	6	12.77%
Inadmissible complaints –Incompetence	5	10.64%
Inadmissible complaints –Unused legal remedies	3	6.38%
Inadmissible complaints –Formally deficient complaint	2	4.26%
Inadmissible complaints – Unauthorized applicant	2	4.26%
Withdrawal of the complainant	2	4.26%
Cases closed by recommendations from oversight procedure	1	1.13%
Total	47	100%

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

⁵⁹ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

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 rejected because of incompetence or prematurity. Such advisory assistance is provided to citizens in **66.67 percent** of rejected cases in this field. In such cases the Protector of Citizens refers the complainant to the competent body or advises them on available legal remedies.

In the field of gender equality, in 86 cases it was indicated to 130 violations of rights whose good part refers to special rights in the field of gender equality and special rights in the field of LGBTI, which is presented in percentages in Tables 21 and 22.

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

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

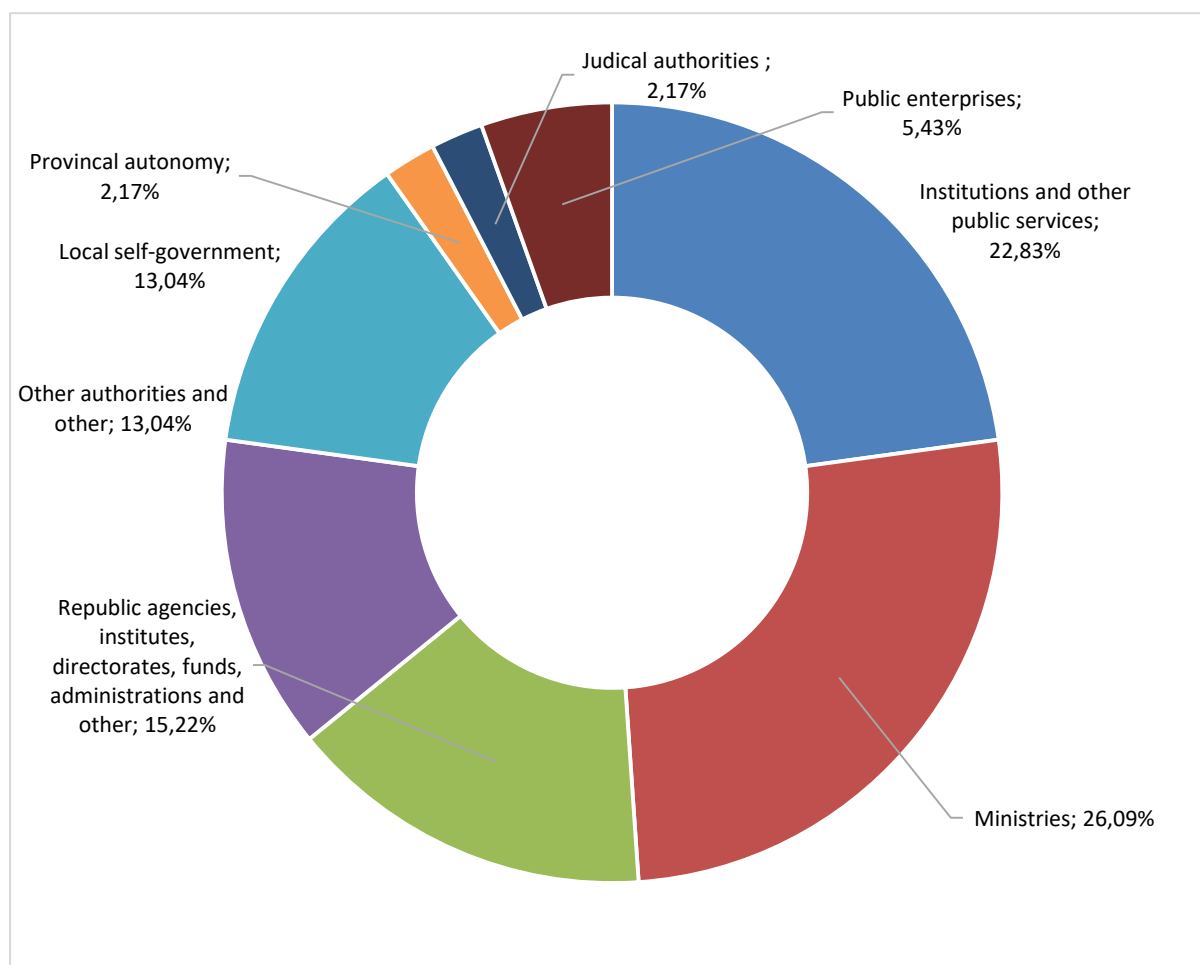
Type of violated right	percentage
Domestic violence	37.25%
Right to salary compensation during pregnancy leave, childbirth leave and childcare leave	25.49%
Rights of pregnant women and nursing mothers	13.73%
Special rights of marginalized categories of women	9.80%
Right to parenting	9.80%
Sexual violence	3.92%
Total	100%

Table 22 – Special rights in the field of rights of LGBTI persons and their percentage

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

Type of violated right	percentage
Adjustment of the sex to gender identity	40%
Change of data in civil registers	33.33%
Violence against LGBTI persons	13.33%
Hate speech	13.33%
Total	100%

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



ACTIVITIES OF THE PROTECTOR OF CITIZENS

Gender equality

During 2019, in this field most frequently it was indicated to the violation of rights to the earnings compensation during the absence because of pregnancy leave, maternity leave, and child care, rights of pregnant women and nursing mothers, as well as domestic violence and partner violence.

The Protector of Citizens continued to indicate to the insufficient presence of women, especially of women from sensitive groups, at decision-making positions in the local self-government units, as well as the non-functionality of mechanisms for gender equality at local self-government. With regards to this, it is important to mention that competent bodies failed to act upon the recommendations of the Protector of Citizens from the Special Report⁶⁰ from 2018 which elaborated on this topic. Furthermore, the comprehensive Law on Gender Equality has not been adopted yet which is why the principle of gender equality cannot be implemented to the fullest extent, which was indicated to, apart from the Protector of Citizens,

⁶⁰ Available at: <https://www.ombudsman.rs/attachments/article/5902/Zastitnik%20gradjana%20engleski.pdf>

also by the UN Human rights Committee⁶¹ and the UN Committee on the Elimination of Discrimination against Women⁶².

The amendments to the Criminal Code⁶³ brought stricter punishments prescribed for the criminal act of domestic violence, but the Code is not adjusted to the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, especially in the manner in which criminal offences against sexual freedom were defined, which was indicated to by the Protector of Citizens even in 2011 issuing to the Ministry of Justice the Initiative for the amendments of the Criminal Code⁶⁴.

The authorities acted upon systemic recommendations issued by the Protector of Citizens in 2018 after in 30 examined cases of femicide, domestic violence and violence in partner relations and abuse and neglect of children he confirmed numerous individual and systemic omissions, such as inadequate cooperation of authorities competent for the suppression of domestic violence, inadequate risk assessment, implementation of measures which do not correspond to the confirmed and assessed risks, lack of exchange of information, failure to recognize violence, failure to take measures and activities which the authorities were obliged to take. Children present in domestic violence are not treated as victims of violence, which is why measures prescribed for the protection of victims are not taken.⁶⁵ The Administration for the Enforcement of Penal Sanctions of the Ministry of Justice conducted the supervision at the institutions for the execution of criminal sanctions and introduced them to the content of recommendations of the Protector of Citizens and implementation of these recommendations will be monitored by the Department for Inspection of the Administration during the conduct of supervision. The Administration referred the institutes to intensification of cooperation and exchange of information with area centers for social work and competent police departments and stations. The Ministry of Labor, Employment, Veteran and Social Affairs issued the order to directors of centers for social work to provide and experts of the centers for social work in procedures of protection against domestic violence to adopt and apply standards of professional work to which the Protector of Citizens indicated. This Ministry, in accordance to the recommendations of the Protector of Citizens and on the basis of the analysis of the data on the number of vacant job positions, submitted the Proposal of the Conclusion to the Ministry of Finance and Commission of the Government for giving consent to new employment and additional work engagement at the centers for social protection, but the employment was never realized. The Republic Institute for Social Protection, pursuant to recommendations of the Protector of Citizens, planned in the reporting period to implement the training with regards to domestic violence, but with the focus on the protection of children against domestic violence, abuse and neglect. The Administration of the Criminalistic Police of the Ministry of Interior issued the instructive decree passed in 2019 to all police

⁶¹ Concluding observations on the third periodical report of Serbia on the application of the International Pact on Citizen and Political Rights, available at

http://www.ljudskaprava.gov.rs/sites/default/files/dokument_file/zakljucna_zapazanja_komiteta_cpr_c_srb_co_3_27019_e_srp.pdf.

⁶² Concluding observations of the Committee for the 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>.

⁶³ "Official Gazette of RS", no. 85/2005, 88/2005 – corr., 107/2005 – corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019.

⁶⁴ https://www.pravdeteta.com/index.php?option=com_content&view=article&id=186:2012-05-20-21-48-39&catid=42&Itemid=87

⁶⁵ Recommendations available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5985-u-vrd-ni-pr-pus-i-u-r-du-n-dl-znih-u-bl-s-i-z-sh-i-zr-v-u-sluc-vi-p-r-dicn-g-i-p-r-n-rs-g-n-silj>.

departments and organizational units at the seat of the Ministry with guidelines for acting of police officers in cases of domestic violence. The Health Inspection of the Ministry of Health announced the conduct of supervision at all health care institutions involved in recommendations.

In the Evaluation report related to the assessment of the measures which the authorities of the Republic of Serbia took with regards to all the aspects of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, the Council of Europe Expert Group on Action against Violence against Women and Domestic Violence (GREVIO) recommended to Serbian authorities, inter alia, to especially ensure that the recommendations of the Protector of Citizens are implemented and regularly monitored⁶⁶.

In accordance with recommendations of the Protector of Citizens from the Special Report on the application of General and special protocols for the protection of women against violence, the National Action Plan for Employment for 2019⁶⁷ stipulates programs and measures of active employment policy which prescribe subventions for employment of victims of domestic violence. However, the Rulebook on More Detailed Content of Data and Manner of Keeping Records in the Field of Employment⁶⁸ does not explicitly prescribe that the status, as one of personal data on the unemployed about whom the records are kept, involves also the information that the unemployed person is a victim of domestic violence.

For the purpose of the protection of women refugees and migrants against violence, the Protector of Citizens issued recommendations to the Commissariat for Refugees and Migration, including recommendations on additional training of all employees on the recognition and taking adequate and effective measures in case of sexual violence and harassment⁶⁹. With the aim of raising of the capacity for prevention and protection of female migrants and children on the move against all forms of violence, representatives of the Protector of Citizens held trainings for employees at the Commissariat for Refugees and Migration and civil society organizations.

The shortcomings which prevent full exercise of rights on the basis of pregnancy, child birth and child care are still present and the Protector of Citizens indicates to this for years.⁷⁰ Among these shortcomings especially prominent are illegality and irregularities towards children and families and especial unfairness and multiple detriment of the provisions which prescribe that the right to earnings compensation during the absence from work for the purpose of special child care cannot be exercised for the child for whom the right to allowance for the assistance and care of another person is exercised. Amendments to the Law on Financial Support to Families with Children⁷¹ still have not been adopted in order to remove these shortcomings.

The authorities partially acted upon recommendations of the Protector of Citizens⁷² issued by the end of 2018 due to shortcomings in the operation of bodies in cases when the employer fails to perform the legal obligation of calculation and payment of the earnings compensation

⁶⁶ Available at: <https://rm.coe.int/grevio-report-on-serbia/16809987e3>, Chapter C. Material Right A. Citizen Right 1. Citizen Legal Remedies against the State – Provision of Due Attention (Article 29) Item 31 Paragraph 159

⁶⁷ Available at: <https://www.minrzs.gov.rs/sr/dokumenti/predlozi-i-nacrti/sektor-za-rad-i-zaposljavanje/nacionalni-akcioni-planovi-zaposljavanja-0>

⁶⁸ “Official Gazette of RS”, no. 15/2010, 7/2019 and 51/2019.

⁶⁹ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6320-irs-d-pr-v-ri-p-s-up-nj-svih-c-n-r-s-licni-ispr-v-risni-i-njih-vi-p-vrd-z-h-vu-z-zil>

⁷⁰ Opinion of the Protector of Citizens no. 183-25/2017 ref. no. 37867 dated 13th October, 2017.

⁷¹ “Official Gazette of RS”, no. 113/17 and 50 /18.

⁷² 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>

to a nursing mother. The authorities indicated to the fact that misdemeanor charges and criminal charges are filed to a greater extent, but that the punishment policy is mild and that it is not a rare case that upon the charges there are no actions due to obsolescence of misdemeanor/criminal prosecution. Either labor inspection or Tax Administration do not receive feedback on imposed punishments, number and amount of these punishments, so the effects of such activities remain unknown.

The new Law on Health protection⁷³ introduced the explicit prohibition of discrimination on the basis of sex, gender, sexual orientation and gender identity as well as the provision that the measures introduced with the aim of reaching full equality, protection and progress of persons or groups of persons in unequal position are not deemed as discrimination.

During 2019 the Government adopted the Regulation on the Plan of Health Protection from Mandatory Health Insurance in the Republic of Serbia for 2020⁷⁴ which stipulates in primary health protection of women in total 2,300,800 preventive examinations and services to be conducted with special conditions and categories of women in reproductive period and with regards to early discovery of malign and other diseases of women from defined vulnerable groups according to age, which is in compliance with recommendations of the Protector of Citizens from regular annual reports and "Special Report of the Protector of Citizens on Reproductive Health of Roma Women with Recommendations"⁷⁵.

Apart from the recommendations of the Protector of Citizens the position of female health mediators still has not been regulated⁷⁶.

The Rulebook on the Content and Scope of Rights to Health Protection from Mandatory Health Insurance⁷⁷ which expands the rights in the field of diagnostics and treatment of sterility though expansion of the circle of persons and scope of service, was adopted.

In the field of international cooperation, the Protector of Citizens submitted the appendix on his activities and shortcomings in the application of the principles of gender equality in the execution of the public report and provided opinion to the submitted report/five-year national overview of the Republic of Serbia on the application of the Beijing Declaration and Platform for Action which was submitted to the United Nations. The Protector of Citizens submitted to the international organizations and bodies reports on women, peace and safety, violence and bad treatment of women at health care institutions, and with regards to giving birth and reproductive health, on rights of women and girls in the field of labor and labor relations, on gender-sensitive response to migrations and on the protection against violence and discrimination on the basis of sexual orientation and gender identity.

Rights of LGBTI persons

LGBTI persons are still very frequently victims of discrimination, stereotypes and prejudice. Not even in this reporting period the same-sex communities or consequences of the adjustment (change) of sex and gender identity were legally regulated. Despite the opinion of

⁷³ "Official Gazette of RS", no. 25/2019.

⁷⁴ "Official Gazette of RS", no. 94/2019.

⁷⁵ Available at: <http://ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/5536-p-s-b-n-izv-sh-z-sh-i-ni-gr-d-n-r-pr-du-ivn-zdr-vlju-r-inj-s-pr-p-ru>

⁷⁶ Female health care mediators have the role of intermediaries between Roma population and health care institutions: they train the members, especially female members of Roma nationality on rights and obligations in the field of health and social protection, keep the record on their health condition and generally participate in raising of the awareness on health issues of this marginalized group and their access to the regular health care system.

⁷⁷ "Official Gazette of RS", no. 7/2019.

the Protector of Citizens, the provision which contains explicit prohibition of discrimination on the basis of sexual orientation and gender identity or the explicit prohibition of the content which incites establishment of prejudice and stereotypes were not included in the Law on Textbooks.

Despite recommendations of the Protector of Citizens, the Action Plan for the period 2018-2019 for the implementation of the Development Strategy of the Ministry of Interior for the period 2018-2021⁷⁸ there are still no prescribed concrete specific measures dedicated the improvement of the position of LGBTI persons and other sensitive social groups, even though LGBTI persons are frequently exposed to threats, violence, hate speech and hate crimes. Furthermore, amendments to the Law on Police do not prohibit discrimination also on the basis of sexual orientation.

Although the Protector of Citizens issued recommendations several times, the Law on Free Legal Assistance⁷⁹ did not introduce as categories of users in sensitive position LGBTI persons who face grave violation of rights in various spheres of life.

Respecting the attitudes of the Protector of Citizens that the Rulebook on More Detailed Conditions, Criteria and Manner of Selection, Testing and Evaluation of Donors of Reproductive Cells and Embryos⁸⁰ contains 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 Administration for Biomedicine expressed the readiness to amend this bylaw and submitted to the Protector of Citizens the proposal of the new text of disputable provisions. At the moment of writing of this report, the bylaw still has not been amended.

When it comes to the protection of rights of intersex persons, the Law on the Prohibition of Discrimination and other relevant laws 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 Review of the United Nations on 24th January, 2018 received the recommendation to include in regulations the protection of LGBTI persons against discrimination on the basis of intersexual status.

The World Health Organization in 2019 conducted the revision of the International Disease Classification (ICD 11) in which the transgender identity was removed from the list of mental diseases, and the very notion of transgender was replaced by the notion of gender incongruence, which continues the world trend of de-pathologizing of trans identity. Member states will since 2022 report to the United Nations on the implementation of ICD 11 and until then the states have the period for the implementation of the program of de-pathologizing of trans-identity. Crucial items of this program for adequate national implementation are training of health care employees; adjustment of national systems of health insurance so as to involve the necessary care of trans-gender persons; provision of availability of services and introduction of standards of human rights into the Guidelines for actions which should be executed by the Ministry of Health.

There is a great problem of keeping of the hormonal status of trans persons, women who underwent hysterectomy and women in menopause. There is no hormone estradiol in ampules, without which trans women who do not have glands to produce estradiol could live, at the market in the Republic of Serbia. Therefore, the Protector of Citizens, acting upon his own initiative, took measures towards the Ministry of Health and RHIF.

⁷⁸ Available at: <https://www.srbija.gov.rs/dokument/45678/strategije.php>.

⁷⁹ "Official Gazette of RS", no. 87/18.

⁸⁰ "Official Gazette of RS", no. 27/2019.

In this reporting period the Protector of Citizens, traditionally, by placing the rainbow flag, the flag of trans movement and flag of intersex movement on his building celebrated the International Day of the fight against homophobia, biphobia and transphobia and International Day of the awareness about intersex persons. Representatives of the Secretariat of the Protector of Citizens supported also the right of LGBTI persons to free gathering participating at the Parade "Serbian Pride", Pride parade and in the activities during the Pride Week.

The Protector of Citizens met three times with the representative of the regional organization ERA and members of ERA Association from Serbia⁸¹ with whom he discussed on current problems which LGBTI persons face, on possibilities and manners of joint cooperation and activities dedicated to the improvement of the position of these persons in the Republic of Serbia. Upon the initiative of the Protector of Citizens the representative of ERA Association became a member of the Working group for the execution of the new Strategy of prevention and protection against discrimination and accompanying Action Plan. The cooperation of the organizations dealing with LGBTI rights and Protector of Citizens will be continued in 2020 through regular meetings.

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 over 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 protection 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 accompanying Action Plan; to adopt the Strategy of prevention and protection from discrimination and accompanying Action Plan for the following period; to propose, and the National Assembly to adopt the Law on Gender Equality, the law which regulate same-gender communities and law which regulate legal consequences of adjustment (change) of sex and gender identity; to adjust the Criminal Code with the Convention of the Council of Europe on Preventing and Combating 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; to 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:
- **Government, Coordination Body for Gender Equality, Ministry of Labor, Employment, Veteran and Social Affairs, 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

⁸¹ Associations Go out, Rainbow Association, Geten CRPC, To be known, Glic, Egal, XY Spectrum, Labris.

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 field of the freedom of expression and peaceful gathering, protection of their physical and mental integrity, education, employment, health care, social protection, 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 National 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 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;
- **Ministry of Health and RHIF** should provide adequate medicines for the maintenance of hormonal status of trans persons;
- **Authorities of local self-government units** should include explicitly at local action plans LGBTI persons and prescribe measures for the improvement of the position of these persons, as well as to allocate corresponding budget funds for these activities;
- **Ministry of Health** should in cooperation with health care institutions remove problems in the application of the Rulebook on the manner of issuing and form of certification of the competent health care institution on the change of sex;
- **Ministry of Health** should take measures with the aim of the implementation of the program of de-pathologizing of trans identity, in compliance with the revision of the International Disease Classification (IDC 11) of the World Health Organization in which the transgender identity was removed from the list of mental diseases.

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

STATISTICS

In the field of rights of persons with disabilities and the elderly, in 2019 the Protector of Citizens handled 125 cases⁸², of which there were 115 complaints of citizens and 10 cases initiated upon own initiative. The cases from this field make 3.82 percentage of the total number of handled cases. The Protector of Citizens issued 22 recommendations to administrative authorities, four of which reached execution ⁸³.

Of 125 handled cases in 2019, the Protector of Citizens completed the work on 66 cases.

Table 23 - Rights of persons with disabilities and the rights of the elderly: the overview of cases handled in 2019

Number of received cases in 2019	125
Number of closed cases in 2019	66
Number of ongoing cases in 2019	59

Table 24 - Overview of issued recommendations in 2019 from the field of rights of persons with disabilities and the rights of the elderly

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations
22	4	0

In 2019 *the work was completed also on 70 cases from previous years*. The manners of termination of cases from 2019 are presented in the following table.

Table 25 - Rights of persons with disabilities and the elderly -the outcome of acting upon closed cases in 2019

	number	percentage
Unfounded complaints	21	31.82%
Inadmissible complaints -Incompetence	11	16.67%
Cases closed by recommendations from the expedited oversight procedure	8	12.12%
Withdrawal of the complainant	5	7.58%
Inadmissible complaints -Unused legal remedies	5	7.58%
Informed and advised complainant	4	6.06%
Inadmissible complaints -Formally deficient complaint	4	6.06%
Inadmissible complaints-Unauthorized complainant	3	4.55%
Inadmissible complaints - Competence of another ombudsman	2	3.03%

⁸² The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

⁸³ The Protector of Citizens observes received recommendations as recommendations with expired deadline for actions during 2019 given in the text of recommendations.

Inadmissible complaints – Untimeliness	1	1.52%
Inadmissible complaints –Competence of the Commissioner for the Protection of Equality	1	1.52%
Opinion	1	1.52%
Total	66	100%

The greatest number of received complaints is rejected by the Protector of Citizens because the legally prescribed conditions for acting upon them are not fulfilled. The complaints are rejected 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 rejected because of incompetence or prematurity. Such advisory assistance is provided to citizens in **70.37 percent** of rejected cases in this field. In such cases the Protector of Citizens refers the complainant to the competent body or advises them on available legal remedies.

In the field of rights of persons with disabilities and the elderly in 125 cases it was indicated to 158 violations of rights, whose greatest part refers to special rights in the field of rights of persons with disabilities and special rights of the elderly, which is presented in percentages in Tables 26 and 27.

Table 26 – Special rights in the field of the rights of persons with disabilities and their percentage

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

Type of violated right	percentage
Discrimination based on disability	15.74%
Architectural accessibility of buildings	14.08%
Right to financial compensation for custodial care	11.27%
Right to equal accessibility of services	9.86%
Right to disability pension	8.45%
Right to increased allowance for custodial care	7.04%
Rights of persons deprived of their capacity to work	7.04%
Right to customs and fiscal benefits and privileges	5.63%
Right to employment and professional rehabilitation	4.23%
Right to public transportation discounts and benefits	4.23%
Right to orthopedic or other aids	2.82%
Right to financial compensation for bodily injury	1.41%
Right to involvement in decision-making	1.41%
Total	100%

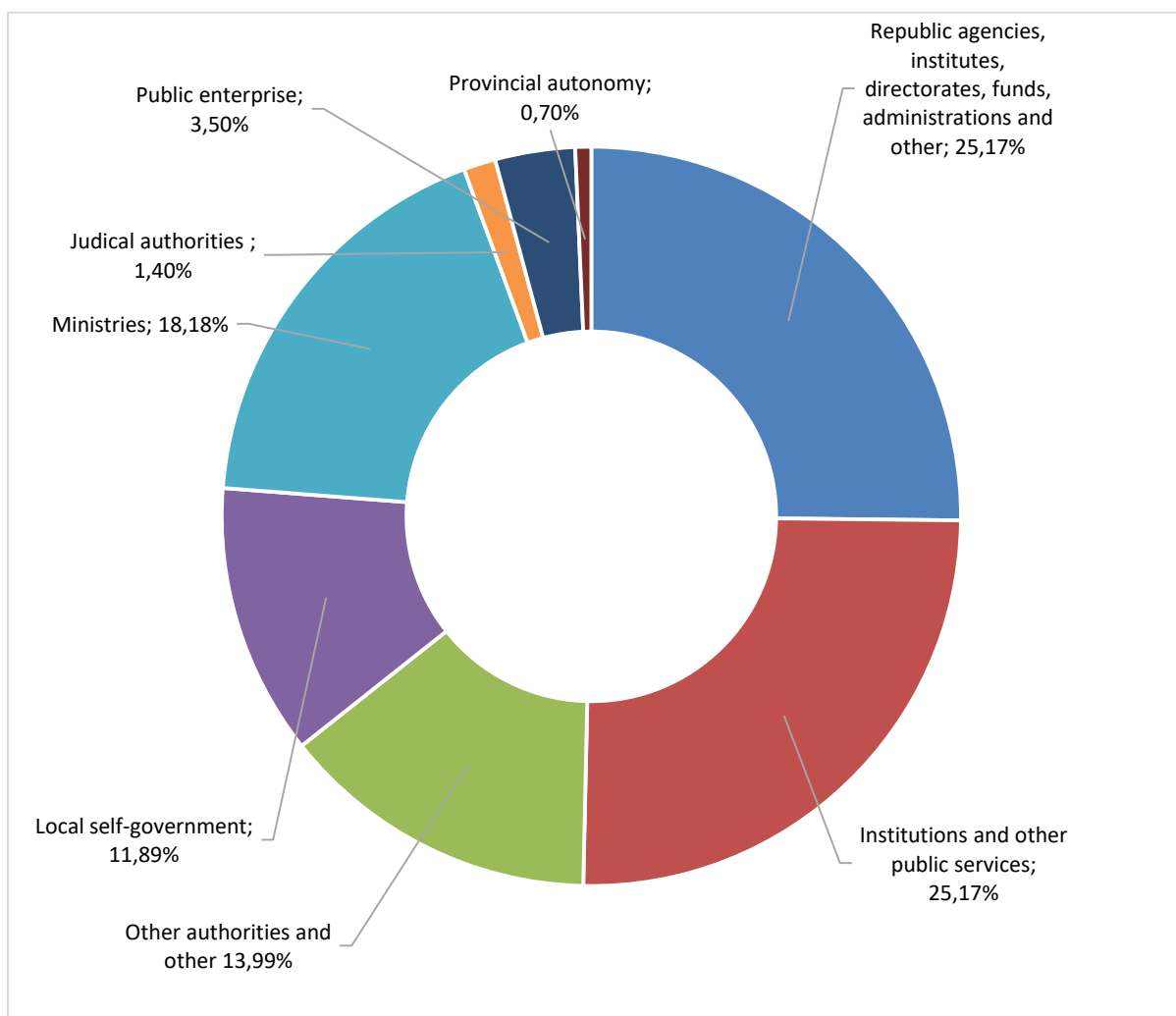
Table 27 – Special rights in the field of the elderly and their percentage

Note: Represented in Classification of complaints according to rights violated

Type of violated right	percentage
The right to social protection services for the elderly	26.67%
The rights of the elderly in social and healthcare institutions	26.67%

The right of the elderly to the protection against violence and abuse	20%
Right to allowance for PWDs' caretakers	13.33%
Right to financial independence	6.67%
Age-based discrimination	6.67%
Total	100%

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



ACTIVITIES OF THE PROTECTOR OF CITIZENS

Rights of persons with disabilities

Persons with disabilities in the Republic of Serbia still face on a daily basis complex problems which prevent them from equally exercising recognized rights and be equally included in society. The Protector of Citizens in this reporting period as well notices that systemic problems which prevent the exercise of rights of persons with disabilities are still present and among them the most prominent are insufficiently developed accessibility of facilities for public purposes, unfinished process of deinstitutionalization, practice of complete deprivation of business capability, poverty and social exclusion.

Accessibility, as one of fundamental preconditions for equal participation of persons with disabilities in all spheres of social life is still not developed sufficiently. Even apart from the existing legal framework, in the Republic of Serbia many public institutions, facilities, surfaces, services and information remain inaccessible to persons with disabilities and difficulties in movement and communication. It occurs very frequently that exactly the institutions where citizens should exercise their elementary rights, such as affiliates of the Republic Pension and Disability Insurance Fund, health care institutions, institutions in the field of social protection and education, police stations, administrative authorities or judiciary authorities are inaccessible or difficult to access.⁸⁴

The process of de-institutionalization was not terminated so a certain number of persons with disabilities is accommodated at residential institutions which is contrary to the obligation assumed by the Republic of Serbia ratifying the Convention on Rights of Persons with Disabilities. Even though it should represent the benchmark of the entire process of de-institutionalization, the system of support services to persons with disabilities and the elderly is still not adequate and sufficiently developed. The limitation of the employment in public sector additionally aggravated the exercise of rights of persons with disabilities as users of services in the community. It is noticed also that local self-government units do not have clearly defined mechanisms for the control on the performance of services which are financed from their budget or valid data on necessary types of services and corresponding database on potential service users.

Full deprivation of legal capacity is still a legal practice contrary to the provisions of the Convention on Rights of Persons with Disabilities and Concluding observations of the Committee on the Rights of Persons with Disabilities⁸⁵. Furthermore, despite the recommendations of the Committee the concept of decision making with support still has not been introduced into the legal system of the Republic of Serbia. Despite announcements of competent authorities, the Family Law, Law on Extrajudicial proceedings and other laws and regulations which introduce and maintain the institute of the deprivation of legal capacity were not amended.

Due to limited access to education, labor market and services, persons with disabilities are also under prominent risk of poverty and social exclusion. There is still not sufficiently developed corresponding system of additional support in the education of children with developmental delays and disabilities. The Protector of Citizens, in this reporting year too, as well as in previous years, indicate to the lack of sufficient services for children such as personal attendants.

The Protector of Citizens during the reporting period indicate to the fact that the Republic of Serbia should as soon as possible ratify the Marrakesh Agreement on the facilitation of the access to published works for persons who are blind, visually-impaired and with other difficulties in reading, which provides the access to published materials to persons who are blind, visually-impaired or with other difficulties in reading.

When it comes to please of citizens at elections and referendums, persons with disabilities face different physical, information-communication and other obstacles due to which it is

⁸⁴ Special report of the Protector of Citizens "Accessibility for All" available at: <https://www.ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/5893-p-s-b-n-izv-sh-z-sh-i-ni-gr-d-n-pris-up-cn-s-z-sv>.

⁸⁵ Concluding observations of the Committee for rights of persons with disabilities 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.

aggravated or completely impossible for them to have equal participation in decision making process and expression of their political will. With the aim of the improvement of the election process for the purpose of its complete accessibility to persons with disabilities, representatives of the Secretariat of the Protector of Citizens became members of the Group for consultations on inclusive election process and rules, which was organized within the project "Do what you say together with persons with disabilities". The goal of this group is through cooperative work with representatives of stakeholders to execute specific proposals with the aim of the improvement of the election process and which could be applied in the forthcoming election cycle.

Although the Law on Pension and Disability Insurance⁸⁶ was subject to a great number of amendments, there was no action upon the Initiative⁸⁷ of the Protector of Citizens issued to the Ministry of Labor, Veteran and Social Affairs, which, inter alia, proposed the introduction of the special right to temporary financial compensation (disability allowance) to insurance beneficiaries with remaining work capability due to injury at workplace, for the period of time while they are not employed.

The Rulebook on More Detailed Conditions and Standards for the Provision of Social Protection Services⁸⁸ was amended by prescribing that the service of "break accommodation", apart from children and youth with developmental delays aged from five to 26 years of age be provided also to adults and the elderly with obstructions in functioning, which contributes to maintaining and improvement of the quality of their lives.

In 2019 new Rulebook on Education and Manner of Operation of Expert Bodies of the RPDIF⁸⁹ and the new Rulebook on the Determination of Professional Diseases⁹⁰ were passed, with minor changes in comparison to the rulebooks which ceased to be valid by their passing.

The daisy player, a device which reproduces audio books and music which was recorded on the compact disc (CD or mp3 CD) in the international daisy format, was entered into the Rulebook⁹¹ on the manner of exercise of rights to special aids for reading and writing which are provided from the funds of the RPDIF into the list of aids.

In order to influence on raising of the awareness about the importance of accessibility, the Protector of Citizens, this year, too, in compliance with signed Memorandum on Cooperation with the Standing Conference of Towns and Municipalities and Team for Social Inclusion and Reduction of Poverty of the Government of the Republic of Serbia, granted awards to local self-government units which in previous year gave the greatest contribution to the development of all forms of accessibility at their territory. In 2019 the awarded cities were Leskovac, Sombor, Smederevo, and Loznica, as well as CM Vračar. For representatives of these cities a study visit to the city of Lyon, the winner of the European award for accessible city granted by the European Commission was organized.

In cooperation with the UN Team for Human Rights, the Protector of Citizens considers the modalities of functioning of independent mechanisms for monitoring of the implementation of the United Nations Convention on the Rights of Persons with Disabilities and the option to present before competent authorities the proposal to establish such mechanism in Serbia, in

⁸⁶ "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.

⁸⁷ <https://ombudsman.rs/attachments/article/6123/inicijativa.pdf>.

⁸⁸ "Official Gazette of RS", no. 42/13, 89/18 и 73/19.

⁸⁹ "Official Gazette of RS", no. 58/19.

⁹⁰ "Official Gazette of RS", no. 14/19.

⁹¹ "Official Gazette of RS", no. 103/18 and 23/19.

accordance with the recommendation of the Committee on the Rights of Persons with Disabilities from Concluding observations on the Initial Report on the Republic of Serbia.⁹²

During 2019 the practice of regular meetings of the Council of the Protector of Citizens for the rights of persons with disabilities was continued. At sessions discussions were held about current issues of the exercise and protection of rights of persons with disabilities, especially with regards to the actions of the Protector of Citizens related to the use of facsimile in legal activities by persons with disabilities, improvement of information of persons with disabilities and the elderly in the exercise of rights from the field of social protection and pension and disability insurance, employment and employability of persons with disabilities and availability and accessibility of polling places and modality of the application of Article 33 of the Convention on the Rights of Persons with Disabilities, which regulates the topics of the mechanisms of independent monitoring of the application of this international agreement at the signatory state by which this function would be performed by the Protector of Citizens.

The representative of the Protector of Citizens in 2019 participated at the meeting of the ENNHRI Working Group for the application of the UN Convention on the Rights of Persons with Disabilities (ENNHRI CRPD WG) and presented some of the activities of the Protector of Citizens assumed with the aim of the improvement of the position of persons with disabilities in the Republic of Serbia in the previous period.

Representatives of the Secretariat of the Protector of Citizens presented the competence and work of the Protector of Citizens on the improvement and protection of rights of persons with disabilities as well as the manner in which persons with disabilities may contact this body at the Annual Conference of the Association of Blind Persons of Serbia titled "Support systems through professional information and cooperation", tribune of the Municipal Organization of Blind Persons of Palilula titled "Empowerment of Blind and Visually Impaired Women in Fight against Discrimination, Violence and for the Equal Position in Society" and presentation organized by the City Organization of Deaf Persons of Belgrade.

Rights of the elderly

The most frequent problems which the elderly face are poverty and violence and neglect within families, including the disposal with property without their consent, dissatisfaction with the exercise of the right to material support when they find themselves in the situation of difficult material and life situation due to the lack of income or insufficient amount of income, and when they are of poor health, the exercise of the right to the assistance and care of another person is aggravated.

The Protector of Citizens reached the information on the problems in the exercise of the right to benefits for energetically protected customers, predominantly in rural areas, given the fact that, in compliance with valid legal provisions, this right cannot be exercised by a great number of the elderly who live in single-member rural elderly households if they meet all the conditions, but they live in a residential facility of more than 30m² (square meters) of surface⁹³, which is very frequent in rural households.

⁹² Available at:

[https://ljudskaprava.gov.rs/sites/default/files/dokument file/zakljucna zapazanja komiteta za prava osoba sa invaliditetom srb.pdf](https://ljudskaprava.gov.rs/sites/default/files/dokument%20file/zakljucna%20zapazanja%20komiteta%20za%20prava%20osoba%20sa%20invaliditetom%20srb.pdf)

⁹³ Article 4 Paragraph 5 of the Regulation on Energetically Endangered Customer ("Official Gazette of RS", no. 113/15, 48/16 - state rulebook, 88/16 - state rulebook, 49/17 - state rulebook, 104/17 - state rulebook, 36/18 - state rulebook, 59/18, 88/18 - state rulebook and 34/19 - state rulebook). Article 18 Paragraph 1 of the Regulation on

Women in the older part of population (65+ and 75+), as well as in the population of pensioners, are in significantly greater risk of poverty in comparison to men⁹⁴. The greatest gender gap, when it comes to employment, is in the category of persons of 55–64 years of age, where the employment rate of women is 32.5 percent and the employment rate of men 52.8 percent⁹⁵. Elderly women are less active at the labor market than elderly men (the difference in activity rates amounts to 22.9 percentual points); with employment rate gender gap amounts to 19.9 percentual points, whereas the difference in the unemployment rate is almost negligible and amounts to 2.5 percentual points⁹⁶.

The lack of services of support is still present, especially the assistance services at home, which are frequently necessary to this population, taking into account that very often the elderly live alone and do not have relatives to take care about them. These problems are especially prominent in rural areas in which elderly women who live in single-member household are in especially difficult position. Elderly women in rural areas who live in families are most often dependent on other family members in the realization of their needs, since most frequently they do not have property rights to the immovable and movable property, income and their access to services in the community is not adequately provided in areas in which traffic and public transportation infrastructures are not established.

Violence and neglect of elderly persons is still “below the radar” of the authorities, both for the reasons that the elderly cannot, are not supported or do not want to report violence they suffer from the closest family members, most frequently children and because of insufficient recognition of emotional, social and economic violence against the elderly. The authorities acted upon systemic recommendations issued by the Protector of Citizens in 2018 after he confirmed in 30 reviewed cases⁹⁷, among which there were cases of violence and femicide against elderly women, femicide, domestic violence and partner violence, abuse and neglect of children, numerous individual and systemic omissions. See in greater details on the activities of the body in the chapter on the situation in the field of gender equality.

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

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

Standards and Normatives for Planning, Designing, Construction and Conditions of Use and Maintenance of Flats for Social Residence (“Official Gazette of RS”, no. 26/13).

⁹⁴ Third national report on the social inclusion of the Team for social inclusion and reduction of poverty, available at: http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2019/02/Treci_nacionalni_izvestaj_o_socijalnom_ukljucivanju_i_smanjenju_siromastva_2014%E2%80%932017.pdf.

⁹⁵ Publication of the Republic Statistical Office “Women and Men in Serbia”, available at: <http://publikacije.stat.gov.rs/G2017/Pdf/G20176008.pdf>

⁹⁶ Third national report on the social inclusion of the Team for social inclusion and reduction of poverty, available at: http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2019/02/Treci_nacionalni_izvestaj_o_socijalnom_ukljucivanju_i_smanjenju_siromastva_2014%E2%80%932017.pdf.

⁹⁷ Recommendations available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5985-u-vrd-ni-pr-pus-i-u-r-du-n-dl-znih-u-bl-s-i-z-sh-i-zr-v-u-sluc-vi-p-r-dicn-g-i-p-r-n-rs-g-n-silj>.

- **National Assembly** should within the shortest period of time adopt the Law on the Ratification of Marrakesh Agreement for the provision of the access to published works by persons who are blind, visually impaired or in some other manner prevented from using printed materials;
- **Government** should plan and take measures of economic policy without endangering the rights of persons with disabilities and the elderly and provide a number of health care employees, professional employees at social protection institutions and professional associates at educational institutions who meet the needs of citizens in sensitive position; in cooperation with other competent bodies, conduct the comprehensive analysis of the situation, needs and potentials and pass a clear and precise plan of the implementation of the process of “de-institutionalization” in the Republic of Serbia and implement it systemically and completely at the entire territory of the state; take measures with the aim of the establishment of a legal framework and other preconditions for the establishment of a precise and complete registry of persons with disabilities; create clear and precise policy aimed at the establishment of a more efficient system of social protection for elderly citizens which is in compliance with their needs; provide financially sustainable system of support services to persons with disabilities and the elderly; prepare and submit to the National Assembly proposals of the law which introduces the institute of decision making with support and eliminates the option of the deprivation of legal capacity; intensify activities in the process of de-institutionalization and activities on the establishment of an adequate system of services in the community, especially support services to families, support services in reaching independence and in family and family-like services of alternative care;
- **Republic PDI Fund** should within the shortest period of time adjust to undisturbed functioning and movement of persons with difficulties in movement all the facilities of affiliates and offices of the Fund where citizens exercise their rights;
- **Local self-government units** should continually take 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. Until the completion of full accessibility of means of transportation, local self-governments will 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.

4.4. NATIONAL MINORITY RIGHTS

STATISTICS

In the field of national minority rights, the Protector of Citizens in 2019 handled 71 cases⁹⁸, of which there were 70 citizen complaints and one case initiated upon own initiative. The cases in this field make 2.17 percent of the total number of handled cases. The Protector of Citizens issued 24 recommendations to administrative authorities which are still within the execution deadline.

Of 171 handled cases in 2019, the Protector of Citizens completed the work on 39 cases.

Table 28 – The overview of cases handled in 2018

Number of received cases in 2019	71
Number of closed cases in 2019	39
Number of ongoing cases in 2019	32

Table 29 - Review of issued recommendations in 2019

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations
24	0	0

In 2019, *the work was completed also in 19 cases from previous years*. The manners of completion of cases from 2019 are presented in the following table.

Table 30 – The outcome actions upon completed cases in 2019

	number	percentage
Informed and advised complainant	17	43.59%
Inadmissible complaints –Incompetence	6	15.38%
Unfounded complaints	6	15.38%
Inadmissible complaints –Formally deficient complaint	3	7.69%
Withdrawal of the complainant	2	5.13%
Inadmissible complaints –Unused legal remedies	2	5.13%
Cases closed by recommendations from oversight procedure	1	2.56%
Cases closed by recommendations from the expedited oversight procedure	1	2.56%
Statement of Protector of Citizens	1	2.56%
Total	39	100%

The greatest number of received complaints is rejected by the Protector of Citizens because the legally prescribed conditions for acting upon them are not fulfilled. The complaints are rejected due to incompetence, untimeliness, prematurity, anonymity and formal deficiency. In **72.73 percent** of rejected cases in this field the Protector of Citizens refers the complainant to the competent body or advises them on available legal remedies.

⁹⁸ The case refers to the cases emerged from the actions upon complaints and own initiatives in individual area/department.

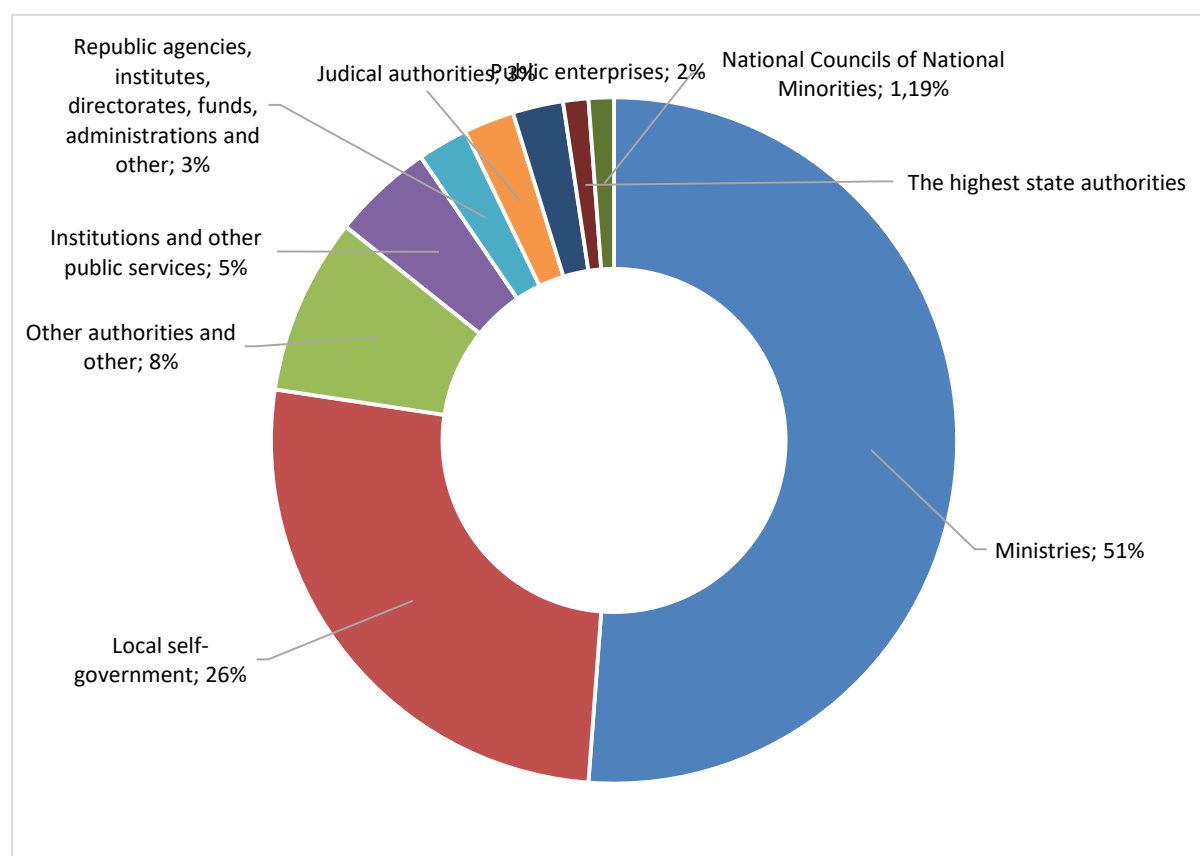
In the field of national minority rights in 71 cases it was indicated to 76 violations of rights, whose greatest part referred to special rights in the field of national minority rights, which is presented in percentages in Table 30.

Table 31 – Special rights and their percentage

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

Type of violated right	percentage
Special rights of Roma people	42.11%
Right to cultural creation in mother tongue	15.79%
Right to exercise jurisdiction of the National Councils of National Minorities	14.04%
Prohibition of discrimination	8.77%
Right to official use of language and alphabet of national minorities	5.26%
Right to education in mother tongue	5.26%
Individual rights of members of national minorities	5.26%
Right to information in mother tongue	1.75%
Rights of legally invisible persons	1.75%
Total	100%

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



ACTIVITIES OF THE PROTECTOR OF CITIZENS

For the exercise of national minority rights, amendments to the Law on National Councils of National Minorities⁹⁹ are of great importance, as well as other laws which regulate the subjects of importance for national minority rights – the Law on the Protection of National Minority Rights and Freedoms¹⁰⁰ and the Law on Official Use of Language and Alphabet.¹⁰¹ Nevertheless, regardless of the good normative framework, there still are certain problems with regards to the execution of authorizations of national councils of national minorities. The complaints of national councils of national minorities received by the Protector of Citizens in 2019 in the field of education, information, official use of language and alphabet, as well as with regards to the very functioning of the national councils of national minorities also indicate to this. Apart from acting upon received complaints, the Protector of Citizens implemented in the reporting period numerous activities with the aim of the promotion of the exercise of national minority rights.

Taking into account the substantial role which national councils of national minorities have in the exercise of national minority rights, the Protector of Citizens established in 2019 the practice of holding quarterly meetings with representatives of all national councils of national minorities which are established in the Republic of Serbia. These meetings are an opportunity for the discussion about the position of national minorities, problems that national councils face, planned activities of national councils as well as the cooperation with the Protector of Citizens. In 2019 meetings were held in Belgrade, Bosilegrad, Novi Pazar and Subotica. At the fourth quarterly meeting representatives of the Ministry of Public Administration and Local Self-Government and the Office for Human and Minority Rights participated. Apart from the practice of holding quarterly meetings, the Protector of Citizens held in the reporting period several individual meetings with presidents of the national councils of national minorities.¹⁰²

Within the joint project of the Council of Europe and European Union titled “Strengthening of the protection of national minorities in Serbia”, representatives of the Protector of Citizens participated as lecturers at round table to the topic of the official use of language and alphabet of national minorities organized in Sombor, Medveđa, Vranje, Bujanovac and Bosilegrad. At these events employees at city and municipal administrations, members of the council for international relations, representatives of national councils of national minorities, civil society organizations took part. At these round tables the joint publication “Introduction to the Exercise of Right to Official Use of Languages and Scripts of National Minorities” was presented¹⁰³, which was prepared by the Protector of Citizens, Ministry of Public Administration and Local Self-Government, Republic Secretariat for Legislation and the Council of Europe. The publication was designed for employees at local self-government units and is an overview of legal novelties in the field of the official use of languages and scripts of national minorities.

With the aim of continual promotion of the exercise of rights of members of national minorities and perception of the manner in which national councils of national minorities exercise the legally provided public authorizations, with the assistance of the OSCE Mission,

⁹⁹ “Official Gazette of RS”, no. 72/09, 20/14 – YC, 55/14 и 47/18 (adopted on 20.06.2018).

¹⁰⁰ “Official Gazette of FRY”, no. 11/02, “Official Gazette of SM”, no. 1/03 – Constitutional Charter “Official Gazette of RS”, no. 72/09 – state law, 97/13 – CC decision and 47/18.

¹⁰¹ “Official Gazette of RS”, no. 45/91, 53/93, 67/93, 48/94, 101/05 – state law, 30/10, 47/18 and 48/18 - corr.

¹⁰² Meetings were held with representatives of national councils of Bunjevac, Slovakian, Egyptian and Russian national minorities.

¹⁰³ Available at:

<https://www.pravamanjina.rs/attachments/article/699/Uvod%20u%20ostvarivanje%20prava%20na%20slu%20%20upotrebu%20jezika%20i%20pisama%20nacionalnih%20manjina,%20Mar%202019.pdf>.

the Protector of Citizens conducted in the reporting period the survey on the operation of national councils so that on the basis of the analysis of the collected data he could be able to issue recommendations and perceive the needs and possibilities for the improvement of the operation of these mechanisms. The conducted survey refers to the previous convocation of national councils of national minorities, i.e. to the period 2014-2018 and shows that national councils in the previous period most frequently executed the authorizations in the field of education and official use of languages and scripts. The result of this survey will be "Special Report of the Protector of Citizens on the Operation of National Councils of National Minorities with Recommendations" which will be published in 2020.

During 2019, the Protector of Citizens collected also the data on famous members of national minorities who contributed to the affirmation and promotion of the national minority rights in wider public, and this activity will be continued also in 2020.

Special attention was dedicated also in this reporting period by the Protector of Citizens to members of Roma national minority. Apart from the regular practice of visits to Roma residential areas all around Serbia and reception of complaints during the last year, the survey on the application of the Strategy for Social Inclusion of Roma in 20 local self-government units was conducted. The survey was conducted with the assistance of UNHCR (United Nations High Commissariat for Refugees) and non-governmental organization A 11 Initiative for economic and social rights. During the survey the data were collected by measure-bearers at the local level: city/municipal administrations, school administrations, affiliates/offices of the National Employment Service, centers for social work and health care centers. Apart from competent bodies, during the survey the data were also collected from 19 Roma residential areas and observations that the associates of the Protector of Citizens had during the conversations with members of Roma community.

Taking into account that the Protector of Citizens was designated by the Strategy as one of independent bodies to monitor the implementation of measures, on the basis of collected data the special report was executed with the aim of the improvement of the implementation of measures stipulated in the Strategy and Action Plan and to indicate to shortcomings identified in the implementation which measure-bearers face. The Special Report of the Protector of Citizens on the Implementation of the Strategy for Social Inclusion of Roma with recommendations¹⁰⁴ was published on 11th December 2019 and after the publication it was issued to competent bodies with regards to the actions upon recommendations. If the collected data are connected with the results of the previous Report of the Protector of Citizens on the Implementation of Strategy for the Improvement of the Status of Roma, what is noticeable is evident, but insufficient progress to which measures of public policies with regards to the improvement of the position of the Roma contributed.

The special focus of the Special Report are the topics of employment, education, housing, status of local mechanisms such as female health mediators and Roma coordinators, capacities of competent authorities as well as the position of internally displaced Roma from Kosovo and Metohija. The capacities of local self-governments as well as the awareness of the role which they have in the process of inclusion of Roma are empowered but insufficiently for efficient implementation of measures. Labor-legal status of female Roma coordinators and criteria for their engagement are still not organized. Even though the legislative framework in the field of housing was significantly improved by passing of the Law on Housing and Building Maintenance¹⁰⁵, special support to local self-governments is necessary in the field of

¹⁰⁴ Available at: <https://pravamanjina.rs/attachments/article/705/Posebna%20izvestaj.pdf>.

¹⁰⁵ "Official Gazette of RS", no. 104/16.

housing and issuing guidelines for the execution of documents and procedures in the displacement of communities.

In the field of education certain progress was made when we talk about the inclusion of Roma children in the educational system, especially in the pre-school program. However, there is still no precise record kept on the number of Roma children in the educational system. Apart from great efforts and implemented activities, the problem of segregation remains in the educational system with the tendency of growth of the number of schools attended exclusively by Roma children.

Speaking of the measures of active policy of employment of categories which are more difficult to employ where Roma population is, it should be primarily indicated to the fact that measures in the field of social protection are not adjusted to affirmative measures in the field of employment. The beneficiaries of financial social assistance in the majority of cases are not active job-seekers and jobs they are offered via the National Employment Service are not adequate because these measures of employment mostly do not correspond the needs of Roma community (jobs are mostly temporary, etc.). What should also be pointed out is that affiliates/offices of the National Employment service do not create measures of active employment policy but only implement them and the record on the number, level of education, implemented measures of employment for members of Roma community are the most precise records. Furthermore, special attention should be paid in the following period to strengthening of mechanisms for the fight against discrimination because prejudice of employers to Roma community are still the biggest obstacle to employment.

What is of special importance is solving of the status of health mediators, who, even after ten years since the implementation work on the basis of service contract and there is also insufficient number of engaged female mediators at health care centers. Health care employees are not familiar enough with the measures stipulated by the Strategy and Action Plan and often they do not understand to a sufficient extent the importance of specially designed measures for the improvement of health condition of the Roma population. Centers for social work operate with very limited capacities and, even though they claim that they recognize their role and importance in the process of inclusion of male and female Roma, all available data indicate that they do not have the potential to implement these measures efficiently, or to plan additional activities of support to specially sensitive categories within Roma community, such as women and children. The data on the number of beneficiaries of social protection services of Roma nationality are not kept by all centers for social work, but available data show that social-economical position of the Roma community is still very difficult and that to a great extent all forms of material support (financial social assistance, one-time assistance, free meal) are used.

Internally displaced Roma people from AP Kosovo and Metohija are in particularly difficult position who in certain situations cannot exercise even the right to financial social assistance if they have accommodation provided at the collective center.

The Action Plan for the implementation of the Strategy for Social Inclusion of Roma for the period 2017-2018 expired and passing of a new one is in delay for a year¹⁰⁶. Due to this the very implementation of activities and measures at the local level is aggravated. The Strategy for the Social Inclusion of Male and Female Roma set realistic foundations and in the Action Plan the corresponding activities for its implementation are stipulated. However, even though

¹⁰⁶ Draft of the Action Plan for the Implementation of the Strategy for Social Inclusion of Male and Female Roma for the period 2019-2021 submitted for opinion to the Protector of Citizens on 22nd March, 2019 and is still not adopted.

the progress in certain fields is noticeable, if these accomplishments are analyzed from the perspective of measure and activity implementation designated by the Government of the Republic of Serbia with the aim of the suppression of poverty of Roma and reduction of social-economic differences, the results are very limited. Although by the Decision¹⁰⁷ of the Government the Coordination Body for Monitoring the Implementation of the Strategy for Social Inclusion of Roma was established, it should be emphasized that this body published its last report on the implementation of the Strategy in 2017 and not as a separate report but within reporting for Chapter 23 in the negotiation process with the European Union. For 2018 and 2019 special reports on the implementation of the Strategy were not prepared.

In 2019 the need was recognized to perceive the scope of persons who are not registered at birth registry or who failed to exercise some other right from the personal status with the special focus on the entry of children as well as the condition in labor or application of regulations by the registry service in the procedures for the exercise of these rights. Therefore, on 3rd October, 2019, new Memorandum of Understanding among the Ministry of Public Administration and Local Self-Government, the Protector of Citizens and UNHCR was signed, with the 2-year expiration date. Taking into account the results of the previous Memorandum of Understanding which was jointly implemented by the Protector of Citizens, Ministry of Public Administration and Local Self-Government and UNHCR from 2012 to 2016, the Protector of Citizens believes that by signing of the new Memorandum, which will establish this unique system of cooperation between independent bodies, public authorities and international organizations is the right manner to solve remaining issues referring to solving of status matters which predominantly affect those most sensitive ones, i.e. members of the Roma national minority. The subject of this Memorandum is still the cooperation in the perception of potential problems of the members of Roma national minority in the exercise of the right to entry in the birth registry as well as other rights from the personal status with the special emphasis to newborns, with the aim of the prevention of the risk of statelessness.

In accordance with defined goals of this Memorandum and his competences, the Protector of Citizens shall without any delay react to the cases of the violation of rights in the entry procedure and subsequent entry of the facts of birth into the birth registry and inform parties to the Memorandum on issued recommendations with the aim of more efficient solving of these matters hoping that by the end of the implementation of the Memorandum, i.e. by 2021 the remaining issues in this field will be completely solved.

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

- **Ministry of Public Administration and Local Self-Government, in cooperation with other competent bodies**, should organize trainings for the members of national councils of national minorities with the aim of raising of professional capacities and improvement of the council operation;
- **Ministry of Labor, Employment, Veteran and Social Affairs** should prepare within the shortest period of time the final version of the new Action Plan for the Implementation of the Strategy for Social Inclusion of Roma and issue it to the Government of the Republic of Serbia for adoption;
- **Coordination Body for Monitoring the Implementation of the Strategy for Social Inclusion of Roma** should prepare the Annual Report in which all data of importance

¹⁰⁷ Government Decision 05 Number: 02-02-1617/2017 dated 3rd March, 2017.

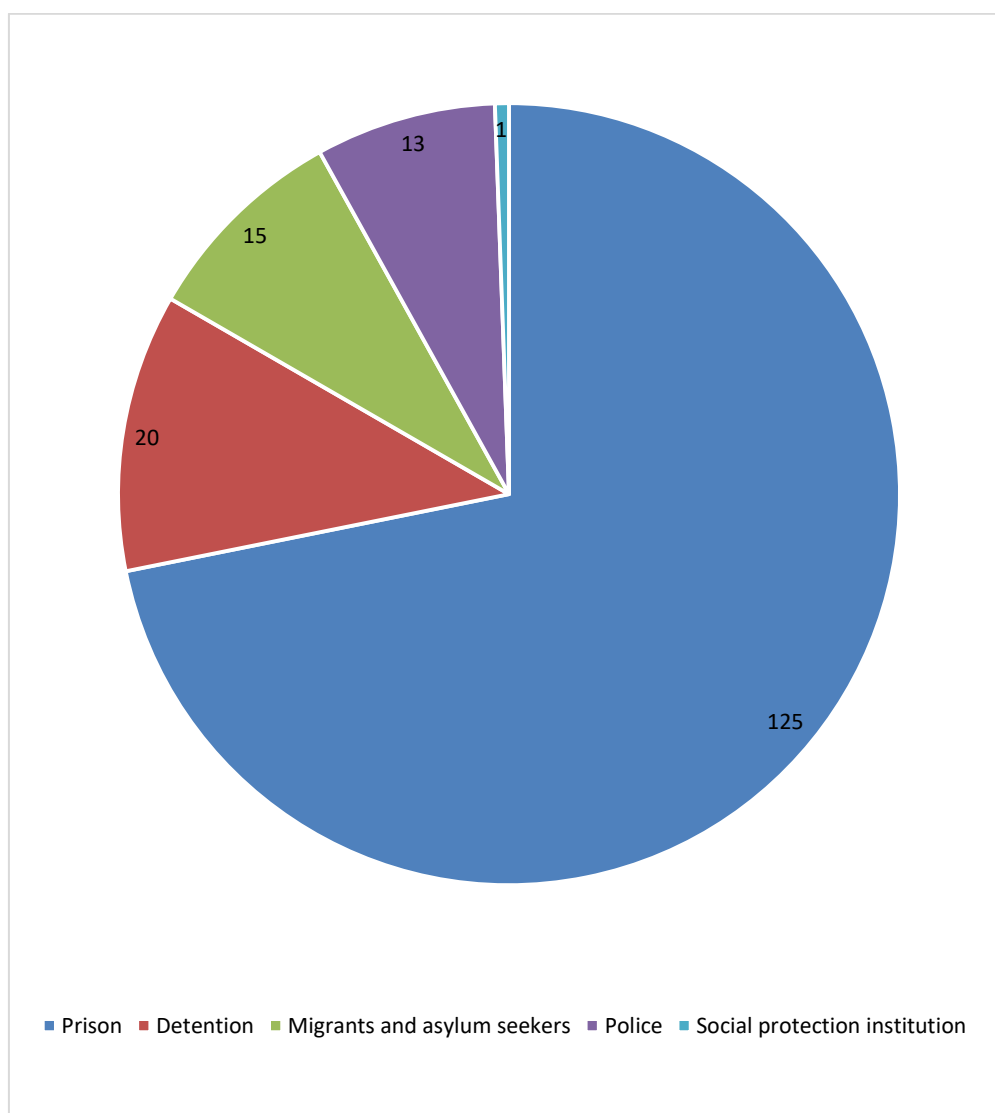
for the evaluation of results of the implementation of measures are presented, inform the public on implemented measures and submit it to independent state authorities which was stipulated by the Strategy for the Monitoring of the Implementation of Measures.

4.5. RIGHTS OF PERSONS DEPRIVED OF LIBERTY

STATISTICS

In the field of rights of persons deprived of liberty, in 2019 the Protector of Citizens handled 184 cases¹⁰⁸, of which there were 174 citizen complaints and 10 cases initiated upon own initiative. These cases from this field comprise 5.62 percent of the total number of handled cases and these are: 125 complaints about the treatment of persons serving the prison sentence, 20 complaints about the treatment of persons with detention measure execution, 15 complaints to the treatment of migrants, 13 complaints about the treatment of detained persons and persons subjected to the applied police authorizations and one complaint about the treatment of persons accommodated at the social protection institution.

Chart 7 - The overview of received cases



¹⁰⁸ The case refers to the cases which emerged from the actions upon complaints and upon own initiatives in individual area/department.

The Protector of Citizens issued 23 recommendation to administrative authorities, of which nine were due for execution in the reporting period¹⁰⁹. Out of this, administrative authorities acted upon all nine recommendations, which is 100 percent of actions upon due recommendations. Of 184 reviewed cases in 2019, the Protector of Citizens completed the work on 152 cases.

Table 32 – The overview of cases handled in 2019

Number of received cases in 2019	184
Number of closed cases in 2019	152
Number of ongoing cases in 2019	32

Table 33 – The overview of recommendations issued in 2019

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations
23	9	9

In 2019 the work was completed also on *41 cases from previous years*. The manners of completion of cases from 2019 are presented in the following table.

Table 34 - The outcome of closed cases handled from 2019

	number	percentage
Unfounded complaints	57	37.50%
Inadmissible complaints –Unused legal remedies	28	18.42%
Inadmissible complaints –Incompetence	24	15.79%
Inadmissible complaints –Formally deficient complaint	19	12.50%
Cases covered by recommendations from an expedited oversight procedure	9	5.92%
Inadmissible complaints –Untimeliness	5	3.29%
Inadmissible complaints –Unauthorized complainant	5	3.29%
Cases covered by recommendations from an oversight procedure	3	1.97%
Inadmissible complaints –Anonymous complaint	1	0.66%
Withdrawal of the complainant	1	0.66%
Total	152	100%

The greatest number of received complaints are rejected by the Protector of Citizens because the legally prescribed conditions for acting upon them are not met. Complaints are rejected 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 rejected due to incompetence or prematurity. Such advisory assistance is provided to citizens in **63.41 percent** of rejected cases in this field. The Protector of Citizens in these cases refers the complainant to the competent authority or advises them about available legal remedies.

¹⁰⁹ The Protector of Citizens observes received recommendations as recommendations with expired deadline for actions during 2019 given in the text of recommendations.

ACTIVITIES OF THE PROTECTOR OF CITIZENS

During this reporting period in the Republic of Serbia the tendency of the promotion of the protection of persons deprived of liberty, application of police authorizations as well as the prevention of torture and other forms of abuse was continued through the amendment to the existing legal framework, strengthening of professional and human resource capacities, increase of accommodation capacities, etc. institutions which accommodate persons deprived of their liberty towards which the Protector of Citizens conducted oversight procedures, established, in majority of cases, good cooperation with this body, which provided undisturbed realization of its mandate.

Even though in the Republic of Serbia there is no torture as organized phenomenon encouraged by public authorities, there still are individual cases of torture or abuse. Even though during 2019 amendments to the Criminal Code were adopted, there was an omission to adjust the provisions of the Criminal Code with the definition of torture from Article 1 of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment., despite the fact that the Protector of Citizens indicated to this need for several years.

The Protector of Citizens in two oversight procedures initiated upon complaints of persons deprived of liberty in 2019 undoubtedly confirmed that by actions of the overseen administrative authority the rights of the complainant to the inviolability of physical and mental integrity were violated.

In the oversight procedure of acting of police officers, the Protector of Citizens confirmed that by excessive use of measures of coercion police officers violated the right of the complainant to the inviolability of physical and mental integrity, by causing bodily injuries to him during deprivation of liberty and delivery and during this the omissions in work were confirmed during the implementation of the internal control mechanism. For these reasons, the Protector of Citizens issued recommendations¹¹⁰ to take all measures and activities prescribed by law with the aim of confirming the disciplinary responsibility of police officers who directly treated the complainant during his deprivation of liberty as well as to take all necessary measures so that in future internal control mechanisms at police in every individual case could actually accomplish its purpose for which they were prescribed, which is conscientious, professional, and impartial assessment of justifiability and regularity of use of coercive means by police officers.

Furthermore, the Protector of Citizens in the oversight procedure confirmed illegalities and irregularities in the treatment of the convicted by employees at the security service as well as the shortcomings in the activities of doctors at the institute in taking legally prescribed actions when the doctor diagnoses the existence of bodily injuries and the existence of indications that the convict was subjected to violent treatment, which violates the right of the convict to the inviolability of physical and mental integrity with regards to the protection against torture, inhuman or degrading treatment or punishment, as well as the right to health protection. Recommendations¹¹¹ were issued that within legally prescribed procedure the responsibilities for the treatment of the convict are examined, that doctor's examination of convicts after the application of the measures of coercion as well as always when bodily injuries in the body of

¹¹⁰ Recommendations available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6494-n-c-lni-p-lici-s-upr-v-u-s-d-r-vu-d-u-vr-di-disciplins-u-dg-v-rn-s-p-lici-s-ih-sluzb-ni-i-su-n-p-sr-dn-p-s-up-li-pr-pri-uzi-cu>

¹¹¹ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6276-pz-u-p-nc-vu-d-isp-dg-v-rn-s-z-p-sl-nih-d-p-s-i-su-nj-n-n-z-ni-i-n-pr-viln-p-s-up-nj-pr-sud-ni-lici>

the convict are notices, is implemented in compliance with the Istanbul Protocol¹¹², that the noticed violations are photographed, described in details in the medical record and special report on confirmed violations which are issued to the doctor to the administrator, as well as that the doctor enters the allegations of the convict about the occurrence of injuries and present his/her opinion on the relations of the convict's allegations and occurred injuries.

In the context of the investigation of the allegations on the violation of citizen rights by illegal work of administrative authorities, especially of the investigation of allegations on any form of abuses, as well as with the aim of prevention of the violation of citizen rights, the Protector of Citizens in this reporting period too indicates that, pursuant to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹¹³, it is necessary to legally prescribe the obligation of sound and visual recording: the use of means of coercion by police officers; the application of authorizations by which citizens are deprived of liberty, especially delivery, apprehension, police arrest and detention, especially hearing of the suspect in pre-investigation procedure by police officers; the application of measures of coercion by employees at security service at institutes for the execution of criminal sanctions; the application of the means of coercion and delivery of the citizen by communal policemen.

In one of the oversight procedures of the police operation, the Protector of Citizens confirmed omissions in the treatment of a person deprived of liberty and issued to the overseen body recommendations¹¹⁴ that in future operation the person who is apprehended, deprived of liberty or detained in compliance with the provisions of the Criminal Proceedings Code receives the written notification on their rights, in the mother tongue or a language they understand. It is proposed that the person deprived of liberty duly signs the notification and thus confirms that they were informed by authorized officers before apprehension, deprivation of liberty or detention about their rights and notified about reasons of the application of apprehension, deprivation of liberty or detention.

By passing of bylaws, certain improvements of the normative framework of importance for the operation of police and position of police officers and other employees at the Ministry were made. The Rulebook on the Manner and Conditions of the Application of Police Authorizations toward Juveniles¹¹⁵ and Rulebook on Police Authorizations¹¹⁶ were adopted and in their text to a great extent the remarks and recommendations of the Protector of Citizens were implemented and they aimed at the prevention of the reduction of the reached level of the exercise of rights in procedures before police, as well as to perform clear demarcation which police authorizations and in which manner they are applied toward adults and which toward minors. Furthermore, it was noticed that numerous shortcomings of the Rulebook on the manner and conditions of the application of police authorizations to minors result from the shortcomings in the Law on Juvenile Offenders and Criminal-Legal Protection of Juveniles, which indicates to the need for its amendment.

During the reporting period, the Protector of Citizens continued with the implementation of the oversight procedure of the Administration for the Execution of Criminal Sanctions, upon

¹¹² Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. (Istanbul protocol) - available at: http://www.hraction.org/wp-content/uploads/Istambulski_protokol_serbian.pdf.

¹¹³ Law on Ratification of the Convention Against Torture and oHer Cruel, Inhuman or Degrading Punishments and Treatment ("Official Gazette of the SFRY - International Treaties", number 9/91).

¹¹⁴ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6142-gr-d-ninu-u-p-lici-s-s-nici-ni-uruc-n-pis-n-b-v-sh-nj-nj-g-vi-pr-vi>.

¹¹⁵ "Official Gazette of RS", no. 83/19.

¹¹⁶ "Official Gazette of RS", no. 41/19.

complaints of convicted and persons in custody. Complaints of persons detained in custody, as in previous reporting periods, referred to the length of custody, violation of the right to trial within a reasonable deadline and violation of the right to fair trial¹¹⁷, as well as to the violation of the right to health protection. With regards to women in custody, the situation is unchanged so, because of their relatively small number, they still very often serve their measure in solitary confinement, so that what is the disciplinary measure for convicts, for female persons in custody is a regular manner implementation of the custody measure.

Also, in comparison to previous reporting periods, in this one too, the circumstances in which female convicts and juveniles are accommodated at special institutes, the only institutes designed for these purposes in the Republic of Serbia have not changed, so the rule that, like other convicts, they serve their sentence closer to the place of their residence is not applied to them.

Complaints of convicts accommodated at the institutes for the execution of criminal sanctions referred primarily to the dissatisfaction with the provided health protection and treatment work.

The example of good practice at PCI in Belgrade prove that the results of the implementation of the activities of many years among employees at the institutions for the execution of criminal sanctions towards raising of the awareness on unallowed any form of abuse took place. In this example in the oversight procedure the Protector of Citizens confirmed that the overseen body timely recognized unallowed conduct of employees and that by activating of internal control mechanisms in the fight against torture took all legally stipulated activities with the aim of the protection of rights of persons deprived of liberty.

The Administration for the Enforcement of Penal Sanctions continued with the activities on the improvement of material conditions of the accommodation conditions of persons deprived of liberty and increase of the capacity of the institute for the execution of criminal sanctions in compliance with the activities stipulated by the Strategy of the development of the execution of criminal sanctions and Strategy of the reduction of overload of accommodation capacities in the institutes for the execution of criminal sanctions by 2020.

What is concerning is the fact that the Protector of Citizens received a small number of complaints of persons deprived of liberty at psychiatric institutions and residential care institutions, especially taking into consideration the unchanged condition in this field, as well as the fact that the competent bodies in the reporting period did not take activities towards the improvement of the position of persons who reside at these institutions and the shortcomings to which it was indicated in previous reports are not removed.

The unfavorable position of persons deprived of liberty at psychiatric institutions and residential care institutions is, inter alia, the consequence of the shortcomings in the normative framework which regulates this field. Therefore, the Protector of Citizens as in previous years, indicates to the need for amendments to the Law on the Protection of Persons with Mental Disabilities¹¹⁸ and improvement of the Law especially in terms of the creation of conditions for efficient and sustainable functioning of the system of "deinstitutionalization". This system, apart from health care comprises also the social aspect and creation of corresponding conditions for provision and necessary support to persons with mental disabilities and their families for life outside psychiatric institutions in the environment which is to the least

¹¹⁷ Taking into consideration that the Protector of Citizens is not authorized to oversee the legality and regularity of the court operation, complainants were referred to contact competent bodies with respect to this.

¹¹⁸ "Official Gazette of RS", no. 45/13.

possible extent determined by their mental disabilities. What should contribute to that to a great extent, is the Program on the protection of mental health in the Republic of Serbia for the period 2019-2026¹¹⁹ passed by the Government of the Republic of Serbia, provided that it is implemented in accordance with predicted activities.

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 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 and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- **Ministry of Justice** should, **in cooperation with the Ministry of Health**, ensure that the service for health protection of the institute for the execution of criminal sanctions functions within the competence of the Ministry of Health;
- **Ministry of Justice, Administration for the Enforcement of Penal Sanctions** should continue with the improvement of material conditions of accommodation of persons deprived of 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 Enforcement of Penal Sanctions** should provide persons in custody 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 persons in custody with whom due to conducting of the criminal proceedings the court did not limit the contact;
- **Ministry of Justice, Administration for the Enforcement of Penal Sanctions** should improve the implementation of the treatment toward convicts, especially individual and group educational work;
- **Ministry of Justice, Administration for the Enforcement of Penal Sanctions** should continue with the improvement of the provision of health protection to convicts and persons in custody;
- **Ministry of Justice, Administration for the Enforcement of Penal 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;

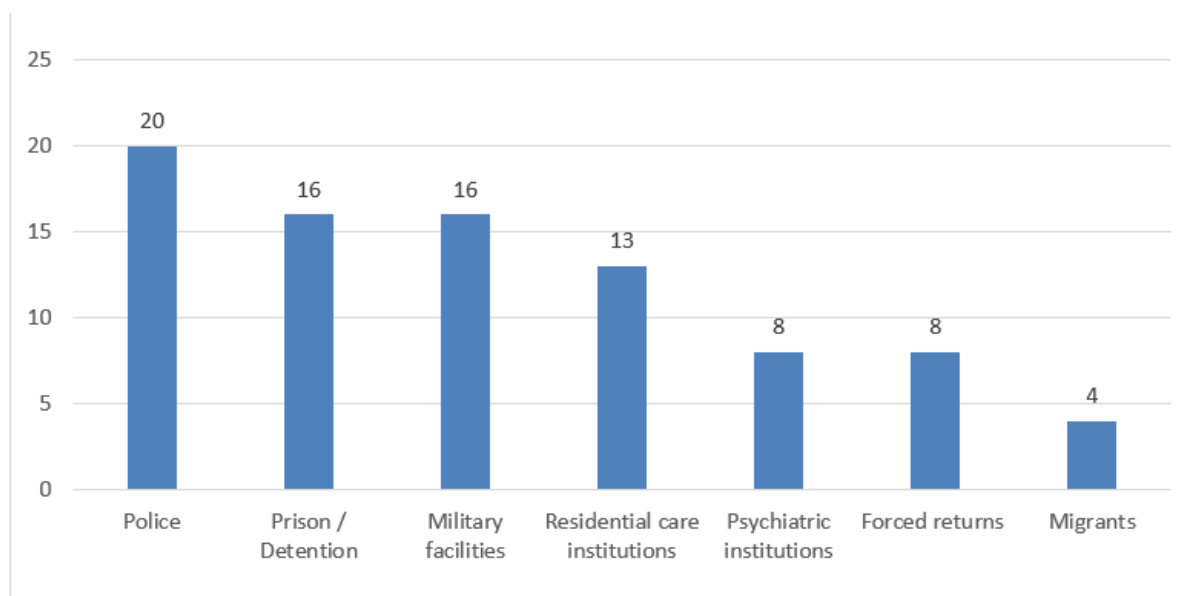
¹¹⁹ "Official Gazette of RS", no. 84 dated 29th November, 2019.

- **Ministry of Justice, Administration for the Enforcement of Penal Sanctions** should provide that all persons with mental disabilities who serve the prison sentence are dislocated from regular prison regime;
- **Ministry of Health** should take measures from its competence with the aim of the improvement of the application of the measure of physical restraint by binding of the patient at psychiatric hospitals;
- **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 Affairs** should implement the activities from its competence with the aim of the amendment to the Law on Social Protection, so as to prescribe conditions, competence and procedure for coercive accommodation and keeping of users at the residential care institutions;
- **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 users accommodated at residential care institutions;
- **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 users at the residential care institution;
- **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 users at institutions;
- **Ministry of Interior, Ministry of Justice, Ministry of Health and Ministry of Labor, Employment, Veteran and Social Affairs** should increase the number of employees at bodies/institutions so that persons deprived of liberty would be treated in accordance with regulations and standards.

4.5.1. NATIONAL PREVENTIVE MECHANISM

During the reporting period, the National Preventive Mechanism (hereinafter: NPM) paid 77 visits to the institutions which accommodate persons deprived of liberty and eight supervisions of the procedures of forced returns of foreign citizens.¹²⁰ In total 20 visits were paid to police stations,¹²¹ 16 to the institutes for the enforcement of penal sanctions,¹²² 13 to the residential care institutions¹²³ and eight to psychiatric institutions¹²⁴. Furthermore, four visits were paid with the aim of monitoring of the treatment of refugees and migrants¹²⁵. A number of visits was paid in cooperation with foreign delegations¹²⁶ which were visiting the Republic of Serbia. For the first time, the NPM during the reporting period paid 16 visits to military facilities.¹²⁷

Chart 8 - Visits paid by NPM in 2019



¹²⁰ Removals of sixteen citizens of the People's Republic of China, two citizens of the People's Democratic Republic of Algeria, one citizen of the Republic of North Macedonia, one citizen of the Republic of India, one citizen of the Islamic Republic of Afghanistan and one citizen of Bosnia and Herzegovina were monitored.

¹²¹ PD Kragujevac, PS Batočina, PS Lapovo, PD Jagodina (seat), PS Čuprija, PD for the City of Belgrade - Service on call, PS Novi Beograd, PD Požarevac, PS Zemun, PS Stari grad, PD Zaječar (seat), PS Velika Plana, PD Vranje (seat), PS Surdulica, PD Leskovac (seat), PD Prokuplje, PS Blace, PS Krušumlija, PS Žitorađa, and traffic police office PD Prokuplje.

¹²² PCI Niš (three times), PCI Sremska Mitrovica (twice), PCI Čuprija, PCI Požarevac - Zabela, DP Belgrade (four times), DP Kragujevac, DP Smederevo, DP Zaječar, DP Vranje and DP Prokuplje.

¹²³ Gerontological Center Kragujevac, Nursing home for the elderly Voždovac, Infirmary for autism Zemun, Home for persons with mental illnesses "Čurug", Home for accommodation of adults Blace - Trbunje, Home "Srce u jabuci" Jabuka, Home "Veterinik", Home "Tešice", Center for the protection of infants, children and youth of Belgrade Infirmary of the Center, Home Male Pčelice, Home Stamnica and Home "Sveti Vasilije Ostroški - Čudotvorac".

¹²⁴ Clinical center Kragujevac - Psychiatric clinic, General hospital Šabac - Psychiatric service, Clinical center of Serbia - Psychiatric clinic, Clinical center of Niš - Center for mental health protection, Clinical center of Vojvodina - psychiatric clinic, General hospital Jagodina - Psychiatric service and Clinic for Neurology and psychiatry for children and the youth.

¹²⁵ Shelter for Foreigners, Airport "Nikola Tesla" in Belgrade (twice) and Airport "Konstantin Veliki" in Niš.

¹²⁶ National Ombudsman of the Netherlands, High Commissioner for Human Rights of the Russian Federation, Ombudsman of Romania and Human Rights and Equality Institution of Turkey.

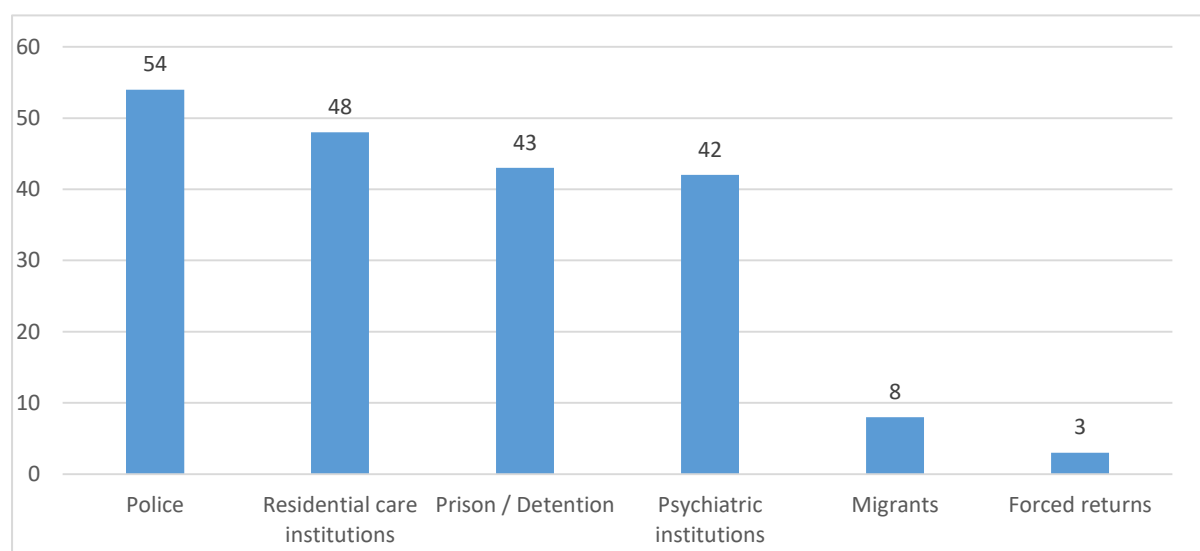
¹²⁷ Military facilities in Jakovo, Požarevac, Valjevo, Šabac, Pančevo, Bujanovac, Vranje, Leskovac, Niš, Raška, Kraljevo, Kruševac, Bačka Topola, Sombor, Novi Sad and Prokuplje.

In the reporting period 24 reports on paid visits and supervisions of the forced return 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 compliance with this, eight reports were executed on the basis of paid visits to police department and stations which are part of these, six reports were executed on the basis of visits paid to institutes for the enforcement of penal sanctions , four reports were executed on the basis of visits paid to psychiatric clinics and departments, three reports were executed on the basis of visits paid to institutions of social protection, while one report refers to the treatment of migrants by competent bodies. With regards to the supervision of the forced return of foreign citizens five reports were executed.

Visits to military facilities and individual residential care institutions institutions of social protection of home type according to their character were thematic and thematic reports will be executed about them and in these the NPM will present its findings and issue recommendations for removal of potential shortcomings.

In total 198 recommendations were issued, of which 195 were from the report on paid visits to locations where persons deprived of liberty are located or may be located, whereas three recommendations from the field of supervision of the forced return of foreign citizens. Out of the total number of issued recommendations from the visits of the NPM, 54 recommendations refer to the persons subjected to the application of police authorizations of apprehension and detention at police stations, 48 recommendations refer to users accommodated at the residential care institutions institutions of social protection of home type, 43 recommendations refer to the treatment of persons subjected to the execution of the measure of custody and serving the prison sentence, 42 recommendations refer to the treatment of persons accommodated and treated at psychiatric institutions and eight recommendations refer to the improvement of the situation in the field of migrations.

Chart 9 –Recommendations of the NPM issued in 2019



During 2019 the NPM initiated the practice of visits to military facilities where the premises for the execution of disciplinary measures which include the prohibition of the removal from special premises at the military facility are. Visits were announced to the Ministry of Defense, and during the visits to barracks, military personnel established full cooperation with the

NPM, enabled the monitoring team of the NPM to visit special premises, have insight into existing records and provided all the responses and information of importance for the realization of the NPM mandate.

In the reporting period, the cooperation of the Protector of Citizens with associations for protection and promotion of human rights and freedoms in the performance of the NPM activities was extended, through annexes on the memoranda on cooperation, to the period of one year, and these were signed with associations: Mental Disability Rights of Serbia (MDRI-S), Lawyers Committee for Human Rights (YUKOM) and International Aid Network (IAN).

With the aim of the establishment of the continual dialogue with regards to potential measures of implementation of the NPM recommendations and improvement of the cooperation in the field of the prevention of torture, individual meetings were held with high representatives of the Commission for the implementation of the standard of police actions in the field of the prevention of torture of the Ministry of Interior, Administration for Enforcement of Penal Sanctions, Commissariat for Refugees and Migration, Ministry of Labor, Employment, Veteran and Social Affairs, as well as the representative of the Ministry of Health – Sector for Inspection.

The NPM representatives participated in Skopje at two meetings of the Southeastern Europe NPM Network¹²⁸. Topics of the meetings were: “Prevention of retaliation” and “Specific needs of minors at the institutions of detention”. Furthermore, two meetings were held by the Working group for asylum and migrants of the European Network of National Human Rights Institutions (ENNHRI), in whose operation the NPM is involved. The representative of the NPM attended the training “Detention and alternative sanctions” in the Hague.

On the occasion of the celebration of 30 year anniversary since the establishment of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, in Strasbourg, the meeting of the NPM states members of the Council of Europe was held to the topic of the provision of efficient implementation of protective measures for the purpose of the prevention of torture within first several hours of the police custody. At the working meeting of the NPM with representatives of civil society organizations, what is especially emphasized is the need to accomplish mutual cooperation in order to ensure effective approach of the persons deprived of liberty to the lawyer in first hours of police custody.

ACTIVITIES OF THE NATIONAL PREVENTIVE MECHANISM

In the reporting period the Ministry of Interior, acting in compliance with the Rulebook on the conditions which the premises for detention should meet¹²⁹, continued with the improvement of the conditions for the staying of persons detained at the premises for detention - the List of priorities for the adaptation of 130 premises at 24 police departments, seven premises for detention were adapted¹³⁰, and there are works on adaptation of seven premises for detention initiated at the seat of Belgrade Police Administration.

Most of police departments and police stations visited by the NPM do not have special premises for hearing of persons equipped with technical equipment for audio and/or visual recording, even though the existence of these premises is one form of preventive actions and

¹²⁸ NPM of the Republic of North Macedonia presided over the Network during 2019.

¹²⁹ “Official Gazette of RS”, no. 34/18.

¹³⁰ In PA Valjevo, PA Pančevo, PA Požarevac, PA Kruševac and PA Čačak.

measure of protection of persons deprived of liberty against potential prohibited actions of police officers. The administration of criminalistic police informed the NPM that it considered the needs for these premises at the level of all police departments and executed the list of 33 premises which were the priority for adaptation in case financial funds were provided for that in the budget for 2020.

Except at the seat of PD Jagodina, PS Velika Plana, PS Čuprija and SPI Požarevac, in visited police departments and stations, there are no premises designed for keeping confiscated objects related to the criminal offence, which is why the NPM issued recommendations for formation of these premises. At the seat of PD Jagodina and PS Velika Plana, video recordings from video surveillance installed at premises for detention and the hallway, are kept for a shorter period of time than 30 days and at the PS Novi Beograd video surveillance is out of order. The NPM issued recommendations for the removal of these omissions which were accepted¹³¹ and their realization is expected in the following period.

During the reporting period the NPM conducted conversations with many persons deprived of liberty, both with persons in custody and detained persons on acting of police officers towards them during detention, as well as during the application of other police authorizations. Some persons deprived of liberty with whom the conversation was held stated that police officers yelled them, punched them in the stomach or dragged them on the ground during the arrest. In the doctor reports and other documentation there was no evidence which could confirm their allegations on illegal use of force. Furthermore, some persons deprived of liberty stated also that they were asked questions without their defendant and that police officers were present during medical examinations. The NPM in individual police cases found medical documentation of citizens (PD Jagodina, PS Čuprija, PD Zaječar), even though in years before that it was indicated in reports that such acting is contrary to standards and valid regulations.

With the aim of the improvement of the treatment of apprehended and detained persons, the NPM issued to the Ministry of Interior the Opinion to the Proposal of the Rulebook on Police Authorizations.¹³² With regards to this, the Protector of Citizens expresses satisfaction because in the subject rulebook a great number of recommendations were included from the reports which were issued by the NPM after paid visits to police departments and stations which are part of them.

The Administration for the Enforcement of Penal Sanctions continued to invest into material conditions of the accommodation of persons deprived of liberty and increase of the capacities of the institute for the execution of criminal sanctions. During 2019, the works were completed on the construction of the pavilion at PCI Požarevac – Zabela and the construction of two additional pavilions is in progress and these should be completed during 2020. The construction of the new facility at PCI for women in Požarevac and block at the DP Belgrade. The works on new pavilions at PCI Sremska Mitrovica and DP Leskovac are in progress, while by the end of the year the construction of the new institute in Kragujevac was initiated.

In most of institutes there is still present lack of staff in almost all services. The Administration for the Enforcement of Penal Sanctions announced a new rulebook on job systematization. The greatest increase should be in the execution of extra-institute sanctions and measures, whose further development is expected in the following period, by the execution of the

¹³¹ Acting upon the recommendation of the NPM, in PS Stari grad technical conditions for keeping video recordings longer than 30 days were created.

¹³² Available at: https://npm.rs/index.php?option=com_content&view=article&id=829:мишљење-нпм-на-предлог-правилника-о-полицијским-овлашћењима&catid=108:2012-01-18-20-51-23&Itemid=71.

strategic document in this field, improvement of technical means and cooperation with civil sector.

During the visits to the institutes for the execution of criminal sanctions the emphasis was placed on the treatment of persons deprived of liberty by police before they were delivered to the institute. Visits were paid by visiting local police stations and the institute, which enabled crossing of the data obtained from the persons with official allegations and documentation. In this manner, visits were paid to PCI Ćuprija, PCI Požarevac – Zabela, DP Zaječar and DP Vranje.

In this reporting period, too, the NPM confirmed that in visited residential care institutions, there is still a great number of users accommodated there for a longer period of time, because in the community there are no conditions provided for their staying. However, what is encouraging is the fact that by the end of the reporting period the Government of the Republic of Serbia passed the Program on the mental health protection in the Republic of Serbia for the period 2019-2026¹³³, with the Action Plan which stipulates measures and activities for the implementation of the Program and in terms of deinstitutionalization.

During the reporting period the application of the measure of fixation toward users at the residential care institutions was continued, even though the stated restraint was not prescribed by the law, but it was regulated by internal procedures of the institutions for the application of this measure.¹³⁴ Furthermore, the freedom of movement continued to be limited to users outside the institution, even though there is no valid legal basis or procedure which would regulate their detention at the institution. The Ministry of Labor, Employment, Veteran and Social Affairs at the beginning of the reporting period executed the Draft of the Law on the Protection of Rights of Persons with Mental Disabilities, Users of Accommodations Services in Social Protection and the NPM issued the opinion to this indicating that proposed decisions leave room for arbitrary actions based on internal rules of service providers and violations of persons with mental disabilities¹³⁵.

Accommodation conditions in individual institutions of social protection¹³⁶ and conditions for keeping of the privacy of users are still not satisfactory and in compliance with valid standards. The continual problem in visited institutions of social protection¹³⁷ and in this reporting period was the lack of employees for the immediate work with users, which may have an inconvenient effect on the quality of the provision of health care and psychosocial services.

After paid visits to psychiatric clinics within four clinical centers and issuing of reports with recommendations¹³⁸, the NPM was notified by these institutions on taken activities with the

¹³³ 05 Number: 500-11682/2019, dated 21st November, 2019.

¹³⁴ The Report on the visit to the Home for accommodation of adults "Trbunje", number 414-31/19.

¹³⁵ Available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6105-ishlj-nj-z-sh-i-ni-gr-d-n-n-n-cr-z-n-z-sh-i-i-pr-v-lic-s-n-lni-s-nj-risni-uslug-s-sh-u-s-ci-ln-z-sh-i-i>.

¹³⁶ The Report on the visit to the Gerontological Center of Kragujevac – Facility 3/block for increased supervision, no. 414 – 4/19 and the Report on the visit to the Home for accommodation of adults "Trbunje", number 414-31/19.

¹³⁷ The Report on the visit to the Gerontological Center of Kragujevac – Facility 3/block for increased supervision, no. 414 – 4/19, the Report on the visit to the Infirmary for Children and Youth with Autism, number 414 –13/19 and the Report on the visit to the Home for accommodation of adults "Trbunje", number 414-31/19.

¹³⁸ The report on the visit to the Psychiatric clinic of the Clinical Center of Kragujevac 413-6/19, available at: <https://npm.rs/attachments/article/867/Izvestaj%20o%20poseti%20Klinici%20za%20psihijatriju%20KC%20Kragujevac.pdf>.

The report on the visit to the Psychiatric clinic of the Clinical Center of Serbia 413-36/19, available at: <https://npm.rs/attachments/article/895/Izveštaj%20o%20poseti%20Klinici%20za%20psihijatriju%20KCS.PDF>

The report on the visit to the Psychiatric clinic of the Clinical Center of Niš 413-45/19.

aim of acting upon recommendations. The activities are aimed at the improvement of material conditions, better application and recording of the data on the application of the measure of physical restraint, more systematic and proper keeping of medical documentation, execution of the education plan of the medium medical staff¹³⁹, execution of special forms for informed consent of the patient to subsequently introduced medical measure and expansion of the plan of psychosocial rehabilitation in compliance with individual needs of patients and adjusted to their possibilities.

In the reporting period the NPM dedicated special attention to the conditions of hospital psychiatric treatment of children and the young, as one of especially vulnerable groups. On the basis of the paid visits to the clinics for children and adolescent psychiatry¹⁴⁰ and data from the visit to the Clinic for Neurology and Psychiatry for Children and Youth, which was performed within the celebration of the International Human Rights Day, it may be confirmed that in the Republic of Serbia there is no institution for hospital treatment of children aged below 14 years of age who are addicted to psychoactive substances, so for taking care of urgent conditions of minors there are only two institutions located in Belgrade, which does not provide all the patients with the opportunity to be treated near their families, that employees work in the circumstances in which it is more difficult to adjust psychosocial activities to the needs and possibilities of every patient, especially taking into account different ages, needs and possibilities of children and adolescents.

As in previous reporting periods, in this reporting period, too, the continued small number of services for the protection of mental health in the community was noticed (in total only five centers for the protection of mental health at the community were opened), which should enable the comprehensive treatment as close to the family of the person with mental disabilities as possible. Furthermore, there is still insufficient number of employees present, especially medical technical/nurses, and the absence of their continual specialistic education, which may be suitable for the occurrence of conduct which may have the character of abuse.

During the reporting period the NPM continued with monitoring of the position of migrants in Serbia. According to the data received by the NPM from the Commissariat for Refugees and Migration on 31st December, 2019 there were 5,199 migrants accommodated at centers. There is still a small number of migrants who are actual asylum-seekers. By the end of the year the Reception Center in Preševo was reactivated, so according to the data of the Commissariat for Refugees and Migration, there are in total 17 reception centers and centers for asylum in use.

Within the performance of the supervision of the forced return of foreign citizens, the NPM established the cooperation with the Ministry of Interior – Border Police Directorate and especially the Reception Center for Foreigners in Padinska Skela. The support to this cooperation was provided also by the United Nations High Commissariat for Refugees (UNHCR), which provided translations for the NPM. During the performed supervisions it was noticed that police officers who perform removals respect the integrity and dignity of foreigners and show the high level of professionalism in performing this activity. However, certain shortcomings during the preparation of foreigners for removal were noticed and they are reflected in the untimely notification of foreigners on the forthcoming removal, absence of psychological support and inability of foreigners to inform third parties on the forthcoming removal. With regards to this, the NPM issued corresponding recommendations and established the dialogue with the Ministry.

¹³⁹ Psychiatric clinic of the Clinical Center of Kragujevac.

¹⁴⁰ At the Center for mental health protection of the Clinical Center of Niš and at the Psychiatric clinic of the Clinical Center of Vojvodina.

Within the joint program of the European Union and Council of Europe “Horizontal Facility for Western Balkan and Turkey”, i.e. one of his components *Strengthening of the protection of human rights of persons deprived of liberty and convicted persons in Serbia*, three compilations of the NPM recommendations were printed and these are the following: “Overview of findings and recommendations of the Protector of Citizens on the protection of persons with mental disabilities in social and health care institutions (2011 - 2016)”, “Overview of findings and recommendations of the Protector of Citizens on the protection of persons detained at police stations (2008 - 2017)” and “Overview of findings and recommendations of the Protector of Citizens on the protection of rights of persons deprived of liberty (2008 - 2017)”.¹⁴¹

In its first report¹⁴² from the visit to one country, the Observatory of National Preventive Mechanisms Against Torture¹⁴³ praised the transparent approach and cooperation demonstrated by the Serbian NPM and gave proposals for the improvement of the methodological approach. The NPM shall consider the proposals from the Report since they will contribute to the operation of the NPM.

¹⁴¹ Available at: https://npm.rs/index.php?option=com_content&view=article&id=850:публикације-савета-европе-у-оквиру-пројекта-јачање-људских-права-притворених-и-осуђених-лица-у-републици-србији&catid=90:2011-10-24-12-48-00&Itemid=77.

¹⁴² Available at: <https://npm.rs/index.php?limitstart=44>.

¹⁴³ Observatory of National Preventive Mechanisms Against Torture (NPM Obs.).

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

In this reporting period, too, citizens contacted the Protector of Citizens expecting the provision of legal assistance for the purpose of exercise and protection of rights in the proceedings before competent bodies. It is important to mention that in this reporting period the application of the Law on Free Legal Assistance¹⁴⁴ started. Taking into account that the application of the Law started on 1st October, 2019, it is still not possible to analyze the effects of the application.

In complaints to the Protector of Citizens it is still indicated to the problems with regards to the supervision implemented by the Ministry of Justice over the operation of court administration, acting of courts in cases within prescribed deadlines and acting upon complaints and presentations of citizens. Citizens who use legal remedies stipulated by the Law on Court Organization¹⁴⁵ and Court Rulebook¹⁴⁶ express dissatisfaction believing that the predicted mechanisms of supervision are not effective and efficient since frequently in situations in which their complaints by competent instance are estimated as founded, measures which are taken do not provide expected effects. With regards to this, citizens most frequently express dissatisfaction in situations when their complaints, especially those referring to the duration of the proceeding, were estimated as founded by the Court President, and they are informed that the measures were taken to accelerate the proceeding but even apart from that there are no changes in the status of the proceedings. In these cases, citizens contact the Ministry of Justice as the authority which controls the performance of court administration activities, acting in cases within prescribed deadlines and acting upon complaints and presentations. Nevertheless, their expectations are not met, since acting of the Ministry is most often terminated by sending of the report of the Court President to the complainant.

It is important to mention also that from the complaints received by the Protector of Citizens referring to the operation of judiciary bodies and the Ministry of Justice the conclusion may be drawn that citizens are not familiar enough with the authorizations of these bodies, especially of the Ministry of Justice. Insufficient information of citizens, lack of professional legal assistance with certain number of citizens results in wrong and legally unfounded expectations that the Ministry may influence on the court proceedings, court decisions and assess their justification.

¹⁴⁴ "Official Gazette of RS", no. 87/18.

¹⁴⁵ "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.

¹⁴⁶ "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.

The Protector of Citizens received also complaints of citizens about the operation of public enforcement officers, whose operation is not within the competence of this body to control. The most frequent problems presented by citizens with regards to the operation of public enforcement officers referred to the amount of enforcement expenses, especially the Public Enforcement Officer Tariff¹⁴⁷, unjustified increase of expenses as well as the problems with regards to the submission of documents in the enforcement procedure. Regarding the submission of documents in the enforcement procedure, citizens express most often in their complaints the doubt that the submission to them was not performed in compliance with the law, emphasize that the notification on attempted submission (i.e. the notification on the placement on the notice board) was not submitted as prescribed by law and that they find out about the enforcement only when the deadline for the declaration of the legal remedy passed. It was also indicated to the different practice of public enforcement officers with regards to the submission of documents. Furthermore, complaints also referred to the operation of the Ministry of Justice and Chamber of Public Enforcement Officers with regards to acting upon complaints to the operation of public enforcement officers and performance of the supervision of their operation.

Taking into account the frequency of complaints referring to the mentioned problems, their importance as well as the assessment that the Law on Amendments to the Law on Execution and Provision¹⁴⁸ did not solve mentioned problems completely, the Protector of Citizens issued to the Ministry of Justice and Chamber of Public Enforcement Officers the Opinion¹⁴⁹ in which he indicated to the need to review Public Enforcement Officer Tariffs, establishment of an efficient mechanism of the submission and equal activities of public enforcement officers with regards to the submission, so as to provide their uniform activities. At the same time, it was indicated to the need of strengthening of the mechanism of the control of operation and responsibilities of public enforcement officers and consistent application of regulations which regulate the performance of the supervision of their operation.

New Public Enforcement Officer Tariff¹⁵⁰, which came into force on 1st January, 2020, individual amounts of the compensation for the operation of public enforcement officers were reduced, however, it remains to be seen what its effects will be.

When it comes to the supervision of the operation of public enforcement officers, through complaints of citizens, the Protector of Citizens notices that citizens are not entirely familiar with the authorizations of supervisory authorities, so very often they expect that the Ministry/Chamber make decisions referring to the very process of enforcement through the oversight procedure, i.e. to abolish or amend the decision of the public enforcement officer.

In this reporting period as well, citizens indicated in their complaints issued to the Protector of Citizens to the activities of the Ministry of Justice indicated to the need of the provision of functionality of the supervision of the operation of public enforcement officers and consistent application of regulations which regulate this field. After the initiation of the oversight procedure, the omissions were removed.

Acting upon complaints of the citizens to the operation of the Chamber, the Protector of Citizens confirmed that in the formal-legal sense, the Chamber acts in compliance with regulations.

¹⁴⁷ "Official Gazette of RS", no. 59/16.

¹⁴⁸ "Official Gazette of RS", no. 54/19.

¹⁴⁹ Opinion available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6342-z-sh-i-ni-gr-d-n-upu-i-ishlj-nj-inis-rs-vu-pr-vd-i-ri-vnih-izvrshi-lj>.

¹⁵⁰ "Official Gazette of RS", no. 93/19.

Finances

During the reporting period, citizens most frequently contacted the Protector of Citizens because of unpaid contributions for mandatory social insurance by the employer and inability of the exercise – failure to exercise to the full extent or aggravated exercise of the rights on this basis (the right to pension, right to health insurance, right in case of unemployment).

Citizens contacted the Protector of Citizens with complaints about the operation of Tax Administration of the Ministry of Finance due to the failure to take measures or timely take measures against the employer because of unpaid taxes and contributions for mandatory social insurance of employees, former employees and work-related engaged persons on another basis or failure to take all measures in order to charge confirmed obligations of the employer via regular or coercive charging of public income.

In oversight procedures conducted by the Protector of Citizens, Tax Administration of the Ministry of Finance removed omissions which refer to the failure of acting upon presentations/ requests for the oversight of the operation of the employer. In the procedures which refer to the failure to take measures for the purpose of regular or coercive charging of the contribution the most often stated reasons which aggravated the charging were termination of the employer operation, account blocked, inexistence of property, etc.

The difficulties which the citizens face, which are frequently the reason for contacting the Protector of Citizens are regular and coercive charging of tax from citizens as taxpayers, by the Tax Administration of the Ministry of Finance and local tax administration on the basis of the Law on Property Tax, Law on Use, Possession and Carrying of Goods and Laws on Contributions for Mandatory Social Insurance. Citizens most frequently indicate in their complaints that they were not familiar with the obligation of the payment of tax and contributions, the amount of the debt, or due to passing of the time they were assured that the obligations on this basis were terminated due to obsolescence of confirmation or charging.

It may be expected that the problems of regular and coercive charging of contributions will be overcome to a certain extent when the application of the Law on Amendments to the Law on Execution and Provisions starts and whose according application is referred to by the Law on Tax Procedure and Tax Administration. This primarily refers to the most endangered categories of population, citizens with the lowest pension amounts.

Even apart from the obligation of Tax Administration of the Ministry of Finance and local tax administration to confirm the obsolescence of tax and supporting tax obligations in the line of duty, the practice of the operation of the authority is different. The termination of tax obligation due to the obsolescence of charging, authorities mostly confirm upon request of taxpayers and most frequently after citizens address them in the procedure of regular charging of tax or after they contact the Protector of Citizens.

Obligations of citizens on the basis of tax represent the source income of the local self-government unit, in the specific case local tax administration - Secretariat of public income of the City of Belgrade Voždovac Department, were identified contrary to the legally prescribed rules of procedure, which is why the Protector of Citizens issued recommendations¹⁵¹. The authority acted upon stated recommendations entirely.

¹⁵¹ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6306-s-r-vnih-prih-d-z-p-druc-gr-ds-ih-psh-in-d-lj-nj-v-zd-v-c-ubuduc-d-v-di-r-cun-bli-u-s-drzini-r-sh-nj-i-p-uci-pr-vn-l-u%22>.

During 2019 citizens indicated to the Protector of Citizens in their complaints also to the dissatisfaction with tax debt to registered weapons even though they possess evidence that their weapons were stolen or temporarily confiscated. Pursuant to the amendments to the Law on Taxes to Use, Possession and Carrying of Goods¹⁵², registered weapons whose disappearance was reported to the competent authority, which was recorded as passivized, will be exempted from taxation within the period starting with the day when the disappearance was reported concluding with the day which precedes the day of the return of the found weapons to the owner. In this manner the long-term problem of citizens with regards to taxation of the weapons they do not possess will be overcome.

In the reporting period citizens contacted the Protector of Citizens with complaints about the operation of the Ministry of Finance as the second-instance authority because of the failure to decide within legal deadline about complaints against the decision of Tax Administration and local tax administrations. The established good cooperation of the Ministry of Finance with the Protector of Citizens was continued and identified omissions in operation were removed.

Internal affairs

In the reporting period the Protector of Citizens conducted oversight procedures in various cases in which the Ministry of Interior (hereinafter: MoI) did not decide on requests for entrance into citizenship, discharge from citizenship, obtaining of travel document, alteration of residence, registration of a vehicle within the legal deadline. Complaints also referred to the rejection of the request for keeping and bearing arms, confiscation of weapons and gun licenses, obtaining of the license for performing the activities of security officers, failure to decide upon complaints within legal deadline, failure to decide upon the request for unfoundedly paid funds, refusal to let foreign citizens enter the Republic of Serbia, dissatisfaction of citizens with filing of the request for the initiation of misdemeanor proceedings.

The Protector of Citizens estimates that during the reporting period the activities of the MoI pursuant to the Law on General Administrative Procedure¹⁵³ (hereinafter: LAP) were improved, therefore, unlike previous years, to a lesser extent, the decision making on citizens requests without following of the legal form was noticed. However, in 2019 it was noticed as well that citizens were informed by notifications, instead of decisions, that their request cannot be adopted and in this manner they were deprived of the option of using regular legal remedy – complaint (two-instance level in decision making) and of later conducting of administrative dispute. After the Protector of Citizens initiated the oversight procedure, the MoI removed the omissions and in relation to such requests passed administrative acts. What is noticeable is the continued education of police officers with regards to consistent and even application of the LAP in all situations upon requests of citizens.

The Protector of Citizens believes that the control and examination of regularity and legality of first-instance decisions in the second-instance proceedings was improved, which was one of remarks in the Annual Report for 2018. In certain cases, in which the Protector of Citizens had insight, second-instance authorities annulled first-instance decisions and regularly confirmed the shortcomings in operation and decision making of first-instance authorities. Certainly, it should be continued with good practice of second-instance authorities in the sense that every first-instance decision should be examined in its entirety. The Protector of Citizens emphasizes also that he received a certain number of complaints about untimely

¹⁵² "Official Gazette of RS", no. 86/29 dated 6th December, 2019 in force since 1st January, 2020

¹⁵³ "Official Gazette of RS", no. 18/16 and 95/18.

deciding upon complaints by second-instance authorities. In these cases, the Protector of Citizens initiated procedures “because of the silence of the administration” and the MoI after that efficiently decided upon complaints, which removed the omissions in operation.

The Protector of Citizens believes that in 2019 the decision making on the request for entrance into citizenship of the Republic of Serbia was accelerated and that the operation of the Administration for administrative affairs of the MoI (hereinafter: AAA) was improved compared to previous years. Furthermore, the Protector of Citizens emphasizes that the AAA, having initiated the oversight procedure of the Protector of Citizens efficiently removed the omissions in operation, which resulted in the termination of the procedure by suspension to the complainants’ content. However, it is necessary to highlight that there is still a serious backlog in the operation with regards to requests for entrance into citizenship. For instance, the Protector of Citizens recently initiated the procedure due to failure to make decision on the request for the entrance into citizenship from 2010.

In 2019 the Law on Travel Documents¹⁵⁴ was amended, so the effects of the application still cannot be analyzed.

During 2019, the Protector of Citizens received a certain number of complaints of foreign citizens, in which the decisions of the border police station were made about the prohibition of entrance into the Republic of Serbia to them. Having performed the insight into the complaints, the Protector of Citizens concluded that the Border Police Directorate acted in accordance with the Law on Foreigners so these foreign citizens in writing (by decision) were prohibited from entering the state. Foreign citizens were entitled to the use of regular legal remedy of complaint to the decisions they received.

The Protector of Citizens did not confirm the improvement of complaint procedure at the MoI in comparison to the previous year. It was concluded that complaint procedures are implemented pursuant to the Law on Police and Rulebook on the Manner of Actions During the Complaint Procedure but that in responses issued by the MoI to complainants to the operation of police officers most frequently the actions taken with regards to the complaint are not stated and the facts of importance on decision making on its justification are not presented. The Protector of Citizens believes that in the complaint procedure in material sense occasionally there are deviations with regards to the rules of profession and principles of good administration, which is aimed at the avoidance of protentional disciplinary responsibility of police officers. The MoI on several occasions suggested that it is in the interest of citizens, police officers and Ministry itself that the complaint procedures are implemented in compliance with the law, without the existence of doubt about their process or outcome. It is necessary that the MoI develops and strengthens internal mechanisms of control of its operation in first-instance and second-instance procedure (when it comes to the regular complaint procedure) as well as to improve actions in expedited complaint procedure (when pursuant to the law the complainant is prevented from participating in the procedure).

Even though in the previous period the Law on Police¹⁵⁵ was amended and the Law on Records and Data Procession in the Field of Internal Affairs¹⁵⁶ was passed, the Protector of Citizens believes that the application of the stated laws did not improve the operation of the MoI in 2019.

¹⁵⁴ “Official Gazette of RS”, no. 90/07, 116/08, 104/09, 76/10, 62/14, 81/19.

¹⁵⁵ Law on Amendments to the Law on Police, “Official Gazette of RS”, no. 24/18 and Law on Amendments to the Law on Police, “Official Gazette of RS”, no. 87/18.

¹⁵⁶ “Official Gazette of RS”, no. 24/18.

In 2019, the Protector of Citizens received many complaints referring to the application of the Law on Weapons and Ammunition¹⁵⁷. It is necessary to mention also that the MoI extended the deadline for preregistration of weapons until March 2020. The dissatisfaction of citizens referred both to the content and application of the provisions of this law and complicated procedure of weapons preregistration and to a certain extent also to the actions of police officers upon filed requests. The dissatisfaction of citizens also referred to passing of the decision on confiscation of weapons and gun license for "safety reasons". The Protector of Citizens believes that in the following period the MoI should dedicate special attention to decisions in which the request is denied or weapons are confiscated and whose basis is exclusively "security verification", all with the aim of the improvement of the content of decision explanation taking into account that the competence of the person who performs the security verification is not regulated by a law or bylaws.

One part of complaints referred to the failure to make decisions on the requests of citizens for the removal of data from operational records of the MoI. Taking into consideration that in 2018 the Law on Records and Data Processing in Internal Affairs¹⁵⁸ was passed in 2018, the Protector of Citizens believes that continual education of police officers and more complete perception and oversight of the application of the stated Law within the MoI is necessary.

The complaints of citizens who expressed their dissatisfaction because, according to their opinion, the MoI filed against them requests for the initiation of the misdemeanor proceedings without any grounds were handled. Even beside the fact that the competent misdemeanor court decides on the responsibility of these persons and that the Protector of Citizens is not authorized to oversee the operation of judiciary, in certain cases, after performed insight, it was estimated that the requests were executed upon assumptions, instead of clearly and completely confirmed factual state and that in certain cases articles of the law were wrongly stated in relation to the factual description of the misdemeanor. The Protector of Citizens believes that it is necessary for the MoI to continually follow the outcome of initiated misdemeanor proceedings as well as the court practice of misdemeanor courts, taking into account that the burden of costs of unsubstantiated conducted misdemeanor proceedings is borne by budget funds, i.e. all citizens.

In comparison to the previous reporting period, in 2019 there was a smaller number of complaints of the employees at the Ministry of Interior indicating the violations of rights on the basis of labor relation. With regards to the identified omissions related to actions upon requests of police officers for passing of the decision on annual work evaluation, the Protector of Citizens issued to the Ministry of Interior the recommendation¹⁵⁹ upon which the authority acted after the expiration of the deadline for action.

Furthermore, the Protector of Citizens was contacted also by police officers who had their labor relation terminated in compliance with formerly valid regulations, due to safety obstacles or initiation of demeanor proceeding and who were not finally convicted for the offence they were accused of, i.e. they were absolved from their responsibility. In their communication with the Protector of Citizens former police officers asked for re-entrance into employment.

Acting upon the complaint of the citizen who expressed dissatisfaction with the operation of the MoI since the decision was not made upon her request for the return of paid funds to the account of the MoI, the Protector of Citizens initiated the procedure after which the MoI

¹⁵⁷ "Official Gazette of RS", no. 20/15.

¹⁵⁸ "Official Gazette of RS", no. 24/18.

¹⁵⁹ Recommendation available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6098-up-n-d-sl-d-n-p-z-h-vi-p-lici-s-ih-sluzb-ni>.

requested the Ministry of Finance, Treasury to make the refund to the complainant. More specifically, the complaint stated that the MoI did not decide upon the request for refund of the funds which the complainant paid for the purpose of taking of the professional exam of the license of officer, but did not take that exam because the legal entity where she was supposed to enter employment terminated its operation. After the initiated procedure of the Protector of Citizens, the funds were returned to the complainant.

Defense

During the reporting period, beneficiaries of military pensions contacted the Protector of Citizens regarding the calculation of pensions in the most unfavorable manner and due to the lack of the data about earnings, earnings compensation, basis of insurance for individual calendar years.

The Law on Amendments to the Law on Pension and Disability Insurance¹⁶⁰, which came into force on 30th September, 2018, prescribes that for the calculation of the annual personal coefficient in years for which there are no data on earnings, earnings compensation and insurance basis, instead of average or the lowest or guaranteed earnings, which used to be the case, the average annual personal coefficient of the insurance beneficiary is used. The same law prescribes that the request for the alteration of the decision on pension in compliance with the stated amendments to the Law on Pension and Disability Insurance, may be submitted within one year since the day when this Law came into force. Pursuant to the stated, during the reporting period complainants were informed on the possibility to contact by 30th September, 2019 immediately the competent organizational unit of the Republic Pension and Disability Insurance Fund with the request for the alteration of the decision on pension and they are entitled to the new amount of the pension, according to the altered decision, since the day when the mentioned law came into force.

In certain number of cases, when it comes to complaints with regards to the exercise of the rights from labor relation, complainants most frequently contacted the Protector of Citizens due to claims that senior officers of military personnel act contrary to the provisions of the Regulation on the Assessment of Professional Military Personnel and there were complaints regarding unrecognized rights to the payment of the contributions for the years of service of insurance with increased duration. In such cases, complainants were referred to the Defense Inspectorate, as the body competent for the performance of the inspection supervision of the application of the law and other regulations which regulate labor relations.

Furthermore, during acting upon the complaint of a professional soldier with regards to the assessment procedure, it was noticed that the allegations in the statement of the Defense Inspectorate were not in compliance with the evidence provided by the complainant himself. Namely, the conclusion of the Defense Inspectorate that in the specific case there was no basis for taking further measures from the competence of this body was based on incorrect information. With regards to the fact that in the specific case the assessment procedure was already terminated and hoping that such action of the body was not the rule in operation but an isolated case, the Protector of Citizens did not take other measures and activities from his competence, but it was indicated to the Ministry of Defense to the existence of irregularities, so that similar ones would not occur in future operation of the body.

In their contacting of the Protector of Citizens and during 2019 complainants presented claims on illegality and/or irregularity in regulations which regulate the right to the compensation

¹⁶⁰ "Official Gazette of RS", no. 73/18.

for increased housing costs as well as illegal determination of the right to solving of housing needs. As for the Rulebook on Solving of Housing Needs of employees at the Ministry of Defense and Serbian Armed Forces¹⁶¹, as well as the conditions for solving of their housing issue, during the previous year there were no announced changes implemented, even though the need for passing of regulations which would remove identified problems and contribute to more complete and efficient solving of housing needs of employees at the Ministry of Defense and Armed Forces of Serbia is still present.

Acting upon the received complaint, the Protector of Citizens confirmed that the Ministry of Defense committed an omission to the detriment of the rights of the complainant in the procedure of passing of the decision on his right to work because in deciding in repeated procedures in the same administrative case there was no acting upon binding remarks and legal interpretations from the verdicts of the Administrative Court and decision of the Constitutional Court. With the aim of the removal of the identified omission, the Protector of Citizens issued to the Ministry of Defense the recommendation that without any delay the option of passing of a corresponding act which would amend or annul its decision should be passed acting upon binding remarks and legal interpretations from the verdicts of the Administrative Court and decision of the Constitutional Court. Furthermore, the recommendation was given to the Ministry of Defense that a written apology should be sent to the complainant due to the omission committed during deciding on his right to work. The deadline of 60 days since the day of the reception of the recommendation was given to the authority to act upon recommendations and inform the Protector of Citizens on acting with the submission of relevant documentation and other evidence on the basis of which it can be determined with certainty that there were activities upon the recommendations of the Protector of Citizens. The deadline for actions upon recommendation is in progress.

During the reporting period, the Protector of Citizens issued to the Ministry of Defense the opinion on the Draft of the Law on Health Protection and Health Insurance of Military Insurance Beneficiaries¹⁶² and on the Draft of the Law on the Rights of Veterans, Military and Civil Disabled Persons in War and Members of Their Families¹⁶³. The Protector of Citizens notes that the cooperation with the Ministry of Defense, during the reporting period, was satisfactory.

Health

In 2019 two new systemic laws were passed - the Law on Health Protection and Law on Health Insurance¹⁶⁴, which are enforced since 11th April, 2019 so the effects of the enforcement cannot be analyzed yet. Also, during 2019 citizens indicated to difficulties in the exercise of the right from the mandatory health insurance primarily with regards to scheduling of the specialistic and consultative examinations as well as to alleged professional mistakes in the treatment of patients and generally lower level of the quality of provided health care services. When it comes to the exercise of the rights to medications, in some of the complaints it was requested from the Protector of Citizens to help, inter alia, in the provision of more contemporary and efficient medications and innovative therapy.

¹⁶¹ "Official Army Gazette", no. 14/14, 31/15 and 9/17.

¹⁶² Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/6332-z-sh-i-ni-gr-d-n-d-s-vi-inis-rs-vu-dbr-n-ishlj-nj-n-n-cr-z-n-zdr-vs-v-n-sigur-nju-i-zdr-vs-v-n-z-sh-i-i-v-nih-sigur-ni>.

¹⁶³ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/6397-ishlj-nj-z-sh-i-ni-gr-d-n-n-n-cr-z-n-pr-vi-b-r-c-v-nih-inv-lid-civilnih-inv-lid-r-i-cl-n-v-njih-vih-p-r-dic>.

¹⁶⁴ "Official Gazette of RS", no. 25/19.

With regards to more frequent contacts of the Protector of Citizens by health care employees, as well as unions of health care employees who indicate to various problems which health care employees and associates face but also to the national health care system in general, the Protector of Citizens took corresponding measures from his competence, by, inter alia, requesting from the competent Ministry of Health and Clinical Center of Serbia the submission of necessary notifications with regards to the problems presented in complaints. The Protector of Citizens shall, considering the importance of efficient and comprehensive solving of individual problems described in complaints but also the vital importance of the health protection system for citizens in general, in the following period with special attention monitor the state of the health care and level of the exercise of the rights of the patients and health care employees.

Monitoring the activities of local self-governments with regards to adherence to the Law on Patient Rights¹⁶⁵, but also acting in compliance with recommendations issued in the Special Report of the Protector of Citizens on the operation of the mechanisms for the protection of rights of patients with recommendations¹⁶⁶, the Protector of Citizens asked all local self-governments to submit the data on the basis of which he could give a comprehensive insight into the actual state of affairs in practice and take other necessary measures from for which he is authorized, all with the aim of providing the highest possible level of the exercise of guaranteed patient rights.

Acting upon the complaint, the Protector of Citizens confirmed that the Clinical Center of Vojvodina (hereinafter: CCV) violated the right of the patient to the confidentiality of the data on his health condition, since at the temperature-therapy-dietetic list in big red letter HIV was written and this word was at the patient's bed, visible to all others who were in that hospital room or entered it. After the conducted extraordinary internal control, the director of CCV initiated the disciplinary procedure against the persons responsible for the omission in the protection of confidential personal data. The health institution replaced the health list and apologized to the patient.¹⁶⁷

In the reporting period the Protector of Citizens monitored with due attention the state in this field and the position of citizens who live with HIV/AIDS as well as the application of the Strategy for the prevention and control of HIV infections and AIDS in the Republic of Serbia for 2018-2025. In one of the received complaints it was indicated to the problems the civil society organizations dealing with prevention of HIV/AIDS and protection of rights and improvement of the position of persons who live with HIV/AIDS face due to insufficient and inadequate support by local self-government not only when it comes to the support to financing, i.e. allocation of budget funds, but also the failure to recognize the importance and necessity of acting of civil society organizations in the application of the Strategy and accomplishment of its goals.¹⁶⁸

Acting upon the complaint, the Protector of Citizens confirmed that General hospital "Dr Đorđe Joanović" Zrenjanin engaged at the systematized job position "social worker at other hospital clinics" the person who does not meet prescribed conditions. Therefore, the recommendation was issued to the stated body to adjust the work organization and work engagement of the stated person and also in future to employ at systematized job positions candidates who meet prescribed conditions. The established good cooperation with the National Health Insurance Fund was continued, as well as health care

¹⁶⁵ "Official Gazette of RS", no. 25/19.

¹⁶⁶ Available at: <https://ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/4608-2016-02-22-12-37-32>.

¹⁶⁷ Available at <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/6094-linic-i-c-n-r-v-v-din-n-rushi-pr-v-p-ci-n>.

¹⁶⁸ Subject no. 311-450/19.

institutions. However, what is worrisome is the fact that in the second half of the reporting period, primarily in individual cases and by the end of the year entirely the submission of requested statements by the Ministry of Health stopped, which indicates to the tendency of the lack of cooperation with the Protector of Citizens.

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

Even though pursuant to Article 17 Paragraph 3 of the Law on the Protector of Citizens, the Protector of Citizens is not authorized to oversee the 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 of the Republic of Serbia, Ministry of Health, National Health Insurance Fund, local self-governments and health care institutions** should without any delay put additional effort and provide all necessary means and conditions for continual prevention of further erosion of the national health care system, not only with regards to the provision of the exercise of rights from health insurance, but also in terms of the treatment of health care employees and leave of health care employees abroad;
- **Ministry of Health and local self-government unit authorities** should continually provide necessary conditions for undisturbed and quality operation of advisors for the protection of rights of patients and health advice;
- **Ministry of Justice** should pursuant to the Law on Court Organization and Court Rulebook provide the functionality of the supervision of the operation of court administration and supervision of actions of courts in cases within legally prescribed deadlines and actions upon complaints and presentations of citizens;
- **Ministry of Justice and Chamber of Public Enforcement Officers** should strengthen mechanisms of control of the operation of public enforcement officers, provide functionality of the supervision of the operation of public enforcement officers and consistent application of regulations which regulate acting upon complaints to the operation of public enforcement officers and performance of the supervision of their operation;
- **Ministry of Finance** should provide staff and financial conditions with the aim of providing of the decision making upon complaints of citizens in legally prescribed deadline;
- **Tax Administration** should consistently implement all measures and activities from its competence with the aim of timely and efficient charging of contributions for mandatory social insurance in situations when the employer fails to do so;
- **Ministry of Interior** should provide complete and consistent application of regulations on administrative procedure in deciding about rights, obligations and legal interests of citizens in first-instance and second-instance proceedings;
- **Ministry of Interior** should in its operation decide timely upon complaints and improve the manner of the submission of decisions in compliance with the LAP;
- **Ministry of Interior** should, in deciding on free evaluation, take into account limitations and goal of its authorizations, especially when it comes to the “safety checkup”;

- **Ministry of Interior** should ensure that administrations included in the Police Directorate communicate, educate and control police departments by line of work on a regular basis, especially in terms of acting upon the requests of parties;
- **Ministry of Interior** should develop and strengthen mechanisms of control of its operation and additionally improve the complaint procedure in formal and material sense;
- **Ministry of Interior** should pay special attention in the submission of requests for the initiation of misdemeanor proceedings and in future operation to consider the introduction of records on the manner of termination of initiated misdemeanor proceedings;
- **Ministry of Interior** should more efficiently decide on requests for the reception into citizenship of the Republic of Serbia;
- **Local self-government units** should provide adequate support to civil society organizations at their territory which deal with prevention, protection and improvement of the position of persons who live with HIV/AIDS;
- **Local self-government units** should, in planning of original income, take into consideration the economic state and material circumstances of tax payers and **local tax administration** should dedicate more attention to the realization of communication with citizens and legal and regular decision making on their requests.

5.2. AREA OF ECONOMIC AND PROPERTY RIGHTS

ACTIVITIES OF THE PROTECTOR OF CITIZENS

Construction

Contacts directed to the Protector of Citizens in this field in the reporting period significantly referred to the inefficiency in acting by the Secretariat for the Activities of Facility Legalization of the City Administration of the City of Belgrade, whether it is about indicating to long duration of the procedure with the absence of clear and legally passed indicators when it would be completed, whether citizens opposing the legalization of individual facilities expressed dissatisfaction with complete ignoring of their requests in which they aimed at legitimization as parties in these procedures.

Using the option stipulated by amendments to the Law of Facilities¹⁶⁹, the City of Belgrade by amendments to the Statute of the City of Belgrade¹⁷⁰ entrusted¹⁷¹ city municipalities with the implementation of this procedure when it comes to facilities up to 400 m² gross developed construction surface. As city municipalities were obliged to take over uncompleted cases only concluding with 20nd January, 2020, it remains to be followed whether the stated amendment will provide expected effects in terms of the termination of the legalization process.

Amendments to the Law on Planning and Construction¹⁷² in this reporting period failed to contribute to the more efficient sanctioning of illegal construction. Apart from the fact that the process of competence takeover by city municipalities from the Secretariat for Inspection Activities of the City Administration of the City of Belgrade undoubtedly prolonged the postponement of the execution of already passed decisions on demolition, failure to execute administrative decisions on demolition also after the recommendation¹⁷³ of the Protector of Citizens, it is also to a more significant extent the consequence of untimely expansion of human resource capacities as well as omission to plan the allocation of sufficient fund in the budget for these purposes.

The Protector of Citizens notes that acting upon complaints referring to already described state of affairs the partial cooperation with competent organizational units of the City Administration of the City of Belgrade was realized, while in individual cases it was completely missing, so the recommendation¹⁷⁴ was issued to the City Administration of the City of Belgrade for the purpose of the prevention of such activities in future.

In this reporting period citizens indicated also to the dissatisfaction both with the content of passed design documents and transparency of the procedure of their passing, and with the process of realization of design documents through so-called "factual expropriation",

¹⁶⁹ "Official Gazette of RS", no. 96/15 and 83/18.

¹⁷⁰ Decisions on the amendments to the Statute of the City of Belgrade "Official Gazette of the City of Belgrade", no. 60/19.

¹⁷¹ Administrations of city municipalities shall take over from the City Administration unfinished cases which refer to passing of the decision on the legalization of facilities in compliance with this decision not later than 1st January, 2020 (Article 60 of the Decision on the amendment to the Statute of the City of Belgrade).

¹⁷² Coming into force of the amendments to the Law on Planning and Construction, the competence for the inspection supervision in the field 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.

¹⁷³ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/3383-2014-06-26-14-01-44>.

¹⁷⁴ Available at: <https://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>.

without legally conducted procedure. In cases where the expropriation procedure was initiated, citizen complaints referred to long duration of such procedures.

Complaints in the field of urbanistic and spatial planning in certain number referred also to the failure of competent bodies to act upon legal remedies stipulated by the Law on Planning and Construction, and after the intervention of the Protector of Citizens, authorities took measures to remove these irregularities.

Acting upon the complaint of the Citizen group from Užice with regards to the effectiveness of legal remedies stipulated for the disputing of design documents, the Protector of Citizens issued the opinion¹⁷⁵ to the Ministry of Construction, Transportation and Infrastructure with the aim of ensuring that competent inspections may in full capacity perform their supervision function prescribed by provisions of the Law on Planning and Construction¹⁷⁶.

The overview of key shortcomings in the operation of the administrative authority:

1. Ministry of Construction, Transportation and Infrastructure still has not provided in a sufficient extent conditions for consistent application of the Law on Legalization of Facilities in terms of staff, technical, financial and other necessary conditions.
2. Executive orders on the removal of illegally constructed facilities are not implemented pursuant to the Law on Planning and Construction.
3. The legally prescribed obligation, the cooperation of the City Administration of the City of Belgrade with the Protector of Citizens, in most of the cases is not established in a satisfactory level.
4. The City of Belgrade did not create financial and staff conditions for the purpose of efficient realization of assumed inspection activities in the field of construction of facilities¹⁷⁷.

Real Estate Cadaster

After moving to the system of electronic entry into the real estate cadaster (1st July, 2018), the Protector of Citizens identifies effects of the improvement of the normative framework in this field and does not record violations of citizen rights caused by actions of the subjects (public notaries, public enforcement officers, courts, public authorities, local self-government unit authorities) which submit to the service for real estate cadaster decisions they pass, executing or confirming.

Beside the fact that by the system of electronic entry into the real estate cadaster the procedure of the entry into the cadaster is accelerated, deadlines for decision making of services for real estate cadaster as the first-instance body and Republic Geodetic Authority as the second-instance body are still exceeded on multiple occasions, which is the most frequent reason why citizens contact the Protector of Citizens.

Actions of the Protector of Citizens upon complaints due to the failure to make decisions within legally prescribed deadlines provided great number of citizens with more efficient exercise of rights. Having learned that the Protector of Citizens initiated an oversight

¹⁷⁵ Available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6220-ishlj-nj-z-sh-i-ni-gr-d-n-z-l-nj-nj-n-d-r-c-n-s-i-u-z-ns-i-r-sh-nji-z-s-v-riv-nj-n-dz-rn-fun-ci-gr-d-vins-ih-insp-r-u-pun-p-ci-u>.

¹⁷⁶ The supervision of the execution of provisions of this law and regulations passed on the basis of this law is performed by the ministry competent for the activities of urbanism and construction the Inspection supervision is performed by competent ministry via inspectors within the scope designated by the law (Article 172 of the Law on Planning and Construction).

procedure of their operation, competent bodies in this reporting period, too, took necessary measures from their scope of competence with the aim of more efficient and timely activities and thus removed the omissions in operation.

However, due to inaccurate and incomplete legal regulation which refers to the procedure of submission of decisions by competent services for real estate cadaster, in the reporting period it was noticed that it is significantly aggravated for the citizens to exercise their right to further legal protection. The problem which citizens face refers to taking of acts whose submission is not performed via e-counters but via registered mail. Therefore, the Protector of Citizens upon his own initiative initiated the oversight procedure of the operation of the Republic Geodetic Authority. It was indicated to the body that the problems which citizens encounter during taking of acts whose submission is not performed via users of e-counter was the consequence of the failure to pass the bylaw, which, pursuant to the Law on the Procedure of Entry into Real Estate and Power Cadaster, should regulate more closely the manner of the submission of acts which is done via registered mail.

In contacts with the Protector of Citizens, citizens indicate also to the uneven practice and inconsistent application of the provisions of the Law on General Administrative Procedure¹⁷⁸ at services for the real estate cadaster and lack of observance of the citizen rights to equal legal protection and legal remedy, especially with regards to acting upon requests for the correction of errors in the maintenance of the real estate cadaster, to which was also indicated by the Protector of Citizens in the previous reporting period.¹⁷⁹

Taking into account occasional perennial duration of processes before services for the real estate cadaster, to which citizens indicated in their complaints, the Protector of Citizens initiated by taking valid regulations into consideration and will continue in the following period, the analysis of the regular application of Article 44 of the Law on the Procedure of Entry into Real Estate and Power Cadaster¹⁸⁰ in the section which refers to repeated actions of the second-instance body upon the complaint in the same administrative case. Namely, the stated article of the Law prescribes that the Republic Geodetic Authority may return the case to the service for the real estate cadaster to the repeated process and deciding only once, regardless of the reasons or omissions in the first-instance process, which most often does not occur in practice, which is why it is necessary to have a comprehensive perspective of the harmonization of activities among all services for the real estate cadaster.

Environmental protection

The Protector of Citizens notices that in this reporting period as well the topic of the environmental protection was in focus and the public shows justified concern mostly due to the occurrence of excessive air pollution in major cities of the Republic of Serbia. The number of complaints, nevertheless, was not increased, so the Protector of Citizens initiated procedures upon his own initiative with regards to new wildfires at the landfill Vinča, the pollution of Lupnjača river and Zapadna Morava in Čačak as well as the pollution of the Veliki bački channel. These procedures are in progress.

During 2019 the Ministry of Environmental Protection issued the public competition for granting of funds of the Green Fund of the Republic of Serbia, especially when it comes to

¹⁷⁸ "Official Gazette of RS", no. 18/16 and 95/19 – authentic interpretation.

¹⁷⁹ Available at: <https://www.ombudsman.rs/index.php/izvestaji/godisnji-izvestaji/6062-2018>.

¹⁸⁰ "Official Gazette of RS", no. 41/18, 95/18, 31/19.

forestation¹⁸¹, whereas in terms of repair and remediation of existing unsanitary landfills the Ministry organized the competition for co-financing of these projects at the level of local self-government units.¹⁸² This is especially important taking into consideration the current state of affairs in the field of waste management in the Republic of Serbia and confirmed factual state in the recommendation of the Protector of Citizens¹⁸³ which indicates to the fact that the number of imposed measures to local self-government units and public utility companies which failed to meet their legal obligations is disproportionately small in comparison to the number and gravity of activities contrary to the law and that the Ministry of Environmental Protection, as a oversight body, does not take all legally prescribed measures in order to provide efficient application of provisions of the Law on Waste Management¹⁸⁴ and realization of its goals. With regards to that, the Protector of Citizens, apart from indicating to the Ministry to the need of strengthening of the inspection supervision in this field, at the same time emphasized the need to provide more operational Green Fund and the Ministry should continue to provide financial support to local self-government units via public calls in the execution and realization of the projects of construction, repair and re-cultivation of landfills, primarily design and construction of regional landfills as precondition for closing of the existing ones.

This reporting period as well as the previous one was especially marked by the dissatisfaction of citizens and inhabitants due to construction and planned construction of small hydroelectric power plants especially in protected areas, such as special reservations and natural parks, mostly in Stara planina, primarily due to their negative impact on the environment.

Acting upon these complaints, the Protector of Citizens in the conducted oversight procedure confirmed that the results of the analysis of the environment obtained so far indicate to the fact that the construction of small hydroelectric power plants may have detrimental impact and negative consequences on the environment so with the aim of the prevention of further negative consequences and for the purpose of the protection and preservation of the natural diversity it is necessary to re-examine their construction primarily in protected areas. Pursuant to that, he issued the opinion to competent bodies, and also to the Ministry of Environmental Protection recommendations for the conduct of inspection supervision, confirmation in line of official duty whether there are reasons for the repetition of terminated procedures of issuing of the consent to the studies on the evaluation of the impact on the environment, ordering of taking of compensation measures as well as passing of the bylaw which would regulate the minimum sustainable flow.¹⁸⁵

However, even though for the end of 2019 passing of the amendments to the Law on Environmental Protection and Law on the Assessment of the Impact on the Environment were planned and they were supposed to regulate the prohibition of the construction of small hydroelectric power plants in all protected zones as well as tightening of the conditions and criteria for the construction of small hydroelectric power plants, until the day of the execution

¹⁸¹ Available at:

<https://www.ekologija.gov.rs/?s=%D0%B7%D0%B5%D0%BB%D0%B5%D0%BD%D0%B8+%D1%84%D0%BE%D0%BD%D0%B4>.

¹⁸² Available at: <https://www.ekologija.gov.rs/dodeljena-sredstva-za-saniranje-nesanitarnih-deponija-u-kraljevu-cacku-i-trsteniku/>.

¹⁸³ Recommendation with opinion available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/6178-inis-rs-v-z-sh-i-ziv-n-sr-din-ivni-d-spr-v-di-insp-ci-s-i-n-dz-r-n-s-ni-rnih-d-p-ni>

¹⁸⁴ "Official Gazette of RS", no. 36/09, 88/10, 14/16 and 95/18 – state law.

¹⁸⁵ Opinion with recommendation available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/6112-rg-ni-vn-vl-s-i-d-pr-ispi-u-v-z-ci-n-r-ivni-vir-i-ur-d-n-izgr-dnj-lih-hidr-l-r-n-u-r-publici-srbi-i>.

of this report the announced amendments to the laws were not passed and the Ministry of Environmental Protection did not act completely on issued recommendations.

In the reporting period the protector of citizens paid special attention to air protection, especially in Smederevo, Bor and Kolubara, so in recommendations and opinions to the Ministry of Environmental Protection and local self-government units in individual cases he indicated to the need for the conduct of adequate inspection supervision and consideration of the application of measures of prohibition to polluters with passing of adequate local measures which would contribute to solving of systemic problems. One of such cases is the air pollution which inhabitants in villages Radinac, Ralja and Vranovo in Smederevo suffer, due to steel production in former Železara Smederevo and now HBIS GROUP Serbia Iron & Steel d.o.o. Belgrade. After conducted procedure, the Protector of Citizens confirmed that the Ministry of Environmental Protection did not consider to the polluter the application of all authorizations stipulated by the law, that it failed to confirm if this polluter takes all other measures of protection stipulated by the Study on the assessment of the impact of current state on the environment and that the City of Smederevo did not adopt the Plan of the Air Quality even though it was executed and the Ministry of Environmental Protection gave its consent to it. Pursuant to the confirmed state of affairs, the Protector of Citizens issued to the competent bodies recommendations with the aim of the removal of noticed irregularities.¹⁸⁶

When it comes to former Železara Smederevo, the Protector of Citizens conducted the procedure also in terms of air pollution and noise pollution at the location of Old Port Smederevo which occurred due to the reload of coke ore, iron ore and other products. On this occasion at the Ministry of Environmental Protection it was indicated to the need for accurate confirmation of the total state of noise and specific sources of noise as well as impact of the stated activity on the level of air pollution at the stated location.¹⁸⁷

Taking into account the long-term problem of environmental pollution in Bor, primarily in the exploitation zone of the mines Veliki Krivelj, Bor and Cerovo, which became current again in the reporting period due to the emergence of excessive threshold of sulfur-dioxide in the air at emitters in the city of Bor, the Protector of Citizens in his issued opinion indicated to the need to increase the inspection supervision of the activities of MSB Bor and its current owner, company "Serbia ZIJIN Bor Copper" d.o.o. Bor, so it is apparent to confirm whether all guidelines for environmental protection in the performance of the activity contained in regulations from the environmental protection and passed studies on the assessment of the impact on the environment are implemented.

Furthermore, in order to undoubtedly confirm whether all guidelines for environmental protection are implemented due to the execution of mining and other activities of the Mining basin "Kolubara", primarily at villages Veliki Crljeni, Zeoke and Medoševac in which the remaining inhabitants still live, the Protector of Citizens indicated in the issued opinion to the Ministry of Environmental Protection that it was necessary that PC EPS implement the comprehensive inspection supervision of the Mining Basin "Kolubara" in the application of the regulations from the field of environmental protection and passed studies on the assessment of the impact on the environment and that PC EPS take all necessary measures from its competence in order to provide as soon as possible the relocation of all remaining

¹⁸⁶ Recommendation of the Protector of Citizens available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6330-inis-rs-v-z-sh-i-ziv-n-sr-din-d-r-z-ri-pri-nu-privr-n-z-br-n-r-d-s-ci-n-rn-g-izv-r-z-g-div-nj>.

¹⁸⁷ Recommendation with opinion of the Protector of Citizens available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6266-inis-rs-v-z-sh-i-ziv-n-sr-din-d-spr-v-d-v-nr-d-n-insp-ci-s-i-n-dz-r-n-l-ci-i-s-r-lu-s-d-r-v>.

inhabitants of Veliki Crljeni, Zeoke and Medoševac who live in immediate surrounding of the Mining Basin "Kolubara".

Finally, with regards to the citizen complaint which indicates to the fact that the public did not participate in no manner in the execution of the Strategy for Development of the City of Belgrade and that there was no either public insight or public discussion and that the same Strategy stipulates that at the territory of Beljarica as the hatchery of the fish fauna and location of numerous strictly protected species of birds and other animal species, the construction of a port is planned, the Protector of Citizens conducted the procedure toward the City Administration of the City of Belgrade. In the procedure it was confirmed that the Secretariat for Economy of the City Administration of the City of Belgrade as the authority competent for the preparation failed to obtain the opinion of the authority competent for the activities of environmental protection and other interested bodies and organizations about the necessity of the strategic assessment of its impact on the environment and that the City Administration of the City of Belgrade via the Secretariat for Economy of the City Administration of the City of Belgrade did not provide information whether the public discussion was held to the topic of the draft/proposal of the strategy and whether it was provided for public insight. In compliance with that, it was recommended to the City Administration of the City of Belgrade to examine whether the process of the execution of the strategy comprised all stages, i.e. whether pursuant to the provisions of the Aarhus Convention, the public had the opportunity to participate in the execution of the strategy and express their opinion and, if it is not the case, to take measures with the aim of the adjustment of this act with the law.¹⁸⁸

Mining and energy industry

In this reporting period, citizens who contacted the Protector of Citizens with complaints about the operation of PC "Elektroprivreda Srbije" to the greatest extent were dissatisfied by the procedure of coercive charging of payables, unjustified correction of the bill for consumed power, failure to respond to sent claims within the legal deadline, as well as failures to go to the field by competent branches of this public enterprise. Furthermore, the approximately same number of complaints as well as during the previous years refer to unjustified suspension of the power supply and disconnection from the distribution system. After the initiation of the oversight procedure by the Protector of Citizens this public enterprise could, by the rule, submit to the citizen the requested decision or answer.

As in previous recording periods, there are still difficulties with regards to reaching of the agreement for settlement of the debt into installments, especially in situations when there are corrections of the bill due to errors of authorized persons of the distributor. Taking into consideration the potential financial impact of the committed irregularities on customers, the Protector of Citizens in this reporting period as well draws attention to all aspects of the provision of public service.¹⁸⁹

The Protector of Citizens notes that there is still the problem of the installment repayment of debts when in the restitution procedure there was the change of the entitlement to the ownership right of the real estate burdened by unsettled debts for the consumed power.

Local self-government

¹⁸⁸ Recommendation available: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6406-gr-d-b-gr-d-d-ispi-d-li-p-s-up-izr-d-s-r-gi-r-zv-gr-d-b-gr-d-spr-v-d-n-u-s-l-du-s-z-n>.

¹⁸⁹ Special Report of the Protector of Citizens Problems in the exercise of consumer rights – buyers of electric power supply with recommendations available at: <http://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/4288-2015-08-19-13-26-56>.

A significant number of complaints from the field of local self-government still refers to the insufficient efficiency of the operation of bodies and services of cities and municipalities in original and entrusted competences. The stated becomes especially prominent with actions of inspection authorities upon the requests for the execution of inspection oversight of the application of local and republic regulations as well as the failure to implement executive decisions from the field of operation of the construction and public utility inspection.

Citizens frequently indicated to the lack of engagement and efficiency of local self-government units within the scope of the provision of adequate travel and public utility infrastructure. A great number of complaints referred to the failure to maintain non-categorized roads as well as water supply in village areas. With regards to this, the recommendation was issued to the municipality Sremski Karlovci¹⁹⁰ upon the complaint of the citizen who suffered damage at her real estate due to the omission of the local self-government in maintenance of the river bank. The recommendation to the local self-government was to take measures which refer to the renovation of the endangered section of the water stream, and with the aim of the termination of the repair process at the bank and construction of the bank fortification at the subject location and security of the subject facility from collapsing. The municipality of Sremski Karlovci informed the Protector of Citizens that it was not possible to act upon the recommendation due to objective reasons. The greatest number of complaints issued to the Protector of Citizens in the field of original competences of the local self-government refer to the operation of public companies, especially in the part of the thermal energy supply, charging of the passive thermal energy to the citizens who are disconnected from the supply system and still pay for the part of the compensation of different range according to the decisions of local self-government units.

Taking into consideration that the founders of public utility companies are local self-government units which perform the supervision of their operation, it is necessary that the units of local self-government units show a greater level of engagement in the oversight of the operation of local public companies. Within this domain of the competences of local self-government units there is still the problem of insufficient funds in the budget which aggravates the implementation of the projects and improvement of the living standard, especially in rural areas, to which the Protector of Citizens indicated in previous reports, too.

When it comes to the observance of the good administration principles and administrative procedures, the Protector of Citizens in this reporting period too identified the cases of failure to act upon decisions of the administrative authorities and failures to respect legal understanding of the Administrative Court, failure to decide about requests of the parties in the form prescribed by the law and failure to adhere to the principle of the administrative procedure. With regards to this, recommendations were issued to municipalities Blace¹⁹¹, Topola¹⁹² and Osečina¹⁹³, as well as cities Niš¹⁹⁴ and Čačak¹⁹⁵. For instance, the Protector of citizens in the oversight procedure of the Commission for Land Consolidation of Blace

¹⁹⁰ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6434-z-sh-i-ni-gr-d-n-u-vr-di-pr-pus-u-pr-viln-s-i-i-z-ni-s-i-r-d-psh-ins-upr-v-psh-in-sr-s-i-rl-vci-n-sh-u-s-v-riv-nj-pr-v-gr-d-n>.

¹⁹¹ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6048-isi-z-s-ci-u-psh-in-bl-c-b-z-dl-g-nj-d-r-shi-z-h-vu-z-ispr-v-u-r-sh-nj-u-f-r-i-upr-vn-g>.

¹⁹² Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6314-isi-z-vr-c-nj-z-ljish-psh-in-p-l-u-sh-s-ri-r-u-d-nc-sv-p-s-up-vr-c-nj-p-lj-privr-dn-g-z-ljish-i-su-sh-uv-u-u>.

¹⁹³ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6243-psh-in-s-cin-u-s-r-dnji-s-n-dl-zni-pr-duz-c-d-r-z-ri-sv-gucn-s-i-ispl-n-n-d-z-z-uz-z-ljish>.

¹⁹⁴ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6248-gr-ds-upr-v-gr-d-nish-d-pr-duz-sv-n-ph-dn-r-bi-u-icni-njig-s-d-v-di-us-gl-sil-sluzb-nu-vid-nci-u-licn-s-nju-pri-uzilj>.

¹⁹⁵ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6247-40>.

Municipality confirmed that it made an omission in operation by not deciding about the request for the correction of the decision by an administrative act, pursuant to the provisions of the Law on General Administrative Procedure which was in enforcement at the moment of the submission of the request, but sent the notification to complainants. In accordance with that, the Protector of Citizens recommended the solution on the request for the correction in the form of an administrative act with explanation and legal remedies. The authority acted completely in compliance with this recommendation.

In the field of the right to labor and labor relations and with regards to the execution of the decision of the labor inspection on the return of the employee to work, the recommendation was issued to the Public Enterprise in Loznica¹⁹⁶. The City of Zaječar received the recommendation because of the failure to return to work and to take into consideration the legal understanding of the Administrative Court¹⁹⁷. Because of the failure to return the board mandate and to act upon the verdict of the Administrative Court, the recommendation was issued to the municipality of Lebane¹⁹⁸.

Unfortunately, in this reporting period too, the Protector of Citizens identifies the lack of cooperation of individual local self-government units with this body. Due to the violation of this legal obligation the recommendations are issued to the City of Prokuplje¹⁹⁹, City Administration of the City of Belgrade²⁰⁰ and municipality of Brus²⁰¹ in which, inter alia, the confirmation of the responsibility of the acting officer who was immediately responsible for the lack of cooperation with the Protector of Citizens was asked.

In the procedure implemented upon his own initiative, the Protector of Citizens issued individual opinion with the recommendation to centers for social work in Bela Palanka, Dimitrovgrad, Jagodina, Kanjiža, Lebane, Leskovac, Pirot, Sombor, Subotica, Svilajnac, Trstenik, Vladičin Han and Zrenjanin with regards to the fulfillment of the legal obligation of the provision of architectural and other forms of accessibility to persons with disabilities. The goal of the opinion with recommendation is to remove noticed omissions and improvement of the existing condition until the full accessibility to persons with difficulties in movement and sensory disabilities is reached. The Protector of Citizens, via means of public information, noticed the practice of the PUC "Infostan tehnologije" Belgrade that the coercive charging of the unsettled obligations of the users of public utility services before public enforcement officers is entrusted to lawyer officers, which objectively and unnecessarily increases the costs of irregular payers. On this occasion, with the aim of collecting all relevant information, the Protector of Citizens contacted the stated public utility company and the City of Belgrade as the founder, primarily starting with the fact that PUC "Infostan tehnologije" within its organizational structure has formed special service dealing with the coercive charging of the unsettled obligations of the users of public utility services in which persons with passed bar exam work.

¹⁹⁶ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5702-p-v-d-v-d-i-n-liz-ci-iz-l-znic-d-guci-u-ljuciv-nj-pri-uzilj-u-pr-c-s-r-d-u-s-l-du-s-z-n-i-d-b-zb-di-s-v-riv-nj-svih-pr-v-iz-r-dn-g-dn-s-d-nc-nj-sp-r>.

¹⁹⁷ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6246-z-lb-n-isi-gr-d-z-c-r-b-z-dl-g-nj-d-r-z-ri-gucn-s-p-nish-v-nj-ili-iz-n-sv-g-r-sh-nj-i-d-n-s-n-vu-ili-iz-nj-nu-dlu-u-uv-z-v-uci-pr-vn-shv-nj-i-pri-db-upr-vn-g-sud>.

¹⁹⁸ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6429-pr-ds-dni-psh-in-l-b-n-ni-u-p-pun-s-i-ispuni-sv-u-b-v-zu-s-r-dnj-s-z-sh-i-ni-gr-d-n-r-pr-pus-i-d-dg-v-ri-n-i-urg-nci-v-g-rg-n-u-v-zi-s-d-bi-nj-svih-r-z-nih-inf-r-ci>.

¹⁹⁹ Recommendation no: 13-18-1114/2018 dated 7th August, 2019.

²⁰⁰ 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>.

²⁰¹ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6520-psh-ins-upr-v-psh-in-brus-pr-rshil-b-v-zu-s-r-dnj-s-z-sh-i-ni-gr-d-n>.

Public administration

The most frequent reasons of citizen contacts when it comes to the operation of public administration authorities is failure of the Administrative Inspection upon citizen contacts. After implemented procedures of the Protector of Citizens, the Administrative Inspectorate indicated to the insufficient number of staff as the key reason for the failure to act, since only 19 inspectors cover the territory of the entire state, which is why it is not possible to realize either the stipulated annual operation plan or extraordinary activities upon citizen contacts.

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

- **Ministry of Construction, Transportation and Infrastructure** should provide enough financial funds in the budgets at all levels of authority for administrative execution of the decision on demolition of illegal objects;
- **Ministry of Construction, Transportation and Infrastructure** should take measures with the aim of strengthening of the preventive function of construction inspection;
- **Ministry of Construction, Transportation and Infrastructure** should, pursuant to Paragraph 5 Article 39 of the Law on the Procedure of Entry into Real Estate and Power Cadaster, pass a bylaw which would regulate more closely the manner of submission of acts to persons to whom the entry into the real estate cadaster refers and to whom the submission is not performed via the users of e-counter;
- **Ministry of Environmental Protection** should use all available mechanisms with the aim of further provision of financial support to local self-government units in the field of waste management;
- **Ministry of Environmental Protection** should take all measures with the aim of the regulation of the problem of unpleasant smells;
- **Ministry of Environmental Protection** should take all necessary measures with the aim of passing of the announced amendments to the Law on the Environmental Noise Protection;
- **Ministry of Environmental Protection** should have a more active access to the implementation of the inspection supervision of the application of the provisions of the Law on Environmental Protection and Law on Waste Management in the part which refers to unsanitary landfills;
- **Ministry of Environmental Protection** should consider the possibility of the submission of misdemeanor charges against persons in charge at local self-government units to the holder of public authorizations or authorized legal person, due to failure to fulfill all legal obligations and for misdemeanors stipulated by Article 92 of the Law on Waste Management;
- **Ministry of Environmental Protection** should determine at the location of Smederevo Old Port accurately the impact of the stated activity on the condition of complete noise as well as to the level of air pollution at the subject location;
- **Ministry of Environmental Protection** should in the line of their duty confirm whether there are some of the reasons for repeating of all procedures of giving consent of the

Ministry to the studies on the assessment of the impact on the environment of the construction of small hydroelectric power plants completed so far;

- **Ministry of Environmental Protection** should, in cooperation with the Institute for Nature Protection of Serbia, in cases in which detrimental consequences were identified due to construction of small hydroelectric power plants, order to the project-bearer the implementation of activities, their removal or taking of compensation measures;
- **Ministry of Environmental Protection** should, in cooperation with the Ministry of Agriculture, Forestry and Water Management, pass the bylaw which would regulate the minimum sustainable flow, pursuant to Article 81 of the Law on Waters;
- **Ministry of Environmental Protection and Environmental Protection Agency** should take all necessary measures with the aim of the establishment and maintenance of the National Registry of the Sources of Pollution and National Inventory of Unintentionally Discharged Long-Term Organic Polluting Substances so that they have the data on all polluting substance which are the subject of reporting;
- **Ministry of Environmental Protection and Environmental Protection Agency** should take all necessary measures with the aim of passing of missing strategies and planned acts from the field of environmental protection;²⁰²
- **Republic Geodetic Authority** should take necessary measures from their competence with the aim of establishing of the mechanism of efficient and timely acting upon presented complaints, pursuant to the provisions of the Law on the General Administrative Procedure;
- **Republic Geodetic Authority** should ensure that services for the real estate cadaster, adhering to justified and reasonable expectations of citizens, timely respond to their requests and written notifications, taking into account that they are properly and completely informed about their rights and obligations;
- **City of Belgrade** should, in compliance with competence it is in charge of²⁰³, ensure the creation of financial and staff conditions so that the competent organizational unit²⁰⁴ could be provided with consistent sanctioning of illegally constructed facilities, taking into account the need of priority administrative execution of already passed decisions on demolition;
- **City Administration of the City of Belgrade** should ensure that its organizational units in future operation complete their obligation of cooperation with the Protector of Citizens with regards to timely responding to acts of this authority and providing the availability of all data, which are of importance for the activities performed by the Protector of Citizens;

²⁰² Strategic cards of noise, Strategy of air protections, plans of air quality, plans of water management, etc.

²⁰³ Article 172 Paragraph 5 of the Law on Planning and Construction prescribes that the City of Belgrade is entrusted with the performance of inspection supervision also in the field of construction of the facilities up to 800 m², and instruction of facilities for which the solution on the construction permit is issued by the city municipality within the City of Belgrade while 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 executed by the republic, provincial, or local self-government unit authority competent for the construction inspection activities.

²⁰⁴ Article 2 of the Decision on amendments to the decision on city administration of the City of Belgrade stipulates that the archive and unfinished cases referring to the performance of activities of the inspection supervision of the construction inspectors shall be assumed by the Secretariat for inspection activities of the CA of the City of Belgrade from the administrations of city municipalities.

- **Local self-government units** should ensure that the procedures of public procurements for the execution of works on the demolition of facilities be implemented within legal framework and deadlines;
- **Local self-government units** should, with the aim of more efficient implementation of its own decisions, consider the option of the establishment of public companies, which would within their scope of activities deal with coercive implementation of decisions and in cases when there already are public companies which fulfill legal, staff and technical conditions for coercive implementation of decisions, entrust them with the performance of these tasks;
- **Local self-government units** in the adoption of the budget should plan the sufficient amount of funds for administrative performance of passed decisions on the demolition of illegally constructed facilities as well as the execution of the decision of public utility inspections;
- **Local self-government units** should adhere to the legally stipulated obligation of cooperation with the Protector of Citizens in the procedures conducted by this body, thus contributing to the common goal of the protection and promotion of the citizen rights;
- **Local self-government units** should provide timely and coordinated operation of all its bodies and services by performing the supervision of their work and identifying individual responsibilities of employees for occurred omissions as well as to compensate for the damage emerged due to omissions;
- **Local self-government units** should provide enforcement of decisions by which competent bodies order certain actions to authorities or services of local self-government units or to public companies whose founder is local self-government;
- **Local self-government units** should in any respect adhere to administrative procedures and principles of good administration in deciding about rights, obligations and legal interests of natural and legal persons.
- **Local self-government units** should pursuant to the Law on Local Self-Government organize services of legal assistance and thus provide citizens with the exercise of the right to legal assistance guaranteed by the Constitution;
- **Local self-government units** should ensure the improvement of the local infrastructure in the spirit of accessibility of the public-purpose facilities to all categories of citizens and take measures with the aim of adequate fulfillment of obligations from the Law on Local Self-Government and especially those which refer to the environmental protection, agricultural land, construction, reconstruction and maintenance of local roads and streets.

5.3. AREA OF SOCIAL AND CULTURAL RIGHTS

ACTIVITIES OF THE PROTECTOR OF CITIZENS

Rights on the basis of labor

In the previous year as well, citizens most frequently complained to the Protector of Citizens about the workplace abuse, willfulness and illegality in passing of the decision about the termination of labor relation, lack of payment or irregular payment of earnings and failure to pay contributions for social insurance. In the fear of losing jobs, employees most often report their dissatisfaction only when they lose their job and when proving of rights is possible exclusively in court proceedings which last long and suggest material costs. Furthermore, there is a great number of employees who cannot charge their receivables from labor relation (earnings and contributions) taking into consideration that these are employees of companies which underwent the restructuring or bankruptcy process and have their accounts blocked.

The Protector of Citizens, on the basis of received complaints in the reporting period noticed that employees use insufficiently the existing legal possibilities for the protection of rights – contacting the Republic agency for peaceful settlement of labor disputes, labor inspection or demanding court protection.

In this reporting period as well, citizens complained also about the operation of Labor Inspectorate indicating its untimely actions. The number of labor inspectors which is not sufficient for efficient and quality performance of activities certainly has impact on the efficiency and work quality of the Inspectorate.

With the aim of the improvement of the work upon the complaints of citizens, the Protector of Citizens issued to the Labor Inspectorate the opinion with recommendation²⁰⁵ in which it was indicated to the need that the Inspectorate in its future actions, with due attention considers each reporting, especially the circumstance if it refers to the violation of the Labor Law and other equal regulations with regards to which they are authorized for the initiation of the procedure of inspection supervision.

In this reporting year, too, there were tragic events with certain employees which lead to injuries and death of some employees. With regards to that, the Protector of Citizens took activities both upon his own initiative and upon complaints of activities but also by publishing statements. With the aim of further decrease and prevention of injuries and deaths, the Minister of Labor, Employment, Veteran and Social Affairs announced that soon he would submit to the National Assembly of the Republic of Serbia the proposal of the new Law on Insurance in Case of Workplace Injuries. The stated law should stipulate preventive actions and improve the system of protection of employees against workplace injuries as well as corresponding and more just damage compensation without conducting of court proceedings in case of workplace injury, which would significantly change the relationship between employers and employees so far.²⁰⁶

Even though the organized system of earnings and employment in the public sector is one of crucial factors of functioning of a public authority and bearers of public authorizations, in

²⁰⁵ Opinion with recommendation available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6326-z-sh-i-ni-gr-d-n-upu-i-ishlj-nj-insp-r-u-z-r-d-inis-rs-v-z-r-d-z-p-shlj-v-nj-b-r-c-i-s-ci-ln-pi-nj>.

²⁰⁶ Available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/5865-p-sh-lic-r-zi-hi-n-dg-v-r-n-dl-znih-z-b-zb-dn-s-i-z-sh-i-u-r-dni-n-r-du>.

Serbia this system still has not come to life. Namely, the National Assembly of the Republic of Serbia on 6th December, 2019 adopted the Law on Amendments to the Law on the System of Salaries of Public Sector Employees²⁰⁷ which prescribes the postponement of the beginning of application of the new system of salaries for employees in the public sector to 1st January, 2021. As the reason for passing of the stated amendments to the Law the needs to implement a more detailed estimation and to enable planning and confirmation of labor costs of employees according to the news system of salaries as well as to redefine deadlines from which the application of the systemic and special laws on salaries in individual parts of the public sectors are stated. Simultaneously to the amendments to the Law, the National Assembly adopted also the laws which regulate specifics of salaries of public sector employees, which also have their application postponed to 2021 as follows: the Law on Amendments to the Law on Public Service Employees,²⁰⁸ Law on Amendments to the Law on Salaries of Employees at Public Agencies and Other Organizations Founded by the Republic of Serbia, an Autonomous Province or Local Self-Government Unit²⁰⁹ and Law on Amendments to the Law on Salaries of Civil Servants and Employees at Bodies of Autonomous Provinces and Local Self-Government Units.²¹⁰

Pension and disability insurance

During 2019, citizens continued to complain about untimely actions of the Republic Pension and Disability Insurance Fund (hereinafter: PDI Fund), especially organizational units of the PDI Fund with the aim of acting upon citizen complaints and acting upon orders from second-instance decisions of the PDI fund, as well as Directorate of the PDI Fund for the purpose of deciding about complaints stated against first-instance decisions. Apart from that, citizens still indicate to the inability of the exercise of the right to the full-scale pension, because the data on the years of service, earnings and compensations of earnings for certain periods are missing. Even in the situations when it is undisputable that contributions were paid, they are not recognized in the years of service of insurance because M-4 forms are missing. What is also apparent is the continued absence of cooperation between the PDI Fund and Tax Administration, when it comes to obtaining evidence about facts on which the volume of the exercise of the right to pension depends. Furthermore, the PDI Fund refers citizens to contact former employers with the aim of obtaining necessary evidence instead of taking this activities itself pursuant to the Law.

A special problem which citizens face is the impossibility to return financial funds which were suspended by the PDI Fund for unpaid contributions by taking one third of the pension. Namely, the provision of Article 4 of the Decision on Determination of the Property of Insurance Beneficiaries and Obligation of the Payment of Contributions for Mandatory Pension and Disability Insurance²¹¹, on the basis of which the PDI fund suspended one third of the pension ceased to be valid on the basis of the Decision of the Constitutional Court²¹², but citizens were not provided with the return of financial funds before the regular procedure before the PDI fund and the procedures regarding this legal issue are conducted before the Administrative Court or Court of Appeal and are still in progress.

Even though in the previous reporting year the Protector of Citizens issued to the Ministry of Labor, Employment, Veteran and Social Affairs, Office for Kosovo and Metohija and PDI Fund

²⁰⁷ "Official Gazette of RS", no. 86/19.

²⁰⁸ "Official Gazette of RS", no. 86/19.

²⁰⁹ "Official Gazette of RS", no. 86/19.

²¹⁰ "Official Gazette of RS", no. 86/19.

²¹¹ "Official Gazette of RS", no. 43/2011.

²¹² IUO-279/2016, dated 21st December, 2017.

the Opinion regarding the exercise of the right from pension and disability insurance of persons who had their partial or full years of service accomplished in Kosovo and Metohija and which, due to generally known circumstances were not recorded in the relevant record of the PDI Fund and were not recognized in the years of service of insurance, it cannot be concluded that in specific cases any additional measures were taken towards obtaining of the missing data. Apart from that, in situations when citizens received from Temporary Institutions in Kosovo and Metohija financial compensation in the amount lower than the amount which they were entitled to in the same period on the basis of later passed decision on the pension, the PDI fund has not paid for the difference in financial funds even though the complainant did not timely exercise the right to pension due to the omission in the operation of the PDI fund. Regarding this legal issue, the Protector of Citizens issued to the Fund the recommendation.²¹³ The deadline for the submission of the statement on acting upon the recommendations still has not expired.

During this reporting period, too, the Protector of Citizens received certain number of citizens' complaints which indicated that, a certain number of persons, only on the basis of the fact that they were members of the household of the person who owns the agricultural farm, for many years, without any grounds, were in debt for contributions for pension and disability insurance without being informed about that. Namely, it is the consequence of the fact that the existing Law on Pension and Disability Insurance did not adequately define the notion of agricultural beneficiary of insurance, criteria for the acquisition and termination of the agricultural beneficiary of insurance property were not prescribed, the procedure of application for insurance is not clearly organized, as well of the signing off the insurance and confirmation of the termination of insurance beneficiary property and the dormant period of the insurance beneficiary property and many other issues of importance for the exercise of rights of agricultural producers to pension and disability insurance.

In order to overcome efficiently the consequences emerged due to poor and complete legal solutions in the manner to achieve the desired purpose by introducing of this category of insurance beneficiaries into the system of pension and disability insurance, which is the provision of their social security as the elderly, the Protector of Citizens issued to the Ministry of Labor, Employment, Veteran and Social Affairs the opinion that it is in the interest of citizens that the Ministry, within the shortest deadline, prepares amendments to the Law on Pension and Disability Insurance, in which, on the basis of actual parameters the notion of agriculture beneficiary of insurance would be defined as well as the notion of the member of family household, conditions under which members of a family household are ensured on the basis of agriculture, the process of acquisition, confirmation and termination of the insurance agricultural beneficiary property would be organized and other relevant matters related to the position of the stated category of insurance beneficiaries in the manner which reduces the room for free interpretation and discretionary decisions of the competent fund.²¹⁴

With the aim of the improvement of the operation of the PDI Fund, primarily the exercise of rights of citizens, who, not by their own fault, lost contributions for pension and disability insurance and years of service for the stated period, the Protector of Citizens on 4th December, 2018 issued recommendations for the removal of identified omissions. Namely, as confirmed by the Protector of Citizens, during deciding on the pension of complainants, the PDI Fund did not recognized years of service of insurance beneficiaries which was accomplished by them on the basis of the performance of independent and agricultural business, for which they

²¹³ Recommendation available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6482-r-public-i-f-nd-pi-d-p-sh-u-z-n-pr-pis-n-r-v-z-d-n-sh-nj-dlu-gr-d-ni-n-bi-rp-li-sh-n-p-sl-dic-zb-g-n-bl-g-vr-n-g-dluciv-nj>.

²¹⁴ Opinion available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6249-ishlj-nj-z-sh-i-ni-gr-d-n-gucn-s-i-pr-v-zil-z-nj-pr-bl-sigur-ni-p-lj-privr-dni-i-risni-p-nzi-p-sn-vu-p-lj-privr-dn-g-sigur-nj>.

paid contributions explaining its actions by the fact that their priority basis of insurance is the labor relation. Taking into account that employers did not pay to the stated persons contributions for mandatory social insurance and the PDI Fund failed to take measures towards employers of complainants due to their failure to pay contributions for social insurance or recognized contributions paid on the basis of the performance of independent and agricultural business, in the manner which prevented complainants from exercising their right to pension to the full extent, the Protector of Citizens recommended to the PDI Fund passing of new decisions on the right to pension by which the period for which complainants paid contributions for pension and disability insurance will be included in their years of service and the amount of pension will be recalculated starting from the day of filing of the request for the exercise of the right to pension.²¹⁵ The Protector of Citizens confirms that the Republic Pension and Disability Insurance Fund failed to act in compliance with issued recommendations.

Education

As in previous reporting periods, in this one too, good cooperation between the Protector of Citizens and Ministry of Education, Science and Technological development was continued. The educational authorities and institutions respond timely to requests of the Protector of Citizens and submit requested information.

The problem which still occurs is untimely actions of ENIC/NARIC Serbia (organizational unit of the Qualification Agency which performs the activities of collecting and providing information in the process of recognition of public documents abroad and conducts the procedure of evaluation of the foreign program of study with the aim of employment) and Qualification Agency (recognizes foreign school documents and conducts the procedure of the recognition of foreign higher education documents with the aim of employment, pursuant to the Law on the National Qualification Framework of the Republic of Serbia and the law which regulates higher education), upon requests for the recognition of foreign higher education documents with the aim of employment.

The complaints also indicated to the problems with regards to issuing of higher education documents, untimely actions of institutions of higher education upon requests of students and employees, as well as irregularities and illegalities in the election process of teachers and associates at institutions of higher education.

During the reporting period the problem in the conduct of the final exam in 2018/2019 school year occurred when persons employed at printing facilities, who were engaged in printing and packing of tests, obtained tests illegally and made them publicly available. With regards to this, the Protector of Citizens, acting upon his own initiative, issued to the Ministry of Education, Science and Technological Development the opinion with recommendations.²¹⁶ The fact that illegal conducts occurred outside the educational system – in printing presses which were bound by contracts with the Ministry of Education, Science and Technological Development not only to perform the activity but also to keep the confidentiality of tests – indicate that entrusting of these tasks to legal entities which are not part of the educational system and are not subject to the Ministry oversight are “a weak link” and important risk factor in the organization of the final exam. The existing legal framework provides sufficiently

²¹⁵ Recommendation available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/5963-r-public-i-f-nd-z-p-nzi-s-i-inv-lids-sigur-nj-d-d-n-s-n-v-r-sh-nj-pr-vu-n-p-nzi-u-pri-uzi-ci>.

²¹⁶ Opinion with recommendations available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/6235-ishlj-nj-s-pr-p-ru-inis-rs-vu-pr-sv-n-u-i-hn-l-sh-g-r-zv>.

good foundation to review the complete organization of the final exam and keep future state test within the home system.

Employees at educational institution, in this reporting period as well, contacted the Protector of Citizens due to inability to complete the norm of working hours and taking over, reduction of class quota, termination of labor relation, irregularities in the procedure of conducting the competition for entrance into labor relation, initiation of disciplinary procedures, exercise of the right to retirement allowance. Furthermore, a certain number of complaints which indicate to workplace abuse was received.

What is still noticed is the problem that due to reduced number of educational inspectors of the Ministry of Education, Science and Technological Development and increase volume of work, it is not possible to conduct the supervision of the work of educational inspectors entrusted with this task in the expected volume.

In the reporting period, the Protector of Citizens issued to the Ministry of Education, Science and Technological Development the opinion to the Draft of the Law on Student Organization²¹⁷, supporting passing of the stated Law, taking into account that the Law on Higher Education did not sufficiently regulate this field. The Protector of Citizens indicated that he believes that the Draft should be completed so as to provide functional representation of students from sensitive groups at the Student Parliament and their full participation in decision-making process from the parliament competence.

Moreover, the opinion to the Draft of the Law on Dual Study Model at Higher Education²¹⁸ was also issued, because the Protector of Citizens believes that it is of great importance to regulate the matter of acquisition of practical knowledge of students during studies by a law which would, on the one hand, set the foundations for this type of student engagement during higher education and on the other hand be sufficiently general to leave space for organization and adjustment of this type of learning to student needs. Apart from the principled remark that, not even in the framework manner, the protection of students with disabilities is not stipulated in the dual model of studies in higher education, the Protector of Citizens presented a series of individual remarks, indicating primarily that the goal of the dual model of studies predominantly should be to enable students for fast and efficient inclusion in work processes and then the interest of the employer to keep talented and the best students.

Social protection

In this reporting period as well the Protector of Citizens faced the problem of insufficient number of professional employees at the centers for social work during oversight and preventive activities. The number of employees at centers for social work is still below the prescribed number by normatives and it is definitely inconsistent to citizen needs, which has a negative impact on the quality of provided services and makes the work of employees more difficult.

The number of complaints of the beneficiaries of services and rights in the field of social protection who indicate to untimely and unprofessional actions of employees in social protection remained unchanged. With regards to this, the Protector of Citizens initiated

²¹⁷ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/6262-ishlj-nj-z-sh-i-ni-gr-d-n-n-cr-z-n-s-ud-n-s-rg-niz-v-nju>.

²¹⁸ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/6143-ishlj-nj-z-sh-i-ni-gr-d-n-n-cr-z-n-du-ln-d-lu-s-udi-u-vis-br-z-v-nju>.

oversight procedures of the operation of centers for social work and local self-government units, during which in certain number of cases the omissions were removed, especially when it comes to services of material type.

With the aim of the promotion of citizen rights in this field, the Protector of Citizens issued to the competent ministry for activities of social protection the Opinion to the Draft of the Law on Amendments to the Law on Social Map²¹⁹. The opinion indicated in which direction the solutions proposed in the Draft should be supplemented so that the record which contains the data on social-economic status of an individual and persons connected to him/her would in fact contain all the data and parameters for regular and accurate estimation of needs of individuals and families, and improve the provision of services and rights.

Culture

Not even after three years since the day when the Law on Culture²²⁰ came into force, the Ministry of Culture and Information has not passed the rulebook which would prescribe the unique system of networks of cultural institutions, which was mandatory to do within the deadline of six months since the day when the Law came into force. In this manner the Ministry obstructed proper application of the law and calculation of years of service for employees to whom these regulations apply and who were in labor relations with multiple institutions. Without corresponding by-law, which should organize the unique system of the networks of cultural institutions, it is not possible to issue a legally valid opinion on the recognition of the years of service and properly apply legal provisions which regulate the calculation of years of service for employees who were in labor relations in several cultural institutions. With the aim of the removal of noticed shortcomings, improvement of the operation of administrative authorities and prevention of these or similar shortcomings in future the Protector of Citizens issued to the Ministry of Culture and Information the recommendation which was not acted upon until the day of the execution of the annual report.²²¹

Acting upon his own initiative as well as upon citizen complaints, the Protector of Citizens noticed that the media frequently publish media content which offends the honor, reputation or privacy as well as the content which offends the dignity of a victim and that adequate protection of human rights and child rights in these cases is missing. With regards to that, the Protector of Citizens believes that prescribing of legal obligation or prohibition is not sufficient if the obligation or prohibition is not accompanied by corresponding sanctions and authorizations of competent authorities. For the stated reason, the Protector of Citizens issued to the Ministry of Culture and Information the Opinion on Amendments to the Law on Public Information and Media in which he indicated that he believed that with prescribing of corresponding sanctions for the violation of the Law on Public Information and Media and consistent implementation of the legal obligation and prohibition in practice the Republic of Serbia would contribute to the promotion of protection and observance of human rights and child rights in public media space.²²²

²¹⁹ Opinion available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6308-ishlj-nj-n-n-cr-z-n-s-ci-ln-r-i>.

²²⁰ "Official Gazette of RS", no. 13/16.

²²¹ Recommendation available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6104-inis-rs-v-ul-ur-i-inf-r-is-nj-d-guci-pr-vilnu-pri-nu-i-br-cun-inul-g-r-d-z-z-p-sl-n>.

²²² Opinion available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/6000-ishlj-nj-z-sh-i-ni-gr-d-n-iz-n-i-d-pun-z-n-vn-inf-r-is-nju-i-di-i>.

In the field of the freedom of expression and media, as in previous reporting periods, there were no significant improvements of the situation. The strategies of development of the system of public information in the Republic of Serbia by 2016 and amendments to legal decisions in the field of media did not meet the expectations because there is still a series of unsolved problems for many years now and shortcomings in regulations which regulate the sphere of public information. In accordance with this, the Protector of Citizens issued to the Ministry of Culture and Information the Opinion to the Proposal of the Strategy of Development of the Public Information System in the Republic of Serbia in the period from 2020 to 2025, in which, inter alia, he emphasized the importance of the fact that during the execution of the Strategy the matter of the improvement of the position of persons with disabilities, national minorities and other sensitive groups was recognized.²²³

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

- **Ministry of Culture and Information** should without any delay pass the rulebook which would prescribe the unique system of networks of cultural institutions;
- **Ministry of Culture and Information and Regulatory Authority for Electronic Media** should, immediately upon learning about potential violation of the law by written and electronic media, take legally stipulated measures with the aim of the protection of citizen rights and sanctioning of illegal actions;
- **Ministry of Labor, Employment, Veteran and Social Affairs, Tax Administration and Republic Pension and Disability Insurance Fund** should accomplish full and legally based efficient cooperation with the aim of protection of employees and up-to-date payout of earnings and payment of contributions for mandatory social insurance to employees;
- **Ministry of Labor, Employment, Veteran and Social Affairs** should take measures with the aim of increasing of the number of labor inspectors;
- **Ministry of Labor, Employment, Veteran and Social Affairs** should take all available measures in order to reduce the number of workplace injuries;
- **Ministry of Labor, Employment, Veteran and Social Affairs** should take measures so that the number of employees at the institutions of social protection would fit the citizen needs and workload in this field and so that the labor-legal and material position of employees at social protection would be improved;
- **Ministry of Labor, Employment, Veteran and Social Affairs and Republic Social Protection Institute** should provide different forms of trainings and professional advancement for employees with the aim of acquisition and promotion of knowledge and competencies for the prevention, suppression and protection of women against domestic violence and violence in partner relations, especially taking into account previously provided recommendations of the Protector of Citizens;
- **Ministry of Labor, Employment, Veteran and Social Affairs** should provide that the institutions of social protection make decisions in an up-to-date and timely manner on the rights from the field of social protection and exercise of the rights of material support

²²³ Opinion available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6416-2020-2025>.

to citizens who find themselves in the situation of difficult life and material danger be more available and faster;

- **Ministry of Labor, Employment, Veteran and Social Affairs** should provide that decisions which are made to decide on rights and services in the field of social protection, be clear, completely explained with arguments, understandable to parties and contain all legally stipulated elements;²²⁴
- **Ministry of Education, Science and Technological Development** should intensify activities in the application of the principle of inclusive education at all levels of educational process, including higher education;
- **Ministry of Education, Science and Technological Development** should ensure that to all requests of citizens issued to the Ministry, educational institutions and institutions of higher education is responded effectively and within legally prescribed deadlines;
- **Ministry of Education, Science and Technological Development** should provide timely and effective actions of educational inspectors;
- **Ministry of Education, Science and Technological Development** should ensure that upon the requests of citizens regarding professional recognition of foreign higher-education documents the decision is made within legally prescribed deadline;
- **PDI Fund** should in its further work continue with the application of the principle of timely actions of the administrative authority to the full extent and to pass decisions within legally prescribed deadlines.
- **PDI Fund** should in full volume apply legally prescribed option and obligation of cooperation with Tax Administration and organizations of mandatory social insurance, with the aim of obtaining and exchanging of data, with the aim of more efficient exercise of the citizen right from pension and disability insurance.
- **PDI Fund** should take all available measures so as to obtain from former employers of citizens, especially from those who are at the territory of Kosovo and Metohija, the information about years of service, earnings and compensations of earnings of citizens, on which the accomplishment of the right to pension in full volume depends.
- **PDI Fund** should adjust all facilities of affiliates and offices of the Fund in which citizens exercise their rights to undisturbed functioning and movement of persons with difficulties in movement, and make them accessible to persons with disabilities and the elderly;
- **Regulatory Authority for Electronic Media** should ensure protection and respect of personal dignity in programs broadcast in electronic media and take legally stipulated measures to broadcasters who fail to act in compliance with the law;
- **Competent bodies** should consider the change of regulations which regulate the work of the Regulatory Authority for Electronic Media so as to provide its independence in work and promotion of its professionalism;
- **Competent bodies** should take all necessary measures in order to terminate long-term process of improvement of officer system in public administration, with the aim of bigger professionalization of staff, according to the principle “the same salary for the same job”

²²⁴ Opinion available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/6308-ishlj-nj-n-n-cr-z-n-s-ci-ln-r-i>

so as to create conditions to finally initiate the application which was postponed on several occasions;

- **Competent bodies** should take measures in order to provide constant social dialog with representatives of employees and employers for the purpose of creating conditions for dignified work.

6. SECTOR FOR THE RECEPTION OF CITIZENS

At the beginning of the reporting period the Protector of Citizens implemented the changes of the internal organization and as a separate organizational unit pursuant to the Rulebook on Internal organization and Job Systematization at the Secretariat of the Protector of Citizens²²⁵ the Sector for the Reception of Citizens (hereinafter: the Sector) was established. The obligation of the Sector consists in employees, apart from the continual work on the immediate communication with citizens, performing also the triage of received complaints as well as the work on the rejection of those complaints which failed to fulfill necessary formal-legal conditions for action of the Protector of Citizens. The Sector consists of ten employees, of whom two employees in Bujanovac, Preševo and Medveđa receive citizens in accordance with weekly schedule for each of the three stated local self-government units.

Activities of the reception and provision of professional assistance to citizens

The Sector performs the activities of the reception of citizens for discussion and provision of professional assistance to citizens in execution and submission of complaints to the Protector of Citizens. Citizens are received in the reception office at the seat of the body as well as at local offices established at the territory of Bujanovac, Preševo and Medveđa. The professional assistance is provided to all parties who, due to lack of information or physical disability, need professional assistance in the execution of the complaint. Furthermore, citizens are referred to legally prescribed procedures, competent public authorities and the use of available legal remedies if it is about the subject of the complaint which is not in the competence of the Protector of Citizens or if formal conditions for actions of this body are not fulfilled.

The contact is also realized by calls to the number of the Protector of Citizens every working days from 09h to 16h as well as calling the mobile phone on duty during and after the end of working hours, on working days until 22h and on weekends and holidays from 09h to 20h. Moreover, upon the initiative of citizens of the City of Čačak the cooperation with the Public Library in Čačak where citizens may contact the employees at the institution of the Protector of Citizens and via video link is reestablished. In the reporting period the Protector of Citizens was contacted by 10,862 citizens in total, of whom 2,796 citizens were received for discussion and with 4,054 citizens the telephone or video contact was established. Moreover, the Sector for the reception of citizens, on the occasion of 470 contacts of citizens responded to their questions.

Apart from the stated manners of communication, in the reporting period, citizens had the opportunity also to discuss with the protector of citizens in person at least once a month, at the scheduled hours upon previously submitted request for reception. Also, this opportunity was used also by complainants who were dissatisfied with the manner of the termination of the procedure upon their complaints with whom the protector of citizens discussed on several occasions in specially scheduled hours.

Actions upon received complaints

Out of the total number of complaints received by the Protector of Citizens via mail, electronic communications or personal delivery at the premises of the Reception office, 3,189 complaints after the review, allocation and classification were submitted for processing to other sectors. For 778 complaints which do not fulfill legally prescribed conditions for actions of the

²²⁵Act of the Protector of Citizens, no. 32833 dated 19th October, 2018.

Protector of Citizens, in the Sector the act on the rejection of the complaint was executed and sent to the complainant.

In the part of the activities of the Sector which refer to actions upon issued complaints during the reporting period in total 1,171 complaints were received. In the same period, the work was completed on totally 886 cases received in 2019. The greatest number of received complaints is rejected by the Sector due to unfulfilled legally prescribed conditions with regards to anonymity of the complainant, untimeliness or prematurity of the complaint.

The work with citizens in the immediate contact enables employees of the Sector to notice the most frequent violations of rights and illegalities in actions of public authorities. What is noticed is the trend that there is an increasing number of citizens contacting the Protector of Citizens indicating to the same problems. For instance, in the reporting period citizens as beneficiaries of the services of PUC "Infostan" in Belgrade, by their contacts indicated to the initiation of enforcement procedures on the basis of valid document after unpaid two due bills for utility services. Moreover, the number of contacts of citizens who have difficulties in the exercise of their right to free-of-charge legal assistance after the Law on Free-of-Charge Legal Assistance also increased. In contacting the Protector of Citizens, they indicated to the lack of information in which manner and whom they may contact for assistance in the execution of lawsuits, complaints and other filings to court or other public authority.

As well as in the previous reporting period, the exercise of citizen rights in the Republic of Serbia was marked by inconvenient economic situation and expressed inability of an individual to protect their property and have access to justice as one of fundamental human rights. The stated is supported by the fact that during 2019 the Protector of Citizens was contacted by the majority of citizens asking for protection of their social and economic rights.

A significant number of citizens still indicate to the violations of consumer rights and illegal actions of companies, operators of services of mobile phone company and cable television as well as public utility companies whose operation is not within the competence of the Protector of Citizens to oversee. As a separate problem, there is the consideration of complaints of consumers – buyers of electric power whose complaints are not provided with impartiality and independence since the complaints of buyers are reviewed by the seller of electric power, not the body independent from one or the other contracting party.

Furthermore, out of total number of contacts, the greatest percentage refers to the failure to observe rights to trial within a reasonable deadline, where citizens frequently indicate to the circumstance that court proceedings last for several years and that despite the use of available regular and extraordinary legal remedies, judiciary authorities are not more efficient in their operation. Citizens expressed dissatisfaction with the operation of public enforcement officers and Chamber of public enforcement officers as well as by the operation of public notaries and Public Notary Chamber of Serbia.

In everyday communication with citizens it is noticeable that, despite expectations and apparent progress in the exercise of rights of individual vulnerable groups the satisfactory level of protection of rights is still not accomplished. What is especially visible is the bad position of refugees and displaced persons with regards to the status and solving of housing issue, elderly persons and persons with disabilities with regards to the exercise of right to care and assistance of another person and other rights in the field of social protection and pension-disability insurance. During the reporting period the Reception office was contacted by a certain number of citizens who, due to insolvency of the company where they were in labor

relation, cannot collect receivables from the labor relation apart from the existence of executive court decisions.

7. DEPARTMENT FOR EMERGENCY RESPONSES

Early in 2019, at the institution of the Protector of Citizens the Department for Emergency Responses (hereinafter: the Department) was established to act upon the cases which require urgent reaction and do not accept delay. These cases involve the following:

1. The cases where there is an assumption that the complainants might suffer material or other large-scale damage and irreparable damage;
2. The cases where the Protector of Citizens may initiate the procedure even before all legal remedies are exhausted (if the complainant would sustain irreparable damage or if the complaint would refer to the violation of the good administration principle, especially the unfair treatment of the complainant by the administrative authority);
3. The cases where it is indicated to the violation of rights which caused or may cause great public anxiety, emergence of material or other large-scale damage or irreparable damage;
4. The cases which indicate to gross violation of rights.

In the reporting period the greatest number of cases which were labeled as urgent were created in the fields of the rights of persons deprived of their liberty, real estate cadaster, actions of the MoI, social protection, energy and mining, and construction and infrastructure. In the field of the rights of persons deprived of their liberty the oversight procedure was initiated most frequently towards the institutes for the execution of criminal sections, i.e. the operation of their security services and health protection services was controlled. With the real estate cadaster, the oversight activities were conducted toward the Republic Geodetic Authority and toward regional services for the real estate cadaster because of the untimely actions. The actions were taken toward MoI most frequently upon complaints which referred to the performance of administrative activities which were entrusted to this ministry. In the field of social protection, the overseen authorities, as a rule, were the centers for social work upon complaints which indicated to shortcomings in the provision of services of social protection. The complaints in the field of the rights of persons with disabilities referred to labor-legal status of employees and violation of labor-legal regulations. In the field of energy and mining, the most frequently controlled was the regularity of actions of operators of the distributive system of "EPS Distribution" Belgrade in the electric power cuts and termination of the electric power supply. In the field of construction and infrastructure, all complaints referred to the dissatisfaction of citizens by the provision of the Law on Housing and Building Maintenance which regulates the position of tenants for indefinite period of time in flats owned by citizens, endowments and foundations.

During the reporting period, 12 direct oversights of the operation of the institute for the execution of criminal sanctions, seven oversights of the operation of the institutions of social protection and four direct oversights of the operation of the Belgrade Border Police Station (upon the complaints of persons who sought asylum in the Republic of Serbia) were conducted. A number of oversights was conducted in cooperation with the Department of the National Preventive Mechanism. Furthermore, the direct oversight of the operation of the Ministry of Education, Science and Technological Development was conducted with regards to the postponement of the final exam in mathematics and direct oversight of the operation of one primary school with regards to the information obtained from the media on bullying. The Protector of Citizens visited the residential area in Makiš, after receiving the information on the alleged coercive eviction of Roma families who do not have concluded contracts on the use of residential containers in this residential area. In total 21 visits were paid to complainants in order to collect more detailed information through direct conversation on the problems

which were the reason of their contacting the Protector of Citizens, out of which 12 visits were paid to the tenants of the Bristol hotel.

In the field of child right, in 2019 complaints referred to activities of the centers for social work in deciding on the placement of children under guardianship and taking children from parents. Furthermore, upon own initiative, the procedures were initiated in cases of the publishing of the information on bullying in primary schools. What is encouraging is the fact that in these procedures the administrative authorities removed the shortcomings in their operation having learned that the Protector of Citizens initiated the oversight procedure. The case which is characteristic is the case of violence against minors by an employee at the Center for the protection of infants, children and youth at Zvečanska Street, in Belgrade. In this specific case, the Protector of Citizens confirmed that the Center for the protection of infants, children and youth immediately upon learning about this event took all prescribed measures and initiated the disciplinary procedure against the employee passing the decision on the temporary suspension until the completion of the disciplinary procedure.

When it comes to the right to health protection, citizens complained about the inability to exercise the right to health protection during the serving of the sentence with electronic supervision at residential premises, provision of services of health protection to persons ensured only in case of the needed provision of emergent health protection and inefficiency in the operation of competent authorities in issuing of health cards to insurance beneficiaries. For instance, during the reporting period a complaint was received which indicated that the competent office of the affiliate for the City of Belgrade of the National Health Insurance Fund refused to certify the health card of the complainant pursuant to Article 16 of the Law on Health Insurance²²⁶ because the certification on regular schooling did not confirm that he was an ABD graduate. After the initiated oversight procedure of the operation of the competent affiliate of the RHIF, the Protector of Citizens was informed that in the meantime the emerged problem was removed, and that the complainant obtained health insurance.

In the field of education, schooling and science, for 2019 there were two important procedures initiated by the Protector of Citizens upon his own initiative toward the Ministry of Education, Science and Technological Development on the basis of the information obtained from the media. One of them referred to the removal of the specialized philological class for the English language at Kruševac comprehensive high school due to the lack of interest of children for this profile. After the oversight procedure was initiated, the Ministry passed the decisions that students interested in enrollment to the philological class at Kruševac comprehensive high school pass the entrance exam in Kragujevac and Kraljevo so that enough students would pass the test in order to form the class. The second procedure against the same authority was initiated because the test was disclosed before its taking. The procedure was terminated by the opinion of the Protector of Citizens with recommendations to the authority with the aim of the removal of identified irregularities and establishment of better control of the process of exam organization and conduct.²²⁷ The Ministry acted upon the majority of recommendations.

The complaints issued to the Protector of Citizens by the beneficiaries of the services and rights in the field of social protection indicate to untimely acting of employees in social protection. Therefore, citizens complained that they had not been able to exercise their right to financial social assistance or right to family disability checks, that they had failed to obtain necessary documentation or the delay in passing the decision for granting of one-time financial assistance. The Protector of Citizens was contacted by the complainant who, since he

²²⁶ The Law on Health Insurance, "Official Gazette of RS", no. 25/19.

²²⁷ Opinion available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6234-z-sh-i-ni-gr-d-n-n-r-lu-n-d-pl-n-rg-niz-ci-z-vrshn-g-ispi-z-drz-i-u-viri-br-z-vng-sis>.

was homeless, could not exercise the right to obtaining personal documents and health protection. After the intervention of the Protector of Citizens, by the decision of the Belgrade Police Administration, the complainant had his residential address confirmed at the address of the City Center for Social Work, Stari Grad Department.

In the field of labor relations, in the reporting period the Protector of Citizens initiated procedures toward the Labor Inspectorate of the Ministry of Labor, Employment, Veteran and Social Affairs, primarily on the basis of complaints of citizens who indicated to serious violations of their rights from labor relations by the employer and on the basis from the information from public information services about accidents at workplace which resulted in severe bodily injury or death outcome. The oversight procedures in the majority of cases indicated that the Labor Inspectorate in the specific case acted in accordance with its authorizations and in individual cases taking of necessary measures were initiated by the Labor Inspectorate.

Upon his own initiative within the cases which require urgent actions, the Protector of Citizens also initiated the oversight procedure of the National Employment Service, Belgrade affiliate, on the basis of the information obtained from the public information services on the unemployed person who submitted to the competent affiliate of the National Employment Service the request for the exercise of the right to financial compensation in case of unemployment which was not decided upon for more than seven months since the day of its submission. After the initiation of the oversight procedure of its operation, the National Employment Service within one day corrected the omission in its operation and passed the requested decision which recognizes the right to financial compensation to the unemployed person.

With regards to the rights of persons with disabilities, during the reporting period, the Protector of Citizens issued an opinion with recommendation to the Labor Inspectorate of the Ministry of Labor, Employment, Veteran and Social Affairs and this opinion indicated to the Labor Inspectorate that in future actions, in situations when a citizen contacts this authority with a request or complaint which did not fit their scope of operation, it was necessary to check always if this contact indicates to the violation of the Labor Law and other labor-legal regulations with regards to which labor inspectors are competent for the initiation of the procedure of inspection oversight and initiate the corresponding procedure if all necessary conditions for it are met. The opinion²²⁸ was sent on the basis of the implemented oversight procedure of the operation of the Department of Labor Inspection in Sremska Mitrovica for Administrative County of Srem upon the complaint of a person with disabilities employed at the National Employment Service who filed the request that the labor inspector annuls the offer of the employer on the conclusion of the annex to the labor contract on the regulation of mutual rights, obligations and responsibilities. On this occasion, the labor inspection failed to inspect the allegations from the complaint that the stated offer stipulated the relocation of the complainant to another job position with the same employer, and this job position was not stipulated by than valid Rulebook on Job Systematization of the National Employment Service.²²⁹

In the field of mining and energy, the greatest number of cases of complaints of citizens referred to activities of the PUC "Elektroprivreda Srbije" Belgrade and Operator of the distributive system "EPS Distribution" d.o.o. Belgrade due to suspension of the electric power

²²⁸ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6327-z-sh-i-ni-gr-d-n-upu-i-ishlj-nj-s-pr-p-ru-insp-r-u-z-r-d-inis-rs-v-z-r-d-z-p-shlj-v-nj-b-r-c-i-s-ci-ln-pi-nj>.

²²⁹ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6327-z-sh-i-ni-gr-d-n-upu-i-ishlj-nj-s-pr-p-ru-insp-r-u-z-r-d-inis-rs-v-z-r-d-z-p-shlj-v-nj-b-r-c-i-s-ci-ln-pi-nj>.

supply or electric power cut from the electric power distribution system. As a rule, the stated business entities, in the suspension or cut off of beneficiaries from the electric power network adhere to their authorizations and procedures stipulated by the Law on Energy²³⁰ and due to that, the Protector of Citizens most frequently does not have reasons to conduct oversight procedures of their operation. However, it should be pointed out that in the reporting period the stated business entities showed understanding for the problems of the elderly and weak and persons in specific circumstances, so after the Protector of Citizens contacted "EPS Distribution" in one case it met the needs of a female complaint who was an elderly person and signed the Contract on taking over of the connection which meant that it assumed the obligation of its maintenance and removal of malfunction, which would otherwise go to the expense of the complainant. Also, after the intervention of the Protector of Citizens, the electric power supply of the tenants of the Bristol hotel was continued in May 2019.²³¹

For the field of construction and infrastructure in the reporting period the characteristics is the great number of complaints of citizens who have the status of lessees for indefinite period of time of flats owned by citizens, endowments and foundations. More specifically, citizens with the stated status contacted the Protector of Citizens due to dissatisfaction with certain solutions of the valid Law on Housing and Building Maintenance²³² and introduction of the new model of calculation of leasing, which stipulates the determination of multiple higher amount of leasing than those stipulated by then by the Law on Housing,²³³ as well as the fact that there is legal stipulation of their obligation to move out of flats they used by then when legally prescribed conditions are met.

The Protector of Citizens records, on the basis of the work upon received complaints, that there is the need to amend existing regulations since they contain unjust decisions which lead to the violation of rights of the stated categories of citizens, so two initiatives were sent to the Ministry of Construction, Transportation and Infrastructure, one in February²³⁴ and the other in September²³⁵ 2019. The first one contains the proposal to amend the provision of the Law on Housing and Building Maintenance which prescribes the new manner of calculation of the monthly leasing of lessees for indefinite period of time of the flat owned by citizens, endowments and foundations, in the manner that the confirmed amount of the leasing does not endanger the living standard of lessees or the option of the moving out of the flat because of the termination of the contract by the owned, due to inability of the lessee to pay for the amount of the leasing. The other one proposes prescribing of limitations for granting of subsidies as residential allowance of lessees for indefinite period of time of the flat owned by citizens, endowments and foundations, on the basis of which the subsidy is designed for the amount of difference between the amount of the leasing and income of the lessee (i.e. the income of their household). The Law on Amendments to the Law on Planning and Construction²³⁶ returned the old manner of the calculation of leasing, which would reduce the amounts of leasing significantly in comparison to the current amounts of the leasing

²³⁰ The Law on Energetics, "Official Gazette of RS", no. 145/14 and 95/18 – state law.

²³¹ "Military pensioners terminated the hunger strike, electric power supply on at Bristol hotel", The Protector of Citizens, 18th May, 2019, available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/6127-v-ni-p-nzi-n-ri-pr-inuli-sh-r-gl-du-u-ljuc-n-s-ru-u-h-lu-bris-l>.

²³² The Law on Housing and Building Maintenance, "Official Gazette of RS", no. 104/16.

²³³ The Law on Housing, "Official Gazette of RS", no. 50/92, 76/92, 84/92- correction, 33/93,53/93-state law, 67/93-state law, 46/94, 47/94-correction, 48/94-state law, 44/95-state law, 49/95, 16/97, 46/98, 26/01, 101/05, 99/11 и 104/16-state law.

²³⁴ Available at: <https://www.ombudsman.rs/index.php/zakonske-i-druge-inicijative/6032-inici-iv-z-sh-i-ni-gr-d-n-z-iz-nu-z-n-s-n-v-nju-i-drz-v-nju-zgr-d>.

²³⁵ Available at: <https://www.ombudsman.rs/index.php/zakonske-i-druge-inicijative/6278-inici-iv-z-sh-i-ni-gr-d-n-inis-rs-vu-gr-d-vin-rs-v-s-br-c-i-infr-s-ru-ur-u-v-z-i-iz-n-i-d-pun-z-n-s-n-v-nju-i-drz-v-nju-zgr-d>.

²³⁶ The Law on the Amendments to the Law on Planning and Construction, "Official Gazette of RS", no. 9/20.

calculation, which represents actions in compliance with the first initiative of the Protector of Citizens.

In the field of transportation and traffic infrastructure, acting upon complaints which indicated to the problems which citizens face at the territory of local communities Siva Stena, Voždovac, near the E75 highway, with regards to the safety of pedestrians at this section and construction of pedestrian overpass, the Protector of Citizens issued the opinion to the Secretariat for Transportation of the City Administration of the City of Belgrade, PUC "Putevi Srbije" and Ministry of Construction, Transportation and Infrastructure to consider and take all available measures and activities within their competences and authorizations with the aim of the improvement and provision of a higher level of safety of all participants in traffic as well as the reduction of potential deaths and injuries of all participants in traffic at the specific section.²³⁷

In the reporting period the complaints of persons deprived of their liberty most frequently referred to the illegal application of coercive methods by members of the institute security service, accommodation at institutes, inadequate provision of health protection, failure to act by the institute administration upon complaints of convicts, detained, etc. Upon the confirmation of illegality and irregularity in acting of members of the security service toward convicted persons, the Protector of Citizens issued to the Administration for the Enforcement of Penal Sanctions and DRC in Pančevo recommendations in order to correct identified irregularities, upon which actions were taken entirely.²³⁸

In the field of defense, the reporting period was marked by conducting of oversight procedure of the operation of the Ministry of Defense upon the complaint of the Association of Military Homeless Persons of Serbia to the treatment of the users of temporary accommodation at the "Bristol" hotel by the Ministry. Complainants were dissatisfied by the manner in which the Ministry organized the distribution of granted flats and by the fact that it took the stand that some of them do not have the right to be granted accommodation at all. After conducted oversight control, numerous omissions in the operation of the Ministry were identified, and among them the most important are the following: individual users of the accommodation were offered the accommodation in a flat without stating the data about the number of the flat, floor, structure and size, which is why these persons could not consider the offer and decide on their acceptance; the Ministry of Defense by its Decision²³⁹ put in an unequal position users of the temporary accommodation who became pensioners after passing of this decision in comparison to the users who became pensioners before its passing; the Ministry of Defense offered to some users temporary accommodation at various locations, even though they are members of a family household. With regards to noticed omissions the Ministry received the recommendation for its removal.²⁴⁰ Monitoring of the activities of the Ministry upon recommendation is still in progress.

In the field of activities of the Ministry of Interior (hereinafter: MoI) complaints most frequently referred to untimeliness and inefficiency of actions in issuing personal documents to citizens, in situations when due to the legal position in which citizens were fast and efficient actions of the MoI was necessary. In the greatest number of cases the MoI would, after the

²³⁷ Opinion available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/6161-m-2>.

²³⁸ Recommendation available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6276-pz-u-p-nc-vu-d-ispi-dg-v-rn-s-z-p-sl-nih-d-p-s-i-su-nj-n-n-z-ni-i-n-pr-viln-p-s-up-nj-pr-sud-ni-lici>.

²³⁹ The Decision on the use, management, maintenance and record of the facilities for the temporary accommodation of professional members of the Army of Serbia and employees at the Ministry of defense, "Official Army Gazette", no. 22/15.

²⁴⁰ Recommendation available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6228-z-sh-i-ni-gr-d-n-upu-i-pr-p-ru-inis-rs-vu-dbr-n-p-v-d-r-sh-v-nj-s-us-s-n-r-h-l-bris-l-u-b-gr-du>.

initiation of the procedure, correct the existing omission in its operation. Furthermore, after initiated procedure with regards to the complaint of the citizen who complained about failure in action of police officers of PS Savski venac upon the reporting on malfunction at plumbing installations on the floor above his room at "Bristol" hotel and entrance of unknown persons in this facility, the Ministry informed the Protector of Citizens that the Department for Operation Control, Belgrade Police Administration performed the oversight of the allegations from the complaint, confirmed omissions in the operation of the police officer who talked to the complainant and announced that disciplinary procedure will be initiated against him due to committed serious violation of the official duty.

8. COOPERATION BY THE PROTECTOR OF CITIZENS

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

After the failure to review regular annual reports of the Protector of Citizens for four years in a row (2014, 2015, 2016 и 2017), the National Assembly reviewed the Annual Report for 2018 and adopted the Conclusion (Official Gazette of RS, number 51/19 dated 19th July, 2019) in which, inter alia, it invited the Government to report continually to the National Assembly on the implementation of these conclusions. The National Assembly of the Republic of Serbia on 13th December, 2019 elected three deputies of the protector of citizens: Jelena Stojanović, Nataša Tanjević, PhD, and Slobodan Tomić. They, in accordance with the Law on the Protector of Citizens, took an oath on 30th December, 2019.

In the reporting period, the Protector of Citizens cooperated with several committees of the National Assembly. The Committee on the Judiciary, Public Administration and Local Self-Government at the session held on 17th June, 2019 reviewed the Annual Report for 2018 and confirmed the proposal of the conclusions submitted to the National Assembly for review and adoption. Furthermore, the Committee on the Rights of the Child at the session held on 2nd April, 2019 reviewed the Annual Report for 2018 in the section which refers to child rights.

On 25th April, upon the proposal of the Committee on Administrative, Budgetary, Mandate and Immunity Issues, the National Assembly gave consent to the new Rulebook on Internal Organization and Job Systematization proposed by the Protector of Citizens.

The representative of the Protector of Citizens participated at the session of the Committee on Human and Minority Rights and Gender Equality dedicated to the official use of languages and scripts of national minorities held on 15th November, 2019.

The representative of the Protector of Citizens participated also at the public hearing organized by the Committee on Education, Science, Technological Development and the Information Society to the topic of education in the languages of national minorities held on 22nd November, 2019.

Furthermore, representatives of the Protector of Citizens participated at the public hearing dedicated to the prevention of violence against women organized by Committee on Human and Minority Rights and Gender Equality held on 26th November, 2019.

In the reporting period, the Protector of Citizens participated at the joint session of the Committee on Human and Minority Rights and Gender Equality and Committee on Labour, Social Issues, Social Inclusion and Poverty Reduction, Social Inclusion and Reduction of Poverty held on 2nd December, 2019 on the occasion of the International Day of Persons with Disabilities.

In 2019 the Protector of Citizens submitted to the National Assembly requested information from his competence for the purpose of the preparation of the meeting of Stabilisation and Association Parliamentary Committee. The Protector of Citizens in this reporting period, too, issued initiatives to competent bodies for the amendment of laws and other regulations from his competence.²⁴¹ The Protector of Citizens issued also numerous opinions to competent

²⁴¹ Article 18, Paragraph 2 of the Law on the Protector of Citizens, "Official Gazette of RS", no. 79/05 and 54/07.

bodies about proposals of regulations in the process of their preparation, pursuant to the Law on the Protector of Citizens.^{242 243}

²⁴² Article 18, Paragraph 4 of the Law on the Protector of Citizens, "Official Gazette of RS", no. 79/05 and 54/07.

²⁴³ More data in the section of the Annual Report: Basic statistic data.

8.2. INTERNATIONAL COOPERATION AND PROJECTS

In 2019 as well, the Protector of Citizens continued with intensive regional and international cooperation at multilateral and bilateral level. The cooperation is established with ombudspersons from other countries and it is improved with continual exchange of examples of good practice in the field of promotion and protection of human rights, by signing of memoranda on cooperation, organization and participation at bilateral meetings, conferences, study visits and other summits in the country, region and wider. Furthermore, the Protector of Citizens maintains close cooperation also with representatives of international and regional organizations (the United Nations, Organization for Security and Cooperation in Europe, Council of Europe, European Union).

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 Ombudsmenpersons for Children (ENOC), Children Rights Ombudsmen Network in South-East Europe (CRONSEE) and Ombudsman Network for Environmental Protection. The visibility and recognizability of the Protector of Citizens through active participation in the operation of networks and organizations dealing with human rights contributed to the invitation to membership in the Eurasian Alliance of Ombudsman (EOA), which was established in December 2017 with the aim of raising of the awareness on mechanisms of exercise of human rights and cooperation in the field of human rights, and the Protector of Citizens became its member in December 2019.

The Protector of Citizens is a national human rights institution in Serbia (National Institution for the Promotion and Protection of Human Rights), accredited with the highest "A" status by the Global Alliance of National Human Rights Institutions (GANHRI). This status was originally assigned to it in 2010 and in 2015 the Protector of Citizens was re-accredited for the period until 2020. In accordance to that, in October 2019 the Protector of Citizens prepared and submitted necessary documentation for the forthcoming re-accreditation which will be considered at the session of the Sub-committee on Accreditation of the United Nations in March 2020.

The Protector of Citizens as the national human rights institution through memberships at professional international organizations aims at the contribution to better protection and promotion of human rights both at the national and international level, so all its activities at the level of international cooperation are aimed at this goal. Therefore, he took part at the general assembly of the Global Alliance of National Human Rights Institutions (GANHRI) as well as at the general assembly and annual conference of the European Network of National Human Rights Institutions (ENNHRI) in Brussels, Belgium.

The Protector of Citizens in the capacity of the national human rights institution in the reporting period issued responses to various questionnaires of the United Nations Office of the High Commissioner for Human Rights (OHCHR).²⁴⁴ Moreover, the cooperation with special procedures of the United Nations was continued.

With regards to the accession process of the Republic of Serbia to the European Union, the Protector of Citizens participates actively at the meetings of committees and sub-committees

²⁴⁴ The questionnaires, inter alia, referred to the following topics: the rights of the elderly persons with disabilities, the access to justice of the persons with disabilities, the protection against violence and discrimination on the basis of sexual orientation, gender identity, child, early and coercive marriages, human rights and business.

for the implementation of the Stabilization and Association Agreement. Furthermore, he participates also in the continual reporting of the Republic of Serbia with regards to the accession to the European Union.

Within activities at the international level, the Protector of Citizens establishes cooperation also with the Council of Europe, so the European Commission of the Council of Europe against Racism and Intolerance (ECRI) in 2019 submitted relevant information referring to tracking of the implementation of two recommendations from the report of this body published in 2017. Furthermore, regarding the celebration of the 25th anniversary of the establishment of the European Commission against Racism and Intolerance the representative of the Protector of Citizens attended the conference held in Paris, France to the topic of new responses to racism and intolerance.

In the context of intensification and strengthening of the cooperation at the bilateral level, the Protector of Citizens in 2019 continued with signing of memoranda on cooperation and it was done with ombudspersons of Romania, Greece, North Macedonia, Montenegro and Bosnia and Herzegovina. These memoranda defined activities and cooperation of ombudspersons in cases of the failure of adherence to rights and freedoms of the citizens of the Republic of Serbia at the territory of signatories as well as the citizens of these countries at the territory of the Republic of Serbia. Furthermore, these memoranda stipulated also the implementation of joint projects and programs, organization of mutual visits, internship, trainings and provision of practical assistance in the field of the protection of citizen rights.

During 2019 the cooperation with ombudspersons of other countries was strengthened also through bilateral meetings of the protector of citizens with ombudspersons of Romania, Austria, Kazakhstan, Sweden, Denmark, Scotland, representative of the ombudsman of France as well as the Children and People's Commissioner of Scotland. Apart from strengthening of the mutual cooperation, these bilateral meetings contributed to the exchange of experiences and good practices about current topics and trends in the field of human rights and manners of functioning of the ombudsman institution.

With the aim of deepening and intensifying of the cooperation, as well as exchange of experience in the field of human rights bilateral visits were paid to the Protector of Citizens in 2019 by ombudspersons of Montenegro, the Russian Federation, Romania, Bosnia and Herzegovina and representative of the ombudsman of the Netherlands.

In 2019 the Protector of Citizens received representatives of the Human Rights and Equality Institution of Turkey in order to introduce them to the competences and operation methodology of the National Preventive Mechanism (NPM) of Serbia.

On several occasions, participating at international and regional conferences the Protector of Citizens presented the results of its operation and thus contributed to strengthening of his recognizability and visibility in the system of human rights protection. The Protector of Citizens attended also international conferences dedicated to the 20th anniversary of the establishment of the Ombudsman of Greece, 10-year anniversary of the establishment of the National Preventive Mechanism of Georgia, and 15-year anniversary of the establishment of the Ombudsman of Armenia. At the conference organized by the Ombudsman of Azerbaijan, the protector of citizens discussed the role of the ombudsman institution in reaching of goals of sustainable development from the perspective of the Protector of Citizens of the Republic of Serbia. Upon the invitation of the Ombudsman of Turkey, the Protector of Citizens attended the second international conference about principles of good administration and ombudsmen. Within the international conference organized by the Ombudsman of Cyprus, the protector of citizens took part discussing the role of the Venice Principles in strengthening of the ombudsman institution. Upon the invitation of the high commissioner for human rights of the

Russian Federation, the Protector of Citizens participated at the third international conference dedicated to the protection of human rights in Eurasia and exchange of the best practices of ombudspersons and on this occasion presented the topic of protection of the rights of migrants, refugees and persons without citizenship.

The Protector of Citizens participated also at the conference of the European Network of Ombudsman in Brussels, organized by the European Ombudsman. At the conference the improvement of participative democracy in the European Union was discussed.

The Protector of Citizens participated at the annual conference of the European Network of Ombudspersons for Children (ENOC), which was held in Belfast, Northern Ireland to the topic of child rights in digital environment.

Within his traditional participation in the operation of the International Conference of Ombuds Institutions for Armed Forces, the Protector of Citizens participated at the 11th conference which was held in Bosnia and Herzegovina in 2019. Stable and sustainable ombudsman institutions were discussed at the conference. Furthermore, within the activity of the Network of Ombudspersons for Environmental Protection, the Protector of Citizens participated at the regional meeting of ombudspersons where the role of ombudspersons in the environmental protection was discussed.

The Protector of Citizens organized two-day regional conference “Strengthening of the capacity of the institution and increase of availability of the Protector of Citizens to all citizens”, which was held in Niš, in November 2019. The conference gathered representatives of institutions of ombudspersons from Albania, Bosnia and Herzegovina, Bulgaria, Greece, Romania, Slovenia, North Macedonia, Turkey, Montenegro and Croatia which presented the experience on availability of their institutions to citizens, on the position of national minorities, monitoring of activities in the fight against human trafficking and strengthening of the ombudsman institution in compliance with the Venice Principles (*Principles on Protection and Promotion of the Institution of the Ombudsman*) adopted in March 2019 as the most complete overview of international standards in the field of ombudsman. Participants of the conference agreed that the Venice Principles are a significant source of ombudsman independence and that their full application is crucial for the stability and efficiency of this institution. For the institution of the Protector of Citizens the conference was of multiple importance and its regional character contributed to the strengthening of cooperation and networking of the Balkan ombudspersons.

PROJECTS

In this reporting period the implementation of the project “Increase of visibility and availability of the Protector of Citizens to citizens living inside Serbia” which started in May 2018 with financial support of the Government of the Republic of Bulgaria via the Embassy of the Republic of Bulgaria in Serbia was completed. In 2019 the Protector of Citizens continued to visit municipalities and cities in Serbia²⁴⁵. On these occasions he discussed with representatives of city and local authorities and public institutions and civil society organizations about key problems in the exercise of citizen rights and potentials for their promotion. Furthermore, during visits, citizens had the opportunity to talk to the protector of

²⁴⁵ The Protector of Citizens visited Dimitrovgrad, Kraljevo, Čačak, Kanjiža, Zaječar, Leskovac, Bujanovac, Novi Pazar and Bosilegrad.

citizens and his associates about problems in the exercise of rights before public authorities and submit complaints for their handling.

The project was completed by the regional conference which gathered representatives of ombudsperson institutions from Albania, Bosnia and Herzegovina, Bulgaria, Greece, Romania, Slovenia, North Macedonia, Turkey, Montenegro and Croatia who exchanged experiences on availability of their institutions to citizens, the position of national minorities, monitoring activity in the fight against human trafficking, and strengthening of the ombudsperson institution in compliance with Venice principles. For the institution of the Protector of Citizens the conference was of multiple importance and its regional character contributed to strengthening of the cooperation and networking of Balkan ombudspersons who discussed the most current topics in the sphere of promotion and protection of human and minority rights.

Except for greater visibility and availability of the institution to citizens, which is indicated by recorded growth of complaints to the Protector of Citizens from municipalities and cities included in the project, the project contributed also to improved cooperation and connection with relevant bodies, institutions and civil society organizations at the local level and it also contributed to the dialog on the importance of the establishment of the institution of local ombudspersons at municipalities and cities which still have not used this possibility. The additional value of the project is the cooperation with the institution of the Ombudsman of Bulgaria through joint visits to local self-government units in which the majority population are members of the Bulgarian national minority. In this period the Memorandum on Cooperation and Understanding between these two institutions was signed.

The Protector of Citizens even during this reporting period participated in major projects and programs of regional and international organizations.

- In cooperation with the OSCE Mission in Serbia, he continued to monitor in which manner the City Center for Social Work of Belgrade applies the Law on the Prevention of Domestic Violence;
- In the sphere of national minority rights, the Protector of Citizens conducted the analysis of the condition in the field of execution of public authorizations of national councils of national minorities. Results of both surveys will be published this year;
- High Commissariat of United Nations for Refugees supported the survey on the application of the Strategy for Social Inclusion of Roma conducted by the Protector of Citizens in cooperation with the Initiative for Economic and Social Rights A11 and published by the end of 2019.

In this reporting period, too, the Protector of Citizens participated in the joint project of the Council of Europe and European Union titled "Horizontal funds for the Western Balan and Turkey", in two components:

- In the field of strengthening of the protection of human rights of persons deprived of liberty and convicted persons, the comprehensive overviews of findings and recommendations of the Protector of Citizens on the protection of rights of persons deprived of liberty, persons with mental delays in social and health care institutions and persons detained at police stations were published;
- In the field of strengthening of the protection of national minorities, the Protector of Citizens participated in the execution of the publication "Introduction to the exercise of the right to the official use of languages and scripts of national minorities" as well as in trainings of employees at local self-government units to this topic.

8.3. PROTECTOR OF CITIZENS IN THE MEDIA

In 2019 as well, the media in Serbia monitored very closely the operation of the Protector of Citizens. In the reporting year, a number of articles and television reports in the media with national coverage were publicized in comparison to the previous year. The media wrote about the institution primarily on the basis of statements of the protector of citizens, his associates and other participants, on the basis of the statement or in the form of news or report. Reports and information on the activities of the Protector of Citizens in the media were presented in an informatively neutral manner. Articles in newspapers and media reports on initiatives of this institution and oversight procedures of the operation of public authorities were affirmative. With special attention the initiated oversight procedures of the operation of competent authorities in the protection of child rights, employee rights, socio-economic rights, air pollution, establishment of the online media platform for recording of cases of endangerment of safety and pressure on journalists were monitored.

In the reporting year the Protector of Citizens analyzed 12 dailies and weeklies in which 312 articles were published, which is by 30 percent more than in previous reporting period. The published articles belong to different genres – comments, auteur articles, announcements, news and statements with regards to the operation of the institution. As in previous years, the daily Danas published most articles with regards to the operation and activities of the Protector of Citizens, then dailies Politika, Večernje Novosti, Blic and Kurir. The most comments to the operation of the institution (13) were published in the daily Danas. During the previous year, the newspapers published seven interviews and auteur articles of the protector of citizens.

In the electronic media with national coverage, in programs of nine television stations involved in the video clipping of the Protector of Citizens during the previous year, 201 video reports were published, from news via statements and announcements to the appearance of the protector of citizens, which is almost twice as many times as in 2018. The most of video reports were broadcast by N1 television, Public Media Service (RTS) and Happy television. In the previous year, the protector of citizens and his associates had 34 appearances on tv shows, which is significantly the greatest number since the establishment of the institution.

Articles and reports on the operation and attitudes of the Protector of Citizens on topics from his competence were published also in the local media and media portals on a regular basis.

Citizens could be informed about everyday activities of the institution at the internet page

www.zastitnik.rs. Only in 2019, 250 pieces of information, news and statements were published on the main website of the Protector of Citizens. The information from the specialist fields were published also at specialist subsites (www.pravadeteta.com, www.rodnaravnopravnost.rs, www.pravamanjina.rs, www.osobesainvaliditetom.rs, www.ils.rs). At the internet page of the National Preventive Mechanism (www.npm.rs) 76 pieces of information about the activities of this mechanism in the field of the prevention of torture and other cruel, inhuman or degrading treatments or punishments and protection and promotion of the rights of persons deprived of their liberty were published. Among published information, there are reports on visits to institutions where persons deprived of their liberty are or may be accommodated and which were published in the reporting year. All information is translated into English and published in the separate section of the NPM Internet presentation (<https://npm.ils.rs>).

Chart 10 - Number of announcements in daily newspapers

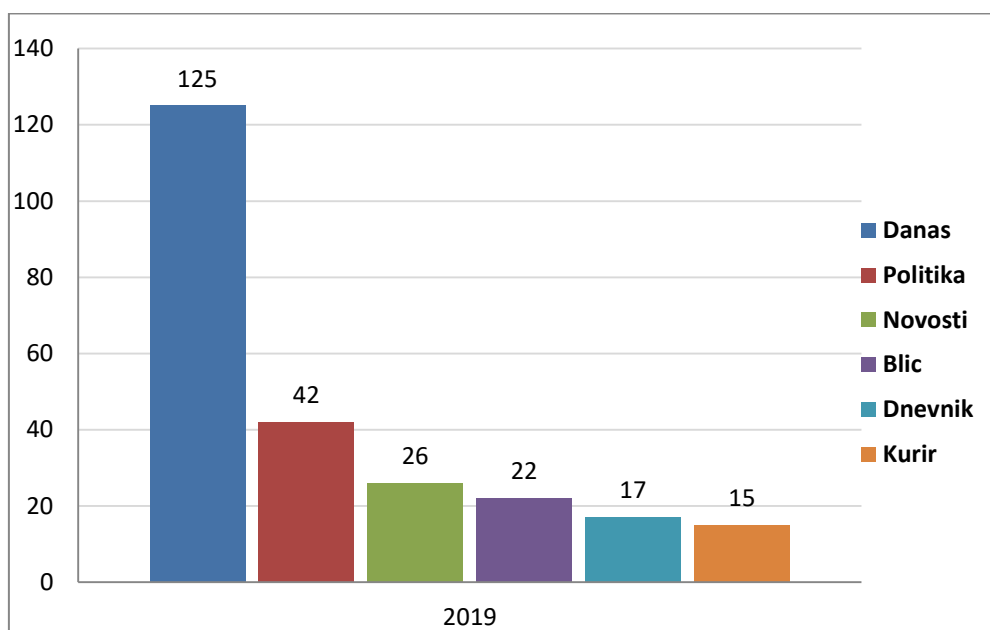
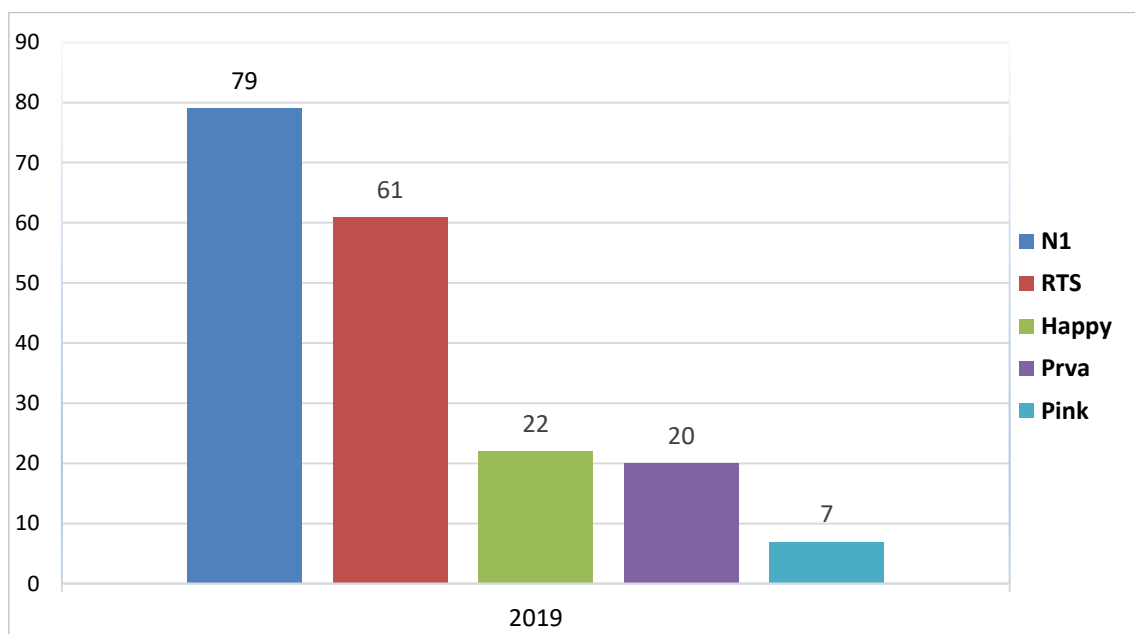


Chart 11 - Number of television reports



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

LEGAL FRAMEWORK

The Protector of Citizens of the Republic of Serbia is an independent and autonomous state body introduced in the legal system of the Republic of Serbia in 2005 via the Law on the Protector of Citizens²⁴⁶. The position of the institution was reinforced by the Constitution of the Republic of Serbia²⁴⁷ from 2006, in accordance with the best international experiences. The Constitution guarantees the Protector of Citizens independence. The Protector of Citizens is subject, pursuant to the provision of the Constitution, to the oversight of the National Assembly. In exercising oversight, the National Assembly is not authorized, the same as any other body, organization or individual, to influence the operations and actions of the Protector of Citizens.²⁴⁸

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 Punishment²⁴⁹ stipulates that the Protector of Citizens is designated to carry out the activities of the National Preventive Mechanism.

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

Constitutional Law on the Implementation of the Constitution of the Republic of Serbia²⁵⁰, 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 Punishment²⁵¹, adopted on 28 July 2011, stipulates that the Protector of Citizens carries out

²⁴⁶ Law on the Protector of Citizens, "Official Gazette of RS", no. 79/05 and 54/07.

²⁴⁷ "Official Gazette of RS", number 98/2006 (Part Five – Regulation of Power, Section 5 "The Protector of Citizens" Article 138).

²⁴⁸ Article 2 Paragraph 2 of the Law on the Protector of Citizens.

²⁴⁹ "Official Gazette of RS – International Treaties", no. 07/11.

²⁵⁰ 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.

²⁵¹ Already stated in footnote no. 4.

the activities of the National Preventive Mechanism in cooperation with Ombudsmen of Autonomous Provinces and associations whose statute foresees that the intended aim of association is the promotion and protection of human rights and freedoms.

The Law on the National Assembly²⁵² 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 Forces²⁵³ 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 Criminal Procedure Code²⁵⁴ stipulates that the Protector of Citizens has the right to visit detainees freely and to talk to them without the presence of other persons, and that the detainee cannot be prohibited from having correspondence in writing with the Protector of Citizens. The law also envisages the obligation of a penal judge, or another judge assigned by the president of the court to inform the Protector of Citizens without delay of any irregularities observed during the visit to the institution.

Law on the Enforcement of the Prison Sentence for Criminal Offences of Organized Crime²⁵⁵ 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 Servants²⁵⁶ 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.²⁵⁷

The Law on Information Confidentiality²⁵⁸ prescribes in which cases the Protector of Citizens, as a public authority appointed by the National Assembly, is authorized to access information of all degrees of confidentiality that are necessary for the performance of tasks within his competence without a security check, as well as cases where a security check is required.

²⁵² Article 15 Paragraph 2 Item 6) and Paragraph 3 Item 4), "Official Gazette of RS", no. 9/10.

²⁵³ 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.

²⁵⁴ Article 219 Paragraph 3, 220 Paragraph 2 and 222 Paragraph 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.

²⁵⁵ Article 35. Paragraph 2, 37 Paragraph 4 and 54 Paragraph 1 of the Law on the Execution of the Imprisonment Penalty for Criminal Acts of Organized Criminal, "Official Gazette of RS", no. 72/09 and 101/10.

²⁵⁶ 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 and 95/18.

²⁵⁷ Article 16 Paragraph 2 of the Law on the Amendments to the Law on Civil Servants, "Official Gazette of RS", no. 99/14.

²⁵⁸ Law on Classified Data, "Official Gazette of RS", no. 104/09.

The Law on the Form and Use of the Coat of Arms, Flag and Anthem of the Republic of Serbia²⁵⁹ stipulates that the Large Coat of Arms is to be used on the building, in the offices, on the stamp and on invitations, congratulatory cards, etc. of the Protector of Citizens.

Law on the Seal of the State and Other Bodies²⁶⁰ 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 Parties²⁶¹ stipulates that the Protector of Citizens cannot be a member of a political party.

The Law on the Anti-Corruption Agency²⁶² stipulates that the members of the Agency's Board are appointed by the National Assembly, inter alia, at the proposal of the Protector of Citizens and the Commissioner for Information of Public Importance and Personal Data Protection.

Law on Patients' Rights²⁶³ stipulates that the Health Council, formed by the local self-government unit, shall submit its annual work report and measures taken to protect the rights of patients to the Protector of Citizens for the purpose of exchanging information and achieving the necessary cooperation.

Under **the Law on Public Property**²⁶⁴ administrative authorities and organizations within the meaning of that Law are deemed to include, inter alia, the Protector of Citizens.

The Law on Amendments to the Law on the Budget System²⁶⁵ 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 Procedure²⁶⁶ which came into force on 1st June 2017 provides for a new extraordinary legal remedy in the administrative procedure - Annulment, revocation or alteration of a final decision at the recommendation of the Protector of Citizens. By the provisions of the Law, it was prescribed that at the recommendation of the Protector of Citizens, in order to comply with the law, a new decision may annul, revoke or amend a final decision, if the party whose rights or obligations are the subject of that decision, as well as the opposing party, accept it and if it does not offend the interest of a third party. If the body does not consider it necessary to act upon the recommendation of the Protector of Citizens, it shall immediately inform him about it. The annulment, revocation or amendment of the decision at the recommendation of the Protector of Citizens is not limited by a deadline.

Action Plan for Chapter 23²⁶⁷, 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

²⁵⁹ 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.

²⁶⁰ Article 1 of the Law on the Seal of Public and Other Authorities, "Official Gazette of RS", no. 101/07.

²⁶¹ Article 21 of the Law on Political Parties, "Official Gazette of RS", no. 36/09 and 61/15 - CC decision.

²⁶² Law on the Anti-Corruption Agency, "Official Gazette of RS", no. 97/08, 53/10, 66/11 - CC decision, 67/13 - CC decision, 112/13 - authentic interpretation and 8/15 - CC decision.

²⁶³ Article 42, "Official Gazette of RS", no. 45/13.

²⁶⁴ Article 47 Paragraph 1 of the Law on Public Property, "Official Gazette of RS", no. 72/11, 88/13, 105/14, 104/16 - state law, 108/16, 113/17 and 95/18.

²⁶⁵ 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, 31/2019 and 72/2019.

²⁶⁶ Article 185, "Official Gazette of RS", no. 18/2016 and 95/18 - authentic interpretation.

²⁶⁷ Decision on the amendments of the Republic of Serbia Public Administration Reform Strategy, "Official Gazette of RS", no. 54/2018. and the Draft of the Revised Action Plan for Chapter 23, dated 10th June, 2019 <https://www.mpravde.gov.rs/tekst/22159/prvi-nacrt-revidiranog-akcionog-plana-za-poglavlje-23.php>.

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 2018-2020.²⁶⁸, Strategy for Social Inclusion of Roma Men in the Republic of Serbia for the Period from 2016 to 2025²⁶⁹, Strategy for Prevention and Protection against Discrimination ²⁷⁰, 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 Convention²⁷¹, the Penal Sanctions Enforcement System Development Strategy in the Republic of Serbia by 2020²⁷², National Strategy for Preventing and Protecting Children from Violence²⁷³, Action Plan for the Implementing the Strategy on Implementation of the Aarhus Convention²⁷⁴, Action Plan for the Exercise of Rights of National Minorities, the Action Plan for the Implementation of the Strategy for the Social Inclusion of Roma 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 Assembly²⁷⁵, the Government’s Rules of Procedure²⁷⁶, Decision on the Formation and Operation of the Secretariat of the Protector of Citizens²⁷⁷, Decision on the Formation of Local Offices in Preševo, Bujanovac and Medveđa²⁷⁸, Decree on the implementation of internal and public competition procedures for filling vacancies in state bodies²⁷⁹, Special collective agreement for state authorities²⁸⁰, Rules on the

²⁶⁸ “Official Gazette of RS”, no. 09/14, 42/14 - corr. and 54/18.

²⁶⁹ “Official Gazette of RS”, no. 26/16.

²⁷⁰ “Official Gazette of RS”, no. 60/13.

²⁷¹ “Official Gazette of RS”, no. 103/11.

²⁷² “Official Gazette of RS”, no. 114/13.

²⁷³ “Official Gazette of RS”, no. 122/08.

²⁷⁴ “Official Gazette of RS”, no. 103/11.

²⁷⁵ Rules of Procedure of the National Assembly, “Official Gazette of RS”, no. 20/12- consolidated text.

²⁷⁶ Article 39a and 46 of the Government Rules of Procedure, “Official Gazette of RS”, no. 61/06-consolidated text, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13, 76/14 and 8/2019.

²⁷⁷ “Official Gazette of RS”, no. 105/07 and 99/18.

²⁷⁸ “Official Gazette of RS”, no. 91/09.

²⁷⁹ “Official Gazette of RS”, no. 2/19.

²⁸⁰ “Official Gazette of RS”, no. 28/19.

management in public prosecutor's offices ²⁸¹, Rulebook on the House Rules of the Penitentiary-Correctional Institutions and District Prisons²⁸², Rulebook on the House Rules of Juvenile Correctional Facilities²⁸³, 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"²⁸⁴ and the "Ljubljana Conclusions on the Relationship between the Ombudsman and the Judicial Bodies".

The Constitution and the Law on the Protector of Citizens reflect the majority of the standards contained in the key international documents which regulate and promote and propose standards for ombudsmen and national human rights institutions.²⁸⁵ The Protector of Citizens is accredited with the highest "A" status with the International Coordinating Committee of National Human Rights Institutions (renamed to Global Alliance of National Human Rights Institutions) for results and independence in his work.²⁸⁶

International documents emphasize the importance of financial independence and the necessity to provide adequate resources for the smooth and efficient work of the Protector of Citizens. Supporting this is the report of the Secretary General²⁸⁷ and Resolution of the United Nations General Assembly²⁸⁸ from 2017 on the establishment and functioning of the Protector of Citizens, i.e. national institutions for the protection of human rights. The Paris Principles, adopted as an annex to the UN General Assembly Resolution 48/134 in December 1993, represent the most complete document dealing with national human rights institutions so far. It unambiguously proclaims the importance of financial independence.²⁸⁹

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."²⁹⁰

²⁸¹ Article 60 Paragraph 1, "Official Gazette of RS", no. 57/2019.

²⁸² "Official Gazette of RS", no. 110/14 and 79/16.

²⁸³ "Official Gazette of RS", no. 71/06.

²⁸⁴ Available at: http://www.ombudsman.rs/attachments/2181_Beogradski%20principi.pdf

²⁸⁵ 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-dds-ny.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-dds-ny.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).

²⁸⁶ 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.

²⁸⁷ Available at: https://digitallibrary.un.org/record/1301905/files/A_72_230-EN.pdf

²⁸⁸ Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/72/186

²⁸⁹ Resolution 48/134 which contains Paris Principles available at:

<http://www.un.org/documents/ga/res/48/a48r134.htm>.

²⁹⁰ 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>.

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.”²⁹¹ 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.”²⁹² The Venice Commission of the Council of Europe also firmly insists on its opinion that financial independence of ombudsmen must be ensured by legislative texts as specifically and as completely as possible.²⁹³

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.

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

Considering the fact that the Constitution of the Republic of Serbia was passed in 2006, and that the Protector of Citizens started working one year later, after more than ten years of experience, the Protector of Citizens pointed to the need for 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 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 Europe²⁹⁴.

The working version of the new law envisages great transparency of the election of the protector of citizens by more closely regulated the procedure of the selection of the protector of citizens via public competition. Simultaneously, the working version of the new Law contains provisions which would enable a wider citizen public to exercise their rights before the Protector of Citizens as well as the provisions which would promote the efficiency of acting upon complaints.

The working version of the new Law on the Protector of Citizens pays special attention to the promotion of child rights, so that the Protector of Citizens has the status of a special body for the protection and promotion of child rights, which is upgrade of the long-term successful work of this institution in this field. For the performance of the activities in the field of the improvement of child rights, there would be budget funds specially allocated within the budget of the Protector of Citizens, and the protector of citizens would have in that the

²⁹¹ Resolution in the 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>.

²⁹² Ibid.

²⁹³ 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).

²⁹⁴ Adopted at 118th Plenary session (Venice, 15th – 16th March, 2019).

assistance of the deputy of the protector of citizens who is in charge of child rights and who in this manner gets the autonomy in work.

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 for functions as job positions 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 law²⁹⁵. 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 authorities²⁹⁶ and organizations to which public powers have been delegated (hereinafter–public authorities and organizations²⁹⁷). The Law on the Protector of Citizens also specifies that the Protector of Citizens should “protect and **promote** human and minority freedoms and citizen rights”.

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

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

The Protector of Citizens oversees the work of government agencies, the body authorized for legal protection of property rights and interests of the Republic of Serbia and other bodies and organizations, enterprises and institutions which have been delegated public authority (public authorities and organizations) The Protector of Citizens, according to the provisions of the Constitution and the Law, among all bodies and organizations of public authorities and organizations, is not authorized to oversee only the work of the National Assembly, the President of the Republic, the Government, the Constitutional Court, the courts and the public prosecutor's offices.²⁹⁸

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.²⁹⁹

²⁹⁵ Article 2, paragraph 2 of the LoPoC.

²⁹⁶ Article 17, paragraph 2 of the LoPoC.

²⁹⁷ 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.

²⁹⁸ Article 138, Paragraph 2 of the RS Constitution, Article 17, paragraph 3 of the Law on the Protector of Citizens.

²⁹⁹ Article 38, Paragraph 1 and 2 of the Law on Information Confidentiality, “Official Gazette of the RS”, number 104/09.

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 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

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 the budget of the Republic of Serbia for 2019 the Protector of Citizens is granted financial funds in the amount of RSD 209,447,000.00 which is an increased amount by 7.44 percent in comparison to RSD 195,294,000.00 of provided financial fund for 2018.

The total expenditure of the Protector of citizens for 2019 amount to RSD 186,381,605.57, i.e. 88.83 percent of the provided budget fund (in percentage, the expenditure of budget funds is less by 3.71 percent in comparison to the expenditure for 2018) when total expenditure was RSD 180,720,058.00. The less expenditure of funds in 2019 in comparison to 2018 occurred because in 2019 deputies of the Protector of Citizens were not 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 22 - Budget execution for 2019

Account position	Description	Approved	Accomplished	%
411	Salaries			
411111	Salaries based on the labor cost		104,031,053.28	74.48
411112	Bonus for work longer than full working hours		4,486,312.86	3.21
411113	Bonus for work on the state holiday and religious holiday		4,782.77	0.00
411114	Bonus for night work		1,200.09	0.00
411115	Bonus for the time spent at work (years of service)		5,723,812.58	4.10
411117	Sick leave up to 30		2,299,723.10	1.65
411118	Earning compensation for the time of absence from work -annual vacation, paid leave		9,755,945.17	6.98
411119	Other bonuses and compensation for employees		4,878,123.31	3.49
Total 411		139,682,000.00	131,180,953.16	93.91
412	Contributions			
412111	Contributions for		15,402,892.05	64.43
412211	Contributions for health insurance		6,610,408.10	27.65
Total 412		23,906,000.00	22,013,300.15	92.08
413	Compensations in kind			

413142	Gifts for children of employees		499,574.00	96.07
Total 413		520,000.00	499,574.00	96.07
414	Social benefits for employees			
414111	Maternity leave		-332,804.37	-13.52
414121	Sick leave over 30 days		0.02	0.00
414314	Assistance in case of the death of employee or an immediate family member		118,389.00	4.81
414411	Assistance in medical treatment of employee or an immediate family		234,055.00	9.51
414419	Other forms of assistance to employees		112,306.11	4.56
Total 414		2,462,000.00	131,945.76	0.05
415	Compensations for employees			
415112	Commuting transportation		3,299,201.77	0.90
Total 415		3,680,000.00	3,299,201.77	0.90
416	Rewards for employees and other special expenses			
416111	Jubilee awards		684,776.67	0.76
Total 416		900,000.00	684,776.67	0.76
421	Constant expenses			
421121	Costs of bank services		19,574.64	0.00
421211	Electric power service		20,915.83	0.42
421225	Central heating		112,130.16	2.25
421323	Property protection services		766,945.87	15.39
421411	Telephone, telex and fax		419,422.44	8.42
421412	Internet and similar		244,182.68	4.90

421414	Cell phone services (cell phones, internet)		1,523,548.79	30.57
421422	Delivery services		485,000.00	9.73
421512	Vehicle insurance		130,197.00	2.61
421513	Equipment insurance		30,220.00	0.61
421521	Employee insurance in case of work accident		33,000.00	0.66
421522	Health insurance		134,000.00	2.69
421523	Liability insurance		33,450.00	0.67
421619	Other facility lease		25,602.00	0.51
421622	Administrative equipment lease		100,000.00	2.01
Total 421		4,984,000.00	4,078,189.41	81.83
421 NPM				
421622	Administrative equipment lease		0.00	0.00
Total 421 NPM		200,000.00	0.00	0.00
422	Travel costs			
422111	Business trip daily allowance cost		9,450.00	0.16
422121	Domestic business trip transportation costs		137,471.20	2.29
422131	Business trip accommodation costs		273,172.00	4.55
422199	Other costs for domestic business trips		141,668.00	2.36
422211	Business trip abroad daily allowance costs		470,577.27	7.84
422221	Business trip abroad transportation costs		2,161,325.94	36.02
422231	Business trip abroad accommodation costs		1,810,958.20	30.18

422299	Other costs for business trips abroad		225,232.95	3.75
Total 422		6,000,000.00	5,229,855.56	87.16
422 НПМ				
422111	Business trip daily allowance costs		5,775.00	0.25
422131	Business trip accommodation costs		83,100.00	3.61
422211	Business trip abroad daily allowance costs		79,597.04	3.46
422221	Business trip abroad transportation costs		447,829.00	19.47
422231	Business trip abroad accommodation costs		121,668.22	5.29
422299	Other costs for business trips abroad		6,452.73	0.28
Total 422 NPM		2,300,000.00	744,421.99	32.37
423	Contracted services			
423111	Translation services		1,437,890.71	12.03
423211	Software execution services		600,000.00	0.05
423212	Software maintenance services		161,348.00	1.35
423221	Computer maintenance services		193,879.29	1.62
423291	Other computer services		326,900.00	2.73
423321	Seminar fee		100,624.00	0.84
423391	Expenses of professional exams		7,500.00	0.06
423399	Other expenses for professional education		8,500.00	0.07
423413	Publication printing services		741,400.00	6.20
423419	Other printing services		546,243.60	4.57

423421	Public information services		409,200.00	3.42
423422	Public relations		175,923.62	1.47
423432	Tender and informative advertisements publication		191,961.00	1.61
423449	Other media services		386,424.00	3.23
423599	Other professional services (<i>engagement of external associates, experts</i>)		1,334,995.63	11.16
423621	Catering services (<i>organization of conferences, round tables, meetings</i>)		885,305.04	7.40
423711	Representation (<i>organization of conferences, round tables, meetings</i>)		385,063.56	3.22
423712	Gifts		101,413.29	0.85
423911	Other general services		385,725.69	3.23
Total 423		11,957,000.00	8,380,297.43	70.09
423 NPM				
423111	Translation services		242,313.39	11.54
423413	Publication printing services		297,000.00	14.14
423419	Other printing services		1,872.00	0.09
423531	Court expertise services		161,124.00	7.67
423599	Other professional services		439,746.84	20.94
423621	Catering services		217,765.00	10.37
423911	Other general services		6,450.00	0.31
Total 423 NPM		2,100,000.00	1,366,271.23	65.06
425	Repairs and maintenance			

425212	Repairs of electric and electronic equipment		3,500.00	0.64
425219	Other repairs and maintenance of transportation		142,984.00	26.19
425223	Communication equipment		31,177.22	5.71
425229	Other repairs and maintenance of administration equipment		146,306.46	26.80
Total 425		546,000.00	323,967.68	59.33
426	Material			
426111	Office supplies		1,024,281.20	17.27
426191	Other administrative material		317,880.00	5.36
426311	Professional reference books for regular use of employees		350,197.00	5.91
426312	Professional reference books for education of employees		575,590.00	9.71
426411	Fuel		1,650,000.00	27.82
426412	Diesel fuel		439,000.00	7.40
426491	Other material for means of		22,750.00	0.38
426912	Spare parts		330,311.00	5.57
426919	Other material for specific purposes		155,276.16	2.62
Total 426		5,930,000.00	4,865,285.36	82.05
462	Subsidies to international organizations			
462121	Current subsidies for international memberships		1,255,068.27	0.70
Total 462		1,800,000.00	1,255,068.27	0.70
4651	Other current subsidies and transfers		0.00	0.00

465111	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			
Total 482		200,000.00	0.00	0.00
485	Damage compensation for injury or damage caused by public authorities			
485119	Other damage compensation		13,943.13	27.89
Total 485		50,000.00	13,943.13	27.89
512	Machines and			
512221	Computer equipment		1,325,280.00	55.22
512222	Printers		194,400.00	8.10
512232	Telephones		89,094.00	3.71
512233	Cell phones		539,400.00	22.48
512241	Electronic equipment		166,380.00	6.93
Total 512		2,400,000.00	2,314,554.00	96.44
512 HPIIM	Machines and equipment			
Total 512 NPM		200,000.00	0.00	0.00
TOTAL		209,818,000.00	186,381,605.57	88.83

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 Citizens³⁰⁰, and pursuant to Article 38 Paragraph 1 of the Law on the Protector of Citizens³⁰¹, the Secretariat of the Protector of Citizens was created.

With the aim of the accomplishment of a higher efficiency and better work organization, the Protector of Citizens passed in 2018 a new Rulebook on Internal Organization and Systematization of Job Positions in the Secretariat of the Protector of Citizens³⁰², to which the National Assembly by Decision RS number 14 dated 25th April, 2019³⁰³ gave consent³⁰⁴. The Rulebook stipulates the systematization of 61 job positions with totally 106 employees, 11 of whom were civil servants with official positions, 91 at operational job positions and four employees whose job positions refer to accompanying assisting technical activities.

On 31st December, 2019, there were in total 93 employees at the Secretariat of the Protector of Citizens as follows: 84 to indefinite period of time (of which nine 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 93 employees, 77 of them perform their jobs with university degree, two with college degree and 14 with high-school degree. Out of 93 employees, 73 are women and 20 men. The stated number does not include the Protector of Citizens, Zoran Pašalić, MSc and three Deputies of the Protector of Citizen, Slobodan Tomić, Nataša Tanjević, PhD and Jelena Stojanović.

By Decision of the Committee on Administrative, Budgetary, Mandate and Immunity Issues 21 number 112-161/19 dated 8th February, 2019 it is designated that the maximum number of employees for indefinite period of time at the Secretariat of the Protector of Citizens during the calendar 2019 is 106 as well as that, within the maximum number of employees, the Protector of Citizens may have the number of employees for indefinite period of time for whom he has the sum of funds for the payment of salaries designated by the Law on Budget of the Republic of Serbia for 2019³⁰⁵.

Within the accession process to the European Union and the fulfillment of recommendations issued to the Republic of Serbia by the European Commission, the Government of the Republic of Serbia adopted the Action Plan for Chapter 23 on 27th April, 2016. The Action Plan contains also the recommendations referring to the strengthening of the capacities of the Protector of Citizens to the level required for the performance of activities from his competence in full capacity.

³⁰⁰ "Official Gazette of RS", no. 30/19.

³⁰¹ "Official Gazette of RS", no. 79/05 and 54/07.

³⁰² Number 363-241/2019, ref.no. 6417 dated 1st March, 2019

³⁰³ "Official Gazette of RS", no. 30/2019.

³⁰⁴ "Official Gazette of RS", no. 95/18 and 72/19.

³⁰⁵ "Official Gazette of RS", no. 95/2018 and 72/2019.