



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
3411- 38 / 22
Belgrade



Заштитник грађана
Zaštitnik građana

Ref. no. 6227 Date: 15th March 2022

REGULAR ANNUAL REPORT
OF THE PROTECTOR OF CITIZENS
FOR 2021

Belgrade, 15th March 2022

REGULAR ANNUAL REPORT OF THE PROTECTOR OF CITIZENS FOR 2021

Belgrade, 15th March 2022

Regular Annual Report of the Protector of Citizens for 2021
was translated by NS PRO GROUP d.o.o Novi Sad

TABLE OF CONTENTS

1. INTRODUCTION	7
1.1 FOREWORD	7
2. GENERAL ASSESSMENT OF THE OBSERVANCE OF CITIZEN'S RIGHTS IN 2021.....	15
3. BASIC STATISTICAL REVIEW	35
3.1. TOTAL NUMBER AND CLASSIFICATION OF COMPLAINTS	35
3.2. RECOMMENDATIONS, OPINIONS AND LEGISLATIVE INITIATIVES OF THE PROTECTOR OF CITIZENS	41
4. EXERCISE OF THE RIGHTS OF PARTICULARLY VULNERABLE GROUPS ..	49
4.1. CHILD RIGHTS	49
4.2. GENDER EQUALITY AND RIGHTS OF LGBTI PERSONS	62
4.3 RIGHTS OF PERSONS WITH DISABILITIES AND RIGHTS OF THE ELDERLY.....	72
4.3. RIGHTS OF NATIONAL MINORITIES	84
4.3. RIGHTS OF PERSONS DEPRIVED OF LIBERTY	92
4.5.1. NATIONAL PREVENTIVE MECHANISM.....	102
5. OTHER ACTIVITIES IN THE AREAS OF WORK OF THE PROTECTOR OF CITIZENS.....	115
5.1. AREA OF CIVIL AND POLITICAL RIGHTS.....	115
5.2. AREA OF ECONOMIC AND PROPERTY RIGHTS	131
5.3. AREA OF SOCIAL AND CULTURAL RIGHTS.....	141
6. SECTOR FOR THE RECEPTION OF CITIZENS.....	151
7. EMERGENCY RESPONSE DEPARTMENT.....	157
8. COOPERATION BY THE PROTECTOR OF CITIZENS	165
8.1. COOPERATION WITH PUBLIC AUTHORITIES EXCLUDED FROM THE CONTROL BY THE PROTECTOR OF CITIZENS	165
8.2. INTERNATIONAL COOPERATION AND PROJECTS	166
8.3. PROTECTOR OF CITIZENS IN THE MEDIA.....	170
ANNEX I – LEGAL FRAMEWORK AND THE SCOPE OF WORK OF THE PROTECTOR OF CITIZENS.....	173
ANNEX II – FINANCIAL STATEMENT.....	189
ANNEX III – HUMAN AND MATERIAL RESOURCES	196

1. INTRODUCTION

1.1 FOREWORD

Respected Members of the National Assembly,

Pursuant to Article 39 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 2021.

For the Protector of Citizens, the reporting year 2021 was full of challenges in the implementation of competencies for the protection of human rights of all citizens of our country and all citizens located on its territory, entrusted to this independent state institution by the Constitution of the Republic of Serbia and the Law on the Protector of Citizens. At the same time, 2021 was also a very successful year for the Protector of Citizens, as it increased its work efficiency, and with recognitions at the domestic and international level, confirmed its credibility, independence and expertise in the protection of human rights.

In 2021, the changed living conditions of citizens due to the pandemic continued for the second year in a row, so the Protector of Citizens continued to direct all its capacities towards urgent and direct assistance to citizens, for them to realize their guaranteed rights as much as possible. Depending on the epidemiological situation, the competent authorities adjusted the protection measures, so the challenges to which the Protector of Citizens reacted in protecting the rights of citizens also depended on the fluctuation of the pandemic.

The general assessment of the human rights situation in the Republic of Serbia in 2021 is that human rights, in accordance with the uncertain, long-term and changing epidemiological situation and measures to protect the health and lives of citizens, have largely been respected.

In the reporting year, as well as a year earlier, when the pandemic began, members of particularly vulnerable groups faced the most problems in exercising their rights: children, women, the chronically ill, the elderly, people with disabilities, persons deprived of their liberty, LGBTI persons and members of national minorities, primarily the Roma.

The first confirmation of the quality and expertise of the work of the Protector of Citizens arrived on 3rd November 2021, when the National Assembly of the Republic of Serbia adopted a new Law on the Protector of Citizens

which improves the independence and efficiency of this institution. The Protector of Citizens has been entrusted with new competencies – the work of a national independent mechanism for monitoring the implementation of the Convention on the Rights of Persons with Disabilities, the work of the national rapporteur on trafficking in human beings and the position of a special body that protects, promotes and improves children's rights. According to the new law, the Protector of Citizens also performs the tasks of the national preventive mechanism, entrusted to this institution since 2011. In terms of efficiency and improvement of citizens' rights, the law prescribes deadlines for the actions of the Protector of Citizens, and citizens can now file a complaint no later than three years after the violation of rights instead of within one year, as was provided by the previous Law on the Protector of Citizens.

Only a month later, in December 2021, the Protector of Citizens of the Republic of Serbia was reaccredited with the highest status of a national human rights institution by the Global Alliance of National Human Rights Institutions (GANHRI). More precisely, the Protector of Citizens, as a national human rights institution, will have the highest "A" status for the next five years, which will, in addition to the new competencies entrusted by the law, influence the further strengthening of this independent state institution. With the highest "A" status, which indicates the degree of compliance of national human rights institutions with the Paris Principles, the Protector of Citizens will continue to, with the right to vote, actively participate in the work of international and regional professional networks, and also has a special right to speak at the sessions of the United Nations Human Rights Council.

Intensive activities and dedicated work of the Protector of Citizens during the reporting year, despite the restrictive measures imposed by the pandemic, have resulted in the high efficiency of this independent state institution. Namely, the Protector of Citizens completed work on 87% of cases received in 2021. Positive results of the Protector of Citizens in the field of protection of rights of citizens of the Republic of Serbia, in a difficult and long-lasting situation caused by the coronavirus pandemic, resulted in an increase of trust of citizens in this institution.

The success of the Protector of Citizens is also reflected in the increased interest of the media in reporting on the activities of this institution, which in 2021 increased by 60% compared to 2020. Electronic, print and internet media published 5,663 reports on the investigations of the Protector of Citizens on citizens' complaints and on own-initiative during the reporting year. More than a third of the texts published in the media referred to the activities of the Sector for Children's Rights and Gender Equality of the Protector of Citizens (2,198), which indicates great public interest in the protection of children's rights as the most vulnerable category of the population, the

protection from domestic violence, the right to equality and the protection of gender-sensitive groups.

In the reporting year, the Protector of Citizens, in order to exchange experiences and implement concrete assistance, maintained contacts with ombudsmen of 17 countries with whom, since coming to office, he signed bilateral agreements to protect the rights of our citizens in their territories and protect the rights of foreign citizens in the Republic of Serbia. He also actively participated in three online conferences of the Eurasian Ombudsman Alliance and established contacts with representatives of 12 international and regional professional networks, of which he is a member, as well as with representatives of the informal Balkan Network of Ombudspersons, of which he is an initiator and member. The topics of these video conferences were the protection of human and minority rights, especially the rights of vulnerable groups, but also the challenges that ombudsman institutions face in their work on a daily basis during the COVID-19 infectious disease pandemic.

In the reporting year, the Protector of Citizens almost completed the technical development of a single database on all pressures and attacks on journalists, because of which he signed an agreement with seven media associations and three journalists' unions in May 2020. According to the criteria classified by the representatives of the media associations, information on pressures and attacks on journalists submitted to the Protector of Citizens by the Journalists' Association of Serbia were entered into this database. The Independent Journalists' Association of Serbia is also expected to submit its data. The single platform for the protection of journalists, in which, in 7 categories and about 40 subcategories, information will be entered by media workers, will record each individual attack on journalists, as well as data on whether the competent authority reacted in a specific case or not. Based on such a detailed picture, the Protector of Citizens will have the opportunity to exercise its authority within the legal competencies and, if necessary, initiate changes to current regulations.

In 2021, 16,312 citizens addressed the Protector of Citizens, of which contact was made with 10,757 citizens; 1,054 citizens were admitted for an interview, and the number of formed cases was 4,501, of which 4,426 were complaints and 75 own-initiative investigations. This year as well, the largest number of citizens' complaints referred to the area of economic and property rights (almost 40%), civil and political rights (more than 26%), area of social and cultural rights (almost 139%) and the protection of children's rights (8%).

At the same time, in 2021, 1,446 cases from previous years were considered, of which work was completed on 1,178 cases. Accordingly, in the reporting period, the Protector of Citizens considered a total of 5,947 cases from 2021 and from previous years, of which work was completed on a total of 5,095 cases, or about 86%.

Unlike in 2020, when due to epidemiological measures caused by the COVID-19 infectious disease pandemic, the practice of having direct conversations with citizens was temporarily interrupted, during the reporting year, the Protector of Citizens organized a reception for citizens at the institution's headquarters in Belgrade and regional offices, in accordance with epidemiological conditions. In the reporting year, 1,054 citizens were interviewed at the headquarters of the institution and in the offices in Bujanovac, Preševo and Medveđa. Personal conversations of the Protector of Citizens, Zoran Pašalić, MSc, with citizens through the practice of holding the "Open Doors Day at the Protector of Citizens", which was established after the election of the Protector of Citizens in 2017, were held in 2021 and were conditioned by epidemiological circumstances.

Although the Protector of Citizens is recognized by citizens as an institution that they can contact directly, both through direct conversations with the Protector of Citizens, and the deputies of the Protectors of Citizens and employees of the Secretariat of the Protector of Citizens, citizens are still not sufficiently familiar with the institution's competencies, which is evidenced by the percentage of rejected complaints in 2021, which is about 68%. Of the total number of rejected complaints, almost 45% were rejected due to lack of competence, and more than a third due to unused legal remedies. However, even in cases of rejected complaints, the Protector of Citizens provided counseling and legal assistance to complainants, which was done in 78% of rejected complaints in the reporting year.

During 2021, the Protector of Citizens issued a total of 805 recommendations to administrative authorities, 283 through control investigations, and 522 through summary control investigations, while within its preventive function, the National Preventive Mechanism issued 245 recommendations. Out of the total number of issued recommendations, the largest number – 186, about 65% refers to competent administrations. In the field of children's rights, 36 recommendations were issued, in the field of rights of persons deprived of liberty 30, and in the field of rights of persons with disabilities 19, in the field of gender equality 7 and in the field of national minorities 5. The authorities accepted 100 recommendations (almost 78%), 29 recommendations were not accepted, while for 154 recommendations, the deadline left for the authorities to act has still not expired or their handling is still being monitored.

During the reporting year, the Protector of Citizens submitted 43 opinions to the competent ministries, of which 16 based on the legal provision to act preventively by providing advice and opinions on issues within its competence, in order to improve the work of administrative authorities and protect human freedoms and rights, as well as 27 opinions to the Government and the National Assembly, on the basis of its legal authority to submit opinions

on draft laws and other regulations in the process of drafting regulations, if they regulate issues of importance for the protection of citizens' rights.

In order to protect and improve the rights of citizens, the Protector of Citizens sent 9 legislative initiatives in the reporting period.

In the area of children's rights, the Protector of Citizens considered 365 cases in 2021, of which 332 were citizens' complaints and 33 own-initiative investigations. Out of the total number, the Protector of Citizens completed work on 326 cases, as well as work on 64 cases from previous years. During 2021, the Protector of Citizens issued 36 recommendations to the competent authorities to rectify the identified shortcomings, of which 14 were due for execution in the reporting year and all were fully accepted.

The Protector of Citizens is a member of the Special Working Group of the Ministry for Family Welfare and Demography for drafting the Law on Amendments to the Family Law, and through active participation in the work of the National Coalition to End Child Marriage, it initiated the amendment of relevant regulations in order for this form of violence against children to be adequately prevented and sanctioned.

It is expected that the long-term successful work of the Protector of Citizens on the protection of the rights and best interests of the child will be improved and upgraded through the application of the new Law on the Protector of Citizens, the implementation of which began in November 2021, and according to which this institution has the position of a special authority that protects, promotes and improves the rights of the child. The new law stipulates that a child who has reached the age of 10 may independently file a complaint to the Protector of Citizens and that the child's complaint cannot be rejected.

In the area of gender equality and the rights of LGBTI persons, the Protector of Citizens considered 82 cases in the reporting year, of which 69 were citizens' complaints and 13 own-initiative investigations, and work was completed on 67 cases, as well as on 20 cases from previous years. The Protector of Citizens issued seven recommendations to the authorities, two of which were due for execution in the reporting period, and the administrative authorities accepted both recommendations. The largest number of violations of rights in this area related to domestic violence and the right to the salary compensation during pregnancy leave, maternity leave and child care, i.e., to hate speech and violence against LGBTI persons.

In accordance with the recommendations of the Protector of Citizens, the Law on Gender Equality was adopted, which, at the initiative of the Protector of Citizens, introduced a provision stating that unemployed persons, on the basis of unpaid work at home (running a household, taking care of children or other family members, work on an agricultural estate, etc.) acquire the right

to health insurance, on the basis of such unpaid work. In April 2021, the Constitutional Court ruled that the provision of Article 12, paragraph 7 of the Law on Financial Support to Families with Children is not in accordance with the Constitution of the Republic of Serbia, which the Protector of Citizens pointed out in recommendations and opinions. After that, the amendments to the Law on Financial Support to Families with Children were adopted, deleting the disputed provision which violated the right of parents, because they were prevented from exercising the right to the salary compensation during leave from work for special child care for a child for whom the right to an allowance for assistance and care of another person was already exercised.

In the area of protection of rights of LGBTI persons, on the recommendation of the Protector of Citizens, the Republic Health Insurance Fund included drugs for establishing the appropriate hormonal status of trans women on the list of prescription drugs, and LGBTI persons, on the recommendation of the Protector of Citizens and after amending the applicable regulations, were allowed to be donors of reproductive cells and embryos.

In the area of the rights of persons with disabilities and the elderly, the Protector of Citizens considered 151 cases in 2021, of which 146 were complaints from citizens and five own-initiative investigations, and completed work on 95 cases. At the same time, work was completed on 43 cases from the previous years. The Protector of Citizens issued 19 recommendations to the administrative authorities, of which 18 were due for execution in the reporting period, of which the administrative authorities accepted 17, which makes up about 94% of the accepted recommendations. In the reporting year as well, people with disabilities faced the problem of high risk of poverty and social exclusion due to limited access to education, labor market and services. Many public institutions in the Republic of Serbia are still not accessible to them. Older people continue to face poverty, discrimination and violence, and a particular problem is the lack of special services and support services, especially the home assistance services.

In order to contribute to raising awareness of the importance of accessibility, the Protector of Citizens, in cooperation with the Standing Conference of Towns and Municipalities and the Social Inclusion and Poverty Reduction Unit of the Government of the Republic of Serbia, for the fifth time in a row, awarded prizes to local self-government units that in the previous year contributed the most to the development of all forms of accessibility on their territory.

In the area of rights of national minorities, the Protector of Citizens considered 44 cases in 2021, of which 43 were complaints from citizens and one own-initiative investigation, and completed work on 35 cases, as well as seven cases from the previous years. The Protector of Citizens issued five recommendations to administrative authorities, which are still within the deadline

for execution in the reporting period. Violations of rights in these cases most often related to special rights in the field of national minority rights: special rights of Roma, prohibition of discrimination and the right of national councils of national minorities to exercise powers. Complaints of national councils of national minorities indicate that there are still problems in the exercise of powers of national councils of national minorities in the field of education, which the Protector of Citizens also pointed out in the Annual Report for 2020.

In this reporting period as well, the Protector of Citizens monitored the realization of the rights of the Roma community on the ground, as a particularly vulnerable category of the population. At the end of 2020, the Protector of Citizens, as a mediator, talked with the residents of the informal "Vijadukt" settlement in Resnik about the conditions for resolving the issue of their care in terms of housing and eviction from that location and monitored the displacement in all phases until its completion in January 2021. In May 2021, the Protector of Citizens mediated and monitored the displacement of residents from the suburban settlement of Rakovica village, which is at the location where the construction of a route of the international E-75 highway is planned.

In the area of rights of persons deprived of their liberty, the Protector of Citizens considered 275 cases in 2021, of which 267 were complaints of citizens and eight own-initiative investigations, of which work was completed on 261 cases and 95 cases from previous years. The Protector of Citizens issued 30 recommendations to administrative authorities, of which 17 were due for execution in the reporting period and the administrative authorities accepted 16 recommendations, which makes up about 94% of the accepted recommendations.

During the reporting period, the National Preventive Mechanism conducted 86 visits to institutions where persons deprived of their liberty are and 12 oversights of the procedures of forced removal of foreigners. 33 visits to police stations were conducted, 18 to institutions for the enforcement of penal sanctions, 10 visits to social welfare homes, four to psychiatric institutions and three to military facilities, as well as 18 visits to monitor the treatment of refugees and migrants. A total of 245 recommendations were issued, of which 242 were from the reports on visits to places where persons deprived of their liberty are, and three from the field of oversight of the forced removal of foreigners.

Although the control of the work of courts and public prosecutor's offices is not within the competence of the Protector of Citizens, this reporting period was also marked by complaints about the work of these authorities, as well as the work of the court administration and administration in public prosecutor's offices. More specifically, citizens expressed dissatisfaction with the work of courts and public prosecutor's offices in the handling of complaints and petitions, as well as the untimely handling of complaints.

Due to the epidemiological situation, in the reporting period, access to health care was more complex for many citizens of the Republic of Serbia, which is why they often complained to the Protector of Citizens. In the field of environmental protection, the largest number of complaints received by the Protector of Citizens in 2021 related to emissions of noise and unpleasant odors in the environment above the prescribed limits, as well as the overflow of torrents and rivers that caused material damage to citizens.

The Protector of Citizens, in the area of economic and property rights, recorded a significant increase in the already large number of complaints about the work of the Republic Geodetic Authority and the Real Estate Cadastre Service by nearly 20% in 2021 compared to 2020. Due to the observed omissions in the work, the Protector of Citizens issued recommendations to the Republic Geodetic Authority in more than 35 cases. Citizens most often expressed their dissatisfaction with the failure of local self-government units to act on the submitted requests.

The COVID-19 infectious disease pandemic has led to an increase in complaints in the area of realization of social and cultural rights, and citizens mostly complained about the endangering of the rights in the field of labor relations, which was particularly pronounced in the private sector.

During the reporting period, the Sector for the Reception of Citizens, in which citizens are received for interviews and provided professional assistance, received 989 complaints, of which work was completed in 972 cases, or about 98%, by submitting an act rejecting the complaints because they did not meet the conditions for further action, having in mind the prescribed competencies of this body. Also, work was completed on 99 cases received during 2020. This Sector also answered 197 questions that citizens sent to inquire about the ways of exercising their rights or freedoms.

Given that we spent two years in an unstable epidemiological situation that imposed new and limited conditions of everyday life, in this Regular Annual Report, I reiterate the need to improve the work of all competent authorities in order to exercise the rights of citizens, especially those that belong to particularly vulnerable categories of population. The new Law on the Protector of Citizens, which has improved the independence and efficiency of this institution, gives us the opportunity to help make the work of the competent authorities more efficient, by setting the postulates of human rights protection to a higher level. As the Protector of Citizens of the Republic of Serbia, I remain committed to the protection and promotion of human rights and freedoms, primarily through responding to all omissions of the competent authorities, through advising citizens and submitting initiatives to amend the applicable regulations.

PROTECTOR OF CITIZENS
Zoran Pašalić, MSc

2. GENERAL ASSESSMENT OF THE OBSERVANCE OF CITIZEN'S RIGHTS IN 2021

As in the previous reporting period, in 2021 as well, the Protector of Citizens notes that the largest number of cases considered relate to violations of economic, social and cultural rights, which the pandemic of the infectious COVID-19 disease also significantly contributed to.

In addition to violations of economic, social and cultural rights in the reporting period, violations of the principles of good governance were also largely present, primarily the right to effective actions of authorities and the right to obtain a decision within a legal deadline.

The unfavorable economic and social situation is especially noticeable among members¹ of vulnerable social groups, so in the reporting period, the Protector of Citizens paid special attention to protecting the rights of children and youth, women, mothers, victims of domestic and intimate partner violence, the elderly, members of the LGBTI population, members of national minorities, migrants and asylum seekers at state borders. In 2021, the Protector of Citizens also had intensive activities in the oversight of the procedures of forced removal of foreigners from the Republic of Serbia.

Compared to the year before the pandemic, there is a noticeable increase in the number of addresses to the Protector of Citizens, which is a clear indicator of trust that citizens have in this institution, while the efficiency in the handling of cases in 2021 is significantly higher than in previous years (2019: 68%, 2020: 80%) and amounts to as much as 87%.

In 2021, the Protector of Citizens sent 43 opinions, which is an increase compared to 2020, when this number decreased due to the changed organization of work of the authorities to which the Protector of Citizens sends opinions in order to promote and protect human rights.

Although the number of rejected complaints is still high, it is important to draw attention to the fact that in about 78% of rejected complaints, the Protector of Citizens provided advisory assistance, i.e., referred complainants to the competent authorities or advised them on available legal remedies.

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

CHILD RIGHTS

According to the provisions of the new Law on the Protector of Citizens², the implementation of which began in November 2021, the Protector of Citizens has the position of a special body that protects, promotes and improves the rights of the child, thereby building on the long-term successful work of this institution in this area. Such a legal solution implies, among other things, the allocation of special budget funds for financing activities aimed at raising the protection, promotion and improvement of the rights of the child in the Republic of Serbia to a higher level. The new law stipulates that a child can file a complaint independently if he or she has reached the age of ten. Also, a child's complaint cannot be rejected even if it is submitted before all available legal remedies were exhausted before the administrative authorities, and even if it does not contain all the information necessary for starting the investigation.

In order to present the cases it met in practice and to propose solutions that will improve the protection of the rights and interests of the child, the Protector of Citizens accepted the invitation of the Ministry of Family Welfare and Demography to be a member of the Special Working Group for composing the Draft Law on Amendments to the Family Law, which began work in 2021. The Protector of Citizens believes that the proposed changes will further regulate and improve the family and legal protection of the child, bearing in mind that in its work so far, it has met with an uneven application and interpretation of the provisions of this law, which in some cases has resulted in inadequate actions of guardianship authorities, among other things.

Despite the regulated area of protection of children's rights in the media space, as well as sanctions imposed on those responsible for violating prescribed obligations, some media continue to publish information that violates the privacy of children and children victims of violence are subject to additional victimization.

In the reporting year, the activities of the competent authorities were intensified in order to ensure more adequate civil and criminal legal protection of children from child, early and forced marriages. Through active participation in the work of the *National Coalition to end Child Marriage*, the Protector of Citizens initiated amending of relevant regulations in order to adequately prevent and sanction this form of violence against children.

Competent authorities still do not recognize trafficking in human beings as a special form of violence against children, which is why timely protection and provision of assistance to child victims is lacking. In addition to

² "Official Gazette of RS", number 105/21.

the existing legislation, it is necessary to establish coordinated cooperation between the competent authorities and ensure continuous education of professionals in the system of protection against violence, in order to recognize and respond in a timely manner to all cases when there is a suspicion that the child is a victim of human trafficking.

The absence of regulations governing the actions of economic entities that conduct certain types of the educational process has led to the fact that in some cases of violence against children, discrimination or abuse, an adequate or timely reaction is lacking. The Protector of Citizens sent to the Ministry of Education, Science and Technological Development an Initiative to amend the current regulations in the field of education, so that in the future they would include all entities participating in the education process, including groups of economic entities that conduct educational processes independently of the system of education regulated by law. By providing systemic protection against discrimination, violence or abuse to children/students within economic entities that perform the educational process, through establishing the obligation to adopt internal regulations or the obligation to apply the existing *Rulebook on the protocol of actions at an institution in response to violence, abuse and neglect*, the implementation of which will be controlled by the competent inspection authorities, the Ministry will provide equal protection against violence to all children in the educational process.

GENDER EQUALITY

In the reporting period, a comprehensive Law on Gender Equality³ was adopted in accordance with the repeated recommendations of the Protector of Citizens, the National Strategy for Gender Equality for the period 2021-2030⁴ as well as the National Strategy for Preventing and Combating Violence against Women and Violence in Family and in Intimate Partner Relations⁵. It is extremely important to adopt the Action Plan for its implementation as soon as possible, since the prescribed deadline for its adoption has expired.

The Criminal Code⁶ is still not fully in line with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), especially in the way criminal acts against sexual freedom are defined, which the Protector of Citizens has been pointing out for years.

³ "Official Gazette of RS", number 52/21.

⁴ Available at: <https://www.srbija.gov.rs/dokument/45678/strategije-programi-planovi.php>.

⁵ Available at: <https://www.srbija.gov.rs/dokument/45678/strategije-programi-planovi.php>.

⁶ "Official Gazette of RS", no. 85/05, 88/05 – corr., 107/05 – corr., 72/09, 111/09, 121/12, 104/13, 108/14, 94/16 and 35/19.

If adopted, the proposed amendments to the Family Law⁷ should contribute to better protection of victims of domestic violence and harmonization with the Istanbul Convention of the Council of Europe, as well as to the implementation of some of the recommendations of the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) from the reports for the Republic of Serbia. Among other things, a change of the definition of domestic violence is planned, as well as prescribing new measures to protect victims of domestic violence: the issuance of orders for inclusion in psychosocial treatment or a specialized program for perpetrators of domestic violence and the issuance of orders for treatment for alcoholism and drug addiction. The envisaged changes also imply that conciliation and settlement in marital disputes are not carried out in the case of domestic violence.

Despite the adopted significant amendments to the Law on Financial Support to Families with Children⁸, in accordance with the suggestions of the Protector of Citizens, the provisions of the Law that relate to compensation of other incomes have not been changed, so that women entrepreneurs, farmers, agricultural insurees and women who perform temporary and periodical jobs may be in the same legal position as employed women when exercising their rights during maternity leave and childcare leave.

The problem of violation of the rights of pregnant women and mothers by unscrupulous employers is still present, and the authorities only partially acted on the recommendations of the Protector of Citizens⁹ issued at the end of 2018 and 2020¹⁰ due to shortcomings in the work of the authority in cases when the employer does not fulfill the legal obligation to calculate and pay the compensation of earnings to the mother. Cooperation between the Labour Inspectorate, misdemeanour courts, prosecutor's offices, police, Tax Administration and other authorities responsible for imposing more effective repressive measures, which are necessary to prevent the employers from not enforcing the law and acts of the competent authorities, has not yet been fully established.

⁷ "Official Gazette of RS", no. 18/05, 72/11 – as amended and 6/15.

⁸ "Official Gazette of RS", no. 113/2017, 50/2018, 46/2021 – CC decision, 51/2021 – CC decision, 53/2021 – CC decision, 66/2021 and 130/2021.

⁹ 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>.

¹⁰ Recommendation of the Protector of Citizens number 322-120/20 dated 8th September 2020.

RIGHTS OF LGBTI PERSONS

LGBTI persons are still often exposed to discrimination, violence, prejudice and stereotypes, as a result of which they very often face attacks, threats, hate speech and other serious violations of rights in various spheres of life. A high degree of intolerance of young people towards LGBTI persons is also noticeable.

The Protector of Citizens participated in the working groups for drafting the text of the Law on Amendments to the Law on Prohibition of Discrimination and the Law on Gender Equality, which have been adopted in 2021. The new legal solutions are expected to provide a greater degree of protection for LGBTI people, including a ban on discrimination based on gender characteristics. Also, the Protector of Citizens actively participated in the work of the Special Working Group for drafting the text of the Draft Law on Same-Sex Unions. However, this law has not yet been adopted, nor the law regulating the legal consequences of adjusting gender¹¹. Also, amendments to the Criminal Code have still not been made, which in all regulations aimed at punishing and preventing racism and intolerance, would criminalize the act of committing these crimes both on the basis of sexual orientation and gender identity, nor have the amendments to the Law on Police¹² been made, in order to explicitly prohibit discrimination on the grounds of sexual orientation.

Although the World Health Organization removed transgender identity from the list of mental illnesses and replaced the notion of transgenderism with the notion of gender incongruence, despite the issued recommendation of the Protector of Citizens¹³, the Ministry of Health did not start implementing the program for the depathologization of trans identity.

¹¹ Given that, despite several recommendations from the Protector of Citizens, same-sex unions and the consequences of adjusting gender have not yet been legally regulated, this independent state authority, in its opinion with recommendations (available at: <https://ombudsman.rs/attachments/article/6882/Misljenje.doc>) from 2020, recommended to the Ministry of Human and Minority Rights and Social Dialogue to draft laws as soon as possible, which would rectify these shortcomings in order to improve the position of LGBTI persons in the Republic of Serbia. In its recommendations, the Protector of Citizens also pointed out that this Ministry should prepare and submit to the Government of the Republic of Serbia a Proposal of strategy for the prevention and protection against discrimination and the accompanying Action Plan for the following period, with concrete measures and activities to improve the position of LGBTI persons and other vulnerable social groups, as these strategic documents ceased to be valid in 2018, and new ones have not yet been adopted.

¹² "Official Gazette of RS", no. 6/16, 24/18 and 87/18.

¹³ From the regular annual report for 2019, which was repeated in the report for 2020.

Amendments to the Law on Prohibition of Discrimination¹⁴ and the Law on Gender Equality¹⁵ from 2021 contain provisions that explicitly prohibit discrimination against intersex persons, that is, discrimination based on gender characteristics¹⁶, which is in line with the recommendation and comments of the Protector of Citizens during the preparation of these legal texts. However, the Law on Gender Equality does not prohibit discrimination on the basis of gender identity, although the Protector of Citizens, in the process of preparing this legal solution, pointed out the importance of such a provision, given the high vulnerability of trans people.

RIGHTS OF PERSONS WITH DISABILITIES

Persons with disabilities continue to face insufficient accessibility of public facilities, unfinished deinstitutionalization process, still insufficient development of the system of services and support services and the practice of complete deprivation of legal capacity. Due to limited access to education, the labour market and services, persons with disabilities continue to be at high risk of poverty and social exclusion. Also, in addition to the existing legal framework, they face various physical, informational-communicational and other obstacles when it comes to exercising their rights, so it is, among other things, difficult or completely impossible for them to participate equally in decision-making and express their political will.

Future amendments to the Family Law should, among other things, abolish the complete deprivation of legal capacity and introduce the institute of supported decision-making, which would be an important step towards improving the rights of persons with disabilities, which the Protector of Citizens stands for through participation in the work of the Special Working Group for composing the Draft Law on the Amendments to the Family Law.

The contribution to the realization of the started process of deinstitutionalization is the adoption of the Law on the Rights of Beneficiaries of Temporary Accommodation Services under Social Protection¹⁷, which regulates continuous training of beneficiaries for independent living and their full and equal participation in society through inclusion in the use of local community services. Adoption of the Regulation on earmarked transfers in social

¹⁴ "Official Gazette of RS", no. 22/2009 and 52/2021.

¹⁵ "Official Gazette of RS", number 52/21.

¹⁶ In the Third Cycle of the United Nations Universal Periodic Review, the Republic of Serbia received a recommendation that it should include in its regulations the protection of LGBTI persons from discrimination based on intersex status. The Protector of Citizens has also pointed out this obligation in its annual reports for 2019 and 2020.

¹⁷ "Official Gazette of RS", number 126/21.

protection¹⁸ is a contribution to the development of social protection services in the local community and their sustainable financing.

Pursuant to the Constitutional Court decisions, the provision of the Law on Financial Support to Families with Children was deleted, which prevented the simultaneous use of the right to compensation of earnings, that is, compensation of income during absence from work for special child care and the allowance for assistance and care of another person.¹⁹

RIGHTS OF THE ELDERLY

The elderly are still faced with poverty, discrimination and violence, and a particular problem is the lack of special services and support services, especially the home assistance service. Neglect and violence against the elderly are still not sufficiently reported, due to the fact that the elderly cannot report it, do not have support or do not want to report the violence they suffer from their closest family members, most often children, and due to insufficient recognition of emotional, social and economic violence. The above-mentioned problems are especially pronounced in rural areas, where older women living alone in households are in a particularly difficult position, or they are most often dependent on other family members in meeting their needs, given that most often they do not have property rights on real estate and movable property, income, nor is their access to community-based services adequately provided in places where the transportation and public transportation structures are not in place.

The adoption of the Social Card Bill²⁰ prescribes the establishment of accurate, up-to-date and comprehensive records on the status of an individual in a state of social need, and in this way, a fairer system of assistance to citizens in need of social support will be provided. However, certain solutions of this Law need to be supplemented and improved so that, among other things, ownership of property is no longer considered sufficient information on the property status of beneficiaries and that the housing conditions are also required to be recorded, because citizens in need of social assistance may own real estate but it may be inadequate for living. Also, among the information recorded in the social card, it is necessary to have the information on housing conditions of the real estate itself, that is, whether that residential building is adequate and safe, whether it is adequate to the number of

¹⁸ "Official Gazette of RS", number 38/21.

¹⁹ The Protector of Citizens emphasized the need to change these provisions in the opinions from 2017 and July 2020, as well as in the Initiative for submitting amendments to the draft law from December 2017, which the competent authority did not take into account.

²⁰ "Official Gazette of RS", number 14/21.

family members, whether it is connected to the water, sewage and electricity networks and other parameters.

The existence of developed social protection services significantly contributes to the realization of the rights of the elderly and the adoption of the Regulation on earmarked transfers in social protection²¹ represents a contribution to the development of social protection services in the local community and their sustainable financing.

The adoption of the Law on Amendments to the Law on Prohibition of Discrimination²² strengthened and regulated in more detail the protection against discrimination of the elderly in terms of employment, performing work, education and professional training, as well as the termination of employment.

RIGHTS OF MEMBERS OF NATIONAL MINORITIES

Complaints of national councils of national minorities indicate that there are still problems in the implementation of the Law on National Councils of National Minorities, more specifically in exercising the powers of national councils of national minorities in the field of education, which the Protector of Citizens also pointed out in the Annual Report for 2020.

The findings from the Special Report of the Protector of Citizens on the official use of the Bulgarian language and script show that the exercise of the right to official use of the language and script, as well as the right to register names in their own language and script in public documents, has improved. However, the findings also show that local self-government units do not have prominent information on the rights of persons belonging to national minorities to conduct proceedings before administrative authorities in their own language where it is in official use, nor information on the right to register a personal name in the language and script of a national minority, and that it is necessary to continuously work on informing members of national minorities about their rights.

RIGHTS OF PERSONS DEPRIVED OF THEIR LIBERTY

Although torture does not exist in the Republic of Serbia as an organized phenomenon encouraged by state authorities, there are still individual cases of torture or ill-treatment. Because of this, the Protector of Citizens points out the need for the competent authorities to make additional efforts to

²¹ "Official Gazette of RS", number 38/21.

²² "Official Gazette of RS", no. 22/09 and 52/21.

fulfil their role in the fight against impunity for torture and other forms of abuse and ill-treatment and to contribute to the determination of individual responsibility for each individual case of abuse in the procedure prescribed by law, and to have responsible officials appropriately sanctioned and the victims compensated.

In the reporting period, significant achievements of the Ministry of Interior in dealing with apprehended and persons in custody were noticed, which are primarily reflected in the improvement of material conditions of accommodation in custody facilities, the improvement of records on custody and the exercise of basic rights of apprehended and persons in custody. The Protector of Citizens also notes that activities related to equipping interrogation rooms with technical equipment for audio and/or video recording have begun, which should be continued in the coming period, given that the existence of these rooms is a form of preventive action and a significant measure of protection of persons deprived of their liberty against possible illegal conduct of police officers.

During the reporting period, the Administration for the Enforcement of Penal Sanctions continued to invest in material conditions for the accommodation of persons deprived of their liberty and to increase the capacity of institutions for the enforcement of penal sanctions, and the continuation of activities to improve material conditions in institutions for the enforcement of penal sanctions, especially activities on the reconstruction of detention facilities, is also planned by the new Strategy for the development of the system of enforcement of penal sanctions for the period 2021-2027, the proposal of which was made in the reporting period.

In addition to the activities for increasing the capacity of institutions for the enforcement of penal sanctions and the improvement of material conditions in many institutions, the efforts of the Administration for the Enforcement of Penal Sanctions, aimed at developing the capacities of institution officials for developing and implementing new rehabilitation programs, are also encouraging, as well as the continuation of activities that contribute to strengthening the role of physicians in the protection against abuse.

The Protector of Citizens commends all activities of the competent authorities aimed at improving the normative framework, that is, the current regulations that concern the deprivation of liberty and the promotion of rights of persons deprived of their liberty, which were undertaken in the reporting period, but points out that the provisions of the Criminal Code are still not in line with the definition of torture which can be found in Article 1 of the United Nations Convention against Torture, despite the fact that the Protector of Citizens has been pointing out the need for this for many years.

Among persons deprived of their liberty, those deprived of their liberty in psychiatric and social welfare homes are the ones who are still the most endangered. Therefore, it is necessary to improve the actions for creating conditions for the efficient and sustainable functioning of the system of deinstitutionalization, which, in addition to health, also includes the social aspect.

NATIONAL PREVENTIVE MECHANISM (NPM)

In the reporting period, the NPM noticed significant improvements in the treatment of apprehended and persons in custody, which are primarily reflected in the improvement of material conditions of accommodation in custody facilities, the improvement of records on custody and the exercise of basic rights of apprehended and persons in custody. Also, it is noticeable that efforts have been made to equip the interrogation rooms with technical equipment for audio and/or video recording, but it is necessary to continue undertaking these activities and to provide the above in all police stations.

The Administration for the Enforcement of Penal Sanctions continued to invest in the material conditions of accommodation and to increase the capacities of institutions for the enforcement of penal sanctions, but a lack of staff in the institutions is still present, which can negatively affect the protection and exercise of the rights of persons deprived of their liberty. Efforts aimed at developing the capacities of prison officials for developing and implementing new rehabilitation programs are promising, and significant progress has been made in increasing the employment of convicted and detained persons. However, the above-mentioned should be developed for the entire prison system, as there is still a need to provide all detainees and convicts who are housed in closed wards with sufficient available activities, as well as to allow them to be able to stay in common areas during the day together with other convicts, that is, detainees, with whom the court did not limit contact due to criminal proceedings.

In the area of psychiatry in the reporting period, the improvement of material conditions in the visited institutions is noticeable. Also, acting on the recommendations of the NPM, the visited institutions improved the keeping of records on the application of physical restraint measures and developed available rehabilitation psychosocial activities that are carried out in small groups in the current epidemiological circumstances. Further challenges are related to the need to intensify deinstitutionalization activities in the sense of abandoning the practice of long-term hospitalization of patients, as well as the need to establish extra-institutional care and community support for the people with mental disabilities (and their families), with the aim of taking care of them and enabling them to live and be treated in the community,

and the need to establish more centers for the protection of mental health in the community.

In certain social welfare homes, material conditions have been improved, as well as sharing information on the rights and mechanisms of legal protection, and the practice of applying physical restraint measures on beneficiaries has been abandoned. Further challenges are related to the employment of the missing number of employees for direct work with the beneficiaries, their continuous education, strengthening the capacities of centres for social work, development of community services, as well as to improving regulations to bring them into line with ratified conventions and applicable standards.

In performing supervision over the procedures of forced removal of foreigners, the NPM noted that the preparation of foreigners for the forced removal has been improved, as well as that police officers conducting forced removals respect the integrity and dignity of foreigners and show a high level of professionalism in performing this work. As the biggest shortcoming in the procedure of forced removal, the NPM reiterates that foreigners do not always have the opportunity to point out the existence of facts that would indicate that there are obstacles to their forced removal to a particular country, nor is the existence of such facts established, which may lead to a violation of Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

During the reporting period, the authorities undertook actions to provide adequate accommodation for the foreigners who were denied entry to the country. At the "Nikola Tesla" Airport in Belgrade, works on the completely new facility have been finished, and the "Constantine the Great" Airport in Niš has acted on all recommendations issued by the NPM after its visit in 2019.

Since the beginning of the increased influx of migrants and asylum seekers, the NPM has regularly and continuously monitored the general situation and treatment of migrants and asylum seekers, and especially the position of vulnerable groups. Although a large number of migrants are staying illegally in the country, the mechanism of forced removal applies only to a small number of them, mainly to those who can be returned to transit countries in accordance with the readmission agreements. Also, a small number of migrants who are in reception centres want to enter the asylum procedure. Reception centres are open, the length of stay of the migrants in the centres varies, and living conditions are generally satisfactory. It is necessary for the competent authorities to continue to invest in and to support as much as possible the functioning of accommodation for unaccompanied minor migrants in social welfare homes and houses managed by humanitarian organizations,

bearing in mind that this type of accommodation is more suitable for their needs. The NPM pointed to unconfirmed, but numerous allegations of cases of illegal expulsion of migrants, both from the Republic of Serbia and from other countries, in order to prevent such actions, and if they do happen, to ensure an effective investigation, determination of individual responsibility and sanctioning of the responsible police officers.

CIVIL AND POLITICAL RIGHTS

The COVID-19 infectious disease pandemic has led to significant changes in the exercise of the right to health and health care. Huge challenges have been posed to the health care system, and the newly created situation required urgent adjustment. One of the biggest burdens of the pandemic was borne by health workers who made their time, knowledge, but also health, available for the benefit of the whole community. Certain weaknesses of the health system, which are not noticeable in regular conditions, came to the fore in these specific circumstances. The pandemic has led to a more difficult access to preventive care services, which the citizens have pointed out in their complaints, and has also significantly affected the functioning of mechanisms for the protection of rights of the patients.

During the past reporting period, the actions of the Ministry of Interior have been improved, in accordance with the Law on General Administrative Procedure²³ and, unlike in the previous years, making decisions on the requests of citizens without respecting the legal form is now less noticeable. Compared to 2020, the control and the examination of the regularity and legality of the first-instance decisions in the second-instance procedures have been improved.

Activities of authorities in the field of finance, which began in 2020 with measures to help the economy and citizens, also continued during 2021. Significant efforts and resources were aimed at helping citizens and the economy in order to reduce the negative effects caused by the COVID-19 infectious disease pandemic, based on decrees of the Government of the Republic of Serbia and adopted laws and incentive measures for immunization and prevention and control of the infectious disease.

The overall socio-economic situation and the epidemiological situation have also affected the economic power of taxpayers, citizens and the economy, and the Protector of Citizens expects that the actions and measures taken by the authorities in the coming period will be aimed at strengthening and supporting.

²³ "Official Gazette of RS", no. 18/16 и 95/18.

ECONOMIC AND PROPERTY RIGHTS

Inefficiency in the work of local self-government bodies during the procedures of legalization of illegally constructed buildings is a characteristic of this reporting period as well. Although failure to complete the proceedings within a reasonable time frame is often the result of unresolved property relations, the lack of communication with the citizens at whose request the proceedings are conducted also largely contributes to the delay of the proceedings, which may result in the rejection of the request due to the expiration of the deadline for completion of the procedure.²⁴

In 2021 as well, illegal construction was one of the most common reasons for citizens to address the Protector of Citizens in this area. Citizens point to the problem of not being provided with the communal infrastructure, parking spaces and garages during the construction of facilities, and available data show that ignoring regulations during construction often results in endangering the stability and security of existing neighbouring facilities. The Protector of Citizens notes that one of the key problems in exercising citizens' rights in this area is that the Ministry of Construction, Transport and Infrastructure has not yet sufficiently provided conditions for the effective implementation of the Law on Legalization of Buildings, while the enforcement decisions on the removal of illegally constructed buildings are not conducted in accordance with the Law on Planning and Construction. Also, the legally prescribed obligation of cooperation between the City Administration of the City of Belgrade and the Protector of Citizens, in most cases, has not yet been established at a satisfactory level. The City of Belgrade has not yet created financial and staffing conditions for more efficient implementation of the undertaken inspection activities in the field of construction of facilities.²⁵ Another problem in exercising the rights of citizens is that the issuers of planning documents, both in the phase of their planning and drafting, and

²⁴ Pursuant to the provisions of Article 26 of the Law on Amendments to the Law on Legalization of Buildings ("Official Gazette of RS", number 83/18), if the building is not legalized by 6th November 2023, the competent authority will issue a decision rejecting the request.

²⁵ Article 134, paragraph 2 of the Law on Planning and Construction stipulates that local self-government units are entrusted with issuing construction permits for the construction of facilities that are not specified in Article 133 of this Law, or for which the ministry is not responsible. Article 77 of the Statute of the City of Belgrade stipulates that the City Municipality, in accordance with the law and this statute, through its authorities, among other things, makes first instance decisions on building permits for the construction of buildings and other acts in the unified procedure, as well as other acts for construction of facilities up to 1500 m² gross. Article 172, paragraph 4 of the Law on Planning and Construction, stipulates that the municipality, city and the city of Belgrade are entrusted with the performance of inspection supervision over the construction of facilities for which they issue a building permit on the basis of this law.

during their adoption, do not provide conditions for the public to be adequately and timely informed about their content, which usually results in the neglect of the needs of citizens, especially those living in the areas covered by the planning solutions.

The intention of the legislators to make the work of the real estate cadastre services faster through digitalization, and many services available in electronic form, cannot be disputed. However, the experience from the three-year application of the Law on the Registration Procedure with the Cadastre of Real Estate and Utilities indicates that digitalization in practice has not proved to be a solution to overcome the inaccuracy and untimeliness of actions of first and second instance authorities. Namely, the obligations of the Republic Geodetic Authority arising from the laws passed before the Law on the Registration Procedure with the Cadastre of Real Estate and Utilities, such as the conversion of the right of use into the right of ownership on construction land, the registration of public property and registration of property rights on buildings built without a building permit, led to a multiple increase in the number of administrative cases, both in the first and second instance proceedings. Despite the fact that the Protector of Citizens is aware of the problem of the lack of human resources of the Republic Geodetic Authority and recognizes that this is, to a large extent, the cause of insufficient efficiency in the handling of complaints of this authority, it cannot accept the explanation of the Republic of Geodetic Authority as substantiated, which is that it gives priority to decision-making in procedures conducted through the E-cadastre. This explanation is also not explicitly based on the law.

Failure to comply with legal deadlines in decision-making prevents unhindered conduct of legal transactions as well as the protection and realization of property rights and economic interests of citizens, creates legal uncertainty in the legal system, as well as reasonable doubts with citizens about the timely, efficient and impartial work of the administrative authority and its employees.

In this reporting period, the Protector of Citizens received complaints in the field of environmental protection, which mostly related to emissions of noise and unpleasant odours in the environment, above the prescribed limit values, as well as the overflow of torrents and rivers that caused material damage to citizens. Citizens pointed out as a frequent problem the Ministry of Environmental Protection's failure to act on their petitions and urgencies they often sent to that authority, and that the Ministry sent responses to the complainants only after they addressed the Protector of Citizens.

The Protector of Citizens welcomes all normative activities of the competent authorities, that is, the adoption of valid regulations related to environmental protection, pointing out that when adopting amendments to the Law

on Nature Conservation, the opinion of the Protector of Citizens regarding the construction of small hydropower plants in protected areas in all protection regimes was not fully respected. The opinion of the Protector of Citizens is that there is room for improving the work of the Ministry of Environmental Protection and local self-government units in the field of environmental protection, as well as the cooperation of authorities in that area with the Protector of Citizens. Also, it was determined that due to insufficient capacities in terms of financial resources, as well as human resources, the preventive actions by the competent authorities are often lacking, which in the field such as environmental protection are of special importance.

In the reporting period, citizens most often submitted complaints about the work of local self-government units due to the so-called administrative silence, that is, failure of the authorities to act on the submitted complaints and requests. Citizens also expressed dissatisfaction when it comes to the work of public utilities, that is, local public companies, in terms of performing communal activities such as the heat supply, water supply, sewerage, disposal of municipal waste, parking and the city public transport.

SOCIAL AND CULTURAL RIGHTS

During 2021, in a large number of cases, citizens addressed the Protector of Citizens due to violations of employment rights, rights from the field of pension and disability insurance and social protection.

In the complaints that indicate the violation of employment rights, the predominant number of complaints relate to harassment at work, undeclared work, irregular payment of wages and non-payment of contributions for pension and disability insurance. Inefficient and untimely actions of the labour inspectorate continue to hinder the realization of citizens' rights in the field of labour relations, which is largely influenced by the insufficient number of labour inspectors. Despite the fact that the regulated system of wages and labour relations in the public sector is one of the most important factors in the functioning of holders of public powers in the Republic of Serbia, the National Assembly postponed the start of the reform of wages and labour relations until January 2025, by passing the following laws: Law on Amendments to the Law on Public Service Employees²⁶, Law on Amendments to the Law on the Salary System for Public Sector Employees²⁷, Law on Amendments to the Law on Salaries of Civil Servants and General Service Employees in Bodies of Autonomous Provinces and Local Self-Government

²⁶ "Official Gazette of RS", no. 113/17, 95/18, 86/19, 157/20 and 123/21.

²⁷ "Official Gazette of RS", no. 18/16, 108/16, 113/17, 95/18, 86/19, 157/20 and 123/21.

Units²⁸, Law on Amendments to the Law on Salaries of Employees of Public Agencies and Other Organizations Founded by the Republic of Serbia, Autonomous Province or Local Self-Government Unit²⁹.

In this reporting period as well, a large number of complaints of citizens related to the untimely actions of the Republic Pension and Disability Insurance Fund, as well as the inaccurate records on the length of service, salaries and paid contributions for pension and disability insurance, and the inability to obtain the data necessary for exercising the rights from the pension and disability insurance after the expiration of a certain period of time.

During this reporting period as well, the largest number of complaints in the field of social protection related to the untimely and inefficient work of social protection institutions when deciding on the rights from the field of social protection, as well as to the work of second instance authorities when deciding on appeals against first instance decisions. A certain number of complaints also referred to the contents of the decisions themselves, which were often not clearly, concisely and understandably explained. In this reporting period as well, the Protector of Citizens, through control and preventive activities, contributed to enabling the proceedings before the first and second instance authorities to be completed as soon as possible, as well as to making the decisions from the field of social protection clear and concisely explained.

The efficiency and quality of work of social protection institutions is significantly affected by the insufficient number of employees. Despite the fact that the number of professional workers in some centres for social work has increased, it still does not meet the actual needs and threatens to significantly jeopardize the quality of social protection services.

KOSOVO AND METOHİJA

The Protector of Citizens is still not able to exercise its competencies on the territory of the Autonomous Province of Kosovo and Metohija, in the manner prescribed by the Constitution and the law.

In September 2021, the Protector of Citizens informed the European Network of National Human Rights Institutions (ENNHRI) about the difficult conditions in which Dragica Gašić, a returnee to Kosovo and Metohija, lives. By doing so, it pointed out the challenges that returnees face and called for a discussion on the issue of exercising human rights in post-conflict societies.

²⁸ "Official Gazette of RS", no. 113/17, 95/18, 86/19, 157/20 and 123/21.

²⁹ "Official Gazette of RS", no. 47/18, 95/18, 86/19, 157/20 and 123/21.

FREEDOM OF EXPRESSION

Freedom of expression, guaranteed by Article 46 of the Constitution of the Republic of Serbia, is generally widely represented in the reporting year, both through media pluralism and through various social networks on the Internet.

However, in 2021, the media and journalists in the Republic of Serbia continued to work under pressure, primarily economic and legal, and were often exposed to verbal and in some cases even physical attacks. Verbal attacks on journalists and the media, most often in the form of threats, intimidation and insults, were frequent in the public space and especially on social networks, and in most cases did not have a legal sanction, primarily because of the fact that interactions in the sphere of the Internet are not yet normatively regulated in our country. According to the data of the Republic Public Prosecutor's Office, in the reporting year 2021, public prosecutor's offices acted in more than 70 cases on the basis of endangerment of the safety of journalists in public space, of which in 22 cases, it was determined that there were no elements of a criminal act.

In 2021, journalists were most exposed to economic pressures, more precisely to economic uncertainty, caused by low monthly incomes and unregulated employment status. In such an uncertain working environment, susceptibility to censorship is not excluded, and much more often even to self-censorship.

Economic pressures have been further intensified by strategic lawsuits against public participation, better known as SLAPP lawsuits, which are used to further intimidate journalists and the media and further deplete them economically through high compensation claims. A special problem in protecting the media from such lawsuits is that SLAPP lawsuits are not recognized in the legislation of the Republic of Serbia. The Protector of Citizens is a member of the Working Group for the Security and Protection of Journalists of the Government of the Republic of Serbia, which will in the coming period consider the occurrence of SLAPP lawsuits, the number of which is difficult to determine precisely.

Considering that numerous pressures and attacks on journalists do not fall within the domain of criminal acts and that it is necessary to ensure legal protection of media workers, the Protector of Citizens initiated amendments to the Law on Public Peace and Order at the end of 2021, which would enable the sanctioning of insults and attacks on journalists on social networks as misdemeanours. The amendments proposed by the Protector of Citizens refer to the definition of offenses committed against persons who perform journalistic work, as well as to the sanctioning of undesirable behaviour

towards other citizens on social networks. The Protector of Citizens submitted proposals for amendments to this law to the Working Group for the Security and Protection of Journalists of the Government of the Republic of Serbia, of which he is a member.

Regarding the physical attacks on journalists, even after two years of conducting the trial for the attack on the journalist Milan Jovanović from Grocka, whose house was set on fire in 2019, there is still no final court epilogue. Namely, at the end of December 2021, the Court of Appeals in Belgrade revoked the first instance verdict of the Second Basic Court in Belgrade, by which, in February of the same year, the former mayor of Grocka, Dragoljub Simonović, and two other people, were sentenced to prison for this crime. At the end of 2021, the Working Group for the Security and Protection of Journalists of the Government of Serbia initiated and successfully completed a humanitarian action to raise funds for the renovation of the house of journalist Milan Jovanović.

In the case of the physical attack on radio host Daško Milinović in April 2021 in Novi Sad, the two attackers and the instigator of the attack were sentenced to prison by a first instance decision in December of the same year. On the occasion of this attack, the Working Group for the Security of Journalists of the Government of the Republic of Serbia held an emergency meeting, at which all types of attacks and threats to the security of journalists were condemned and where it was stressed that mechanisms for the protection of journalists must be strengthened.

Within three days, the competent authorities determined from which Instagram profile the death threats were sent to the TV presenter Marko Vidojković, and the Ministry of Interior announced that it would submit a request to Interpol for the identification of the requested person.

In mid-October 2021, the police in Valjevo arrested the person responsible for sending the death threats via social networks to Marko Vidojković and the co-author of their show, Nenad Kulačin.

Regarding the threats received by journalist Jelena Zorić in front of the Special Court in Belgrade, which she reported to the Criminal Police Directorate, the main hearing was held, while in the case of journalist Snežana Čongradin, who received threats on social networks, the Independent Journalists' Association of Serbia filed criminal charges with the Special Prosecution Office for High Tech Crime.

In 2021, the Protector of Citizens almost completed the technical development of a single database on attacks and pressures on journalists, which was formed in May 2020 together with seven media associations and three journalists' unions, in order to more effectively protect media workers and ensure more efficient actions of the competent state authorities. Classified

data submitted to the Protector of Citizens by the Journalists' Association of Serbia have been entered into this unique database on attacks on journalists, which contains seven categories and more than 40 subcategories classified by type of attack. The Protector of Citizens plans to enter the data of the Independent Journalists' Association of Serbia into the database as soon as this organization submits its classified data on attacks and pressures on journalists, thereby completing the technical development of the platform.

The goal of forming this database is to create a single platform that would enable a faster and more efficient reaction of the Protector of Citizens to the actions of the competent authorities on reported cases of violations of freedom of the media and freedom of expression. Also, data on the measures taken would be publicly available at any time, while based on the analysis of the existing data, the need for changes and improvements in the normative framework could be determined, the adoption of which, that is, the amendment of which, can be initiated by the Protector of Citizens. At the same time, through fast and adequate actions of the competent authorities in cases of endangerment of the safety of journalists, the Platform would contribute to greater trust of citizens in the competent institutions. Recording data and establishing a single database on attacks on journalists would be one of important tools for building trust in state institutions and ensuring and improving the protection and the safety of journalists and freedom of expression.

HUMAN RIGHTS IN THE MEDIA

The right to health, as one of the fundamental human rights, in 2021 was the dominant topic in electronic, printed and online media. Most of the media reports, articles and shows referred to the everyday situation regarding the pandemic of the COVID-19 infectious disease and to the measures that the competent state authorities undertook in the fight against this pandemic.

The media most often reported on the problems that citizens faced when exercising their guaranteed rights, primarily from the field of healthcare. Also, the attention of the media was occupied by the problems in exercising the rights of the child³⁰, the rights regarding gender equality, as well as the problems in the areas of domestic violence³¹ and economic and property rights³². The media also showed special interest in the problems that older

³⁰ Available at: <https://www.rts.rs/page/stories/ci/story/124/drustvo/4310199/djordje-joksimovic-otac-zastitnik-gradjana.html>.

³¹ Available at: <https://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-25-10-19-19/7134-p-sh-lic-z-v-pin-i-ins-i-uci-n-ln-i-p-din-cn-r-r-g-v-i-n-n-silj>.

³² Available at: <https://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-25-10-19-19/7037-p-sh-lic-gr-d-ni-n-n-s-br-zb-g-pr-bl-s-p-sl-d-vci>.

people, especially women in the countryside, faced in their daily lives³³.

In cases of inappropriate and unprofessional media reporting on particularly vulnerable groups of citizens, especially in the field of protection of children's rights, the Protector of Citizens reacted by launching investigations to control the regularity and legality of the work of competent authorities³⁴. The institution also reacted in cases of presenting incorrect information aimed at using the name and reputation of the Protector of Citizens for daily political purposes, and under the guise of caring for the protection of the rights of minority groups in the Republic of Serbia³⁵.

At the same time, aggressive, insulting and threatening posts on social networks, which refer to the endangerment of the safety and life of citizens, especially journalists, were another area towards which the Protector of Citizens directed its activities. Bearing in mind that unacceptable behaviour in public space most often does not fall within the domain of criminal law, the Protector of Citizens insists on expanding the penal provisions so that they include verbal and physical attacks and pressures on journalists³⁶. In this regard, it drafted a proposal for amendments to the Law on Public Peace and Order which stipulate that threats and insults on social networks must be sanctioned as a misdemeanour, especially when it comes to journalists, and submitted it to the Working Group for the Security of Journalists of the Government of the Republic of Serbia.

³³ Available at: <https://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/7194-sir-sh-v-i-n-silj-n-c-shci-pr-bl-i-s-ri-ih-s-b-u-srbi-i>.

³⁴ Available at: <https://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/6987-pr-rsh-n-pri-v-pr-iv-dg-v-rn-g-ur-dni-p-r-l-zb-g-riv-nj-id-n-i-l-l-ni>.

³⁵ Available at: <https://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/7301-p-sh-lic-p-li-ic-i-ri-d-n-d-v-d-gr-d-n-u-z-bludu>.

³⁶ Available at: <https://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/7263-p-sh-lic-pr-dl-zicu-pr-rsh-n-s-n-ci-z-n-p-d-n-n-vin-r>

3. BASIC STATISTICAL REVIEW

3.1. TOTAL NUMBER AND CLASSIFICATION OF COMPLAINTS

In 2021, 16,312 citizens addressed the Protector of Citizens, of which contact was made with 10,757 citizens; 1,054 citizens were admitted for an interview, and the number of received cases was 4,501, of which 4,426 were complaints and 75 own-initiative investigations.

Table 1 – Overview of citizens' addresses in 2021

Type of address	Number	%
Contacts with citizens	10,757	65.95%
Complaints	4,501	27.59%
Citizens received for interview	1,054	6.46%
Total	16,312	100%

**Table 2 – Comparative overview of the handling of cases³⁷
received in 2021 and in 2020**

	2021	2020
Number of cases	4,501	5,056
Number of completed cases	3,917	4,015
% of completed cases	87.03%	79.41%
Number of cases in progress	584	1.041

The table with the comparative overview of the handling of cases received in 2021 and 2020 shows that the efficiency of the Protector of Citizens in handling cases in 2021 increased by almost 8% compared to 2020, which is

³⁷ A case is considered to be any case that arises from the handling of complaints and from own-initiative investigations in a particular area/department.

indicated by the percentage of completed cases in relation to the total number of cases.

At the same time, in 2021, 1,446 cases from previous years were considered, and work was completed on 1,178 cases. Accordingly, the Protector of Citizens considered a total of 5,947 cases in the reporting period, of which work was completed on 5,095 cases, or 85.67%.

Table 3 – Overview of the handling of all cases in 2021

	2021	From previous years	Total
Number of cases	4,501	1,446	5,947
Number of completed cases	3,917	1,178	5,095 (85.67%)
Number of cases in progress	584	268	852

Table 4 – Number of cases³⁸ in 2021 classified by areas and departments

Areas and departments of operation of the Protector of Citizens	number	%
1. Area of economic and property rights	1,786	39.68%
1.1. Local self-government	601	13.35%
1.2. Real estate cadastre	536	11.90%
1.3. Consumer protection	180	4.00%
1.4. Energy and mining	160	3.55%
1.5. Construction and infrastructure	144	3.20%
1.6. Environmental protection	39	0.87%
1.7. Agriculture	28	0.62%
1.8. Transportation and transportation infrastructure	25	0.56%
1.9. Public administration	23	0.51%
1.10. Economy	21	0.47%
1.11. Restitution	20	0.44%
1.12. Natural disasters	7	0.16%
1.13. Expropriation	2	0.04%

³⁸ *The same.*

2. Area of civil and political rights	1,197	26.59%
2.1. Finances	335	7.44%
2.2. Health	234	5.20%
2.3. MoI –Police affairs	227	5.04%
2.4. Justice and judiciary	191	4.24%
2.5. Judiciary professions	107	2.38%
2.6. Defense	45	1%
2.7. MoI –Administrative affairs	36	0.81%
2.8. MoI – Labour relations	15	0.33%
2.9. Foreign affairs and diaspora	5	0.11%
2.10. Refugees and displaced persons	2	0.04%
3. Area of social and cultural rights	583	12.95%
3.1. Pension insurance	206	4.58%
3.2. Labour and labour relations	180	4%
3.3. Education and science	96	2.13%
3.4. Social welfare	74	1.64%
3.5. Culture	12	0.27%
3.6. Youth and sport	9	0.20%
3.7. Serbian language and Cyrillic	6	0.13%
4. Child rights	365	8.11%
5. Rights of persons deprived of their liberty	275	6.11%
6. Rights of persons with disabilities and the elderly	151	3.35%
7. Gender equality and rights of LGBTI persons	82	1.82%
8. Rights of members of national minorities	44	0.98%
9. Other	18	0.40%
9.1. Independent authorities and bodies	10	0.22%
9.2. Security affairs	6	0.13%
9.3. Protection of whistleblowers	2	0.04%
Total	4,501	100%

Table 5 – Outcome of the handling of closed cases³⁹ from 2021

Outcome	Number	%
1. Inadmissible complaints	2,681	68.45%
1.1. Lack of competence	1199	44.72%
1.2. Unused legal remedies	896	33.42%
1.3. Formally deficient complaint	452	16.86%
1.6. Untimeliness	55	2.05%
1.5. Unauthorized complainant	40	1.50%
1.4. Anonymous complaint	39	1.45%
2. Unfounded complaints	623	15.90%
3. Cases covered by recommendations arising from the expedited control investigation	356	9.09%
4. Informed and advised complainant	137	3.50%
5. Cases covered by recommendations arising from the control investigation	56	1.43%
6. Dropping of the complaint due to withdrawal	52	1.33%
7. Opinion	10	0.25%
8. Closure due to the death of the complainant	2	0.05%
Total	3,917	100%

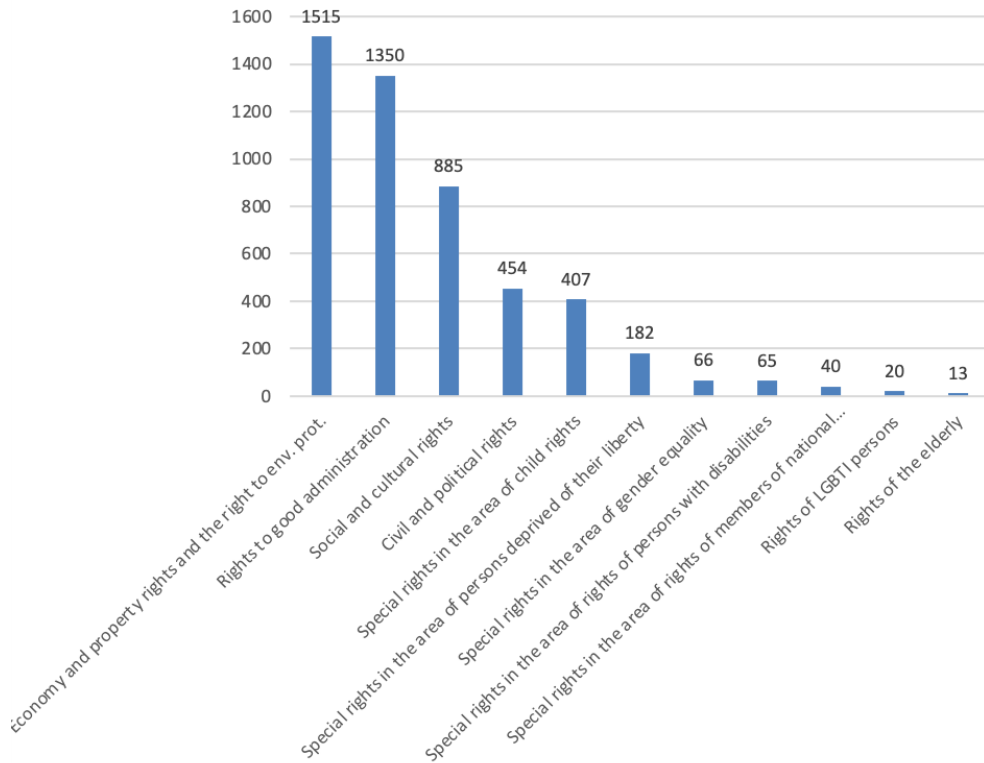
The Protector of Citizens rejects the largest number of received complaints because the legally prescribed conditions for acting on them are not met. Complaints are rejected due to lack of competence, untimeliness, prematurity, anonymity and formal deficiency.

A very important segment of the Protector of Citizens' handling of complaints is the advisory and legal assistance provided by the Protector of Citizens even when it rejects the complaint due to lack of competence or prematurity. Such advisory assistance was provided to citizens in 78.14% of rejected cases (2,681). In these cases, the Protector of Citizens refers the complainant to the competent authority or advises him/her on the available legal remedies.

³⁹ A case is considered to be any case that arises from the handling of complaints and from own-initiative investigations in a particular area/department.

CLASSIFICATION OF COMPLAINTS ACCORDING TO VIOLATED RIGHTS

Chart 1 – Number and classification of complaints by violated rights



CLASSIFICATION OF COMPLAINTS BY AUTHORITIES WHOSE WORK THEY APPLY TO

Table 6 – Complaints against various authorities and organizations whose work citizens complain about

Types of authorities and organizations	%
Other authorities and others	20.10%
Agencies, institutes, funds, administrative authorities	18.58%
Ministries	17.11%
Institutions and other public services	16.22%
Local self-government	12.78%
Public enterprises	7.04%
Judicial authorities	6.74%
The highest republic authorities (the Government, the National Assembly)	0.89%
Autonomous republic authorities and independent bodies	0.54%
Total all authorities	100%

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

RECOMMENDATIONS

In 2021, the Protector of Citizens issued 1,050 recommendations, of which 805 recommendations to administrative authorities – 283 in the control investigations and 522 in the expedited control investigations, and 245 recommendations as the National Preventive Mechanism.

Table 7 – Overview of the handling of recommendations in 2021

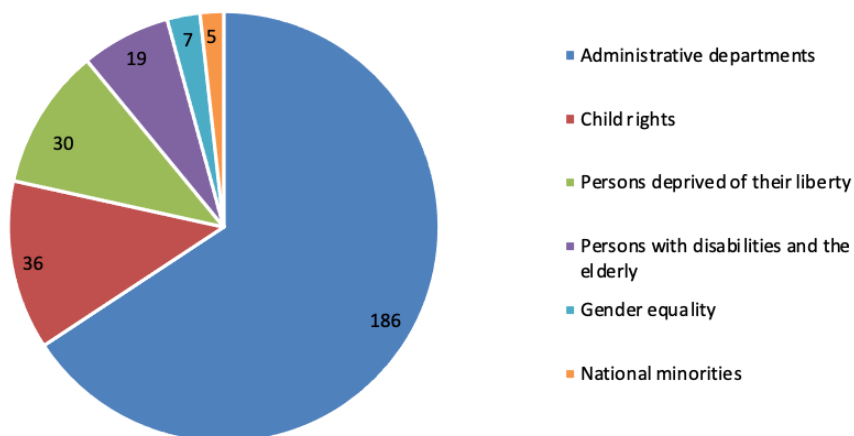
		Issued	Due	Accepted	Inadmissible	% accepted due
2021	Recommendations from the control investigation	283	129	100	29	77.52%
	Recommendations from the expedited control investigation	522	522	522	522	100%
	Total	805	651	622	551	95.54%
	Recommendations issued in preventive capacity (NPM)	245	151	148	3	98.01%
	Total	1050	802	770	554	96.00%

Note: All recommendations issued to the authorities during 2021 are considered issued recommendations. Due recommendations are all those recommendations for which the deadline for action given in the text of the recommendation expired in 2021, regardless of when the recommendation was issued. Accepted recommendations are all recommendations that the administrative authorities have implemented and for which they have submitted evidence, as well as those for which they have declared their acceptance but have indicated, among other things, that their implementation requires a longer period than specified, additional allocated financial resources, etc.

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

Out of the total number of issued recommendations, the largest number – 186, about 65% refers to competent administrative departments. In the area of children's rights, 36 recommendations were issued, in the area of rights of persons deprived of their liberty 30, in the area of rights of persons with disabilities 19 recommendations, in the area of gender equality 7, and 5 in the area of national minorities.

Chart 2 – Overview of issued recommendations by departments



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

Table 8 – Outcome of the handling of recommendations from the control investigation by departments

Area	Issued	Due	Accepted	Inadmissible	% accepted due
Child rights	36	14	14	0	100%
Gender equality	7	2	2	0	100%
Rights of persons with disabilities and the elderly	19	18	17	1	94.44%
Rights of persons deprived of their liberty	30	17	16	1	94.12%
Rights of members of national minorities	5	0	0	0	N/A
Administrative departments	186	78	51	27	65.38%
Total	283	129	100	29	77.52%

Administrative authorities accepted 100 recommendations (77.52%). There are 29 inadmissible recommendations, while for 154 recommendations, the deadline for authorities to act on them has not yet expired or their handling is still being monitored.

OPINIONS

During 2021, the Protector of Citizens sent 43 opinions to public authorities, as follows:

Sixteen (16) opinions, using the legal provision to act preventively, by giving advice and opinions on issues within its competence, in order to improve the work of administrative authorities and improve the protection of human freedoms and rights:

- Opinion sent to the Ministry of Labour, Employment, Veteran and Social Affairs regarding the exercise of the right to the home service;
- Opinion sent to the Republic Pension and Disability Insurance Fund regarding the reimbursement of transportation costs to pension beneficiaries who have been sent for rehabilitation to stationary health institutions and spa-climatic health resorts;
- Opinion sent to the Ministry of Labour, Employment, Veteran and Social Affairs to amend the Rulebook on the manner of payment of cash benefits;
- Opinion with a recommendation sent to the Ministry of Health and the Republic Health Insurance Fund with the aim of improving the position, quality of life and health care and the degree of realization of the rights of trans women and other women who have low oestrogen levels;
- Opinion on the necessity to harmonize Article 120, paragraph 6, item 3 of the Law on the Foundations of Education System with Article 34 of the Law on Textbooks in order to clearly and unambiguously define the role of the Parents' Council in the textbook selection process;
- Opinion sent to the Ministry of Health regarding the lack of regulations governing the amount of reimbursement for necessary expenses for making copies of medical documentation;
- Opinion sent to the PE "Directorate for Construction of the City of Nis" and other local self-government authorities in connection with enabling the use of the entrance-exit gate to a company that has a construction and operating permit;
- Opinion sent to the State Audit Institution regarding the adoption of decisions on requests for nostrification of professional titles acquired abroad;
- Opinion sent to the Ministry of Health to take measures and activities to improve the emergency hospital care of adolescents with mental disorders;

- Opinion sent to the National Council of the Bulgarian National Minority regarding the implementation of an information campaign aimed at promoting the rights of members of the Bulgarian national minority in the field of official use of language and script;
- Opinion sent to the Ministry of Education, Science and Technological Development regarding the application of Articles 34-36 of the Special Collective Agreement for employees in primary and secondary schools;
- Opinion sent to the Ministry of Education, Science and Technological Development regarding the implementation of competitions for primary and secondary school students;
- Opinion sent to the Ministry of Health for the purpose of supervising the work of the Regional Medical Chamber Belgrade – Court of Honour and to the Medical Chamber of Serbia in connection with the work of courts of honour of the first instance;
- Opinion sent to the Ministry of Education, Science and Technological Development to amend the Special Collective Agreement for employees in primary and secondary schools and student dormitories;
- Opinion sent to the Ministry of Education, Science and Technological Development for the purpose of implementing the Rulebook on the Protocol of Actions at an Institution as a Response to Violence, Abuse and Neglect at the Petnica Research Station;
- Opinion sent to the Ministry of Interior in order to improve the manner of application of the Methodology for conducting investigations in cases of ill-treatment by the police.

Twenty-seven (27) opinions, based on the legal provision to send opinions to the Government and the National Assembly on draft laws and other regulations in the process of drafting regulations, if they regulate issues of importance for the protection of citizens' rights:

- Opinion on the Proposal of the Action Plan for the implementation of the Strategy for Improving the Position of Persons with Disabilities in the Republic of Serbia for the period from 2020 to 2024, in the period from 2021 to 2022;
- Opinion on the Proposal of the Public Administration Reform Strategy for the period from 2021 to 2030 in the Republic of Serbia and the action plan for the period from 2021 to 2030;

- Opinion on the Proposal of the rulebook on detailed conditions on ways of recognizing forms of ill-treatment, abuse, discrimination and violence against children in sports;
- Opinion on the Draft Law on Gender Equality,
- Opinion on the Draft Law on Same-Sex Unions;
- Opinion on the Draft Law on Amendments to the Law on the Prohibition of Discrimination;
- Opinion on the Proposal of the strategy for preventing and combating gender-based violence against women and domestic violence for the period from 2021 to 2025, with an action plan for its implementation for the period from 2021 to 2023;
- Opinion on the Proposal of the decree on amendments to the Decree on internal and public competitions for filling vacancies in state authorities;
- Opinion on the Draft Law on Amendments to the Law on Financial Support to Families with Children;
- Opinion on the Proposal of the strategy for the development of education in the Republic of Serbia until 2030;
- Opinion on the Draft Law on Student Organization;
- Opinion on the Draft Law on Amendments to the Law on Higher Education;
- Opinion on the Draft Law on Amendments to the Law on Health Insurance;
- Opinion on the Draft Law on Protection of the Rights of Beneficiaries of Temporary Accommodation Services under Social Protection;
- Opinion on the Proposal of the Deinstitutionalisation Strategy;
- Opinion on the Proposal of the action plan for the period from 2021 to 2022 for the implementation of the Strategy to prevent and suppress trafficking in human beings, especially trafficking in women and children and the protection of victims from 2017 to 2022;
- Opinion on the Proposal of the action plan for the period from 2021 to 2023 for the implementation of the Strategy for preventing and combating gender-based violence against women and domestic violence for the period from 2021 to 2025;
- Opinion on the Proposal of the decision on the establishment of the Interdepartmental Working Group for the creation and implementation of

the Operational Plan for Accessibility for the period from 2020 to 2024;

- Opinion on the Draft Law on the Protector of Citizens;
- Opinion on the Draft Law on Health Care and Health Insurance of Military Insured Persons;
- Opinion on the Baseline for the development of the National Strategy for Gender Equality for the period from 2021 to 2030;
- Opinion on the Draft National Strategy for Gender Equality for the period from 2021 to 2030;
- Opinion on the Draft Law on Amendments to the Law on Educational Inspection;
- Opinion on the Plan for monitoring the implementation of United Nations recommendations;
- Opinion on the Proposal of the strategy for prevention and protection against discrimination for the period from 2021 to 2030;
- Opinion on the Draft Law on Simplified Work Engagement on Seasonal Jobs in Certain Activities;
- Opinion on the Draft Decree on determining the competencies for the work of civil servants.

LEGISLATIVE INITIATIVES

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

- When that is necessary in order to amend or supplement the text of a law or draft law in order to ensure full and unhindered exercise of citizens' rights guaranteed by the Constitution and other laws, regulations and general acts, as well as ratified international treaties and generally accepted rules of international law.
- When another authorized proposer, responsible for a specific area (usually the Government), does not use its legislative initiative in a way that ensures respect, realization, protection and promotion of citizens' rights, and there is a risk of damage due to delays.

Proposing amendments and laws to the National Assembly is the last step that the Protector of Citizens takes, as a rule only when it estimates that the authorized proposer of the "first order" will not take the necessary steps in

favour of citizens' rights based on the initiative, recommendation or other proposal of the Protector of Citizens.

Therefore, the legislative activity of the Protector of Citizens is most often reflected in sending substantive initiatives to the state administration authorities – whose work the Protector of Citizens supervises – to prepare and propose normative changes. Only exceptionally, the Protector of Citizens addresses the National Assembly directly with legislative proposals.

Table 9 – Types of issued legislative initiatives of the Protector of Citizens in 2021

Type of legislative initiative	number
Referral of amendments to the competent committee of the National Assembly as the proposer (<i>Article 157, paragraph 6 of the Rules of Procedure of the National Assembly</i>)	0
Submission of amendments to draft laws to the National Assembly (<i>Articles 161 and 162 of the Rules of Procedure of the National Assembly</i>)	0
Proposing the law to the National Assembly (<i>Article 150 para. 2 of the Rules of Procedure of the National Assembly</i>)	1
Initiatives for the adoption or amendment of laws and other regulations addressed to the Government, the National Assembly or line ministries	8
Proposal to the Constitutional Court to assess constitutionality and legality	0
Total	9

Table 10 – Outcome of the handling of legislative initiatives in 2021

	number
Accepted legislative initiatives	0
Inadmissible legislative initiatives	1
Initiatives still in progress	8
Total	9

4. EXERCISE OF THE RIGHTS OF PARTICULARLY VULNERABLE GROUPS

4.1. CHILD RIGHTS

STATISTICS

In the field of children's rights, the Protector of Citizens considered 365 cases⁴⁰ in 2021, of which 332 were citizens' complaints and 33 own-initiative investigations. Out of the 365 cases considered, the Protector of Citizens completed work on 326 cases. In 2021, the work on 64 cases from previous years was also completed. Cases from this area make up 8.11% of the total number of cases considered in 2021.

The Protector of Citizens issued 36 recommendations to the administrative authorities, of which 14 were due for execution in the reporting period⁴¹. Out of this number, administrative authorities accepted 14 recommendations, which is 100% of the accepted recommendations. The cases considered in the reporting period, the outcome of the handling of completed cases and the outcome of the handling of recommendations are shown in the tables below.

Table 11 – Overview of the considered cases in 2021

Number of cases in 2021	365	%
Number of completed cases in 2021	326	89.32%
Number of cases in progress in 2021	39	10.68%

Table 12 – Outcome of the handling of recommendations

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations	% accepted due
36	14	14	100%

⁴⁰ A case is considered to be any case that arises from the handling of complaints and from own-initiative investigations in a particular area/department.

⁴¹ The Protector of Citizens observes recommendations whose deadline for action given in the text of the recommendation expired in 2021 as due recommendations.

Table 13 – Outcome of the handling of completed cases in 2021

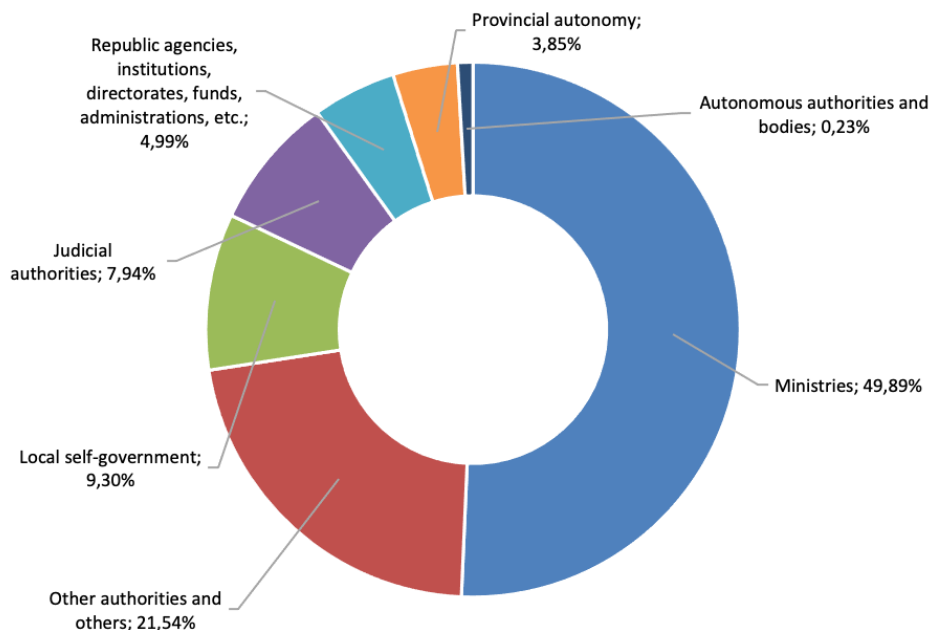
	number	Percent
1. Unfounded complaints	95	29.14%
1.1 Inadmissible complaints	181	55.52%
1.2. Unused legal remedies	107	59.12%
1.3. Lack of competence	39	21.55%
1.4. Unauthorized complainant	17	9.39%
1.5. Formally deficient complaint	15	8.29%
2. Anonymous complaint	3	1.65%
3. Informed and advised complainant	24	7.36%
4. Cases closed with recommendations from the expedited control investigation	16	4.91%
5. Opinion	4	1.23%
6. Cases closed with recommendations from the control investigation	3	0.92%
7. Withdrawal of the complainant	3	0.92%
8. Total	326	100%

A certain number of received complaints are rejected by the Protector of Citizens because the legally prescribed conditions for acting on them were not met. Complaints are rejected due to lack of competence, untimeliness, prematurity, anonymity and formal deficiency.

A very important segment of the handling of complaints of the Protector of Citizens is the provision of the advisory and legal assistance, which the Protector of Citizens provides even when it rejects a complaint due to lack of competence or prematurity. Such advisory assistance was provided to citizens in **80.66%** of inadmissible cases (181) in this area. In these cases, the Protector of Citizens refers the complainant to the competent authority or advises him/her about the available legal remedies.

In the area of children's rights, in 365 cases, 443 violations of rights were pointed out, most of which relate to the right to respect of the best interests of the child, the right to protection from abuse and neglect and the right to maintain personal contact with a parent with whom he/she does not live.

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



ACTIVITIES OF THE PROTECTOR OF CITIZENS

During 2021, the Protector of Citizens actively participated in the work of the Subgroup for Normative Changes formed by the National Coalition to End Child Marriage in Serbia.⁴² The Subgroup initiated amendments to the Family Law, Law on Prevention of Domestic Violence and the Criminal Code, in order to ensure more adequate civil and criminal protection of children from child, early and forced marriages, as a form of violence against children, and pointed out the need for domestic regulations to be harmonized with international agreements ratified by the Republic of Serbia in the field

⁴² The National Coalition to End Child Marriage was founded in 2019 at the initiative of the Coordination Body for Gender Equality and the UNICEF Office in Serbia, with the aim of contributing to ending child marriages in Serbia, especially within the Roma population, through targeted and coordinated actions by relevant actors. In addition to the Coordination Body and UNICEF, the Coalition also consists of representatives of the Protector of Citizens, the Commissioner for Gender Equality, the Nišava, Jablanica and South Banat administrative districts, parliamentary committees for human and minority rights and gender equality, and children's rights. A part of the Coalition is also made up of representatives of the City of Belgrade, civil society association Bibija, Ternipe, Praxis, Indigo, the Social Inclusion and Poverty Reduction Unit, the Office for Roma Inclusion, the Roma Association Novi Bečej, the Republic Institute for Social Protection and the UN agencies.

of children's rights and violence prevention. These initiatives are in line with the recommendations of both the contracting authorities under ratified international agreements – primarily with the recommendations of the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, and the Council of Europe Expert Group on Action against Violence against Women and Domestic Violence (GREVIO).

As a member of the Special Working Group of the Ministry of Family Welfare and Demography for drafting the text of the Draft Law on Amendments to the Family Law, the Protector of Citizens actively participated in its work in 2021, which will continue in 2022 as well. Most of the proposals of the Protector of Citizens to amend the Law in the part related to improving the exercise and protection of rights and improving the position of children in the system of family law protection were accepted by the Working Group. The Protector of Citizens expresses belief that the mentioned solutions will also find their place in the adopted amendments to the Family Law.

In an own-initiative investigation, the Protector of Citizens identified omissions in the work of the competent authorities and in recommendations⁴³ issued to the Centre for the Protection of Victims of Trafficking in Human Beings, the Ministry of Labour, Employment, Veteran and Social Affairs, as well as the competent centres for social work and educational institutions, pointed out the need to find a systemic solution to problems in the field of protection against human trafficking, through better cooperation and coordinated exchange of information, clear division of roles in the protection system, joint activities and actions of competent authorities, with the aim of stopping violence, providing adequate and timely protection of children and implementing effective procedures before the competent authorities.

During 2021, the Protector of Citizens conducted a large number of own-initiative investigations, thus confirming its proactive action, in which it reacted in cases where it learned about a possible threat to children from violence, abuse and neglect. The identified shortcomings in the work of the authorities in these proceedings were primarily related to the lack of timely and coordinated cooperation between the competent authorities, which led to delays in the implementation of activities to protect the rights and best interests of children, which is why children were not protected on time from all forms of violence to which they have been exposed, that is, violence has not been stopped. In the recommendations it issued, the Protector of Citizens⁴⁴

⁴³ Case number 321-203/20-36274/21, dated 28th December 2021.

⁴⁴ Available at: https://www.pravadeteta.com/index.php?option=com_content&view=article&id=1038:надлежни-органи-нису-заштитили-децу-из-блага-од-злостављања-и-занемаривања&catid=55&Itemid=89 и <https://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/7324-13-3>.

pointed out that in their future work, the competent authorities should act in a timely and legal manner and should continuously take measures within their competence to protect the rights and best interests of the child, and that guardianship authorities should maintain an active role in monitoring the family and children, regardless of the change of residence of the family. Also, the Protector of Citizens recommended the authorities to ensure the realization of the child's right to primary education in their future work, in cooperation with the competent educational institutions, by using timely reactions and further measures towards parents, to prevent the consequences of parental neglect and protect the rights and interests of children and enable the child's right to education to be exercised.

Also, during 2021, the Protector of Citizens conducted several own-initiative investigations to control the work of competent state authorities after acquiring information from the media which indicated possible violations of children's rights, most often the cases where a child was a victim of domestic violence. Media content published by electronic media made the child victim of violence recognizable, which resulted in additional traumatization of the child and a violation of the right to privacy. Acting on the requests of the Protector of Citizens, the Ministry of Culture and Information determined in its control procedures that in the reporting of certain media, there have been violations of child's rights, and filed a request to initiate misdemeanour proceedings against the persons that were responsible. The Protector of Citizens concludes that despite the prescribed obligation of the media to take care of the protection of the rights of minors when reporting, as well as the sanctions imposed for violating these obligations, there are still cases of violation of children's rights in the media space.

The Protector of Citizens established cooperation with the Ombudsman of Uganda, to whom information on the endangered (mental) health of their minor citizen was forwarded, due to which she was scheduled to be hospitalized in the competent health institution during her stay in the Republic of Serbia, and a procedure for the protection of a child endangered by family circumstances was initiated before the competent centre for social work. Since the girl was returned to her country of origin until the end of her mother's divorce proceedings (also a Ugandan citizen), the planned protection was not implemented. Since the endangered girl became inaccessible to the authorities of the Republic of Serbia for them to be able to take further measures to protect her, the Protector of Citizens submitted its knowledge of this case to the Ombudsman of Uganda, in order for the child to be provided protection in the country of her origin as well.

It is a worrying fact that violence against students by employees continues to occur in schools, in the lower grades of primary school. Although the

Protector of Citizens established in the investigation that, after reporting violence against students, the competent educational authorities acted in a timely manner and conducted appropriate disciplinary proceedings against employees in accordance with regulations, work on the prevention of violence in schools is obviously insufficient.

After learning about the information published in the media, that a number of women (former seminar participants) at the Petnica Research Station came out with claims that they were victims of sexual violence by a former employee, the Protector of Citizens conducted an own-initiative investigation to control the legality and regularity of work of the Ministry of Education, Science and Technological Development. In order to improve the exercise of the child's right to protection from violence, abuse and neglect, the Ministry was issued an opinion⁴⁵ in which it was pointed out that there is a need to amend existing regulations in the field of education, and to ensure an adequate application of the *Rulebook on the protocol of actions in an institution in response to violence, abuse and neglect*, at the Petnica Research Station, the application of which is currently envisaged only for institutions that perform educational activities in accordance with the Law on the Foundations of Education and Upbringing System. When addressing this opinion, the Protector of Citizens had in mind the importance of the "Petnica" Research Station for the entire educational system, recognized by the state and the relevant ministry, as well as its close connection with educational institutions over which the Ministry has competencies.

Controlling the actions of educational authorities and local self-government units that provide additional educational support to children with developmental delays, the Protector of Citizens determined in 2021 that one of the local self-government units postponed the announcement of a public competition for the selection of a service provider, which is why for two years there was no personal companion service for children who needed it. Following the recommendation of the Protector of Citizens, the necessary actions were taken to provide the missing personal companion service.⁴⁶ In addition, the complaints also indicated non-fulfilment of other obligations of local self-government units in relation to support for children's education, such as the provision of transportation services or reimbursement of costs for transportation of children/students to school. For example, after the investigation launched by the Protector of Citizens, one municipal administration stated that the complaint was founded and that the parents were

⁴⁵ Case number 321-325/21-36550/21, dated 30th December 2021.

⁴⁶ Available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/7187-psh-in-l-v-c-hi-n-d-b-zb-di-uslu>.

reimbursed the transportation costs for the previous months and that in the following months, transportation for the student will be provided.

The Protector of Citizens launched an investigation to control the regularity and legality of work of the Ministry of Education, Science and Technological Development due to complaints about the conduct of the organizers of the state competition in mathematics and due to complaints about subsequent changes in propositions by the organizers of a municipal chess competition. The Protector of Citizens sent an opinion⁴⁷ to the Ministry of Education, Science and Technological Development in order to take measures in accordance with its competencies in order to stop improper conduct of various associations that organize competitions in school subjects towards students/competitors, by changing the competition regulations, contrary to the valid acts which prescribe the organization and conduct of competitions.

During 2021, the Protector of Citizens sent an opinion on the Draft Strategy for the Development of Education in the Republic of Serbia until 2030⁴⁸, in which it indicated the improvement of inclusive education in terms of shortcomings pointed out by the Protector of Citizens in the previous period: increasing the number of pedagogical assistants and arranging their work starting with preschool institutions, improving the identification and support for students at risk of dropping out of education (Roma children and girls are especially at risk), the number of accessible educational facilities, etc. However, the Protector of Citizens reiterated that it is necessary to improve the Draft Strategy regarding the planning of services for better coverage and support regarding education of children living in poverty, Roma children, children from rural areas and villages, starting from pre-school level to the highest levels of education.

The Protector of Citizens sent an opinion⁴⁹ to the Ministry of Education, Science and Technological Development due to the inconsistency between the Law on the Foundations of Education and Upbringing System and the Law on Textbooks regarding the textbook selection procedure. The Protector of Citizens pointed out the need to harmonize the provisions of relevant regulations with appropriate amendments to the law, in order to clearly and unambiguously define the role of the Parents' Council in the textbook selection process and thus improve the child's right to education.

This year as well, in order to protect and promote the rights of the child, the Protector of Citizens continued to monitor the realization of the right

⁴⁷ Available at: <https://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/7309-inis-rs-v-pr-sv-d-guci-dn-r-n-sv-d-c-n-ic-nji>.

⁴⁸ Available at: <https://ombudsman.rs/attachments/article/7097/Misljenje.pdf>.

⁴⁹ Available at: <https://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/7182-us-l-di-i-z-n-iz-bl-s-i-br-z-v-nj-d-finis-i-ul-gu-s-v-r-di-lj-u-izb-ru-udzb-ni>.

of students to education in the conditions caused by the pandemic of the COVID-19 infectious disease.

In the investigation launched on the basis of a complaint of parents due to the refusal of a preschool institution to enrol their child to attend the obligatory preschool program, because the child was not vaccinated in accordance with the provisions of the Law on the Protection of Population from Infectious Diseases, the Protector of Citizens issued recommendations⁵⁰ to competent authorities to eliminate the identified omissions. The preschool institution was pointed out that by rejecting the child's enrolment request, it violated the child's right to education and that it is necessary for the child to be enrolled without delay in accordance with the provisions of the Law on the Foundations of Education System, while the Ministry of Education, Science and Technological Development⁵¹ was instructed to conduct a control investigation and determine whether the omission of the institution has been corrected and whether the child has been enabled to exercise the right to education in accordance with the provisions of the Law. Considering that the issue of a child's stay in a preschool institution is regulated in detail by the Law on the Protection of Population from Infectious Diseases⁵² and the professional and methodological Instruction which is an integral part of the Rulebook on detailed conditions and manner of providing care and preventive youth health care in preschool institutions⁵³, the Protector of Citizens instructed the preschool institution to contact the Ministry of Health immediately after the enrolment of the child for further action regarding the child's stay in the preschool institution. The Protector of Citizens notes that the recommendation was followed.

In the Opinion on the Draft Law on the rights of beneficiaries of accommodation services under social protection, which was fully accepted, the Protector of Citizens pointed out that the restriction of the right to family life, leisure, participation and communication, as well as other rights, due to the health status of beneficiaries of social protection institutions (which is decided on by the service provider), can be particularly harmful when it comes to children and that in this way, their position is further endangered, as they are already in a difficult position, primarily because in such accommodation conditions they are already isolated in a special way and have less accessible possibilities to exercise and protect their rights, which contributes to their additional exclusion.

⁵⁰ Case number 321-497/21-36161/21, dated 27th December 2021.

⁵¹ Provision of Article 30, paragraph 2 of the Law on Foundations of Education System.

⁵² "Official Gazette of RS", number 15/16.

⁵³ "Official Gazette of RS", number 112/17.

The Protector of Citizens determined, through the control investigations into the work of the competent authorities, how important it is to establish social and health services that would adequately respond to the needs of individuals, especially children without parental care with health problems, who need this combined service. The Protector of Citizens asked the competent ministries to urgently undertake activities that are a precondition for the establishment of a social and health service in accordance with the Law on Social Protection.

After submitting several proposals for establishing the facts on the status of new-born children suspected to have disappeared from maternity wards in the Republic of Serbia⁵⁴, on behalf of parents who addressed this independent state body, the Protector of Citizens was informed that a decision was made on one of the proposals, which determined that the status of the new-born child could not be determined, while the parents were awarded the requested amount of compensation for the non-pecuniary damage suffered.

Acting on the complaints of parents, the Protector of Citizens conducted investigations due to the endangerment of the safety of children in traffic and identified omissions in the work of competent authorities, after which it issued recommendations for their elimination. Namely, the Protector of Citizens determined that the competent authority should improve the safety of pedestrians as participants in traffic in a city settlement⁵⁵ by undertaking activities within its competence, that is, by ensuring that traffic signals are set up which would slow down traffic through the application of technical and regulatory measures, thereby reducing the speed of vehicles. Also, due to the need to improve the position of visually impaired children and ensure their better safety as participants in traffic, the Protector of Citizens issued a recommendation⁵⁶ to the competent authority stating that all measures should be taken to ensure that pedestrian crossings on wide city streets are fitted with the equipment used for marking the paths of blind and visually impaired people. The Protector of Citizens notes that the issued recommendations were acted on.

In 2021, the Protector of Citizens, with the support of UNICEF, as a member of the European Network of Ombudspersons for Children (ENOC),

⁵⁴ In 2020, the National Assembly of the Republic of Serbia passed the Law on Establishing Facts on the Status of Newborn Children Suspected to have Disappeared from Maternity Wards in the Republic of Serbia, meaning that the Republic of Serbia acted on the judgment of the European Court of Human Rights in the case of *Zorica Jovanovic v. Serbia*. Among other things, the Protector of Citizens is authorized by this Law to submit proposals on behalf of parents to the competent courts to establish the facts on the status of newborn children suspected to have disappeared from maternity wards in the Republic of Serbia.

⁵⁵ Case number 321-43/20-36974/21 dated 30 December 2021.

⁵⁶ Case number 321-659/20-36538/21, dated 30 December 2021.

conducted research on the impact of measures to prevent the spread of the COVID-19 pandemic on the realization of children's rights. The focus of the research was on exercising the child's right to see a parent with whom he or she does not live and the child's right to use the social protection service at the local level – day care, since the beginning of the COVID-19 infectious disease pandemic. The results of the research will be published in a special report of the Protector of Citizens, whose public presentation and publication is planned for the first quarter of 2022. Also, the Deputy Protector of Citizens and employees of the Sector for the Rights of the Child actively participated throughout the year in the work of ENOC, presenting activities of the Protector of Citizens at regular meetings and conferences of this network, and exchanging information with other ENOC members on current challenges and examples of good practice in the field of realization and protection of children's rights.

After a conducted public call at the end of 2021, the Protector of Citizens elected 11 new members of the Youth Advisory Panel of the Protector of Citizens, taking into account regional representation, representation of children from vulnerable social groups and equal representation of boys and girls. Through activities with the Youth Advisory Panel, the Protector of Citizens continues to promote the child's right to express his or her opinion and thus encourages participation of children in decision-making concerning their rights. Also, the Protector of Citizens started the implementation of the project "Children to children – know your rights", which was financed by the Bulgarian Development Aid. Within the project, summer school on the rights of the child will be organized, during which, for the first time, the panellists will train their peers, primary and secondary school students, on the rights arising from the international and domestic legal framework and on the mechanisms of their protection. After that, the students of the summer school will spread the acquired knowledge in their communities and schools, with the support and mentorship of the employees of the Protector of Citizens.

The Ministry of Family Welfare and Demography amended the Law on Financial Support to Families with Children, acting on the decision of the Constitutional Court, which declared as unconstitutional the provision of the Law which made it impossible to simultaneously exercise the right to the compensation of earnings, i.e., compensation of salary during absence from work for special child care and the right to allowance for assistance and care of another person. In its opinion⁵⁷ on the amendments to the Law, the Protector of Citizens reiterated that the provision regulating the institute of parental allowance needs to be amended so that the situation when the mother

⁵⁷ Available at: <https://ombudsman.rs/attachments/article/7094/Misljenje.pdf>.

is a stateless person will be envisaged as the basis for the father to exercise the right to parental allowance, in order to ensure the exercise of this right regardless of the legal status of the parent and given that this right can already be exercised by a mother who is a foreign citizen and has the status of a foreigner with a permanent residence, for a child born in the Republic of Serbia. This initiative of the Protector of Citizens was not accepted.

Taking into account the absence of community services and the need of children with developmental delays to receive care from their parents, the Protector of Citizens proposed that two new rights be introduced in the list of rights enabling the financial support for families with children guaranteed by this Law: the right to compensation to an unemployed parent caring for a child who needs constant care and assistance and the right to salary compensation to one of the parents who acquired the right to work part-time in order to care for a child older than five who needs constant care and assistance. The Protector of Citizens also pointed out that the Law does not recognize the needs of children whose one or both parents are persons with disabilities, in terms of exercising the right to compensation for staying in preschool, which puts them in an unequal position compared to other socially vulnerable categories of children without parental care (children with developmental delays and disabilities, as well as children of beneficiaries of financial social assistance, for whom this right is prescribed by law) and proposed an amendment to this provision of the Law, which the competent Ministry did not accept.

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

Although according to Article 17, paragraph 3 of the Law on the Protector of Citizens, the Protector of Citizens is not authorized to control the work of the National Assembly and the Government, the Protector of Citizens believes that it would be useful for these authorities to consider its proposals.

- **The government** should plan and take economic policy measures without compromising the rights of children and in a way that will not reduce the achieved standards in the realization of children's rights and provide a number of health workers, professionals in social welfare institutions and professional associates in educational institutions that meet the needs of children; adopt a new National Action Plan for children in accordance with the recommendations of the Protector of Citizens and the United Nations Committee on the Rights of the Child; propose amendments to the Law on Prevention of Domestic Violence which should include

special provisions on the actions in cases of violence against children, including provisions stipulating that a child is a victim of violence whenever exposed to domestic violence against a family member or a close person and establish a single record of cases of violence against children; propose amendments to the Law on Public Peace and Order which should ensure that children in the street are not treated as perpetrators of criminal offenses, but as victims of violence, abuse and neglect; propose amendments to existing regulations or the adoption of new ones that would provide new rights and support measures for parents of seriously ill children and children with developmental delays who need constant care and assistance, in accordance with the proposals and recommendations of the Protector of Citizens;

- **The Ministry of Labour, Employment, Veteran and Social Affairs** and the **Ministry of Finance** should without delay provide an adequate number of employees in centres for social work, as well as centres for family accommodation and adoption, in order to enable full application of professional standards and adequate actions of the centres within the full scope of their competence in the field of social protection;
- **The Ministry of Labour, Employment, Veteran and Social Affairs, the Centre for the Protection against Trafficking in Human Beings**, as well as the competent centres for social work should start systematically solving problems in the field of protection against trafficking in human beings, through better cooperation and coordinated exchange of information, a clear division of roles in the protection system, joint undertaking of activities and actions of the competent authorities, with the aim of stopping violence, providing adequate and timely protection to children and implementing effective procedures before the competent authorities;
- **The Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality**, in cooperation with the **Republic Institute for Social Protection** and the Provincial Institute for Social Protection, as well as other relevant state authorities and institutions, should, together with the obligatory involvement of experts who provide direct support to children and foster families, work on the development of specialized forms of foster care such as family accommodation with intensive and additional support, occasional and urgent family accommodation;
- **The Ministry of Family Welfare and Demography** should ensure that centres for social work act in a timely manner to protect the rights of the

child, take measures to prevent the separation of children from the family, and implement measures exclusively for the reasons provided by law;

- **The Ministry of Interior, Ministry of Labour, Employment, Veteran and Social Affairs, Ministry of Justice, the High Court Council and the State Prosecutorial Council** should take measures to conduct procedures efficiently and quickly and make decisions which regulate the family-legal status of children temporarily and permanently and ensure the protection of the rights of the child, as well as the efficient and prompt enforcement of these decisions;
- **The Ministry of Justice, Ministry of Interior, Ministry of Labour, Employment, Veteran and Social Affairs, Ministry of Health, Ministry of Education, Science and Technological Development, the High Court Council and the State Prosecutorial Council** should establish adequate and coordinated mechanisms for preventing and combating child and early marriages, harmful practices, child labour and life and work on the street, as well as child protection mechanisms in these cases.
- **The Ministry of Culture and Information** should take timely actions within its competence in all cases where there is a suspicion of a violation of children's rights by the media, especially when reporting on cases of domestic and other forms of violence in which the child appears as a perpetrator or a victim of violence.
- **The Ministry of Education, Science and Technological Development** should ensure that educational institutions undertake activities to prevent violence, and should provide appropriate training in the field of protection from violence, abuse and neglect for employees in educational institutions, in order to better identify violence and properly apply existing regulations in the protection against violence.

4.2. GENDER EQUALITY AND RIGHTS OF LGBTI PERSONS

STATISTICS

In the field of gender equality and the rights of LGBTI persons, the Protector of Citizens considered 82 cases⁵⁸ in 2021, of which 69 were citizens' complaints and 13 own-initiative investigations. Out of the 82 cases considered, the Protector of Citizens completed work on 67 cases. In 2021, work was completed on 20 cases from previous years. Cases in this area account for 1.82% of the total number of cases considered in 2021.

The Protector of Citizens issued 7 recommendations to the authorities, two of which were due for execution in the reporting period. The administrative authorities accepted both recommendations. Cases considered in the reporting period, the outcome of the handling of completed cases and the outcome of the handling of recommendations are shown in the tables below.

Table 14 – Overview of the considered cases in 2021

Number of cases in 2021	82	%
Number of completed cases in 2021	67	81.70%
Number of cases in progress in 2021	15	18.30%

Table 15 – Outcome of the handling of recommendations

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations	% accepted due
7	2	2	100%

⁵⁸ A case is considered to be any case that arises from the handling of complaints and from own-initiative investigations in a particular area/department.

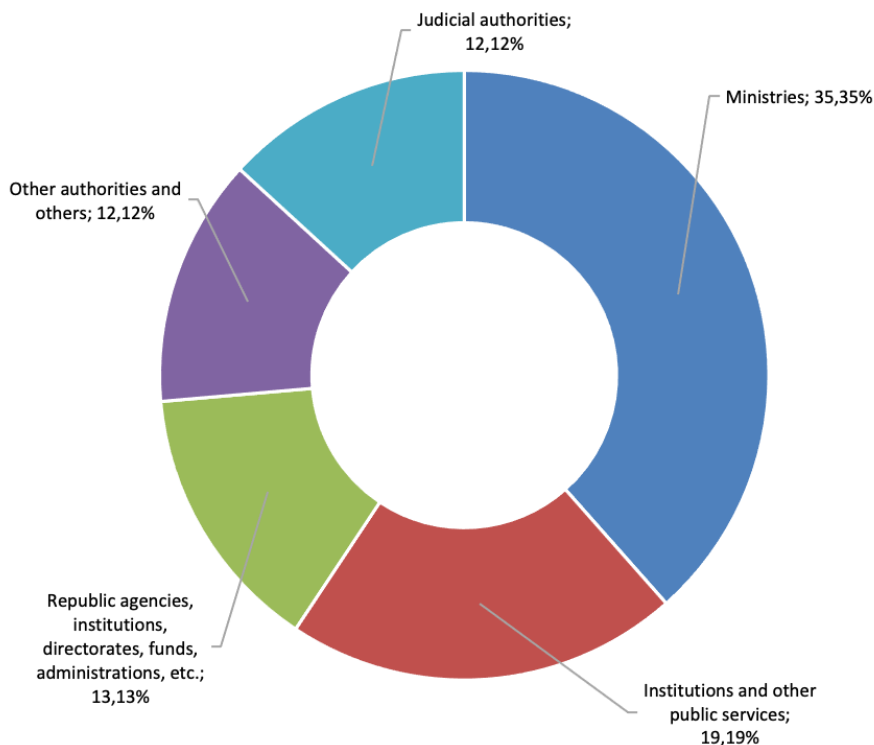
Table 16 – Outcome of the handling of completed cases in 2021

	number	percentage
1. Inadmissible complaints	38	56.72%
1.1. Lack of competence	16	42.10%
1.2. Unused legal remedies	12	31.58%
1.3. Formally deficient complaint	5	13.16%
1.4. Unauthorized applicant	3	7.89%
1.5. Anonymous complaint	2	5.26%
2. Unfounded complaints	11	16.42%
3. Informed and advised complainant	11	16.42%
4. Cases closed with recommendations from the expedited control investigation	7	10.45%
Total	67	100%

The Protector of Citizens rejects a number of received complaints because the legally prescribed conditions for acting on them are not met. Complaints are rejected due to lack of competence, untimeliness, prematurity, anonymity and formal deficiency. A very important segment in the Protector of Citizens' handling of complaints is the provision of advisory and legal assistance, which the Protector of Citizens provides even when it rejects a complaint due to lack of competence or prematurity. Such advisory assistance was provided to citizens in 73.68% of rejected cases (38) in this area. In these cases, the Protector of Citizens refers the complainant to the competent authority or advises him/her on the available legal remedies.

In the field of gender equality, in 82 cases, 90 violations of rights were pointed out, a good part of which refers to domestic violence and the right to compensation of earnings during pregnancy, maternity leave and child care, that is, hate speech and violence against LGBTI persons.

Chart 4 – Categories of authorities and organizations whose work citizens most often complained about in the area of gender equality and LGBTI rights



ACTIVITIES OF THE PROTECTOR OF CITIZENS

Gender equality

In accordance with the recommendations repeated by the Protector of Citizens in the annual reports since 2015, the Law on Gender Equality⁵⁹ was adopted, in the drafting of which the Protector of Citizens participated, by participating in the Working Group that drafted the Law on Gender Equality. At the suggestion of the Protector of Citizens, the text of the law includes a provision that stipulates that an unemployed person who is not insured on any other basis acquires the right to health insurance on the basis of unpaid work (at home – running a household, raising the children, caring for other family members, as well as work on agricultural land, etc.). During the drafting of this Law, the Protector of Citizens, among other things, pointed out that it is extremely important that the text mentions the collection and processing of statistical information on unpaid work at home, as well as its evaluation.

⁵⁹ "Official Gazette of RS", number 52/21.

The adopted National Strategy for Gender Equality for the period 2021-2030⁶⁰ does not contain an indicator for monitoring the number of women who have exercised the right to health insurance on the basis of unpaid work at home if they are not health insured on another basis, as suggested by the Protector of Citizens in opinions on the Basis and Proposal of this document.⁶¹ Also, the Protector of Citizens stated in the mentioned opinions that the Roma health mediators are not permanently employed in the health system of the Republic of Serbia and that it is necessary to point out this problem in the National Strategy, so that measures dedicated to its solution could be found in the accompanying action plan for its implementation. This suggestion of the Protector of Citizens was not adopted.

In accordance with the recommendations of the Protector of Citizens from the Special Report on the implementation of the General and Special Protocols for the Protection of Women from Violence, the Action Plan for the period from 2021 to 2023⁶² for the implementation of the Employment Strategy in the Republic of Serbia for the period from 2021 to 2026⁶³ envisages programs and active employment policy measures that prescribe subsidies for the employment of victims of domestic violence as a hard-to-employ category of persons. However, the number of women victims of violence who are employed through the implementation of these programs and measures has so far been very low⁶⁴.

In April 2021, the Constitutional Court ruled that the provision of Article 12, paragraph 7 of the Law on Financial Support to Families with Children⁶⁵ is not in accordance with the Constitution of the Republic of Serbia, which the Protector of Citizens pointed out in recommendations and opinions.⁶⁶ After that, amendments to the Law on Financial Support to Families with

⁶⁰ Available at: <https://www.srbija.gov.rs/dokument/45678/strategije-programi-planovi-.php>

⁶¹ Available at: <https://ombudsman.rs/attachments/article/7208/Мишљење%20заштитника%20грађана.docx> Available at: <https://ombudsman.rs/attachments/article/7296/Мишљење%20о%20Предлогу%20Националне%20стратегije%20за%20родну%20равноправност%202021-2030.docx>.

⁶² "Official Gazette of RS", number 30/21.

⁶³ "Official Gazette of RS", number 18/21.

⁶⁴ Report of the Ministry of Labour, Employment, Veteran and Social Affairs on the implementation of the National Employment Action Plan for 2020, available at: <https://www.minrzs.gov.rs/sr/dokumenti/izvestaji/sektor-za-rad-i-zaposljavanje-0>

⁶⁵ "Official Gazette of RS", no. 113/17 and 50/18.

⁶⁶ Opinion no. 323-105/20 ref.no. 23896 dated 15th July 2020 and Opinion no. 183-25/2017 ref. number 37867 dated 13th October 2017, available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/6703-us-l-di-i-z-n-r-di-s-v-riv-nj-z-g-r-n-v-nih-pr-v-r-di-lj-d-c-s-s-nj-u-r-zv-u-d-c-s-inv-lidi-i-sh-b-l-sn-d-c> <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5863-ishlj-nj-n-cr-z-n-fin-nsi-s-p-drshci-p-r-dici-s-d-c>.

Children⁶⁷ were adopted, which deleted the disputed provision of this Law which violated the rights of parents because they were prevented from exercising the right to compensation of earnings during absence from work for special child care for a child for whom the right to allowance for assistance and care of another person was already exercised.⁶⁸

In addition to the above, the provisions of this Law did not enable women who are engaged in independent activities, agricultural activities, that is, who perform temporary and periodical jobs, to exercise the right to compensation of earnings based on child birth and child care and special child care in the same scope and duration as employed women.

The Protector of Citizens also pointed out that the provision of the Law which regulates the institute of parental allowance needs to be amended so that it would be foreseen that the father may also exercise the right to parental allowance, even in situations when the mother is a stateless person. However, these suggestions were not accepted.

The Protector of Citizens identified omissions in the work of several competent authorities since a complainant was denied the right to compensation of earnings during maternity leave and leave for child care at a foreign employer, even though she regularly paid all contributions for years, especially since they improperly changed the basis of the complainant's insurance from an employed person to a person who performs activities independently. In the recommendations for eliminating the shortcomings⁶⁹, the Protector of Citizens pointed out that the competent authorities should review all relevant data without delay and correctly and legally determine the right of the complainant on the basis of childbirth and eliminate the damage caused, including, if necessary, the change of any laws and bylaws and requested that in future, in all procedures for deciding on the right to compensation of earnings to pregnant women and mothers who are employed by a foreign employer they should ensure that the applicant's status is determined on the basis of all relevant data and attached evidence, regardless of the insurance code under which the competent administrative authorities record them. The recommendation is still within the deadline for action.

⁶⁷ "Official Gazette of RS", no. 113/17, 50 /18, 46/21 – CC decision, 51/21 – CC decision, 53/2021 – CC decision, 66/21 and 130/21.

⁶⁸ Opinion no. 323-105/20, ref.no. 23896 dated 15th July 2020 and Opinion no. 183-25/ 2017 ref. number 37867 dated 13th October 2017, available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/6703-us-l-di-i-z-n-r-di-s-v-riv-nj-z-g-r-n-v-nih-pr-v-r-di-lj-d-c-s-nj-u-r-zv-u-d-c-s-inv-lidi-i-sh-b-l-sn-d-c>. <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5863-ishlj-nj-n-n-cr-z-n-fin-nsi-s-p-drshci-p-r-dici-s-d-c>.

⁶⁹ Available at: <https://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/7319-n-dl-zni-rg-ni-p-z-nu-d-dlucu-u-pr-vi-p-r-dilj>

Conducting an own-initiative investigation, and based on the information that in the morning show on TV Happy, horoscopes were interpreted of the actress and acting teacher for whom the actress made allegations of sexual assault, the Protector of Citizens, after the conducted investigation, determined that the Regulatory Authority of Electronic Media made an omission in its work by not imposing adequate measures in order to sanction the broadcaster for broadcasting the disputed content, even though that authority determined that the broadcaster acted contrary to the regulations. Accordingly, the Protector of Citizens issued a recommendation⁷⁰ to the Regulatory Authority of Electronic Media, which is still within the deadline for action.

Association "Strength of Friendship – Amity" and the Protector of Citizens organize forums⁷¹ in rural areas⁷² aimed at raising awareness of older women in the countryside about various forms of domestic violence and gender-based violence and their harmfulness, as well as on the protection mechanisms at their disposal, including the competencies and possibilities of addressing the Protector of Citizens. These activities of the Protector of Citizens are in line with the recommendation of the United Nations Committee on the Elimination of Discrimination against Women from the Concluding Observations on the Fourth Periodic Report of the Republic of Serbia on the implementation of the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which refers to the need to improve the position of women in the countryside.

On the occasion of marking the International Women's Day, Deputy Protector of Citizens Jelena Stojanović opened an exhibition of handicrafts of rural women from the municipality of Mladenovac, organized by the Centre for the Protection of Human and Minority Rights and Values "OKO". On that occasion, she presented to women from rural areas the competencies of the Protector of Citizens and the possibilities of addressing this body.

In cooperation with the Forum of Judges of Serbia, since 2020, the Protector of Citizens has been participating in the project of the Autonomous Women's Centre entitled "Intersectoral dialogue with the aim of implementing good practices in the protection of victims of domestic violence", financed by the Dutch Embassy in the Republic of Serbia, the goal of which is to contribute to

⁷⁰ Available at: <https://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/7333-r-d-s-n-ci-nish-pr-pus-u-r-du-i-r>

⁷¹ In 2021, three forums were held in Čajetina, Aleksinac and the settlement of Medveđa near Trstenik.

⁷² The mentioned events are being realized within the project "Improving the Security of Women in Serbia", implemented by the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), in cooperation with the Ministry of Interior, and with the support of the Norwegian Embassy in Belgrade.

the full implementation of the legal framework and the improvement of institutional practices related to the protection of victims of domestic violence. Together with the project partners, the Protector of Citizens will monitor the implementation of the Law on Prevention of Domestic Violence and other relevant regulations and will record possible shortcomings and challenges in the implementation of the law. The collected data will serve as a basis for a special report of this body with recommendations, as well as for the development and implementation of professional training programs for representatives of the prosecutor's office, police administrations and centres for social work that make up coordination and cooperation groups. As part of project activities during 2021, the Protector of Citizens collected data on the work of groups for coordination and cooperation in the city of Niš and participated in focus group discussions with representatives of centres for social work from Doljevac, Gadžin Han, Aleksinac, Niš, Ražanj, Sokobanja and Svrlijig.

Rights of LGBTI persons

Conducting an own-initiative investigation, after learning that there is a big problem of maintaining the hormonal status of trans people and all other women who have low oestrogen levels, the Protector of Citizens sent an opinion to the Central Medicines Commission of the Republic Health Insurance Fund with recommendations⁷³ indicating that it is necessary to supplement the List of Medicines, and for the Board of Directors of the Republic Health Insurance Fund to confirm the amended List of Medicines with drugs for establishing the appropriate hormonal status of trans women. The Protector of Citizens was informed that this opinion with recommendations was acted upon.

Recognizing the views of the Protector of Citizens that the Rulebook on detailed conditions, criteria and manner of selection, testing and evaluation of reproductive cell and embryo providers⁷⁴ contains provisions that are not in line with adopted standards of human rights and non-discrimination when it comes to LGBTI persons, the Directorate of Biomedicine of the Ministry of Health has proposed to the Government to amend the disputed provisions of the Rulebook which violate the rights of LGBTI persons, and the amendments⁷⁵ were adopted by the Government in 2021.

As part of the Council of Europe's "Promotion of Diversity and Equality" project, implemented with the financial support of the European Union, the

⁷³ Available at: <https://ombudsman.rs/attachments/article/7175/Misljenje.pdf>.

⁷⁴ "Official Gazette of RS", no. 27/19.

⁷⁵ "Official Gazette of RS", no. 27/19 and 41/21.

Protector of Citizens and the Association "Rainbow" conducted seven trainings for representatives of 15 local self-government units to include measures to improve the position of LGBTI persons in local action plans for the youth, gender equality and the social protection.⁷⁶

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

Although according to Article 17, paragraph 3 of the Law on the Protector of Citizens, the Protector of Citizens is not authorized to control the work of the National Assembly and the Government, the Protector of Citizens believes that it would be useful for these authorities to consider its proposals.

- **The Government** should plan and take economic policy measures, without compromising the rights of citizens in a vulnerable position and in the manner that will not reduce the achieved standards in achieving gender equality and LGBTI rights and it should provide a sufficient number of health workers, social workers and professional associates in educational institutions that meets the needs of citizens in a vulnerable position;
- **The Government** should adopt an Action Plan for the implementation of the National Strategy for Preventing and Combating Violence in Family and in Intimate Partner Relations;
- **The Government** should propose, and the National Assembly should adopt, a law regulating same-sex unions and a law regulating the legal consequences of adjusting (changing) gender and gender identity;
- **The Government** should fully harmonize the Criminal Code with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence and it should propose amendments to the Criminal Code, which in all regulations aimed at punishing and preventing racism and intolerance, would criminalize the act of committing these crimes both on the basis of sexual orientation and on the basis of gender identity;

⁷⁶ Training is one of the first steps in the implementation of the recommendation of the Protector of Citizens which was repeated multiple times since 2017, to bodies of the local self-government units to explicitly include LGBTI persons in local action plans and prescribe measures to improve the position of these persons, as well as to allocate appropriate budget funds for these activities, in order to enable LGBTI persons to exercise their rights guaranteed by the Constitution and the laws in their local community as well.

- **The Government, the authorities of the autonomous province and local self-government unit bodies** should continuously implement activities in order to raise public awareness of gender equality and measures to improve the position of women;
- **The Government, the authorities of the autonomous province and local self-government unit bodies** should ensure the full realization of rights of LGBTI persons in the field of freedom of expression and peaceful assembly, protection of their physical and mental integrity, education, employment, health and social protection, legal regulation of living communities and the legal consequences of adjusting (changing) gender and gender identity, as well as the continuous implementation of measures and activities dedicated to raising public awareness of the need to respect the rights of LGBTI persons;
- **The Ministry of Labour, Employment, Veteran and Social Affairs** should, in cooperation with local self-government units and civil society organizations, ensure the establishment of a support service for young LGBTI persons who left their homes because their families had rejected them after learning about their sexual orientation and gender identity;
- **The Ministry of Health and the Republic Health Insurance Fund** should ensure that health services are accessible to all women at all levels of health care;
- **The Ministry of Health** should ensure compliance with all recommendations from the Special Report of the Protector of Citizens on reproductive health of Roma women and it should ensure permanent employment of health mediators in the health care system of the Republic of Serbia;
- **The Ministry of Health** should undertake measures to implement the program of depathologization of trans identity, in accordance with the revision of the International Classification of Diseases (ICD 11) of the World Health Organization, which removed the transgender identity from the list of mental illnesses;
- **The Ministry of Interior** should prepare an amendment to the Law on Police which will introduce an explicit prohibition of discrimination on the grounds of sexual orientation;
- **The Ministry of Interior** should provide trainings for police officers in order to raise awareness towards LGBTI persons, identify hate crimes, inter alia, based on sexual orientation and gender identity and respond appropriately, with the aim of preventing the secondary victimization of LGBTI persons and identifying attackers on these persons;

- **The Ministry of Education, Science and Technological Development** should provide trainings for employees in educational institutions in order to raise awareness towards LGBTI persons;
- **Bodies of local self-government units** should explicitly include LGBTI persons in local action plans and prescribe measures to improve the position of these persons, and they should also allocate appropriate budget funds for these activities.
- **Competent authorities** should ensure compliance with and/or act on the recommendations issued in the Special Report of the Protector of Citizens on the work of coordination and cooperation groups in the area of the City of Belgrade.

4.3 RIGHTS OF PERSONS WITH DISABILITIES AND RIGHTS OF THE ELDERLY

STATISTICS

In the area of the rights of persons with disabilities and the elderly, the Protector of Citizens considered 151 cases⁷⁷ in 2021, of which 146 were citizens' complaints and five own-initiative investigations. Of the 151 cases considered, the Protector of Citizens completed work on 95 cases. In 2021, work was completed on 43 cases from the previous years. Cases in this area make up 3.35% of the total number of cases considered in 2021.

The Protector of Citizens issued 19 recommendations to administrative authorities, of which 18 were due for execution in the reporting period. Out of that number, the administrative authorities accepted 17 recommendations, which is 94.44% of the accepted recommendations. The cases considered in the reporting period, the outcome of the handling of the completed cases and the outcome of the handling of the recommendations are shown in the tables below.

Table 17 – Overview of the considered cases in 2021

Number of cases in 2021	151	%
Number of completed cases in 2021	95	62.91%
Number of cases in progress in 2021	56	37.09%

Table 18 – Outcome of the handling of recommendations

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations	% accepted due
19	18	17	94.44%

⁷⁷ A case is considered to be any case that arises from the handling of complaints and from own-initiative investigations in a particular area/department.

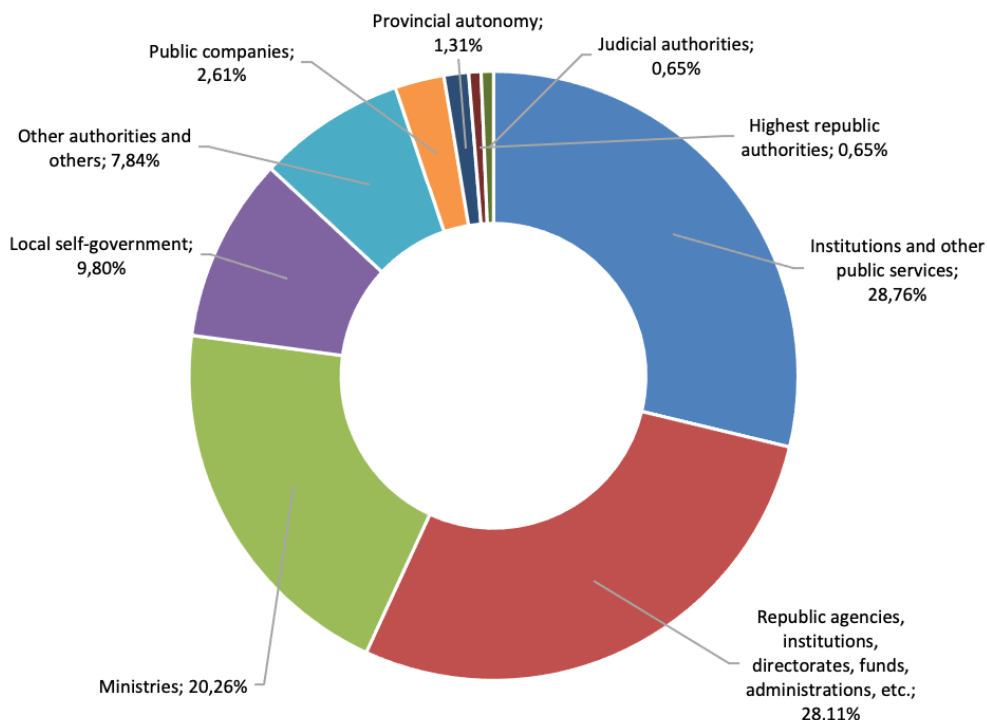
Table 19 – Outcome of the handling of completed cases in 2021

	number	percentage
1. Inadmissible complaints	40	42.11%
1.1. Unused legal remedies	15	37.50%
1.2. Lack of competence	14	35%
1.3. Formally deficient complaint	7	17.50%
1.4. Untimeliness	2	5%
1.5. Anonymous complaint	1	2.5%
1.6. Unauthorized complainant	1	2.5%
2. Unfounded complaints	24	25.26%
3. Informed and advised complainant	15	15.79%
4. Cases closed with recommendations from the expedited control investigation	11	11.58%
5. Cases closed with recommendations from the control investigation	3	3.16%
6. Withdrawal of the complainant	2	2.10%
Total	95	100%

The Protector of Citizens rejects a number of received complaints because the legally prescribed conditions for acting on them are not met. Complaints are rejected due to lack of competence, untimeliness, prematurity, anonymity and formal deficiency. A very important segment in the handling of complaints of the Protector of Citizens is the provision of advisory and legal assistance, which the Protector of Citizens provides even when it rejects a complaint due to lack of competence or prematurity. Such advisory assistance was provided to citizens in 72.50% of the total of 40 inadmissible cases in this area. In these cases, the Protector of Citizens refers the complainant to the competent authority or advises him/her on the available legal remedies.

In the area of the rights of persons with disabilities and the rights of the elderly, in 151 cases, 164 violations of rights were pointed out, most of which related to the right to disability pension, the right to equal access to services and the right to financial compensation for assistance and care of another person; violations of the rights of the elderly, that is, the rights of the elderly in social and health care institutions.

Chart 5 – Categories of authorities and organizations whose work citizens most often complained about in the area of the rights of persons with disabilities and the elderly



ACTIVITIES OF THE PROTECTOR OF CITIZENS

Rights of persons with disabilities

In accordance with the opinion of the Protector of Citizens, a provision was introduced into the Law on the Rights of Beneficiaries of Temporary Accommodation under Social Protection⁷⁸ on the obligation of centres for social work, when reviewing the decision on placing beneficiaries in a social welfare home, to reconsider the possibility of meeting the needs of beneficiaries by using some of the services in the community in a less restrictive manner in order to achieve the started process of deinstitutionalization. Also, the suggestions of the Protector of Citizens regarding the abolition of the measure of restraint and the restriction of the rights of service beneficiaries were adopted. The law consistently allows beneficiaries of temporary accommodation services to, "regardless of the level of

⁷⁸ Act of the Protector of Citizens ref. no. 17179 dated 24th June 2021.

business capacity", with the necessary and customized information and with the help of a trusted person, if necessary, personally decide on accommodation in the institution, but also on the termination of the accommodation service, as well as to object to the provision of accommodation services and participate in the planning and implementation of activities and measures within the accommodation service.

In accordance with the recommendations of the Protector of Citizens, the Decree on earmarked transfers in social protection⁷⁹ envisages that, in accordance with certain criteria, social protection services in local self-government units whose level of development is below the national average are to be financed, as well as social protection services in local self-government units on the territory of which the social welfare homes in transformation have their headquarters and the innovative services and social protection services of special importance for the Republic of Serbia, which represents normative support and contribution to the initiated process of deinstitutionalization, that is, to the development of social protection services in the local community and their sustainable financing.

In its comments on the Baseline for drafting the Law on Amendments to the Family Law from 2021, the Protector of Citizens reiterated, among other things, that this document, which abolishes the possibility of deprivation of legal capacity and introduces the institute of supported decision-making, is a very important step towards improving the exercise and protection of the rights of persons with disabilities⁸⁰. The Deputy Protector of Citizens for the Rights of the Child and Gender Equality is a member of the Working Group for composing the above-mentioned draft.

In its opinion on the Draft Law on Amendments to the Law on Financial Support to Families with Children⁸¹ from 2021, the Protector of Citizens reiterated that this law should be supplemented with provisions that would introduce two new rights, based on conditions that would also be prescribed by the mentioned law: the right to compensation for an unemployed parent caring for a child in need of constant care and assistance and the right to the compensation of earnings for one of the parents who acquired the right to work part-time in order to be able to care for a child older than five who needs constant care and assistance.

⁷⁹ "Official Gazette of RS", number 38/21.

⁸⁰ Complete deprivation of legal capacity is still a legal practice in the Republic of Serbia, contrary to the provisions of the United Nations Convention on the Rights of Persons with Disabilities and the Concluding Observations of the Committee on the Rights of Persons with Disabilities. Also, despite the Committee's recommendations, the concept of supported decision-making has not yet been introduced into the legal system of the Republic of Serbia.

⁸¹ Available at: <https://ombudsman.rs/attachments/article/7094/Misljenje.pdf>.

The Protector of Citizens identified omissions in the work of the competent authorities in the area of social protection to the detriment of a child with developmental delays and disabilities, who due to administrative and procedural omissions could not exercise the right to allowance for assistance and care of another person and the increased allowance on the same basis for a year and a half. In the recommendations⁸² for eliminating the shortcomings, the Protector of Citizens, among other things, requested the branch of the Republic Health Insurance Fund in Smederevo and the Centre for Social Work in Velika Plana to take all measures, in accordance with the principles of good governance, to achieve the appropriate cooperation and timely exchange of information with beneficiaries, so that such omissions in the work due to administrative errors would not be repeated in the future. The Protector of Citizens once more asked the Ministry of Labour, Employment, Veteran and Social Affairs to provide an adequate number of professional workers in the centres for social work in a timely manner. The Health Insurance Fund informed the Protector of Citizens that the recommendation was accepted, and that the competent Medical Expertise Sector of this authority will hold a direct meeting with all directors of centres for social work within the existing cooperation, in order to overcome problems when it comes to medical expertise.

The Protector of Citizens pointed out that the law does not recognize the needs of children whose one or both parents are persons with disabilities in terms of exercising the right to compensation for stay in preschool, which puts them in an unequal position in relation to other socially vulnerable children without parental care, children with developmental delays and the children with disabilities, as well as children of beneficiaries of financial social assistance, for whom this right is prescribed by law. The Ministry of Family Welfare and Demography did not act on the opinion of the Protector of Citizens in order to change these provisions.

In its opinion⁸³ on the Draft Law on Amendments to the Law on Higher Education from 2021, the Protector of Citizens pointed out, among other things, that it is necessary to prescribe a special article prohibiting all forms of discrimination in accordance with the provisions of the Law on Prohibition of Discrimination and to prescribe that the prohibition of discrimination applies to all forms of teaching and all activities carried out by the higher education institution in the pursuit of higher education activities, as well as

⁸² Act of the Protector of Citizens, ref. no. 21801 dated 11th August 2021. Available at: <https://ombudsman.rs/attachments/article/7195/Утврђење%20и%20препорука%20Заштитника%20грађана.doc>.

⁸³ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/7116-mishlj-nj-z-sh-i-ini-gr-d-n-n-iz-du-n-cr-z-n-iz-n-i-d-pun-z-n-vis-br-z-v-nju>.

to textbooks and literature used in the higher education institution and to examinations. In order to enable students with disabilities to access higher education, the Protector of Citizens pointed out the need to prescribe obligations, not the possibilities of higher education institutions, to organize and conduct studies for students with disabilities, that is, certain parts of studies in sign language and pointed out the need to prescribe and improve the conditions that would allow persons with various forms of disabilities to study, as well as to prescribe the students' rights to accessibility of facilities, teaching and teaching aids. The competent Ministry did not take into account the opinion of the Protector of Citizens.

In accordance with the suggestions of the Protector of Citizens, the Law on Prohibition of Discrimination⁸⁴ now explicitly prohibits discrimination against children, as well as discrimination against children on the basis of a disability, when referencing special cases of discrimination. In its opinion⁸⁵, the Protector of Citizens praised the prescribing of the obligation of the employer to, if necessary, take appropriate measures in order to ensure access, participation, professional development and advancement in the work of employees who are in an unequal position in relation to other employees, especially persons with disabilities, members of national minorities, women, persons of different sexual orientation and gender identity, the elderly and the others. In the mentioned opinion, the Protector of Citizens pointed out that the Law should prescribe the obligation of reasonable accommodation, that is, that the refusal of reasonable accommodation is a basis for discrimination⁸⁶, but this suggestion was not accepted.

The Action Plan for the Implementation of the Strategy for the Improvement of Persons with Disabilities in the Republic of Serbia for the period from 2020 to 2024, in the period from 2021 to 2022⁸⁷, prescribes the activity of *Establishing and constructing of a National Independent Mechanism for monitoring the implementation of the Convention on the Rights of Persons with Disabilities of the United Nations with the Protector of Citizens*, in accordance with Article 33 of the Convention, and the Protector of Citizens has been designated as the body for carrying out this activity. The new Law on the Protector of Citizens⁸⁸ stipulates that this body performs the tasks of the

⁸⁴ "Official Gazette of RS", no. 22/09 and 52/21.

⁸⁵ Available at: <https://www.ombudsman.rs/attachments/article/7051/Misljenje%20na%20Nacrt%20zakona%20o%20izmenama%20i%20dopunama%20Zakona%20o%20zabrani%20diskriminacije.pdf>.

⁸⁶ In accordance with Article 2 of the United Nations Convention on the Rights of Persons with Disabilities.

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

⁸⁸ "Official Gazette of RS", number 105/21.

National Independent Mechanism for monitoring the implementation of the United Nations Convention on the Rights of Persons with Disabilities, in accordance with the Law on Ratification of the Convention on the Rights of Persons with Disabilities⁸⁹. The mentioned Action Plan also prescribes an activity dedicated to the harmonization of regulations on legal capacity and guardianship with the Convention on the Rights of Persons with Disabilities, as well as an activity dedicated to the creation and implementation of the Operational Plan for Accessibility. The Protector of Citizens submitted to the Ministry of Construction, Transport and Infrastructure proposals⁹⁰ on what the Operational Plan for Accessibility should contain, including proposals for changes to the existing legal framework, development of a comprehensive database on accessibility in all relevant areas, systematic training of staff, that is, those working on issues of accessibility and the application of a universal design for all in the field of spatial planning and construction of facilities, compliance with accessibility obligations, development and adoption of strategic documents for ensuring accessibility of public facilities, public areas, services and information, as well as for removing the existing barriers, including measures and activities for the reconstruction of existing facilities, according to the list of priorities and the allocation of appropriate budget funds for these purposes.

In an own-initiative investigation, the Protector of Citizens determined that the Nikola Tesla Museum in Belgrade is inaccessible to persons with physical disabilities, that is, to persons who are wheelchair users and all other persons who have difficulty moving. Certain restrictions, such as the inaccessibility of the Museum, stem from the fact that it is located in a building that has been declared a cultural asset and is in the process of restitution. Considering that the museum collection is currently being moved to a new location in Belgrade, it is not expedient for the Protector of Citizens to issue recommendations at this moment to the Museum for it to act in accordance with the expert instructions of the Institute for the Protection of Cultural Monuments⁹¹, in the sense of drafting a solution to ensure accessibility, but instead, it was pointed out that it is necessary for this cultural institution, in cooperation with other competent authorities, to take all necessary measures to adapt the

⁸⁹ "Official Gazette of RS – International Agreements", number 42/09.

⁹⁰ On 9th September 2021, the Government of the Republic of Serbia adopted a decision on establishing an Interdepartmental Working Group for the creation and implementation of the Operational Plan for Accessibility for the period from 2020 to 2024, whose member is the Deputy Protector of Citizens for the Rights of Persons with Disabilities and the Elderly. In accordance with the agreement from the meeting of the working group held at the end of October 2021.

⁹¹ Act of the Institute for the Protection of Cultural Monuments number P 948/18 dated 27th March 2018.

new facility given to the Museum for use, as soon as possible, and to make it fully accessible to people with various types of disabilities but also to all other people, in accordance with the Design for All principle.

In order to contribute to raising awareness of the importance of accessibility, the Protector of Citizens, this year as well, in cooperation with the Standing Conference of Towns and Municipalities and the Social Inclusion and Poverty Reduction Unit of the Government of the Republic of Serbia, for the fifth time in a row, awarded prizes to local self-governments units which contributed the most to the development of all forms of accessibility in its territory in the previous year. The City of Kruševac received the award for continuous work on improving the accessibility of the urban environment, and the City Municipality of Vračar received the award for innovative solutions in the field of improving the accessibility of information and communication.

The Protector of Citizens is a member of the Steering Committee of the project "European Union for Accessible Public Institutions" which aims to improve knowledge, skills and raise awareness of local self-governments, civil society organizations and engineers on the importance of improving accessibility of public institutions for persons with disabilities, but also all other persons with limited mobility. Within this project, a Guide for accessibility and an analysis of the relevant legal framework with recommendations were developed and trainings were conducted for representatives of local self-government units and engineers in order to improve accessibility in local self-government units.

Conducting an investigation on a complaint from a person with a disability, the Protector of Citizens determined that the Yugoslav Cinematheque prevented her from exercising her right to access the institution's cultural content, by not responding to her repeated requests regarding the provision of free tickets for film screenings from the Cinematheque's repertoire. The recommendations of the Protector of Citizens⁹² issued to this cultural institution state, among other things, that it is necessary for the Cinematheque to respond to every request of citizens in a timely and reasoned manner, and that all employees must act in accordance with the principles of good governance – professionally, ethically and correctly. The Cinematheque acted in accordance with the recommendations of the Protector of Citizens.

In a control investigation of the work of the Secretariat for Property and Legal Affairs of the City Administration of the City of Belgrade, the Joint

⁹² Act of the Protector of Citizens, ref. no. 25951 dated 30th September 2021. Available at: <https://ombudsman.rs/attachments/article/7242/Preporuka.doc>.

Commission for solving the housing needs of participants of the national liberation war, military disabled people and members of the families of fallen and dead soldiers and war military disabled people and the Commission for Housing Issues of the Belgrade Mayor, launched upon a complaint of a person with a disability, the Protector of Citizens determined that the competent commissions acted illegally and did not respect the final decision of the Republic Pension and Disability Insurance Fund, which recognized the time that the complainant spent in war as a separate working service of double duration. It was also determined that four times they did not act in accordance with the judgments and binding legal solutions of the Administrative Court which annulled their decisions to reject the complaint of the complainant and that they did not take adequate measures to decide on the request for exercising the complainant's rights within legal deadline. After issuing recommendations to the competent authorities⁹³, the newly formed Commission for Housing Issues of the Belgrade Mayor adopted the complainant's objection to the Preliminary Ranking List and determined the appropriate number of points to the complainant on the grounds of participation in armed actions, thereby acting in accordance with the recommendations of the Protector of Citizens.

The Protector of Citizens supported the initiative of the "Bolji sluh" Association and the Association of the deaf and hard of hearing of Serbia in the part related to the amendments to the Rulebook on medical devices and technical aids provided from compulsory health insurance funds, in order to change the indication for hearing aids, code 192, in a way that only hearing impairment is prescribed and that the condition that the aid is necessary for performing work on the basis of which the person is health insured is deleted. The Republic Health Insurance Fund informed the Protector of Citizens that the Working Group for amending the Rulebook in question⁹⁴ assessed the mentioned initiative as justified.

The representative of the Protector of Citizens participated in several online meetings of the Working Group of the European Network of National Human Rights Institutions for the implementation of the United Nations Convention on the Rights of Persons with Disabilities (ENNHRI CRPD WG), where she presented the activities of the Protector of Citizens on improving the position of persons with disabilities in the Republic of Serbia.

⁹³ Act of the Protector of Citizens, ref. no. 23170 dated 26th August 2021. Available at: <https://www.ombudsman.rs/attachments/article/7209/Утврђење%20и%20препорука%20Заштитника%20грађана.pdf>.

⁹⁴ At the meeting held on 14th December 2021.

Rights of the elderly

The practice of the Protector of Citizens shows that there are homes for the elderly that do not meet the prescribed conditions for work, do not have appropriate licenses and work permits, or have lost their work licenses, were banned from working by the social welfare inspectorate, and even though the Ministry of Labour, Employment, Veteran and Social Affairs undertook measures, still continue to work and receive beneficiaries. By performing unprofessional work, they are violating the guaranteed rights of the elderly accommodated in such institutions. The Protector of Citizens initiated control investigations into the work of the competent Ministry in connection with this problem, which are still in progress.

After learning from the media about the poor health of an elderly person without family care, to whom neither the Centre for Social Work of Novi Sad nor the emergency medical services provided the necessary assistance and protection, the Protector of Citizens launched an own-initiative investigation against the competent authorities. After a series of consultations with the competent authorities, the Protector of Citizens was informed that the elderly woman was placed in a hospital and then in a social welfare institution. In order to rectify the identified shortcomings, bearing in mind that this case showed that there is a systemic problem of placing beneficiaries in social welfare institutions during the COVID-19 pandemic, and that no alternative accommodation is provided, the Protector of Citizens issued recommendations⁹⁵ to the competent authorities, which were acted on. Among other things, the Assembly of the City of Novi Sad made a decision to expand the capacity of the Shelter for adult and elderly homeless persons in Futog, and the construction of the new facility will ensure more complete satisfaction of the needs of beneficiaries in crisis situations.

Expressing support for the drafting of the United Nations Convention on the Rights of the Elderly, the Protector of Citizens signed a Joint Statement ahead of the 11th session of the United Nations Open-ended Working Group on Aging (UN OEWSGA)⁹⁶, and also signed an Open Letter dedicated to strengthening the protection of the human rights of the elderly, which was presented at the 48th session of the United Nations Human Rights Council held in September last year.

⁹⁵ Act of the Protector of Citizens, ref. no. 2395 dated 28th January 2022. Available at: <https://ombudsman.rs/attachments/article/7021/Preporuka%20NS.doc>.

⁹⁶ Held in the period from 29th March to 1st April 2021.

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

Although according to Article 17, paragraph 3 of the Law on the Protector of Citizens, the Protector of Citizens is not authorized to control the work of the National Assembly and the Government, the Protector of Citizens believes that it would be useful for these authorities to consider its proposals.

- **The Government** should implement an economic policy that does not endanger the rights of persons with disabilities and the elderly and provide a sufficient number of health workers, professional workers in social welfare institutions and professional associates in education institutions, that responds to the needs of vulnerable citizens;
- **The Government** should, in cooperation with other competent authorities, conduct a comprehensive analysis of the situation, needs and opportunities of beneficiaries of social protection services, adopt a clear and precise plan for conducting the process of deinstitutionalization in the Republic of Serbia and implement it systematically and fully throughout the entire country;
- **The Government** should intensify activities to establish an adequate system of community-based services, in particular family support services, support services in gaining independence and family and family-based alternative care services;
- **The Government** should provide a financially sustainable system of services and support services for persons with disabilities and the elderly;
- **The Government** should create a legal framework and other preconditions for establishing an accurate and complete register of persons with disabilities;
- **The Government** should, through legislative and other measures, improve the professional rehabilitation and encouragement of employment of persons with disabilities and include a larger number of persons with disabilities in the labour market;
- **The Government** should prepare and submit to the National Assembly draft laws that introduce the institute of supported decision-making and extinguishes the possibility of complete deprivation of legal capacity;
- **The Government** should improve the prevention and protection of persons with disabilities and the elderly from violence and abuse, with a focus

on women with disabilities and older women, which includes the development of accessible protocols on the prevention of violence, abuse and exploitation, especially in social protection and health care institutions, it should implement trainings for groups for coordination and cooperation on the specifics of violence to which persons with disabilities are exposed, especially women with disabilities, and it should make shelters for women victims of domestic violence (safe houses) and all other services for victims of violence accessible to women with disabilities and older women;

- **The Ministry of Labour, Employment, Veteran and Social Affairs, the Ministry of Health, the Provincial Secretariat for Social Policy, Demography and Gender Equality and the Provincial Secretariat for Health** should establish a service with a social-health character, in accordance with the law;
- **Local self-government units** should establish, maintain and develop services in the community in accordance with the needs of persons with disabilities and the elderly;
- **Local self-government units** should enable persons with disabilities to freely receive information intended for the public in an appropriate form and through appropriate technology, as well as provide financial means and other conditions for the work of local media that publish information in sign language or Braille or otherwise enable members of this vulnerable group to exercise their right to public information without hindrance;
- **Local self-government units** should provide a sign language interpreter who will enable deaf persons to use sign language in proceedings before all state administration authorities established by the local self-government;
- **Local self-government units** should, when amending the regulations governing the organization of public transport at the local level, introduce accessibility of means of transportation as a condition for performing activities in public transport and provide transportation services to passengers with disabilities until full accessibility of public transport is achieved;
- **Competent authorities** should ensure that healthcare facilities, social protection and education institutions, police stations, administrative authorities, judicial authorities and all other facilities in public use are fully accessible to persons with disabilities.
- **Authorities responsible for maintaining and updating electoral rolls and authorities responsible for conducting elections** should enable unhindered exercise of the right to vote and the right to direct expression and decision-making for persons with disabilities.

4.3. RIGHTS OF NATIONAL MINORITIES

STATISTICS

In the area of the rights of national minorities, the Protector of Citizens considered 44 cases⁹⁷ in 2021, of which there were 43 citizens' complaints and one own-initiative investigation. Out of the 44 cases considered, the Protector of Citizens completed work on 35 cases. In 2021, work was completed on seven cases from previous years. Cases in this area make up almost 1% of the total number of cases considered in 2021.

The Protector of Citizens issued five recommendations to the administrative authorities, which are still within the deadline for action in the reporting period. The cases considered in the reporting period, the outcome of the handling of completed cases and the outcome of the handling of recommendations are shown in the tables below.

Table 20 – Overview of the considered cases in 2021

Number of cases in 2021	44	%
Number of completed cases in 2021	35	79.55%
Number of cases in progress in 2021	9	20.45%

Table 21 – Outcome of the handling of recommendations

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations
5	0	N/A

Table 22 – Outcome of the handling of completed cases in 2021

	number	percentage
1. Inadmissible complaints	17	48.57%
1.1 Incompetence	12	70.59%
1.2. Unused legal remedies	3	17.65%
1.3. Formally deficient complaint	2	11.76%
2. Informed and advised complainant	10	28.57%
3. Unfounded complaints	6	17.14%

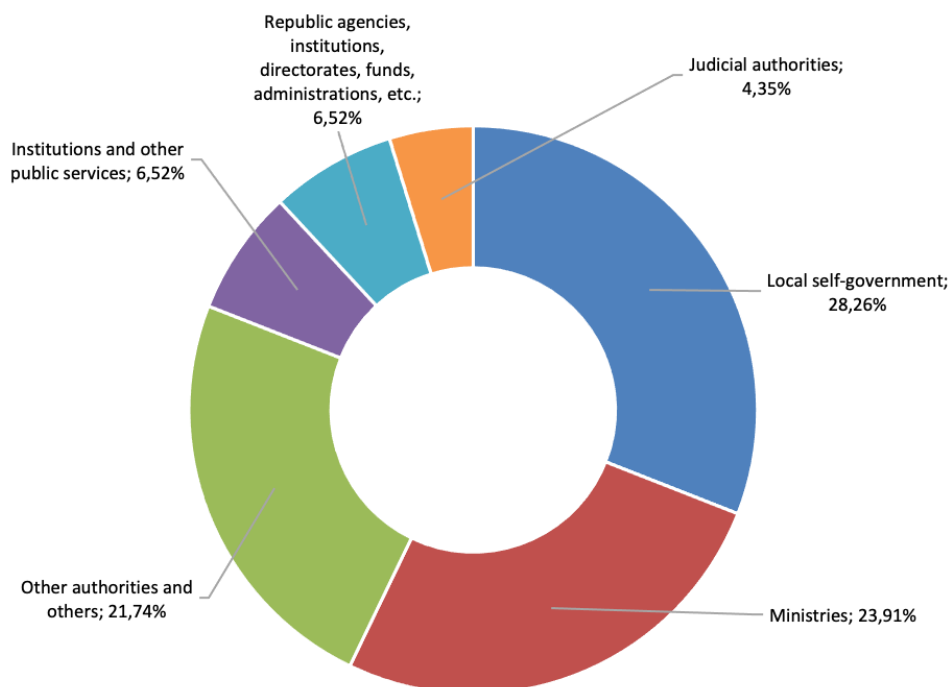
⁹⁷ A case is considered to be any case that arises from the handling of complaints and from own-initiative investigations in a particular area/department

4. Cases covered by recommendations arising from the control investigation	1	2.86%
5. Cases closed with recommendations from the expedited control investigation	1	2.86%
Total	35	100%

The Protector of Citizens rejects the largest number of received complaints because the legally prescribed conditions for acting on them were not met. Complaints are rejected due to lack of competence, untimeliness, prematurity, anonymity and formal deficiency. In 88.24% of rejected cases (17) in this area, the Protector of Citizens referred the complainant to the competent authority or advised him/her on the available legal remedies.

In the area of the rights of national minorities, in 44 cases, 50 violations of rights were pointed out, most of which relate to special rights in the area of national minority rights: special rights of Roma, prohibition of discrimination and the right to exercise competences of the national councils of national minorities.

Chart 6 – Categories of authorities and organizations whose work citizens most often complained about in the area of national minority rights



ACTIVITIES OF THE PROTECTOR OF CITIZENS

The Protector of Citizens continues to monitor the handling of the recommendations from the special reports on national councils of national minorities and the conditions in Roma settlements during the state of emergency.

In previous years, the Protector of Citizens was addressed, to a greater or lesser extent, by members of almost all national minorities whose language is in official use, except for members of the Bulgarian national minority who have not filed any complaints in this area. This situation was a signal to the Protector of Citizens to collect data from the field, control the practice of the competent municipal services and conduct interviews with representatives of the National Council of the Bulgarian National Minority and employees in municipalities where the Bulgarian language is in official use, in order to prevent possible problems it has encountered in this area before. The Protector of Citizens also tried to find out how much members of the Bulgarian national minority are informed about their rights regarding the official use of language and script, that is, whether citizens from the Bulgarian community have access to information about the right to use their language before administrative authorities, and the right to have their personal name entered on documents and acts issued to them in the Bulgarian language.

The results of the research showed that, although there are no legal obstacles or obstacles in the conduct of local services for members of the Bulgarian national minority to submit a request for administrative proceedings in their own language, there were no such submitted requests in any of the local self-government units in which Bulgarian is in official use for the period from January 2019 to May 2021.

The right to register a personal name in the Bulgarian language and script is almost not exercised, and there were no requests for basic or regular registration of a name in the records in any of the local self-government units covered by the research, while there were only eleven submitted requests for subsequent registration of a personal name, in Dimitrovgrad.

When it comes to the registration of surnames in the female form, with the appropriate suffix ending in A, 19 requests were recorded: 14 in Bosilegrad, three in Vranje and two in Surdulica. It is certainly encouraging that the practice of the registry offices has been significantly improved in all municipalities, especially in municipalities where the Bulgarian language is not in official use⁹⁸, and that there are no obstacles to exercising the right to register a personal name in the language of a national minority.

⁹⁸ Surdulica, Pirot and Vranje.

Also, in relation to the previously collected data on the conduct of employees in maternity wards who perform work of the registration of the birth of a child, the results of the research indicate progress in the registration of births. All employees in maternity wards interviewed by the Protector of Citizens showed a high level of training when it comes to the registration of the birth of children for which parents want their personal name to be entered in the language of a national minority and they all have established procedures in case of such requests.

What should be pointed out and what is common to all local self-government units included in this research is that none of them prominently pointed out the necessary information on the right of members of national minorities to conduct proceedings before administrative authorities in their own language where it is in official use, nor the information on the right to register a personal name in the language and script of the national minority.

Although in all local self-government units, representatives of the city and municipal administration point out that they orally inform the parties about these rights, it remains unclear whether they provide such information to all parties. Therefore, the Protector of Citizens emphasizes again that it is necessary for these notices to be displayed in prominent places in the building of the city or municipal administration (bulletin boards), but also to be available on the Internet presentations of the city and the municipality.

Regarding the display of boards with the names of municipalities, authorities, settlements, streets and other toponyms, the Protector of Citizens notes that there is a noticeable improvement in this area, that funds for the replacement of boards are planned in the budget and that the replacement of boards without bilingual inscriptions is performed regularly.

Although all those interviewed in this research agreed that members of the Bulgarian national minority are aware of their rights in the field of official use of language and script, as well as of the right to register a personal name in Bulgarian language and script, it still seems that local self-governments need to make additional efforts to further promote this right among citizens in the local environment.

Also, the representatives of the National Council of the Bulgarian National Minority pointed out that they did not conduct a campaign and other promotional activities in order to better inform the members of their community about the rights in these areas, so it is certainly important that they plan such activities in the future. Based on the analysis of collected data and documentation in the research, the Protector of Citizens, with the support of the OSCE Mission to Serbia, prepared a Special Report on the official use of

the Bulgarian language and script, which was presented to the public on 1st November 2021⁹⁹ in Bosilegrad.

In order to improve the work of the competent authorities and exercise the rights of members of the Bulgarian national minority, the Protector of Citizens issued recommendations to the Ministry of Public Administration and Local Self-Government and the local self-government units. The competent Ministry acted on the recommendation of the Protector of Citizens before the deadline, meaning that all registry offices were sent an instruction to display a notice regarding the registration of a personal name in the language of a national minority and according to the orthography of that language.

During the reporting period, the Protector of Citizens received several complaints from national councils of national minorities in which the problems in the application of the Law on National Councils of National Minorities were pointed out.¹⁰⁰ The received complaints indicate that there are still problems in exercising the powers of the national councils of national minorities, which the Protector of Citizens pointed out in the previous reporting period as well.¹⁰¹

Namely, the national councils pointed out that they have problems in exercising their powers in the area of education. For example, the National Council of the Bosniak National Minority sent a complaint to the Protector of Citizens stating that local self-government units do not respect the opinions and proposals that the National Council is authorized to give in the field of education¹⁰². The handling of the complaint is still in progress.

Also, the Protector of Citizens received complaints from the National Council of the Croatian National Minority and the National Council of the

⁹⁹ Available at: <https://ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/7286-p-s-b-n-izvsh-sluzb-n-up-r-bi-bug-rs-g-zi-i-pis>.

¹⁰⁰ "Official Gazette of RS", no. 72/09, 20/14 – CC decision, 55/14 and 47/18.

¹⁰¹ In 2020, the Protector of Citizens published a Special Report of the Protector of Citizens Analysis of the situation in the field of exercising public authority of national councils of national minorities for the period 2014-2018, in which he pointed out the obstacles faced by national councils in exercising their powers and issued recommendations for improving the established situation.

¹⁰² According to the Law on National Councils of National Minorities, when it comes to institutions of preschool, primary and secondary education, founded by the republic, autonomous province or local self-government unit, in which educational work is performed in the language of the national minority, or in which language/speech of a national minority with elements of the national culture is studied as a separate subject, the national council participates in the management of such institutions. Managing these institutions is achieved by giving opinions on the proposed candidates for members of the administrative, or the school board; proposing members of the board of directors and the school board; giving opinions on candidates for directors of institutions and giving opinions in the procedures of dismissal of directors.

Bosniak National Minority stating that the Ministry of Education, Science and Technological Development approved a Serbian language textbook for the eighth grade of primary school in which the existence of the Croatian and Bosnian languages is denied. In this regard, the Protector of Citizens issued a recommendation asking the Ministry of Education, Science and Technological Development to withdraw that textbook from use by the beginning of the 2022/23 school year¹⁰³. The handling of these complaints is still in progress.

The Protector of Citizens also reminds on this occasion that the Republic of Serbia accepted the European Charter for Regional or Minority Languages (1992) and ratified it with the Law on Ratification of the Charter for Regional or Minority Languages¹⁰⁴, which made this document part of the legislation that concerns the protection of the rights of members of national minorities. With the mentioned multilateral agreement, the Republic of Serbia accepted the Croatian and Bosnian languages as minority languages, which it is obliged to protect and to undertake activities for the purpose of their improvement.

In this reporting period as well, the Protector of Citizens monitored the exercise of the rights of the Roma community, as a particularly vulnerable category of the population. In accordance with the long-standing practice, the representatives of the Protector of Citizens monitored the exercise of the rights on the field and made visits to Roma settlements.

At the end of 2020, the Protector of Citizens, acting as a mediator, talked with the residents of the informal settlement "Vijadukt" in Resnik about the conditions for resolving the issue of their housing and eviction from that location.¹⁰⁵ The Protector of Citizens joined this process by investigating the complaint of citizens from the "Vijadukt" settlement in order to protect their rights and resolve their housing issues in accordance with applicable regulations, especially taking into account the needs of the displaced residents. The Protector of Citizens monitored the displacement in all phases until its completion, and representatives of the Ministry of Construction, Transport and Infrastructure, the City of Belgrade and the company "Corridors of Serbia" also participated in the consultations conducted with the residents of the settlement. The Protector of Citizens concluded that the resettlement and the process of providing housing for the inhabitants of the "Vijadukt" settlement was completed in January 2021, that their human rights were respected and the demands they made accepted.

¹⁰³ Available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/7326-inis-rs-v-pr-sv-d-p-vuc-sp-rni-udzb-ni-iz-srps-g-zi>

¹⁰⁴ "Official Gazette of Serbia and Montenegro – International Treaties", number 18/05.

¹⁰⁵ Available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/6883-z-sh-i-ni-gr-d-n-n-dzir-is-lj-v-nj-s-n-vni-iz-n-f-r-ln-g-n-s-lj-u-r-sni-u>.

In May 2021, the Protector of Citizens also monitored the displacement of residents from the suburban settlement of Rakovica selo¹⁰⁶, which is located in a place where the construction of the route of the international highway E-75 is planned. The largest number of residents of Rakovica selo accepted the offer to be paid compensation for their residential facilities, and the Protector of Citizens mediated until the end of the resettlement of citizens living in this settlement and performed oversight over the work of competent authorities, in order for the guaranteed rights of citizens living there to be achieved and their demands respected.

In October 2021, the implementation of activities envisaged by the Agreement of Understanding between the Ministry of Public Administration and Local Self-Government, the Protector of Citizens and the United Nations High Commissioner for Refugees (UNHCR) was completed. The Agreement of Understanding was signed on 3rd October 2019 in order to address the problem, that is, register the members of the Roma national minority who may not be registered in the birth register, as well as to exercise other rights from their personal status with special reference to new-borns, in order to prevent risks of statelessness.

Activities within the implementation of the Agreement of Understanding were carried out according to the planned dynamics. Four round tables were held through the Zoom platform on the importance of mutual coordination of participants in the process of registration in the birth register, especially in cases of registration of children whose mothers do not have personal documents. Representatives of the Protector of Citizens participated as lecturers at round tables with over 350 participants – authorized persons in health care institutions, that is, maternity wards, who work on birth registration, registrars, police officers, employees in centres for social work, free legal aid providers and commissioners for refugees.

¹⁰⁶ Available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/6883-z-sh-i-ni-gr-d-n-n-dzir-is-lj-v-nj-s-n-vni-iz-n-f-ln-g-n-s-lj-u-r-sni-u>.

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

- **The Ministry of Human and Minority Rights and Social Dialogue, in cooperation with other competent authorities,** should organize trainings for members of national councils of national minorities in order to increase professional capacities and improve the work of the councils;
- **The Ministry of Public Administration and Local Self-Government and the Ministry of Human and Minority Rights and Social Dialogue** should organize information campaigns at the national level on rights in the field of official use of languages and scripts of national minorities;
- **The Ministry of Public Administration and Local Self-Government and the Ministry of Human and Minority Rights and Social Dialogue,** in cooperation with other competent authorities, should conduct trainings for employees in local self-government units on the application of the Law on National Councils of National Minorities;
- **All local self-government units** should display a notice regarding the entry of a personal name in the language and script of a national minority on a bulletin board, as well as on the websites of their cities, that is, municipalities.

4.3. RIGHTS OF PERSONS DEPRIVED OF LIBERTY

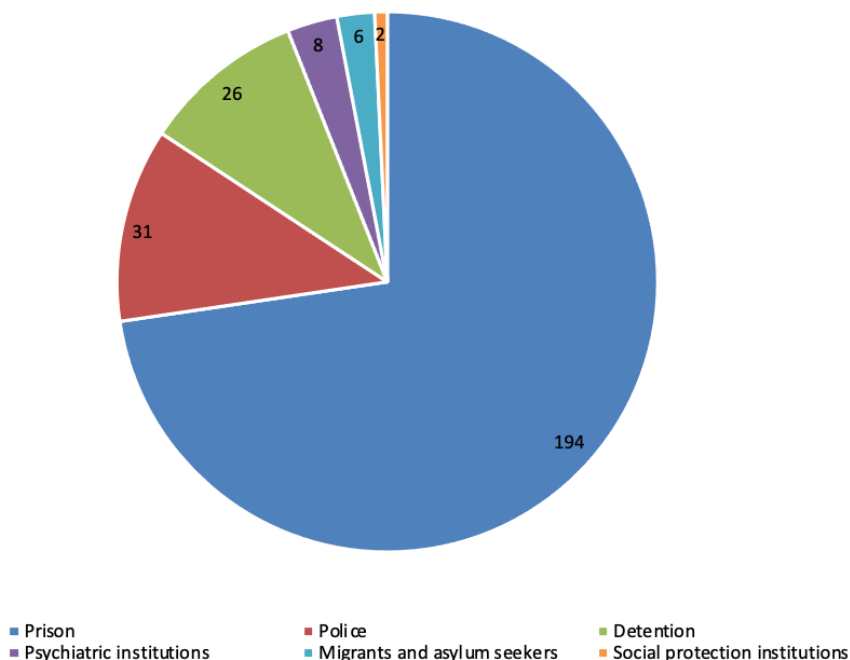
STATISTICS

In the area of the rights of persons deprived of their liberty, the Protector of Citizens considered 275 cases in 2021¹⁰⁷, of which there were 267 complaints from citizens and eight own-initiative investigations. Out of the 275 cases considered in 2021, the Protector of Citizens completed work on 261 cases. In 2021, work was completed on 95 cases from previous years.

Cases in this area make up 6.11% of the total number of cases considered in 2021, specifically: 194 complaints about the treatment of persons who were serving a prison sentence, 26 complaints about the treatment of persons who were in custody, 31 complaints about the treatment of persons in custody and persons towards whom police powers were applied, eight complaints about the treatment of persons undergoing treatment in psychiatric institutions, seven complaints about the treatment of migrants and asylum seekers and two complaints about the treatment of persons undergoing treatment in social welfare institutions.

The Protector of Citizens issued 30 recommendations to administrative authorities, of which 17 were due for execution in the reporting period. Out of that, the administrative authorities accepted 16 recommendations, which makes up 94.12% of the accepted recommendations. The cases considered in the reporting period, the outcome of the handling of completed cases and the outcome of the handling of recommendations are shown in the chart and tables below.

¹⁰⁷ A case is considered to be any case that arises from the handling of complaints and from own-initiative investigations in a particular area/department.

Chart 7 – Overview of received cases**Table 23 – Overview of the considered cases in 2021**

Number of cases in 2021	275	%
Number of completed cases in 2021	261	94.91%
Number of cases in progress in 2021	14	5.09%

Table 24 – Outcome of the handling of recommendations

Number of issued recommendations	Number of due recommendations	Number of accepted recommendations	% accepted due
30	17	16	94.12%

Table 25 – Outcome of the handling of completed cases in 2021

	number	percentage
1. Inadmissible complaints	167	63.98%
1.1. Unused legal remedies	75	44.91%
1.2. Incompetence	66	39.52%
1.3. Formally deficient complaint	20	11.98%

1.4. Anonymous complaint	2	1.20%
1.5. Untimeliness	2	1.20%
1.6. Unauthorized complainant	2	1.20%
2. Unfounded complaints	76	29.12%
3. Informed and advised complainant	8	3.07%
4. Cases covered by recommendations arising from the expedited control investigation	5	1.92%
5. Withdrawal of the complainant	3	1.15%
6. Cases covered by recommendations arising from the control investigation	1	0.38%
7. Death of the complainant	1	0.38%
Total	261	100%

The Protector of Citizens rejects a number of received complaints because the legally prescribed conditions for acting on them are not met. Complaints are rejected due to lack of competence, untimeliness, prematurity, anonymity and formal deficiency.

A very important segment of the handling of complaints of the Protector of Citizens is the provision of advisory and legal assistance, which the Protector of Citizens provides even when it rejects a complaint due to lack of competence or prematurity. Such advisory assistance was provided to citizens in 84,43% of rejected cases (167) in this area. The Protector of Citizens referred the complainant to the competent authority or advised him/her on the available legal remedies.

ACTIVITIES OF THE PROTECTOR OF CITIZENS

The institutions where persons deprived of their liberty are located, and against which the Protector of Citizens conducted control investigations, have achieved good cooperation with this independent state body, thereby enabling unhindered exercise of competencies in protecting the rights of persons deprived of their liberty, through control of the work of administrative authorities.

Taking into account the handling of the recommendations from the previous reporting period, as well as the handling of recommendations issued in this reporting period, the Protector of Citizens notes that the competent authorities mostly acted on the recommendations issued. This especially refers to the Ministry of Interior and the Administration for the Enforcement of

Penal Sanctions, which, in accordance with the good practice so far, as a rule, act according to the recommendations of the Protector of Citizens. However, the Protector of Citizens noted that in one case, sanctions against the police officers against whom disciplinary proceedings were initiated were inadequate, having in mind the gravity of the violation of official duty as well as the facts established by the Protector of Citizens in the control investigation, and that in another case, the statute of limitations for initiating disciplinary proceedings has expired, which is why the Protector of Citizens indicates the need to take necessary actions to prevent such conduct in the future and thus contribute to building a culture in which punishments are imposed for the illegal and improper conduct.

After the performed control investigation into the work of the Ministry of Interior, the Police Directorate, the Police Administration of Novi Sad, which the Protector of Citizens conducted on his own initiative in 2020, and in which it identified shortcomings in the actions of police officers of the Stari Grad Police Station, which consist of illegal and incorrect, that is, delayed, unscrupulous and inefficient conduct while working on solving a crime, that is, the failure to take the necessary measures and actions in order to resolve the case and find the perpetrator of the criminal offense, and in this regard issued recommendations to the competent authorities¹⁰⁸ in order to eliminate the observed irregularities, the Ministry of Interior informed the Protector of Citizens that it acted on all recommendations. In addition to initiating disciplinary proceedings, all police officers of the Stari Grad Police Station were pointed out omissions in their work, which were noted in the recommendations of the Protector of Citizens, in order to eliminate the possibility of their recurrence in the performance of official duties, and the Police Directorate informed all organizational units about the content of the recommendations, with a note that in future work, conditions must be provided to allow actions which are in accordance with legal regulations and principles of performing police work, as well as the lawful and proper undertaking, without delay, of the measures and actions which are necessary to resolve criminal offenses and find the perpetrators.

After the conducted control investigation into the legality and regularity of work of the Ministry of interior launched by the Protector of Citizens on his own initiative in the previous reporting period, during which it was determined, among other things, that some members of the Ministry of Interior, during the protests in July 2020 in Belgrade and Novi Sad, acted illegally and improperly towards individual citizens, in which way their right to inviolability of physical and mental integrity and the right to dignity were violated, the Protector of

¹⁰⁸ Available at: <https://ombudsman.rs/attachments/article/6890/Preporuka.docx>.

Citizens issued recommendations¹⁰⁹ in order to eliminate the identified shortcomings, in order to improve the work of administrative authorities and prevent similar omissions in the future. All issued recommendations were acted on, with a note that the recommendation that the Ministry of Interior should ensure that all police officers have prominent identification marks when dealing with citizens, that is, when applying police powers, on the basis of which it is possible to easily identify any officer who treats citizens, is accepted and implemented in the text of the new Law on Internal Affairs, which was withdrawn from the procedure after the end of the public debate.

In one control investigation, the Protector of Citizens determined that the police officers of the Police Administration for the City of Belgrade, after receiving a notification from a health institution that there was a minor in it who had injuries, who claimed that the police officers had inflicted them, did not without delay inform the public prosecutor on duty and make an official note about it. The Protector of Citizens also determined that a complaint procedure was conducted on the complaint of the mother of the minor, which in its entirety contains allegations of commission of a criminal offense for which prosecution is undertaken ex officio, as well as a position on the merits of that complaint, even though, according to current regulations, in such cases, the entire case file is referred to the competent public prosecutor. After identifying shortcomings in the work, the Protector of Citizens issued recommendations to the controlled authority¹¹⁰ that police officers, who receive a notification from a health institution that there is a person in it who has been found to have injuries, who claims they were inflicted by police officers, should without delay inform the public prosecutor on duty about it and make an official note, as well as that the Ministry of Interior should organize and conduct trainings for police officers of the Police Administration for the City of Belgrade on the conduct of police officers upon learning or receiving such allegations of citizens, in order to ensure the conduct of police officers in accordance with applicable regulations and the Methodology for conducting investigations into cases of ill-treatment by the police. Also, the Protector of Citizens issued a recommendation that the complaints procedures on complaints which in their entirety relate to the commission of a criminal offense for which prosecution is undertaken ex officio, should not be conducted, nor should positions be taken on their merits. All the above-mentioned recommendations were acted on.

¹⁰⁹ Available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/6974-u-vrdi-i-dg-v-rn-s-z-n-z-ni-i-n-pr-viln-p-s-up-nj-p-lici-s-ih-sluzb-ni>.

¹¹⁰ Available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/7055-z-sh-i-ni-gr-d-n-u-vrdi-n-d-s-u-r-du-p-lici-s-upr-v-z-gr-d-b-gr-d-n-sh-u-pr-v-l-l-n-g-lic>.

The Protector of Citizens found the same shortcoming during the control investigation into the work of the Sombor Police Administration as well, since the police officers failed to inform the public prosecutor on duty without delay that a citizen has been found to have injuries in a health institution, who during the medical examination claimed they were inflicted by police officers. Also, in that investigation, it was determined that the Internal Control Sector failed to submit an official note on the notification received from the citizen to the public prosecutor on duty without delay, together with the documentation submitted on that occasion. This was done only after 11 days, and the public prosecutor's office received the files 15 days after the citizen had reported to the Internal Control Sector that he had been beaten at the police station. Accordingly, the Protector of Citizens, among other things, issued recommendations¹¹¹ regarding the need for the Ministry of Interior to organize and conduct trainings for police officers on the conduct of police officers upon receipt of a notification from a health institution that there is a person in it who has been found to have injuries, who claims they were inflicted by police officers, in order to ensure the conduct of police officers in accordance with applicable regulations and the Methodology for conducting investigations into cases of ill-treatment by the police, as well as trainings for police officers of the Internal Control Sector on the handling of cases of investigation of alleged ill-treatment by police officers. The Police Administration of Sombor acted on the recommendations issued, while regarding the recommendation sent to the Internal Control Sector, the Protector of Citizens will closely monitor the implementation of the recommendation and further actions of the Sector.

In this reporting period, the Protector of Citizens ended the control investigations into the work of the Ministry of Interior that were initiated in the previous reporting period based on citizens' complaints about illegal actions of the police, that is, the excessive use of force during the protests in July 2020. In one of the mentioned investigations, the Protector of Citizens determined that due to illegal conduct of police officers during the July 2020 protests in Novi Sad, the right to inviolability of physical and mental integrity and the right to dignity of citizens was violated. In addition to the above, the Protector of Citizens in this particular case also identified irregularities in documenting the applied police powers. Given the importance of the identified shortcomings in terms of respect and protection of human rights, the Protector of Citizens issued recommendations to the Ministry of Interior¹¹²

¹¹¹ Available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/7101-z-sh-i-ni-gr-d-n-u-vrdi-n-d-s-u-r-du-p-lici-s-upr-v-s-b-r-i-s-r-unu-r-shnj-n-r-l-n-sh-u-pr-v-gr-d-nin-n-z-sh-i-u-d-zl-s-vlj-nj>.

¹¹² Act of the Protector of Citizens, ref.no. 36921 date 31st December 2021. Available at: <https://ombudsman.rs/attachments/article/7345/Preporuka%20MUP.docx>.

that in the future, all persons deprived of their liberty are to be treated in a manner that ensures full respect for the right to inviolability of physical and mental integrity and the right to dignity, and that all available measures and actions are to be undertaken to prevent the occurrence of any form of torture, inhuman or degrading treatment or punishment; citizens are to be informed about the possibility of exercising the right to the compensation of damages for the violation of his/her rights during the deprivation of liberty in Novi Sad; the Ministry of Interior is to conduct trainings for police officers of the Police Administration in Novi Sad on the applicable regulations and standards related to the treatment of persons deprived of their liberty, the application of police powers and the manner of documenting and recording them. In order to improve the conduct, the Protector of Citizens issued recommendations to the Police Administration in Novi Sad to enter all prescribed data accurately and completely in the decisions on the custody of persons, and that the time of custody, when the conditions for custody in misdemeanour proceedings are met, should be counted from the moment of the beginning of the application of the police power of apprehension, until the interruption or termination of custody, that is, until the person in custody is released; that a record of the custody should be made for each detained person, in which all prescribed data on the exercise of the person in custody's rights and the course of custody shall be entered, as well as that immediately upon learning that a doctor has found injuries on a person deprived of liberty, who claims they were caused by the police officers, the competent public prosecutor should be noticed about it, and an official note should be made about the mentioned notification. The deadline for deciding on the handling of the recommendation is currently underway.

On the other hand, in a number of cases, in the control investigations initiated upon the mentioned complaints of citizens, the Protector of Citizens could not fully determine the factual situation on the basis of which it would be able to assess the legality and regularity of the actions of the police in specific cases. This is especially due to the fact that the competent authorities, after learning about the events in question, did not immediately take urgent measures and actions that cannot be delayed, that is, the actions whose subsequent performance would be impossible or significantly hindered, and which relate primarily to obtaining videos from surveillance cameras that cover areas where cases of alleged abuse were reported or those areas for which there was information that police officers used coercive means within them, as well as bearing in mind that the reports on the use of coercive measures refer to unknown persons. Having in mind all of the above, the

Protector of Citizens, in its opinion¹¹³ sent to the Ministry of Interior, among other things, pointed out that it is necessary to improve the manner of application of the Methodology for conducting control investigations into cases of ill-treatment by the police and to make additional efforts to determine individual responsibility in the legally prescribed procedure for each individual case of abuse, and that responsible officials are to be appropriately sanctioned and victims compensated, in which way the Internal Control Sector and competent public prosecutor's offices would fulfil their role in the fight against impunity for torture and other forms of ill-treatment.

During 2021, the Protector of Citizens recorded a significantly lower number of citizens' complaints about the conduct of the police compared to the previous reporting period, especially with regard to the right to inviolability of physical and mental integrity. In this reporting period as well, as in the previous years, the largest number of received complaints from persons deprived of their liberty related to the rights of persons in institutions for the enforcement of penal sanctions. Complaints of convicted persons were mostly related to dissatisfaction with the health care and treatment. Complaints of detained persons, as in the previous reporting periods, mainly concerned the length of detention, the violation of the right to a trial within a reasonable time and the violation of the right to a fair trial¹¹⁴.

In one control investigation into the work of the Penal-Correctional Institution in Niš, the Protector of Citizens determined that there was a violation of the convict's right to health care, since he was not provided with the necessary medication in one period, since the institution did not act in accordance with the procedure of the Administration for the Enforcement of Penal Sanctions for the provision of medicines necessary as a therapy for all persons infected with HIV who are serving a prison sentence, a detention measure or a security measure. Having that in mind, the Protector of Citizens issued a recommendation to the Penal-Correctional Institution in Niš to provide the necessary medicines to all persons deprived of their liberty infected with HIV in a timely manner in its future work, as well as to act in accordance with the mentioned procedure¹¹⁵. This recommendation was acted on.

Although some proceedings are still underway, the impression is that, among the employees in the institutions for the enforcement of penal sanctions, the awareness of the inadmissibility of any form of ill-treatment has been enhanced and the Protector of Citizens did not establish that the

¹¹³ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/7355-p-r-bn-un-pr-di-i-n-cin-r-d-s-r-unu-r-shnj-n-r-l-up>.

¹¹⁴ Bearing in mind that the Protector of Citizens is not authorized to control the work of the courts, the complainants were instructed to contact the competent authorities in this regard.

¹¹⁵ Act of the Protector of Citizens, ref. no. 25894 dated 30th September 2021.

actions of a controlled administrative authority caused a violation of the right to inviolability of the physical and mental integrity of the complainant in any of the proceedings initiated on the basis of complaints from convicted or detained persons in 2021 until the date of this report.

As before, during the reporting period, the Protector of Citizens received a negligible number of complaints from persons deprived of their liberty against the work of psychiatric institutions and social welfare homes, but this cannot be considered a realistic indicator of the situation in terms of respect for the rights of persons deprived of their liberty. Also, no significant progress in the field of deinstitutionalization was observed during the reporting period.

In one control investigation into the work of the Special Hospital for Psychiatric Diseases "Dr Slavoljub Bakalović" in Vršac, the Protector of Citizens determined that the hospital did not act in accordance with the law when it kept the patient in accommodation and treatment in that institution for more than 30 days, without a legal basis. After receiving the revocation of consent for placement in a psychiatric institution, contrary to legal regulations, the procedure that regulates the process of detention without consent and accommodation without the consent of a person with a mental disorder in a psychiatric institution, if there were health reasons for that at the time, was not conducted. By failing to conduct the procedure in accordance with the law and to inform the court about the detention without consent, the Hospital denied the complainant the right that allows an independent authority – court, to issue a decision on his deprivation of liberty, after conducting objective expertise and after hearing the person, in a procedure in which that person could use the right to professional legal assistance and to the submission of regular legal remedies prescribed in case of involuntary hospitalization. Having in mind the identified shortcomings in the work of the controlled body, the Protector of Citizens issued recommendations¹¹⁶ in order to determine the responsibility for illegal actions and prevent similar omissions in the future. The Protector of Citizens notes that most of the recommendations were acted on.

Using the legal authority to act preventively, by providing good services and mediation, the Protector of Citizens initiated a meeting aimed at improving cooperation between the Ministry of Labour, Employment, Veteran and Social Affairs and the Administration for the Enforcement of Penal Sanctions, bearing in mind that significant difficulties have been identified in practice regarding the provision of appropriate social reception for persons under the direct guardianship of centres for social work who are within

¹¹⁶ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/7321-sbpb-dr-sl-v-ljub-b-l-vic-u-vrshcu-vish-d-s-c-d-n-p-ci-n-z-drz-l-n-s-sh-u-i-l-c-nju-b-z-pr-vn-g-sn-v>.

the process of implementation of the security measure of compulsory psychiatric treatment and custody in a health institution, and for whom the medical reasons for further implementation of that measure have ceased.

After that, in one case, the Protector of Citizens closed the control investigation into the work of the Centre for Social Work "Solidarity" from Pančevo in connection with the actions of that body at the request of the Special Prison Hospital in Belgrade to provide adequate accommodation and care for a ward of that centre for whom a court procedure was underway regarding the proposal to suspend the security measure of mandatory psychiatric treatment and custody in a health institution, since the centre for social work provided its ward with appropriate accommodation in a social protection institution, about which it informed the competent court in a timely manner.

In the reporting period, some significant activities were undertaken at the normative level in the mentioned areas. The Protector of Citizens took part already in the phase of public debate, pointing out certain aspects that deserve special attention, having in mind the importance of the area regulated from the point of view of torture prevention and protection of the rights and freedoms of citizens, especially vulnerable groups, and sent opinions to the competent ministries on draft regulations.

The Law on the Protection of Rights of Beneficiaries of Temporary Accommodation Services under Social Protection was adopted, in which certain provisions were implemented or deleted, in accordance with the opinion of the Protector of Citizens on the Draft of that law. It is forbidden to apply all measures of coercion and treatment without the consent of the beneficiary, that is, the consent of the legal representative of the minor, and it is especially forbidden to use the measure of the restriction of movement and the separation of the beneficiary into a specially equipped room. However, the text of the adopted law lacks the legal regulation of the measures taken in incident situations. Instead, it is prescribed that the manner and closer conditions of the institution's actions in incident situations are prescribed by the minister in charge of social protection.

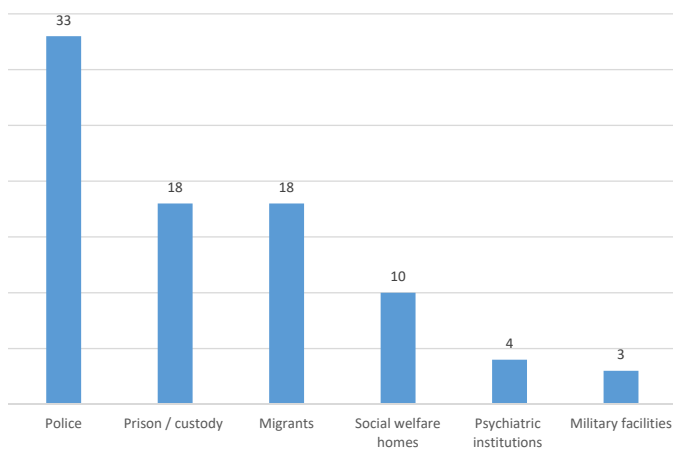
In the reporting period, the Protector of Citizens received two complaints concerning the position of migrants in the Republic of Serbia, that related to access to asylum and the conduct of police officers in the procedure of forced removal. In the first case, the Protector of Citizens did not determine any illegalities and irregularities in the work of the Border Police Directorate of the Ministry of Interior because the person was granted access to asylum, while in the second case, after the request for information on whether the decision to postpone the forced removal of a foreign citizen was considered in that particular case, this body was informed that the mentioned decision was issued.

4.5.1. NATIONAL PREVENTIVE MECHANISM

ACTIVITIES OF THE NATIONAL PREVENTIVE MECHANISM

During the reporting period, the National Preventive Mechanism (hereinafter: the NPM) conducted 86 visits to institutions which accommodate persons deprived of their liberty and 12 oversights of the procedures of forced removal of foreigners. 33 visits were conducted to police stations,¹¹⁷ 18 to institutions for the enforcement of penal sanctions,¹¹⁸ 10 to social welfare homes,¹¹⁹ four to psychiatric institutions¹²⁰ and three to military facilities.¹²¹ Also, 18 visits were conducted in order to monitor the treatment of refugees and migrants.¹²²

Chart 8 – NPM visits in 2021



¹¹⁷ PS Bački Petrovac, PS Sremski Karlovci, PS Čuprija, headquarters PD Zrenjanin, PS Žitište, PS Nova Crnja, headquarters PD Šabac, PS Bogatić, PS Vladimirci, headquarters PD Sombor, headquarters PD Kruševac, PS Čičevac, headquarters PD Niš, PS Merošina, PS Medijana, PS Palilula, PS Niš, PS Ražanj, PS Lebane, headquarters PD Leskovac, headquarters PD Novi Pazar, PS Velika Plana, PS Smederevo, PS Sopot, PS Mladenovac, PS Barajevo, PS Lazarevac, PS Surčin, headquarters PD Zaječar, headquarters of PD Bor, PS Negotin, PS Negotin and headquarters of PD Prokuplje.

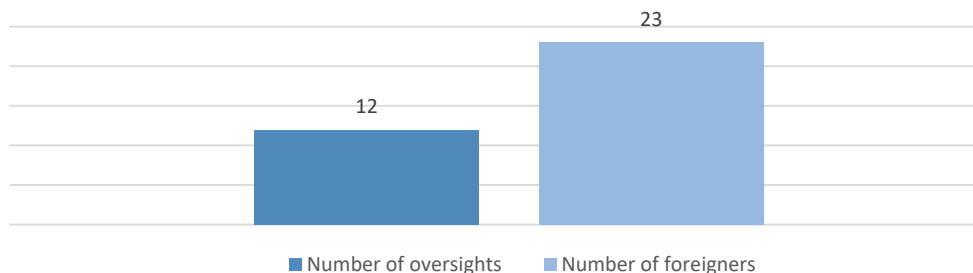
¹¹⁸ DP Novi Sad, DP Zrenjanin, PCI Čuprija, PCI for women Požarevac, Juvenile Correctional Facility Kruševac (2 times), PCI Šabac, PCI Sombor, DP Kruševac, DP Zaječar, DP Negotin, PCI Belgrade – Padinska Skela (2 times), DP Leskovac (2 times), PCI Niš, DP Smederevo and DP Prokuplje.

¹¹⁹ GC Belgrade – centres Bežanijska Kosa and Voždovac, GC Kruševac, GC Vršac, Stamnica Home, GC Novi Sad – Liman, Kolevka Home, Veternik Home, Trbunje Home and Zemun Home.

¹²⁰ Special Hospital Kovin, CC of Niš – Clinic for Psychiatry, GH Leskovac – Department of Psychiatry and CC of Niš – Centre for Mental Health Protection.

¹²¹ Barracks General Pavle Jurušić Šturm in Požarevac, barracks Vojvoda Petar Bojović in Leskovac and barracks Aleksandar Berić in Novi Sad.

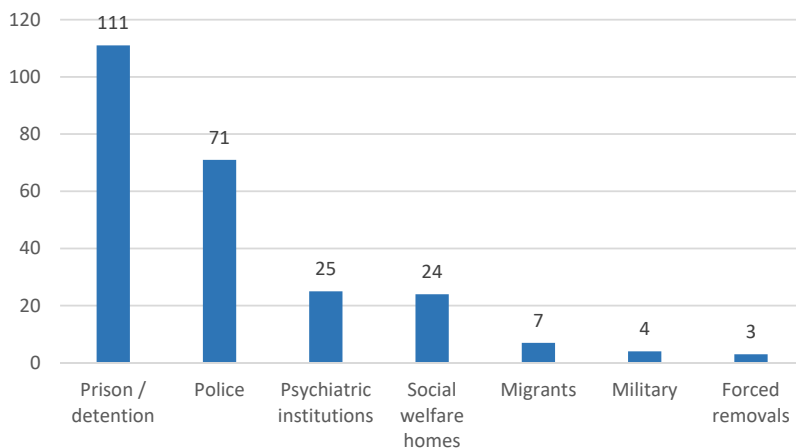
¹²² RC Bujanovac, RC Preševo, PS Bujanovac, RBPC Northern Macedonia, DP Vranje, Airport Niš, PCI Niš, RC Divljana, RC Pirot, PD Pirot, RBPC Bulgaria, RC Principovac, RC Šid, RBPC Croatia, PS Šid, RBPC for internal border crossings and Belgrade Airport.

Chart 9 – NPM oversight procedures of forced removals in 2021

During the reporting period, a total of 42 reports were made on the conducted visits. Two group reports were made regarding the oversight of the forced removal of foreigners.

In some cases, unified reports were prepared for several visited institutions, due to the need for a systematic consideration of a particular problem.

A total of 245 recommendations were issued, of which 242 were from the report on visits to places where persons deprived of their liberty are or may be accommodated, and three recommendations in the field of oversight of the forced removal of foreigners.

Chart 10 – NPM recommendations issued in 2021

In order to establish a continuous dialogue regarding the activities on the implementation of the NPM recommendations and the improvement of co-operation in the field of torture prevention, individual meetings were held in the reporting period with representatives of the Administration for the Enforcement of Penal Sanctions, Ministry of Interior, Ministry of Labour, Employment, Veteran and Social Affairs and the Ministry of Defence.

Representatives of the NPM participated in two meetings of the South Eastern Europe NPM Network chaired by the NPM of Hungary. The first meeting was dedicated to the realization of the mandate of the NPM in the conditions of the COVID-19 infectious disease pandemic, and the second to the techniques of interviewing vulnerable categories of persons deprived of their liberty.

Also, two meetings of the Asylum and Migration Working Group of the European Network of National Human Rights Institutions (ENNHRI) were held, in the work of which a representative of the NPM participates. The NPM participated in the ENNHRI project dedicated to the oversight of the treatment of migrants at the borders and submitted its contribution to the regional report. A representative of the NPM attended the regional training for forced return monitors, organized by the European Border and Coast Guard Agency (FRONTEX).

During the reporting period, the Deputy Protector of Citizens and the Head of the NPM participated in the work of the Board of the Independent Police Complaints Authorities' Network (IPCAN).

In terms of international cooperation, the NPM participated in numerous international conferences organized by the Council of Europe, the Association for the Prevention of Torture (APT), ENNHRI, which were organized online due to the COVID-19 infectious disease pandemic.

Representatives of the NPM had a meeting with a delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which visited the Republic of Serbia in March 2021.

In order to further improve efficiency during the visits of the NPM and develop a work methodology, the NPM, with the support of the Council of Europe, completed activities in the reporting period on the revision of the Methodology and the monitoring of the questionnaires which are used during the visits to the places of detention.

In the reporting period, the Protector of Citizens marked 10 years of work of the NPM. A short film and a publication on activities in the first 10 years of work were presented at the solemn event, which gathered representatives of international organizations, the Provincial Ombudsman, civil society organizations and state authorities, with which the NPM has achieved successful cooperation over the past decade.

FINDINGS OF THE NATIONAL PREVENTIVE MECHANISM

Taking into account the handling of the recommendations from the previous reporting period, in which it was determined that the facility "Pavilion IV" at the PCI Sremska Mitrovica is overcrowded and does not meet the conditions for the accommodation of convicts in accordance with the applicable regulations and standards, during later visits to this institution, the NPM determined that the PCI Sremska Mitrovica acted on the recommendations issued, and that it no longer accommodates convicts in this pavilion, as well as that the construction of a new pavilion for the accommodation of convicts has been completed.

Regarding the handling of the recommendations of the NPM after visits to the reception centres for migrants, the Commissariat for Refugees and Migration, acting on the issued recommendations, raised the capacity for accommodation in solid facilities and took measures to clean, disinfect and repair the existing facilities, and it improved the conditions for maintaining personal hygiene. Information on the possibility of submitting a complaint to the Protector of Citizens has been posted in all centres for the reception and care of migrants. The NPM was also informed that the employees of the Commissariat that work directly with migrants and asylum seekers have undergone appropriate courses and trainings, including those related to working with vulnerable groups, and that in case of the violation of the order, they will continue to inform the police, that is, they will not take action against the disturbers¹²³.

An overview of the actions of the competent authorities according to the recommendations of the NPM from the thematic reports on the oversight of the treatment of persons deprived of their liberty during public gatherings in Belgrade; application of the CPT's principles in the treatment of persons deprived of their liberty; treatment of psychoactive substance addicts and treatment of unaccompanied minor migrants are all presented in the Annual Report of the National Preventive Mechanism for 2020¹²⁴.

In the reporting period, the Ministry of Interior continued to improve the conditions for the stay of persons in custody in custody facilities, which significantly improved the material conditions for the stay of persons in custody. Also, activities were undertaken to equip the hearing rooms with equipment for audio and/or video recording of the hearing.

¹²³ Available at: https://npm.rs/index.php?option=com_content&view=article&id=934:извештај-о-посетама-прихватним-центрима-у-обреновцу-и-адашевцима-са-одговором-комесаријата-за-избеглице-и-миграције-о-поступању-по-препорукама-нпма&catid=112&Itemid=116.

¹²⁴ Available at: <https://npm.rs/attachments/article/1052/Godisnji%20izvestaj%20NPM%202020.pdf>.

During the reporting period, the NPM conducted visits to police administrations and police stations within them to conduct oversight of the treatment of apprehended and persons in custody regarding the respect of their fundamental rights, which are also a guarantee against abuse: the right to access a lawyer and a doctor, the right to inform a close person about the deprivation of liberty and the right to be acquainted with the rights. All conducted visits were unannounced, and the cooperation of police officers with the NPM team during all visits was complete and professional. Oversight of the treatment of persons in custody was also conducted during visits to institutions for the enforcement of penal sanctions, given the practice that, in some police administrations, the premises of these institutions are used for the detention of persons in criminal proceedings. Also, during the visits to the institutions for the enforcement of penal sanctions, the NPM conducted interviews with the detained persons, who were brought for the enforcement of that measure after the police custody, in order to collect information on the conduct of police officers towards them during their detention, as well as when applying other police powers.

Progress was noticed in terms of exercising the rights of apprehended and persons in custody, which is confirmed by the written documentation, the allegations of police officers in charge of dealing with apprehended and persons in custody, but also the numerous allegations of persons deprived of their liberty with whom the NPM conducted interviews. They stated that they were immediately informed, in a language they understood, about the reasons for their deprivation of liberty, about the charges against them, as well as about their rights, and that they were allowed to inform the person they want of their deprivation of liberty immediately after the deprivation of liberty and to hire a defence counsel. Also, the NPM did not encounter cases where persons who requested medical assistance before or during custody were not provided with it. The practice of police officers attending medical examinations as a rule has been discontinued, and medical records are no longer kept among other custody records.

Also, acting on the recommendations of the NPM, the records kept by police stations for persons in custody have been improved. During visits to police stations, the NPM increasingly found that information about the time of informing a close person about the deprivation of liberty is entered into the custody records, as well as a note that police officers attended a medical examination at the request of a doctor and the reasons why the person in custody refused to sign the custody records.

During the conducted visits, the NPM conducted interviews with over 100 persons deprived of their liberty, both the detained and persons in custody, on the conduct of police officers during the deprivation of their liberty,

during custody, and in the exercise of other police powers. In this regard, the fact that during these visits most of the interviewed persons did not complain about the conduct of police officers and the possibility of exercising their rights is encouraging, and after the inspection of the documentation, it was established that these rights are respected in most cases.

The NPM determined that the records on apprehended and persons in custody do not contain all the necessary data on the basis of which it is possible to determine the exercise of the right of access to a defence counsel, so it issued a recommendation to the Ministry of Interior to improve this, by undertaking the necessary activities to enter into the custody records of persons, that is, into the overview of data on the persons apprehended, data on whether the person wanted to hire a defence counsel of his/her choice, whether a defence counsel was assigned to him/her *ex officio*, when it is required by law and whether he/she had an uninterrupted conversation with the defence counsel, at the same time recording all relevant data on the exercise of this right: data on the defence counsel, on the time when he/she was contacted, the time when he/she approached the person apprehended and in custody and the time when he/she conducted an interview with the person. With the aim of further improvement in this area, in the coming period, the NPM will pay special attention to monitoring the handling of this recommendation and the manner of exercising the right of persons apprehended and in custody to access a defence counsel.

The Administration for the Enforcement of Penal Sanctions continued to invest in the material conditions for the accommodation of persons deprived of their liberty and to increase the capacity of the Administration for the Enforcement of Penal Sanctions. During the visits to the institutions for the enforcement of penal sanctions, special attention was paid to the manner of performing the first examination upon admission to the institution, bearing in mind the importance of the role that health care services play in the fight against abuse. Acting in accordance with the NPM's recommendations, the institutions improved the manner of documenting injuries, the public prosecutor's office is now informed about the signs that persons were treated violently, and non-medical staff stopped regularly attending medical examinations of persons deprived of their liberty.

The efforts of the Administration for the Enforcement of Penal Sanctions aimed at developing the capacities of institution officials for the development and implementation of new rehabilitation programs are encouraging, and in 2021 as well, the trainings of institution employees on the implementation of new specialized programs for group work with prisoners continued.

Compared to previous years, in the reporting period, acting on the recommendations of the NPM, some institutions developed a program of

employment for detainees, and there has been a noticeable progress in increasing the employment of convicted persons. However, this should be developed for the entire prison system, as there is still a need to provide all detainees and convicts housed in closed wards with sufficient available activities, as well as the possibility to stay during the day in common areas with other convicts, that is, detainees with whom the court did not limit their contact due to criminal proceedings.

In the reporting period, special attention was paid to the position of women and juveniles in detention institutions, so the Penal-Correctional Institution for Women in Požarevac and the Juvenile Correctional Facility in Kruševac were visited. The NPM also monitored the situation of juveniles and women during visits to detention departments within the institutions for the enforcement of penal sanctions. The visit to the Penal-Correctional Institution for Women in Požarevac, the only women's prison in the Republic of Serbia, was dedicated to monitoring the implementation of the United Nations Rules on the treatment of women prisoners and non-custodial measures for women offenders, known as the Bangkok Rules,¹²⁵ to determine the extent to which these United Nations standards have been applied in practice. The findings of the visit, presented in the report, show that the position of women prisoners is largely in line with international standards. The NPM also issued recommendations for the improvement of the actions, and the Penal-Correctional Institution and the Administration for the Enforcement of Penal Sanctions undertook measures to act on all recommendations.¹²⁶ Acting on the recommendations of the NPM¹²⁷, the existing complaint procedures have been improved, at the centre of which is the urgency of the procedure in the function of determining violations or depriving of rights, and in the future work, special attention will be paid to thorough and effective investigations of complaints related to the endangerment or the injuries of the health or body of the wards. Also, the regime of stay in the Intensive Care Unit has been changed, so that the restrictions resulting from the structure of the day in that department have been largely reduced and alleviated, in a way that does not compromise the safety of wards and treatment participants. Accent has been placed on the importance of practicing individual and group work, as well as on the importance of further implementation of appropriate

¹²⁵ Adopted at the United Nations General Assembly on 21st December 2010, A/RES/65/229.

¹²⁶ Available at: https://npm.rs/index.php?option=com_content&view=article&id=1054:кпз-за-жене-у-пожаревцу-поступање-према-осуђеницама-усклађује-са-међународним-стандардима&catid=112&Itemid=116.

¹²⁷ Available at: https://npm.rs/index.php?option=com_content&view=article&id=1104:поступајући-по-препорукама-заштитника-грађана-впд-крушевац-унапређује-права-и-услове-боравка-његових-штићеника&catid=112:2015-12-14-12-10-41&Itemid=116.

program activities and on the started activities on finding solutions for work engagement of wards who are in that department. In order to act on the recommendation for the development and implementation of programs for the prevention of self-harm and suicide, the institution has formed a team composed of doctors, psychiatrists and educators, who will work individually with at-risk residents.

During the reporting period, the NPM developed a special methodology for visits to institutions for the enforcement of penal sanctions, in order to check for the existence of torture and other cruel, inhuman or degrading treatment or punishment. For the first time during the visits, the NPM focused exclusively on the application of measures for maintaining order and security in the institution, on the treatment of persons deprived of their liberty in the closed departments of the institution and on documenting injuries to persons during the enforcement of their sentences. The methodology included group, but also uncontrolled individual interviews with persons deprived of their liberty who are at a higher risk of ill-treatment because they are placed in closed departments of the institution, for the enforcement of disciplinary and special measures or due to some of their personal characteristics, participation in extraordinary events, etc. During the visits, the records and other documentation on complaints whose subject was any form of abuse were inspected, as well as records on the application of coercive measures, on injuries of persons deprived of their liberty, all extraordinary events, etc. This methodology was applied during visits to the district prisons in Leskovac, Smederevo, Negotin and Zaječar.

In the reporting period, two visits were also made to the Clinical Centre in Niš – Psychiatry Clinic and the Centre for Mental Health Protection, in order to control the handling of the previously issued recommendations, as well as two systemic visits, to the Psychiatry Service of the General Hospital in Leskovac and the Special Hospital for psychiatric diseases in Kovin. The NPM noticed the efforts and activities undertaken by the management of the Special Hospital in Kovin and the Clinical Centre in Niš – Psychiatry Clinic, in order to improve the material conditions in the existing facilities and exercise the rights of patients. Also, acting on the recommendations of the NPM, the visited institutions improved the keeping of records on the application of the measure of physical restraint and developed available rehabilitation psychosocial activities that are carried out in smaller groups, given the current epidemiological circumstances.

Further challenges are related to the need to intensify deinstitutionalization activities in terms of abandoning the practice of long-term hospitalization of patients, as well as the need to establish extra-institutional care and support in the community for persons with mental disabilities (and their

families), all with the aim of enabling them to be taken care of and to live and be treated in the community, and the need to establish more centres for the protection of mental health in the community. In that direction, significant efforts of the Special Hospital for psychiatric diseases in Kovin were noticed to monitor the condition of discharged patients through mobile teams, to establish telephone support lines during crises in the family environment and to conduct educations for the family about the nature of their member's illness and the need for cooperation with the hospital in the further course of treatment.

In connection with the NPM's recommendation issued to the Ministry of Health to undertake activities to establish an appropriate service – centre for the protection of mental health in the community, while providing the necessary resources, and in order to prevent, improve and enable post-hospital treatment of patients in the community, the Special Hospital in Kovin informed the NPM that intense activities are underway on the opening of the Centre for the protection of mental health in Pančevo.

After a systematic visit to the Psychiatry Service of the General Hospital in Leskovac, the NPM issued 16 recommendations in order to rectify the identified shortcomings and improve the work of the authorities. All recommendations have been accepted, but their full implementation, especially in the part related to the continuous training of health workers and the improvement of occupational and group therapy, largely depends on epidemiological conditions.

It was noticed that the practice of courts is still present that in the procedures of placing persons with mental disorders in custody in a psychiatric institution without their consent, psychiatrists are appointed as experts who are employed in the same hospital in which the persons whose custody is being decided on are placed.

During control visits to social welfare homes, the NPM determined that by implementing the recommendations, material conditions in the visited institutions have been improved, as well as the informing of beneficiaries on the rights and mechanisms of legal protection, and the practice of applying physical restraint to beneficiaries was abandoned. Further challenges are related to the employment of the missing number of employees for direct work with beneficiaries, their continuous education, strengthening the capacities of centres for social work, development of community services, as well as improving regulations so that they comply with the ratified conventions and applicable standards.

As part of the process of oversight of the forced removal of foreigners, the NPM continued its cooperation with the Border Police Directorate of the Ministry of Interior and, in particular, with the Shelter for Foreigners

in Padinska Skela. This activity was also supported by the United Nations High Commissioner for Refugees (UNHCR), which provided interpreters to the NPM. During the oversight investigations, it was noticed that the police officers who carry out the removals respect the integrity and dignity of foreigners and show a high level of professionalism. As the biggest problem in the procedure of forced removal, the NPM points out that foreigners in this procedure do not always have the opportunity to point out the existence of facts that would indicate that there are obstacles to their forced removal to a certain country, nor is the existence of these facts established, which may lead to a violation of Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹²⁸ The NPM issued a recommendation to the Ministry of Interior in order to fully respect the principle of non-refoulement and entered a continuous dialogue regarding the taking of measures for its implementation.

During the reporting period, the NPM monitored the actions of the border authorities at the Nikola Tesla Airport and the conditions in which persons deprived of their liberty reside in the transit zone. In this regard, it was noticed that the works on the construction of new premises for the accommodation of foreigners who were denied entry into the country, which are in accordance with the applicable standards, have been completed.

During the reporting period, the NPM also conducted three control visits to military facilities in order to oversight the handling of the recommendations issued in the 2020 thematic report and found that the largest number of recommendations were acted on.

Also, in this reporting period, the NPM paid special attention to monitoring the treatment of migrants at the borders with Northern Macedonia,¹²⁹ Bulgaria¹³⁰ and Croatia. In order to assess the treatment of migrants at the borders, six reception centres for migrants were visited, four police stations, four regional border police centres, two institutions for the enforcement of penal sanctions and the "Constantine the Great" Airport in Niš. The regional report on this topic, which the national report of the NPM of Serbia is a part of, was published by ENNHRI.¹³¹

¹²⁸ Ratified by the Law published in the "Official Gazette of the SFRY – Int. contracts", number 9/91.

¹²⁹ Available at: <https://npm.rs/attachments/article/1062/Izvestaj.pdf>.

¹³⁰ Available at: <https://npm.rs/attachments/article/1056/Izvestaj.pdf>.

¹³¹ Available at: <https://ennhri.org/wp-content/uploads/2021/08/Serbian-National-Report.pdf>. and <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/7285-b-vlj-n-r-gi-n-lni-izv-sh-p-s-up-nju-pr-igr-n-i-n-drz-vni-gr-nic>.

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

- **The Ministry of Interior** should continue implementing activities within its competence in order to adapt the existing and build new custody facilities, in accordance with the applicable standards;
- **The Ministry of Interior** should continue implementing activities to equip rooms for the interrogation of persons with technical equipment for audio and/or video recording;
- **The Ministry of Interior** should make additional efforts towards the proper application of the Methodology for conducting investigations into cases of ill-treatment by the police;
- **The Ministry of Interior** should provide continuous trainings, to ensure that all police officers, when applying police powers, act in accordance with the law and other regulations and respect the standards set by the European Convention for the Protection of Human Rights and Fundamental Freedoms, the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the European Code of Police Ethics and other international acts that relate to the police;
- **The Ministry of Justice** should, without further delay, carry out activities within its competence in order to harmonize the provisions of the Criminal Code with the generally accepted definition of torture from Article 1 of the United Nations Convention against Torture;
- **The Administration for the Enforcement of Penal Sanctions** should continue to improve the material conditions for the accommodation of persons deprived of their liberty in those institutions for the enforcement of penal sanctions where these conditions are not fully in line with the applicable standards;
- **The Administration for the Enforcement of Penal Sanctions** should provide convicted persons assigned to closed prison departments and detainees with sufficient available activities, as well as the possibility to stay during the day in common rooms with other convicts, that is, detainees with whom the court did not limit their contact due to criminal proceedings;
- **The Administration for the Enforcement of Penal Sanctions** should continue to improve the implementation of treatment of convicted persons, especially the individual and group educational work;

- **The Administration for the Enforcement of Penal Sanctions** should ensure that all persons with mental disabilities who are serving a prison sentence are removed from the regular prison regime and provided with health care appropriate to their illness and the need for treatment, in an inpatient health care unit within the institution, the Special Prison Hospital or in another appropriate health care institution;
- **The Ministry of Health** should continue to improve the material conditions of patient accommodation in those institutions where these conditions are not fully in line with the applicable standards;
- **The Ministry of Health** and the Ministry of Labour, Employment, Veteran and Social Affairs should improve regulations and activities in order to implement effective "deinstitutionalization";
- **The Ministry of Health** should intensify activities aimed at developing community-based centres for the protection of mental health that will provide comprehensive mental health care, with as less restrictions as possible and as close as possible to the patients' place of residence or their family.
- **The Ministry of Labour, Employment, Veteran and Social Affairs** should improve the conduct of centres for social work in terms of providing effective guardianship protection to beneficiaries in institutions;
- **The Ministry of Labour, Employment, Veteran and Social Affairs** should improve the procedure regarding the provision of adequate social reception for persons under the direct care of centres for social work, who are undergoing the enforcement of the security measure of compulsory psychiatric treatment and custody in a health institution, and for whom the medical reasons for further enforcement of that measure have ceased.
- **Competent authorities** should increase the number of employees in authorities/institutions in order to enable persons deprived of their liberty to be treated in full compliance with the regulations and standards.

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

This reporting period was also marked by numerous complaints about the work of judicial authorities – courts and public prosecutor's offices, although they are exempted from the control competencies of the Protector of Citizens by the Constitution and the law¹³². In some cases, the complainants point out that they are familiar with the competencies of the Protector of Citizens, but they still expect this independent state body to state its position on the legality of actions and decisions made by the judicial authorities in the proceedings. In this regard, citizens point out that they do not have enough trust in the authorities that, according to the Constitution and the law, should ensure control over the legality of the work of judges and public prosecutor's offices. Also, there are still numerous addresses from citizens asking the Protector of Citizens to provide legal assistance, regarding the proceedings they are conducting or intend to initiate before the courts and other competent authorities in order to exercise and protect their rights. Despite the fact that the Law on Protection of the Right to Trial Within a Reasonable Time¹³³ was adopted in 2015, based on the received complaints, there is the impression that citizens are not sufficiently acquainted with the prescribed mechanisms for the protection of that right. The role of the Protector of Citizens in the handling of the mentioned complaints is reflected in the provision of general information on the procedures, legal remedies and competent authorities to which citizens can turn.

Citizens also often complain about the work of the court administration and the administration in public prosecutor's offices. More specifically,

¹³² Law on the Protector of Citizens ("Official Gazette of RS", no. 79/2005 and 54/2007).

^{Law} on the Protector of Citizens ("Official Gazette of RS", 105/2021).

¹³³ "Official Gazette of RS", no. 40/2015.

citizens most often express dissatisfaction with the handling of complaints and the petitions against the work of the courts, which they submit in accordance with the provisions of the Law on Organization of Courts¹³⁴ and the Court Rules of Procedure¹³⁵, as well as with the handling of complaints and the petitions against the work of public prosecutor's offices, in accordance with the provisions of the Rulebook on administration in public prosecutor's offices¹³⁶. Citizens also point out the untimely handling of complaints, as well as the situations in which their complaints are assessed by the competent authorities as justified (especially in terms of the duration of the proceedings), but the measures taken do not give the expected results. In such cases, citizens turn to the Ministry of Justice. In the oversight investigations into the work of the Ministry of Justice in connection with the handling of citizens' complaints about the work of judicial bodies, the legally prescribed cooperation with the Protector of Citizens has been achieved. The Ministry eliminated shortcomings regarding the complaints on the basis of which oversight investigations were initiated. However, in some cases, it was necessary for the Ministry of Justice to repeatedly address the competent judicial authorities in order to submit a report on the merits of the complaint and to provide a response to the complainant, which calls into question the effectiveness and efficiency of the prescribed oversight mechanisms.

In this reporting period as well, citizens addressed the Protector of Citizens with complaints about the work of public bailiffs. As in the previous years, citizens continue to point out problems related to the delivery of supporting documents in the enforcement procedure (they usually find out about the decision on enforcement only when the deadline for filing a legal remedy has expired), to doubts about the compliance with the restrictions of the enforcement against earnings/salaries and pensions, to violations of the rights related to the enforcement against immovable property and to violations of the rights of persons who claim to have a right on the subject of enforcement that prevents the enforcement (third party). There are also complaints from enforcement creditors who did not realize their claims even through the enforcement procedure.

The Protector of Citizens is not authorized to control the work of public bailiffs, and citizens who address expressing doubts about the regularity and legality of actions of the public bailiff, are instructed by this independent state body to use the legal remedies and address the Ministry of Justice and

¹³⁴ "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.

¹³⁵ "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.

¹³⁶ "Official Gazette of RS", no. 110/2009, 87/2010, 5/2012, 54/2017, 14/2018 and 57/2019.

the Public Bailiffs Chamber, which supervise their work. In this area, citizens also addressed the Protector of Citizens with complaints about the work of the Ministry of Justice and the Public Bailiffs Chamber, pointing out the untimely actions of these authorities on complaints about the work of public bailiffs, as well as doubts about the correctness of conducting oversight of their work. Through the control procedures of the Protector of Citizens, these shortcomings have been eliminated, however, it is noticeable that in cases when the Chamber assesses the complaint about the work of the public bailiff as unfounded, it informs the complainant about it by standard letter, without a substantial explanation in relation to the specific facts and circumstances, which results in citizen dissatisfaction. The need for the mentioned letters to be more substantial was pointed out to the Chamber.

The Protector of Citizens also notes that by submitting complaints about the work of public bailiffs, citizens often expect the Ministry of Justice, or the Public Bailiffs Chamber, to make decisions concerning the enforcement procedure itself, that is, to revoke or change the decision of the public bailiff, which is not within the competence of these authorities.

Finances

In the finance department, the largest number of citizens' complaints referred to the work of the Tax Administration of the Ministry of Finance. Shortcomings in the work pointed out by the citizens were related to actions which were contrary to the rules of procedure, most often to failure to make a decision within the legal deadlines on requests/tax returns of citizens, or to the untimely decision making in the retrial after the decision of the second-instance authority to annul the first-instance tax administrative act and return the case for a retrial and repeat decision-making.

Tax proceedings on citizens' tax returns were in most cases completed by the adoption of a decision during the oversight investigations by the Protector of Citizens, which resulted in the suspensions of proceedings. The situation is somewhat different when it comes to retrials, which ended after the launching of investigations and after requests issued several times by the Protector of Citizens.

Due to the failure to adopt a decision in the retrial, even after more than five years since the second-instance authority annulled the first-instance decision in the procedure on the complaint of the complainant and returned the case for a retrial and repeat decision-making, the Protector of Citizens issued recommendations to the Tax Administration¹³⁷ to act in accordance

¹³⁷ No. 3110-1228/20 ref. no. 40381 dated 17th December 2020, the deadline for the declaration of the authority 22nd February 2021.

with the orders from the second-instance decision in the retrial, without delay, and to make a decision based on the law, as well as to take all necessary measures to ensure the timely decision-making in administrative matters, while respecting the deadlines prescribed by the law. The recommendation was fully acted on.

Complaints against the work of the Tax Administration indicate the failure to act on citizens' complaints against employers due to unpaid contributions for mandatory social insurance, as well as the non-existence of proper records and data on paid contributions for pension and disability insurance of insured persons, especially persons insured based on agricultural activities. The Protector of Citizens considers it necessary for the Tax Administration to continuously take all measures and activities within its competence, in order for unpaid contributions to be collected in a timely manner from employers who do not fulfil their obligations prescribed by law.

As in the previous reporting periods, a large number of citizens' complaints related to the work of the Ministry of Finance, as a second-instance authority, due to the failure to decide within legal deadline on citizens' complaints against the decisions of the Tax Administration and local tax administrations. During the oversight investigation, the Ministry of Finance made decisions on the complaints, so the Protector of Citizens suspended procedures.

The long-standing problem in the work of the Tax Administration and local tax administrations is that they do not determine the obsolescence of taxes and ancillary tax liabilities ex officio. On the contrary, the termination of the tax liability due to the obsolescence of collection, is usually determined by the authorities at the request of taxpayers, most often after the citizens address them in the procedure of regular tax collection or after the citizens address the Protector of Citizens.

Complaints about the work of commercial banks during the reporting period referred to their refusal to provide citizens with loan agreements concluded with the bank, in order for them to be able to initiate lawsuits for the recovery of costs of the collection of the loan processing fee. On this occasion, the citizens submitted complaints to the National Bank of Serbia, which acted in the manner and within the deadlines prescribed by the Law on the Protection of Financial Services Consumers. Therefore, complaints against the work of the National Bank of Serbia in these cases were rejected as unfounded by the Protector of Citizens.

The Protector of Citizens received complaints from natural persons due to non-payment of assistance for the mitigation of consequences and due to incentive measures for immunization, while there were no complaints from the legal entities – the "economy", during the reporting period. In most cases, citizens' complaints related to the work of the Treasury Administration

of the Ministry of Finance, due to non-payment of financial aid. After the launching of the oversight investigations, the Treasury Administration eliminated the omissions by considering and accepting the complaints and reclamations of citizens and by paying the financial aid.

During the reporting period, the Protector of Citizens received complaints from a larger number of citizens who indicated that they were not paid the one-time financial aid in order to reduce the negative effects caused by the COVID-19 pandemic, in accordance with the Decree¹³⁸ and the Rulebook¹³⁹. Citizens pointed out that, despite the fact that they submitted data from a valid ID card when applying for the one-time financial aid and fulfilled the prescribed conditions, the one-time financial aid was not paid. The Protector of Citizens, in the conducted oversight investigation, determined that due to the shortcomings in the work of the Ministry of Interior and the Treasury Administration of the Ministry of Finance, the complainants were not paid the one-time financial aid of 100 euros¹⁴⁰. During the control investigation, it was determined that the Ministry of Interior, due to deficiencies in the records that it keeps through the Information System, did not submit the updated/correct data to the Treasury of the Ministry of Finance, as a result of which the complainant's applications for one-time financial aid was unfoundedly rejected. On the other hand, the Treasury of the Ministry of Finance did not pay the one-time financial aid to the complainants even after receiving an affirmative answer from the Information System of the Ministry of Interior on the congruence of the data, upon an issued request for access to data.

In the control investigation, it was also determined that the non-payment of one-time financial aid to citizens is a consequence of the lack of efficient, effective and complete cooperation between the Ministry of Interior and the Treasury of the Ministry of Finance. Based on the identified shortcomings in the work, the Protector of Citizens issued recommendations¹⁴¹ to the Ministry of Interior and the Treasury of the Ministry of Finance in order for the Ministry of Interior to regulate its Information System and ensure the delivery of correct and updated data in the procedures of payment of one-time

¹³⁸ Decree on the establishment of a temporary register and the manner of payment of one-time financial aid to all adult citizens of the Republic of Serbia in order to reduce the negative effects caused by the pandemic of the COVID-19 disease caused by the virus SARS-CoV-2 ("Official Gazette of RS", number 60/20).

¹³⁹ Rulebook on the manner of application and the manner of payment of the one-time financial aid ("Official Gazette of RS", no. 73/20, 76/20 and 78/20).

¹⁴⁰ In dinar equivalent of 11,759.40 dinars at the official middle exchange rate of the National Bank of Serbia on the day the Decree enters into force.

¹⁴¹ No. 3110-925/20 ref. no. 13504 dated 21st May 2021.

financial aid and payment of financial aid according to the law¹⁴². The recommendation was acted on.

Internal affairs

During the reporting period, the Protector of Citizens launched, conducted and completed control investigations in cases when the Ministry of Interior did not, in accordance with the Law on General Administrative Procedure and the laws that are *Lex specialis* (in relation to the submitted application), decide on the applications for citizenship, release from citizenship, on the application to receive a travel document, on registration and change of residence, vehicle registration, on issuing driver's licenses, refusing applications for possession and carrying of weapons, confiscation of weapons and firearms licenses, on applications for the issuance of licenses for performing the duties of a security officer, failure to decide on complaints within the legal deadline, failure to decide on requests for unjustifiably paid funds, failure to act on final and enforceable judgments, dissatisfaction of citizens due to the submission of requests to initiate misdemeanour proceedings, etc.

The Protector of Citizens notes that in 2021, the handling of applications for citizenship of the Republic of Serbia has been accelerated, but that there are still a large number of applications for citizenship, determination of citizenship or release, that have not been decided on for many years. The Protector of Citizens emphasizes that the Administrative Affairs Directorate, after the launching of the control investigation of the Protector of Citizens, efficiently eliminated the shortcomings in its work, by issuing decisions, which led to the completion of the investigation by closure.

The Protector of Citizens did not state any improvements in the complaint procedure in 2021 compared to the previous year. Due to delays and non-completion of the procedures, two recommendations¹⁴³ were issued to the Ministry of Interior in 2021. One recommendation was acted upon and the complaint procedure was terminated in accordance with the Law on Police and the Rulebook on complaint procedure in the Ministry of Interior, while the other recommendation was issued in December 2021 and its deadline for action has not expired before the publication of this report. The Protector of Citizens notes that it is necessary for this body to initiate and terminate complaint procedures in a timely and efficient manner in accordance with the positive legal regulations.

¹⁴² Law on the Temporary Register of Adult Citizens of the Republic of Serbia to whom financial aid is paid to mitigate the consequences of the COVID-19 pandemic caused by the SARS-COV-2 virus

¹⁴³ Act of the Protector of Citizens ref. no. 3310-328/20.

Act of the Protector of Citizens ref. no. 3310-134/21.

In 2021, the Protector of Citizens received a large number of complaints related to the application of the Law on Weapons and Ammunition. Citizens' dissatisfaction referred to the content and application of the provisions of the mentioned law, that is, to the complicated procedure of re-registration of weapons. Citizens' dissatisfaction also referred to the adoption of the decision on confiscation of weapons and firearms licenses for "security reasons". The Protector of Citizens believes that, in the following period, the Ministry of Interior should continue to pay special attention to the rejection of requests or confiscation of weapons whose basis is exclusively a "security check", bearing in mind that its content, form and the competence of the person performing the security check are not regulated by law or bylaws for these cases, and that it is a matter of discretionary assessment.

Complaints of citizens who were dissatisfied with the fact that, in their opinion, the Ministry of Interior unfoundedly submitted requests for initiating misdemeanour proceedings against them were considered. Despite the fact that the responsibility of these persons is decided on by the competent misdemeanour court, and that the Protector of Citizens is not authorized to control the work of judicial authorities, in certain cases, and after the performed inspection, it was assessed that the requests were made on the basis of assumptions, instead of on the basis of a clearly and completely established factual situation, and that in some cases, the articles of the law were incorrectly referenced in relation to the factual description of the misdemeanour. The Protector of Citizens believes that it is necessary for this body to perform continuous oversight of the outcome of initiated misdemeanour proceedings, as well as the case law of misdemeanour courts, bearing in mind that the burden of costs of unfounded misdemeanour proceedings falls at the expense of budget funds.

In 2021, in one case, the Ministry of Interior failed to act in accordance with the final and enforceable judgment of the Basic Court. Upon the received complaint, the Protector of Citizens launched a control investigation and after the investigation was completed, it issued a recommendation¹⁴⁴ to this body to act according to the final and enforceable judgment. The recommendation was acted upon within the deadline.

Defence

In the reporting period, citizens expressed dissatisfaction with the actions of the Ministry of Defence due to the failure to submit the data necessary for the regulation, that is, for the determination of the length of insurance for the Republic Pension and Disability Insurance Fund. In these cases, the

¹⁴⁴ Act of the Protector of Citizens ref. no. 3310 16/21.

Protector of Citizens launched investigations to control the work of the Ministry of Defence.

Also, a certain number of complaints referred to dissatisfaction with the actions of the Ministry of Defence, and they pointed to the still unresolved housing issues, while some complaints indicated a possible violation of employment rights, and a violation of the right to treatment of military insured persons in a military healthcare institution. In these cases, citizens were referred to the competent inspection authority, bearing in mind that not all legal remedies have been exhausted.

With their complaints, citizens also expressed dissatisfaction with the results of the security check regarding the application for the competition for enrolment in the Military Academy.

Health

In the reporting period, the controlled health institutions, as well as the Republic Health Insurance Fund, completely fulfilled their legally prescribed obligation to cooperate with the Protector of Citizens, while the Ministry of Health did not submit the required information in some procedures even after repeated requests and urgencies, and thus prolonged and/or prevented the establishment of facts relevant to the investigations conducted by the Protector of Citizens.¹⁴⁵

During the reporting period, the Protector of Citizens acted on several complaints from citizens stating that health institutions, where their now deceased relatives were treated, refused to provide them with information on the name and professional status of health workers, that is, health associates who participated in the undertaking of medical measures and who provided health services.

Acting on the complaint related to the indicated problem, the Protector of Citizens determined in the conducted control investigation, that by refusing to provide the complainant with the requested data on health workers who participated in the undertaking of medical measures and who provided health services to his now deceased mother, the healthcare institutions made omissions in their work, because by failing to act, they denied the complainant the rights guaranteed by the Law on Patients' Rights, which resulted in making it difficult or impossible to initiate appropriate proceedings before the competent Court of Honour of the Medical Chamber of Serbia. After the recommendations were issued¹⁴⁶, the healthcare institutions submitted the requested information to the complainant with a written apology

¹⁴⁵ Recommendation issued to the Ministry of Health by act ref. no. 16328 dated 17th June 2021 in the case 13-3-1771/18.

¹⁴⁶ Act ref. no. 22211 dated 16th August 2021 in the case 311-122/20.

for the made omissions and took additional measures and activities in order to further inform employees about the rights and obligations of patients prescribed by the Law on Patients' Rights.

The Protector of Citizens was addressed by the complainant who expressed dissatisfaction with the actions of the City Institute for Urgent Medical Care and the Ministry of Health regarding the request for acquiring documentation regarding the event when his wife got sick and he called the Emergency Medical Services, and on that occasion, talked to the operator three times. Her death occurred on the same day in the Emergency Centre of the Clinical Centre of Serbia, where the complainant's wife was transported by an ambulance vehicle. After the death of his wife, the complainant addressed the Emergency Medical Services with a request for the delivery of medical documentation, as well as phono records, after which he addressed the Ministry of Health. Investigating the received complaint, the Protector of Citizens determined that the Ministry of Health, through the health inspector, when conducting supervision over the work of the City Institute for Urgent Medical Care Belgrade, first submitted transcripts of audio recordings of telephone conversations held between the complainant and the 194 call centre operator, and subsequently refused to submit audio recordings of telephone conversations on the basis of which the submitted transcripts were made, giving an explanation that the audio recording of the conversations does not represent medical documentation, and that the transcript made by listening to the same audio recordings of telephone conversations does represent a medical document.

The Protector of Citizens determined that the Ministry of Health made an omission in its work in the described manner, because with its actions towards the complainant, it first created justified expectations that he would also be provided with audio recordings of telephone conversations between him and the 194 call centre operator, and then, due to inconsistent application of regulations governing the health documentation and records in the area of healthcare and patients' rights, it did not respect the created justified expectation of the complainant, thus violating the principles of good governance. After the conducted investigation, the Protector of Citizens issued a recommendation to the Ministry of Health to deliver without delay or to provide through the City Institute for Urgent Medical Care the delivery of audio recordings of the telephone conversations in question.¹⁴⁷ The Ministry of Health acted on the issued recommendation.

Based on the information from the received complaints from citizens, the Protector of Citizens found out that healthcare institutions act differently on

¹⁴⁷ Act ref. no. 15320 dated 7th June 2021, in the case 311-1164/21.

the requests of patients, as well as family members of the deceased patients, when issuing copies of the medical documentation. The different treatment is reflected in determining the amount of costs for issuing the required documentation. According to the available information, some health care institutions charge persons who send requests for copies of documentation the minimum amount of several dinars, while some healthcare institutions charge hundreds of dinars per page for issuing a copy of medical documentation. Bearing in mind that medical documentation usually consists of a larger number of pages, the conclusion is that the exercise of legally prescribed rights is limited and/or made difficult for the citizens.

Since there are no bylaws that regulate the amount of reimbursement of necessary costs for making copies of the medical documentation, and the healthcare institutions differently determine the amount of necessary costs for making copies of the medical documentation, the Protector of Citizens sent an opinion to the Ministry of Health to take measures within its competence and propose to the Government the adoption of a decree, which would prescribe the amount of compensation for the necessary expenses that the patients, or their legal representatives, pay for the preparation of the medical documentation, to which they are entitled according to the Law on Patients' Rights.¹⁴⁸ The Ministry of Health did not inform the Protector of Citizens whether it respected the issued opinion, and the requested information was missing even after the urgency.

The Protector of Citizens notes that compared to the previous reporting period, the number of citizens' complaints has increased, indicating that the Ministry of Health does not act on the requests for conducting extraordinary external quality control of professional work or that their actions are not in accordance with the legal obligations.¹⁴⁹ The Protector of Citizens determined that the Republic Expert Commission (for one branch of medicine), as an expert authority formed at the national level, at the request of the Health Inspectorate to give an opinion on the need to conduct extraordinary quality control of the professional work in two healthcare institutions, gave an opinion which was signed by the president of the commission, who is also the director of one of the mentioned healthcare institutions. After the Protector of Citizens pointed out this circumstance to the Ministry of Health, the Ministry stated that "the fact that the president of the Republic Expert Commission in this procedure is also the director of one of the health institutions for which the extraordinary external quality control of professional work was requested, was not important".

¹⁴⁸ Act ref. no. 22936 dated 24th August 2021, in the case 311-693/21.

¹⁴⁹ Law on Health Care, "Official Gazette of RS", number 25/19.

Considering that the Republic Expert Commission in this case caused doubts about the objectivity of actions and created a legal uncertainty of citizens, and that the position of the Ministry of Health may also lead to doubts regarding the objectivity of actions of both the specific expert authority and the other republic expert commissions, which were formed for certain areas of health protection, the Protector of Citizens recommended to the Ministry of Health to consider all the circumstances and reconsider its position and opinion, as well as to take all available measures and activities to ensure that the republic expert commissions, as expert authorities, established for certain areas of health care, act in good faith and impartially.¹⁵⁰ The Ministry of Health informed the Protector of Citizens that it acted on the issued recommendation. All established republic expert commissions were also informed about the mentioned recommendation. In the future, the health inspector – coordinator, in charge of working on requests for extraordinary external quality control of professional work, will at the same time remind the competent republic expert commission, in every request for giving an opinion, of the recommendation that a member (including the president), who is also employed in the health institution for which the extraordinary external quality control of professional work is requested, should be exempted from deciding on the justification of that procedure.

In the reporting period, citizens also complained about the work of regional medical chambers. Acting on complaints related to the work of the Regional Medical Chamber of Belgrade, the Protector of Citizens conducted several control investigations and determined that the Regional Medical Chamber of Belgrade – Court of Honour, due to the failure to act promptly on the submitted proposals for initiating proceedings before that Court and due to non-compliance with legal provisions regarding the prescribed deadlines for conducting the procedure, adopting and submitting a decision, directly caused the absolute obsolescence of the disciplinary procedure, which violated the complainants' rights to equal protection of rights and to a legal remedy.

The Protector of Citizens sent a collective recommendation to the Regional Medical Chamber of Belgrade to eliminate the shortcoming in this specific procedure and to prepare without delay a written dispatch of the decision in the procedure upon the complainant's proposal and deliver it to the submitter of the proposal or a representative, as well as preventive recommendations that relate to all proceedings currently being and/or to be conducted by the Court of Honour. The Regional Medical Chamber of Belgrade was recommended to inform all members of the Court of Honour in an appropriate

¹⁵⁰ Act ref. no. 1530 dated 7th June 2021, in the case 311-1164/20.

manner that in the procedure before the Court of Honour, the appropriate rules of the administrative procedure on oral hearing, evidencing, minutes and submission shall be applied, unless otherwise specified by the Law on Chambers for Health Workers, with a precise indication of the deadlines within which they are obliged to act. Also, a recommendation was issued that the Chamber, in its future work, should continuously take all available measures and activities in order to ensure prompt action, decision-making and delivery of adopted decisions within the legally prescribed deadline and that it should refrain from inaction and passivity that may result in the citizens not being able to exercise their rights and/or freedoms.¹⁵¹ The Regional Medical Chamber acted on the recommendations. At the same time, considering that by issuing an opinion, it will contribute to the improvement of protection of the guaranteed human freedoms and rights, the Protector of Citizens pointed out to the Serbian Medical Chamber that it is necessary for it to inform, without delay, all branches of the chamber, as its organizational units, about the obligation to respect the legally prescribed deadlines for decision-making and to ensure that all courts of honour of the first instance, that are formed in the seats of the branches of the Chamber, efficiently perform the tasks delegated to them and in the spirit of the law by which they were delegated. According to the sent opinion, the Ministry of Health should perform oversight of the work of the Regional Medical Chamber of Belgrade – Court of Honour and determine the situation regarding the enforcement of the delegated tasks and, depending on the established situation, if necessary, it should warn about the observed irregularities and set measures and deadlines for their elimination.¹⁵² The Serbian Medical Chamber informed the Protector of Citizens that it completely respected the sent opinion and submitted appropriate evidence about it. The Ministry of Health has still not informed the Protector of Citizens whether it accepted the sent opinion.

The Protector of Citizens received a complaint from five doctors employed in a Belgrade healthcare centre, who pointed out irregularities in the work of the Ministry of Health in the process of sending employees to specializations. After the conducted control investigation, the Protector of Citizens determined that the Ministry of Health did not ensure the consent of the Minister of Health to the decision of the director, that is, the Board of Directors of that healthcare institution in public ownership, which became final in the administrative procedure. The Ministry of Health, by misinterpreting the relevant regulations, unjustifiably prolongs giving consent to the decision on the approval of specialization in the field of paediatrics, thus acting contrary

¹⁵¹ Act ref. no. 34033 dated 9th November 2021, in the case 311-1379/21 and act ref. no. 34033 in the case 311-1547/21.

¹⁵² *The same.*

to the general interest within health care in the Republic of Serbia, which, among other things, includes providing specializations for health workers employed in publicly owned healthcare institutions, which also results in the denial of the right to professional development of the complainants employed in the specific healthcare centre.

At the same time, it was determined that the controlled authority, by stating inaccurate and unclear information in the Public Invitation for giving consent of the Ministry of Health on approved specializations and narrower specializations, published on the official website of that authority, acted contrary to the principles of good governance, which oblige the public authorities to act in accordance with the law, in good faith, in a predictable, transparent and impartial manner. Based on the identified shortcomings in the work, the Protector of Citizens issued recommendations to the Ministry of Health to act, without delay, on the request of the healthcare centre and take all measures to ensure the consent of the Minister of Health to final decisions on approved specializations for health workers employed in that healthcare institution.

Also, in order to improve its work, the Ministry of Health was recommended that, in its future work, within the scope of its legally prescribed competencies, it should act exclusively in accordance with its powers and obligations, in compliance with the legally prescribed deadlines and with maximum respect for the general interests within the health care in the Republic of Serbia. At the same time, the Ministry of Health was recommended to harmonize the content of the Public Invitation for giving consent to the approved specializations and narrower specializations, published on the official website of that authority, with the relevant regulations¹⁵³. The Ministry of Health acted partially at first, and after the expiration of the deadline, acted fully in accordance with the issued recommendations, which it documented, among other things, by submitting individual decisions on giving consent to approved specializations in the field of paediatrics.

Towards the end of the reporting period, the Protector of Citizens received several complaints by citizens in which they pointed out the problems they face regarding the recording of the data on the COVID-19 infectious disease. Some citizens pointed out that they took the antigen test in private laboratories, that the presence of the virus was identified, that based on the results of that test they were treated in state healthcare institutions, where doctors, in addition to the appropriate therapy, issued them certificates of incapacity for work, on the basis of which they were paid the sick pay compensation, but that it was not recorded that they overcame this contagious disease.

¹⁵³ Act ref. no. 18914 dated 12th July 2021 in the case 311-590/21.

The Protector of Citizens pointed out to the Ministry of Health that, based on allegations in the complaints, as well as information from the media, it can be concluded that citizens did not have complete information in a timely manner on the validity of tests for detecting SARS-CoV-2 antigen, and that the same test is treated differently – in a healthcare institution it is recognized as evidence and a means of establishing a diagnosis of COVID-19 infectious disease, but it is not recognized as valid evidence of the fact that a person has overcome COVID-19 infectious disease, for issuing a digital green certificate within the meaning of the Decree on measures for prevention and control of the COVID-19 infectious disease.¹⁵⁴ In order to fully understand the problem and assess whether it is necessary to continue the investigation and take measures within its competence, the Protector of Citizens asked the Ministry of Health to comment on the observed problem.

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

- **The Ministry of Justice** should ensure efficient and timely handling of complaints about the work of judicial authorities and the functionality of the oversight of the work of the court administration;
- **The Ministry of Justice and the Chamber of Public Bailiffs** should strengthen the mechanisms of control over the work of public bailiffs and ensure efficient and timely handling of complaints about the work of public bailiffs as well as the functionality of the oversight of their work;
- **The Ministry of Justice and the Chamber of Public Bailiffs** should, within their powers, undertake activities in order to acquaint citizens with their rights and obligations in the enforcement process, as well as their competencies in performing oversight of the work of public bailiffs;
- **The Ministry of Finance** should provide staffing and financial conditions for deciding on citizens' complaints within the legally prescribed deadline;
- **The Treasury of the Ministry of Finance** is obliged to pay, without delay, the one-time financial aid to complainants and other adult citizens of the Republic of Serbia who are in the same or similar factual and legal situation;

¹⁵⁴ "Official Gazette of RS", no. 151/20, 152/20, 153/20, 156/20, 158/20, 1/21, 17/21, 19/21, 22/21, 29/21, 34/21, 48/21, 54/21, 59/21, 60/21, 64/21, 69/21, 86/21, 95/21, 99/21, 101/21, 105/21, 108/21, 117/21, 125/21, 7/22

- **The Tax Administration** should ensure that organizational units formally and substantially act in accordance with the law on the requests of citizens, and in the repeated proceedings, in a timely manner and in accordance with the views and legal understandings of higher instances;
- **The Tax Administration** should consistently implement all measures and activities within its competence, aiming to ensure timely and efficient collection of contributions for mandatory social insurance in situations where the employer does not do so;
- **The Tax Administration** should determine ex officio the fulfilment of the conditions for the termination of the tax liability on the basis of statute of limitations;
- **Local self-government units** should take into account the economic situation and material circumstances of taxpayers when planning source revenues, and *local tax administrations* should pay more attention to legal and proper decision-making on citizens' requests;
- **The Ministry of Interior** should ensure full and consistent application of regulations on administrative procedure when deciding on the rights, obligations and legal interests of citizens, both in the first and second instance proceedings;
- **The Ministry of Interior** should, when deciding on its own discretion, take into account the limits and purpose of its powers, especially when it comes to "security checks";
- **The Ministry of Interior** should develop and strengthen mechanisms for control of its work, that is, should further improve the complaint procedure in the formal and material sense and it should complete complaint procedures in a timely and efficient manner;
- **The Ministry of Interior** should decide more efficiently on applications for citizenship of the Republic of Serbia;
- **The Ministry of Interior** in its work should act without delay on final and enforceable judgments of competent courts and it should avoid initiating enforcement proceedings, bearing in mind that the costs of the enforcement proceedings are borne by all taxpayers of the Republic of Serbia;
- **The Ministry of Health** should act in a timely manner on all requests of the Protector of Citizens and submit complete, precise and concrete answers, supported by appropriate documentation as confirmation of the information provided, because acting otherwise is treated as a violation of the legal provisions on mandatory cooperation with the Protector of Citizens;

- **The Ministry of Health**, as the competent ministry for health in the broadest sense and as the body responsible for oversight of the implementation of the Law on Patients' Rights, should continuously take the necessary actions and actively participate in empowering health workers, primarily through organizing and/or initiating periodic educational trainings regarding the rights and obligations of patients, but also by enabling and encouraging them to mutually exchange experiences, with the aim of harmonizing the practice;
- **The Ministry of Health**, as the competent ministry for health in the broadest sense and as the body responsible for oversight of the implementation of the Law on Patients' Rights, should conduct regular periodic analyses of the effects of application of the Law on Patients' Rights, in order to effectively and legally exercise the rights of patients and improve the work of mechanisms for the protection of their rights;
- **The Ministry of Health** should propose to the Government the adoption of a decree which will prescribe the amount of compensation for necessary costs paid by the patients, that is, their legal representatives, for the preparation of medical documentation, to which they are entitled according to the Law on Patients' Rights.

5.2. AREA OF ECONOMIC AND PROPERTY RIGHTS

ACTIVITIES OF THE PROTECTOR OF CITIZENS

Construction

Based on complaints about the work of the construction inspection, especially on the territory of the city of Belgrade, the Protector of Citizens notes that the amendments to the Law on Planning and Construction¹⁵⁵ did not give the expected results in terms of more efficient sanctioning of illegal construction. The reasons for the continuation of illegal construction are still the lack of timely and effective work of construction inspections, while non-implementation of the administrative enforcement of decisions on demolition further motivates illegal contractors to act in the same way in the future, while it creates doubts with conscientious citizens about the effectiveness of the rule of law.

Delays in the enforcement of already adopted demolition decisions are still a consequence of not providing sufficient funds for these purposes and the failure of the announced public procurements for these needs, while vagueness of positive regulations¹⁵⁶, especially the interpretation of "public interest", leaves enough room for a selective approach when deciding on which decision will be enforced as a matter of priority.

In 2019, the Protector of Citizens issued a recommendation¹⁵⁷ to the City Administration of the City of Belgrade to ensure that organizational units within its composition, in their future work, fulfil the obligation to cooperate with the Protector of Citizens in terms of providing timely responses to acts of this body and making available all data relevant to the investigations conducted by the Protector of Citizens. However, although improved compared to 2020, the level of cooperation of this body with the Protector of Citizens is still not at a satisfactory level. In the reporting period, the Protector of Citizens records the addresses of citizens who oppose the planning documents, who because of the needs of the so-called "investor construction", anticipate a reduction in the number of existing green spaces, construction on springs, that is, the endangerment of the environment. Complaints point

¹⁵⁵ With the entry into force of the amendments to the Law on Planning and Construction, the competence for inspection supervision in the area of construction for facilities up to 800 m², i.e., for facilities for which the decision on building permit is issued by the city Municipality within the City of Belgrade, was delegated to the Secretariat for Inspection Affairs of the City Administration of the City of Belgrade.

¹⁵⁶ Rulebook on the procedure of adoption and content of the program for removal of facilities, "Official Gazette of RS", number 27/15.

¹⁵⁷ Recommendation of the Protector of Citizens 3121-387/19 dated 5th December 2019.

to the insufficient availability of information on strategic development of urban areas, non-transparency of the plan-making process itself, as well as the absence of timely acquaintance of citizens living in the area covered by the new planning solutions with their content, which significantly reduces the influence of citizens on decision-making relevant to their quality of life in those local communities.

Real Estate Cadastre

The Protector of Citizens records a significant increase in the already large number of complaints about the work of the Republic Geodetic Authority and the Real Estate and Utility Cadastre of nearly 20% compared to 2020. Through control investigations, it was noticed that the backlog of cases before the second instance body of the Republic Geodetic Authority, as well as taking a long time to act on the submitted requests before the real estate cadastre services, mark this reporting period as well. The Republic Geodetic Authority respected the obligation to cooperate with the Protector of Citizens and responded to the requests of this body, and in a certain number of cases by the end of the reporting period, it acted on the recommendations issued. However, one cannot ignore the fact that in a significant number of cases, both the Department of Second Instance Procedure and the Real Estate and Utility Cadastre did not act on the recommendations within the set deadline.

Due to the observed omissions in work, the Protector of Citizens issued recommendations to the Republic Geodetic Authority in more than 35 cases, and it often rectified the omissions indicated in the complaints before the end of the investigation of the Protector of Citizens. Most of the recommendations were issued regarding the multiple cases of exceeding of deadlines for adopting decisions in the second instance procedures, where the Protector of Citizens did not accept the explanation of the Republic Geodetic Authority that it gives priority to resolving cases conducted through the E-cadastre in relation to other cases formed through complaint procedures¹⁵⁸. Namely, the Republic Geodetic Authority analogously applies Article 36 of the Law on the Registration Procedure with the Cadastre of Real Estate and Utilities¹⁵⁹ to the specific situation, despite the fact that this law¹⁶⁰ exclusively regulates

¹⁵⁸ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/7235-rgz-d-bl-g-vr-n-i-fi-sn-dlucu-u-upr-vni-p-s-upci>.

¹⁵⁹ "Official Gazette of RS", no. 41/18, 95/18 and 31/19.

¹⁶⁰ After submitting the registration document referred to in Article 23 of this Law, the Service is obliged to make a decision within five working days, unless otherwise prescribed by a special law. Upon receipt of the application for registration referred to in Article 25 of this Law, which may be resolved in the order of priority, the Service shall decide within 15 days, except in the case of mortgage registration, mortgage sale, as well as in simpler administrative matters,

the legal situation regarding the adoption of a first instance decision on the request for registration, while Article 44 of the Law regulates the procedure related to decision-making on appeals. The use of analogy in the application of legal norms can only be justified in the case when there are legal gaps in the regulation of a certain legal situation, which is not the case here, given that the mentioned Article 44 regulates the actions of the second instance authorities on appeals, as well as the deadlines within which it is obliged to make a decision. By taking this position, that is, by ignoring the fact that there are complaints filed several years before those sent through the E-cadastre, all citizens who are waiting for decisions on complaints filed in paper form are being put at a disadvantage.

The increase in the number of new requests before the real estate cadastre services, as well as the existence of several submitted requests that have the same real estate as the subject of registration, often makes meaningless the rather short deadlines prescribed by Law for the actions of the first instance authorities¹⁶¹. In this regard, the Protector of Citizens, in a number of investigations it conducted, although in specific situations, no violations of relevant regulations governing the work of the real estate cadastre were identified, still pointed out to the Republic Geodetic Authority that it is necessary for it to take care about acting within a reasonable time and that it needs to minimize the number of situations where it waits even up to several years for the finality of one decision, in order to start deciding on the next submitted request.

Environmental protection

As a large number of complaints in 2021 referred to noise arising from the performance of activities of economic entities, such as deafening sounds generated by the use of various machines during wood or metal processing, the Protector of Citizens launched several control investigations. In most cases, after the initiation of the control investigations by the Protector of Citizens, the competent inspection authorities went to the field and ordered

when the deadline for making a decision is five working days from the day of receipt of the request, with similar application of Article 33, paragraph 5 of this Law. The notion of simpler administrative matters will be defined by a bylaw issued by the Minister – Article 36 of the Law on the Registration Procedure with the Cadastre of Real Estate and Utilities.

¹⁶¹ Namely, in Article 31, paras. 1 and 2 of the Law stipulate that, if several documents for registration have been submitted ex officio, that is, if several requests for registration have been submitted on the same real estate, i.e., the same share in the real estate, the procedure will be carried out according to the delivery that was made first, that is, according to the request that was first received. After the finality of the decision made in the procedure on the previously submitted document, that is, request, the following submitted documents, that is, requests are taken into the procedure, in the order of receipt.

the supervised entities to have the authorized professional organizations measure the noise level, after which the inspectors made decisions which imposed measures that would reduce the noise level to the legally permitted values or the economic entities were ordered to temporarily suspend work. In these cases, citizens often complained that after the measures taken by the inspectors, that is, after the procedures before this authority were completed, that the supervised entities did not fully respect the measures and often continued to emit noise after the conducted control inspections.

The Protector of Citizens received a large number of complaints regarding noise from catering facilities, where citizens express dissatisfaction with the actions of the Environmental Inspectorate, as well as other inspection authorities at the level of the local self-government units.

Acting on a complaint due to disturbance of public order, that is, the noise coming from one catering facility, the Protector of Citizens asked the City Administration of the City of Belgrade, that is, the Secretariat for Communal Militia Affairs and the Secretariat for Inspection Affairs to make a decision, among other things, on the citizens' petitions regarding the noise coming from that economic entity and on the measures taken. Based on the submitted statements, it was determined that the communal militia in this specific case went out on the field several times and visited the catering facility, and if a violation of order within their competence was established, they issued misdemeanour orders and issued warnings. In the mentioned case, the construction inspection of the Secretariat for Inspection Affairs of the City Administration of the City of Belgrade conducted oversight of the work of the mentioned economic entity, and appropriate measures were issued and decisions were made, but the Secretariat for Inspection Affairs pointed out the lack of financial resources required to implement them.

In the reporting period, the Protector of Citizens, acting on a complaint indicating dissatisfaction with the actions of the Ministry of Environmental Protection on the petitions of citizens – determined that the Ministry failed to conduct oversight which would undoubtedly determine whether all legal obligations related to environmental protection, in accordance with the provisions of Article 20 of the Law on Planning and Construction¹⁶², have been fulfilled during the adoption of the Spatial Plan of the Municipality of Bačka Palanka, thereby causing a violation of the law, the principles of the administrative procedure and the principles of good governance, as well as the right of citizens to a healthy environment. The Protector of Citizens issued a rec-

¹⁶² "Official Gazette of RS", no. 72/09, 81/09 – corr., 64/10 – CC decision, 24/11, 121/12, 42/13 – CC decision, 50/2013 – CC decision, 98/13 – CC decision, 98/13 – CC decision, 123/14, 145/14, 83/18, 31/19, 37/19 – as amended, 9/2020 and 51/20.

ommendation to the Ministry of Environmental Protection¹⁶³ to determine without delay whether the Spatial Plan of the Municipality of Bačka Palanka contains the planned protection, arrangement and use and development of natural and cultural assets and the environment as an integral part of the documentation basis of the planning document, and to inform the applicant of the outcome, as well as to act efficiently in its future work on the petitions of citizens which indicate a potential violation of legal provisions in the area of environmental protection, the application of which is supervised by the Ministry. The Protector of Citizens will monitor the handling of the above-mentioned recommendation.

Acting on the complaint in which the complainant expressed dissatisfaction with the failure of the City Administration of the City of Loznica to act regarding the repair of the damage caused to his property by a natural disaster in 2014, as well as regarding the cleaning of the bank of the Korenita River, in the conducted control investigation, the Protector of Citizens determined that the City Administration of the City of Loznica made an omission in its work, because it did not take the necessary measures within the management of the watercourse of the Korenita River to protect and prevent the harmful effects of water, nor did it act effectively to eliminate the harmful effects of water, and that it also failed to act in a timely manner on citizens' requests regarding the elimination of harmful consequences of floods. Acting on the issued recommendations¹⁶⁴, measures were taken in accordance with the legal principle of providing protection from the harmful effects of water, in order to eliminate the consequences of the flood on the complainant's property, in accordance with the request he submitted.

Acting on a complaint in which dissatisfaction was expressed with the failure of the Administration of the City Municipality of Obrenovac to act regarding the damage that the complainant suffered by the overflow of the Barička River, the Protector of Citizens launched a control investigation. As the Administration of the City Municipality of Obrenovac did not submit the requested statement even after repeated requests, thus making it impossible to establish facts relevant to the investigation conducted by the Protector of Citizens, a recommendation was issued that in its future work, the Administration of the Municipality of Obrenovac should act in a timely manner on the requests of the Protector of Citizens, and submit complete, accurate and concrete answers supported by appropriate documentation as confirmation of the information provided, as well as that it should acquaint all its

¹⁶³ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6960-u-vrd-n-n-pr-viln-s-i-u-r-du-inis-rs-v-z-sh-i-ziv-n-sr-din-n-sh-u-s-v-riv-nj-pr-v-gr-d-n>.

¹⁶⁴ Case number 3114-1059/19-25601/21, dated 27th September 2021.

organizational units with the content of the recommendations, in order to prevent the same or similar actions in the future. In the statement regarding the issued recommendations¹⁶⁵, the Protector of Citizens was informed about the measures taken in order to act upon the recommendations. These actions indicate that the Administration of the City Municipality of Obrenovac respects the position and recommendations of the Protector of Citizens, that after the issued recommendations, the municipality established the legally prescribed cooperation with this body and provided the requested information, and that it undertook measures to improve the internal communication of its organizational units, in order to prevent any similar omissions in the future.

The Protector of Citizens also received complaints related to the consequences caused by natural disasters that cause material damage to citizens on residential buildings, land, etc. In one such case, an investigation was launched on the complaint, in which the complainant expressed dissatisfaction with the failure to act of the Municipal Administration of the Municipality of Bajina Bašta regarding his request – the report of damages caused by a natural disaster on a residential building. The Municipal Administration of the Municipality of Bajina Bašta informed the Protector of Citizens about the measures taken, indicating that in this particular case, the Commission for damage assessment performed a damage assessment, that the Public Investment Management Office performed verification of the assessed damage, after which the Department for Legal and Property Affairs of the Municipal Administration of the Municipality of Bajina Bašta started the procedure of determining the damage from natural disasters. After that, the complainant was heard as a party in the procedure, and after that, the mentioned authority passed a decision by which the complainant was determined to be entitled to state aid.

Mining and energy

In this reporting period, complaints in the field of energy were primarily related to the work of the Public Enterprise "Elektroprivreda Srbije" Belgrade and "Elektro distribucija Srbije" d.o.o. Belgrade. Problems that citizens pointed out in previous reporting periods are still present. By complaining about the work of the Public Enterprise "Elektroprivreda Srbije" Belgrade, citizens express dissatisfaction with the received invoices for consumed electricity, especially in connection with the calculation and reporting of debt

¹⁶⁵ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6935-n-p-sh-v-nj-b-v-z-s-r-dnj-upr-v-gr-ds-psh-in-br-n-v-c-s-z-sh-i-ni-gr-d-n-rsh-nj-z-ns-ih-b-v-z-i-p-vr-d-princip-d-br-upr-v>.

from the previous period, and the manner in which the mentioned company keeps records of payments and debts for the consumed electricity. Also, the complainants express dissatisfaction with the handling of complaints and objections to the issued invoices, as well as the procedures of enforced collection of claims.

Citizens complained about the work of the distribution system operators, pointing out that the control of metering cabinets and metering devices is not performed in accordance with regulations, that the company Elektro-distribucija does not timely inform electricity beneficiaries about the disturbances/damages to metering devices and does not take timely measures to eliminate them, even after receiving the notification of the citizens about the observed disturbances and damages, which ultimately affects the registration of consumption and the calculation of electricity. In some cases, citizens indicate that the system operator does not read the electricity meters at intervals determined as the billing period, which is why they enter a higher zone of electricity consumption. Complaints also indicate dissatisfaction with the suspension of the electricity supply and the disconnection from the electricity distribution system. Some citizens pointed out that the disconnection lasts for several years, that there is no possibility of reconnection until the full settlement of the debt, that they are constantly issued additional amounts on behalf of their remaining debt, and that the notifications of energy entities contain unclear facts regarding the manner in which the remaining debt is calculated.

In cases of a change of ownership over a property, the new owners cannot conclude a contract for the supply of electricity until all previous debts have been settled, which the complainants point out as a problem. Also, the citizens addressed pointing out that the energy entities do not submit them any written notifications regarding the submitted requests. In the control investigations launched due to the failure of entities to act, that is, due to non-delivery of answers to the requests sent to energy entities, the formal-legal shortcomings have been eliminated.

Oversight of the implementation of the provisions of the Law on Energy¹⁶⁶ and regulations adopted on the basis of it is performed by the Ministry of Mining and Energy, so some citizens turn to that ministry due to a suspicion of non-compliance with the mentioned regulations by energy entities. In this regard, citizens submit complaints about the work of the Ministry of Mining and Energy, pointing out the inaccurate actions upon their addresses in this area. Also, in connection with other competencies of that ministry, some complaints indicate non-compliance with the requests of citizens in

¹⁶⁶ "Official Gazette of RS" no. 145/14, 95/18 – as amended and 40/21.

the manner and within the deadlines provided by the regulations on public administration and the administrative procedure. Through the control investigations, the prescribed cooperation of the Ministry with the Protector of Citizens was achieved and the shortcomings due to which the procedures were initiated, were eliminated.

Local self-government

In the reporting period, in their complaints, citizens most often expressed dissatisfaction with the failure of the local self-government unit bodies to act upon the submitted requests. The Protector of Citizens, through preventive actions, cooperation and the performance of the control function, influenced the efficiency and legality of the actions of the bodies regarding the requests of the citizens. It was noticed that most of the bodies of local self-government units, after the addressing of the Protector of Citizens, eliminated the shortcomings in their work.

Citizens also submitted complaints about the performance of activities of municipal services, that is, the local public companies, in terms of their performing communal activities such as the heat supply, water supply, sewerage, disposal of municipal waste, parking and public transportation in the city. In these cases, citizens were clearly and in detail informed about which competent authorities they can turn to to protect their rights, or the complaints were forwarded to the local ombudsman of the local self-government unit, where such a body is established. It is also noticeable that in this area of competence of local self-government units, there is a problem with insufficient funds in the budget, which makes it difficult to implement projects and improve living standards.

During the reporting period, citizens most often complained about the work of the local self-government unit bodies due to the so-called administrative silence, that is, the failure to act upon the submitted applications and requests, so the Protector of Citizens initiated investigations to control the work of local self-government units.

It was noticed that a certain number of complaints refer to dissatisfaction with the actions of the communal militia. The Protector of Citizens referred the complainants to the competent authorities and pointed out the possibility of addressing the local ombudsman, or it forwarded the complaints if the conditions were met.

A number of complaints also referred to dissatisfaction with the actions of managers of housing communities, and citizens were informed in detail about the opportunities available to them in accordance with the law governing the area of housing and maintenance of buildings.

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

- **The Ministry of Construction, Transport and Infrastructure** should undertake the legally prescribed measures of administrative supervision, in order to ensure more efficient work of the Secretariat on the legalization of facilities in the performance of the tasks entrusted to it¹⁶⁷;
- **The Ministry of Construction, Transport and Infrastructure and the municipal/city construction inspections** should timely, efficiently and effectively implement the rights, obligations and powers prescribed by the Law on Planning and Construction in order to combat illegal construction;
- **The Ministry of Construction, Transport and Infrastructure and the municipal/city organizational units responsible for the enforcement of decisions on demolition** should, without delay, take all necessary measures, in accordance with positive legal regulations, in order to implement enforceable decisions on demolition with prior provision of all necessary conditions for demolition (contractors, sufficient financial resources, etc.);
- **Local self-government units**, in order to more efficiently implement their own decisions, should consider the possibility of establishing public companies that would also deal with the enforced implementation of decisions within their activities, that is, they should entrust the enforcement of these tasks to existing public companies that meet the legal, staffing and technical conditions for the enforced implementation of decisions;
- **The City of Belgrade** should, in accordance with the competencies entrusted to it, ensure the creation of financial and staffing conditions in order to enable the competent organizational unit to consistently sanction illegally constructed buildings, especially taking into account the need for administrative enforcement of the previously adopted decisions on demolition as a priority;
- **The issuers of planning documents** should establish effective mechanisms so that citizens, at each stage of the drafting of the planning documents, are timely and adequately informed about the essential importance

¹⁶⁷ The competent authority issues a decision on legalization of those facilities for the construction of which it is authorized to issue a construction permit in the regular procedure according to the law governing the construction of facilities, that is, any other body of the local self-government unit that was authorized by the statute to issue a construction or operation permit in the procedure of legalization of the facility. Pursuant to Article 77 of the Statute of the City of Belgrade, the Secretariat for the Legalization of Facilities issues a decision on the legalization of facilities with over 400 m² of gross developed construction area.

of certain planning solutions and their consequences for the environment within which they are implemented;

- **The Ministry of Construction, Transport and Infrastructure** should take into account the need to strengthen the staffing structure of the Republic Geodetic Authority;
- **The Republic Geodetic Authority** should take the necessary measures within its competence in order to achieve timely decision-making upon the expressed appeals and provide conditions for greater accessibility of its services to citizens;
- **Local self-government units** should, through the competent authorities, carry out unannounced control and inspection oversights in order to be able to determine with certainty whether economic entities, especially those that emit excessive noise, adhere to the measures imposed by the decisions of the inspectors;
- **The Ministry of Environmental Protection** should act in a timely and up-to-date manner on citizens' petitions in order to exercise the rights guaranteed by the Constitution and the laws in the field of environmental protection;
- **Public Enterprise "Elektroprivreda Srbije" and "Elektro distribucija Srbije"** should take all measures and activities to ensure timely, up-to-date and consistent performance of the prescribed duties of these energy entities;
- **Public Enterprise "Elektroprivreda Srbije" and "Elektro distribucija Srbije"** should improve the implementation of written communication with citizens and ensure legal, conscientious, impartial, efficient and timely handling of requests, complaints and claims of citizens;
- **Local self-government units** should be more engaged in solving communal problems that the citizens are faced with in their areas;
- **Local self-government units** should inform citizens about their rights and manners of exercising them, as well as inform them about the possibilities of filing a complaint if they are dissatisfied with the actions of the employees in local self-government unit bodies;
- **Local self-government units**, in their future work, should take into account more efficient handling of requests, letters, reports and complaints of citizens, and they should act on them within the legally prescribed deadlines;
- **Local self-government units** should fully respect the administrative procedures and principles of good governance when deciding on the rights, obligations and legal interests of natural and legal persons.

5.3. AREA OF SOCIAL AND CULTURAL RIGHTS

ACTIVITIES OF THE PROTECTOR OF CITIZENS

Labour rights

In this reporting period as well, citizens most often complained to the Protector of Citizens about harassment at work, termination of employment contracts, non-payment of salaries, non-payment of social security contributions. The imposition of measures and the imposition of sanctions by the Labour Inspectorate and the Tax Administration against employers is often ineffective and inexpedient. In a large number of cases, workers do not have adequate mechanisms to protect their employment rights, especially in situations involving employees of bankrupt companies, as well as the employees of companies whose accounts have been blocked.

When they have information about possible violations of rights based on labour, the Labour Inspectorate and the Tax Administration do not act in a timely and efficient manner. The reason for that lies in the fact that the capacities of inspection authorities are insufficient. Cooperation between the inspection authorities and other state authorities and social security organizations is not at a satisfactory level, which makes it difficult, and often impossible, to exercise the labour rights.

Based on the received complaints in this reporting period, the Protector of Citizens noticed that the employees do not sufficiently use the existing legal mechanisms to protect and exercise their rights, especially when it comes to monetary claims based on employment for which judicial protection is provided, which is often unattainable for citizens, bearing in mind the length of the court proceedings.

During 2021 as well, a larger number of citizens' complaints related to mobbing or harassment at work. Citizens were instructed to contact the Republic Agency for the Peaceful Settlement of Labour Disputes as the competent authority, as well as to initiate proceedings with the employer for the protection against harassment at work, or before the court.

The Protector of Citizens received a number of complaints about the work of the National Employment Service in the procedure of exercising the rights of unemployed persons and the Ministry of Labour, Employment, Veteran and Social Affairs, as the authority responsible for performing oversight of the work of the National Employment Service. Acting on the complaint, in which it was indicated that the complainant, due to illegal and improper work of the National Employment Service, filed a complaint with the competent ministry against the work of the mentioned service, but that

the ministry had declared itself incompetent in this case, the Protector of Citizens issued a recommendation to this authority. The Ministry was recommended to, without delay and on the basis of all available facts and evidence, unequivocally determine whether the National Employment Service had acted in accordance with the positive legal regulations and to inform the applicant of the outcome of the oversight. The Ministry was also recommended to act legally, correctly and efficiently in its future work, on the complaints of citizens which point to potential violations of legal provisions in the field of employment and unemployment insurance, the application of which is supervised by the Ministry, guided by the principles of the administrative procedure and good governance.¹⁶⁸ The Ministry acted on the issued recommendations.

Pension and disability insurance

During the reporting period, in their complaints sent to the Protector of Citizens, citizens most often expressed dissatisfaction with the untimely actions of the Republic Pension and Disability Insurance Fund, both before the first instance bodies, that is, the branches of the Fund, and in the procedures of adopting decisions on appeals by the Fund Directorate.

Regarding the address of the Protector of Citizens, the Republic Pension and Disability Insurance Fund most often acted promptly, both in terms of submitting statements within the deadlines, and in terms of undertaking activities in legal matters that are the subject of the addresses, which resulted in a large number of closed investigations.

However, it was noted that the Fund does not act upon the requests of the complainants with the explanation that the case files are before the Administrative Court even in cases when the requests are related to another legal issue.

Since the exercise of the right to a pension for the entire length of service depends on whether the length of service data is entered in the registry records of the Republic Pension Insurance Fund, the Protector of Citizens, by obtaining information from various bodies (Tax Administration, historical archives, the National Bank, the Treasury), continued to contribute to the collection and entry of data into the database of the registry records. However, it was noticed that this body makes decisions on the final amount of pension after the expiration of three years, which is provided by the Law on Pension and Disability Insurance as the deadline by which all temporary

¹⁶⁸ Recommendation available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/7-212-inis-rs-v-z-r-d-z-p-shlj-v-nj-b-r-c-i-s-ci-ln-pi-nj-d-izvrshi-n-dz-r-n-d-r-d-n-ci-n-ln-sluzb-z-z-p-shlj-v-nj>.

decisions must become final, although it has not previously tried to obtain the missing data from the institutions/employers that potentially own them.

Investigating on the complaint, the Protector of Citizens determined that the Republic Pension and Disability Insurance Fund acted illegally and incorrectly when, after determining the missing data on the length of service and salaries of the complainant, it made a decision on the final amount of pension, by which it determined the right to a new amount of pension from the moment of determining the missing data, and not from the moment of exercising the right to pension, as a result of which the complainant was denied the full amount of pension for a period of nine years. Therefore, the Protector of Citizens issued a recommendation to the competent authority to put the incorrect and illegal decision out of force, and to adopt a proper and a law-based decision. The mentioned recommendation was not acted on.¹⁶⁹

The Republic Pension and Disability Insurance Fund prevented the closing of the investigation of the Protector of Citizens, which aimed to determine whether its actions in this specific case were legal and correct and whether a violation of the complainant's rights occurred, because during the control investigation, the Fund submitted to the Administrative Court the entire case file of the complainant, not considering it expedient to provide a copy of the relevant documentation to the Protector of Citizens, in order to complete the investigation before this body. The Protector of Citizens recommended to this authority that in situations when the party initiates an administrative dispute during the investigation of the Protector of Citizens, it should provide copies of documents related to that procedure, in order to enable further conduct of the investigation and the legally prescribed cooperation with this independent state body. The Republic Pension and Disability Insurance Fund is taking measures in order to act upon the issued recommendation.¹⁷⁰

Citizens continued to point out the problem of untimely actions of the Republic Pension and Disability Insurance Fund on submitted requests for exercising the right to pension, which also led to the impossibility of exercising the right to the one-time financial aid in the amount of 5,000.00 dinars, determined by the conclusion of the Government of Serbia¹⁷¹. Regarding this legal problem, the Pension and Disability Insurance Fund declared itself after the recommendation was issued and pointed out that it believes that

¹⁶⁹ Recommendation available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/7147-pri-uzil-c-d-v-g-din-c-n-pun-izn-s-p-nzi>.

¹⁷⁰ Recommendation available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/7339-rf-pi-ni-b-zb-di-pi-u-r-l-v-n-n-d-u-n-ci-z-sh-i-ni-u-gr-d-n-i-bi-u-b-v-zi-d-ucini>.

¹⁷¹ The Government Conclusion 05 number 401-10922/2019 dated 31st October 2019 determined that all citizens, for whom a decision on exercising the right to a pension was issued as of 24th October 2019, will be paid the amount of RSD 5,000.

there is no omission, although it made a decision on the request after the legal deadline had expired, which prevented the complainants from exercising their right to the one-time financial aid.

Education

In the reporting period, the Protector of Citizens records a greater number of complaints from citizens in which it is indicated that the Ministry of Education, Science and Technological Development does not respond in a timely manner or does not respond at all to requests submitted with the aim of exercising citizens' rights. In the control investigations into the work of this Ministry, it was determined that this is a frequent practice of that body, and that citizens receive answers to their requests only after the launching of the control investigations by the Protector of Citizens.

In this reporting period as well, the largest number of student complaints related to the procedure of issuing public documents, that is, the procedure of issuing diplomas of completed undergraduate and postgraduate studies, which lasts up to several years, while the complaints of employees in educational institutions related to irregularities in the procedure for conducting competitions for employment for an indefinite period of time.

In addition to the violation of labour rights, employees of educational institutions, in their addresses to the Protector of Citizens, also pointed out that the Education Inspectorate of the Ministry of Education, Science and Technological Development does not act on the citizens' reports within the legal deadline and does not determine the correct factual situation, as well as that it does not perform the control inspection oversight within the legal deadline.

The Protector of Citizens determined that the Ministry of Education, Science and Technological Development made an omission in its work by distributing the competition funds for programs of importance for education in 2021 implemented by associations, without previously, in accordance with the law, making a decision on the complaint of one of the associations as a participant in the competition for the decision on the allocation of funds.

Investigating on the citizens' complaint, the Protector of Citizens determined that the Ministry of Education, Science and Technological Development did not make a reasoned decision, in accordance with the law, on the complaint of one of the participants in the competition, and that it sent a notification to the complainant by electronic mail from the e-mail address of that authority, without the signature of an authorized person. The sending of the notification cannot replace the adoption of an administrative act upon the complaint of the participant in the Public Competition for the allocation of funds to encourage the program, and the notification, sent in

response to the submitted complaint does not even contain a decision on whether the association's complaint is rejected or accepted, and it does not contain an explanation and the legal instruction, nor can it be determined who the notifier is, because it does not contain the signature of the authorized person.

In the recommendation¹⁷² for the elimination of omissions, the Protector of Citizens asked the Ministry to decide, without delay, in the form of a decision, with explanation and an instruction on the legal remedy, on the objection of the association to the List of evaluation and ranking of the applied programs in the Public Competition, or the missing part of the funds for financing programs of public interest important for education, implemented by associations in 2021. The Ministry of Education, Science and Technological Development acted on the recommendation within the set deadline.

During the conducted control investigation into the work of the School Administration of Kosovska Mitrovica, in this reporting period, the Protector of Citizens determined that the School Administration of Kosovska Mitrovica made omissions in its work, because it did not achieve cooperation with the Protector of Citizens in accordance with the Law on the Protector of Citizens¹⁷³, nor did it respond to the requests of citizens. One employee in an educational institution submitted a request to the School Administration of Kosovska Mitrovica in order to increase the norm of classes, that is, to move from one school to another in order to perform work, to which the School Administration did not respond.

Also, the citizen sent a submission to the School Administration of Kosovska Mitrovica, reporting the illegal and incorrect work of the director of one school, but there was no answer about taking or not taking measures within the competence of the School Administration.

Based on the established facts, the Protector of Citizens issued recommendations¹⁷⁴ to the Ministry of Education, Science and Technological Development, requesting that the School Administration of Kosovska Mitrovica, in its future work, should act in accordance with the prescribed obligation to cooperate with the Protector of Citizens, in accordance with the Law on the Protector of Citizens, that it should undertake measures in order to determine the responsibility of the acting employee for the violation of the obligation to cooperate with the Protector of Citizens, and that it should respond to requests from citizens. The deadline for acting on these recommendations has still not passed.

¹⁷² Available at: <https://ombudsman.rs/attachments/article/7191/Preporuka.doc>.

¹⁷³ "Official Gazette of RS", no. 79/05 and 54/07.

¹⁷⁴ Case numbers 313-325/20-36514/21 and 313-1279/20-36515/21 dated 30th December 2021.

Investigating on the complaint, the Protector of Citizens determined that the Special Collective Agreement for employees in primary and secondary schools does not prescribe/specify who compiles the list of employees whose work is no longer needed, applying the criteria prescribed in Article 34 of this Agreement, that is, whether that list is compiled by a special commission or the same commission which, in the sense of Article 36, is appointed by the governing body of the institution, on the proposal of the trade union and which gives the director of the educational institution the proposal of the employees whose work is no longer needed. In addition, the Protector of Citizens determined that, if according to the Ministry, the list of employees whose work is no longer needed is compiled by the same commission, that is, the commission that gives the director of the educational institution the proposal of the employees whose work is no longer needed, there are no acts that prescribe the composition of such commission, the number of its members and the manner of adopting decisions. Based on the established facts, the Protector of Citizens issued an opinion¹⁷⁵ to the Ministry of Education, Science and Technological Development, stating that it is necessary for this authority to prescribe, through a general legal act, who compiles the list of employees whose work is no longer needed, by applying the criteria prescribed in Article 34 and, if the mentioned list is compiled by a commission which in the sense of Article 36 is appointed by the governing body of the institution on the proposal of the trade union and which gives the director of the educational institution the proposal of the employees whose work is no longer needed, that it is necessary to regulate its composition, number of members, the manner of adopting decisions, as well as other issues important for the proper scoring of employees whose work is no longer needed. At the beginning of 2022, the Ministry informed the Protector of Citizens that it had a proposed solution in relation to the opinion of this body, but the Protector of Citizens did not learn whether the solution was included in the Special Collective Agreement.

Conducting an own-initiative investigation, based on the performed insight into the laws and bylaws, the Protector of Citizens determined that the criteria for determining employees whose work is no longer needed, who work full-time or part-time, specifically the criterion – financial standing of the employee and the criterion – number of children that the employee has, which are prescribed by the Special Collective Agreement for employees in primary and secondary schools and student dormitories, are not justified and authoritative for determining the employees whose work is no

¹⁷⁵ Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/7291-inis-rs-v-pr-sv-d-dr-di-s-cinj-v-lis-u-z-p-sl-nih-z-ci-i-r-d-pr-s-l-p-r-b>.

longer needed, in terms of quality and improvement of education, as well as that the quality and improvement of education should not depend on the criterion of whether the employee has children and what his/her financial standing is, as well as on the criteria related to the aspect of education and upbringing, such as the criterion – student competitions or pedagogical contribution in the work of the employee. In such a situation, an employee, who based on the fact that he/she has three children¹⁷⁶, earns more points than an employee who, by applying the criterion – competitions, for winning the first place in the regional student competition gets four points, or, an employee who has two children¹⁷⁷ earns more points compared to an employee who, based on student competitions, for any place that the student wins at the municipal level, receives from one to two points. In addition, the Special Collective Agreement stipulates that the employees whose work is no longer needed are those who acquire the lowest number of points, so for employees who only have one child, by applying the criterion – number of children, the possibility of becoming an employee whose work is no longer needed is increased, because one point is awarded for one child, and a higher number for several children, as a result of which the employees who, using their freedom to decide on having children prescribed by the Constitution of the Republic of Serbia¹⁷⁸ or who for medically indicated reasons cannot have children, may be discriminated against in this way, in relation to other categories of employees.

Based on the established findings, the Protector of Citizens sent an opinion¹⁷⁹ to the Ministry of Education, Science and Technological Development, stating that it is necessary for this authority to propose to the Government an amendment to the Special Collective Agreement for employees in primary and secondary schools and student dormitories, with regard to the criteria for determining employees whose work is no longer needed, who work full-time or part-time, specifically the criterion – financial standing of the employee and the criterion – the number of preschool children, that is, children in regular schooling up to 26 years of age, by applying them only as additional, and not as the main criteria. The Protector of Citizens has not yet received information on whether the opinion has been accepted.

¹⁷⁶ For three or more children, the Special Collective Agreement prescribes five points.

¹⁷⁷ Three points are prescribed for two children.

¹⁷⁸ "Official Gazette of RS", number 98/06.

¹⁷⁹ Case number 313-2070/21-36366/21, dated 29th December 2021.

Social welfare

Investigating on a complaint about the work of the City Centre for Social Work in Belgrade, the Protector of Citizens determined that the mentioned social welfare institution, when deciding on the complainant's request for emergency one-time financial aid, due to the misinterpretation of positive legal regulations, violated her right to a correct and law-based decision. In order to improve the work of the City Centre for Social Work in Belgrade and exercise the mentioned right of the complainant and in order to prevent similar omissions in the future, the Protector of Citizens issued a recommendation to the institution in question to make a new, law-based decision in a repeat procedure, as well as to ensure that when deciding on all future requests for exercising rights in the field of social protection, it acts in accordance with the positive legal regulations, taking special care that the decisions it makes are not to the detriment of a party, nor to the detriment of the principles of the administrative procedure and good governance. The City Centre for Social Work fully acted on the issued recommendation and corrected the omission.¹⁸⁰

After the completed control investigation towards the Centre for Social Work Kovačica, the Protector of Citizens determined that the Centre had acted incorrectly and illegally when it passed a decision which resulted in the termination of a right and not its suspension, which is why it recommended to the institution to annul its illegal decision, in order to comply with the law. The Centre for Social Work acted on the issued recommendation.¹⁸¹

¹⁸⁰ Recommendation available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/6936-p-gr-shni-u-c-nj-p-zi-ivn-pr-vnih-pr-pis-gr-ds-gc-n-r-z-s-ci-lni-r-d-b-gr-d-p-vr-d-n-pr-v-pri-uzilji-n-pr-vilnu-i-z-ni-u-dlu-u>

¹⁸¹ Recommendation available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/7275-csr-v-cic-d-p-nish-i-n-z-ni-r-sh-nj-d-n>

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

- **The Ministry of Labour, Employment, Veteran and Social Affairs** should increase the number of inspectors, expand the competencies of the Labour Inspectorate and improve the technical conditions for more efficient conduct of labour inspectors;
- **The Ministry of Labour, Employment, Veteran and Social Affairs** should conduct a constant social dialogue with representatives of employees and employers in order to create conditions for dignified labour;
- **The Labour Inspectorate** should show a greater degree of initiative and initiate ex-officio proceedings to a greater extent, when there are sufficient facts that indicate the need to conduct an inspection supervision;
- **The Tax Administration, the Republic Pension and Disability Insurance Fund, the Republic Health Insurance Fund and the Labour Inspectorate** should achieve effective, timely and efficient cooperation and exchange information on an up-to-date basis regarding the employees' labour rights;
- **The Tax Administration** should, to the greatest possible extent and in a timely manner, perform control and collection of social security contributions;
- **The Republic Pension and Disability Insurance Fund** should take appropriate measures in a timely manner so that each submitted request is acted upon within the legally prescribed deadline, so that citizens would not be left without means of subsistence upon the termination of employment due to the fulfilment of pension conditions;
- **The Republic Pension and Disability Insurance Fund** should, in the case when the proceedings are initiated before the Administrative Court, keep copies of the case file, in order to act enable unhindered actions on the complainants' requests related to another administrative matter;
- **The Republic Pension and Disability Insurance Fund** should actively work on obtaining the missing data, in order to make a decision on the final amount of pension in each individual case, that is, it should make a decision on the final amount within the legal deadline, only after all possibilities for acquiring the data have been exhausted;
- **The Republic Pension and Disability Insurance Fund** should make decisions on the final amount of the pension as soon as the conditions for that are met, striving to work intensively on obtaining the missing data in each individual case;

- **The Ministry of Education, Science and Technological Development** should act in a timely manner and in accordance with the law on each submitted request in order to realize the rights of citizens;
- **The Education Inspectorate of the Ministry of Education, Science and Technological Development** should act on the applications of employees in educational institutions within the legal deadlines;
- **Higher education institutions** should ensure that the diploma issuance process is conducted more efficiently and that diplomas are issued within a reasonable timeframe;
- **The Ministry of Labour, Employment, Veteran and Social Affairs**, in cooperation with all relevant stakeholders, should continue to continuously take all necessary measures to ensure an adequate number of professional workers in social welfare institutions;
- **The Ministry of Labour, Employment, Veteran and Social Affairs and the Republic Institute for Social Protection** should provide trainings and professional development for employees;
- **The Ministry of Labour, Employment, Veteran and Social Affairs** should ensure that social welfare institutions make decisions promptly and in a timely manner;
- **The Ministry of Labour, Employment, Veteran and Social Affairs** should ensure that decisions on rights in the area of social protection are clear, fully and concisely explained.

6. SECTOR FOR THE RECEPTION OF CITIZENS

In this reporting period, 11,811 citizens addressed the Protector of Citizens, of which 1,054 were admitted for an interview, while contacts were made with 10,757 citizens. The Sector for the reception of citizens answered 197 questions that citizens asked, showing interest in the possibilities and manners of exercising their rights or freedoms.

After reviewing and sorting the received written addresses of citizens, 3,512 complaints were submitted to other organizational units of this body for further work. During the reporting period, the Sector received 989 complaints, of which 972 were closed by sending an act on the dismissal of the complaints, because they did not meet the conditions for further action given the prescribed competencies of this independent body, which means that the Sector for the reception of citizens acted in 98, 28% of the cases it received during 2021. Also, work was completed on 99 cases which were received during 2020. The reasons for the dismissal of the complaints were, above all, lack of competence and prematurity. There was also no basis for action due to formal deficiency, anonymity and untimeliness.

Based on the analysis of the received complaints, it can be concluded that the citizens, in order to protect their rights, first turn to the Protector of Citizens, which is one of the indicators that they have a high degree of trust in this independent institution. Citizens expressed their gratitude for being instructed on the procedures and competent authorities before which they may exercise or protect the rights that they considered belong to them or were violated. In addition, the requests that citizens sent to the Protector of Citizens, and which are primarily within the competence of other authorities, indicate that citizens are still not sufficiently familiar with the competencies and powers of the Protector of Citizens.

Citizens also had the opportunity to talk directly with the Protector of Citizens, Zoran Pašalić, MSc, in the scheduled time according to the request submitted in advance. Unlike in 2020, when due to epidemiological measures due to the COVID-19 infectious disease pandemic, the practice of direct conversations with citizens was temporarily interrupted, during the reporting year, the Protector of Citizens organized the reception of citizens in its Secretariat at the institution's headquarters in Belgrade and in regional offices,

in accordance with the epidemiological conditions. The dynamics and the manner of organizing personal conversations of the Protector of Citizens Zoran Pašalić, MSc, with the citizens, were conditioned by epidemiological circumstances.

Prior to the entry into force of the new Law on the Protector of Citizens, before filing a complaint, citizens were obliged to try to protect their rights through appropriate legal proceedings, which meant initiating and conducting proceedings before the Administrative Court. According to the new Law, the Protector of Citizens may conduct investigations even before the court proceedings are initiated before the Administrative Court, as well as regardless of whether the proceedings are conducted or not. It is enough that the citizens have used the available legal remedies before the administrative authorities, meaning that the new Law on the Protector of Citizens improves the rights and the position of citizens. Citizens who were interested in the status of their complaints received the necessary information about the course of the investigation.

As this reporting period was also marked by the COVID-19 infectious disease pandemic, the Sector for the reception of citizens received complaints and questions regarding the vaccination, the measures introduced to combat the spread of COVID-19 infectious disease and the economic measures for helping citizens, with the aim of mitigating the negative effects of the pandemic. The number of complaints was not smaller than in 2020 when it comes to the availability and quality of health care.

In direct communication, citizens complained about the work of administrative authorities due to their failure to make decisions within the prescribed deadline and showed dissatisfaction with the decisions made on their requests or applications. In such situations, they were instructed to submit a complaint to the Protector of Citizens, at the same time submitting the necessary documentation. In a large number of cases, citizens complained about the work of the courts, due to the violations of the right to a fair trial and the length of the court proceedings, the length of proceedings before the Administrative Court¹⁸², as well as due to irregularities in the work of public bailiffs and the amount of costs they have to bear in the enforcement proceedings. They pointed out the violation of citizens' rights to property and peaceful enjoyment of it by public bailiffs, in cases of the adoption of decisions on enforcement, complaining that bailiffs do not deliver the decision to the enforcement debtor or that they illegally consider it served in writing, leaving citizens deprived of the protection of their rights through the use of

¹⁸² Bearing in mind that the Protector of Citizens is not authorized to control the work of the courts, the complainants were instructed to contact the competent authorities in this regard.

legal remedies, after which the enforcement against the assets and objects of the enforcement debtor occurs.

The Protector of Citizens also noted that the citizens of the municipality of Bujanovac and the municipality of Preševo often addressed it due to the impossibility of exercising the right to free legal aid, which is necessary for them because they do not have the financial means to hire a lawyer, and they also pointed out the violations of the rights in the area of pension and disability insurance and the poor financial situation and the fact that the amount of the financial aid is insufficient for them to cover the costs of living. The citizens of the mentioned municipalities also pointed out the problems they faced in the field of justice and the judiciary, and they were also not satisfied with the work of the employees in the bodies of the mentioned local self-government units.

Citizens also addressed for acquiring legal advice for conducting proceedings before the competent courts, due to the inability to hire lawyers, while some citizens addressed in order to acquire some form of support due to the financial problems that befell their families. In these cases, they were referred to the free legal aid services, to the competent centres for social work or to the authorities and services that are responsible for providing support in employment and self-employment. When it was assessed that there are no grounds for initiating proceedings before the Protector of Citizens before the exhaustion of all legal remedies, they were referred to the prescribed procedures before the competent authorities.

Citizens had expectations from the Protector of Citizens to give an interpretation of certain provisions of the law in the field of labour and protection of personal data in the area of labour. For example, citizens were interested in whether the employers have the right to ask the candidate for a Police Clearance Certificate in the case when it is a matter of a job for which the mentioned information is not of direct importance. They were also interested in whether employers have the right to request information from employees on whether they have been vaccinated against the COVID-19 infectious disease and with which vaccine, and whether they can condition them with mandatory vaccination.

As in the previous reporting periods, citizens addressed this institution regarding the realization and protection of economic and social rights. Employees in the private sector were the ones who mostly complained, about the irregular payment of salaries, including social security contributions, as well as about the denial of the right to annual leave and the inability to extend the employment contract. Employed women complained about the threats of termination of the employment contract if their maternity leave is not terminated and if they do not return to work, as well as about the unpaid

compensations of earnings by unscrupulous employers. In their complaints, the citizens also pointed out that they believe that they have been denied the right to work and the availability of job positions under equal conditions, due to non-announcement of public competitions and their outcomes.

Some addresses of citizens indicate long-term unemployment, especially of those trained to work in educational institutions, as well as irregularities in the employment of medical staff. The complaints also pointed to the harassment at work by the employer, where the complainants were interested in the manner and the procedures for the protection of rights. There was also interest in the possibility of exercising the right to compensation for damages due to unpaid reimbursements of expenses for meals during labour and the recourses of employees who earn a minimum wage. In the mentioned cases, when the circumstances from the complaint did not indicate the necessity to act and before the available legal remedies have been used, the Protector of Citizens instructed citizens to contact the labour inspection or the administrative inspection, a supervisory authority or to file a complaint or lawsuit against an individual act of the employer or the competent authority.

In the area of social protection, the complaints referred to the untimely and inefficient work of social welfare institutions, especially when deciding on the rights to various types of material support, as well as to the unprofessional conduct of employees in these institutions.

Citizens also expressed dissatisfaction with the difficulties in accessing health care because they could not schedule or perform the necessary specialist examinations or operations. There were also complaints about the quality of health care and the unscrupulous work of doctors and the medical staff. They also complained about the work and the organization of the Covid clinics because of the long wait for examinations, as well as because they were being referred to the Covid clinics on the basis of any respiratory symptom. If there were no conditions for the Protector of Citizens to launch an investigation, they were instructed to contact the directors of the competent health institutions, the advisor for the protection of patients' rights or the health inspection.

Citizens also addressed due to the development of the immunization plan, believing that certain groups of citizens should have priority in the process of implementation of the immunization. They also asked questions about measures to prevent the spread of the COVID-19 infectious disease and their application, e.g., on measures relating to citizens of the Republic of Serbia when crossing the border due to the need to perform work on the territory of a neighbouring state.

In the area of finance, the complaints mainly concerned the work of the Treasury, due to problems with the payment of financial aid for mitigating the effects of the COVID-19 pandemic, as well as the work of the Tax

Administration and the Ministry of Finance, as a second instance body, due to failure to decide within the legal deadline on citizens' complaints against the decisions of the Tax Administration and local tax administrations.

Citizens also expressed dissatisfaction in the area of consumer protection, which referred to purchased products, mobile telephony services and various cable operators, problems in electricity supply and procedures for obtaining a permit to connect the building to the distribution network. Complaints were also received about the actions of public utility companies in terms of the quality of services, the price of providing utility services and obtaining subsidies, as well as in terms of irregular supply of certain services of general interest, such as the irregular supply of heating services during the heating season. There were sporadic addresses in which citizens asked for advice on who to turn to for a reimbursement because the agreed travel program abroad was not realized due to the pandemic.

Citizens expressed dissatisfaction with the work of local self-government unit bodies and the work of public companies and institutions founded by the local self-government. The largest number of complaints in this area related to the arrangement and performance of work that is in the original competence of the local self-government, expressing dissatisfaction with the arrangement and performance of communal activities, local transport, failure to maintain local roads and long-term failure to solve certain problems such as municipal waste and sewage. They were dissatisfied with the efficiency of the actions of the communal inspection and the communal militia upon their reports, in connection with the mentioned communal activities within the competence of the local self-government bodies. The Protector of Citizens forwarded such complaints to the local ombudsman for further jurisdiction, and if no ombudsman was established, it directed the complainants to the competent authority of the local self-government unit, with the instruction that they could turn to the Protector of Citizens again if they do not receive a response from the municipal, or the city administration.

Citizens also complained about the efficiency and legality of performing tasks entrusted to local self-government units in the field of construction, due to failure to prevent illegal construction and in the area of environmental protection, due to air and water pollution.

Citizens' dissatisfaction with the work of the competent real estate cadastre services of the Republic Geodetic Authority, primarily due to non-compliance with the prescribed deadlines for decision-making, as well as the quality of decisions, is characteristic of this reporting period as well.

Women who are planning a family also addressed, in connection with the realization of certain types of financial support to families with children, expressing dissatisfaction with the fact that the amount of the compensation

of earnings which they will receive during maternity leave, according to the legal solution applied to the rights realized by the end of 2021, cannot be higher than three average monthly salaries.

As far as the rights of the child are concerned, most of the addresses were on the occasion of exercising the right to respect the best interests of the child. These addresses referred to the areas of education, health and social protection, as well as to proceedings before the competent authorities when it comes to the application of police powers and the actions of centres for social work during calls and conversations, on the occasion of criminal charges against minors.

Complaints were also received about the unprofessional and illegal conduct of police officers during the application of police powers and about the actions on citizens' reports of a crime or a misdemeanour. In these cases, the complainants mostly first addressed the Protector of Citizens with a complaint, without first initiating a complaint procedure before the competent organizational unit of the Ministry of Interior. The complainants were instructed to first contact the competent organizational unit of the mentioned ministry if the prescribed conditions for initiating the procedure were not met and before the available legal remedies were exhausted. There were no less complaints about the work of this ministry when it comes to administrative affairs, especially in connection with the procedures for registration of residence and issuance of personal documents.

The Protector of Citizens was addressed by persons deprived of their liberty or members of their families, dissatisfied with the conditions of accommodation in prisons, health care, inability to make a visit and obtain information about their relatives. There was also interest in exercising the right to conditional release and in the vaccination of persons deprived of their liberty.

Persons with disabilities submitted complaints in the field of labour, pointing out the long-standing problems in the operation of companies for professional rehabilitation and employment of persons with disabilities, and to non-payment of salaries and other income arising from employment.

Senior citizens expressed dissatisfaction with the exercise of rights in the field of pension and disability insurance, due to the length of proceedings before the competent organizational units of the Republic Pension and Disability Insurance Fund, as well as the decisions made, most often regarding the fact that, when calculating their pension, the length of insurance was not taken into account for the time spent at work while they were registered for social insurance. They also pointed out the difficult situation and the lack of basic means of subsistence due to the small amounts of pensions, as well as the violence and neglect by their closest family members.

7. EMERGENCY RESPONSE DEPARTMENT

In relation to the previous reporting period, the Protector of Citizens notes that the Republic Geodetic Authority did not act on the recommendation¹⁸³ from 2020, which refers to the identified omission in work, to the detriment of 228 employed civil servants, because during the adoption of the decision to work from home due to the declared state of emergency and the COVID-19 infectious disease pandemic, a collective decision was adopted for all employees, whose integral part is the list of employees with chronic diseases.

The work of the Emergency Response Department in 2021 was marked, among other things, by the handling of complaints indicating irregularities in the procedure of applying for and payment of the one-time financial aid intended for all adult citizens of the Republic of Serbia, an intervention due to the alleged forced vaccination of professional members of the Serbian Armed Forces, after complaints from a larger number of professional members of the Serbian Armed Forces and their trade unions, investigations conducted towards the Ministry of Interior due to allegations of excessive use of coercive means and untimely and inefficient work of police officers, as well as by a partial lack of cooperation between the Republic Geodetic Authority and the real estate cadastre services with the Protector of Citizens in the control investigations launched upon citizens' complaints.

In the control investigation into the work of the Zemun Police Station, acting on a complaint, the Protector of Citizens identified omissions in the work of police officers, which consisted of untimely and inefficient actions after informing the complainants that they had received death threats and that their property was destroyed. Due to the aforementioned omissions in the work of the Zemun Police Station, on 13th October 2020, a group of 10 people freely broke into the premises of the Art Gallery "Stara Kapetanija", where it tore art drawings on display on the walls and endangered the safety and health of the persons who attended the event, since tear gas was thrown into the room. In this way, violation of public peace and order occurred, as well as the violation of the right to security of citizens who attended the

¹⁸³ Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6726-u-zbirn-r-sh-nju-z-r-d-d-uc-i-hr-nicn-b-l-s-i-z-p-sl-nih>.

aforementioned event, violation of the right to protection of the complainants' property and the violation of the right to effective actions of the authorities. In accordance with the above, the Protector of Citizens issued recommendations¹⁸⁴ to the Ministry of Interior, which were acted on.

Complaints of professional members of the Serbian Armed Forces and their trade unions were also the subject of the investigations of the Protector of Citizens, in which it was claimed that the General Staff of the Serbian Armed Forces was trying to carry out mandatory immunization of its members. In the conducted control investigation, it was determined that the General Staff of the Serbian Armed Forces made an omission in its work, which is reflected in the fact that by Order of the Chief of General Staff of the Serbian Armed Forces and act of the Logistics Directorate (J-4) of the General Staff of the Serbian Armed Forces, mandatory immunization against the COVID-19 infectious disease was ordered for professional members of the Serbian Armed Forces and regulations were drafted for its implementation in accordance with the above-mentioned acts. In this way, actions were conducted which are contrary to the binding norms of the Law on Protection of the Population from Infectious Diseases¹⁸⁵, which regulate which categories of the population and under which conditions can they be vaccinated, and the right to inviolability of physical and mental integrity of members of the Serbian Armed Forces was violated, who were obliged by these acts to receive the vaccine regardless of whether they agreed to such a health care measure or not. Accordingly, the Protector of Citizens issued recommendations¹⁸⁶ to the Ministry of Defence, which were acted on.

Investigating on complaints in the area of health, the Protector of Citizens noted that insufficient professional and spatial capacities and insufficient coordination between institutions in charge of caring for children and youth with mental disorders, in some cases, result in denial of the right to health care, and above all to the reception and examination of urgent mental states of adolescents (patients over 14 years of age). Bearing in mind that the Ministry of Health is aware of the fact that relevant institutions do not have the possibilities to accept patients over 14 years of age, the Protector of Citizens sent an opinion¹⁸⁷ to this Ministry that it is necessary for it to take measures and activities, which are required to improve the urgent hospital health care for adolescents with mental disorders, through better coordination of

¹⁸⁴ Available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/7196-n-fi-sn-p-s-up-nj-p-lici-p-v-d-incid-n-n-izl-zbi-u-s-r-p-ni-i>.

¹⁸⁵ Law on the Protection of Population from Infectious Diseases, "Official Gazette of RS", no. 15/16, 68/20 and 136/20.

¹⁸⁶ Case number 4235-139/21-18387 dated 7th July 2021.

¹⁸⁷ Case number 4227-211/20-29491 dated 1st November 2021.

existing resources and the strengthening of the professional and spatial capacities of relevant institutions.

When it comes to the area of protection and improvement of the protection of the rights of the elderly, in order to make the exercise of the rights and legally based interests of persons with disabilities and the elderly more available and accessible, the Protector of Citizens, by sending opinions¹⁸⁸ to the Ministry of Labour, Employment, Veteran and Social Affairs, pointed out the need to change the bylaws in the area of veteran-disability protection. The current Rulebook on the manner of payment of cash benefits prescribed by law¹⁸⁹, which governs the rights of war veterans, war military disabled people, civilian war military disabled people and members of their families, prevents beneficiaries of these benefits from choosing a bank, which makes it difficult for them to freely exercise their recognized right to cash benefits. In its Opinion, the Protector of Citizens called on the Ministry of Labour, Employment, Veteran and Social Affairs to consider a different manner of regulating the payment of personal disability benefits, family disability benefits, care allowances, orthopaedic allowances, disability allowances, monthly cash income, family allowances and veteran's allowances, which would provide for a free choice of payment methods and places.

The subject of the investigations of the Protector of Citizens in the area of finance were the problems of citizens when applying for and during the payment of the financial aid intended for all adult citizens of the Republic of Serbia in accordance with the Law on Temporary Register of Adult Citizens of the Republic of Serbia, who are paid the financial aid to mitigate the consequences of the COVID-19 infectious disease pandemic¹⁹⁰. In most cases, citizens indicated the rejection of their application due to incorrectly entered data. In the control investigations, it was determined that the Ministry of Interior and the Republic Pension and Disability Insurance Fund did not submit accurate and complete data from their records or did not submit them at all for individual citizens – pension beneficiaries, which is why the financial aid was not paid. In all cases in which it was subsequently determined that the citizen meets all the legally prescribed conditions, the competent authorities, in cooperation with the Treasury of the Ministry of Finance, eliminated the shortcomings in the work and the payment of

¹⁸⁸ Opinion available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/7165-inis-rs-v-z-r-d-d-l-sh-n-s-n-s-v-riv-nj-prizn-g-pr-v-n-n-vc-n-pri-nj-s-b-s-inv-lidi-i-s-ri-i>.

¹⁸⁹ Rulebook on the manner of payment of cash benefits prescribed by law, "Official Gazette of RS", number 161/20.

¹⁹⁰ Law on the Temporary Register of Adult Citizens of the Republic of Serbia to whom financial aid is paid to mitigate the consequences of the COVID-19 pandemic caused by the Sars-Cov-2 virus, "Official Gazette of the RS", number 40/21.

financial aid was made. The mutual cooperation of all competent authorities and the cooperation with the Protector of Citizens in these proceedings, and in the interest of the citizens, was at a high level.

When it comes to the real estate cadastre, untimely and out-of-date actions of the real estate cadastre services continue to represent the most common violation of the rights, due to which a large number of citizens turned to the Protector of Citizens. The number of complaints indicating untimely decision-making of the Republic Geodetic Authority on appeals against decisions of the real estate cadastre service and multiple cases of exceeding of deadlines for making a second-instance decision has also increased significantly. In this reporting period, unlike in the previous ones, a partial lack of cooperation with the Protector of Citizens is noticeable, because after the initiated control investigations, the Republic Geodetic Authority did not eliminate shortcomings in its work, explaining such actions on its side not only by the lack of staff but also by the interpretation that the deadline of 60 days, prescribed by Article 44, paragraph 1 of the Law on the Procedure for Registration with the Cadastre of Real Estate and Utilities, does not apply to cases on appeals against decisions made in proceedings not conducted through the E-cadastre, that is, that the priority is given to resolving cases on appeals against decisions adopted in procedures conducted through the E-cadastre. The recommendations issued to the Republic Geodetic Authority indicate that in the application of Article 44, there is no place for interpretation and arbitrary application of the law, given that the mentioned article of the law unequivocally prescribes the same deadline for deciding in all proceedings. Despite the issued recommendations for eliminating the observed shortcomings in work, their implementation was lacking, which is the basic feature of this reporting period.

This is supported by the fact that in the second half of 2021, the Protector of Citizens issued a collective recommendation with 12 recommendations¹⁹¹ to the Department for second instance procedure of the Republic Geodetic Authority, in order for it to start handling complaints from citizens who have been waiting for that for several years. When issuing the recommendations, the Protector of Citizens left a deadline of 60 days from the day of receiving the act for acting on the received complaints, but the response of the Republic Geodetic Authority was absent, which violated the provisions of the Law on the Protector of Citizens, because the Protector of Citizens was not even informed about the outcome of the issued recommendations.

As the most worrying example, the Protector of Citizens points out the complaint of a citizen from Kučevo, whose administrative procedure before

¹⁹¹ Case number 4216-23/21-27793/21 dated 18th October 2021.

the Republic Geodetic Authority has entered its eleventh year. Namely, in 2021, the Protector of Citizens received a complaint from a citizen who pointed out that she had submitted a request to the competent real estate cadastre service in 2010 to change the rights holder, and after the initiated control investigation into the work of the mentioned service, the omission was eliminated and the first-instance decision was adopted. However, dissatisfied with the merits of the decision, the complainant filed a complaint with the Republic Geodetic Authority, which did not decide on it within the legally prescribed deadline. At the end of 2021, the Protector of Citizens issued a recommendation¹⁹² to the Republic Geodetic Authority, pointing out all the characteristics of this case and the need to resolve it as soon as possible, and left a deadline of 30 days from the date of receipt of the act for acting on it. In the mentioned case, the cooperation of the Republic Geodetic Authority with the Protector of Citizens was lacking, and the Protector of Citizens was not informed about the outcome within the designated deadline.

In the area of pension and disability insurance, the largest number of complaints related to untimely actions of the Republic Pension and Disability Insurance Fund on requests for determining the length of service in the Ministry of Defence and the Serbian Armed Forces, in which the inability to obtain data from the Ministry of Defence was the main cause of the long duration of the procedure. After the initiated control investigations, the Ministry of Defence and the Republic Pension and Disability Insurance Fund have eliminated the shortcomings in their work.

Also, the Protector of Citizens notes that the Republic Pension and Disability Insurance Fund is not acting efficiently enough in cases where cooperation with the relevant authorities of other countries is required. During the reporting period, the Protector of Citizens investigates a complaint of a complainant from Sarajevo, which was forwarded to this institution by the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina¹⁹³. The allegations in the complaint stated that the complainant submitted a request for exercising the right to a family pension in 2017, after the death of her late husband, and that she did was not able to exercise that right because the competent authority of the Republic of Serbia did not submit data on the length of service that the husband of the complainant has achieved in the Republic of Serbia, even after several urgencies. After the initiated control investigation against the work of the Republic Pension and Disability Insurance Fund, within 15 days from the day of receipt of the act on initiating the

¹⁹² Case number 4216-59/21-34130/21 dated 9th December 2021.

¹⁹³ Based on the Memorandum of Cooperation between the Protector of Citizens of the Republic of Serbia and the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina, which was concluded in 2019.

procedure, a decision was made establishing the right to a proportional part of the old-age pension, according to Article 42 of the Agreement on Social Security of the Republic of Serbia and Bosnia and Herzegovina, the pension length of service has been determined, and a form with the confirmed pension length of service that the complainant's husband achieved in the Republic of Serbia was sent to the insurance carrier of Bosnia and Herzegovina.

In the area of local self-government, during the reporting period, the Protector of Citizens had good cooperation with local self-government bodies during the control investigations into their work in dealing with complaints that required emergency responses, but there were problems when it comes to the handling of recommendations and opinions which were sent to the mentioned authorities after the control investigations were carried out.

In the control investigation into the work of the Municipal Administration of the Municipality of Bela Palanka, the Protector of Citizens determined that the Department for urbanism, construction, property and legal and housing and communal affairs, when adopting a first instance decision in the administrative procedure initiated on the complainant's appeal against the decision on the administrative transfer of the Secretariat for property and legal, communal and inspection affairs of the Municipal Assembly of Bela Palanka, did not take into account the objections of the second instance authority and the legal opinion of the Administrative Court. The mentioned omission represents violations of the right to respect for the law, the right to efficient actions of the authorities and the right to respect for the created legal expectations, which resulted in the procedure, which was initiated in 2009 by the mentioned appeal, still not being finalized. Therefore, recommendations were issued to the acting first-instance authority¹⁹⁴ to adopt a new first-instance decision as soon as possible in the mentioned procedure, during the adoption of which, it will act in accordance with the objections set out in the decision of the second-instance authority.

In the second case, the Protector of Citizens issued an opinion¹⁹⁵ that the public company Institute for Urbanism Niš and the Planning Commission of the City of Niš drafted, and the City Assembly of the City of Niš adopted, a planning document which does not provide for the existence of a connection to a public road for the company – complainant, in the 12th February Boulevard in Niš, despite the fact that the complainant already had a building and

¹⁹⁴ Available at: <https://ombudsman.rs/index.php/2012-02-07-14-03-33/7091-psh-ins-upr-v-psh-in-b-l-p-l-n-prili-dluciv-nj-u-prv-s-p-nu-u-upr-vn-p-s-up-u-ni-uv-z-v-l-pri-db-drug-s-p-n-grg-n-i-pr-vn-shv-nj-upr-vn-g-sud>.

¹⁹⁵ Available at: <https://ombudsman.rs/index.php/2011-12-11-11-34-45/7274-rg-ni-l-ln-s-upr-v-r-u-uzi-i-u-bzir-gr-d-vins-i-up-r-bn-d-zv-l-v-c-izgr-d-nih-b-prili-izr-d-i-d-n-sh-nj-n-vih-pl-ns-ih-d-u-n>.

operation permit for its entrance-exit gate at the mentioned location. Based on the mentioned planning document, the public company Directorate for Construction of the City of Niš performed works on the sidewalk at the location in question, in front of the complainant's entrance-exit gate, which prevented the complainant's employees from using it further. The Protector of Citizens pointed out to the local self-government bodies that the complainant, as long as it has the necessary documentation for the construction and use of the entrance-exit gate at the location in question, cannot be prevented from using it, and that the competent authorities need to remove the parking poles and consider other ways to adjust the elements of the traffic connection to the newly created traffic requirements, in a manner that will enable unobstructed access to the entrance-exit gate at the complainant's plot. The local self-government bodies of the Municipality of Bela Palanka and the city of Niš did not act according to the stated recommendation and opinion of the Protector of Citizens.

In the area of the rights of persons with disabilities, during the reporting period, the Protector of Citizens conducted an investigation on the complaint of the Association of parents of children with developmental delays in the Municipality of Vrnjačka Banja, which, due to the failure of the competent administrative authorities to go to the field in order to check the quality of its services, was threatened with termination of work and the loss of license. After the conducted control investigation into the work of the Ministry of Labour, Employment, Veteran and Social Affairs, the competent inspection services went to the field and gave a positive opinion on the renewal of the license.

8. COOPERATION BY THE PROTECTOR OF CITIZENS

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

For the third year in a row, the National Assembly considered the regular annual report of the Protector of Citizens. In the Conclusion¹⁹⁶, which was adopted after the consideration of the Regular Annual Report for 2020, the National Assembly called on the Government of the Republic of Serbia to continuously report on the implementation of that Conclusion.

The National Assembly recommended to the Government to adopt a new National Action Plan for Children, to ensure that children in the street are not treated as perpetrators of crimes, but as victims of violence, abuse and neglect, as well as to provide support measures for parents of seriously ill children and children with developmental delays and disabilities who need constant care and assistance.

The National Assembly pointed out the need for continuous implementation of measures and activities dedicated to raising public awareness of gender equality and improving the position of women, as well as activities aimed at recognizing hate crimes, among other things, based on sexual orientation and gender identity.

The National Assembly provides support to the Government in providing an efficient system of services and support services for persons with disabilities and the elderly, as well as to adopt a plan for the deinstitutionalization process in the Republic of Serbia.

The National Assembly called on the Government and the competent ministries to organize trainings and other activities in order to strengthen the capacity of the national councils of national minorities to exercise all powers that belong to them by law, as well as to make information on their role

¹⁹⁶ "Official Gazette of RS", number 102/21.

more accessible. In order to improve the position of Roma men and women, especially in the field of health care, it is necessary to ensure that health mediators continue to work in Roma settlements and to provide residents of Roma settlements with better information on the measures of protection in case of an outbreak of an infectious disease.

8.2. INTERNATIONAL COOPERATION AND PROJECTS

The Protector of Citizens continued to maintain intensive regional and international cooperation at the bilateral and multilateral level, with relevant partners in the field of human rights protection, as well as with representatives of international and regional organizations.

In November 2021, the Protector of Citizens was re-accredited as a national human rights institution in the highest "A" status by the Global Alliance of National Human Rights Institutions (GANHRI). In addition to this network, the Protector of Citizens is a member of the European Network of National Human Rights Institutions (ENNHRI), the International Ombudsman Institute (IOI), the Association of Mediterranean Ombudsmen (AOM), the European Network of Ombudsmen (ENO), the European Network of Ombudspersons for Children (ENOC), the South East Europe Children's Rights Ombudspersons' Network (CRONSEE), the Ombudspersons Network for Environmental Protection and the Eurasian Ombudsman Alliance (EOA).

In October 2021, as a national human rights institution, the Protector of Citizens submitted to the United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment a report on the application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ahead of the consideration of the Third Periodic Report of the Republic of Serbia at the 72nd session of the Committee.

During the reporting period, the Protector of Citizens continued to cooperate with other United Nations human rights protection mechanisms, primarily through the reporting process, and by responding to various thematic questionnaires of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the special procedures, it presented its observations, primarily on the exercise of human rights of particularly vulnerable groups.

As part of the activities of professional international networks, the Protector of Citizens took part in three online conferences organized by the

Eurasian Ombudsman Alliance, in June on the topic of the protection of rights of persons with disabilities and in October in two conferences which were dedicated to the exchange of practices of the ombudsmen in the protection of human rights in Eurasia and the exchange of practices on current issues in the protection of youth rights.

In September 2021, the Protector of Citizens hosted the High Commissioner for Human Rights of the Russian Federation and the Ombudsman of the Republic of Uzbekistan. At these bilateral meetings, the perspectives of future cooperation and challenges in the protection of human rights during the pandemic were discussed.

In order to exchange experiences in the protection of human rights, the Protector of Citizens participated in an international conference organized by the Ombudsman of Turkey, at which the ombudsmen of the Balkan region were discussed. At the invitation of the Ombudsman of Ukraine, the Protector of Citizens followed the International Forum on Roma Inclusion, which was organized in an online format. At the invitation of the High Commissioner for Human Rights of the Russian Federation, in September 2021, the Protector of Citizens attended an international conference dedicated to the protection of human rights in Eurasia and gave a presentation on the role of independent human rights institutions in exercising voting rights.

In order to encourage further cooperation at the bilateral level, the Protector of Citizens signed a Cooperation Agreement with the National Human Rights Institution of the Kingdom of Bahrain in November 2021. The signed agreement defines the procedures and cooperation of the ombudsmen in cases of violations of the rights and freedoms of the citizens of the Republic of Serbia on the territory of the Kingdom of Bahrain and the citizens of this state on the territory of the Republic of Serbia. The importance of this agreement is also reflected in the more efficient handling of complaints of the Ombudsman and a more intensive development of further mutual cooperation.

The Protector of Citizens continued its continuous cooperation with representatives of international and regional organizations – the United Nations, the Organization for Security and Co-operation in Europe, the Council of Europe and the European Union. In September 2021, the representatives of the Protector of Citizens met with members of the GRECO evaluation team during the visit to the Republic of Serbia. In November 2021, the Protector of Citizens held a meeting with the Special Adviser to the Secretary-General of the United Nations for the Prevention of Genocide.

The Protector of Citizens continuously participates in the reporting of the Republic of Serbia in the process of accession to the European Union.

PROJECTS

In this reporting period as well, the Protector of Citizens participated in the implementation of the joint project of the Council of Europe and the European Union entitled "Horizontal Facility for the Western Balkans and Turkey". More specifically, within the component "Promotion of Diversity and Equality in Serbia", in order to more effectively implement relevant national strategies at the local level, the Protector of Citizens and civil society organization Rainbow Association, held seven trainings for representatives of 15 local self-government units to strengthen the capacities to integrate LGBTI rights in local strategic documents or local action plans for the youth, social protection and gender equality.¹⁹⁷

In cooperation with the Forum of Judges of Serbia, the Protector of Citizens participates in the implementation of the Autonomous Women's Centre project entitled "Effective policies and unified practice in support and protection of domestic violence survivors", funded by the Embassy of the Kingdom of the Netherlands, in order to improve the implementation of the Law on Prevention of Domestic Violence through more efficient cooperation and coordination of all services in the victim protection system. During 2021, individual plans for protection and support for victims of domestic violence and minutes from the meetings of coordination and cooperation groups in the area of the City of Niš were collected from the centres for social work from Niš, Aleksinac, Gadžin Han, Svrlijig, Ražanj, Sokobanja and Doljevac, in order to investigate the functioning and work of these groups. A special report of the Protector of Citizens on the work of groups for coordination and cooperation in the area of the City of Niš will be published in 2022.

Thanks to the financial support of the OSCE Mission to Serbia, the Protector of Citizens published a Special Report on the official use of the Bulgarian language and script in the middle of 2021. The Report with recommendations for improvement issued to the competent authorities was also published in Bulgarian. It was made on the basis of data collected during the research conducted by the Protector of Citizens during 2019, 2020 and the first half of 2021, and in which the municipalities of Dimitrovgrad, Bosilegrad, Surdulica and Babušnica participated, as well as the cities of Pančevo, Pirot and Vranje. Data were collected from the mentioned local self-government units in order to assess the application of the Law on Official Use of Languages and Scripts in terms of conducting administrative proceedings in the Bulgarian language before the local self-government bodies, the registration of

¹⁹⁷ Available at: <https://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/7216-s-n-vic-un-pr-di-i-p-l-z-lgb-i-s-b-u-l-lni-sr-din>

personal names in the Bulgarian language and the number of applications for registration. The main findings and conclusions of the research are presented in more detail in the segment of the Annual Report dedicated to the rights of members of national minorities.

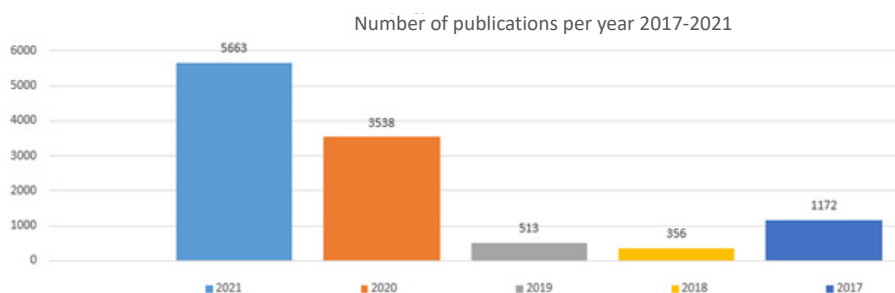
Through the Programme of the Bulgarian Development Aid, and through the Embassy of the Republic of Bulgaria in Serbia, the Government of the Republic of Bulgaria is financing the implementation of the project of the Protector of Citizens entitled "Children to children – know your rights", the goal of which is to contribute to a better understanding of the concept of children's rights in the Republic of Serbia and improved promotion and strengthening of participation as one of the key principles of the United Nations Convention on the Rights of the Child. During 2021, the Protector of Citizens drafted the document *Child Protection Policy*¹⁹⁸, which contains a set of principles and guidelines for employees of the Secretariat of the Protector of Citizens who work directly with children, which represents an important step towards achieving best practices in child protection. Also, a brochure is being prepared in which key articles and principles of the United Nations Convention on the Rights of the Child are presented in a child-friendly manner, a brochure presenting the competencies of the Protector of Citizens in the area of promotion and protection of children's rights, as well as a pamphlet on the Youth Advisory Panel of the Protector of Citizens.

During last year, the Protector of Citizens participated in the regional initiative of the Child Rights Impact Assessment (CRIA), which was implemented in partnership with the European Network of Ombudspersons for Children (ENOC). As part of this initiative, the Protector of Citizens conducted a research in order to assess how measures and regulations adopted to prevent the spread of the COVID-19 infectious disease affected the exercise of children's rights, especially the child's right to maintain personal relations with a parent with whom he/she does not live and the right of children with developmental delays to the social protection service – day care. Based on the data collected during the research, with the support of the United Nations Children's Fund (UNICEF), a Special Report of the Protector of Citizens was prepared, with recommendations for improvement, which will be presented in early 2022.

¹⁹⁸ Available at: https://www.pravadeteta.com/index.php?option=com_content&view=article&id=1056:%D0%BF%D0%BE%D0%BB%D0%B8%D1%82%D0%B8%D0%BA%D0%B0-%D0%B7%D0%B0%D1%88%D1%82%D0%B8%D1%82%D0%B5-%D0%B4%D0%B5%D1%86%D0%B5&catid=55&Itemid=89

8.3. PROTECTOR OF CITIZENS IN THE MEDIA

Media coverage of the activities of the Protector of Citizens in 2021 increased by almost two thirds, more precisely by 60% compared to 2020, which is a consequence of more efficient work of this independent state institution, which is also why the interest of the media in the area of human rights protection increased. Electronic, print and internet media published 5,663 reports on the actions of the Protector of Citizens during the reporting year, which represents a double increase compared to 2020, when 3,538 publications were recorded.



Out of the total number of publications, more than a third of the texts referred to the activities of the Sector for the Protection of Child's Rights and Gender Equality of the Protector of Citizens, a total of 2,198, which indicates great public interest in the protection of children's rights as the most vulnerable category of the population, the protection of women and children from violence and the right to equality. It is exactly in these areas that the Protector of Citizens, based on information from the media, launched a large number of own-initiative investigations, thereby increasing the efficiency of this institution in dealing with issues of public interest, which affected the interest of the media.

Most reports on the work of the Protector of Citizens in 2021 were published in the Internet media – 4,409, which allowed the information on the work of the institution to reach the citizens much faster, regarding the type of the media and the accessibility via mobile devices. Both electronic (radio, television, news agencies) and print media expressed increased interest in the work of the Protector of Citizens, so in the reporting year they published 925 texts on the work of this independent state body. 314 publications and comments on the activities of the Protector of Citizens were recorded on the social networks of domestic media. In the reporting year, the Protector of Citizens had 34 guest appearances on television and radio shows.

Reports and information on the activities of the Protector of Citizens in the media and on social networks were mostly placed in a positive context (5,024 publications), neutral were the announcements on activities in which the Protector of Citizens was one of the participants (337 publications), while 288 publications contained critical or different view of the role and manner of work of this independent state institution. Newspaper texts and media reports on the initiatives of the Protector of Citizens were in the greatest number of cases affirmative.

The media visibility of the Protector of Citizens, compared to the previous reporting year, was especially increased in the media based in Belgrade (4,626 publications). Significant positive increase in media visibility of the Protector of Citizens compared to 2020, when there were 410 of them, was recorded in the local media in the Republic of Serbia (939 publications), which reported on activities related to their geographical area, but also on activities of general importance. Media from the region and the diaspora also reported, on certain control investigations into the regularity and legality of work of the competent institutions in the Republic of Serbia, which were initiated by the Protector of Citizens on his own initiative (84 publications).

The activities of the Protector of Citizens during the reporting year, in which the COVID-19 infectious disease pandemic determined the way of life of the citizens of the Republic of Serbia for the second year in a row, were the focus of media reports. The Protector of Citizens was often the only instance which the media addressed in numerous cases in which citizens could not exercise their rights, or regarding examples of protection of the rights of particularly vulnerable categories of the population.

The media regularly published announcements and transmitted statements of the Protector of Citizens, Zoran Pašalić, MSc, regarding various areas of protection of the guaranteed rights. Primarily, they reported on the basis of investigations and the results of the control of regularity and legality of work of the competent institutions, and then on the basis of activities and statements of the Protector of Citizens and his deputies. Throughout the entire reporting year, the media published articles, with special interest, in the field of protection of children's rights and gender equality, protection of the rights of persons with disabilities and the elderly, protection of journalists, but also the drafting of the new Law on the Protector of Citizens, which was adopted on 3rd November 2021, by the National Assembly of the Republic of Serbia.

The media also showed great interest in reporting on the single database on pressures and attacks on journalists, the technical development of which was completed by the Protector of Citizens in the reporting year. The Protector of Citizens signed an agreement on the development of this platform in

May 2020 with seven media associations and three journalists' unions. At the meeting in July 2021, the Protector of Citizens informed the Working Group for the Protection of Journalists of the Government of the Republic of Serbia that the technical development of this single database has been completed and that data are being entered according to the criteria classified by the representatives of journalist associations¹⁹⁹. Data on pressures and attacks on journalists submitted to the Protector of Citizens by the Association of Journalists of Serbia have been entered into the database, and the database will be complete when the Independent Association of Journalists of Serbia submits its data to the Protector of Citizens.

Also, the media followed and reported closely on the work of the Working Group for Security and Protection of Journalists of the Government of the Republic of Serbia, of which the Protector of Citizens is a member. This working group showed its efficiency in the event of the attack on media workers Daško Milinović, Marko Vidojković and Nenad Kulačin, and its special success, which was widely reported by the media, is reflected in the successful completion of the humanitarian action to help the journalist Milan Jovanović, whose house was set on fire.

In the reporting year, efficient and proactive action of the Protector of Citizens in the field of protection of human and minority rights contributed to the greater visibility of the institution in the media, as well as increased media interest in the area of protection of all guaranteed rights of citizens of the Republic of Serbia.

¹⁹⁹ <https://www.politika.rs/scc/clanak/483327/Ana-Brnabic-sastala-se-sa-clanovima-Radne-grupe-za-bezbednost-novinara>

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 government body introduced into the legal order of the Republic of Serbia in 2005 by the Law on the Protector of Citizens.²⁰⁰ The new Law on the Protector of Citizens²⁰¹ was adopted on 3rd November 2021, and entered into force on 16th November 2021. The position of the institution has been strengthened by the Constitution of the Republic of Serbia²⁰² from 2006, in accordance with the best international experiences. The Constitution guarantees the Protector of Citizens principled independence. The Protector of Citizens is subject, pursuant to the provisions of the Constitution, to the oversight of the National Assembly. The National Assembly, in exercising oversight, the same as any other body, organization or individual, is not authorized to influence the work and actions of the Protector of Citizens.²⁰³

The Constitution of the Republic of Serbia determines the nature and competence of the Protector of Citizens, the circle of public authorities that are excluded from the control function of this body, prescribes that the Protector of Citizens is elected and dismissed by the National Assembly, to which he is responsible for his work, guarantees immunity to the Protector of Citizens as a Member of Parliament and refers to the adoption of a special (organic) Law on the Protector of Citizens. The Constitution also prohibits the Protector of Citizens from joining political parties and authorizes him to submit draft laws within his competence.

The Constitutional Law on the Implementation of the Constitution of the Republic of Serbia²⁰⁴, among other things, prescribes the obligation of the newly elected members of the National Assembly to, during the first session after the election of the Government, harmonize with the Constitution

²⁰⁰ "Official Gazette of RS", no. 79/05 and 54/07.

²⁰¹ "Official Gazette of RS", number 126/21.

²⁰² "Official Gazette of RS", number 98/06 (Part Five – Organization of Government, Section 5. Protector of Citizens, Article 138).

²⁰³ Article 3, paragraph 1 of the Law on the Protector of Citizens.

²⁰⁴ Article 5, paragraph 1 of the Constitutional Law for the Implementation of the Constitution of the Republic of Serbia, "Official Gazette of the RS", number 98/06.

the law governing the Protector of Citizens and to elect (first, prim. PoC) the Protector of Citizens.

The new Law on the Protector of Citizens²⁰⁵ prescribes in detail the competence of the Protector of Citizens, election and termination of office, the procedure before the Protector of Citizens, the obligation to report to the National Assembly and cooperation with other authorities, civil society organizations and international organizations, the right to a salary, funds for the work and the work of the Secretariat of the Protector of Citizens.

The Law on Amendments to the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment²⁰⁶, adopted on 28th July 2011, stipulates that the Protector of Citizens performs the work of the National Preventive Mechanism in cooperation with the ombudsmen of the autonomous provinces and associations whose statute envisages that the intended aim of association is the promotion and protection of human rights and freedoms.

The Law on Foreigners²⁰⁷ stipulates that the Protector of Citizens, in accordance with the competencies from the Law on the Protector of Citizens and the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, performs oversight of the procedure of forced removal of foreigners.

The Law on the National Assembly²⁰⁸ stipulates, among other things, that the National Assembly, in exercising its electoral function, elects and dismisses the Protector of Citizens, and within its control capacity, it performs oversight of the work of the Protector of Citizens.

The Law on the Serbian Armed Forces²⁰⁹ stipulates that the Protector of Citizens exercises democratic and civilian control of the Armed Forces, as well as that the regulations on the Protector of Citizens relating to the protection and exercise of rights of citizens, also apply to professional members of the Serbian Armed Forces.

The Law on Police²¹⁰ stipulates that when the work of the Internal Control Sector determines that during the conduct of a police officer, police powers have been exceeded, thereby violating the rights that are protected by the

²⁰⁵ "Official Gazette of RS", number 126/21.

²⁰⁶ Law on Amendments to the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Official Gazette of RS – International Agreements", no. 7/2011.

²⁰⁷ Article 82 of the Law on Foreigners, "Official Gazette of RS", no. 24/18 и 31/19.

²⁰⁸ Article 15 para. 2, item 6) and para. 3, item 4) of the Law on the National Assembly, "Official Gazette of RS", number 9/10.

²⁰⁹ Article 29, paragraphs 3 and 4 of the Law on the Serbian Armed Forces, "Official Gazette of RS", no. 116/07, 88/09, 101/10, – as amended, 10/15, 88/15 – CC decision, 36/18 and 94/19.

²¹⁰ Article 227 of the Law on Police, "Official Gazette of RS", no. 6/16, 24/18 and 87/18.

Protector of Citizens, in addition to the minister and the public prosecutor's office, the Protector of Citizens is also informed about this.

The Criminal Procedure Code²¹¹ stipulates that the Protector of Citizens has the right to freely visit detainees and to talk to them without the presence of other persons, as well as that a detainee may not be prohibited from corresponding with the Protector of Citizens. The law also stipulates the obligation of the judge for the enforcement of penal sanctions or another judge appointed by the president of the court, to inform the Protector of Citizens about the observed irregularities during the visit to an institution, without delay.

The Law on the Enforcement of the Prison Sentence for Criminal Offences of Organized Crime²¹² stipulates, inter alia, that: oversight of the work of the Special Department is to be carried out by authorized persons of the Administration and the National Assembly committees, in accordance with the Law on the Enforcement of Penal Sanctions, as well as the Protector of Citizens in accordance with the Law on the Protector of Citizens; that the convict has the right to be visited by the Protector of Citizens once a month, which is exempt from the statutory obligation of audio-visual surveillance and recording, as well as that the convict has the right to correspond with the Protector of Citizens and that this correspondence is not supervised.

The Law on Civil Servants²¹³ stipulates that a civil servant is removed from office, inter alia, if the body or authority responsible for appointing a civil servant accepts the public recommendation of the Protector of Citizens for the dismissal of a civil servant from office.

The Data Secrecy Law²¹⁴ prescribes in which cases the Protector of Citizens, as a state body appointed by the National Assembly, has the right to access data of all levels of secrecy, which are necessary for him to be able to perform tasks within his competence, without a security check, as well as in which cases the security check is required.

²¹¹ Art. 219 para. 3, 220, paras. 2 and 222, para. 2 of the Law on Criminal Procedure, "Official Gazette of RS", no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 – CC decision and 62/2021 – CC decision.

²¹² Art. 35 para. 2, 37 paras. 4 and 54, para. 1 of the Law on the Enforcement of the Prison Sentence for Criminal Offences of Organised Crime, "Official Gazette of RS", no. 72/09 and 101/10.

²¹³ Article 78, paragraph 2 of the Law on Civil Servants, "Official Gazette of RS", no. 79/05, 81/05 – corr., 83/05 – corr., 64/07, 67/07 – corr., 116 / 08, 104/09, 99/14, 94/17, 95/18 and 157/20.

²¹⁴ Article 38 of the Data Secrecy Law, "Official Gazette of RS", number 104/09.

The Law on the Appearance and Use of the Coat of Arms, Flag and Anthem of the Republic of Serbia²¹⁵ prescribes that the Large Coat of Arms is used on the building, in official premises, as part of seals, while the Small Coat of Arms is used on official invitations of the Protector of Citizens, greeting cards and the like.

The Law on Seal of Government and Other Authorities²¹⁶ regulates the purpose, content, appearance and use of the seal used by the Protector of Citizens in the performance of tasks within its competence.

The Law on Political Parties²¹⁷ stipulates that the Protector of Citizens cannot be a member of a political party.

The Law on Establishing Facts on the Status of New-born Children Suspected to Have Gone Missing from Maternity Wards in the Republic of Serbia²¹⁸ prescribes, inter alia, that a proposal to initiate proceedings to establish the facts on the status of a new-born child suspected to have gone missing from a maternity ward in the Republic of Serbia may be submitted by the parent of the new-born child, if before the day of entry into force of this Law he/she addressed the state authorities or the maternity ward regarding the status of the new-born child suspected to have gone missing from the maternity ward in the Republic of Serbia; that if no parent is alive, the proceedings may be initiated by the brother, sister, grandfather or grandmother of the missing new-born child, regardless of whether they have addressed the state authorities or the maternity ward regarding the status of the new-born child; that a person who has doubts about his/her origin may also submit the proposal, regardless of whether he/she already addressed the state authorities regarding his/her family status; and that the proposal on behalf of these persons may also be submitted by the Protector of Citizens.

The Law on Patients' Rights²¹⁹ stipulates that the Health Council, formed in a local self-government unit, shall submit its annual report on the work and measures taken to protect patients' rights to the Protector of Citizens, for the purpose of informing and achieving the necessary cooperation.

²¹⁵ Art. 13 and 15 of the The Law on the Appearance and Use of the Coat of Arms, Flag and Anthem of the Republic of Serbia, "Official Gazette of RS", number 36/09.

²¹⁶ Article 1 of the Law on Seal of Government and Other Authorities, "Official Gazette of RS", no. 101/2007 and 49/2021.

²¹⁷ Article 21 of the Law on Political Parties, "Official Gazette of RS", no. 36/09 and 61/15 – CC decision.

²¹⁸ Article 15 of the The Law on Establishing Facts on the Status of New-born Children Suspected to Have Gone Missing from Maternity Wards in the Republic of Serbia, "Official Gazette of RS", no. 18/20.

²¹⁹ Article 42, "Official Gazette of RS", no. 45/13 and 25/19 – as amended.

The Law on Public Property²²⁰ stipulates that, in the sense of that law, the state bodies and organizations, among others, also include the Protector of Citizens.

The Law on the Budget System²²¹ stipulates that the Protector of Citizens needs the consent of the National Assembly committee responsible for administrative and budget-related matters for the engagement, that is, employment of each new person.

The Law on General Administrative Procedure²²² envisages an extraordinary legal remedy in the administrative procedure – Annulment, revocation or amendment of a final decision on the recommendation of the Protector of Citizens. The provisions of the Law stipulate that, upon the recommendation of the Protector of Citizens, the body may, in order to comply with the law, annul, repeal or amend its final decision with a new decision, if the party whose rights or obligations have been decided on, as well as the opposing party, agree to that and if it does not offend the interests of a third party. If the body does not consider that it should act on the recommendation of the Protector of Citizens, it shall immediately inform the Protector of Citizens about it. The annulment, revocation or amendment of the decision on the recommendation of the Protector of Citizens is not limited by a deadline.

The Action Plan for Chapter 23²²³, determines the reports of the Protector of Citizens, annual and special, as well as the reports of the National Preventive Mechanism, as indicators of the impact on the basis of which the implementation of activities planned in the process of Serbia's accession to the European Union is assessed.

In the Screening Report for Chapter 23, the European Commission issued a recommendation to the Republic of Serbia "on the further strengthening of the capacity of the Protector of Citizens, the provincial ombudsman and local ombudsman services" (recommendation 3.2.1 of the Action Plan for Chapter 23). In order to implement the recommendation 3.2.1., the Action Plan contains measures that refer to the further strengthening of the capacity of the Protector of Citizens, through amendments to the Law on the Protector of Citizens – strengthening its independence and specifying powers in accordance with the achieved level of development of this institution (new

²²⁰ Article 47, paragraph 1 of the Law on Patients' Rights, "Official Gazette of RS", no. 72/11, 88/13, 105/14, 104/16 – as amended, 108/16, 113/17 and 95/18 and 153/20.

²²¹ Article 27k 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 – as amended, 103/15, 99/16, 113/17, 95/18, 31/19 and 72/19 and 149/20.

²²² Article 185 of the Law on General Administrative Procedure, "Official Gazette of RS", no. 18/16 and 95/18 – authentic interpretation.

²²³ Available at: <https://www.mpravde.gov.rs/files/Revidirani%20AP23%202207.pdf>

Law on the Protector of Citizens was adopted); through the strengthening of the staffing capacities of the institution in terms of the adoption of a new rulebook on internal organization and systematization of job positions in the Secretariat of the Protector of Citizens; through the provision of permanent and adequate premises for the institution of the Protector of Citizens; as well as through measures aimed at strengthening the influence of the Protector of Citizens by prescribing the obligation to report to the European Commission on the handling of recommendations of the public authorities which were issued by this independent state body, both in the mandate of the Protector of Citizens and in the mandate of the National Preventive Mechanism.

Adoption of the Judicial Development Strategy for the period 2020-2025²²⁴ represents the completion of the reform process and the creation of conditions for development continuity, preservation and improvement of the quality of the judiciary, in accordance with the Screening Report for Chapter 23. The Protector of Citizens is mentioned in over 20 strategies and action plans, for example: the Public Administration Reform Strategy of the Republic of Serbia for the period from 2021 to 2030²²⁵, the Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia for the period from 2016 to 2025²²⁶, Strategy for the Development of the Public Information System in the Republic of Serbia for the period from 2020 to 2025²²⁷, Strategy for Prevention and Protection against Discrimination²²⁸, Strategy for Improvement of Position of Persons with Disabilities in the Republic of Serbia for the period from 2020 to 2024²²⁹, Strategy for Implementing the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters – The Aarhus Convention²³⁰, Strategy for the Development of the System of Enforcement of Penal Sanctions in the Republic of Serbia until 2020²³¹, the National Strategy for Prevention and Protection of Children from Violence²³², Strategy for Preventing and Combating Gender-Based Violence against Women and Domestic Violence for the period 2021-2025²³³, Strategy for the Development of Education in

²²⁴ "Official Gazette of RS", number 101/20.

²²⁵ "Official Gazette of RS", number 42/21

²²⁶ "Official Gazette of RS", number 26/16.

²²⁷ "Official Gazette of RS", number 11/20.

²²⁸ "Official Gazette of RS", number 60/13.

²²⁹ "Official Gazette of RS", number 44/20.

²³⁰ "Official Gazette of RS", number 103/11.

²³¹ "Official Gazette of RS", number 114/13.

²³² "Official Gazette of RS", number 122/08.

²³³ "Official Gazette of RS", number 47/21.

the Republic of Serbia by 2030²³⁴, Action Plan for Implementing the Strategy for the Implementation of the Aarhus Convention²³⁵, Action Plan for the Exercise of Rights of National Minorities, Action Plan for Implementing the Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia for the period from 2016 to 2025, Action Plan for Implementing the Strategy for the Improvement of Position of Persons with Disabilities in the Republic of Serbia for the period from 2020 to 2024 in the period from 2021 to 2022²³⁶, etc. This Action Plan designates the Protector of Citizens as the authority which performs the tasks of the National Independent Mechanism for monitoring the implementation of the United Nations Convention on the Rights of Persons with Disabilities.

The legal framework for the work of the Protector of Citizens consists of numerous bylaws that closely regulate the actions and the work of this institution, some of which are: Rules of Procedure of the National Assembly²³⁷, Rules of Procedure of the Government²³⁸, Decision on the Formation and Operation of the Secretariat of the Protector of Citizens²³⁹, Decision on the formation of local offices in Preševu, Bujanovac and Medveđa²⁴⁰, Decree on the internal and public competition procedures for filling vacancies in state authorities²⁴¹, Special collective agreement for state authorities²⁴², Rulebook on the administration in public prosecutor's offices²⁴³, Rulebook on house rules of penal-correctional institutions and district prisons²⁴⁴, Rulebook on house rules of penal-correctional institutions for juveniles²⁴⁵, etc.

In its work, the Protector of Citizens adheres to the principles and standards adopted among ombudsmen and national human rights institutions, such as, for example, the "Belgrade Principles on the Relationship between the National Human Rights Institutions and Parliaments"²⁴⁶ and the "Lju-

²³⁴ "Official Gazette of RS", number 63/21.

²³⁵ "Official Gazette of RS", number 103/11.

²³⁶ "Official Gazette of RS", number 37/21.

²³⁷ Rules of Procedure of the National Assembly, "Official Gazette of RS", number 20/12 – consolidated text.

²³⁸ Art. 39a and 46 of the Rules of Procedure of the Government, "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 8/19 – as amended.

²³⁹ "Official Gazette of RS", number 126/21.

²⁴⁰ "Official Gazette of RS", number 91/09.

²⁴¹ "Official Gazette of RS", no. 2/19 and 67/21.

²⁴² "Official Gazette of RS", no. 38/19 and 55/20.

²⁴³ Article 60, paragraph 1 of the Rulebook on administration in public prosecutor's offices, "Official Gazette of RS", no. 110/09, 87/10, 5/12, 54/17, 14/18 and 57/19.

²⁴⁴ "Official Gazette of RS", no. 110/14 and 79/16.

²⁴⁵ "Official Gazette of RS", number 71/06.

²⁴⁶ Available at: http://www.ombudsman.rs/attachments/2181_Beogradski%20principi.pdf.

bljana Conclusions on the Relationship between the Ombudsmen and the Judicial Bodies".

Most of the standards contained in key international documents that regulate, that is, promote and propose standards for ombudsmen and national human rights institutions have been included into the Constitution of the Republic of Serbia and the Law on the Protector of Citizens.²⁴⁷ In 2010, the Protector of Citizens was accredited as a national human rights institution in the highest "A" status by the International Coordinating Committee of National Human Rights Institutions (now the Global Alliance of National Human Rights Institutions), for the achieved results, its independence in work and the full compliance with the Paris Principles.²⁴⁸ This status was confirmed to the Protector of Citizens in 2015 and 2021.

International documents especially emphasize the importance of financial independence and the need to provide adequate resources for the smooth and efficient work of the Ombudsman. This is supported by the Report of the Secretary General²⁴⁹ and the Resolution of the United Nations General Assembly²⁵⁰ from 2017 on the establishment and functioning of the ombudsman, that is, the national institutions for the protection of human rights. The Paris Principles, adopted as an annex to the United Nations General Assembly Resolution 48/134 in December 1993, are the most comprehensive document to date that deals with national human rights institutions. They clearly proclaim the importance of financial independence.²⁵¹

In its Recommendation 1615 from 2003, adopted by the Parliamentary Assembly, the Council of Europe "concludes that certain characteristics are

²⁴⁷ UN General Assembly Resolution 48/134, the so-called "Paris Principles" available at: <http://www.un.org/documents/ga/res/48/a48r134.htm>; UN General Assembly Resolution 66/169 on National Institutions for the Protection and Promotion of Human Rights, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/468/96/PDF/N1146896.pdf?OpenElement>; General Assembly Resolution 67/163 on the role of ombudsmen, mediators and other national institutions for the protection and promotion of human rights, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/488/38/PDF/N1248838.pdf?OpenElement>; Parliamentary Assembly Resolution 1959/13 on strengthening the institution of the Ombudsman in Europe, available at: <http://www.assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=20232&lang=en>; Parliamentary Assembly Recommendation 1615/03 on the Ombudsman institution, available at: <http://assembly.coe.int/main.asp?link=/documents/adoptedtext/ta03/erec1615.htm>; Venice Commission of the Council of Europe, Collection of documents on the institution of the 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).

²⁴⁸ The status is confirmed by the Global Alliance of National Human Rights Institutions, whose accreditation process is supervised by the United Nations.

²⁴⁹ Available at: https://digitallibrary.un.org/record/1301905/files/A_72_230-EN.pdf.

²⁵⁰ Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/72/186.

²⁵¹ Resolution 48/134 containing the Paris Principles, available at: <http://www.un.org/documents/ga/res/48/a48r134.htm>.

essentially important for the effective functioning of the ombudsman institutions" and it includes among them the "guaranteed sufficient resources for performing all tasks entrusted to the Ombudsman... and the full autonomy of its budget and services".²⁵² The Parliamentary Assembly resolution on the ombudsman institution, adopted in October 2013, reaffirms this position by calling on the member states to "provide the ombudsman institutions with sufficient financial and human resources to enable them to carry out their tasks effectively".²⁵³ In light of the economic crisis, "the Assembly calls on the member states to make maximum effort to avoid budget cuts that would lead to the loss of independence of the ombudsman institutions".²⁵⁴ The Venice Commission of the Council of Europe is also firmly convinced that the financial independence of the ombudsman must be ensured as concretely and completely as possible by a legal text.²⁵⁵

In March 2019, the Venice Commission of the Council of Europe adopted a set of 25 guidelines, key to the establishment and functioning of the ombudsman institutions in a democratic society, called "Principles on the Protection and Promotion of the Ombudsman Institution", or the "Venice Principles". The purpose of the principles is to consolidate and strengthen the ombudsman institutions that play a key role in strengthening democracy, the rule of law, good governance and the protection and promotion of human and minority rights.

In December 2020, the United Nations General Assembly adopted a Resolution on the role of the ombudsman institutions and mediators in the promotion and protection of human rights, good governance and the rule of law. The Resolution offers strong support to the key principles of the functioning of the ombudsman institutions, such as independence, autonomy, fairness and transparency, and it represents an important first step towards ensuring international recognition of the work of the ombudsman institutions in promoting human rights, rule of law and the principle of good governance.

²⁵² Parliamentary Assembly Recommendation 1615/03 on the Ombudsman institution, available at: <http://assembly.coe.int/main.asp?link=/documents/adoptedtext/ta03/erec1615.htm>.

²⁵³ Resolution in Serbian and English available at: <http://www.zastitnik.rs/index.php/lang-sr/2011-12-25-10-17-15/3057-2013-10-25-10-34-49>.

²⁵⁴ *The same*.

²⁵⁵ See the Collection of documents on the Ombudsman institution of the Venice Commission, available at: [http://www.venice.coe.int/webforms/documents/CDL\(2011\)079-e.aspx](http://www.venice.coe.int/webforms/documents/CDL(2011)079-e.aspx).

NEW LAW ON THE PROTECTOR OF CITIZENS

The new Law on the Protector of Citizens stipulates that the Protector of Citizens performs the work of the National Independent Mechanism for monitoring the implementation of the United Nations Convention on the Rights of Persons with Disabilities, pursuant to the Law on Ratification of the Convention on the Rights of Persons with Disabilities, the work of the National Rapporteur in the field of trafficking in human beings, in accordance with the Law on Ratification of the Convention on Action against Trafficking in Human Beings of the Council of Europe, as well as the work of the National Preventive Mechanism, which it has been doing since 2011, in accordance with the Law on Amendments to the Law on Ratification of the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Also, the Law on the Protector of Citizens envisages that the Protector of Citizens has the position of a special body that protects, promotes and improves the rights of the child, thereby building on the long-term successful work of this institution in this area. For the performance of these tasks, special funds would be allocated from the budget, within the budget of the Protector of Citizens.

The new Law on the Protector of Citizens envisages greater transparency, public involvement in the election of the Protector of Citizens and Deputy Protectors of Citizens, by regulating the election procedure by public invitation in more detail. The Protector of Citizens is elected for a term of eight years, without the possibility of re-election to this position, which is in accordance with the Venice Principles for the protection and promotion of the ombudsman institution, while the term of office of the Deputy Protector of Citizens who will be elected under the new law is linked to the mandate of the Protector of Citizens.

The Law on the Protector of Citizens contains provisions that enable a wider circle of citizens to exercise their rights in proceedings before the Protector of Citizens by allowing a complaint to be submitted by an association that deals with human rights protection, on behalf of a natural person, with his/her consent. Complaints about the violation of a child's right may be submitted by his or her parent or guardian, as well as by an association that deals with the protection of children's rights, with the consent of the child's parent or guardian, or with the consent of a child older than ten. A child can file a complaint on his/her own if he/she has reached the age of 10. A child's complaint cannot be rejected even if it is submitted before the use of all available legal remedies before the administrative authorities and even if it does not contain the data necessary for action and the complainant does not

eliminate the deficiencies within the subsequent deadline of five working days specified for supplementing the complaint.

The new Law also stipulates that a complaint may be filed within three years after the violation of citizens' rights, that is, since the last action or non-action of the administrative authority in connection with the violation of the citizens' right, instead of within one year, as was provided by the previous Law on the Protector of Citizens. It also contains provisions that will improve the efficiency of handling complaints, by defining shorter deadlines for completing the procedures before the Protector of Citizens, from the moment the complaint is received.

It is expected that the new law will improve the accountability and transparency of work of the administrative authorities, primarily through provisions related to shortening the deadline for response of authorities upon an investigation launched by the Protector of Citizens, as well as through provisions that stipulate that the Protector of Citizens is to directly inform the immediate superior body, the National Assembly, the Government and the public that the administrative authority, among other things, did not submit to the Protector of Citizens within the set deadline a notice on whether and in what manner it acted on the recommendation, or on the reasons why it did not act on the recommendation, as well as if the authority did not act on the recommendation on dismissal of the official responsible for the violation of rights, or it did not act on the recommendation of the Protector of Citizens in which the launching of disciplinary proceedings against the employee responsible for the violation of rights was initiated.

The novelty introduced by the Law is that the Protector of Citizens may also undertake procedural and other actions in proceedings before state and other bodies and organizations, when it is authorized to do so by special regulations.

In support of strengthening the independence of the Protector of Citizens, the new Law stipulates that the Protector of Citizens adopts a general act on the organization and systematization of the work of the Secretariat in accordance with the budget funds allocated for its work. The Protector of Citizens notifies the National Assembly on the adoption of a general act, within 15 days from the day of its adoption.

The new Law stipulates that the funds for the work of the Protector of Citizens are provided in the budget of the Republic of Serbia and that they cannot be reduced, unless the reduction of the funds for work is also applied to other beneficiaries of budget funds.

The new Law also envisages that the Protector of Citizens establishes and maintains cooperation with civil society organizations, international organizations and mechanisms for the protection and promotion of human and minority rights.

COMPETENCE AND MANNER OF WORK

In performing the tasks within its competence, the Protector of Citizens acts within the framework of the Constitution, laws and other general acts, as well as ratified international agreements and generally accepted rules of international law²⁵⁶. The task, that is, the competence of the Protector of Citizens is determined by the Constitution and the Law, and it is twofold: to **protect** the rights of citizens and to **control** the work of government agencies, authorities responsible for legal protection of property rights and interests of the Republic of Serbia, as well as other bodies and organizations, enterprises and institutions which have been delegated public authority.²⁵⁷ The Law on the Protector of Citizens also specifies that the Protector of Citizens "takes care of the **protection** and **promotion** of human and minority rights and freedoms".²⁵⁸

There is no right and freedom of citizens before administrative authorities that is exempt from the protective, control and promotional role of the Protector of Citizens.

In practical work, the Protector of Citizens is guided by the principle of fairness within the framework of positive law. Much more than formal respect for the law, the Protector of Citizens investigates ethics, conscientiousness, impartiality, expertise, purposefulness, efficiency, respect for the dignity of a party and other qualities that should characterize the public administration, making it the way citizens rightfully expect it to be.

The Protector of Citizens controls the work of government agencies, authorities responsible for legal protection of property rights and interests of the Republic of Serbia, as well as other bodies and organizations, enterprises and institutions which have been delegated public authority. According to the provisions of the Constitution and the Law, the Protector of Citizens is not authorized to control only the work of the National Assembly, the President of the Republic, the Government, the Constitutional Court, courts and public prosecutor's offices.²⁵⁹ The Protector of Citizens may undertake procedural and other actions in proceedings before state and other bodies and organizations, when it is authorized to do so by special regulations.²⁶⁰

²⁵⁶ Article 3, paragraph 2 of the Law on the Protector of Citizens.

²⁵⁷ Article 138, paragraph 1 of the RS Constitution, Article 1, paragraph 1 of the Law on the Protector of Citizens.

²⁵⁸ Article 1, paragraph 2 of the Law on the Protector of Citizens.

²⁵⁹ Article 138, paragraph 2 of the RS Constitution, Article 19, paragraph 2 of the Law on the Protector of Citizens.

²⁶⁰ Article 19, paragraph 3 of the Law on the Protector of Citizens.

The Protector of Citizens, with the appropriate personal security clearance certificate, is guaranteed access to data of all levels of secrecy, which are necessary for the performance of tasks within its competence.²⁶¹

In addition to the right to initiate and conduct investigations, the Protector of Citizens has the right to act preventively, by providing good services, mediating and giving advice and opinions on issues within its competence, in order to improve the work of administrative authorities and improve the protection of human rights and freedoms.²⁶² The authorization of the Protector of Citizens to act preventively especially comes to the fore in the performance of work of the National Preventive Mechanism, in accordance with the Law on Amendments to the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which will also be the case when performing work of the National Independent Mechanism for monitoring the implementation of the United Nations Convention on the Rights of Persons with Disabilities, pursuant to the Law on Ratification of the Convention on the Rights of Persons with Disabilities and the activities of the National Rapporteur in the area of trafficking in human beings, in accordance with the Law on Ratification of the Convention on Action against Trafficking in Human Beings of the Council of Europe.

The Protector of Citizens also has the right to propose laws within its competence. It is authorized to submit to the National Assembly, that is, the Government and the administrative authorities, an initiative to amend laws and other regulations and general acts, if it considers that the violation of citizens' rights occurs due to the shortcomings in the regulations, as well as to initiate the adoption of new laws, other regulations and general acts, when it considers that it is important for the realization and protection of the rights of citizens.²⁶³ The Protector of Citizens is authorized to give opinions to the National Assembly, that is, the Government and the administrative authorities on draft laws and other regulations in the process of preparing regulations, if they regulate issues that are important for the protection of the rights of citizens.²⁶⁴ Also, the Protector of Citizens is authorized to initiate proceedings before the Constitutional Court, to assess the constitutionality and legality of laws, other regulations and general acts.²⁶⁵

²⁶¹ Article 38 paras. 1 and 2 of the Data Secrecy Law, "Official Gazette of RS", number 104/09.

²⁶² Article 27, paragraph 2 of the Law on the Protector of Citizens.

²⁶³ Article 20 paras. 1 and 2 of the Law on the Protector of Citizens.

²⁶⁴ Article 21, paragraph 1 of the Law on the Protector of Citizens.

²⁶⁵ Article 22 of the Law on the Protector of Citizens.

Investigation

In the *sui generis* investigation (of its own kind, unique), the Protector of Citizens controls the respect of citizens' rights, determines violations committed by acts, actions or omissions of administrative authorities, if it is a violation of republic laws, other regulations and general acts. Certain phases of the investigation, as well as deadlines for the actions of the Protector of Citizens, introduced by the new Law on the Protector of Citizens, aim to improve the efficiency of the work of the Protector of Citizens.

The Protector of Citizens launches the above-mentioned investigation upon the complaints of citizens or on his own initiative.²⁶⁶ In order to efficiently conduct the investigation, the provisions of the Law provide broad powers of the Protector of Citizens – a request for a written statement from the authorities, direct conversation with civil servants, state employees and officials, the right of unannounced access, insight to 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 the case of absence of cooperation, the Protector of Citizens assesses the need and effect of applying other powers on a case-by-case basis.

If a public authority has acted illegally and incorrectly in matters concerning the rights, freedoms or interests of citizens based on law, the Protector of Citizens identifies the omission and recommends how to eliminate it, in that case and in others.

Legal nature of acts passed by the Protector of Citizens

The Protector of Citizens does not decide on the rights, obligations and interests of citizens based on the law, but examines (controls) the work of public authorities and organizations and, in case of identifying an omission, influences them to correct it. Hence, the acts passed by the Protector of Citizens are not subject to appeals or to other legal remedies.

The recommendations, positions and opinions of the Protector of Citizens are not legally binding, nor can they be enforced. The job of the Protector of Citizens is not to force anyone into compliance, but to convince using the strength of arguments, but also the institutional and personal authority, of the necessity of eliminating omissions and improving the way of work.

Administrative authorities have the obligation to cooperate with the Protector of Citizens, to provide him with access to the premises and to make available all information at their disposal, which are relevant for the

²⁶⁶ Article 27, paragraph 1 of the Law on the Protector of Citizens.

investigation he conducts, that is, for achieving the goal of his preventive actions, regardless of the level of their secrecy, except when this is contrary to the law.²⁶⁷

The Protector of Citizens is authorized to recommend in writing the dismissal of an official, that is, to initiate disciplinary proceedings against an employee of an administrative authority who violated the rights of citizens or made an omission that caused material or other damage to the citizen: if he/she refuses or fails to eliminate the violation or the omission upon the recommendation of the Protector of Citizens, or if he/she fails to perform another obligation provided by law in the investigation conducted by the Protector of Citizens. If he finds that the actions of officials or employees of an administrative authority contain elements of a crime or other criminal offense, the Protector of Citizens is authorized to submit a request to the competent authority, that is, an application for initiating criminal, misdemeanour or other appropriate proceedings.²⁶⁸

Relationship with the provincial protector of citizens and local ombudsmen

If the Protector of Citizens receives a complaint regarding a violation of human or minority rights committed by an act, action or failure to act of administrative authorities, where the Constitution, the international agreements on human or minority rights, or the law, other regulations or general acts of the Republic of Serbia have not been violated, but only the regulations or other general acts of the autonomous province, or a local self-government unit, it shall submit it, without delay, to the provincial protector of citizens – ombudsman or a local ombudsman, and shall notify the complainant about it in writing.

If the provincial protector of citizens – ombudsman or the local ombudsman receives a complaint due to a violation of a ratified international agreement on human or minority rights or the law, other regulations or general acts of the Republic of Serbia, it shall submit it to the Protector of Citizens, without delay, and shall notify the complainant about it in writing.²⁶⁹

²⁶⁷ Article 24, paragraph 1 of the Law on the Protector of Citizens.

²⁶⁸ Article 23 of the Law on the Protector of Citizens.

²⁶⁹ Article 41 paras. 1 and 2 of the Law on the Protector of Citizens.

Performance of activities outside the seat of the body

The Law on the Protector of Citizens prescribes that the Protector of Citizens may, by its decision, establish offices outside its seat.²⁷⁰ The ability of the Protector of Citizens to do so is objectively limited by the size of the Secretariat, which is defined by the act on the systematization of job positions and the budget.

The Protector of Citizens regularly performs activities within its competence from its seat and from three offices outside the seat (in Bujanovac, Preševo and Medveđa).

In order to conduct control investigations, preventive and educational activities, the Protector of Citizens and the employees of the Secretariat travel daily to cities and towns throughout the Republic.

²⁷⁰ Article 5, paragraph 2 of the Law on the Protector of Citizens.

ANNEX II – FINANCIAL STATEMENT

The Protector of Citizens was provided with funds in the amount of 216,650,000.00 dinars by the Law on Amendments to the Budget Law of the Republic of Serbia for 2021, which is an increase of 4% compared to 208,023,000.00 dinars of funds provided in 2020.

In 2021, the Protector of Citizens spent a total of 194,712,084.46 dinars, or 89.87% of the provided budget funds (percentage of the expenditure of the budget funds is higher by 0.7% compared to the expenditure in 2020, when a total of 193,341,591.31 dinars was spent). Budget execution in 2021 was in line with the available budget resources.

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

Table 35 – Budget execution for 2021

Account position	Description	Approved	Accomplished	%
411	Salaries			
411111	Salaries based on the labour cost		107,689,302.98	59.02
411112	Bonus for work longer than full working hours		3,566,583.20	2.50
411115	Bonus for the time spent at work (years of service)		5,844,011.09	4.10
411117	Sick leave up to 30 days		3,439,087.95	2.41
411118	Earning compensation for the time of absence from work – annual vacation, paid leave		18,555,944.33	13.02
411119	Other bonuses and compensations for employees		3,068,765.03	2.15
Total 411		142,565,000.00	142,163,694.58	99.72
412	Contributions			
412111	Contributions for PDI		15,671,337.82	68.86
412211	Contributions for health insurance		7,018,034.13	30.84
Total 412		22,758,000.00	22,689,371.95	99.70

413	Compensations in kind		0	
413000	Compensations in kind		396,970.00	99.24
Total 413		400,000.00	396,970.00	99.24
414	Social benefits to employees			
414121	Sick leave over 30 days		44,304.56	1.96
414314	Assistance in case of the death of an employee or an immediate family member		576,640.00	25.49
414411	Assistance in medical treatment of an employee or an immediate family member		504,997.78	22.33
414419	Other forms of assistance to employees		65,070.00	2.88
Total 414		2,262,000.00	1,191,012.34	52.65
415	Compensations for employees			
415112	Commuting transportation compensation		2,408,779.93	66.91
Total 415		3,600,000.00	2,408,779.93	66.91
416111	Jubilee awards		664,262.52	73.81
Total 416		900,000.00	664,262.52	73.81
421	Constant expenses			
421121	Costs of bank services		11,390.80	0.20
421211	Electric power services		23,414.05	0.41
421225	Central heating		112,233.48	1.97
421323	Property protection services		1,172,999.28	20.58
421411	Telephone, telex and fax		393,058.05	6.90
421412	Internet and similar		253,551.29	4.45
421414	Cell phone services (<i>Cell phones, internet</i>)		1,353,467.04	23.75
421422	Delivery services		700,000.00	12.28
421512	Vehicle insurance		184,032.01	3.23

421513	Equipment insurance		36,695.00	0.64
421521	Employee insurance in case of accident at work		41,250.00	0.72
421522	Health insurance		160,800.00	2.82
421523	Liability insurance		33,450.00	0.59
421911	TV and radio subscription		9,000.00	0.16
Total 421		5,700,000.00	4,485,341.00	78.69
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 costs		3,825.00	0.13
422121	Domestic business trip transportation costs		62,544.10	2.10
422131	Business trip accommodation costs		54,550.00	1.83
422199	Other costs for domestic business trips		92,744.00	3.12
422211	Business trip abroad daily allowance costs		38,915.82	1.31
422221	Business trip abroad transportation costs		270,687.00	9.10
422231	Business trip abroad accommodation costs		285,704.00	9.60
422299	Other costs for business trips abroad		5,860.89	0.20
Total 422		2,975,000.00	814,830.81	27.39

422 НПМ				
422111	Business trip daily allowance costs		6,900.00	0.33
422131	Domestic business trip accommodation costs		117,610.00	5.68
422199	Other costs for domestic business trips		9,598.00	0.46
Total 422 NPM		2,070,000.00	134,108.00	6.48
Account position	Description	Approved	Accomplished	
423	Contracted services			
423111	Translation services		600,340.80	4.05
423211	Software development services		310,800.00	2.10
423212	Software maintenance services		465,969.00	3.15
423221	Computer maintenance services		200,796.60	1.36
423291	Other computer services		143,144.00	0.97
423321	Seminar fee		28,265.04	0.19
423391	Expenses for professional exams		16,360.00	0.11
423399	Other expenses for professional education		51,103.00	0.35
423413	Publication printing services		545,600.00	3.68
423419	Other printing services		389,446.20	2.63
423421	Public information services		500,251.61	3.38
423432	Tender and informative advertisements publication		296,313.84	2.00
423449	Other media services		261,900.00	1.77
423539	Other legal services		53,610.00	0.36
423599	Other professional services (<i>engagement of external associates, experts</i>)		2,472,645.70	16.69

423621	Catering services (organization of conferences, round tables, meetings)		113,724.00	0.77
423711	Representation (organization of conferences, round tables, meetings)		204,948.00	1.38
423712	Gifts		17,903.39	0.12
423911	Other general services		317,260.68	2.14
Total 423		14,811,000.00	6,990,381.86	47.20
423 NPM				
423111	Translation services		189,573.00	9.03
423413	Publication printing services		519,310.00	24.73
423531	Court expertise services		501,039.18	23.86
423621	Catering services		11,214.00	0.53
423712	Gifts		12,000.00	0.57
423911	Other general services		2,400.00	0.11
Total 423 NPM		2,100,000.00	1,235,536.18	58.84
425	Repairs and maintenance			
425219	Other repairs and maintenance of transportation equipment		596,706.88	46.04
425229	Other repairs and maintenance of administrative equipment		36,660.00	2.83
425291	Ongoing repairs and maintenance of production, motor, stationary and non- motor equipment		128,640.00	9.93
Total 425		1,296,000.00	762,006.88	58.80
426	Material			
426111	Office supplies		544,809.50	6.90
426191	Other administrative material		347,796.00	4.40

426311	Professional reference books for regular use by employees		384,429.50	4.87
426312	Professional reference books for education of employees		506,354.00	6.41
426411	Fuel		1,750,000.00	22.15
426412	Diesel fuel		450,000.00	5.70
426413	Oil and lubricant		12,127.20	0.15
426491	Other material for means of transportation		56,704.00	0.72
426812	Hygiene maintenance supplies		169,348.24	2.14
426911	Consumables		1,380.00	0.02
426912	Spare parts		462,023.87	5.85
426919	Other material for specific purposes		35,253.36	0.45
Total 426		7,900,000.00	4,720,225.67	59.75
462	Subsidies to international organizations			
462121	Current subsidies for international memberships		1,092,476.11	67.44
Total 462		1,620,000.00	1,092,476.11	67.44
465111	Other current subsidies and transfers		0.00	0.00
465	Other current subsidies and transfers	3,000.00	0.00	0.00
482	Taxes, mandatory fees, fines and penalties			
Total 482		100,000.00	0.00	0.00
485	Damage compensation for injury or damage caused by public authorities			
485119	Other damage compensations		1,095,622.67	92.07
Total 485		1,190,000.00	1,095,622.67	92.07

512	Machines and equipment			
512241	Electronic equipment		3,300,000.00	100.00
Total 512		3,300,000.00	3,300,000.00	100.00
515	Intangible assets			
515111	Computer software		420,474.96	
Total 515		700,000.00	420,474.96	60.07
512 NPM	Machines and equipment		146,989.00	
Total 512 NPM		200,000.00	146,989.00	73.49
TOTAL		216,650,000.00	194,712,084.46	89.87

ANNEX III – HUMAN AND MATERIAL RESOURCES

The new Law on the Protector of Citizens²⁷¹ was adopted on 3rd November, and entered into force on 16th November 2021. Pursuant to Article 45, paragraph 1 of the Law on the Protector of Citizens, by Decision on the Establishment and Operation of the Secretariat of the Protector of Citizens²⁷², the Secretariat of the Protector of Citizens was established for performing professional and administrative tasks within the competence of the Protector of Citizens.

As of 31st December 2021, the Secretariat of the Protector of Citizens employs a total of eighty-two civil servants and state employees: 74 for an indefinite period of time (of which two civil servants and four state employees) and eight for a definite period of time (of which three in the Office of the Protector of Citizens during his term). Out of a total of 82 employees, 68 of them perform jobs with higher education, and 14 with secondary education, 65 are women and 17 are men. This number does not include the Protector of Citizens, Zoran Pašalić, MSc, nor the three Deputy Protectors of Citizens: Jelena Stojanović, Slobodan Tomić and Dr. Nataša Tanjević.

In order to improve the organization of work, the Protector of Citizens has started drafting a new Rulebook on the internal organization and systematization of job positions in the Secretariat of the Protector of Citizens.

²⁷¹ "Official Gazette of RS", number 105/2021.

²⁷² "Official Gazette of RS", number 126/2021.