

THE COMMISSIONER FOR THE PROTECTION OF EQUALITY IN THE REPUBLIC OF SERBIA – EXAMPLES OF ACTION

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Abstract:

În acest articol, experta Bojana Todorović analizează poziția instituției Comisarului pentru Protecția Egalității din Republica Serbia, precum și acțiunile și activitățile sale. O atenție deosebită se acordă exemplelor de acțiune din practica acestui organism național de promovare a egalității, cu scopul de a-și prezenta modul de funcționare, dar și în încercarea de a contribui la schimbul de experiență cu alte țări în domeniul protecției împotriva discriminării în special cu țările în care prevalează o înțelegere similară a statului de drept și a circumstanțelor în care principiile acestuia sunt puse în aplicare.

Cuvinte cheie: Comisarul pentru Protecția Egalității, Republica Serbia, promovarea egalității, combaterea discriminării, statul de drept.

Résumé:

Dans cet article, l'expert Bojana Todorović analyse la position de l'institution du Commissaire pour la Protection de l'Egalité de la République de Serbie, ainsi que ses actions et activités. Une attention particulière est accordée aux exemples d'action dans la pratique de cet organisme national pour l'égalité afin de présenter son fonctionnement mais aussi de contribuer à l'échange d'expériences avec d'autres pays dans le domaine de la protection contre la discrimination, en particulier avec des pays ayant une compréhension similaire de la primauté du droit et des circonstances dans quelles ses principes sont mis en œuvre.

Mots-clés: le Commissaire à la protection de l'égalité, République de Serbie, promouvoir l'égalité, combattre la discrimination, l'état de droit.

This text analyses the position of the institution of the Commissioner for the Protection of Equality in the Republic of Serbia as well as its actions and activities. Particular attention is attached to the examples of action stemming from practice of this national equality body with an aim of presenting its manner of operation, but also in an attempt to offer its contribution to the exchange of experience with other countries in the area of protection against discrimination, in particular with those countries where a similar understanding of the rule of law and circumstances in which the rule of law is implemented prevails.

The Commissioner for the Protection of Equality in the Republic of Serbia is the central national authority specialized in combating discrimination and promoting equality. The institution of the Commissioner for the Protection of Equality was established by virtue of the Law on the Prohibition of Discrimination¹ which was adopted in Serbia in 2009.

The reason behind the establishment of this independent body was to provide victims of

discriminatory treatment, in addition to a clearly defined realm of criminal, misdemeanor, civil and constitutional protection, with an out-of-court protection mechanism which is in many ways of a specific nature when compared to its judicial counterpart. However, the Commissioner for the Protection of Equality does not have a quasi-judicial function only; rather it is a body equipped with a set of competencies geared towards achieving full equality of citizens. This is achieved both by offering a reliable insight into the state of affairs in terms of equality at the national level and accordingly initiating the necessary amendments to the existing legal framework and recommending measures aimed at improving the functioning of institutions within the system with respect to anti-discrimination, and by raising awareness among the public regarding the importance of building a society which understands and respects the existing differences. By extending protection to cover situations which occur in everyday life, the institution of the Commissioner for the Protection of Equality has earned considerable trust of the society and currently enjoys a higher acceptance and support rate than it did at the time it was established.

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¹ Official Gazette of the Republic of Serbia, No. 22/09

The independence and autonomy of the Commissioner for the Protection of Equality are major preconditions for a successful discharge of its functions, since the institution assesses state institutions and bodies in terms of their compliance with the principle of equality. The status of an independent and autonomous state institution acting in the area of equality protection is ensured through:

– Parliamentary election procedure which is applicable to other independent institutions in the Republic of Serbia;

– Immunity which the person elected to this function enjoys throughout his/her term of office;

– The final nature of the Commissioner's decisions, which cannot be challenged or appealed before any higher instance, executive or judicial authority.

This means the Commissioner for the Protection of Equality has a wide range of competencies which are broadly defined so as actions aimed at suppressing all forms and cases of discrimination be effective. One type of response action of the Commissioner for the Protection of Equality geared towards eliminating discrimination and its consequences, implies pursuing complaint procedures initiated upon complaints filed by private persons, legal persons and/or group of persons who deem that they have been exposed to this form of impermissible treatment.² In the course of the complaint procedure, the Commissioner for the Protection of Equality ascertains whether alleged treatment constitutes an act of discrimination or not. Some characteristics of this procedure that proved to be motivating citizens to seek protection³ include:

² The complaint procedure before the Commissioner may be initiated by an organization dealing with human rights protection or by another entity, on behalf and with the consent of the person who deems to have been discriminated against.

³ The Law on the Prohibition of Discrimination does not allow for pursuing in parallel a judicial proceeding and complaint procedure before the Commissioner for the Protection of Equality regarding the same discrimination case. The Commissioner pursues a complaint procedure provided that a judicial proceeding has not already been initiated or that a legally binding decision has not been reached regarding that particular discrimination case.

– Pursuing a complaint procedure is free of charge;⁴

– Receiving legal advice in situations where in the course of a complaint procedure it came out that the problems citizens had faced were not related to discrimination, but to some other violation of rights;⁵

– Relatively short duration of the complaint procedure. Namely, pursuant to the Law on the Prohibition of Discrimination, the duration of the complaint procedure initiated before the Commissioner for the Protection of Equality is limited to 90 days. If preconditions for pursuing a complaint procedure have been met, the Commissioner for the Protection of Equality acts upon a complaint seeking protection against discrimination. The Commissioner then issues its opinion in that particular case stating whether there had been a violation of provisions of the aforementioned law. In case of violation, the Commissioner issues one or several recommendations containing measures for eliminating the violation of rights. The entity receiving the recommendation is obliged to act upon this recommendation within 30 days and notify the Commissioner thereof. Despite the fact that the Commissioner's recommendations are legally binding, they do not lend themselves to compulsory enforcement, nor have fines or any other legal sanctions been envisaged in case of non-compliance.⁶ However, the Commissioner has certain instruments at its disposal which it uses in case of non-compliance with its recommendations. Such measures include warnings and notifications to the public as envisaged by the

⁴ Complaint procedure before the Commissioner for the Protection of Equality is entirely free of charge.

⁵ Before filing a complaint with the Commissioner, citizens have the opportunity to discuss their grievance with experts working in the Professional Service of the Commissioner for the Protection of Equality so as to ascertain whether alleged treatment really did amount to discrimination and to learn about rights protection mechanisms available to them. In addition, citizens frequently contact the Commissioner for the Protection of Equality by phone and by e-mail for the purpose of obtaining necessary information and advice. According to data contained in 2015 Regular Annual Report of the Commissioner, the number of such requests seeking information and advice was well over 1500.

⁶ Nevena Petrušić, Ivana Krstić, Tanasije Marković, *Law on the Prohibition of Discrimination: Comments*, Judicial Academy, 2014, p. 273.

Law on the Prohibition of Discrimination.⁷ These statutory measures represent a specific form of “moral repression” and are imposed with an aim of altering not only the mindset of the perpetrator but also of all other persons who might be potential discriminators.⁸ Warnings are issued 30 days following the delivery of the recommendation to a person it had been issued to, if that person had not acted upon such recommendation. If the perpetrator fails to act upon the issued recommendation within 30 days from the day the warning has been issued, the Commissioner may notify the public thereof.⁹

Although legal acts of the Commissioner are not subject to compulsory enforcement, including the abovementioned legal measures it has at its disposal, they have proven to be very effective in practice, as the Commissioner recommendation compliance rate is currently very high. This is a direct indicator of the authority the Commissioner for the Protection of Equality enjoys, and also of the simplicity of the complaint procedure. These as well as the fact that it is free of charge, as well as numerous activities meant to increase the institution’s visibility, have all resulted in a steadily increasing number of complaints filed with this institution.¹⁰

In order to understand the course of the complaint procedure and the effects of the Commissioner’s recommendation, which is a direct result of the complaint procedure, the following example from the practice of this institution will be presented. In 2014, the Commissioner for the Protection of Equality received a complaint alleging discrimination with respect to the preconditions applicants needed to meet in order to apply for enrolment into the Military Secondary School in Belgrade in 2013/2014 academic year. Namely, one necessary condition for applying for

⁷ Law on the Prohibition of Discrimination (“Official Gazette of the Republic of Serbia”, No. 22/09), Article 40.

⁸ Nevena Petrušić, Ivana Krstić, Tanasije Marković, *Law on the Prohibition of Discrimination: Comments*, Judicial Academy, 2014, p. 273.

⁹ Law on the Prohibition of Discrimination (“Official Gazette of the Republic of Serbia”, No. 22/09), Article 40.

¹⁰ According to data contained in Regular Annual Reports of the Commissioner for the Prohibition of Discrimination, number of complaints filed with this institution in 2010 was 124, while in 2016 it was 626.

enrolment into the Military Secondary School stated that candidates had to be males. Since such a requirement excluded and effectively prevented girls from applying for enrolment into the Military Secondary School in 2013/2014 academic year, the Commissioner for the Protection of Equality ascertained that by imposing such a condition on potential applicants, girls had been exposed to an act of direct discrimination. In keeping with this finding, the Commissioner issued its opinion stating that, by imposing the gender criterion for enrolment into the Military Secondary School in 2013/2014 academic year, the Ministry of Defense had violated the provisions of the Law on the Prohibition of Discrimination and the Law on Gender Equality¹¹. A recommendation was addressed to the Ministry of Defense to align the text of the public announcement for enrolment into the Military Secondary School with anti-discrimination regulations by removing the precondition that prevented girls from applying for the next academic year but also to be vigilant in the future when setting eligibility criteria for potential candidates applying for enrolment into military education institutions and refrain from violating provisions of the Law on the Prohibition of Discrimination and other anti-discrimination regulations. This recommendation was acted upon, ergo girls have been able to attend the Military Secondary School in Belgrade ever since.

Responsive action of the Commissioner aimed at eliminating the current state and consequences of discrimination is consistent with launching anti-discrimination lawsuits, lodging motions for initiating misdemeanor proceedings on account of violations contained in the Law on the Prohibition of Discrimination and other anti-discrimination regulations¹², filing criminal charges¹³ and

¹¹ (“Official Gazette of the Republic of Serbia”, No. 104/09).

¹² Law on the Prohibition of Discrimination (“Official Gazette of the Republic of Serbia”, No. 22/09), Article 33, Paragraphs 3 and 4.

¹³ Criminal Proceedings Code (“Official Gazette of the Republic of Serbia”, Nos. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013 and 55/2014), Article 280, Paragraph 1.

lodging motions for constitutionality and legality conformity assessment¹⁴.

Anti-discrimination lawsuits or “strategic lawsuits” are launched and pursued by the Commissioner in the public interest with an aim of enhancing consistent implementation of regulations and promoting legal practice, but also with an eye towards using its litigation activities to obtain favorable court rulings which serve not only to extend legal protection to victims of discrimination but also to send a clear message to the public that discrimination is prohibited and that it is effectively sanctioned.¹⁵ The Commissioner’s scope of authority to lodge lawsuits for the protection against discrimination extends to all forms and cases of discrimination irrespective of the fact whether an individual or group of individuals were victims of such illegal treatment in a particular case.¹⁶ Pursuant to its assessment and qualification of strategically significant cases worthy of filing a lawsuit with the court,¹⁷ the Commissioner may decide to file a claim for the protection against discrimination with a competent court.

For example, following this ad posted in hospitality establishments: *“Do you want to be a member of our team? Girls needed to work as clerks,”* secret discrimination busters¹⁸ applied for this particular job and interviewed with persons working in pizza restaurants or with persons claiming to be responsible for recruiting new employees. Interviews were held at three establishments and male secret discrimination buster was informed that he could not be hired as

¹⁴ Constitution of the Republic of Serbia (“Official Gazette of the Republic of Serbia”, No. 98/06), Article 168, Paragraph 1.

¹⁵ 2016 Regular Annual Report of the Commissioner for the Protection of Equality, p. 160. Available at: <http://ravnopravnost.gov.rs/izvestaji/>

¹⁶ If discriminatory treatment pertains exclusively to a particular individual, the Commissioner is entitled to file a complaint with the court subject to the written consent of that person.

¹⁷ Most frequently those are cases of prevalent and widely spread discrimination.

¹⁸ Secret discrimination buster is a person who willingly exposes himself or herself to discriminatory treatment with an aim of directly testing the implementation of anti-discrimination rules in that particular case. His or her actions are governed by the Law on the Prohibition of Discrimination.

it was the policy of the company to hire women only, while female secret discrimination buster was offered the job. The ruling of the Court of Appeals stated that by posting the job advertisement which read: *“Do you want to be a member of our team? Girls needed to work as clerks,”* the company had committed an act of direct discrimination on the grounds of gender in the area of labor, the defendant was prohibited from recommitting an act of discrimination on the grounds of gender or any other personal characteristic within its scope of activities in particular when posting employment opportunities advertisements and in the process of employee recruitment, and the perpetrator was ordered to notify the public of this court ruling by publishing it in a daily newspaper with national circulation. The Supreme Court of Cassation stated in its decision that the second instance court reached a conclusion, by duly applying material law, that the defendant, by resorting to such conduct, had in fact committed an act of direct discrimination on the grounds of gender, which was the reason why the ruling in the first instance was modified and the claim accepted.

The experience of the Commissioner for the Protection of Equality shows that there were many applications for lodging court proceedings – misdemeanor and criminal proceedings, on account of violations envisaged by the Law on the Prohibition of Discrimination and other anti-discrimination regulations or criminal offences in cases where the Commissioner had learned of such offences in the course of its regular work and activities.¹⁹ Some of those examples include criminal proceedings such as:

1. When acting upon complaints filed by citizens, the Commissioner had learned that an internet employment portal had posted a job advertisement containing a discriminatory condition whereby that particular employer was seeking only applicants who were graduates of state owned and run Faculty of Law. This was the reason why the Commissioner filed a motion for lodging misdemeanor proceedings. The

¹⁹ Article 280 of the Criminal Proceedings Code stipulates that state and other institutions, legal and private persons shall report criminal offences prosecuted *ex officio*, that they have been informed of or have learned about through other channels, pursuant to conditions envisaged by the law or other regulations.

Misdemeanor Court suspended court proceedings lodged against the defendant, without assessing whether there had been a violation of Article 51 Paragraph 1 of the Law on the Prohibition of Discrimination.²⁰ The Commissioner for the Protection of Equality appealed this decision, the Misdemeanor Court of Appeals upheld this appeal, quashed the decision of the Misdemeanor Court and returned the case to the first instance court for retrial.

2. A civil society organization whose activities are geared towards improving the position of LGBT persons living in Serbia, filed a complaint with the Commissioner for the Protection of Equality. The complainants complained about discriminatory content of a text and comments posted on an internet portal. After the text on a failed attempt to organize a public discussion event on violence and discrimination of LGBT persons, comments were posted which openly called for violence against citizens of different sexual orientation and gender identity. Bearing in mind the aforesaid, the Commissioner filed criminal charges on account of racial and other types of discrimination as defined in Article 387 Paragraph 4 of the Penal Code²¹.

Constitutional and legal protection against discrimination in the Republic of Serbia is implemented by controlling the constitutionality and legality of laws and other acts of general

²⁰ According to the provisions of Paragraph 1 of this Article of the Law on the Prohibition of Discrimination, a legal entity or an entrepreneur shall be fined in the amount of 10,000 to 100,000 dinars for violating the principle of equal opportunity of employment or exercising all rights in the sphere of labor under equal conditions on the grounds of personal characteristics, in the case of a person doing temporary and occasional work, a person doing additional work, a student or a pupil undergoing vocational practice, a person undergoing professional training and development without concluding a contract of employment, or a volunteer.

²¹ Provisions of Paragraph 4 of this Article of the Criminal Code ("Official Gazette of the Republic of Serbia", No. 85/2005, 88/2005 – correction, 107/2005 – correction, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014 and 94/2016) stipulate as follows: person who circulates or otherwise makes available to the public texts, images or any other representation of ideas or theories advocating or instigating hatred, discrimination or violence against any person or group of persons, on the grounds of race, skin color, religious affiliation, nationality, ethnic origin or any other personal characteristic, shall be punished by prison sentence ranging from 3 months to 3 years.

nature in terms of anti-discrimination and by deciding on constitutional appeals.²² The role of the Commissioner in the system of constitutional and legal protection against discrimination is not insignificant as this state institution has legal authority to lodge procedures for the assessment of constitutionality and legality of laws and other legal acts of general nature²³. The following example from the practice of the Commissioner testifies to this.

Full equality of men and women working in the public sector in terms of rights to old age retirement was achieved by virtue of a decision made by the Constitutional Court in the course of the procedure used to assess the constitutionality of the provisions in one particular law of the Republic of Serbia which was launched on the basis of a joint motion filed by the Commissioner for the Protection of Equality and the Ombudsman. Namely, in 2015, due to a large number of complaints filed by women, trade unions, professional associations and civil society organizations on account of discriminatory provision of Article 20 of the Law on the Manner of Determining the Maximum Number of Employees,²⁴ a motion to assess its conformity with the Constitution was filed. Provision of Article 20 of the Law on the Manner of Determining the Maximum Number of Employees Working in the Public Sector stipulated that "during the effectiveness period of this law, employment of an employee working in the public sector shall be terminated once the employee meets the conditions related to age requirement and years of service as prescribed by the law regulating

²² Nevena Petrušić, Momčilo Grubač, *Mutual Relation between Procedures before the Commissioner for the Protection of Equality and Other Anti-discrimination Procedures*, Collection of Papers of the Faculty of Law in Niš, No. 66, 2014, p. 71.

²³ Article 168 Paragraph 1 of the Constitution of the Republic of Serbia stipulates that the procedure for the assessment of conformity with the Constitution may be lodged by a government body, body of territorial autonomy or local self-government unit, as well as by at least 25 Members of the National Assembly. Constitutional Court itself too can initiate the procedure for assessing the conformity with the Constitution.

²⁴ ("Official Gazette of the Republic of Serbia", Nos. 68/2015 and 81/2016 – decision of the CC).

old age pension”.²⁵ In their motion for the assessment of conformity with the Constitution, the plaintiffs stated that provisions of Article 20 of the present Law were inconsistent with the provisions of the Constitution of the Republic of Serbia pertaining to guaranteed human rights, conditions for exercising guaranteed human rights and conditions for limiting these rights, and that these provisions, contrary to the principle of anti-discrimination and provisions of the Constitution governing conditions for limiting human and minority rights, constitute a limitation of the right to work and rights resulting from employment, the rights in the area of social protection or rights to social protection and social insurance of an employee and their family members, for women working in the “public sector” who are of certain age. Soon after the motion was submitted, the Constitutional Court issued a conclusion, effective until its final decision, stalling the implementation of individual acts and actions undertaken on the basis of provisions of Article 20 of the Law on the Manner of Determining the Maximum Number of Employees. In its rationale, the Court stated that such decision had been made due to consequences that could transpire if the contentious provision were to be implemented. In 2016 the Constitutional Court made a decision stating that the provisions of Article 20 of the Law on the Manner of Determining the Maximum Number of Employees in the Public Sector were not in line with the Constitution of the Republic of Serbia. The Constitutional Court substantiated its decision by stating that transforming one statutory right women were entitled to, namely the right to old age retirement under more favorable conditions, into the basis for termination of employment, constituted a violation of the principle of prohibition of direct and indirect discrimination on the grounds of gender as guaranteed by the Constitution. In addition, the Constitutional Court reiterated that equality of men and women was guaranteed by the Constitution and that the state was the guarantor of the development of equal opportunities policy.

²⁵ However, the law governing retirement and disability insurance in the Republic of Serbia stipulates that women meet the age and years of service retirement eligibility criteria before men do, ergo they acquire the right, but not the obligation, to retire.

Finally, the Constitutional Court had ascertained that the contested legal solution was also indirectly contrary to the provision of the Constitution which guaranteed accessibility of all job positions to everyone under equal conditions.

One characteristic of work and operation of the Commissioner for the Protection of Equality includes preemptive actions which are reflected in competences this institution has at its disposal in the area of promoting equality protection. As the Commissioner is not entitled to pursue complaint procedures *ex officio* and ascertain discriminatory treatment,²⁶ one of its preemptive competences has proven to be very significant in its work and operation. Namely, the Commissioner is entitled to issue recommendations containing measures for achieving equality to public authorities and other entities.²⁷ Recommendations containing measures for achieving equality may be aimed at using preemptive action to prevent and eliminate structural and institutional discrimination, as well as to improve the actions of system institutions geared towards preventing and eliminating discrimination and achieving full equality of citizens. In addition, the Commissioner uses these recommendations containing measures for achieving equality to point out to public authorities and other entities, to the need of taking special measures aimed at achieving equality, protecting and improving the position of a person or group of persons who are in a less favorable position in comparison to other citizens.²⁸ An example of one such recommendation containing measures for achieving equality issued by the Commissioner is given below.

²⁶ The Commissioner can pursue a complaint procedure and ascertain discrimination only following the receipt of a complaint alleging discrimination.

²⁷ Law on the Prohibition of Discrimination (“Official Gazette of the Republic of Serbia”, No. 22/09), Article 33, Item 9. This authority is not only of preemptive nature, but it also has a responsive function, as the institution tends to issue recommendations containing measures for achieving equality once it has transpired in the course of the procedure that the principle of equality had been violated in certain area or in the course of work and activities of a public authority or other entity.

²⁸ Nevena Petrušić, Kosana Beker, *Practicum for the Protection against Discrimination*, Partners for Democratic Changes Serbia, Center for Alternative Conflict Resolution, 2012, p. 62.

In the course of its work and activities, the Commissioner for the Protection of Equality had learned that majority of commercial banks in Serbia imposed age requirements as conditions for extending their services to clients (line of credit, loans, etc.). Banks frequently stated that a certain service was subject to an eligibility criterion, for example “person must be under 70 years of age” or “person must not be over 67 years of age at the moment of repayment of a loan or credit”. By setting the upper age limit as an eligibility criterion for using certain banking services, banks were directly discriminating citizens on the grounds of their personal characteristic – age, as they were denying a certain age group the right to use banking services (to persons who exceed the upper age limit). In addition, one way of breaching the equal treatment principle was reflected in imposing additional conditions on elderly clients (for example, additional guarantees) which were not imposed on other potential clients, thus stripping elderly persons of the possibility to have their credit rating assessed by the bank on the basis of comparable and impartial criteria. The right of banks to assess credit rating and credit risk of their clients in each and every individual case is unquestionable, as they have a legitimate and legally based interest to earn profit by selling their services and marketing their capital which implies adequate assessment of credit risk when approving certain services. However, this does not entitle banks to exclude or deny access to banking services to entire groups of citizens based on their personal characteristic, in this case their age. Each and every banking service must be available to all citizens under equal conditions, while in individual cases banks are entitled to make assessment as to whether a certain client meets eligibility criteria necessary for the extension of a certain banking service. For this reason in 2015 the Commissioner for the Protection of Equality sent out to 29 commercial banks operating in Serbia a recommendation containing measures for achieving equality, stating that they should take all necessary measures so as to eliminate discriminatory conditions pertaining to upper age limit imposed as a prerequisite for granting banking services, which was prescribed by banks in their general acts. Majority of banks have notified the

Commissioner that they have either acted upon or that they would act upon this recommendation.

Preemptive authority/competences of the Commissioner for the Protection of Equality also include monitoring the implementation of laws and other regulations, filing motions for the adoption of or amendments to regulations aimed at implementing and improving anti-discrimination protection, and issuing opinions on provisions of draft laws and other regulations pertaining to the prohibition of discrimination²⁹. Reports of the Commissioner show that since the establishment of the institution, the number of opinions issued by this institution regarding draft laws and other legal acts is steadily growing,³⁰ which testifies to the role the Commissioner plays in fostering equality.

For example, at the request of the Ministry of Education, Science and Technological Development dated 1 February 2016, the Commissioner issued its opinion on the Draft Law Amending the Law on the Foundations of the Education System of the Republic of Serbia, stating, *inter alia*, that there was a need to provide in the law itself the obligation to fund or co-fund textbooks and teaching materials in adapted formats (Braille alphabet, enlarged fonts, audio recordings) so as to give all children an opportunity to enjoy their right to high quality education and prevent any potential discrimination and unequal treatment.

Based on filed complaints, news content offered by different media outlets and other sources, the Commissioner monitors and analyses most frequent, typical and severe cases of discrimination.³¹ The Commissioner warns the public of these cases of discrimination,³² which

²⁹ Law on the Prohibition of Discrimination (“Official Gazette of the Republic of Serbia”, No. 22/09), Article 33, Item 7.

³⁰ In 2016 alone, the Commissioner issued its opinion on 40 draft laws and other legal acts of the Republic of Serbia.

³¹ Rules of Procedure of the Commissioner for the Protection of Equality (“Official Gazette of the Republic of Serbia”, No. 34/11), Article 40.

³² In its warning to the public, the Commissioner highlights the form of discrimination and manner it was perpetrated in; names perpetrators; individuals or groups who are exposed to most frequent, typical and severe forms of discrimination; adhering at the same time to the obligation to protect personal data and information; consequences or possible consequences of these forms of discrimination as well as measures for their elimination.

journalists tend to report on, almost without exception, in electronic media prime time and on front pages of printed and on-line media.³³

An example of Commissioner's action in this respect was the *warning to the public regarding relocation of Roma inhabitants* – by issuing this warning to the public the Commissioner called on all competent institutions in the country to find an adequate solution for dozens of Roma families who were being relocated from informal settlements in Zemun and Novi Beograd. In keeping with international standards and guidelines for relocation of population from poor habitats, it was necessary to take all measures of due care of dislocated population from informal Roma settlements, warned the Commissioner for the Protection of Equality stressing that women and children constituted a large portion of this population and that dignified and humane treatment was not a matter of good will but the issue of basic human rights. In addition, relocation efforts should be implemented in cooperation with and active participation of relocated persons themselves, by respecting their needs and their right to partake in the decision making process when it comes to all issues affecting them including relocation itself.

In addition, the Commissioner notifies the public by issuing statements which contain information on the Commissioner's activities but also on vulnerable minority groups³⁴ and on the need to ensure equal rights to all citizens by promoting tolerance and anti-discrimination.³⁵ An example of one such statement is given below:

Since 2000, the International Migrants Day is observed on 18 December as an international migrants day appointed by the General Assembly of the United Nations taking into account a large and increasing number of migrants in the world. Year 2015 was marked by migrants fleeing Asia and Africa from war affected countries, who were

³³ Brankica Janković, Ivana Krstić, Antigona Andonov and Tatjana Jakobi, *Handbook for Journalists – Fighting for Equality*, p. 78.

³⁴ The Commissioner usually does this on occasion of established international days which serve to promote rights and freedoms of those groups.

³⁵ Brankica Janković, Ivana Krstić, Antigona Andonov and Tatjana Jakobi, *Handbook for Journalists – Fighting for Equality*, p. 82.

moving via the Balkan Route mostly to West European countries as their final destination. Estimates suggest that around 500,000 migrants have transited through our country this year trying to escape conflicts in their native countries. For this reason, the Commissioner for the Protection of Equality stressed that Serbia has so far exerted enormous efforts and continues to do so, in order to extend to migrants adequate assistance, reception, temporary accommodation, health care services, food and medication, as well as information related to asylum seeking procedure, while at the same time respecting their human rights. Our country has met almost all standards in terms of migrant protection and has set a good example as to what a tolerant and humane society should be which continues to fight against any form of discrimination. The Commissioner had personally visited Preševo and had called on all competent national and international institutions to help prevent a humanitarian disaster.

The mission of the Commissioner for the Protection of Equality includes achieving equality for all citizens on the territory of the Republic of Serbia and the institution is continuously active in pursuing awareness raising of the public regarding discrimination. The Commissioner is not alone on its mission, but rather persists in establishing and maintaining cooperation with all institutions tasked with achieving equality and protecting human rights on the territory of the autonomous province and local self-government units,³⁶ as well as with other public authorities, national and international organizations and institutions. In addition, in order to increase the institution's visibility and information level among general population regarding all types of protection against discrimination it offers, representatives of this institution continue to participate, either as lecturers or participants, in different seminars, workshops, conferences, professional meetings,

³⁶ Law on the Prohibition of Discrimination ("Official Gazette of the Republic of Serbia", No. 22/09), Article 33, Item 8. Institutions tasked with achieving equality and protection of human rights on the territory of the autonomous province and local self-government unit include the Provincial Ombudsman (Protector of Citizens in the Autonomous Province of Vojvodina) and established Protectors of Citizens in cities and municipalities throughout the Republic of Serbia.

lectures, presentations, training sessions and education modules.³⁷

In order to provide the National Assembly, as the supreme representative body and duty bearer of constitutional and legislative power in the Republic of Serbia, with a comprehensive insight into the state of affairs in the area of equality protection, the Commissioner submits to the Parliament its Regular Annual Report each year.³⁸ This Regular Annual Report of the Commissioner contains a detailed description of the current state of affairs in this area, data on most frequent forms of discrimination, information pertaining to victims of discrimination and discriminators, areas of social relations in which discrimination occurs, assessment of the work and operation of public authorities, service providers and other persons, detected shortcomings and recommendations for their elimination, as well as

an overview of its own work and activities in that particular year.³⁹ Should concerns of particular importance arise, the Law on the Prohibition of Discrimination allows for the Commissioner to submit to the National Assembly, either on its own initiative or at the request of the Parliament, a Special Report.⁴⁰ Since its establishment, the Commissioner has submitted to the National Assembly seven Regular Annual Reports⁴¹ and four Special Reports⁴² in areas in which the institution had detected concerns of particular importance which required an objective review of the situation in achieving equality.

The Commissioner for the Protection of Equality is actively involved in preventing discrimination and achieving protection against discrimination, and uses a wide range of activities so as to strengthen the respect for the equality principle.

³⁷ 2016 Regular Annual Report of the Commissioner for the Protection of Equality, p. 177. Available at: <http://ravnopravnost.gov.rs/izvestaji/>

³⁸ Law on the Prohibition of Discrimination (“Official Gazette of the Republic of Serbia”, No. 22/09), Article 33, Item 5.

³⁹ Available at: <http://ravnopravnost.gov.rs/izvestaji/>

⁴⁰ Law on the Prohibition of Discrimination (“Official Gazette of the Republic of Serbia”, No. 22/09), Article 49.

⁴¹ 2017 Regular Annual Report submission is planned for March 2018.

⁴² Report on Discrimination of Children; Report on Discrimination of Women; Report on Discrimination of Persons with Disabilities and Report on Accessibility of Facilities Occupied by Government Institutions for Persons with Disabilities.