MONTENEGRO

 PROTECTOR OF HUMAN RIGHTS AND FREEDOMS

**REPORT ON WORK**

**FOR 2021**

Podgorica, March 2022

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**I INTRODUCTORY WORD OF THE PROTECTOR**

Distinguished Members of the Parliament of Montenegro,

It is my honour to present to you in the third year of my mandate the annual report on the work of the institution of the Protector of Human Rights and Freedoms of Montenegro, which marked 18 years of work on the International Human Rights Day (December 10) 2021.

In accordance with Article 47 of the Law on the Protector of Human Rights and Freedoms of Montenegro, the report contains a general statistical overview of cases processed, statistical overview as per areas of work, assessment of the state of human rights and freedoms in Montenegro, recommendations and measures proposed by the Protector in order to improve human rights and eliminate perceived shortcomings.

In accordance with the established practice, in this introductory part I will try to remind you of some of the key events and circumstances that influenced the atmosphere in society, the daily life of citizens[[1]](#footnote-1), as well as the exercise of their rights and freedoms.

We had a difficult year for all of us, with a lot of health, but also socio-political challenges.

In general, the presence of coronavirus, its consequences, as well as measures to prevent spreading this contagious disease, have greatly affected the lives of Montenegrins in 2021, and thus the exercise of their rights and freedoms as well. Unfortunately, as a state, we faced a large and irreparable loss of human lives in relation to the number of inhabitants (1729 deaths in the reporting year, according to data available from website of the Institute for Public Health of Montenegro).[[2]](#footnote-2) Also, a certain number of citizens had severe forms of the disease, and as the end of the year approached, we had records in number of infected (in the last days of December, more than 1.7 thousand newly positive cases of SARS-CoV-2 infection in one day).

An even more tragic scenario was prevented by the vaccination of citizens, which began on February 20, 2021, for priority categories, while the mass vaccination began on May 4. In the following months, the number of those who decided to get some of the available vaccines has risen, and it is important to point out that the necessary doses were available throughout the year. I also tried to contribute by personal example to increase the awareness of citizens about the importance of vaccination and respect for measures, so I spoke publicly about my immunization, but also the experience of dealing with the disease on several occasions. It is my pleasure to point out that our employees, almost all of them, have been vaccinated.

During the year, the Ministry of Health has adopted and adjusted measures to the current epidemic situation, which in some situations caused dissatisfaction of part of the population, mostly employees whose activities and occupations were subjected to more restrictive measures. A number of such objections were also sent to the Protector's institution, which you can read more about below.

The health situation did not significantly affect the organization of our work, although we on two occasions we had one third of infected employees at the same time. The reception of citizens was organized in accordance with the recommended measures, and a larger number of citizens compared to previous years contacted us by e-mail or traditional mail and telephone.

In addition to the mentioned great challenges in the field of public health, Montenegrin society also faced turbulent socio-political events. Thus, the act of enthronement of the Metropolitan of the Serbian Orthodox Church, Mr. Joanikije, in early September in Cetinje, became a serious threat to public order and peace and the functioning of citizens in the community, accompanied by growing tensions, divisions in society, protests and incidents. On this occasion, the Protector had cases formed on his own initiative and at the address of the citizens. These events in the weeks and months before and after the organization, influenced the atmosphere in society and many other events, so we had significant interest of the media and the public in general for the views of the Protector on individual reflections and consequences in the form of incidents, examples of intolerance, rude insults, belittling, abuse of freedom of expression, etc. Also, in anticipation of the mentioned act of enthronement of the Metropolitan of the Serbian Orthodox Church, I have visited the Royal Capital of Cetinje and talked to the local authorities. After the meeting, we have sent a message that all social actors and public authorities must show a high degree of responsibility and enable the smooth flow of social life and civic activism - in which everyone will be guaranteed freedom of speech and freedom of peaceful assembly, freedom of thought and religion, personal freedom and security as a precondition for the aging of all other civil rights and freedoms.

Since all election cycles have consequences for the atmosphere in society, because in addition to political confrontations, they open other issues, most often ethnic, national, religious, rarely economic and social, these are local elections in Nikšić (March), Petnjica, Mojkovac and Cetinje (December), presented new challenges.

The situation was particularly sensitive in Nikšić. A few weeks before the election day, I visited this town, where I had several meetings with associates with representatives of competent authorities in order to better understand current events and gather information on allegations of potential violations of the rights of individuals and groups.

As the year went on, the political situation regarding the executive power became more complicated, with proposals for its reconstruction, for the election of a new minority government, as well as for early parliamentary elections.

As a reminder - since June Montenegro has been without the Minister of Justice, Human and Minority Rights (Minister of the Interior has performed this function), and in 2021 Montenegro it was without the President of the Supreme Court, the Supreme State Prosecutor, two judges of the Constitutional Court, as well as incomplete Judicial Council; moreover, Montenegrin lawyers were on a nearly 70-day strike demanding changes to the Law on Fiscalization. Although there is more talk about holders of the highest positions, and not institutions themselves, it is logical that lack of key personnel positions can jeopardize their stable functioning. All these institutions, along with the institution of the Ombudsperson, represent the "bloodstream of the system of protection of human rights and freedoms", therefore these circumstances could affect the exercise of rights and freedoms of citizens.

In most of the mentioned cases and circumstances, the real battlefields and source of numerous unacceptable and illegal statements that encouraged the climate of intolerance and bigotry in Montenegro came from the online sphere of social networks and through comments on portals. This problem was indeed very pronounced in the reporting period and was directed both towards the holders of public office and among the citizens themselves. Examples of inappropriate, misogynistic, obscure, dangerous content and publications were also reported by the traditional media, and a large number of topics, shows and various public gatherings were dedicated to finding answers on how to reduce, limit and prevent abuse of freedom of expression and hate speech. In the myriad of such discussions and analyses, I noticed the slogan "freedom of hate speech", which puts together the incompatible, but still very accurately depicts the real situation. The importance of establishing more effective mechanisms to combat these phenomena and prevent many harmful consequences they may have on society as a whole is evidenced by the fact that the key international organizations operating in Montenegro, such as the Council of Europe, the EU Delegation, the United Nations system and the OSCE Mission to Montenegro, have recognized that in their reports and have dedicated important activities and campaigns to work on the issue. The civil sector has certainly made a significant contribution in this direction.

During the year, I have talked about these topics with holders of the highest state functions and with representatives of the diplomatic corps and international organizations.

The fact that I received the largest number of media inquiries about topics and situations related to hate speech and other forms of discriminatory expression testifies to the severity of the problem and attempts to change the situation, and we reacted on many of them with press releases. It will turn out that despite the efforts of all actors who worked in this field, it still seemed to lack the effectiveness of all these appeals for dialogue, tolerance, coexistence, and democratic ways of resolving disputes or responding to them.

In one of the statements, when asked what is the biggest challenge in continuation of Montenegro's accession negotiations with the European Union (EU) in the context of Chapters 23 and 24, I singled out the stabilization of the situation in the country[[3]](#footnote-3).

Unfortunately, in addition to verbal violence, in the short period we have faced horrific and very tragic cases of family/partner violence that have resulted in the deaths of women. There has been good reason to talk for months about femicide, its causes, the responsibilities of institutions, ways to improve the response of the competent authorities, adequate assistance to women who suffer violence, protection of children and the like.

Journalists and other media workers were also exposed to attacks and insults, often obstructed in performing their work in public.

This was a brief overview of some of the most important events, i.e. those that most influenced the socio-political processes in the country, and which directly or indirectly influenced our work and actions. Below we remind you of some of the most significant activities of the Institution during 2021.

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 Distinguished Members of Parliament and other esteemed readers of this Report,

Having in mind the previously described context of events in Montenegro, it is clear that in 2021 there were challenges in exercise of human rights and freedoms of citizens and preservation of democratic standards and principles in certain areas.

In general, human rights and freedoms were respected to a satisfactory extent, i.e. no mass or systematic threats and violations were observed. However, in individual cases there were serious omissions in the work of the public administration system, which caused numerous problems and complications for citizens in exercising their rights and freedoms. It is important to emphasize that no individual case of violation should be relativized or neglected, i.e. that adequate protection mechanisms must be provided to those who submit complaints.

As in previous years, citizens most often addressed us with complaints about the work of state bodies, state administration bodies, public services and other holders of public authority.

In 2021, the trend of increasing the number of complaints remained, so the Protector has worked on 1,123 complaints, of which 968 were received in the reporting area, and 155 complaints were transferred from 2020. Of the total number of complaints in the work, 80.50% were resolved. This data should be viewed from the perspective of a sharp increase in the number of cases after September 5 and the relatively slow action of the authorities in these cases. After the investigation, the Protector found violations of rights in 124 cases and gave opinions with 343 recommendations to the competent authorities and other entities.

In cases in which the proceedings were completed in the reporting year, the majority of citizens pointed to violations of rights from corpus of "other civil rights" (rights of persons deprived of liberty, the right to good governance and legal protection, the right to appeal, prohibition of torture, inhuman or degrading treatment , the right to privacy, the right to liberty and security of person ...) as well as economic, social and cultural rights (the right to peaceful enjoyment of possessions, the right to social protection, the right to work and employment rights, the right to health care and insurance , the right to pension and disability insurance...). The following are addresses for protection of the rights of children and youth (the right to education, protection from neglect and abuse, parental responsibility, the right to parental care, health and social protection, the rights of children with disabilities, etc.), as well as protection against discrimination in the field of labour and employment, in proceedings before public authorities, due to hate speech, discrimination in internal affairs and police treatment, social protection, pension and disability insurance, health care, education, due to gender-based violence, etc.). When it comes to violations of the right to a fair trial, the complainants mostly pointed to the abuse of procedural powers, the right to a trial within a reasonable time, the right to defence, access to court, non-enforcement of court decisions and the like.

When we talk about general assessments, we always draw attention to the status of certain social groups, those that are considered vulnerable on several grounds and there is a need to improve and adequately treat their position.

We are definitely referring to persons with disabilities, victims of domestic violence, members of the Roma and Egyptian population, socially vulnerable families, the LGBTIQ community, elderly households, especially women in rural areas and of course children from all these categories.

In addition to working on citizens' complaints, talking to political parties, learning about legal possibilities and referring to other forms of protection of rights and freedoms, before addressing our institution, during the year we have carried out numerous other activities, which are part of the institution's mandate and greatly contribute to strengthening its position, trust and cooperation with other bodies/institutions. This refers to promotional and project activities, conducting research, drafting reports, publications, organizing thematic meetings or participation of our representatives in them, media representation, international cooperation, field visits, information exchange and preparation of answers for various questionnaires and the like. More complete information is provided in the following chapters of the report.

In accordance with the practice so far, below are some of the activities of special importance, which were characteristic of our work:

-In 2021, in cooperation with the OSCE Mission to Montenegro, we made a publication "*Analysis of decisions of the courts for misdemeanours of Montenegro, with reference to the practice of the Ombudsperson and the ECHR “[[4]](#footnote-4)*. The analysis, authored by Prof. Dr. Nebojsa Vučinić, Protector Sinisa Bjeković, and Chief Advisor in the Sector for Protection against Discrimination Dina Knežević and Senior Advisor Nemanja Dujović, is the product of research within the project *Identification of Problems in Combating Family Violence and Violence against Women.* In line with the epidemic situation in April 2021, this document was presented at an online conference, spreading a message that stricter penal policy, consistent application of regulations and synchronized response of competent institutions will improve the systemic response to the problem of family violence and gender-based violence.

-In June, we have organized a press conference where we have presented the report *"The situation of children in dormitories/boarding schools in Montenegro”[[5]](#footnote-5).* The findings and results of the research, which was conducted for this purpose in the previous two years, showed that exercise and protection of children's rights in dormitories is at an unsatisfactory level, as well as that some institutions do not have licenses to work. Therefore, the Protector sent recommendations to the Government of Montenegro, inter alia: to regulate and harmonize regulations on student standards based on children's rights, in order to achieve the best interests of the child and to establish adequate funding for accommodation and meals in dormitories/boarding schools, in accordance with developmental needs of a child.

-During 2021, we have conducted *research and prepared a special report on the impact of measures to prevent the spread of coronavirus on the mental health of children in Montenegro,* which will be presented to the public in the first quarter of 2022. This research was created within the framework of many years of successful cooperation and with the support of UNICEF.

- This year, the Protector's Institution, in co-organization with partner organizations/institutions - Civic Alliance, EU Delegation and Council of Europe, marked the *International Human Rights Day with a series of activities on December 10*, which is also the 18th birthday of the institution. The Protector was a guest of a TV debate on public service, on the topic of family violence, and he also participated in a traditional humanitarian football match. The Protector and Deputy Snežana Mijušković held interactive lectures for students of Law and the Faculty of Political Sciences. We have also dedicated the central conference to the problem of family violence, i.e. "*How to protect a family from domestic violence*". One of the messages of the conferences was that the institutions of the system must not leave unprotected victims of family violence, as well as that the omissions in taking measures and prescribed activities need to be addressed and the responsibility needs to be specified.

- In accordance with the legal obligation, *Reports on the work of the National Mechanism for the Prevention of Torture* were prepared*[[6]](#footnote-6), as well as a semi-annual Report on Protection against Discrimination from the point of view of the Protector of Human Rights and Freedoms of Montenegro for January 1-31, 2021.* [[7]](#footnote-7)

- As of the end of February of the reporting year, the *redesigned website of the Protector's institution* is available to citizens and other entities that monitor the work of the institution, with new content and platforms, especially in the field of children's rights and protection against discrimination. The main novelty are subsites for each individual area of work of the Protector - Public Administration and Justice; Protection against abuse, security and national preventive mechanism; Rights of child, youth and social protection; Protection against discrimination, vulnerable groups and gender equality. At internet address www.ombudsman.co.me, a more detailed, transparent and systematic overview of news, opinions and other acts of the Protector, domestic and international regulations related to the work of individual sectors was provided. An electronic form has been set up on the main page, which enables submission of stakeholders' complaints via the website. Also, a significant novelty is that the site is adapted to persons with disabilities (special readers that they use, with possibility of using image contrast and enlarge text). The new content is an interactive map of accessibility of facilities in public use, adapted in cooperation with the Association of Paraplegics Podgorica. The biggest changes are visible in the subsite dedicated to the rights of the child, which improves the access of the Ombudsperson Institution to children and youth, and whose changes were supported by the comprehensive initiative "Equal access to children to justice" implemented in Montenegro with technical support by UNICEF and financial support by Government of Kingdom of Norway.

- The Protector of Human Rights and Freedoms of Montenegro Siniša Bjeković and the representative of the Office of the United Nations High Commissioner for Refugees (UNHCR) in Montenegro, Jean-Yves Bouchard, signed an *Agreement on Cooperation in Protecting, Monitoring and Promoting Human Rights and Fundamental Freedoms of Asylum Seekers, refugees, displaced persons and stateless persons.* The agreement envisages the continuation of the strategic partnership through undertaking joint activities and projects in this area, which relate to promotion and protection of the right to access the territory and asylum procedure, reception conditions, respect for guaranteed human rights in accordance with the principle of non-refoulement, entry into registry books and access to property rights, etc.

- During this year, we have established cooperation with the *Turkish Agency for International Cooperation and Coordination (TIKA).* At the meeting of the Protector Siniša Bjeković with the Coordinator of the Office for Program Coordination in Podgorica, Mr. Abdurrahman Toprak and his associates it was agreed that institution will develop a platform for cooperation in the coming period, on the basis of which TIKA will support activities that strengthen our professional and administrative capacities.

- To the mutual satisfaction, the cooperation with the *AIRE Centre* continued, which is *with the support of the British Embassy in Montenegro* in December organized a round table for employees of the Protector and state prosecutors. *.* At the opening of the meeting, the Protector pointed out that human rights standards at the level of Montenegro must be uniform, regardless of the entity that applies them. He also stressed the importance of inter-institutional co-operation, in order to improve the implementation of human rights and avoid confusion and conflicts in the interpretation of rights.

-As a result of the cooperation with the AIRE Centre from London, the publication "The Right to Respect for Private Life (Article 8 of the ECHR): Guide to Conventional and National Law and Practice" was finalized. The guide was created as an expression of the effort to acquaint the relevant actors with the complex corpus of rights protected under the term "private life" and the methodological approach of the European Court of Human Rights in assessing whether it has been violated.

-Since certain periods of the year had a more favourable epidemic situation, we used it to continue visiting local communities - organizing the Days of the Protector, which was neglected during 2020 due to the coronavirus.

The days of the Protector were organized in Šavnik, Plužine, Petnjica, Andrijevica, Plav and Gusinje. After talks with local leaders and interested citizens, Protector Bjeković assessed that human rights remain in the shadow of the accumulated socio-economic problems of citizens of small municipalities in northern Montenegro. The dominant problems are the departure of the population, poverty and unemployment. Despite the commitment and evident energy that the mayors and their associates invest in order to overcome numerous problems that affect the living standards of the local population, the general impression is that the "revival" of the north requires systematic and sustainable assistance from the central level. Also, we find it necessary to have an initiative for connection and better cooperation between the municipalities themselves, in order to jointly influence changes of common interest.

- With all the current obligations, we tried to respond to almost all invitations for numerous participations in round tables, conferences, discussions and other public gatherings. The Protector also hosted numerous meetings and in 2021 we did not suspend receptions, which we organized in compliance with epidemic measures.

In the reporting period, however, there were almost no international trips, as almost all meetings and activities of the ombudsperson networks, of which we are members, were held online.

Exceptions are the Fifth Regional Conference of Equality Bodies of Southeast Europe, held in Slovenia, organized by the Equality Advocate, a meeting of the Southeast European NPM Network (Budapest), organized by the Office of the Commissioner for Fundamental Rights of Hungary and training for forced return observers, within the activities of the project funded by the European Commission "Regional Support to the Management of Vulnerable Migration in the Western Balkans and Turkey, Phase II", organized by the Office of the International Organization for Migration (IOM). Representatives of the Protector's institution were participants in these events.

- What gave us an additional and very important impetus in our work was the last report of the European Commission (EC) for Montenegro. In a statement for the media, the Protector said that he was satisfied with the attitudes related to our institution, assessing them as an obligation to improve the work in the coming period.

“The regulatory and institutional framework for the functioning of the Ombudsperson (status B) has been established and the Ombudsperson continues to be perceived as the institution with the best influence and trust in terms of promoting and protecting the rights of citizens.” The capacity of the Institution to resolve complaints and the quality of its decisions have continued to improve," the report stated.

The document states, among other things, that the institution has strengthened its communication with the competent authorities and the public, as well as the visibility of its activities.

Among other things, it was assessed that the capacities of the national prevention mechanism, which is part of the Ombudsperson institution, have been further strengthened, and that the NPM has fulfilled its annual visit plan for 2020. The EC considers that the capacities of the Ombudsperson, as a body for protection against discrimination, have been improved, and that the institution has necessary competencies to resolve complaints of discrimination. It was also pointed out that the budget was reduced by five percent in 2021 compared to 2020.

Based on all the above, we appreciate that another very challenging year is behind us, both in terms of socio-political events, the atmosphere in society, and the protection and promotion of human rights and freedoms of citizens, but also the work of the institution itself. We hope that we have managed to confirm our openness, cooperation and efficiency, which is supported by the continuation of the growing trend of addressing citizens, the media, and numerous other entities interested in cooperating with the Protector's institution. It is an honour for us to be recognized as a credible and important address for discussions on a number of topics, given the number of invitations we receive to participate in events. In line with the effort to be the address from which well-founded and fair opinions come, in accordance with international standards of human rights and freedoms, we will strive to strengthen the mechanism for monitoring compliance with recommendations we make through our opinions.

Montenegro must continue to build a system of public administration in which important decisions and certain processes cannot depend exclusively on personal decisions, i.e. decisions of individuals. The public administration system must be efficiently and transparently at the service of citizens even when events occur that may to some extent hinder or slow down social processes. Daily politics must not be an obstacle to the exercise of citizens ' rights and freedoms, and they must be free to report all irregularities and problems to the competent authorities and institutions. Together, we should fight so that, no matter how many conflicting opinions and expectations we have on certain issues, we should never allow the security of the state and the security of us as citizens to depend on that. The events of 2021, but also 2020, warn us that the dangerous climate of intolerance, division and hatred easily turns into violence, so for days and months from one event, it continuously causes new conflicts and intolerance. We hope that economic and social issues, in the context of improving the living standards of citizens, will take precedence in public discourse and that this may be a new connecting thread in the broken relations and a chance to establish trust and cooperation.



**II PROTECTION AGAINST DISCRIMINATION, VULNERABLE GROUPS AND GENDER EQUALITY**

**2.1. Introduction**

The reporting period is characterized by the largest number of cases in the work of the sector for protection against discrimination, vulnerable groups and gender equality since the establishment of the institution of the Protector as an institutional mechanism for protection against discrimination. Out of a total of 246 cases, which were in progress in 2021, 173 cases were completed, of which 71 recommendations were given to various entities in 36 cases.

The reporting year was marked by outstanding activity in the field of promotion of anti-discrimination at the national and international level, so the representatives of the Institution were participants in almost 40 events and gatherings important for protection against discrimination and vulnerable groups.

Representatives of the Protector's institution were observers in several working groups for drafting acts important for the protection, promotion and promotion of the right to equality and non-discrimination, and based on these experiences, we see positive developments in the adoption of strategic documents vulnerable groups and at the same time we expect that the measures envisaged by the strategies and accompanying action plans will be effectively implemented.

To remind you, a working group has been established to draft the Law on Prohibition of Discrimination, in the work of which the Deputy Protector for Protection against Discrimination, Vulnerable Groups and Gender Equality participates as an observer. The need for the adoption of a new Law is also recognized through the need to make a distinction between areas, forms and grounds of discrimination; harmonization of penal policy with other relevant laws; matching the provisions on the burden of proof with the directives of the European Union that regulate the prohibition of discrimination, and recognizing certain forms of discrimination as more serious forms of discrimination.

As in the previous years, the largest number of appeals for protection against discrimination was in the field of labour and employment (64). Further, protection against discrimination is sought in proceedings before public authorities (17); protection against hate speech was sought in 10 cases; in the area of internal affairs and police treatment, and social protection, nine (9) appeals were recorded, and eight (8) cases related to gender-based violence. Seven (7) cases, each, were recorded in the fields of education; pension and disability insurance; access to goods and services as well as health care. There were six (6) cases in the proceedings before the judicial authorities, and four (4) in the field of public discourse and media. In the area of property - legal relations, there were two (2) cases, as well as two (2) cases in the field of family violence, and one (1) in sports, while in 13 cases the area of discrimination was not mentioned.

It has been noticed that discrimination is one of the most frequently used words in public discourse and that citizens use it when they experience any injustice or inequality. However, the Protector is the only body whose competence is to investigate not only discrimination, but also violations of other rights, so in the absence of constitutive elements of discrimination, when there are no elements to act in relation to meritorious examination of discrimination, the investigation is extended to establish all facts circumstances important for taking a stand on allegations of possible violation of other rights. In addition, the Protector seeks to bring the concept, types, forms, grounds, areas and areas of discrimination as close to the public as possible.

The European Commission Report[[8]](#footnote-8) states, among other things, that the Institution has strengthened its communication with the competent authorities and the public, as well as the visibility of its activities. The regulatory and institutional framework for the functioning of the Ombudsperson (status B) has been established and the Ombudsperson continues to be perceived as the institution with the best influence and trust in terms of promoting and protecting the rights of citizens. The capacity of the Institution to resolve complaints and the quality of its decisions continued to improve. It was further stated that the competent authorities should implement the Ombudsperson's recommendations more systematically, efficiently and quickly. The European Commission considers that the capacity of the Ombudsperson, as a body for protection against discrimination, has been improved, and that the institution has the necessary competencies to resolve complaints of discrimination.

We would like to remind you that this reporting period was also marked by the COVID-19 pandemic, which affected the lives of citizens in economic, social, psychological and other terms. The Protector sought to use all his available capacities to serve the citizens so that they could exercise their rights to the fullest extent possible. Greater visibility of the Institution and work with parties has increased the trust of citizens in the Institution. Visibility and improvement of the work of the Institution is emphasized in the European Commission's progress report for Montenegro[[9]](#footnote-9).

During the reporting period, the Ombudsperson was approached by women, mothers, victims of family violence and partnerships, persons with disabilities, persons deprived of their liberty, the elderly, members of the LGBT population, members of national minorities, and other categories at risk of discrimination. In addition, there have been a number of appeals seeking protection from hate speech expressed online and offline. In addition to pointing out direct discrimination, there were cases in which pointing out indirect discrimination contained in certain legal provisions.

From the aspect of gender equality, family violence and gender-based violence, the Protector points out that the COVID-19 pandemic affected women and men differently and deepened the already existing inequality. Women make up the majority of employees in sectors such as health, social protection, education, trade, and even in the field of service provision, i.e. in the areas that have borne and are bearing the greatest burden of the coronavirus crisis.

A number of complaints were filed in order to review the termination of employment contracts and other engagements in state bodies and public services (education, health, etc.). In this regard, there were many allegations in the complaints and media reports about dismissals, removals and termination of employment on the basis of belonging to a certain political structure. Women in public office and others whose involvement is recognized in public have been the target of brutal and misogynistic attacks, most often online, so the Protector advertised in the media when it comes to these topics and contributed to strengthening the culture of dialogue, tolerance and combating hate speech.

The phenomenon of violence against women continues to dominate many social phenomena. It is evident that violence is becoming dominant in the general social context, including a kind of autocracy as a form of lack of awareness of the status of the individual in society.

As we have pointed out before, hate speech is particularly pronounced in tense and sensitive times when topics such as identity and other issues that deeply divide society come up on the agenda. In public and political discourse, the daily occurrence is insulting, belittling and violating the dignity of people who are placed in the context of belonging to a particular ideology or idea, even when there is no convincing evidence, so it is concluded that the basic goal is contained in that to hurt the person, and not to develop a debate of general interest, where under the guise of sharp controversy, those forms of expression that could offend or shock the public could be allowed.

The inadequacy of facilities as well as other public goods and areas for persons with disabilities remains a concern, as well as the lack of accessible information, communications and public transport.

Roma continue to face many problems related to education, employment, housing, economic, social and others. Roma involvement in the policy-making and decision-making process in all areas of social, public and political life remains low. Roma inclusion in the policy-making and decision-making process in all areas of social, public and political life remains low.

**2.2. Legal framework**

This part of the report will discuss the regulations adopted or amended during 2021, which have an impact on protection against discrimination and the promotion of equality in certain areas of life and work.

The current *Law on Prohibition of Discrimination*[[10]](#footnote-10) needs to be improved and fully harmonized with the *acquis communautaire*. This is, among other things, because the Law does not make a clear distinction between areas, forms and grounds of discrimination, penal policy is not harmonized with other relevant laws, the provision on the burden of proof is not fully aligned with EU directives prohibiting discrimination. Also, certain forms are not recognized as a more severe form of discrimination, especially if it is a criminal offense in which the predominant or exclusive motive for execution was hatred, or intolerance towards the injured party, which is based on his personal characteristics. In this regard, the competent ministry has formed a working group for drafting the Law on Prohibition of Discrimination, in the work of which the Deputy Protector for Protection against Discrimination participates as an observer.

The *Labour Law*[[11]](#footnote-11) is problematic especially from the aspect of the provision of Article 164, paragraph 1, item 1, which reads: “Employment shall be terminated by force of law: when the employee reaches the age of 66 and has at least 15 years of insurance experience, on the day of delivery of the final decision to the employee, the age limit is reduced depending on the degree of increase in length of service by one year (…)”. These changes reduced the retirement age from 67 years of age, as provided by the previous legal solution, to 66 years of age, which caused numerous controversies and dissatisfaction between representatives of employees and social partners. Observed shortcomings in the process of preparation of amendments to the Law relate to the absence of the public, lack of transparency and consultation with the social partners. The reduction of the age limit especially affects the socio - economic status of employees who are forced to leave the labour market a year earlier and become beneficiaries of the right to a pension.

The Protector has previously pointed out the need to amend Article 164, paragraph 4 of the Labour Law, which stipulates: "he restriction referred to in paragraph 1, item 1 of this Article shall not apply to an entrepreneur, i.e. to an employee who is the founder or owner of a majority share in that company and other persons determined by a special law. In the opinion of the Protector, it is unclear which is the special law that will determine the circle of persons who will not be subject to the restriction from Article 164 paragraph 1 item 1 of the Law, nor is it clear why a distinction is made between entrepreneurs or employees who are founders or owners of majority share in the company and other persons who have reached 66 years of age, which leads to the fact that the principle of legal certainty is not realized to the necessary extent. With such solutions, the legislator essentially did not ensure the quality of legal provisions, which presupposes their accessibility, clarity and predictability in the consequences.[[12]](#footnote-12)

Amendments to the Law on Social and Child Protection from June 2021[[13]](#footnote-13) prescribed the right to child allowance up to the age of six, and at the same time increased the amount of allowance for children who exercise this right on other grounds. The explanation of the law states that the current social and economic situation imposes additional responsibility of the state to show the ability, but also the readiness to create a policy for which citizens, and especially vulnerable categories of the population, must always be in the first place. In that sense, the proposed changes are aimed at creating such an environment that will contribute to a better position of children and families. In the explanation for the adoption of amendments to the Law on Social and Child Protection, it is stated that the proposed changes are aimed at "improving the position of the most vulnerable population in society, i.e. children up to six years of age." However, the explanation does not clearly specify the reasons for the proponent to assess that children under six are considered the most vulnerable population in society, as well as whether this measure has a social protection character or possibly a population policy measure.

Regarding this legal provision, the Institution took the position that the norm "up to the age of six" is not in accordance with ratified international documents, as well as domestic legislation, and that it should be amended or harmonized with applicable regulations in order to eliminate essential inequalities towards different ages of the children. The Protector pointed out that according to the UN Convention on the Rights of the Child, ratified by Montenegro, which is the umbrella international document for the protection of children's rights, a child is any human being under the age of 18. Also, in accordance with the Law on Social and Child Protection, a child is a person up to 18 years of age.

The latest amendments to the Law on Social and Child Protection[[14]](#footnote-14) have eliminated inequality according to different ages of children in exercising the right to child allowance, so Article 42 paragraph 1 item 1 of the Act stipulates that a child up to 18 years of age can exercise the right to child allowance. This legal norm will be applied as of October 1, 2022. Thus, the legislator recognized the essential inequality and with the new legal solution eliminated the unjustifiably unequal treatment of children in exercising their rights, thus acting in accordance with the umbrella international document, the UN Convention on the Rights of the Child, and the Protector's recommendations[[15]](#footnote-15)

The Protector praises the legal solution contained in Article 2b of the *Law on Amendments to the Law on Primary Education*[[16]](#footnote-16), which reads: Every pupil shall have the right to free textbooks for primary school, at the expense of the state budget. Bearing in mind that primary education is compulsory, all primary school pupils are equalized in this way. The improvement of the Law on Amendments to the General Law on Education is reflected in the introduction of a gender component regarding the election of governing bodies, so Article 153g provides: When electing members of the school or board of directors, equal gender representation shall be taken into account. Then, with regard to the election of the governing body, Article 153h stipulates: "In the selection of management bodies in a situation where candidates for the vacancy achieve the same results in the process of testing conditions, competencies, knowledge and skills, when making a decision, gender equality is taken into account", as well as the election of assistant directors in amended Article 153i is foreseen: "When electing an assistant school principal, in a situation where candidates for the vacancy achieve the same results in the process of testing the conditions, competencies, knowledge and abilities, when making a decision, gender equality is taken into account." In terms of the above provisions, the Protector considers it necessary to establish gender-sensitive legislation and emphasizes that, although all bodies in Montenegro are obliged to gender mainstreaming, in accordance with Article 3 of the Law on Gender Equality, which provides for the assessment and evaluation of the impact of all decisions and activities on the position of women and men, in all phases of planning, decision-making and implementation, this regulation recommended improvement, because all statistics indicate that although the largest percentage of women in education, the number of men in management positions is significantly higher.

Progress in exercising the rights from work and on the basis of the work of teaching assistants has been made by the *Amendments to the Law on Upbringing and Education of Children with Special Educational Needs*[[17]](#footnote-17), in the manner prescribed by Article 1, paragraph 2; "the school concludes an employment contract with a teaching assistant for an indefinite period of time", paragraph 4: "A teaching assistant who is employed for an indefinite period of time, and whose work is no longer needed, may establish an employment relationship in another school, based on the agreement of the school principal", and paragraph 5: "A teaching assistant who is employed for an indefinite period of time in a school may be transferred to another school by mutual agreement if they meet the conditions prescribed by law and the act on job systematization, with the consent of the teaching assistant." In this way, a deviation was made from the long-standing practice of concluding contracts exclusively for a definite period of time, which has placed teaching assistants in a disproportionately unfavourable position compared to other teaching and non-teaching staff who were employed for an indefinite period. In this regard, the Protector has previously pointed out that a fixed-term employment contract is provided as an exception, and that the conclusion of several fixed-term employment contracts, in continuity, reliably indicates the existence of a permanent need for work. Therefore, with the latest amendments to the Law, the position of teaching assistants has been improved, so the explicit provision on establishing an employment relationship for an indefinite period of time has provided security in the continuity of employment.

The Protector still expects that the competent ministries will make additional efforts to improve the employment-legal status of Roma and Egyptian social inclusion workers in the field of education, similar to the employment status of teaching assistants. This category of employees must not be limited exclusively to the possibility of temporary employment, but provide conditions for engagement on the principle of permanent and systematic work, where the real need for their work is registered.[[18]](#footnote-18) In this regard, the Protector recalls the Opinion with recommendations given in October 2020, which until the day of writing this report was not implemented by the competent ministries to which it was sent for execution, which highlights their responsibility for discriminatory position of workers in Roma social inclusion and Egyptians in the field of education.

Law on Compulsory Health Insurance[[19]](#footnote-19)the circle of persons entitled to infertility treatment by medically assisted fertilization (MPO procedure) has been significantly expanded by moving the age limit from 44 years of age to 45 and 50 years of age, respectively, and increasing the number of procedures. In particular, the scope of health care provided for in Article 14 paragraph 19 of the Act follows the intention of the European Parliament Resolution[[20]](#footnote-20) calling on Member States to ensure that all persons of reproductive age have access to infertility treatment regardless of their socio-economic status or marital status, gender identity or sexual orientation. The resolution emphasizes the importance of carefully examining fertility in the European Union as a matter of public health, as well as the prevalence of infertility and reduced fertility, and calls on the Member States to take a holistic, inclusive and non-discriminatory approach.

Acting on an individual complaint by which the Ministry of Education, Science, Culture and Sports, as the bearer of the legislative initiative, was charged with discrimination based on the status of convictions contained in Article 62 paragraph 1 item 4 of the *Law on Sports*[[21]](#footnote-21), the Protector sent an opinion[[22]](#footnote-22) to the Ministry fully review the specified provision, in such a way that participation in the bodies of the sports organization will not be conditioned by excessive and general restrictions. Namely, the disputed provision of the Law prescribes: “A member of the body of a sports organization, i.e. the director, if the sports organization has one, cannot be a person who has: been convicted of a criminal offense punishable by imprisonment for more than three years, or for the criminal offense against life and body, freedoms and rights of man and citizen, sexual freedom, property, payment and business operations, human health, constitutional order and security of Montenegro, public order and peace, official duty and humanity and other goods protected by international law.” In the opinion of the Protector, the rejection of the request for the establishment of a boxing club based on Article 62 paragraph 1 item 4 of the Law on Sports was a disproportionate burden for the complainant and prevented him from exercising his right to freedom of association, i.e. founding a sports club and rights to respect private life, even if legitimacy of the objectives pursued is taken into account. At the meeting with the Protector, the Ministry expressed readiness to implement the given recommendation, with a joint assessment that the Law on Sports needs to be changed and harmonized with international standards and legislation in order to better protect the rights and interests of athletes and sports workers.[[23]](#footnote-23)

Furthermore, in the procedure on individual complaints due to discrimination on the grounds of citizenship in the field of health care, the Protector sent an opinion to the Ministry of Health with a recommendation [[24]](#footnote-24)*to initiate amendments to the Law on Compulsory Health Insurance*[[25]](#footnote-25) so that provisions of Article 16 paragraph 19, relating to assisted reproduction, was also applicable to foreigners with permanent residence in Montenegro who pay contributions based on health insurance. The Protector will monitor the implementation of the given recommendation.

The intention of the *Law on Compensation of Former Beneficiaries of Benefits Based on the Birth of Three or More Children[[26]](#footnote-26)* is to eliminate the consequences arising from the abolition of the right to lifelong compensation based on the birth of three or more children. This law regulates the conditions, manner, procedure and dynamics of compensation of former beneficiaries of the right to lifelong benefit based on the birth of three or more children. The right to compensation, in accordance with this law, have the beneficiaries of the monthly allowance based on the birth of three or more children, to whom this right belonged in the period from January 1, 2016 to June 30, 2017, in accordance with Article 4 (Article 54a and 54b) of the Law on Amendments to the Law on Social and Child Protection ("Official Gazette of Montenegro", No. 42/15), if this right is revoked, as well as beneficiaries whose legal status is regulated by Article 2 of the Law on Execution of Constitutional Court Decisions UI No. 6/16 of 19 April 2017 (Official Gazette of Montenegro, No. 42/17, 92/17, 3/18, 28/18 and 55/18), after the expiration of the period of use of the fee is prescribed by that law.

We would like to remind you that the Decision of the Constitutional Court of Montenegro repealed the provisions of Article 4 (Article 54a, paragraphs 2, 3 and 4 and Article 54b, paragraph 2) of the Law on Amendments to the Law on Social and Child Protection[[27]](#footnote-27), on the basis of which mothers have been entitled to compensation on the basis of the birth of three or more children, years of service and records at the Employment Agency.

**2.2.1. Strategic Framework**

As the level of gender equality in Montenegro is still at an unsatisfactory level, it is the National Strategy for Gender Equality 2021-2025[[28]](#footnote-28), the fourth strategic document in a row to establish a better framework for achieving gender equality in Montenegro, which was adopted at the Government session on July 31, 2021. Through several months of intensive consultations with various social actors and stakeholders, a process of joint identification of the causes and consequences of inequality and harmonization of the strategic response took place. The main goal of the Strategy is to achieve a higher level of gender equality in Montenegro by 2025, which will be achieved through three operational goals. The first operational goal is to improve the application of the existing normative framework on the implementation of gender equality policy and protection against discrimination based on sex and gender. Operational objective two refers to the improvement of education, culture and media in order to reduce the level of stereotypes and prejudices towards women and persons of different gender and gender identities, and operational objective three emphasizes increasing the participation of women and persons of different gender and gender identities in areas that provide access to resources and the benefits of resource use.

In order to improve the current situation and position of the Roma and Egyptian communities in Montenegro, in terms of combating all forms of discrimination and segregation, the Government of Montenegro - Ministry of Justice, Human and Minority Rights has developed a Strategy for Social Inclusion of Roma and Egyptians for 2021-2025.[[29]](#footnote-29) The vision of this strategic document is reflected in the need for full affirmation of the Roma and Egyptian communities in the social, economic, cultural and political life of Montenegro. In this regard, a strategic goal has been defined at the level of overall public policy, which reads: "Improving the socio-economic and legal position of Roma and Egyptians in Montenegro, through building an inclusive and open society based on combating and eliminating all forms of discrimination, anti-Gypsyism and poverty." The strategic document is based on seven basic principles: 1) The principle of social inclusion of Roma and Egyptians, 2) Combating discrimination, segregation and family violence, 3) Combating trafficking in human beings and arranged child marriages, 4) Improving the existing level education, health and social protection of Roma and Egyptians; 5) Combating all forms of exploitation and violence against women and children (with an emphasis on gender equality); 6) Principle of feasibility of set goals and accompanying indicators, 7) Active participation and involvement of Roma and Egyptian civil society in the process of implementation and monitoring of the implementation of the strategic document.

In the reporting period, the Action Plan for 2021 was adopted within the Strategy for Improving the Quality of Life of LGBTI Persons in Montenegro 2019-2023, the implementation of which is underway. Also, a two-year Action Plan for the period 2021-2022 was adopted within the Minority Policy Strategy 2019-2023.[[30]](#footnote-30)

The National Program of Priority Activities in the Field of Climate Change Mitigation and Adaptation in the framework of cooperation with the Green Climate Fund 2021-2023[[31]](#footnote-31) recognizes gender equality as a priority area of action related to climate change. However, this document does not envisage measures or activities for the advancement of women and persons of different gender identities. Numerous global studies show that the greatest impact of climate change is observed in poor countries and explain that one of the reasons is the impact on women's health, so it is necessary to include a component of gender equality in the field of climate change.

**2.3. Statistics of cases in proceedings before the Protector**

In the period from 1 January to 31 December 2021, there were 246 cases pending (220 cases in 2020, 141 cases in 2019 and 155 cases in 2018), of which 61 cases were transferred from 2020, and completed last year. The proceedings were completed in 173 cases. Out of 61 cases from 2020, one (1) case was transferred, while from 2021, 71 cases were transferred.

Of the completed 173 cases, in 36 cases 71 recommendations were given to various entities, and in 14 cases the proceedings were suspended because the violation was remedied during the proceedings; in six (6) cases the applicants were referred to other means, as it was assessed that this was a more effective way of protection; in 14 cases the proceedings ended with an indication; no discrimination or violation of any other right was found in 16 cases; in eight (8) cases the proceedings were suspended due to the initiation of court proceedings; in 10 cases it was suspended because the complaint was withdrawn, and in two (2) proceedings the party did not cooperate in the proceedings, while 14 were terminated by merger.

In 53 cases the Protector could not act upon. Of that number, he did not have jurisdiction to act in 15 cases; in 33 cases the complaints were not supplemented within the set deadline, and even after the expiration of the given deadline, in one (1) case the complaint refers to the violation of rights in other states, while in four (4) cases the complaint was filed after one year days of the violation. Out of a total of 74 recommendations given in 36 cases, 25 recommendations were implemented; 27 are being implemented continuously, while 22 recommendations have not been implemented.

|  |  |
| --- | --- |
| Work and employment | 64 |
| Proceedings before public authorities | 17 |
| Social protection | 9 |
| Sports | 1 |
| Health protection | 7 |
| Internal affairs and police action | 9 |
| Proceedings before judicial authorities | 6 |
| Access to goods and services | 7 |
| Hate speech | 10 |
| Pension and disability insurance | 7 |
| Public discourse/media | 4 |
| Education | 7 |
| No areas of discrimination | 13 |
| Property relations | 2 |
| Gender-based violence | 8 |
| Family violence | 2 |
| **Total**  | **173**  |

**Areas of discrimination in completed cases.**

**Basis for discrimination in completed cases:**

|  |  |
| --- | --- |
| *Race*  | *3* |
| *Ethnicity* | *19* |
| *Connection with a minority people or a minority community* |  *1*  |
| *Faith or belief* | *12* |
| *Gender, change of gender, gender identity* | *14*  |
| *Political or other opinion*  | *9* |
| *Sexual orientation and/or intersexual features* | *4* |
| *Health condition* | *5* |
| *Age range* | *4* |
| *Disability* | *24* |
| *Marital and family status* | *7* |
| *Belonging to a group or assuming about belonging to a group, political party or other organization* |  *13* |
| *Other personal qualities* | *12*  |
| *No grounds for discrimination* | *44*  |
| *Total* | 173 |

**Completed procedures in the reporting period were initiated by:**

|  |  |
| --- | --- |
| *Men* | *76* |
| *Women*  | *66* |
| *Legal Entities*  | *5* |
| *Anonymous* | *1* |
| *Own initiative* | *4* |
| *NGO*  | *5* |
| *A child* | *1* |
| *Group* | *15* |
| *Total* | *173* |

**Manner of violation of rights in completed cases**

|  |  |
| --- | --- |
| *By act*  | 72 |
| *By action* | 62 |
| *By not acting* | 39 |

|  |
| --- |
| **Finalized cases in 2021** |

|  |
| --- |
| ***Area of labour and employment - 64 cases*** |
| ***Grounds/personal feature*** | ***Number of cases in progress*** | ***Result of the action*** | ***Recommendation status*** |
| *Ethnicity* | *4* | *Recommendation -1; Failure to act (complaint not completed within the deadline) -1; Suspension, the applicant withdrew the complaint -1; Merge -1;*  | *In one case, three (3) recommendations were given that were not implemented.*  |
| *Faith or belief* | *4* | *Recommendation -1; No violation of rights -1; Failure to act (complaint not completed within the deadline) -2;* | *In one case, two (2) recommendations are given that are implemented continuously.* |
| *Connection with a minority people or a minority community* | *1* | *Non-jurisdiction* |  |
| *Political or other opinion* | *9* | *Recommendation -3; No violation of rights -1;* *Failure to act (complaint not completed within the deadline) -3; Suspension, the applicant withdrew the complaint -1; Suspension - After filing a complaint, court proceedings were initiated -1;* | *In one case, one (1) recommendation was given, which is implemented continuously. In the second case, one (1) recommendation is given, which is implemented continuously. In the third case, two (2) recommendations are given, which are implemented continuously.* |
| *Gender, change of gender, gender identity* | *3* |  *Suspension - After filing a complaint, court proceedings were initiated -1;* *Suspension - Violation removed during the procedure -2 ;*  |  |
| *Disability* | *7* | *Recommendation -1; No violation of rights -2; Merge -1; Failure to act (complaint not completed within the deadline) -2; Non-jurisdiction -1;*  | *In one case, one (1) recommendation was given that was not implemented.* |
| *Age range* | *2* | *Recommendations - 2;*  | *In one case, two (2) recommendations were given that were implemented. In the second case, two (2) recommendations were given that were not implemented.* |
| *Health condition*  | *3* | *Suspension - Violation removed during the procedure -1; Suspension - After filing a complaint, court proceedings were initiated -1; Failure to act (complaint not completed within the deadline) -1.* |  |
| *Belonging to a group or assuming about belonging to a group, political party or other organization.* | *5* | *Recommendation -1; No violation of rights -1; Merge -1; Reference to other legal remedies -1; Suspension (violation remedied during the proceedings) -1;*  | *In one case, four (4) recommendations were given (three recommendations to one body and one to another body) that were not implemented.*  |
| *Marital or family status* | *6* | *Recommendation -1; Failure to act (complaint not completed within the deadline) -1; Failure to act - The complaint was filed after one year from the violation -1; Non-jurisdiction -1; Merge -1; Suspension - After filing a complaint, court proceedings were initiated -1; Suspension (violation remedied during the procedure) -1* | *In one case, two (2) recommendations were given that were not implemented.* |
| *Other personal qualities* | *3* | *No violation of rights -1; Non-jurisdiction -2;*  |  |
| *No grounds for* *discrimination* | *17* | *Suspension - violation eliminated during the procedure -1; Failure to act (complaint not completed within the deadline) -5; Failure to act - Complaint filed after the expiration of one year -1; Non-jurisdiction -2; Indication -1; Suspension (after initiating proceedings, court proceedings were initiated) -2; Merge -1; Suspension, the applicant does not cooperate during the procedure -1; Suspension - the applicant withdrew the complaint -1; Reference -2;* |  |
| ***Gender-based violence in 8 cases*** |
| ***Grounds/personal feature*** | ***Number of cases in progress*** | ***Result of the action*** | ***Recommendation status*** |
| *Gender, identity change* | *8* | *Recommendation -3; Merge -1;* *Non-jurisdiction -1; Failure to act (complaint not completed within the deadline) -1; Suspension - violation eliminated during the procedure -1, Failure to act - the complaint was filed after the expiration of one year -1;*  | *In one case, two (2) recommendations were made that were followed; In the second case, two (2) recommendations were made that were not followed; In the third case, two (2) recommendations are given, which are implemented continuously.*  |
| ***Family violence - 2 cases*** |
| ***Grounds/personal feature*** | ***Number of cases in progress*** | ***Result of the action*** | ***Recommendation status*** |
| *Gender, identity change* | *1* | *Recommendation* | *In one case, two (2) recommendations were made that were implemented;* |
| *No grounds for discrimination* | *1* | *Merge* |  |
| ***Sports - 1 case*** |
| ***Grounds/personal feature***  | ***Number of cases in progress*** | ***Result of the action*** | ***Recommendation status*** |
| ***Other personal quality*** |  ***1*** |  ***Recommendation -1;*** | *In one case, one (1) recommendation was given and implemented* |
| ***Proceedings before public authorities - 17 cases*** |
| ***Grounds/personal feature*** | ***Number of cases in progress*** | ***Result of the action*** | ***Recommendation status*** |
| *Ethnicity*  | *3* | *No violation of rights -1; Failure to act (complaint not completed within the deadline) -1; Suspension (remedied violation) -1;*  |  |
| *Disability* | *3* | *Recommendation -2; Suspension (remedied violation) -1;* | *In one case, three (3) recommendations are given that are implemented continuously. In the second case, three (3) recommendations are given - one of them has not been implemented and two are being implemented continuously.* |
| *Age range* | *1* | *Suspension (after filing a complaint, court proceedings were initiated) -1*  |  |
| *Property status* | *1* | *No violation of rights -1;* |  |
| *Belonging to a group or assuming about belonging to a group, political party or other organization.* | *1* | *Suspension (the applicant withdrew the complaint) -1;*  |  |
| *Other personal qualities* | *4* | *Recommendation -1; No violation of rights -2; Failure to act - Complaint filed after the expiration of one year -1;*  | *In one case, one (1) recommendation was given and implemented.* |
| *No grounds for discrimination* | *4* | *Failure to act (complaint not completed within the deadline) -2; Non-jurisdiction -1; Failure to act - Complaint not submitted within the deadline -1;*  |  |
| ***Proceedings before judicial authorities - 6 cases*** |
| ***Grounds/personal feature***  | ***Number of cases in progress*** | ***Result of the action*** | ***Recommendation status*** |
| *Faith or belief* | *1* | *No violation of rights -1;* |  |
| *Sexual orientation and/or intersexual features* | *1* | *No violation of rights -1;* |  |
| *Gender, identity change* | *2* | *Recommendation -1; No violation of rights -1;*  | *In one case, one (1) recommendation was given, which is implemented continuously.* |
| *Disability* | *1* | *Non-jurisdiction - 1;* |  |
| *No grounds for discrimination* | *1* | *Non-jurisdiction - 1;* |  |
| ***Social protection - 9 cases*** |
| *Grounds/personal feature* | ***Number of cases in progress*** | ***Result of the action*** | ***Recommendation status*** |
| *Disability* | *6* | *Recommendation -1; No violation of rights -1; Suspension (complainant withdrew complaint) -2; Failure to act - Complaint not submitted within the deadline -2;*  | *Three (3) recommendations were given in one case - one of which was not followed while two are being implemented continuously.* |
| *Race* | *1* | *Indicating - 1;* |  |
| *Belonging to a group or assuming about belonging to a group, political party or other organization.* | *1* | *Suspension (violation removed during the procedure ) -1 ;*  |  |
| *Other personal qualities* | *1* | *Failure to act (complaint not completed within the deadline) -1;* |  |
| ***Health protection - 7 cases*** |
| *Grounds/personal feature* | *Number of cases in progress* | *Result of the action* | *Recommendation status* |
| *Property status* | *1* | *Recommendation -1;*  | *In one case, three (3) recommendations were given, one of which was implemented and two are implemented continuously.* |
| *Disability* | *2* | *Recommendations -2;* | *In one case, five (5) recommendations are given, which are implemented continuously. In the second case, two (2) recommendations were given that were not implemented.*  |
| *Age range* | *1* | *Suspension (violation removed during the procedure ) -1;* |  |
| *Health condition*  | *1* | *Recommendations -1;* | *In one case, two (2) recommendations were given for two different bodies that were implemented.* |
| *Marital and family status* | *1* | *Recommendations -1;*  |  *In one case, one (1) recommendation was given and implemented.* |
| *Belonging to a group or assuming about belonging to a group, political party or other organization.* | *1* | *Recommendations -1;* | *In one case, two (2) recommendations were made that were not implemented.* |
| ***Internal Affairs and Police Treatment - 9 cases***  |
| ***Basics*** | ***Number of cases in progress*** | ***Result of the action*** | ***Recommendation status*** |
| *Ethnicity* |  *3* | *Indication -1; Non-jurisdiction -2;* |  |
| *Faith or belief* | *6* | *Recommendation -1; No violation of rights -1; Indication -3; Merge -1;* | *In one case, two (2) recommendations were made that were implemented;* |
| ***Property - legal relations - 2 cases***  |
| ***Grounds/personal feature*** | ***Number of cases in progress*** | ***Result of the action*** | ***Recommendation status*** |
| *No grounds for discrimination* | *2* | *Failure to act (complaint not completed within the deadline) -2;* |  |
| ***Pension - disability insurance - 7 cases*** |
| ***Grounds/personal feature*** | ***Number of cases in progress*** | ***Result of the action*** | ***Recommendation status*** |
| *Belonging to a group or assuming about belonging to a group, political party or other organization.* |  *2* | *Recommendations -1; -1 Failure to act -1;(complaint not completed within the deadline);* | *In one case, one (1) recommendation was given and implemented.* |
| *Other personal qualities* |  *3*  | *Failure to act -1; (the complaint was not supplemented within the set deadline); Merge -1; Suspension (violation remedied during the proceedings) -1;* |  |
| *No grounds for discrimination* |  *2* | *Recommendation -1; Reference to other legal remedies -1;* | *In one case, one (1) recommendation was given and implemented.* |
| ***Access to goods and services - 7 cases***  |
| ***Grounds/personal feature*** | ***Number of cases in progress*** | ***Result of the action*** | ***Recommendation status*** |
| *Disability* |  *4* |  *Recommendation -3; Suspension (violation remedied during the proceedings) -1;* | *In one case, two (2) recommendations are given that are implemented continuously. In the second case, two (2) recommendations were given that were implemented.* |
| *Belonging to a group or assuming about belonging to a group, political party or other organization.* | *1* | *Failure to act (complaint not completed within the deadline) -1;* |  |
| *Sexual orientation and/or intersexual features* | *1* | *Merge - 1;* |  |
| *No grounds for discrimination* | *1* | *Indicating - 1;*  |  |
| ***Education - 7 cases***  |
| ***Grounds/personal feature*** | ***Number of cases in progress*** | ***Result of the action*** | ***Recommendation status*** |
| *Race* | *1* | *Suspension - After filing a complaint, court proceedings were initiated -1;* |  |
| *Health condition*  | *1* | *Suspension (violation removed during the procedure ) -1;*  |  |
| *Disability* | *1*  | *Indicating - 1;* |  |
| *No grounds for discrimination* |  *4* | *Recommendation -1; Indicating -1; Failure to act (complaint not completed within the deadline) -2;* | *In one case, five (5) recommendations were given and implemented.* |
| ***Public discourse/media - 4 cases***  |
| ***Grounds/personal feature*** | ***Number of cases in progress*** | ***Result of the action*** | ***Recommendation status*** |
| *Faith or belief* | *1* | *Failure to act (complaint not completed within the deadline) -1;*  |  |
| *Ethnicity* | *2* | *Indication -1; Merge -1;*  |  |
| *No grounds for discrimination* | *1* | *No violation of rights;*  |  |
| ***Hate speech - 10 cases***  |
| ***Grounds/personal feature*** | ***Number of cases in progress*** | ***Result of the action*** | ***Recommendation status*** |
| *Ethnicity* | *7* | *Recommendation -2; Indicating -2; Failure to act (complaint not completed within the deadline) -1; Suspension- Applicant withdrew complaint -2;*  | *In one case, two (2) recommendations were given that were implemented. In one case, two (2) recommendations are given that are implemented continuously.* |
| *Age range* | *1* |  *Indicating - 1;*  |  |
| *Belonging to a group or assuming about belonging to a group, political party or other organization.* | *1* | *Non-jurisdiction - The complaint did not concern the authorities in Montenegro -1;*  |  |
| *No grounds for discrimination* | *1* | *Non-jurisdiction - 1;*  |  |
| ***No areas of and form discrimination - 13 cases*** |
| ***Grounds/personal feature*** | ***Number of cases in progress*** | ***Result of the action*** | ***Recommendation status*** |
| *Sexual orientation and/or intersexual features* | *2* | *Recommendation -1; Merge -1;*  | *In one case, two (2) recommendations were given that were implemented.*  |
| *Belonging to a group or assuming about belonging to a group, political party or other organization.* | *1* | *Failure to act (complaint not completed within the deadline) -1;* |  |
| *No grounds for discrimination* | *10* | *Non-jurisdiction -1; Failure to act (complaint not completed within the deadline) -1; Suspension - After filing a complaint, court proceedings were initiated -1;* *Suspension (applicant does not cooperate in the proceedings) -1; Suspension-Applicant withdrew complaint -1; Suspension (violation remedied during the proceedings) -1; Merger -2; Reference -2;*  |  |

**2.4. Data from judicial and administrative jurisdiction**

The Protector reiterates that the Law on Prohibition of Discrimination stipulates in Article 33 that courts, state prosecutor's offices, misdemeanour bodies, administrative bodies responsible for police affairs and inspection bodies are obliged to keep special records in the form of an electronically kept database of submitted applications, initiated proceedings and decisions from its jurisdiction over discrimination. According to this provision, the bodies submit the data from the special records to the Protector no later than January 31 of the current year for the previous year, and at the request of the Protector they are obliged to submit the data from these records for a shorter period during the year. The Protector also emphasizes in this report that the appropriate records have not been established yet.

**2.5. Data from judicial jurisdiction**

The Judicial Council submitted a tabular overview of civil cases. They point out that the search through the Judicial Information System (PRIS) determines that during 2021, five (5) lawsuits were registered, the type of which is slow discrimination. They also state that 12 cases were transferred from the previous year, which means that there were 17 cases in progress during the reporting year. Seven (7) cases have been completed, of which two (2) cases are final. The cases were finalized as follows: partially upheld claim -1, upheld claim -1, dismissed lawsuit -2, dismissed lawsuit -2, withdrawn lawsuit -1. The victims were five (5) men, one (1) woman and one (1) NGO. The average duration of these cases is 449 days. When it comes to the grounds of discrimination, this authority emphasized that they are not able to submit the requested data, because this type of dispute in the current information system is registered as 'Compensation for damages', but not on the basis of discrimination.

The Judicial Council provided a tabular overview of criminal cases that can be considered discriminatory in terms of their elements, namely: rape - (28); sexual crime over a helpless person - four (4); sexual crime towards a child - (15); promise of abuse of office - three (3); mediation in prostitution - one (1); child pornography, presentation of pornographic material to children and production and possession of child pornography - six (6); extramarital union with a minor - eight (8); confiscation of a minor - (14); neglect and abuse of a minor - three (3); not providing child support - (275); inciting national, racial and religious hatred- (15) racial and religious discrimination one (1). In relation to aggravated murder under Article 144 of the Criminal Code of Montenegro, there were three (3) cases pending, of which one (1) from Article 144 para. 1 item 6 one (1) case and from Article 144 paragraph 1 item 7 two (2) cases.

The sanctions imposed by final decisions are as follows: house arrest (12), fine (1), work in the public interest (16), court reprimand (2), suspended sentence (84), and imprisonment (16).

In relation to the cases from Article 220 of the Criminal Code of Montenegro, violence in the family or family community in 2021, there were a total of 282 cases in the work with several tables. The tabular presentation with the number of resolved and the manner of completion of proceedings at the level of all courts is not given precisely, so it will not be presented.

Nevertheless, the Judicial Council provided a tabular overview at the level of each court individually in relation to pending cases (282) and in relation to resolved cases (173).

With regard to cases pending in relation to the criminal offense of family violence, a review is given in relation to the following courts: the Basic Court in Bar (14), the Basic Court in Berane (26), the Basic Court in Bijelo Polje (17), the Basic Court in Cetinje (12), the Basic Court in Danilovgrad (2), the Basic Court in Herceg Novi (21), the Basic Court in Kolašin (11), the Basic Court in Kotor (22), the Basic Court in Nikšić (23), the Basic Court in Plav (6), the Basic Court in Pljevlja (10), the Basic Court in Podgorica (98), the Basic Court in Rožaje (15); the Basic Court in Ulcinj (3), the Basic Court in Žabljak (1), the Higher Court in Bijelo Polje (1).

With regard to cases concluded in relation to the criminal offense of family violence, the following courts are presented: the Basic Court in Bar (9), the Basic Court in Berane (16), the Basic Court in Bijelo Polje (16), the Basic Court in Cetinje (4), the Basic Court in Danilovgrad (2), the Basic Court in Herceg Novi (15), the Basic Court in Kolašin (7), the Basic Court in Kotor (8), the Basic Court in Nikšić (10), the Basic Court in Plav (4), the Basic Court in Pljevlja (7), the Basic Court in Podgorica (61), the Basic Court in Rožaje (11); the Basic Court in Ulcinj (3).

The Judicial Council also provided a tabular overview by individual courts in relation to the type of judgments rendered in first instance verdicts, as follows: the suspension of proceedings was brought before the Basic Court in Berane (1) and the Basic Court in Podgorica (1). The rejection verdict was passed by: the Basic Court in Kolašin (1), the acquitting verdicts were passed by: the Basic Court in Bijelo Polje (1), the Basic Court in Plav (1), the Basic Court in Pljevlja (1), the Basic Court in Podgorica (1). Convictions were handed down by: the Basic Court in Bar (10), the Basic Court in Berane (16), the Basic Court in Bijelo Polje (15), the Basic Court in Cetinje (4), the Basic Court in Danilovgrad (2), the Basic Court in Herceg Novi (15), the Basic Court in Kolašin (7), the Basic Court in Kotor (8), the Basic Court in Nikšić (10), the Basic Court in Plav (3), the Basic Court in Pljevlja (7) the Basic Court in Podgorica (62) ), the Basic Court in Rožaje (12), the Basic Court in Ulcinj (5). A total of 183 proceedings.

In addition to the previous ones, a tabular overview was submitted individually by courts in relation to the type of judgments rendered in final judgments, as follows: the suspension of proceedings was brought before the Basic Court in Berane (1) and the Basic Court in Podgorica (1). Acquittals were handed down before the Basic Court in Plav (1), the Basic Court in Pljevlja (1) and the Basic Court in Podgorica Convictions were handed down in: the Basic Court in Bar (8), the Basic Court in Berane (11), the Basic Court in Bijelo Polje (12), the Basic Court in Cetinje (3), the Basic Court in Herceg Novi (11), the Basic Court in Kolašin (5), the Basic Court in Kotor (2), the Basic Court in Nikšić (8) the Basic Court in Plav (2), the Basic Court in Pljevlja (6), the Basic Court in Podgorica (54), the Basic Court in Rožaje 10), the Basic Court in Ulcinj (1). A total of 138 proceedings.

The authority provided the number and overview of sanctions/security measures divided by courts in relation to first instance verdicts and in relation to final judgments.

With regard to the first-instance verdicts, the following sentences/security measures were imposed: The Basic Court in Bar (12) [imprisonment in residential premises (1), compulsory medical treatment – abuse of alcohol and drugs (1), work in the public interest (1) suspended sentence (4), prohibition of approach to Article 77a (1) and imprisonment (4)]. Basic Court in Berane (17) (fine (1), compulsory medical treatment – abuse of alcohol and drugs (1), compulsory psychiatric treatment in a health institution (2), suspended sentence (6), imprisonment (7)]. The Basic Court in Bijelo Polje (16), imprisonment in residential premises (1), compulsory psychiatric treatment at large (1), work in the public interest (1), suspended sentence (7), ban on approaching Article 77a (1) ), imprisonment (5)]. Basic Court in Cetinje (4) - [imprisonment in residential premises (1), suspended sentence (1), imprisonment (2)], the Basic Court in Danilovgrad (2) - [imprisonment in residential premises (1) and imprisonment (1)], the Basic Court in Herceg Novi (17), imprisonment in residential premises (2), compulsory psychiatric treatment at liberty (2), special obligation to perform community service or humanitarian work (1), removal from an apartment or other living space Article 77b (1), suspended sentence (5), imprisonment (6)]. Basic Court in Kolašin (8) imprisonment in residential premises (2), compulsory psychiatric treatment in health institution (1), suspended sentence (3) imprisonment (2)], the Basic Court in Kotor (9) [measure of intensified supervision (1), work in the public interest (1), removal from an apartment or other living space Article .77b (1), suspended sentence (6)]. The Basic Court in Nikšić (10) - [imprisonment in residential premises (2), fine (1), suspended sentence (6), imprisonment (1)] Basic Court in Plav (3) [increased supervision by the authorities guardianship (1), suspended sentence (2)]. Basic Court in Pljevlja (7) [suspended sentence (2), imprisonment (5)]. Basic Court in Podgorica (80) - [imprisonment in residential premises (3), compulsory treatment of alcoholics (5), compulsory psychiatric treatment. (2), compulsory psychiatric treatment at large (1), confiscation of weapons (1) ), confiscation of other items (1), special obligation to perform socially useful or humanitarian work (1), work in the public interest (5), removal from an apartment or other living space Article 77b (1), suspended sentence (28), ban on approaching Article 77a (9), imprisonment (23)]. Basic Court in Rožaje (12) - imprisonment in residential premises (2), suspended sentence (9), imprisonment (1)] Basic Court in Ulcinj (5) - [imprisonment in residential premises (4), prison punishment (1). A total of 202 cases were selected according to this criterion.

Regarding final cases, the following penalties / security measures were imposed: Basic Court in Bar (10) - [imprisonment in residential premises (1), compulsory treatment of alcoholics and drug addicts (1), work in the public interest (1), suspended sentence (4), Prohibition of Approach to Article 77a (1), Imprisonment (2)] Basic Court in Berane (12) - [compulsory treatment of alcoholics and drug addicts (1), compulsory psychiatric treatment in a health institution (2), suspended sentence 4), imprisonment (5)], Basic Court in Bijelo Polje (12) - compulsory psychiatric treatment at large (1), work in the public interest (1), suspended sentence (6), imprisonment (4)]. Basic Court in Cetinje (3) - imprisonment in residential premises (1), suspended sentence (1), imprisonment (1)]. Basic Court in Herceg Novi (13) - [imprisonment in residential premises (1), compulsory psychiatric treatment at liberty (2), special obligation to perform community service or humanitarian work (1), removal from an apartment or other residential premises Article .77b (1), suspended sentence (5), imprisonment (3)]. Basic Court in Kolašin (5), [imprisonment in residential premises (2), suspended sentence (2), imprisonment (1)]. Basic Court in Kotor (2) - work in the public interest (1), suspended sentence (1). Basic Court in Nikšić (8) - [imprisonment in residential premises (1), fine (1), suspended sentence (5), imprisonment (1)]. Basic Court in Plav (2) - [suspended sentence (2)]. Basic Court in Pljevlja (6) - [suspended sentence (2), imprisonment (4)]. Basic Court in Podgorica (71) - (imprisonment in residential premises (1), compulsory treatment of alcoholics (5), compulsory psych. healer. in health. (2), compulsory psychiatric treatment at liberty (1), confiscation of weapons (1), confiscation of other items (1), special obligation to perform community service or humanitarian work (1), work in the public interest (5), removal from the apartment or other living space Article 77b (1), suspended sentence (25), ban on approaching Article 77a (8), imprisonment (20)]. Basic Court in Rožaje (10) - imprisonment in residential premises (2), suspended sentence (8)]. Basic Court in Ulcinj (1) (imprisonment in residential premises (1). A total of 155 cases were selected according to this criterion.

The Basic State Prosecutor's Office in Cetinje and the Basic State Prosecutor's Office in Herceg Novi informed the Protector that no criminal charges had been filed for criminal acts that could be considered discriminatory.

The Basic State Prosecutor's Office in Podgorica submitted a tabular presentation showing that 70 proceedings were instituted for the criminal offense of Article 221 of the Criminal Code of Montenegro for not providing family financial support, 100 proceedings for the criminal offense of Article 220 violence in the family or in the family community, 168 proceedings for the criminal offense of Article 168 of the CC of Montenegro endangering security, six (6) proceedings for the criminal offense of Article 168a of the Criminal Code of Montenegro persecution, eight (8) proceedings for the criminal offense of Article 166a of the CC of Montenegro abuse, and five (5) proceedings for the criminal offense of Article 208 of the Criminal Code of Montenegro regarding prohibited sexual acts.

According to the 2021 Annual Report on the work of misdemeanour courts in cases from the Law on Prohibition of Discrimination and cases from other areas in which misdemeanours contain elements of discrimination[[32]](#footnote-32) submitted by the High Misdemeanour Court of Montenegro, in 2021 misdemeanour courts had 81 cases with elements of discrimination are pending, namely: the Court in Podgorica (50) of which (23) were resolved and (27) cases, the Court in Budva (19) where (13) cases were closed and six more remained pending (6), while the Court in Bijelo Polje had (12) cases pending, of which six (6) were resolved and six (6) unresolved. All cases were prosecuted as violations of the Law on Public Peace and Order, and only one (1) was prosecuted under the Law on Prohibition of Discrimination. At the level of all courts, 42 cases or 51.85% were resolved. There were a total of 49 cases in which requests to initiate misdemeanour proceedings were submitted to the courts in 2021 (new cases) and 32 cases from previous years (old cases).

One proceeding conducted in accordance with the Law on Prohibition of Discrimination was based on ethnicity, and a fine of 200 EURO was imposed, which was also changed to a fine of 600 EURO.

Before the Misdemeanour Court in Podgorica (18) the requests for initiating misdemeanour proceedings were based on sexual orientation, in (26) the requests were based on nationality, in (3) religious affiliation constituted grounds, in (1) case indicated racial discrimination, in one (1) case the basis was national and religious affiliation, while in (1) the case the basis was ethnic origin. In five (5) cases the proceedings were suspended, in seven (7) cases a fine was imposed, in three (3) cases a suspended sentence was imposed, in five (5) cases an acquittal was issued, one (1) reprimand was issued, one (1) intensified supervision by parents and reprimand, and one (1) imprisonment for a period of 20 days.

Three (3) requests for misdemeanour proceedings based on discrimination on the grounds of discrimination were submitted to the Misdemeanour Court in Budva, three (3) proceedings were conducted on the grounds of ethnicity, while (13) cases were based on sexual affiliation. With regard to the outcome of the proceedings, the cases were finalized as follows: four (4) acquittals were issued; five (5) fines were imposed, one (1) case was transferred and (3) the proceedings were suspended.

Eight (8) proceedings were initiated before the Bijelo Polje Misdemeanour Court in which sexual orientation was stated, while in four (4) cases, ethnicity was highlighted as a discriminatory ground. In two (2) cases a fine was imposed, in two (2) acquittals, while in one (1) case a dismissal followed.

For the first time this year, the High Misdemeanour Court is submitting a special statistical overview of cases on processed cases of discrimination, violence and other forms of attacks on members of the LGBT population who were in the work of misdemeanour courts in 2021[[33]](#footnote-33). In 2021, the Misdemeanour Courts had a total of 39 cases in which discrimination or other forms of attacks on members of the LGBT community were processed, namely the Misdemeanour Court in Podgorica 18 cases, the Misdemeanour Court in Budva 13 cases, while the Court for Misdemeanours in Budva misdemeanours in Bijelo Polje had 8 cases of this kind in progress. There were a total of 19 cases carried over from previous years and 20 new cases from 2021.

Nine (9) proceedings were terminated in the Podgorica Misdemeanour Court by issuing one (1) suspension, one (1) reprimand, one (1), acquittal, four (4) fines and two (2) suspended sentences. The Budva Misdemeanour Court terminated 10 proceedings as follows: five (5) acquittals, two (2) fines and three (3) proceedings were suspended. Four (4) proceedings were concluded before the Bijelo Polje Misdemeanour Court by issuing two (2) fines, one (1) acquittal and one (1) request dismissed.

According to the Annual Report on the Work of Courts for Misdemeanours in Cases in the Field of the Law on Protection from Family violence[[34]](#footnote-34) courts had 2,176 cases in operation in 2021 (2,133 in 2020, 2,059 in 2019, 1,972 in 2018 and 1,790 in 2017), of which 1,338 cases before the Misdemeanour Court in Podgorica, 431 cases before the Misdemeanour Court in Budva and 407 cases before the Misdemeanour Court in Bijelo Polje. 1,539 cases or 70.73% were completed (1,449 in 2020, 1,487 in 2019, 1,563 in 2018 and 1,366 in 2017), of which 863 in the Misdemeanour Court in Podgorica; the Misdemeanour Court of Budva - 351 and the Misdemeanour Court of Bijelo Polje - 325 cases.

The cases were completed as follows: 443 fines; 106 imprisonment sentences; 289 suspended sentences; 119 warnings; 11 educational measures; in 21 cases the request was rejected; in 89 cases the proceedings were suspended; acquittals were issued in 344 cases, while 117 cases were resolved in other ways. 426 protective measures were imposed (408 in 2020, 438 in 2019, 408 in 2018, and 302 in 2017), as follows: removal from the apartment or other living space - 49; restraining order - 120; prohibition of harassment and stalking - 192; compulsory treatment for addiction - 22; compulsory psychiatric treatment - 38 and compulsory psychosocial treatment - 11.

In 1,539 completed cases, proceedings were conducted against 1,825 perpetrators, of which 1,825 were adults or 98.14% and 34 or 1.86% were minors. As for the gender breakdown of adults, there were 1,408 men or 78.62% and 383 or 21.38% women, and as for the gender breakdown of minors, there were 30 males and four (4) females. According to the available data, on a sample of 1,531 perpetrators, i.e. 83.89% of the total number of perpetrators, in cases completed 817 or 53.36% are unemployed. In the sample of 1,138 bullies or 62.36% of the total number of perpetrators, 385 or 33.83% have primary education, 660 or 58% secondary education, while 93 or 8.17% have a university degree or higher.

Out of 1,539 completed cases, a total of 1,821 were victims of violence, of which 1,554 or 85.34% were adults and 267 or 14.67% were minors. Out of a total of 1,554 adult victims of violence in 1,016 cases or 65.38% the victims were women and in 538 or 34.62% men. Out of a total of 267 juvenile victims of violence, in 159 cases the victims were men and in 108 cases women.

In the appeal proceedings, the High Misdemeanour Court of Montenegro in 2021 had 116 cases pending in the reporting period (95 cases in 2020, 136 cases in 2019, 139 cases in 2018 and 96 cases in 2017) due to violations of the Law on Protection from Family violence, of which 102 cases in regular proceedings; 6 (six) cases in proceedings for imposing a protective measure before initiating misdemeanour proceedings; two (2) cases in enforcement proceedings, four (4) from the group of other cases and two (2) in appeal proceedings in proceedings against minors. Out of a total of 116 cases that were resolved on appeal in the regular misdemeanour procedure, 76 cases were confirmed. In two cases the appeal was rejected, while in 17 cases the proceedings were terminated. 14 cases were modified, five (5) cases were resolved in another way, while two (2) cases were unfinished.

**2.6. Data from administrative jurisdiction**

According to the data of the Police Administration[[35]](#footnote-35) or the period from January 1 to December 31, 2021, a total of 107 reports were submitted. The applicants are LGBT Forum Progress (J.B.) - 96 applications and individuals - 11 applications. Out of that number, 107 reports of discriminatory treatment were adopted. The time of proceedings in these cases lasted from one to 50 days. The basis of discrimination in cases is: in 96 proceedings on the basis of sexual orientation and 11 on the basis of religious and national intolerance. When it comes to the sex of the discriminated person - 12 persons were male and 95 female. All applications submitted by the LGBT Forum Progress related to comments made by citizens on Facebook profiles. The Police Directorate registered 107 cases of discrimination, of which 96 were to unknown perpetrators. Three (3) criminal charges under Article 370 of the Criminal Code of Montenegro - inciting national, racial and religious hatred. 21 requests for initiating misdemeanour proceedings were submitted, Article 19 of the Law on Public Peace and Order. In four (4) cases, the misdemeanour court imposed fines for violations of Article 19 of the Law on Public Peace and Order. In 17 cases, the competent prosecutor's offices assessed that there were no elements of a criminal offense or misdemeanour. After the interviews, the police officers issued a warning measure. A number of perpetrators (47), despite the measures taken, could not be identified, Facebook profiles were deleted (insults based on sexual orientation).

In one (1) case the applicant withdrew the application. In two (2) cases the applicant was instructed to file a private application. In one (1) case the applicant was referred to a private lawsuit while 15 registered cases related to discrimination in work.

Cases of violence in the family and family community were submitted and registered - a criminal offense under Article 220 of the Criminal Code of Montenegro as well as violations of the Law on Protection from Family violence.

Pursuant to Article 64 of the Law on Internal Affairs, which prescribes records kept by the police on processed data, 294 criminal offenses under Article 220 of the Criminal Code of Montenegro were committed in the territory of Montenegro in 2021, for which 311 criminal charges were filed. The stated number of criminal offenses was committed by 325 persons, of which 288 were male (of which eight were minors) and 37 were female (of which one was a minor). Of all the committed criminal offenses under Article 220 CC of Montenegro, almost a third was executed in the area of jurisdiction of CB Podgorica. The victims of committed crimes of family violence are 373 people, 135 men and 238 women. Of the total number of victims, 54 are minors (26 males and 28 females).

31 criminal offenses related to family violence were also recorded, and they were qualified differently (1 x Article 143/20; 1 x Article 143; 1 x Article 144; 2 x Article 168; 4 x Article 168a; 1 x Article 208; 2 x Article 216; 7 x Article 217; 8 x Article 221 and 4 x Article 403).

In 2021, the Police Administration filed 1,454 misdemeanour charges for 1,744 violations of the Law on Protection from Family violence. The stated number of offenses was committed by 1,518 perpetrators, of which 1,215 were male (of which 19 were minors) and 303 were female (of which four were minors).

The victims of the committed offenses are 1,706 persons, of which 761 are male and 945 are female. Of the total number of victims of misdemeanours, 273 are minors (105 males and 79 females). 297 returnees were registered in the commission of criminal offenses and misdemeanours related to family violence.

According to the **Directorate for Inspection Affairs**[[36]](#footnote-36), the Labour Inspectorate stated that there were four (4) cases of reported discrimination, but that in two (2) cases they did not have detailed information about the applicant, except that in one case the applicant was female and in another case male. Along with the act of the Administration for Inspection Affairs, a tabular presentation was submitted, i.e. special records on cases of discrimination in 2021 - Inspection for Sports and special records on cases of discrimination in 2021 - Labour Inspection. The tabular presentation of the *Sports Inspection* shows that one received application was approved; Gender and age of the discriminated person: female person and a minor. Furthermore, the tabular presentation of the Labour Inspection shows that one received application was rejected and that no request for initiating misdemeanour proceedings was submitted. In the present case, the applicant for discrimination is a male person, middle-aged and without grounds for discrimination, while in the second case the application for discrimination on the grounds of ethnicity was adopted.

**2.7. Special forms/grounds of discrimination**

**2.7.1. Discrimination based on disability**

In 2009, Montenegro ratified the United Nations Convention on the Rights of Persons with Disabilities, with the Optional Protocol[[37]](#footnote-37). The purpose of this Convention is to promote, protect and ensure the full and equal enjoyment by all persons with disabilities of all human rights and fundamental freedoms, and to promote respect for their inherent dignity. The Convention stipulates that persons with disabilities include persons with long-term physical, mental, intellectual or sensory impairments which, in cooperation with various barriers, may hinder the full and effective participation of these persons in society on the basis of equality with others.[[38]](#footnote-38) in order to achieve the purpose of the Convention, it is first necessary to fully respect the general principles set out in Article 3 of the Convention, namely: a) Respect for inherent dignity, individual autonomy of persons with disabilities, including their right to decide faces; (b) Non-discrimination; (c) Full and effective participation and involvement in all spheres of social life; (d) Respect for the diversity and acceptance of persons with disabilities as part of the human species and the diversity of the human race; (e) Equality of opportunity; (f) Accessibility; (g) Equality between men and women; (h) Respect for the developmental capacity of children with disabilities and respect for the right of those children to preserve their identity.

There has been limited progress in exercising the rights of persons with disabilities. Visibility of persons with disabilities has increased, and there has been an improvement in the normative framework governing the rights of persons with disabilities. Ratification of the Convention on the normative level has adopted an approach to disability based on human rights. However, insufficient implementation of the adopted legal standards leads to the fact that persons with disabilities continue to face numerous obstacles that prevent them from participating fully and effectively in the life of the community.

The Protector believes that the main reason for this situation is the fact that in practice there is still a large presence of medical and functional model of approach to disability. These models view disability solely from the aspect of the person's impairment. Due to principles on which they are based, they are incompatible with the model of approach to disability based on human rights promoted by the Convention and according to which long-term physical, mental, intellectual or sensory impairments only in cooperation with various barriers can hinder full and effective participation and equality with others. The survival of the functional and medical model of access to disability in practice means the continuous absence of the second part of the Convention definition of disability relating to obstacles and barriers faced by persons, the removal of which is the only way to full integration of persons with disabilities in all areas of society, which is the responsibility of the state.

In this regard, the Protector reminds that in Montenegro, disability is currently determined in several different departments, based on many different regulations, which leads to different methodologies for determining disability, which is mainly based on the medical model of access to disability. The ongoing reform of the disability assessment system aims to implement a complex, structural reform of the national Disability Determination System. This three-year project (2021-2023) is funded by the European Union and implemented by UNDP in partnership with civil society organizations representing persons with disabilities, relevant ministries and state institutions. The aim of the reform is to establish a single expert body (the Institute) and uniform national criteria and methodology for determining disability, which will be more based on the human rights model. Over the years, the Protector has pointed out that the lack of a single expert body is an obstacle to exercising the rights of persons with disabilities in all areas of social life in which they are recognized based on the findings and opinion of the expert body. At the same time, the Protector problematized the fact that Montenegro has not yet established a single database (register) of persons with disabilities, which is necessary for systematic planning of policies in this area and needs assessment, monitoring living standards and overall living conditions of persons with disability. The Protector supports the implementation of this project and expects that its implementation will lead to solving some of the acute problems faced by persons with disabilities, i.e. that the realization of the projected goals will improve the realization of the rights of persons with disabilities.

Although the relevant legal framework establishes the obligation of the state to provide persons with disabilities with access to the built environment, transport, information, communications, as well as other services and facilities intended for the public, the situation in this area is far from satisfactory. Inaccessibility prevents or restricts freedom of movement to the detriment of persons with disabilities. An additional reason for concern about this issue lies in the fact that accessibility is in fact a prerequisite for exercising other rights in almost all areas of social life. Thus, for example, the inaccessibility of certain court buildings or buildings of other bodies to which it is necessary to turn, in order to conduct court or other proceedings, or to exercise a right, in itself leads to a violation of the right to access to justice. On the other hand, the inaccessibility of educational institutions leads to violations of the right to education.

Working ability is extremely important for every individual, because taking it away actually means taking away the individual's right to make decisions about their own life. It is therefore necessary to urgently address this issue in accordance with the Convention and the supported decision-making model. Also, it is necessary to further develop support services for living in the community, in order for persons with disabilities to exercise the right to integration into the community on the basis of equality with others.

The state is obliged to enable all persons with disabilities to exercise their right to education. Quality education of persons with disabilities is a prerequisite for achieving substantial progress in the field of work and employment of persons with disabilities. Efforts to improve inclusive education are visible. It is particularly important to note that during the reporting period, the Marrakesh Treaty was confirmed to facilitate access to published works for people who are blind, visually impaired or have other difficulties in using printed materials[[39]](#footnote-39). In the previous reports, the Protector pointed out necessity for ratification of this treaty. Also, Article 30a paragraph 3 of the Law on Upbringing and Education of Children with Special Educational Needs has been amended[[40]](#footnote-40) so that it is now envisaged that the school concludes a contract with a teaching assistant for an indefinite period of time, prescribing that the teaching assistant is employed for an indefinite period of time, and whose work is no longer needed, may establish an employment relationship in another school, based on the agreement of the school principal, and that a teaching assistant employed for an indefinite period in the school may be transferred to another school if they meet conditions prescribed by the law and the act on systematization of jobs, with the consent of the teaching assistant. This legal solution represents a great progress compared to the previous one, which meant that the school concludes a contract with a teaching assistant for a certain period of time, and no later than the end of the school year. The Protector expects that the progress made in the normative framework will be accompanied by adequate and complete implementation, which will then undoubtedly result in raising the level of quality of inclusive education.

In the field of labour and employment, a special problem is the lack of awareness on the part of employers about the obligation to employ persons with disabilities in case that person has equal or better qualifications, professional or working abilities than a person without disabilities, as well as the obligation to employ a certain number of persons with disabilities, which were adopted by the positive regulations of Montenegro. However, most employers decide to use the legal option of paying a special contribution for vocational rehabilitation and employment of persons with disabilities instead of employing persons with disabilities. Such actions derogate from the goal of the law, which consists in the employment of persons with disabilities, so that on the basis of equality with others, those persons have the opportunity to earn a living and contribute to personal development and development of the society. An additional reason for concern regarding this practice is the existence of doubts about the proper use of the Fund's resources.

Access to justice is crucial both for the exercise of rights and freedoms and for the formation of an individual's attitude to the character and condition of the state and society in which they live in. Authorities conducting administrative, judicial or other proceedings are obliged to ensure effective access to justice for persons with disabilities on equal terms with others, which, among other things, includes the provision of reasonable adaptations, which are defined in Article 2 of the Convention on the Rights of Persons with Disabilities defined as necessary and appropriate modifications and adaptations which do not impose a disproportionate or inappropriate burden, and which are necessary in specific cases in order to guarantee persons with disabilities the enjoyment or realization of all human rights and fundamental freedoms on an equal basis.

In accordance with the well-established practice, the Protector addressed certain non-governmental organizations dealing with the protection of the rights of persons with disabilities during the preparation of the report, in order to submit assessments on the state of human rights of persons with disabilities. Two organizations responded to this call: the Association of Youth with Disabilities of Montenegro (UMHCG) and the Union of the Blind of Montenegro.

***The Association of Youth with Disabilities of Montenegro****,* as one of the key problems, points out the fact of the non-existence of a single PWD register. An equally important problem is reflected in the lack of a single expert body, which would facilitate the process of exercising the right of persons with disabilities, in accordance with the legislation. Of particular concern is the fact that many legal solutions are still not in line with international standards, especially the UN Convention on the Rights of Persons with Disabilities, but those rights are defined on the basis of medical and functional model of access to disability, therefore it leads to discrimination among PWD themselves in relation to type and degree of disability. On the other hand, when it comes to strategic documents, it often happens that measures with clearly defined outcomes are not set, so the results are superficial and without the possibility of measuring their impact. A particular problem is the inadequate regulation of the institute of legal capacity, and disability or presumed disability must not be the basis for depriving persons with disabilities of their legal capacity. The Association believes that the existing legal solutions must be further improved so that the concept of alternative decision-making is replaced by the concept of supported decision-making, while the institute of deprivation of legal capacity would be used only in exceptional situations, not as the first and only solution. The submitted analysis also emphasizes the problem of permanent obstacles in the physical environment that continue to prevent or hinder the movement of PWDs, and thus condition the exercise of certain rights. What is particularly worrying is the fact that it still happens that new facilities in public use are not designed/built in accordance with legal standards, and some of them do not meet even the basic elements of accessibility. In practice, it often happens that certain accessibility elements for overcoming height differences (such as sloping platforms and vertical-lifting platforms) are not adequate because they are complicated to maintain and stop working quickly, resulting in their non-functioning for a long time. One of the main problems is the inadequate cooperation between the institutions of the system and organizations of persons with disabilities during the planning and development of conceptual solutions for projects and works, in the sense that the proposals of PWD representatives are in most cases partially accepted or completely ignored. Additional key problem for PWDs remains the inaccessibility of public transport services, as well as the lack of alternative forms of accessible transport, i.e. failure to take and not implement measures and activities of local and national public authorities in order to develop available and accessible public transport. The legislation is not harmonized with the UN Convention in the part that prescribes obligation of the state to provide possibility of free choice of the type and quality of aids, manufacturers of certain aids, and the obligation of free choice of suppliers. It is not uncommon for PWDs to participate in the procurement of aids because they have to pay extra for certain parts or types of aids that suit them best, given that the Health Insurance Fund often does not cover the actual market price at the time of provision of an aid or its part, but only a part of the price calculated on the basis of the "existing price from the price list" (determined in advance) and the average price of aids taken from two countries in the region. Regardless of the good solutions defined by the Law on Professional Rehabilitation and Employment of Persons with Disabilities, the state, i.e. state institutions, state administration bodies and local self-government bodies employ persons with disabilities to a negligible extent. Persons with disabilities point to the delay in the procedures for determining the percentage of disability and inclusion in vocational rehabilitation measures, as well as delays in the payment of wage subsidies to employers, which often leads to termination of employment contracts by employers. Administrative barriers and high levels of discrimination in proceedings before the authorities remain a problem. There are still a number of barriers to accessing all public services for the visually and hearing impaired, and generally all categories of PWDs. The Law on Social and Child Protection has undergone some changes, but bylaws remain predominantly in the spirit of the medical model of access to disability, and in some segments derogate from the Law itself and are in complete contradiction with the provisions of the Law. conditions and approaching disability as a "personal health problem", i.e. disease, and thus define the rights to material benefits, such as care allowance and personal disability benefits, prescribing medical indications for their realization as the only criterion for determining the basis for exercising rights”.

***Union of the Blind of Montenegro***points out that the Rulebook on medical indications for exercising the right to material security, allowance for care and assistance, personal disability allowance and compensation for part-time work, excluded persons with complete visual impairment from the list of medical indications for exercising this right. The legal struggle between the Union and its members is done in several directions, exclusively through institutional frameworks, and this problem is continuously discussed through social networks on the Internet, as well as through written and electronic media in the country. Furthermore, the Union points out that the Law on Consumer Protection from 2014 introduced a novelty in our legal system, which refers to consumers with impaired vision, i.e. marking products and highlighting their name in Braille. The ordinance on the type of facilities in which notices on goods in Braille stand out has been changed several times to this day. It is necessary to ensure consistent application and compliance with applicable regulations in the field of consumer rights of the visually impaired, with efforts to change existing regulations and to expand and improve the established list of products for mandatory Braille labelling. Inaccessibility is still present in a huge percentage in Montenegro, because there are mostly no tactile tapes on streets, squares, promenades, shopping malls, buildings in public use, etc. Sound traffic lights are still very rare at intersections in most cities, with the exception of the capital Podgorica, which has a dozen sound intersections. The means of public transport are not covered by sound and tactile signs for the visually impaired, and the stops are still not adapted for their independent movement. Unscrupulous drivers often occupy parking spaces marked for PWDs, which limits and usurps this right to the detriment of persons with disabilities. The state absolutely does not stimulate the field of mobility of visually impaired people, training for independent movement and does nothing about this, very important life issue for PWDs. Criteria, ways of procuring and obtaining eye and typhlo-technical aids, the financing of which is paid by the Health Insurance Fund, are difficult and disproportionate in relation to the real needs of visually impaired persons. Also, the list and type of eye and typhlo-technical aids that are on the list of the Health Insurance Fund is also modest and limited. Deadlines for the replacement of aids are limited, as well as the amount of money for the purchase of aids that the Fund refunds to persons with disabilities, which certainly affects the choice and quality of the aids that can be purchased for the planned amount. The field of education is also not at a satisfactory level when it comes to visually impaired people and respect of their rights. Visually impaired people still do not have access to available literature in the education process, and there is still no Braille literacy textbook for visually impaired children. Additionally, standardization in Braille for two new letters in the Montenegrin language has not yet been performed. What instils hope and positive expectations and which will greatly contribute to the availability of information, textbooks and other literature for the visually impaired, is the Marrakesh Agreement, which was recently ratified by the Parliament of Montenegro. During the epidemic of "Covid 19" and the organization of online classes for students, the Union saw numerous shortcomings, i.e. inadequacy of the teaching process for students with impaired vision. They state that they still cannot talk about a completely equal, secret and dignified exit to the polls of visually impaired people, although there is a real improvement. What the Union will insist on in the future is that at each polling station there must be two brochures, i.e. ballots, printed in Braille, which would convey the complete content of the text from the ballot, ordinal number and name of the list, individual, etc., so that a person with impaired vision can get acquainted with the contents of the ballot at the polling station, and next to the ring on the template there should be ordinal numbers from the ballot. The decision from Article 44 of the Rulebook on the content and manner of marking the outer and inner packaging of the medicine and the contents of the instructions for the medicine is inadequate and unfavourable for consumers of medicines with impaired vision, because it directly violates their dignity and endangers their right to privacy. It is necessary to amend the existing Rulebook, remove the norms that infringe on the right to privacy of persons with impaired vision and act in accordance with the Opinion and recommendations of the Protector in relation to the labelling of medicines.

We highlight the following example of discrimination against persons with impaired vision, which was determined in the reporting period in the proceedings before the Protector.

Examples:

The complaint of the Organization of the Blind for Nikšić, Šavnik and Plužine to the Municipality of Nikšić was charged against discrimination of persons with impaired vision in access to facilities and areas in public use. In essence, it was pointed out that the sound traffic lights on the streets of Nikšić do not work, i.e. they do not give sound signals at the moment when the green or red light on the traffic lights is on.

In the investigation procedure, in accordance with the principle of contradiction, the Municipality of Nikšić had the opportunity to comment on the allegations in the complaint. In the submitted statement, it was pointed out that the Municipality is aware of the fact that the lack of sound traffic lights is one of the biggest problems in the field of accessibility and that the Municipality will strive to solve the problem of sound traffic lights with funds provided through the Municipal Budget procurement for 2021, in order to improve traffic safety for persons with disabilities.

When making a decision in a specific legal matter, the Protector had in mind that the Constitution of Montenegro, international agreements and the legal framework undoubtedly impose the duty of the competent authorities to take all necessary measures to ensure access to facilities and areas in public use. Accessibility is one of the basic principles of the UN Convention on the Rights of Persons with Disabilities. The Law on Prohibition of Discrimination against Persons with Disabilities stipulates that failure to provide conditions for unimpeded access, movement, residence and work in facilities for public use and in public spaces and areas to persons or groups of persons with disabilities in accordance with regulations governing spatial planning and construction facilities, considers discrimination on the grounds of disability. Sound traffic lights are also an important element of accessibility in area of public transport. Finally, the Protector, in accordance with his constitutional and legal powers, recommended to the Municipality of Nikšić to undertake activities on setting up traffic lights, in order to eliminate discrimination.

**Protector's recommendations:**

* *To use only a human rights-based approach to disability in laws, policies and practices concerning persons with disabilities, in accordance with the UN Convention on the Rights of Persons with Disabilities;*
* *To amend regulations, policies and practices that are based in whole or in part on a medical or functional model of access to disability;*
* *Issues relating to persons with disabilities should be decided with the participation of representative organizations of persons with disabilities and special attention should be paid to their views and suggestions in the process;*
* *To ensure consistent application of the provision of Article 9 of the Constitution of Montenegro according to which international treaties are confirmed and published and generally accepted rules of international law are an integral part of the domestic legal order, take precedence over domestic law and are directly applicable when relations are regulated differently from domestic law;*
* *To replace the model of alternative decision-making in case of complete or partial deprivation of legal capacity with the model of decision-making with support;*
* *To improve the existing one and develop new community living services for persons with disabilities.*

The Protector would like to remind about previously given recommendations in this area, for which there is still a need to engage state institutions in their implementation:

* *That employers, when hiring under general conditions, take into account the employment of persons with disabilities and that under the circumstances that a person with disabilities meets the conditions for employment and has equal or better qualifications, professional or working abilities than a person without disabilities, employs a person with disabilities;*
* *That the act on internal organization and systematization envisages the employment of persons with disabilities under special conditions, ensuring reasonable adaptations in the workplace and in the work environment in accordance with the principle of affirmative action;*
* *To take, without unreasonable delays, systematically and efficiently all necessary measures to ensure accessibility of facilities and areas in public use for persons with disabilities and persons with reduced mobility, as well as to provide accessible information, communications and public transport;*
* *To adopt without further delay an act on the establishment of a single expert body, in order to facilitate the procedure for persons with disabilities to exercise their rights in areas of social life in which they are recognized on the basis of the findings and opinion of the expert body;*
* *That the establishment of a single expert body is accompanied by the establishment of a single database on persons with disabilities structured according to gender, age, type of damage, place of residence;*
* *To apply the concept of reasonable accommodation and universal design in accordance with the UN Convention on the Rights of Persons with Disabilities and to prescribe effective and dissuasive sanctions for non-compliance with legal obligations.*

**2.7.2. Gender equality**

Gender equality is one of the basic values of the European Union, which is contained in all agreements and the Charter of Fundamental Rights of the European Union, and the Protector points out the importance of integrating the gender aspect in all policies and segments of society.

Although this is an area of inequality, it has been particularly pronounced in the last two years in the context of the COVID 19 pandemic: economy, lower wages, lower savings and is at greater risk of falling into poverty. In this regard, UN Secretary-General António Guterres said that almost 60 percent of women worldwide work in the informal economy, earn less, save less and are at greater risk of falling into poverty. He pointed out that markets are collapsing and factories are closing, millions of women's jobs have disappeared, and that the lost progress takes years to return. He called upon governments to put women and girls at the centre of their recovery efforts from COVID-19[[41]](#footnote-41).

In the past year, it is important that the relevant ministry submitted to the UN Secretary General the Third Periodic Report of Montenegro on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women[[42]](#footnote-42), on legislative, judicial, administrative and other measures adopted to implement the Convention, and on the progress made in the period 2016-2020. The report should be submitted by: the Gender Equality Committee of the Parliament of Montenegro, all ministries in the Government of Montenegro and other administrative bodies, as well as the judiciary, prosecutor's office, Protector of Human Rights and Freedoms and 36 NGOs, as well as international organizations Montenegro.

In the past year, the focus of the Protector's institution has been sexism, misogynistic speech and hate speech directed at women in political and public life, which has unfortunately become more frequent in our public space. In that sense, the Protector stated his opinion through reactions directly, as well as through giving opinions in individual cases. The goal of such statements is to discourage women from participating in public and social life, and in that sense, the Protector is of the opinion that the reaction of all social factors is necessary. Although it is a prohibited act, from time to time one could get the impression that some subjects accepted hate speech and sexism as allowed, and even desirable and allowed means of political struggle. The Protector would like to use this opportunity to warn that it is inadmissible to encourage and approve by public factors and create a climate of intolerance and hatred, because in that way it does not contribute to the suppression of hate speech.

In addition to political entities, the responsibility for encouraging tolerant speech and prevention of hate speech lies with the media because of the content they publish, as well as the obligation to update comments on portals and remove inappropriate content with elements of hate speech. As the focus of the media has shifted to the online space in recent years, the pages of information portals and social networks have become a place flooded with discriminatory comments directed against various social groups. The most common comments are calls for hatred, violence and intolerance towards the LGBTI population. On the other hand, through clear statements, women are often sent a message about where they should be in the right place in society.

According to the Report on the Global Gender Gap for 2021, Montenegro is one of 156 countries in which the analysis of progress towards gender parity was conducted through four dimensions: economic participation and opportunities, scientific achievements, health and political empowerment in relation to our country ranked 48th out of 156 countries. As before, so in the past year it is among the worst ranked countries in the region, so Serbia is on the 19th, Albania on the 25th, Slovenia on the 41st and Croatia on the 45th place[[43]](#footnote-43). It is important to note that in 2020 Montenegro was ranked 71st out of 149 countries, in 2019 it was ranked 71st out of 153 countries, while in 2018 Montenegro was ranked 69th out of 149 countries. A shift of more than 20 places over a period of one year was observed according to a survey in which the same methodology was applied in each enumerated year. One of the important components for this report is certainly the statistics on women's unemployment in the labour market that this institution draws from the website of the Employment Service. Namely, as of January 31, 2022, there were a total of 56,233 unemployed persons. Out of that number, 33,642 women, 22,591 men, i.e. 59.88% women, while as of January 31, 2021, there were 47,314 total unemployed persons in the records of the Bureau, of which 27,775 women, i.e. 58.70%, and 19,539 men from According to official data, this[[44]](#footnote-44) shows an increase in the number of unemployed, which may be due to the epidemiological or economic situation, or various socio - demographic causes. It is commendable that the Employment Service, within the category of the unemployed, also has data classified by gender, selected by level of education, age group and in relation to the length of job search. A recommendation for further progress in this area would be the classification of data related to women with disabilities and Roma women in the field of employment and unemployment.

For the sake of comprehensive statistics and proper policy making in the field of gender equality, it would be important to collect and classify data by gender in terms of women's credit indebtedness at the level of all banks in Montenegro. Available data in this area are data from the Investment and Development Fund, which envisages certain programs and microcredit lines, which aim to further strengthen the entrepreneurial potential of women, by providing support to companies in which women are business owners. However, data on the number of programs and lines committed in the previous year/period cannot be found on the same website[[45]](#footnote-45).

Representatives of the Protector's institution took part in numerous public events such as round tables, conferences, webinars and professional gatherings aimed at promoting the principles of equality and combating sex based discrimination based.

It is commendable that in Montenegro, during the previous year, the first doulas started working[[46]](#footnote-46) - spiritual midwives, otherwise non-medical staff who do not replace midwives and who provide support to pregnant women and mothers during pregnancy and childbirth. Namely, the doula[[47]](#footnote-47) provides physical, emotional and informative support before, during and after childbirth, and thus its role, encouragement and presence greatly reduces the occurrence of numerous interventions, improves the outcome of childbirth and reduces the frequency of caesarean sections.

Trafficking in human beings was first regulated as a separate criminal offense in the Criminal Code of Montenegro[[48]](#footnote-48) in 2003 and is in the group of criminal offenses against humanity and other goods protected by international law. Last year, the Supreme Court of Montenegro, in cooperation with the AIRE Centre, conducted an analysis[[49]](#footnote-49) of case law on trafficking cases, which included for the first time in the analysis of this institution and the gender component in the analysis. 42 of them (87%) were male and six (13%) were female. When it comes to convicted persons, out of a total of 40 convicted by the courts, men make up 85% and women 15%. Out of a total of 39 victims identified by court rulings, 26 were female, while 13 victims were male.

**2.7.2.1. Sex based discrimination**

There is an increasing number of complaints alleging violations of gender(sex)-based rights, which suggests that a large number of trainings and promotional campaigns are yielding some results when it comes to raising awareness about reporting discrimination.

The Protector points out that women are a vulnerable category, especially during pregnancy, maternity leave and leave of absence, for child care and are very often exposed to various forms of discrimination, which is reflected in the inability to advance in their careers, move to lower jobs after return from absence, until the unilateral termination of employment due to the personal characteristics of the employee - gender(sex) and family status. The above statement is of special importance if it is taken into account in the context of (mis)use of the institute of concluding contracts on temporary and occasional jobs from Article 200 of the Labour Law.

In that sense, we point out that the Protector in Labour had a complaint from two applicants who were employed under a contract on temporary and occasional jobs in the Municipality of YY. The applicants have been employed since February 2016, i.e. since November 2018. From January 2021, due to the maintenance of pregnancy, there is a higher risk, and on the basis of specialist doctors, both started using maternity leave.

In this case, the complainants concluded a special employment contract (temporary and occasional work) with the Municipality of YY pursuant to the provisions of applicable Article 200 of the Labour Law, and as a special circumstance the Protector assessed that this type of contract has been concluded continuously since 2016 to 2018, i.e. both in accordance with the previous and in accordance with the applicable Labour Law. It was stated that the special employment contract in question was concluded for the performance of tasks within the regular competence of the Municipality, which is contrary to the provisions of Article 202 of the Law on Local Self-Government. The Protector considers that contracts on temporary and occasional jobs are concluded exclusively for performing activities that are not from the main activity of the employer as well as for less complex jobs, and not in the field of jobs performed by the complainant and exclusively for less complex jobs. In the given case, a violation of rights was determined and a recommendation was given to the Municipality and it was complied with within the deadline set for compliance with the recommendation.

According to a survey conducted by UNDP in Montenegro, every second citizen believes that women and men are so different that gender equality is impossible to fully achieve. Also, half of the citizens believe that the employer has the legal right to request confirmation that the job candidate is not pregnant, while three quarters of employees in institutions would support the introduction of quotas for women in high-ranking management positions in the[[50]](#footnote-50) Government.

The Protector points out that addicted women are a specific vulnerable social group that is exposed to the risk of multiple discrimination, which is why it is necessary to work on further sensitization and awareness of society. In particular, it is necessary to monitor this issue from a gender perspective. As specifics of addicted women, we should mention their exposure to domestic and sexual violence (as forms of gender-based violence in which the perpetrators are mostly men and the victims are women), and one of the challenges is the placement of such victims in safe houses.

The population of injecting drug users in Podgorica is dominated by men, whose share is estimated at 88.3% [95% C I, 84.9 - 91.7], while the estimated share of women is 11.7%. This data is in line with program data from drop in centres. This data is in line with program data from drop in centres[[51]](#footnote-51). It is noticeable that drop in centre services in Podgorica are used by women to a much lesser extent than men, which is certainly an exposure to social stereotypes and stigmatization.

For the first time this year, the institution of the Protector requested and received statistical data from the Public Institution Kakaricka gora[[52]](#footnote-52), a specialized institution for the treatment of addiction, which refers to the number of addicts in that institution during 2021. Namely, in the treatment of addiction in the reporting period, there were 35 users and only four (4) users from which the data can be concluded that precisely because of gender stereotypes present in society, women are less likely to decide on addiction treatment.

Representation of women in the security sector is necessary in order to respect human rights and implement United Nations Security Council Resolution 1325. The percentage of women in the Ministry of Defence is 55.6%, while, according to the latest data, women in the Montenegrin Army represent 14.7%, which is the largest share of women in the Army so far. Of the total percentage of cadets who are studying at foreign military academies, 25.92% are female cadets. The share of scholarship holders among the persons who receive scholarships from the Ministry of Defence at universities in the country and abroad is 40%[[53]](#footnote-53). Although the previous data show that the participation of women in this sector is slightly higher, it is necessary to continue and strengthen activities in the field of gender equality in the security sector, because in addition to sports, security is considered one of the most neglected areas from a gender perspective.

One of the provisions that put certain categories of women in an unequal position is the provision of Article 16, paragraph 19 of the Law on Compulsory Health Insurance[[54]](#footnote-54) which prescribed three procedures of medically assisted fertilisation, and only to Montenegrin citizens. In relation to the given provision, the Protector gave recommendations which are more closely stated in the chapter Legal Framework in the sense of amending the mentioned article.

As in previous reports, the Protector pointed to the STEM[[55]](#footnote-55) field as problematic from the aspect of equality, but as a commendable fact he predicts the implementation of several measures within the adopted National Strategy for Gender Equality 2021-2025, with accompanying Action Plan 2021-2022[[56]](#footnote-56). In this context, we should not overlook the fact that the STEM area is traditionally considered to be mostly a male occupation and that female students are a disproportionate minority both in school and after school in the field of employment and work. Such a situation is conditioned by gender roles and traditionally ingrained expectations on the basis of which students are directed to those areas of education and employment that are 'profitable and desirable' for their gender.

One of the phenomena that the Protector continuously points out is the multiple and intersectional discrimination of women, which implies the merging or overlapping of several bases. Bearing in mind that women and girls with disabilities are, according to the Convention on the Rights of Persons with Disabilities, a particularly vulnerable category at risk of multiple discrimination, the Protector continued to monitor their position in all areas of life. The risk of multiple discrimination in most cases comes to the fore when achieving economic independence, finding a job and continuing education. A special problem is social prejudice and ignorance of the problems faced by women with disabilities. Due to the insufficient availability of services for women with disabilities in rural areas, they face a greater number of prejudices than in urban areas.

A year later, a research was done by the non-governmental organization "*I mi Boke*" (Initiative of Youth with Disabilities from Boka”, which was presented at the time of writing, but was not published in printed version. Some of the most worrying data are that 41% of respondents with disabilities said they did not have enough resources to cover all their life needs, including those related to disability; 78% of respondents with disabilities who need the help of another person to function on a daily basis would use personal assistance if it was funded by the state or local government; 44% of respondents with disabilities said they do not go to the OBG regularly. Within the focus groups with activists and representatives of women's organizations and relevant institutions, it was emphasized that women and girls with disabilities find it difficult to talk about experiences of violence, that education of relevant staff is needed to provide a safe and confidential environment for reporting violence, and that existing and specialized services for women with disabilities need to be adapted[[57]](#footnote-57).

In the light of the foregoing, women with disabilities are still not sufficiently aware of their reproductive rights, and the Protector could not find relevant data on women with disabilities who gave birth for the purposes of this report, and therefore points out that water health facilities are necessary for this type of records. Also, it is important to conduct comprehensive education of women with disabilities, institutions, civil society organizations and health workers on all issues relevant to their position and empowerment.

Roma women and women from minority ethnic communities are at a disadvantage compared to women from the majority population and men from their ethnic communities, especially in the areas of employment, health care, education and social services, among other things, due to unequal power relations within the community and unequal power relations in relation to the majority community. Although the above claims are notorious facts, the Protector points out that there is a limited number of studies on the position of Roma women, lesbians, older women, which relate mainly to discrimination in all areas of social life.

**Protector's recommendations:**

* *Encourage equal participation of women in the structures of political parties’ at all hierarchical levels.*
* *Work on the empowerment of women in order to increase their participation in management positions in society.*
* *It is essential that all state bodies and public institutions collect statistics on women with disabilities and women from minority communities, including women from rural areas, women victims of violence.*
* *Ensure greater presence of women with disabilities, Roma women, lesbians and women from other minority communities in the public and media space.*
* *Establish and implement a long-term strategic approach with the aim of attracting more candidates to the security sector.*
* *Encourage victims to report gender discrimination and sexual harassment through promotional campaigns and other activities.*

**2.7.2.2. Family violence and gender-based violence**

Gender-based violence is one of the fundamental social, political and economic means by which women are held in a subordinate position in relation to men[[58]](#footnote-58).

More than two years ago, the Protector sent the Initiative for Amendments to the Law on Protection from Family violence[[59]](#footnote-59), on the occasion of which the relevant ministry formed a working group whose task is to prepare amendments to the said law. However, the Protector expects that the work on the drafting of this document will be accelerated, in order to more effectively combat family violence and gender-based violence.

In this light, it is necessary to keep in mind that the current provisions have prescribed mild penalties for perpetrators, which does not send a strong message for the implementation of a policy of zero tolerance for violence. Due to the evident frequency of violence, the Protector believes and continuously warns that this negative social phenomenon must be given special attention and that it is not enough to change the legislative framework, but also effective implementation of regulations, stronger coordination of bodies and services dealing with violence and penal policy in addition to protective measures, it practices adequate, proportionate and dissuasive sanctions for perpetrators of violence. In its work on citizens' complaints, it is noted that the entire system that looks at the phenomenon of combating family violence and gender-based violence is viewed only from the aspect of misdemeanour/criminal sanctions and almost exclusively through the judiciary, without other systemic, professional, continuous and long-term measures, prevention and re-socialization of perpetrators, which in the long run deters real victims of violence from reporting milder forms of violent behaviour. In addition, such a system gives the judiciary inadequate preventive work, causes very lenient sentences and ultimately a constant increase in misdemeanour/criminal proceedings, which could be seen in the statistics, brutalization of violence and increase in femicide.

The Protector continuously points out the problem of recognizing and punishing partner violence with a special focus on protecting victims from short emotional partnerships, especially if we keep in mind that certain femicides to the detriment of women occurred in this category. A particularly worrying fact is the increase in the number of femicides in the past year, the causes of which are multi-layered and require expert research and analysis that go beyond the format of this report.

On the presence of discrimination and violence against women in politics, in 2021 a survey was conducted by UNDP in Montenegro in which as many as 90.7% of respondents believe that women are discriminated against, which is worrying in terms of the scope of the problem, but also encouraging, because women politicians are obviously aware and agree about the existence of discrimination[[60]](#footnote-60). The same survey states that almost three quarters of women politicians confirmed that they have encountered violence against women politicians during their political work, which means that greater involvement of women in political processes, on the one hand, entails a higher level of violence against women in public and political spheres.

In the past period, this Institution has continued to publicly warn that in addition to amendments to the legislative framework, continuous education and sensitization for gender-based violence is necessary for all those who apply laws and regulations, necessary inclusion of all social factors in the suppression of this negative social phenomenon. Thus, the Law on Protection from Family violence prescribes which institutions deal with protection from family violence and gender-based violence and lists them as follows: administration competent for police affairs (herein after referred to as "the Police”), The misdemeanour authority, the State Prosecutor's Office, the Centre for Social Work or other social and child protection institutions, the health institution, as well as other bodies and institutions dealing with protection”, while the Istanbul Convention stipulates that obligations to prevent protection from domestic violence and gender-based violence to all social actors[[61]](#footnote-61).

**Example:**

XX she submitted the complaint is due to the procedure conducted before the urban planning and construction inspection, which is related to gender-based violence.Namely, before this Institution, the complainant initiated several proceedings starting in 2018, which referred to the inaction of state bodies within their competencies, and which were related to gender-based violence. She has been married to YY for many years since she suffered all forms of violence. The marriage was divorced by a ruling of the Basic Court in Podgorica, but as they still live in the same house, and in different housing units - the violence has not subsided. In May 2018, the complainant initiated a physical division procedure before the same court, and after the procedure was completed and the division decision became final, she started building a separate staircase on the common house, as she shared a common entrance with the perpetrator until the procedure became final. When the works on the construction of the staircase were completed, due to the lack of a building permit, the urban planning and construction inspection issued a decision on the demolition of the staircase.

The Protector understands that the construction and urban inspection in this case is acting on the submitted report, but he is of the opinion that this inspection should have borne in mind that the complainant has been a victim of gender-based violence for many years, which the complainant pointed out during the proceedings. Also relevant to this case is the fact that in 2018 the Protector already conducted proceedings on the complainant's complaints relating to the Police Administration of Montenegro – Police station Podgorica, the Centre for Social Work for the Capital Podgorica and the Basic Court in Podgorica in which gave opinions and recommendations to these bodies in order to combat gender-based violence. He emphasizes that this opinion was adopted in the light of the fullest possible protection of victims of gender-based violence and emphasizes that all social factors are responsible for suppressing this negative social phenomenon, and not in terms of avoiding obligations and disrespecting construction laws.[[62]](#footnote-62)

Over the years of work of the Protector's institution, we have noticed that a very small number of women with disabilities decide to report violence. Due to the rare reporting and non-recognition by the institutions of the system, even the official statistical data kept by individual institutions do not give a real picture of the situation, so one of the recommendations in this report will go in that direction.

Considering that the Protector invites both civil society activists to give their opinion on the situation in this area, the following is the report of the NGO SOS Telephone for Women and Children Victims of Violence Nikšić, which provides assistance and support to women victims of violence and victims of family violence. through the work of specialized assistance and support services, namely: national SOS line for victims of family violence - licensed service in accordance with the Law on Social and Child Protection, SOS shelters for women and children victims of violence - licensed service in accordance with the Law on Social and Child Protection child protection, escort service of a trusted person in accordance with the Law on Social and Child Protection and professional legal and psychological counselling.

In addition to the language of the majority population, the Nikšić SOS hotline also provides assistance and support to women and children victims of violence in Albanian. Below are statistical data on services provided for the period January - December 2021: National SOS line for victims of family violence, Number of persons provided services: Women - 274, Children - 27, Men - 23, Total - 324; Number of received calls - 2,408, Number of provided services - 3,036; Number of calls by cities - NSOSL (Nikšić - 1,159, Podgorica - 506, Herceg Novi - 138, Budva - 115, Tuzi - 55, Danilovgrad - 55, Bar - 53, Bijelo Polje - 49, Kotor - 47, Rožaje - 44, Ulcinj - 41, Plav - 26, Tivat - 24, Berane - 23, Cetinje -17, Mojkovac - 13, Žabljak -12, Pljevlja - 12, Andrijevica - 3, Plužine - 2, Kolašin - 1, Petnjica - 1, Unknown city - 12. Number of persons provided services - SOS shelter: Women - 24, Children - 40, total - 64. Total number of nights spent - SOS shelter - 5170, Average stay per person - 81, Average person per day - 14. Psychological service counselling - 545, Legal counselling - 192, Representation in court (Basic Court and Misdemeanour Court) - 24, Legal counselling and representation service in total - 216, Escort by confidential person - 169.

**Protector's recommendations:**

* *Establish a special body at the national and / or local level with specialized psychological and social staff tasked with the early prevention of family violence and gender-based violence, which would act in the pre-escalation phase and without the involvement of the judiciary and police.*
* *Organize training sessions about the importance of collecting statistics for proper policy making and then improve the databases of all relevant bodies to collect representative data on gender-based violence against women including all categories of women within this heterogeneous group (women with disabilities, Roma women, lesbians, trans-women, etc.)*
* *Organize specialisation of the judicial staff in the areas of family violence and gender-based violence.*
* *Ensure implementation of the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Family Violence, and in particular take all necessary measures to improve the legal framework for protection against family violence.*
* *Establish stronger cross-sectoral cooperation of all relevant institutions in order to prevent and provide assistance to victims of family/gender-based violence.*
* *Organize mandatory continuous education on gender-based violence for both judicial office holders and counsellors and trainees within the judicial system.*
* *In order to prevent partner violence, organize continuous education in high schools and faculties.*

**2.7.3. Discrimination based on gender identity and sexual orientation**

The adoption of the Law on Life Partnership of Persons of the Same Sex[[63]](#footnote-63) which legally recognized and regulated the community of life between two persons of the same sex, is a big step forward in the context of respecting the rights of LGBTIQ persons and improving the legal and social position of this population. However, in order to fully implement this act, it is necessary to adopt bylaws that regulate certain issues in more detail. It is also necessary to work intensively on the harmonization of other related legal acts with the provisions of this law, in order to prevent significant problems in the implementation of guaranteed rights and to preserve the compactness of the legal system of Montenegro and legal certainty.

Improving the normative framework is a necessary but not a sufficient condition for the full integration of LGBTIQ people in all spheres of social life. An equally important aspect is the effective implementation of adopted regulations. At the same time, it is necessary to continuously work on raising awareness of the rights of LGBTIQ people in order to reduce the level of homophobia and transphobia that is still largely present in society.

This situation in society discourages LGBTIQ people from freely expressing their gender identity and sexual orientation, and can lead to violations of a wide range of rights to the detriment of these people, such as: the right to work, education, health care and the like. Members of this population belong to the most endangered categories when it comes to the risk of exposure to discrimination.

It is especially important to work on the education of civil servants, because they act on behalf of the state and therefore have a greater awareness of the need to respect human rights and respect for diversity, because their proper conduct largely depends on the effective exercise of human rights and freedoms of citizens guaranteed by the Constitution and ratified international agreements. Crimes committed against LGBTIQ persons should be responded to by imposing effective, proportionate and dissuasive sanctions. A particular cause for concern is the increased presence of hate speech and abusive speech. Such phenomena lead to feelings of threat, humiliation, fear and hostility towards this endangered category.

With regard to the exercise of the right to health care, a particular cause for concern is the lack of hormone therapy for trans-women. Continuous hormone therapy is an indispensable part of therapy, so a regular supply of hormones is necessary. Lack of such therapy places trans-women in a state of risk and violates the right to respect for private life, from Article 40 of the Constitution of Montenegro and Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

During the preparation of this report, the Protector invited organizations involved in the promotion and protection of the rights of members of the LGBTIQ population to submit their observations on the state of human rights and freedoms. The Spectrum Association, which works on the promotion and protection of human rights of transgender, gender-diverse and intersex people, responded to the Protector's invitation.

In the submitted analysis, it is important to point out that despite the lack of cases within the prosecutor's office (data obtained by the Basic State Prosecutor's Office (BSPO) Rožaje, BSPO Pljevlja, BSPO Bijelo Polje, BSPO Kolašin, BSPO Kotor, BSPO Nikšić, BSPO Bar, BSPO Herceg Novi, BSPO Ulcinj and Higher State Prosecutor's Office Podgorica), during 2021, NGOs record a significant number of cases of violence and/or discrimination. Hate speech against LGBTIQ people is present in public space. During 2021, but also in 2020, numerous preparatory activities were implemented in relation to the creation of a process that will regulate the legal recognition of the gender of transgender people. During 2020, the Spectrum Association in partnership with Queer Montenegro and the NGO Juventas, through the project "Pride Everywhere - Strategic Approach to Human Rights of LGBTIQ Persons in Montenegro", supported by the EU and the Ministry of Public Administration, conducted a review of legal analysis on legal recognition gender in Montenegro, which was first created in 2016 in cooperation with the Institute of Legal Studies. The research offered a proposal for the Gender Identity Act as the end product. The draft law comprehensively presents the legal aspects of legal gender recognition and the standards that Montenegro, as a member of the Council of Europe and a candidate for EU accession, must implement at the national level.

The crisis caused by the COVID-19 infection pointed to a number of challenges facing transgender, gender-diverse and intersex people in Montenegro in terms of access to health care. The unavailability of hormone therapy with estradiol in Montenegro for transgender women was further aggravated by the crisis, so they were no longer able to procure the necessary drugs, which are certainly unavailable in relation to their economic situation, even from countries in the region due to border closures. Although, within the Clinical Centre of Montenegro, the Commission for Transgender Health has been established, which is responsible for further development of trans-specific health care, providing health services in the process of gender mainstreaming, as well as creating comprehensive health support for transgender people, no data on the meeting of the Commission, and work on the improvement of health services in this area. In the previous period, 4 mastectomies of trans men (breast removal operations) were performed in Clinical Centre of Montenegro, however, the preconditions for performing genital operations have not been met yet, due to lack of capacity and necessary knowledge of medical professionals in Montenegro, therefore they are referred to Belgrade. It is necessary for the state to work on further education of health workers on the human rights of intersex people, to provide clear protection of the right to self-determination and protection of the physical integrity of intersex people.

Data from the Spectrum Association indicate that most transgender people are unemployed or employed on the black labour market, with a large number hiding their gender identity from employers. The impact of the COVID-19 crisis on the transgender community in Montenegro includes increasing economic and social challenges and difficulties that this community faces on a daily basis. Lack of protection in education leads to a high unemployment rate of trans-people, who often face discrimination by employers who refuse to provide them with employment due to discrepancies between gender in documents and gender expression, or to protect them in the workplace from different forms of violence. Protection is lacking, and trans-people, especially trans-women, are further marginalized, faced with the impossibility of integration into society and exposed to additional stigma, physical, psychological, sexual and economic violence, and various health risks. Given the fact that many LGBTIQ people, especially transgender people, face rejection and/or family violence, and very few cases of reporting family violence by LGBTIQ people, find themselves in a situation from which there is sometimes no way out. The lack of systemic psychosocial support services indicates a clear need to provide support in order to empower trans and gender-diverse people, in order to develop defence mechanisms against violence of various forms.

**Protector's recommendations:**

* *To ensure full implementation Law on Life Partnership of Persons of the Same Sex by adopting appropriate bylaws and harmonizing the provisions of other related regulations with the provisions of this Law;*
* *To work intensively on combating homophobia and transphobia;*
* *To ensure a continuous supply of hormone therapy for trans-women.*

The Protector would like to remind of the previously given recommendations in this area, for which there is still a need to engage state institutions in its implementation:

* *To respond to crimes committed against the LGBTIQ population by imposing effective, proportionate and dissuasive sanctions;*

 *Continue training programs for police officers, prosecutors and judges on the application of provisions governing hate crimes against vulnerable groups (including the LGBTIQ community) with a special focus on identifying aggravating circumstances in order to impose effective, proportionate and dissuasive sanctions.*

**2.7.4. Hate speech**

Hate speech represents a danger to the protection of human rights and the rule of law. Article 7 of the Constitution of Montenegro[[64]](#footnote-64) prescribes: "It shall be prohibited to cause or incite hatred or intolerance on any grounds", while Article 8 paragraph 1 prescribes: "Any direct or indirect discrimination, on any grounds, shall be prohibited."

Also, the Law on Prohibition of Discrimination[[65]](#footnote-65), in Article 2, paragraph 1, stipulates: "All forms of discrimination shall be prohibited, on any grounds." Article 9a prescribes: "Hate speech shall be any form of expression of ideas, claims, information and opinions that spread, cause, incite or justify discrimination, hatred or violence against a person or group of persons because of their personal characteristics, xenophobia, racial hatred, anti-Semitism or other forms of hatred based on intolerance, including intolerance expressed in the form of nationalism, discrimination and hostility against minorities."

Recommendation no. R (97) 20 of the Committee of Ministers of the Council of Europe, hate speech shall mean all forms of expression that spread, cause, incite or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including intolerance expressed in the form of nationalism and ethnocentrism and hostility towards minorities, migrants and people of immigrant origin.

Inappropriate communication, hate speech and sensationalist narratives in the media have become one of the biggest problems in the field of public communications. Sanctions are mild and inadequate, while hate speech is strongly present. It is noticeable that the number of these complaints to the Protector is increasing, which indicates a growing trend of hate speech in public space and discourse.

Freedom of expression is an essential element of any democracy and is protected even if the information can be shocking and disturbing, but it must be limited when a speech is considered hate speech.

A large number of negative texts and comments were noticed on social networks. The rhetoric and messages of these texts affect the public and definitely lead to an increase in social distance and intolerance.

Citizens need to be informed about issues of public interest, but the debate must be democratic and media professionalism more developed. Therefore, it is necessary to further educate all subjects and media professionals about the Code of Ethics, freedom of expression and hate speech.

There was a complaint we have worked on and which referred to hate speech expressed on social networks.

In this particular case, by analysing the published comments and applying a three-part test, the Protector concluded that it was hate speech. The quoted comments are unequivocally directed against the Croatian people and represent a call for violence, hatred, discrimination and intolerance. Considering the context, as well as the content of the comments, it follows that certain expressions have it a distinctly negative and stigmatizing connotation and labels it one community as socially undesirable. Speech that spreads and incites hatred and violence against a certain group of persons because of their identity belongs to the abuse of freedom of expression, and in no case can have the protection prescribed by Article 47 of the Constitution and Article 10 of the European Convention. Therefore, the Protector is of the opinion that in this case there was a violation of Article 9a of the Law on Prohibition of Discrimination and is the basis for restricting freedom of expression under Article 47 of the Constitution of Montenegro and Article 10 of the European Convention for Human Rights and Fundamental Freedoms, therefore he gave recommendations to the portal - to remove the disputed comments without further delay and to keep up to date with the contents of the comments on the portal and to remove those that contain hate speech, within the legally prescribed period.

**2.7.5. Discrimination based on ethnicity and affiliation with a minority nation or minority national community**

Full integration of minority peoples and other minority national communities into all spheres of social life is an unavoidable condition for preserving the civic and democratic character of Montenegro. The legal framework governing minority rights is a good basis for achieving this goal. However, insufficient implementation of legal regulations leads to minorities still facing significant obstacles when it comes to exercising guaranteed rights.

Reducing ethnic distance from national minorities is an important step towards their full integration. In order to achieve this task, the joint activity of all social actors is necessary, especially those who deal with the promotion and protection of national minorities. The first step in the chain of activities should certainly be to conduct and monitor public opinion polls on minority rights issues. The results of such research represent a solid basis for undertaking further activities that should ultimately lead to the creation of a multicultural society in the full sense of the word. All important social actors agree that building such a society is one of the priority tasks, so this circumstance certainly increases the chances of success.

The results of the public opinion poll conducted by the Centre for Monitoring and Research[[66]](#footnote-66) show that citizens' opinion on discrimination against national minorities is divided. Thus, 45% of respondents believe that discrimination is present, and half believe that it does not exist. Discrimination on the basis of ethnicity is more often mentioned by citizens aged 18 to 29, while it is less often noticed by people older than 60. The largest number of respondents believe that discrimination in Montenegro is most prevalent against Roma, followed by Serbs, Albanians, Muslims, Bosniaks and Croats. When it comes to employment policies, most citizens believe that employment policies in Montenegro are discriminatory towards members of national minorities. More precisely, 58% agree with this view, while slightly more than a third of citizens think the opposite. As has been the case for many years, citizens perceive the Roma as the most vulnerable group in this area as well. On the other hand, the results of the research showed that the public is not informed about the mechanisms of positive discrimination, such as affirmative action. Namely, the majority of Montenegrin citizens are not familiar with affirmative action when employing members of national minorities. More precisely, 7 out of 10 citizens have not heard of these actions, while every fourth states that they have. It is worrying that when affirmative actions are formulated as an advantage in employment, most citizens perceive them as unfair. Specifically, while 56% consider giving preference to employment to members of minority nations to be unfair, with a third even being very unfair, one in three citizens supports such a mechanism. On the other hand, almost all citizens state that, as employers, they would employ a member of another nationality. Moreover, all socio-demographic categories of the population agree on this issue, i.e., 98% of respondents.

The attitude of the citizens towards the special endangerment of the Roma is shared by the institution of the Protector. Members of this population face obstacles in the field of education, employment, health care, social and child protection rights and many other areas. This population is especially characterized by difficult financial situation, as well as social exclusion.

Quality education of Roma is a condition without which it is impossible to achieve their integration into other areas of social life, primarily in the field of work and employment. Assistants in the social inclusion of Roma and Egyptians have an important role to play in increasing the enrolment rate of Roma and Egyptian children, reducing drop-outs, overcoming language barriers and ultimately improving the quality of education acquired. Having in mind these circumstances, the Protector expects that the competent state bodies will take strong measures to improve their working status. The application of affirmative action measures in favour of members of the Roma and Egyptian communities will be necessary until the disadvantage in which members of this population find themselves is sufficiently changed.

The application of these measures is also necessary in order to improve the position of members of other minority peoples and other minority national communities. It is especially important to take into account their proportional representation in public services, state authorities and local self-government. Proportional representation can be achieved only in the circumstances of monitoring the national structure of employees and registered candidates who declare themselves on this issue on a voluntary basis. In order to achieve tangible results in this sense, it is necessary to undertake long-term and carefully planned state activities, because the fulfilment of this constitutional guarantee cannot be carried out in violation of other rights, primarily those officials who are already legally employed in state administration and local self-government. In addition, members of minorities and other minority national communities should be given priority in employment only if they meet the conditions for employment, possession of the same or similar qualifications and professional qualities in relation to other candidates, as well as analogous results of proficiency testing.

The Protector reiterates his concern that the Roma community does not have a representative in the Parliament of Montenegro. As this community represents the most marginalized social group, it is of special importance to create conditions for the participation of representatives of this population in parliament. The Roma, through their representative, would have the opportunity to influence the creation of legislative and other policies. In addition, the representative of the Roma population could, by participating in the debate, contribute to better informing MPs and the general public about the problems facing Roma and proposing quality solutions to overcome them.

**Protector's recommendations:**

* *To make additional efforts aimed at raising awareness of the importance of multiculturalism, interethnic and interfaith dialogue and tolerance;*
* *To respond to offenses aimed at violating multi-ethnic and multi-religious harmony by imposing effective, proportionate and dissuasive sanctions, using an aggravating clause for hate-based offenses and offenses committed against vulnerable groups;*
* *To pay special attention to improving the living conditions of members of the Roma-Egyptian community;*
* *To take into account the proportional representation of minority peoples and other minority national communities in public services, state authorities and local self-government bodies, i.e. authentic representation in the Parliament of Montenegro and assemblies of local self-government units in which they make up a significant part of the population.*

The Protector would like to remind of the previously given recommendations in this area, for which there is still a need to engage state institutions in its implementation:

* *To ensure a sustainable and proportional system of distribution of funds from the Fund for Protection and Exercise of Minority Rights of Montenegro to support activities important for preserving and developing national and ethnic characteristics of minority peoples and other minority national communities in the field of national, cultural, linguistic and religious identity;*
* *To start without delay the creation of normative preconditions for authentic representation of Roma in the Parliament of Montenegro and the assemblies of local self-government units, in accordance with the principle of affirmative action;*
* *To intensify efforts on the social inclusion of Roma, as well as the systematic solution of child begging and early arranged marriages.*

**2.8. Information from councils of minority peoples and other minority national communities**

The Croatian National Council of Montenegro provided information on activities for the development and protection of the rights of the Croatian people in 2021.[[67]](#footnote-67) On the political and civilizational level, the celebration of the thirtieth anniversary of the founding of the camp in Morinj, which was also attended by the Foreign Ministers of the Republic of Croatia and Montenegro, is particularly important. Škaljari from "Nikša Bućin" to "Zoran Gopčević", for whom there are indications that he was compromised as a guard in the Morinj camp.

For the second time this year, in accordance with the Law on the Selection, Use and Public Display of National Symbols, and on the occasion of the national holiday of the Croatian people in Montenegro, in addition to the continuously displayed flag of Montenegro and the Croatian people in Montenegro "In Donja Lastva, where the seat of the Croatian National Council of Montenegro is located, the flag of the Croatian people in Montenegro on the building of the Municipality of Tivat and the Municipality of Kotor is also displayed.

A very important issue is inclusion of more content from the ranks of the Croatian people in the curriculum of the regular curriculum, as well as support for optional teaching of Croatian language and culture in Montenegro, as well as greater presence and presence of Croatian language and programs in Croatian on public service and media.

As for the media, they further state that they helped Radio Dux to receive certain funds from the Croatian budget in the amount of 20,000.00 EURO per year (which are repayable), which they consider an extremely great success and insurance because it is extremely important for promotion of Croatian voice on the air of the Bay of Kotor and beyond.

As for the Croatian community, they are generally satisfied with the general level of law. The Croatian people are enshrined in the Constitution of Montenegro, the Croatian language is in official use, and personal documents can also be issued in Croatian.

An issue that is very important for them is the status and position of minority national councils and peoples, as well as changes in electoral legislation, regarding census provisions, registration, models and support for minority parties and lists, in order to prevent/avoid a situation similar to the past elections.

As a community, they are represented in the Steering Committee of the Fund for the Protection and Exercise of Minority Rights of Montenegro and in the Steering Committee of the Centre for Preservation of Minority Culture of Montenegro, and have a representative in the RTCG Commission for Minority Language Programs.

There are also a number of Croatian non-governmental organizations in Montenegro, most notably the Croatian umbrella community "Dux Croatorum", which is also the owner and founder of the first electronic media in Montenegro - Radio Dux.

In Montenegro, the Croatian School also operates as a form of supplementary teaching, in which teaching takes place in the Croatian language.

They especially emphasize the cooperation with the line ministry, the Ombudsperson, other minority councils and relevant institutions in the field of preservation and protection of minority rights in Montenegro (Fund, CEKUM) as well as numerous institutions in the field of culture (Radosav Ljumović Public Library, Đurđe Crnojević National Library). Directorate for Diaspora, Centre for Culture Tivat, Gallery and Museums Tivat, in particular), as well as some NGOs dealing with minorities (CEDEM, CEMI, CRNVO, etc.).

Unfortunately, they still encounter ethnic distance in the field, which is evident from published polls on representative samples, hate speech (constant media reports, threats to physical integrity both before and after elections), as well as assimilation, or rather self-assimilation.

Apart from the situation with the swimming pool, they also reacted during the distribution of packages organized by a religious organization to all children in the first grade of primary school in Tivat, without consulting their parents or teachers. They believe that this type of propaganda is ill-intentioned and that it violates the postulates of civil and multi-ethnic, multi-religious Montenegro.

On Facebook and other social networks, as well as numerous portals that are public media space, hate speech and difficult qualifications on a personal level appear, which are presented without responsibility, and they are not sanctioned to a sufficient extent. They believe that the relevant institutions and instances should better record them, process them and react more efficiently.

They point out that the status of minority national councils is still not legally defined, and believe that representatives of minority peoples in the governing boards of relevant institutions (Fund, CEKUM, RTCG, ministries, municipalities) should play a more important role in deciding which projects for a particular minority community essential.

The ***Roma Council (Romano Savjeto)*** points out that the situation of the Roma community in Montenegro is still very difficult. Roma continue to face problems that other minorities have overcome for decades. In any case, they point out that there are some positive developments, but that this is far from the real needs of the Roma in Montenegro.

They praise the efforts of the Government of Montenegro to improve the situation in the field of education, and there are indeed some changes because the number of high school students is constantly increasing from year to year. The number of students enrolled at the University of Montenegro is also increasing, the number of children enrolled in regular school education is still increasing.

Gratitude and merit are attributed to the Government of Montenegro, which within the implementation of the objectives of the strategy each year allocates significant funds to improve the living conditions of the Roma community in Montenegro. However, they are not completely satisfied, as there are still a large number of children who are still not included in regular school and pre-school education. There is still a small percentage of children who successfully complete primary and secondary school, while only a few complete university education.

Regarding the cooperation with the media in the Romani language (sites and Romani radio, public service) are regularly advertised and given the initiative to provide information in the mother tongue, which has been done both on Romani radio and on several sites dealing with information in Romani language. The initiative to provide a vaccination point in Konik as the largest settlement of the Roma population did not give greater results because the inhabitants of this settlement are uninformed, i.e. more misinformed about the impact of vaccines.

In the field of education, they notice a problem in the increase of children who are outside the education system. As the activities of the Council from previous years are related to functional literacy, the initiatives this year were directed towards the same goal. The Roma Council, in cooperation with the Marko Miljanov Elementary School and the Vocational Training Centre, created a group of 15 students for Functional (Elementary) Literacy for children who have never been in the education system before. This cooperation gives seriously good results for later continuation of the same when it comes to our community. Through this program, which lasts 3 months later in September, children are enabled to continue their education in the fourth grade with their peers, which additionally motivates them and returns them to the educational system. Children who attend classes are mostly those who were in migration when they were supposed to start and attend education, but through this program we successfully found it and gave them a chance to enter and be in the education system. The Roma Council provided them with all the materials and accessories they needed, and provided them with a mediator for easier communication between teachers and their parents.

Initiative of the Centre for Social Work, Marko Miljanov Elementary School and Public Institution Centre Ljubović - Initiative to continue the activities that have been carried out so far with new groups and to make an initiative for the formation of new departments for functional literacy. The Council is recognized as an institution that can and should coordinate these activities that are necessary for children who are outside the education system. It is certainly not necessary to explain what literacy means for these children and their parents and that active work should be done on their integration. Early marriages, begging, delinquent behaviour, peer violence, later creation of socio-economic problems should be treated in the right way and at the right time. In order for children who are outside the system to be socially useful beings, they believe that such activities are needed.

They also emphasize the importance of the initiative towards the Ministry of Education, Science, Culture and Sports to systematically help speed up the procedure of establishing a department/technical support for the department of non-functional literacy for children outside the education system. The recommendations to the Ministry of Education, Science, Culture and Sports are that a Department for Roma should be established and mentoring support for high school students should continue.

They further point out that Roma and Egyptians in Montenegro are mostly members of the Islamic religion, so it is quite natural for them to socialize and integrate within the board of the Islamic community. The Council's initiative to meet the funeral needs of the most vulnerable families was accepted, and by the end of the year, three families had used the opportunity to be exempted from burial rites. The initiative continued and good cooperation with the Islamic Community gave positive results with the benefit for the end users.

They plan to standardize the Romani language. In the previous period, this initiative had more success and promises, while during this period there was no communication with the Ministry, which with its passivity, not responding to requests and curriculum, led to the status quo on this issue for this year.

In the coming period, they believe that the involvement of the relevant Ministry should be achieved through dialogue in order to achieve results in this field and meet the set goals. The general assessment for this year is that there is no progress. The scholarships they receive are very motivating, but they believe that there is a lack of employment as a purpose of education, and passivity in communication is very critical if we want to know how the community reacts to the given measures.

During the Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016-2020, the self-employment programs did not include members of the Roma and Egyptians from the register of unemployed persons.

The "Reopen Doors" project was implemented in cooperation with the Capital and the Roma Council. Project goal: training and internship of young Roma in the administration of the Capital. The Roma Council was a partner in this project during the implementation of this project which lasted one year, including eight months of training at the Montenesoft Educational Centre, where 30 participants learned digital skills, computer literacy, Montenegrin, English, administrative skills, work with psychologist and sociologist and intercultural learning. Out of a total of 30 who attended the training, 12 of them who showed the best result at the end of the training did internships in business units of the Capital City Podgorica. After completing the internship, the Capital expressed the need to keep the top four (Veron Halili, Samantha Bajra, Nakiya Rama and Xhevad Alijaj) and provided them with employment opportunities for an additional 4 months from September to the end of December. The plan is for the four or two of the best to get a permanent employment contract in organizational units of the Capital City Podgorica.

They also state that the problem of insufficiently developed system of registration in the registry of births, especially when it comes to persons born outside the health system, or persons whose one or both parents do not have identification documents, has in practice led to cases when persons come to risk of becoming stateless.

At the sessions with the Ministry of Human and Minority Rights, the president of the council, Mensur Šaljaj, stated several times that the Roma are discriminated against when it comes to politics. For years, Roma have not existed on the political scene. The Roma Council sent an initiative to the Parliament of Montenegro to reduce the current census for Roma from 0.7% to 0.35%. They believe that Roma cannot meet this condition and the 0.7% threshold, given that according to the last census from 2011, a total of 1.1% of the Roma population lived in the whole of Montenegro. Therefore, they consider this law discriminatory against the Roma and do not see any will on the part of the state except that they do not want the Roma on the political scene. This initiative was sent to the Assembly, and they did not receive a response by the end of the year.

The imperative of the Council is:

- to provide adequate assistance for the purpose of cooperation between institutions and the civil sector and for these reasons one of the first activities at the beginning of next year will be the training and empowerment of non-governmental organizations;

- meeting with the Ministry of Justice, Human and Minority Rights because the promised visit in the previous year was absent for unknown reasons;

- Meeting with the delegation of Radio Television of Montenegro (RTCG – Program for Minorities), which visited the Roma Council in order to review and improve the work of minority programs. The positive sides that the public service emphasizes in the field of reporting in the Romani language were presented at the meeting, as well as the presented picture of the Roma population that is slowly changing and presented in real life reported from the field. They certainly believe that there is room for improvement both in the field of programs and in terms of those engaged, because there is certainly a common conclusion that one person is too little in the newsroom. The general conclusion is that the work of the editorial office is in line with the principles emphasized by the Council, which is to present this population in a real light, and that current problems are presented, but that the number of cultural shows should be increased.

The Council of the Muslim People of Montenegro highlights the following activities carried out in 2021.

At the end of January, the President of the Muslim People of Montenegro Council attended a meeting with Prime Minister Zdravko Krivokapić and Minister Vladimir Leposavić regarding work of the National Councils, and on that occasion the President of the Council of Muslim People, Sabrija Vulić, who referred to the work of the Council and the problems faced by members of this national community and pointed out of the decades-long assimilation of Muslims in Montenegro. He especially emphasized the problem related to Mrkojević, in which the majority of the people are Muslims, and the need to solve the problem of the road and the gym as soon as possible, where the two ministries of this Government are directly involved. It was agreed to submit a written request to Minister Leposavić as soon as possible in order to take specific steps to resolve these two issues.

Organized by the Council of the Muslim People of Montenegro, an important reception was held on June 20 on the occasion of the National Muslim Day of Montenegro, in memory of June 20, 1912, when Prince Nikola appointed Murteza Karadjuzović by the Decree appointing the Mufti of Montenegrin Muslims, and for the first time in their history they received a spiritual leader from the ranks of the domicile people. Addressing the audience, the President of the Council of Muslims of Montenegro Sabrija Vulić said, among other things: "By choosing this date for the national holiday of Montenegrin Muslims, we have once again confirmed our centuries-old commitment to our only state Montenegro. We do not have other countries, nor will we have them. We have no language other than Montenegrin."

However, they note that this national minority is severely endangered and they believe that they see the reason that they are loyal to the state of Montenegro. For that reason, they believe that the conditions have long been created for Montenegrin Muslims to organize themselves politically and thus exercise their rights, because the formula to achieve what they deserve through civic parties does not seem like a solution for the time being.

The Ministry of Justice, Human and Minority Rights has initiated the process of holding meetings with representatives of minority councils or other minority national communities. They believe that this meeting did not give effect because for the eighth year in a row, no project that is in the function of affirming the minority Muslim people of Montenegro has passed the competition of the Ministry of Justice, Human and Minority Rights.

OSCE High Commissioner on National Minorities Kairat Abdrakhmanov spoke with representatives of Montenegro's national councils in November. The President of the Council of the Muslim People of Montenegro, Sabrija Vulić, pointed out that one of the biggest problems of Muslims is their inability to participate in the parliamentary life of Montenegro because they have not had an autochthonous representative to advocate for 4% of Montenegrins. Vulić pointed out that the legislation is extremely good when it comes to the interests of national minorities, but that the problem is its implementation.

They point out that it is especially interesting that for the seventh year in a row, not a single project from Muslims of Montenegro that deals with the affirmation and protection of the cultural heritage of this nation has passed the Competition of the relevant Ministry. They also add that there is not a single representative of the Muslim people in the CEKUM Council since the establishment of this institution.

Finally, they add that according to the research of relevant agencies, the number of Montenegrin citizens who declare themselves as Muslims is growing rapidly, and according to the latest research, that percentage is 5.1 percent.

The ***Bosniak Council in Montenegro*** states that there have been no significant changes in the state of human rights and freedoms of Bosniaks in Montenegro compared to 2020.

With the adoption of the Law on Amendments to the Law on Minority Rights and Freedoms of May 12, 2017, they believe that a good normative framework for the protection of the rights of minority peoples has been created, but that there are a number of problems in practice. They emphasize that there is no direct and visible discrimination against Bosniaks in Montenegro, but believe that there is room for progress and improvement of the position of Bosniaks and other minority peoples and other minority national communities.

They point out that nationalist outbursts, directed against a smaller number of peoples, marked the year 2021, as well as numerous inappropriate messages addressed to minority peoples (glorification of convicted war criminals, etc.). During 2021, the Bosniak Council addressed the public several times on this occasion, condemned the mentioned events, and called on the competent institutions to react. The open letter, which was sent to the highest state addresses, emphasized: "Instead of the announced support for minority peoples, Bosniaks have been facing marginalization, intimidation and growing pressure from ethno nationalism and chauvinism in recent months. We deeply believe that any such attempt distances Montenegro from the European system of values and society of coexistence, interfaith and interethnic tolerance. The reason for our concern lies in the fact that lately the targeting of minority peoples has become more frequent, especially Bosniaks and their representatives, whose rights and rights guaranteed by the Constitution are being directly or indirectly undermined.”

They are also worried about the increase in hate speech on the Internet during 2021. According to them, the number of reports related to hate speech has increased in the last year, which is related to the appearance of hate speech on the Internet and posts on social networks. They emphasize that they are especially worried about the increase of hate speech on the Internet among young people. They are of the opinion that more efficient mechanisms should be created through which persons who use hate speech in communication would be sanctioned.

They note that with the change of government in the parliamentary elections of August 30, 2020, changes in the governing bodies of certain state-owned companies began, and that in several cases only members of the management boards who are Bosniaks were removed. They state that this trend has continued in 2021 as well.

They believe that special attention should be paid to education because Bosniak children only seemingly have the opportunity to study the Bosnian language, while they are educated according to the orthography for the Montenegrin language, as the name of the textbook reads. Classes are held in the Bosnian language only in one school (madrassa in Podgorica).

For years, the Bosniak Council in Montenegro, through its activities, has tried to start the process of implementation of teaching in the Bosnian language, but the results are almost insignificant. They have stated their opinion that existence of the Department of Bosnian Language at the Faculty of Philology in Nikšić would best help in the study of Bosnian language in Montenegro, which was their proposal in the working group for drafting the Minority Policy Strategy for 2018-2023, which was adopted and became is an integral part of the strategy, however, in the final version of the Strategy, adopted by the Government of Montenegro, their proposals were omitted. According to their opinion, it is obvious that there is no political will to resolve certain issues.

The Bosniak Council in Montenegro is dissatisfied with the position of Bosniaks in the field of media and information. Bosniaks do not have written and electronic media, through which they would inform members of their people about current topics, with special reference to topics related to Bosniaks.

Especially, they have point out their dissatisfaction with the program and editorial policy of RTCG, believing that not enough time has been dedicated to the promotion of culture, traditions, customs, cultural monuments and other contents related to Bosniaks in Montenegro. They believe that, according to the information they managed to obtain, the percentage of Bosniaks on the Radio Television of Montenegro is more than unfavourable. They also emphasize that in the previous period, almost nothing has been done to affirm the use of the mother tongue, as a very important aspect in exercising the rights of a smaller number of peoples.

They believe that the program for national minorities and national minorities is based on the prejudice that the topics of interest to this audience are mainly of historical and folklore character. Therefore, as recommended in the analysis, it is necessary to completely change the concept of the minority program by placing its focus on the present rather than the past as has been done so far.

The next objection refers to the regulation of the status of councils of minority peoples because the provisions related to the status of councils are unclear (in the sense that it cannot be precisely determined whether national councils are a state institution, non-governmental organization or something else).

***The National Council of Albanians in Montenegro*** focused its activities on: education in Albanian, use of Albanian in administration, information in Albanian, enrolment of students at universities in the region and especially where classes are conducted in Albanian (Albania, Kosovo, North Macedonia), representation of members of the Albanian national minority in state institutions, strengthening of national and cultural identity.

The most important activity for 2021 for the National Council of Albanians was the opening of the bookstore "Ulqini", which is the only one in Montenegro with books in the Albanian language, and it was implemented with the financial assistance of the Republic of Albania.

For the school year 2021/2022, the National Council has distributed the unique Spelling Book - Alphabet (Abetare) to schools, which for eight years in a row, is donated by the Ministry of Education, Science, Technology and Innovation of the Republic of Kosovo for Albanians in Montenegro. In addition, the Council has constantly informed students about enrolment deadlines and enrolment procedures at public universities in the Republic of Albania and the Republic of Kosovo. This year as well, the Council conducted a survey of Albanian high school graduates in Montenegro, regarding their preferences for continuing higher education, with the aim of securing certain quotas and then contacting the relevant educational institutions.

During 2021, the National Council gave an opinion on the election of principals of schools where classes are conducted in the Albanian language, such as: Elementary School Hajro Šahmanović - Plav; Elementary School Marko Nuculovic"- Štoj, Ulcinj; Public Institution Secondary Mixed School Bratstvo-jedinstvo - Ulcinj.

The National Council, together with associations, non-governmental sector, etc. has organized and supported various activities. On the occasion of November 28 - Flag Day, the Council supported a round table on "Cultural heritage of Malesia, preservation and development of folklore" held in Tuzi, as well as an exhibition with archival documents of prominent figures "Hasan Prishtina".

For the purposes of drafting the annual report, as in previous years, the Protector addressed the Serbian National Council in order to submit observations on the state of human rights and freedoms of the Serbian people in Montenegro. The Serbian National Council did not submit the requested report, but during the year it has submitted press releases pointing out certain problems in the exercise of rights.

In a press release from August 2021, the Serbian National Council problematizes the issue of the census of population, households and dwellings. In that sense, the Council states that the census should have been conducted in 2021, for which purpose the Council prepared thousands of copies of the publication "That's how our ancestors used to speak" and held dozens of exhibitions under the same name throughout Montenegro and Serbia; television videos were made that testify to the perseverance of the Serbian people in Montenegro, that is, a large number of radio and TV shows were broadcast, which indicated the need for regular declarations in the 2021 Census. The Serbian National Council further points out that the current government has confirmed almost all controversial decisions of the former government that were made against the will of the majority of citizens in Montenegro, and that the intention to postpone the Census indefinitely usurps the rights of all Montenegrin citizens, such as nationality, language and religion.

**2.9. ASSESSMENTS AND CONCLUSIONS OF THE SECTOR FOR PROTECTION AGAINST DISCRIMINATION, VULNERABLE GROUPS AND GENDER EQUALITY**

* The trend of increasing the number of complaints for protection against discrimination, vulnerable groups and gender equality has continued.
* Women in public office and others whose involvement has been recognized in public have been the target of misogynistic attacks.
* The phenomenon of violence against women continues to dominate many social phenomena.
* Hate speech is still expressed in both online and offline space.
* Members of the Roma-Egyptian community are in a particularly difficult socio-economic situation.
* Full and consistent application of the Law on Life Partnership of Persons of the Same Sex and harmonization of other regulations with the provisions of this law is an important condition for substantial progress in the field of human rights of LGBTIQ persons;
* In practice, medical and functional models of access to disability are still largely present, making it difficult to make further progress in the realization of the human rights of persons with disabilities.
* Multiculturalism, interethnic and interfaith dialogue and tolerance are extremely important for the further development of a democratic society.

The Protector recalls certain assessments from the Report on Protection against Discrimination from the point of view of the activities of the institution of the Protector of Human Rights and Freedoms of Montenegro for the period January 1 - July 31, 2021:

* In this, as in previous reports, the Protector emphasizes the need to establish and operationalize a standardized data collection system related to this area and provide access to the Protector in order to comprehensively analyse the situation in the field of discrimination.
* It is necessary for the competent authorities to work more efficiently on the suppression of hate speech in public space. The pronounced presence of hate speech remains a cause for concern and requires the involvement of the community, primarily the institutions of the system.
* It is necessary to intensify activities aimed at protecting equality and non-discrimination.
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10. Official Gazette of Montenegro, no. 046/10, 040/11, 018/14, 042/17 [↑](#footnote-ref-10)
11. Official Gazette of Montenegro, no. 074/19, 008/21, 059/21, 068/21, 145/21 [↑](#footnote-ref-11)
12. See Opinion no. 143/19-3, available at: <https://www.ombudsman.co.me/docs/1591097269_03032020-preporuka-mrs.pdf> [↑](#footnote-ref-12)
13. Official Gazette of Montenegro, no. 59/21 [↑](#footnote-ref-13)
14. Official Gazette of Montenegro, no. 145/21 [↑](#footnote-ref-14)
15. Protector's case no. 157/21 157/21 [↑](#footnote-ref-15)
16. Official Gazette of Montenegro, no. 59/21 [↑](#footnote-ref-16)
17. Official Gazette of Montenegro, no. 145/21 [↑](#footnote-ref-17)
18. Opinion no. 453/20-3, available at: <https://www.ombudsman.co.me/docs/1605170523_301020202-preporuka-mpmljmp.pdf> [↑](#footnote-ref-18)
19. Official Gazette of Montenegro, no. 145/21 [↑](#footnote-ref-19)
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21. Official Gazette of Montenegro, no. 44/18 [↑](#footnote-ref-21)
22. Opinion no. 01-154/21, available at: <https://www.ombudsman.co.me/docs/1624954873_06062021_prepeoruka_pg.pdf> [↑](#footnote-ref-22)
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24. Opinion no. 972/20, available at link: <https://www.ombudsman.co.me/docs/1644394430_30122021_preporuka_mz.pdf> [↑](#footnote-ref-24)
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29. Available at: <https://wapi.gov.me/download-preview/9c1f248f-c43d-4ce0-bf18-e5b778327e90?version=1.0> [↑](#footnote-ref-29)
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31. Available at: <https://wapi.gov.me/download/ef541ca5-6681-4d2f-bc80-a60889bb3051?version=1.0> [↑](#footnote-ref-31)
32. Act of the High Court for Misdemeanours of Montenegro, Su II No. 11/22 of January 27 2022 [↑](#footnote-ref-32)
33. Act of the High Court for Misdemeanours of Montenegro, Su II no. 2/22 of January 17 2021 [↑](#footnote-ref-33)
34. Act of the High Court for Misdemeanours of Montenegro, Su II no. 3/22 of January 17 2022 [↑](#footnote-ref-34)
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36. Act No: 01-745 / 22-1145 / 2, dated March 15 2022 [↑](#footnote-ref-36)
37. Law on Ratification of the United Nations Convention on the Rights of Persons with Disabilities, with Optional Protocol (Official Gazette of Montenegro - International Agreements, No. 002/09) [↑](#footnote-ref-37)
38. Article 1 of the UN Convention on the Rights of Persons with Disabilities [↑](#footnote-ref-38)
39. Official Gazette of Montenegro - International Agreements, 006/21 [↑](#footnote-ref-39)
40. Official Gazette of the Republic of Montenegro, no. 080/04, Official Gazette of Montenegro, no. 045/10, 047/17, 145/21 [↑](#footnote-ref-40)
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48. Criminal Code of Montenegro, "Official Gazette of the Republic of Montenegro", no. 070/03 of December 25 2003 [↑](#footnote-ref-48)
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