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Perception of Discrimination in Serbia: Normative Framework and Practice⁴

Abstract

The paper, firstly, points to the existing normative anti-discrimination framework of the Republic of Serbia, or whether and to what extent the existing Serbian legal solutions comply with international standards. The authors then present a comparative analysis of the results of their research into the attitudes of Serbian police to discrimination with those of similar research conducted among citizens and other public administration representatives in Serbia up to this point. Thus, the authors offer a complete picture of how Serbian citizens and public administration representatives, including the police, perceive discrimination in Serbia. In the third part of the paper, the authors attempt to point to the most important indicators and results of institutional response to the forms of discrimination manifested in the Serbian society, particularly through the activity of the Commissioner for the Protection of Equality, and through the analysis of case law and jurisprudence of the Constitutional Court of Serbia.

Key words: Discrimination, police, citizens, Serbia, Constitutional Court.

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Introduction

In the late '90s of the 20th century, Serbia entered the period of transition, which meant a thorough revision of the legal framework for human rights protection to ensure its compliance with international standards (Uildriks 2005). As part of this reform, Serbia had a duty to revise its anti-discrimination normative framework as well. After more than 15 years on the transition path, Serbia is now formally standing at the door of the European Union, and yet one question recurs – is Serbian society ready and able, and to what extent, to properly protect fundamental civilizational values, of which the equality of citizens, or non-discrimination, are at the top of the scale of these values?

This article attempts to offer the answer to that question. Firstly, through the analysis of the existing normative framework for protection against discrimination in the Republic of Serbia, and then through a comparative analysis of the results of empirical research on Serbian citizens' and public administration representatives' perceptions of discrimination. This analysis was made possible by previous quantitative surveys that measured attitudes of citizens, police officers and other public administration representatives towards discrimination. The analysis of these attitudes clearly shows whether the adopted legal rules are accompanied by adequate legal awareness and recognition of the essence of discrimination, its presence in the Serbian society, and vulnerability of social groups. Specifically, anti-discrimination normative framework, even if fully appropriate, cannot be effective unless a society has an adequately developed individual awareness of the need to eliminate discrimination, the awareness of its essence, harmfulness, and other issues relevant to understanding this social phenomenon. Of course, no society can be expected to have a fully harmonized normative (expected, prescriptive) and actual state of matters, which requires an appropriate institutional response (preventive-repressive) to the manifestations of discrimination. This is another field where Serbia records results which will be discussed in the third part of the paper. Thus, we would like to offer a complete picture of the basic means of eliminating discrimination from the Serbian society, and of the results of this combat which most clearly demonstrate the true commitment of the Serbian society towards this task.

Anti-discrimination normative framework of the Republic of Serbia

Serbia has accepted and ratified the most important international universal and regional treaties in the field of fundamental human rights, as well as discrimination (Bantekas, Oette 2013; Doebler 2007). During 2001 Serbia has ratified universal international conventions - Convention on the Elimination of All Forms of Racial Discrimination from 1965, Convention on the Elimination of Discrimination against Women from, International Covenant on Civil and Political Rights from 1966, International Covenant on Economic, Social and Cultural Rights from 1966, Convention on the Rights of the Child from 1989. It is important to underline that all these conventions were ratified by the former Yugoslavia, thus Serbia has just acceded to them again as the new independent state in the form of succession (Šurlan 2014). As for the conventions that were created later on, Serbia has ratified, Convention on the Rights of Persons with Disabilities from 2006 in 2009 (Šurlan 2015). All ratified conventions are part of the Serbian legal system; they are directly applicable before Serbian courts. Besides, Serbia itself comes under obligations created by conventions in terms of compliance with monitoring bodies over the conventions (Bantekas, Oette 2013).

As for the regional arrangements, Serbia has become the member of the Council of Europe, the most important regional international organization in the field of the protection and promotion of human rights, in 2003.⁵ Prior to the membership, Serbia has ratified Framework Convention for the Protection of National Minorities (1995) already in 2001.⁶ As the member state Serbia has diligently ratified European Convention on Human Rights (1950) in 2004, European Charter for Regional or Minority Languages (1992) in 2006 and Revised European Social Charter (1996) in 2009. Other legal acts, produced by the CoE organs accordingly are applicable in Serbia, such as, Recommendation 1915 (2010) of the Parliamentary Assembly – Discrimination on the basis of sexual orientation and gender identity, Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity or The Strasbourg Declaration on Roma (Council of Europe 2010).

5) Serbia has become 45th Member State of the Council of Europe on 3 April 2003

6) It is worth mentioning that not all Council of Europe member states have ratified this act; until now four states have neither ratified nor signed the Convention – Andorra, France, Monaco and Turkey, while four states have just signed it – Greece, Belgium, Luxemburg and Iceland.

Serbian legal system, in whole, is devoted to the protection from discrimination. In furtherance of the international legal acts, Serbia has created significant legal basis for the protection from discrimination starting with the Constitution itself (Simović, Zekavica 2012). The Constitution of Serbia, contains a broad catalogue of human rights, proclaims equality and prohibits discrimination. The Constitution stipulates that *“any direct or indirect discrimination on any ground, particularly on race, sex, national origin, social origin, birth, religion, political or other opinion, property status, culture, language, age, mental or physical disability shall be prohibited”* (Constitution of Serbia: art. 21, par. 3). Thus, there is no definition of discrimination in the form of the constitutional norm, but a list of grounds that could form the basis for differentiation.

Fundamental anti-discrimination legal act – The Law on the Prohibition of Discrimination was adopted in 2009. It is both the Law that prohibits discrimination, as well as the law that provides foundation of the new independent body - Commissioner for Protection of Equality and tools for every person, group or state to react to the discriminatory behaviour. Important novelty introduced by this Law is the institution of the Commissioner for Protection of Equality. It is positioned as an independent, autonomous and specialized public body, with two main jurisdictions - to prevent and to protect from discrimination. Together with the Ombudsman of Serbia, whose main function is protection of citizens' human rights from the state officials/bodies violations, Commissioner provides improved method of human rights protection (Simović, Zekavica 2012).

Specific anti-discrimination law, which is of the utmost importance in the scheme of anti-discrimination legal acts, is the Law on the Protection of the Rights and Freedoms of National Minorities, adopted in 2002. Protection of minorities is generally important issue, recognized as such by general international law and incorporated in the majority of national systems. For Serbia, as a multinational country it is even of higher interest. The Law on the Prevention of Discrimination against Persons with Disabilities was adopted during 2006. The subject-matter of this law is prohibition of the discrimination of disabled persons, while their inclusion into society was regulated within the Law on the Professional Rehabilitation and Employment of Persons with Disabilities, adopted in 2009. Discrimination grounded on gender is stipulated in The Gender Equality Act from 2009 (Simović 2015; Šurlan 2014).

Besides presented laws, there is a whole reservoir of laws with specific subject-matter that refers to the issue of discrimination in several articles. Labor Law, for example, prohibits discrimination in employ-

ment; the Law on the Fundamentals of the Education System reacts to discrimination by introducing the inclusive education. In the field of education there are also the Law on Preschool Education and the Law on Youth. Freedom of religion and anti-discriminatory norms are incorporated in the Law on Churches and Religious Organizations. Criminal law protection against discrimination, as specifically important, is regulated by the Serbian Criminal Code. Several criminal offences refer to the prohibition of the discrimination: violation of equality – Art.128, violation of the right to use language and script – Art. 129, prohibition of racial and other discrimination – Art. 387 (Todorović, Stjelja, Grujić 2013).

This brief introduction into the network of anti-discrimination legal acts, strategies and bodies that were formed and adopted in Serbia since the beginning of this century, shows state's coordinated action in the field of discrimination. It would not be exaggerating if we state at this point that normative framework, as well as anti-discrimination bodies are formulated and organized according to the highest human rights standards (Simović, Zekavica 2012). First decade of the 21 century was marked with ratification of international legal acts and adoption of national laws. Second decade started with adoption of strategies there were about to implement laws. Hand in hand with this difficult task, comes the issue of the perception and knowledge of citizens on the matter of discrimination. Sole existences of laws and strategies have no meaning if they are not truly incorporated within the population.

Perceptions of discrimination in Serbia – an analysis of the results of empirical research

Empirical research investigating attitudes towards discrimination provides a clear insight into the perception of this social problem (Jones 2015; Kääriäinen 2012). In this part of the paper, we would like to present and analyze the key findings of researches on attitudes of citizens and representatives of public administration of the Republic of Serbia (RS) towards discrimination that have been conducted in Serbia so far.

In Serbia, several surveys of this type have been conducted to date. At the request of the Commissioner for the Protection of Equality, and with the support and assistance of the UN Development Programme, CeSID has implemented such public opinion surveys in four iterations so far – in 2009, 2010, 2012 and 2013.⁷ For the purposes of Office of

7) CeSID - The Center for Free Elections and Democracy is a non-governmental,

the Commissioner for the Protection of Equality, and within the project 'Support to the Commissioner for the Protection of Equality for the Efficient Implementation of Anti-discrimination Legislation in the Republic of Serbia', in 2013, Ipsos Strategic Marketing carried out a similar public attitude survey among the representatives of all three branches of power (legislative, executive and judicial), at all three levels (national, provincial, local) (IPSOS 2013.)⁸ And finally, within the internal scientific research projects of the Academy of Criminalistic and Police Studies in Belgrade, we have conducted, in two research cycles thus far, similar surveys of attitudes towards discrimination among members of the Serbian police.⁹ This survey was necessary in order to complete the picture of public administration's perception of discrimination, because the IPSOS survey of public administration representatives did not involve police members (Zekavica, Kesić 2016).

Bearing in mind the original concept of this paper and realistic limitations related to its scope, we will focus on key findings concerning the level of legal awareness of citizens and public administration in Serbia with respect to: recognition of the essence of discrimination and its presence in the Serbian society, degree of vulnerability of social groups in Serbia, social and ethnic distances of citizens and the police, perceptions of influence and responsibility of public and social institutions in the occurrence of discrimination, and the existence and acceptance of prejudice among citizens and public administration representatives and the police in Serbia. A comparative analysis of the results of all three surveys is possible insofar as the survey instruments used therein were identical in content. The citizen attitude survey and police attitude survey used identical questionnaires, while the IPSOS survey of attitudes of other representatives of public administration used similar rather than

non-political and non-profit organisation. The Center was established with a primary goal to organise impartial monitoring of the elections in Serbia, including media, voting process and parallel counting of votes.

- 8) Ipsos Strategic Marketing is part of Ipsos Group, a regional leader in public opinion and market research. As part of Ipsos Group, the services of Ipsos Strategic Marketing in the sector of public opinion research are part of Ipsos Social Research Institute. The research includes attitudes, behaviour and experience of citizens and narrower target groups with respect to the most diverse spheres of life.
- 9) The first research cycle was carried out in the period between April and May 2014, and it investigated the attitudes of members of crime investigation police from five regional police directorates in the Republic of Serbia - Belgrade, Novi Sad, Subotica, Vranje and Novi Pazar. The second cycle was carried out in September-November 2015, and it investigated the attitudes of members of police of general jurisdiction (public order and peace) and traffic police from seven regional police directorates - Belgrade, Novi Sad, Subotica, Vranje, Novi Pazar, Kragujevac and Zajecar.

identical survey instrument, thus limiting the comparative analysis to the matching issues and topics. Table 1 provides basic details on the methodology used in all three surveys.

Table 1. Comparative samples methodology

Survey conducted by	CeSID	IPSOS	Academy of Criminological and Police Studies
<i>Sample</i>	<i>Citizens</i>	<i>Public administration</i>	<i>Police</i>
Fieldwork	21-28 November 2013	3.10.2013 - 30.10.2013	3.2.2014 – 25.2.2014 (cycle I) 10.9.2015 - 30.09.2015 (cycle II)
Sample type and size for the Republic of Serbia	Random representative sample of 1,200 citizens aged 15 and over, throughout the Republic of Serbia, excluding Kosovo and Metohija	The planned sample was a quota sample and it included 1,352 respondents from the Republic of Serbia, excluding Kosovo and Metohija	Random representative sample of 734 police officers from all three operational segments of the police – crime investigation, public order and peace, and traffic police in 7 regional police directorates on the territory of Serbia, excluding Kosovo and Metohija – Belgrade, Novi Sad, Subotica, Novi Pazar, Vranje, Kragujevac, Zajecar
Selection of statistical units	Random sampling without replacement – every second home address from the starting point, within the boundaries of the polling station	The sample was planned in such a way that it represented the basic composition of each given institution according to the following groups: judicial, executive and legislative authority	The sample was planned in such a way that it represented the basic composition of each given institution according to the principle of regional distribution of employees in police directorates
Selection of respondents within a statistical unit	Random sampling without replacement – respondents were selected by the method of 'next birthday' in relation to the survey date	The sample was planned according to the following variables: Government of the Republic of Serbia, Provincial Government, City Councils, Municipal Councils, Courts, Prosecutor's offices	Selection was made by heads of directorates – police officers in active employment
Survey technique	Face to face, within households (F2F, face to face)	Face to face, in the premises of public administration authorities (F2F, face to face)	PAPI - Paper and Pen Interview
Survey instrument	Questionnaire	Questionnaire	Questionnaire

Survey findings

Spontaneous understanding of discrimination and perception of its presence in Serbia –All three types of survey examined whether the respondents recognize the essence of discrimination. The respondents were asked to state what they think discrimination was. Their first associations to the term discrimination reflect some of its main features: endangering/denial of rights, inequality, belittling and endangering due to differences, etc. Table 2 shows the stated answers in the comparative analysis of the results of all three surveys.

Table 2. Recognition of the essence of discrimination (%).
Question: According to you, what is discrimination?



	Citizens	Public administration	Police
Endangering of rights	22	23	3
Belittling	13	12	7
Inequality	8	18	21
Rejection	6	4	0
Endangering due to differences	5	20	8
Other	4	15	10
Don't know/no attitude	24	2	49

As can be seen in table 2, there is significant divergence among all three groups of respondents in terms of the main feature of discrimination, as they cite a number of different features in different proportions. The highest coincidence of views is found between citizens and public administration on the endangering of rights and belittling as discrimination features, and between public administration and the police on inequality as discrimination feature. However, what stands out as a concern is the fact that every second police officer was unable to identify discrimination – 49%. This proportion is the average of the results obtained from the surveys of members of all three operational segments of the police – crime investigation police (47% - see Zekavica 2014:67), public order and peace police (49%) and traffic police (50%). These data clearly indicate that general familiarity of the Serbian police with the essence of discrimination is inadequate (Zekavica, Kesić 2016). This fact is particularly worrisome if we consider that failure to recognize discriminatory behaviour prevents the appropriate response to it, which is

unacceptable for the police in a democratic society and the rule of law (Zekavica, Kešetović 2015).

The examination of respondents' attitudes regarding the perceived level of presence of discrimination in the Serbian society revealed that the majority of citizens and public administration representatives (including the police) consider that discrimination is present in the Serbian society to a certain extent. Thus, only 3 % of the respondents (average of all three surveys) consider that there is no discrimination in the Serbian society. The highest proportion of those who think discrimination is present in Serbia is among public administration representatives – 98%, citizens – 94%, and police officers – 79%. However, the most noticeable proportion of those who have no attitude towards this issue is among the police – 16%, and hence the lower proportions regarding whether and to what extent discrimination is present. Also, the area perceived by all three groups of respondents as one where discrimination is most common is employment – as many as 61% of public administration representatives hold this view, followed by 35% of citizens and 17% of police officers. Beside employment, the respondents frequently cited healthcare services, education and schooling and social welfare services, but in considerably lower proportions (IPSOS 2013; CeSID 2013; Zekavica 2014).

Perception of vulnerability of social groups – All three surveys asked the respondents to name the social group they think is discriminated against the most in Serbia. The common belief shared by citizens and public administration representatives (including the police) is that Roma are the most vulnerable social group in Serbia. This opinion is held by 42% of citizen respondents, 51% of public administration respondents and 16% of police respondents. Differences occur in the perceptions of vulnerability of other social groups in Serbia; thus, as viewed by citizens, the second most vulnerable group are women – 42%, then persons with disabilities – 28%, the poor – 27%, and the elderly – 24%. Public administration representatives rank as the second most vulnerable group women – 35%, the poor – 31%, and sexual minority representatives – 27%. The police' list includes sexual minority representatives – 13%, followed by the poor – 8%, women – 7%, Serbs – 7%, persons with disabilities - 7%.

As can be seen, there is a significant difference between citizen and public administration respondents and police respondents in terms of proportions reporting on the above question, which is the result of exceptionally high proportion of police officers – 50 % who have no attitude towards the degree of vulnerability of social groups in Serbia. The

high proportion of police officers without an attitude towards this issue is a cause for concern, because the police maintain a daily contact with citizens, and hence the awareness of which citizen groups are socially threatened constitutes the information necessary and useful for the police in performing their tasks and adapting their role to the needs of vulnerable groups (Mršević 2014; Loftus 2009).

Analysis of the existence and level of socio-ethnic distances – Investigating the existence and level of social and ethnic distances is vital to establishing the index of discrimination, as the existence of distances, or reluctance to enter into social relationships of appropriate type with particular persons is just the other side of the coin of readiness to discriminate against those persons. The existence and level of this phenomenon were gauged within citizen and police attitude surveys. The IPSOS survey of attitudes of public administration representatives lacked this analysis, which thus makes the results comparable only for citizens and the police. The existence and level of social and ethnic distances were measured using a version of Bogardus scale which comprised eight different types of social relationships, of varying degrees of social interaction – from the type that entails the broadest interaction, like the one of fellow citizens, through more intimate forms of social relationships: to be neighbors, co-workers, someone to be a teacher to our children, to be friends, someone to be our boss at work, someone on the high elected position in the state, and to be spouses or our children's spouse. The questionnaire indicated 11 ethnic and social groups (ethnic – Roma, Bosniaks, Hungarians, Croats, Albanians, Serbs; social – LGBT, religious minorities, refugees, asylum seekers, and HIV-positive people). The respondents were asked to answer either affirmatively or negatively (binary responses) whether they *'would mind if a member of the stated groups...'* was in the above stated relationships with them. Thus we obtained a clear picture of the existence and level of social and ethnic distances, or the willingness-unwillingness to socially interact with members of the stated groups.

The obtained results indicate the following. The most prominent social and ethnic distances of citizens are shown towards members of sexual minorities (LGBT) – an average of 43% of the affirmative answers for all types of social relationships, then towards HIV-positive persons – 39% average, to Albanians – 35%, whilst the least social distances are found to be towards Serbs – 2%, refugees – 10% and Hungarians – 14%. When interpreting these results, one should consider the ethnicity of most of the respondents, or the fact that 87% of them were of Serbian nationality (CESID 2013).

When it comes to Serbian police officers, the most prominent social and ethnic distances are found to be towards members of sexual minorities – an average of 44% for all three operational segments of the police (crime investigation, public order and peace and traffic police), then towards HIV-positive persons – 38%, and Albanians – 36%. The least social and ethnic distances are found to be towards Serbs – 13%, refugees – 16%, and religious minorities – 18%. In regard to Roma, both groups of the respondents are found to feel relatively low distances, namely 23% - citizens and 27% - police officers.

General conclusion is that police officers show somewhat higher distance than citizens towards most of the groups for which they were surveyed. Interestingly, the most prominent difference in terms of greater average social and ethnic distance of the police, compared to citizens, was shown towards Serbs (-11)!

Perception of responsibilities and roles (influence) of institutions in the occurrence of discrimination – The perception of roles and responsibilities of particular governmental and non-governmental institutions in the occurrence of discrimination was explored in all three surveys. The analysis of attitudes towards institutions with respect to discrimination was focused on capturing the respondents' attitudes regarding two questions – *which institution is the most responsible one for discrimination* and *which of the indicated institutions could influence the reduction of discrimination*. The questionnaire included a list of institutions and offered a five-point scale for responses to each question (1 – not at all, 5 much, 0 – I don't know).

The institutions that citizens and public administration representatives (including the police) perceive as the most responsible ones for the occurrence of discrimination include: the Government, political parties, National Assembly, media and non-governmental organisations. Citizens and public administration representatives share similar perceptions regarding institutional responsibility for the occurrence of discrimination in the Serbian society. Certain differences do exist, but they are, in our opinion, almost minimal and insignificant. Thus, topping the citizens' list are the political parties, Government, National Assembly and judiciary (CeSid 2013:37). The public administration representatives' list includes National Assembly, Government, courts and family (IPSOS 2013:58), while the police place media on top, followed by political parties, non-governmental organizations, and also vulnerable groups themselves.

From the results obtained, one gains the impression that the key creators of discrimination, as perceived by citizens and public admin-

istration representatives, are precisely the subjects of political power. In other words, precisely those who should be the creators of such policies, programs and strategies by which discrimination should be reduced or completely eradicated.

In regard to the influence (role) of individual institutions on reducing the extent of discrimination, the findings indicate a trend more or less similar to that of the responsibility for the occurrence of discrimination in general. The most influential institutions, as perceived by citizens, are: the Government, National Assembly and media. Public administration representatives consider that these are family, media, school, Commissioner for the Protection of Equality and the Ombudsman, whilst the police reported media, political parties, the Republic Government, family and school.

An important fact is that police officers do not see the police as an institution more essentially responsible or influential in the occurrence of discrimination, which was revealed in both 2014 survey (Zekavica 2014:80) and the findings of the most recent police attitude survey from the end of 2015. The only institution that police officers perceive as less responsible and influential than the police is the army. This belief does not correspond to truth, because one should bear in mind the fact that police officers maintain a daily contact with citizens and that in doing so they may have the opportunity to enforce laws, and therefore to possibly discriminate against citizens.

The fact causing concern is that almost every second police officer – 48% is not aware of the existence of institution concerned with combating discrimination to which citizens can refer if exposed to discrimination. Only 11% of the police officers in total cited the Commissioner for the Protection of Equality as one such institution, which is another cause for concern, the more so as the police officers are usually the first to interact with victims and is, therefore, essential for them to be able to provide these persons with necessary and helpful information about whom to address for protection against discrimination. However, survey findings indicate exceptionally high proportions of those who would never approach anyone if being exposed to discrimination. Among citizens, 68% of the respondents felt this way (CeSID 2013), and among the police officers - 55% of the respondents. What is interesting is that the largest proportion of citizens cited precisely the police as the institution they would first approach in case of discrimination – 10 %, which further justifies the need for the police to be adequately informed of the existence of the Commissioner for the Protection of Equality and of other means of protection against discrimination.

Existence and acceptance of prejudice. – This part of the research deals with the analysis of attitudes towards statements containing the prevailing stereotypes and prejudice of the Serbian society. The degree of agreement or disagreement with these statements is a clear indicator of discriminatory tendencies and hence it was crucial to determine whether and to what extent citizens and public administration representatives agree with them. The questionnaire contained 14 such statements. The respondents answered them on a scale ranging from 1 – completely disagree... 3 – unsure... to 5 – completely agree. Since this question was identical only in the questionnaires surveying citizens and police officers, we will point to the results obtained from a comparative analysis of attitudes between citizens and police officers. To provide a more detailed view of the diversity of attitudes within the police as a whole, we present findings of the 2014 crime investigation police attitude survey and findings of the most recent survey of members of public order and peace police and traffic police from the end of 2015. Table 3 shows the obtained results, expressed in percentage terms and grouped into three categories: agreement (completely agree and agree), unsure and disagreement (completely disagree and disagree).

Table 3. Attitudes towards offered statements –comparative analysis citizens-police (%).

CIT – citizens, CIP – crime investigation police,
POP – public and order police, TP – traffic police

	Disagreement			Unsure			Agreement		
	2013	2014	2015	2013	2014	2015	2013	2014	2015
	CIT	CIP	POP TP	CIT	CIP	POP TP	CIT	CIP	POP TP
It is easy to support the Roma when they are not your neighbors	46	41	42	20	17	20	34	34	25
I have nothing against the Roma, but they, still, like to steal	38	34	38	23	21	23	39	41	30
Homosexuality is a disease that should be treated	30	27	24	21	16	22	49	54	45
I have nothing against homosexuals, but they should do that at home	12	15	19	14	10	15	74	72	57
Children with developmental difficulties should not be mixed with other children	62	57	53	25	22	24	13	17	15
There are few disabled people in our nation	57	47	44	33	39	38	10	11	9
Healthcare institutions should refuse to treat those suffering from HIV/AIDS	84	83	67	12	8	18	4	6	7
HIV/AIDS patients should blame themselves for their illness	42	52	51	30	21	27	28	25	19

	Disagreement			Unsure			Agreement		
	2013	2014	2015	2013	2014	2015	2013	2014	2015
	CIT	CIP	POP TP	CIT	CIP	POP TP	CIT	CIP	POP TP
One should be cautious of other nations even when they appear friendly	31	36	35	23	20	19	46	41	38
Serbia should be the state of Serbian people only, as this is the majority people	59	59	50	18	16	19	23	21	22
A normal person recognizes only traditional religions (Orthodox, Catholic, Islam)	39	51	41	24	21	23	38	25	28
Small religious communities 'steal' people's souls	33	52	43	32	28	30	35	17	18
There is some truth to books that explain the existence of Jewish conspiracies	30	42	35	54	40	43	16	14	13
The Jews tend to profit even from their own misfortune	33	44	37	48	34	39	19	19	15

As can be seen in the table 3, although there are some differences in the attitudes between citizens and police officers, it can be generally stated that they are similar in tendencies to discriminate against particular social groups. Members of public order and peace police demonstrate the lowest agreement with most of the statements, which is a point of difference from citizens and crime investigation police. It is evident that LGBT population is most prone to discrimination. Specifically, while regarding most of the statements one can notice higher proportions of those disagreeing with them than those agreeing; the only statements for which the same is not true are those that concern members of sexual minorities. Thus, almost every second citizen and every second police officer (in total) considers that 'homosexuality is a disease that should be treated', while the vast majority of citizens and members of crime investigation police agree with the statement 'I have nothing against homosexuals, but they should do that at home'. This point suggests that citizens, just like most of the police officers, see nothing wrong in that statement, that is do not see that such an attitude affirms social invisibility of members of sexual minorities.

Discrimination in practice – institutional response

In this part of the paper, we would like to point to indicators of the actual level of discrimination in the Serbian society and to the main forms in which it manifests itself. One of the key problems faced in

measuring the exact level and type of discrimination arises from the fact that Serbia lacks a uniform, centralized and standardized system for collecting, recording and analyzing data on discrimination that would provide information on how widespread it is, as well as on the impact of applying laws in this area. Consequently, indicators of the actual level of discrimination in Serbia can be observed by looking into the work of those Serbian institutions that deal with the suppression of discrimination and promotion of equality, such as the Commissioner for the Protection of Equality, and also by analyzing case law and the jurisprudence of the Constitutional Court of RS.

Let us proceed from the practice of the Commissioner for the Protection of Equality. From the Commissioner's Regular Annual Reports it is possible to extract basic statistical data concerning the number of discrimination complaints, and also other measures taken by this authority within its legal powers (Table 4).

Table 4. Practice of the Equality Protection Commissioner - volume of cases over a six-year period.

Cases	2012.	2013.	2014.	2015.	2016	2017
Complaints	465	716	665	797	626	532
Recommended measures	117	24	198	215	665	501
Lawsuits	5	3	2		4	7
Opinions on draft acts	3	6	2	17	40	41
Proposals to the Constitutional Court	1	2	3	1	1	1
Legislative initiatives	1				1	2
Warnings	2	10	6	9	9	13
Public Announcements*	17	15	20	35	25	20
Total number of cases*	600	763	878	1040	1346	1098

As can be seen, the number of discrimination complaints filed with the Commissioner by individuals and organizations shows a decline trend (except during 2012-2013 and 2014-2015). In the total number of complaints in 2017 the majority of the complaints refer to disability (18%), age (11, 8%) gender-based discrimination – 11%, followed by those referring to nationality (9, 8%), etc. Of the total number of

complaints of nationality-based discrimination, half (50%) of the complaints cited belonging to Roma nationality as discrimination ground. As for areas in which discrimination is most common, the majority of the complaints, just like in previous years, claimed discrimination in the process on employment or at the workplace – 31, 2 %. This is also the area where women are more frequent complainants than men, in contrast to other areas of social life where men appear as complainants more frequently. Similarly to previous years, the largest number of the complaints was filed against public authorities – as many as 43 % (Commissioner's Report 2017).

Taking into account the statistical indicators from previous reports of the Commissioner for the Protection of Equality concerning the cases acted upon by this authority, it can be stated that, in Serbia, those who are most exposed to discrimination include women, persons with disabilities and members of Roma national minority. Women and members of Roma population face most discrimination in the area of employment and education. These data confirm that the perception of discrimination, and especially of vulnerability of particular social groups, and the perception of areas where discrimination is most common largely correspond to the Commissioner's experience from practice.

Considering that powers vested in the Commissioner for the Protection of Equality by law do not include meritorious decisions on the responsibility for discrimination, the true picture of the institutional response to discrimination in Serbia can be obtained by examining case law, and particularly the decisions of the Constitutional Court of Serbia.

In regard to judicial protection mechanisms, one can observe that judicial proceedings for protection against discrimination are rare. Specifically, in the first three years of application of the Act on the Prohibition of Discrimination, only 184 proceedings were conducted (Euractiv 2013). In this period, discrimination was established in only 10 cases throughout Serbia (Todorović, Stjelja, Grujić 2013). The analysis of the previous case law suggests that, in a considerable number of lawsuits, discrimination was confused with harassment at work, for which reason these claims got dropped. This is another in a series of confirmations that the major problem of Serbian society is in failing to recognize discrimination and its main features.

For a positive example, we can look at the verdict of the Basic Court in Novi Sad, of 12 September 2011, which established discriminatory conduct of a public authority. This was the first positively decided case of discrimination against citizens of Roma nationality. Specifically, the General Affairs Department of the City of Novi Sad rejected the requests

for late registration of birth of three citizens of Roma nationality, by invoking 'the current situation in Novi Sad, with the increasing inflow of Roma persons who claim for themselves and their children to be borne in Novi Sad', and expressing, at the same time, a fear that 'rash, frivolous and incautious' acting on their requests would induce 'a massive influx of similar requests from persons of Roma nationality'. The Court found discriminatory treatment of members of Roma minority and ordered the defendant to have the verdict published in daily newspapers.

Particularly indicative of the state's strategic action towards the problem of discrimination is the jurisprudence of the Constitutional Court of Serbia. Although this authority should be independent and autonomous from the political government, the Constitutional Court of Serbia is a highly politicized authority both in regard to judge election process and the rules of procedure (Simović 2013). In this respect, the Constitutional Court has so far unmistakably stood on the position of current politics. Therefore, the Constitutional Court's jurisprudence authentically illustrates the state's institutional response to discrimination. The most instructive example is certainly the case of banned association 'Nacionalni stroj'.

The Republic Public Prosecutor submitted to the Constitutional Court the proposal to ban the unregistered organization 'Nacionalni stroj', with an explanation that the activity of that association was aimed at violation of constitutionally guaranteed human rights and against the prohibition of discrimination. The constitutive acts of this Association were not available to the public. The activists of the Association were convicted for the criminal offence of inciting racial, national and religious hatred and intolerance (Verdict of the Supreme Court of Serbia, KZ 1.617/07 of 6 June 2008), which indicated that 'Nacionalni stroj' was founded not only to pursue forbidden goals, but also to act in that direction.

However, this case is significant in many respects. The first dilemma was that of the Constitutional Court's competence to decide to ban a secret association, given the Constitution's explicit prohibition of the existence of such civic associations (Article 55, paragraph 3 of the Serbian Constitution). Besides, if the Constitutional Court in any event admitted to considering such a case, one question would remain open: what would be the effect of the Constitutional Court's decision establishing that a civic association is secret? The Act on the Constitutional Court provided that only the decision banning a registered association could produce legal effects, with the ban involving merely the removal from appropriate registers. The question arose of the basis on which the Constitutional

Court could order the enforcement of a decision establishing that an association is secret. Nevertheless, in 2011, the Constitutional Court found that ‘Nacionalni stroj’ was a secret association and, therefore, that its activity was prohibited pursuant to Article 55 (3) of the Constitution. The Constitutional Court banned the registration of this organization into any register, as well as any further action and promotion of goals and ideas of ‘Nacionalni stroj’ (Constitutional Court Decision 2008).

This decision of the Constitutional Court was the herald of new practice, because, before adopting it, the Constitutional Court had declared itself incompetent to rule on banning non-formal associations. Immediately before that, in 2011, the Court rejected the proposal of the Public Prosecutor to ban 14 fan groups, reasoning its decision on the fact that entry into the appropriate register was a legal assumption for establishing the competence of the Constitutional Court to rule on banning associations. This decision encouraged the amendments to the Constitutional Court Act, after which incident it was explicitly prescribed that, on a receipt of a proposal to ban a secret or paramilitary association, the Constitutional Court would, by way of decision, establish that the activity of such an association was prohibited. Also, it was provided that the Constitutional Court could order such measures as necessary for the prevention of the activities of secret or paramilitary associations.

In 2009, the Public Prosecutor submitted to the Constitutional Court a proposal to ban the civic association “Otačastveni pokret obraz”, claiming that the activity of that association was aimed at violent overthrow of constitutional order, violation of human and minority rights and incitement of racial, national and religious hatred and intolerance. Other reasons cited for ban included the statute of this association, as well as actions that were reflected in open threats to and attacks on LGBT population. However, their activity was aimed at discrimination not only on the basis of sexual orientation, but also mainly at violation of the prohibition of nationality-based and religion-based discrimination.

In 2012, the Constitutional Court rendered a ban on the association “Otačastveni pokret obraz” because of activities aimed at violation of guaranteed human and minority rights and incitement of national and religious hatred (Constitutional Court Decision 2009). The Court ordered the relevant registration authority to strike off the Association from the register, reasoning its decision on the existence of a pressing social need to restrict the freedom of association, because the said Association advocated, in its views and actions, for a model of society founded on discrimination against particular social groups, in the form of hate speech, harassment and humiliating treatment.

Apart from the sphere of banning associations, normative control of rights was another field in which the Constitutional Court was consistent in protecting the constitutional principle of the prohibition of discrimination. An illustrative example is the Act on the Means of Determining the Maximum Number of Public Sector Employees (2015), which placed women in an unequal position. Specifically, the Court established that the provisions of Article 20 of the contested Act regulated the institution of termination of employment by force of law, as one means of downsizing public sector workforce, that reason for termination in that case was meeting of eligibility requirements for old-age pension and that on that ground employment can terminate only to women, not men employed in the public sector. It was for that reason that, in October 2015, the Constitutional Court suspended the enforcement of individual acts or actions taken under Article 20 of the Act on the Means of Determining the Maximum Number of Public Sector Employees (Constitutional Court Decision 2015).

However, when it comes to acting on constitutional complaints, the situation is diametrically opposite. Since its very introduction into the Serbian constitutional system in 2006, the first case in which the Constitutional Court adopted the constitutional complaint and establishing the violation of the prohibition of discrimination took place in 2016 (Constitutional Court Decision 2014) Taken alone, this fact does not have to be assessed as negative, because it may be that in the previous period not even one constitutional complaint seeking protection against discrimination has been justified. More realistic seems to be the inference that this state of affairs is the consequence of wrong and incomplete perception of Serbian citizens on what discrimination is.

Conclusion

Serbia's effort so far in the field of eliminating discrimination clearly shows its consistent commitment to solving this social problem. The adopted constitutional and legislative solutions offer an adequate anti-discrimination normative framework, aligned with international standards. By introducing the Commissioner for the Protection of Equality, as an independent public authority elected by the National Assembly, Serbia joined the group of many European countries already having specialized bodies in place for combating discrimination. Other, no less important, efforts are reflected in the conducted quantitative surveys of public attitudes (citizens' and public administration represent-

atives') towards discrimination, which creates and offers a clear idea of how the phenomenon of discrimination is perceived in the consciousness of citizens and public administration representatives. It should be emphasized that Serbia is the only country in the region in which these surveys included police forces as well, which clearly indicates the good will of the Ministry of Internal Affairs of RS to make the attitudes of its members regarding this sensitive social topic transparent.

As we have seen from the paper, the findings of these surveys produce a complex picture of the perception of discrimination in the Serbian society, with many positive, but also negative indicators involved. General conclusion is that there is a need to further increase the level of legal awareness of the very essence of discrimination and of its recognition in practice. This level is inadequate and results in failure to respond to discrimination, in its tolerance and acceptance in everyday life, which, again, may be the result of people's tendency to give up their own protection, and also of the lack of knowledge, or failure to recognize the essence of discrimination. Such a setting narrows down the possibilities for institutional response to discrimination, not only within the national protection framework, but also before the European Court for Human Rights. The relatively small number of verdicts in Serbia pertaining to discrimination cases, and the fact that Serbia is the country in the region with the smallest number of cases before the European Court for Human Rights in relation to Article 14 of the European Convention, do not necessarily imply the non-existence of discrimination in the Serbian society, but can suggest exactly the inadequately developed individual ability to recognize it and lack of readiness to respond to it. This is more the reason that the priority task of the Serbian society should be to continue to work towards raising legal awareness among citizens, and in particular public administration representatives, especially the police as its most visible representative in whose hands rests, among other powers, the possibility to use force against citizens.

When it comes to discriminatory tendencies, the obtained findings confirmed that these are most prominent towards those ethnic and social groups to which Serbian society generally feels a degree of animosity. This outcome was to be expected, as discriminatory tendencies usually result from the existing social divisions that have evolved intensely in the Serbian society in the field of ethnic and religious conflicts over the last two decades. Having said that, it is clear why Albanians and Croats constitute ethnic groups to which the respondents show the greatest ethnic distance. With respect to social groups, the same pertains, as seen above, to members of LGBT population, which is mainly because

of the fact that Serbian society is a typical traditional society where, due to dominant heterosexual tradition and influence of the religion, a full assimilation of persons of homosexual orientation was made difficult. These and other data from the conducted surveys provide clear indicators of the primary goals of future combat in the field of eliminating discrimination and bringing Serbian society closer to the essential values of a democratic society.

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