



**REPUBLIC OF SERBIA**

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Belgrade



**Protector of Citizens  
Ombudsman**

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**INPUTS FROM THE PROTECTOR OF CITIZENS FOR THE WORKING GROUP ON  
BUSINESS AND HUMAN RIGHTS ON THE ROLE OF NATIONAL HUMAN RIGHTS  
INSTITUTIONS IN FACILITATING ACCESS TO EFFECTIVE REMEDY FOR BUSINESS-  
RELATED HUMAN RIGHTS ABUSES**

**I. The role and mandate of NHRIs in facilitating access to effective remedy for business-related human rights abuses**

**1. Does your NHRI have an explicit or implicit mandate to handle complaints concerning alleged business-related human rights abuses? If yes, what methods (e.g. mediation or conciliation) can be used to facilitate access to remedy for human rights abuses?**

The Protector of Citizens of the Republic of Serbia acts within the confines of Law on the Protector of Citizens<sup>1</sup>. The Law prescribes that the Ombudsman controls the holders of public authority (Article 1, Paragraph 1 of the Law). Private companies, as well as those socially owned that do not have delegated public authority, do not fall within the competence of the Protector of Citizens, and the Protector of Citizens cannot act on complaints related to the work or the conduct of these legal entities. In addition, the Law stipulates that before submitting a complaint, the applicant is obliged to try to protect his or her rights in the appropriate legal proceedings (Article 25, paragraph 3 of the Law). In accordance with the abovementioned, the Protector of Citizens acts on complaints to the Labor Inspectorate (within the Ministry of Labor, Employment, Veteran and Social Affairs), which is competent to deal with complaints of workers for violations of labor rights (Labor Law<sup>2</sup> and Law on inspection supervision<sup>3</sup>).

**2. What types of remedies can your NHRI offer to individuals or communities affected by business-related human rights abuses? Do you consider those remedies to be effective?**

The Protector of Citizens directs the complainants who seek help from the Protector of Citizens for violation of their employment rights to contact the Labor Inspectorate. It is also demonstrated to them that there is a possibility of starting a labor dispute before a competent court (Law on Civil Procedure<sup>4</sup> in Articles 436 - 441 and 442 - 447).

**4. Does your NHRI give any special attention to facilitate access to your complaint mechanisms by vulnerable or marginalised groups? If yes, what measures have been taken in this regard?**

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<sup>1</sup> "Official Gazette of RS", no. 79/2005 and 54/07

<sup>2</sup> "Official Gazette of RS", no. 24/05, 61/05, 54/09, 32/13, 75/14, 13/17 - decision of the CC, 113/17 and 95/18 - authentic interpretation.

<sup>3</sup> "Official Gazette of RS", no. 36/15, 44/18 - as amended and 95/18.

<sup>4</sup> „Official Gazette of RS”, no. 72/11, 49/13 - decision of the CC, 74/2013 - decision of the CC, 55/14 and 87/18

Since its founding, the Protector of Citizens has been continuously working to bring the institution closer to vulnerable and marginalized groups through various activities, including the visits to informal settlements, the holding of the Ombudsman Day in local self-governments units where citizens are less likely to be informed about the competences of the Protector of Citizens and the possibility to address this body in order to protect their human and minority rights. The Protector of Citizens, independently and with members of the National Preventive Mechanism of Republic of Serbia (NPM), visits nursing homes for the elderly, institutions for accommodating persons with disabilities, as well as institutions where persons deprived of their liberty are accommodated. On this occasion, users of these institutions and persons deprived of their liberty are presented with options on how they can contact the Protector of Citizens and which issues can be addressed.

**5. What gender-sensitive and gender-responsive measures your NHRI take in dealing with cases of alleged business-related human rights abuses?**

The Protector of Citizens submitted its Opinion to the Ministry of Health, the Ministry of Finance and the Ministry of Labor, Employment, Veterans and Social Affairs<sup>5</sup> to improve the position of women entrepreneurs in the field of health by amending and supplementing laws and law-based regulations to ensure that entrepreneurs in the field of healthcare can transfer rights to conduct private practice on another person, during their absence from work due to pregnancy, childbirth, childcare, special childcare and other justified reasons.

**6. What other measures does your NHRI undertake to facilitate access to remedy indirectly for business-related human rights abuses (e.g. raising awareness about rights and remedial mechanisms, providing legal assistance, building capacity of communities or businesses, assessing effectiveness of other grievance mechanisms, and recommending reform of the national legal system to strengthen access to remedy)?**

The Protector of Citizens, first of all, indicates to the complainants who point out violations of the rights from the labor relation what the authority of the Labor Inspectorate is and what other possibilities exist for addressing it in order to protect the rights in the field of labor and labor relations. The Protector of Citizens acts on the complaints of persons who contacted the Labor Inspectorate and were not satisfied with its treatment of the problem and who consider that the Inspectorate acted contrary to the regulations in force. In its annual reports, the Protector of Citizens sheds light on problems related to exercising the right to work and employment rights, since it offers not only statistical data on the number of complaints in the field of the right to work, but also on the nature of the problems that the citizens point to. Prior to the adoption of the Labor Law from 2014, the Protector of Citizens was submitting to the National Assembly proposals for the Amendments to the Labor Law<sup>6</sup>. The Protector of Citizens submitted its Opinion on the Draft Law on Strike<sup>7</sup>. The Protector of Citizens submitted its Opinion on the Draft Law on Salaries of Civil Servants and Employees<sup>8</sup>.

**7. How does your NHRI collaborate with other judicial or non-judicial remedial mechanisms (e.g. courts, labour tribunals, National Contact Points, and operational level grievance mechanisms) in dealing with complaints concerning business-related human rights abuses?**

<sup>5</sup> Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5975-iz-n-z-n-d-s-un-pr-di-p-l-z-pr-duz-nic-u-bl-s-i-zdr-vs-v>.

<sup>6</sup> Available at: <https://www.ombudsman.rs/index.php/zakonske-i-druge-inicijative/2826-2013-05-14-08-12-28>.

<sup>7</sup> Available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/5802-ishlj-nj-z-sh-i-ni-gr-d-n-n-cr-z-n-sh-r-u>.

<sup>8</sup> Available

at:

<https://www.ombudsman.rs/attachments/article/5864/misljenje%20na%20nact%20zakona%20o%20platama.pdf>.

The Protector of Citizens is not authorized to control the work of the Constitutional Court, courts and public prosecutor's offices (Article 17, paragraph 3 of the Law on the Protector of Citizens). Pursuant to the above, the Protector of Citizens is not authorized to cooperate with the courts when it comes to dealing with labor disputes. Regarding non-judicial mechanisms for resolving labor disputes, we point to the existence of the Republic Agency for the Peaceful Settlement of Labor Disputes, whose establishment, organization and method of work, as well as the selection of arbitrators, is regulated by the Law on Peaceful Settlement of Labor Disputes<sup>9</sup>.

The Protector of Citizens has been cooperating with the Chamber of Commerce and Industry of Serbia for a long time and, within this cooperation, efforts have been made to find the best solutions for regulations of great importance for the economy, respecting the interests of employees and protecting their rights in the field of labor relations. The cooperation takes place in the form of joint work on the preparation of draft laws and other regulations from the mentioned field, exchange of information on problems observed in practice, cooperation on the education on the most important topics regarding the support offered to companies and entrepreneurs, joint research on the attitudes of entrepreneurs regarding the performance of registered activities and the like. Employees in the Protector of Citizens held trainings for the employees of the Chamber of Commerce and Industry on the subject of protection of human rights in the field of labor and labor relations.

**10. Where a National Action Plan on Business and Human Rights exists (or is under development), does it provide for a role for NHRIs in relation to access to remedy in case of business-related human rights abuses?**

There is a Health and Safety at Work Strategy for the period 2018 – 2021 with the Action Plan. It does not provide for the role of the Protector of Citizens.

**II. Challenges and limitations faced by NHRIs in facilitating access to effective remedy for business-related human rights abuses**

**1. What are the most critical challenges and limitations (e.g., legal, practical, or financial) that your NHRI has experienced in facilitating access to effective remedy in business-related human rights abuses? How could these challenges or limitations be overcome?**

Regarding the facilitation of access to effective remedies in the protection of human rights in the field of labor and labor relations, the challenges facing the Protector of Citizens are, above all, related to legal constraints on jurisdiction.

Also, it is necessary to further improve the capacity of the institution in terms of providing more adequate funds for work, additional training for employees, etc.

**III. Good practices, innovations and recommendations to strengthen the role of NHRIs in facilitating access to effective remedy for business-related human rights abuses**

**5. How could NHRIs collaborate with regional and international human rights monitoring mechanisms (including the Universal Periodic Review) to facilitate access to remedy for business-related human rights abuses?**

When it comes to the cycles of the Universal Periodic Review, ministries, other relevant bodies, as well as the Assembly Committee for Human and Minority Rights and Gender Equality are involved in the preparation of the report for the Republic of Serbia, and the process of drafting is coordinated by the Office for Human and Minority Rights. In addition, the Protector of Citizens, in

<sup>9</sup> „Official Gazette of RS”, no. 125/04, 104/09 and 50/18.

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the capacity of the NHRI accredited with “A” status, actively participates in the Universal Periodic Review by submitting an independent report.