



## European network of legal experts in gender equality and non-discrimination

### NEWS REPORT

**Country:** Croatia  
**Title:** National Equality Body's Report for 2014  
**Date:** 8 May 2015  
**Expert:** Lovorka Kušan  
**Context**  
**Issue at stake:** National Equality Body published its report for 2014  
**Ground of discrimination:** All grounds  
**Source:** National equality body  
**Field:** All fields

### Content

**Case/law/policy development:** In April 2014, the People's Ombudswoman, acting also as the national equality body, published her report for the year 2014. As of 2013, the Ombudswoman does not issue a separate report on discrimination; it is now part of her general report. The report also includes data on discrimination provided by specialized ombudswomen (Ombudswoman for Persons with Disability, Gender Equality Ombudswoman and Ombudswoman for Children).

In 2014, the Ombudswoman received 263 discrimination complaints:

Grounds of discrimination complained of:	Number of complaints	%
Race/ethnicity/colour/national origin	49	18.6
Age	25	9.5
Religion	14	5.3
Disability	7	2.7
Sexual orientation	1	0.4
Multiple discrimination	49	18.6
Other/unprotected ground	118	44.9
Total	263	100

Most complaints were about discrimination in employment (130 complaints or 49.4 %), followed by complaints about discrimination in access to goods and services (21 complaints) housing (9 complaints) and education (8 complaints). In most cases, discrimination complained of was the result of the acts of state administration, local and regional authorities as well as by legal entities with public authorities.

In 2014 the Ombudswoman decided on 139 complaints: 29 were inadmissible (either because complainant never sent a completed complaint or because the case was pending before a court); 30 complaints were forwarded to specialised ombudspersons; 45 complaints were unfounded and in 35 cases the Ombudswoman found discrimination. Out of these 35 cases she issued an opinion in 12 cases, a recommendation in 22 cases and a

public announcement in 1 case (the report does not provide any more details).<sup>1</sup>

The Ombudswoman for Persons with Disability received 26 complaints on discrimination in 2014; the Gender Equality Ombudswoman, responsible also for complaints on sexual orientation, received 18 complaints on discrimination based on sexual orientation and the Ombudswoman for Children received 14 complaints on discrimination against children (in two cases discrimination was based on ethnicity/race and in 12 cases on religion).

The Ombudswoman noticed that only a small number of cases of discrimination are reported. According to the report, that situation is the result of several factors: discrimination is still very often not recognized as illegal even by the victims; victims are still not aware of existing mechanisms of protection against discrimination or they are afraid to report discrimination. An additional problem is lack of trust in institutions as well as fear of length, costs and uncertain outcome of the courts' proceedings. From the report's analysis of the courts' case-law, one could conclude that those fears are not unfounded.

First of all, the access to decisions of the municipal and county courts is still restricted even to the Ombudsman, in spite of the Supreme Court's order to the lower courts to forward all decisions in anti-discrimination cases to the Ombudsman.

In 2014, 148 civil cases of discrimination were pending before the courts and in only 22 cases (15%) a final decision was adopted, none of them in favour of a claimant. Case-law is still scarce and incoherent; the rule on burden of proof is often not implemented and judges still need training in the anti-discrimination law. Judges are still reluctant to find discrimination when there are no indications of the discriminator's intent to discriminate. The length of the proceedings is still significant.

Not a single case pending in 2014 was about indirect discrimination nor an association action (national law allows associations, organisations and trade unions to act in the public interest on their own behalf, without a specific victim to support or represent) has been used as a remedy against discrimination.

In 2014, most anti-discrimination cases (207 cases) were pending before misdemeanor courts (courts dealing with minor offences). The Ombudswoman noticed that sanctions in misdemeanor cases do not have a preventive effect. Misdemeanor judges, as a rule, mitigate sentences set up by law so the usual sentence is between 40 and 400 EUR (e.g. the sanction prescribed by the law for harassment is between 684.93 EUR and 41 095.89 EUR). The severity of the offence, circumstances and consequences are often ignored. Sanctions are mitigated even when the act of discrimination is done publicly (e.g. through a social network or at a public meeting), when there are more victims and when the victim is especially vulnerable.

#### **Key points of analysis:**

- Most discrimination cases in Croatia still go unreported.
- Almost half of all complaints were about discrimination in employment.
- In 2014, 148 civil cases were pending and not a single decision was adopted in favour of a claimant.
- Case-law is still scarce and incoherent; rule on burden of proof is often not implemented and courts are reluctant to find discrimination when there are no indications of discriminator's intent to discriminate.

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<sup>1</sup> When the Ombudswoman concludes the investigation of a complaint in which she established a violation of the right to non-discrimination, she drafts a case report to be delivered to the body to which the complaint refers and to the complainant. The case report shall contain a description of the facts and circumstances of the investigated case, an assessment of whether (and, inter alia, the manner in which) the complainant's constitutional or statutory rights have been violated. Where possible, she will recommend or propose to the body the way the threat or the violation of the right in question may be averted. In the case of a more serious violation of or threat to the citizens' rights, the Ombudswoman may notify the Croatian Parliament and the public of the failure of undertaking measures in accordance with her recommendation or proposal.

**Internet link source:**

<http://www.ombudsman.hr/attachments/article/517/lzvje%C5%A1%C4%87e%20pu%C4%8Dke%20pravobraniteljice%20za%202014.%20godinu.pdf>