



REPUBLIC OF SLOVENIA  
ADVOCATE OF THE PRINCIPLE OF EQUALITY

# 2021

**Annual Report**  
SYSTEMIC OVERVIEW





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**ADVOCATE OF THE PRINCIPLE OF EQUALITY**

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SYSTEMIC OVERVIEW

Ljubljana, April 2022



Miha Lobnik, Advocate of the Principle of Equality

# Foreword by the Head of the Institution, Advocate of the Principle of Equality

The Annual Report for 2021 consists of two parts. The Systemic Overview which represents Part One of the Annual Report presents a review of the functioning of the equality body in the past year, both at the level of individual cases and at the societal level. Statistical data on the work performed in the past year show a wide range of tasks carried out by the Advocate in the field of equality, equal opportunities and equal treatment.

The Case Review which represents Part Two of the Annual Report focuses in more detail on the outputs of the Advocate's work trying to answer the question of why someone was subject to less favourable treatment. The cause may be one or several of the individual's personal grounds that represent such characteristics that are not chosen by that individual himself, e.g., gender, age, disability, etc. Additionally, the addressed cases also reveal the social sphere in which discrimination has occurred.

Moreover, the report also presents cases in which people claimed they were discriminated against, yet the Advocate did not identify the essential conditions to confirm discrimination as defined by the Slovenian anti-discrimination law - the Protection Against Discrimination Act (PADA). These are important social issues, which cannot be addressed by the Advocate within the scope of its powers under the law. However, we present them in the Report because although they do not meet the legal definition of discrimination, they represent important social challenges that need to be addressed by the society.

In 2021, the Advocate's work was significantly affected by the spread of covid-19. Due to the hardship of the Slovenian people, the Advocate provided advisory assistance, received and addressed several complaints of discrimination and prepared a greater number of reports with recommendations for improving the situation in the field of protection against discrimination. The Report shows that in spite of the challenging situation, we managed to successfully address the hardships of individuals in cooperation with the state and civil society.

The Annual Report for 2021 comprehensively presents the Advocate's contribution to a society of equal opportunities. I would hereby like to thank all my colleagues for their professional and committed work. I would also like to thank all those who continue to support the functioning, activities and development of the Advocate of the Principle of Equality.

Miha Lobnik  
ADVOCATE OF THE PRINCIPLE OF EQUALITY

Ljubljana, April 2022

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# 1 FUNCTIONING OF THE EQUALITY BODY

# 1.1 Legal bases for the Advocate's functioning

Protection against discrimination is one of the fundamental human rights enshrined in Article 14 of the Constitution of the Republic of Slovenia<sup>1</sup> (the Constitution).

On 21 April 2016, the National Assembly of the Republic of Slovenia (National Assembly) adopted the Protection Against Discrimination Act<sup>2</sup> (PADA), which entered into force on 24 May 2016. The PADA provides an appropriate national legal basis for setting up a new independent state authority, namely the Advocate of the Principle of Equality (Advocate). Concurrently, the PADA eliminated the violation of European Union (EU) law due to non-compliance with the European directives on equality, resulting in proceedings formally instituted against the Republic of Slovenia (RS) (violation no. 2014/2093). Pursuant to the PADA, the key role of the Advocate as an independent state authority is to guarantee effective exercise of the fundamental human right of protection against discrimination.

In accordance with the *acquis*, the Advocate performs the tasks of the equality body, ensuring the implementation of Articles 15, 21, 23 and 39 of the Charter of Fundamental Rights of the European Union and the compliance with the following directives:

- Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;
- Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation;
- Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services;
- Directive 2006/54/EC of the European Parliament and of the Council on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast);
- Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers.

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## THE ADVOCATE HIGHLIGHTS

### Article 14 of the Constitution of the Republic of Slovenia (Equality before the Law)

In Slovenia everyone shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political, or other conviction, material standing, birth, education, social status, disability, or any other personal ground.

All are equal before the law.

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1 Official Gazette of the Republic of Slovenia, No. 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99 and 75/16 – UZ70a

2 Official Gazette of the Republic of Slovenia, No. 33/16 in 21/18 – Non-Governmental Organisations Act

## 1.2 The Advocate's functioning and operation in 2021

In the financial year 2021, the Advocate spent budgetary resources in the amount of EUR 1,298,124 for the implementation of its statutory tasks. Of this, EUR 905,863 was earmarked for personnel costs, EUR 371,289 for material costs and EUR 20,971 for investments and investment maintenance.

As of 31 December 2021, 19 civil servants were employed by the Advocate in addition to the Head of the Advocate.

Even in 2021, despite the spread of covid-19, the Advocate ensured the smooth functioning of the body and maintained a safe and efficient workflow process.





# 2 ACTIVITIES OF THE EQUALITY BODY

## 2.1 Key functions of the Advocate

The three key functions of equality bodies are set out in the European Commission Recommendations on Standards for Equality Bodies of June 2018 and the General Recommendations of the Council of Europe on equality bodies to combat racism and intolerance at a national level of February 2018. These are also followed by the Advocate.

### **Providing information, advisory activities and advocacy**

The Advocate provides independent assistance and support to people who feel they were discriminated against, performs advisory activities and participates in selected court proceedings. In addition, Article 38 of the PADA also grants the Advocate the power to file requests for the review of the constitutionality and legality before the Constitutional Court. More details are given in the following chapters:

- [3. The work of the Advocate dedicated to individual cases;](#)
- [4. Advisory, information and support activities;](#)
- [5. Advocacy – representation in judicial proceedings;](#)
- [7. Assessing discriminativeness of regulations.](#)

### **Receiving complaints and discrimination identification**

The Advocate investigates discrimination in individual cases establishing whether discrimination occurred in a particular case (the procedure takes form of an administrative procedure and ends with a declaratory decision). More details are given in chapters:

- [3. The work of the Advocate dedicated to individual cases;](#)
- [6. Discrimination investigation.](#)

### **Research, monitoring, making recommendations and awareness-raising initiatives**

The Advocate shall also carry out work of systemic nature involving the investigation and analysis of the situation of discrimination at the national level, on the basis of which independent reports, recommendations and proposals for specific measures shall be prepared. The systemic tasks also include: monitoring the general situation, awareness-raising, education and exchange of available information within the European Union and other international cooperation. More details are given in the chapters:

- from chapter 8 inclusive: [Data on cases of discrimination dealt with by other state authorities](#)
- to chapter 16 inclusive: [The Advocate's international cooperation.](#)

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## THE ADVOCATE HIGHLIGHTS

Article 21 of the PADA describes more precisely the tasks and powers of the Advocate, hence, for the sake of greater transparency of the work performed, for each legal obligation from Article 21, a brief explanation of the tasks performed in the previous year is given.

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## 2.2 Overview of the implementation of tasks and activities under Article 21 of the PADA

### I.

**Conducting independent research on the situation of persons with certain personal grounds, particularly gender, nationality, racial or ethnic origin, religion or belief, disability, age, sexual orientation and other issues regarding discrimination of people with certain personal grounds (first indent of Article 21 of PADA)**

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Question	How many and what independent surveys were conducted in 2021?
<b>Answer</b>	<b>In 2021, the Advocate conducted four surveys.</b>
Clarification	<p>In 2021, the Advocate conducted two own surveys and co-financed the implementation of two other surveys:</p> <ul style="list-style-type: none"><li>• Survey on the situation of the deaf in the educational system;</li><li>• Survey on the situation of transgender people in procedures of medical gender identity confirmation and legal gender recognition in Slovenia;</li><li>• Survey on structural discrimination as an obstacle to achieving the goal of a decent life for all;</li><li>• Survey on reducing and eliminating discrimination based on ethnicity, “race”, nationality and/or religion.</li></ul>
Implementation	This activity was carried out by Department A <sup>3</sup> in coordination with the Cabinet <sup>4</sup> .
Chapter	<a href="#">12. The Advocate's research activities</a>

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<sup>3</sup> Department A – Department for Systemic Monitoring, Awareness-raising and Prevention of Discrimination

<sup>4</sup> Cabinet – Cabinet of the Advocate

## II.

**Publishing independent reports and making recommendations to state authorities, local communities, holders of public authorisations, employers, business entities and other bodies regarding the established situation of people in certain personal grounds, i.e. relating to preventing or eliminating discrimination and adopting special and other measures to eliminate discrimination (second indent of Article 21 of the PADA)**

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Question	How many independent reports were published in 2021?
<b>Answer</b>	<b>In 2021, the Advocate prepared and published three independent reports.</b>
Clarification	<p>In 2021, the Advocate prepared and published the Annual Report for 2020 and two Special Reports.</p> <p>The Annual Report for 2020 was presented to the National Assembly, more precisely to the Commission on Petitions, Human Rights and Equal Opportunities on 29 November 2021 and to the Committee on Labour, Family, Social Affairs and Disability on 1 March 2022.</p> <p>The Advocate also presented the Annual Report for 2020 to the National Council, namely to the Commission for Social Welfare, Labour, Health and Disability on 10 June 2021 and at the plenary session of the National Council on 15 September 2021.</p> <p>In 2021, the Advocate also prepared and published two Special Reports:</p> <ul style="list-style-type: none"><li>• Special Report on the <b>situation of the Deaf in the Educational System</b> and</li><li>• Special Report on the <b>situation of Transgender People in Procedures of Medical gender identity confirmation and legal gender recognition in Slovenia.</b></li></ul>
Implementation	This activity was implemented by departments A and B <sup>5</sup> and the Cabinet in coordination with the Head.
Chapter	All reports are published on the website <a href="http://www.zagovornik.si">www.zagovornik.si</a> .

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<sup>5</sup> Department B – Department for Discrimination Investigation, Advisory and Advocacy



Question	How many recommendations were issued (and to whom) regarding the situation of persons with a particular personal ground (which one) in connection to the prevention or elimination of discrimination in 2021?
<b>Answer</b>	<b>In 2021, the Advocate issued 51 recommendations.</b>
Clarification	<p>The Advocate issued 51 recommendations, 33 of which were directed at laws and regulations (in force or proposals) and 18 recommendations were intended to promote equal treatment.</p> <p>Of the 51 recommendations, 27 were addressed to different Ministries, 11 to the National Assembly, five to the Government, one to the Government Office for National Minorities, one to the Government Office for Legislation, four to public agencies and institutions, one to the police administration and one to the media.</p> <p>In most cases, the recommendations pertained to the following personal grounds: disability (13), gender (8), gender identity and gender expression (8), age (7), social status (6), nationality or ethnic origin (5), citizenship (4), parenting (4), general protection against discrimination (4) and health status (3). Two recommendations were issued regarding each of the following personal grounds, i.e. property status, language and sexual orientation, and one recommendation was issued for each of the following personal grounds, education and place of residence.</p>
Implementation	This activity was carried out by departments A and B in coordination with the Head and the Cabinet.
Chapter	<a href="#">10. Recommendations by the Advocate</a>

### III.

#### Conducting tasks of supervisory inspection on the basis of complaints in Chapter 5 of this Act regarding the observance of the provisions of this or other acts determining the Advocate's competence (third indent of Article 21 of the PADA)

Question	How many complaints from Chapter 5 of the PADA were considered with the Advocate in 2021?
<b>Answer</b>	<b>In 2021, the Advocate considered 119 complaints.</b>
Clarification	<p>In 2021, the Advocate considered 119 complaints, 65 of which were closed.</p> <p>In 2021, the Advocate issued 38 substantial decisions and ten procedural decisions, eight of which were the decisions on the suspension of the proceeding and two were decisions rejecting the matter. In ten cases concluded by the Advocate with a substantial decision discrimination was found, in 13 cases no discrimination was found, and in 15 cases a rejection decision was adopted.</p> <p>In 2021, the Advocate assigned four cases to other inspectorates and authorities. In 2021, the Advocate also issued six proposals for the initiation of minor offence proceedings to the competent inspections and assigned nine complaints received to other state authorities.</p> <p>In 2021, the Administrative Court issued three judgements related to the Advocate's decisions. In two cases, the Advocate's decision was confirmed and in the third, the court ordered a reconsideration.</p> <p>On 31 December 2021, seven more procedures were pending before the Administrative court in which the parties contested the Advocate's decision within the context of an administrative procedure. The cases concern the following topics:</p> <ul style="list-style-type: none"><li>• discrimination of customers in connection with the treatment they receive from security guards in stores on the grounds of race;</li><li>• discrimination against a person living with HIV in access to dental care;</li><li>• discrimination against women in prisons;</li><li>• discrimination against a civil servant on grounds of parenthood in the annual performance review;</li><li>• discrimination on grounds of health and parenting in the consideration of company performance by taking into account attendance at the workplace – two cases;</li><li>• providing the television content in a form adapted to the sensory impaired.</li></ul>
Implementation	This activity was carried out by department B in coordination with the Head and the Cabinet.
Chapter	<a href="#">3. The work of the Advocate dedicated to individual cases</a> <a href="#">6. Discrimination investigation</a>

#### IV.

### Providing independent assistance to persons subject to discrimination when enforcing their rights regarding protection against discrimination in the form of advisory and legal assistance for parties in other administrative and judicial proceedings related to discrimination (fourth indent of Article 21 of PADA)

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Question	How many discriminated persons were provided independent assistance in administrative and other judicial proceedings in relation to discrimination in 2021?
<b>Answer</b>	<b>In 2021, the Advocate provided independent assistance to 415 people.</b>
Clarification	<p>The Advocate provided approximately 1,700 hours of counselling in 2021. Advisory and legal assistance was provided to 415 people.</p> <p>In 2021, the Advocate conducted a total of 638 individual consultations and legal assistance in different forms, of which 280 were conducted via telephone and 358 in writing.</p>
Implementation	This activity was carried out by department B in coordination with the Head and the Cabinet.
Chapter	<a href="#">3. The work of the Advocate dedicated to individual cases</a> <a href="#">4. Advisory, information and support activities</a>

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## V.

### Raising public awareness about discrimination and measures to prevent it (fifth indent of Article 21 of the PADA)

Question	Which awareness-raising activities were carried out and which measures to prevent discrimination were taken in 2021?
Answer	<b>In line with international recommendations, the Advocate has set communication objectives, priority target groups, key messages and different communication channels. Awareness-raising activities were held throughout the entire year.</b>
Clarification	<p>In 2021, the goals set by the Advocate related to the increased visibility of the equality body across the general public and state administration and the spread of information on protection against discrimination. The Advocate informs the public about all activities performed on the official website and through social media Facebook and Twitter and media appearances of the Head of the institution (13). Moreover, 30 press releases were prepared and 75 journalistic questions were received and answered. On the website <a href="http://www.zagovornik.si">www.zagovornik.si</a>, 55 updates about the Advocate's work were published as well as a website with basic information about the work and competence of the equality body in the Italian and Hungarian language.</p> <p>In 2021, the Advocate attended 16 events with the intention of direct educational activities, i.e. providing lectures. The Advocate also contributed to raising public awareness by participating in six anti-discrimination events organised by other stakeholders.</p> <p>The Advocate addressed five different substantive queries to 122 civil society organisations in order to obtain information on the situation of persons with a particular personal ground. With letters of support, two projects were supported and six meetings at the initiative of civil society representatives were carried out.</p> <p>In 2021, the Advocate issued six publications, namely the Annual Report for 2020 (750 copies printed, sent to 500 addressees), a Special Report on the Situation of the Deaf in the Educational System (350 copies printed, sent to 70 addressees) and a Special Report on the Situation of Transgender-People in Procedures of Medical gender identity confirmation and legal gender recognition in Slovenia (250 copies printed, sent to 93 addressees). Bilingual summaries of the Annual report were also prepared: Slovenian-Italian (250 copies printed, sent to 70 addressees) and Slovenian-Hungarian (250 copies printed, sent to 70 addressees). The report was also translated into English (350 copies printed, sent to 106 recipients).</p> <p>The Advocate distributed around 6,000 additional leaflets with basic information about the equality body and 2,000 leaflets on the rights of pregnant women and parents.</p>
Implementation	This activity was carried out by department A in coordination with the Head and the Cabinet.
Chapter	<a href="#">13. Education, awareness raising and communication</a>



## VI.

### Monitoring the overall situation in the Republic of Slovenia in the field of protection against discrimination and the situation of persons with certain personal grounds (sixth indent of Article 21 of the PADA)

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Question	How was the overall situation in the field of protection against discrimination and the situation of persons with certain personal grounds monitored in 2021?
<b>Answer</b>	<b>In 2021, the Advocate monitored the situation in the field of protection against discrimination through queries, which were directed at 233 different legal entities.</b>
Clarification	<p>In 2021, the Advocate requested 14 ministries and four constituent bodies to report on the special measures taken and implemented. He requested 25 inspection bodies, the Police, the Supreme State Prosecutor's Office and 66 courts in the Republic of Slovenia to provide information on discrimination cases considered in 2021. In addition, cooperation with 122 civil society organisations was maintained through written queries.</p> <p>In 2021, the Advocate conducted several coherent queries pertaining to:</p> <ul style="list-style-type: none"><li>• the situation of homeless people, especially during the covid-19 epidemic,</li><li>• the situation of transgenderpeople in procedures of medical gender identity confirmation and legal gender recognition,</li><li>• spatial accessibility of secondary schools for students with reduced mobility,</li><li>• recorded damage to churches and other religious buildings and other forms of intolerance and experience of members of churches and religious communities with discrimination based on religion,</li><li>• the challenges of the deaf in education.</li></ul>
Implementation	This activity was carried out by departments A and B in coordination with the Head and the Cabinet.
Chapter	<a href="#">8. Data on cases of discrimination dealt with by other state authorities</a> <a href="#">11. Measures to eliminate discrimination and promote equal treatment</a> <a href="#">12. The Advocate's research activities</a> <a href="#">14. The Advocate's cooperation with civil society</a>

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## VII.

### Proposing the adoption of special measures to improve the situation of people who are in a less favourable position due to a particular personal ground (seventh indent of Article 21 of the PADA)

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Question	What are the specific measures for the improvement of the situation of persons in a less favourable situation due to a particular personal ground (which) were proposed in 2021?
<b>Answer</b>	<b>In 2021, the Advocate did not propose the adoption of specific measures to eliminate discrimination. Nevertheless, 51 recommendations and requests directed at Ministries for data submission on adopted and implemented special measures were forwarded in 2021.</b>
Clarification	<p>In 2021, the Advocate did not propose the adoption of special measures aimed at the elimination of discrimination. Priority was given to the circumstances which groups of persons with a particular personal ground faced due to the covid-19 epidemic and as a result there was an increased number of recommendations concerning the intervention acts to mitigate the consequences of the epidemic.</p> <p>In 2021, the Advocate also conducted a review of the replies from the Ministries and government departments on the implemented special measures. The Advocate notes that knowledge and monitoring of the situation of persons with a particular personal ground, which requires system-wide and systematic collection and processing of equality data, is crucial for the implementation of special measures within the meaning of the PADA.</p>
Implementation	This activity was carried out by department A in coordination with the Head and the Cabinet.
Chapter	<a href="#">10. Recommendations by the Advocate</a> <a href="#">11. Measures to eliminate discrimination and promote equal treatment</a>

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## VIII.

### Participating in judicial proceedings involving discrimination as per this Act (eighth indent of Article 21 of PADA)

Question	How many and which judicial proceedings involved the Advocate's participation in 2021?
Answer	<b>In 2021, the Advocate continued to represent a party in a court proceedings initiated in 2019. In 2020, the Advocate intervened for the first time in proceedings before the European Court of Human Rights, which ruled on the potential discrimination in 2021.</b>
Clarification	<p>In 2021, the Advocate continued to represent a party in the court proceedings initiated in 2019. The action was filed by the Advocate on 3 October 2019 before the District Court in Ljubljana against the Slovenian Association of Cycling Judges, which no longer allowed the complainant to judge competitions due to reaching the age of 70. In the action, the Advocate contended that direct discrimination took place on the grounds of age and demanded the discriminatory approach to end (by amending the statute and issuing a license for the cycling judge), compensation for the discrimination and publication of the judgement in the media. In this case, the District Court in Ljubljana issued the judgement No. IV P 1366/2019 confirming that discrimination on the ground of age occurred. On 31 December 2021, the judgement was still not final.</p> <p>In 2020, the Advocate intervened for the first time in proceedings before the European Court of Human Rights. The intervention of a third party (<i>amicus curiae</i>) was made in the cases of Franc Toplak v. Slovenia and Iztok Mrak (applications No. 34591/19 and 42545/19). In the concerned cases, the Court determined whether Slovenia has ensured appropriate accessibility of polling stations for people with disabilities who use wheelchairs. On 28 October 2021, the European Court of Human Rights rejected the majority of the allegations, including the allegation pertaining to the discrimination against the applicants on grounds of their disability in exercising their right to vote and their right to vote in a referendum. In that respect, the Court ruled that the applicants had no remedies available to avoid the anticipated discrimination when voting in the referendum, but only a remedy (an action before the Administrative Court) that could establish discrimination retrospectively.</p>
Implementation	This activity was carried out by departments A and B in coordination with the Head and the Cabinet.
Chapter	<a href="#">5. Advocacy – representation in judicial proceedings</a>

## IX.

### Ensuring the exchange of available information on discrimination with the bodies of the European Union (ninth indent of Article 21 of PADA)

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Question	To what extent did the Advocate cooperate in the international exchange of data in 2021 and which information were subject to such exchange?
<b>Answer</b>	<b>In 2021, the Advocate carried out 26 mutual exchanges of information on discrimination within the European Union and other international organisations.</b>
Clarification	<p>In 2021, the Advocate conducted 26 mutual exchanges of information with European and international institutions with a view to monitor the state of discrimination. Of these, there were 22 responses to requests for the submission of information and four requests for information made by the Advocate.</p> <p>For the purpose of information exchange, the Advocate prepared an English translation of the Annual report for 2020, which is available at Advocate's website. The Advocate sent its Annual report to equality bodies of all EU countries and to other international institutions. The report was also provided to foreign embassies in Slovenia and the embassies of Slovenia around the World.</p> <p>In 2021, the Advocate carried out 94 international activities, including participation in professional consultations, conferences and other live or online events and written forms of information exchange.</p>
Implementation	These activities were carried out by departments A and B in coordination with the Head and the Cabinet.
Chapter	<a href="#">16. The Advocate's international cooperation</a>
Question	How many international events in the sphere of protection against discrimination did the Advocate attend in 2021?
<b>Answer</b>	<b>In 2021, the Advocate attended 68 international expert consultations, conferences and other events.</b>
Clarification	<p>In 2021, the Advocate participated in 68 international expert consultations, conferences and other events, mostly via the internet.</p> <p>During the Slovenian Presidency of the Council of the European Union, the Advocate hosted the fifth regional conference of equality bodies from South-Eastern Europe. The event took place in Ljubljana from 20 to 22 October 2021. The conference was attended by representatives of all equality bodies from Albania, Bosnia and Herzegovina, Montenegro, Croatia, North Macedonia and Serbia.</p>
Implementation	These activities were carried out by departments A and B in coordination with the Head and the Cabinet.
Chapter	<a href="#">16. The Advocate's international cooperation</a>

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X.

**Conducting other tasks determined by this Act (tenth indent of Article 21 of PADA)**

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Question	What are other tasks of the Advocate that are provided for by this Act?
<b>Answer</b>	<b>Other tasks provided for by this Act include the consideration of requests for reviewing constitutionality or legality of a regulation or a general legal act (Article 38 of PADA).</b>

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Question	How many requests for the assessment of discriminativeness or reviewing constitutionality of a general legal act or regulation were considered by the Advocate in 2021?
<b>Answer</b>	<b>In 2021, the Advocate considered 48 requests for the assessment of discriminativeness of regulations.</b>

Clarification

In 2021, the Advocate received 36 new requests for the assessment of discriminativeness of regulations. Together with 12 such requests carried over from previous years, in total 48 assessments of discriminativeness of regulation were considered 2021.

In 2021, the Advocate completed 31 discrimination assessment procedures.

In 11 completed cases, the Advocate concluded the discrimination assessment procedure by issuing an appropriate assessment. In seven cases, the regulations were assessed to be discriminatory.

In seven cases, the regulations were considered to be discriminatory. In one case, a petition to initiate the procedure for the review of the constitutionality of regulations was submitted to the Constitutional Court, and in four cases recommendations to the relevant authorities for amending the regulation were made. In two proceedings, the Advocate closed the case by a written explanatory note, as in a substantially identical matter a detailed assessment had already been carried out.

In four cases, the discriminativeness of the regulation was not identified.

In 15 cases, initiated by individual complainants, a detailed discrimination assessment was not carried out as the preliminary analysis did not show any discrimination.

17 cases were carried over to 2022 for further consideration.

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Implementation	This activity was carried out by department B in coordination with the Head and the Cabinet.
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Chapter	<a href="#">7. Assessing discriminativeness of regulations</a>
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### **3 THE WORK OF THE ADVOCATE DEDICATED TO INDIVIDUAL CASES**



## 3.1 Legal basis for dealing with individual cases

The basic legal act for the exercise of the Advocate's (Advocate of the Principle of Equality) powers is the Protection against Discrimination Act (PADA), which outlines the personal and material competence of the Advocate.

Personal competence refers to the question of who can exercise the right to protection against discrimination. These are primarily natural persons or groups of persons. A legal entity may exercise the right to protection against discrimination only if it is subject to discrimination due to the personal grounds of natural persons associated with the respective legal entities (paragraph 3 of Article 1 of PADA), e.g. members, founders, managers or administrators.

Substantive competence refers to areas in which discrimination is prohibited in Slovenia.

Furthermore, the PADA also stipulates the individual forms of discrimination in which the Advocate may take action (Articles 6–12).

Procedures for discrimination investigation are being conducted by the Advocate in line with the provisions of the General Administrative Procedure Act (GAPA). Complaints and questions received from the parties concern a number of areas that are comprehensively regulated in Slovenia. Hence, other regulations currently in force in the Republic of Slovenia are being applied by the Advocate in performing its activities, such as the Constitution, laws and bylaws.

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### THE ADVOCATE HIGHLIGHTS

#### Article 15 of the Constitution of the Republic of Slovenia (Exercise and Limitation of Rights)

Human rights and fundamental freedoms shall be exercised directly on the basis of the Constitution. The manner in which human rights and fundamental freedoms are exercised may be regulated by law whenever the Constitution so provides or where this is necessary due to the particular nature of an individual right or freedom.

Human rights and fundamental freedoms shall be limited only by the rights of others and in such cases as are provided by this Constitution.

Judicial protection of human rights and fundamental freedoms, and the right to obtain redress for the violation of such rights and freedoms, shall be guaranteed.

No human right or fundamental freedom regulated by legal acts in force in Slovenia may be restricted on the grounds that this Constitution does not recognise that right or freedom or recognises it to a lesser extent.

## 3.2 Fundamental concepts

### 3.2.1 Existence of discrimination

Article 2 of the PADA provides protection against discrimination based on various personal grounds in various areas of social life, in the exercise of human rights and fundamental freedoms as well as in the exercise of rights and obligations and in other legal relations in the political, economic, social, cultural, civil or other spheres. **Discrimination stands for any unjustified de facto or de jure unequal treatment, distinction, exclusion, restriction or omission based on personal grounds with the aim or effect of obstructing, reducing or avoiding equal recognition, enjoyment or exercise of human rights and fundamental freedoms or other rights, legal interests and benefits.**

Identifying discrimination requires the following steps to be taken:

- identifying the form of discrimination;
- identifying the area of life, where discrimination took place;
- identifying the personal ground that led to discrimination;
- determining whether the treatment interferes with the person's rights, freedoms, benefits or advantages;
- establishing a causal link between a personal ground and the unequal treatment which interferes with the person's rights, freedoms, benefits or advantages;
- determining whether the unequal treatment falls within any of the exceptions from the prohibition of discrimination which do not constitute infringement of the law.

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## THE ADVOCATE HIGHLIGHTS

Legally speaking, only conduct that contains all the above elements constitutes discrimination under the PADA. Other undesirable, contentious or unjust practices not related to personal grounds or without prejudice to the rights, freedoms, legal interests or benefits shall not be considered discrimination. Nevertheless, these practices may constitute other types of unlawful conduct which fall under the competence of other authorities.

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### 3.2.2 Intention to discriminate

**In order to prove the existence of discrimination, the intention to discriminate is not relevant, it is sufficient to prove that discrimination indeed occurred or could occur.** In consequence, only the actual effects of a particular conduct on a person or a group are taken into account, and not the question of whether the offender intended to discriminate. Therefore, the offender cannot be exempted from liability by arguing that discrimination was not their intention, as long as their actions indeed gave rise to discriminatory effects.

### 3.2.3 Personal grounds

Article 1 of the PADA defines the purpose and subject matter thereof, which is to ensure protection against discrimination, on the basis of specific personal grounds. Primarily, the PADA summarises the personal grounds listed in the Constitution of the Republic of Slovenia (the Constitution) and in the Criminal Code (CC-1).

These personal grounds are as follows: **gender, nationality, racial or ethnic origin, language, religion or belief, disability, age, sexual orientation, gender identity and gender expression, social status, property status, education or any other personal ground.**

The explanatory memorandum to the Articles of the PADA proposal makes it clear that **personal grounds are congenital or acquired personal traits, characteristics, conditions or statuses, which are, by and large, permanently and inextricably linked to a particular individual and their personality**, in particular their identity, or can not easily be altered by the individual.

In view of the foregoing, the Advocate considers as **other personal grounds** not explicitly listed in the PADA, also **citizenship** (citizenship of another EU Member State or citizenship of a third country), **pregnancy, parenthood, health condition, place of birth, skin color, place of residence, etc.** Personal grounds can also be linked to legal entities, where appropriate in light of the grounds, in so far as there is a connection with the personal grounds of the members, founders or persons who manage or operate the legal entities.

**Protection against discrimination is also granted by the law to persons who are in any way (de jure or de facto) associated with a person with a particular personal ground**, (e.g. by marriage or kinship, social links). The offender cannot be exempted from liability by arguing that the person who was discriminated against has no personal ground, when a person related to them has. This form of discrimination is referred to as “discrimination by association” (first indent of Article 5 par. 2 of PADA).

**Protection against discrimination is granted by the law also to persons who are in any way discriminated against as a result of incorrect conclusions about the existence of certain personal grounds.** If a person is discriminated against on account of a personal ground, it is irrelevant whether that person actually has that particular personal ground or not. Therefore, the offender cannot be exempted from liability by arguing that the person who was subject to discrimination due to a particular personal ground (attributed to them) in reality does not have this personal ground (second indent of Article 5 par. 2 of PADA).

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## THE ADVOCATE HIGHLIGHTS

Article 34 of the Constitution of the Republic of Slovenia  
(Right to Personal Dignity and Safety)

Everyone has the right to personal dignity and safety.

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## 3.2.4 Areas of social life

Article 2 of the PADA defines the areas of social life in which equal treatment and the prohibition of discrimination are ensured under the European Union law. The areas listed are derived from the European Union directives and from the case law of the Court of Justice of the EU. Pursuant to the PADA, equal treatment applies only to areas of social or public life (including civil and economic matters), i.e. to areas in which individuals (or in particular cases also legal entities) exercise their rights, perform their duties or engage in legal transactions, but does not apply to private relationships (e.g. family, friendships or intimate relationships). The exception to this is harassment, as such conduct violates the prohibition of discrimination also in private relationships.

### Areas of social life where protection against discrimination applies

The case numbers are entered in colours indicating the relevant areas of social life:

#### Work and employment

- Access to employment, self-employment and profession (including selection criteria and employment conditions, notwithstanding the type of activity or the level of occupational hierarchy, including promotion);
- access to all forms and all levels of career orientation and counselling, vocational and professional education and training, further vocational training and retraining, including internship;
- employment and working conditions, including termination of employment contracts and wages;

#### Membership in workers' or employers' organisations

- membership and inclusion in workers' or employers' organisations or any organisation whose members perform a certain vocation, including benefits provided by such organisations;

#### Social rights

- social protection, including social security;
- social benefits;

#### Health care

- health care;

#### Education

- education and schooling;

#### Goods and services market

- access to goods and services available to the public, including housing facilities and supply thereof;

#### Other

- This area includes cases that cannot be categorised within any of the above categories and cases that address all areas simultaneously or consider the general area of protection against discrimination.

## 3.2.5 Forms of discrimination

In accordance with the EU directives, the PADA defines the concept of direct and indirect discrimination and outlines other practices that, in addition to direct and indirect forms of discrimination, are considered discriminatory. In line with the provisions of the EU directives, harassment and sexual harassment, as well as instructions to discriminate, are also considered as discrimination and reprisals against the discriminated person or a person assisting them (victimization) are prohibited. Incitement to discrimination is considered a special form of discrimination too.

**Forms of discrimination are as follows:**

- **direct discrimination** (paragraph 1 of Article 6 of PADA),
- **indirect discrimination** (paragraph 2 of Article 6 of PADA),
- **harassment** (paragraph 1 of Article 8 of PADA),
- **sexual harassment** (paragraph 2 of Article 8 of PADA),
- **instructions to discriminate** (Article 9 of the PADA),
- **incitement to discrimination** (paragraph 1 of Article 10 of PADA),
- **public justification for neglecting or despising persons or groups of people due to personal grounds** (paragraph 2 of Article 10 of PADA),
- **victimization** (Article 11 of the PADA).

The PADA also stipulates severe forms of discrimination. Pursuant to paragraph 3 of Article 39 of the PADA, the establishing of severe forms of discrimination is also relevant to determine the amount of compensation for non-material damage in judicial proceedings. At the same time, the legislator provided for higher fines for offences involving serious forms of discrimination, which can be imposed by the competent inspectorates.

**Severe forms of discrimination are:**

- **multiple discrimination** (Article 12 of PADA),
- **mass discrimination** (Article 12 of PADA),
- **persistent or repeated discrimination** (Article 12 of PADA),
- **discrimination with consequences that are difficult to remedy** (Article 12 of PADA),
- **discrimination directed at children** (Article 12 of PADA),
- **discrimination directed at other weak persons** (Article 12 of PADA),
- **delivering or disseminating racist, religious, national and sexually discriminatory appeals, inducing, abetting or inciting hatred and discrimination as well as broader public haranguing which promotes discrimination** (paragraph 1 of Article 10 of PADA).

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## THE ADVOCATE HIGHLIGHTS

Article 36 of the Constitution of the Republic of Slovenia  
(Prohibition of Incitement to Discrimination and Intolerance and Prohibition of  
Incitement to Violence and War)

Any incitement to national, racial, religious or other discrimination, and the inflaming of national, racial, religious or other hatred and intolerance are unconstitutional. Any incitement to violence and war is unconstitutional.

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## 3.3 The advocate's powers in investigating individual cases

The Advocate's powers to investigate individual cases are defined in Articles 33 to 44 of the PADA and in Article 21 of the PADA. They can be divided into the following areas:

- providing independent assistance to persons subject to discrimination when enforcing their rights regarding protection against discrimination in the form of advisory and legal assistance for parties in other administrative and judicial proceedings related to discrimination (indent 4 of Article 21 of PADA),
- procedure for investigating discrimination based on a complaint lodged by a person subject to discrimination (Article 33 of PADA),
- ex officio procedure for investigating discrimination (Article 34 of PADA),
- request for data and documents necessary for investigating discrimination (Article 37 of PADA),
- filing a request for a review of constitutionality and legality (Article 38 of PADA),
- representation of parties in judicial proceedings (paragraph 1 of Article 41 of PADA),
- accompanying parties in judicial proceedings (paragraph 4 of Article 41 of PADA),
- inspection supervision (paragraph 1 of Article 42 of PADA),
- referring cases to competent inspection services if the procedure before the Advocate would not be reasonable (paragraph 4 of Article 42 of PADA),
- referring cases to competent inspection services if the offender fails to comply with the Advocate's decision (Article 43 of PADA).

By the end of 2021, the Advocate exercised the following powers:

- providing independent assistance to discriminated persons;
- discrimination investigation on the basis of a complaint by a discriminated person;
- ex officio discrimination investigation;
- requesting the information necessary for discrimination investigation;
- filing requests for reviewing the constitutionality of regulations;
- representation of clients in judicial proceedings;
- referral to competent inspections for the implementation of minor offence proceedings.

In 2021, the Advocate was not involved in accompanying parties in judicial proceedings.

## 3.4 Clarification of the methodology

In 2021, the Advocate simultaneously addressed cases carried over to 2021 from previous years, as well as cases received in 2021.

Since 2018, the Advocate has been reporting on cases closed in a given calendar year regardless of the year of receipt. The code “closed” means that a case or matter is closed as per the powers of the Advocate, however, it does not always mean that any discrimination was eliminated. The Advocate made sure that the Annual Report for 2021 contained statistics on completed procedures of assessing the discriminativeness of regulations.

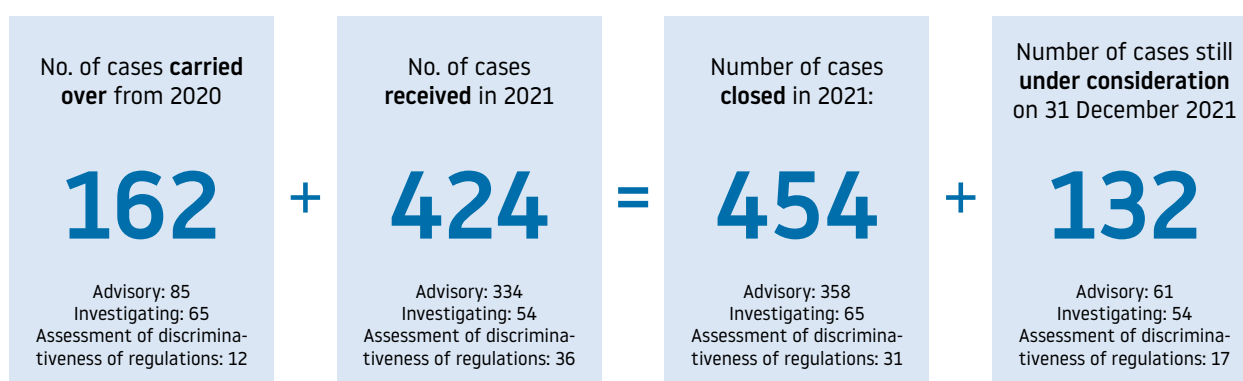
The Advocate collects the necessary data regarding all matters under consideration for the annual statistical processing. Key data concern personal grounds, the field of discrimination as well as the form of discrimination. The Advocate also collects data on all documents issued in each case as well as information when the case was received and closed, and what the outcome was.

Regarding the 2021 Annual Report, the Advocate can confirm for cases in which discrimination was identified whether the elements alleged by the complainants were actually found or other elements were identified. In all the other cases in which discrimination was not found, the statistics shows the alleged personal grounds as well as fields and forms of discrimination.

## 3.5 Statistics of cases closed in 2021

162 cases were carried over to 2021 from the previous years. In 2021, the Advocate received 424 new cases for consideration, discrimination investigation, advisory and regulatory discrimination assessment. A total of 586 cases were therefore considered in 2021. Of these, 454 cases were completed, while 132 unresolved cases were carried over to 2022. An unresolved case does not necessarily mean that it has not been addressed by the Advocate (the Advocate immediately commences the consideration of any matter received), however, it means that the case was not identified as resolved from the perspective of the Advocate's competence in that reporting year.

### Graphical presentation of the statistics of cases addressed and closed in 2021



The closed cases include matters in which individuals were provided with advisory assistance in line with the fourth indent of Article 21 of the PADA, cases of discrimination investigation under Chapter 5 of the PADA as well as cases of constitutionality and legality review, pursuant to Article 38 of the PADA.

Of the 454 cases completed in 2021, the Advocate performed advisory activities in 79 percent, i.e. in 358 cases; in 14 percent of cases, i.e. in 65 cases, discrimination investigation was carried out; and in the remaining seven percent; i.e. in 31 cases, the procedure of constitutionality and legality review was conducted.



## 3.6 Statistics of closed cases by personal grounds

**The most frequently alleged personal ground of discrimination in cases completed in 2021 was disability (10.8 percent).** This is followed by the total number of cases with personal grounds of nationality, race and ethnic origin (8.3 percent).

The alleged personal ground of gender occurred in 6.3 percent of cases, followed by age (6.1 percent), citizenship of another Member State or a third country (3.5 percent), property status (3.3 percent), sexual orientation, gender identity or gender expression (3.3 percent), religion or belief (2.4 percent) and education (1.5 percent). The Advocate also considered 5 cases of alleged personal ground of language and 4 cases of alleged personal ground of social situation, which is approximately one percent of all the closed cases. In 2021, the Advocate additionally kept records of the alleged personal grounds of health status, parenthood, pregnancy and place of residence, which are not explicitly listed in the law and which the Advocate regarded as “other” personal grounds. The personal ground of health status was alleged in 5.1 percent of the closed cases, followed by the personal ground of pregnancy and parenting (4.4 percent) and place of residence (2.6 percent). The Advocate, however, recorded 2.2 percent of various other alleged personal grounds, which were classified among “other” general personal grounds.

The statistical review according to personal grounds shows that in just over 38 percent of completed cases involving advisory assistance, discrimination investigation and regulatory discrimination assessment, the personal ground was not stated nor was it directly discernible from the conduct, whether the complainants alleged unequal treatment based on other reasons, not related to any personal ground from the PADA.

In the table, the sum of the numbers of cases with the alleged personal grounds does not correspond to the number of cases closed in 2021. The reason for this is that one claimant may simultaneously allege discrimination on the basis of several personal grounds, or the personal ground leading to discrimination may not be given.

Table: Alleged personal grounds of discrimination in cases closed in 2021

	Alleged personal grounds of discrimination	Advisory, information	Discrimination investigation	Reviews	Total	Percentage total (%)
1.	Gender	25	5	4	34	6,3
2.	Nationality	14	5	2	21	3,9
3.	Race or ethnic origin	12	9	3	24	4,4
4.	Language	1	1	3	5	0,9
5.	Religion or belief	10	3	0	13	2,4
6.	Disability	42	8	9	59	10,8
7.	Age	20	4	9	33	6,1
8.	Sexual orientation	8	2	0	10	1,8
9.	Gender identity	4	1	0	5	0,9
10.	Gender expression	3	0	0	3	0,6
11.	Social status	0	1	3	4	0,7
12.	Property status	10	2	6	18	3,3
13.	Education	6	1	1	8	1,5
14.	Citizenship	13	3	3	19	3,5
15.	Place of residence	4	7	3	14	2,6
16.	Pregnancy, parenthood	19	5	0	24	4,4
17.	Health status	18	7	3	28	5,1
18.	Other	7	3	2	12	2,2
19.	No personal ground	193	10	7	210	38,6
	<b>TOTAL</b>	<b>409</b>	<b>77</b>	<b>58</b>	<b>544</b>	<b>100</b>

## 3.7 Statistics of cases closed by areas of life

**31 percent of cases closed** in 2021 covered the area of employment and work:

- 24 percent of cases concerned the field of employment and working conditions, including termination of the employment contract and wages;
- six percent of cases concerned the conditions for access to employment, self-employment and profession, including the selection criteria and employment conditions, notwithstanding the type of activity or the level of professional hierarchy, including promotion;
- four percent of cases (one percent) concerned access to all forms and all levels of career orientation and counselling, vocational and professional education and training, further vocational training and retraining, including internship.

**17 percent of cases** related to access to goods and services available to the public, including housing facilities and supply thereof.

In the field of social protection, including social security and health care, **ten percent of cases were** closed.

In the field of schooling and education, the Advocate completed **eight percent of cases**.

This is followed by the area of access to social benefits with **five percent of cases** closed.

The Advocate considered no case of membership and inclusion in workers' or employers' organisations and organisation whose members perform a certain vocation, including benefits provided by such organisations.

**29 percent of cases** related to other areas not explicitly mentioned in the law, including the operation of courts, the administrative operation of state authorities, home affairs, the conditions of public tenders and the area of the media.

In the table, the sum of cases pertaining to the listed areas of life does not correspond to the number of cases closed in 2021. The reason for this is that one claimant may allege discrimination in several areas of life as well in areas not listed in the law or outside the Advocate's powers.

Table: Alleged areas of social life considered in cases completed in 2021

Alleged area of discrimination	Advisory, information	Discrimination investigation	Reviews	Total	Percentage total (%)
1. Access to employment, self-employment and profession, including the selection criteria and employment conditions, notwithstanding the type of activity or the level of professional hierarchy, including promotion	20	5	3	28	6
2. Access to all forms and all levels of career orientation and counselling, vocational and professional education and training, further vocational training and retraining, including internship	4	0	0	4	1
3. Employment and working conditions, including termination of employment contracts and wages	97	13	2	112	24
4. Membership and inclusion in workers' or employers' organisations or any organisation whose members perform a certain vocation, including benefits provided by such organisations	0	0	0	0	0
5. Social protection, including social security and health care	39	2	5	46	10
6. Social benefits	23	0	1	24	5
7. Education and schooling	26	8	4	38	8
8. Access to goods and services available to the public, including housing facilities and supply thereof	52	21	5	78	17
9. Other	107	18	11	136	29
<b>TOTAL</b>	<b>371</b>	<b>67</b>	<b>31</b>	<b>466</b>	<b>100</b>

## 3.8 Statistics of cases closed by form of discrimination

The Protection against Discrimination Act (PADA) defines several different forms of discrimination. The most frequently alleged form of discrimination in cases completed in 2021 was direct discrimination, namely in 69 percent of cases. The second most common alleged form of discrimination was indirect discrimination (19 percent), followed by harassment (less than five percent), incitement to discrimination (slightly over four percent) and victimisation as well as instructions to discriminate (slightly over one percent). The clients alleged sexual harassment in slightly less than one percent of cases that were completed in 2021.

In the table, the sum of the numbers of cases pertaining to particular areas of life does not correspond to the number of cases closed in 2021. The reason for this is that one case may display the characteristics of several forms of discrimination, on the other hand, some cases do not fall within any category due to lack of discriminatory nature.

*Table: Alleged forms of discrimination in cases completed in 2021*

Alleged forms of discrimination	Advisory, information	Discrimination investigation	Reviews	Total	Percentage total (%)
Direct discrimination	226	47	24	297	69
Indirect discrimination	62	12	9	83	19
Harassment	15	5	0	20	4,6
Sexual harassment	4	0	0	4	0,9
Instructions to discriminate	4	1	0	5	1,1
Victimisation	5	0	0	5	1,1
Incitement to discrimination or public justification for neglecting or despising	16	3	0	19	4,3
<b>TOTAL</b>	<b>332</b>	<b>68</b>	<b>33</b>	<b>433</b>	<b>100</b>
<b>Of which:</b>					
Mass	22	28	31	81	18,7
Multiple	6	5	7	18	4,2

## 4 ADVISORY, INFORMATION AND SUPPORT ACTIVITIES

## 4.1 The procedure of the Advocate's advisory activities

When providing advisory, information and support activities to individuals the Advocate first examines the case so as to determine whether it falls within the power of the equality body (the Advocate). If the matter falls within the power of the Advocate, i.e. if a personal ground is given and the matter concerns a field of life that falls under the Protection against Discrimination Act (PADA), the Advocate advises the party, explains his powers, possibilities of action and tasks and together with the party finds the most appropriate way for action.

In doing so, the Advocate also encounters individuals who are unwilling to take action (e.g. to lodge a complaint), as they want to keep a low profile or remain anonymous, but still need information and guidance on how to act if they decide to take action. Some individuals enquire whether action can be taken in their case even if they remain anonymous. In this case, the Advocate explains that this depends on the circumstances of the particular case; if the matter involves a specific conduct in relation to a specific person and a specific offender, then anonymity cannot be ensured, as an investigation of a specific conduct in a way that does not at the same time reveal the identity of the applicant is not possible. However, in cases of multiple victims and discrimination based on required conditions or widespread practice, anonymity can be ensured even during the proceeding in question.

If a party is already involved in other judicial or administrative proceedings, but the question raised with the Advocate is related to discrimination, the Advocate advises the party on how to raise the issue of discrimination in the ongoing proceedings. Additionally, the Advocate assist parties in writing complaints and other documents in proceedings before other state authorities, where these proceedings are related to discrimination or could lead to discrimination.

When the parties are not pleased with the outcomes of the proceedings before other authorities, the Advocate informs them on how to contest the outcomes using legal remedies provided for therein. The Advocate also provides advisory to parties who claim to have been discriminated against in these proceedings. Strictly speaking, the Advocate does not act as a hierarchically superior authority to other state authorities performing tasks in their area of work through the conduct of administrative and judicial proceedings.

When a party directs a question or request for advisory to the Advocate regarding matters outside the field of the Advocate's powers, the Advocate refers the party to the competent authority or optionally advises them on other possible measures or legal remedies provided for in particular regulated areas.

## Office hours and communication with parties

The Advocate's office hours are Monday to Friday from 10 to 12 am, and on Wednesdays additionally from 3 to 6 pm.

In accordance with the law and the rules of procedure, the Advocate is available for complainants and persons with questions or concerns at the e-mail address ([gp@zagovornik-rs.si](mailto:gp@zagovornik-rs.si)), on a toll-free telephone number (080 81 80) and by ordinary post (Železna cesta 16, SI-1000 Ljubljana). During the office hours and by prior arrangement, the Advocate's employees are available to the complainants for advisory services in person at the official headquarters of the equality body on Železna cesta 16 in Ljubljana.

Due to the recommendations of the competent authorities for the prevention of the spread of covid-19 infections, the Advocate provided advisory assistance to clients in 2021 on the toll-free telephone number and by e-mail.



## 4.2 Statistics of advisory, information and support activities

In 2021 the Advocate provided **written advice in 358 cases** that were also closed in 2021. In addition, the Advocate provided **telephone counseling in 280 cases**, where clients were informed about the Advocate's powers and opportunities for action in case of discrimination, received assistance in relation to proceedings pending before other state authorities as per discrimination, and were offered support and assistance in writing applications and letters related to the protection against discrimination.

Cases in which the Advocate provides assistance, information and support are resolved in various ways. The majority of advisory procedures are completed by preparing a written clarification or by advisory via telephone. Some cases are resolved by the Advocate making a query with the offender and thereby resolving the situation. In two cases, the Advocate completed the advisory procedure by making appropriate recommendations. In one case, a newspaper company was warned in relation to unethical reporting, and in the other, a recommendation was addressed to the Ministry of Education, Science and Sport and the responsible trade union regarding the equalisation of the position of men and women in the Collective Agreement for the Education Sector in the Republic of Slovenia.

The resolution of the proceedings also depends on the responsiveness of the complainant. If the complainant fails to respond to a request for supplementation of the complaint, and the original application does not contain sufficient information to prepare an explanation, the proceeding ends with a formal note. At the same time, a formal note is used to conclude cases which the Advocate receives only for its information.

### Graphical representation of advisory statistics

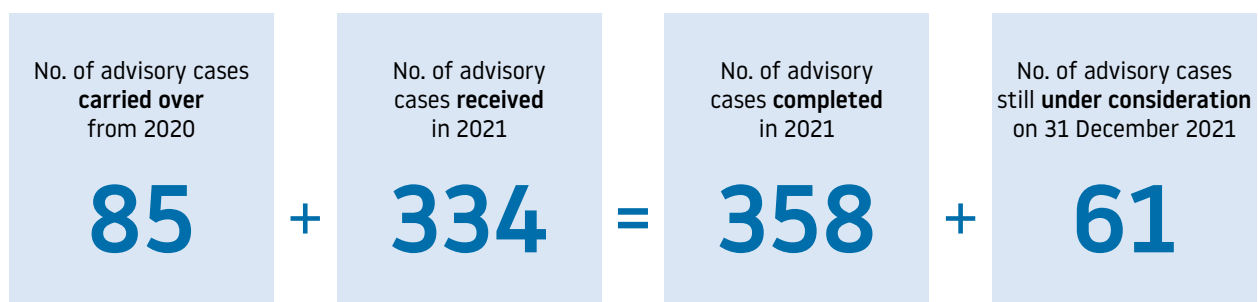


Table: Outcomes of proceedings before the Advocate for cases completed in 2021

Outcomes of proceedings before the Advocate	Number	Percentage (%)
Written clarification	338	94,5
Recommendation	2	0,5
Formal note on the closure of the case	10	2,8
Advisory assistance (written question received, advisory assistance provided by telephone or at a meeting in person)	7	2
The Advocate is not competent	1	0,2
<b>TOTAL</b>	<b>358</b>	<b>100</b>



# 5 ADVOCACY – REPRESENTATION IN JUDICIAL PROCEEDINGS

## 5.1 Advocacy and representation of parties in judicial proceedings

The power to represent and accompany victims in judicial proceedings initiated on the basis of Article 39 of the PADA is defined in Article 41 of the PADA, where the role of the Advocate and non-governmental organisations is stipulated. This provision sets out the special conditions to be met by the Advocate for **the representation of persons subject to discrimination in actions before the courts**. The Act stipulates that only a person who is employed with the Advocate and has passed the state bar examination may perform procedural acts on behalf of the Advocate (paragraph 1 of Article 41 of PADA).

The same rules apply to a non-governmental organisation with the power to represent discriminated persons in court proceedings pursuant to the PADA, at the same time such organisations must have the status of an entity acting in the public interest in the field of protection against discrimination and protection of human rights (paragraph 2 of Article 41 of PADA).

If the Advocate and the discriminated person do not agree on representation, the **Advocate may only accompany the person in the proceedings**, provided that the person consents thereto. To enable the presence of the Advocate in judicial proceedings, an authorisation is not required – it suffices that the person subject to discrimination states that a certain person employed with the Advocate is accompanying them and that they wish them to be present during the proceedings.

The same applies if a person wishes to be accompanied by an employee of a non-governmental organisation with the status of an entity acting in the public interest in the field of protection against discrimination and protection of human rights.

## 5.2 The first case of representing a party in court

In 2021, the Advocate continued to represent a party in the court proceedings initiated in 2019.

The action was filed on 3 October 2019 before the District Court in Ljubljana against the Slovenian Association of Cycling Judges, which no longer allowed the complainant to judge competitions due to reaching the age of 70. The defendant introduced a restriction in its statute on the activities of cycling judges to the age of 70, despite the complainant's warnings. In doing so, the defendant referred to the rules of the International Cycling Union, which contain the same restriction. Despite the call of the Advocate, stating that discrimination was found during the investigative administrative procedure under the PADA, the defendant did not amend the discriminatory statute.

In the action, the Advocate contended that direct discrimination took place on the grounds of age and demanded the discriminatory approach to end (by amending the statute and issuing a license for the cycling judge), compensation for the discrimination and publication of the judgement in the media. The key arguments put forward by the claimant in the action relate to the fact that the defendant did not demonstrate the legitimate aim of setting the age limit, nor showed that such an age limit would be an appropriate and necessary mean for the pursuing of particular objectives. The claimant pointed out that the prohibition of discrimination on the grounds of age is a fundamental principle of the law of the European Union, according to the case law of the Court of Justice of the European Union. The claimant also stated that referring to the rules of the International Cycling Union was not appropriate, as the rules of an international non-governmental organisation could not prevail over a national law nor over the law of the European Union. Regarding the aim to ensure that cycling judges are able to perform their function, the complainant stated that it would be much more appropriate to regulate the issue of assessing the ability to perform the function by individually testing a person's ability.

A person employed by the Advocate, who has passed the state bar examination (as required by Article 41 of the PADA), attended the main hearing at the District Court in Ljubljana on 8 October 2021 on behalf of the Advocate together with the party.

In this case, the District Court in Ljubljana issued the judgement No. IV P 1366/2019 of 8 October 2021. In the judgement, the Court confirmed that discrimination on grounds of age occurred and ruled that:

- the defendant must stop discrimination by granting the plaintiff a consent to the issue of a licence for a cycling judge or a national commissioner within 15 days;
- the defendant must compensate the plaintiff for the suffered discrimination within 15 days by paying EUR 2,000.00 with statutory default interest running from 3 October 2019 until payment;
- the claim for the payment of statutory default interest of the EUR 2,000.00 for the period from 1 January 2015 until 2 October 2019 was rejected;

- a higher claim was rejected (for additional EUR 1,500.00) together with statutory default interest attached to it;
- publication of the judgement and parts of the grounds of the judgement in the newspapers Delo, Dnevnik and Večer at the expense of the defendant;
- the action was rejected in the part in which the plaintiff requested, that the defendant shall amend the statute and the corresponding rules, in the part limiting the work of cycling judges to 70 years of age;
- the Court ruled that each party shall bear its own costs of the proceedings.

Yet, the Court did not uphold the claim from the action that the company shall amend its articles of association in a way as to prevent future discrimination. This part was rejected, owing to the Court's position that in this particular court proceeding, the judge and the Advocate cannot request the amendment of an autonomous act of an entity governed by private law, even though it may be discriminatory.

The cycling judge disagrees with this position of the Court and, with the help of the Advocate, filed an appeal against this part of the judgement. The complainant also filed an appeal against the awarded amount of compensation for discrimination.

On 31 December 2021, the judgement was still not final.

## 5.3 Intervention of the Advocate as a third party before the European Court of Human Rights

In 2020, the Advocate intervened for the first time in proceedings before the European Court of Human Rights (ECtHR). The intervention of a third party (*amicus curiae*) was made in the cases of *Franc Toplak v. Slovenia* and *Iztok Mrak v. Slovenia* (application no. 34591/19 and 42545/19). In the concerned cases, the Court determined whether Slovenia has ensured appropriate accessibility of polling stations for people with disabilities who use wheelchairs. Within the framework of the intervention, the Advocate presented possible legal remedies in the Republic of Slovenia in this area and considered their efficiency.

In the same cases, intervention was made for the first time also by Equinet, the European Network of Equality Bodies, of which the Advocate is a member. Equinet submitted to the Court a review of the regulatory situation regarding the accessibility of polling stations for people with disabilities in European countries and a review of human right standards for persons with disabilities with regard to elections.

The interventions were made in line with Article 36 (2) of the Convention for the Protection of Human Rights and Fundamental Freedoms and Article 44 (3) of the Rules of Court.

In the case of *Franc Toplak v. Slovenia* and *Iztok Mrak v. Slovenia* (application No. 3491/19 and 42545/19), the European Court of Human Rights ruled on 28 October of 2021 that the majority of the allegations, including the allegation pertaining to the discrimination against the applicants on grounds of their disability in exercising their right to vote and their right to vote in a referendum be rejected.

In the subject case, however, the Court established a violation of Article 13 of the ECHR (which provides for the right to an effective remedy) in conjunction with the first paragraph of Article 12 of the Protocol to the ECHR stipulating protection against discrimination in relation to the rights provided for by national law. The Court established a violation in the case of both applicants in connection with the 2015 referendum. The Court ruled that the applicants had no remedies available to avoid the anticipated discrimination when voting in the referendum, but only a remedy (an action before the Administrative Court) that could establish discrimination retrospectively.





# 6 DISCRIMINATION INVESTIGATION

## 6.1 The procedure for identifying discrimination before the Advocate

Identifying discrimination is carried out in line with the **administrative procedure based on complaints received** by the equality body (the Advocate) from parties (pursuant to Article 33 of PADA) and **in proceedings instituted ex officio** (Article 34 of PADA).

First, the Advocate carefully examines each complaint lodged by the parties to establish, whether the burden of allegation has been met. This means that the following is being checked:

- whether the facts given justify the presumption that an infringement of the principle of non-discrimination occurred;
- whether the personal ground leading to an inferior treatment is stated;
- whether the treatment giving rise to the complaint is of such a nature as to interfere with rights, freedoms, benefits or legal interests; and
- whether a causal link exists between the personal ground and the inferior treatment;
- whether the conduct qualifies as one of the exemptions from the prohibition of discrimination under Article 13 of the PADA.

Furthermore, the Advocate verifies whether all the essential elements of the complaint set out in Article 36 of the PADA have been provided. If the burden of allegation is not met or if the essential elements of the complaint are missing, the party will be requested to supplement the complaint pursuant to the regulations governing the general administrative procedure. Should the Advocate receive an anonymous complaint, the possibility of initiating a proceeding ex officio shall be considered as provided for in Article 34 of the PADA. Upon receipt of a complete application where the burden of allegation is met, the Advocate verifies the allegations with the alleged offender or other entities which may be requested to submit data and documentation vital for the case to establish potential existence of discrimination taking into account the principle of proportionality. State authorities, local communities, holders of public authority and legal and natural persons shall, upon request, provide the Advocate free of charge with all data, including personal data, and documentation that is vital to establish if discrimination occurred in the case under consideration.

The Advocate has no statutory mechanisms or sanctions available in case the alleged offenders or other entities fail to respond to the requests for information. Nonetheless, past experience seem to indicate that entities requested for information are mostly willing to actively cooperate in the proceedings. Should this not be the case, the Advocate can only repeatedly call them to respond and at the end take a decision based on the facts and documentation available. The nature of the discrimination investigation procedure, where the reversed burden of proof plays a key part, encourages the persons liable to cooperate in the proceeding, as otherwise, if the complainant meets the burden of allegation, the burden of proof shifts to the persons liable, who must prove that the absence of discrimination. If the persons bound by antidiscrimination provisions fail to prove that their conduct was not discriminatory, the consequences of the proceeding could be unfavourable for them.



## 6.2 Statistics of discrimination investigation procedures

In 2021, the Advocate **conducted 119 discrimination investigation administrative proceedings**. Of these, 54 were started in 2021 and 65 were carried over to 2021 from the year 2020. In 2021, **65 discrimination investigation procedures were closed** and 54 were carried over to 2022.

The Advocate can resolve cases in various ways. In the discrimination investigation proceedings conducted under Article 33 and 34 of the PADA, the Advocate may issue decisions or refer the matter to other competent authorities.

**In 2021, the Advocate issued 44 substantial decisions and 13 procedural decisions, of which 11 were the decisions on the suspension of the proceeding and two were decisions rejecting the complaints.** Of the 44 decisions issued, six are not yet covered by the statistics of cases closed in 2021. In these six cases, administrative dispute is still pending before the Administrative Court of the Republic of Slovenia or the period for filing a lawsuit has not expired yet.

In 11 cases concluded by the Advocate with a substantial decision, discrimination was found, in 17 cases no discrimination was found, and in 16 cases a rejection decision was adopted. Some cases have not yet been closed and are therefore not covered by the statistics in the table below.

The resolution of the proceedings also depends on the responsiveness of the complainant. If the complainant fails to respond to a request for supplementation of the application, and the original application (complaint, request, letter, etc.) does not contain sufficient information to prepare an explanation, the Advocate closes the proceeding by means of a formal note.

In obvious cases of violations, such as e.g. openly discriminatory advertisements for working positions, the Advocate calls on the offender to remedy the violation. When the offender complies with the call of the Advocate to end the discriminatory conduct, the case is formally resolved with a formal note. Cases reclassified during the proceeding because it was more reasonable to consider them in the framework of advisory assistance were also resolved with a formal note. In cases where the parties requested an identification of discrimination, the Advocate provided clarification which benefited the party in terms of additional information and support to a greater extent compared to a mere dismissal of their complaint due to the lack of the Advocate's powers in the matter.

In four cases, the Advocate found that the equality body was not competent for the case under consideration and referred it to the competent authority for resolution. In five cases, the Advocate decided not to initiate the ex officio procedure of discrimination identification based on the reasoning from the complaint. Such cases were closed with a proposal not to initiate the proceeding. In two cases, the Advocate completed the procedure by making appropriate recommendations to a competent authority.

The Advocate clarifies that the sum of the outcomes of the proceedings does not correspond to the number of completed discrimination cases (65), as in some cases the Advocate issued several decisions to various violators within one proceeding.

## Graphical representation of discrimination investigation statistics

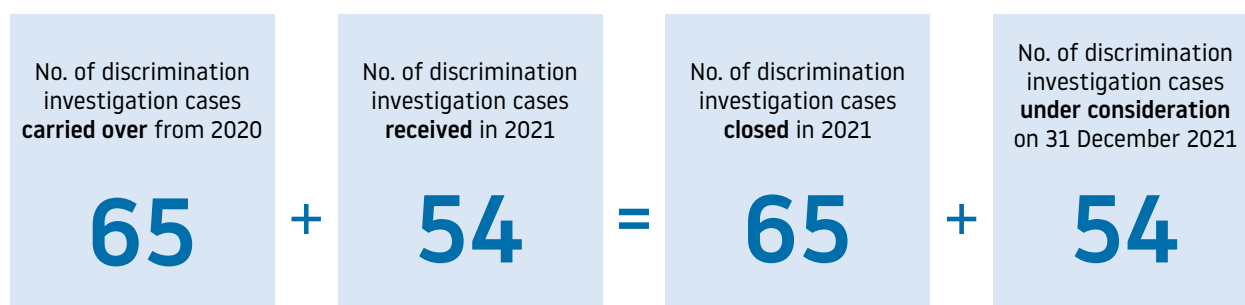


Table: Outcomes of discrimination investigation proceedings before the Advocate for cases completed in 2021

Outcomes of proceedings before the Advocate	Number	Percentage (%)
Decision – declaratory – discrimination is found	10	14
Decision – declaratory – discrimination is not found	13	19
Decision – negative – not a matter of discrimination	15	21
Decision to suspend the proceeding	8	11
Decision on dismissal on procedural grounds	2	3
Formal note on the closure of the case	5	7
Written clarification	6	9
Failure to commence proceedings	5	7
Referral to a competent authority	4	6
Recommendation	2	3
<b>TOTAL</b>	<b>70</b>	<b>100</b>

## 6.3 Proceedings initiated ex officio

If the Advocate initiates a proceeding for investigating discrimination ex officio (by official duty) in accordance with Article 34 of the PADA, the fact-finding and collection of evidence of the occurrence of discrimination is conducted in the same manner, i.e. in accordance with Article 37 of the PADA and GAPA.

In 2021, 12 ex officio proceedings were initiated by the Advocate. The Advocate initiates ex officio proceedings on the basis of an anonymous report, enquiry or report by a third party (not a victim of discrimination). The Advocate carried over seven more ex officio proceedings to 2021 from the previous years, one of which started in 2019 while six were initiated in 2020.

In 2021, the Advocate closed six proceedings, which were initiated ex officio in 2021 or in the previous years. The only pending case initiated in 2019 was closed and three proceedings initiated in 2020 were closed as well as two cases from 2021. Thirteen ex officio proceedings are still pending.

In five cases closed in 2021 where the complaint was lodged by an anonymous person or a third person, the ex-officio proceeding was not initiated by the Advocate. In these cases, the substance of the anonymous complaint or complaint by a third person did not indicate any issue related to discrimination under the PADA.

The ex-officio cases closed by the Advocate in 2021 related to the following topics:

- Christmas bonuses linked to the employee's presence at the workplace constitute inadmissible discrimination on the grounds of health and/or parenting (Decision no. [0700-19/2021/7](#) of 30 July 2021, more information is given in the second part of the Annual Report for 2021, more precisely in Chapter 1.12.2).
- The procedure for discrimination investigation in relation to Christmas bonuses linked to the employee's presence at the workplace was suspended due to lack of evidence (Decision on the suspension of the procedure No. [0700-1/2021/11](#) of 11 October 2021, more information is given in the second part of the Annual Report for 2021, more precisely in Chapter 1.12.2).
- Setting the age limit for obtaining consumer credit does not constitute discrimination (Decision no. [0700-49/2020/4](#) of 5 March 2021, more information is given in the second part of the Annual Report for 2021, more precisely in Chapter 1.7.2).
- A media release by a publishing company violated the prohibition of discrimination (Decision No. [0700-52/2020/11](#) of 20 September 2021, more information is given in the second part of the Annual Report for 2021, more precisely in Chapter 1.3.2).
- Unequal treatment of young researchers based on the personal ground of pregnancy or parenting was found, while they did not have the possibility of extending the project for the duration of parental leave (Case No. [0700-14/2019](#), Decision of 9 July 2019, more information is given in the Annual Report for 2019, more precisely in Chapter 7.4.1).

## 6.4 Judicial proceedings before the Administrative Court of the Republic of Slovenia

An administrative dispute is admissible to contest the decision of the Advocate pursuant to the Administrative Dispute Act (ADA-1).

In 2021, the **Administrative Court issued three judgements related to the Advocate's decisions.**

- The Advocate found that failure to conclude a public works contract did not constitute discrimination on the grounds of health status. The Court upheld the Advocate's decision. Judgement No. I U 1626/2020-17 of 24 November 2021, Advocate's case No. [0700-27/2020](#), Decision of 19 October 2020.
- The Advocate found that the allegedly discriminated person did not demonstrate that the reverse burden of proof had occurred. The Court upheld the Advocate's decision. Judgement No. I U 1619/2019-20 of 8 March 2021, Advocate's case No. [0700-8/2019/26](#), Decision of 10 September 2019.
- The Advocate found that the premature removal of the advertisement from the public transport vehicle constituted discrimination due to the personal ground of religion. The Court has abolished the Advocate's decision and referred the case back for a repeated procedure. Judgement No. I U 1228/2019-42 of 10 November 2021, Advocate's case No. [0700-2/2019/33](#), Decision of 4 July 2019.

On 31 December 2021, **seven more procedures** were pending before the Administrative court in which the parties contested the Advocate's decision within the context of an administrative procedure. The cases concern the following topics:

- discrimination of customers in connection with the treatment they receive from security guards in stores on the grounds of race (Decision No. [0700-30/2018/58](#) of 16 July 2019);
- discrimination against a person living with HIV in access to dental care (Decision No. [0700-30/2017/42](#) of 5 September 2019);
- discrimination against women in prisons (Decision No. [0700-67/2019/23](#) of 2 September 2020);
- discrimination against a civil servant on grounds of parenthood in the annual performance review (Decision No. [0700-26/2020/41](#) of 1 July 2021);
- discrimination on grounds of health and parenting in the consideration of company performance by taking into account attendance at the workplace – two cases (Decision No. [0700-14/2021/10](#) of 7 September 2021 and Decision No. [0700-55/2020/17](#) of 11 October 2021);
- providing the television content in a form adapted to the sensory impaired (Decision No. [0700-29/2019/49](#) of 19 February 2021).

## 6.5 Practices not regarded as discrimination under PADA

The most common situations when the Advocates receives a complaint in cases not regarded as discrimination are presented hereafter.

Under the PADA, a conduct cannot be qualified as discrimination in the following cases:

1. permitted exceptions to the prohibition of discrimination (that vary according to individual personal grounds);
2. the reason for the distinction is not a personal ground thereunder, but merely a choice or decision of the individual;
3. the absence of interference with rights, legal interests or benefits;
4. various instances of conduct that do not interfere with the rights of others;
5. other wrongdoings or irregularities not defined in the PADA.

### 6.5.1 Exceptions to the prohibition of discrimination

Not every unequal treatment is prohibited. Situations in which unequal treatment is legally permissible are set out in Article 13 of the PADA. Article one of the latter provides a general exception to the prohibition of discrimination: is permissible if such unequal treatment is underpinned by a legitimate objective and the measures of achieving that objective are appropriate, necessary and proportionate. This is the so-called three-step proportionality test.

In such case, the Advocate must first establish whether a particular conduct pursues a legitimate objective. Legitimate objectives must be lawful (i.e. compliant with the values granted by the Constitution and laws) and materially and objectively substantiated, which implies that the achievement of the objectives is necessary for ensuring the well-being of the individual and the community as a whole and evidence supports this view (for example, providing social security, raising employment, providing the highest level of education, etc.). A particular measure may also pursue several legitimate objectives, however, when these are in conflict with each other, the balancing exercise is necessary to establish to which objective greater importance should be attributed. Nevertheless, the objectives are not legitimate when in conflict with values and goods protected under the Constitution and laws.

If the Advocate finds the existence of a legitimate objective, he further observes whether the measures to achieve that objective are appropriate, that is to say, whether those measures can, by the nature of things, lead to the pursued objective. He further observes whether the measures used are necessary, in other words inevitable, that is if the objective can only be achieved by these measures and whether it could be achieved through other measures. Ultimately, the Advocate must assess whether the measures are proportionate, i.e. if the pursued benefit outweighs the harm caused by the measures. One example is the balance



between the public interest pursued by the measures of distinction and the adverse consequences of the same measures for natural persons, legal entities or groups. If the balance exercise shows that the public interests prevails and the consequences are not considered sufficiently severe for the individual or group subject to unequal treatment, the measures to achieve the objective are regarded as proportionate.

In this respect it should be underlined that the above general exemptions from the prohibition of discrimination cannot be applied for the personal grounds of gender, race or nationality, religion or belief, disability, age or sexual orientation. Under the PADA, these personal grounds enjoy special protection, which is in line with the EU directives in the field of protection against discrimination. Accordingly, unequal treatment on the basis of these personal grounds is permissible only if the law provides for specific exceptions.

**The setting of conditions related to personal grounds for the performance of work is permissible when these conditions are essential and critical for the performance of such work.**

**The first exception** from Article 13 par. 2 of the PADA applies to employment and work and defines the concept of genuine and determining occupational requirements. Thus, in the field of employment and work, unequal treatment on the basis of gender, race or nationality, religion or belief, disability, age or sexual orientation is permissible only if the personal ground underlying the unequal treatment is necessary and vital for the performance of the work expected from the individual. In this respect, the three-step proportionality test must be observed again.

**A distinction based on personal grounds in the area of work and employment is permissible where justified by legitimate objectives of the employment policies.**

**Another specific exception** from Article 13 par. 3 of the PADA applies to the personal ground of age and the field of employment and work. Under this exception, unequal treatment by employers on grounds of age is permissible only if it is objectively and reasonably justified by a legitimate objective, including the legitimate objectives of employment, labour market and vocational training policy, moreover, the three-step proportionality test must be observed.

**Religious organisations set a recruitment condition of religion or belief if this is consistent with the principle of legitimacy and proportionality.**

**The third specific exception** from Article 13 par. 4 applies to religious ethics in the field of employment. Under this exception, unequal treatment on grounds of religion or belief, in occupational work in churches and other religious communities, or in other public or private organisations whose ethics is based on religion or belief, shall not constitute discrimination if, due to the nature of the work or the actual context, religion or belief constitutes a legitimate and justified professional requirement according to the ethics of the organisation.



**More favourable treatment of women during work and employment due to pregnancy and parenthood is permissible.**

**The fourth specific exception** from Article 13 par. 5 of the PADA exempts more favourable treatment of women due to pregnancy and motherhood from the prohibition of discrimination and also applies to employment and work. Namely, such favourable treatment is not considered discriminatory against others who are not entitled to such protection.

**In the area of provision of goods and services, unequal treatment on the grounds of gender is permissible if this is in line with the principle of legitimacy and proportionality.**

**The fifth specific exception** from Article 13 par. 6 of the PADA exempts from the prohibition of discrimination the provision of goods and services exclusively or primarily to persons of one gender, whereby the three-step proportionality test must be observed. The said paragraph stipulates that in the light of Article 13 par. 1, in areas referred to in the fifth to eighth indents of Article 2 par. 1 of this Act (i.e. areas of training, education, access to social and health care, social benefits as well as goods and services), unequal treatment based on gender, ethnicity, race or ethnic origin is prohibited in any case, unless the provision of goods or services is exclusively or mainly intended for persons of one gender, provided that such differential treatment is justified by a legitimate objective and that the means of achieving that objective are suitable, necessary and proportionate.

Paragraph 6 of Article 13 contains another important provision, namely it establishes a certain additional hierarchy of protection. It sets out that, in principle, unequal treatment on grounds of sex, nationality, race or ethnic origin is prohibited in the fields of education, access to social and health care, social benefits, goods and services (except when in line with the aforementioned exception for goods and services for one gender), moreover, in these cases, unequal treatment cannot be justified by the three-step proportionality test. In these areas, however, unequal treatment is permitted in relation to other personal grounds, such as religion or belief, age, disability and sexual orientation, as well as in relation to gender, as explicitly provided for by this provision.

## 6.5.2 Personal choice rather than personal ground

The Advocate is often confronted with alleged personal grounds of discrimination which are later found to lack the legal elements of the personal ground definition. Personal ground in the legal sense means congenital or acquired personal traits, characteristics, conditions or statuses, which are, by and large, permanently and inextricably linked to a particular individual and their personality, in particular their identity, or can not easily be altered by the individual.

In other cases, it is usually (but not necessarily) the individual's personal choice or decision. This may also be conditioned by particular objective factors, preferences, desires and life aspirations, but strictly speaking, it is not a personal ground in terms of inherence and inalienability.

**Examining whether a personal ground is the reason for alleged differential treatment is one of the first steps in the proceedings for the Advocate to determine whether it is competent for the matter.** The Slovenian legislation grants the Advocate a wide range of powers, as the PADA, as well as Article 14 of the Constitution of the Republic of Slovenia, contain a wide range of protected personal grounds, and both regulations also contain an open general clause (“any other personal ground”) which allows for personal grounds outside the list to be considered too. These are identified by the Advocate using the definition of personal grounds from the PADA. Sexual harassment is the only practice in which a personal ground is not necessary.

### 6.5.3 The absence of interference with rights, legal interests or benefits

**Neither is a conduct considered discrimination in cases where no interference with human rights, fundamental freedoms, other rights, legal interests or benefits can be identified, as provided for in Article 4 of the PADA.** Accordingly, the Advocate first checks whether the protected benefit pursued by the complaint is provided for by the law and whether it can be determined in line with an applicable legal framework (even if not explicitly defined as a right).

Such a right, benefit or advantage may also be defined in a way which imposes a specific obligation on the state, local community, other legal entity, natural person or any other person liable under the PADA corresponding to the rights, legal interests or benefits. If the right, legal interest or benefit, on one hand, and the corresponding obligation, on the other hand, cannot be identified, no discrimination can be identified under the PADA.

### 6.5.4 Conduct that does not interfere with the rights of others

Conduct that does not interfere with the rights of others, such as e.g. **special measures and appropriate/reasonable accommodation**, cannot be considered discriminatory. These are measures necessary to equalise the starting positions and overcome shortcomings of persons or groups with a certain personal ground, as without these measures these individuals would be in a significantly worse position than persons or groups without the personal ground concerned.

In these situations, specific measures may exist that can be either encouraging or positive. The measures are intended only for particular groups that are disproportionately subject to discrimination, and are taken with the aim of eliminating the existing less favourable position of these groups. Other individuals, outside the group, who have no access to the benefits, therefore, cannot successfully argue that discrimination occurred.

The same applies to the area of appropriate or reasonable accommodation. The institute of reasonable accommodation is governed by Article 5 of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, which states: “In order to guarantee compliance with the principle of equal treatment in relation to persons with disabilities, reasonable accommodation shall be provided.” This means that employers shall take appropriate measures, where needed in a particular case, to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer. This burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the disability policy of the Member State concerned. In addition to this, the obligation to ensure reasonable accommodation is set out in the United Nations Convention on the Rights of Persons with Disabilities (CRPD). In the Slovenian legal framework, the reasonable accommodation is further implemented only partially, namely only in the field of disability, with the Vocational Rehabilitation and Employment of Persons with Disabilities Act and the Equalisation of Opportunities for Persons with Disabilities Act.

With regard to other personal grounds, reasonable accommodation is not provided for in the Slovenian regulations, i.e. the persons liable under the PADA are not bound by this approach. However, appropriate accommodation may be implemented anyway, as in some areas, it is the only way to consistently exercised particular rights and freedoms. In practice, there may be a need for appropriate accommodation with regard to the personal grounds of parenthood, religion, health, etc.

### 6.5.5 The difference between discrimination and other wrongdoings or irregularities

**Situations when other wrongdoings, irregularities or illegalities occur, not based on the personal ground, are also not considered discriminatory.** Even if the Advocate finds a possibility of a particular wrongdoing, discrimination can not be identified unless a personal ground is given in the case. In such cases, various other remedies can be used to address the irregularities, such as regular appeals, judicial protection, contacting sectoral inspectorates and other specialised independent state authorities.

## 6.6 Restrictions pertaining to discrimination identification before the Advocate

Besides the above situations when discrimination cannot be confirmed, two other situations may occur when discrimination cannot be established before the Advocate, on account of being outside the powers of the equality body. **These are matters in which cases are pending before other state authorities, and cases involving private and other relations outside the regulatory framework.**

### 6.6.1 Proceedings before other state authorities

The powers of the Advocate are limited by the PADA, and at the same time, the Advocate follows the principle of separation of powers and the principle of legality, according to which individual state authorities and courts are competent for different areas of legal regulation.

Compliant to the practice of the Constitutional Court of the Republic of Slovenia (eg. Decision no. U-I-92/12-13 of 10 October 2013), the Advocate cannot interfere with individual legal proceedings (administrative or other proceedings conducted in accordance with the law governing administrative and judicial proceedings) conducted by the competent authorities, nor supervise the course of the proceedings or verify the regularity of the decisions made. In these proceedings, the applicants have the possibility to verify the regularity (legality) of the proceeding and to contest the final decisions by legal remedies provided for the procedures by the law. Such interference in individual proceedings beyond the hierarchical system structure of legal remedies would be inconsistent with Article 2 of the Constitution of the Republic of Slovenia (principle of the rule of law), which encompasses the principle of multi-level decision-making.

If an individual contacts the Advocate regarding a matter in which a procedure is pending before another authority, **the Advocate cannot act as an appeal body and ascertain whether discrimination occurred in the case under consideration. In such cases, the equality body may provide independent assistance to the discriminated persons** in exercising their rights to protection against discrimination in terms of advisory and legal assistance in other administrative or judicial proceedings linked to discrimination (indent 4 of Article 21 of PADA).



## 6.6.2 Private and other relationships outside of legal regulation

Another limitation to decision-making regarding discrimination applies to cases, when the alleged discrimination occurs in an area outside of legal regulations. **These are primarily a private and intimate relationship** not regulated by law, such as selecting a mate, friendship, family, interpersonal or neighbourly relations and other spheres outside the reach of the law. Many prejudices are present in these situations as well, but until the prejudices collide with the law, discrimination under the PADA cannot be identified. However, if such relations overstep the limit of legal regulation and reach into an area regulated by the law, the identification of discrimination is possible, as well as other proceedings before other competent authorities (criminal, compensation, inspection proceedings, etc.).

## 6.7 The role and contribution of the Advocate in tackling individual cases

Based on the findings that emerge in the process of discrimination identification, the Advocate can achieve a change of practice or cessation of discriminatory conduct. In some cases, the cessation of discriminatory conduct is triggered by a recommendation or a call by the Advocate, or his decisions have consequences in the form of sanctions.

The Advocate would like to highlight the following cases as examples of successful outcomes (e.g. cessation of discriminatory conduct, fine imposed by the inspectorate, settlement between the victim and the offender):

- The Advocate contributed to the conclusion of a settlement in the case of lower company performance bonuses due to maternity and sick leave (0700-18/2021 of 14 May 2021, more information is given in the second part of the Annual Report for 2021, Chapter 1.13.2).
- With the help of the Advocate, a settlement was reached regarding the payment of performance bonuses to a worker who meets the conditions for old-age retirement (0700-23/2021 of 12 October 2021, more information is given in the second part of the Annual Report for 2021, Chapter 1.7.2).
- Following an intervention by the Advocate, an employed mother of a child with special needs obtained the right to a special allocation of working hours (0700-43/2021/11 of 18 October 2021, more information is given in the second part of the Annual Report for 2021, Chapter 1.6.2).
- Following an intervention by the Advocate, an Employment Agency complies with the requirement that advertisements must be gender neutral (0700-32/2021/8 of 24 November 2021, more information is given in the second part of the Annual Report for 2021, Chapter 1.1.2).
- Following an intervention by the Advocate, the Employment Service of Slovenia began training professional associates to identify and eliminate discriminatory criteria in job advertisements (0700-42/2021/8 of 24 November 2021, more information is given in the second part of the Annual Report for 2021, Chapter 1.1.2).
- Following an intervention by the Advocate, a kindergarten provides children with a diet in accordance with their religion (0700-24/2021/6 of 22 April 2021, more information is given in the second part of the Annual Report for 2021, Chapter 1.5.2).

# 7 ASSESSMENT OF DISCRIMINATIVENESS OF REGULATIONS



## 7.1 Legal basis for assessing the discriminativeness of regulations

The provisions of Article 38 of the Protection against Discrimination Act (PADA) grants the Advocate the power to file requests for the review of the constitutionality and legality of regulations before the Constitutional Court of the Republic of Slovenia. If found that any law or other regulation is discriminatory, the Advocate may inform thereof the procedure proposer for the assessment of constitutionality and legality or initiate the procedure for the review the constitutionality or legality of a regulation or general act issued for the exercise of public authority.

The Advocate implements the provision **by first assessing whether a regulation is discriminatory before deciding on the initiation of the proceeding for the assessment of constitutionality or legality**. This is an internal procedure at the Advocate, which is not conducted in the manner of discrimination investigation under the administrative procedure, as the administrative procedure is not intended for the investigation of discrimination existing at the level of regulations.

Assessments of the discriminativeness are conducted by the Advocate at their own initiative or at the initiative of a party. The Advocate decides to submit a request for the assessment of constitutionality and legality to the Constitutional Court of the Republic of Slovenia based only on the prepared assessment of the discriminativeness of a regulation.

## 7.2 Statistics of assessments of discriminativeness of regulations

In 2021, the Advocate received 36 new requests for the assessment of discriminativeness of regulations. **Together with 12 cases carried over from the previous years, the Advocate conducted 48 procedures of regulatory discrimination assessment in 2021.**

In 2021, the Advocate completed 31 regulatory discrimination assessment procedures. 17 cases were carried over to 2022 for further consideration. In ten of these cases the regulatory discrimination assessment was already carried out by the Advocate, but for various reasons (e.g. monitoring the response to the Advocate's assessment, waiting for a possible response from the parties to the procedure) the procedure has not yet been completed.

In 11 completed cases, the Advocate concluded the discrimination assessment procedure by issuing an appropriate assessment. In seven cases, the regulation was found to be discriminatory and in four proceedings it was assessed as non-discriminatory. In 15 cases, a more detailed assessment of discriminativeness was not carried out, as within the preliminary analysis, a discriminativeness of the regulation was not demonstrated.

In two proceedings, the Advocate closed the case by a written explanatory note, as in a substantially identical matter a detailed assessment had already been carried out. It concerns the discriminatory nature of the regulations on the basis of which gathering of people in educational institutions was prohibited as means of covid-19 epidemic containment.

In one case, the Advocate closed the proceedings with a formal note on the closure of the case. In the process of assessing the potential discriminativeness of the provision of the Ordinance on restriction of movement and permanent installation and activation of the mobile application for informing about contacts with other users #OstaniZdrav, it turned out that the Ordinance was subsequently amended, and the disputed provision on the installation of the mobile application was removed (050-30/2020).

### Graphical representation of assessments of discriminativeness of regulations statistics

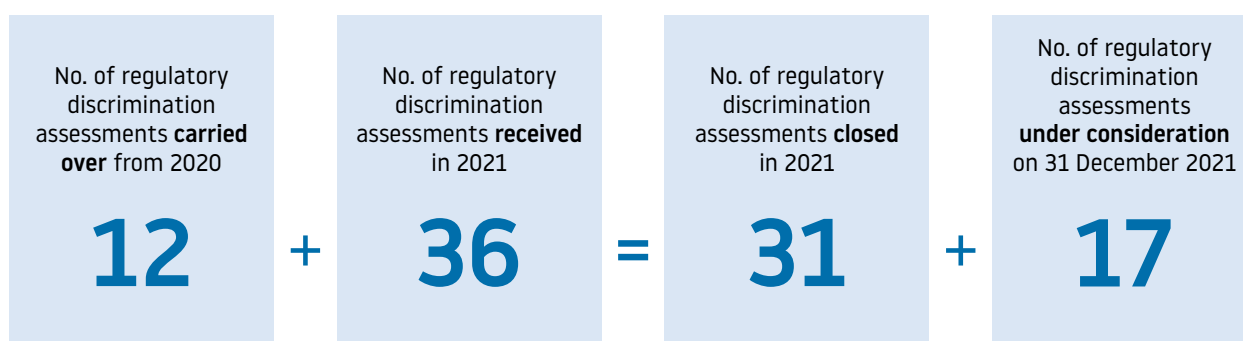


Table: Outcomes of assessment of discriminativeness of regulations proceedings before the Advocate closed in 2021

Outcomes of proceedings before the Advocate	Number	Percentage (%)
Assessment – discrimination found	7	23
Assessment – discrimination not found	4	13
Explanation regarding the failure to perform the assessment	15	49
Formal note on the closure of the case	1	3
Written clarification	2	6
Recommendations	1	3
Proposal for termination of the discrimination assessment procedure	1	3
<b>TOTAL</b>	<b>31</b>	<b>100</b>

## 7.3 Overview of assessments of discriminativeness of regulations

Below are the summaries of the assessments of discriminativeness of regulations proceedings carried out by the Advocate in 2021. The summarised cases include those in which the regulation was found to be discriminatory, those in which according to the procedure carried out discrimination was not found and cases in which the discrimination assessment was not carried out as within the preliminary analysis, discrimination was not demonstrated.

Some of the summarised procedures for assessments of discriminativeness of regulations were closed by the Advocate in 2021, and in ten cases the Advocate is still awaiting the response of the responsible party or the decision of the Constitutional Court, which is the reason why the cases are not yet closed. This means that some of the aforementioned cases are already covered by the statistics of closed discriminatory assessment cases, however some are not.

## 7.3.1 Assessing the discriminativeness of regulations

Cases of assessments of discriminativeness of regulations (nine) carried out by the Advocate in 2021 in which the Advocate found discrimination pertained to the following topics:

- According to the Advocate, the dismissal of workers who meet the conditions for old-age retirement, without specifying any reasons, constitutes discrimination (050-4/2021/12, more information is given in the second part of the Annual Report for 2021, Chapter 1.7.3).
- According to the Advocate, unequal treatment of persons with disabilities in access to personal assistance based on their age constitutes discrimination (050-16/2020/17, more information is given in the second part of the Annual Report for 2021, Chapter 1.7.3).
- According to the Advocate, the restrictions in the granting of solidarity childbirth allowance only to persons with permanent residence in Slovenia constitutes discrimination (050-9/2021/7, more information is given in the second part of the Annual Report for 2021, Chapter 1.15.3).
- According to the Advocate, the Act Regulating the Supplement to Pensions for Work and Outstanding Achievements in Sports is discriminatory towards deaf athletes (050-25/2021/1, more information is given in the second part of the Annual Report for 2021, Chapter 1.6.3).
- According to the Advocate, the regulations governing access to procedures of biomedically-assisted procreation are discriminatory against infertile women who are not in a marriage or extramarital union (050-1/2017/24, more information is given in the second part of the Annual Report for 2021, Chapter 1.8.3).
- According to the Advocate, the long-term closure of schools during the covid-19 epidemic led to discrimination against children, vulnerable groups of children and parents, especially women (050-15/2021/56, more information is given in the second part of the Annual Report for 2021, Chapter 1.9.3).
- According to the Advocate's assessment, access to humanitarian warehouses must be granted without the DCP conditions (050-31/2021/2, more information is given in the second part of the Annual Report for 2021, Chapter 1.10.3).
- According to the Advocate, conditioning the crossing of municipal borders on the use of the application #OstaniZdrav constitutes discrimination (050-30/2020/34, more information is given in the second part of the Annual Report for 2021, Chapter 1.7.3).
- According to the Advocate's assessment, the restrictions of exit from the country due to the epidemic containment measures was discriminatory (050-16/2021/4, more information is given in the second part of the Annual Report for 2021, in Chapter 1.2.3, and 050-18/2021/10, more information is given in the second part of the Annual Report for 2021, Chapter 1.2.3).



## 7.3.2 Rejected requests for the assessment of discriminativeness of regulations

In 2021, the cases (precisely 12) in which the Advocate did not conduct an assessment of discriminativeness, as the preliminary analysis showed no discrimination, were:

- The date when the salary promotion in the public sector is taken into account is not discriminatory (050-28/2021/2, more information is given in the second part of the Annual Report for 2021, Chapter 1.11.3).
- Unequal treatment of persons with regard to their research and pedagogical title is not discriminatory (050-11/2021/4, more information is given in the second part of the Annual Report for 2021, Chapter 1.18.3).
- The difference in the percentage for the calculation of pension with regard to gender is not discriminatory (050-10/2021/6, more information is given in the second part of the Annual Report for 2021, Chapter 1.1.3).
- Unequal treatment of blind persons and persons with reduced mobility in the method of determining eligibility for the assistance and attendance allowance does not represent discrimination (050-18/2020/20, more information is given in the second part of the Annual Report for 2021, Chapter 1.6.3).
- The termination of the payment of occupational insurance contributions in case of fulfilment of the conditions for old-age retirement does not constitute discrimination (050-12/2021/3, more information is given in the second part of the Annual Report for 2021, Chapter 1.7.3).
- The exclusion of children born in 2020 before declaring the state of epidemic from the solidarity allowance was eliminated and therefore does not constitute discrimination (050-31/2020, more information is given in the second part of the Annual Report for 2021, Chapter 1.7.3).
- The exclusion of full-age students from the solidarity allowance for children does not constitute discrimination (050-5/2021/5, more information is given in the second part of the Annual Report for 2021, Chapter 1.7.3).
- Adjusting the method of taking into account the achievements of pupils, students and students in order to obtain the Zois scholarship in relation to the covid-19 epidemic is not discriminatory (050-33/2020/3, more information is given in the second part of the Annual Report for 2021, Chapter 1.7.3).
- Unequal treatment of managers with high incomes compared to regular employees is not discriminatory (050-20/2021/3, more information is given in the second part of the Annual Report for 2021, Chapter 1.18.3).

- The exclusion of foreign students from the solidarity allowance during the covid-19 epidemic is not discriminatory (050-7/2021/3, more information is given in the second part of the Annual Report for 2021, Chapter 1.14.3).
- The exclusion of foreigners from the possibility of quarantine suspension based on a negative covid-19 test was eliminated and therefore does not constitute discrimination (050-2/2021/3, more information is given in the second part of the Annual Report for 2021, Chapter 1.14.3).
- The certificate of vaccination, recovery or PCR test as a condition for crossing the borders of statistical regions does not constitute discrimination (050-19/2021/3, more information is given in the second part of the Annual Report for 2021, Chapter 1.10.3).

### 7.3.3 Regulatory discrimination assessment procedure suspended

- The regulation of health insurance rights by a bylaw is not appropriate (050-24/2021/7, more information is given in the second part of the Annual Report for 2021, Chapter 1.7.3).

The Advocate of the Principle of Equality discussed Article 34 of the Rules on compulsory health insurance, according to which the insured person has the right to orthodontic treatment as a rule until the age of 18. The Advocate noted that the age limit, which is not necessarily controversial, can only be set by a law. Hence, the proceeding was suspended by the Advocate, and the client was advised to use legal remedies with the aim of challenging the age limit laid down in the Rules.

### 7.3.4 Assessing the non-discriminateness of regulations

Cases of assessment of discriminativeness of regulations (eight) carried out by the Advocate in 2021 in which the Advocate did not find discrimination pertained to the following topic:

- According to the Advocate, the prescribed standards of education for professional heads of driving schools do not constitute discrimination (050-3/2018/3, more information is given in the second part of the Annual Report for 2021, Chapter 1.11.3).
- According to the Advocate's assessment, required qualifications for a particular position do not constitute discrimination (050-34/2021/4, more information is given in the second part of the Annual Report for 2021, Chapter 1.11.3).
- According to the Advocate's assessment, the regulation of the exemption from court fees for foreigners without a residence in Slovenia is not discriminatory (050-9/2019/5, more information is given in the second part of the Annual Report for 2021, Chapter 1.14.3).



- According to the Advocate, the regulation of the payment of personal income tax in the case of a person working half-time and receiving disability compensation for the remaining half is not discriminatory (050-13/2021/11, more information is given in the second part of the Annual Report for 2021, Chapter 1.6.3).
- According to the Advocate's assessment, setting of the minimum age of children for the admission to kindergarten does not constitute discrimination (050-26/2021/3, more information is given in the second of the Annual Report for 2021, Chapter 1.7.3).
- According to the Advocate's assessment, the DCP condition in the access to services does not constitute discrimination (050-27/2021, more information is given in the second part of the Annual Report for 2021, more precisely in Chapter 1.18.3, and 050-32/2021/8, more information is given in the second part of the Annual Report for 2021, Chapter 1.18.3).
- According to the Advocate's assessment, the Ordinance determining the conditions of entry into the Republic of Slovenia to contain and control the covid-19 infectious disease is not discriminatory (050-35/2021/6, more information is given in the second part of the Annual Report for 2021, Chapter 1.18.3)
- According to the Advocate's assessment, the situation of foreigners, drivers in international transport residing in Slovenia, when crossing the border during the covid-19 epidemic is not discriminatory (050-27/2020/8, more information is given in the second part of the Annual report for 2021, Chapter 1.18.3).

### 7.3.5 Assessing the discriminativeness of regulations still under consideration

The cases (14) still under consideration on 31 December 2021 pertain to the following topics:

- Does the condition of an adequate command of the Slovene language for the inclusion of third-country citizens in the unemployment register constitute discrimination on the grounds of citizenship and indirectly nationality? (050-24/2020)
- Does the suspension of the obligation to pay contributions to the occupational retirement scheme constitute discrimination on grounds of disability, age or parenthood and, indirectly, also gender? (050-2/2018)
- Does the inaccessibility of the disability status under the Social Inclusion of Disabled Persons Act for persons with mental health problems constitute discrimination on the ground of health status or type of disability? (050-29/2020)
- Is the exclusion of children with movement disabilities from the assistance and attendance allowance, belonging to blind and visually-impaired children and adolescents discriminatory? (050-28/2020)



- Is the regulation of the maximum amount of the assistance and attendance allowance discriminatory from the viewpoint of people with psychosocial disabilities? (050-40/2021)
- Is the scheme of municipal allowance, which limits the receipt of the allowance to 25 years of age, discriminatory on the grounds of age? (050-41/2021)
- Is the scheme from the Pension and Disability Insurance Act (PDIA-2) for old-age retirement in the case of employment before the age of 20 discriminatory? (050-22/2021)
- Does the different treatment of boys compared to girls in the case of delayed vaccination against human papillomavirus (HPV) constitute discrimination? (050-33/2021)
- Do the different age limits for returning pupils to schools after the containment of the coronavirus epidemic constitute discrimination against children on the basis of their age? (050-10/2020)
- Does the method of enrolment in public music schools allow for appropriate accommodation for children with psychosocial disabilities or is it discriminatory? (050-38/2021)
- Does the exclusion of cross-border migrant workers not residing in the 10 km border zone from the set of exceptions when crossing the state border without being subject to quarantine in the event of non-compliance with the DCP condition constitute discrimination? (050-29/2021)
- Is the composition of the Council of the Roma Community under the Roma Community in the Republic of Slovenia Act discriminatory? (050-14/2021)
- Is the provision imposing an obligation on refugee counsellors to disclose confidential information about the applicants for international protection to the Ministry of the Interior discriminatory? (050-21/2021)
- Is the provision requiring legal representatives of minor applicants for international protection to disclose confidential information about the applicants to the Ministry of the Interior discriminatory? (050-21/2021)



## **8 DATA ON CASES OF DISCRIMINATION DEALT WITH BY OTHER STATE AUTHORITIES**

## 8.1 Legal basis and method of data collection

Pursuant to the **third chapter of the Protection against Discrimination Act (PADA)**, the Advocate of the Principle of Equality (the Advocate) monitors the state of discrimination in Slovenia in several ways, including the use of research methods (own and international), conducting analyses of the situation (in the country and international comparison), monitoring the practices of other state authorities and conducting analyses of the Advocate's activities.

Article **16 of the PADA** explicitly requires the Advocate and the competent inspection services to collect **anonymised data on the number of considered discrimination cases classified according to individual personal grounds, forms of discrimination and individual subject areas**. The inspection services are required to annually introduce the data to the Advocate. The data is collected and used for the purposes of monitoring, planning and managing the non-discriminatory policy and for scientific and research purposes.

Within the tasks and powers under the PADA, the Advocate monitors the overall situation in the Republic of Slovenia with regards to the protection against discrimination and position of persons with particular personal grounds (sixth indent of Article 21 of PADA). In this light, the Advocate submitted a **request to the competent authorities for information on reported cases of discrimination in 2021**, accordingly classified by individual personal grounds, forms of discrimination and individual areas of life. Besides the inspection services, the Advocate submitted the request also to the Police, the Office of the State Prosecutor-General and all courts.

The Prosecution office and the Police were requested to provide information on cases of criminal offences with the constituent elements from Article 297 of the Criminal Code (CC), i.e. public incitement to hatred, violence or intolerance, and Article 131 of the Criminal Code (CC-1), i.e. violation of right to equality in connection to any personal ground (gender, nationality, race or ethnic origin, language, religion or belief, disability, age, sexual orientation, gender identity and gender expression, social status, property status, education or other), which could as such be discriminatory under the PADA: The Advocate also requested the Police to provide data on minor offences under Article 20 of the Protection of Public Order Act (PPOA-1).<sup>6</sup>

Additionally, the Advocate requested anonymised information from courts regarding final judgements pertaining to Article 14 of the Constitution of the Republic of Slovenia, the PADA, the Implementation of the Principle of Equal Treatment Act, Article 6, 6a, 27 and 133 of the Employment Relationships Act, Article 6 of the Equalisation of Opportunities for Persons with Disabilities Act and Article 3 of the Freedom of Religion Act.<sup>7</sup>

In 2021, the Advocate addressed a request to the competent authorities for data on number of discrimination cases considered according to individual personal grounds, areas of life and forms of discrimination, with the purpose of monitoring the overall situation.

These authorities concerned were as follows: inspection services, the Police, the Office of the State Prosecutor-General, all courts.

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<sup>6</sup> Official Gazette of the Republic of Slovenia, No. 70/06

<sup>7</sup> Official Gazette of the Republic of Slovenia, No. 14/07, 46/10 - dec. Constitutional Court, 40/12 – Fiscal Balance Act and 100/13



## 8.2 Cases of discrimination dealt with by inspections

Pursuant to Article 16 of the PADA, the Advocate requested information from 25 inspection authorities. Of the 25 inspection services approached, 19 responded. Of the 19 responses received, 16 inspection services did not investigate any cases of discrimination in 2021 according to personal grounds, forms of discrimination and individual areas of life.

The inspection services that did not consider any cases of discrimination in 2021 were:

- Agency for Communication Networks and Services of the Republic of Slovenia;
- Financial Administration of the Republic of Slovenia;
- Information Commissioner;
- Culture and Media Inspectorate of the Republic of Slovenia;
- Internal Affairs Inspectorate of the Republic of Slovenia;
- Defence Inspectorate of the Republic of Slovenia;
- Inspectorate of the Republic of Slovenia for Protection against Natural and Other Disasters;
- Agency for Medicinal Products and Medical Devices of the Republic of Slovenia;
- Civil Aviation Agency of the Republic of Slovenia;
- Information Security Administration of the Republic of Slovenia – Information Security Inspectorate;
- Slovenian Nuclear Safety Administration – Radiation and Nuclear Safety Inspection Service;
- Slovenian Radiation Protection Administration – Radiation Protection Inspection Service;
- Metrology Institute of the Republic of Slovenia – Metrology Supervision Division;
- Budget Supervision Office of the Republic of Slovenia – Budgetary Inspection Division;
- Chemicals Office of the Republic of Slovenia – Chemicals Inspection;
- Health Inspectorate of the Republic of Slovenia.

Three inspection services reported cases of discrimination:

- Labour Inspectorate of the Republic of Slovenia;
- Inspectorate of the Republic of Slovenia for Education and Sport;
- Market Inspectorate of the Republic of Slovenia.

The following did not respond to the Advocate's request:

- Inspectorate of the Republic of Slovenia of Infrastructure;
- Public Sector Inspectorate of the Republic of Slovenia;
- Inspectorate of the Republic of Slovenia for Agriculture, Forestry, Hunting and Fisheries;
- Inspectorate of the Republic of Slovenia for the Environment and Spatial Planning;
- Slovenian Maritime Administration – Maritime Inspection Division;
- Administration for Food Safety, Veterinary Sector and Plant Protection.

A more detailed overview of the discrimination cases reported by the respective inspection services follows.

## 8.2.1 Labour Inspectorate of the Republic of Slovenia

The Labour Inspectorate of the Republic of Slovenia does not keep records or databases by cases under consideration, but by the established violations of the provisions of labour law, which applies also to violations of the prohibition of discrimination. Moreover, the Labour Inspectorate does not keep any records or statistics with regard to personal grounds that led to discrimination.

In 2021, violations of the prohibition of discrimination were found in greater numbers compared to previous years. Discrimination was found in a total number of 31 cases with 29 different employers, which is the largest number so far. As regards the collection of data on infringements, the Inspectorate explained that some infringements may be recorded several times, as they may be recorded firstly as an infringement within an inspection proceeding and secondly within a minor offence proceeding. Moreover, infringements in a minor offence proceedings may also be recorded firstly as a violation by the legal entity and secondly as a violation by the responsible person at the employer. Consequently, the number of cases where discrimination was found (and the number of employers where infringements were found) was reported rather than the number of the recorded infringements.

The vast majority of cases concerned a violation of the prohibition of discrimination against workers in an employment relationship, and only three cases recorded concerned a violation of the prohibition of discrimination against candidates for employment. Of these, one case was regarded a violation of Article 27 of the ERA-1 (equal treatment with respect to gender). Of the 29 employers, where inspectors found an infringement, one came from the public sector and the rest from the private sector. They were different-sized companies (mostly limited liability companies (d.o.o.) while two had the status of joint stock companies (d.d.)) and three were sole entrepreneurs. Most cases were recorded as violations of Article 6 of the ERA-1, and in two cases the inspectors established a violation of Article 6 of the PADA.

In the cases of established violations of the prohibition of discrimination, the inspectors took the following measures:

- issued a warning based on Article 33 of the Inspection Act (in nine cases);
- issued a warning on the basis of Article 53 of the Minor Offences Act (ZP-1, in seven cases of the established violations);
- issued a decision establishing minor offence with a caution based on Article 21 of the Minor Offences Act (ZP-1, in seven cases) and
- issued a decision on a fine offence (in six cases).

In some cases, the inspectors did not follow the lower limit in the range of fines for violations of Article 6 of the ERA-1 (that is, EUR 3,000 for the employer's legal entity and EUR 450 for the employer's responsible person), but imposed a higher fine within the permissible range or a higher sanction exceeding the lowest limit based on rules governing concurrent offences. In one case, a fine was set within the range (EUR 6,000 for the employer and EUR 900 for the responsible person), and in two cases a fine was imposed based on rules governing concurrent offences (EUR 4,500 for the employer and EUR 1,350 for the responsible person; and in the other case EUR 9,000 for the employer and EUR 1,350 for the responsible person).



However, in most cases, the inspectors took into account the lowest amount of fines in the range provided for by the law, i.e. for a minor offence under Article 217 of the ERA-1 EUR 3,000 euros for the employer – legal entity and EUR 450 for the responsible person; and for misdemeanour under the ERA-1 or under Article 45 of the PADA EUR 3,000 for the employer – legal entity and EUR 250 for the responsible person.

In some cases, the inspection procedures have not yet been closed or the measure has not yet been served on the employer. In 2021, the inspectors did not find any violation of Article 133 of the Employment Relationship Act (ERA-1), which provides for equal pay for male and female workers.

## 8.2.2 Inspectorate of the Republic of Slovenia for Education and Sport

Initiatives in the field of alleged discrimination received by the Inspectorate for Education and Sport in 2021 concerned the areas of knowledge assessment, educational action, cooperation with parents and cases of communication on the school grounds. In the area of sports, the complaints related to the participation of athletes in competitions and the methods of communication with individuals during training.

The allegations made by the complainants related exclusively to their own perception of the events and circumstances on the school or sports grounds, which however does not mean that elements of discrimination under the Protection against Discrimination Act were given. Inspections and additional enquiries in this regard did not establish any violations as to the field of discrimination. The initiatives were addressed in light of the applicable school regulations, regulations governing the area of sports and associated rights and obligations of students as well as cooperation with parents. The Inspectorate pointed out that the school legislation also sets out appropriate practices to be followed on school grounds. Article 2a of the Organisation and Financing of Education Act stipulates that in line with the objectives of education and training, kindergartens, schools and other institutions for the education of children and adolescents with special needs shall ensure a safe and stimulating learning environment where corporal punishment of children and any other form of violence against and among children as well as unequal treatment are prohibited, that would be based on gender, sexual orientation, social and cultural background, religion, racial, ethnicity and nationality or peculiarities of physical and mental development.

In only one case, the inspectorate assessed that unequal treatment of parents in accessing or exercising rights related to the exercise of parental rights in kindergarten could also constitute violations of the Protection against Discrimination Act with regard to equal treatment of parents in exercising the right to cooperate with the kindergarten. Therefore, based on Article 14b of the School Inspection Act, a proposal was submitted to the kindergarten to assess the organisation of work as to provide an encouraging environment for the child and respect the parents as primary caregivers who carry the main responsibility for the child's upbringing and development.

## 8.2.3 Market Inspectorate of the Republic of Slovenia

The Market Inspectorate supervises access to goods and services available to the public. Supervision is carried out solely based on received complaints.

In 2021, five cases of discrimination which related to the personal grounds of gender, disability and race or ethnicity were considered. Moreover, the Inspectorate addressed a number of complaints alleging discrimination, but different treatment took place for reasons not related to personal grounds (DCP condition, wearing a mask) and therefore no discrimination was found in these cases.

In four cases, the Inspectorate conducted minor offence proceedings upon a proposal by the Advocate in cases of already established discrimination under the PADA. In four cases, discrimination was found and a reprimand was made. Of these, three cases were considered by the Inspectorate on the proposal of the Advocate. In one case, which was considered by the Inspectorate on the proposal of the Advocate, the procedure has not yet been closed. In 2021, the inspectorate did not impose any fines in relation to the discrimination that was found.

## 8.2.4 Overview of data on cases of discrimination submitted by the inspectorates

Three inspectorates found discrimination in 2021, which is one less than in 2020. According to the data received, the most reported cases of discrimination fall within the area of employment and work, followed by the areas of access to goods and services and education.

In 2021, the Labour Inspectorate found nineteen violations more than in 2020. In 2021, the Inspectorate of the Republic of Slovenia for Education and Sport considered six complaints more than in 2020. The Market Inspectorate reported two cases more than in 2020.

In the cases examined, the inspectorates found discrimination based on the following personal grounds: gender, parenthood, nationality, race or ethnic origin, disability, age, health status, citizenship and other.

Table: Overview of the data made available by the inspection services regarding the addressed cases of discrimination – comparison between 2017, 2018, 2019, 2020 and 2021 \*

Inspection service	Com-plaints received 2017	Cases found 2017	Com-plaints received 2018	Cases found 2018	Com-plaints received 2019	Cases found 2019	Com-plaints received 2020	Cases found 2020	Com-plaints received 2021	Cases found 2021
1. Market Inspectorate	7	4	3	2	6	0	6	2	8	4
2. Labour Inspectorate	/	11	/	17	/	16	/	12	/	31
3. Defence Inspectorate	5	0	/	/	5	1	4	0	0	0
4. Inspectorate for Education and Sport	9	/	16	2	6	/	10	0	16	0
5. Health Inspectorate	0	0	0	0	1	0	/	/	0	0
6. Public Sector Inspectorate	0	0	6	/	0	0	/	/	/	/

\* When the inspectorates responded by stating no complaints were received, the number 0 was given.  
If no information is available or the inspectorate has not responded, the field is marked with a slash (/).



## 8.3 Cases of discrimination considered – the Police

Pursuant to Article 21 of the PADA, in order to monitor, record and assess the situation in the field of protection against discrimination in the Republic of Slovenia, the Advocate also monitors cases of violations addressed by the Police. From the fields within the competence of the Police, the three following areas are relevant for monitoring in light of Advocate's field of activity:

- Article 20 of the Protection of Public Order Act (incitement to intolerance),
- Article 131 of the Criminal Code (violation of right to equality),
- Article 297 of the Criminal Code (public incitement to hatred).

According to Article 20 of the Protection of Public Order Act (PPOA), the incitement to intolerance with the intention of inciting national, racial, sexual, ethnic, religious, political or sexual-orientation based intolerance is prohibited. It is an aggravated form of the offences from Article 6, 7, 12, 13 and 15 of the PPOA-1 (violent and reckless behaviour, indecent behaviour, damaging an official sign, mark or decision, writing on buildings and destroying national symbols). The provision of Article 20 of PPOA-1 therefore provides for a discriminatory motive in the commission of certain other violations against public peace and order.

Among the criminal offences investigated by the Police, the Advocate collects data on the cases with the constituent elements from:

- Article 131 of the Criminal Code (CC-1), i.e. violation of right to equality in relation to any personal ground (nationality, race, skin colour, religion, ethnic roots, gender, language, political or other beliefs, sexual orientation, financial situation, birth, genetic heritage, education, social position or any other ground).
- Article 297 of the Criminal Code (CC-1), i.e. public incitement to hatred, violence or intolerance in connection to any personal ground (gender, nationality, race or ethnic origin, language, religion or belief, disability, age, sexual orientation, gender identity and gender expression, social status, property status, education or other), which could as such be discriminatory under the PADA.

In general, it turned out that the Police, as well as the inspectorates, had difficulties in generating a structured data review in a form, provided for by the PADA (i.e. classified according to personal grounds, areas of life and forms of discrimination) due to different systems of recording and keeping track of the discrimination cases. Namely, the Police keeps track of individual cases in another way, based on the gender, age and citizenship of the suspected offenders. In light of the close monitoring of discrimination cases at the national level pursuant to the requirements of the PADA, there is now **a need for a coherent approach to recording cases of discrimination at issue.**



### 8.3.1 Offences under the Protection of Public Order Act – Incitement to Intolerance

In 2021, the Police imposed measures in 56 cases of minor offences under Article 20 of the Protection of Public Order Act (PPOA-1). Most violations of Article 20 of the Protection of Public Order Act were committed in connection with Article 6 thereof (violent and reckless behaviour), which means in practice that most violations occurred during fights or arguments. The number of violations relating to Article 12 of the PPOA-1 (damaging an official sign, mark or decision) increased, on the other hand, the number of cases violating Article 13 (writing on buildings) decreased, the number of violations under Article 15 of the PPOA-1 (destroying national symbols) remained unchanged.

The Police also reported back the data for the years from 2016 to 2021. The reported data for 2018, 2019 and 2020 differ from the data reported previously for each year showing higher numbers.

*Table: Overview of measures under Article 20 of the PPOA-1 – violations found, as reported by the Police individually for each current year*

Article of the PPOA-1	Number of violations				
	2016	2017	2018	2019	2020
6. violent and reckless behaviour	29	32	31	39	38
7. indecent behaviour	11	8	4	7	11
12. damaging an official sign, mark or decision	1	7	10	1	3
13. writing on buildings	1	/	/	3	1
15. destroying national symbols	/	1	1	3	3
<b>TOTAL</b>	<b>42</b>	<b>48</b>	<b>46</b>	<b>53</b>	<b>56</b>

*Table: Overview of measures under Article 20 of the PPOA-1 – violations found, as reported by the Police in 2022 for 2021, while correcting the data for 2018, 2019 and 2020.*

Article of the PPOA-1	Number of violations					
	2016	2017	2018	2019	2020	2021
6. violent and reckless behaviour	29	32	35	41	43	40
7. indecent behaviour	11	8	6	7	12	12
12. damaging an official sign, mark or decision	1	7	11	1	5	4
13. writing on buildings	1	/	3	3	1	1
15. destroying national symbols	/	1	1	4	3	2
<b>TOTAL</b>	<b>42</b>	<b>48</b>	<b>56</b>	<b>56</b>	<b>64</b>	<b>59</b>

## 8.3.2 Offences under Article 131 of the Criminal Code – Violation of right to equality

Article 131 of the Criminal Code (CC-1) stipulates that whoever due to differences in respect of nationality, race, skin colour, religion, ethnic roots, gender, language, political or other beliefs, sexual orientation, financial situation, birth, genetic heritage, education, social position or any other circumstance deprives or restrains another person of any human right or liberty recognised by the international community or laid down by the Constitution or the statute, or grants another person a special privilege or advantage on the basis of such discrimination shall be punished by a fine or sentenced to imprisonment for not more than one year (paragraph 1). Whoever prosecutes an individual or an organisation due to his or its advocacy of the equality of people shall be punished under the provision of the preceding paragraph (paragraph 2). In the event of the offence under paragraphs 1 or 2 of this Article being committed by an official through the abuse of office or official authority, such an official shall be sentenced to imprisonment for not more than three years (paragraph 3).

In 2021, the Police considered one criminal offence under Article 131 of the CC-1. Data on criminal offences under Article 131 of the Criminal Code are prepared depending on the final document submitted, which means that the data covers cases of the above-mentioned criminal offences for which the final document (criminal charge or report) was submitted by the Police in 2021. The proceedings are currently pending.

*Table: Criminal offences under Article 131 of the CC-1 – Violation of right to equality*

Year	2016	2017	2018	2019	2020	2021
Number of suspects	5	5	5	9	5	1
Number of victims	11	13	10	14	6	1

## 8.3.3 Offences under Article 297 of the Criminal Code – Public incitement to hatred, violence or intolerance

Pursuant to Article 297 of the CC-1, whoever publicly provokes or stirs up hatred, strife or intolerance, based on nationality, race, religion or ethnicity, gender, skin colour, origin, financial situation, education, social status, political or other belief, disability, sexual orientation or any other personal circumstance, in a way to disturb public order and peace or carried out in a manner which is threatening, abusive or insulting shall be punished by imprisonment of up to two years (paragraph 1). The same sentence shall be imposed on a person who publicly disseminates ideas on the supremacy of one race over another, or provides aid in any manner for racist activity or denies, diminishes the significance of, approves, disregards, makes fun of, or advocates genocide, holocaust, crimes against humanity, war crime, aggression, or other criminal offences against humanity as provided for in the legal order of the Republic



of Slovenia (paragraph 2). If the offence under preceding paragraphs has been committed by publication in mass media or on websites, the editor or the person acting as the editor shall be sentenced to the punishment, by imposing the punishment referred to in paragraphs 1 or 2 of this Article, except if it was a live broadcast and he was not able to prevent the actions referred to in the preceding paragraphs or if it was a website publication where the users could not be prevented from posting contents in real time without prior supervision (paragraph 3). If the offence under paragraphs 1 or 2 of this Article has been committed by coercion, maltreatment, endangering of security, desecration of national, ethnic or religious symbols, damaging the movable property of another, desecration of monuments or memorial stones or graves, the perpetrator shall be punished by imprisonment of up to three years (paragraph 4). If the acts under paragraphs 1 or 2 of this Article have been committed by an official by abusing their official position or rights, he shall be punished by imprisonment of up to five years (paragraph 5).

Data on criminal offences under Article 297 of the Criminal Code are prepared depending on the final document submitted, which means that the data covers cases of the above-mentioned criminal offences for which the final document (criminal charge or report) was submitted by the Police in 2021.

*Table: Overview of criminal offences under Article 297 of CC-1 under consideration*

Year	Number of cases considered					
	2016	2017	2018	2019	2020	2021
Charges	18	13	13	16	50	39
Report	31	13	19	23	44	50
<b>Total</b>	<b>49</b>	<b>26</b>	<b>32</b>	<b>39</b>	<b>94</b>	<b>89</b>

## 8.4 Cases of discrimination considered – the Prosecution

Pursuant to Article 21 of the PADA, in order to monitor, record and assess the situation in the field of protection against discrimination in the Republic of Slovenia, the Advocate requested information from the Supreme State Prosecutor's Office of the Republic of Slovenia (SSPO). The data on the prosecution of the criminal offences under Article 297 of CC-1 - public incitement to hatred, violence or intolerance and under Article 131 of CC-1 – violation of the right to equality was submitted by the former.

Until 2019, the SSPO reported that merely a record of the data on the committed criminal offence is kept, not including the motive that led the offender to commit the criminal offence, except when the motive constitutes an aggravating circumstance and a legal element of the criminal offence, e.g. offence for material gain or revenge. Thus, the SSPO was not able to provide data disaggregated by grounds, forms and areas of discrimination. However, data was provided the number of received criminal complaints, adopted conclusions and judgements issued for criminal offences in connection to Article 297 of the CC-1 and Article 131 of the CC-1.

Under the order No. VDT-Tu-10-3/8/2020 of 6 July 2020 a special marking of the state prosecutor's files, which deal with criminal offences committed with a motive of hostility, was provided for. As for the marking, the following definition shall be applied: "A hate crime is an act committed out of hatred against another person based on their nationality, race, religion or ethnicity, gender, skin color, origin, social status, disability or sexual orientation." This reference applies to marking all criminal offences, not only those under Articles 131 and 297 of the CC-1.

For cases with the said reference, it is possible to obtain information in the electronic database on the number of criminal offences with reference to the motive of hostility. However, these cases can not be further disaggregated according to the underlying personal grounds. The Prosecution introduced such a marking only in 2021.

Table: Prosecution of criminal offences under Article 297 of the CC-1 – Public incitement to hatred, violence or intolerance

Event	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Criminal complaints received	21	8	21	63	83	34	13	20	37	13	32	26	38	73
Decision rejecting the criminal complaints	22	5	6	29	37	36	13	30	19	19	15	24	32	68
Charges or proposals to impose educational measures or a sentence filed	1	3	5	5	26	15	1	2	1	2	6	2	7	3
Convictions	/	/	4	4	3	9	4	2	/	1	/	/	3	0
Judgements on penalty orders	/	/	1	3	13	/	2	/	1	/	1	2	3	2
Acquittals	2	/	/	1	/	/	/	/	1	/	1	/	1	1
Rejection judgements	/	/	3	/	/	2	/	/	/	/	/	3	/	0

The statistics show an increase in the number criminal charges from 2008 to 2012, when the number of criminal complaints received was the highest, which is followed by decline from 2013 onward. In 2013, the Supreme State Prosecutor’s Office adopted a legal position of 27 February 2013, according to which “hate speech” cannot in any case be punishable if the conduct did not cause threat or disturbance to public order. In any case, an objective possibility as well as a probability must be given (whereby an abstract threat is not sufficient) that a breach of public order could occur. The legal position was taken into account by the state authorities and other stakeholders who generally file criminal charges (e.g. the Police) as a relevant direction, which has significantly reduced the number of criminal charges. As a consequence, in the period from 2014 to 2019, the number of closed criminal proceedings as well as the number of convictions and penalty orders decreased drastically.

In 2019, the Supreme Court delivered Judgement no. I Ips 65803/2012 relating to Article 297 of the CC-1 in which the Court ruled in contrary to the legal opinion of the SSP0, namely, that the criminal offence of public incitement to hatred, violence or intolerance does not necessarily have to lead to a specific threat to public order and peace. This judgement sets a precedent for case law in the field of public incitement to hatred, violence or intolerance, which could lead to a growing number of criminal charges and a greater number of closed criminal proceedings, convictions and penalty orders in this area in the years to come.

In the years 2020 and 2021, there has been a noticeable increase in the number of filed criminal charges, however, at the moment, it is not clear to which extent this trend is the result of the aforementioned Supreme Court judgement no. I Ips 65803/2012. The number of charges filed remains low.

## 8.5 Cases of discrimination considered – the Courts

Pursuant to Article 21 of the PADA, in order to monitor, record and assess the situation in the field of protection against discrimination in the Republic of Slovenia, the Advocate collected data on case law in the area of non-discrimination. First, the equality body reviewed the database (search engine) of the Supreme Court of the Republic of Slovenia – [www.sodnapraks.si](http://www.sodnapraks.si). Through the search engine, 59 judgements were identified among judgements pertaining to discrimination from 2021 under the keywords discrimination, harassment, sexual harassment, instructions to discriminate, victimisation, revenge and under the keywords according to individual personal grounds. Of the 59 judgements identified, 13 were relevant as a particular personal ground was apparent. In the other judgements, the plaintiffs alleged discrimination failing to identify a personal ground, and moreover, also disregarded the other elements of the burden of allegation. We are presenting all 13 relevant judgements in the table below.

Following the keyword *discrimination*, the Advocate identified 14 judgements in the database of the decisions of the Constitutional Court of the Republic of Slovenia, of which four decisions are the most relevant and presented in the table below.

The tables include the judgements of the Administrative Court of the Republic of Slovenia issued in cases previously considered by the Advocate of the Principle of Equality as well as a judgement issued by the District Court of Ljubljana in the case under Article 39 of the PADA, in which the Advocate represents the party as provided for in Article 41 of the PADA.

In addition to accessing the case law search engine, the Advocate also established direct contact with all 66 courts to obtain the most comprehensive information possible.

The Advocate received 52 responses from the courts, wherein 11 courts indicated that in cases covered by their competence in 2021, discrimination occurred. Most cases were addressed by labour courts. The Higher Labour and Social Court reported dealing with three cases. The Koper Labour Court considered eight cases, the Maribor Labour Court considered four cases and the Ljubljana Labour Court dealt with two cases. The Administrative Court stated that three judgements were issued in the field of discrimination (all based on actions filed against the decisions of the Advocate of the Principle of Equality). The local courts in Maribor, Celje, Koper and Črnomelj each considered one such case. The judgements received are presented in the table below.

The remaining responses of the courts state that no discrimination cases were considered or data cannot be provided as databases are not kept according to criteria such as Articles of particular Acts, which are of interest to the Advocate, nor are they arranged according to personal grounds or forms of discrimination. Data on the discrimination cases would have to be obtained manually, which is not possible due to the current restrictions. Some courts questioned judges and asked them to identify files that could fall within the area of discrimination.



Even the courts that were able to provide information on the discrimination cases do not keep records in a way to easily obtain information regarding judgements in the field of discrimination and whether an appeal was lodged. Moreover, the issue of discrimination may arise in connection to other issues dealt with in a particular case. For example, when discrimination is the basis for deciding on indemnification, actions for unlawful termination of an employment contract, disciplinary proceedings, monetary claims and the like. However, judgements in the field of discrimination are often interlinked with allegations of ill-treatment.

*Table: Relevant judgements of courts in the field of discrimination delivered in 2021*

Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Constitutional Court	Up-459/17, U-I-307/19	Finding non-compliance with the Constitution.	Age	Health care	Direct discrimination	The eligibility of women to procedures of biomedically-assisted procreation subject to the condition of maximum 43 year of age must not be regulated by a bylaw.
Constitutional Court	U-I-360/18	Rejection of the petition.	Gender	Election	Direct discrimination	Gender quotas for the creation of candidate lists are compulsory.
Constitutional Court	Up-675/19	Decision on admission for consideration.	Sexual orientation	Joint adoption	Direct discrimination	Joint adoption of children by partners in a partnership – the case is accepted for a substantive consideration.
Constitutional Court	U-I-16/21, U-I-27/21	Finding non-compliance with the Constitution.	Age	Employment and labour	Indirect discrimination	Determining a new reason for the termination of employment contract under the Act Determining Intervention Measures to Assist in Mitigating the Consequences of the Second Wave of covid-19 Epidemic is contrary to the Constitution.
Supreme Court	X Ips 122/2020	The review is upheld.	Disability	Pension schemes	Indirect discrimination	Athletes with disabilities should not be denied access to the special achievement pension supplement simply because they are unable to participate in the world championships.



Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Supreme Court	VIII DoR 108/2021-6	The proposal for the review admission is rejected.	/	Employment and work	Discrimination	In the proposal for the review admission, the plaintiff raised the following question: Whether in applying the criterion for determining redundancies, the potential discriminativeness of the criterion referred to in Article 6 of the ERA-1 must be considered using a holistic approach and whether it is necessary to consider the discriminativeness of the individual chapters forming the criterion for determining redundancies.
Supreme Court	VIII Ips 14/2021	The review is rejected.	Family status	Employment and work	Discrimination and harassment	The Courts of First and Second Instance ruled that the plaintiff's salary cut was discriminatory on the ground of her family status. The courts awarded a compensation for discrimination and ill-treatment in the amount of EUR 3,000 with statutory default interest.
Higher Labour and	Pdp 522/2020	The appeal is dismissed.	Disability	Employment and work	Indirect discrimination	The Court stated that the appeal unjustifiably states, that the applicants dismissed as redundancies were discriminated against on the grounds of disability while they could not achieve the same number of points in their assessment of work and because the defendant did not comply with their limitations in the scoring for the determination of redundancies.

Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Higher Labour and Social Court	Pdp 595/2020	The appeal is upheld, the termination of the employment contract is not legal.	Gender	Employment and work	Discrimination	The Court found that the termination of the employment contract did not constitute discrimination of the plaintiff on grounds of gender.
Higher Labour and Social Court	Pdp 369/2021	The appeal is upheld.	Gender	Employment and work	Discrimination	As a student, the plaintiff applied for a job advertisement providing for female gender as a condition. He wasn't selected for the position. By filing an action, he pursued a claim for damages, stating that he had been treated in a discriminatory manner. The court dismissed the action. The Court of Appeal stated that the opinion of the Court of First Instance that the plaintiff, as a candidate for student work, does not enjoy judicial protection, is incorrect.
Higher Labour and Social Court	Pdp 384/2021	The appeal shall be partially upheld.	Trade union membership	Employment and work	Discrimination	The plaintiff argues that he was discriminated against due to trade union membership. The Court found that the reason for the extraordinary termination of the employment contract was alcohol intoxication in the workplace.
Higher Labour and Social Court	Pdp 340/2021	The appeal is dismissed.	Parent-hood	Employment and work	Discrimination	The plaintiff stated that the defendant terminated her employment contract due to the personal ground of motherhood and taking advantage of part-time work under the regulations on parental care. The court affirmed that. Compensation for non-pecuniary damage in the amount of EUR 2,000 with statutory default interest was granted.



Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Higher Labour and Social Court	Pdp 17/2021	The plaintiff's appeal is partially upheld.	Gender	Employment and work	Sexual harassment, victimisation	The retaliation of the superior must be assessed pursuant to the seventh paragraph of Article 6 of the ERA-1 or Article 11 of the PADA.
Higher Labour and Social Court	Pdp 633/2020	The appeal is upheld.	Parenting and health status	Employment and work	Discrimination in the selection of redundancies	The basic question is whether the plaintiff was discriminated against when being rated 0 points for the tasks, while being absent at the time of the implementation of the tasks.
Higher Labour and Social Court	Pdp 285/2021	The appeal is upheld.	Disability	Employment and labour	Special protection of persons with disabilities against termination of employment relationship	Special protection of disabled workers against termination of employment relationship is enshrined in the provisions of the ERA-1, VREPDPA and PDIA does not constitute a disproportionate interference with the employer's autonomy in the organisation of the working process.
Koper Labour Court	Pd 242/2020	The lawsuit is upheld.	Health status	Employment and work	Direct discrimination	The Court found that the dismissal was the result of the employee's sick leave.
Koper Labour Court	Pd 84/2020	The lawsuit is upheld.	Disability	Employment and work	Direct discrimination	The Court found that the dismissal was the result of the worker's disability.
Koper Labour Court	Pd 14/2021	The lawsuit is upheld.	Age	Employment and work	Indirect discrimination	The judgement was issued on the basis of admission.
Koper Labour Court	Pd 27/2020	The lawsuit is upheld.	Health status	Employment and work	Direct discrimination	The defendant did not demonstrate that the termination of the employment contract was non-discriminatory.

Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Koper Labour Court	Pd 41/2020	The lawsuit is upheld.	Health status	Employment and work	Direct discrimination	The defendant did not demonstrate that the termination of the employment contract was non-discriminatory.
Koper Labour Court	Pd 74/2020	The lawsuit is upheld.	Health status	Employment and work	Indirect discrimination	The criterion for determining redundancies was indirectly discriminatory.
Administrative Court	I IN 304/2018-12	The action is dismissed.	Nationality	Financial instruments – verification of an old foreign currency deposit	Discrimination	The plaintiff filed a lawsuit stating that for 25 years, the Republic of Slovenia unjustifiably rejected the rights of savers on the grounds of expiration of time, which is contrary to the principle of non-discrimination, equality before the law and fairness. Savers in the Republic of Slovenia did not receive such restrictions in exercising their rights as savers from the countries of the former Yugoslavia. The Court considered the action unfounded.
Administrative Court	I U 403/2020-17	The action is dismissed.	Disability	Employment and work	Discrimination	The plaintiff, a person with category III disability, receiving part-time disability allowance, does not work full-time and is not retired. Therefore, according to the Court, his position is not comparable to other workers of the same rank or to pensioners.
Administrative Court	I U 1228/2019-42	Appeal upheld and case referred back to the Court of first instance.	Religion or belief	Access to goods and services	Instructions to discriminate	The Administrative Court overturned the decision of the Advocate of the Principle of Equality and referred the case back for reconsideration. The case involves the removal of an advertisement from a bus, in which the Advocate found discrimination on the grounds of religion or belief.



Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Administrative Court	I U 1626/2020-16	The action is dismissed.	Health status	Employment and work	Direct discrimination	The Court upheld the Advocate's decision, stating that discrimination against a person due to their medical condition did not take place.
Higher Court of Ljubljana	III P 7/2021	The judgement is upheld.	Religion or belief	Employment and work	Direct discrimination	The Higher Court upheld the judgement of the District Court of Ljubljana. The latter found discrimination against a candidate for a specialisation in gynaecology on the grounds of their religion or belief. The candidate was awarded EUR 1,000 in damages.
District Court of Maribor	ZSV 105/2020-62	The request for judicial protection is rejected.	Race or ethnic origin	Other	Incitement to hatred	The applicant was found guilty of a minor offence under Article 20 of the Protection of Public Order Act.
Local Court of Črnomelj	I K 267/2020	Acquittal.	Race or ethnic origin	Other	Public incitement to hatred, violence and intolerance	The defendant, who shared an anti-immigrant post on social media, was acquitted.
Local Court in Ljubljana	IV 1366/2019	The lawsuit is partially upheld.	Age	Employment and work	Direct discrimination	The Court partially upheld the claim made by the party represented by the Advocate, finding discrimination on the grounds of age as well as ordering the publication of the judgement in the media and awarding the plaintiff EUR 2,000 in damages. However, the request to amend the discriminatory acts of the association which gave rise to discrimination against the plaintiff was rejected. The judgement is not yet final.



## 9 PROTECTION AGAINST DISCRIMINATION AT THE SOCIETAL LEVEL



## 9.1 Legal basis for protection against discrimination at the societal level

Under the PADA, the Advocate also exercises its tasks and powers of protection against discrimination at the societal level, i.e. at the level of the social groups' position and social relations in connection with the arrangement and regulation of social subsystems.

The provisions of the PADA, which represent the basis for the Advocate's activities as per protection against discrimination at the societal level, are highlighted below.

Pursuant to **Article 21 of the PADA**, the Advocate has the following powers and responsibilities that fall within the framework of protection against discrimination at the societal level, namely:

- conducting independent research on the situation of people in certain personal grounds, particularly gender, nationality, racial or ethnic origin, religion or belief, disability, age, sexual orientation and other issues regarding discrimination of people with certain personal grounds;
- publishing independent reports and making recommendations to state authorities, local communities, holders of public authorisations, employers, business entities and other bodies regarding the established situation of people in certain personal grounds, i.e. relating to preventing or eliminating discrimination and adopting special and other measures to eliminate discrimination;
- raising the awareness of the general public on discrimination and the measures to prevent it;
- monitoring the overall situation in the Republic of Slovenia in the area of protection against discrimination and the situation of persons with certain personal grounds;
- proposing the adoption of special measures to improve the situation of people who are in a less favourable situation due to a particular personal ground;
- ensuring the exchange of available information on discrimination with authorities of the European Union;
- conducting other tasks stemming from this Act.

Pursuant to **Article 15 of the PADA**: “When forming solutions and proposals to attain the objective of this Act, the Government of the Republic of Slovenia (hereinafter the Government) and other state authorities shall cooperate with social partners and associations, institutions or private bodies (hereinafter: non-governmental organisations), which work in the field of equal treatment, protection of human rights and fundamental freedoms, protection of vulnerable groups against discrimination, and legal or social assistance for people subject to discrimination.” Therefore, the Advocate, as a state authority, pays special attention to the dialogue with civil society organisations.

In accordance with the **first indent of Article 22 of the PADA**: “In the annual or special reports, the Advocate shall report to the National Assembly of the Republic of Slovenia about their work and findings on the existence of discrimination involving individual groups of people with certain personal grounds.”



# 10 RECOMMENDATIONS BY THE ADVOCATE

## 10.1 Legal basis and purpose of the recommendations

The core mandate of the Advocate of the Principle of Equality (the Advocate) is **to prevent and eliminate discrimination**. One of the methods used is encouraging legal entities under public or private law, and particularly policy makers and decision-makers, to create systemic conditions to prevent unequal treatment or, should discrimination occur, to eliminate it quickly. The elimination of a discriminatory provision of a regulation or the implementation of a special measure can have a much broader social effect, as it affects a larger number of individuals or social groups at the same time. And the symbolic value of the positive changes of such a systematic elimination or prevention of discrimination is not negligible either. Recommendations are the Advocate's tool for changes at the level of discriminatory practices or regulations (e.g. laws, bylaws, various regulations).

Article 2 of the Protection against Discrimination Act (ZVarD) binds state authorities "to ensure protection against discrimination or equal treatment of all persons in all fields of decision making, legal transactions and other operations or conduct." According to the PADA, state authorities, local communities, self-governing national communities and holders of public authorisations shall, in their respective fields, "provide conditions for the equal treatment of all people, irrespective of any personal ground, by raising awareness and monitoring the situation in this field and with measures of a normative and political nature" (Article 14).

The efficiency of individual stakeholders in ensuring equal treatment varies and depends on several factors. **The second indent of Article 21** of the PADA states that the Advocate shall include "...making recommendations to state authorities, local communities and other bodies in relation to preventing or eliminating discrimination and adopting special and other measures to eliminate discrimination".

Given these substantive differences, the **four basic types of the Advocate's recommendations** are as follows:

- recommendations regarding proposed laws and regulations (prevention of discrimination);
- recommendations directed at existing laws and regulations (elimination of discrimination);
- recommendations to promote equal treatment (prevention of discrimination);
- recommendations to eliminate unequal treatment in specific cases.

The Advocate's recommendation is issued as a result of one or more **preliminary activities**:

- analyses of draft laws and regulations;
- assessments of discriminativeness of applicable laws and regulations;
- analyses and research conducted by the Advocate or other operators;
- monitoring the overall situation in the area of protection against discrimination;
- cooperation with various stakeholders and international cooperation;
- completed procedure of discrimination identification before the Advocate.



The recommendations also include recommendations on special measures to ensure equality and equal opportunities to be implemented. In line with their purpose, they are classified under the category of recommendations for the promotion of equal treatment by the Advocate.

Special measures are an important instrument for ensuring equal opportunities for all people. Formal equality (equal rights) does not always mean de facto equal opportunities (equal treatment) for all people. Some groups of people are in a worse position than others due to particular personal grounds, despite the fact that all people are equal before the law and have equal rights (equality) guaranteed by law.

Particular groups of people in a less favourable position therefore need additional incentives (e.g. additional rights, more support) in order to be de facto in the same position compared to others, i.e. to have equal opportunities to participate and enforcement of rights in different areas of social life.

The case numbers are entered in colours indicating the relevant areas of social life:

#### **Work and employment**

- Access to employment, self-employment and profession (including selection criteria and employment conditions, notwithstanding the type of activity or the level of occupational hierarchy, including promotion);
- access to all forms and all levels of career orientation and counselling, vocational and professional education and training, further vocational training and retraining, including internship;
- employment and working conditions, including termination of employment contracts and wages;

#### **Membership in workers' or employers' organisations**

- membership and inclusion in workers' or employers' organisations or any organisation whose members perform a certain vocation, including benefits provided by such organisations;

#### **Social rights**

- social protection, including social security;
- social benefits;

#### **Health care**

- health care;

#### **Education**

- education and schooling;

#### **Goods and services market**

- Access to goods and services available to the public, including housing facilities and supply thereof;

#### **Other**

- This area includes cases that cannot be categorised within any of the above categories and cases that address all areas simultaneously or consider the general area of protection against discrimination.

## 10.2 Recommendations by the Advocate

In 2021, the Advocate issued **51 recommendations** in the framework of different procedures, tackling discrimination. Of these, 33 recommendations were directed at laws and regulations (in force or proposals) and 18 recommendations were intended to promote equal treatment.

In 2021, the Advocate issued:

- **26 recommendations regarding proposed laws (prevention of discrimination);**
- **seven recommendations directed at existing laws and regulations (elimination of discrimination);**
- **18 recommendations aimed at the promotion of equal treatment (prevention of discrimination).**

With regard to the addressee:

- 27 recommendations were addressed to Ministries;
- 11 recommendations were addressed to the National Assembly;
- five recommendations were addressed to the Government;
- one recommendation was addressed to the Government Office for National Minorities;
- one recommendation was addressed to the Government Office for Legislation;
- four recommendations were addressed to public agencies and institutes;
- one recommendation was addressed to the Police Directorate;
- one recommendation was addressed to the media.

With regard to the content or personal grounds in question, the Advocate's recommendations referred to:<sup>8</sup>

- the personal ground of gender (eight cases);
- the personal ground of nationality or ethnic origin (five cases);
- the personal ground of language (two cases);
- the personal ground of disability (13 cases);
- the personal ground of age (seven cases);
- the personal ground of sexual orientation (two cases);
- the personal ground of gender identity and gender expression (eight cases);
- the personal ground of social status (six cases);
- the personal ground of financial status (two cases);
- the personal ground of education and place of residence (one case each);
- the personal ground of citizenship (four cases);
- the personal ground of parenting (four cases);
- the personal ground health status (three cases);
- the protection against discrimination in general (four cases).

An overview of the recommendations issued in 2021 is published in full at the Advocate's website.<sup>9</sup> More detailed summaries of the recommendations are presented in Chapter 1. [Personal grounds of discrimination](#) in the second part of the Annual Report for 2021.

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<sup>8</sup> In the order referred to in Article 1 of the PADA. The sum by personal grounds is not equal to the total number of recommendations, as some recommendations related simultaneously to several personal grounds. Moreover, some recommendations also referred to the general field of protection against discrimination and not only to particular personal grounds.

<sup>9</sup> Recommendations issued in 2021 are available at <https://www.zagovornik.si/priporocila-2021-2/>



## Review of the status of recommendations:

- Taken into account – fully taken into account
- Partly taken into account – only part of the recommendation taken into account
- Pending – time to reply has not expired yet / recommendation awaiting consideration
- Legislative process still ongoing – regulation not yet adopted
- The act is still in the process of adoption – a legal act that is not a regulation – has not yet been adopted
- Disregarded – legislative process completed / response received from addressee of dissent and disregard of the recommendation











## 10.2.1 Recommendations aimed at proposed laws and regulations

Table: Overview of recommendations directed at proposed laws and regulations according to the chronological order







	Recommendation	File number	Date of issue	Addressee	Recommendation status <sup>10</sup>	Chapter number <sup>11</sup>
1	Draft Act on Payment of the Assistance and Attendance Allowance	0070-1/2021/1	5 January 2021	Ministry of Labour, Family, Social Affairs and Equal Opportunities	<span style="color: green;">●</span> Taken into account	Part Two, Chapter 1.6.4
2	Draft Act Amending the Companies Act	007-4/2019/3	7 January 2021	National Assembly	<span style="color: red;">●</span> Not taken into account	Part Two, Chapter 1.1.4
3	Draft Act Amending the Personal Assistance Act	0070-2/2021/1	25 January 2021	Ministry of Labour, Family, Social Affairs and Equal Opportunities	<span style="color: red;">●</span> Not taken into account	Part Two, Chapter 1.6.4
4	National programme for promoting the development and use of artificial intelligence in the Republic of Slovenia by 2025	382-3/2021/1	3 March 2021	Ministry of Public Administration	<span style="color: green;">●</span> Taken into account	Part Two, Chapter 1.17.4

<sup>10</sup> Status of the recommendation by the finalisation of the Annual Report for 2021 (31. 3. 2022).




<sup>11</sup> The chapter number indicates where in Part Two of the Annual Report for 2021 a more detailed description of the recommendation can be found.

	Recommendation	File number	Date of issue	Addressee	Recommendation status	Chapter number
5	Action Programme for Persons with Disabilities 2022–2026	141-2/2021/2	3 March 2021	Ministry of Justice	 Partly taken into account	Part Two, Chapter 1.6.4
6	Draft Act Amending the Protection of Public Order Act	0070-6/2020/6	12 March 2021	Ministry of the Interior	 Taken into account	Part Two, Chapter 1.9.4
7	Amending the Constitution with Article 62a	0070-6/2021/1	19 March 2021	National Assembly	 Taken into account	Part Two, Chapter 1.6.4
8	Draft Resolution on the National Programme for Equal Opportunities for Women and Men until 2030	0709-19/2021/1	19 March 2021	Ministry of Labour, Family, Social Affairs and Equal Opportunities	 Partly taken into account	Part Two, Chapter 1.1.4
9	Draft Act Amending the Housing Act	0709-62/2020/2	26 March 2021	Ministry of the Environment and Spatial Planning	 Not taken into account	Part Two, Chapter 1.10.4
10	Draft Act Amending the Audiovisual Media Services Act	0709-48/2020/7	1 April 2021	National Assembly	 Not taken into account	Part Two, Chapter 1.6.4
11	Draft Act Amending the Criminal Code	0070-7/2021/1	26 April 2021	National Assembly	 Taken into account	Part Two, Chapter 1.1.4
12	Draft Personal Data Protection Act	0070-1/2019/5	28 May 2021	Ministry of Justice	 Taken into account	Part Two, Chapter 1.2.4
13	Draft Act on the Provision of Funds for Investments in the Slovenian Health Care in the Years 2021 to 2031	0070-11/2021/1	7 June 2021	Ministry of Health	 Not taken into account	Part Two, Chapter 1.6.4
14	Draft Act on Payment of the Assistance and Attendance Allowance	0070-1/2021/3	9 June 2021	National Assembly	 Taken into account	Part Two, Chapter 1.6.4



Recommendation	File number	Date of issue	Addressee	Recommendation status	Chapter number
15 Draft Act Amending the Labour Market Regulation Act	0709-29/2021/1	15 June 2021	Ministry of Labour, Family, Social Affairs and Equal Opportunities	 The legislative process is still ongoing	Part Two, Chapter 1.4.4
16 Draft Act Amending the Placement of Children with Special Needs Act	001-4/2021/8	15 June 2021	National Assembly	 Taken into account	Part Two, Chapter 1.6.4
17 Draft Act Amending the Parental Protection and Family Benefits Act	0070-13/2021/1	15 June 2021	Ministry of Labour, Family, Social Affairs and Equal Opportunities	 The legislative process is still ongoing	Part Two, Chapter 1.2.4
18 Draft Act Amending the Social Assistance Payments Act	0070-12/2021/1	15 June 2021	Ministry of Labour, Family, Social Affairs and Equal Opportunities	 The legislative process is still ongoing	Part Two, Chapter 1.2.4
19 Draft Consumer Protection Act	0070-14/2021/1	24 June 2021	Ministry of Economic Development and Technology	 The legislative process is still ongoing	Part Two, Chapter 1.6.4
20 National Action Plan for the Roma 2021–2030	0709-28/2021/2	24 June 2021	Government Office for National Minorities	 Partly taken into account	Part Two, Chapter 1.2.4
21 Draft Act Amending the Personal Assistance Act	0070-2/2021/10	18 August 2021	National Assembly	 Not taken into account	Part Two, Chapter 1.7.4
22 Draft Act Amending the Protection of Public Order Act	0070-6/2020/16	27 August 2021	National Assembly	 Taken into account	Part Two, Chapter 1.8.4
23 Draft Act Amending the Social Assistance Payments Act and regarding the Draft Act Amending the Exercise of Rights from Public Funds Act	0070-16/2021/1	7 September 2021	National Assembly	 Not taken into account	Part Two, Chapter 1.10.4



Recommendation	File number	Date of issue	Addressee	Recommendation status	Chapter number
24 Draft Long Term Care Act	<a href="#">0701-14/2020/12</a>	15 November 2021	National Assembly	 Partly taken into account	Part Two, Chapter 1.7.4
25 Draft Act on Additional Measures to Prevent the Spread, Mitigate, Manage, Recover and Remedy the Consequences of covid-19	<a href="#">0070-18/2021/1</a>	3 December 2021	National Assembly	 Not taken into account	Part Two, Chapter 1.7.4
26 Draft Resolution on National programme of higher education 2030	<a href="#">0070-19/2021/1</a>	30 December 2021	Ministry of Education, Science and Sport	 The Act is still in the process of adoption	Part Two, Chapter 1.6.4



## 10.2.2 Recommendations directed at existing laws and regulations

Table: Overview of recommendations directed at existing laws and regulations according to the chronological order

	Recommendation	File number	Date of issue	Addressee	Recommendation status <sup>12</sup>	Chapter number <sup>13</sup>
1	Collective Agreement for the Education Sector in the Republic of Slovenia (Article 62 – Equalisation of the position of men and women)	0702-16/2021/2	12 February 2021	Ministry of Education, Science and Sport and representative trade unions organised in the field of education	 Pending	Part Two, Chapter 1.1.4
2	Government decree prohibiting exit from the country	050-18/2021/3	1 April 2021	The Government	 Taken into account	Part Two, Chapter 1.12.4
3	Act Regulating the Supplement to Pensions for Work and Outstanding Achievements in Sports	050-25/2021/2	10 June 2021	Ministry of Education, Science and Sport	 Taken into account	Part Two, Chapter 1.6.4
4	Government Decree Restricting Free Access to Emergency Supply of Basic Living Supplies and Necessities	050-31/2021/2	15 September 2021	The Government	 Taken into account	Part Two, Chapter 1.10.4
5	Act Determining Intervention Measures to Assist in Mitigating the Consequences of the Second Wave of covid-19 Epidemic (one-off solidarity allowance for newborns)	050-9/2021/8	22 September 2021	Ministry of Labour, Family, Social Affairs and Equal Opportunities	 Not taken into account	Part Two, Chapter 1.14.4

<sup>12</sup> Status of the recommendation by the finalisation of the Annual Report for 2021 (31. 3. 2022).

<sup>13</sup> The chapter number indicates where in Part Two of the Annual Report for 2021 a more detailed description of the recommendation can be found.

	<b>Recommendation</b>	<b>File number</b>	<b>Date of issue</b>	<b>Addressee</b>	<b>Recommendation status</b>	<b>Chapter number</b>
6	Government regulations on restrictions in the implementation of education due to the covid-19 epidemic	<a href="#">050-15/2021/57</a>	19 October 2021	Ministry of Education, Science and Sport	● Taken into account	Part Two, Chapter 1.7.4
7	Family Code	0709-34/2021/1	30 December 2021	Ministry of Labour, Family, Social Affairs and Equal Opportunities	● Not taken into account	Part Two, Chapter 1.7.4



## 10.2.3 Recommendations to promote equal treatment

Table: Overview of recommendations intended for the promotion of equal treatment in chronological order

Recommendation	File number	Date of issue	Addressee	Recommendation status <sup>14</sup>	Chapter number <sup>15</sup>
1 Increased sensitivity of the media to the classification of sensitive content in the relevant section	0705-1/2021/3	20 January 2021	Newspaper Večer	● Taken into account	Part Two, Chapter 1.1.4
2 Improving access to information and television for the sensory handicapped	0700-29/2019/50	3 March 2021	The Government	● Not taken into account	Part Two, Chapter 1.6.4
3 Consistent legal protection of female workers who have recently given birth and have concluded an employment contract of indefinite duration	0709-20/2021/1	30 March 2021	Ministry of Labour, Family, Social Affairs and Equal Opportunities	● Taken into account	Part Two, Chapter 1.1.4
4 Implementation of the educational process for all children with special needs in times of school closures due to the covid-19 pandemic	0702-49/2021/3	30 March 2021	Ministry of Education, Science and Sport	● Not taken into account	Part Two, Chapter 1.6.4
5 The National covid-19 Vaccination Strategy should prioritise the most vulnerable groups	0709-23/2021/1	1 April 2021	Government of the Republic of Slovenia	● Taken into account	Part Two, Chapter 1.7.4
6 Continuous accessibility of the legal information system of the Republic of Slovenia	0702-93/2021/2	28 May 2021	Government of the Republic of Slovenia, Office for Legislation	● Taken into account	Part Two, Chapter 1.17.4
7 The results of the civil servants assessment should not be worse due to pregnancy or sick leave	0700-26/2020/42	20 July 2021	Ministry of Public Administration	● Taken into account	Part Two, Chapter 1.1.4

<sup>14</sup> Status of the recommendation by the finalisation of the Annual Report for 2021 (31. 3. 2022).

<sup>15</sup> The chapter number indicates where in Part Two of the Annual Report for 2021 a more detailed description of the recommendation can be found.

Recommendation	File number	Date of issue	Addressee	Recommendation status	Chapter number
8	0709-38/2020/43	7 October 2021	Ministry of Labour, Family, Social Affairs and Equal Opportunities	 The Act is still in the process of adoption	Part Two, Chapter 1.9.4
9	050-32/2021/9	14 December 2021	The Government	 Taken into account	Part Two, Chapter 1.17.4
10	0702-290/2021/2	14 December 2021	Kranj Police Directorate	 Pending	Part Two, Chapter 1.1.4
11	0709-14/2021/265	25 January 2022	Ministry of Health	 Pending	Part Two, Chapter 1.8.4
12	0709-14/2021/266	25 January 2022	National Institute of Public Health	 Pending	Part Two, Chapter 1.8.4
13	0709-14/2021/267	25 January 2022	The Health Insurance Institute of Slovenia	 Pending	Part Two, Chapter 1.8.4
14	0709-14/2021/268	25 January 2022	Interdisciplinary council for the recognition of gender identity	 Pending	Part Two, Chapter 1.8.4
15	0709-14/2021/288	25 January 2022	University Psychiatric Clinic Ljubljana	 Pending	Part Two, Chapter 1.8.4
16	0709-14/2021/284	25 January 2022	Ministry of Labour, Family, Social Affairs and Equal Opportunities	 Pending	Part Two, Chapter 1.8.4

Recommendation	File number	Date of issue	Addressee	Recommendation status	Chapter number
17 Abolition of local jurisdiction to gender marker change; abolition of fee when changing the registered civil status record	0709-14/2021/285	25 January 2022	Ministry of the Interior	 Pending	Part Two, Chapter 1.8.4
18 Training of employees of administrative unit regarding the appropriate treatment of transgender persons	0709-14/2021/286	25 January 2022	Ministry of Public Administration	 Pending	Part Two, Chapter 1.8.4



# 11 POLICIES AND MEASURES FOR THE PROMOTION OF EQUAL TREATMENT AND ELIMINATION OF DISCRIMINATION



## 11.1 Legal basis and purpose of special measures

The Constitution of the Republic of Slovenia guarantees everyone in Article 14 “equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political, or other conviction, material standing, birth, education, social status, disability, or any other personal ground”. The second paragraph of the same Article states that “all are equal before the law”. This provision guarantees equality before the law for all.

Nevertheless, formal equality does not always mean de facto equal opportunities for all people. Some groups of people are in a worse position than others due to particular personal grounds, despite the fact that all people are equal before the law and have equal rights (equality) guaranteed by law. Particular groups of people in a less favourable position therefore need additional incentives (e.g. additional rights, more benefits) in order to be de facto in the same position compared to others, i.e. to have equal opportunities to participate and enforcement of rights in different areas of social life.

In the terminology of the Protection against Discrimination Act (PADA), **special measures** represent special instruments to ensure equal opportunities for those in a less favourable position due to a particular personal ground.

In line with the PADA, the Advocate of the Principle of Equality (the Advocate) has the power to propose the adoption of special measures aimed at the elimination of discrimination (seventh indent of Article 21) to all stakeholders in the public and private sector who are bound by the obligation of non-discrimination (Article 2). Pursuant to the second indent of Article 21 of the PADA, the Advocate is responsible for publishing independent reports and making recommendations to all stakeholders obliged to prevent and eliminate discrimination, as well as adopt special and other measures for the elimination of discrimination.

Article 17 of the PADA (“special measures to ensure equality”) states that **special measures are temporary and have the objective to ensure the realisation of the “...right to equal treatment, equal opportunity or actual equality and participation in the fields of social lives of people”**. The second paragraph of this Article stipulates that the special measures may be incentive or positive. **Incentive special measures** provide special benefits or introduce special incentives for persons in less favourable positions, while **positive measures**, gives advantage to people with certain personal grounds when they meet the prescribed criteria and conditions to an equal extent, and which may be applied particularly in the case of evident disproportion regarding the possibilities of accessing the enforcement of rights, or accessing goods, services or benefits. Article 7 of the Equal Opportunities for Women and Men Act also sets out special measures, however, only in relation to the personal ground of gender.<sup>16</sup>

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<sup>16</sup> Official Gazette of the Republic of Slovenia, No. 59/02, 61/07 – IPETA-A, 33/16 – PADA and 59/19



Article 18 of the PADA explicitly instructs and imposes on state authorities, local communities, holders of public authorisations, employers, educational institutions, economic and other entities the obligation to introduce special measures. In line with the second paragraph of Article 18 of the PADA, the following conditions must be fulfilled for the adoption of special measures:

- the measures must pursue **the objective of eliminating a less favourable position** of a person with a particular personal ground;
- the measures must be based on **appropriate analyses** (to prove the less favourable position) and
- they must represent **necessary and appropriate means** of eliminating such a position of a person with a particular personal ground.

In the recommendations, the Advocate responds to cases of special measures to ensure equality, equal treatment and equal opportunities planned or implemented by other competent authorities. Numerous measures are unjustified and unfounded or are not taken on the basis of preliminary analyses. On the other hand, the unequal position of other social groups requires particular special measures that the state has not (yet) implemented. Another problem is a lack of equality data, i.e. data disaggregated by personal grounds. Such data represent an inevitable basis to substantiate the unfavourable position of persons with a particular personal ground and to confirm the need to take special measures.

The special measures require a profound analysis of the situation, which identifies the less favourable position of persons due to a particular personal ground and, at the same time, sets out proposals for the resolving of the problematic situation. Nonetheless, political willingness is necessary to remedy the situation, as the special measures are implemented by state authorities, local communities, self-governing national communities and holders of public authorisations in their respective fields of competence.

## 11.2 Implementation of special measures by Ministries and Government services

In December 2021, in the context of monitoring the situation in the field of protection against discrimination in the country, the Advocate conducted a query among the Ministries, institutions under the Ministries and selected Government services regarding the measures for the protection against discrimination and promotion of equality, equal treatment and equal opportunities taken in 2021.

Article 14 of the PADA stipulates that state authorities, local communities, self-governing national communities and holders of public authorisations are the competent authorities in the field of protection against discrimination, which **shall provide conditions for the equal treatment of all people, irrespective of any personal grounds, by raising awareness and monitoring the situation in this field and with measures of a normative and political nature.** In this process, a special obligation is imposed on Ministries and Government departments to prepare proposals for the relevant measures within their field of competence. The first paragraph of Article 18 of the PADA lists state authorities as the first of entities that may, in line with the conditions from the PADA, implement special measures to ensure equality, equal treatment and equal opportunities.

Since its establishment, the Advocate has been developing a method of systematic monitoring of the activities of Ministries and Government services in the field of implementing measures of protection against discrimination and promoting equal treatment, including special measures. In 2017, 2018, 2019 and 2020, queries were carried out by the Advocate regarding all measures. Summaries of the responses received and the relevant findings were published by the Advocate in the respective Annual Reports.<sup>17</sup>

The Advocate subdivided the query on the relevant measures intended to the addressees into two parts, namely:

- information on policy and regulatory measures intended for **persons or groups with a certain personal ground** and the general public (**general measures**);
- and (separately) about **special measures** within the meaning of Articles 17 and 18 of the PADA.

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<sup>17</sup> Available at [www.zagovornik.si/letno-porocilo-2](http://www.zagovornik.si/letno-porocilo-2)



Also in 2021, the Advocate adjusted the query on the measures implemented to the current public health situation and the covid-19 epidemic. The addressees of the queries were asked for an annotation in their replies of whether a certain measure was implemented in response to the covid-19 epidemic.

Replies were provided to the Advocate by almost all the Ministries, institutions under the Ministries and Government services between the end of December 2021 and the end of January 2022. Some addressees replied that in 2021, no measures were taken as regards the issue under consideration in the query.<sup>18</sup>

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**18** The full responses provided by the Ministries, institutions under the Ministries and Government services are available in the Advocate's archives.

Table: Overview of general and specific measures by individual Ministries and Government Services in 2021

Ministries and Government Services (in alphabetical order)		General measure	Specific measure	Response to covid-19
1.	Ministry of Labour, Family, Social Affairs and Equal Opportunities (MLFSAEO)	●	●	●
2.	Ministry of Finance (MF)	●		
3.	Ministry of Economic Development and Technology (MEDT)	●	●	
4.	Ministry of Infrastructure (MI)	●	●	
5.	Ministry of Public Administration (MPA)	●		
6.	Ministry of Agriculture, Forestry and Food (MAFF)	●	●	●
7.	Ministry of Culture (MC)	●	●	
8.	Ministry of the Interior (MI) and the Police	●	●	
9.	Ministry of Defence (MD)	●		
10.	Ministry of the Environment and Spatial Planning (MESP)	●		
11.	Ministry of Justice (MoJ)	●	●	●
12.	Ministry of Health (MH)	●	●	●
13.	Ministry of Foreign Affairs (MFA)	●		
14.	Government Office for Nationalities (ON)	●		
15.	Government Office for the Support and Integration of Migrants (OSIM)	●	●	



# 12 THE ADVOCATE'S RESEARCH ACTIVITIES

## 12.1 The importance of research for the Advocate's work

In accordance with the first indent of Article 21 of the PADA, the Advocate's powers and tasks also include conducting independent research on the situation of people with certain personal grounds. The results of any type of analytical or research work related to discrimination is **equality data**.

The Advocate carries out various research activities and related monitoring of the overall situation in the field of protection against discrimination in the country (sixth indent of Article 21 of PADA) at three levels of complexity:

- At the level of **special reports** with the aim to unravel the state of a particular social phenomenon in the field of protection against discrimination. In accordance with Article 22 of the PADA, the Advocate shall report to the National Assembly of the Republic of Slovenia about their work and findings on the existence of discrimination involving individual groups of people with certain personal grounds in the framework of special reports.
- At the level of **research**, the goal is to gain a more complex insight into a certain social problem by means of scientific tools (e.g. social attitudes towards social groups with a certain personal ground).
- At the **analytical** level, the main objective is to conduct analyses and identify the key features of a particular, less extensive discrimination related issue.

Equality data includes any information that can be applied in describing and analysing the state of affairs in the society. Information can be quantitative or qualitative and shows the prevalence of inequality, unequal treatment and unequal opportunities, and the effects or causes of the latter. Sources of data can be population censuses, administrative registers, household and individual surveys, studies, public opinion polls revealing the values and attitudes of the population, data on discrimination cases addressed, situational testing of discrimination, monitoring of diversity by employers and service providers, as well as qualitative research strategies such as case studies, in-depth and expert interviews etc.<sup>19</sup>

Quality and reliable equality data are essential for effective protection against discrimination and the promotion of equal treatment, as well as to identify trends in these areas.

The lack of research and data on the existence of discrimination and the current state regarding inequality, unequal treatment and unequal opportunities makes it impossible to understand the causes, extent and characteristics of discrimination.

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<sup>19</sup> The definition of equality data is taken from the European Commission publication (2016) European Handbook on Equality Data, p. 15. Available at: [https://ec.europa.eu/newsroom/just/document.cfm?action=display&doc\\_id=43205](https://ec.europa.eu/newsroom/just/document.cfm?action=display&doc_id=43205)

As a result, the formulating and implementation of measures and policies for the protection of discrimination is also hampered. Only by obtaining quality data and independent research findings, which ensure an impartial and realistic picture of the situation relating to discrimination, can measures and legislative solutions be designed that ensure equal treatment of all.

Slovenia was also reminded of the significance of systematic and comprehensive access to equality data by several **international control mechanisms**.<sup>20</sup> The latter pointed out the lack of credible, disaggregated data on individual groups of people with a particular personal ground and, in this context, also the lack of relevant research.

In 2020 and 2021, some key strategic documents were adopted at the European Union (EU) level, emphasising the significance of the collection of reliable and comparable data, which is also essential to measure the progress and assess the efficiency of measures adopted at national and European level.

- The EU LGBTIQ Equality Strategy 2020–2025,<sup>21</sup>
- EU Gender Equality Strategy 2020–2025,<sup>22</sup>
- EU Anti-racism Action Plan 2020–2025,<sup>23</sup>
- EU Roma strategic framework on equality, inclusion and participation 2020–2030<sup>24</sup> and
- Union of equality: Strategy for the rights of persons with disabilities 2021–2030.<sup>25</sup>

At the level of the European Commission (EC), the Subgroup on Equality Data of the High Level Group on Non-Discrimination, Equality and Diversity, of which the Advocate is a member, developed Guidelines on improving the collection and use of equality data in 2018. The document emphasises the importance of data collection in accordance with the no harm principle and statutory provisions:

“EU anti-discrimination legislation prohibits the use of such data to the detriment of the groups concerned. Moreover, such sensitive personal data is strictly protected under constitutional norms, applicable European Union data protection legislation and the Charter of Fundamental Rights. However, if such data is collected and processed in full compliance with this legal framework and the safeguards provided for therein, it is essential for the Member States in order evaluate their compliance with human rights obligations and for policy makers to design evidence-based measures to eliminate discrimination, inequality and exclusion.”<sup>26</sup>

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<sup>20</sup> Report of the Special Rapporteur on Minority Issues (2019), available in Slovenian translation in the Regular Annual Report of the Advocate of the Principle of Equality for 2018 and on [www.zagovornik.si](http://www.zagovornik.si).

<sup>21</sup> Available at: First-ever strategy on LGBTIQ equality in the EU ([europa.eu](http://europa.eu)); [https://ec.europa.eu/commission/presscorner/detail/sl/ip\\_20\\_2068](https://ec.europa.eu/commission/presscorner/detail/sl/ip_20_2068)

<sup>22</sup> Available at: Gender Equality Strategy ([europa.eu](http://europa.eu)); [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-equality-strategy\\_sl](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-equality-strategy_sl).

<sup>23</sup> Available at: Action Plan to turn the tide in the fight against racism ([europa.eu](http://europa.eu)); [https://ec.europa.eu/commission/presscorner/detail/sl/ip\\_20\\_1654](https://ec.europa.eu/commission/presscorner/detail/sl/ip_20_1654)

<sup>24</sup> Available at: Roma equality, inclusion and participation in EU | European Commission ([europa.eu](http://europa.eu)); [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/roma-eu/roma-equality-inclusion-and-participation-eu\\_sl#strateki-okvir-eu-za-enakost-vkljuevanje-in-udelebo-romov](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/roma-eu/roma-equality-inclusion-and-participation-eu_sl#strateki-okvir-eu-za-enakost-vkljuevanje-in-udelebo-romov)

<sup>25</sup> Available at: <https://eur-lex.europa.eu/legal-content/SL/TXT/?uri=COM:2021:101:FIN#PP4Contents>.

<sup>26</sup> Available at: [https://ec.europa.eu/info/sites/default/files/sl-smernice\\_za\\_izboljsanje\\_zbiranja\\_in\\_uporabe\\_podatkov\\_o\\_enakosti.pdf](https://ec.europa.eu/info/sites/default/files/sl-smernice_za_izboljsanje_zbiranja_in_uporabe_podatkov_o_enakosti.pdf).



At meetings with Ministers and high representatives of state authorities, the Head of the equality body drew attention to the challenge of incomplete equality data collection, as Slovenia is currently lagging behind other EU member states.<sup>27</sup>

Quality and reliable equality data is particularly needed for:<sup>28</sup>

- identifying and establishing indirect discrimination; indirect discrimination within the meaning of the second paragraph of Article 6 of the PADA is taken to occur when a person or group with a certain personal ground was, is or could be in a less favourable position compared to other persons due to an apparently neutral provision, criterion or practice; this arrangement is in line with the EU law, which explicitly states that the national legislation may define, that the existence of indirect discrimination is also established on the basis of statistics;<sup>29</sup>
- monitoring and supervising the exercise of human rights and fundamental freedoms; the sixth indent of Article 21 of the PADA mandates the Advocate to monitor the overall situation in the Republic of Slovenia in the field of protection against discrimination and the situation of people with certain personal grounds; consistent implementation of this task is practically impossible for the Advocate without adequate information on equality, equal treatment and equal opportunities and can only be based on a partial and unrepresentative picture of the situation, were particular groups of persons with a certain personal ground stand out (e.g. gender identity, religion, ethnicity, sexual orientation), the status of which is practically unexplored; moreover, the lack of this data makes it impossible to monitor the implementation of Slovenia's international obligations under numerous human rights conventions within various international mechanisms under the auspices of the United Nations and the Council of Europe;
- formulating and implementing anti-discrimination public policies and promoting equality, equal treatment and equal opportunities; in line with Article 14 of the PADA, state authorities, local communities, self-governing national communities and holders of public authorisations shall, in their respective fields, provide conditions for the equal treatment of all people, irrespective of any personal grounds, by raising awareness and monitoring the situation in this field and with measures of a normative and political nature;
- adopting and implementing special measures to ensure equality, equal treatment and equal opportunities; pursuant to Articles 17 and 18 of the PADA, public and private sector actors may take special measures to ensure more favourable treatment of persons or groups in a less favourable position regarding access to particular rights; in line with regulatory provisions, such measures must be based on analyses, their implementation must be regularly monitored, and when the pursued goal is reached, the implementation of such measures must cease; the lack of quality equality data prevents the Advocate from recommending the adoption of appropriate special (and other) measures to key state-level stakeholders, as provided by the PADA.

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<sup>27</sup> The European Commission study from 2017 described the collection of equality data in Slovenia as “critically weak”, and the efforts of the Slovenian authorities to disseminate, improve and use the existing data are far below the average of the European Union Member States. Read more: European Commission (2017) Analysis and comparative review of equality data collection practices in the European Union: Equality data indicators: Methodological approach, p. 49. Available at: [https://ec.europa.eu/newsroom/just/document.cfm?action=display&doc\\_id=45793](https://ec.europa.eu/newsroom/just/document.cfm?action=display&doc_id=45793)

<sup>28</sup> A more detailed analysis setting out ground for the need for equality data in: European Commission (2016) European Handbook on Equality Data, p. 19–22. Available at: [https://ec.europa.eu/newsroom/just/document.cfm?action=display&doc\\_id=43205](https://ec.europa.eu/newsroom/just/document.cfm?action=display&doc_id=43205).

<sup>29</sup> E.g.: Recital No. 15 of the Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. Available at: EUR-Lex - 32000L0043 - EN - EUR-Lex (europa.eu)



## 12.2 Review of the Advocate's research activity

In 2021, the Advocate prepared two special reports and co-financed two surveys which were completed in 2021:

- Special Report on the Situation of the Deaf in the Educational System and
- Special Report on the Situation of Transgender People in Procedures of Medical Gender Identity Confirmation and Legal Gender Recognition in Slovenia;
- Survey on structural discrimination as an obstacle to achieving the goal of a decent life for all;
- Survey on reducing and eliminating discrimination based on ethnicity, “race”, nationality and/or religion;

### 12.2.1 Special Report on the Situation of the Deaf in the Educational System

The Special Report draws attention to the position of the deaf in education including the highest levels of education. It tackles the issue of equal treatment and equal opportunities in the realisation of the entire potential of the aforementioned group in the field of education and thus integration into social life. Due to the personal ground of disability – deafness and their (sign) language, these people are in a disadvantaged position as regards exercising their right to education (and other rights).

In preparing the Special Report, the Advocate primarily focused on a group of persons with deafness, who primarily use the Slovenian sign language (SSL) for their communication, as they have specific needs and face particular problems in the area of education. According to the Deaf and Hard of Hearing Clubs Association of Slovenia (DHHCAS), around 1,500 people with hearing impairments live in Slovenia, of which around 1,000 use the SSL.<sup>30</sup> In 2011, a survey was conducted by the DHHCAS which included 800 people who are deaf and revealed their educational structure. Special attention must be given to the fact that only ten percent of the deaf have obtained secondary education and only one percent of these people have obtained higher or tertiary (university) education.<sup>31</sup> In the comparable year, i.e. in 2011, 17 percent of the overall population of Slovenia had at least higher education.<sup>32</sup>

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<sup>30</sup> The data is available on the website of DHHCAS: <http://zveza-gns.si/o-zvezi/o-gluhoti/>.

<sup>31</sup> Deaf and Hard of Hearing Clubs Association of Slovenia (2011): 80 let organiziranega delovanja odraslih gluhih in naglušnih na Slovenskem: (1931–2011), p. 33. Available at: <http://www.zveza-gns.si/uploads/datoteke/ZDGN%20monografija.pdf>.

<sup>32</sup> Data available by the Statistical Office of the Republic of Slovenia (from the population census: “Ljudje, družine, stanovanja”, 2011, p. 30.) Available at: [https://www.stat.si/doc/pub/Ljudje\\_druzine\\_stanovanja.pdf](https://www.stat.si/doc/pub/Ljudje_druzine_stanovanja.pdf).

In the Slovenian legal system, legal protection of the right to education are both included in the Constitution and in various sectoral laws and by-laws as well as national strategies. On 27 May 2021, the National Assembly unanimously adopted a Constitutional Law, supplementing the Constitution with the right to a free use and development of SSL. The new Article 62a also sets out that the free use and development of the language of the deaf-blind shall be regulated by the law.

A landmark case in assessing the protection of the right to use SSL in higher education is the decision of the Supreme Court stipulating that faculties are obliged to provide every deaf student a SSL interpreter for lectures and tutorials if such a method of communication is most appropriate.

The Advocate addressed several open-ended question to key government departments, the community of the deaf and the profession, asking for their opinion and clarifications regarding the position of the deaf in education.

The key issues faced by the deaf in the area of educations, include lack of knowledge, understanding and acceptance of the different forms of deafness, needs and wishes on the part of the pedagogical profession and society in general. The challenge faced by the deaf in all levels of education is the accessibility of education in their own language, i.e. SSL. Teachers often have a lack of understanding of the deafness and inappropriately or insufficiently adapt the learning process to deaf pupils and high school or university students. A major problem is a limited access to SSL interpreters and a general lack of these professionals. At the same time, deaf students often have poorer access to information compared to hearing pupils and high school or university students. The legislation currently limits the access to a SSL interpreter to a maximum of five hours per week, which is not enough for deaf children, who want to participate fully in the learning process.

Based on the findings and other available information, the Advocate has made several recommendations directed at regulations and promoting the implementation of systemic measures to support and more actively protect the rights of the deaf and SSL users against discrimination in the education system. In formulating measures for deaf pupils, high-school and university students, emphasis was placed on the cooperation with the deaf community, the profession as well as researchers.

The Advocate addressed a recommendation to the Ministry of Education, Science and Sport to ensure, among other things, that all deaf individuals have the right to learn the SSL, especially in their early childhood. A system of inclusive education for deaf pupils and students in regular primary and secondary schools should be supported and equivalent standards of education for the deaf should be guaranteed. The right to an SSL interpreter should be regulated in the bylaw in such a way that all pupils and students are granted the services to the extent needed. The Advocate also recommended a more favourable treatment of deaf students and the provision of a sufficient number of SSL interpreters.

The Advocate recommended that the Ministry of Labour, Family, Social Affairs and Equal Opportunities should adopt specific Rules for the implementation of Article 8 of the Equalisation of Opportunities for Persons with Disabilities Act. This way a minimum standard for the accessibility of goods and services, including those relating to education and training would be set. Moreover, the introduction of special, targeted scholarships for students with disabilities (or special needs) that would be available under the existing scholarship system was recommended.



Institutions specialising in primary and secondary level of education of deaf, regular primary and secondary schools that ensure the integration of deaf pupils and students and higher or post-secondary institutions were recommended to, inter alia, establish conditions for the full inclusion of deaf pupils and students in the school and academic community, and strive to equip educational facilities with all technical means that ensure accessibility of the educational process to the deaf.

The Advocate recommended that the Faculty implementing the study programme of surdopedagogy should introduce changes to the study programme in a way that at the end of the studies, all graduates of this programme would master the SSL to the extent which would enable them to actively communicate with the deaf. Surdopedagogy is a science dealing with the upbringing and education of deaf and hard of hearing children, their integration and inclusion, as well as auditory rehabilitation.

The full version of the Special Report is available on the Advocate's website.<sup>33</sup>

## 12.2.2 Special Report on the Situation of Transgender People in Procedures of Medical Gender Identity Confirmation and Legal Gender Recognition in Slovenia

The Advocate prepared a Special Report on the protection of the rights of transgender people. These are people who don't identify with gender assigned at birth, they don't perceive it as their own as it does not reflect their gender identity. The Report focused on procedures of medical gender identity confirmation and legal gender recognition of transgender people. The Advocate proposed a number of improvements, which follow the recommendations of the Council of Europe, European Commission and the good practices of some European countries in this area.

According to an international study conducted in 2020<sup>34</sup>, there are about eight thousand transgender people living in Slovenia. As elsewhere, they face different challenges and issues in different areas of life. According to one of the surveys of **the European Union Agency for Fundamental Rights (FRA)**<sup>35</sup>, one in three transgender persons reported discrimination in the area of health care and social security. One in five stated that they were subject to less favourable treatment when showing an identity document, which also contained information on gender.

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<sup>33</sup> Available at: <https://www.zagovornik.si/posebna-porocila/>.

<sup>34</sup> Zhang, Q., Goodman, M., Adams, N., Corneil, T., Hashemi, L., Kreukels, B., ... Coleman, E. (2020). Epidemiological considerations in transgender health: A systematic review with focus on higher quality data. *International Journal of Transgender Health*, 21(2), 125-137. Available at: <https://doi.org/10.1080/26895269.2020.1753136>.

<sup>35</sup> European Union Agency for Fundamental Rights. (2020). A long way to go for LGBTI equality. Available at: <https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results>.

In the Special Report, the Advocate focused on the question of how transgender people are treated in health and administrative procedures with regard to their personal ground of gender identity and gender expression. In order to change the gender assigned at birth, all transgender people must first undergo demanding medical procedures. This is followed by proceedings at the administrative unit.

In preparing the Special Report, the Advocate identified the potential for improvements at both levels of consideration and made recommendations for improving the situation.

It was recommended that the **Ministry of Labour, Family, Social Affairs and Equal Opportunities** should prepare a comprehensive Act on legal gender recognition.

The Advocate called for the proposals from the resolutions of the Parliamentary Assembly of the **Council of Europe** on discrimination against transgender people<sup>36</sup> and recommendations of the **European Commission** to promote the inclusion of transgender people in the EU to be incorporated in such act.

Hence, it was recommended that in Slovenia self-determination of a person should suffice for the legal gender recognition. Currently, this procedure requires first a diagnosis of mental disorder, which exposes transgender people to unnecessary and unfounded stigmatisation. It was also recommended that the National Institute of Public Health should implement the International Classification of Diseases ICD-11 into the Slovenian health-care system, according to which transgender identities are removed from the mental health disorders chapter.

The Act regulating the legal gender recognition should, according to the Advocate, also merge the procedure for gender marker change and the name change on identity documents into one procedure, as transgender persons usually address both at the same time. However, in terms of gender identification, the introduction of an additional neutral marker is recommended.

At the same time, the Advocate focused also on confidentiality and respectfulness of the legal procedures, which should provide safety to transgender people against potential stigmatisation and discrimination. In order to ensure a higher level of privacy protection, the Advocate recommended that the **Ministry of the Interior** should abolish local jurisdiction for the procedures of legal gender recognition so that transgender people could arrange everything they need in any administrative unit, and not only in the place of their residence. Moreover, a recommendation was directed at the **Ministry of Public Administration** to introduce additional training of employees at administrative units, as, according to NGOs, transgender people face a lack of understanding of transgender issues.

As regards the trans-specific medical procedures, the Advocate recommended that, following the example of the National contact point for rare diseases, the **Ministry of Health** should establish a contact point for information on transgender issues.

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<sup>36</sup> Council of Europe, Committee on Equality and Non-Discrimination. Resolution. (2015). Discrimination against transgender people in Europe. Available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=21736&lang=en>.



A better accessibility of endocrinologist specialists for transgender people was recommended, as there are only three of them in Slovenia with subspecialised trans-specific knowledge, of which only one is specialised for children.

In addition, the Advocate called for the establishment of a working group to develop national standards of care of transgender people in medical procedures of gender identity confirmation and training of healthcare professionals relating to the appropriate health care of transgender people.

Since transgender people who need medical care usually receive it **at the Interdisciplinary Council for Gender Identity Confirmation**, the Advocate recommended that the **University Psychiatric Clinic Ljubljana** should appoint an alternate member for each specialist of the Council. Namely, the Advocate established that the absence of the Council specialists could lead to delays in the medical care of transgender people.

In the Special Report, the Advocate also examined the regulation in some European countries and pointed out to **Malta** as an example of good practice in guaranteeing the rights of transgender people. There, transgender identities are not pathologised, while legal gender recognition is kept separate from medical procedures and is based on self-determination at the notary. The procedures of medical gender recognition are carried out in a specialised gender wellbeing clinic and are covered by the compulsory health insurance. The area is regulated by a special Act.

The full version of the Special Report is available on the Advocate's website.<sup>37</sup>

### 12.2.3 The Research Structural Discrimination as an Obstacle to Achieving the Goal of a Decent Life for All

The research was selected within the framework of the Public tender for the selection of research projects of the Target Research Programme "CRP 2019". The project was implemented for 24 months from 1 November 2019 to 30 October 2021.<sup>38</sup> The research was conducted by the University of Ljubljana (UL), the Faculty of Social Work and the Faculty of Law.

The goals of the research project were:

- to identify the most exposed groups of persons facing discrimination due to particular personal ground in relation to individual areas of life, which requires measures to reduce the consequences of structural discrimination on the basis of analysis and comparison of data from existing research, analyses, studies, reports and recommendations of international organisations, case law, cases of identified discrimination and interviews;

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<sup>37</sup> Available at: <https://www.zagovornik.si/posebna-porocila/>.

<sup>38</sup> More information about the research project is available at: [https://www.fsd.uni-lj.si/raziskovalno\\_in\\_razvojno\\_delo/projekti/arhiv\\_projektov/2019121809323768/](https://www.fsd.uni-lj.si/raziskovalno_in_razvojno_delo/projekti/arhiv_projektov/2019121809323768/).

- to identify the most exposed areas of life in relation to personal ground where action is needed to reduce the consequences of structural discrimination based on the analysis and comparison of data;
- to prepare recommendations for the implementation of specific equality measures as defined by the PADA, according to the competences of individual state authorities, local communities and decision makers for the implementation of these measures;
- to inform the professional and general public about the results of the research project and empower them to identify structural discrimination and take appropriate action at the individual level.

The key sets of research activities were the social study, the legal analysis study and the review and analysis of the Advocate's products in the period from 2016 to 2021 inclusive.

Researchers at the Faculty of Social Work at the University of Ljubljana, who prepared the **social study**, focused on the wider social situation of individuals who are particularly at risk of discrimination. Within the framework of the social study, a draft awareness-raising campaign was also prepared.

The researchers pointed out that in the sociological investigation of structural discrimination they face difficulties due to the absence or lack of databases. As examples of the absence of aggregated data, they provide data on:

- the first socialisation language for the Roma and other minorities;
- the diagnoses of the population of children and adolescents with special needs and/or disabilities;
- prisoners by age, sex, type of offence committed on the basis of which they were convicted and the length of prison sentences imposed.

Such data is necessary, e.g. for better planning of educational policy, higher level of health care services and for the protection and monitoring of the exercise of the rights of such groups of people.

Researchers recommended further research of the situation and exercise of the rights of the following groups:

- adults with disabilities in social security, employment and in the field of labour market;
- senior people in residential care, their advocacy and participation;
- children and adolescents with disabilities in the field of social security and schooling;
- families in the field of labour market and housing policy;
- women in the field of labour market and in terms of harassment as a form of discrimination;
- LGBTIQ people with regard to legal recognition of gender and access to health care and medical interventions, homelessness of young people, etc.



Researchers at the Faculty of Law of the University of Ljubljana, who conducted the **study with legal analysis**, find that structural discrimination is not a legally defined concept, neither in international law nor in the EU law or domestic law. The system of human right protection focuses mainly on the protection of the rights of individuals and only to a limited extent on the protection of groups. International political, treaty and judicial authorities generally do not define or rarely use the concept of structural discrimination. Some EU bodies have adopted their own definition of this concept.

The starting point of the researchers was that structural discrimination encompasses both institutional discrimination (through legal regulations and procedures and starting points that allow access to resources and control) and the so-called cultural discrimination (through broad-based systems of categorisation, stereotypes and paradigms). It was found that people or groups of people who are subject to structural discrimination are often vulnerable due to multiple personal grounds, as well as in several social areas of life.

The legal analysis study provides a comprehensive overview of the legal bases for addressing structural discrimination and the responses of international and regional political, professional and judicial authorities, institutions and bodies, including the UN and the EU. The study also provides an overview of the decisions of the European Court of Human Rights, the Court of Justice of the European Union and domestic case law.

The researchers found that structural discrimination is most often manifested as discrimination based on the personal grounds of race and ethnicity, especially in relation to the situation of members of the Roma community, as well as discrimination based on disability and gender.

The concluding observations of the research were that the term structural discrimination has recently been used mainly in reports on findings which referred to discriminatory treatment during the covid-19 epidemic. It concerns the areas of access to education for children, gender inequality, access to health care and, in particular, vaccines, employment and structural discrimination against the elderly, refugees and migrants, women and girls, persons with disabilities, children and LGBTIQ people.



## 12.2.4 The Research Reducing and eliminating discrimination based on ethnicity, “race”, nationality and/or religion

The research was selected within the framework of the Public tender for the selection of research projects of the Target Research Programme “CRP 2019”. The project was implemented in the period of 24 months from 1 November 2019 to 30 October 2021.<sup>39</sup> The research project was carried out by the Peace Institute.

The goals of the research project were:

- on the bases of an analysis from available resources (regulations, reports and recommendations by relevant national and international organisations), to specify the areas of life which are more likely to spur discrimination based on ethnicity, race, nationality and/or religion, and to acquire qualitative and quantitative data directly from persons with a personal circumstance;
- based on situational testing and other quantitative and qualitative methods of research, to obtain quality data from the field and verify the existence of discrimination for persons with the listed personal grounds in the areas of work employment, social and health care, education, access to goods and services, access to housing;
- to inform the professional and general public about the results of the research project and to empower them to recognise discrimination based on the personal grounds of ethnicity, race, nationality and/or religion and take measures on individual level.

The final report of the research project provides an overview of the available sources of equality *data* by areas of social life where discrimination based on ethnicity, nationality, “race” and/or religion occurs. The EU and other international control mechanisms recall that Slovenia lacks transparent, disaggregated and credible data on the existence of discrimination with regard to the personal grounds of nationality, citizenship, skin colour and religion.

Subsequently, the results of situational testing and other qualitative and quantitative analyses are summarised, which define the areas of life and living situations in which discrimination most often occurs due to the personal grounds of ethnicity, “race”, nationality and/or religion.

The analysis of the situation showed that Slovenia lacks data on the experience with discrimination, obtained directly from members of minority groups which would enable the identification of the most problematic areas of life, and data that would directly prove discrimination.

Researchers conducted a field survey, which included: an online survey, situational testing and in-depth semi-structured expert interviews.

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<sup>39</sup> More information about the research project is available at: Reducing and eliminating discrimination based on ethnicity, “race”, nationality and/or religion | Peace Institute – Institute for Contemporary Social and Political Studies (mirovni-institut.si).



**An analysis of the quantitative data** obtained via the online questionnaire showed that 84 percent of respondents had already experienced discrimination on the basis of at least one personal ground. Most often, they referred to discrimination on the basis of gender, which was put forward significantly more often by women than men.

Only three quarters of respondents who qualified as members of national or ethnic minorities, and only a slightly lower proportion of respondents who were born in another country, reported on an experience of discrimination in Slovenia based on ethnicity and citizenship. The surveyed members of the Orthodox or Islamic religion reported on experience of discrimination on the basis of religion in more than 55 percent of cases.

The online survey showed that, regardless of the personal ground, respondents most often experienced discrimination in the workplace, in job search and in public or online. Somewhat less frequently, respondents reported discrimination in health care, in bars or shops, offices or public institutions, and in access to housing.

The survey suggests a strong correlation between discrimination based on skin colour, language and religion and discrimination based on nationality and citizenship. This means that a person experiences discrimination based on several personal grounds simultaneously.

The results of **situational testing** have shown that discrimination against persons with the personal grounds of ethnicity, “race”, nationality and/or religion is most evident in the housing area and in the area of work and employment. In the area education and health, data obtained via the situational testing have not shown this, which however does not mean that these areas are discrimination free.

The interviewees of **in-depth semi-structured expert interviews** explained, among other things, that different areas of unequal treatment are inextricably linked to personal perception of individuals who experience discrimination, as well as to external circumstances. The latter could perhaps also point to systemic inequalities if the competent institutions were considered in greater detail. The interviewees repeatedly mentioned that discrimination was a covert and hardly demonstrable phenomenon and were asking about the definition of discrimination.

The final report states that discrimination based on the personal grounds of nationality, citizenship, skin colour and religion in Slovenia is particularly present in employment and in the workplace, healthcare, access to services, housing market and in administrative procedures. At the same time, the report recalls the fact that particular jobs are inaccessible due to the legislation, such as the condition of citizenship. As a matter of concern, the researchers pointed out the problems with banks, as, despite the European Directive and domestic legislation guaranteeing access to at least personal accounts, foreign citizens still face refusal to open a bank accounts.

The data show that discrimination is most often experienced by persons who are regarded as foreigners by the majority population. In particular, discrimination is present in relation to applicants for international protection and refugees, who also reported experience with ethnic police profiling. Some are experiencing daily negative comments in public and hate speech online.

Unequal treatment is usually accompanied by prejudice and language barriers. Prejudice affects discriminatory practices and impedes equal treatment. Poor knowledge or lack of understanding of the Slovenian language often prevents persons from being treated equally despite official rules. The personal grounds in question do not necessarily mean that the cases of unequal treatment only concern foreign citizens, as people born and living in Slovenia are also discriminated against solely on the basis of their name, colour, language, ethnicity or religion.

According to researchers, the state should provide opportunities for awareness-raising and combating discrimination. In particular, there is a lack of quality data on discrimination based on ethnicity, nationality, race and/or religion, collected according to a harmonised methodology and longitudinally.



# 13 EDUCATION, AWARENESS RAISING AND COMMUNICATION

## 13.1 The role and importance of education and communication

In 2021, the Advocate of the Principle of Equality (Advocate) carried out numerous activities aimed at raising the awareness, educating and informing the general public as well as selected targeted public. In respect of their aims and content, these activities comply with the **fifth indent of Article 21 of the Protection against Discrimination Act (PADA)**, which includes raising the awareness of the general public on discrimination and measures to prevent it among the tasks and powers of the Advocate.

In its work, the Advocate notes that the violators of non-discrimination are sometimes not aware of the discriminativeness of their actions. Once the discriminatory practice is brought to their attention, they quickly eliminate the problematic conduct.

Understanding and awareness of what discrimination is and what are the effects of such behaviour, proves time and again to be a key tool for its elimination. And that is precisely why, educating, awareness-raising and informing the general and selected public are among the statutory tasks of the Advocate.

In 2021, as far as the epidemiological situation allowed, the Advocate conducted educational workshops on discrimination and participated in events organised by other stakeholders in the field of protection against discrimination.

The task of raising awareness about protection against discrimination and measures for its prevention were implemented by informing through the media, updates on the Advocate's website and social media posts.

## 13.2 Education

Due to financial and personnel constraints, but also due to the consequences and prevention of the covid-19 spread in 2021, the Advocate focused primarily on educating the interested public. In this context, special attention was dedicated in particular to those who have the possibility of further, indirect dissemination of the obtained knowledge and information through their own channels to reach their members and the general public. These efforts are aimed at professionals, civil servants, social partners and public sector organisations, teachers, civil society and NGOs.

In terms of **education, i.e. cooperation via their contributions and lectures**, the Head of Advocate Miha Lobnik and other employees attended **16 events**, partly via online platforms, and partly in person, namely:

- Civil Law Judicial Schools 2021, 25 March 2021;
- two workshops of the Association Odnos, working with people with migrant experience, 13 April and 18 November 2021;
- panel discussion on equality in the business environment, 12 May 2021;
- panel discussion “Hostility in the speech leads to violence in action – stop violence against Women!”, 25 May 2021;
- conference “For intercultural coexistence in kindergartens, schools and local settings”, 10 June 2021;
- panel discussion “Ethical Dilemmas of Artificial Intelligence” organised by Nova Ljubljanska banka (NLB), 17 June 2021;
- international conference on the regulation of artificial intelligence, ethics and fundamental rights” organised by the Ministry of Justice, 20 June 2021;
- seminar “Applying EU Anti-Discrimination Law – online seminar for judicial employees”, organised by the European Academy of Law and the Center for Educational Justice, 3 September 2021;
- expert consultation “Health and social treatment of the elderly during covid-19 in 2020 and 2021. What needs to be improved?”, 15 September 2021;
- panel discussions organised by the Institute Atopica on the occasion of World Atopic Eczema Day, 19 September 2021;
- panel discussion “Digital Society and the Elderly” within the Festival for the Third Age, 30 September 2021;
- XXVII days of the Social Chamber of Slovenia, working islet “contradictions of equal opportunities”, 8 October 2021;
- conference “Eradicating hate crimes and hate speech – effective combating hate speech and hate crimes and the protection of victims”, organised by the Ministry of Justice of the Republic of Slovenia in cooperation with the European Commission, 28 October 2021;
- presentation of the Advocate’s competences to the Consultative Body for Gender Mainstreaming within the Ministry of the Interior, the Police and the Inspectorate of the Interior, 23 November 2021;
- third educational event on sexual medicine and sexology organised by the University Psychiatric Clinic Ljubljana, 16 December 2021.

A more detailed description of the Advocate’s educational activities is presented in Chapter [1 Personal Grounds of Discrimination](#) of Part Two of the Annual Report for 2021.

## 13.3 Awareness-raising by the Advocate through attending events

Through the participation in various events related to the promotion of equal treatment and equal opportunities, the Advocate raises awareness and informs participants about the importance of protection against discrimination and the promotion of equality.

In 2021, the Advocate engaged in public awareness-raising through attending the following **six events**:

- Consultation for the protection and strengthening of the mental health of children and adolescents during the epidemic, 1 June 2021;
- EASIT (Easy Access for Social Inclusion Training) project Audiovisual journalism and easy-to-understand language closing event, 14 June 2021;
- International Holocaust Remembrance Day, 6 August 2021;
- Meeting of the Slovenian Sociological Association 2021: Pandemic Society, 24 and 25 September 2021;
- Presentation of the results of the project Discrimination Based on Nationality, Citizenship, Skin Colour and Religion, 26 October 2021;
- Presentation of partial results of the project Structural Discrimination as an Obstacle to Achieving the Goal of a Decent Life for All, 28 October 2021.

A more detailed descriptions of the Advocate's awareness-raising activities is presented in Chapter [1 Personal Grounds of Discrimination](#) of Part Two of the Annual Report for 2021.

In 2021, the Advocate **attended 19 other events**, namely:

- the New University Fundamental Rights in the EU Academic Forum, 14 April 2021;
- the closing conference My work. My Pension, 6 May 2021;
- web conference Diversity in the times of covid-19, 19 May 2021;
- meeting Safety situation in Roma settlements in SE Slovenia, 31 May 2021;
- public presentation "We are inclusive", 10 June 2021;
- public presentation and conversation "Let us resist repression", 14 June 2021;
- expert consultation "LGBTIQ Youth in Schools", 17 June 2021;
- online presentation of the analysis of the Centre for Human Rights: Criminal prosecution of hate speech in the Republic of Slovenia pursuant to Article 297 of the CC-1 – analysis of prosecutor practice in prosecuting the crime of public incitement to hatred, violence and intolerance in the period from 2008 to 2018 and discussion of the challenges of addressing hate speech in Slovenia, including online, 17 June 2021;
- public interview of the National Minority in the Republic of Slovenia – 30 years after the state independence declaration, 2 September 2021;
- online panel discussion Ethics and Human Rights in the Development and Use of Artificial Intelligence, 9 September 2021;

- online High Level International Conference on Artificial Intelligence: From Ambition to Action, 14 September 2021;
- Consultation on the occasion of the Children's Week 2021: Have a Playful Day!, 4 October 2021;
- public presentations of the Draft Act on Assistance in the Voluntary End of Life, 14 October 2021;
- public presentation of the project Enabling the Multimodal Mobility of People with Disabilities, 4 November 2021
- webinar on Social Sciences Research on the Aspects of the Covid-19 Pandemic in Slovenia, 17 November 2021;
- webinar Safe Online Environments for Women and Girls – Eliminate Online Violence!, 25 November 2021;
- online consultation Addressing Sexual Harassment in the Scientific Space – What Happens After Reporting?, 2 December 2021;
- panel discussion Digital Transformation for Diversity, 10 December 2021;
- opening of the exhibition and the panel discussion EU Charter of Fundamental Rights: Principles and Practice in the Situation of the Covid-19 Epidemic, 10 December 2021.



## 13.4 Awareness-raising of the Advocate using own materials

The Advocate is actively pursuing to prepare a compilation of various measures and activities to improve own communication accessibility. In this regard, the Advocate will continue to pursue the two key objectives; it is primarily a matter of removing (possible) obstacles, especially those in communication between the Advocate and potential applicants. A more far-reaching goal of these activities is to approximate the function and activities of the Advocate in the area of prevention and elimination of discrimination and promotion of equality to different target groups, including persons with disabilities. This in line with the European Commission Recommendations on Standards for Equality Bodies of June 2018 and General Recommendations of the Council of Europe on equality bodies to combat racism and intolerance at national level of February 2018.

The purpose of the Advocate is to provide information on key content in a friendly and understandable way, i.e. accessible to the widest possible circle of people. The essential prerequisite for successful prevention and elimination of discrimination is clear understanding of the concept of discrimination and equality, available of legal remedies in case of discrimination violation and other contents of the PADA.

**In addition, the Advocate sent the Annual Report for 2020 to 500 addressees.** The report was made available to Ministries and other state authorities, Slovenian embassies abroad, Slovenian MEPs, parliamentary groups in the National Assembly, social work centres, the Employment Service, administrative units, courts, libraries, patients' rights advocates, other health care institutions and bodies, universities and university libraries, economic organisations, chambers, trade unions and NGOs.

The Annual Report for 2020 was accompanied by two leaflets with basic information on the Advocate and on protection against discrimination directed at pregnant women and parents in employment and at workplace. This way, the **Advocate distributed around 6,000 leaflets with basic information and 2,000 leaflets on the rights of pregnant women and parents.**

The Annual Report for 2020 has been translated into English, Hungarian and Italian. The English translation was sent to the European Network of Equality Bodies – Equinet, Slovenian embassies abroad, foreign embassies in Slovenia, Slovenian MEPs, the European Commission, the European Parliament and the Council of Europe. **A total of 106 English copies of the Annual Report was distributed to the recipients.**

In 2021, the Advocate also provided part of the basic information on the equality body in the Italian and Hungarian language, the official languages in areas home to Italian and Hungarian national communities. The bilingual Summary (Slovenian-Italian, Slovenian-Hungarian) of the Annual Report for 2020 was sent to the Italian and Hungarian national communities deputies, the Ambassadors of Italy and Hungary in Slovenia, as well as to autonomous communities, minority organisations, municipalities and state authorities in the bilingual area.



In total, 70 copies of the bilingual Summary of the Annual Report were sent to each community. The Advocate also prepared a website with basic information about the work and competence of the equality body in the Italian and Hungarian language.

In 2021, the Advocate also prepared a **Special Report on the Situation of the Deaf in the Educational System**, which pointed out that persons with deafness are in a disadvantaged situation in exercising their right to education. The Advocate submitted the special report to the Government, the President of the Republic, the National Assembly and the National Council, Ministries and other state authorities, educational institutions, NGOs working with deaf people, faculty libraries and journalists focused on the educational sector. In total, the special report was sent to 70 addressees.

### Exhibition the Advocate of the Principle of Equality

In cooperation with the Municipality of Ljubljana, the Advocate of the Principle of Equality, organised a special exhibition in the framework of the Day for the Elimination of Racial Discrimination, celebrated on 21 March, and the Week for Combating Racial Discrimination in the Historical Atrium of the City Hall. The exhibition entitled Advocates of the Principle of Equality includes ambassadors of equality, equal treatment and equal opportunities. Each one represents one of the personal grounds.



Exhibition Advocates of the Principle of Equality



Tatjana Bobnar, former Director of the Police



Peter Bosman, former Mayor of the municipality of Piran



Faila Pašić Bišić, Honorary Ambassador of Intercultural Dialogue



Gal Jakič, Athlete



Gabi Čačinovič, University Professor



Tilen Albrecht, student



Rok Usenik, Social worker

The Exhibition of the Advocate of the Principle of Equality strengthens the awareness of what discrimination is and how to handle suspicion of unequal treatment.



The exhibition *Advocates of the Principle of Equality* was on display at the City Hall in Ljubljana from 19 to 28 March 2021.

### Festival of the Third Age

Expert associates of the Advocate informed, advised, informed and presented the work of the equality body at the exhibition. The focus was on informing participants about the possibilities of protection against discrimination based on the personal grounds of age. They were provided with a leaflet presenting the equality body, a form to address discrimination, special reports and the Advocate's Annual Report.



The Advocate of the Principle of Equality also participated in the 20th Festival of the Third Age, which took place between 29 September and 1 October 2021 in Cankarjev dom in Ljubljana.



## 13.5 Informing

The Advocate informs the public about all activities on its official website and through social media such as Facebook and Twitter and media appearances.

In 2021, the Head of the Advocate, Miha Lobnik, appeared in **13 television, radio and online broadcasts**.

The Advocate received **75 journalistic questions** relating to current social issues, alleged cases of discrimination, and matters addressed by the equality body.

As many as **30 press releases** were prepared by the Advocate, presenting the cases of discrimination under consideration, assessments of the discriminativeness of regulations, recommendations, conducted research, special reports and other current issues within the scope of work of the equality body.

On the website [www.zagovornik.si](http://www.zagovornik.si), **55 news and updates on the work of the Advocate were published**. On the official website, the Advocate publishes up-to-date news on closed cases of advisory assistance to parties, anonymised examples of procedures for discrimination detection and assessing the discriminativeness of regulations, recommendations, research and other conclusions.



# 14 THE ADVOCATE'S COOPERATION WITH CIVIL SOCIETY

## 14.1 Challenges of discrimination from the perspective of civil society organisations

NGOs, social partners and other civil society organisations represent one form of citizen participation in the governance of public affairs. Many of them implement projects and programmes in the public interest in key areas of equality and protection against discrimination. Civil society organisations perceive problems and needs in society at the individual and systemic level and act as an important link between individuals and the public structures. They also make an important contribution to effective awareness raising and tackling issues of equal treatment, protection of human rights and fundamental freedoms through advocacy and direct assistance to discriminated persons. For the Advocate, civil society organisations are important strategic partners in monitoring the situation of protection against discrimination in the country (Article 21 of PADA) as well as in formulating solutions and proposals for the implementation of measures.

In line with **Article 15 of the PADA**, the Advocate cooperates with non-governmental organisations, social partners and other civil society organisations working in the field of equal treatment, protection of human rights and fundamental freedoms, protection of vulnerable people against discrimination and legal, social and other assistance to discriminated persons to formulate solutions and proposals to achieve the purpose of this Act.

Due to the poor epidemiological situation associated with covid-19, normal cooperation with civil society organisations was limited in 2021. The Advocate therefore implemented several thematically rounded forms of cooperation in writing (in the form of questionnaires) with various civil society organisations addressing substantively related issues and the situation of groups with a particular personal ground. The responses received were analysed and the findings were incorporated into his various documents. In this manner, the Advocate **maintained cooperation with 122 civil society organisations**.

In total, **five major, thematically rounded cooperation initiatives were carried out in writing**, referring to:

- the situation of homeless people, especially during the covid-19 epidemic,
- the situation of transgender people in the procedures of medical gender identity confirmation and legal gender recognition,
- spatial accessibility of secondary schools for students with reduced mobility,
- recorded damage to churches and other religious buildings and other forms of intolerance and experience of members of churches and religious communities with discrimination based on religion,
- the challenges of the deaf in education.



Issues related to the situation of the homeless concerned a number of homeless people, as well as the key reasons for homelessness, implementation of preventive and supportive programmes, implementation of specific activities and measures during the covid-19 epidemic, ways and scope of financing programmes for the homeless and obstacles and challenges in preventing homelessness. The following personal grounds were brought to the forefront: **social situation, financial situation and state of health**. The Advocate included the analysis of the responses received in the recommendation on the improvement of the situation of the homeless.<sup>40</sup> In this case, the Advocate maintained written cooperation with **nine** civil society organisations.

The collection of data on the situation of transgender people in medical procedures of gender identity confirmation and legal recognition of gender related to the issues faced by transgender people in such procedures and potential solutions, activities of NGOs in this regard, cooperation of NGOs with the working group of the Ministry of Labour, Family, Social Affairs and Equal Opportunities, and possible own studies and research in this field. The cooperation related to the personal grounds of **gender identity** and **gender expression**. The Advocate included the analysis of the responses received within such cooperation in writing in a special report on the situation of transgender people in medical procedures of gender identity confirmation and legal recognition of gender in Slovenia.<sup>41</sup> In this case, the Advocate maintained written cooperation with **eight** civil society organisations.

The collection of information on the spatial accessibility of secondary schools for students with reduced mobility included questions regarding the experience of NGO with spatial accessibility of secondary schools for students with reduced mobility, the number of cases of inaccessibility, cases of refusal to enrol students with reduced mobility in a particular secondary school, possible advisory activities to secondary schools on ensuring accessibility, accommodations taken by secondary schools in favour of students with reduced mobility and the reasons for limited accessibility of secondary schools to students with reduced mobility. The cooperation with **23** civil society organisations covered the personal ground of **disability**.

The cooperation with religious communities was based on two questionnaires addressing:

- recorded damage to churches and other religious facilities and other forms of intolerance; and
- perceived experiences of members of churches and religious communities with discrimination based on religion.

In the first case, the Advocate collected data on recorded cases of damage to religious facilities in the past years, reports of such cases to law enforcement authorities and other institutions, other recorded forms of intolerance, hostility or harassment based on religion and the attitude of the public towards religious communities and their members. In this context, the Advocate cooperated with **ten** religious communities.

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<sup>40</sup> Available at: <https://www.zagovornik.si/priporocila-2021-2/>

<sup>41</sup> Available at: <https://www.zagovornik.si/posebna-porocila/>



In the second case, the Advocate collected data on cases of less favourable treatment of members of religious communities on the grounds of religion in the fields of employment or workplace, education, health or social security, on cases of hate speech against members of churches and other religious communities, as well as on the attitude of the public towards religious communities and their members. In this context, the Advocate cooperated with **56** registered religious communities. The cooperation concerned the personal ground of **religion**.

Collecting information on the challenges faced by the deaf in the field of education was related to questions on the perceived problems of the deaf in the field of primary, secondary and higher education, the reasons for poor education attainment of the deaf, examples of good practices to improve the education of the deaf and the impact of the covid-19 epidemic on the education of the deaf. The cooperation concerned the personal ground of **disability**. The Advocate included the analysis of written responses received within the cooperation in a special report on the situation of the deaf in the education system.<sup>42</sup> In this case, the Advocate maintained written cooperation with **16** civil society organisations.

Within other forms of cooperation, the Advocate held **six meetings** at the initiative of representatives of civil society (personal grounds considered: gender, gender identity, sexual orientation, gender expression, disability and health).

In 2021, **the Advocate wrote letters to support two projects**, with which civil society organisations competed in public tenders for national and European funding.

More on the Advocate's involvement with civil society is presented in Chapter **1 Personal Grounds of Discrimination** in the second part of the Annual Report for 2021.

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<sup>42</sup> Available at: <https://www.zagovornik.si/posebna-porocila/>



# 15 THE ADVOCATE'S COOPERATION AT THE STATE LEVEL

# 15.1 The role and importance of cooperation

The activities presented in this chapter pursue several objectives stemming from the powers and tasks laid down in the Protection against Discrimination Act (PADA).

These activities are principally related to:

- presenting the Annual Report on the work carried out by the Advocate of the Principle of Equality (Advocate), submitted annually to the National Assembly of the Republic of Slovenia, the National Council of the Republic of Slovenia, the President of the Republic, the Government, MEPs and other stakeholders in the state administration or public sector in line with Article 22 of the PADA;
- monitoring the overall situation in the Republic of Slovenia in the field of protection against discrimination (Article 21 of PADA) including the dialogue with state institutions and civil society;
- raising public awareness about discrimination (Article 21 of PADA).

The most common forms of such cooperation were meetings with representatives of the State at the highest level and meetings of a working nature with ministers, state secretaries, other representatives of ministries and government services and representatives of other state authorities. At the meetings, the Head of the Advocate presented the work of the equality body by means of the Annual Report for the previous year with reference to common topics that fall within the scope of work of the institution and are a matter of the Advocate's powers.

In 2021, due to the covid-19 epidemics, meetings were held in line with recommendations of the National Institute of Public Health.

## 15.1.1 President of the Republic of Slovenia



Photo: Daniel Novakovič, STA

At the presentation of the Annual Report, the President of the Republic, Borut Pahor, highlighted the growing significance of the role of the Advocate of the Principle of Equality as well as the increasing public awareness thanks to the excellent work of the Advocate of the Principle of Equality Miha Lobnik and his colleagues.

On 24 May 2021, the Head of the Advocate Miha Lobnik presented the Annual Report for 2020 to the **President of the Republic of Slovenia Borut Pahor**.

The Head of the Advocate informed the President about the challenges faced in the field of protection against discrimination in 2020. As he said, the work of the Advocate of the Principle of Equality was also significantly influenced by the epidemic in 2020. Due to the distress of the population, many more consultancies were provided and a significantly greater number of proposals for regulatory discrimination assessments was received.

Miha Lobnik highlighted the field of employment and work as the area where discrimination occurs the most frequently. He welcomed the decision of the Administrative Court, which confirmed the Advocate's decision on the discrimination found in the calculation of company performance and Christmas bonus award in relation to the employee's presence at the workplace.

President Pahor noted with satisfaction that the visibility and importance of the Advocate of the Principle of Equality is growing from year to year, while giving credit to the excellent work of the Head of the Advocate and his colleagues.

Together with the Head of the Advocate, they assessed that the area of care for the elderly during the covid-19 epidemic was one of the most critical, which further obliges us all to pay special attention to the effective resolution of issues in this area.

## 15.1.2 National Assembly of the Republic of Slovenia

Photo: Matija Sušnik, Državni zbor



The President of the National Assembly Igor Zorčič thanked the Advocate of the Principle of Equality Miha Lobnik for the successful work completed so far.

On 5 May 2021, the Head of the Advocate Miha Lobnik presented the Annual Report on the Advocate's work in 2020 **to the President of the National Assembly** Igor Zorčič. He thanked the Advocate for his presentation of the Report and for the successful work performed so far.

The interlocutors advocated informal forms of raising public awareness, especially of children, of respect for diversity. A great opportunity for this are special events such as the Children's Bazaar and the project Active Citizenship, implemented by the National Assembly.

The Annual Report for 2020 was presented to the National Assembly, more precisely to the Commission on Petitions, Human Rights and Equal Opportunities on 29 November 2021 and to the Committee on Labour, Family, Social Affairs and Disability on 1 March 2022.



## 15.1.3 National Council of the Republic of Slovenia

On 10 June, Miha Lobnik presented the Annual Report for 2012 to the members of the National Council at the Commission for Social Welfare, Labour, Health and the Disabled, and then in a plenary session of the National Council on 15 September 2021. The members of the National Council commended the work of the Advocate and assessed that the Report and its presentation evidence significant progress in the work of this state authority.

The Advocate stated that in 2020, the work of the authority responsible for protection against discrimination was significantly affected by the epidemic. Due to the distress of the population, many more consultancies were provided by the Advocate and a significantly greater number of proposals for regulatory discrimination assessments was received.

In the closed cases of discrimination and advisory, individuals most often referred to discrimination on the basis of disability (14 percent), ethnicity, race or ethnic origin (11 percent), age (6 percent), gender (5.5 per cent), religion or belief (5 percent) and citizenship (5 percent). The highest number of cases pertained to the area of employment and work (29 percent) and the field of access to goods, services and housing (22 percent).

Miha Lobnik also highlighted the results of the research on discrimination in Slovenia. The latter shows that two thirds of the population believe that discrimination represents a significant problem here. One in five residents stated to have already experienced discrimination sometimes in the past. Around four percent of the population, however, stated to have experienced sexual harassment at least once, which is a particular form of discrimination. The research also underlines the field of employment and work as a social area where discrimination occurs most often.



In their opinion on the Advocate's Annual Report, the State Council members concluded that within the recent years, the Advocate of the Principle of Equality has developed into an important independent state authority.

In their opinion on the Advocate's Annual Report, the State Council members concluded that within the recent years, the Advocate has developed into a significant independent state authority, performing important tasks. The Report has been assessed as an excellent teaching material on discrimination and on how discrimination could be prevented through appropriate actions. They stressed that their effort has always been directed towards ensuring appropriate working conditions and development of the Advocate and that they are willing to foster active cooperation with the authority, which has so far always been exemplary and successful. Miha Lobnik agreed with that statement and thanked the National Council member for their cooperation and support.

In the opinion on the Advocate's Annual Report, the State Council members also stressed that there is plenty of room left for encouraging people to report on discrimination and stand up for the protection of their rights. Hence, they suggested that the Advocate should represent the competences of the independent equality body in public with growing intensity.

### 15.1.4 Government of the Republic of Slovenia

In 2021, in the framework of meetings with the Government representatives, the Head of the Advocate Miha Lobnik met with:

- Minister of Culture, dr. Vasko Simoniti,
- Minister of the Interior, Aleš Hojs;
- Minister of the Environment and Spatial Planning, Andrej Vizjak;
- Minister of Justice, Lilijana Kozlovič;
- Minister of Health, Janez Poklukar; and
- State Secretary of the Ministry of Labour, Family, Social Affairs and Equal Opportunities, Cveto Uršič.

# 16 THE ADVOCATE'S INTERNATIONAL COOPERATION



## 16.1 Legal basis and importance of international cooperation

International cooperation of the Advocate of the Principle of Equality (Advocate) is partly stipulated by the Protection against Discrimination Act (PADA), which in the ninth indent of Article 21 assigns the Advocate the task of ensuring the exchange of available information on discrimination with bodies of the European Union (EU).

Yet, the Advocate's activities at the international level are significantly more extensive and include:

- cooperation within various multilateral organisations,
- exchanging information on best anti-discrimination practices,
- international training on current challenges of protection against discrimination,
- collaborative planning of responses to these challenges; and
- cooperation with international mechanisms for monitoring the implementation of the international obligations of the Republic of Slovenia in the field of protection against discrimination and protection of human rights.

The Advocate's international activities also include bilateral projects, e.g. meetings with diplomatic representations of other countries in the Republic of Slovenia and equality bodies from other countries. The importance of the international operation of equality bodies and the responsibility of EU Member States to enable such cooperation is also stressed in the European Commission's (EC) Recommendation on standards for equality bodies.<sup>43</sup>

International cooperation significantly contributes to the visibility of the institution in the wider European area and to the development of the Slovenian equality body, both in the field of anti-discrimination law and policy making for protection against discrimination and promotion of equality.

Due to the covid-19 pandemic, the form of the Advocate's international cooperation was also adjusted in 2021, as most international live meetings were made impossible. However, this does not mean that international cooperation was less intense, as the Advocate's international partner organisations adapted to the new situation and moved international operation online.

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<sup>43</sup> Commission Recommendation (EU) 2018/951 of 22 June 2018 on standards for equality bodies, point 1.3 (3).

In 2021, the Advocate carried out **94 international activities**, participating in professional consultations, conferences and other live or online events and implementation of written forms of information exchange. This includes:

- 13 meetings within the European Network of Equality Bodies – Equinet;
- 12 other events organised or co-organised by Equinet;
- 13 events within the EU or under its auspices;
- three events within the Council of Europe;
- three events in the framework of the United Nations;
- 22 other international expert events and meetings;
- two bilateral events or meetings; and
- 26 mutual exchanges of information with a view to monitoring the area of protection against discrimination and the functioning of equality bodies.

## 16.2 European Network of Equality Bodies – Equinet

The Advocate's key strategic international forum is the international non-governmental organisation **European Network of Equality Bodies – Equinet**, which brings together 47 national equality bodies from 37 European countries, as some countries have several such bodies covering the field of protection against discrimination based on particular personal grounds. The key purpose of the network is to ensure a continuous exchange of information between Equinet members with a focus on peer learning based on good practices and challenges that equality bodies face in fulfilling their tasks.

The highest authority of Equinet is the **General Assembly**, responsible for taking decisions on multi-annual strategic orientations and the annual work plan of the network, the admission of new members and the election of members to the Executive Board of Equinet. The Head of the Advocate, Miha Lobnik, participated via the internet in two annual meetings of the Equinet General Assembly of Equinet (AGM) composed of representatives of all institutions participating in the network, namely on 27 September 2021 and 9 November 2021.

The main managerial body of the organisation is the **Equinet Executive Board**, in which the Head of the Advocate Miha Lobnik was also elected at the annual session of the General Assembly of Equinet in 2019 for the term of office 2019–2021. In November 2021, Miha Lobnik was elected for a new term of office as a member of Equinet's Executive Board. The Executive Board is responsible for supervising the development, preparation and implementation of the organisation's work plans. At the same time, it is responsible for preparing the multi-annual strategic action plans of Equinet, which are proposed to the General Assembly for adoption; and overseeing the work of the Equinet Secretariat.

**Equinet working groups** are regular meetings of expert staff from equality bodies across Europe operating as a forum to exchange views of their functions in line with their national mandates. The working groups address issues related to the development of protection against discrimination, identified gaps and specific needs for further work; and exchange information on examples of good practice.



On a working meeting with the Executive Director of the European Network of Equality Bodies – Equinet, Anne Gaspard, on 20 October 2021 in Ljubljana the Advocate of the Principle of Equality, Miha Lobnik, presented the evolution of the Advocate in the past five years and expressed his gratitude for the support provided by Equinet in the process of establishing the Slovenian equality body. Miha Lobnik also presented the current activities of the institution and the plans ahead. Anne Gaspard commended the development and work of the Advocate.

## 16.2.1 Policy Formation working group

The Policy Formation working group (WG) aims to support Equinet’s dialogue with the EU institutions, which includes the preparation of Equinet’s special reports (perspectives) on specific topics in the field of anti-discrimination and the promotion of equality and diversity, based on the experience and contributions by the national equality bodies.

Within the working group, a representative of the Advocate participated in an online meeting:

- **On 5 October 2021** the meeting focused on structural and institutional racial discrimination. New developments in European anti-discrimination legislation were presented, e.g. proposals for directives and potential roles for equality bodies under this such legislation (new functions and tasks). The equality bodies were unanimous that new functions also required new resources, especially financial and human resources. A representative of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and a representative of the European Network against Racism (ENAR) presented their work on combating racism at the meeting. The meeting was concluded by representatives of equality bodies discussing good practices and future possibilities for preventing and combating structural racism in the EU and the Member States.

## 16.2.2 Equality Law working group

The Equality Law working group (WG) represents a permanent platform of legal experts working within national equality bodies, designed for the purpose of exchanging experience and knowledge in order to improve legal certainty in the field of protection against discrimination.

Within the working group, a representative of the Advocate participated in two online meetings:

- **On 17 May 2021**, the meeting focused on developments on the side of Equinet and at EU level (e.g. Pay transparency Directive, Work-life Balance Directive). The case of Scotland was presented as an example of positive action. The presentation was followed by a general discussion on the Equinet Workshop on the subject of Positive Actions (held on 10 May 2021) and on the subject of positive actions. New developments and the work of the European Court of Human Rights (ECHR) case monitoring group, as well as developments at EU level in the field of hate speech and hate crimes and the tendency to include or extend the competence of equality bodies in this area were presented.
- **On 29 November 2021**, the meeting focused in particular on the coordination of the Positive Action Paper prepared by the working group in 2021. The members of the working group were briefed on the activities of the working group in the area of monitoring ECHR judgements and potential interventions by Equinet in any of the cases before the ECHR. The members of the working group also had the opportunity to learn about the results of a survey by the EU Agency for Fundamental Rights (FRA) on the issue of hate speech.

## 16.2.3 Gender Equality working group

The Gender Equality working group (WG) is a permanent platform of national equality bodies' representatives, intended to address gender equality issues, identify and analyse relevant good practices and current challenges at both the national and the European level.

Within the working group, the representatives of the Advocate participated in two online meetings:

- **On 12 May 2021**, the working group discussed three key topics: developments in pay transparency, inter alia, on the planned new European Directive to set minimum requirements in this area in order to ensure pay equity for comparable work; the functioning of equality bodies in the area of sexual violence, including action in this field focused on EU policies towards the Istanbul Convention, and the first results of the analysis of the work of equality bodies regarding the situation of workers in care professions (especially at home). In addition, proposals for topics for the group's work in 2022 were also discussed.
- **On 23 November 2021**, in addition to the issues of payments transparency by gender, a draft publication on domestic (care) workers was discussed, and in particular the issue of the involvement of equality bodies in the implementation of the so-called Work-Life Balance Directive was discussed.



## 16.2.4 Communication Strategies working group

The Communication Strategies working group (WG) is a permanent platform of Equinet bringing together representatives of equality bodies responsible for public relations. The purpose of the working group is to explore ways in which equality bodies can promote their work vis-à-vis different audiences, develop strategic approaches to sharing the values of equality and non-discrimination, and strengthen the capacity of equality bodies in these areas.

Within the working group, the representatives of the Advocate participated in two meetings:

- **On 11 May 2021**, the online meeting focused on the work of the authorities in the year of the covid-19 epidemic. The members of the working group presented the challenges faced in recent months and individual cases of discrimination related to the epidemic. In the following, the members of the working group spoke about the working group's work plan for 2021, which was adopted with a few months delay due to the epidemic.
- **On 3 December 2021**, at a meeting held in Brussels, participants discussed the communication activities of the national equality bodies and became acquainted with the project "Online Library of Projects". The response of the public to the communication of authorities during the epidemic was also discussed below. In doing so, they highlighted the alarming trend of rising hate speech. The members also discussed the work plan for 2022.

## 16.2.5 Research and Data Collection working group

The Research and Data Collection working group (WG) represents forum in which representatives of equality bodies from all over Europe meet twice a year. The main purposes are the exchange of information on good practices in the field of equality data collection and the design, implementation and dissemination of research.

A representative of the Advocate participated in two meetings in 2021:

- **On 5 May 2021**, an online working group meeting was held to exchange information on the work of individual members of the working group and to present FRA activities in this field. A representative of the European Parliament's research service presented to the participants the tasks of the service, which is to collect data (including on equality) mainly to facilitate and enable more informed decision-making by MEPs. The importance of cooperation with equality bodies in terms of information exchange on the research carried out was pointed out.
- The meeting carried out on **25 November 2021** focused on the presentation of innovations in the area of protection against discrimination and the collection of equality data. The representative of the EU Agency for Fundamental Rights (FRA) presented the directions of the European Commission's High Level Working Group on Protection against Discrimination, Equality and Diversity for the collection and use of equality data in relation to racial or ethnic origin. The Equinet Secretariat presented a proposal for a new regulatory framework for the European statistics on population. The members also discussed the work plan for 2022 and the challenges of the working group's ongoing projects.

## 16.2.6 Freedom of Movement Cluster

The Equinet Freedom of Movement Cluster was formed in autumn 2018 based on the fact that more than half of the EU Member States designated new national equality bodies.<sup>44</sup> The countries founded national equality bodies also under Article 4 of Directive 2014/54/EU on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement, which sets out that Member States must designate one or more bodies for the promotion of equal treatment and support of Union workers and their family members.

In 2021, the Working Group concluded its work with the publication of the document “Freedom of Movement in the EU: Equality Bodies Tackling Discrimination of Union Workers.”<sup>45</sup>

## 16.2.7 Equinet’s Standards for Equality Bodies

The legal regime of equality bodies in the EU leaves a great deal of discretion to Member States to determine their mandate, powers, independence, efficiency, resources, etc. Differences between Member States also lead to inequalities in the protection of EU citizens against discrimination. The Equinet’s Project on Standards for Equality Bodies is Equinet’s platform for exchange of information and joint efforts to develop effective regulations and uniform minimum standards to reflect the needs of all Equinet members. Two sets of indicators have been developed so far as part of the results of the group, namely to measure the independence<sup>46</sup> and mandate<sup>47</sup> of equality bodies.

A representative of the Advocate participated in two meetings in 2021:

- **On 25 May 2021**, a representative of the Advocate participated in an online meeting where members discussed the indicated legislative changes in the field of anti-discrimination within a regular review of EU developments in the field of anti-discrimination. At the meeting, the European Commission representative presented the European Commission’s plans and timeline for the adoption of legislation to be proposed by the end of 2022 and to ensure uniform minimum standards for equality bodies in the EU by means of adopted directives. A substantive discussion of Equinet members on past work, e.g. the document “Legislating for stronger, more effective equality bodies”<sup>48</sup> and further possibilities to influence the legislative process followed.<sup>49</sup>

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<sup>44</sup> The Advocate took over the function of the body under Article 4 of the said Directive based on the second and third paragraphs of Article 2 of the Order on measures facilitating the exercise of rights conferred on EU workers and their family members (Official Gazette of the RS, No. 52/16).

<sup>45</sup> Accessible via: <https://equineteurope.org/publications/freedom-of-movement-in-the-eu-equality-bodies-tackling-discrimination-of-union-workers/>

<sup>46</sup> Available at: <https://equineteurope.org/wp-content/uploads/2021/01/NEB-Independence-indicators.pdf>

<sup>47</sup> Available at: [https://equineteurope.org/wp-content/uploads/2020/02/NEB\\_Mandate\\_indicators.pdf](https://equineteurope.org/wp-content/uploads/2020/02/NEB_Mandate_indicators.pdf)

<sup>48</sup> Accessible via: <https://equineteurope.org/publications/legislating-for-stronger-more-effective-equality-bodies-key-elements-for-and-expectations-from-future-eu-legislation-on-equality-bodies/>

<sup>49</sup> See Equality bodies – binding standards. Available at: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13098-Equality-bodies-binding-standards\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13098-Equality-bodies-binding-standards_en)



- The meeting held on **5 November 2021** focused on the EU legislative process in connection with the standards for equality bodies. A public debate took place in the past months since the first meeting in 2021; and the EC has launched a study on the current situation in equality bodies. Members of the working group, equality bodies from Austria, Czech Republic, Belgium, Germany and Romania, were involved in a pilot project to test Equinet indicators, which could also become useful for the EC in the future in the process of drafting directives. The meeting focused largely on the experience from these countries regarding the test use of indicators and further possibilities for their use (and possible improvements).

## 16.2.8 Seminars and other activities within the scope of Equinet

In 2021, the Advocate also attended 12 other events within the framework of Equinet.

- On 25 and 26 January 2021, a representative of the Advocate attended an online event **“Workshop on the Elimination of Discrimination and Intolerance against Muslims”**.
- On 22 February 2021, a representative of the Advocate attended the panel discussion **“Together for Roma Equality: Implementing the EU Strategic Framework for the Roma”**.
- On 24 March 2021, a representative of the Advocate attended a meeting of Equinet members on current **issues related to vaccination against covid-19**.
- On 31 March, the Head of the Advocate, Miha Lobnik attended an online panel discussion on the **implementation of the LGBTIQ Equality Strategy 2020–2025**. In his contribution, the Head of the Advocate emphasised that equality bodies play an important role in monitoring and implementing the strategy in each Member State. According to him, equality bodies, as independent state institutions, play a key role in bringing together different communities and partners.
- On 22 and 30 April 2021, a representative of the Advocate participated in two webinars on the topic of protection against discrimination in connection with **artificial intelligence**. The training was designed for professional associates of equality bodies.
- On 29 April 2021, a representative of the Advocate attended a webinar by Equinet and the European Network of National Human Rights Institutions (ENNHRI) **on the Strategy for the Rights of Persons with Disabilities 2021–2030**.
- On 10 May 2021, a representative of the Advocate participated in an online workshop on **positive measures** intended for Equinet members.
- On 22 June 2021, a representative of the Advocate participated in a webinar **“Current situation: equality and non-discrimination in access to healthcare”**.



- On 24 June 2021, a representative of the Advocate participated in a webinar **“Covid-19: A pandemic that changed everything?”**
- On 28 June 2021, a representative of the Advocate participated in a webinar entitled **“Health Care Systems and Systemic Challenges: Impact on Equality”**.
- On 19 November 2021, a representative of the Advocate attended an online event **“Conference on equality mainstreaming”**.
- On 9 December 2021, a representative of the Advocate participated in the webinar **“Coping with Institutional Racism: The Potential of Equality Bodies”**.

## 16.3 European Commission

The European Commission (EC), as the guardian of the EU legal order, is responsible for the drafting of legislative proposals and policies of the EU and correct and full implementation of the acquis. Within the EC, the area of fight against discrimination falls within the competence of the Directorate-General for Justice and Consumers. Under the new EC mandate for 2019–2024, an independent commissioner portfolio was established to address equal treatment and protection against discrimination, led by European Commissioner for Equality Helena Dalli and the EC Special Task Force on Equality.

The current EC has placed the issue of equal treatment at the centre of its activities. In 2020, the EC adopted a number of strategic documents (which also provide for a strengthened role of equality bodies), and outlined further activities of the EC and Member States to improve the exercise of the right to equal treatment and protection against discrimination.<sup>50</sup> The adoption of new strategic documents continued in 2021, namely:

- **Union of Equality: Disability Rights Strategy 2021–2030<sup>51</sup>** adopted in March 2021. The purpose of the strategy is to encourage countries to guarantee all human rights and fundamental freedoms to all people with disabilities, regardless of other personal grounds (gender, race, ethnicity, religion or beliefs, age or sexual orientation). Among other things, the strategy highlights the importance of a cross-sectional perspective addressing the risk of multiple discrimination of women, children, the elderly, disabled refugees and persons with socio-economic problems.
- **The EU Strategy on combating antisemitism and fostering Jewish life (2021–2030)<sup>52</sup>** was adopted in October 2021. The purpose of this strategy is to strengthen the fight against anti-Semitism and to contribute to the creation of an inclusive society based on equality and respect, and to encourage Member States to go beyond just responding to anti-Semitism and take measures to actively prevent anti-Semitism. There are three pillars of the strategy:
  - preventing and combating all forms of anti-Semitism,
  - the protection and fostering of Jewish life in the EU,
  - education, research and Holocaust remembrance.

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<sup>50</sup> Union of Equality: Gender Equality Strategy 2020–2025; Union of Equality: EU Anti-racism Action Plan 2020–2025; Union of Equality: EU Roma Strategic Framework for Equality, Inclusion and Participation for 2020–2030; Union of Equality: LGBTIQ Equality Strategy 2020–2025. For a summary of the EC's achievements in 2020 in the subject area, see the statement by the Equality Commissioner, Helena Dalli, available at: [Union of equality: the first year of actions and achievements | European Commission \(europa.eu\)](#)

<sup>51</sup> Available at: <https://ec.europa.eu/social/main.jsp?catId=1484&langId=sl>

<sup>52</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: EU strategy on combating antisemitism and fostering Jewish life (2021–2030). Available at: <https://eur-lex.europa.eu/legal-content/SL/TXT/?uri=CELEX%3A52021DC0615>

## 16.3.1 High Level Group on Non-Discrimination, Equality and Diversity

**High Level Group on Non-Discrimination, Equality and Diversity (HLG)** has the status of an informal permanent expert group set up by the EC and its Directorates-General to gain external knowledge and experience that could assist the European Commission in formulating policies and legislative proposals in various fields. In line with its mandate,<sup>53</sup> the HLG is primarily intended for cooperation between representatives of national governments and policy-making bodies; the representatives of equality bodies participate in as secondary members.

The Advocate has been a member of the **HLG Subgroup on Equality Data** since 2019. Within the subgroup, the representatives of the Advocate participated in two online meetings:

- **On 24 February 2021**, the participants of the meeting discussed draft guidelines for the collection and use of equality data disaggregated by race or ethnic origin; good practices in some EU Member States in the area of collecting data on race and ethnic origin; key challenges faced by countries in collecting data on race/ethnic origin, including the issue of a relationship between the EU General Data Protection Regulation<sup>54</sup> and the collection of data on race/ethnic origin; the reasons for not collecting disaggregated data in Member States; the activities and insights of Equinet and the European Network against Racism in this regard;
- **On 21 May 2021**, the participants discussed two subjects, namely a commentary on the draft agenda of the panel discussion on disaggregated data organised by the EC in autumn 2021 and the communication on EC and FRA activities regarding the inclusion of disaggregated data in the EU Survey *on Income and Living Conditions* (EU-SILC);
- The meeting held on **30 June 2021** was devoted to discussing the latest draft guidelines for the collection of data disaggregated by racial and ethnic origin, informing members about the EC and FRA activities in the framework of the next EU-SILC survey and regarding the preparations for the EC panel discussion in autumn 2021.

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<sup>53</sup> The HLG mandate is available at <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=18850&no=1>

<sup>54</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). Available at: [https://eur-lex.europa.eu/legal-content/SL/TXT/?uri=uriserv:OJ.L\\_.2016.119.01.0001.01.SLV&toc=OJ:L:2016:119:FULL](https://eur-lex.europa.eu/legal-content/SL/TXT/?uri=uriserv:OJ.L_.2016.119.01.0001.01.SLV&toc=OJ:L:2016:119:FULL)



Since 2021, the Advocate has also been a **member of the LGBTIQ Equality Subgroup within the HLG**. Within this subgroup, the Advocate participated in two online meetings:

- Informal bilateral meetings with the EC were held on **22 June 2021**. The Advocate pointed out that the recently adopted EU LGBTIQ Equality Strategy 2020 – 2025 is welcome and adequately addresses the area of protection against discrimination. The strategy represents a major breakthrough compared to previous EC efforts, also in the context of dissemination of the topic to all public policy areas. The Advocate supports the call of the EU on Member States to implement the strategy orientation in their implementation plans.
- **On 24 November 2021**, the subgroup held its third regular meeting in virtual form, with the participation of the Head of the Advocate Miha Lobnik. The subject of the meeting was the cooperation of the subgroup with representatives of civil society. A decision was made to organise a special meeting intended for them and, if necessary, provide other forms of consultation. The topic was also the guidelines for the drafting of the LGBTIQ strategy and for the preparation of national action plans. The next meeting is planned for the spring of 2022.



The Advocate of the Principle of Equality, Miha Lobnik, held a working meeting on 17 May 2021 in Ljubljana with the new Head of the European Commission Representation in Slovenia, Jerneja Jug Jerše. They spoke about the state of discrimination in Slovenia and the progress made in providing protection against discrimination in the country. Miha Lobnik presented the activities of the Advocate to the Head of the EU Commission Representation and presented her with the Annual Report for the year 2020.

## 16.3.2 Other events organised by the European Commission

The Advocate attended five different events organised or co-organised by the EC. Online events held in 2021 were the following:

- **“EU Summit Against Racism”** on 19 March 2021; the representative of the Advocate attended the first summit, held online. At the event, which was also attended by Equinet Executive Board President Tena Šimonović Einwalter and State Secretary at MLFSAEO Cveto Uršič, the EC President Ursula von der Leyen emphasised that racism is present in society, although not always on the front pages of newspapers, and that the stories of racism are present among us, even if we sometimes fail to notice them. It is also present in social institutions. The EU has therefore committed to eliminating discrimination and promoting equal treatment, moreover, the EU Anti-racism Action Plan has been drawn up.
- **“Opening event of the European Diversity Month”**, 4 May 2021; the European Diversity Month is dedicated to raising awareness of the importance of diversity and inclusion in workplaces and in the EU as a whole. The focus of this year’s online event was racial and ethnic diversity. The keynote speaker was Helena Dalli, EU Commissioner for Equality, who stressed that by means of inventing more diverse workplaces, a more equal and fairer Europe is created. Since 2004, 26 diversity charters have been established in the European Union to support and promote best practices in diversity management. The charters bring together companies, public and non-governmental organisations, currently more than 12,000 signatories and more than 16 million employees. Among the signatories of the Charter is also the Advocate of the Principle of Equality.
- Web conference **“Union of Equality for LGBTIQ People - Strategy of the European Commission against Homophobia, Biphobia and Transphobia”**, 17 May 2021; the conference was organised by the EC in cooperation with the Global Political Network Foundation and EURACTIV Poland. 17 May is the International Day Against Homophobia, Biphobia and Transphobia. On this occasion, the European Commissioner for Equality Helena Dalli presented the first EU LGBTIQ Equality Strategy 2021–2025. The invited panellists discussed the European Commission’s proposal and the current situation of LGBTIQ people in Poland and Europe.
- Online **Roundtable “Equality, Equal Treatment and Equal Opportunities”** held on 30 September 2021; the event focused on finding solutions to constraints in collecting equality data and possibilities for the promotion of exchange of best practices. Organisers encouraged EU Member States to fully proceed with the collection of data disaggregated by the protected personal grounds while fully respecting their national contexts.
- An online **annual legal seminar on protection against discrimination and gender equality**, organised by the EC and the European Network of Legal Experts in Gender Equality and Non-discrimination (EELN), under the auspices of the EC, on 26 November 2021.



## 16.4 European Union Agency for Fundamental Rights

The EU established the Agency for Fundamental Rights (FRA) in 2007 to provide independent assistance and expertise in the field of fundamental rights to the EU institutions and Member States. The FRA also conducts several EU-wide research studies in individual thematic areas, which represent an important contribution to the understanding and addressing of negative social phenomena, such as e.g. discrimination or hate speech. The FRA publishes legal manuals on the European Union law and case law. The Agency organises annual conferences on fundamental rights, attended by hundreds of experts and other stakeholders.

The Fundamental Rights Platform (FRP) is used to build dialogue with civil society. Within the FRP, around four hundred civil society organisations from across the EU participate, meeting once a year and including various partakers from different fields of activity.

**On 18 March 2021, the Head of the Advocate Miha Lobnik hosted the Director of the FRA Michael O’Flaherty at the Advocate’s headquarters.** He presented to him the development and achievements of the Slovenian equality body. He pointed out that more and more people turn to the Advocate for help in times of need every year. At the same time, he presented the most prominent cases in which the Advocate strengthened the visibility of the equality body in the public. He also mentioned the understanding of the Government, which followed the EC’s recommendations, and allocated more resources to the Advocate. At the same time, the Advocate mentioned the regulation of systematic collection of data on discrimination as a challenge that should be addressed in Slovenia in the field of protection against discrimination. “If we can’t measure something, we won’t be able to fix it,” said O’Flaherty, for whom the collection of equality data is of crucial importance. He further stated that the Agency was preparing a report on the functioning of the European equality bodies, which would call on the governments of the EU Member States to ensure appropriate conditions and regulation for their functioning. At the end of the meeting, the Director of the FRA thanked Miha Lobnik for his cooperation and for the Slovenian translation of the FRA Handbook on European Anti-Discrimination Law, prepared by the Advocate, which will assist the professional public.

Representatives of the Advocate participated in two events within the FRA, namely:

- the “**Framework for Human Rights** Cities and *its Contribution to Fundamental Fights in the EU*” on 5 May 2021;
- webinar for civil servants prior to the Slovenian EU Council Presidency “**Charter of Fundamental Rights and National Legislator**” held on 14 June 2021 (the Ministry of the Interior also participated in the organisation of the event).



The Advocate of the Principle of Equality, Miha Lobnik, presented Slovenia's evolution, activities and achievements in the domain of the protection against discrimination to the Director of the EU Agency for Fundamental Rights, Michael O'Flaherty.

## 16.5 Council of Europe

Within the Council of Europe (CoE), four bodies are particularly important as regards the protection against discrimination:

- **Council of Europe Commissioner for Human Rights** is a political body responsible for ensuring the respecting and promoting human rights, fostering human rights education and awareness-raising, and ensuring respect for the human rights instruments provided for by the Council of Europe. The Commissioner's role is mainly preventive and complements the roles of the European Court of Human Rights and other convention bodies.
- **European Commission against Racism and Intolerance (ECRI)** operates in the field of human rights. It is made up of independent professionals and monitors issues relating to racism, xenophobia, anti-Semitism, intolerance and discrimination based on race, nationality or ethnic origin, skin color, citizenship, religion or language. The Commission against Racism and Intolerance considers the equality bodies to have an important role to play in preventing discrimination at the national level. In its general recommendations, the Commission encourages the establishment of such bodies and support of the existing bodies.
- **Advisory Committee on the Framework Convention for the Protection of National Minorities** monitors the implementation and enforcement of the Framework Convention for the Protection of National Minorities of the Council of Europe. As a party to the Framework Convention, Slovenia is obliged to report to the Committee every five years on the situation within the country borders related to the protection of minorities.
- **European Committee of Social Rights** monitors and supervises the implementation of the European Social Charter, which explicitly guarantees access to the rights contained therein without discrimination due to any personal grounds. Based on the national recommendations and the collective redress procedure, the Committee makes conclusions and adopts decisions which, in so far as they relate to the binding provisions of the European Social Charter, are legally binding on the State parties.

The **European Court of Human Rights (ECHR)** plays a particularly important role in the CoE system, both in the field of protection against discrimination and, more broadly, also the protection of human rights. It was established in 1959 and its task is to ensure that the member states of the Council of Europe respect the rights and freedoms set out in the European Convention on Human Rights (ECHR). The Court's decisions are based on applications submitted either by individuals or (in rare cases) by the State parties. The ECHR case law is of great importance for the work of the Advocate as, among other things, it sets binding standards of legal protection against discrimination.



Within the framework of CoE, the Advocate participated in three events:

- An online **conference to mark the 10th anniversary of the Istanbul Convention** on 11 May 2021, co-organised by the CoE and the German Presidency of the Council of the EU. The aim of the conference was to consolidate political will and commitment following the full implementation of the Convention by the signatory countries and to generate interest among stakeholders, the media and NGOs in the non-signatory countries. It also featured presentations of Council of Europe recommendations on the prevention of sexism and related campaigns by countries and the Council of Europe, such as the media campaign “Sexism: See it. Name it. Stop it!”.
- The online event **“Rights of Older Persons”** held on 27 September 2021, co-organized by the FRA, the European Network of National Human Rights Institutions (ENNHRI) and Equinet. The event was intended to commemorate the International Day of the Elderly (1 October). The main purpose was to present a comprehensive study “Against Ageism and Towards Active Social Citizenship for Older Persons. The Current Use and Future Potential of the European Social Charter”.<sup>55</sup> Various speakers prepared an overview of the main highlights from the European instruments of human rights law dealing with the rights of the elderly, in particular the European Social Charter (ESC).
- The **ECRI Annual Seminar** on 18 October 2021, held online. The participants in the seminar on the topic of protecting the rights of LGBTIQ persons pointed out that in certain countries, the rights of LGBTIQ people are restricted and that there is still hatred towards this social group in society. They stressed the importance of national authorities for the protection against discrimination in the field of education and awareness-raising of the LGBTIQ community to report discrimination.

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<sup>55</sup> Available at: <https://rm.coe.int/against-ageism-and-towards-active-social-citizenship-for-older-persons/1680a3f5da>



## 16.6 United Nations

Respect for and protection of human rights, based on the principles of non-discrimination and human dignity, represent one of the main priorities of the United Nations (UN). Hence, in addition to maintaining international peace and security, promoting friendly relations between nations, advocating international cooperation and functioning as a platform of global coverage, human rights are one of the key areas for the development of the UN and its structures.

**Office of the United Nations High Commissioner for Human Rights (OHCHR)** represents the world's commitment to the universal ideals of human dignity. It is a part of the UN Secretariat and operates mainly in Geneva. In carrying out its work, the Advocate also relies to a certain extent on the recommendations and guidelines of the OHCHR, and also cooperates with their regional office.

In 2021, the representatives of the Advocate attended three events organised by the UN institutions and bodies:

- international public consultation **“Access to Justice for Housing Discrimination and Spatial Segregation”**; 7 May 2021, organised by the United Nations Special Rapporteur on the right to adequate housing, EQUINET and the International Commission of Jurists;
- an online event on the occasion of the 48th regular session of the UN Human Rights Council (UNHRC) **“The Independent Expert UN: report on ageism and age-discrimination (A/HRC/48/53)”**, 20 September 2021;
- an online event on the occasion of the 48th regular session of the United Nations Human Rights Council (UNHRC) **“Independent Expert UN: Human rights in older age: Toward the elimination of ageism and age discrimination”**, 21 September 2021.<sup>56</sup>

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<sup>56</sup> The events on the occasion of the 48th regular session of the UN Human Rights Council were organised in cooperation with the UN Office of the High Commissioner for Human Rights, the Independent Expert on the enjoyment of the enjoyment of all human rights by older persons, NGO Committee on Ageing (Geneva), HelpAge International, AGE Platform Europe, Human Rights Watch, Supporters: including the Group of Friends of the Human Rights of Older Persons, Geneva (on their behalf the Ambassador of Slovenia to the United Nations).

## 16.7 International exchange of information on discrimination



The Advocate of the Principle of Equality, Miha Lobnik, held a meeting with the German Minister of Health, Jens Spahn, in Ljubljana on 16 July 2021. They discussed the importance of ensuring equality, equal treatment and equal opportunities to different vulnerable social groups. They agreed that protection against discrimination remains an important societal challenge throughout Europe even during the covid-19 pandemic.

In the ninth indent of Article 21 of the PADA, the Advocate is assigned the task of ensuring the exchange of available information on discrimination with EU bodies. In practice, the Advocate's exchange of views and information is much broader and includes a wide range of international actors, with whom the Advocate communicates in the context of their queries and research. A special form of exchange of views **takes place within the Equinet Equality Law Working Group, which is intended for** the exchange of views and information on issues faced by the members during their work. In addition, the Advocate actively participates in the exchange of views and information with other international governmental and non-governmental organisations.



In 2021, the Advocate carried out altogether 26 mutual information exchanges in the field of discrimination, of which:

- **22 were replies to requests for information** on the manner in which certain areas are regulated in Slovenia, of which:
  - **nine** were prepared in the framework of the Equinet Working Group on Equality Law;
  - **13** were prepared within international exchanges of information or questionnaires and queries from various international organisations; and
- **four were requests for information regarding** the regulation of certain issues in other countries:
  - **two** were requests for information within the Equinet Working Group on Equality Law; and
  - **two** were queries directly addressed to equality bodies in certain countries.

### 16.7.1 Requests for information received

As regards other international inquiries and questionnaires, the Advocate **contributed to as many as 20 exchanges of information** in 2021. These were either shorter queries or more specific and comprehensive questionnaires covering several areas or issues related to discrimination. The following is an overview of information exchanges, shown by the organisations requesting the information.

#### Equinet

In the context of **Equinet**, the Advocate replied to **two** general questionnaires concerning:

- competences and work of equality bodies in the field of access to healthcare,
- participation in Equinet's training courses on artificial intelligence and the effectiveness of national anti-discrimination legislation in the field of artificial intelligence and the activities carried out in this regard.

In the framework of the Equinet **Equality Law Working Group**, the Advocate received **ten requests for information** in 2021 submitted by equality bodies from other EU regarding the Slovenian regulation of particular legal issues in some specific areas.

Of the ten closed cases, responses to the queries were prepared in nine cases. One question was not answered by the Advocate because no concrete information was available at that moment. The requests for information concerned to the following topics or questions:

- prohibition of discrimination the basis of vaccination or non-vaccination;
- handling of reports and murders in the context of domestic violence;
- the protection of the personal data of parties reporting discrimination;
- the status of evidence obtained through situational testing in proceedings by equality bodies initiated ex officio;
- national case law regarding allegations of discrimination against above-average children in schools by their parents or guardians;
- legal protection of human rights, including protection against discrimination directed at adopted persons, in particular in relation to the access to information on their biological parents, early childhood and health status;
- regulations concerning wearing religious symbols and religious clothing (e.g. hijab, turbans) for members of the military and police;
- addressing cases of discrimination related to the area of wearing religious symbols and religious clothing by civil servants;
- the statutory competence of equality bodies to file actions before courts due to discrimination;
- the adoption of national action plans and measures for the protection against discrimination and preventing hate speech and hate crimes.

Within the **Equinet Working Group on Research and Data Collection**, the Advocate replied to **three** queries and questionnaires pertaining to the work of equality bodies during the covid-19 pandemic, novelties in the work of equality bodies involving research on the draft plan of the Working Group for 2022.

Within the Equinet **Working Group on Gender Equality**, the Advocate submitted replies to one questionnaire pertaining to the proposal for a new directive on pay transparency and on the role, competences, positions and challenges faced by equality bodies in their effort to ensure equal pay for equal work.

Through Equinet, the Advocate replied to one questionnaire submitted by the **Georgian equality body** on the competences and activities carried out in regard to compulsory vaccination.

### European Commission

In 2021, the Advocate prepared one contribution within the European Commission's consultations with EU Member States regarding the EC's third report on the rule of law in the EU (at the request of the Ministry of Foreign Affairs). The contribution referred to information on the development of key events in 2021 in the area of non-discrimination and the promotion of equal treatment.



## EU Agency for Fundamental Rights (FRA)

In 2021, the Advocate prepared one contribution for the Slovenian national contractor of the FRANET research network. The contribution contained:

- a report on the Advocate's current activities, namely
- activities relating to discrimination against EU citizens, LGBTIQ persons and persons on the basis of the personal grounds of race, ethnicity and religious affiliation; and
- activities related to the implementation of the Strategy to strengthen the application of the Charter of Fundamental Rights in the EU.

## Other international organisations

In **four** cases, the Advocate provided information to **other** international organisations, namely:

- replied to the questionnaire of **the Special Rapporteur on the Rights of Older Persons**, concerning ageism and discrimination based on the personal ground of age; the questionnaire was the basis for preparing a report on the causes, forms and prevalence of ageism and discrimination based on the personal ground of age;
- sent information to the **Working Group on combating antisemitism** of the **Council of Europe's European Commission against Racism and Intolerance (ECRI)** on draft revised General Political Recommendation No. 9 on Preventing and Combating Anti-Semitism;
- participated by completing the questionnaire for the project: **"Supporting gender equality in the economy through gender-responsive public procurement (GRPP)"** of the European Institute for Gender Equality (EIGE);
- completed the questionnaire of the European Institute for Gender Equality (EIGE) in the context of the survey on **institutional mechanisms for gender equality and gender mainstreaming** (through the Peace Institute).

## 16.7.2 Requests for information sent

In 2021, the Advocate also prepared queries and questionnaires, which were sent to Equinet, its working groups or directly to equality bodies in other countries. In this way, replies from other European equality bodies were received to support the Advocate's work. In total, **four queries were sent**.

**Two** queries were sent in the framework of the **Equinet Working Group on Equality Law**. The queries concerned the following areas:

- the area of **sexual harassment** in cases before the equality bodies competent for this area, the Advocate requested information on the number of cases dealt with in this area in the last five years, the way of addressing these cases (identification of discrimination, counselling or litigation) and any recommendations and awareness-raising activities on this issue;
- cases addressed regarding the **wearing of hijab and long sleeves** and discrimination on the grounds of religion in the performance of work in health care, namely, the Advocate requested information on possible cases under consideration and decisions taken, whether the decisions distinguished between the prohibition of long sleeves and the prohibition of hijab and possible decisions of national courts on this issue.

**Two** queries were sent **directly to equality bodies**:

- **the Advocate sent queries to equality bodies in neighbouring countries** (Austria, Croatia, Hungary and Italy) regarding the protection against discrimination directed at members of the Slovenian national community in these countries. The questions concerned complaints submitted by members of the Slovenian national community from 2017 to 2021, as well as any other activities carried out by equality bodies aimed at the protection against discrimination directed at members of the Slovenian national community (e.g. legislative recommendations, research reports, awareness-raising campaigns);
- **the Advocate sent questions to equality bodies from ten countries** (Belgium, Denmark, Croatia, Luxembourg, Hungary, Malta, Germany, Norway, Portugal, Serbia) on the legal regime and practice regarding the procedures for medical affirmation of gender identity and legal recognition of gender.



## 16.8 Fifth conference of equality bodies from South-Eastern Europe held in Slovenia

### 16.8.1 Network of Equality Bodies in South-Eastern Europe

On 16 November 2016, eight equality bodies from Albania, Bosnia and Herzegovina, Montenegro, Croatia, Northern Macedonia and Serbia signed the **Statement on the Cooperation of Equality Bodies in South-Eastern Europe**, which emphasises respect for human rights and the prohibition of discrimination as fundamental values and the starting point for social and economic development of each country. In the statement, the participating institutions undertook to cooperate in compliance with the principles of mutual respect, coordination, partnership, equality, joint planning, harmonisation of their activities and ongoing mutual dialogue.

### 16.8.2 General information on the conference

During the Slovenian Presidency of the EU Council, the Advocate hosted the fifth regional conference of equality bodies from South-Eastern Europe. The event took place in Ljubljana from 20 to 22 October 2021. The conference focused on the impact of the covid-19 pandemic on different population groups and on the work of anti-discrimination bodies. The talks also concerned the opportunities to strengthen cooperation between national anti-discrimination authorities. The conclusions of the debate showed that the epidemic has deepened inequalities in society. Anti-discrimination bodies from South-Eastern Europe protected the right of people to equal treatment and equal opportunities even during the epidemic by all means at their disposal.

The conference was attended by representatives of all equality bodies from **Albania, Bosnia and Herzegovina, Montenegro, Croatia, North Macedonia, Serbia** and **Slovenia**, creating an informal network.

The President of the Republic of Slovenia Borut Pahor held a reception for the participants at the beginning of the conference and addressed the audience at the Presidential Palace. The Head of the Advocate Miha Lobnik and the Chair of the Executive Board of Equinet **Tena Šimonović Einwalter** also addressed the participants at the reception.<sup>57</sup>

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<sup>57</sup> On 9 November 2021, a new Executive Board headed by Laurence Bond from Ireland was elected for the term 2021–2023 at the second annual online session of the Equinet General Assembly. More information available at: Equinet General Assembly votes at AGM 2021 – Equinet (equineteurope.org)



Representatives of the most important European institutions and organisations in the area of protection against discrimination also participated in the conference. The participants of the conference and the general public were addressed online by **Helena Dalli**, European Commissioner for Equality, **Maria Daniella Marouda**, Chair of European Commission against Racism and Intolerance (ECRI), **Rossalina Latcheva**, FRA representative, and the State Secretary at the Ministry of Labour, Family, Social Affairs and Equal Opportunities, **Cveto Uršič**. One of the speakers was the Executive Director of Equinet **Anne Gaspard**.

### 16.8.3 Substantive Summary of the Conference

At the beginning of the conference, the President of the Republic, **Borut Pahor**, hosted a reception for the participants with a cultural programme at the Presidential Palace. In his speech, the President of the Republic of Slovenia thanked the Head of the Advocate, Miha Lobnik, for his excellent work in his first term and wished him a successful job in the future. Among other things, the President of the Republic considered cooperation in this part of Europe to be very important. He also said that the work of all institutions, including equality bodies, is very demanding during the covid-19 pandemic.<sup>58</sup>

Participants of the reception at the President of the Republic were also addressed by the Head of the Advocate, **Miha Lobnik**, and the Chair of the Executive Board of Equinet **Tena Šimonović Einwalter**.<sup>59</sup>

In his speech on behalf of all participants of the conference, the Head of the Advocate, Miha Lobnik, expressed his gratitude to the President of the Republic for the honour expressed to equality bodies from the region by welcoming them and showing that the Republic of Slovenia appreciates their work at home and in the region. "Our cooperation is our source of experience," Miha Lobnik said, emphasising a similar role of equality bodies in all countries in preventing discrimination.

Tena Šimonović Einwalter, among other things, emphasised the role of the Advocate in the organisation of the conference and the development of the institution from its founding five years ago until today, and assessed its operation as a success story.

The first day of the conference, held at the European Union House on 21 October 2021, was open to the public and available online for epidemiological reasons. In the introductory part, participants and the public were addressed by:

- the Head of the Advocate, Miha Lobnik;
- the Chair of the Executive Board of Equinet, Tena Šimonović Einwalter;
- Chair of the National Assembly's Commission for Petitions, Human Rights and Equal Opportunities, Nataša Sukič;
- State Secretary at the MLFSAEO Cveto Uršič (online).

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<sup>58</sup> Learn more at: <https://www.up-rs.si/up-rs/uprs.nsf/objave/E68C129374573F16C1258774005C17DE?OpenDocument>

<sup>59</sup> Learn more at: <https://www.zagovornik.si/predsednik-borut-pahor-sprejel-udelezenec-pete-regionalne-konference-zagovornikov-nacela-enakosti-iz-jugovzhodne-evrope/>



The European Commissioner for Equality, Helena Dalli, also addressed the participants and the public through a video.

In his introductory address, the Head of the Advocate, Miha Lobnik, said,<sup>60</sup> among other things, that the equality bodies expected new challenges in the field of protection against discrimination already at the beginning of the epidemic of the new coronavirus. “Together with covid-19, racism and intolerance directed at the inhabitants of those areas and countries where the disease was originally the most prevalent have also emerged.”

The Government’s restrictive measures to contain the spread of covid-19, according to the Advocate, pursued legitimate objectives, however these measures also had unintended effects. Institutions for protection against discrimination examined whether the measures were not only appropriate but also proportionate – that is, whether they were really appropriate, the only possible and whether the benefits outweighed the damage.

“The recommendations were a tool to improve measures even before any discriminatory effects occurred. Some were taken into account, others were not,” explained Miha Lobnik.

The Chair of the Executive Board of Equinet, Tena Šimonović Einwalter, said, among other things,<sup>61</sup> that the existing inequalities had intensified during the epidemic. “The task of equality bodies is to examine the manner and reason why this happened and to try to prevent it,” she stressed.

The Chair of the National Assembly’s Commission for Petitions, Human Rights and Equal Opportunities, Nataša Sukič pointed out, among other things,<sup>62</sup> that our common responsibility is to strive for the highest possible level of respect for human rights and equal opportunities for the most vulnerable.

The State Secretary at the MLFSAEO, Cveto Uršič, also highlighted the important role of the equality bodies against discrimination.<sup>63</sup> He pointed out that some of the recommendations of the Advocate for the Principle of Equality regarding the protection against discrimination were directed at the Government and individual Ministries in the preparation of measures for the control of the epidemic.

In her speech, the European Commissioner for Equality, Helena Dalli, stressed, among other things,<sup>64</sup> that the EU has a good and sound legal framework of the protection against discrimination and that the equality bodies are key to ensuring that these rules have the desired effects and protect the inhabitants of all Member States. She underlined the EC’s commitment to take further steps to strengthen the role of equality bodies.

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60 Learn more at: <https://www.zagovornik.si/konferenca-zagovornikov-nacela-enakosti-epidemija-covid-19-je-noonakosti-v-druzbi-se-povecala/>

61 Ibid.

62 Ibid.

63 Ibid.

64 Ibid.

## 16.8.4 Highlights from the panel discussions

Two debates followed – one under the general title “The covid-19 epidemic as a challenge for equal treatment and equal opportunities”, and the other devoted to individual topics addressed by equality bodies in relation to the covid-19 epidemic. Several representatives of these institutions from different countries, representatives of international organisations and some experts participated in the discussion.<sup>65</sup>

Representatives of anti-discrimination bodies from Albania, Bosnia and Herzegovina, Montenegro, Croatia, North Macedonia, Serbia and Slovenia participated in the discussions presenting the course of their work during the epidemic. The assessment of the work of equality bodies during the epidemic was also given by the Executive Director of Equinet, Anne Gaspard.

In this part of the conference, it was also repeatedly pointed out that the epidemic of covid-19 affected some more than others and further deepened the existing inequalities in society. It is also important to note that the epidemic has further strengthened the already existing structural barriers faced by vulnerable social groups. Among the groups most affected, people with disabilities, the elderly, the Roma, children from vulnerable families and rural areas, the socially disadvantaged and women were the most often mentioned.

They pointed out that the measures taken to contain the spread of the covid-19 epidemic put a lot of pressure on equality bodies, as the number of reports of discrimination and requests for clarification was much higher than before. Given the central role of equality bodies in ensuring protection against discrimination, it was also stressed that adequate resources should be made available to ensure the quality and efficient functioning of these institutions.

Maria Daniella Marouda, the Chair of the Council of Europe’s European Commission against Racism and Intolerance (ECRI) also took part in a live webcast. Among other things, she pointed out that while the pandemic was a severe test for all, it affected the most vulnerable to the greatest extent. The ECRI has also detected an increase in intolerance towards different population groups. In its recommendations to Governments, ECRI also proposed, inter alia, the inclusion of human rights and anti-discrimination experts in expert groups and crisis team preparing measures to combat the containment of the virus.

On the second day of the conference, 22 October 2021, representatives of equality bodies from the countries of South-Eastern Europe attended a debate closed to the public, focusing on the challenges faced during the covid-19 pandemic, in particular with regard to vaccination and protection against discrimination.

The conference was successful in the light of responses of the participants and strengthened the cooperation between the equality bodies of the countries of South-Eastern Europe.

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<sup>65</sup> Ibid.





President of the Republic of Slovenia Borut Pahor hosted the opening of the 5th Regional Conference of Equality Bodies from South-Eastern Europe at the Presidential Palace. In his address, President Pahor pointed out that the work of all institutions during the covid-19 pandemic is very demanding, which applies also to equality bodies, responsible for assessing whether any of the measures taken to contain the spread of the virus may be discriminatory.



Miha Lobnik, the Advocate of the Principle of Equality said, among other things, that during the epidemic, equality bodies monitored and assessed the measures taken by governments: “Our recommendations were intended for the measures to take into account the various impacts that the epidemic had on different vulnerable groups.”



The Chair of the European Network of Equality Bodies – Equinet and Croatian Ombudsman Tena Šimonović Einwalter stated that covid-19 has deepened inequalities. “Our task as equality bodies is to examine how and why this happened and to try to prevent it.”



Chair of the National Assembly’s Commission for Petitions, Human Rights and Equal Opportunities and member of the National Assembly, Nataša Sukić, emphasised that independent institutions such as the Advocates of the Principle of Equality are crucial to a functioning democracy.







The State Secretary at the Ministry of Labour, Family, Social Affairs and Equal Opportunities, Cveto Uršič, addressed the participants via a webcast. He pointed out that the assessments of measures prepared by independent external organisations were very useful for state authorities.



European Commissioner for Equality, Helena Dalli, stressed that the European Union has a solid legal framework of the protection against discrimination. “Equality bodies are key to ensuring that these rules have the desired effects and that they actually protect the inhabitants of all Member States.”



Nerma Dobardžić, Deputy Defender of Human Rights and Freedoms of Montenegro, pointed out that due to the impact of the coronavirus on the economic and social sphere, some stagnation of human rights was recorded and that the national legal system of Montenegro was not prepared for the pandemic.



In his contribution, Igor Jadrovski, member of the Commission for the Prevention and Protection against Discrimination in Northern Macedonia, presented the main issues related to discrimination and the challenges raised by the pandemic in Northern Macedonia.





Equality Protection Commissioner from the Republic of Serbia mag. Brankica Janković said that the main challenge of the Commissioner during the epidemic was the measure restricting free movement.



Equinet monitored the antiepidemic measures of European countries. The Executive Director Anne Gaspard (on the left) and associate Sophie Hale (on the right) stressed that adequate funding and compliance with the standards for equality bodies in times of crisis is essential for their successful functioning.





The full professor of the Faculty of Social Work of the University of Ljubljana, dr. Darja Zaviršek, pointed out at the presentation that the pandemic caused even greater inequalities than before.



“The epidemic was a serious test for many, and had the most devastating consequences for the most vulnerable members of society, stated Maria Daniella Marouda, the Chair of the Council of Europe’s European Commission against Racism and Intolerance (ECRI), pointing out, among other things, that inequalities became even more visible.





Dr. Robert Gajda, Commissioner for Protection against Discrimination of Albania, presented the activities of their institution in the first months of the pandemic which related to the most vulnerable groups in Albania.



Jasminka Džumhur, the Ombudsman of Bosnia and Herzegovina, briefly presented the measures of the Department for the Elimination of All Forms of Discrimination during the pandemic. She pointed to a rise in domestic violence.



Darijo Jurišić, Deputy Ombudsman of People with Disabilities of Croatia (on the left), said that the epidemic of covid-19 further underlined the existing inequalities in society.



Dijana Kesonja, Deputy Ombudsman of Croatia presented complaints in the field of work and employment and access to goods and services since the beginning of the epidemic in Croatia.







The organisation of the conference was in the domain of the Advocate's Department for Systemic Monitoring, Awareness-raising and Prevention of Discrimination, headed by mag. Jelena Aleksić.



The Advocate of the Principle of Equality from 2010–2016 and one of the Adviser of the current Advocate of the Principle of Equality Boštjan Vernik Šetinc, shared his experience at the conference of anti-discrimination bodies from South-Eastern Europe.



Head of the Department for Discrimination Investigation, Advisory and Advocacy at the Advocate, Dr. Neža Kogovšek Šalamon presented key cases pertaining to discrimination on the grounds of age, disability and ethnicity during the covid-19 epidemic in Slovenia.



Kristijan Kevešević, Deputy Ombudsman for Gender Equality of Croatia, pointed out that the epidemic of covid-19 affected women more than men. Most of the complaints were lodged by women and related to the field of work and employment.







The main topic of the conference, attended by representatives of all equality bodies from Albania, Bosnia and Herzegovina, Montenegro, Croatia, North Macedonia, Serbia and Slovenia, was the impact of the covid-19 pandemic on different population groups and on the work of anti-discrimination bodies.



Representatives of equality bodies from Southeast Europe also exchanged good practices on the organisation of the working proces at the time of the measures for the containment of the spread of the epidemic.

## 16.9 Activities of the Advocate during the Slovenian Presidency of the Council of the European Union

The members of the European Council are the government of the 27 EU member states. The Presidency of the Council rotates among the EU member states every 6 months. Slovenia took over the EU Council Presidency for the second time on 1 July 2021.

The Advocate **actively contributed** to two events relating to the protection against discrimination in the framework of events prepared by the Government, more precisely the Ministry of Justice (MoJ) during the Presidency of the Republic of Slovenia to the Council of the EU (Presidency), and **participated** in three other online international conferences.

### International conference “Regulation of Artificial Intelligence – An Aspect of Ethics and Fundamental Human Rights”

On 20 June 2021, an international conference “Regulation of Artificial Intelligence – An Aspect of Ethics and Fundamental Human Rights”, organised by the MoJ, took place. The event organised at the highest political level focused on the risks brought about by the development and use of artificial intelligence in many areas of human rights protection and ensuring equal treatment.

The Head of the Advocate, Miha Lobnik, actively participated in the conference on behalf of the Slovenian equality body and Equinet. He pointed out that the area of artificial intelligence is one of the most exciting areas, as it has the potential to improve the quality of people’s lives. At the same time, the introduction of artificial intelligence poses a risk and a threat to human rights, such as the right to equal treatment and equal opportunities. European authorities for equal treatment and equal opportunities are therefore monitoring the issue with increasing interest. He also emphasised the need to include experts representing state authorities dealing with the protection against discrimination in the drafting of acts regulating the use of artificial intelligence. They are also welcome to participate in raising awareness among experts working in the field of artificial intelligence and machine learning.



## High-Level Conference on Artificial Intelligence “From Ambition to Action”

On 14 September 2021, a representative of the Advocate participated in an international conference prepared by the Ministry of Public Administration in cooperation with the EC during the Presidency and held in a hybrid form at Brdo pri Kranju. The focus was on European orientations and approaches in the process of transforming the European Union into a global hub of excellence and trust in artificial intelligence. The participants included numerous experts and political decision-makers from EU Member States, the EC and international organisations (e.g. Council of Europe, OECD, UNICEF), academic institutions, civil society and business. In addition to the speeches and addresses, rounded programme debates were organised on the (legal) framework, standardisation, international integration and funding in relation to artificial intelligence, as well as on the role of artificial intelligence in the process of green transition, education and skills building.

## Conference “Eradicating hate crime and hate speech”

The representative of the Advocate participated in the conference “Eradicating hate crimes and hate speech – effective combating hate speech and hate crimes and the protection of victims” held on 28 October 2021. The conference was organised by the MoJ in cooperation with the European Commission.

At the conference, the representative of the Advocate gave a presentation entitled “The role of the Advocate of the Principle of Equality in addressing online hate speech”. She pointed out that, besides general competences, the Advocate does not have the tools to specialise in investigating online hate speech expressed by users of social networks or other online media. Therefore, future challenges can be expected, in particular in the area of identifying the platform user. The purpose of assigning authority to the Advocate in the field of discriminatory speech, records and publications is the possibility to address those cases of hate speech which are not covered by the criminal justice system. The objective is to ensure that competences are not duplicated, that the role of the Advocate is complementary, i.e. that it supplements the existing system with an additional remedy when prosecution is not possible or reasonable.

## Conference “Child Guarantee – Equal Chances for Every Child”

On 9 November 2021, the Advocate’s representative participated in an online international conference “Child Guarantee – Equal Chances for Every Child”. The conference was organised by the Ministry of Labour, Family, Social Affairs and Equal Opportunities (MLFSAEO).

The participants represented the professional public that stands for children’s rights. The purpose of the conference was to draw attention to the legal framework adopted in June 2021, the so-called European Child Guarantee. In it, EU Member States committed to ensure free and effective access to key services for children in need, especially those who are socially excluded due to poverty or other forms of disadvantage. The purpose of the conference was also to call on EU Member States to set up the ambitious national schemes envisaged by the Child Guarantee.





In his address at the international conference on the regulation of artificial intelligence, organised under the Slovenian presidency of the Council of the EU in Ljubljana on 20 June 2021, the Advocate of the Principle of Equality, Miha Lobnik, emphasised the need to include expertise from state authorities dealing with the protection against discrimination in the drafting of acts regulating the use of artificial intelligence.

### Conference “Human Rights for All Ages”

On 18 November 2021, the representative of the Advocate participated in the web conference “Human rights for all ages: Promoting a life course perspective & intergenerational cooperation to combat ageism”. The conference was organised by the MLFSAEO, the Age Platform Europe network and the Deaf and Hard of Hearing Clubs Association of Slovenia (DHHCAS) within the Slovenian Presidency. The focus was on ageism, while the second part of the conference focused on the importance of intergenerational cooperation.

The key findings were that, while recognising that ageing is a widespread and socially accepted prejudice and at the same time the main reason for human right violations of older and younger people, effective measures should be taken against ageism and various activities and campaigns should be promoted to raise awareness of its negative consequences. Taking into account the evidence of discrimination on the ground of age as well as its consequences, our laws, policies and international mechanisms for the protection of human rights need to be improved. EU Member States should use these conclusions as a starting point for further orientation debate within the European Union and beyond its borders on how to tackle age discrimination.



## 16.10 Other international events

In 2021, representatives of the Advocate attended and actively participated in **21 other international events**, which took place outside the scope of the aforementioned organisations. These events were:

- the online meeting **“NHRI/NEB engagement with the European Committee of Social Rights (ECSR)”** 22–24 February 2021, organised by the European Social Charter Department, ENNHRI and national equality bodies;
- the **International Research Centre on Artificial Intelligence (IRCAI) web conference**, 29 and 30 March 2021, organised by UNESCO;
- **“50th SOLVIT Workshop for Equality Bodies, which are also the freedom of movement authorities in the EU”**, 20 April 2021, organised by SOLVIT;
- webinar **“Game-changing technologies – How will the impact of Europe’s economy, work and employment?”**, 20 April 2021, organised by Eurofound;
- **“Webinar on the UN Global Report on Ageism 2021”**, 27 April 2021, organised by AGE Platform Europe;
- webinar **“From Words to Actions: Shedding light on the S.H.I.F.T. towards meaningful inclusion in Europe”**, 11 May 2021, organised by COFACE Families Europe;
- webinar **“Gender Equality Law”**, 17–18 May 2021, organised by the ERA (Academy of European Law);
- online **IDAHOT+ Forum**, 18 May 2021, co-organised by the Council of Europe, British Government, Government of Cyprus and the European Network of LGBTI Governmental Focal Points (EFPN);
- International event within the framework of the European Diversity Month **“Diversity in times of covid-19”**, 19 May 2021, organised by the Diversity Charter of Slovenia and the Diversity Charter of Croatia;
- **“Book Launch: Intersectionality and Human Rights”**, 26 May 2021, organised by the Law Bonavero Institute of Human Rights and Oxford Human Rights hub;
- seminar **“Freedom of expression (Article 10 of ECHR): recent case law of the ECHR”**, 27–28 May 2021, organised by the ERA (Academy of European Law);
- web **conference on media law**, 16–18 June 2021, organised by the ERA (Academy of European Law);

- conference **“Inequality in a time of global crisis: What we have learned about effective & proportional responses?”**, 14–16 July 2021, organised by Berkeley Center on Comparative Equality & Anti-Discrimination Law;
- webinar **“Filling the gaps in Equality Legislation in the EU Member States”**, 7 September 2021, organised by ARDI (the European Parliament Anti-racism and Diversity intergroup), The Spanish Alliance for an Equal Treatment Law, Fundacion de Secretariado Gitano and Equinet;
- online workshop **“Bridging the Gender Pay Gap through Transparency”**, 22–23 September 2021, organised by the Sutherland School of Law (UCD) and Women in Law @ University – The Women in Law Initiative;
- international conference **“Balanced Parenting”**, 27 October 2021, organised by the Association for Children, Paternity and Truth, DOOR;
- webinar **“Education – A gateway to well-being for children”**, 18 November 2021, organised by Eurochild (European Network of Organizations for the Rights of Children and Youth);
- **“International discussion on GBV in the Covid-19 context”**, 29 November 2021, organised by the Institute Krog and Ema;
- webinar **“Legal Gender Recognition”**, 3 December 2021, organised by the European Research Council;
- **“Gender equality plan as change maker: Successful practices for sustainability”**, 9 December 2021, organised by The R&I Peers (a project funded by the European Commission);
- **“Political Participation of LGBTI+ People in the Western Balkans and Turkey”**, 14–15 December 2021, organised by the ERA – Association for Equal Rights of LGBTI Persons for the Western Balkans and Turkey.



# 17 ACRONYMS AND ABBREVIATIONS

<b>Administrative Court</b>	Administrative Court of the Republic of Slovenia
<b>Advocate</b>	Advocate of the Principle of Equality
<b>CC-1</b>	Criminal Code
<b>CoE</b>	Council of Europe
<b>Constitution</b>	Constitution of the Republic of Slovenia
<b>Constitutional Court</b>	Constitutional Court of the Republic of Slovenia
<b>covid-19/SARS-CoV-2</b>	coronavirus disease
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>DCP</b>	vaccination/test/recovery
<b>DHHCAS</b>	Deaf and Hard of Hearing Clubs Association of Slovenia
<b>EC</b>	European Commission
<b>ECHR</b>	European Convention on Human Rights
<b>ECRI</b>	Council of Europe's Commission against Racism and Intolerance
<b>ENNHRI</b>	European Network of National Human Rights Institutions
<b>EQUINET</b>	European Network of Equality Bodies
<b>ERA-1</b>	Employment Relations Act
<b>EU</b>	European Union
<b>FRA</b>	European Union Agency for Fundamental Rights
<b>GAPA</b>	General Administrative Procedure Act
<b>ICHR</b>	Interdepartmental Commission on Human Rights
<b>IPETA</b>	Implementation of the Principle of Equal Treatment Act
<b>LGBTIQ+</b>	lesbian, gay, bisexual, transgender, intersex, queer and other diverse identities
<b>MAFF</b>	Ministry of Agriculture, Forestry and Food
<b>MC</b>	Ministry of Culture
<b>MD</b>	Ministry of Defence
<b>MEDT</b>	Ministry of Economic Development and Technology
<b>MESP</b>	Ministry of the Environment and Spatial Planning
<b>MESS</b>	Ministry of Education, Science and Sport
<b>MF</b>	Ministry of Finance
<b>MFA</b>	Ministry of Foreign Affairs
<b>MH</b>	Ministry of Health

<b>MI</b>	Ministry of the Interior
<b>MLFSAEO</b>	Ministry of Labour, Family, Social Affairs and Equal Opportunities
<b>MOA-1</b>	Minor Offences Act
<b>MoI</b>	Ministry of Infrastructure
<b>MoJ</b>	Ministry of Justice
<b>MPA</b>	Ministry of Public Administration
<b>National Assembly</b>	National Assembly of the Republic of Slovenia
<b>NCDPOS</b>	National Council of Disabled People's Organisations of Slovenia
<b>NGOs</b>	Non-governmental organisations
<b>NHRI</b>	National Human Rights Institution
<b>NIPH</b>	National Institute of Public Health
<b>NPMR</b>	National Programme of Measures for the Roma
<b>OHCHR</b>	Office of the United Nations High Representative for Human Rights
<b>OSCE</b>	Organisation for Security and Cooperation in Europe
<b>PADA</b>	Protection against Discrimination Act
<b>PDIA-2</b>	Pension and Disability Insurance Act
<b>PPOA-1</b>	Protection of Public Order Act
<b>RS</b>	Republic of Slovenia
<b>SSL</b>	Slovenian sign language
<b>SSP</b>	Supreme State Prosecutor's Office
<b>The Government</b>	Government of the Republic of Slovenia
<b>UL</b>	University of Ljubljana
<b>UN</b>	United Nations



## Annual Report of the Advocate of the Principle of Equality for 2021 – Systemic Overview

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### On behalf of the Advocate

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