



REPUBLIC OF SLOVENIA  
ADVOCATE OF THE PRINCIPLE OF EQUALITY

# 2020

**Annual Report**  
CASES AND ISSUES





## **Annual Report of the Advocate of the Principle of Equality for 2020**

### **CASES AND ISSUES**



REPUBLIC OF SLOVENIA

**ADVOCATE OF THE PRINCIPLE OF EQUALITY**

# Annual Report 2020

CASES AND ISSUES

Ljubljana, April 2021



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 2020 consists of two substantively distinct and completed parts. The first part of the Annual Report titled “Systemic Overview” presents an overview of the functioning of the equality body in the past year, both at the level of individual cases and at the structural 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 second part of the Annual Report titled “Cases and Issues” focuses in more detail on the review of the results of the Advocate’s work, specifically on the work of the institution with regard to personal characteristics that led to discrimination (personal grounds), such as gender, age, disability, etc.. Presentation of the Advocate’s work on each personal ground is structured according to the equality body’s key functions - advisory, informing and support activities; discrimination investigations; assessments of the discriminatory character of regulations; the Advocate’s recommendations; research activities (highlights from the Advocate’s 2020 public opinion survey on discrimination); cooperation with civil society; and educational and awareness-raising activities.

For the fourth year in a row, the independent state authority for protection against discrimination recorded an increase in the number of received complaints of alleged discrimination and proposals for systemic solutions in the form of recommendations. The Annual Report reveals that we were successful in finding solutions to problems faced by individuals as well as in cooperating with the State and civil society, despite the difficult circumstances.

In the past year, the Advocate’s work was also significantly affected by the epidemic. It was a source of numerous problems and concerns for people. Due to the hardship of the Slovenian people, the Advocate also provided advisory assistance, received and addressed several complaints of discrimination and prepared several recommendations aimed at improving the situation of particular groups which were even more vulnerable as a result of the epidemic.

The Annual Report for 2020 comprehensively presents the Advocate’s contribution to a society of equal opportunities. I would hereby like to thank the employees 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 2021

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# 1 PERSONAL GROUNDS OF DISCRIMINATION

The following is an overview of the work and results by personal grounds of discrimination as listed in the Protection against Discrimination Act (PADA).

According to the PADA, the 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.

This Chapter presents the essential results of the Advocate's work from the following angles:

- advisory, informing and support activities;
- discrimination investigation;
- assessing the discriminatory character of regulations;
- recommendations by the Advocate;
- highlights of the public opinion survey on discrimination from 2020;
- the Advocate's cooperation with civil society;
- education and awareness raising by the Advocate.

Article 2 of the PADA defines the areas of social life in which the prohibition of discrimination must be ensured by state authorities, local communities, holders of public authority and legal and natural persons. The following colours indicate 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;

#### **Drugo**



# 1.1 Gender

## 1.1.1 Advisory, informing and support activities related to the personal ground of gender

### **Gender-based lower pay**

The Advocate was approached by a client who obtained employment at a management post as reorganisation took place in the company. In assessing subordinates, she observed that the salaries of her male co-workers were significantly higher than her salary. She considered that she was subject to wage discrimination on the grounds of gender, so she asked the Advocate for advice. The Advocate offered advice to the client and explained how a discrimination investigation procedure can be initiated, how evidence is collected, what are the rules of procedure and what are the consequences in case of discrimination. The client did not choose to submit the complaint. (0702-32/2020)

### **Extending the duration of a research project for the period of parental leave**

The Advocate was approached by a researcher employed to work on research project who was planning parental leave. She asked whether it is possible to extend the research project for the duration of parental leave. Regarding this topic, the Advocate issued a decision in another proceeding which was already brought to an end stating that the practices of the Ministry of Education, Science and Sport in this regard are discriminatory on the grounds of gender and parenthood. The Ministry did not allow researchers on parental leave to extend the duration of their projects (case No. 0700-37/2019, Decision of 19 February 2020). The Advocate informed the client about this Decision and of the arguments justifying the extension of the project. (0702-61/2020)

### **Different criteria in determining the method of calculating business performance bonuses**

Following a decision on the discriminatory calculation of business performance, i.e. the Christmas bonus, with regard to the presence of the employee at the workplace (case No. 0700-30/2019, decision of 4 September 2019) several individuals approached the Advocate whose employers used the same method of calculating Christmas bonuses. They wanted to know whether the Decision by which the Advocate found indirect discrimination on the grounds of gender, parenthood and health status had effect only in the specific case or whether it also applies to other companies with the same practice. The Advocate explained that the decision has effect only in the specific case of the company against which the complaint was lodged. Since the decision of the Advocate was upheld by the Administrative Court of the Republic of Slovenia (judgement No. I U 29/2020-21 of 11 November 2020), it can be expected that the Advocate will issue the same decision in all other cases where the de facto and de jure situation is substantially the same as in the case under consideration. The Advocate invited the clients to lodge a complaint, which may also be anonymous. (0702-8/2020)

### **Gender as a condition in a job advertisement**

The Advocate received a complaint regarding a discriminatory advertisement stating that the employer wants to hire a female candidate with children over a certain age. The Advocate sent a clarification to the employer regarding the discriminatory character of such employment conditions and a recommendation to make sure all job advertisements are compliant with the law. The employer responded that the recommendation will be taken into account. (0702-24/2020)

### **Gender as a condition in a job advertisement**

The Advocate was informed by the complainant about a discriminatory job advertisement published by one of the employment agencies, which invited “young men with a degree in mechanical engineering (m/f)” to apply. The Advocate explained to the agency that the wording “young men” is an inadmissible condition, which cannot be corrected by the addition “m/f”. As it is not clear from the advertisement that the gender of the candidate for employment would be an “essential and decisive requirement” for the work at the advertised working position, this case cannot be covered by the exception from the prohibition of discrimination under Article 13 of the PADA. A recommendation was made to the agency for the advertisement to be removed. (0705-40/2019)

### **Poster at the police station**

A client approached the Advocate regarding a violence prevention awareness poster posted in the premises of a police station. The poster allegedly suggested that the perpetrators of violence are only men, and the victims of violence are mostly women. The client was of the view that such posters should be removed from the premises of the police and replaced with gender-neutral posters. The Advocate explained that by focusing on one form of violence and drawing attention to a statistically proven serious social problem, the poster does not interfere with the rights and interests of others, so in this case, it is not an issue of discrimination. (0702-81/2020)

## 1.1.2 Discrimination investigation in relation to the personal ground of gender

### **Indirectly discriminatory criteria in determining the method of calculating business performance bonuses**

Based on a complaint, the Advocate considered a case of alleged discrimination with regard to the payment of the company's business performance bonuses. The company conditioned the amount of the bonus upon the employee's presence at the workplace. Those who were absent from work during the year for health reasons would receive a lower Christmas bonus. The Advocate found that the criterion was indirectly discriminatory in spite of being seemingly neutral for all employees, as pregnant workers, workers on paternity leave, those with chronic or other illnesses and injuries, those caring for or accompanying family members in cases of illness or injury, workers with disabilities and the elderly were in a disadvantaged situation. The Advocate submitted the decision to the competent inspectorate for initiating minor offence proceedings. This has been the second decision of the Advocate on this subject. The first decision was upheld by the Administrative Court of the Republic of Slovenia with judgement No. IU 29/2020-21 of 11 November 2020. (Decision No. **0700-12/2020/14** of 5 October 2020)

### **The State discriminates against female prisoners in the Ig prison**

Female convicts serving a prison sentence in the Ig prison informed the Advocate on alleged poorer treatment in comparison to male prisoners serving their sentences in the Dob prison. The convicts alleged that a de facto and de iure unequal treatment on the basis of gender exists. They highlighted several topics where the treatment was allegedly worse: spending time outdoors (contact with nature) (1), visiting the gym, library, shop, and laundry at the time when the person has outdoor access (2); receiving visits (3); the possibility of private contacts (4) and telephone calls as well as the use of electronic communication means (5). The Advocate did not consider the right to contact with nature, because the Law on Enforcement of Criminal Sanctions does not provide for the right to spending time outdoors in nature, but only the right to spending time outdoors, which the prison enables. Visiting the gym, library, shop and laundry no longer coincides with the time of the person's outdoor access. The prison in Ig was rearranged during the proceedings carried out by the Advocate. However, in accordance with the burden of proof, the Prison Administration failed to prove that the unequal treatment of convicts was permissible and in harmony with the Protection against Discrimination Act. Therefore, in points 3, 4 and 5, the Advocate found direct discrimination on the grounds of gender. Following the issuance of the Advocate's decision, the prison management arranged a room for family and partner contacts for the convicts. The Republic of Slovenia has initiated an administrative dispute against the Advocate's decision before the Administrative Court of the Republic of Slovenia. (Decision No. **0700-67/2019/23** of 2 September 2020)

### **A young researcher was subject to indirect discrimination by the Ministry due to pregnancy and parenthood**

The Advocate received a complaint from one of the faculties to consider the discrimination of their researcher with regard to the conditions of the operation “Researchers at the beginning of career 2.0”, which is carried out by the MESS. The researcher and project manager, who took parental leave during the project, were not permitted by the MESS to extend the project for the period of the justified absence. The Advocate assessed that the conditions of the public call indicate unequal treatment of female researchers due to the personal ground of pregnancy or parenthood and also gender. Namely, only women become pregnant, and according to publicly available data, in the majority of cases, mothers are the ones who take parental leave. The consequent non-extension of the deadline for the implementation of the project with regard to absence due to parental leave produces negative effects for the researchers. The absence of the researcher leads to her inability to participate in the development of science, which is otherwise possible within the project, and results in lower scientific performance of the researcher, lower points A’ and A” and weaker competitiveness compared to other colleagues who are not absent from the project for such a long time due to parental leave. All this leads to poorer performance in obtaining further projects. This has been a second decision of the Advocate on the same subject so far. Following both decisions, the MESS undertook to provide a way to extend the project timescale in respect of the future financing schemes taking into account the parental leave. In the case, it was not possible to identify any competent inspectorate that could carry out minor offence proceedings. For this purpose, the Advocate turned to the Inspection Council at the MPA, which forwarded the matter to the MLFSAEO, which further submitted it to the Labour Inspectorate of the Republic of Slovenia. The Labour Inspectorate of the Republic of Slovenia declined jurisdiction, notifying the MLFSAEO, which further informed the MPA that the competent inspectorate could not be identified in the case. (Decision No. **0700-37/2019/11** of 19 February 2020)

### **The conduct of the ski resort, which offered a package of accommodation and a ski pass to women for the International Women’s Day, was not discriminatory**

An individual complained about the accommodation and ski pass package for the so-called “Ladies Week” offered by the ski resort on Women’s Day. The offer was available only to women. The applicant alleged discrimination based on gender, as men were allegedly in a disadvantaged situation. The Advocate found that at the same time, there was another offer under a different name that included the same range of services at the same price available to men. Therefore, no discrimination was found in this case. (Decision No. **0700-10/2019/6** of 1 September 2020)



## **An unjustifiably lower amount of the sports fee on the grounds of gender constitutes discrimination**

The Advocate found the price list of a tennis club on the club's website, which sets out that the sports fee for women is 30 eur lower than the sports fee for men. Due to the significant difference in the price of the sports fee, the Advocate initiated ex officio discrimination investigation procedure. Moreover, the Advocate also turned to the club for more information, however, no reply was received. As the tennis club failed to submit a legitimate goal to support the differentiation of the value of the sports fee for men and women, the Advocate found direct discrimination on the grounds of gender. The Advocate forwarded the decision to the competent inspectorate (MIRS) for the initiation of minor offence proceedings against the infringer. (Decision No. **0700-45/2020/4** of 26 October 2020)

### **1.1.3 Assessments of the discriminatory character of regulations with regard to the personal ground of gender**

#### **According to the Advocate, regulations pertaining to fathers who pay child support for their children do not constitute discrimination in determining their creditworthiness by banks in Slovenia**

In Slovenia, after divorce or separation of parents, in 75% of cases child custody is granted to the mothers. This means that in most of these cases, it is the fathers who are obliged to pay child support. As a result, the fathers tend to be less creditworthy, while mothers are not given such a rigorous assessment of their creditworthiness by the banks. The Advocate established in the proceedings that in assessing the creditworthiness of consumers, the amount of child support is taken into account for both parents. With the implementation of the Decision on restrictions on household lending, adopted by the Bank of Slovenia, a mechanism was established that prevents indirect discrimination against fathers in assessing their creditworthiness. (**050-10/2019**)

### **1.1.4 The Advocate's recommendations regarding the personal ground of gender**

#### **Recommendation regarding the draft Act Amending the Local Elections Act**

The Advocate recommended that measures be taken to encourage women's participation in the candidacy, as well as the possibility of their actual eligibility in local elections. (**0070-5/2020/1**)

Recommendation status: The legislative process is still ongoing.

**Recommendation regarding the amendment to the Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia – a proposal to extend the time when pregnant women can shop in stores**

The Advocate recommended to the MEDT that by amending the Ordinance, the time interval for shopping in grocery stores intended (exclusively) for particular vulnerable groups be extended. The Advocate was informed that pregnant women face a lot of problems caused by the government ordinance, which allows certain vulnerable groups to shop in stores only between 8 am and 10 am, as not everyone can take their turn in time. The Advocate therefore recommended that the MEDT should extend the time interval for shopping in grocery stores intended (exclusively) for particular vulnerable groups by amending the ordinance. **(0701-2/2020/1)**

Recommendation status: Partially taken into account.

### 1.1.5 Highlights of the public opinion survey on discrimination from 2020 with regard to the personal ground of gender

Compared to 2017, the number of people who perceive discrimination as unequal treatment on the basis of gender increased by 16 percentage points (from 10 to 26 per cent). In addition to this, 12 per cent of the respondents perceive gender as the most common ground of discrimination in Slovenia, which is three per cent more than in 2017. The share of the population that sees women as the most frequent targets or victims of discrimination also increased by 11 percentage points (from 8 % in 2017 to 19 % in 2020).

Among the various positions, the people of Slovenia display the greatest tolerance towards gender equality; 90 per cent of respondents agree with the equal role of men and women in society, while two per cent disagree. Compared to 2017, acceptance of gender equality increased by 16 percentage points.

Among the 22 per cent who believe they were discriminated against in 2020, 12 per cent were subject to discrimination based on the personal ground of gender. This means that in 2020, two per cent of the population of Slovenia were subject to discrimination based on gender. This is twice as much, compared to 2017.

### 1.1.6 The Advocate's cooperation with civil society with regard to the personal ground of gender

At the initiative of the Gender Equality Research Institute, the Advocate's staff members met with the institutes' representatives on 20 January 2020. The purpose of the meeting was to present the project of building the first platform, the database of Slovenian female experts, which is being prepared in cooperation with the Belgian organisation The Brussels Binder. The platform of a multidisciplinary network of female experts should contribute to the empowerment of women and enable them to connect with all stakeholders needing their knowledge.

On 29 September 2020, a representative of the Advocate took part in an in-depth interview as part of a survey carried out by a non-profit private research institute RAND Europe in cooperation with the European Institute for Gender Equality (EIGE). The research focuses on the consequences of the coronavirus epidemic for women and children who are the victims of domestic violence. The research aims to improve the understanding of the various measures and initiatives introduced to support the victims of domestic violence as a consequence of the coronavirus epidemic. The representative of the Advocate presented his observations based on the monitoring of the general situation in this area (increasing problems, mental health and anxiety, etc.), and put special emphasis on the observations on good practices, such as targeted awareness raising by NGOs, especially the SOS telephone lines, and by the Police, as well as breakthroughs in the field of informing particularly vulnerable groups, (e.g. easy reading on the RTV Slovenia, interpretation of all government press conferences into the Slovenian sign language).

### 1.1.7 The Advocate's educational and awareness-raising activities with regard to the personal ground of gender

In 2020, the Advocate carried out various activities of educating and raising awareness with regard to the personal ground of gender through the distribution of the brochure Discrimination of pregnant women and parents at work and publications in the media and via social networks.

## 1.2 Nationality

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### THE ADVOCATE HIGHLIGHTS

Article 61 of the Constitution of the Republic of Slovenia  
(expression of national affiliation)

Everyone has the right to freely express affiliation with his nation or national community, to foster and give expression to his culture, and to use his language and script.

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#### 1.2.1 Advisory, informing and support activities related to the personal ground of nationality

##### Denied purchase of land

The Advocate was approached by a client who claimed that the conduct of the municipal real estate office was discriminatory, as the client was not allowed to buy the land due to their nationality. The Advocate advised the client on how to launch the proceedings before the Advocate. [\(0702-64/2019\)](#)

##### The amount of damages in judicial proceedings

The Advocate was approached by a client who is involved in proceedings against the employer before the Labour court. In one part, the proceedings referred to the allegation of harassment due to the personal grounds of the client (nationality and religion or belief), based on which the client also sought compensation. The compensation was partially granted to the client. However, the client considered that the compensation was too low. The Advocate advised the client on how to strengthen arguments concerning harassment as a form of discrimination in the appellate judicial proceedings and how to claim higher damages. [\(0702-7/2020\)](#)

##### Bank account closure

The Advocate was approached by a client regarding a case, with which they became acquainted and were asking on how to proceed in the event of closure of a bank account of a foreign citizen. The reason for the bank account closure was allegedly the nationality and citizenship of the client. The Advocate advised the client on how to launch the proceedings for discrimination investigation before the Advocate. [\(0702-30/2020\)](#)



## **Registration of residence of foreign workers**

A client who was the administrator of a property turned to the Advocate because the Administrative unit did not permit them to register the residence of foreign workers employed in the Republic of Slovenia at the address of the real estate, due to the so-called “blockage”. The client claimed that discrimination on the grounds of citizenship and nationality took place. The Advocate submitted an inquiry to the competent Administrative unit and received a reply explaining the reasons for denying the registration of residence, which were forwarded to the client together with an additional explanation. In the subject case, it turned out that the topic was not related to the issue of discrimination on the grounds of nationality and citizenship, as claimed by the client. (0702-77/2020)

## **Response to a call for tender rejected**

The Advocate was approached by a client whose response to a call for tender for funds for the implementation of projects was rejected. The client alleged that discrimination based on anti-Semitism took place. After examining the case, the Advocate advised the client on how to initiate the proceedings before the Advocate, and explained that it was necessary to plausibly demonstrate that the reason for the action was anti-Semitism and that the mere allegations and assumptions of the client do not suffice in the proceedings of taking evidence. (0702-87/2020)

## **1.2.2 Discrimination investigation in relation to the personal ground of nationality**

### **Refusal to issue a decision in the Italian language in the bilingual area constitutes discriminatory conduct**

The Advocate considered a complaint of an Italian citizen with permanent residence in the Republic of Slovenia, to whom the administrative body operating in a bilingual area refused to issue a decision in the Italian language. After examining the regulations and case law of the Court of Justice of the EU, the Advocate found that by rejecting the client’s request to use the Italian language or issue a decision in the Italian language in the personal income tax assessment procedure, referring to the fact that the taxpayer is not a member of the Italian national community, the authority interfered with his right to use the language of the national community, which is otherwise recognised as the official language of the authorities’ operations in this area, in a proceeding before a state authority in the bilingual area. By the described conduct, the authority violated the principle of non-discrimination under the PADA. Namely, by referring to the individual’s personal ground of citizenship (being an Italian citizen) and the related personal ground of not belonging to the Italian national community, the tax authority operating in the bilingual area prevented the client from using the language of the national community (Italian), whereby, according to the Advocate, the authority fulfilled all the constituent conditions of direct discrimination under paragraph 1 of Article 6 of the PADA. (Decision No. 0700-39/2019/15 of 12 October 2020)

### **The financing of Radio Romic does not violate the prohibition of discrimination**

Representatives of one of the Roma associations filed a complaint with the Advocate regarding the financing of the Roma radio station Romic, owned by the Council of Roma Community of the Republic of Slovenia. Namely, the association has to apply for the financing of their internet radio by means of tenders by the Ministry of Culture while Radio Romic is financed by the Council of Roma Community of the Republic of Slovenia in the framework of its annual financing. After the procedure, the Advocate established that the complainant's internet radio was not in a comparable situation to the radio Romic. The latter has existed and developed since 2003, and the State has recognised its importance as a central Roma media production. Therefore, according to the Advocate, the special financing of the Radio Romic does not constitute discrimination. (Decision No. **0700-27/2019/20** of 19 May 2020)

### **1.2.3 Assessments of the discriminatory character of regulations with regard to the personal ground of nationality**

In 2020, the Advocate did not conduct assessments of the discriminatory character of regulations with regard to the personal ground of nationality.

### **1.2.4 The Advocate's recommendations regarding the personal ground of nationality**

#### **Recommendation regarding effective protection against discrimination in the area of taxi transport as a publicly available service of the Municipality of Ljubljana**

The Advocate carried out a discrimination investigation procedure due to denying access to taxi transport to a group of persons by taxi drivers. The Advocate established in the decision that the drivers had violated the prohibition of direct discrimination on the grounds of race or ethnic origin. In order to improve the taxi services in Ljubljana, the Advocate made a recommendation to the Municipality of Ljubljana to require from the taxi companies which are granted a transport license to follow the principles of equal treatment. (**0700-78/2019/22**) Recommendation status: So far not taken into account.

### **Recommendation on accessibility of taxi transport for migrants**

The Advocate carried out a discrimination investigation procedure due to denying access to taxi transport to a group of persons by taxi drivers. The Advocate established in the decision that the drivers had violated the prohibition of direct discrimination on the grounds of race or ethnic origin. It was recommended to the taxi service that an internal act on equal treatment of clients regardless of their personal ground be adopted and a declaration on compliance with the principles of equal treatment be submitted for signature to each contractor at the beginning of the cooperation. At least once a year, a non-discrimination training should be organised for all employees, in addition to this, Police procedures involving public transport providers in relation to the personal grounds of their clients should be regularly monitored. (0700-78/2019/20)

Recommendation status: So far not taken into account.

### **Recommendation on the ensuring of inclusive education in the case of reoccurring school closures**

The Advocate recommended that, in the case of reoccurring school closures, the MESS should provide for an inclusive education for all children, especially with regard to their access to information and communication technologies. It was pointed out that despite the involvement of all relevant services, there was a difference in the acquisition of knowledge between different groups of students, especially those from the so-called vulnerable groups (e.g. children with a migrant background, children from economically vulnerable backgrounds, Roma children, children with special needs), which had a negative impact on their learning performance and, consequently, on the exercise of their right to education.

The Advocate assessed that when distance learning using computer technology was introduced during the first wave of the epidemic, not all students were granted the same opportunities. Moreover, the recommendation that pupils and students entitled to a subsidy for lunch be provided with the payment of funds in the amount of the approved food subsidy during the closure of educational institutions, was once again underlined by the Advocate. (0709-60/2020/1)

Recommendation status: Partially taken into account. The MESS devoted some attention to certain parts of the recommendation, e.g. the psychological and psychosocial consequences of distance learning, and at the end of December 2020, an Ordinance on the reopening of primary schools with a specially adapted program and institutions for the education of children and adolescents with special needs was issued.

### **Recommendation on compliance with the provisions of professional codes of conduct for journalists**

At the occurrence of journalistic contributions stereotyping members of the Roma community with regard to issues related to crime and delinquency, the Advocate made a recommendation to the Slovene Association of Journalists, Association of Journalists and the Slovenske novice newspaper that journalists should follow the provisions of the professional codes of conduct for journalist in avoiding stereotypes. (0709-59/2020)

Recommendation status: Partially taken into account. The Advocate did not receive any response to the recommendation from the media nor from any of the associations of journalists.

## Recommendations and comments regarding the new draft Act Amending the Mass Media Act

As part of the public consultation, the Advocate made a recommendation to the MC as the drafter of the draft Act Amending the Mass Media Act (MMA), focusing on the proposed arrangement of the inequality and intolerance prohibition, the accessibility of media and programme content to people with disabilities, and the conditions for obtaining the status of media of particular importance. The Advocate recommended that the drafter take into account the recommendations in the relevant field made by the Advocate to the first draft proposal of the Act Amending the MMA, including the proposal to classify the violation of the obligation of the media publisher to remove public comments encouraging intolerance (the so-called notice and take down obligation) as a minor offence. (0701-1/2019/7)

Recommendation status: The legislative process is still ongoing.

### 1.2.5 Highlights of the public opinion survey on discrimination from 2020 with regard to the personal ground of nationality

In total, 13 per cent of people perceive discrimination as unequal treatment on the grounds of nationality. At the same time, the largest part of respondents believes that nationality, race and ethnic origin are the most common reasons for discrimination in Slovenia (45 per cent).

Regarding race or nationality, the respondents show a high level of equality and positive agreement – over half of them (55 per cent) would easily rent their real estate property to people of other race or nationality, however, 24 per cent of the population would not do so. Among the respondents, 68 per cent would not mind if Slovenia were represented by a politician of a different skin color, which is difficult to imagine for just below a fifth of the population (18 per cent). About 80 per cent of respondents would support their child's marriage to a person of other nationality (83 per cent) and race or skin colour (79 per cent); the data show greater tolerance in this area compared to 2017, as both shares increased by seven percentage points.

At the same time, in 2020, of the 22 per cent of respondents who believe that they were subject to discrimination, only eight per cent (or about two per cent of all respondents) were discriminated against based on their nationality, race or ethnic origin.

### 1.2.6 The Advocate's cooperation with civil society with regard to the personal ground of nationality

Due to the declared epidemic associated with the COVID-19 disease, the Advocate's cooperation with civil society organisations was mostly carried out in written form. This way, the Advocate obtained information on discrimination as perceived by the individual organisations in their particular fields of work.

## 1.2.7 The Advocate's educational and awareness-raising activities with regard to the personal ground of nationality

### **The Advocate attended a working meeting with representatives of the Social Chamber of Slovenia**

On 5 February 2020, the representatives of the Advocate were invited by the Section of organisations in the field of integration of migrants, which operates within the framework of the Social Chamber of Slovenia, to introduce the powers and activities of the Advocate and the procedure for discrimination investigation. The purpose of the meeting was to promote the cooperation of the members of the Section with the Advocate. The Section brings together representatives of various organisations in the field of social protection which are active in the field of integration of migrants. After the presentation, the representatives of the Advocate sent the Social Chamber of Slovenia key information on where people who feel they have been discriminated against can turn for help.

### **The Advocate at the expert consultation on the occasion of World Refugee Day**

On 18 June 2020, a representative of the Advocate participated in a consultation on the occasion of World Refugee Day, organised by the Association Odnos. It was a discussion with various national and local stakeholders about good practices and challenges in the field of social inclusion and integration of refugees and people with refugee experience in Slovenia. A representative of the Advocate presented cases of suspected discrimination against foreigners with refugee experience and migrants. He also presented other ways of tackling discrimination at the social level and some specific proactive initiatives of the Advocate, such as information intended for awareness-raising on the exercise of the right of foreigners to open a basic bank account.

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## THE ADVOCATE HIGHLIGHTS

### Article 64 of the Constitution of the Republic of Slovenia (special rights of the autochthonous Italian and Hungarian national communities in Slovenia)

The autochthonous Italian and Hungarian national communities and their members shall be guaranteed the right to use their national symbols freely and, in order to preserve their national identity, the right to establish organisations and develop economic, cultural, scientific, and research activities, as well as activities in the field of public media and publishing. In accordance with laws, these two national communities and their members have the right to education and schooling in their own languages, as well as the right to establish and develop such education and schooling. The geographic areas in which bilingual schools are compulsory shall be established by law. These national communities and their members shall be guaranteed the right to foster relations with their nations of origin and their respective countries. The state shall provide material and moral support for the exercise of these rights.

In order to exercise their rights, the members of these communities shall establish their own self-governing communities in the geographic areas where they live. On the proposal of these self-governing national communities, the state may authorise them to perform certain functions under national jurisdiction, and shall provide funds for the performing of such functions.

The two national communities shall be directly represented in representative bodies of local self-government and in the National Assembly.

The position of the Italian and Hungarian national communities and the manner in which their rights are exercised in the geographic areas where they live, the obligations of the self-governing local communities for the exercise of these rights, and those rights which the members of these national communities exercise also outside these areas, shall all be regulated by law. The rights of both national communities and their members shall be guaranteed irrespective of the number of members of these communities.

Laws, regulations, and other general acts that concern the exercise of the constitutionally provided rights and the position of the national communities exclusively, may not be adopted without the consent of representatives of these national communities.

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## 1.3 Race or ethnic origin

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### THE ADVOCATE HIGHLIGHTS

Article 65 of the Constitution of the Republic of Slovenia  
(Status and special rights of the Roma community in Slovenia)

The status and special rights of the Roma community living in Slovenia shall be regulated by law.

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#### 1.3.1 Advisory, informing and support activities related to the personal ground of race or ethnic origin

##### Harassment in front of the school in the afternoon

The Advocate was approached by a client regarding a racial harassment of her child in front of the school in the afternoon. Although she informed the school, the school did not respond. The Advocate informed the client in which cases discrimination could be referred to if the relevant proceedings were conducted. The question of responsibility was raised, as the alleged perpetrators were minors under the age of 15, and of the responsibility of the school, given that the event took place outside of class time. The Advocate informed the client about the possibility of submitting a complaint and about the manner in which the proceeding is being conducted. [\(0705-30/2020\)](#)

##### Workplace harassment

The Advocate was approached by an individual married to a foreign citizen of Asian origin. He stated that she was the victim of racist remarks at workplace. The client informed the management, which announced awareness raising among employees about the inadmissibility of racism. But instead, the employer announced, that this is a personal matter and awareness raising will not be carried out. The individual approached the Advocate with the question of what can be done. The Advocate informed the client of the possibilities for action and called on the client to submit a complaint. The client did not choose to submit the complaint. [\(0702-51/2020\)](#)

### **Surname as a reason for non-inclusion in public works**

The Advocate was approached by a client who, as an unemployed person, has been waiting for several years for the opportunity to participate in public works. The client believes that this was not made possible due to her age and ethnicity, specifically the surname ending in -ić. The Advocate advised the client and explained that action can be taken only in specific cases of discrimination, where it can be established that the reason for unequal treatment is the personal ground of the person concerned. Furthermore, the client was provided with instructions on how to file a complaint, based on which, in specific cases of discrimination, the Advocate can take action. (0702-29/2020)

### **Assistance in obtaining municipal subsidy**

The Advocate was approached by a client, a resident of a Roma settlement, who asked for help in obtaining a municipal subsidy for the construction of a bathroom and a connection to the electricity network. With the aim of providing advisory assistance, the Advocate sent an enquiry to the competent municipality and obtained information on the facts of the case and accordingly advised the client on further steps to improve their living conditions. (0702-53/2019)

### **Inappropriate post on social networks by a civil servant**

The Advocate was approached by a client regarding an inappropriate post on online social networks by an employee of the Ministry of the Interior. The post referred to refugees. The client wanted to lodge a complaint based on the subject post. The Advocate explained the competencies of the equality body under Article 8 of the PADA in relation to cases of harassment and under Article 10 of the PADA in relation to cases of incitement to discrimination or public justification of neglect. The Advocate further explained that the post, although inappropriate, did not contain elements of discrimination. (7002-52/2020)

## **1.3.2 Discrimination investigation in relation to the personal ground of race or ethnic origin**

### **Preventing marriage on the basis of nationality (third country) constitutes discriminatory conduct**

The Advocate received a complaint regarding the conduct of the Ministry of the Interior, one of the Administrative units and the Police due to the Internal instruction no. 211-90/2008/2 (1321-03), by which the MI ordered Administrative units to be especially cautious when Slovenian citizens announced their marriage to citizens of some African countries. As a result of the instruction, the complainant was unable to enter into marriage with a foreign citizen in the Republic of Slovenia, as the Administrative unit confiscated her documents on the basis of the announced marriage. The Advocate found that the Internal instruction was discriminatory on the grounds of race or ethnicity. Based on the Advocate's observation, the Ministry of the Interior revoked the internal instruction. (Decision No. 0700-82/2019/22 of 4 November 2020)





### **At the Shooters club, the Advocate found no racial discrimination**

The Advocate considered an alleged discriminatory treatment of a coloured French guest of the Shooters club, who was forced to leave the club based on the instructions of the club manager. As part of the official proceeding, the Advocate questioned the manager, two club employees and a security guard. Despite repeated calls by the Advocate, other witnesses to the event refused to participate in the discrimination proceeding, nor did the French student provide additional explanations concerning the treatment he was subject to. Based on the testimonies, the Advocate concluded that the conduct of the club manager did not fulfil the elements necessary to find discrimination. Witnesses unanimously testified that the conduct of the club manager was not based on the skin color of the French student. (Decision No. [0700-19/2019/55](#) of 12 October 2020)

### **The refusal to serve guests was not based on their nationality, therefore discrimination did not take place.**

The Advocate learned from the media about the alleged discrimination due to ethnic origin, when the employees of the restaurant in Velenje refused to serve the Albanian ethnic group. The Advocate initiated ex officio discrimination investigation procedure. After the investigation, it was established that the owner of the bar had ordered the employees not to serve particular customers. The reason for this was their inappropriate behaviour and not the ethnic origin of these individuals. The employees of the bar had a bad experience with them as allegedly they often harassed the female members of the staff, caused problems with parking in front of the bar, and in spite of the warnings, the men used the women's rest room and demanded service in the Albanian language. The Advocate closed the proceedings by establishing that the owner of the bar had not violated the prohibition of discrimination on the grounds of ethnic origin. (Decision No. [0700-30/2020/37](#) of 31 August 2020)

### **Refusal to provide taxi services due to the race or nationality of the client constitutes a discriminatory conduct**

Based on a third-party complaint, the Advocate considered a case of alleged discrimination in the provision of passenger transport services. A group of persons attending a funeral in Žale in Ljubljana needed transport to the town center. They called a taxi service and agreed that two vehicles would come to pick them up. The taxis arrived at the agreed location separately. First the transport of persons was refused by the first taxi driver, then by the second taxi driver. During the proceedings, the Advocate found that the taxi drivers refused to provide the services to the clients solely because of their race or nationality. Therefore, the Advocate found the existence of direct discrimination which is prohibited. The Advocate forwarded the decision to the competent inspectorate for the initiation of minor offence proceedings against the infringer. (Decisions no. [0700-78/2019/16](#) and [0700-78/2019/16](#) of 5 October 2020)

**The bank did not refuse to provide banking services to the client due to her place of birth, the Advocate did not find any discriminatory conduct**

The complainant lodged a complaint against the bank, which allegedly refused to provide banking services to her and her partner because of their place of birth. It was a time of the coronavirus pandemic, during which some countries (including the country of birth of one of the clients) were particularly at risk. During the evidentiary proceedings, the Advocate found that the allegations of discrimination by the bank were not confirmed. The bank performed most of the services for the client, except for opening one bank account, as agreement was not reached with the clients regarding the selection of a suitable package. A few days later, however, this account was also opened. As a result, the Advocate did not find any discriminatory conduct. (Decision No. [0700-21/2020/13](#) of 23 September 2020)

**The Bank did not violate the prohibition of discrimination in opening a basic bank account for an asylum seeker**

The asylum seeker sought to open a basic bank account with the bank. He was employed and his employer could not pay him without a bank account. The bank allegedly refused to open the account as asylum seekers remain in Slovenia only temporarily and usually there are no inflows into these accounts and costs incur to the bank for maintaining such accounts. The complainant lodged a complaint against the conduct of the bank. He alleged that discrimination on the grounds of race, nationality, citizenship, and asylum seeker status occurred. Based on the evidence collected, the Advocate established in the proceedings that there was a clear misunderstanding when opening the account. Namely, the bank opened the bank account for him even before the event described by the applicant took place. However, the bank did not send him a bank card, as the client signed that he would pick it up at the office of the bank. He did not do so, but re-applied to open an account at another branch office, encountering the explanation described. He was then referred to the original branch office, where he was handed over the bank card. Notwithstanding the obvious misunderstanding in the communication, the Advocate found that the bank did not interfere with the complainant's right to a basic bank account, so the Advocate did not find discrimination. (Decision No. [0700-52/2019/12](#) of 9 March 2020)

**Discrimination at the workplace on the grounds of nationality was not found**

The Advocate of the Principle of Equality was approached by a person who claimed that she was subject to discrimination and harassment at the workplace by her colleagues and superiors due to her ethnic origin. The Advocate conducted interviews with the complainant's colleagues. Their statements did not confirm the allegations made by the complainant in the complaint. He also did not prove or substantiate the allegations in any way which would confirm the existence of discrimination. The Advocate found that the complainant did not prove a causal link between the personal ground and the treatment he was allegedly subject to as a worker. On the basis of all the facts obtained, the complaint was rejected. (Decision No. [0700-4/2020/7](#) of 27 July 2020)

### 1.3.3 Assessments of the discriminatory character of regulations with regard to the personal grounds of race or ethnic origin

In 2020, the Advocate did not conduct assessments of the discriminatory character of regulations with regard to the personal grounds of race or ethnic origin

### 1.3.4 The Advocate's recommendations regarding the personal grounds of race or ethnic origin

#### **Recommendation on the ensuring of inclusive education in the case of reoccurring school closures**

The Advocate recommended that, in the case of reoccurring school closures, the MESS should provide for an inclusive education for all children, especially with regard to their access to information and communication technologies. It was pointed out that despite the involvement of all relevant services, there was a difference in the acquisition of knowledge between different groups of students, especially those from the so-called vulnerable groups (e.g. children with a migrant background, children from economically vulnerable backgrounds, Roma children, children with special needs), which had a negative impact on their learning performance and, consequently, on the exercise of their right to education. The Advocate assessed that when distance learning using computer technology was introduced during the first wave of the epidemic, not all students were granted the same opportunities. Moreover, the recommendation that pupils and students entitled to a subsidy for lunch be provided with the payment of funds in the amount of the approved food subsidy during the closure of educational institutions, was once again underlined by the Advocate. [\(0709-60/2020/1\)](#)

Recommendation status: Partially taken into account. The MESS devoted some attention to certain parts of the recommendation, e.g. the psychological and psychosocial consequences of distance learning, and at the end of December 2020, an Ordinance on the reopening of primary schools with a specially adapted program and institutions for the education of children and adolescents with special needs was issued.

#### **Recommendation on compliance with the provisions of professional codes of conduct for journalists**

At the occurrence of journalistic contributions stereotyping members of the Roma community with regard to issues related to crime and delinquency, the Advocate made a recommendation to the Slovene Association of Journalists, Association of Journalists and the Slovenske novice newspaper that journalists should follow the provisions of the professional codes of conduct for journalist in avoiding stereotypes. [\(0709-59/2020\)](#)

Recommendation status: Partially taken into account. The Advocate did not receive any response to the recommendation from the media nor from any of the associations of journalists.

## Recommendations and comments regarding the new draft Act Amending the Mass Media Act

As part of the public consultation, the Advocate made a recommendation to the MC as the drafter of the draft Act Amending the Mass Media Act (MMA), focusing on the proposed arrangement of the inequality and intolerance prohibition, the accessibility of media and programme content to people with disabilities, and the conditions for obtaining the status of media of particular importance. The Advocate recommended that the drafter take into account the recommendations in the relevant field made by the Advocate to the first draft proposal of the Act Amending the MMA, including the proposal to classify the violation of the obligation of the media publisher to remove public comments encouraging intolerance (the so-called notice and take down obligation) as a minor offence. (0701-1/2019/7)

Recommendation status: The legislative process is still ongoing.

### 1.3.5 Highlights of the public opinion survey on discrimination from 2020 with regard to the personal ground of race or ethnic origin

The largest part of respondents believes that nationality, race, and ethnic origin are the most common reasons for discrimination in Slovenia (45 per cent). The most common targets of discrimination in Slovenia are, according to the respondents (24 per cent), the members of the Roma community. With regard to the relationship of the respondents towards the mentioned group, the respondents show divided opinions, which is clear from the following data: 70 per cent of people would not mind if their friend was a member of the Roma community (while 16 per cent of people would be bothered by this fact). In the case of owning a company, 57 per cent of people would also be willing to employ a Roma person without hesitation (16 per cent, however, would not be willing to employ them). On the other hand, 42 per cent of people think that the majority of Roma do not wish to work, while only a quarter of respondents (25 per cent) disagrees; 44 per cent of respondents think that the employment of the Roma in service activities would certainly discourage many customers, while 23 per cent of people are convinced of the opposite.

The most accepting attitude towards the Roma is shown by the inhabitants of the Pomurska, Podravska, Primorsko-Notranjska and Obalno-Kraška regions; the lowest tolerance was detected in the regions of Spodnjeposavska and South-Eastern Slovenija.

### 1.3.6 The Advocate's cooperation with civil society with regard to the personal ground of race or ethnic origin

Due to the declared epidemic associated with the COVID-19 disease, the Advocate's cooperation with civil society organisations was mostly carried out in written form. This way, the Advocate obtained information on discrimination as perceived by the individual organisations in their particular fields of work.

### 1.3.7 The Advocate's educational and awareness-raising activities with regard to the personal ground of race and ethnic origin

#### **The Advocate attended a working meeting with representatives of the Social Chamber of Slovenia**

On 5 February 2020, the representatives of the Advocate were invited by the Section of organisations in the field of integration of migrants, which operates within the framework of the Social Chamber of Slovenia, to introduce the powers and activities of the Advocate and the procedure for discrimination investigation. The purpose of the meeting was to promote the cooperation of the members of the Section with the Advocate. The Section brings together representatives of various organisations in the field of social protection which are active in the field of integration of migrants. After the presentation, the representatives of the Advocate sent the Social Chamber of Slovenia key information on where people who feel they have been discriminated against can turn for help.

#### **The Advocate at the expert consultation on the occasion of World Refugee Day**

On 18 June 2020, a representative of the Advocate participated in a consultation on the occasion of World Refugee Day, organised by the Association Odnos. It was a discussion with various national and local stakeholders about good practices and challenges in the field of social inclusion and integration of refugees and people with refugee experience in Slovenia. A representative of the Advocate presented cases of suspected discrimination against foreigners with refugee experience and migrants. He also presented other ways of tackling discrimination at the social level and some specific proactive initiatives of the Advocate, such as collecting information on the exercise of the right of foreigners to open a basic bank account.

#### **Workshop on the protection against discrimination in the Multipurpose Roma Center Drom in Kerinov Grm near Krško**

On 30 July 2020, the representatives of the Advocate held a workshop on the protection against discrimination at the invitation of the Multipurpose Roma Center Drom in the settlement of Kerinov Grm near Krško. They presented to the participants what discrimination is and when individuals who are victims or witnesses of discrimination, or have questions related to it, can turn to the Advocate. The workshop was attended by girls and young women who said that they or their acquaintances were denied entry to a store just because they were Roma. Some pointed out that they were harassed by classmates because of their ethnic origin.



In the Roma settlement of Kerinov Grm, the Advocate presented the options available in the case of various discriminatory practices.

## 1.4 Language

### 1.4.1 Advisory, informing and support activities related to the personal ground of language

#### **Rejected application for a job position**

The candidate's application for a job position was rejected due the submission of a CV in English instead of Slovenian. The candidate alleged discrimination on the grounds of language. The Advocate explained to the client that the case might involve possible direct discrimination on the grounds of language. However, it could also fall within the exceptions from the prohibition of discrimination under Article 13 of the PADA, which allows, among other things, employers to set such conditions that represent a genuine and determining professional requirement for performing work, which can also be the knowledge of a language. Such a condition should also observe the proportionality test. The Advocate invited the candidate to lodge a complaint. (0702-39/2020)

#### **Communication at the Administrative unit**

The Advocate was approached by a client who, as a foreigner, is arranging a residence permit in Slovenia at the competent Administrative unit. They stated that the employees refuse to communicate with the clients in English, which makes it difficult for them to communicate with the Administrative unit, moreover, they are allegedly also being disrespectful in their way of communication. The client asked for advice. The Advocate explained to the client the arrangement in the field of language, namely that the official language of the state (administrative) authorities in the Republic of Slovenia is Slovene (except in the bilingual areas, where Italian and Hungarian also have the role of official languages). Regarding the disrespectful way of communication by the employees of the Administrative unit, the Advocate informed the client of the possible appeal procedures. (0702-88/2020)



## 1.4.2 Discrimination investigation in relation to the personal ground of language

**Refusal to issue a decision in the Italian language in the bilingual area constitutes a discriminatory conduct.**

The Advocate considered a complaint of an Italian citizen with permanent residence in the Republic of Slovenia, to whom the administrative body operating in a bilingual area refused to issue a decision in the Italian language. After examining the regulations and case law of the Court of Justice of the EU, the Advocate found that by rejecting the client's request to use the Italian language or issue a decision in the Italian language in the personal income tax assessment procedure, referring to the fact that the taxpayer is not a member of the Italian national community, the authority interfered with his right to use the language of the national community, which is otherwise recognised as the official language of the authorities' operations in this area, in a proceeding before a state authority in the bilingual area. By the described conduct, the authority violated the principle of non-discrimination under the PADA. Namely, by referring to the individual's personal ground of citizenship (being an Italian citizen) and the related personal ground of not belonging to the Italian national community, the tax authority operating in the bilingual area prevented the client from using the language of the national community (Italian), whereby, according to the Advocate, the authority fulfilled all the constituent conditions of direct discrimination under paragraph 1 of Article 6 of the PADA. (Decision No. **0700-39/2019/15** of 12 October 2020)

## 1.4.3 Assessments of the discriminatory character of regulations with regard to the personal ground of language

In 2020, the Advocate did not conduct assessments of the discriminatory character of regulations with regard to the personal ground of language.

## 1.4.4 The Advocate's recommendations regarding the personal ground of language

### **Recommendation regarding the draft Act Amending the State Prosecution Service Act**

In the context of professional coordination regarding the Act, the Advocate recommended to the MoJ, that the use of minority languages as official languages in proceedings before all authorities be consistently regulated. It was also highlighted in the recommendation, that two solutions from the draft, which enable interventions in the employment status of state prosecutors, are questionable in the light of the prohibition of discrimination on the grounds of disability and age. (**0701-11/2020/1**)

Recommendation status: The legislative process is still ongoing.



### 1.4.5 Highlights of the public opinion survey on discrimination from 2020 with regard to the personal ground of language

In 2020, 10 per cent of the respondents considered language or knowledge of a language as the most common reason for discrimination in Slovenia, which is 5 percentage points less compared to 2017 (when the share was 15 per cent).

The attitude of the population towards the knowledge of a language is between neutral and favourable reception of equality. Namely, 92 per cent of the population would not have a problem with their co-worker being a foreigner if they spoke Slovene well (only three per cent of the participants would have problems with this situation); whereby 44 per cent of people are bothered by the fact that various organisations employ people who do not know the Slovene language well (which does not bother 31 per cent of the respondents).

### 1.4.6 The Advocate's cooperation with civil society with regard to the personal ground of language

In 2020, the Advocate met with Felicej Žiža and Ferenc Horváth, who are the Deputies representing the Italian and Hungarian national communities. At their initiative, the Advocate prepared a bilingual Slovene/Italian and Slovene/Hungarian version of the complaint against discrimination form and a Summary of the Annual Report for 2019 in both minority languages.

The bilingual materials were also sent to the self-governing communities, minority organisations, municipalities and state authorities in the bilingual area and the Ambassadors of Italy and Hungary in Slovenia. Through to the media, members of both minorities were also informed.

### 1.4.7 The Advocate's educational and awareness-raising activities with regard to the personal ground of language

In 2020, 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. 70 copies of the bilingual Slovene/Hungarian Summary of the Annual Report and 79 copies of the bilingual Slovene/Italian Summary of the Annual Report were sent to different recipients. In total, 625 bilingual Slovene/Italian forms and 560 bilingual Slovene/Hungarian forms were distributed.

The Advocate sent out 1,000 bilingual Slovene/English versions of the complaint against discrimination form.

## 1.5 Religion or belief

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### THE ADVOCATE HIGHLIGHTS

Article 41 of the Constitution of the Republic of Slovenia  
(freedom of conscience)

Religious and other beliefs may be freely professed in private and public life.

No one shall be obliged to declare his religious or other beliefs.

Parents have the right to provide their children with a religious and moral upbringing in accordance with their beliefs.

The religious and moral guidance given to children must be appropriate to their age and maturity, and be consistent with their free conscience and religious and other beliefs or convictions.

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### 1.5.1 Advisory, informing and support activities related to the personal grounds of religion or belief

#### The amount of damages in judicial proceedings

The Advocate was approached by a client who is involved in proceedings against the employer before the Labour court. In one part, the proceedings referred to the allegation of harassment due to the personal grounds of the client (nationality and religion or belief), based on which the client also sought compensation. The compensation was partially granted to the client. However, the client considered that the compensation was too low. The Advocate advised the client on how to strengthen arguments concerning harassment as a form of discrimination in the appellate judicial proceedings and how to claim higher damages. **(0702-7/2020)**

#### A post on social networks by a civil servant

The Advocate was approached by a client regarding a post on a social network by a civil servant which, according to the client, contained an inappropriate greeting for the Christmas holidays. The Advocate informed the client about the obligatory elements of a complaint under the PADA (an indication of the personal ground, rights with which the post supposedly interfered and the type of discrimination that the post gave rise to). The client did not choose to submit the complaint. **(0702-3/2020)**

## 1.5.2 Discrimination investigation in relation to the personal ground of religion of belief

### **Parents reached an agreement with the kindergarten regarding a reasonable accommodation of the diet for children based on religion**

The Advocate received a complaint lodged by a mother of a child in kindergarten. There, children were often served meals containing pork. However, the whole family and thus the child avoids pork on the grounds of religion (a particular branch of the Christian religion). The representatives of the kindergarten explained that meals can be adjusted only based on a medical certificate of a certain diet, in line with the recommendations of the medical profession. But the prohibition to eat pork was not based on the child's health condition, but on the religious beliefs of the child and the family. During the proceedings, the client stated that the kindergarten eventually took into account the efforts to resolve the situation and the Advocate's clarification. At the end, the mother and the kindergarten reached an agreement regarding a suitable adjustment of the child's diet, thus preventing indirect discrimination based on the religion of the family. And because a settlement was reached in the case, the client withdrew the complaint, and the Advocate issued a decision on the suspension of the proceeding. (Decision No. [0700-32/2019/28](#) of 24 January 2020)

### **Rejecting a request of a religious community to perform a blessing of a primary school does not constitute discrimination**

A smaller religious community wanted to perform a blessing of a primary school. To this end, they addressed a letter to the school. However, they received no response. They lodged a complaint to the Advocate making an allegation of discrimination on the grounds of religion. However, the Advocate did not find any discriminatory conduct. The constitutionally guaranteed right to religious freedom does not include the right to perform blessings of public facilities. The unresponsiveness of the addressee does not interfere with the freedom of religious expression. (Decision No. [0700-76/2019/3](#) of 20 January 2020)

### **Rejecting a request of a religious community to perform a blessing of a public facility does not constitute discrimination**

A smaller religious community wanted to perform a blessing of a new sports hall at its opening. To this end, they addressed a letter to the public institution, the owner of the facility. However, they received no response. They lodged a complaint to the Advocate making an allegation of discrimination on the grounds of religion. However, the Advocate did not find any discriminatory conduct. The constitutionally guaranteed right to religious freedom does not include the right to perform blessings of public facilities. The unresponsiveness of the addressee does not interfere with the freedom of religious expression. (Decision no. [0700-75/2019/5](#) of 20 January 2020)

### **The allocation of different seats to representatives of religious communities at national celebrations does not constitute discrimination**

A smaller religious community lodged a complaint making an allegation of discrimination on the grounds of religion, which allegedly resulted from the fact that their representatives were not granted a seat of the same type as the largest religious communities when invited to state celebrations. However, the Advocate did not find any discriminatory conduct. The manner in which, in line with the protocol, seats for those invited to state celebrations, including religious communities, are arranged, does not interfere with any of their constitutionally or legally guaranteed rights, including the right to religious freedom. (Decision No. **0700-73/2019/5** of 19 May 2020)

### **The complainant failed to prove that the reason for the blockage of his Twitter account was his religion or belief**

Members of a parliamentary party blocked the Twitter account of a particular smaller religious community. The religious community complained about the conduct, which according to their opinion constituted discrimination on the grounds of religion, as the blockage allegedly prevented the spread of the religion among the people following the Twitter users who blocked it. The Advocate did not find discrimination due to the lack of evidence, that the blockage was made due to religion. At the same time, the blockage did not violate the religious freedom nor the rights of the religious community to express their religious beliefs. (Decision No. **0700-69/2019/7** of 19 May 2020)

### **The manner in which a petition was handled before the Commission of the National Assembly on Petitions does not constitute discrimination**

The complainant alleged that the manner in which the Committee on Petitions handled his petition in the National Assembly was discriminatory. His petition was not properly considered, and he regarded as problematic also the fact that his petition was not considered in a public session like some others. He alleged discrimination on the grounds of political conviction. The Advocate established in the proceedings that the allegations stating that the Committee on Petitions did not properly consider the petition were not confirmed. It was also noted that numerous petitions were not considered in public sessions, so discrimination on the grounds of political belief could not be confirmed. However, the Advocate found that the right to petition was insufficiently regulated and that the procedure for handling petitions was not properly defined. (Decision No. **0700-79/2019/13** of 27 July 2020)

## **The instructions to remove an advertisement from the bus constitutes discrimination on the grounds of religion or belief**

The Advocate received a complaint lodged by a complainant who concluded a contract with a particular advertising agency. In the contract, the parties agreed on the production of an advertisement, which was to be placed on a vehicle of a public transport provider for a fixed period of two months. The advertisement was placed on the vehicle, but it was removed prematurely, only after nine days. The Advocate assessed whether the premature removal of the advertisement from the public transport vehicle constituted discrimination against the complainant due to the personal grounds of religion or belief. As the proceeding against one of the potential violators was stopped due to a settlement, the Advocate focused on the conduct of the public transport provider in the continuation of the proceedings. In the course of the proceedings, it was established that the said advertisement was indeed removed prematurely from the public transport vehicle. This happened at the request by the public transport provider, addressed to the advertising agency, which carried out the removal of the advertisement. With the advertisement, the complainant advertised his advisory and support services in case of pregnancy. In public, the advertisement provoked negative reactions due to the fact that the complainant in general opposes abortion. The public transport provider considered the negative responses as incitement to intolerance, which, pursuant to the advertising conditions, enabled the withdrawal of the advertisement. The provider consequently argued that the reason for the removal of the advertisement was in the alleged incitement to intolerance in the public and not in the content of the advertisement or the complainant's religion or belief. But this argument did not convince the Advocate. And it was established that the effect of the removal was such as to offend the complainant, who, in general, represents views related to the personal grounds of religion or belief. The Advocate found that the request by the public transport provider to the advertising agency constituted an instruction to discriminate, which contradicts the provisions of Article 9 of the PADA. The violator appealed against decision to the Administrative Court, where the proceedings are still pending. (Decision No. **0700-2/2019/33** of 4 July 2019)

### **1.5.3 Assessments of the discriminatory character of regulations with regard to the personal ground of religion or belief**

In 2020, the Advocate did not conduct assessments of the discriminatory character of regulations with regard to the personal ground of religion or belief.

### **1.5.4 The Advocates recommendation regarding the personal ground of religion or belief**

In 2020, the Advocate did not issue any recommendations regarding the personal grounds of religion or belief.

### 1.5.5 Highlights of the public opinion survey on discrimination from 2020 with regard to the personal ground of religion or belief

**Religion:** The population of Slovenia to a large extent understands discrimination as unequal treatment due to religion (21 per cent) – which is six percentage points more than in 2017. Moreover, 21 per cent of the respondents consider religion or belief to be the most common reason for discrimination in Slovenia, which is 7 percentage points less compared to 2017. At the same time, five per cent of the participants in the survey perceive Muslims as the most frequent victims of discrimination in Slovenia, while one per cent of respondents see Christians as the most frequent victims.

The attitude of the population towards religion is between neutral and favourable reception of equality, but eight per cent of the population would be uncomfortable if they were represented by a non-Christian mayor, which would not bother 80 per cent of the population. On the other hand, 32 per cent of people would not trust an organisation lead by a Muslim, while 39 per cent of respondents would trust such an organisation. At the same time, 43 per cent of people disagree with the fact that kindergartens or schools adjust the children's diet according to their religion, which is supported by 35 per cent of people. 67 per cent of the population have understanding for people who marry a person of another religion or change their religion because of it, while 13 per cent of respondents disagree. However, people tend to be more supportive in the case of their child's marriage to a person of other religion, which is supported by 75 per cent of respondents, 9 per cent of respondents would not support this.

**Belief:** A quarter (25 per cent) of respondents view political belief as the most common reason for discrimination in Slovenia, which is a large increase compared to 2017 when the share was 13 per cent. At the same time, six per cent of participants believe that politicians or people who express their political beliefs are the most frequent targets of discrimination in Slovenia, which is three percentage points more than in 2017.

The data show that intolerance towards a particular political belief has increased somewhat; 59 per cent of people (eight per cent more than in 2017) believe that there are people whose political views are such that they should be banned from appearing in the media, 21 per cent of respondents disagree with this opinion.

The proportion of respondents who claimed to have experienced discrimination based on political belief doubled in 2020, (among the 22 per cent who claimed to have experienced discrimination in general), the proportion reached 6 per cent (3.5 per cent of the population of Slovenia), compared to seven per cent in 2017 (1.5 per cent of the population of Slovenia). Among the 14 per cent who claimed to have been subject to harassed, 14 per cent were harassed due to their political beliefs, which is almost two per cent of the population of Slovenia.

### 1.5.6 The Advocate's cooperation with civil society with regard to the personal grounds of religion or belief

Due to the declared epidemic associated with the COVID-19 disease, the Advocate's cooperation with civil society organisations was mostly carried out in written form. This way, the Advocate obtained information on discrimination as perceived by the individual organisations in their particular fields of work.

### 1.5.7 The Advocate's educational and awareness-raising activities with regard to the personal grounds of religion or belief

In 2020, the Advocate did not conduct any special educational or awareness-raising activities with regard to the personal grounds of religion or belief.

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## THE ADVOCATE HIGHLIGHTS

Article 7 of the Constitution of the Republic of Slovenia

The state and religious communities shall be separate.

Religious communities shall enjoy equal rights; they shall pursue their activities freely.

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## 1.6 Disability

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### THE ADVOCATE HIGHLIGHTS

#### Article 52 of the Constitution of the Republic of Slovenia (rights of disabled persons)

Disabled persons shall be guaranteed protection and work-training in accordance with the law.  
Physically or mentally handicapped children and other severely disabled persons have the right to education and training for an active life in society.  
The education and training referred to in the preceding paragraph shall be financed from public funds.

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### 1.6.1 Advisory, informing and support activities related to the personal ground of disability

#### Access to public passenger transport

The Advocate was approached by a client, a wheelchair user, regarding the accessibility of public passenger transport. She highlighted an event when the bus driver did not want to prepare a ramp for her to enter the vehicle and brought up the issue of access to vehicles for people confined to the so-called “electric scooters” and the fact that some drivers require escorts for people in wheelchairs. Based on the information received, the Advocate sent an inquiry to the public passenger transport company. The company replied that the task of preparing the ramp for entering the vehicle is the obligation of the driver, which is also specified in the internal acts of the public transport provider. With regard to the requirement for escort, the provider ensured that there is no such request. However, the provider pointed out, that the installation of equipment in the bus is adapted to wheelchairs, but not to electric scooters. As a result, in such case the risk of accidents is greater, which makes the presence of an escort reasonable for safety reasons. The Advocate forwarded the clarifications to the client. [\(0702-89/2020\)](#)

#### Accessibility of a school for a mobility-impaired student

The Advocate was approached by a client, the mother of a mobility-impaired ninth-grader, who wanted to enroll in one of the gymnasiums, but did not decide to do so, due to the architectural inaccessibility of the facility for mobility-impaired persons. The mother asked the Advocate for advice on what can be done. The Advocate presented to her the possibility of lodging a complaint against the conduct of the gymnasium and to initiate a discrimination investigation procedure to find discrimination in access to education on the grounds of disability. The client did not decide to lodge the complaint, however, the case showed the need for a systemic regulation of the topic, as the gymnasium is a part of the network of public education facilities, which are not accessible to mobility-impaired persons. [\(0702-68/2019\)](#)



### **Termination of employment of a person with a disability**

The Advocate was approached by a client to whom the occupational medical centre granted the status of a person with disability of third degree. As a result, the client's employer terminated their employment by the arguments that no suitable workplace is available for them. The client disagreed and considered that the employer could have adapted the work process in the same way as it was adapted to the needs of a colleague without such disability. The client considered that she was discriminated against compared to their colleague. The client asked for an opinion and advice. The Advocate informed the client on the possibility of a discrimination investigation procedure and how to launch the procedure of discrimination investigation before the equality body. The client did not choose to submit the complaint.

**(0700-16/2020)**

### **Ensuring the participation of an escort to a person with paralysis during rehabilitation**

The Advocate was approached by a client with paralysis, who was not allowed to be accompanied by an escort during a paid rehabilitation. The question referred to the implementation of the obligation to ensure reasonable adaptation (which would be ensured through the participation of an escort) in access to health rehabilitation services provided by disability associations. The Advocate advised the client on how to conduct the proceedings for discrimination investigation in such case and how to lodge a complaint. The client did not choose to submit the complaint. The Advocate has already issued a decision finding discrimination in a similar case, but there is no competent inspectorate in this area to initiate a minor offence proceeding against the association. **(0702-59/2019)**

### **Access to a store during the epidemic**

The Advocate was approached by a client who, being a 50-year-old person with a disability, wanted to exercise the right of shopping in stores at the time reserved exclusively for vulnerable groups during the coronavirus epidemic. Upon arrival at the store during that time, she was denied access by the security guard, as he had been instructed to let in only persons older than 65 years. She approached the Advocate and sought advice regarding the situation. The Advocate provided the client with an explanation that the security guard had been given wrong instructions and advised them to inform the store that persons with disabilities are included among vulnerable groups, the client was also invited to lodge a complaint with the Advocate. **(0702-66/2020)**

### **The opportunity to visit relatives with dementia in care homes for the elderly**

A client turned to the Advocate due to the fact that they were not granted the status of a person with the first degree of disability, but only the third degree by the Pension and Disability Insurance Institute (PDII). The client initiated a judicial proceeding against the PDII decision. Additionally, the client forwarded to Advocate an expert opinion from the judicial proceedings with which they did not agree. The Advocate explained to the client that the equality body can not interfere in the specific judicial proceedings and that the assessment of the degree of disability is a professional issue for which the Advocate is not competent. The Advocate expressed understanding for the client's situation and advised them on further possibilities for action in the judicial proceedings. (0702-116/2020)

### **Dissatisfaction with the recognised degree of disability**

A client turned to the Advocate due to the fact that they were not granted the status of a person with the first degree of disability, but only the third degree by the Pension and Disability Insurance Institute (PDII). The client initiated a judicial proceeding against the PDII decision. Additionally, the client forwarded to Advocate an expert opinion from the judicial proceedings with which they did not agree. The Advocate explained to the client that the equality body can not interfere in the specific judicial proceedings and that the assessment of the degree of disability is a professional issue for which the Advocate is not competent. The Advocate expressed understanding for the client's situation and advised them on further possibilities for action in the judicial proceedings. (0702-26/2020)

### **Exemption from court fees**

The Advocate was approached by a client's legal representative, who is conducting judicial proceedings for the re-acquisition of the right to vote of the client, who was deprived of the right under the third paragraph of Article 7 of the National Assembly Elections Act. The client failed to enforce the claim for exemption from court fees before the court, for which in cases of protection against discrimination the legal basis is stipulated in the third paragraph of Article 10 of the Court Fees Act. The Advocate the client by preparing arguments for submission in the judicial proceedings. The client also informed the Advocate about the general efforts for the return of the voting right, which is a systemic issue that the Advocate also deals with it at the systemic level. (0702-40/2019)

### **Difficulties in cooperating with state authorities regarding the schooling of a child with autism**

The Advocate was approached by a client, the mother of a child with special needs, who has been waiting for a decision on guidance for a long time, at the same time, she is facing difficulties in cooperating with state authorities in resolving the situation of the child. The Advocate addressed the matter in the light of the obligation of state authorities to ensure reasonable accommodation for children with disabilities, with the aim of preventing discrimination on the grounds of disability. The Advocate provided the client with advice in the field of ensuring reasonable accommodation and informed them about the authorities competent for the individual matters presented by the client. [\(0702-49/2019\)](#)

### **Termination of employment of a person with a disability**

The Advocate was approached by a client to whom the occupational medical centre granted the status of a person with disability of third degree. As a result, the client's employer terminated their employment by the arguments that no suitable workplace is available for them. The client disagreed and considered that the employer could have adapted the work process in the same way as it was adapted to the needs of a colleague without such disability. The client considered that she was discriminated against compared to their colleague. The client asked for an opinion and advice. The Advocate informed the client on the possibility of a discrimination investigation procedure and how to launch the procedure of discrimination investigation before the equality body. The client did not choose to submit the complaint. [\(0702-40/2020\)](#)

## 1.6.2 Discrimination investigation in relation to the personal ground of disability

### **Failure to include the care allowance among income for the calculation of creditworthiness does not constitute a discriminatory conduct**

A person with disability who receives a care allowance wanted to obtain a bank loan for the renovation of an apartment. The bank did not take the allowance into account when calculating the person's creditworthiness, so the person made a complaint with the Advocate and alleged discrimination. In the proceedings, the Advocate found that the care allowance was a strictly earmarked allowance for persons with disabilities, which could only be used for the specific purpose of assisting a person with disabilities in their daily tasks, and not for financing a loan. As a result, the Advocate did not find any discrimination in the case. (Decision No. [0700-20/2020/3](#) of 1 July 2020)

### **Changing the town's pedestrian regime and restricting access to the old town does not constitute discrimination on the grounds of disability**

One of the municipalities closed the city center to traffic and restricted access with a permit to property owners and tenants. An individual complained that, as a person with a disability, they have difficulties in accessing the old town, where the association of which they are a member also has premises. The Advocate found that in doing so, the city municipality provided transportation with a free electric vehicle, which is available daily from 7 a.m. to 7:30 p.m. The mentioned association has the opening hours until 18.00 at the latest, and in the event of an extension of the association's working hours, the individual may also use the association's permit for access. According to the Advocate, the new regulation pursues a legitimate goal – to reduce traffic in the town center, and the regulation is appropriate and necessary to achieve this goal, and at the same time measures are taken for people with reduced mobility. (Decision No. [0700-56/2019/8](#) of 19 February 2020)

### **Denying access to a store to a person with a disability during the Covid-19 epidemic constitutes discrimination**

The Advocate received a complaint from a person using a wheelchair who was not allowed to buy after 10 am, i.e. outside the time reserved for vulnerable groups during the epidemic<sup>1</sup>. The security guard assessed the complainant as a vulnerable group and banned them from entering. The Advocate carried out the procedure of discrimination investigation pursuant to the PADA. It was established that the store's management had given security guards incorrect information that shopping was prohibited after 10 a.m. for all vulnerable groups and not just the elderly, as stated in the relevant government ordinance. The Advocate found a violation of the prohibition of discrimination and proposed to the competent inspectorate the initiation of a minor offence proceedings. (Decision No. [0700-24/2020/10](#) of 27 July 2020)

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<sup>1</sup> Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia, Official Gazette of the Republic of Slovenia, Nos. 25/20, 29/20, 32/20, 37/20, 42/20, 47/20, 53/20, 58/20, 59/20 and 67/20.



### 1.6.3 Assessments of the discriminatory character of regulations with regard to the personal ground of disability

#### **According to the Advocate, the Act Regulating the Supplement to Pensions for Work and Outstanding Achievements in Sports is discriminatory towards athletes with disabilities**

On the basis of a complaint regarding alleged discrimination, the Advocate assessed the discriminatory character of the Act Regulating the Supplement to Pensions for Work and Outstanding Achievements in Sports (ARSPWOAS). This Act regulates in more detail the conditions under which high-profile athletes can receive a special supplement to their pension. This way, athletes with a medal from the World Championships in the Olympic industry or discipline are entitled to a pension supplement. However, athletes with disabilities with comparable achievement do not have the same right. According to the Advocate, high-profile athletes with and without disabilities are in a comparable situation, so they should also be entitled to equal rights. The Advocate found that the arrangement provided for by the ARSPWOAS constitutes direct discrimination against athletes with disabilities on the basis of disability. (050-3/2020)

#### **According to the Advocate, the legal vacuum in the area of alignment of disability benefits for physical disabilities with inflation constitutes discrimination**

At the initiative of a victim, the Advocate made an assessment of the discriminatory character of the legal regulation in the area of alignment of disability benefits for physical disabilities. The Advocate noted that since 2012, when the amendment to the Pension and Disability Insurance Act was adopted, the adoption of regulations which would also regulate the method of harmonisation has been planned. Since then, a legal vacuum has existed in this field, as there is no legal basis for disability benefits to be included in transfers that are subject to harmonisation under the Act Regulating Adjustments of Transfers to Individuals and Households in the Republic of Slovenia. As a result of this legal vacuum, the treatment of persons who are entitled to disability benefits due to their physical disability is discriminatory. (050-12/2020)

#### **According to the Advocate, a different arrangement for disabled pensioners and persons with disabilities is not discriminatory**

The complainant stated that disabled pensioners are in a worse or less favourable situation compared to persons with disabilities, who are not entitled to disability pensions, but receive a disability allowance. The status of both groups is regulated by different regulations. The Pension and Disability Insurance Act (PDIA-2) and the Social Inclusion of Disabled Persons Act (SIDPA) refer to persons with disabilities in situations that are substantially different.

For persons addressed under the Pension and Disability Insurance Act (PDIA-2), their entitlement to pension and disability insurance rights (stemming from their employment) must be taken into account. Persons addressed under the Social Inclusion of Disabled Persons Act (SIDPA) are not or cannot be entitled to these rights, as they have never worked or have worked for a short period. As the two groups are not in comparable positions, different arrangements by different acts with different sets of rights are justified. As a result, the Advocate assessed that the legal regulation is not discriminatory towards disabled pensioners. (050-3/2019)

**According to the Advocate, the Personal Assistance Act is not discriminatory towards deaf-blind persons in comparison to deaf persons**

The clients suffering from deafblindness are, as blind persons, entitled to the assistance and care allowance. With the enactment of the Personal Assistance Act, they also acquired the right to personal assistance in the amount of 30 hours per month, however, as a result they had to start paying half of the allowance for the assistance and care to the selected personal assistance provider. They consider that the Personal Assistance Act is discriminatory towards deafblind people in comparison to deaf people. The Advocate assessed that the regulation does not constitute a poorer treatment of deafblind people compared to deaf people. Namely, the latter are not even entitled to the care allowance and therefore do not have to pay half of the amount to the provider if they are granted the right to personal assistance. In view of the above, the Advocate assessed that the regulation is not discriminatory. (050-1/2019 and 050-2/2019)

**According to the Advocate, the regulation of the use of tourist vouchers does not constitute discrimination against the elderly, the sick and people with disabilities**

A client lodged a complaint with the Advocate of the Principle of Equality regarding the incapacity of people with disabilities, the sick and the elderly to take advantage of the tourist vouchers granted to them. The complainant alleged discrimination on the grounds of age, disability and health and posed the question of why these persons cannot use the vouchers for other services. The benefit was introduced by the Act Determining the Intervention Measures to Mitigate and Remedy the Consequences of the COVID-19 Epidemic.<sup>2</sup>

The Advocate found that the vouchers were intended to support Slovenian tourism industry, which was left without income due to the pandemic, and to direct domestic guests to tourist facilities in Slovenia. According to the Advocate, the goal pursued by the vouchers was legitimate, and the requirement that the vouchers be used for tourism was appropriate and necessary. Hence, no suspicion of discrimination arises from the regulation. Consequently, the Advocate did not carry out a more detailed assessment of discrimination. (050-17/2020)

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2 Official Gazette of the Republic of Slovenia, No. 80/20.

## 1.6.4 The Advocate's recommendations regarding the personal ground of disability

### **Recommendation regarding the draft Act Amending the Housing Act**

Regarding the draft act, the Advocate recommended amendments to the MESP with the aim of improving physical accessibility of multi-apartment buildings for people with disabilities. Recommendation status: The legislative process is still ongoing. (0709-62/2020/1)

### **Recommendations regarding the proposed amendment to the Audiovisual Media Services Act**

In the recommendation to the MC regarding the proposed amendment to the Audiovisual Media Services Act (AMSA), the Advocate stood up for a wider accessibility of all services to ensure access to audiovisual media services (including websites, web applications and electronic program guides, provision of information on accessibility and accessible formats) and proposed consideration to enact stricter controls regarding the implementation of accessibility requirements. Among other things, the Advocate recommended that an arrangement be made that would set the persons liable a binding time frame and measurable content goals as well as indicators for achieving the accessibility of their services. The Advocate therefore recommended that in Article 10 of the draft amendment, a legal systemic reference be made to Articles 8 and 14 of the Equalisation of Opportunities for Persons with Disabilities Act and that the lowest common standard of accessibility be adopted as soon as possible. (0709-48/2020)

Recommendation status: The legislative process is still ongoing.

### **Recommendations and comments regarding the new draft Act Amending the Mass Media Act**

As part of the public consultation, the Advocate made a recommendation to the MC as the drafter of the draft Act Amending the Mass Media Act (MMA), focusing on the proposed arrangement of the inequality and intolerance prohibition, the accessibility of media and programme content to people with disabilities, and the conditions for obtaining the status of media of particular importance. The Advocate recommended that the drafter take into account the recommendations in the relevant field made by the Advocate to the first draft proposal of the Act Amending the MMA, including the proposal to classify the violation of the obligation of the media publisher to remove public comments encouraging intolerance (the so-called notice and take down obligation) as a minor offence. (0701-1/2019/7)

Recommendation status: The legislative process is still ongoing.

### **Recommendation regarding the draft Act Amending the Radiotelevizija Slovenija Act**

The Advocate recommended to MC, as the drafter of the Act Amending the Radiotelevizija Slovenija Act, to include persons with intellectual disabilities among those who are exempt from paying the RTV fee, in addition to the socially endangered and certain groups of people with disabilities. The Advocate also suggested that the Ministry consider the possibility of a similar arrangement for people with psychosocial disabilities. (0701-10/2020/1)

Recommendation status: The legislative process is still ongoing.

### **Recommendations regarding the draft Act Amending the Act on Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy (Set of measures to mitigate the effects of the epidemic No. 2)**

The Advocate recommended to the National Assembly the adoption of special measures for vulnerable social groups during the COVID-19 epidemic, which were overlooked by the Set of measures to mitigate the effects of the epidemic No. 1 or whose situation was not satisfactorily regulated. In doing so, the Advocate's starting points were the recommendations to the Government of 10 April (No. 0701-5/2020/1), summarising which recommendations were not followed or were only partially followed. Thus, the Advocate recommended that, in the context of intervention measures during the epidemic, the following be provided: financial assistance to recipients and providers of personal assistance; financial assistance to care homes for the elderly; families of children with special needs. (0701-5/2020/6)

Recommendation status: The recommendations were taken into account for families of children with special needs, partly for care homes for the elderly, but recommendations for financial assistance to recipients and providers of personal assistance were not taken into account.

### **Recommendation regarding the draft Act Amending the State Prosecution Service Act**

In the context of professional coordination regarding the Act, the Advocate recommended to the MoJ, that the use of minority languages as official languages in proceedings before all authorities be consistently regulated. It was also highlighted in the recommendation, that two solutions from the draft, which enable interventions in the employment status of state prosecutors, are questionable in the light of the prohibition of discrimination on the grounds of disability and age. (0701-11/2020/1)

Recommendation status: The legislative process is still ongoing.



## **Recommendation regarding the draft of the Long-Term Care Act**

The Advocate recommended to the Ministry of Health that the draft act should clearly define the principle of equal access to long-term care for all, regardless of the personal grounds of the beneficiaries, and the right to independent and autonomous life of the beneficiaries. In the recommendation, the Advocate stated that the act should clearly define the right to long-term care, dis-aggregate all its essential elements, criteria and methods of exercise of the rights, and the means for their protection. It was also recommended that a comparable level of enjoyment of rights be ensured for children without the status of long-term care beneficiaries. (0701-14/2020/2)

Recommendation status: The legislative process is still ongoing.

## **Recommendation regarding the draft Act Determining Temporary Measures to Mitigate and Remedy the Consequences of COVID-19 (Set of measures to mitigate the effects of the epidemic No. 5)**

The Advocate recommended to the National Assembly that the measures also provide workers who cannot perform their work due to quarantine or child care (i.e. force majeure) with compensation not lower than the minimum wage (which was already in force during the first wave of the epidemic). Guardians of adults with intellectual and psychosocial disabilities and guardians and foster parents of children should be included among the workers who are unable to perform their work due to so-called force majeure.

The Advocate recommended that additional justifications for distinguishing certain beneficiaries and methods of determining the amount of aid or compensation be included in the act. It was also recommended that consideration be given to introducing additional special measures to ensure equal opportunities for the people most affected by the adoption of stricter measures envisaged in the government's plan to prevent the spread of infections.

(0701-15/2020/1)

Recommendation status: The recommendation was taken into account in the part where the Advocate proposed compensation in the amount of at least the minimum wage (in Set of measures to mitigate the effects of the epidemic No. 7) and that guardians and foster parents of persons, including adults, be included among the recipients of compensation (by way of amendments). The recommendation regarding the unjustified differentiation of beneficiaries of aid was not taken into account.

### **Recommendation regarding the draft Act on the Intervention for Children and Youth with Emotional and Behavioural Disorders in Education**

During the public consultation, the Advocate made a recommendation regarding the draft Act on the Intervention for Children and Youth with Emotional and Behavioural Disorders in Education (AICYEBDE) and recommended, among other things, supplementing the principles of operation of professional centres with the principles of non-discrimination, the exercise of human rights in line with the individual's age and maturity, the explicit right to be informed and to make statements as well as the right of children and adolescents to be included in the consultation within all decision-making processes (the so-called right to be heard). These principles and rights derive from the Convention on the Rights of the Child. Moreover, the Advocate proposed an amendment stating that shall data be collected also for the purpose of ensuring and monitoring the implementation of equal treatment and planning specific measures. [\(001-6/2020/5\)](#)

Recommendation status: Partially taken into account. The legislator took into account only a smaller part of the recommendation, including the proposed principle: "equal opportunities by taking into account the different needs of children and adolescents."

### **Recommendation regarding the draft for the Mental Health Act**

In the recommendation to the Ministry of Health, the Advocate highlighted the lack of content related to the observance of human rights protection standards. Among other things, a recommendation was addressed to Ministry of Health, to include the prohibition of discrimination, stigmatisation and other neglect based on mental disorder in the act; to examine the compliance of the envisaged solutions with the Convention on the Rights of Persons with Disabilities; and to provide information, counselling and information in accessible languages, forms and technologies, including information in the form of easy reading. [\(0070-4/2020/1\)](#)

Recommendation status: The legislative process is still ongoing.

### **Recommendation regarding the draft Motor Vehicles Tax Act**

In a recommendation to the National Assembly, the Advocate pointed out that the prohibition of discrimination also applies to the determination of benefits in the exemption from motor vehicle tax for large families and people with disabilities. Some of the criteria for obtaining benefits (permanent residence, benefits available for only one vehicle, beneficiaries only with certain types of disabilities) are questionable in terms of equal treatment (foreigners, EU citizens, the elderly, and people with certain disabilities), so the Advocate recommended improvement of the arrangement. [\(0070-3/2020/1\)](#)

Recommendation status: Not taken into account.



### **Recommendation regarding the draft Act Amending the Local Elections Act**

The Advocate recommended to the MPA that the universal suffrage in local elections be granted to everyone, including people with intellectual and psychosocial disabilities. To this end, the Advocate recommended removal of the possibility of deprivation of the right to vote, as this right is directly protected by the primary EU law. The Advocate also recommended that voters be informed and empowered by setting a uniform standard for access to electoral procedures and materials and providing supportive decision-making. The Advocate recommended that measures be taken to encourage women's participation in the candidacy, as well as the possibility of their actual eligibility in local elections. (0070-5/2020/1)

Recommendation status: The legislative process is still ongoing.

### **Recommendation regarding the draft Act Amending the Referendum and Popular Initiative Act**

The Advocate recommended to the MPA that the amendment to the Act enable the exercise of the right to a legislative and constitutional referendum and the right to a popular legislative and constitutional initiative to persons who were deprived of their right to vote upon deprivation of legal capacity or extended parental rights. A modernisation of electoral procedures and materials was also recommended to establish legal guarantees that will ensure full access to electoral procedures and the empowerment of all voters, including persons with intellectual and psychosocial disabilities. At the same time, a system of a so-called supportive decision-making should be provided for. (0070-7/2020/1)

Recommendation status: The legislative process is still ongoing.

### **Recommendation regarding the amendment to the Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia – a proposal to extend the time when pensioners, people with disabilities and pregnant women can buy in stores**

The Advocate recommended to the MEDT that by amending the Ordinance, the time interval for shopping in grocery stores intended (exclusively) for particular vulnerable groups be extended. The Advocate was informed that the elderly (pensioners) face a lot of problems caused by the government ordinance, which allows certain vulnerable groups to shop in stores only between 8 am and 10 am, as not everyone can take their turn in time. The Advocate therefore recommended that the MEDT should extend the time interval for shopping in grocery stores intended (exclusively) for particular vulnerable groups by amending the ordinance. (0701-2/2020/1)

Recommendation status: Partially taken into account.

### **Recommendation regarding the Pension Supplement for Work and Outstanding Achievements in Sports Act.**

On the basis of a complaint regarding alleged discrimination, the Advocate assessed the discriminatory character of the Act Regulating the Supplement to Pensions for Work and Outstanding Achievements in Sports and found that the arrangement constitutes direct discrimination of athletes with disabilities on the basis of their disability, as the regulation does not attribute equal importance to sporting achievements of persons with disabilities compared to persons without disabilities. High-profile athletes with a medal from the World Championships in a Paralympic discipline or industry are therefore deprived of the opportunity to receive a pension supplement. The Advocate informed the Ministry of Education, Science and Sports about the assessment and recommended that the legislation be amended.

**(050-3/2020/24)**

Recommendation status: So far not taken into account.

### **Recommendation on the ensuring of inclusive education in the case of reoccurring school closures**

The Advocate recommended that, in the case of reoccurring school closures, the MESS should provide for an inclusive education for all children, especially with regard to their access to information and communication technologies.

It was pointed out that despite the involvement of all relevant services, there was a difference in the acquisition of knowledge between different groups of students, especially those from the so-called vulnerable groups (e.g. children with a migrant background, children from economically vulnerable backgrounds, Roma children, children with special needs), which had a negative impact on their learning performance and, consequently, on the exercise of their right to education. The Advocate assessed that when distance learning using computer technology was introduced during the first wave of the epidemic, not all students were granted the same opportunities. Moreover, the recommendation that pupils and students entitled to a subsidy for lunch be provided with the payment of funds in the amount of the approved food subsidy during the closure of educational institutions, was once again underlined by the Advocate. **(0709-60/2020/1)**

Recommendation status: Partially taken into account. The MESS devoted some attention to certain parts of the recommendation, e.g. the psychological and psychosocial consequences of distance learning, and at the end of December 2020, an Ordinance on the reopening of primary schools with a specially adapted program and institutions for the education of children and adolescents with special needs was issued.

### 1.6.5 Highlights of the public opinion survey on discrimination from 2020 with regard to the personal ground of disability

Among the participants of the survey, 14 per cent of respondents thought that people with various disabilities (or diseases) are the most common target of discrimination in Slovenia (which is an increase of nine percentage points compared to 2017), 21 per cent of people consider disability as the most common reason for discrimination in Slovenia (which is three percentage points more than in 2017).

As regards disability, the population expresses a high level of support for equality, as three quarters of the population of Slovenia would easily have a person with a severe disability as a co-worker, while only nine per cent of respondents see this as a problem.

### 1.6.6 The Advocate's cooperation with civil society with regard to the personal ground of disability

Representatives of the deaf invited the Advocate to participate in a discussion on audism. Hence, on 31 January 2020, the experiences of people with audism from various spheres of life, including the labor market, employment relationships and education were presented to the representatives of the Advocate. The representatives of the Advocate were particularly interested in the experience of people in education at all levels, especially in connection with the planned preparation of a special report on the education of the deaf. On 21 February 2020, a representative of the Advocate attended a conference entitled "Language of People with Deafblindness" organised by the Slovenian Association of the Deafblind DLAN on the occasion of the International Mother Language Day in the premises of the Municipality of Ljubljana. The consultation was aimed at discussing the importance of recognising and acknowledging the right of people with deafblindness to their language. There are 23 different tactile ways of communication for the deafblind in Slovenia, and the promotion of the language of the deafblind would contribute to a greater sense of equality and acceptance of the people with this type of disability.

The participants highlighted trust between the interpreter and the user as an essential element of communication for the deafblind. They emphasised the need to provide systemic conditions to enable a greater use of the language of the deafblind in practice and promote it as a "language" and not just as a "way of communication". The inclusion of the language of the deafblind in the new National Program for Language Policy would also contribute to this.

On 8 September 2020, the Advocate's representatives met with the RTV Slovenia's Viewers' and Listeners' Rights Ombudsman Ilinka Todorovski. At the meeting, they exchanged key information and findings from the annual reports of the Advocate and the Ombudsman for 2019 and focused on some common issues, such as the accessibility of RTV programme content for persons with disabilities and prevention of hate speech in comments under on-line news; on 1 October 2020, representatives of the Advocate visited RTV Slovenia at the initiative of the RTV Slovenia's Viewers' and Listeners' Rights Ombudsman. The purpose of

the visit was to get acquainted in more detail with the work of the RTV Slovenia in the field of ensuring the accessibility of media broadcasts for people with disabilities and in the field of moderating comments on the MMC portal. Ensuring the accessibility of media broadcasts for people with disabilities is most advanced within the framework of the TV channels. Here, to the greatest extent possible and in accordance with the available resources, accessibility for the deaf and hard of hearing is ensured by subtitling the broadcasts, and for the blind and visually impaired by audio description and audio subtitling, using the speech synthesis technology.

At the initiative of the representatives of the visually impaired, the representatives of the Advocate participated at a working meeting on 16 October 2020, where the participants exchanged views on systemic challenges in the field of regulating the rights of people with disabilities. The discussion concerned the availability of technical aids, the allowance for assistance and care, and some challenges regarding the draft Long-Term Care Act, the implementation of the Personal Assistance Act, as well as the (non) provision of reasonable accommodation.

### 1.6.7 The Advocate's educational and awareness-raising activities with regard to the personal ground of disability

#### **The Advocate at the central annual meeting of the Slovenian association for persons with intellectual disabilities Sožitje**

At the invitation of the Slovenian association for persons with intellectual disabilities Sožitje (Association Sožitje), a representative of the Advocate participated in their annual meeting in Zreče on 11 January 2020. In his presentation, the representative of the Advocate emphasised that each one of us must strive for an inclusive society that will not leave anyone behind. He presented the ways and opportunities for the Advocate's work at various levels. As an example of good cooperation with NGOs, he brought up the cooperation of the Association Sožitje with the Advocate in the preparation of written information on the Advocate's services in easy reading. According to some estimates, half a million people in Slovenia need easy-to-read information. These are mainly people with intellectual disabilities and mental health issues, people with dementia, the elderly, foreigners, and others.

#### **The Advocate supported the project Enabling multimodal mobility of people with reduced mobility**

On 14 January 2020, the Head of the Advocate Miha Lobnik participated in the public presentation of the project "Enabling multimodal mobility of persons with reduced mobility" carried out by the Geodetic Institute of Slovenia and funded by the Ministry of Infrastructure. The aim of the project is to enable physical and digital accessibility for vulnerable groups in the entire territory of Slovenia, which will ensure their mobility, greater social inclusion, and equality. The Head of the Advocate, Miha Lobnik, welcomed the project and described it as a step in the right direction – in the direction of ensuring greater inclusion of all. Moreover, he stated at the presentation: "Enabling multimodal mobility of people with reduced mobility is a project, which changes our society to prevent individual cases of exclusion. This is a direction that brings progress."



The Head of the Advocate, Miha Lobnik, supported the project Enabling multimodal mobility of people with reduced mobility by participating in a presentation.

### **The Advocate at the panel discussion “Language of people with deafblindness”**

On the occasion of the International Mother Language Day on 21 February 2020, a representative of the Advocate participated in a panel discussion of the Slovenian Association of the Deafblind – Dlan, entitled “Language of People with Deafblindness”. At the panel discussion, the participants talked through the importance of recognition and acknowledgement of the rights of the deafblind. The representative of the Advocate emphasised, among other things, that in protecting the rights of people with disabilities, the commitments of international as well as national law must be strictly observed. He also stressed that accommodations are essential for the full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities.

### **The Advocate at the conference of the Association Sožitje: Challenges of the pandemic for persons with intellectual disabilities and their families**

On 28 September 2020, a representative of the Advocate participated in the annual meeting of the Slovenian association for persons with intellectual disabilities Sožitje (Association Sožitje) entitled “Challenges of the pandemic for persons with intellectual disabilities and their families”. The speakers devoted most of their time to the effects of various restrictive and protective measures connected to the COVID-19 epidemic on people with intellectual disabilities and their relatives. The focus of the discussion was on social exclusion resulting from the closure of institutions for institutional care, work and rehabilitation and schools as well as the lack of professional and psychosocial support for people with intellectual disabilities and their relatives. The participants said they also miss some intervention measures for the alleviation of distress, including the financial difficulties.



### **Advocate at the opening of the exhibition of works of art “Feelings of the Deafblind”**

Predstavnik Zagovornika se je 1. julija 2020 udeležil in nagovoril udeležence slovesnosti ob otvoritvi razstave likovnih izdelkov članov Združenja gluhoslepih Slovenije DLAN »Čutenja gluhoslepih«. Združenje DLAN tradicionalno prireja razstave likovnih del gluhoslepih ljudi v spomin na gluhoslepo pisateljico in aktivistko Helen Keller. Predstavnik Zagovornika je v pozdravnem nagovoru poudaril pomen vključevanja ljudi z vsemi oblikami invalidnostmi v družbeno življenje.

### **The Advocate at the panel discussion at the book release on the sex lives of people with disabilities**

On 9 October 2020, a representative of the Advocate participated in a panel discussion on the occasion of the release of the book “Pomoč pri seksualnem življenju ljudi s hendikepom” (Assistance in the sexual life of people with disabilities), published by the institute for applicative studies OPRO. Little is said about the rights of people with disabilities to express and meet their sexual needs, even among health professionals and others working in the field of care for people with disabilities. The topic is difficult also for the parents and guardians of these people, especially when it comes to people with psychosocial and intellectual disabilities. The representative of the Advocate welcomed the release of the book, which makes an important contribution to raising awareness and understanding of these issues, which should not be a taboo subject.

### **Head of the Advocate at the closing conference of the 4ALL project**

On 23 October 2020, the Head of the Advocate, Miha Lobnik, participated at the closing web conference of the 4ALL project, carried out by the Association of Vocational Rehabilitation Providers of the Republic of Slovenia, Slovenian Philanthropy and VOZIM, Institute for Innovative Education. The Head of the Advocate, Miha Lobnik, welcomed the successful completion of the project and its results, and emphasised the importance of continuing the project activities even after its completion. The aim of the project was to promote equal opportunities and equal treatment and to prevent discrimination against vulnerable social groups. The project also specifically addressed the issues of employment of people with disabilities, their discrimination in employment and access to the built environment and information. The results of the project include brochures and manuals on accessibility and employment of people with disabilities, as well as an easy-to-read guide on the Personal Assistance Act and the Social Inclusion of Disabled Persons Act.

### **The Advocate at the event of the Slovenian Association of the Deaf 14 11 on audism**

On 13 November 2020, a representative of the Advocate participated in an online event organised by the Slovenian Association of the Deaf 14 11 on audism – discrimination against the deaf. The Slovenian Association of the Deaf 14 11 is, among other things, dedicated to raising public awareness on the importance of the Slovenian Sign Language as the mother tongue of deaf people. The main subject of the online event was related to the experiences during the COVID-19 epidemic. A representative of the Advocate invited the participants of the event to share experiences that could constitute discrimination with the Advocate – either by lodging a complaint or by requesting a free advisory opinion. As a solution to the additional restrictions of communication due to the use of face masks which make lip-reading impossible, the Advocate's representative drew attention to special, deaf-friendly face masks with a transparent window that allows lip-reading and following facial expressions, which is crucial for the use of sign language.



### **The Advocate addressed the participants at the expert conference of the Risa Institute on easy reading**

On 25 November 2020, the Head of the Advocate, Miha Lobnik, as a guest of honour addressed the participants of a two-day online expert conference on easy reading entitled “Language comes closer”. The conference was prepared by the Risa Institute – Center for General, Functional and Cultural Literacy. In his address, the Head of the Advocate, Miha Lobnik, emphasised, among other things, that reading can be the right of people with intellectual and psychosocial disabilities, but also a challenge for all who want to communicate information in easy reading, including the Advocate. The right to be informed is one of the fundamental human rights. It is crucial for making informed decisions and for inclusion in society. One way of bringing content closer to as wide a circle of people as possible is easy reading.

The Advocate thanked the Risa Institute and its partners for their efforts to ensure the right to access to information also for all those who have difficulty understanding the content when presented in the usual way.

## 1.7 Age

### 1.7.1 Advisory, informing and support activities related to the personal ground of age

#### **Prohibition for people over the age of 65 to enter shops during the epidemic**

The Advocate received numerous questions in relation to discrimination on the ground of age during the coronavirus epidemic, as persons over the age of 65 were prohibited to enter stores, except during the time reserved for them (from 8 until 10 and during the last hour of the opening time). Based on the questions received, the Advocate initiated the procedure of assessing the discriminatory nature of the Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia.<sup>3</sup> Based on the data collected, the Advocate concluded that the prohibition on entering shops for the elderly after 10 am was not a proportionate measure, and that Slovenia was the only country, apart from only one other European country, which prevented the elderly from shopping after a certain hour. In view of the above, the Advocate assessed that the reservation of time for shopping of vulnerable groups was a proportionate measure, but the provision of the Ordinance of the Government of the Republic of Slovenia prohibiting them from entering after 10 am was discriminatory against the elderly. The Advocate informed the clients on this position. (0702-57/2020, 0702-63/2020 and 0702-67/2020)

#### **Disbursement of voluntary pension insurance funds**

The Advocate received a question from a client who was paying contributions to the voluntary retirement scheme. Upon retirement, the client wanted to activate the funds collected. But because she had been paying contributions for less than ten years, the amount paid out was subject to the 8.5 % tax on the collected funds pursuant to the Insurance Premium Tax Act (IPTA).<sup>4</sup> The client considered that such treatment represents discrimination on the grounds of age, as younger workers who had been paying contributions for more than ten years before retirement were not required to pay the duties. The Advocate explained to the client that the calculation of the tax does not depend on the age of the individual, but on the number of years when the contributions were paid. The IPTA also enables the retention of the collected funds until the end of the ten-year period from the beginning of the payments, which represents an appropriate accommodation for the elderly persons who would retire before the end of this period. (0702-31/2020)

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<sup>3</sup> Official Gazette of the Republic of Slovenia, Nos. 25/20, 29/20, 32/20, 37/20, 42/20, 47/20, 53/20, 58/20, 59/20 and 67/20.

<sup>4</sup> Official Gazette of the Republic of Slovenia, No. 96/05 – official consolidated text and 90/14.

### **Surname as a reason for the non-inclusion in public works**

The Advocate was approached by a client who, as an unemployed person, has been waiting for several years for the opportunity to participate in public works. The client believes that this was not made possible due to her age and ethnicity, specifically the surname ending in -ić. The Advocate advised the client and explained that action can be taken only in specific cases of discrimination, where it can be established that the reason for unequal treatment is the personal ground of the person concerned. Furthermore, the client was provided with instructions on how to file a complaint, based on which, in specific cases of discrimination, the Advocate can take action. (0702-29/2020)

### **Restriction on the exercise of the profession of a judge due to age**

The Advocate was approached by a client seeking advice regarding the age limit for the function of a judge at the International Sports Federation. The client was informed of the decision of the Advocate in a similar case from another sports discipline and wanted to know whether the arguments used by the Advocate in that other case were also relevant at the international level and whether action can be taken with regard to the decision of the sports federation. The Advocate explained to the client that the argumentation may be relevant. As far as distinguishing on the bases of age in the field of work is concerned, the legislation (Directive 2000/78/EC, PADA) stipulates that unequal treatment on grounds of age does not constitute discrimination if the characteristic and context of the professional activity provide for such a professional requirement, but only on condition that the aim is legitimate and the requirement is appropriate, necessary and proportionate. It could therefore be argued that a particular age limit can not be a condition for performing the work of a judge. The Advocate also informed the client that the rules of operation of the international organisation must be challenged under the law of the country of the organisation's headquarters. (0702-120/2020)

## **1.7.2 Discrimination investigation in relation to the personal ground of age**

### **In the case of access to work, the Advocate did not find discrimination**

The client complained due to alleged age discrimination in access to work. The client sent an application on the basis of a public call for participation in a project, but the organisation did not invite them to participate. As the client had relevant experience, they suspected the reason could have been their age. But because the client could not provide any evidence or substantiate their sense with any circumstances arising from the communication with the organisation, the Advocate did not find discrimination. (Decision No. 0700-19/2020/8 of 24 July 2020)

## **In the case of awarding the title Municipal Athlete of the Year, discrimination was not found**

The Advocate received a complaint due to alleged discrimination on the grounds of age in the selection of the Athlete of the Year in one of the municipalities. The title was awarded to a junior professional athlete while the applicant competes in his age category as a veteran athlete. The Advocate found in the proceedings that the awarding organisation takes into account a number of criteria, among which age is not included. In addition, the Advocate found that the complainant was not even in a comparable situation with the winner of the award (as they compete in completely different categories), therefore discrimination was not found. (Decision No. **0700-23/2020/15** of 21 December 2020)

### **1.7.3 Assessments of the discriminatory character of regulations with regard to the personal ground of age**

#### **According to the Advocate, the prohibition for people over the age of 65 to enter shops after 10 am during the epidemic was discriminatory**

The Advocate received numerous complaints in relation to discrimination on the ground of age during the COVID-19 epidemic, as persons over the age of 65 were prohibited to enter stores, except during the time reserved for them (from 8 until 10 and during the last hour of the opening time).<sup>5</sup> Based on the complaints received, the Advocate initiated the procedure of assessing the discriminatory character of the Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia.<sup>6</sup> In the proceedings, the Advocate obtained the opinion of the National Institute of Public Health (NIPH) and the Infectious Diseases Clinic. Moreover, the Advocate also obtained information on whether the elderly were prevented from shopping in stores at certain hours in other European countries too. Based on the data collected, the Advocate concluded that the prohibition on entering shops for the elderly after 10 am was not a proportionate measure, and that Slovenia was the only country, apart from only one other European country, which prevented the elderly from shopping after a certain hour. In view of the above, the Advocate assessed that the reservation of time for shopping of vulnerable groups was a proportionate measure, but the provision of the Ordinance of the Government of the Republic of Slovenia prohibiting them from entering after 10 am was discriminatory against the elderly. The Advocate made a recommended to the Government of the Republic of Slovenia not to impose such restrictions in the event of recurrence of the epidemic. (**050-8/2020**)

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<sup>5</sup> Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia (Official Gazette of the RS, Nos. 25/20, 29/20, 32/20, 37/20, 42/20, 44/20, 47/20, 53/20, 58/20, 59/20 and 67/20).

<sup>6</sup> Official Gazette of the Republic of Slovenia, Nos. 25/20, 29/20, 32/20, 37/20, 42/20, 47/20, 53/20, 58/20, 59/20 and 67/20.



**Following the assessment of the Advocate, the provisions of the Citizenship Act, which determine the conditions for extraordinary naturalisation, are not discriminatory against unaccompanied minors**

The complainant approached the Advocate with a request for the assessment of the discriminatory character of the Citizenship of the Republic of Slovenia Act (CRSA), which does not allow unaccompanied minors who show exceptional achievements for the Republic of Slovenia to acquire the Slovenian citizenship by extraordinary naturalisation, unlike adults who have this opportunity. In the proceedings, the Advocate found that the extraordinary naturalisation pursues the state interest, which according to the legislator could be fulfilled only by adults with full legal capacity. The Advocate assessed that the age of majority is an appropriate and suitable condition in view of the goal pursued. The equality body also pointed out that the Citizenship of the Republic of Slovenia Act already provided for a possibility of acquiring citizenship for unaccompanied minors after five years of residence in the Republic of Slovenia based on the status of international protection, without having to prove their benefits to the state for scientific, economic, cultural, national, or similar reasons under Article 13 of the Citizenship of the Republic of Slovenia Act. As a result, the Advocate did not find discriminatory character of the contested regulation. (050-5/2019)

## 1.7.4 The Advocate's recommendations regarding the personal ground of age

### **Recommendation regarding the draft Act on the Intervention for Children and Youth with Emotional and Behavioural Disorders in Education**

During the public consultation, the Advocate made a recommendation regarding the draft Act on the Intervention for Children and Youth with Emotional and Behavioural Disorders in Education (AICYEBDE) and recommended, among other things, supplementing the principles of operation of professional centres with the principles of non-discrimination, the exercise of human rights in line with the individual's age and maturity, the clear right to be informed and to make statements as well as the right of children and adolescents to be included in the consultation within all decision-making processes (the so-called right to be heard). These principles and rights derive from the Convention on the Rights of the Child. Moreover, the Advocate proposed an amendment stating that shall data be collected also for the purpose of ensuring and monitoring the implementation of equal treatment and planning specific measures. (001-6/2020/5)

Recommendation status: Partially taken into account. The legislator took into account only a part of the recommendation, including the proposed principle: "equal opportunities by taking into account the different needs of children and adolescents."

### **Recommendations regarding the draft Act Amending the Act on Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy (Set of measures to mitigate the effects of the epidemic no. 2)**

The Advocate recommended to the National Assembly the adoption of special measures for vulnerable social groups during the COVID-19 epidemic, which were overlooked by the Set of measures to mitigate the effects of the epidemic no. 1 or whose situation was not satisfactorily regulated. In doing so, the Advocate's starting points were the recommendations to the Government of 10 April (no. 0701-5/2020/1), summarising which recommendations were not followed or were only partially followed.

Thus, the Advocate recommended that, in the context of the intervention measures during the epidemic, financial aid be granted to care homes for the elderly. (0701-5/2020/6)

Recommendation status: Recommendations were taken into account.

### **Recommendation regarding the draft Act Amending the State Prosecution Service Act**

Within the framework of professional coordination, the Advocate reminded the MoJ, that two solutions from the draft, which enable interventions in the employment status of state prosecutors, are questionable in the light of the prohibition of discrimination on the grounds of disability and age. (0701-11/2020/1)

Recommendation status: The legislative process is still ongoing.

### **Recommendation regarding the draft of the Long-Term Care Act**

The Advocate recommended to the Ministry of Health that the draft act should clearly define the principle of equal access to long-term care for all, regardless of the personal grounds of the beneficiaries, and the right to independent and autonomous life of the beneficiaries. In the recommendation, the Advocate stated that the act should clearly define the right to long-term care, dis-aggregate all its essential elements, criteria, and methods of exercise of the rights, and the means for their protection. It was also recommended that a comparable level of enjoyment of rights be ensured for children without the status of long-term care beneficiaries. (0701-14/2020/2)

Recommendation status: The legislative process is still ongoing.

**Recommendation regarding the amendment to the Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia – a proposal to extend the time when pensioners, the people with disabilities and pregnant women can buy in stores**

The Advocate recommended to the MEDT that by amending the ordinance, the time interval for shopping in grocery stores intended (exclusively) for particular vulnerable groups be extended. The Advocate was informed that the elderly (pensioners) face a lot of problems caused by the government ordinance, which allows certain vulnerable groups to shop in stores only between 8 am and 10 am, as not everyone can take their turn in time. The Advocate therefore recommended that the MEDT should extend the time interval for shopping in grocery stores intended (exclusively) for particular vulnerable groups by amending the ordinance. [\(0701-2/2020/1\)](#)

Recommendation status: Partially taken into account.

**Recommendation regarding the discriminatory character of the Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia**

The Advocate received numerous complaints in relation to discrimination on the ground of age during the epidemic, as persons over the age of 65 were prohibited to enter stores, except during the time reserved for them (from 8 until 10 and during the last hour of the opening time). Based on the complaints received, the Advocate initiated a discrimination assessment procedure. In the proceedings, the opinion of the National Institute of Public Health (NIPH) was obtained. Moreover, the Advocate also obtained information on whether the elderly were prevented from shopping in stores at certain hours also in any other European countries. Based on the data collected, the Advocate concluded that the prohibition on entering shops for the elderly after 10 am was not a proportionate measure, and that Slovenia was the only European country, apart from Serbia, which prevented the elderly from shopping after a certain hour. In view of the above, the Advocate assessed that the exclusive reservation of time for shopping of vulnerable groups (including the elderly) was a proportionate measure, but the provision of the Ordinance of the Government of the Republic of Slovenia prohibiting them from entering after 10 am was discriminatory against the elderly. [\(050-8/2020/39\)](#)

Recommendation status: Taken into account, as the restriction was no longer applied in the second wave of the epidemic.

### **Recommendation regarding the ensuring of conditions for distance learning for all school-age children**

In the recommendation made to the MESS, the Advocate pointed out that some Slovenian families with school-age children did not have adequate access to distance learning during the time of the epidemic. It was suggested that the Ministry should help schools directly by purchasing information and communication equipment and by providing them with access to the World Wide Web. [\(0701-4/2020/1\)](#)

Recommendation status: Partially taken into account. The Ministry explained that a project is being implemented with the help of various donors to provide school children with the necessary ICT equipment. Based on reports from the media, the Advocate estimated that, despite the efforts of authorities, some children did not have access to ICT equipment and a quality connection to the World Wide Web.

### **Recommendation regarding further measures to mitigate the effects of the COVID-19 epidemic in the housing-related area**

The Advocate recommended further measures to the MESP to mitigate the effects of the COVID-19 epidemic in the housing-related area. As information on the rights and possibilities of aid to tenants is very dispersed, the Advocate recommended that the Ministry should provide accessible and comprehensible information on the rights and possibilities of aid to tenants in one place and closely monitor the situation on the housing market in the coming months and use available measures to respond (e.g. additional subsidies, a freeze of rent), paying special attention to vulnerable groups. [\(0701-5/2020/4\)](#)

Recommendation status: Not taken into account.

### **Recommendation on the ensuring of inclusive education in the case of reoccurring school closures**

The Advocate recommended that, in the case of reoccurring school closures, the MESS should provide for an inclusive education for all children, especially with regard to their access to information and communication technologies. It was pointed out that despite the involvement of all relevant services, there was a difference in the acquisition of knowledge between different groups of students, especially those from the so-called vulnerable groups (e.g. children with a migrant background, children from economically vulnerable backgrounds, Roma children, children with special needs), which had a negative impact on their learning performance and, consequently, on the exercise of their right to education. The Advocate assessed that when distance learning using computer technology was introduced during the first wave of the epidemic, not all students were granted the same opportunities. Moreover, the recommendation that pupils and students entitled to a subsidy for lunch be provided with the payment of funds in the amount of the approved food subsidy during the closure of educational institutions, was once again underlined by the Advocate. [\(0709-60/2020/1\)](#)

Recommendation status: Partially taken into account. The MESS devoted some attention to certain parts of the recommendation, e.g. the psychological and psychosocial consequences of distance learning, and at the end of December 2020, an Ordinance on the reopening of primary schools with a specially adapted program and institutions for the education of children and adolescents with special needs was issued.



## 1.7.5 Highlights of the public opinion survey on discrimination from 2020 with regard to the personal ground of age

Nine per cent of the respondents perceive age as the most common ground of discrimination in Slovenia, which is one percentage point less than in 2017.

Respondents who believe they were subject to discrimination most often consider that the reason was their age (22 per cent), which is three percentage points more than in 2017, when age was also the most common reason.

**The elderly:** 87 per cent of people believe that the elderly can make a significant contribution to the development of society (only five per cent of people disagree); 53 per cent of people think the older generations are just as capable as the younger ones.

At the same time, 11 per cent of participants in the survey believe that the elderly are the most frequent targets of discrimination, which is seven per cent more than in 2017.

**Young people:** 50 per cent of people disagree with the statement that the younger generations have no moral values, which is what 19 per cent of people think.

Four per cent of respondents perceive young people as the most frequent targets of discrimination in Slovenia, which is three percentage points more than in 2017.

Young people (aged 15 to 24) and the elderly (aged between 65 and 75) are those who, on average, show a higher level of tolerance, which is slightly lower among the middle-aged generation, the people aged 25 to 34 are least tolerant.

## 1.7.6 The Advocate's cooperation with civil society with regard to the personal ground of age

### **The Advocate participated in an in-depth EIGE interview**

On 29 September 2020, THE Advocate took part in an in-depth interview as part of a survey carried out by a non-profit private research institute RAND Europe in cooperation with the European Institute for Gender Equality (EIGE). The research focuses on the consequences of the coronavirus epidemic for women and children who are the victims of domestic violence. The research aims to improve the understanding of the various measures and initiatives introduced to support the victims of domestic violence in the context of the crisis as a consequence of the coronavirus epidemic. The representative of the Advocate sent his observations based on the monitoring of the general situation in this field (increasing problems, mental health and anxiety, etc.), and put special emphasis on the observations on good practices, such as targeted awareness raising by NGOs, especially the SOS telephone lines, and by the Police as well as breakthroughs in the field of informing particularly vulnerable groups, (e.g. easy reading on the RTV Slovenia, interpretation of all government press conferences into the Slovenian sign language).

## 1.7.7 The Advocate's educational and awareness-raising activities with regard to the personal ground of age

### **The Advocate at the panel discussion “Human Rights and the Elderly”**

On 22 October 2020, the Head of the Advocate, Miha Lobnik, took part in an online panel discussion entitled “Human Rights and the Elderly”, organised by the Novum Institute and the European Liberal Forum. The starting point of the discussion was the attitude of society towards the elderly, as demonstrated during the COVID-19 epidemic, which showed elements of ageism, from individual cases of excessive protection and resulting excessive restrictions of rights to the exposure of structural and systemic problems of long-standing neglect of long-term care, palliative care and hospital capacities.

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## THE ADVOCATE HIGHLIGHTS

### Article 56 of the Constitution of the Republic of Slovenia (rights of children)

Children shall enjoy special protection and care. Children shall enjoy human rights and fundamental freedoms consistent with their age and maturity.

Children shall be guaranteed special protection from economic, social, physical, mental, or other exploitation and abuse. Such protection shall be regulated by law.

Children and minors who are not cared for by their parents, who have no parents or who are without proper family care shall enjoy the special protection of the state. Their position shall be regulated by law.

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## 1.8 Sexual orientation, gender identity and gender expression

### 1.8.1 Advisory, informing and support activities related to the personal ground of sexual orientation, gender identity and gender expression

#### **Definition of family members when crossing the border**

The Advocate was approached by a client with a question concerning the definition of family members in connection with measures to prevent the spread of coronavirus infection with regard to the crossing of the state border with the Republic of Italy, under the Ordinance of the Government of the Republic of Slovenia.<sup>7</sup> The news, which was published on the official website of the Government of the Republic of Slovenia, did not list partners within a civil union and non-formal civil union under the Civil Union Act (CUA) among the immediate family members.<sup>8</sup> The client wanted to know whether these persons were included among family members who, according to the exceptions, were allowed to visit each other. The Advocate explained that the Ordinance does not contain a definition of who falls under the definition of immediate family members, so it is necessary to rely on the applicable regulations governing family and partnership relations regarding the legal definition of immediate family members. The legal status of partners within a civil union and non-formal civil union to which the client's question refers is regulated in the CUA. According to the CUA, the partners within a civil union or non-formal civil union fall under the definition of immediate family members from the Ordinance in question. In the opposite case, if the Ordinance had been interpreted differently, the question of possible discrimination on the grounds of sexual orientation would have arisen. (0702-72/2020)

#### **Intolerant expression of a member of a particular organisation**

The Advocate was approached by a membership organisation, which provided a letter of support for a project aimed at raising awareness of non-discrimination against members of the LGBT community. One member of the organisation protested because of the letter and publicly distanced himself from the support and expressed intolerant opinions in the record. The Advocate confirmed that the conduct represented inappropriate expression, but at the same time underlined the freedom of expression, which is limited only when opinions lead to criminal offences (e.g. public incitement to hatred, violence or intolerance under Article 297 of the Criminal Code), or when they constitute one of the prohibited forms of discrimination. Such prohibited forms include incitement to discrimination from Article 10 of the PADA, however the opinion of the member does not contain elements of incitement to discrimination. (0702-117/2020)

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<sup>7</sup> Ordinance amending the Ordinance on imposing and implementing measures related to prevent the spread of epidemic COVID-19 at the border crossing points at the external border and inspection posts within national borders of the Republic of Slovenia, Official Gazette of the RS, No. 64/20.

<sup>8</sup> Official Gazette of the Republic of Slovenia, No. 33/16.

## 1.8.2 Discrimination investigation in relation to the personal grounds of sexual orientation, gender identity and gender expression

In 2020, the Advocate did not issue any decision dealing with discrimination investigation in relation to the personal grounds of sexual orientation, gender identity and gender expression.

## 1.8.3 Assessments of discriminatory regulations with regard to the personal grounds of sexual orientation, gender identity and gender expression

**According to the Advocate, the conditions for the conclusion marriage and civil union are discriminatory.**

At the initiative of two individuals, the Advocate assessed the discriminatory character of certain articles of the Family Code (FC) and the Civil Union Act (CUA), which set out the conditions for the conclusion of marriage and civil union and the conditions for access to the possibility of joint adoption. In the assessment, the Advocate found that the existence of two different forms of legal regulation of life partnerships makes unjustified distinction between people and segregates them according to sexual orientation. The character of the union in the case of same-sex or heterosexual life partnership is the same and there is no reason for any legal differentiation between these forms of partnership, which is currently based solely on the gender of partners and/or their sexual orientation, hence, the arrangement constitutes discrimination. According to the Advocate's findings, the conditions for access to joint adoption are also linked to the gender of the partners or their sexual orientation, and the reason for this is not in any way justified. According to the Advocate, the prohibition to apply for joint adoption under the CUE meets the definition of direct discrimination, while the limitation of joint adoption under the FA exclusively on spouses or non-marital partners fulfils the conditions of direct discrimination due to sexual orientation. In this case, the Advocate submitted a request for the assessment of constitutionality and legality to the Constitutional court of the Republic of Slovenia. (050-1/2018)

## 1.8.4 The Advocate's recommendations regarding the personal grounds of sexual orientation, gender identity and gender expression

### Recommendation regarding the draft of the new Communicable Diseases Act

A recommendation was addressed to MH, to provide information, counselling and education in accessible languages, forms and technologies, in line with the principle of accessibility. The Advocate also raised the issue of vaccination as a condition for access to programs of secondary and higher education institutions in the field of health care. A recommendation was also made by the Advocate that protective equipment for persons in disadvantaged material situation be provided by the State and that the MH amend the Act so that persons in a civil union or non-formal civil union be clearly and unambiguously entitled to compensation.

(0070-1/2020/1)

Recommendation status: The legislative process is still ongoing.

## 1.8.5 Highlights of the public opinion survey on discrimination from 2020 with regard to the personal grounds of sexual orientation, gender identity and gender expression

The concept of discrimination is understood by 12 per cent of the population as unequal treatment due to sexual orientation, gender identity or gender expression (which is seven percentage points more than in 2017). In both 2020 and 2017, respondents identified sexual orientation as one of the most common reasons for discrimination in Slovenia (39 per cent), at the same time, they see same-sex people as the most common target of discrimination in Slovenia (24 per cent), which is an increase of ten percentage points compared to 2017.

The respondents agree (72 per cent of people) that same-sex couples should be able to get married, but 16 per cent of people disagree. 58 per cent of respondents do not agree that the law does not provide the same rights to same-sex couples in comparison with other couples, while 22 per cent of people agree.

Regarding parenthood, 49 per cent of respondents believe that two women in a civil union can raise a child in the same way as a man and a woman. 32 per cent of people disagree, while 19 per cent are neutral on the issue.

43 per cent of respondents believe that two men in a civil union can raise a child in an equal way. 40 per cent of respondents disagree with this, and 17 per cent are neutral on this issue.

In general, 53 per cent of respondents agree that same-sex couples should be able to adopt children. 28 per cent of respondents do not agree that same-sex couples have the possibility of adopting children, and 18 per cent are neutral on this issue.

80 per cent of respondents would not mind if their neighbour or co-worker were homosexual, nine per cent of people would feel uncomfortable, while 23 per cent of people are neutral.

76 per cent of people would not mind if their teacher or their children's teacher were homosexual, 25 per cent would feel uncomfortable about it, a quarter of the respondents are neutral.

49 per cent of respondents would hire a person who dresses in the style of the opposite sex, 24 per cent would not, while 27 per cent are neutral in this regard.

37 per cent of people would support their children if they wanted to change their gender, while 35 per cent of people would not support this.

### 1.8.6 The Advocate's cooperation with civil society with regard to the personal grounds of sexual orientation, gender identity and gender expression

Due to the declared epidemic associated with the COVID-19 disease, the Advocate's cooperation with civil society organisations was mostly carried out in written form. This way, the Advocate obtained information on discrimination as perceived by the individual organisations in their particular fields of work.

### 1.8.7 The Advocate's educational and awareness-raising activities with regard to the personal grounds of sexual orientation, gender identity and gender expression

#### **The Advocate at the discussion on the first LGBTIQ + strategy of the European Commission**

The European Commission has adopted the first ever strategy for equality between gays, lesbians, bisexuals, transgender, intersex and queer people (LGBTIQ+ people). On this occasion, the Advocate took part in a conversation organised by the European Commission Representation in Slovenia and the cultural centre Pritličje, which was carried out on 26 November 2020. "The strategy is the result of efforts and endeavours in the wider European space and will represent the basis for specific actions of the European Commission. The strategy reflects that the values of respect for minority rights are being strengthened in Europe. The positive practices of some countries serve as an example of good practice and motivation for other EU Member States. Slovenia is one of those countries that have not yet systematically tackled the issue of violence against young people in schools, nor challenged harassment of people due to their sexual orientation or gender expression at workplace or elsewhere in public life. The strategy provides an opportunity for the State to create a coordination point in one of the departments with the aim of preparing an action plan and implementing various measures in this area," said Miha Lobnik.

## 1.9 Social status

### 1.9.1 Advisory, informing and support activities related to the personal ground of social status

#### **Treating a homeless person**

The Advocate was approached by a homeless person. The client described the treatment which they were subject to from various stakeholders (passers-by, security guards, stores, state authorities). The Advocate provided the client with advisory in various fields of social life. Homelessness can represent a personal ground of social status, which is subject to protection and falls within the definition of personal grounds under the PADA. (0702-38/2019)

### 1.9.2 Discrimination investigation in relation to the personal ground of social status

In 2020, the Advocate did not issue any decision dealing with discrimination investigation in relation to the personal ground of social status.

### 1.9.3 Assessments of the discriminatory character of regulations with regard to the personal ground of social status

In 2020, the Advocate did not conduct assessments of the discriminatory character of regulations with regard to the personal ground of social status.

## 1.9.4 The Advocate's recommendations regarding the personal ground of social status

### **Recommendations regarding the Bill on Amendments to the Act on Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy (Set of measures to mitigate the effects of the epidemic no. 2)**

The Advocate recommended to the National Assembly the adoption of special measures for vulnerable social groups during the COVID-19 epidemic, which were overlooked by the Set of measures to mitigate the effects of the epidemic No. 1 or whose situation was not satisfactorily regulated. In doing so, the Advocate's starting points were the recommendations to the Government of 10 April (No. 0701-5/2020/1), summarising which recommendations were not followed or were only partially followed.

Thus, the Advocate recommended that, in the context of the intervention measures during the epidemic, the following be provided: a subsidy for lunch for pupils and students; financial aid to persons entitled to or providing personal assistance; financial aid to care homes for the elderly; emergency health care and the right to basic care in the form of cash social assistance to foreigners legally residing in the Republic of Slovenia; additional aid to single-parent families, families of children with special needs, self-employed parents working part-time, socially disadvantaged tenants and recipients of loans, unemployed, homeless, students and the elderly residing in care homes. (0701-5/2020/6)

Recommendation status: The recommendations were taken into account or partially taken into account mainly in the subsequent Set of measures to mitigate the effects of the epidemic, possibly several times, e.g. aid to students under the Set of measures to mitigate the effects of the epidemic No. 2 (additional inclusion of part-time students), Set of measures to mitigate the effects of the epidemic No. 7 (recurrence of assistance in the second wave of the epidemic) and the Set of measures to mitigate the effects of the epidemic No. 8 (supplementing the list of beneficiaries). And lastly, four recommendations were taken into account (aid to families of children with special needs, self-employed parents, parents or guardians of children or adults with special needs, differentiation according to the condition of paid overdue tax liabilities); seven recommendations were partially taken into account (pupils and students, tenants and recipients of housing loans, unemployed or homeless people, students, care homes for the elderly), and three were not taken into account (single-parent families, personal assistance, foreigners).



### **Recommendation regarding the draft Act Determining Intervention Measures to Assist in Mitigating the Consequences of the Second Wave of COVID-19 Epidemic (Set of measures to mitigate the effects of the epidemic No. 7)**

The Advocate of the Principle of Equality made a recommendation to the Deputies of the National Assembly on how to supplement certain proposed solutions to comply with the principles of equality, equal treatment and equal opportunities. The Advocate's recommendation refers to: termination of employment for no reason to employees who fulfil the conditions for retirement; crisis allowance for work during the epidemic for workers whose last paid monthly wage did not exceed the double of the minimum wage; crisis allowance for those who make use of the maternity, paternity or parental leave; solidarity allowance for lunch and financial aid for single-parent families; solidarity allowance eligible for families from the 1st to 6th income bracket inclusive (not only up to the fifth); special additional aid for single-parent families; special regular monthly allowance for students whose main source of livelihood is student work if they are unable to do the work due to the epidemic; extraordinary aid at the birth of a child; adequate and decent pay and allowance for work in risky situations for high-school students, university students, pensioners, volunteers and others working in health care, in care homes for the elderly and in special social welfare institutions during the epidemic; additional financial aid to care homes for the elderly, also for the purpose of enabling contacts of residents of the homes with their relatives and family members.

(0070-8/2020/1)

Recommendation status: Partially taken into account in the part of extraordinary aid at the birth of a child (extension of the period) and solidarity allowance for children (expanding the list of beneficiaries). Within the Set of measures to mitigate the effects of the epidemic No. 7, the recommendation of the Advocate from the Set of measures to mitigate the effects of the epidemic No. 5 was taken into account regarding the compensation of wages for workers who are unable to perform work due to quarantine at home or childcare which must not be lower than the minimum wage in the Republic of Slovenia. In part, the recommendation was also taken into account within the Set of measures to mitigate the effects of the epidemic No. 8, namely regarding the solidarity allowance for adult high-school students.

### **Recommendation regarding the opening of self-service laundries within the Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia**

Based on a complaint, the Advocate considered the case of the closure of self-service laundries during the first wave of the epidemic. In the proceedings, it was assessed that the interpretation of the Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia, which does not consider self-service laundries among the exceptions (together with "other emergency services to ensure public safety and health"), disproportionately adversely affects socially disadvantaged individuals living in worse material circumstances and prevents them from ensuring basic hygiene. A recommendation was addressed to the MEDT that when interpreting the Ordinance, laundries should be included among the exceptions and thus remain open. (0700-22/2020/4)

Recommendation status: Not taken into account.

### **Recommendation directed at the Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia – opening of self-service laundries**

During the second wave of the epidemic, the Advocate again received a question regarding the opening of laundries. In the same way as in the recommendation of 9 April 2020, the Advocate assessed, that the closure of self-service laundries disproportionately affects the situation of persons whose access to the minimum hygiene standards is prevented, as a result of their social status and material circumstances. Therefore, a recommendation was made to the MEDT, that the according to the interpretation of the Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia, self-service laundries should be considered among “other emergency services to ensure public safety and health” which would enable the reopening of the laundries (or that the self-service laundries be included among the specific exceptions). **(0702-136/2020/4)**  
Recommendation status: Not taken into account.

### **Recommendation regarding the adoption of additional measures to protect the homeless during the COVID-19 epidemic**

During the first wave of the epidemic, the Advocate recommended that all Slovenian municipalities take special measures for the homeless in terms of providing safe all-day accommodation, use of protective equipment, access to toilets, hot meals, laundry, access to substitution therapies, etc. Due to the restriction on freedom of movement and gathering of people in public places and areas, the homeless are(were) disproportionately affected. The municipalities closed public toilets, compromising the chances of the homeless to take care of personal hygiene and increasing the likelihood of a deterioration of their health. **(0709-38/2020/1)**

Recommendation status: Partially taken into account. Municipalities were informed about the recommendation by various associations, one municipality responded to the Advocate. The situation in individual municipalities with regard to the measures is not known to the Advocate.

## **1.9.5 Highlights of the public opinion survey on discrimination from 2020 with regard to the personal ground of social status**

The poor are largely perceived as the most frequent victims of discrimination in Slovenia (21 per cent of respondents, which is ten percentage points more than in 2017), while four per cent of respondents perceive people of lower social status as the most frequent targets of discrimination.

### 1.9.6 The Advocate's cooperation with civil society with regard to the personal ground of social status

Due to the declared epidemic associated with the COVID-19 disease, the Advocate's cooperation with civil society organisations was mostly carried out in written form. This way, the Advocate obtained information on discrimination as perceived by the individual organisations in their particular fields of work.

### 1.9.7 The Advocate's educational and awareness-raising activities with regard to the personal ground of social status

In 2020, the Advocate placed particular emphasis on bringing to light the situation of individual vulnerable groups during the COVID-19 epidemic with the help of the media and publications on social networks. In various ways, including participation in numerous panel discussions, the Advocate justified the necessity of adapting the anti-corona measures to the principle that no one should be left behind the society.

## 1.10 Property status

### 1.10.1 Advisory, informing and support activities related to the personal ground of property status

#### **Conditioning the rental of an apartment with the employment of the tenant**

The Market Inspectorate of the Republic of Slovenia (MIRS) requested the Advocate's opinion regarding the conduct of a real estate company, which made the rental of an apartment conditional upon the employment of the tenant. The Advocate explained that in such cases the proportionality test should be observed to establish and verify which legitimate goal is being pursued by setting this condition and whether the means to achieve this goal are appropriate and necessary. The Advocate further explained that the condition of employment can indeed be excessive, as it prevents access to renting an apartment and thus enjoying one of the basic human rights, for those who may be unemployed, but can provide the owner of the apartment with regular rent payments. There may be other, less restrictive measures to pursue the legitimate goal of ensuring regular payments of rent, and not merely the condition of regular employment. However, if there are less restrictive ways, then the condition of regular employment is not necessary, and the proportionality test is not complied with. In the subject case, therefore, no exception to the prohibition of direct discrimination would be granted and the treatment described is not acceptable, on the contrary, it is discriminatory. [\(0702-143/2020\)](#)

#### **Rejection of the application for a bank account overdraft in the case of negative balance**

The Advocate was approached by a client whose bank rejected a request for a bank account overdraft due to a previous personal bankruptcy. The client posed the question of why, as a socially disadvantaged person and a recipient of social aid, they are not entitled to this banking service and whether the conduct constitutes discrimination on the grounds of property status. The Advocate explained to the client that the conditions for granting the bank account overdraft may be based on the personal ground of property status. However, such conditions are not necessarily unlawful, as the bank may have legitimate reasons for not granting a bank account overdraft to persons subject to personal bankruptcy. The specific reasons why the bank refused to grant the bank account overdraft to persons in personal bankruptcy, and whether the bank's terms and conditions are appropriate, necessary, and proportionate, can be determined by the Advocate only in a declaratory administrative procedure, so the Advocate invited the client to submit a complaint. [\(0702-111/2020\)](#)

## Refusal to open a basic bank account

The Advocate was approached by a client whose request for the opening of a basic bank account was denied by several banks due to past executions. As a result, the client was in a difficult situation, as they got a job and, in accordance with Article 135 of the Employment Relationships Act,<sup>9</sup> the Employer was obliged to pay them using a transfer to a bank account. The Advocate advised the client to request a written explanatory note from the bank on the reasons for the refusal to open an account. The client did so and sent the reply by the bank to the Advocate, however, the reasons for the refusal were not clearly stated. The Advocate found that the refusal to open a basic bank account for the stated reason is justified under the third indent of paragraph 7 of Article 181 of the Payment Services, Services for Issuing Electronic Money and Payment Systems Act (PSSIEMPSA).<sup>10</sup> The Advocate addressed an inquiry to the Bank of Slovenia as to whether a situation is permissible in which an individual can be left without a bank account, and at the same time the law obliges their employer to pay their salary to a bank account. The Bank of Slovenia explained that the possibility of some consumers being left without a bank account on the basis of the said provision was already detected, and that the problem was reported to the competent ministry and with a call for a suitable solution. The Advocate noted that the client was able to solve the problem by opening a bank account abroad, therefore, the Advocate decided to consider addressing the problem at the systemic level. (0702-85/2020)

## Difficulties in exercising the right to cash social assistance

The Advocate was approached by a client who described their difficulties in exercising their right to cash social assistance. The Advocate advised the client on how to apply for the cash social assistance. (0702-47/2020)

### 1.10.2 Discrimination investigation in relation to the personal ground of property status

In 2020, the Advocate did not issue any decision dealing with discrimination investigation in relation to the personal ground of property status.

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<sup>9</sup> Employment Relationships Act (Official Gazette of the RS, No. 21/13, 78/13 – amended, 47/15 – ZZSDT, 33/16 – PZ-F, 52/16, 15/17 – decision of the Constitutional Court, 22/19 – Trade Secrets Act, 81/19 and 203/20 – ADIMAMCSWE).

<sup>10</sup> Official Gazette of the Republic of Slovenia, Nos. 7/18, 9/18 – corr. and 102/20.

### 1.10.3 Assessments of the discriminatory character of regulations with regard to the personal ground of property status

#### **According to the Advocate, the decision on macro-prudential restrictions on household lending by the Bank of Slovenia is not discriminatory**

As of 1 November 2019, the Bank of Slovenia issued a resolution<sup>11</sup> tightening the conditions under which banks and savings banks may grant consumer and housing loans to consumers. The Advocate assessed the discriminatory character of the decision and concluded that, given the social status, financial situation and family status of the borrowers, the decision does not constitute discrimination as the restrictions are an appropriate, necessary, and proportionate measure to ensure financial stability. (050-8/2019)

#### **According to the Advocate, the government regulation on exceptions to border crossings for property owners in Croatia is not discriminatory**

The Advocate addressed the complaint of a client regarding the ordinance on restrictions on the crossing of borders with neighbouring countries.<sup>12</sup> Until 28 September 2020, this ordinance stipulated particular exceptions to mandatory quarantine when crossing the border. The exceptions also included owners or tenants of real estate, vessels, or campsite plots. The client alleged discrimination on the grounds of property status, as those who do not have property or contractual rights in a neighbouring country are in a disadvantaged situation when crossing the border. The Advocate assessed that the exceptions to the mandatory quarantine also include a number of other life situations which take into account a special situation of the persons concerned and their need to cross the border. The equality body also assessed that a property or contractual right in another country does not say anything about a person's property status. Hence, no personal ground was given in the case. The Advocate assessed that the regulation was not discriminatory. (050-19/2020)

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<sup>11</sup> Decision on macro-prudential restrictions on household lending by the Bank of Slovenia is not discriminatory, Official Gazette of the Republic of Slovenia, No. 64/19 and 75/20. Slovenia, Official Gazette of the Republic of Slovenia, No. 64/20.

<sup>12</sup> Ordinance of imposing and implementing measures to prevent the spread of epidemic COVID-19 at the border crossing points at the external border and inspection posts within national borders of the Republic of Slovenia (Official Gazette of the Republic of Slovenia, No. 112/20, 115/20, 120/20, 121/20 - corr. in 130/20).



## 1.10.4 The Advocate's recommendations regarding the personal ground of property status

### **Recommendation regarding the draft Integrated National Energy and Climate Plan**

As part of the public consultation on the amended draft Integrated National Energy and Climate Plan (NECP), the Advocate made a recommendation on the problem of energy poverty. The Advocate pointed out that in the context of energy policy changes, energy poverty is not only problematic in terms of “fair and equitable transition”, but also in terms of discrimination, so a recommendation was made to the MoI, that the chapter on energy poverty in the draft NECP be extended to include a clear definition of energy poverty in Slovenia, as well as specific objectives and measures (including social policies), should the set objectives not be complied with according to the planned dynamics. (0701-1/2020/1)  
Status: Not taken into account.

### **Recommendation regarding the draft Act Amending the Housing Act**

Regarding the draft act, the Advocate recommended amendments to the MESP with the aim of improving physical accessibility of multi-apartment buildings for people with disabilities, access to higher subsidies for non-profit rent and right of access to non-profit apartments for foreigners with permanent residence (residents). (0709-62/2020/1)  
Recommendation status: The legislative process is still ongoing.

### **Recommendation regarding the draft of the new Communicable Diseases Act**

A recommendation was addressed to MH, to provide information, counselling and education in accessible languages, forms and technologies, in line with the principle of accessibility. The Advocate also raised the issue of vaccination as a condition for access to programs of secondary and higher education institutions in the field of health care. A recommendation was also made by the Advocate that protective equipment for persons in disadvantaged material situation be provided by the State and that the MH amend the Act so that persons in a civil union or non-formal civil union be clearly and unambiguously entitled to compensation. (0070-1/2020/1)  
Recommendation status: The legislative process is still ongoing.

## **Recommendation regarding the draft of the Long-Term Care Act**

The Advocate recommended to the Ministry of Health that the draft act should clearly define the principle of equal access to long-term care for all, regardless of the personal grounds of the beneficiaries, and the right to independent and autonomous life of the beneficiaries. In the recommendation, the Advocate stated that the act should clearly define the right to long-term care, dis-aggregate all its essential elements, criteria and methods of exercise of the rights, and the means for their protection. It was also recommended that a comparable level of enjoyment of rights be ensured for children without the status of long-term care beneficiaries. (0701-14/2020/2)

Recommendation status: The legislative process is still ongoing.

## **Recommendations regarding the Bill on Amendments to the Act on Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy (Set of measures to mitigate the effects of the epidemic No. 2)**

The Advocate recommended to the National Assembly the adoption of special measures for vulnerable social groups during the COVID-19 epidemic, which were overlooked by the Set of measures to mitigate the effects of the epidemic No. 1 or whose situation was not satisfactorily regulated. In doing so, the Advocate's starting points were the recommendations to the Government of 10 April (No. 0701-5/2020/1), summarising which recommendations were not followed or were only partially followed.

Thus, the Advocate recommended that, in the context of the intervention measures during the epidemic, the following be provided: a subsidy for lunch for pupils and students; financial aid to persons entitled to or providing personal assistance; financial aid to care homes for the elderly; emergency health care and the right to basic care in the form of cash social assistance to foreigners legally residing in the Republic of Slovenia; additional aid to single-parent families, families of children with special needs, self-employed parents working part-time, socially disadvantaged tenants and recipients of loans, unemployed, homeless, students and the elderly residing in care homes. (0701-5/2020/6)

Recommendation status: The recommendations were taken into account or partially taken into account mainly in the subsequent Set of measures to mitigate the effects of the epidemic, possibly several times, e.g. aid to students under the Set of measures to mitigate the effects of the epidemic No. 2 (additional inclusion of part-time students), Set of measures to mitigate the effects of the epidemic No. 7 (recurrence of assistance in the second wave of the epidemic) and the Set of measures to mitigate the effects of the epidemic No. 8 (supplementing the list of beneficiaries).

And lastly, four recommendations were taken into account (aid to families of children with special needs, self-employed parents, parents or guardians of children or adults with special needs, differentiation according to the condition of paid overdue tax liabilities); seven recommendations were partially taken into account (pupils and students, tenants and recipients of housing loans, unemployed or homeless people, students, care homes for the elderly), and three were not taken into account (single-parent families, personal assistance, foreigners).



### **Recommendation regarding the draft Act Determining Temporary Measures to Mitigate and Remedy the Consequences of COVID-19 (Set of measures to mitigate the effects of the epidemic No. 5)**

The Advocate recommended to the National Assembly that the measures also provide workers who cannot perform their work due to quarantine or childcare (i.e. force majeure) with compensation not lower than the minimum wage (which was already in force during the first wave of the epidemic). Guardians of adults with intellectual and psychosocial disabilities and guardians and foster parents of children should be included among the workers who are unable to perform their work due to so-called force majeure. The Advocate recommended that additional justifications for distinguishing certain beneficiaries and methods of determining the amount of aid or compensation be included in the act. It was also recommended that consideration be given to introducing additional special measures to ensure equal opportunities for the people most affected by the adoption of stricter measures envisaged in the government's plan to prevent the spread of infections. (0701-15/2020/1)

Recommendation status: The recommendation was taken into account in the part where the Advocate proposed compensation in the amount of at least the minimum wage (in Set of measures to mitigate the effects of the epidemic No. 7) and that guardians and foster parents of persons, including adults, be included among the recipients of compensation (by way of amendments). The recommendation regarding the unjustified differentiation of beneficiaries of aid was not taken into account.

### **Recommendation regarding the draft Act Determining Intervention Measures to Assist in Mitigating the Consequences of the Second Wave of COVID-19 Epidemic (Set of measures to mitigate the effects of the epidemic No. 7)**

The Advocate of the Principle of Equality made a recommendation to the Deputies of the National Assembly on how to supplement certain proposed solutions to comply with the principles of equality, equal treatment and equal opportunities. The Advocate's recommendation refers to: termination of employment for no reason to employees who fulfil the conditions for retirement; crisis allowance for work during the epidemic for workers whose last paid monthly wage did not exceed the double of the minimum wage; crisis allowance for those who make use of the maternity, paternity or parental leave; solidarity allowance for lunch and financial aid for single-parent families; solidarity allowance eligible for families from the 1st to 6th income bracket inclusive (not only up to the fifth); special additional aid for single-parent families; special regular monthly allowance for students whose main source of livelihood is student work if they are unable to do the work due to the epidemic; extraordinary aid at the birth of a child; adequate and decent pay and allowance for work in risky situations for high-school students, university students, pensioners, volunteers and others working in health care, in care homes for the elderly and in special social welfare institutions during the epidemic; additional financial aid to care homes for the elderly, also for the purpose of enabling contacts of residents of the homes with their relatives and family members. (0070-8/2020/1)

Recommendation status: Partially taken into account in the part of extraordinary aid at the birth of a child (extension of the period) and solidarity allowance for children (expanding the list of beneficiaries). Within the Set of measures to mitigate the effects of the epidemic No. 7, the recommendation of the Advocate from the Set of measures to mitigate the effects of the epidemic No. 5 was taken into account regarding the compensation of wages for workers who are unable to perform work due to quarantine at home or childcare which must not be lower than the minimum wage in the Republic of Slovenia. In part, the recommendation was also taken into account within the Set of measures to mitigate the effects of the epidemic No. 8, namely regarding the solidarity allowance for adult high-school students.

**Recommendation regarding the opening of self-service laundries within the Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia**

Based on a complaint, the Advocate considered the case of the closure of self-service laundries during the first wave of the epidemic. In the proceedings, it was assessed that the interpretation of the Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia, which does not consider self-service laundries among the exceptions (together with “other emergency services to ensure public safety and health”), disproportionately adversely affects socially disadvantaged individuals living in worse material circumstances and prevents them from ensuring basic hygiene. A recommendation was addressed to the MEDT that when interpreting the Ordinance, laundries should be included among the exceptions and thus remain open. [\(0700-22/2020/4\)](#)

Recommendation status: Not taken into account.

**Recommendation directed at the Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia – opening of self-service laundries**

During the second wave of the epidemic, the Advocate again received a question regarding the opening of laundries. In the same way as in the recommendation of 9 April 2020, the Advocate assessed, that the closure of self-service laundries disproportionately affects the situation of persons whose access to the basic hygiene standards is prevented, as a result of their social status and material circumstances. Therefore, a recommendation was made to the MEDT, that the according to the interpretation of the Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia, self-service laundries should be considered among “other emergency services to ensure public safety and health” which would enable the reopening of the laundries (or that the self-service laundries be included among the specific exceptions). [\(0702-136/2020/4\)](#)

Recommendation status: Not taken into account.



### **Recommendation regarding the adoption of additional measures to protect the homeless during the COVID-19 epidemic**

During the first wave of the epidemic, the Advocate recommended that all Slovenian municipalities take special measures for the homeless in terms of providing safe all-day accommodation, use of protective equipment, access to toilets, hot meals, laundry, access to substitution therapies, etc. Due to the restriction on freedom of movement and gathering of people in public places and areas, the homeless are(were) disproportionately affected. The municipalities closed public toilets, compromising the chances of the homeless to take care of personal hygiene and increasing the likelihood of a deterioration of their health.

**(0709-38/2020/1)**

Recommendation status: Partially taken into account. Municipalities were informed about the recommendation by various associations, one municipality responded to the Advocate. The situation in individual municipalities with regard to the measures is not known to the Advocate.

### **Recommendation regarding the ensuring of conditions for distance learning for all school-age children**

In the recommendation made to the MESS, the Advocate pointed out that some Slovenian families with school-age children did not have adequate access to distance learning during the time of the epidemic. It was suggested that the Ministry should help schools directly by purchasing information and communication equipment and by providing them with access to the World Wide Web. **(0701-4/2020/1)**

Recommendation status: Partially taken into account. The Ministry explained that a project is being implemented with the help of various donors to provide school children with the necessary ICT equipment. Based on reports from the media, the Advocate estimated that, despite the efforts of authorities, some children did not have access to ICT equipment and a quality connection to the World Wide Web.

### **Recommendation regarding further measures to mitigate the effects of the COVID-19 epidemic in the housing-related area**

The Advocate recommended further measures to the MESP to mitigate the effects of the COVID-19 epidemic in the housing-related area. As information on the rights and possibilities of aid to tenants is very dispersed, the Advocate recommended that the Ministry should provide accessible and comprehensible information on the rights and possibilities of aid to tenants in one place and closely monitor the situation on the housing market in the coming months and use available measures to respond (e.g. additional subsidies, a freeze of rent), paying special attention to vulnerable groups. **(0701-5/2020/4)**

Recommendation status: Not taken into account.

## **Recommendations regarding further measures to mitigate the effects of the COVID-19 epidemic with a view to preventing and eliminating discrimination**

The Advocate highlighted the uneven impact of the epidemic on already vulnerable groups and suggested that the Government of the Republic of Slovenia should adopt (additional) special measures to help these groups, as it is crucial that all efforts during the epidemic follow the principle that “no one should be left behind”. Among other things, the Advocate drew attention to a particularly difficult situation of: single-parent families; families of children with special needs; self-employed parents working part-time; pupils and students (in terms of lunch); socially disadvantaged tenants and recipients of loans; unemployed; homeless; students; the elderly in care homes and foreigners. (0701-5/2020/1)

Recommendation status: The recommendations were taken into account or partially taken into account mainly in the subsequent Set of measures to mitigate the effects of the epidemic, possibly several times, e.g. aid to students under the Set of measures to mitigate the effects of the epidemic No. 2 (additional inclusion of part-time students), Set of measures to mitigate the effects of the epidemic No. 7 (recurrence of assistance in the second wave of the epidemic) and the Set of measures to mitigate the effects of the epidemic No. 8 (supplementing the list of beneficiaries). And lastly, four recommendations were taken into account (aid to families of children with special needs, self-employed parents, parents or guardians of children or adults with special needs, differentiation according to the condition of paid overdue tax liabilities); seven recommendations were partially taken into account (pupils and students, tenants and recipients of housing loans, unemployed or homeless people, students, care homes for the elderly), and three were not taken into account (single-parent families, personal assistance, foreigners).

## **Recommendation on the ensuring of inclusive education in the case of reoccurring school closures**

The Advocate recommended that, in the case of reoccurring school closures, the MESS should provide for an inclusive education for all children, especially with regard to their access to information and communication technologies. It was pointed out that despite the involvement of all relevant services, there was a difference in the acquisition of knowledge between different groups of students, especially those from the so-called vulnerable groups (e.g. children from economically vulnerable backgrounds, Roma children, children with special needs), which had a negative impact on their learning performance and, consequently, on the exercise of their right to education. The Advocate assessed that when distance learning using computer technology was introduced during the first wave of the epidemic, not all students were granted the same opportunities. Moreover, the recommendation that pupils and students entitled to a subsidy for lunch be provided with the payment of funds in the amount of the approved food subsidy during the closure of educational institutions, was once again underlined by the Advocate. (0709-60/2020/1)

Recommendation status: Partially taken into account. The MESS devoted some attention to certain parts of the recommendation, e.g. the psychological and psychosocial consequences of distance learning, and at the end of December 2020, an Ordinance on the reopening of primary schools with a specially adapted program and institutions for the education of children and adolescents with special needs was issued.

### 1.10.5 Highlights of the public opinion survey on discrimination from 2020 with regard to the personal ground of property status

Among the participants of the survey, seven per cent understand discrimination as unequal treatment based on the person's property status. At the same time, 17 per cent of respondents perceive property status as the most common reason for discrimination in Slovenia, which is the same as in 2017.

From the 22 per cent of people who claimed to have experienced discrimination in 2020, 14 per cent of the participants in the survey were discriminated against due to the personal ground of property status (which is approximately 1.5 per cent of the population of Slovenia).

### 1.10.6 The Advocate's cooperation with civil society with regard to the personal ground of property status

Due to the declared epidemic associated with the coronavirus disease, the Advocate's cooperation with civil society organisations was mostly carried out in written form. This way, the Advocate obtained information on discrimination as perceived by the individual organisations in their particular fields of work.

### 1.10.7 The Advocate's educational and awareness raising activities with regard to the personal ground of property status

In 2020, the Advocate placed particular emphasis on bringing to light the situation of individual vulnerable groups during the COVID-19 epidemic with the help of the media and publications on social networks. In various ways, including participation in numerous panel discussions, the Advocate justified the necessity of adapting the anti-corona measures to the principle that no one should be left behind by the society.

## 1.11 Education

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### THE ADVOCATE HIGHLIGHTS

Article 57 of the Constitution of the Republic of Slovenia  
(education and schooling)

Freedom of education shall be guaranteed.

Primary education is compulsory and shall be financed from public funds.

The state shall create the opportunities for citizens to obtain a proper education.

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#### 1.11.1 Advisory, informing and support activities related to the personal ground of education

##### Conditions for appointing the Dean

The Advocate was approached by one of the universities regarding a change in the statute, which was being prepared. The planned changes included new conditions for the appointment of the Dean of one of the faculties. The university wanted to know whether the conditions were discriminatory. The Advocate explained its powers and the fact that a position can be taken only after a procedure has been completed. Therefore, the Advocate informed the client on how to initiate the procedure and in what way the decision-making takes place. In particular, the Advocate would assess whether the condition is linked to personal grounds, such as education, and then assess which legitimate objective the condition pursues, whether the condition is consistent with the proportionality test – whether it is appropriate, necessary, and proportionate. (0702-33/2020)

##### The procedure of recognition of competencies at the faculty

The Advocate was approached by a client who was involved in the procedure of recognising competencies at one of the faculties. As the faculty failed to recognise certain competencies, the client did not have the opportunity to enrol at the desired level and in the selected direction of education. Therefore, the client asked the Advocate for support and advice regarding the recognition of competencies. The Advocate explained that the area of recognition of competencies is not a question of discrimination with reference to the personal grounds of the client, but a professional issue in the field of higher education, which the Advocate cannot interfere with. (0702-118/2020)

## 1.11.2 Discrimination investigation in relation to the personal ground of education

### **Refusal to enrol in the second year of the second cycle does not constitute discrimination**

The complainant, who had already completed his second cycle degree, wished to enrol in the second cycle in another field of study at the same faculty. The University did not grant the request. As a result, the complainant alleged discriminatory treatment on the grounds of education. He compared his situation with graduates of the four-year undergraduate degree, who were allowed to enrol directly in the second year. In this case, the Advocate found that the complainant was not in a comparable situation with the graduates of the four-year undergraduate degree, as they had not obtained a master's degree upon completion of their studies, while the applicant has. Enrolment directly in the second year of the second cycle degree only enables them to obtain a master's degree, which the complainant has already obtained. As a result, the Advocate did not find discrimination on the grounds of education. (Decision No. [0700-2/2020/21](#) of 31 August 2020)

## 1.11.3 Assessments of the discriminatory character of regulations with regard to the personal ground of education

In 2020, the Advocate did not conduct assessments of the discriminatory character of regulations with regard to the personal ground of education.

## 1.11.4 The Advocate's recommendations regarding the personal ground of education

### **Recommendation regarding the draft of the new Communicable Diseases Act**

A recommendation was addressed to MH, to provide information, counselling and education in accessible languages, forms, and technologies, in line with the principle of accessibility. The Advocate also raised the issue of vaccination as a condition for access to programs of secondary and higher education institutions in the field of health care. ([0070-1/2020/1](#))  
Recommendation status: The legislative process is still ongoing.

### 1.11.5 Highlights of the public opinion survey on discrimination from 2020 with regard to the personal ground of education

Five percent of respondents thought that people with particular skills or education are the most common target of discrimination in Slovenia (which is an increase of two percentage points compared to 2017), ten percent of people consider education as the most common reason for discrimination in Slovenia (which is three percentage points more than in 2017).

In 2020, the population expressed a high degree of tolerance (the second largest) towards different educational groups; namely, 87 percent of the respondents stated that they do not avoid people with lower levels of educational attainment compared to themselves, while seven percent of the population avoids such contacts – which remained unchanged compared to 2017.

The frequency of discrimination on the basis of education is also reflected in the fact that (among the 22 percent of respondents who claimed to have experienced discrimination in 2020), 20 percent were discriminated against on the basis of their education.

### 1.11.6 The Advocate's cooperation with civil society with regard to the personal ground of education

Due to the declared epidemic associated with the coronavirus disease, the Advocate's cooperation with civil society organisations was mostly carried out in written form. This way, the Advocate obtained information on discrimination as perceived by the individual organisations in their particular fields of work.

### 1.11.7 The Advocate's educational and awareness raising activities with regard to the personal ground of education

In 2020, the Advocate did not conduct any special educational or awareness-raising activities with regard to the personal ground of education.



## 1.12 Other personal grounds

The examples presented below include the work of the Advocate on cases marked by other personal grounds.

These are personal grounds that are not explicitly listed in the PADA, but according to their characteristics they can be classified among the so-called other personal grounds. A condition is that these personal grounds are such personal characteristics of the individual which are out of their control and for which it is reasonable to expect that the individual could not easily give them up.

Other personal grounds that the Advocate considered in 2020 are:

- health status, body weight and height,
- parenthood and family status,
- citizenship,
- place of residence,
- trade-union membership.

And other listed personal grounds where the Advocate did not acknowledge the status of another personal ground:

- employment status, self-employment, and concessionaire status,
- membership in a hunting association.

## 1.12.1 Advisory, informing and support activities – anonymised cases

### Health status

#### Evaluating an employee on long-term sick leave

The Advocate was approached by a client employed in the public sector who sought advice because their employer did not want to evaluate them due to long-term sick leave. The non-evaluation has negative consequences for the client as a civil servant, that is why the client asked for information about the possibilities of action. The Advocate advised the client on the available legal remedies that could be used for the protection of rights under the Public Sector Salary System Act,<sup>13</sup> under the Public Employees Act<sup>14</sup> and under the Employment Relationships Act,<sup>15</sup> and how discrimination can be alleged on the ground of health status using these legal remedies. (0702-4/2020)

#### Different criteria in determining the method of calculating business performance bonuses

Following a decision on the discriminatory calculation of business performance, i.e. the Christmas bonus, with regard to the presence of the employee at the workplace (case no. 0700-30/2019, decision of 4 September 2019) several individuals approached the Advocate whose employers used the same method of calculating Christmas bonuses. They wanted to know whether the Decision where the Advocate found indirect discrimination on the grounds of gender, parenthood and health status had effect only in the specific case or whether it also applies to other companies with the same practice. The Advocate explained that the decision has effect only in the specific case of the company against which the complaint was lodged. Since the decision of the Advocate was upheld by the Administrative Court of the Republic of Slovenia (judgement No. I U 29/2020-21 of 11 November 2020), it can be expected that the Advocate will issue the same decision in all other cases where the de facto and de jure situation is substantially the same as in the case under consideration. The Advocate invited the clients to lodge a complaint, which may also be anonymous. (0702-8/2020)

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<sup>13</sup> Official Gazette of the Republic of Slovenia, No. 108/09 – official consolidated text, 13/10, 59/10, 85/10, 107/10, 35/11 – ORZSPJS49a, 27/12 – decision of the Constitutional Court, 40/12 – ZUJF, 46/13, 25/14 – Financial Administration Act, 50/14, 95/14 – Public Sector Salary System Act 15, 82/15, 23/17 – State Attorneys Office Act, 67/17 and 84/18.

<sup>14</sup> Official Gazette of the Republic of Slovenia, Nos. 63/07 – official consolidated text, 65/08, 69/08 – Market in Financial Instruments Act-A, 69/08 – Insurance Act-E, 40/12 – Fiscal Balance Act, 158/20 – Integrity and Prevention of Corruption Act-C and 203/20 – ADIMAMCSWE.

<sup>15</sup> Official Gazette of the Republic of Slovenia, Nos. 21/13, 78/13 – amended, 47/15 – Employment, Self-employment and Work of Foreigners Act, 33/16 – Act Amending the Maritime Code, 52/16, 15/17 decision of the Constitutional Court, 22/19 – Trade Secrets Act, 81/19 and 203/20 – ADIMAMCSWE.

## **Exercising the option of shopping in stores at a time reserved exclusively for vulnerable groups**

The Advocate was approached by a client who, being a chronic patient, wanted to exercise the right of shopping in stores at the time reserved exclusively for vulnerable groups during the coronavirus epidemic.<sup>16</sup> The latter were mentioned in the relevant Ordinance of the Government of the Republic of Slovenia only by way of example, while special emphasis was put on persons over the age of 65. However, the client was younger, and their vulnerability was not visible on the outside, so they asked for advice on how to exercise this particular advantage. The Advocate provided the client with an explanation including a legal opinion and advised them to obtain a medical certificate, which will enable the exercise of the stated advantage. (0702-50/2020)

## **Humour without stigmatising the vulnerable**

A client drew the Advocate's attention to a radio play posted on the radio's online social networks that inappropriately stigmatised people with mental health problems. The Advocate issued to the radio station a recommendation to remove the disputed content and to assess its suitability from the point of view of protection against discrimination. (0702-42/2020)

## **Unilateral order of annual leave**

The Advocate was approached by a client who returned from holidays abroad immediately after the declared epidemic. Their employer forced them to use their annual leave, and did not allow them to work from home, unlike their colleagues, who had this opportunity, this made the client feel discriminated against. Therefore, the client asked the Advocate for advice. The Advocate explained that the employer must not unilaterally order annual leave to an employee, not even during the current epidemiological situation in Slovenia. Article 163 of the Employment Relationships Act stipulates that annual leave is used in such a way as to take into account the needs of the work process, the possibilities for rest and recreation of the employee and the employee's family obligations, however, this does not mean that the employer can unilaterally order the use of annual leave. The right to annual leave is a worker's right at their own disposal. The Advocate advised the client to inform the employer about this, and in case of non-compliance, they can also turn to the Labor Inspectorate regarding the labor law issues. (0702-43/2020)

## **Request for advice on schooling of a child with autism**

The Advocate was approached by a client who has a son with autism. They asked for advice regarding the schooling of the child, for whom they have been waiting for a decision on guidance. The Advocate advised the client to submit an application to the Inspectorate for Education and Sport, as the question concerned professional topics falling outside the competence of the Advocate. (0702-13/2020)

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<sup>16</sup> Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia, Official Gazette of the Republic of Slovenia, Nos. 25/20, 29/20, 32/20, 37/20, 42/20, 47/20, 53/20, 58/20, 59/20 and 67/20.

## Body weight

### Refusal of service due to alleged excess weight and reimbursement of the purchase price

The Advocate was approached by a client who wanted to use the “zipline” service, but was rejected by the provider due to their alleged excess weight, and was charged a part of the amount paid for the performance of the service. When the customer demanded the amount back, the service provider refused to return the whole amount, referring to the general terms and conditions. The client turned to the Advocate for help, wishing to remain anonymous. The Advocate explained to the client that in the specific cases discrimination investigation can be carried out only based on a complaint. If discrimination were to be found, the Advocate would primarily assess whether the maximum weight limits pursue a legitimate objective (e.g. in the field of safety, risk insurance in such activities) and whether the way in which the maximum weight is determined represents appropriate and necessary means of achieving that objective. (0702-108/2020)

## Body height

### Termination of employment due to height

The Advocate was approached by a client who was dismissed due to their height. The client asked for advice. The Advocate invited the client to lodge a complaint. Moreover, the Advocate explained that based on the complaint received a conclusion will have to be made on whether the requirement for a minimum height for the workplace is given and which particular objective is pursued. Subsequently, a consideration would be given to the question of whether the objective could be achieved by other, less restrictive measures. In this case, the Advocate would investigate whether the conduct represents a prohibited form of discrimination or an exception to the prohibition of discrimination. However, the client did not choose to submit the complaint. (0702-123/2020)

## Parenthood

### Termination of employment during parental leave

The Advocate was approached by a client whose action by which they alleged discrimination on the grounds of parenthood before the Labour Court was rejected. Namely, during the client's absence due to parental leave, the employer carried out a reorganisation and abolished their workplace, a month after returning to work, the client received a termination of their employment contract. The client asked the Advocate for an opinion on whether it would be reasonable to apply for revision of the decision before the Supreme Court of the Republic of Slovenia. The Advocate explained to the client in which part the revision would be (ir)relevant. The client informed the Advocate that they applied for revision and succeeded in the case. The Supreme Court ruled on the application of paragraph 2 of Article 115 of the Employment Relationships Act and decided that the abolition of a workplace during parental leave was treated as “conduct necessary for the termination of employment contract and employment of another employee”, which makes the termination of the employment contract unlawful. In response to the client's additional questions, the Advocate also provided further information on the possibility of filing a claim for damages before a court of general jurisdiction due to discrimination under Article 39 of the PADA. (0702-2/2019)

### **Poorer evaluation due to parental leave**

The Advocate was approached by a client stating that they were subject to poorer evaluation by their public sector employer due to being absent from work for the reason of parental leave. The client stated that this was a systematic practice of the employer. The Advocate advised them on how the discrimination investigation procedure is conducted. The client filed a complaint, initiating the procedure before the Advocate. At the end of 2020, the procedure was still pending. (0702-41/2020)

## **Citizenship**

### **Termination of a bank account of a legal entity owned by foreign citizens**

The Market Inspectorate asked the Advocate for an opinion on the alleged discrimination against a legal entity by the bank, which announced the closure of its bank account, allegedly due to the fact, that the owners of the legal entity were Ukrainian citizens. The Advocate explained that banks have different ways of handling unusual transactions, customers and business relationships related to countries on the list of high-risk third countries with strategic weaknesses that do not have appropriate measures in place to prevent and detect money laundering or terrorist financing. However, a bank may not terminate its business cooperation by reason of the mere fact that the representatives, founders, or partners of the business entity are nationals of the country at risk. (0702-114/2020)

### **The procedure for obtaining international protection**

The Advocate was approached by a client with a request for advice regarding the procedure for obtaining international protection. The latter was denied to the client, as a result they were accommodated in a center for foreigners, where they were waiting for the procedure of repatriation. The client asked for help. The Advocate expressed understanding for the client's hardship and explained that the equality body is not competent to deal with the case, as proceedings related to the status of foreigners fall outside the scope of protection against discrimination. The Advocate further explained that the equality body does not have the power to act as an appellate body in cases that are already pending before other state authorities. Therefore, the Advocate directed the client to use the remedies available in these proceedings. (0702-72/2019)

## **Placing foreign workers to quarantine upon arrival in Slovenia**

A client approached the Advocate regarding the difficult situation in which foreign workers found themselves during the coronavirus epidemic, upon arriving in Slovenia and being placed in quarantine. They are said to be without basic means of subsistence, and the question has been raised as to who is responsible for their sustenance during the time when they are unable to work due to quarantine. The Civil Protection declined competence in the matter and the workers were helped by some humanitarian organisations. The client posed the question on how to systematically arrange the quarantine orders for people who find themselves in a livelihood crisis and asked the Advocate for advice on further steps. The Advocate assessed that the matter was not linked to discrimination, as their employers were responsible for complying with the obligations under employment contracts with all employees, regardless of their citizenship. The Advocate suggested informing the workers that for violations of the employment contract (e.g. non-payment of income during quarantine) the Labour Inspectorate is responsible, while the violations of quarantine decision fall within the competence of the Health Inspectorate. **(0702-105/2020)**

## **Place of residence**

### **Free participation in cultural events for the residents of the municipality**

The Market Inspectorate requested the Advocate's opinion on whether enabling free participation in cultural events for the residents of the municipality in which the cultural institution is located constitutes discrimination against the residents of other municipalities. The Advocate explained that such a benefit may constitute discrimination against residents of other municipalities under the PADA, unless consistent with the proportionality test. The legitimate objective of such conduct must be given, and the conduct must represent appropriate, necessary, and proportionate measure for achieving the latter. If part of the funds for the operation of the cultural institution is contributed by the municipality from municipal levies, the legitimate goal (increased visits to the institution and cultural awareness) can also be achieved by this measure, but it must be reasoned and substantiated with specific data and calculations on how the residents have already contributed to the functioning of the institution through the payment of taxes. **(0705-35/2020)**

## Trade union membership

### Worse treatment due to trade union membership

The Advocate was approached by an individual who claimed that their employer was in breach of labour law, as a result of which, while being a member of the trade union, they turned to the trade union for help. The latter sent a formal notice to the management, on the basis of which some violations were eliminated. Following the trade union's action, the management ordered the client a special paid leave until the day when their fixed-term employment contract expiration. The client considered that the conduct was the result of the union membership and the actions linked to the irregularities. Therefore, the client asked the Advocate for advice. The Advocate informed the client that poorer treatment due to trade union membership is explicitly prohibited, as well as retaliatory measures taken against individuals who act against violations. The Advocate informed the client of the possibilities for action and invited the client to submit a complaint. The client did not choose to submit the complaint. (0702-103/2020)

## Employment status

### Payment of Christmas bonus exclusively for workers employed on day of 1 December in the current year.

The Advocate was approached by an individual who retired in November 2019, while the employer paid Christmas bonuses for the current year to all those who were employed by the company on day of 1 December 2019. The client asked for clarification whether not being entitled to the Christmas bonus represents discriminatory conduct. The Advocate explained to the client that the issue falls outside the field of discrimination, as the employment relationship may be terminated for various reasons and not due to the worker's personal grounds. At the same time, the Advocate informed the client that according to labour law and in accordance with case law, a worker in such a situation has the right to a proportional share of the Christmas bonus or business performance bonus (judgement of the Higher Labour and Social Court, HLSC judgement and decision Pdp 1331/2008). (0702-21/2020)

## Concessionaire status

### Implementation of mentoring of trainee dentists

The Advocate was approached by an individual who is a dentist with a self-pay clinic. He applied to the Ministry of Health for mentoring trainees, but the application was rejected, as only dentists in the public network can provide mentoring. The Advocate informed the client that the matter did not fall within its powers, as it is a matter of distinction between public or private healthcare, and operation on the basis of concession is a matter of the individual dentist's choice and not their personal ground. (0702-74/2019)

## Other

### Operation of the consulate of the Republic of Slovenia in a foreign country during the declared epidemic

The client addressed a question to the Advocate about the operation of the consulate of the Republic of Slovenia in a foreign country during the declared coronavirus epidemic. The client stated that during the stoppage of public life, Slovenian citizens can perform the most urgent consular tasks at the consulate in person, for example in the case of an expired passport, while foreign citizens are not allowed to enter the Republic of Slovenia under any conditions, therefore, taking fingerprints of foreign citizens who are in the process of obtaining a residence permit in Slovenia is suspended. The Advocate addressed an inquiry to the Ministry of Foreign Affairs in order to advise the client. The latter explained that, in accordance with the Foreign Affairs Act, during a time of poor epidemiological situation in the country, only urgent tasks are being carried out, which can include pursuing the interests of the Republic of Slovenia and its citizens. The reduced operation lasted for a month, after which the embassy gradually established a larger volume of consular operations. The Advocate forwarded the clarifications of the Ministry to the client. (0702-104/2020)

## 1.12.2 Discrimination investigation – anonymised cases

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### THE ADVOCATE HIGHLIGHTS

Article 51 of the Constitution of the Republic of Slovenia  
(right to health care)

Everyone has the right to health care under conditions provided by law.

The rights to health care from public funds shall be provided by law.

No one may be compelled to undergo medical treatment except in cases provided by law.

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#### Health status

##### Refusal to insure a person living with HIV constitutes discrimination

The Advocate of the Principle of Equality was approached by a person living with HIV, whom an insurance company denied access to casualty insurance due to their health status. In the proceedings, the Advocate obtained the opinion of a medical expert who has also been working in the field of HIV infections for many years. According to the expert opinion, an insured person who lives with HIV and undergoes regular treatment does not pose any greater risk to the insurance company than HIV-negative people. As the insurance company failed to demonstrate an exception to the prohibition of direct discrimination in the proceedings, the Advocate found that the characteristics of direct discrimination were found in the refusal by the insurance company to insure the client. Following the Advocate's decision, the insurance company offered the conclusion of the insurance to the individual concerned. (Decision No. 0700-18/2019/13 of 14 January 2020)



### **The security guard was not subject to discrimination due to his health condition**

The complainant complained due to a sense of discrimination in employment, consequently their employment contract was terminated by the employer. The client alleged unequal treatment because of his health condition. The Advocate found that the termination of employment was the result of the complainant's inappropriate communication with the employer and other employees. There was no evidence that the reason for the employer's conduct was in the complainant's health condition. The case was also examined by the Court, which did not find any unlawful conduct in relation to the termination of employment. As a result, the Advocate did not find any discriminatory conduct. (Decision no. **0700-5/2020/9** of 21 September 2020)

### **The employee was not subject to discrimination due to their health condition**

The Advocate received a complaint in which the client alleged discrimination at the workplace on the ground of health condition. The client claimed that the company of their employment had a lack of understanding for their health problems. In the discrimination investigation proceedings, the Advocate obtained information from the company and from witnesses provided by the client. As the allegations of the client in the proceedings were not confirmed, the Advocate did not find discrimination. (Decision No. **0700-29/2020/9** of 12 October 2020)

## **Parenthood**

### **The state did not discriminate against a civil servant on the grounds of family status**

The civil servant was sent to work abroad, where they also enrolled their child in school. However, their employer was not willing to reimburse the tuition costs. The client lodged a complaint alleging discrimination on the grounds of family status, as she was the mother of a child whom she had to enrol in school when being sent to work abroad, and, while being a single parent, the tuition represented a higher burden compared to the situation of a childless person or a person taking care of the child together with the other parent. The client managed to reach an amicable settlement of the dispute with the employer even before the conclusion of the discrimination investigation procedure. As a result, the Advocate did not find discrimination. (Decision No. **0700-18/2020/9** of 31 August 2020)

## Citizenship

### **Termination of the personal bank account maintenance agreement does not constitute discrimination**

A foreign citizen lodged a complaint with the Advocate because the bank had terminated their personal bank account maintenance agreement. In the proceedings, the Advocate could not confirm that the reason for the termination of the personal bank account maintenance agreement was a particular personal ground of the client (citizenship of another country). As regards the termination of a personal bank account maintenance agreement, the bank has the right to decide with whom they wish to cooperate and with whom not (however such decision must not constitute discrimination due to personal grounds), while the bank account maintenance agreement can be terminated without giving any reason, as long as the notice period of two months is taken into account. In addition, the contractual relationship between the bank and the client is confidential, and the law does not include the Advocate among those authorities, to whom banks must disclose the reasons for the termination of the agreement. Moreover, the bank stated that nationality or citizenship could not be the reason for the termination of the agreement, as the bank has numerous clients who are the citizens of the same country, or many clients born in the same country who are now citizens of Slovenia. Consequently, the Advocate did not find any discriminatory conduct. However, an important difference between personal and basic bank accounts was noted. Unlike personal accounts, the bank has limited flexibility with regard to the termination of a basic bank account maintenance agreement, as termination is possible only for specific legal reasons. Clients who have a basic bank account enjoy much greater statutory protection from termination compared to owners of personal bank accounts. (Decision No. [0700-38/2019/20](#) of 19 May 2020)

### **By terminating the personal bank account maintenance agreement, the bank did not discriminate against the foreign citizen.**

A foreign citizen lodged a complaint with the Advocate because the bank had temporarily terminated their personal bank account maintenance agreement. In the proceedings, the Advocate found that the reason for the suspension of the personal bank account was not the client's personal grounds (citizenship of another country), but a procedural error of the bank, which reactivated the client's account after one month. The procedure also showed a significant difference between a personal account and a basic bank account. When concluding and terminating an agreement for the maintenance of a basic bank account, banks have significantly greater flexibility to decide with whom they wish to cooperate and with whom not (however, discrimination on the basis of personal grounds is not permissible). On the other hands, banks have less room for manoeuvre in concluding a basic bank account maintenance agreement. According to European regulations, a basic account can be terminated only for specific reasons set out by law. In the present case, the client had a personal bank account with the bank. In this case, the bank had the right to unilaterally terminate the contract, but in the procedure it turned out that an error had occurred with the bank, and the account was reactivated. Therefore, the Advocate did not find any discriminatory conduct. (Decision No. [0700-36/2019/9](#) of 19 May 2020)

## Restricting the expansion of agricultural land

### Restricting the expansion of agricultural land

The Advocate was approached by one of the environmental civil initiatives, which seeks to limit the expansion of agricultural land in one of the municipalities. The members of the civil initiative claimed that the population of the municipality was discriminated against with regard to access to a healthy living environment, while intensive farming is said to have harmful effects on the environment and thus on their health. The Advocate agreed that this was a burning environmental issue, but noted in the proceedings that the case is not a matter of discrimination. It is not possible to determine compared to which group, the population is in a worse situation, as most regions are exposed to harmful effects on the environment, whether due to industry, transport, or agriculture. (Decision No. **0700-40/2019/21** of 15 December 2020)

## Membership in a hunting association

### Conditioning membership in a hunting association upon leaving another hunting family does not constitute discrimination

The complainant complained about the condition for membership in a hunting family, which requires potential members to leave other hunting families beforehand. The Advocate found that the condition does not represent an exclusion from membership due to personal grounds which are the subject of protection under the PADA. Membership in a hunting family is a matter of choice and is not related to the personal characteristics of the individual that would be inherent or inalienable. As a result, the Advocate rejected the complaint. (Decision No. **0700-81/2019/8** of 19 March 2020)

## Other

### No discrimination was found in the inspector salary system

The inspector lodged a complaint in which they argued that the salary system of another inspectorate was more favourable. He alleged discrimination based on his working position. The Advocate found in the proceedings that differences in the salary systems do not occur due to the personal grounds of individuals. A working position does not fall within the protected personal grounds, as it is not an inherent or inalienable characteristic of an individual related to their identity. As a result, the Advocate did not find discrimination. The Advocate allowed for the possibility that this is an inadmissible anomaly, however, not related to the issue of discrimination. (Decision No. **0700-59/2019/4** of 27 July 2020)

### 1.12.3 Assessing the discriminatory character of regulations

#### Health status

##### Equalisation between non-occupational disease with occupational disease

The complainant argued that the arrangement from the second and third paragraph of Article 34 of the Health Care and Health Insurance Act<sup>17</sup> and the third paragraph of Article 137 of the Rules on Compulsory Health Insurance is discriminatory.<sup>18</sup> The provisions stipulate that when an employee's employment contract expires during their absence from work due to illness or injury by reason of temporary incapacity for work, they are entitled to a salary compensation for additional 30 days after the termination of the employment relationship. However, if the cause of the temporary incapacity for work is an occupational disease or injury at work, the employee is entitled to a salary compensation for the entire period of the incapacity for work, that is until they are able to work again. The complainant considered that a non-occupational disease should be equalised with an occupational disease or injury at work and that all persons in this legal position should be provided with compensation for the entire period of incapacity for work. The Advocate assessed that the situation of persons whose temporary incapacity for work is the result of an occupational disease or injury at work is not comparable to the situation of persons whose temporary incapacity for work is based on a disease or injury not related to the work performed. Special treatment of persons suffering from an occupational disease or undergoing a treatment due to the consequences of an injury at work is appropriate and reasonable precisely due to the close link with certain labour rights. As a result, the Advocate decided not to carry out a more detailed assessment of discrimination. (050-23/2020)

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<sup>17</sup> Official Gazette of the Republic of Slovenia, Nos. 72/06 - official consolidated text, 114/06 – Act Regulating Adjustments of Transfers to Individuals and Households in the Republic of Slovenia, 91/07, 76/08, 62/10 – Exercise of Rights from Public Funds Act, 87/11, 40/12 - Fiscal Balance Act, 21/13 – Labour Market Regulation Act-A, 91/13, 99/13 – Exercise of Rights from Public Funds Act-C, 99/13 – Social Assistance Payments Act-C, 111/13 –Act Governing the Register of Insured Persons and Beneficiaries of Rights Provided under Pension and Disability Insurance-1, 95/14 – Fiscal Balance Act-C, 47/15 – Employment, Self-employment and Work of Foreigners Act, 61/17 – Act Regulating the Situation of Students, 64/17 – Health Services Act- K, 36/19 and 189/20 - Municipal Costs Reduction Act.

<sup>18</sup> Official Gazette of the Republic of Slovenia, Nos. 79/94, 73/95, 39/96, 70/96, 47/97, 3/98, 3/98, 51/98 – decision of the Constitutional Court, 73/98 – decision of the Constitutional Court, 90/98, 6/99 –corr., 109/99 – decision US, 61/00, 64/00 – corr., 91/00 – corr., 59/02, 18/03, 30/03, 35/03 – corr., 78/03, 84/04, 44/05, 86/06, 90/06 – corr., 64/07, 33/08, 7/09, 88/09, 30/11, 49/12, 106/12, 99/13 - Social Assistance Payments Act-C , 25/14 – decision of the Constitutional Court, 25/14, 85/14, 10/17 – Cross-border provision of services Act, 64/18 and 4/20.

## Parenthood

### **According to the Advocate, the Government has sensibly regulated the aid for the self-employed working part-time in ADIMCEMCCE with amendment A**

The first Act on intervention measures granting aid to the economy and citizens during the epidemic excluded from the circle of the self-employed aid beneficiaries those who were self-employed for part-time work and their insurance for a full-time work was based on other legal grounds, for example the Pension and Disability Insurance Act (PDIA-2). The Advocate was approached by several complainants who alleged discrimination on the grounds of parenthood or disability. One of the criteria for obtaining aid was the income of the self-employed in 2019. Parents who were taking parental leave at the time did not fulfil these criteria, as they had no income from their business activity at the time. The Advocate found that the Government had remedied this situation in further anti-crisis measures, therefore the procedure for the assessment of the discriminatory character of this regulation was suspended. (050-6/2020 and 050-7/2020)

## Family status

### **According to the Advocate, the manner of regulating crisis allowances for large families by the government is not discriminatory**

Based on a question from the press, the Advocate assessed the discriminatory character of the intervention measure related to the supplementary allowance for large families.<sup>19</sup> All families with three or more children were entitled to the allowance regardless of their property status. For families with one or two children, their property status was taken into account when considering the supplementary child allowance. Discrimination on the basis of family status at the intersection with property status was alleged. In the proceedings, the Advocate found that the large family allowance and the child allowance were not comparable. According to the Parental Protection and Family Benefits Act, the large family allowance is<sup>20</sup> universal. It is granted to families with three or more children, where the state bears part of the cost of childcare, regardless of the social status. However, child allowance is not universal. It is granted to socially disadvantaged children, including those in families with three or more children. The Intervention Measure Act followed this arrangement, except in the part when it granted the entitlement to the supplementary child allowance only to families which did not also receive the allowance for large families. The Advocate assessed that the regulation is not discriminatory, as it takes into account the different situation of large families compared to other families. (050-22/2020)

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<sup>19</sup> Act Determining the Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy (ADIMCEMCCE), Official Gazette of the RS, No. 49/20 and the Act Amending the Act Determining the Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy (ADIMCEMCCE-A), Official Gazette of the RS, No. 61/2020.

<sup>20</sup> Official Gazette of the Republic of Slovenia, No. 26/14, 90/15, 75/17 – Exercise of Rights from Public Funds Act-G, 14/18, 81/19 and 158/20.

## Citizenship

**According to the Advocate, the unequal treatment of citizens and foreigners with permanent residence when deferring the payment of a loan during an epidemic is discriminatory.**

The Advocate received a complaint due to the Act Determining the Intervention Measure of Deferred Payment of Borrowers' Liabilities (ADIMDPBL),<sup>21</sup> which entered into force on 28 March 2020. The Act contains an intervention measure of deferral of payment of borrowers' obligations from credit agreements concluded with a bank or savings bank, as one of the measures to mitigate the consequences of the COVID-19 epidemic. Among other things, the measure was intended for citizens of Slovenia who have registered permanent residence in Slovenia.

The complainant claimed that the aforementioned Act is discriminatory towards all foreigners, who are borrowers living and working in the Republic of Slovenia. Besides foreigners who work in Slovenia on the basis of a temporary residence permit issued in compliance with the Foreigners Act and who generally do not have larger credits or loans, there are also persons who have been living and working in Slovenia for longer periods (two years or more, even ten years) and have a permanent residence in the Republic of Slovenia. The Advocate carried out a discrimination assessment procedure, in which it was established that citizens of other EU Member States and third-country nationals with registered permanent residence in Slovenia were unjustifiably excluded from the intervention measure. He considered that the regulation violated the principle of non-discrimination on the grounds of nationality and was not in compliance with Directives 2004/38/EC and 2003/109/EC. He recommended to the Government of the Republic of Slovenia that the discriminatory provision be eliminated within 30 days. (050-5/2020)

**According to the Advocate, the Residence Registration Act is not discriminatory against foreign workers who are employed in Slovenia and work in the position of drivers in international transport**

The complainant claimed that the Residence Registration Act<sup>22</sup> is discriminatory while not considering the special situation of foreigners who are employed by a Slovenian employer and work as drivers in international transport. Most of them are domiciled at addresses in third countries. Many administrative units reject their registration of temporary residence at addresses in Slovenia, as they actually do not reside in Slovenia at all. However, without residence in Slovenia, they cannot benefit from certain rights in Slovenia. The Advocate analysed and assessed their legal position and found that there was no legal vacuum in the regulation and that the conditionality of the rights upon residence in Slovenia does not constitute any systemic/legal discrimination as it is objectively justified and urgently necessary and derives from the essential nature of the (exercise/use of the) rights. Nevertheless, the equality body assessed that, in practice, there is inadequate enforcement of certain regulations and issued recommendations to the MH and the MI. (050-15/2020)

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<sup>21</sup> Official Gazette of the Republic of Slovenia, Nos. 36/20, 49/20 – ADIMCEMCCE and 203/20 – ADIMAMCSWE.

<sup>22</sup> Official Gazette of the Republic of Slovenia, No. 52/16.



## **According to the Advocate, the regulation of the use of tourist vouchers does not constitute discrimination against foreigners with a temporary residence in Slovenia**

The complainants claimed that the regulation from the Act Determining the Intervention Measures to Mitigate and Remedy the Consequences of the COVID-19 Epidemic<sup>23</sup> which granted the right to tourist vouchers only to citizens of the Republic of Slovenia and foreigners with permanent residence in the Republic of Slovenia, but not to foreigners with temporary residence in Slovenia was discriminatory. The Advocate assessed that persons with temporary residence are not in a comparable situation to the other two groups. According to the Slovenian legal system, permanent residents have much more recognised rights compared to persons with temporary residence. The latter usually acquire all these rights by obtaining a permanent residence permit, usually after five years of residence in Slovenia in accordance with the Foreigners Act. As a result, the Advocate did not choose to carry out a more detailed assessment of discrimination. (050-13/2020 and 050-14/2020)

### **Employment status**

#### **Different arrangements for the reimbursement of transport costs to and from work for civil servants and Deputies**

The complainants contacted the Advocate for reasons relating to the proposal of the Deputies Act amendment, discussed in the National Assembly of the Republic of Slovenia in 2019, which, among other things, regulated the right to reimbursement of transport costs to and from work in such a way that, under the new arrangement, the deputies would be granted mileage as reimbursement of travel expenses. The complainants alleged discrimination against civil servants compared to deputies, as the employer reimburses transport costs to civil servants in the amount corresponding to the cheapest public transport. In the case of the allegedly discriminatory provision from the amendment to the Deputies Act, the Advocate observed that, at the end, it was not enacted by the National Assembly. Therefore, the discrimination assessment was not carried out. (050-6/2019 and 050-7/2019)

#### **Status of engineers working on a part-time basis**

The complainant argued that the Architecture and Civil Engineering Act was discriminatory,<sup>24</sup> as it enables the competent chamber to classify persons in particular position who at their own choice work part-time as managers as inactive authorised engineers. The Advocate found that part-time work is the choice of the individual and does not represent a personal ground. As a result, the Advocate decided not to carry out a more detailed assessment of discrimination. (050-1/2020)

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<sup>23</sup> Official Gazette of the Republic of Slovenia, No. 80/20.

<sup>24</sup> Official Gazette of the Republic of Slovenia, No. 61/17.

## Self-employment

**As unemployment is not a personal ground under the PADA, the Advocate did not assess possible systemic discrimination against the self-employed during sick leave of up to 30 days**

Employees and the self-employed receive compensation for sick leave from the compulsory health insurance from the 31st day of illness or injury. During the first 30 days of sick leave, the compensation is borne by the employers. The complainant alleged discriminatory treatment of the self-employed in comparison to the employed. The self-employed run a business and employ themselves, therefore, they have to make sure, that they have enough resources available to sustain themselves during the first 30 days of illness and incapacity of performing their work. In the assessment of potential systemic discrimination of the self-employed due to such an arrangement of sick pay, the Advocate found that self-employment is not a personal ground under the PADA, so the potential discrimination of this arrangement cannot be considered. The Advocates's finding, however, do not mean that the current regulation of health care in Slovenia is fully appropriate. Namely, the NIPH data show that the self-employed and other comparable categories of employees benefit from sick leave of up to 30 days to a much lesser extent compared to employees in an employment relationship. (050-11/2020)

## Other

### **Municipal ordinance on compensation for the use of building land**

According to the complainant, the Ordinance on the compensation for the use of building land issued by the municipality of their residence is discriminatory. The ordinance stipulates that if the owners have a building of small value and small size on a building plot, they must pay disproportionately high fees for the building land compared to owners who have a residential house on the plot. The Advocate was not able to identify any personal ground in the case that would lead to unequal treatment. The ordinance of the municipality distinguishes between the calculation of compensation for the use of built-up building land and the use of building land not build on. The size of the land affects the calculation too. In the first case, (only) the area of the built-up building land is taken into account (i.e. according to the actual area occupied by the building on the plot). In the second case, the total area of the building land (not build on) is taken into consideration. The method of calculating the compensation is a result of in the municipality's strategy to make building land more built-up over time. As a result, the equality body decided not to carry out a more detailed assessment of discrimination. (050-25/2020)



## 1.12.4 Recommendations by the Advocate

### Health status

#### **Recommendation regarding the accessibility of insurance services for people living with HIV**

In 2019, the Advocate received a complaint to address discrimination in which the complainant stated that an insurance company unjustifiably rejected his attempt to obtain insurance, the reason being the personal ground of living with HIV. Based on the findings of the Survey on the accessibility of insurance for people living with HIV and in order to promote equal treatment, the Advocate recommended that insurance companies improve the consumer experience, provide separate and transparent information and adapt products to vulnerable groups, including people living with HIV. Moreover, the recommendation also referred to greater transparency in concluding insurance policies and setting insurance conditions, as well as updating the data on which the risk assessment is based. The Advocate addressed the recommendations to: insurance companies, NGOs, the Slovenian Insurance Association, the Insurance Supervision Agency, the MH and the MoF. (0709-5/2020/47, 0709-5/2020/48, 0709-5/2020/49, 0709-5/2020/50, 0709-5/2020/51, 0709-5/2020/52 (0709-5/2020))

Recommendation status: Pending.

#### **Recommendation on the ensuring of equal treatment of intersex people**

Upon handing over the Special Report on the Situation of Intersex People in Medical Procedures to healthcare institutions that come into contact with intersex patients, the Advocate recommended that they refrain from carrying out any non-essential medical interventions in the sexual characteristics of intersex children which would be carried out without their consent and/or can be deferred until the time when the child can give appropriate consent; to ensure that intersex children and their parents or guardians are properly informed before any medical intervention in their body and to strictly adhere to definitions and terms related to intersex based on depathologisation and respect for the human rights of intersex people. The Advocate recommended to the Ministry of Health the independent interdisciplinary working group to review the current protocols for medical treatment of intersex people, prepare a unified protocol and harmonise it with modern medical guidelines and practices, and implementation of activities in cooperation with the MESS aimed at raising awareness of the general and specific public on the human rights of intersex people and improving the opportunities for additional professional training on intersexuality for healthcare professionals. The Advocate recommended to the MI the examination of possible arrangements for flexible procedures for the registration of births and legal recognition of gender on the basis of self-determination. (0709-49/2020/5, 0709-49/2020/6, 0709-49/2020/7, 0709-49/2020/10 (0709-49/2020))

Recommendation status: Not yet taken into account.

## **Recommendation regarding the draft for the Mental Health Act**

In the recommendation to the Ministry of Health, the Advocate highlighted the lack of content related to the observance of human rights protection standards. Among other things, a recommendation was addressed to Ministry of Health, to include the prohibition of discrimination, stigmatisation and other neglect based on mental disorder in the act; to examine the compliance of the envisaged solutions with the Convention on the Rights of Persons with Disabilities; and to provide information, counselling and information in accessible languages, forms and technologies, including information in the form of easy reading. (0070-4/2020/1)  
Recommendation status: The legislative process is still ongoing.

## **Parenthood**

### **Recommendation regarding the draft Act Determining Temporary Measures to Mitigate and Remedy the Consequences of COVID-19 (Set of measures to mitigate the effects of the epidemic no. 5)**

The Advocate recommended to the National Assembly that the measures also provide workers who cannot perform their work due to quarantine or childcare (i.e. force majeure) with compensation not lower than the minimum wage (which was already in force during the first wave of the epidemic). Guardians of adults with intellectual and psychosocial disabilities and guardians and foster parents of children should be included among the workers who are unable to perform their work due to so-called force majeure. The Advocate recommended that additional justifications for distinguishing certain beneficiaries and methods of determining the amount of aid or compensation be included in the act. It was also recommended that consideration be given to introducing additional special measures to ensure equal opportunities for the people most affected by the adoption of stricter measures envisaged in the government's plan to prevent the spread of infections. (0701-15/2020/1)

Recommendation status: The recommendation was taken into account in the part where the Advocate proposed compensation in the amount of at least the minimum wage (in Set of measures to mitigate the effects of the epidemic no.7) and that guardians and foster parents of persons, including adults, be included among the recipients of compensation (by way of amendments). The recommendation regarding the unjustified differentiation of beneficiaries of aid was not taken into account.

## **Recommendation regarding the draft Motor Vehicles Tax Act**

In a recommendation to the National Assembly, the Advocate pointed out that the prohibition of discrimination also applies to the determination of benefits in the exemption from motor vehicle tax for large families and people with disabilities. Some of the criteria for obtaining benefits (permanent residence, benefits available for only one vehicle, beneficiaries only with certain types of disabilities) are questionable in terms of equal treatment (foreigners, EU citizens, the elderly and people with certain disabilities), so the Advocate recommended improvement of the arrangement. (0070-3/2020/1)

Recommendation status: Not taken into account.

### **Recommendation regarding the draft Act Determining Intervention Measures to Assist in Mitigating the Consequences of the Second Wave of COVID-19 Epidemic (Set of measures to mitigate the effects of the epidemic no. 7)**

The Advocate of the Principle of Equality made a recommendation to the Deputies of the National Assembly on how to supplement certain proposed solutions to comply with the principles of equality, equal treatment and equal opportunities. The Advocate's recommendation refers to: crisis allowance for parents taking advantage of the maternity, paternity or parental leave; solidarity allowance for lunch and financial assistance for single-parent families; solidarity allowance eligible for families from 1st to 6th income bracket inclusive (not only up to fifth); special additional aid for single-parent families; special regular monthly allowance for students whose main source of livelihood is student work if they are unable to do the work due to the epidemic; extraordinary aid at the birth of a child. (0070-8/2020/1)

Recommendation status: Partially taken into account in the part of extraordinary aid at the birth of a child (extension of the period) and solidarity allowance for children (expanding the list of beneficiaries). Within the Set of measures to mitigate the effects of the epidemic No. 7, the recommendation of the Advocate from the Set of measures to mitigate the effects of the epidemic No. 5 was taken into account regarding the compensation of wages for workers who are unable to perform work due to quarantine at home or childcare which must not be lower than the minimum wage in the Republic of Slovenia. In part, the recommendation was also taken into account within the Set of measures to mitigate the effects of the epidemic No. 8, namely regarding the solidarity allowance for adult high-school students.

### **Recommendations regarding further measures to mitigate the effects of the COVID-19 epidemic with a view to preventing and eliminating discrimination**

The Advocate highlighted the uneven impact of the epidemic on already vulnerable groups and suggested that the Government of the Republic of Slovenia should adopt (additional) special measures to help these groups, as it is crucial that all efforts during the epidemic follow the principle that "no one should be left behind". Among other things, the Advocate drew attention to a particularly difficult situation of: single-parent families; families of children with special needs; self-employed parents working part-time; pupils and students (in terms of lunch). (0701-5/2020/1)

Status of the recommendation: four recommendations were taken into account (families of children with special needs, self-employed parents, parents or guardians of children or adults with special needs, differentiation according to the condition of paid overdue tax liabilities); recommendations referring to pupils and students were partially taken into account and recommendations intended for single-parent families were not taken into account.

## **Citizenship**

### **Recommendation regarding the draft Act Amending the Housing Act**

Regarding the draft act, the Advocate recommended amendments to the MESP with the aim of improving physical accessibility of multi-apartment buildings for people with disabilities, access to higher subsidies for non-profit rent and right of access to non-profit apartments for foreigners with permanent residence (residents). (0709-62/2020/1)

Recommendation status: The legislative process is still ongoing.

### **Recommendation regarding the Act Determining the Intervention Measure of Deferred Payment of Borrowers' Liabilities**

The Advocate received a complaint regarding the Act Determining the Intervention Measure of Deferred Payment of Borrowers' Liabilities which entered into force on 28 March 2020. The Act provides for an intervention measure of deferral of payment of borrowers' obligations from credit agreements which is available only to citizens of Slovenia who have registered permanent residence in Slovenia. The Advocate carried out a discrimination assessment procedure and was established that citizens of other EU Member States and third-country nationals with registered permanent residence in Slovenia were unjustifiably excluded from the intervention measure. He considered that the regulation violated the principle of non-discrimination on the grounds of nationality and was not in compliance with Directives 2004/38/EC and 2003/109/EC. The advocate recommended to the Ministry that the discriminatory provision be eliminated. [\(050-5/2020/11\)](#)

Recommendation status: Considered in PKP6.

### **Recommendation regarding the proposal for the Act Determining the Intervention Measures to Mitigate the Consequences of the Second Wave of COVID-19 Epidemic (Set of measures to mitigate the effects of the epidemic No. 6)**

On the basis of a received complaint, the Advocate carried out the procedure of assessing the discriminatory character of the Act Determining the Intervention Measure of Deferred Payment of Borrowers' Liabilities and assessed that the unequal treatment of EU citizens and third-country nationals residing in the Republic of Slovenia constitutes discrimination on the ground of citizenship. The Advocate recommended to the Deputies in the National Assembly that they support the adoption of the provision eliminating discrimination in the deferral of payment of obligations from credit agreements against foreigners with permanent residence in Slovenia. [\(050-5/2020/15\)](#)

Recommendation status: Taken into account.

### **Recommendation regarding the draft Motor Vehicles Tax Act**

In a recommendation to the National Assembly, the Advocate pointed out that the prohibition of discrimination also applies to the determination of benefits in the exemption from motor vehicle tax for large families and people with disabilities. Some of the criteria for obtaining benefits (permanent residence, benefits available for only one vehicle, beneficiaries only with certain types of disabilities) are questionable in terms of equal treatment (foreigners, EU citizens, the elderly and people with certain disabilities), so the Advocate recommended improvement of the arrangement. [\(0070-3/2020/1\)](#)

Recommendation status: Not taken into account.

### **Recommendation regarding the treatment of foreigners, drivers in international transport**

The Advocate carried out the procedure for assessing the discriminatory character of the systemic regulation of the situation of foreigners – drivers in international transport, employed by employers in the Republic of Slovenia. Despite the fact the discrimination was not found, the Advocate noted in the proceedings that, in practice, these persons indeed face certain problems that indicate inappropriate conduct of certain institutions. The Advocate made a recommendation to the MI that all Administrative units be instructed to inform such foreigners, when registering their residence in the Republic of Slovenia, of certain facts that explicitly concern them in relation to their application, e.g. that the obligation to register is obligatory only if the drivers in international transport actually reside in the Republic of Slovenia, otherwise not. (050-15/2020/60)

Recommendation status: So far not taken into account.

### **Recommendation regarding the treatment of foreigners, drivers in international transport**

The advocate carried out a procedure for assessing the discriminatory nature of the systemic regulation of the situation of foreigners - drivers in international transport, employed by employers in the Republic of Slovenia. Despite the fact the discrimination was not found, the Advocate noted in the proceedings that, in practice, these persons indeed face certain problems that indicate inappropriate conduct of certain institutions with regard to the access to health care. The Advocate made a recommendation to the MH to instruct health centres not to condition the right of choosing doctor (and health center) of the said foreigners upon the registration of their residence in the Republic of Slovenia, and to inform the Health Insurance Institute of Slovenia not to condition the receipt of their insurance card upon the registration of residence in the Republic of Slovenia (in this regard, the possibility of delivering a postal item to the authorised person or the employer of the insured person represents an important fact). (050-15/2020/59)

Recommendation status: So far not taken into account.

## **Other**

### **Recommendation regarding the draft Protection of Public Order Act**

The Advocate made a recommendation to the MI that, in the diction of the minor offence of incitement to intolerance, the terminology be used which is common to the relevant provisions of the Constitution of the Republic of Slovenia and other sectoral acts, where the prohibition of the so-called hate speech is laid down. The Advocate also recommended that this minor offence should be connected to intolerance based on any personal ground leading to unlawful discrimination and not just some. The Advocate also recommended that a system be set up for the recording of minor offences of incitement to intolerance to enable a classification according to the personal grounds of persons or groups of persons at whom the conduct was directed. (0070-6/2020/1)

Recommendation status: The legislative process is still ongoing.

## **Recommendations regarding the proposal of the Act on the Protection of Personal Data in the Area of Treatment of Criminal Offences**

In the framework of the public consultation, the Advocate responded to the proposal of the Personal Data Protection Act in the field of dealing with criminal offences. In the recommendation to the MoJ, the Advocate focused on the issue of protection against discrimination in the context of automated decision-making and automated processing of personal data and on the issue of the legal basis for collecting data on the so-called hate crimes. Among other things, the Advocate recommended enactment of the following arrangements: that the impact assessment of automated decision-making be carried out, in particular with regard to discrimination; subsequent (manual) verification of the results of automated processing of personal data be carried out every time; that, before introducing a new system for automated processing of personal data, the competent authority must also carry out an impact assessment on the risks to human rights and fundamental freedoms, in particular with regard to the prohibition of discrimination; to include among the exceptions to the prohibition of using special categories of personal data situations related to hate crimes. (0701-6/2020/3)

Status of the recommendation: Partially taken into account, as only the recommendation to conduct the impact assessment of automated decision-making in particular with regard to discrimination was taken into account.

## **Recommendation regarding the approach of the Republic of Slovenia vis-à-vis particular recommendations received within the third round of the Universal Periodic Review**

The Advocate summarised the recommendation sent on 9 January 2020 to the MFA with regard to discrimination against persons or groups of persons with a certain personal ground within the Universal Periodic Review (UPR) and recommended to the Government that the recommendations by other countries received within the third cycle of UPR, be accepted positively and implemented. The Advocate highlighted the recommendations of the countries regarding the adoption of a comprehensive national strategy in the field of fighting against all forms of discrimination; proper regulation and treatment of so-called hate crimes; prevention and treatment of the so-called hate speech and independence of national human rights mechanisms. (511-27/2019)

Recommendation status: Partially taken into account. On 30 January 2020, the Government adopted an Addendum to the Report of the Working Group on UPR, wherein the Republic of Slovenia expressed its views on the recommendations of the countries. The Advocate recommended the accepting 19 recommendations of the countries, of which the Government of the Republic of Slovenia adopted 15 and took note of four. The Government took note of three recommendations on hate crimes and hate speech (racist motives) and one recommendation on the Ombudsman's full autonomy and independence.

## **Recommendation on the timely involvement of the Advocate in the preparation and adoption of legislative proposals**

The Advocate recommended to the General Secretariat of the Government that the procedure for adopting regulations should also include an assessment of possible discriminatory effects of the draft regulation, i.e. the drafter of the regulation should assess in advance whether the draft regulation leads to unequal treatment. This means that the drafter of the regulation explains and justifies any unequal treatment and underpins it with data and analyses (the so-called equality data). The Advocate proposed a broadening of the scope of mandatory components of a draft act, and that if the draft regulation leads to unequal treatment of a certain social group, the Advocate should be informed in a timely and direct manner during the public consultation. (079-3/2020/1)

Recommendation status: Partially taken into account. The Secretariat-General of the Government sent a recommendation to the Ministries and Government office and suggested that the Advocate be informed in a timely manner in sensitive cases. The broadening of the mandatory components of a draft regulation was not taken into account, and the situation did not improve after informing the Advocate.

## **1.12.5 The Advocate's cooperation with civil society**

### **Health status**

On 24 November 2020, a representative of the Advocate attended a consultation entitled, Who needs help during the pandemic? Ethical, medical, and criminal aspects of triage. The consultation was co-organised by the SASA Development Council and the Institute of Criminology at the Faculty of Law, University of Ljubljana. The participants of the conference brought to light several fundamental dilemmas that arise in the case of shortage of equipment and staff during a pandemic from a medical, ethical, and legal point of view.

### **General protection against discrimination**

On 10 December 2020, on the occasion of the World Human Rights Day, the Diversity Charter Slovenia organised a virtual event entitled "Diversity against pandemic" – ceremonial signature of the Diversity Charter and a round table. The event was attended by a representative of the Advocate. Diversity charters are one of the current voluntary European diversity initiatives with the aim of encouraging organisations (private, public) to implement and develop diversity policies within organisations. The Charter consists of principles that the organisation follows in its work with regard to promoting diversity, non-discrimination and equal opportunities at the workplace.

## 1.12.6 Education and awareness raising by the Advocate

### Citizenship

#### **The Advocate at the EURES meeting**

On 7 July 2020, a representative of the Advocate took part in a meeting of the EU network on legal support to the free movement of mobile workers. The EURES network connects employment services in the EU. The event was organised by the Slovenian Employment Service. The aim of the event was to present and exchange good practices and explore opportunities for future cooperation and networking of the members and partners. The Advocate's representative stressed the importance of understanding and consistently enforcing the EU primary law in this area as well.

### General protection against discrimination

#### **The Advocate in a panel discussion on intolerance at the Police Academy**

On 27 January 2020, a representative of the Advocate attended a panel discussion on intolerance organised by the Center for Research and Social Skills, within the Police Academy. In spite of particular dilemma, the participants in the discussion organised by the Center for Research and Social Skills expressed their commitment to tolerance, ideas of equality and social cohesion. The Police carefully examines all information on suspected crimes and minor offences, and an important guideline for a less restrictive approach to prosecuting hate speech could also be changed case law.

#### **The Advocate presented the work of the equality body to the Association of Free Trade Unions of Slovenia**

The Advocate responded to the invitation of the Association of Free Trade Unions of Slovenia to present the Annual Report for 2019 at one of the Association's presidency meetings. Trade union membership falls within the scope of protected personal grounds, and employee representatives also often encounter cases of violation of the general prohibition of discrimination. Representatives of the Advocate presented the Advocate's powers and key points from the Annual Report, especially with regard to protection against discrimination in the field of work and employment. The representatives stressed that each case dealt with by the equality body is important, as the findings may be helpful to others who might not wish to be exposed but are subject to similar inferior treatment.





The Advocate receives many complaints about discrimination in the field of work and employment. One of the most high-profile cases in which discrimination was found was the reduced Christmas bonus for employees who were absent from work during the year due to pregnancy, family care, or illness. The Advocate informed to the Association of Free Trade Unions of Slovenia how employees can take action in such cases.

### **The Advocate carried out a workshop on protection against discrimination**

On 15 September 2020, at the invitation of the Association Odnos, the representatives of the Advocates held a workshop for participants in the social activation project for immigrant women. They presented what discrimination means and when individuals can turn to the Advocate. Immigrants are often subject to inferior treatment on the grounds of nationality, citizenship, language, religion, and skin color. They usually face prejudices long after immigration, which makes it harder for them to integrate into society.

### **The Advocate gave a lecture on protection against discrimination at the Faculty of Law**

On 2 December 2020, for the fourth year in a row, the Head of the Advocate, Miha Lobnik, presented the work of the equality body to students of the Faculty of Law of the University of Ljubljana who participate in the extracurricular activity called Anti-Discrimination Legal Clinic. At the lecture, students learned about the development of the independent state body for the protection against discrimination, which tasks the equality body performs, and what are some of the current cases where discrimination was found.

### The Advocate participated in a professional webinar Sustainable Development and Law

On 20 December 2020, a representative of the Advocate participated in a professional webinar “Sustainable Development and Law” organised by the Association ELSA from Ljubljana, the United Nations Association for Slovenia, and the Pamfil Magazine. The representative gave a lecture presenting the topic of “Sustainable development, (non)discrimination and equal treatment – intersection and selected issues.” In his lecture, the representative of the Advocate presented the links between the UN 2030 Agenda for Sustainable Development and the goals of sustainable development on the one hand, and the issues of non-discrimination and the promotion of equal treatment on the other hand. The 2030 Agenda represents the most ambitious global framework for human development, at the heart of which is the principle: “Leave No One Behind”. Reducing all forms of inequality is emphasised by the Agenda as an independent goal of sustainable development.



Discrimination is prohibited in Slovenia, and protection against discrimination is provided to all the inhabitants. Immigrants are often the target of discriminatory practices, and at the same time find it more difficult to exercise their rights. With a view to improving the level of protection against discrimination, the Advocate conducted training for a group of immigrant women.



## 2 ACRONYMS AND ABBREVIATIONS

<b>ADA</b>	Administrative Dispute Act
<b>ADIMCEMCCE</b>	Act Determining the Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy
<b>ADIMDPBL</b>	Act Determining the Intervention Measure of Deferred Payment of Borrowers' Liabilities
<b>ADIMMCSWE</b>	Act Determining the Intervention Measures to Mitigate the Consequences of the Second Wave of COVID-19 Epidemic
<b>ADTMMS</b>	Act Determining Temporary Measures to Mitigate and Remedy the Consequences of COVID-19
<b>Advocate</b>	The Advocate of the Principle of Equality
<b>APMJAOPMCSID</b>	Act on provisional measures for judicial, administrative and other public matters to cope with the spread of infectious disease SARS-CoV-2 (COVID-19)
<b>ARSPWOAS</b>	Act Regulating the Supplement to Pensions for Work and Outstanding Achievements in Sports
<b>ARUSSL</b>	Act Regulating the Use of Slovene Sign Language
<b>CC-1</b>	Criminal Code
<b>CDADI</b>	Council of Europe's Steering Committee on Anti-Discrimination, Diversity and Inclusion
<b>Charter</b>	Charter of Fundamental Rights of the European Union
<b>COVID-19</b>	COVID-19 – Coronavirus disease
<b>CRSA</b>	Citizenship of the Republic of Slovenia Act
<b>CUA</b>	Civil Union Act
<b>CWRA</b>	Council for Women in Rural Areas
<b>ECRI</b>	European Commission against Racism and Intolerance
<b>EIGE</b>	European Institute for Gender Equality
<b>EP</b>	European Parliament
<b>Equinet</b>	European Network of Equality Bodies
<b>ESF</b>	European Social Fund
<b>EU</b>	European Union
<b>FC</b>	Family Code
<b>FRA</b>	European Union Agency for Fundamental Rights

<b>GAPA</b>	General Administrative Procedure Act
<b>GONM</b>	Government Office for National Minorities
<b>GOSIM</b>	Government Office for the Support and Integration of Migrants
<b>Government of the RS</b>	Government of the Republic of Slovenia
<b>HA-1E</b>	Draft Act Amending the Housing Act
<b>HFRS</b>	Housing Fund of the Republic of Slovenia
<b>ICHR</b>	Interdepartmental Commission on Human Rights
<b>IPTA</b>	Insurance Premium Tax Act
<b>LGBTI+</b>	Lesbian, gay, bisexual, transgender, intersex, queer and other diverse identities
<b>LIRS</b>	Labour Inspectorate of the Republic of Slovenia
<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>MIRS</b>	Market Inspectorate of the Republic of Slovenia
<b>MLFSAEO</b>	Ministry of Labour, Family, Social Affairs and Equal Opportunities
<b>MMA</b>	Mass Media Act
<b>Mol</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 Program of Measures for the Roma
<b>PAA</b>	Personal Assistance Act
<b>PADA</b>	Protection against Discrimination Act
<b>PDIA-2</b>	Pension and Disability Insurance Act
<b>PDPA</b>	Personal Data Protection Act
<b>PSSIEMPSA</b>	Payment Services, Services for Issuing Electronic Money and Payment Systems Act
<b>RCRSA-1</b>	Roma Community in the Republic of Slovenia Act
<b>RS</b>	Republic of Slovenia
<b>SIDA</b>	Social Inclusion of Disabled Persons Act
<b>SIFOROMA</b>	National Platform for the Roma
<b>SPIRIT Slovenia</b>	Public Agency for Entrepreneurship, Internationalization, Foreign Investments and Technology
<b>SPSA-1</b>	State Prosecution Service Act
<b>SWC</b>	Social Work Centres
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UPR</b>	Universal Periodic Review



## Annual Report of the Advocate of the Principle of Equality for 2020 – Cases and Issues

### Issued by

The Advocate of the Principle of Equality of the Republic of Slovenia

### On behalf of the Advocate

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