



REPUBLIKA SLOVENIJA  
ZAGOVORNIK NAČELA ENAKOSTI

## Special Report

# Implementing Rights of All People with Disabilities in Slovenia



## Special Report

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Ljubljana, August 2024



Dear readers,

this Special Report presents an overview of the fulfilment of the obligations adopted by the Republic of Slovenia in 2008 when it ratified the Convention on the Rights of Persons with Disabilities (the CRPD, hereinafter referred to as the "Convention"). Since 2016, the Protection against Discrimination Act<sup>1</sup> (the PADA) has also been in force in Slovenia. This Act provides for the protection against discrimination which is granted to all persons, regardless of their personal grounds. Hence, discrimination based on the personal ground of disability is also prohibited. The protection against discrimination is guaranteed in various areas of social life, when enforcing human rights and fundamental freedoms, as well as in the exercise of rights and obligations and in other legal relations in the political, economic, social, cultural, educational or other areas.

The purpose of this Special Report is to draw attention to the State's obligations regarding the exercise of the right to equal treatment and equal opportunities in all areas of social life for persons with disabilities. These provisions are stipulated in detail by the aforementioned Act and by the Convention.<sup>2</sup>

So far, the Convention has been ratified by 181 countries, including the Republic of Slovenia, and by the European Union. The Convention represents a major shift in the understanding of the human rights of persons with disabilities. The Convention guarantees that all persons with disabilities are granted all human rights on an equal basis with other people, and that they are provided with the opportunity to exercise these rights by themselves. The Convention introduced the concept of the so-called inclusive equality into the legal practice of understanding equality. This implies efforts to fully exercise all the rights of persons with disabilities, as well as their social inclusion and full participation in all areas of social life.

Compliance with the provision of the Convention is a transformative process, which must be reflected in the national laws and practices of the States Parties to the Convention, as well as in the understanding of people. This requires replacing the current medical and social model of understanding disability with a human rights-based model of understanding disability. This provides a basis for the empowerment of persons with disabilities.

The second paragraph of Article 1 of the Convention stipulates that "[p]ersons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others". The official Slovenian translation of the Convention omits the emphasis that individual forms of impairments are listed only as an example.

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<sup>1</sup>Protection against Discrimination Act (Official Gazette of the RS, No. 33/16 and 21/18 – Non-Governmental Organisations Act).

Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7273>.

<sup>2</sup> Act ratifying the Convention on the Rights of persons with Disabilities and Optional Protocol to the Convention on the Rights of Persons with Disabilities, Official Gazette of the Republic of Slovenia No. 47/2008. The Convention has entered into force in the Slovenian legal system on 16 April 2008, and has entered into force in an international scope on 24 April 2008. Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5314>.

As a result, persons with long-term health conditions who have not been recognised as persons with disabilities under the Slovenian law have been exempt from the rights guaranteed under the Convention. These include, for example, persons with psychosocial disabilities, persons with mental health issues, dementia or dyslexia, etc.<sup>3</sup>

This Special Report explains the fundamental substantive highlights of the Convention. Understanding the concept of disability, the prohibition of discrimination on the grounds of disability, and all obligations to ensure inclusive equality is only possible with a more detailed knowledge of the provisions of the Convention. This is important, both for persons with disabilities who exercise their rights and for those who are obliged to respect or protect these rights.

The Special Report outlines the international and national legal regulation of the protection of the rights of persons with disabilities. The Special Report thus includes all recommendations regarding the situation and the right to equal treatment of persons with disabilities, issued by the Advocate of the Principle of Equality (Advocate) to various actors, mainly to ministries and to the legislator, since 2019. In its recommendations, the Advocate drew the attention of the legislator, as well as of those that prepare and implement political measures, to the need for a more consistent compliance with the Convention. The Advocate also recommended the elimination of a number of deficiencies, inconsistencies, or legal gaps.

The United Nations Committee on the Rights of Persons with Disabilities (the CRPD Committee) is the supervisory body under the Convention. The Committee includes independent experts who monitor the implementation of the Convention in the States Parties. Through its activities and cooperation with States Parties, the CRPD Committee promotes integration, advocates for the human rights of all persons with disabilities, and makes recommendations to support the implementation of the provisions of the Convention.

In 2018, the CRPD Committee considered the initial report of Slovenia on its implementation of the Convention.<sup>4</sup> In its conclusions<sup>5</sup>, the Committee assessed the situation, identified a number of shortcomings, and recommended that Slovenia implements a series of measures to achieve the key objectives of the Convention, i.e. full and equal respect, protection, and effective exercise of the rights and freedoms of persons with disabilities. The Advocate contributed to a broader understanding of the content of the conclusions of the CRPD Committee by preparing a translation of the initial report in the Slovenian language, which was published in the Annual Report of the Advocate of the Principle of Equality for 2018.<sup>6</sup>

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<sup>3</sup> The explanation is provided in Annex 1 to the Recommendation of the Advocate of the Principle of Equality to the Government of the Republic of Slovenia regarding the revision and enforcement of a more appropriate translation of the Convention on the Rights of Persons with Disabilities. Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-vladi-republike-slovenije-glede-revizije-in-ujeljavitve-ustreznejsega-prevoda-konvencije-o-pravicah-invalidov/>.

<sup>4</sup> Initial Report on the Implementation of the Provisions of the Convention on the Rights of Persons with Disabilities. Available at: <https://www.gov.si/assets/ministrstva/MZZ/Dokumenti/multilateral/clovekove-pravice/porocila-SLO-po-instrumentih-o-clovekovih-pravicah/bc31dc603c/Uvodno-porocilo-Slovenije-o-izvajanju-Konvencije-o-pravicah-invalidov.pdf>.

<sup>5</sup> Conclusions of the UN Committee on the Rights of Persons with Disabilities regarding the Initial Report of Slovenia on the Implementation of the Convention on the Rights of Persons with Disabilities (the Convention), adopted at the 386th session on 5 March 2018 (CRPD/C/svn/CO/1). <https://www.ohchr.org/en/documents/concluding-observations/crpdcsvnco1-committee-rights-persons-disabilities-concluding>.

<sup>6</sup> The text of the document of the Conclusions of the UN Committee on the Rights of Persons with Disabilities regarding the initial Report of Slovenia on the Implementation of the Convention on the Rights of Persons with Disabilities (the Convention) is available in the Slovenian language in the Annual Report of the Advocate of the

Six years after the issuance of the CRPD Committee's concluding observations, the Advocate performed an analysis of the publicly available information on the implementation of the Convention. Based on this analysis, the Advocate assessed whether (and if, to what extent) Slovenia has complied with the recommendations of the CRPD Committee in the period from the receipt of these recommendations to the end of May 2023. The Advocate assessed that sufficient progress of the State in complying with the provisions of the Convention was not achieved.

In June 2023, the Advocate issued a recommendation to the Government of the Republic of Slovenia, highlighting 33 important recommendations of the CRPD Committee that have not been complied with yet.<sup>7</sup>

Based on the recommendation of the Advocate, the Government of the Republic of Slovenia prepared a joint response of ministries. In this response, the Government assessed that the national "legislation is being realised and implemented pursuant to the Convention and on the basis of the recommendations established by the CRPD Committee."<sup>8</sup> It follows from both the Advocate's analysis and the response of the Government of the Republic of Slovenia that some progress has been made on individual issues of regulating the rights of persons with disabilities at the legislative level, as well as in practice. In addition, some irregularities have also been defined, and certain measures are currently being planned. However, the fact that efforts are being made does not necessarily mean that the objective or purpose of the recommendations of the CRPD Committee has already been achieved. The objective namely continues to be the realisation of all rights of all persons with disabilities.

In October 2023, the Advocate involved non-governmental organisations (NGOs) advocating for the rights of persons with disabilities in the process of evaluating the implementation of the recommendations of the CRPD Committee. The Advocate asked them to comment on the Advocate's assessments of the 33 unfulfilled recommendations of the CRPD Committee or to provide their own assessment in the light of experience with the exercise of said rights.

By the end of February 2024, the Advocate then re-examined all additional publicly available information and further analysed both the response of the Government of the Republic of Slovenia and the responses of NGOs involved. On this basis, the Advocate assessed that 33 recommendations of the CRPD Committee remain unfulfilled. The Advocate's assessment includes activities relating to the period from 1 January 2019 to 30 April 2024. The Advocate further supported this assessment with detailed explanations. These explanations are the central part of this Special Report.

The Advocate welcomes the efforts made by the State and other actors to make progress in the implementation of all rights of persons with disabilities. This Report primarily focuses on the gaps and challenges that remain.

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Principle of Equality for 2018, p. 218 et seq, available at: <https://zagovornik.si/wp-content/uploads/2022/08/Redno-letno-porocilo-2018.pdf>.

<sup>7</sup> The Advocate's recommendation, available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-vladi-republike-slovenije-glede-uresnicevanja-priporocil-odbora-za-pravice-oseb-z-invalidnostmi-v-zvezi-s-konvencijo-o-pravicah-invalidov/>.

<sup>8</sup> This citation comes from the document of the Government of the Republic of Slovenia, No. 07000-8/2023/5, 20 July 2023, Response to the Advocate of the Principle of Equality regarding the matter of the harmonisation of legislation in the field of protection of persons with disabilities with the Convention on the Rights of Persons with Disabilities 2018–2023. On 29 July 2023, the Slovenian Press Agency published a news item entitled "According to the Government's findings, Slovenia is implementing the legislation on persons with disabilities in accordance with the UN Convention". Available at: <https://www.sta.si/3196273/slovenija-po-ugotovitvah-vlade-uresnicuje-zakonodajo-o-invalidih-skladno-s-konvencijo-zn?q=odgovor.vlad.zagovornik.na%C4%8Del.enak>.

The Advocate makes the following assessments regarding the unfulfilled recommendations of the CRPD Committee:

1. A systematic review of legislation, policies and programmes has not been prepared. These remain inconsistent with the provisions of the Convention. The legislation was not harmonised with the human rights-based approach to disability.
2. An accurate translation of the Convention has not yet been provided.
3. Some organisations for persons with disabilities, such as organisations helping people with mental health problems, are not allowed to acquire the status of disabled persons' organisations; therefore, the State does not consult them and they are also unable to participate in the formulation of legislation and in the preparation of measures for the exercise of the rights of persons with disabilities, as well as to monitor the current situation.
4. A systematic and comprehensive training on human rights standards for persons with disabilities under the Convention is not provided to members of the Parliament, to members of the Government, to judges and judicial staff, to health and social workers, and to other administrative and professional staff.
5. Comprehensive legislation to prevent discrimination, which would also recognise and sanction the denial of reasonable accommodation in all areas of social life as a form of discrimination on the basis of disability, has not been adopted. The focal point to manage, direct and coordinate all non-discrimination policies at government level has not been established.
6. Intersectional discrimination is not explicitly included in legislation, policies, and strategies. Multiple discrimination is only included in the legislation, but is not included in policies and strategies.
7. No progress has been made in terms of the effectiveness of anti-discrimination safeguards, in particular when it comes to ensuring adequate compensation and enforcing sanctions for some of the most common violations.
8. Furthermore, no progress has been made in systematically eliminating systemic discrimination against persons with disabilities, especially in legislation and in the field of mental health and institutionalisation.
9. A strategy for the prevention and elimination of domestic and gender-based violence with an emphasis on the vulnerability of women and girls with disabilities has not yet been adopted. Shortcomings also exist in the inclusion and participation of women with disabilities in decision-making processes; furthermore, little research into their situation exists on the subject.
10. When it comes to protecting the rights of children with disabilities, no strategies exist to prevent violence against children in alternative care. Effective coordination between the various actors in this area is not ensured.
11. The "Accessible Slovenia" national strategy is less successful when it comes to achieving certain objectives. Furthermore, an important part of the Equalization of Opportunities for Persons with Disabilities Act (the EOPDA) does not fully comply with the accessibility requirements. Clear standards and measures intended to ensure accessibility, which would ensure the imposition of sanctions for unavailability in all areas as provided for in the Convention, have not yet been adopted.
12. The amendment to the Constitution of the Republic of Slovenia with the recognition of the right to use sign language and the language of the deafblind has not obtained the necessary normative response of the legislator yet. No progress has been made in promoting the development of the Slovene sign language. In practice, the use of the language of the deafblind is not yet guaranteed. Other forms of complementary (reinforcing) communication and supportive decision-making are not regulated.
13. The legislation has not abolished legal provisions that allow for the deprivation of operational capacity. Procedures for restoring the full operational capacity of persons with disabilities and supporting decision-making mechanisms have not been established.



14. All barriers for persons with disabilities, including the deafblind and persons with psychosocial and/or intellectual disabilities, have not yet been eliminated when it comes to their access to justice.
15. A strategy to ensure the accessibility of buildings of law enforcement agencies and judiciary buildings for all persons with disabilities has not yet been established.
16. Provisions and practices allowing involuntary admission of persons with disabilities to psychiatric treatment have not yet been eliminated. There is no guarantee of personal integrity and protection of persons with disabilities residing in institutions or hospitals. In the penitentiary system, all reasonable adjustments have not yet been provided for.
17. The positions of the State on the planned Protocol to the Oviedo Convention on minimum standard procedures for ordering forced psychiatric treatment and placement or on its (non-)compliance with the Convention have not been adopted.
18. The legislation regarding the admissibility of the use of isolation or physical, chemical or mechanical coercive agents and the use of any treatment against one's will remains unchanged. No progress has been made in terms of ensuring investigations, prosecution of perpetrators of violations, and the provision of effective remedies and compensation, indemnification and rehabilitation.
19. The strategy to prevent all forms of violence against persons with disabilities, especially against women, has not been adopted. Persons with disabilities do not have any adequate early warning mechanisms available to identify and report the dangers of violence.
20. An action plan with a timeline for deinstitutionalisation has not yet been adopted.
21. No guarantees exist to prevent any form of trans-institutionalisation<sup>9</sup> and re-institutionalisation.<sup>10</sup> There is insufficient funding to develop schemes to exercise the right of persons with disabilities to an independent life that is accessible to all.
22. Persons with disabilities still find it hard to obtain high-quality and accessible mobility aids and assistive technologies.
23. The measures taken to ensure that persons with disabilities have access to information and means of communication, including public and private mass media such as television and the Internet, are not implemented in a satisfactory manner. Alternative and reinforcement communications are not provided throughout the public and municipal sectors.
24. Persons with psychosocial and intellectual disabilities are still prevented from entering into marriages and assuming parental responsibilities. No support is provided in the exercise of their parental responsibilities.
25. All educational institutions are not yet fully accessible to persons with disabilities, and the monitoring of progress in this regard is not defined by appropriate quantitative and qualitative indicators.
26. The spatial and communication accessibility of health services for persons with disabilities is not yet fully guaranteed.
27. Incentives to employ persons with disabilities are only available to employers who wish to employ workers with the status of a person with a disability and are not available to employers who employ persons with disabilities without the status. Employment quotas of persons with disabilities in public administration and in the information services sector are still the lowest compared to other sectors.

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<sup>9</sup> Transinstitutionalisation is a process in which individuals who are supposed to leave the institutional system (deinstitutionalisation) end up in other institutions and do not live independently in their homes due to social welfare policies.

<sup>10</sup> Reinstitutionalisation means sending people back to institutions after they have already left the institutional system. This phenomenon is often related to the treatment of people with mental health issues, which are often taken back to treatment or care in institutions.

28. Access to suitable housing for persons with disabilities is extremely limited. There is a lack of services to integrate older people into the community so that they can stay in their home environment instead of having to move to a care institution.
29. By amending the legislation in February 2024, the State eliminated the deprivation of the right to vote for persons with intellectual and psychosocial disabilities, and also provided for the possibility of the presence of a support person when a person with disability is voting at the polling station. Effective participation of persons with disabilities in elections with accessible information, procedures, and election materials, as well as appropriate education of the persons responsible, has not yet been enabled.
30. Accessibility of published works and other cultural and leisure content for the blind, partially sighted and persons with other reading disabilities (i.e. the content of the Marrakesh Treaty) is limited.
31. Systematic procedures for collecting disaggregated data on persons with disabilities to develop appropriate measures and monitor the implementation of the Convention have not been developed.
32. The involvement of all organisations of persons with disabilities in international cooperation is not guaranteed. Not all aspects of the rights of persons with disabilities are included in the implementation of the goals of the 2030 Agenda for Sustainable Development.
33. The coordination of the implementation of the Convention and safeguarding the coherence of the implementation of the human rights of persons with disabilities in various areas are not systematically regulated. There is also no independent mechanism to monitor the implementation of the Convention. The existing mechanism also does not include all organisations of persons with disabilities.

The Advocate recommends to the Government of the Republic of Slovenia, ministries, and other duty bearers in the field of exercising the rights of all persons with disabilities, to adopt a comprehensive and systematic approach to the full exercise of all rights of persons with disabilities, as set out in the Convention.

We would like to thank all NGOs advocating for the rights of persons with disabilities, the Government of the Republic of Slovenia and ministries, which responded to our queries, thereby contributing to a more objective assessment of the review of the exercise of rights of persons with disabilities in Slovenia. It is only through joint work and cooperation that we will be able to make progress in this area in the future.

Miha Lobnik  
ADVOCATE OF THE PRINCIPLE OF EQUALITY

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## 1 INTRODUCTION

### 1.1 Legal basis and purpose of the Special Report

According to Article 1 of the Protection against Discrimination Act<sup>11</sup> (the PADA), protection against discrimination is provided to individuals regardless of their personal grounds, including disability. The right to protection against discrimination applies to all persons living with any type of disability or disabilities, not only to those who have a recognised status of a person with disability under any national law.

Pursuant to the Convention on the Rights of Persons with Disabilities<sup>12</sup> (the Convention), the term "persons or individuals with disabilities" includes those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. Such a definition is open and only lists groups of people with individual types of disability by way of example. The key emphasis is, among other things, that these also include persons with long-term conditions. Thus, the Convention provides a protection which extends beyond the traditional medical definition, which defines disability as a permanent condition of partial or complete incapacity that cannot be remedied using medical rehabilitation treatment.

Article 2 of the PADA considers that State authorities, local communities, holders of public authorisations, legal entities and natural persons are bound to ensure protection against discrimination or equal treatment. Therefore, it does not distinguish between public and private sector obligees. The protection against discrimination is guaranteed in various areas of social life, in the exercise of human rights and fundamental freedoms, as well as in the exercise of rights and obligations and in other legal relations in the political, economic, social, cultural, civil or other spheres.

The Special Report is the final result of several tasks under Article 21 of the PADA, which provides the Advocate with the power to, among other things:

- "[conduct] independent research on the position of people in certain personal grounds and other issues regarding discrimination of people with certain personal grounds", e.g. persons with disabilities;
- "[monitor] the overall situation in the Republic of Slovenia in the area of protection against discrimination and the situation of persons with certain personal grounds", which therefore also includes persons with disabilities, and
- "publish independent reports and make recommendations to state authorities, local communities, holders of public authorisations, employers, business entities and other bodies regarding the established situation of people in certain personal grounds, i.e. relating to preventing or eliminating discrimination and adopting special and other measures to eliminate discrimination".

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<sup>11</sup> Protection against Discrimination Act (Official Gazette of the RS, No. 33/16 and 21/18 – Non-Governmental Organisations Act). Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7273>.

<sup>12</sup> Act ratifying the Convention on the Rights of persons with Disabilities and Optional Protocol to the Convention on the Rights of Persons with Disabilities, Official Gazette of the Republic of Slovenia No. 47/2008. The Convention has entered into force in the Slovenian legal system on 16 April 2008, and has entered into force in the international legislation on 24 April 2008. Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5314>.

In accordance with Article 22 of the PADA, the Advocate shall report to the National Assembly of the Republic of Slovenia about his work and findings on the existence of discrimination involving individual groups of persons with certain personal grounds, e.g. persons with disabilities, in the framework of special reports.

The Advocate also considered the information arising from the performance of his tasks of providing support to victims of discrimination through counselling and information, as well as the information obtained through the procedures for determining discriminatory practices and assessing the discriminatory character of regulations.

From the available data on all the Advocate's completed advisory procedures, established discriminatory practices and assessed discriminatory character of regulations, it follows that, in 2023<sup>13</sup>, the personal ground of disability (alleged personal ground) was stated most often among all personal grounds, i.e. in almost a fifth of all cases considered (19.3 per cent). This share increased significantly compared to 2022, when discrimination on the basis of disability was alleged in about a tenth of all completed proceedings (11.6 per cent); similar to 2023, disability was the most frequently alleged personal ground.<sup>14</sup> The same can be established from the data on discriminatory practices in 2021 (10.8 per cent) and 2020 (14 per cent), ever since the Advocate records data disaggregated by personal grounds in its regular annual reports.<sup>15</sup>

Regarding the situation and rights of persons with disabilities in the period from 2019 up to and including April 2024, the Advocate made a number of recommendations regarding proposed laws and regulations (prevention of discrimination), applicable laws and regulations (elimination of discrimination) and recommendations aimed at the promotion of equal treatment (prevention of discrimination). In 2023<sup>16</sup>, more than half of all recommendations (56 per cent or 81 recommendations) were made in relation to the situation and rights of persons with disabilities. Among other reasons, the share recorded for the personal ground of disability compared to other personal grounds is also so high because the Advocate devoted his profoundest attention to matters related to persons with disabilities in 2023. Most often, in no less than 40 cases recorded in 2022, the Advocate made recommendations regarding the position and rights of persons with disabilities.<sup>17</sup> The same applies to 2021 and 2020, when the Advocate also made the highest number of recommendations regarding the personal grounds of disability (13 and 17 in 2021 and in 2020, respectively).

The Advocate often referred to the lack of understanding or inconsistencies with the Convention in the explanations of his recommendations, and recommended the elimination of deficiencies, inconsistencies, or legal gaps.

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<sup>13</sup> Annual Report of the Advocate of the Principle of Equality for 2023. Available at: <https://zagovornik.si/izdelki-zagovornika/letno-porocilo/>.

<sup>14</sup> Annual Report of the Advocate of the Principle of Equality for 2022, p. 43. Available at: <https://zagovornik.si/en/what-we-do/annual-reports/>.

<sup>15</sup> Regular annual reports by the Advocate of the Principle of Equality are available at: <https://zagovornik.si/en/what-we-do/annual-reports/>.

<sup>16</sup> Annual Report of the Advocate of the Principle of Equality for 2023. Available at: <https://zagovornik.si/izdelki-zagovornika/letno-porocilo/>.

<sup>17</sup> Annual Report of the Advocate of the Principle of Equality for 2022, p. 111. Available at: <https://zagovornik.si/en/what-we-do/annual-reports/>.

In the first half of 2023, the Advocate prepared an analysis of the State's response to the warnings and recommendations of the United Nations Committee on the Rights of Persons with Disabilities (the CRPD Committee) from the document "Conclusions of the UN Committee on the Rights of Persons with Disabilities regarding the initial report of Slovenia on the implementation of the Convention on the Rights of Persons with Disabilities".<sup>18</sup> In the first phase and on the basis of publicly available information, the Advocate assessed the State progress in implementing the individual recommendations of the CRPD Committee in the period from 2018 up to and including the first half of 2023.

In his analysis, the Advocate found that significant systemic inconsistencies with the Convention remain in Slovenian legislation and practice. The Advocate sent the findings to the Government of the Republic of Slovenia and recommended that the Government, in cooperation with other State authorities, implement all recommendations issued by the CRPD Committee to the Republic of Slovenia in its conclusions from 2018.<sup>19</sup> In its reply to the Advocate, the Government of the Republic of Slovenia stated that national legislation is being implemented in accordance with the Convention.

In the next phase, the Advocate carried out consultations with organisations for persons with disabilities. In this way, in accordance with the principle of "nothing about us ("us" meaning persons with disabilities) without us" and pursuant to the Convention and the provisions of Article 15 of the PADA and of Article 4 of the Disabled Persons Organisations Act<sup>20</sup> (the DPOA), the Advocate included them in the process of preparing the assessment of the implementation of the recommendations of the CRPD Committee. The Advocate sent an inquiry to NGOs dealing with the rights and situations of persons with disabilities. The Advocate invited them to comment on those of his assessments of the implementation of the recommendations of the CRPD Committee related to the field of their work, or to share their views on the achieved level of exercise of rights.

At the end of April 2024, the Advocate once again conducted another analysis of the available information on the exercise of the rights of persons with disabilities in Slovenia in the light of the recommendations of the CRPD Committee. All of his findings are summarised in this Special Report.

With this Special Report, the Advocate draws attention to the important issue of exercising the right to equal treatment and equal opportunities in all areas of social life, granted to all persons with disabilities.

The objectives of the Special Report are:

1. comprehensively present the basic regulations, strategic documents and measures governing the right to equal treatment of persons with disabilities and their protection against discrimination;
2. present to the public the key concepts and notions for understanding the rights of persons with disabilities in accordance with the Convention;

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<sup>18</sup> Adopted at the 386th session on 5 March 2018 (CRPD/C/SVN/CO/1). Paragraph 58, pt. (b). The text is available in the Slovenian language in the Annual Report of the Advocate of the Principle of Equality for 2018, p. 167 et seq, <https://zagovornik.si/wp-content/uploads/2022/08/Redno-letno-porocilo-2018.pdf>.

<sup>19</sup> The Advocate's recommendation, available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-vladi-republike-slovenije-glede-uresnicevanja-priporocil-odbora-za-pravice-oseb-z-invalidnostmi-v-zvezi-s-konvencijo-o-pravicah-invalidov/>.

<sup>20</sup> Disability Organisations Act (the DOA) (Official Gazette of the RS, No. 108/02 and 61/06 – DOA-1). Available at: <https://pisrs.si/pregledPredpisa?id=ZAKO1460>.

3. present key shortcomings in the protection of the rights of persons with disabilities at the legislative level and in practice, in the light of the recommendations of the CRPD Committee;
4. reasonably identify the key recommendations of the CRPD Committee on which no significant progress has been made, and make a recommendation to the competent authorities to ensure the full and equal exercise of all rights and freedoms of persons with disabilities protected by the Convention in a more appropriate manner.

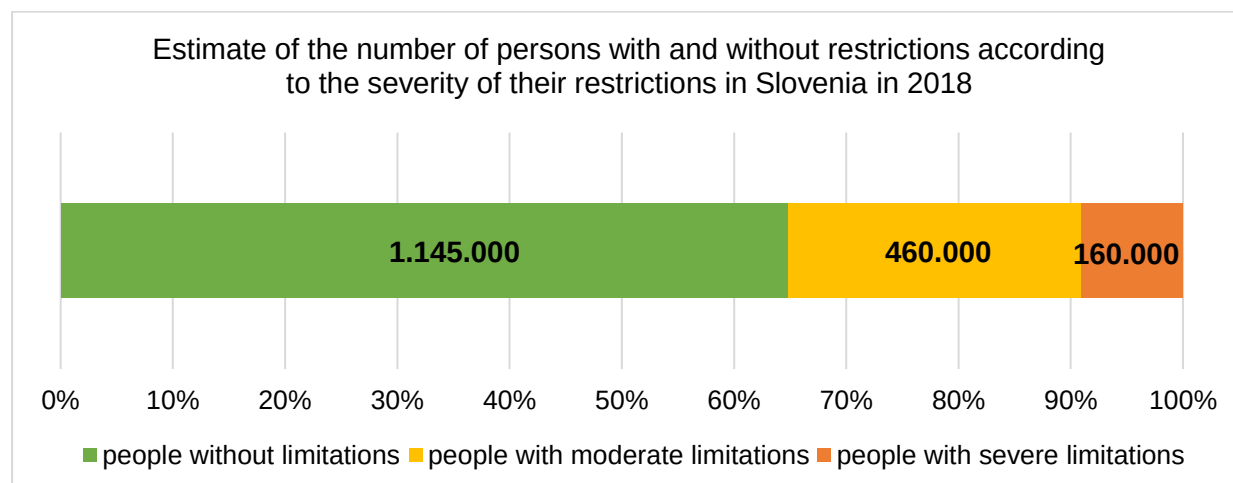
## 1.2 Data on the number and perceived discrimination of persons with disabilities

Data on the number of persons with disabilities are not uniform and vary depending on the understanding and definition of disability and the methodology of data collection. Mostly, we are talking about indicative estimates of the number of persons with disabilities.

The key strategic document of the European Union (EU) "Union of equality: strategy for the rights of persons with disabilities 2021–2030" states that, in 2018, approximately 87 million people in the EU lived with any form of disability,<sup>21</sup> which represents almost a fifth (19.5 per cent) of the EU population.<sup>22</sup>

According to the estimate from this strategic document,<sup>23</sup> the incidence of disability in Slovenia for persons over the age of 16 in 2018 was expected to appear in more than a third (35.4 per cent<sup>24</sup>) of the population (in 2018, this amounted to 1.765.000 people), namely:

- 26.5 per cent of the Slovenian population over the age of 16 (460.000 people) reportedly lived with moderate limitations, while
- 9 per cent of the Slovenian population over the age of 16 (160.000 people) reportedly lived with severe limitations.



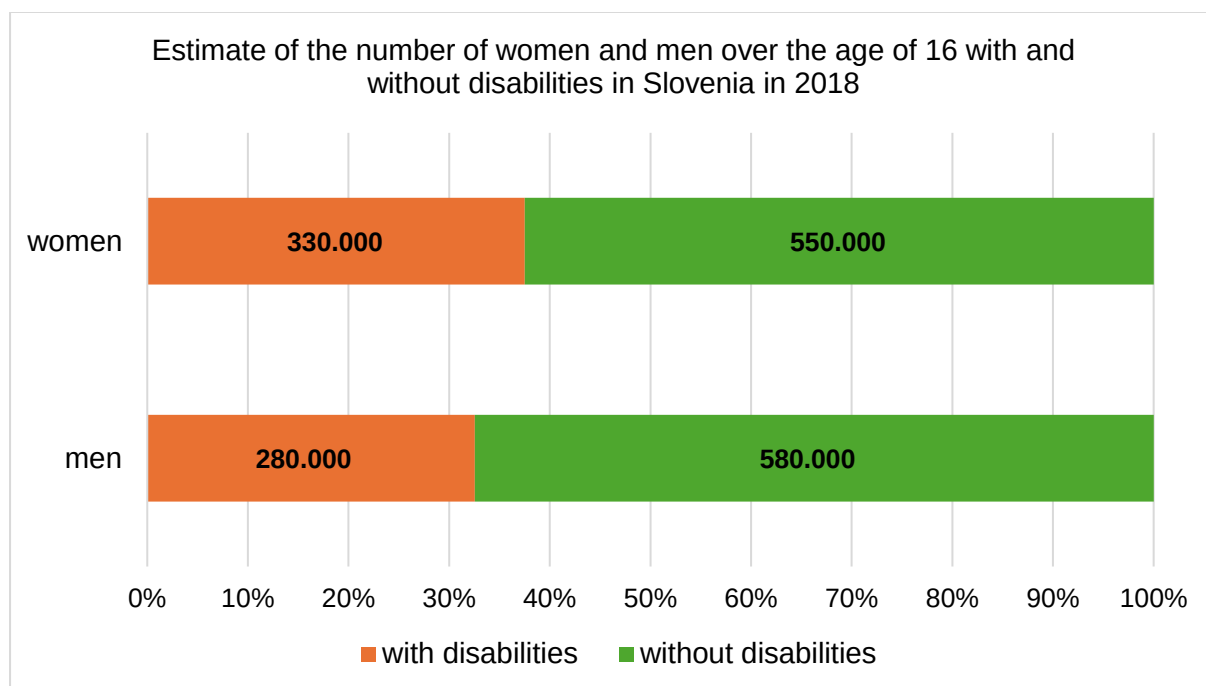
<sup>21</sup> For more information, see the link in the footnote under no. 6. Available at: <https://eur-lex.europa.eu/legal-content/SL/TXT/?uri=COM:2021:101:FIN#PP4Contents>.

<sup>22</sup> According to Eurostat, 446.21 million people lived in the European Union in 2018. Available at: <https://ec.europa.eu/eurostat/web/interactive-publications/demography-2023>.

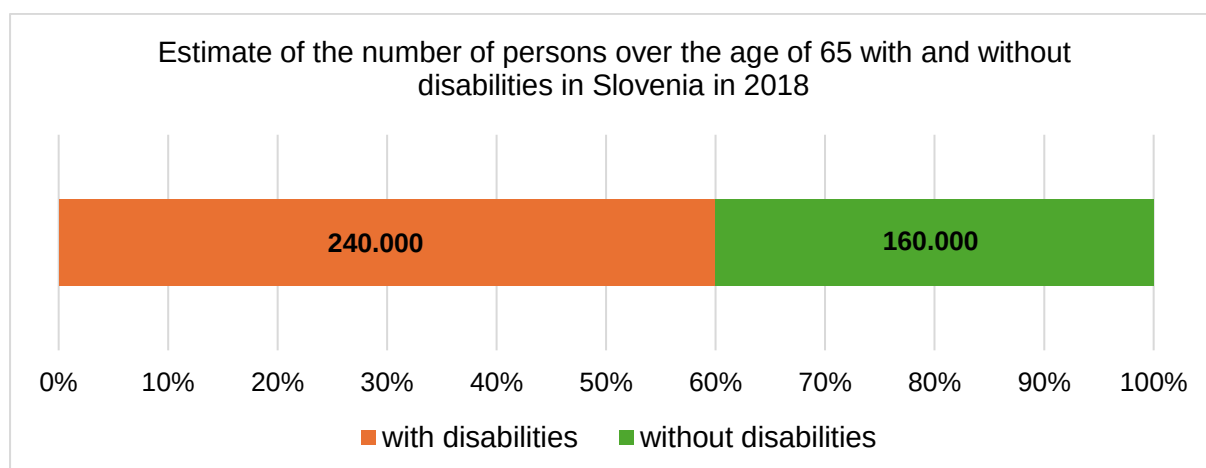
<sup>23</sup> See p. 2, table no. 1: Incidence of disability. Available at: <https://www.disability-europe.net/downloads/1046-edc-task-2-1-statistical-indicators-tables-eu-silc-2018>.

<sup>24</sup> The use of absolute numbers of people is an estimate calculated from the share according to the official data of the Statistical Office of the Republic of Slovenia on the number of inhabitants of Slovenia in the selected year.

In Slovenia, there are reportedly 32.6 per cent of men with disabilities and 38.1 per cent of women with disabilities.



Among people over the age of 65 (409.090 people in 2018), six out of ten (59.9 per cent) of people are said to be living with disabilities.



The key challenges identified by the European Commission in this strategy are related to their relatively disadvantaged social situation, which may reflect structural discrimination. The strategy states that:

- only 50 per cent of persons with disabilities in the EU are employed, compared to 75 per cent of persons without disabilities;
- 28.4 per cent of persons with disabilities are at risk of poverty or social exclusion, compared to 17.8 per cent of persons without disabilities;
- only 29.4 per cent of persons with disabilities attain tertiary education, compared to 43.8 per cent of persons without disabilities, and
- 52 per cent of persons with disabilities feel discriminated against, while in the general population, the proportion of people who feel discriminated against stands lower, at 21 per cent.<sup>25</sup>

According to the Statistical Office of the Republic of Slovenia (SORS), data from the World Health Organization (WHO) show that the number of persons with disabilities is increasing, whereby this increase is mainly due to the ageing of the population. In addition, a more frequent occurrence of chronic diseases such as diabetes, cardiovascular diseases, cancer and mental disorders plays a key role in increasing the number of persons with disabilities. More than a billion people around the world live with different forms of disability, with almost 200 million of these individuals experiencing significant difficulties in their daily functioning. In Europe, more than 45 million people suffer from long-term problems or have the status of a person with a disability, which represents an average of one in six individuals aged from 15 to 64.<sup>26</sup>

SORS does not record any official data on the total number of persons with disabilities in Slovenia. In 2014, based on entries in the registers of individual statuses of persons with disabilities or categories of disabilities (keeping records of individual statuses of<sup>27</sup> persons with disabilities under various laws), the SORS estimated that "... there were anywhere from 160.000 and 170.000 persons with disabilities in Slovenia (disabled persons in employment, children and youth with special needs, military and war disabled, and moderately and severely mentally disabled and physically handicapped)".<sup>28</sup>

In Slovenia, it is estimated that about 8 per cent of the total population has one of the statuses of a person with disability according to different acts, while disability organisations also estimate that an additional 5 per cent are persons with a major physical handicap who do not have any of the statuses. In the Republic of Slovenia, data on persons with disabilities are not systematically collected.<sup>29</sup> These are the most conservative estimates within the traditional notion of a person with disability, rather than data collected pursuant to a human rights-based understanding of disability.

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<sup>25</sup> Eurobarometer. Discrimination in the European Union. Available at: <https://europa.eu/eurobarometer/surveys/detail/2972>.

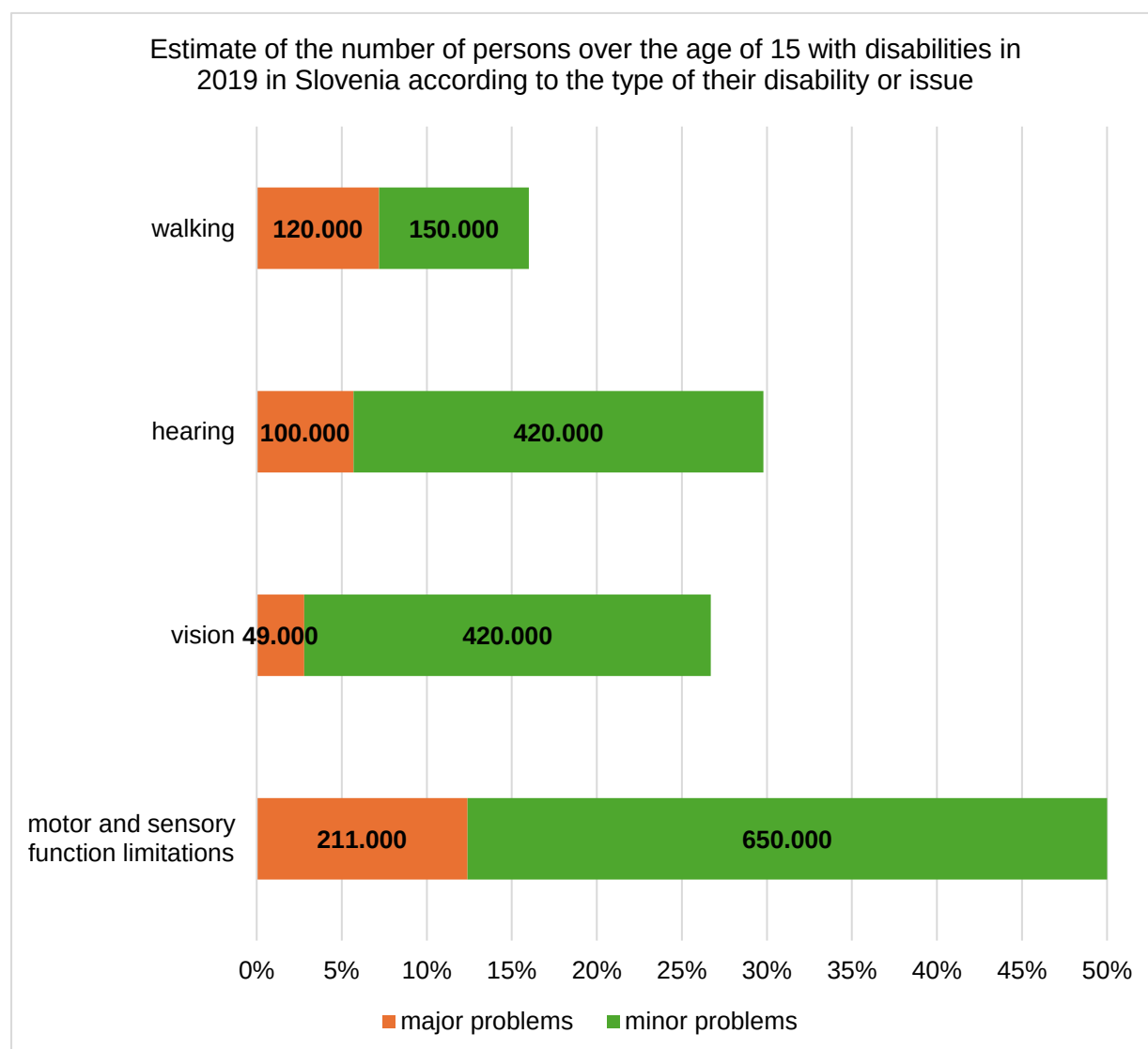
<sup>26</sup> Statistical Office of the Republic of Slovenia. Available at: <https://www.stat.si/statweb/news/index/4916>.

<sup>27</sup> The status of disabled war veterans is regulated by the War Veteran Disability Act, the status of disabled workers is regulated by the Pension and Disability Insurance Act, and the status of disabled persons is further regulated by the Vocational Rehabilitation and Employment of Disabled Persons Act and the Social Inclusion of Disabled Persons Act, while the status of a child with special needs is regulated by, among other things, the Act on the Placement of Children with Special Needs.

<sup>28</sup> See SORS 2014. Available at: <https://www.stat.si/statweb/news/index/4916>.

<sup>29</sup> In the initial Report on the Implementation of the Provisions of the Convention on the Rights of Persons with Disabilities, available at <https://www.gov.si/assets/ministrstva/MZZ/Dokumenti/multilateral/clovekove-pravice/porocila-SLO-po-instrumentih-o-clovekovih-pravicah/bc31dc603c/Uvodno-porocilo-Slovenije-o-izvajanju-Konvencije-o-pravicah-invalidov.pdf>.

Data from the National Health and Health Care Survey for Slovenia conducted in 2019 (when the total population of the Republic of Slovenia amounted to 2.080.908 people) show that 12.4 per cent of the population had important motor and sensory function limitations, while 37.6 per cent of the population over the age of 15 had minor limitations. 2.8 per cent of the population had major vision problems, while 23.9 per cent of the population had minor vision problems. 5.7 per cent of the population had major hearing problems, while 24.1 per cent of the population had minor vision problems. 7.2 per cent of the population had major walking difficulties, while 8.8 per cent of the population over the age of 15 had minor walking difficulties.<sup>30</sup>



<sup>30</sup> National Institute of Public Health, National Health and Health Care Survey (EHIS 2019), 2020. Available at: <https://www.nijz.si/sl/podatki/nacionalna-raziskava-o-zdravju-in-zdravstvenem-varstvu-ehis-2019>.



The National Institute of Public Health reports that one in four families in Slovenia has at least one member with mental health issues. 6 per cent of persons face depression; the same share of persons has anxiety disorders, and up to 10 per cent of persons have stress disorder-related issues.<sup>31</sup>

The number of persons with the status of a person with disability is undoubtedly significantly lower than the number of all persons with disabilities. In some circumstances or during a certain period of life, numerous people find themselves in a situation which functionally impairs them for a long time in one way or another, e.g. due to an injury or an illness. A special aspect is the understanding of persons with mental health issues who are facing the so-called psychosocial disabilities. The understanding of the difference between a person's disability and their medical condition is changing. With a correct understanding of a disability, the difference is also in the longevity of the consequences of said disability, and not in its origin or possible curability. Under the Convention, persons with disabilities may include, for example, older people with dementia, people with long-term mental health issues etc.

The results of opinion polls showed an increasing incidence of discrimination on the grounds of disability. According to the Advocate's periodic public opinion poll on discrimination in Slovenia<sup>32</sup> from 2022, the estimates of the respondents (between the ages of 18 and 75) state that about a quarter (23 per cent) of all residents were victims of discrimination in a 12-month period before the survey, which is more than was shown in the surveys from 2020<sup>33</sup> and 2017 (22 per cent and 17 per cent, respectively).<sup>34</sup> Of all the people who stated that they were victims of discrimination, 15 per cent of them stated that they were discriminated against on the grounds of disability in the 2022 survey. This is more than in 2020 and in 2017 (14 per cent and 11 per cent, respectively).

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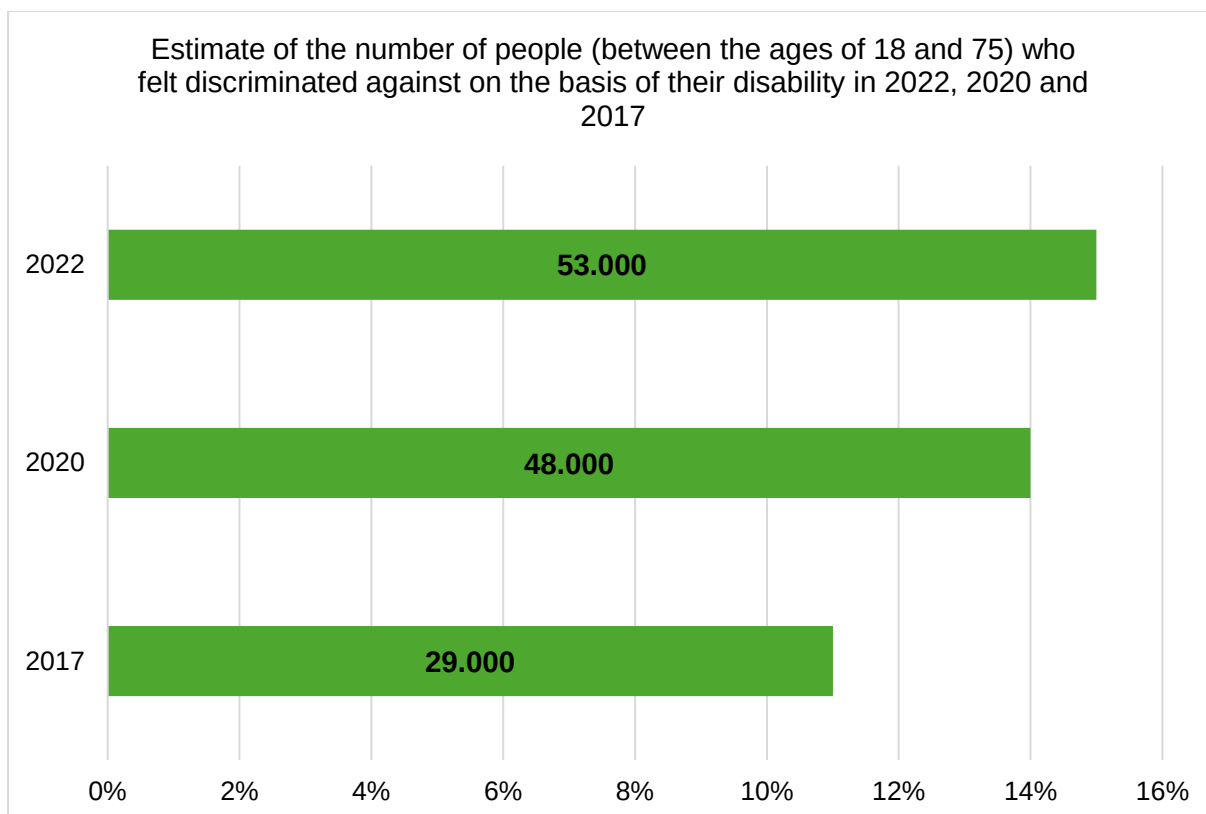
<sup>31</sup> Available at: <https://nijz.si/zivljenjski-slog/dusevno-zdravje/vpliv-epidemije-covid-19-na-dusevno-zdravje/>.

<sup>32</sup> Advocate of the Principle of Equality (2023). Research report: Key results of the public opinion survey "2022 Discrimination Survey". See p. 34. Available at: <https://zagovornik.si/wp-content/uploads/2023/09/Raziskovalno-porocilo-2022.pdf>.

<sup>33</sup> Perceptions and experience with discrimination in Slovenia in 2020. Available at: <https://zagovornik.si/izdelki-zagovornika/raziskave-o-diskriminaciji/>.

<sup>34</sup> Advocate of the Principle of Equality (2017). Research report: Public opinion poll on the perception of discrimination in Slovenia, 2017. Available at: <https://zagovornik.si/wp-content/uploads/2022/08/Raziskovalno-porocilo-Javnomnenjska-raziskava-Percepcija-diskriminacije-v-RS-2017.pdf>.





People who report feeling discriminated against in opinion polls understand discrimination as various injustices that occur to them, which is broader than the definition of discrimination itself.

Professional experience shows that about half of the cases of injustice that people experience as discrimination meet the legal definition of discrimination. According to the Advocate's estimate, there are at least 30.000 people who experience discrimination on the basis of disability in any given year.

The 2022 opinion poll also shows that the vast majority (91.9 per cent) agreed that it was right for the employer to individually adapt the workplace to an employee with a disability. The majority (80 per cent) would also have no issues having a person with a severe disability as a co-worker, which is more than in 2020 (75 per cent).

The public opinion poll on discrimination in the field of health care, conducted by the Advocate in 2023, shows that persons with chronic diseases and persons with disabilities have above-average difficulties in establishing contact with an outpatient general practitioner. Among persons with disabilities, more than one tenth have difficulties in physically accessing the outpatient care facility because they are not adapted to persons with disabilities. The survey also shows that 14 per cent of all people who experienced discrimination in health care were discriminated against on the basis of disability. When it comes to medical treatment, women with disabilities claimed having an above-average amount of experiences with discrimination.<sup>35</sup>

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<sup>35</sup> Report on the poll of discrimination in the field of health care. Available at: [https://zagovornik.si/wp-content/uploads/2024/03/ZNE\\_DiskriminacijaZdravstvenoVarstvo\\_POROCILO-za-objavo.pdf](https://zagovornik.si/wp-content/uploads/2024/03/ZNE_DiskriminacijaZdravstvenoVarstvo_POROCILO-za-objavo.pdf).

In Slovenia, reliable and objective equality data, disaggregated according to all personal grounds, are not systematically collected. This makes it difficult to monitor and assess the situation of persons with disabilities. This is pointed out by a number of international control mechanisms in the field of human rights protection, including the CRPD Committee.<sup>36</sup> The Advocate has been drawing attention to this for many years.

The disaggregated data help to understand the situation of persons with disabilities and identify subgroups that also find themselves in particularly vulnerable situations due to the cross-sectional and qualitatively particularly disadvantageous effects of several personal grounds at the same time (e.g. in relation to gender, property status, age, type of disability, place of residence). Such disaggregated data are necessary to monitor the exercise of rights under the Convention.

They are also indispensable for a comprehensive planning of legislation and policies, as well as for measuring and assessing the adequacy (effectiveness) of the implementation of EU and national legislation on protection against discrimination and promotion of equal opportunities. In addition, they also enable monitoring of trends, which allows for responsiveness to any perceived deterioration in the position of persons with disabilities in society.

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<sup>36</sup> See point 53 in the document Conclusions of the UN Committee on the Rights of Persons with Disabilities regarding the initial Report of Slovenia on the Implementation of the Convention on the Rights of Persons with Disabilities (the Convention), adopted at the 386th session on 5 March 2018 (CRPD/C/SVN/CO/1). The text is available in the Slovenian language in the Annual Report of the Advocate of the Principle of Equality for 2018, p. 231. Available at: <https://zagovornik.si/wp-content/uploads/2022/08/Redno-letno-porocilo-2018.pdf>.

## 2 UNDERSTANDING DISABILITY UNDER THE CRPD CONVENTION

### 2.1 Disability as an evolving concept

A comprehensive understanding of the prohibition of discrimination on the grounds of disability is only possible with a more detailed knowledge of the Convention on the Rights of Persons with Disabilities<sup>37</sup> (the Convention), which represents a milestone in understanding the concept of disability. The Convention is a fundamental reference point and represents a major shift in the understanding of the human rights of persons with disabilities. So far, the Convention has been ratified by 181 countries, including the Republic of Slovenia (RS), and by the European Union (EU).

In the preamble to the original, the Convention notes that disability is an evolving concept. Disability arises as a result of the interaction between persons with impairments and disabilities, whereby the latter arise from attitudes towards disability in society and from obstacles in the environment. All this prevents persons with disabilities from fully and effectively participating in society on an equal basis with others.<sup>38</sup>

Historically, persons with disabilities have been understood and treated pursuant to the medical and social model of understanding disability. However, the Convention perceives disability as their synthesis and, at the same time, their upgrade, seeing as it puts a human rights-based model at the forefront. The disability criterion under the Convention is the condition of a person that impedes their full and equal exercise of rights and freedoms, as well as their participation in society.

The Convention introduced into practice the concept of so-called inclusive equality, which is considered as a transformative process, which must also be reflected in the national legislation and practice of the States Parties to the Convention. This concept provides a basis for the empowerment of persons with disabilities.<sup>39</sup>

#### 2.1.1 Medical and social model of understanding disability

In accordance with the traditional (and the already obsolete) medical model of understanding disability, persons with disabilities were treated through the prism of their impairments, injuries, limitations or (in)abilities.<sup>40</sup> The understanding of disability in line with this model is based on an assessed (measured) state of health which cannot be remedied using medical rehabilitation treatment or measures.

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<sup>37</sup> Act ratifying the Convention on the Rights of persons with Disabilities and Optional Protocol to the Convention on the Rights of Persons with Disabilities, Official Gazette of the Republic of Slovenia No. 47/2008. Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5314>.

<sup>38</sup> The Advocate recommended that the Government of the Republic of Slovenia provide an improved translation of the Convention, including the elimination of errors in the preamble. See point 4 of Annex 1 and point e) in the preamble to Annex 5 of the recommendation. Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-vladi-republike-slovenije-glede-revizije-in-uveljavitve-ustreznejsega-prevoda-konvencije-o-pravicah-invalidov/>.

<sup>39</sup> See General comment No. 6 (2018) on equality and non-discrimination, point 11, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/6&Lang=e](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/6&Lang=e).

<sup>40</sup> See General comment No. 6 (2018) on equality and non-discrimination, point 2 and point 8, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/6&Lang=e](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/6&Lang=e).

The medical model of understanding disability overlooks the important social fact that disability is the result of the interaction of barriers arising from impairments (personal grounds of a person) and barriers arising from society and the environment.

The medical model of understanding fails to consider the fact that many other persons with disabilities are not recognised by medicine because their conditions are not permanent, and because they can be treated, improved and also cured. The need for a new understanding of disability in accordance with the Convention is also highlighted by the World Health Organization (WHO).<sup>41</sup>

The social model of understanding disability, on the other hand, recognises that disability is also a social construct. The obstacles faced by persons with disabilities also stem from social attitudes and rules. One of the characteristics of this model is treating persons with disabilities as a vulnerable group in need of special protection, care and assistance from the welfare state. It envisages protective measures, as well as compensatory measures of social security benefits (for any incapacities of persons stemming from their disabilities). This model still includes a patronising tendency to protect people with disabilities by keeping their "best interests" at heart, or to protect others from them (the so-called *charity approach*).<sup>42</sup>

### **2.1.2 Human rights-based model of understanding disability**

Exclusion of persons living with various disabilities is not a natural consequence of various health, mental, intellectual or physical disabilities (malfunctions, impairments, errors, disabilities, defects). It is a consequence of the inability of the state or society to take its duty seriously, and to accept and treat everyone fairly, as a person of equal value and with equal dignity, without any discrimination or less favourable treatment due to their personal ground of disability.

The Convention thus requires States Parties to respect the human rights-based approach to understanding disability. This means that all persons with disabilities are granted full and equal enjoyment of all human rights and fundamental freedoms, and that respect for their dignity is promoted. The Convention comprehensively covers the effective protection of civil, civic and political human rights on the one hand and economic, social and cultural rights on the other. It is also based on the assumption that disability is only one of the layers of a person's identity, but not their only identity.

The change in the understanding of disability brings the emphasis that society must become inclusive, so that all persons with disabilities can live in a community without unnecessary restrictions on their rights and life opportunities. This also implies that society must be able to identify misconduct and inappropriate attitudes towards persons with disabilities in order to ensure a comprehensive transformation of controversial social practices. These do not only concern individual cases, but are also related to the situation of persons with disabilities at the social (structural) level.

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<sup>41</sup> World Health Organisation, Disability. Available at: [https://www.who.int/health-topics/disability#tab=tab\\_1](https://www.who.int/health-topics/disability#tab=tab_1).

<sup>42</sup> See also Shakespeare, T (2017): The Social Model of Disability, in Disability Studies Reader, 5th edition, pages 195-203.

### 2.1.3 The concept of inclusive equality of persons with disabilities

In its General Comment No. 6 on equality and non-discrimination, the United Nations Committee on the Rights of Persons with Disabilities (the CRPD Committee) introduces a new model of understanding equality – the so-called inclusive equality model.<sup>43</sup> The latter exceeds both formal (equality in terms of content and process) and material (substantive, compensatory) equality.

Inclusive equality is based on the premise that everyone, including persons with disabilities, should be protected and empowered so that they are not exposed to:

- socioeconomic disadvantages,
- stigmatisation, stereotypes, prejudice and violence,
- exclusion from social groups or from society,
- obligations to assimilate and to deny their diversity.

All of these issues concern respect for human dignity and lead to a series of obligations on the State Party to the Convention to actively ensure not only social inclusion (process), but also a certain degree of inclusion (result). This requires that policy attention is diverted from the individual person or groups of persons with disabilities (e.g. the current concept of disability care, the prism of rehabilitation, the provision of technical aids and benefits) to the transformation of social practices. These must become not only non-discriminatory, but also inclusive.

According to this model of understanding equality, disability no longer describes a person with a disability, but talks about how this person is treated by their surroundings. Disability is a circumstance and a fact; it describes the state of disability and not the characteristics of these people.

In the Slovenian legal system, as well as at the level of practice, the medical and social model of treatment of persons with the most severe forms of disabilities are still most often at the forefront, despite the fact that both models are already obsolete. Instead, the equal treatment of these persons, the full implementation of all their human rights, and their participation and inclusion in society should be provided for and emphasised, in line with the human rights-based model.

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<sup>43</sup> See General comment No. 6 (2018) on equality and non-discrimination, point 11, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/6&Lang=e](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/6&Lang=e).

## 2.2 Understanding disability in the Slovenian legislation

### 2.2.1 Terminological inconsistency

In the Slovenian legislation, the use of the terms "persons with disabilities" and "disability" is neither uniform nor consistent. In addition to the term "persons with disabilities",<sup>44</sup> the terms "handicapped", "physically or mentally handicapped persons",<sup>45</sup> persons "with mental disorders", persons "with a certain handicap",<sup>46</sup> "persons/children/students with special needs"<sup>47</sup> and the term "disabled persons" are also used as synonyms.<sup>48</sup> As a rule, different terms stand for different statuses granting different levels of rights. Therefore, the terms "persons with disabilities" and "disability" are defined differently in every act of our national legislation.<sup>49</sup>

The current inconsistent use of terminology and the range of very different statuses of persons with disabilities in the current legislation lead to misunderstandings as to what constitutes disability. This raises questions about what is covered by the concept of disability and whether the category of persons with disabilities should also include people with mental health disorders, people with dementia or frail people.

The question of what disability is and what it is not also falls within the scope of the EU law. EU Member States and the EU are obliged to comply with the Convention when implementing the EU law. After 2010, with the ratification of the Convention by the EU,<sup>50</sup> the understanding of disability was unified with the definition in the Convention.

This means that the term "persons with disabilities" closely follows the original terminology of the Convention,<sup>51</sup> as well as the EU law. Slovenian translations of EU legal texts are not consistent in this regard.

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<sup>44</sup> The term "disabled person" is used to refer to special statuses (of the disabled persons) or to established phrases (e.g. disabled veterans or statuses from individual Acts). The term "disabled person" is occasionally used in regulations as a synonym for persons with disabilities (e.g. Equal Opportunities of Disabled Persons Act).

<sup>45</sup> The Constitution of the Republic of Slovenia combines all three terms in Article 52. Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=USTA1>.

<sup>46</sup> In the Slovenian version of Council Directive No. 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. Available at: <https://eur-lex.europa.eu/legal-content/SL/TXT/PDF/?uri=CELEX:32000L0078>.

<sup>47</sup> See, e.g. Placement of Children with Special Needs Act, Gimnazija Act or Higher Education Act.

<sup>48</sup> See Social Assistance Act.

<sup>49</sup> See p. 7 of the initial Report on the Implementation of the Provisions of the Convention on the Rights of Persons with Disabilities. Available at: <https://www.gov.si/assets/ministrstva/MZZ/Dokumenti/multilateral/clovekove-pravice/porocila-SLO-po-instrumentih-o-clovekovih-pravicah/bc31dc603c/Uvodno-porocilo-Slovenije-o-izvajanju-Konvencije-o-pravicah-invalidov.pdf>.

<sup>50</sup> The EU ratified the Convention on 23 December 2010. Article available at: <https://www.ohchr.org/en/treaty-bodies/crpd/european-union-imm-situation>.

<sup>51</sup> The correct understanding of the Convention is difficult, especially due to shortcomings in the official Slovenian translation of the Convention, which inadequately translates this term as "disabled". In the original English language, these are not "*the disabled*" but "*persons with disabilities*". The Advocate has repeatedly pointed this out in a number of recommendations. In this part, the Convention is also translated inadequately in the Slovenian language. The Advocate's recommendation: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-vladi-republike-slovenije-glede-revizije-in-uveljavitve-ustreznejsega-prevoda-konvencije-o-pravicah-invalidov/>.

Recent Slovenian legislation also uses the term "persons with disabilities".<sup>52</sup> This term is most suitable for use, since the term "disabled person" does not make it entirely clear to whom this definition refers, i.e. whether it may refer to one of the special statuses, or to which of the many other definitions of "disabled persons" under the Slovenian legislation it refers. In recent times, the number of variations of these definitions has been multiplying (each law determines a specific definition for its own needs), meaning that the trend is actually the opposite of unification.

In this Special Report, the Advocate uses the term "disabled person" when directly referring to sectoral legislation governing the rights of persons with disabilities. Otherwise, the Advocate uses the term "person/persons with disabilities", which is descriptive and follows the original terminology of the Convention on the Rights of Persons with Disabilities (CRPD). Disability is a fact; it describes the state of disability and not the characteristics of these people.<sup>53</sup>

## 2.2.2 Conceptual inconsistency

The purpose of the Convention is to "promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity".<sup>54</sup> Therefore, general and also individual provisions of the Convention<sup>55</sup> explicitly require that all human rights be guaranteed to all persons with disabilities in all areas of life, to the full extent and on an equal basis with others.

Many persons with disabilities (e.g. people with dyslexia, those who wear glasses with a strong prescription, those who cannot see in one eye, people who are hard of hearing, those who need adjustments at work or who have difficulty walking due to spinal problems, the frail elderly people, people with dementia) have no recognised disability and may not need or want to have such status. Even if they wished to obtain it, this is impossible for some since the decision is made based on the medical or social model for determining disability, and not on the human rights-based model.

According to the applicable national legal regulation and practice, for example, persons with psychosocial disabilities are not treated as persons with disabilities, as they do not necessarily have the status of a disabled person or cannot acquire said status (since, for example, it is not possible to assess whether this condition is permanent). Organisations of such persons do not have the status of disability organisations, nor are they included in the control of compliance with the Convention, as it follows from the current composition of the National Council of

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<sup>52</sup>E.g. Motor Vehicles Act (Official Gazette of the Republic of Slovenia, No. 75/17 and 92/20 – the MVA), which regulates special measures for persons with disabilities. Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7333>.

<sup>53</sup> More on that is provided in Annex 1 to the Recommendation of the Advocate of the Principle of Equality to the Government of the Republic of Slovenia regarding the revision and enforcement of a more appropriate translation of the Convention on the Rights of Persons with Disabilities. Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-vladi-republike-slovenije-glede-revizije-in-uveljavitve-ustreznejsega-prevoda-konvencije-o-pravicah-invalidov/>.

<sup>54</sup> See the first paragraph of Article 1 of the Convention. In the Slovenian translation in the Act ratifying the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention on the Rights of Persons with Disabilities (the Convention), Official Gazette of the Republic of Slovenia No. 47/200, available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5314>. The English term "equal" is mistranslated as "equitable" instead of "equal". With the term "equal", the Convention requires substantive, i.e. actual, effective equality or the so-called equality of results, and not only a formal equality or equitability.

<sup>55</sup> See, e.g. Article 12 or 29 of the Convention.



Disabled People of the Republic of Slovenia.<sup>56</sup> Pursuant to the second paragraph of Article 1 of the original text of the Convention, persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments, as well as persons with psychosocial disabilities.

The Ministry of Labour, Family, Social Affairs and Equal Opportunities (the MLFSAEO), which is responsible for the field of disability care under the State Administration Act<sup>57</sup>, considers that psychosocial disabilities are not disabilities, which is contrary to the definition under the Convention. The Ombudsman of the Republic of Slovenia noted this fact in his 2020 Annual Report when discussing the issue of the non-recognition of disability compensation under the Pension and Disability Insurance Act (the PDIA-2) for persons who are gainfully incapacitated due to mental health disorders. The MLFSAEO insists on the position that people with mental health problems cannot be considered as disabled because they do not have permanent diseases or impairments.

According to the MLFSAEO, disability is a permanent and incurable condition, but not a long-term condition, which is contrary to the definition in the Convention. Therefore, in the specific case, the Ombudsman of the Republic of Slovenia established the existence of indirect discrimination under the Constitution of the Republic of Slovenia, the Convention and the PADA.<sup>58</sup>

In his 2022 Annual Report<sup>59</sup>, the Ombudsman of the Republic of Slovenia then addressed the issue that persons with the status of a disabled person pursuant to the Vocational Rehabilitation and Employment of Persons with Disabilities Act (the VREPDA) were unjustifiably not included among the recipients of the solidarity allowance for the elimination of the consequences of energy poverty. The MLFSAEO took into account the recommendation of the Ombudsman of the Republic of Slovenia at that time; they also noted, however, that in their opinion, the criterion for differentiating between disabled persons should not be their disease but their limitation. This shift in thinking about disability (also) in the area of social benefits was welcomed by the Ombudsman of the Republic of Slovenia. The MLFSAEO wrote that "the Ombudsman's thinking on this issue is worthy of a thorough reflection, which the Ministry is sure to carry out upon the amendment of the aforementioned regulations". In the future, the Ombudsman of the Republic of Slovenia expects the Ministry to prepare appropriate legislative proposals that will define the different social protection related to minimum income of persons with the status of persons with disabilities with the same limitations. This shows that the positions of the MLFSAEO until 2022 were formed as a priori positions and that they did not even reflect on the understanding of disability under the Convention. Recent draft legislation, e.g. the Personal Assistance Act amendment, again contains a controversial understanding of disability and persons with disabilities.

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<sup>56</sup> See the membership of representatives of representative and other disability organisations operating at the national level in the Council of Persons with Disabilities of the Republic of Slovenia, available at: <https://www.gov.si/zbirke/delovna-tesesa/svet-za-invalidne-republike-slovenije/>.

<sup>57</sup> See Article 28 of the State Administration Act (Official Gazette of the Republic of Slovenia, No. 113/05 – official consolidated text, 89/07 – decision of the Constitutional Court, 126/07 – ZUP-E, 48/09, 8/10 – ZUP-G, 8/12 – ZVRS-F, 21/12, 47/13, 12/14, 90/14, 51/16, 36/21, 82/21, 189/21, 153/22 and 18/23). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3225>.

<sup>58</sup> See subsection 2.15.1.2, Disability Insurance. Available at: <https://www.varuh-rs.si/letno-porocilo-2020/2-vsebinska-dela-in-pregled-obravnavanih-zadev/b-obravnavana-vsebinska-podrocja/215-pokojninsko-in-invalidsko-zavarovanje/>.

<sup>59</sup> See the description of the case in the Annual Report of the Ombudsman of the Republic of Slovenia for 2022, p. 638. Available at [https://www.varuh-rs.si/fileadmin/user\\_upload/pdf/lp/LP\\_2022/Letno\\_porocilo\\_VC\\_P\\_RS\\_za\\_letno\\_2022.pdf](https://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/LP_2022/Letno_porocilo_VC_P_RS_za_letno_2022.pdf).



The provisions of the Equal Opportunities of Persons with Disabilities Act (the EOPDA)<sup>60</sup> thus represent an exception in the understanding of disability in domestic legislation, instead of having such an understanding be a prevailing trait. Article 3 of the EOPDA stipulates that: "persons with disabilities include those who have long-term physical, mental and sensory impairments and intellectual disabilities which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others." This definition is quite similar to the definition set out in the Convention, and also applies to persons with mental health issues, as well as to long-term, and not exclusively permanent, disabilities. However, in practice, and even when it comes to the implementation of the EOPDA, there are difficulties in understanding whether a person with a disability must submit a decision on the status of a disability as evidence in order to be granted individual rights under this Act; another example is the right to accessibility of documents for the sensory impaired, referred to in Article 7 of the EOPDA.

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<sup>60</sup> Equalisation of Opportunities for Persons with Disabilities Act (Official Gazette of the Republic of Slovenia, No. 94/10, 50/14 and 32/17).

Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4342>.



### 3 LEGAL PROTECTION OF PERSONS WITH DISABILITIES

All humans have human rights. They are inalienable, indivisible and inextricably inter-related. This means that it is not permissible to consider them separately from each other, that, in principle, they have the same validity and must not (should not) be hierarchically prioritised in advance. The protection of the rights of persons with disabilities must therefore also be understood in this context: numerous provisions pertaining to individual human rights are mutually supportive and complementary. This does not only apply at the level of individual legal acts, e.g. within the provisions of the European Union (EU) law. The provisions on all human rights, including those that can be found in binding international law, in particular in the European Convention for the Protection of Human Rights<sup>61</sup> and the United Nations Convention on the Rights of Persons with Disabilities<sup>62</sup> (the Convention), must be taken into account. At the same time, in accordance with the fourth paragraph of Article 4 of the Convention, provisions that recognise and protect rights in already applicable national laws must also be taken into consideration.

#### 3.1 International legal regime and strategic documents

The Convention is an international agreement that has been adopted to determine the measures that States Parties to the Convention must ensure for persons with disabilities to be able to enjoy the same rights as other people. The Convention lays down minimum standards for the protection of the rights of persons with disabilities. This is the first human rights convention to which the EU is also a party.

Some of the key highlights of the Convention that are particularly relevant to the national context are presented below.

The purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

The general principles of the Convention include:

- respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- non-discrimination;
- full and effective participation and inclusion in society;
- respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- equality of opportunity;
- accessibility;
- equality between men and women;
- respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

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<sup>61</sup> European Convention on Human Rights. Available at: [https://www.echr.coe.int/documents/d/echr/convention\\_ENG](https://www.echr.coe.int/documents/d/echr/convention_ENG).

<sup>62</sup> Act ratifying the Convention on the Rights of persons with Disabilities and Optional Protocol to the Convention on the Rights of Persons with Disabilities, Official Gazette of the Republic of Slovenia No. 47/2008. Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5314>.

The Convention defines persons with disabilities as persons who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

The States Parties to the Convention have undertaken to take all appropriate measures to ensure the full development, progress and empowerment of all, in particular women and children with disabilities, in order to ensure their exercise and enjoyment of human rights and fundamental freedoms.

The Convention requires States Parties to ensure that persons with disabilities may access the physical environment, transportation, information and communications, including information and communications technologies and systems, and other facilities and services open to the public, both in urban and in rural areas.

According to the Convention, persons with disabilities must also have the possibility of full inclusion and participation in the community, so that they can choose their place of residence and decide where and with whom they will live. They must have access to a range of in-home, residential and other community support services, including personal assistance.

The Convention requires States Parties to promote the personal mobility and independence of persons with disabilities. It also sets out that States Parties are obliged to ensure access to an inclusive education system at all levels, as well as an adequate standard of living and social protection, for persons with disabilities. Persons with disabilities must have equal rights to work and live without discrimination, to participate in political and public life, and to participate in cultural life, recreation, leisure and sports.

The Convention stipulates that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability, and to the health services they need specifically because of their disability, and that they are not discriminated against in the provision of health insurance. In addition to protecting the rights of persons with disabilities, the Convention also requires the States Parties to combat stereotypes and prejudices, and promote awareness of the capabilities and contributions of persons with disabilities.

The Convention is also based on the principle of equal opportunities and prohibits discrimination and restrictions of human rights and freedoms on the grounds of disability. It stipulates that persons with disabilities must not be denied the ability to exercise their rights on their own, without imposing the will of other people in the name of protection and assistance. The Convention imposes positive obligations on States Parties to ensure the effective exercise of all rights, including accessibility, empowerment and, where appropriate, support for persons with disabilities.

The United Nations Committee on the Rights of Persons with Disabilities (the CRPD Committee) is the supervisory body under the Convention. The Committee consists of independent experts who monitor the implementation of the Convention in the States Parties. The CRPD Committee reviews periodic reports of States Parties and makes recommendations to support the implementation of the provisions of the Convention. As a point of principle, the CRPD Committee also issues general comments to support the understanding of the individual provisions of the Convention and their interaction. It also handles individual complaints about violations of rights. In doing so, it helps with the understanding of the content of the Convention. Even though the positions of the CRPD Committee are not legally binding, they are substantially justified. Through its activities and cooperation with States Parties, the CRPD Committee promotes the integration of persons with disabilities and advocates for the human rights of all persons with disabilities.<sup>63</sup>

At the level of the EU, the field of protection against discrimination in the legal sense is regulated by the Treaty on the Functioning of the European Union<sup>64</sup> and the Charter of Fundamental Rights of the European Union.<sup>65</sup> These documents provide a basis for the prohibition of all forms of discrimination. In doing so, they apply the principle of equality as the basis of policies in the EU.

Article 10 of the Treaty on the Functioning of the European Union stipulates that the EU shall combat discrimination in the implementation of its policies and activities, including on the basis of disability. Article 19 provides the basis for adopting measures to combat discrimination at EU level. Article 21 of the Charter of Fundamental Rights of the European Union also prohibits discrimination on the basis of disability. Article 26 provides that the EU recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration, and participation in the life of the community.

In March 2021, the European Commission (EC) adopted the document "Union of equality: strategy for the rights of persons with disabilities 2021–2030",<sup>66</sup> which includes substantive commitments from the Convention. In it, the EC defined key tasks in order to contribute to the reduction of discrimination and inequality of persons with disabilities.

As writes the EC, the aim of this strategy is to make progress in ensuring that all persons with disabilities in Europe, regardless of their gender, race, ethnicity, religion or other belief, age or sexual orientation:

- enjoy human rights,
- have equal opportunities and equal access to participation in society and the economy,
- can decide where, how and with whom they live,
- move freely within the EU regardless of their support needs, and
- are no longer discriminated against.<sup>67</sup>

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<sup>63</sup> More information on the work of the CRPD Committee is available at: <https://www.ohchr.org/en/treaty-bodies/crpd>.

<sup>64</sup> Consolidated version of the Treaty on the Functioning of the European Union. Available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>.

<sup>65</sup> Charter of Fundamental Rights of the European Union. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX%3A12012P%2FTXT>.

<sup>66</sup> European Commission (2021). Union of equality: Strategy for the rights of persons with disabilities 2021–2030. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52021DC0101>.

<sup>67</sup> From the European Commission website. Available at: <https://ec.europa.eu/social/main.jsp?catId=1484&langId=en>.

Importantly, the strategy uses the definition of disability set out in the Convention. The Strategy recognises and takes into account the diversity of disabilities, including long-term physical, mental, intellectual or sensory impairments, which are often invisible.<sup>68</sup>

### 3.2 National constitutional and legal regime and strategic documents

Since 2004, the Constitution of the Republic of Slovenia<sup>69</sup> has explicitly defined disability as one of the personal grounds due to which an individual may not be discriminated against.

Article 14 of the Constitution of the Republic of Slovenia  
(equality before the law)

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

Article 50 of the Constitution of the Republic of Slovenia specifically refers to the right to social security for persons with disabilities. It stipulates that the State shall regulate compulsory health, pension, disability and other social insurance, and take care of their operation. It also states that war veterans and victims of war violence are provided with special protection in accordance with the law.

Article 52 of the Constitution of the Republic of Slovenia regulates the rights of persons with disabilities in such a way that they are guaranteed protection and work training in accordance with the law. In addition, "physically or mentally handicapped children and other severely disabled persons have the right to education and training for an active life in society". This is financed from public funds.

The umbrella or systemic law that prohibits discrimination is the Protection against Discrimination Act (the PADA).<sup>70</sup> The PADA states, in Article 1, that protection against discrimination is provided to individuals regardless of their personal grounds, including disability. The law protects people with disabilities from general discrimination, e.g. if it occurs due to their age, health status, gender or financial situation, as well as if it occurs due to several of these grounds at the same time (the so-called multiple discrimination).

The protection against discrimination is guaranteed in various areas of social life, in the exercise of human rights and fundamental freedoms as well as in the exercise of rights and obligations and in other legal relations in the political, economic, social, cultural, civil or other spheres not including private relationships between different individuals.

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<sup>68</sup> Ibid.

<sup>69</sup> The Constitution of the Republic of Slovenia (Official Gazette of the Republic of Slovenia, No. 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99, 75/16 – UZ70a and 92/21 – UZ62a).

Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=USTA1>.

<sup>70</sup> Protection against Discrimination Act (Official Gazette of the RS, No. 33/16 and 21/18 – Non-Governmental Organisations Act).

Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7273>.

The national legislation governing the rights of persons with disabilities is diverse and numerous, which is why it can be roughly divided into several areas in terms of content.

The Equal Opportunities of Persons with Disabilities Act (the EOPDA) regulates the protection against discrimination and the creation of equal opportunities for persons with disabilities. The EOPDA is the key law aimed at the implementation of the rights of persons with disabilities under the Convention. It also regulates the functioning of the Council of Persons with Disabilities of the Republic of Slovenia, which is an independent body in charge of promoting and monitoring the implementation of the Convention.

The EOPDA does not comprehensively regulate the provisions of the Convention; by way of example, other laws governing individual areas of the rights of persons with disabilities are therefore also listed below:

- the system of protection of the rights of persons with disabilities (e.g. the Personal Assistance Act, the Disability Organisations Act);
- social security (e.g. the Social Welfare Act, the Long-Term Care Act, the Social Welfare Benefits Act, the Social Inclusion of Disabled Persons Act);
- health care and health insurance (the Health Care and Health Insurance Act, the Patient Rights Act);
- education and schooling (e.g. the Placement of Children with Special Needs Act, the Act on the Treatment of Children and Youth with Emotional and Behavioural Disabilities in Education);
- employment and labour (e.g. the Vocational Rehabilitation and Employment of Persons with Disabilities Act, the Social Entrepreneurship Act, the Employment Relationships Act);
- pension and disability insurance (e.g. the Pension and Disability Insurance Act);
- political rights (e.g. the Council of Persons with Disabilities of the Republic of Slovenia Act, the Local Elections Act, the National Council Act);
- accessibility (e.g. the Act Regulating the Use of Slovene Sign Language, the Media Act, the Audiovisual Media Services Act, the Building Act);
- other rights (e.g. the Motor Vehicle Tax Act, the Parental Protection and Family Benefits Act).

The National Strategic Action Document for Persons with Disabilities presents the 2022–2030 Action Programme for Persons with Disabilities (the APPD).<sup>71</sup> Strategic tasks include:

- systematic development of measures to remove obstacles to the full participation (equality of opportunities) of persons with disabilities<sup>72</sup> at the level of the local community and society;
- prevention and measures against discrimination of persons with disabilities which ensure their access to fundamental rights;
- further harmonisation of future Slovenian legislation with the legislation of the European Union and the measures laid down in this programme (e.g. the adoption of the Long-Term Care Act);

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<sup>71</sup> Action Programme for Persons with Disabilities 2022–2030. Available at: <https://www.gov.si/zbirke/projekti-in-programi/akcijski-program-za-invalidce/>

<sup>72</sup>APPD, p. 4, states as follows: "Persons with disabilities are not a single group, but are defined by various functional limitations that are conditioned by different types of disability: persons with intellectual disabilities, visual, auditory and motor disabilities, and others who find themselves facing various everyday obstacles in all areas of human life". Available at: <https://www.gov.si/zbirke/projekti-in-programi/akcijski-program-za-invalidce/>.

- ensured partnership with persons with disabilities in the planning, selection, implementation, supervision, and evaluation of projects to be financed by the European Union Structural Funds;
- ensured high-quality health and disability insurance;
- provision of employment and vocational rehabilitation of unemployed and employed persons with disabilities;
- provision of personal assistance to anyone who needs it;
- provision of long-term care;
- provision of social protection;
- special care for institutional protection;
- deinstitutionalisation.



#### **4 RECOMMENDATIONS OF THE ADVOCATE OF THE PRINCIPLE OF EQUALITY IN TERMS OF ENSURING THE RIGHTS OF PERSONS WITH DISABILITIES**

The second indent of Article 21 of the Protection against Discrimination Act (the PADA) also stipulates the task of the Advocate of the Principle of Equality (the Advocate) to make recommendations to State authorities, local communities, holders of public authorisations, employers, business entities and other bodies regarding the established situation of people with certain personal grounds, such as disability. These recommendations include the prevention and elimination of discrimination and the adoption of special and other measures to eliminate discrimination.

Article 38 of the Protection against Discrimination Act (the PADA) grants the Advocate the power to file requests for the review of the constitutionality and legality of regulations before the Constitutional Court of the Republic of Slovenia. The Advocate implements the provision by first assessing whether a regulation is discriminatory before deciding on the initiation of the proceeding for the assessment of constitutionality or legality. Based on the regulatory discrimination assessment, the Advocate issues a recommendation to amend the disputed regulation. The Advocate carries out discriminatory assessment procedures at the initiative of a client or at their own initiative.

In the period from January 2019 to April 2024, the Advocate issued 76 recommendations, in which he pointed out the need for more consistent compliance with the Convention on the Rights of Persons with Disabilities (the Convention) and the implementation of the recommendations of the United Nations Committee on the Rights of Persons with Disabilities (the CRPD Committee). In doing so, the Advocate presented a series of recommendations of the CRPD Committee to the decision-makers, directly by quoting or drawing attention to the standard of protection of human rights under the Convention.

What follows are summaries of the Advocate's recommendations on the protection of the rights of persons with disabilities:

1. regarding proposed laws (prevention of discrimination),
2. regarding existing laws and regulations (elimination of discrimination),
3. regarding the promotion of equal treatment (prevention of discrimination),
4. regarding the elimination of unequal treatment in specific cases.<sup>73</sup>

The purpose of the recommendations is to eliminate discriminatory legal arrangements or practices which, in most cases, are also inconsistent with the provisions of the Convention, or in terms of which an inadmissible legal gap exists in the relevant area. These are also recommendations of a preventive nature, mostly regarding proposed laws or regulations. In these cases, recommendations are aimed at preventing discrimination of the planned legal regulation or eliminating the gap of support measures or special measures to equalise a less favourable position of a group of people with specific personal grounds. These may also be recommendations for the elimination of deficiencies in the legal protection of rights, or in the event of an inadequate manner of exercising rights. In his regular Annual Reports, the Advocate notes that these recommendations remain largely unfulfilled.

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<sup>73</sup> All recommendations proposed by the Advocate are available at: <https://zagovornik.si/izdelki-zagovornika/priporocila/>.

The following pages contain an overview of the Advocate's recommendations, arranged by individual substantive areas of rights and fundamental freedoms of persons with disabilities and in chronological order. The majority contains an indication of the Advocate's reference to the provisions of the Convention, and often also to the positions and recommendations of the CRPD Committee.

In the following chapters, the recommendations are divided into the following sub-sections:

#### **4.1. System of protection of persons with disabilities**

- 4.1.1. Constitution of the Republic of Slovenia (2021)
- 4.1.2. Act Amending the Personal Assistance Act (2021)
- 4.1.3. Act Amending the Personal Assistance Act (2021)
- 4.1.4. Action Programme for Persons with Disabilities 2022–2026 (2021)
- 4.1.5. Regulation of the situation of deaf-blind persons (2023)
- 4.1.6. Implementation of the recommendations of the Committee on the Rights of Persons with Disabilities regarding the Convention on the Rights of Persons with Disabilities (2023)
- 4.1.7. Revision and enforcement of a more appropriate translation of the Convention on the Rights of Persons with Disabilities (2023)
- 4.1.8. Personal Assistance Act (2023)
- 4.1.9. Personal Assistance Act (2023)

#### **4.2. Social security**

- 4.2.1. Long Term Care Act (2020)
- 4.2.2. Act on Payment of the Assistance and Attendance Allowance (2021)
- 4.2.3. Social Inclusion of Disabled Persons Act (2022)
- 4.2.4. Act on the Payment of Unpaid Disability Benefits (2022)
- 4.2.5. Long Term Care Act (2023)

#### **4.3. Health care and health insurance**

- 4.3.1. Communicable Diseases Act (2020)
- 4.3.2. Mental Health Act (2020)
- 4.3.3. Act on the Provision of Funds for Investments in the Slovenian Health Care in the Years 2021 to 2031 (2021)
- 4.3.4. Act Amending the Health Care and Health Insurance Act (2023)
- 4.3.5. Act Amending the Mental Health Act (2023)
- 4.3.6. Provision of examinations to obtain or renew a medical certificate for drivers with disabilities during the physicians' strike (2024)
- 4.3.7. Strategy for the development of healthcare activities at the primary level of health care by 2031 (2024)

#### **4.4. Education and schooling**

- 4.4.1. Position of persons with hearing impairments in the educational system (2021)
- 4.4.2. Act on the Placement of Children with Special Needs (2021)
- 4.4.3. Music Schools Act (2022)
- 4.4.4. Resolution on National programme of higher education 2030 (2022)
- 4.4.5. Rules on the procedures and method of exercising the rights of students with special needs and special status in higher education (2023)
- 4.4.6. Considering differences in terms of needs in the event of a refusal of holiday care for a child with special needs (2023)

- 4.4.7. Adaptation of the method of taking the baccalaureate exam for candidates with special needs (2023)
- 4.4.8. Amendment of the rules regarding accompanying persons of children with special needs in the field of education (2023)

#### **4.5. Employment and labour**

- 4.5.1. Public Employees Act (2023)

#### **4.6. Pension and disability insurance**

- 4.6.1. Legal vacuum in the area of alignment of disability benefits for physical disabilities with the growth of consumer prices (2020)
- 4.6.2. Act Regulating the Supplement to Pensions for Work and Outstanding Achievements in Sports – Disabled Athletes (2020)
- 4.6.3. Act Regulating the Supplement to Pensions for Work and Outstanding Achievements in Sports – Deaf Athletes (2021)
- 4.6.4. Pension and Disability Insurance Act – Assistance and Service Allowance for Minor Children with Special Needs (2022)
- 4.6.5. Act Amending the Pension and Disability Insurance Act (2023)

#### **4.7. Political rights**

- 4.7.1. Council of Persons with Disabilities of the Republic of Slovenia Act (2019)
- 4.7.2. Council of Persons with Disabilities of the Republic of Slovenia Act (2019)
- 4.7.3. Act Amending the Referendum and Popular Initiative Act (2020)
- 4.7.4. Act Amending the State Prosecution Service Act (2020)
- 4.7.5. Act Amending the National Assembly Election Act (2021)
- 4.7.6. Act Amending the National Council Act (2022)
- 4.7.7. National Assembly Election Act (2022)
- 4.7.8. Return of the right to vote to persons with intellectual and psychosocial disabilities (2023)
- 4.7.9. Act Amending the Financial Operations, Insolvency Proceedings, and Compulsory Dissolution Act (2023)
- 4.7.10. Act Amending the Disabled Persons Organisations Act (2023)
- 4.7.11. Act Amending the National Assembly Election Act (2024)
- 4.7.12. Accessibility of electoral materials and procedures (2024)

#### **4.8. Accessibility**

- 4.8.1. Act Amending the Mass Media Act (2019)
- 4.8.2. Act Amending the Mass Media Act (2020)
- 4.8.3. Audiovisual Media Services Act (2020)
- 4.8.4. Act Amending the Audiovisual Media Services Act (2021)
- 4.8.5. Consumer Protection Act (2021)
- 4.8.6. Improving access to information and television for the sensory handicapped (2021)
- 4.8.7. Equalisation of Opportunities for Persons with Disabilities Act – Ensuring Accessibility of Public Facilities for Persons with Disabilities (2022)
- 4.8.8. Availability of the Football World Cup matches on RTV Slovenija programmes for the deaf and hard of hearing (2022)
- 4.8.9. Accessibility of secondary schools for persons with reduced mobility (2022)
- 4.8.10. Act on Accessibility of Products and Services for Persons with Disabilities (2022)
- 4.8.11. Ensuring accessibility of health care providers (2023)
- 4.8.12. Ensuring accessibility of family medicine outpatient clinics (2023)
- 4.8.13. Health Information System Act (2023)
- 4.8.14. Ensuring accessibility of health care providers (2023)
- 4.8.15. Equal access to rail transport for persons with disabilities (2023)
- 4.8.16. Inaccessibility of public inter-urban bus service for people with reduced mobility (2023)
- 4.8.17. Minimum requirements for accessibility of goods and services available to the public (2023)
- 4.8.18. Courts Act (2023)
- 4.8.19. Inaccessibility of public facilities for persons with disabilities (2023)
- 4.8.20. Inaccessibility of public inter-urban bus service for persons with sensory disabilities (2023)
- 4.8.21. Road Transport Act (2023)
- 4.8.22. Directive of the European Parliament and of the Council on package travel and linked travel arrangements (2024)

#### **4.9. Other**

- 4.9.1. Personal Data Protection Act (2019)
- 4.9.2. Act Amending the Housing Act (2020)
- 4.9.3. Motor Vehicle Tax Act (2020)
- 4.9.4. Act Amending the Criminal Code (2022)
- 4.9.5. Resolution on the National Programme for the Prevention of Domestic Violence and Violence against Women for the 2023–2028 period (2023)
- 4.9.6. Renewal of driving licenses during the physicians' strike (2024)
- 4.9.7. 2024–2027 Action Plan for the Resolution on the National Programme for Culture 2024–2031 (2024)

## 4.1 System of protection of the rights of persons with disabilities

This subsection presents brief summaries of recommendations on the following regulations and documents, in chronological order:

- 4.1.1. Constitution of the Republic of Slovenia (2021)
- 4.1.2. Act Amending the Personal Assistance Act (2021)
- 4.1.3. Act Amending the Personal Assistance Act (2021)
- 4.1.4. Action Programme for Persons with Disabilities 2022–2026 (2021)
- 4.1.5. Regulation of the situation of deaf-blind persons (2023)
- 4.1.6. Implementation of the recommendations of the Committee on the Rights of Persons with Disabilities regarding the Convention on the Rights of Persons with Disabilities (2023)
- 4.1.7. Revision and enforcement of a more appropriate translation of the Convention on the Rights of Persons with Disabilities (2023)
- 4.1.8. Personal Assistance Act (2023)
- 4.1.9. Personal Assistance Act (2023)

### 4.1.1 Constitution of the Republic of Slovenia (2021)<sup>74</sup>

The Advocate recommended that the members of the National Assembly of the Republic of Slovenia should adopt the Constitutional Act supplementing Chapter II of the Constitution of the Republic of Slovenia, as it explicitly recognises the right of linguistic minorities of the deaf and deaf-blind or of persons with certain forms of sensory disabilities to use their own language by registering them in the Constitution of the Republic of Slovenia. The Advocate stressed that this would ensure a more effective protection of the rights that are already recognised (including by the Convention), thus preventing discrimination with regard to equal protection of rights in proceedings. He also recommended the adoption of an adequate and sufficient legislative regulation of the right to use these languages. In this way, the rights guaranteed would not only exist formally and in principle, but would be effectively brought into practice in all areas of life, especially in the field of education. At the time of preparation of the Special Report, the Recommendation was partially implemented.

### 4.1.2 Act Amending the Personal Assistance Act (2021)<sup>75</sup>

The Advocate issued a recommendation to the Ministry of Labour, Family, Social Affairs and Equal Opportunities (the MLFSAEO), in which he drew their attention to legal solutions that further narrow down the accessibility of personal assistance, e.g. regarding the planned increase of the threshold of entitlement to personal assistance from 30 to 40 hours per week and regarding the age threshold that prevents the acquisition of the right to personal assistance for persons over the age of 65 and under the age of 18. The Advocate pointed out that the financial aspects are not a reason that could justify discrimination and that, even under the Convention, the State must use all available resources for these purposes. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>74</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-za-zacetek-postopka-za-dopolnitev-ustave-z-62-a-clenom/>.

<sup>75</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-zakona-o-spremembah-in-dopolnitvah-zakona-o-osebni-asistenci/>.

#### **4.1.3 Act Amending the Personal Assistance Act (2021)<sup>76</sup>**

Among other things, the Advocate recommended to the Members of the National Assembly that the Act be amended to remove the discriminatory age threshold for the acquisition of the right to personal assistance for persons over 65 years of age and to define more specifically the position of children (persons under 18 years of age) in a way, which will ensure the enjoyment of all rights and obligations in accordance with their age and maturity. He highlighted the obligations of the State in accordance with the Convention. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.1.4 Action Programme for Persons with Disabilities 2022–2026 (2021)<sup>77</sup>**

The Advocate recommended that the Ministry of Justice (the MoJ) respond to the key recommendations of the CRPD Committee regarding the standards of the Convention, including the duty to review the compliance of legislation on deprivation of legal capacity, forced treatment, and inadequate understanding of disability, and thereby address the questions of for whom the programme is actually intended. He also highlighted the problem of preventing abuse and violence. It recommended that measures be envisaged to address the existing legal shortcomings in the definition of prohibition of discrimination on the grounds of disability, e.g. due to the unregulated requirement for reasonable accommodation, and intersectional discrimination. He pointed out that normative and other measures should be prepared to ensure the protection of rights in the communication of persons with disabilities in judicial and other proceedings (alternative forms of communication, lack of supportive decision-making for persons with intellectual and psychosocial disabilities). At the same time, measures are also to be prepared to strengthen the legal protection of victims of discrimination on the grounds of disability, in particular in connection to harassment in employment or at work and in the prevention of retaliation. At the time of preparation of the Special Report, the Recommendation was partially implemented.

#### **4.1.5 Regulation of the situation of deaf-blind persons (2023)<sup>78</sup>**

The Advocate recommended that the Government of the Republic of Slovenia draft a law enabling the constitutional right of deaf-blind persons to use their language to also come to life in practice, in accordance with the Convention. The Advocate recommended that the law comprehensively defines all key rights of deaf-blind persons, thereby improving their position in society. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>76</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-zakona-o-spremembah-in-dopolnitvah-zakona-o-osebni-asistenci-2/>.

<sup>77</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-glede-priprave-akcijskega-programa-za-invalidne-2022-2026/>.

<sup>78</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-vladi-republike-slovenije-glede-zakonske-ureditve-položaja-gluhoslepih-oseb/>.

#### **4.1.6 Implementation of the recommendations of the Committee on the Rights of Persons with Disabilities regarding the Convention on the Rights of Persons with Disabilities (2023)<sup>79</sup>**

The Advocate recommended that the Government of the Republic of Slovenia, in cooperation with other State authorities, implement all recommendations of the CRPD Committee, and that the rights under the Convention be more adequately protected. The recommendations were issued by the CRPD Committee to Slovenia in 2018 on the basis of a preliminary report on the implementation of the Convention. After five years, the Advocate has reviewed whether and to what extent the recommendations of the CRPD Committee have been followed. Based on publicly available information, the Advocate assessed that the majority of the recommendations were not implemented, and that only two of the 80 recommended points were implemented in full. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.1.7 Revision and enforcement of a more appropriate translation of the Convention on the Rights of Persons with Disabilities (2023)<sup>80</sup>**

The Advocate recommended that the Government of the Republic of Slovenia provide an improved translation of the Convention. He pointed out that, due to a series of errors and inconsistencies in the officially valid Slovenian translation, it was difficult to understand and ensure all rights to all persons with disabilities in Slovenia. The Advocate prepared his own draft proposal for a more appropriate translation, along with a comprehensive explanation of errors and solutions. He also advocated additional efforts to resolve some outstanding cross-cutting issues, e.g. to ensure that the text of the Convention is as simple to understand as possible. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.1.8 Personal Assistance Act (2023)<sup>81</sup>**

Based on his assessment of discrimination,<sup>82</sup> the Advocate recommended that the MLFSAEO should prepare an amendment to the Personal Assistance Act (the PAA) in such a way that personal assistance would also be available to children between 15 and 18 years of age. In doing so, he also referred to the Convention. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>79</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-vladi-republike-slovenije-glede-uresnicevanja-priporocil-odbora-za-pravice-oseb-z-invalidnostmi-v-zvezi-s-konvencijo-o-pravicah-invalidov/>.

<sup>80</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-vladi-republike-slovenije-glede-revizije-in-uveljavitve-ustreznejsega-prevoda-konvencije-o-pravicah-invalidov/>.

<sup>81</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-zakona-o-osebni-asistenci/>.

<sup>82</sup> Available at: [https://zagovornik.si/wp-content/uploads/2022/05/OCENA-DISKRIMINATORNOSTI\\_Neenako-obravnavanje-oseb-z-invalidnostmi-na-podlagi-starosti-pri-dostopu-do-osebne-asistence-po-oceni-Zagovornika-pomeni-diskriminacijo.pdf](https://zagovornik.si/wp-content/uploads/2022/05/OCENA-DISKRIMINATORNOSTI_Neenako-obravnavanje-oseb-z-invalidnostmi-na-podlagi-starosti-pri-dostopu-do-osebne-asistence-po-oceni-Zagovornika-pomeni-diskriminacijo.pdf).

#### **4.1.9 Personal Assistance Act (2023)<sup>83</sup>**

The Advocate made several recommendations to the MLFSAEO on the draft of the new Personal Assistance Act (the PAA). He warned that the law must prevent and eliminate the negative effects of disability on the independent life of persons with disabilities, and that the planned solutions would be controversial in terms of compliance with the provisions of the Convention. The planned changes would be regressive and would groundlessly and unjustifiably narrow the circle of beneficiaries of personal assistance. This would aggravate the situation of persons with disabilities, as, contrary to the Convention, the circle of beneficiaries would only cover those with permanent conditions, and would even exclude the disabilities that have arisen as a result of a disease. The Advocate reiterated the recommendations regarding discriminatory age restrictions and the obligation to use all available resources. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.2 Social security**

This subsection presents brief summaries of recommendations on the following regulations and documents, in chronological order:

- 4.2.1. Long Term Care Act (2020)
- 4.2.2. Act on Payment of the Assistance and Attendance Allowance (2021)
- 4.2.3. Social Inclusion of Disabled Persons Act (2022)
- 4.2.4. Act on the Payment of Unpaid Disability Benefits (2022)
- 4.2.5. Long Term Care Act (2023)

##### **4.2.1 Long Term Care Act (2020)<sup>84</sup>**

The Advocate recommended to the MLFSAEO to clearly define the principles of the Act, in particular 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, which must be guaranteed, also according to the Convention, to all persons with disabilities, regardless of age. In the recommendation, the Advocate also stated that the Act should clearly define the right to long-term care, and disaggregate all its essential elements, criteria and methods of exercise of the rights, and the means for their protection. Specifically, it was also recommended that a comparable level of enjoyment of rights be ensured for children without the status of long-term care beneficiaries. At the same time, the Advocate pointed out that the draft Act did not mention the context of personal assistance and its age restrictions, nor the context of other community integration services, e.g. under the Social Inclusion of Disabled Persons Act. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>83</sup> Available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-osnutka-predloga-zakona-o-osebni-asistenci/>.

<sup>84</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-osnutka-predloga-zakona-o-dolgotrajni-oskrbi-5-10-2020/>.



#### **4.2.2 Act on Payment of the Assistance and Attendance Allowance (2021)<sup>85</sup>**

In his recommendation to the MLFSAEO, the Advocate supported the draft Act to eliminate injustices due to the failure to pay the assistance and service allowance in the period from 1 January 2003 to 31 December 2016 for children whose parents exercised the right to childcare allowance at that time, especially for blind children. At the time of preparation of the Special Report, the Recommendation was implemented.

#### **4.2.3 Social Inclusion of Disabled Persons Act (2022)<sup>86</sup>**

Based on the assessment of discrimination, the Advocate<sup>87</sup> recommended that the National Assembly of the Republic of Slovenia proposes an amendment to the Act in the part regulating the circle of beneficiaries of the status of persons with disabilities under this Act. He suggested that persons with a long-term mental illness who cannot independently meet the majority or all of their living needs due to their disability and can therefore not provide themselves with means of subsistence and participate in society on an equal basis without assistance, should also be entitled to the status of a disabled person. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.2.4 Act on the Payment of Unpaid Disability Benefits (2022)<sup>88</sup>**

The Advocate considered the case of alleged discrimination against a person with disabilities in the payment of unpaid disability benefits. Even though the Advocate did not find any discrimination, he did notice certain shortcomings in the Act. He therefore recommended to the MLFSAEO to amend the Act in such a way as to ensure the right to disability benefit under the Act on Social Care of Physically and Mentally Disabled Persons to all beneficiaries, starting from the age of majority. At the time of preparation of the Special Report, the Recommendation was implemented.

#### **4.2.5 Long Term Care Act (2023)<sup>89</sup>**

The Advocate recommended several improvements to the Government's proposal for a new Act to the Members of the National Assembly of the Republic of Slovenia. Among other things, he also emphasised that respect for the right to make independent decisions about oneself and independent living is crucial when it comes to the right to long-term care, which is also enshrined in the Convention. This is particularly important for persons with mental health issues and persons with psychosocial and intellectual disabilities who must have the right to decide, where necessary through supportive decision-making, how they wish to live their lives. Once again, the Advocate drew attention to the context of insufficient services intended to ensure their integration in society. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>85</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-zakona-o-izplacilu-neizplacanega-dodatka-za-pomoc-in-postrezbo/>.

<sup>86</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-spremembe-zakona-o-socialnemvkljucevanju-invalidov-v-delu/>.

<sup>87</sup> Available at: <https://zagovornik.si/izdelki/zakon-o-socialnem-vkljucevanju-invalidov-po-oceni-zagovornika-diskriminatoren/>.

<sup>88</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-zakona-o-izplacilu-neizplacanega-nadomestila-za-invalidnost/>.

<sup>89</sup> Available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-osnutka-predloga-novega-zakona-o-dolgotrajni-oskrbi/>.

### 4.3 Health care and health insurance

This subsection presents brief summaries of recommendations on the following regulations and documents, in chronological order:

- 4.3.1. Communicable Diseases Act (2020)
- 4.3.2. Mental Health Act (2020)
- 4.3.3. Act on the Provision of Funds for Investments in the Slovenian Health Care in the Years 2021 to 2031 (2021)
- 4.3.4. Act Amending the Health Care and Health Insurance Act (2023)
- 4.3.5. Act Amending the Mental Health Act (2023)
- 4.3.6. Provision of examinations to obtain or renew a medical certificate for drivers with disabilities during the physicians' strike (2024)
- 4.3.7. Strategy for the development of healthcare activities at the primary level of health care by 2031 (2024)

#### 4.3.1 Communicable Diseases Act (2020)<sup>90</sup>

A recommendation was addressed to the Ministry of Health (the MoH) to ensure, in a new Act, that information, counselling and education of the population about communicable diseases be provided in accessible languages, forms and technologies, in line with the principle of accessibility. Everyone must be provided with accessible information in an understandable form, including persons with disabilities. The Advocate highlighted the standards of the Convention, and especially the position of persons under guardianship, who also have their own responsibilities, as they are not fully assumed by the guardians. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### 4.3.2 Mental Health Act (2020)<sup>91</sup>

The Advocate recommended that the Ministry of Health include the prohibition of discrimination, stigmatisation or other neglect based on mental disorder in the draft of the new Act. It should also examine the compliance of the envisaged solutions with the Convention, in particular in the part governing guardianship and the possibility of forced treatment and certain methods of treatment, and provide information, counselling and information to all people, including persons with disabilities, according to the principles of accessibility in appropriate languages, forms and technologies, including information in the form of easy reading. The Advocate recommended that supportive decision-making be provided to persons with intellectual and psychosocial disabilities. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>90</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-o-predlogu-novega-zakona-o-nalezljivih-bolezni-30-9-2020/>.

<sup>91</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-predloga-novega-zakona-o-dusevnem-zdravju-30-11-2020/>.

#### **4.3.3 Act on the Provision of Funds for Investments in the Slovenian Health Care in the Years 2021 to 2031 (2021)<sup>92</sup>**

The Advocate recommended that the Ministry of Health should commit to achieving the key objectives set out in the Resolution on the National Health Care Plan 2016-2025, in particular the goal of overcoming health inequalities. The Advocate also recommended that, pursuant to the Convention, resources should be provided to ensure accessibility of health services for persons with disabilities (e.g. elimination of architectural inaccessibility, provision of measures for communication accessibility and use of languages, and investment in telemedicine enabling their residence within a community). At the time of preparation of the Special Report, this Recommendation was partially implemented.

#### **4.3.4 Act Amending the Health Care and Health Insurance Act (2023)<sup>93</sup>**

The Advocate recommended that the Members of the National Assembly of the Republic of Slovenia supplement the Government's draft Act in such a way that the health contribution will be shaped progressively, depending on the amount of the taxpayers' income. The flat-rate contribution poses a risk of indirect discrimination based on the personal ground of financial situation, a category which also importantly includes numerous persons with disabilities. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.3.5 Act Amending the Mental Health Act (2023)<sup>94</sup>**

The Advocate recommended that the Members of the National Assembly of the Republic of Slovenia should supplement the Government's draft amendment to the Act in such a way that the treatment of persons with mental health issues will also be fully aligned with the Convention. The recommendations were mainly related to the principle of the capacity of a person to make their own decisions about oneself, and also problematised alternative decision-making by guardians and relatives, the absence of supportive decision-making, and forced treatment. Furthermore, the recommendations also comprehensively presented the context of long-term mental health issues from the perspective of disability. At the time of preparation of the Special Report, these recommendations had not yet been implemented.

#### **4.3.6 Provision of examinations to obtain or renew a medical certificate for drivers with disabilities during the physicians' strike (2024)<sup>95</sup>**

The Advocate called on the Soča University Rehabilitation Institute to ensure the functioning of the only outpatient clinic in Slovenia during the physicians' strike, in order for persons with disabilities to be able to obtain medical certificates to renew or obtain their driver's licenses. The recommendation was implemented.

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<sup>92</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-zakona-o-zagotavljanju-sredstev-za-investicije-v-slovensko-zdravstvo-v-letih-2021-do-2031/>.

<sup>93</sup> Available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-predloga-zakona-ospremembah-in-dopolnitvah-zakona-o-zdravstvenem-varstvu-inzdravstvenem-zavarovanju/>.

<sup>94</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-k-predlogu-zakona-o-spremembah-in-dopolnitvah-zakona-dusevnem-zdravju/>.

<sup>95</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-zagotovitve-pregledov-za-pridobitev-ali-podaljsanje-zdravniškega-spricevala-za-voznike-z-invalidnostmi-v-casu-zdravniške-stavke/>.

#### **4.3.7 Strategy for the development of healthcare activities at the primary level of health care by 2031 (2024)<sup>96</sup>**

The Advocate recommended to the Ministry of Health to supplement the proposal for a strategy on the development of health activities at the primary level of health care so that it would more appropriately pursue the respect for the right to equal treatment and equal opportunities, regardless of personal grounds. Among other things, the Advocate also recommended that health care providers provide patients, regardless of their choice of route, with all possibilities of establishing contact with family medicine outpatient clinics during operating hours, and that strategic goals should include measures to develop a system of supportive decision-making for persons with mental health issues, persons with intellectual and psychosocial disabilities, or persons with other forms of disabilities that may hinder their empowered care for their own health. At the time of preparation of the Special Report, these recommendations had not yet been implemented.

#### **4.4 Education and schooling**

This subsection presents brief summaries of recommendations on the following regulations and documents, in chronological order:

- 4.4.1. Position of persons with hearing impairments in the educational system (2021)
- 4.4.2. Act on the Placement of Children with Special Needs (2021)
- 4.4.3. Music Schools Act (2022)
- 4.4.4. Resolution on National programme of higher education 2030 (2022)
- 4.4.5. Rules on the procedures and method of exercising the rights of students with special needs and special status in higher education (2023)
- 4.4.6. Considering differences in terms of needs in the event of a refusal of holiday care for a child with special needs (2023)
- 4.4.7. Adaptation of the method of taking the baccalaureate exam for candidates with special needs (2023)
- 4.4.8. Amendment of the rules regarding accompanying persons of children with special needs in the field of education (2023)

##### **4.4.1 Position of persons with hearing impairments in the educational system (2021)<sup>97</sup>**

In a Special Report, the Advocate pointed out that the deaf are in a disadvantaged situation in exercising their right to education. This follows, among other things, from available data on education, according to which only 1 per cent of persons with hearing impairments had a higher education degree in 2011, while 17 per cent of the entire population in Slovenia had a higher education degree.

The Advocate recommended to the Ministry of Education, Science and Sport (the MESS) to enable all persons with hearing impairments to learn Slovenian sign language in accordance with the Convention, to ensure equal standards of education of persons with hearing impairments, and to extend the right to a sign language interpreter in such a way that all pupils and students would receive the services to the extent necessary.

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<sup>96</sup> Available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-predloga-strategije-razvoja-zdravstvene-dejavnosti-na-primarni-ravni-zdravstvenega-varstva-do-leta-2031/>.

<sup>97</sup> Available at: <https://zagovornik.si/en/what-we-do/>.

He also recommended special treatment for deaf students, e.g. incentives with scholarships. In accordance with the Equalisation of Opportunities for Persons with Disabilities Act (the EOPDA), the MLFSAEO recommended the adoption of rules on minimum standards of accessibility of goods and services, including in the field of education, and the introduction of a special scholarship for students with disabilities (or special needs). At the time of preparation of the Special Report, the recommendations were partially implemented.

#### **4.4.2 Act on the Placement of Children with Special Needs (2021)<sup>98</sup>**

The Advocate recommended to the Committee of the National Assembly of the Republic of Slovenia for Education, Science, Sport and Youth that the competent departments and the National Assembly of the Republic of Slovenia reach as broad a consensus as possible on the needs of all children with special needs as part of the discussion on the draft Act. All stakeholders should be involved in this process, especially those who face the daily challenges of children with special needs in the educational process. It was also recommended that the Committee should adopt solutions addressing, to the greatest possible extent, the most pressing practical issues faced by all children with special needs in education. At the time of preparation of the Special Report, the Recommendation was implemented.

#### **4.4.3 Music Schools Act (2022)<sup>99</sup>**

The Advocate assessed that the Act was discriminatory. It lacks the provision of appropriate accommodations for children with special needs who wish to attend music schools, by providing appropriate accommodations as regards their entrance exams. It is only when such adjustments are introduced that these children will be made equal with their peers without disabilities when it comes to access to educational, cultural and leisure activities. The Advocate recommended to the MESS to eliminate said discrimination. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.4.4 Resolution on National programme of higher education 2030 (2022)<sup>100</sup>**

The Advocate recommended that new objectives or measures be added to monitor the effective provision of equal opportunities for students, including those with disabilities, with a view to effectively plan and implement incentives to ensure equal access and realisation of the right of all to education and obtaining the highest attainable education. The aim should also be to ensure the spatial and communication accessibility of all educational institutions, including the establishment of a database on the accessibility of the premises. The Advocate recommended the introduction of specific, dedicated scholarships for students with special needs that would be available under the existing scholarship system. It also recommended awareness-raising among the teaching staff in the field of human rights exercise and protection against discrimination for the benefit of students with special needs. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>98</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-zakona-o-spremembi-zakona-o-usmerjanju-otrok-s-posebnimi-potrebami/>.

<sup>99</sup> Available at: <https://zagovornik.si/izdelki/ureditev-vpisa-v-glasbene-sole-diskriminatorna-do-otrok-s-posebnimi-potrebami/>.

<sup>100</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-predloga-nacionalnega-programa-visokega-solstva-npvs-2021-2030/>.

#### **4.4.5 Rules on the procedures and method of exercising the rights of students with special needs and special status in higher education (2023)<sup>101</sup>**

The Advocate recommended that the Ministry of Higher Education, Science and Innovation further define this area in a set of rules which will regulate the procedures and the manner of exercising the rights of students with special needs in more detail. In this way, tertiary education will become more inclusive for the most vulnerable students. The Advocate also recommended the establishment of a uniform procedure for determining the status of students with special needs according to the type and degree of their disability, in order to achieve equal treatment of all students in comparable situations. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.4.6 Considering differences in terms of needs in the event of a refusal of holiday care for a child with special needs (2023)<sup>102</sup>**

The Advocate pointed out to the Municipality of Ljubljana (the MOL) that some providers of holiday care do not enable all children with special needs to attend their holiday care programmes. This is namely only possible for certain children with disabilities. The Advocate recommended that, when preparing similar tenders for holiday care providers, MOL specifies the details of how care will also be available to all children with special needs under the same conditions. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.4.7 Adaptation of the method of taking the baccalaureate exam for candidates with special needs (2023)<sup>103</sup>**

On the basis of the identified discrimination<sup>104</sup>, the Advocate recommended to the Ministry of Education (the MoE) and to the National Examination Centre to enable students with special needs to obtain reasonable adjustments when taking their final written exams, if said adjustments are necessary due to their health condition or disability status. The Advocate stated that, according to the Rules on the method of conducting matura examinations, the possibility of using a marker is already foreseen, which should be interpreted in such a way that using transparent colour foils would also be allowed. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>101</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-pravilnika-o-postopkih-in-nacinu-izvrsevanja-pravic-studentov-s-posebnimi-potrebami-in-studentov-s-posebnim-statusom-v-visokem-solstvu/>.

<sup>102</sup> Available at: <https://zagovornik.si/izdelki/zagovornik-v-primeru-zavrnitve-pocitniskega-varstva-otroku-s-posebnimi-potrebami-priporocil-upostevanje-razlik-v-potrebah-teh-otrok/>.

<sup>103</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-prilagoditev-nacina-opravljanja-mature-za-kandidate-s-posebnimi-potrebami/>.

<sup>104</sup> Available at: <https://zagovornik.si/izdelki/zagovornik-ugotovil-diskriminacijo-dijakinje-s-tezavami-pri-branju-pri-opravljanju-mature/>.



#### **4.4.8 Amendment of the rules regarding accompanying persons of children with special needs in the field of education (2023)<sup>105</sup>**

The Advocate found that children with special needs who require the assistance of an accompanying person in the classroom may also be disadvantaged in education due to the inadequacy of their accompanying persons. The only condition required for the job position of an accompanying person is that they have completed secondary school, even though a set of specific knowledge may be required for this work. Even though it is also possible that the child and their accompanying person simply don't get along, due to a lack of trust, for example, the possibility of replacing the accompanying person is not foreseen. This can also have irreversible consequences for the child. The Advocate recommended that the MoE amend the Rules on additional professional and physical assistance for children with special needs in order to ensure equal opportunities for children with special needs in teaching and school activities. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

### **4.5 Employment and labour**

This subsection presents a brief summary of the recommendation on the following Act:

#### **4.5.1 Public Employees Act (2023)<sup>106</sup>**

The Advocate recommended several amendments to the draft Act to the Ministry of Public Administration (the MPA) in order to more comprehensively include the right to protection against discrimination. The Advocate proposed, among other things, that the Act should include a general right to demand reasonable accommodation for persons with disabilities in accordance with the Convention. This must be provided to candidates for employment and also to public officials. The Advocate also recommended to provide for the possibility of supplementing the applications of candidates and to determine the obligation to adapt the methods of serving decisions, applications and other communication in such a way to actually ensure equal opportunities, also for those who find it difficult or who are unable to use information and communication technologies due to their personal grounds, e.g. disability. Furthermore, the Advocate recommended the systematic collection and analysis of disaggregated data on the composition and structure of public employee salaries by categories, at least according to their personal grounds, about which data are already being collected by the Advocate in (other) public records, e.g. by gender, age, as well as disability. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>105</sup> Available at: <https://zagovornik.si/izdelki/zagovornik-zaradi-zagotavljanja-pravic-otrokom-s-posebnimi-potrebami-na-podrocju-izobrazevanja-priporoca-spremembo-pravil-glede-spremljevalcev/>.

<sup>106</sup> Available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-osnutka-predloga-zakona-o-javnih-usluzbencih/>.

## 4.6 Pension and disability insurance

This subsection presents brief summaries of recommendations on the following regulations and documents, in chronological order:

- 4.6.1 Legal vacuum in the area of alignment of disability benefits for physical disabilities with the growth of consumer prices (2020)
- 4.6.2 Act Regulating the Supplement to Pensions for Work and Outstanding Achievements in Sports – Disabled Athletes (2020)
- 4.6.3 Act Regulating the Supplement to Pensions for Work and Outstanding Achievements in Sports – Deaf Athletes (2021)
- 4.6.4 Pension and Disability Insurance Act – Assistance and Service Allowance for Minor Children with Special Needs (2022)
- 4.6.5 Act Amending the Pension and Disability Insurance Act (2023)

### 4.6.1 Legal vacuum in the area of alignment of disability benefits for physical disabilities with the growth of consumer prices (2020)

The Advocate made an assessment of the discriminatory<sup>107</sup> character of the legal regulation in the area of alignment of disability benefits for physical disabilities. Since 2012, there has been no legal basis for disability benefits to be included in transfers that are subject to harmonisation under the Act Regulating 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. The recommendation was sent to the National Assembly of the Republic of Slovenia. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

### 4.6.2 Act Regulating the Supplement to Pensions for Work and Outstanding Achievements in Sports – Disabled Athletes (2020)<sup>108</sup>

The Advocate assessed the part of the Act regulating the conditions under which high-profile athletes could receive a special supplement to their pension as directly discriminatory. Pursuant to the Act, athletes with a medal from the World Championships in the Olympic industry or discipline are entitled to a pension supplement, while disabled athletes with a comparable achievement are not entitled to a pension supplement. The Advocate recommended to the MESS that a proposal to amend the Act be made to include top-ranking deaf athletes who have won medals in World Championships, in collective and individual sporting disciplines at the Olympics, or in disciplines for deaf athletes at the Olympics, among the beneficiaries of the pension supplement.<sup>109</sup> The recommendation was implemented by the adoption of a parliamentary Act which eliminated said discrimination.

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<sup>107</sup> Available at: <https://zagovornik.si/izdelki/pravna-praznina-na-podrocju-usklajevanja-vrednosti-invalidnin-za-telesne-okvare-z-rastjo-cen-zivljenjskih-potrebscin-po-oceni-zagovornika-povzroca-diskriminacijo/>.

<sup>108</sup> Available at: <https://zagovornik.si/izdelki/zakon-o-dodatku-k-pokojnini-za-delo-in-izjemne-dosezke-na-podrocju-sporta-je-po-oceni-zagovornika-diskriminatoreni-do-sportnikov-invalidov-2/>.

<sup>109</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-zakona-o-dodatku-k-pokojnini-za-delo-in-izjemne-dosezke-na-podrocju-sporta-27-11-2020/>.



#### **4.6.3 Act Regulating the Supplement to Pensions for Work and Outstanding Achievements in Sports – Deaf Athletes (2021)<sup>110</sup>**

The Advocate assessed the discriminativeness of a part of the Act.<sup>111</sup> According to the Advocate, deaf high-profile athletes and hearing athletes are in a comparable situation, so they should also be entitled to equal rights. The Advocate noted that the regulation in the Act constitutes direct discrimination of deaf athletes. In his recommendation to the MESS, the Advocate called for an appropriate change in the legislation or the elimination of discrimination. The recommendation was implemented by the adoption of a parliamentary Act which eliminated said discrimination.

#### **4.6.4 Pension and Disability Insurance Act – Assistance and Service Allowance for Minor Children with Special Needs (2022)<sup>112</sup>**

Based on the assessment of discrimination, the Advocate<sup>113</sup> issued a recommendation to eliminate the legal gap in the Pension and Disability Insurance Act and the Parental Protection and Family Benefits Act. Childcare allowance should be arranged in such a way that other children with special needs would also find themselves in a situation comparable to the situation of blind persons, and will be entitled to the assistance and service allowance or to an appropriately increased childcare allowance. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.6.5 Act Amending the Pension and Disability Insurance Act (2023)<sup>114</sup>**

The Advocate recommended that the MLFSAEO regulates the right to assistance and care allowance for children who need special care and protection in accordance with the Parental Protection and Family Benefits Act and who are insured under another insured person of the Institute or under a retired person. The Advocate also recommended that the Act be amended, as the regulation discriminates against employees who perform jobs that cannot be successfully and professionally performed after a certain age. The suspension of occupational insurance unjustifiably puts them at a disadvantage, compared to other employees, due to their personal grounds of parenthood, gender, and disability. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>110</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-glede-zakona-o-dodatku-k-pokojnini-za-delo-in-izjemne-dosezke-na-podrocju-sporta/>.

<sup>111</sup> Available at: <https://zagovornik.si/izdelki/zakon-o-dodatku-k-pokojnini-za-delo-in-izjemne-dosezke-na-podrocju-sporta-je-po-oceni-zagovornika-diskriminatorendogluhihsportnikov/>.

<sup>112</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-petega-odstavka-100-clena-zakona-opokojninskem-in-invalidskem-zavarovanjuzpiz-2-dodatek-za-pomoc-in-postrezbo-za-mladoletne-otroke-s-posebn/>.

<sup>113</sup> Available at: <https://zagovornik.si/izdelki/ureditev-pravice-dodatkazapomocinpostrezbozamladoletne-osebe-ki-so-zaradi-svojih-oviranosti-odvisni-od-tuje-nege-in-pomoci-je-diskriminatorna/>.

<sup>114</sup> Available at: <https://zagovornik.si/izdelki/priporocili-zagovornika-nacela-enakosti-glede-osnutka-predlogazakona-ospremembah-in-dopolnitvah-zakona-opokojninskem-in-invalidskem-zavarovanju/>.

## 4.7 Political rights

This subsection presents brief summaries of recommendations on the following regulations and documents, in chronological order:

- 4.7.1 Council of Persons with Disabilities of the Republic of Slovenia Act (2019)
- 4.7.2 Council of Persons with Disabilities of the Republic of Slovenia Act (2019)
- 4.7.3 Act Amending the Referendum and Popular Initiative Act (2020)
- 4.7.4 Act Amending the State Prosecution Service Act (2020)
- 4.7.5 Act Amending the National Assembly Election Act (2021)
- 4.7.6 Act Amending the National Council Act (2022)
- 4.7.7 National Assembly Election Act (2022)
- 4.7.8 Return of the right to vote to persons with intellectual and psychosocial disabilities (2023)
- 4.7.9 Act Amending the Financial Operations, Insolvency Proceedings, and Compulsory Dissolution Act (2023)
- 4.7.10 Act Amending the Disabled Persons Organisations Act (2023)
- 4.7.11 Act Amending the National Assembly Election Act (2024)
- 4.7.12 Accessibility of electoral materials and procedures (2024)

### 4.7.1 Council of Persons with Disabilities of the Republic of Slovenia Act (2019)<sup>115</sup>

The Advocate reminded the MLFSAEO that the draft Act does not indicate whether the definitions of the scope of work of the Council of Persons with Disabilities of the Republic of Slovenia (the Council of the Republic of Slovenia) and the implementation of organisational and procedural solutions are appropriate in terms of obligations under the Convention. The Advocate noted that it was questionable whether the proposal ensured sufficient representativeness of all persons with disabilities and their organisations and not only disabled persons, as well as plurality in the functioning of the new institution. The Advocate warned that there could be an unnecessary overlap of competencies between the Advocate, the Ombudsman of the Republic of Slovenia and the Council of the Republic of Slovenia. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

### 4.7.2 Council of Persons with Disabilities of the Republic of Slovenia Act (2019)<sup>116</sup>

The Advocate assessed that the draft Act does not indicate whether the definitions of the scope of work and the implementation of organisational and procedural solutions are appropriate in terms of obligations under the Convention. It is questionable whether the proposal ensures sufficient representativeness, as well as plurality in the functioning of the new institution. The Advocate assessed that there could be an overlap of competencies between the Advocate, the Ombudsman of the Republic of Slovenia and the Council of Persons with Disabilities of the Republic of Slovenia, and also highlighted the financial and organisational aspect of the establishment of the Council. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>115</sup> Available at: <https://zagovornik.si/izdelki/komentar-in-priporocila-zagovornika-nacela-enakosti-v-zvezi-s-predlogom-zakona-o-svetu-za-invalidne-republike-slovenije/>.

<sup>116</sup> Available at: <https://zagovornik.si/izdelki/komentar-in-priporocila-zagovornika-nacela-enakosti-v-zvezi-s-predlogom-zakona-o-svetu-za-invalidne-republike-slovenije/>.

#### **4.7.3 Act Amending the Referendum and Popular Initiative Act (2020)<sup>117</sup>**

The Advocate recommended to the MPA that, pursuant to the Constitution of the Republic of Slovenia and the Convention, an amendment to the Act should be established to enable the exercise of the right to a legislative and constitutional referendum and the right to a popular legislative and constitutional initiative to all persons of a legal age who were deprived of their right to vote upon deprivation of legal capacity or extended parental rights. He also recommended the modernisation of electoral procedures and materials to establish legal guarantees that will ensure their full accessibility and information, as well as the empowerment of all voters, including persons with intellectual and psychosocial disabilities. The Advocate also recommended that a system of supportive decision-making be provided for these persons, be it in line with the Act or in parallel with the Act. At the time of the preparation of the Special Report, this Recommendation was not yet implemented; however, the withdrawal of the right to vote under the National Assembly Election Act is no longer possible.

#### **4.7.4 Act Amending the State Prosecution Service Act (2020)<sup>118</sup>**

Within the framework of professional coordination of the regulation, the Advocate recommended to the MoJ to exclude the term "legal capacity" from the legal proposal, because it is no longer in use under the Family Code. The Advocate also drew attention to the standards of protection of persons with disabilities under the Convention. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.7.5 Act Amending the National Assembly Election Act (2021)<sup>119</sup>**

The Advocate recommended to the deputies of the National Assembly of the Republic of Slovenia to delete the current solutions regarding the withdrawal of the right to vote, and enable the exercise of the right to vote in the elections in the National Assembly of the Republic of Slovenia to all adult citizens, including those who have been deprived of their legal capacity, who have had their parental rights extended, or who have been placed under guardianship. At the time of preparation of the Special Report, the Recommendation was implemented.

#### **4.7.6 Act Amending the National Council Act (2022)<sup>120</sup>**

The Advocate recommended to the deputies of the National Assembly of the Republic of Slovenia that the proposed solution be removed in the draft of the new Act, which would legally enshrine the possibility of judicial deprivation of the right to vote and stand for election to the National Council for people with intellectual and psychosocial disabilities. The Advocate also drew attention to the standards of protection of persons with disabilities under the Convention. Furthermore, the Advocate recommended the provision of a system of supportive decision-making for persons with mental health issues and persons with intellectual and psychosocial disabilities in the full and equal enjoyment of the right to vote and in the participation in the work of the National Council. At the time of preparation of the Special Report, the Recommendation was implemented.

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<sup>117</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-osnutka-zakona-o-spremembah-in-dopolnitvah-zakona-o-referendumu-in-o-ljudski-iniciativi-24-12-2020/>.

<sup>118</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-osnutka-predloga-zakona-o-spremembah-in-dopolnitvah-zakona-o-drzavnem-tozilstvu-4-9-2020/>.

<sup>119</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-predloga-zakona-o-spremembah-in-dopolnitvah-zakona-o-volitvah-v-drzavni-zbor-2/>.

<sup>120</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-predloga-zakona-o-spremembah-in-dopolnitvah-zakona-o-drzavnem-svetu/>.

#### **4.7.7 National Assembly Election Act (2022)<sup>121</sup>**

On the basis of his discrimination assessment, the Advocate assessed<sup>122</sup> that Article 7 of the Act, which allows for disenfranchisement, is discriminatory against persons with intellectual and psychosocial disabilities. The regulation unduly allows only for the disenfranchisement of persons with these disabilities. It provides for the possibility of disenfranchisement based on an expert assessment of their ability to understand the purpose, meaning and impact of elections, while for other citizens, the assessment of their abilities is not envisaged, even if they are currently and temporarily deprived of said ability. The Advocate assessed that such differential treatment is not justified and that this arrangement can not be understood as an exception to the prohibition of discrimination. This measure is neither an appropriate nor the only possible and proportionate way of achieving the legitimacy of elections and preventing abuses in voting. The Advocate recommended to the MPA to eliminate this discrimination by amending the Act, which would ensure the right to vote for disenfranchised people. At the time of preparation of the Special Report, the Recommendation was implemented.

#### **4.7.8 Return of the right to vote to persons with intellectual and psychosocial disabilities (2023)<sup>123</sup>**

The Advocate recommended that the Government of the Republic of Slovenia prepare an amendment of all Acts governing the right to vote, in accordance with the Constitution of the Republic of Slovenia and the Convention and EU law. In doing so, it should eliminate the possibility of revocation and the effects of previous judicial revocations of the right to vote for people with intellectual and psychosocial disabilities, thus ensuring the right to vote for all adult citizens. The Advocate also recommended that the Government, through appropriate legislation, ensure that electoral procedures and materials are accessible and understandable for all voters. It should also provide people with mental health problems, intellectual and psychosocial disabilities or other forms of disability with the possibility of designating a person of their choice for supportive decision-making in elections. At the time of the preparation of the Special Report, the Recommendation had not yet been implemented.

#### **4.7.9 Act Amending the Financial Operations, Insolvency Proceedings, and Compulsory Dissolution Act (2023)<sup>124</sup>**

The Advocate recommended that the MoJ, pursuant to the Convention, amends the part of the applicable Act governing the revocation of a license to perform the work of a liquidator at the time of placement under guardianship, only if said person is unable to independently perform legal transactions that are crucial for the performance of the function of a liquidator due to this fact. At the time of the preparation of the Special Report, the Recommendation had not yet been implemented.

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<sup>121</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-spremembe-7-clena-zakona-o-volitvah-v-drzavni-zbor/>.

<sup>122</sup> Available at: <https://zagovornik.si/izdelki/moznost-odvzema-volilne-pravice-osebam-z-intelektualnimi-in-psihosocialnimi-invalidnostmi-je-diskriminacija/>.

<sup>123</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-vrnitve-volilne-pravice-ljudem-z-intelektualnimi-in-psihosocialnimi-invalidnostmi/>.

<sup>124</sup> Available at: <https://zagovornik.si/izdelki/priporocili-zagovornika-nacela-enakosti-glede-osnutka-predloga-zakona-o-spremembah-in-dopolnitvah-zakona-o-financnem-poslovanju-postopkih-zaradi-insolventnosti-in-prisilnem-prenehanju/>.

#### **4.7.10 Act Amending the Disabled Persons Organisations Act (2023)<sup>125</sup>**

Pursuant to the recommendations on the Disabled Persons Organisations Act, the Advocate warned the MLFSAEO that, in accordance with the Convention, all persons with disabilities must be able to fully and equally participate in public life through their organisations. Certain large groups of persons with disabilities are not and cannot be included in the processes of cooperation and consultation with professional associations, state bodies, public institutions and other public bodies, especially when it comes to persons whose condition is long-lasting but not permanent. The financing of these activities must follow the principle of equal initial opportunities. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.7.11 Act Amending the National Assembly Election Act (2024)<sup>126</sup>**

The Advocate recommended that the deputies adopt the draft Act Amending the National Assembly Election Act, which enables the return of the right to vote to persons with intellectual and psychosocial disabilities. At the time of preparation of the Special Report, the Recommendation was implemented.

#### **4.7.12 Accessibility of electoral materials and procedures (2024)<sup>127</sup>**

The Advocate recommended that the National Electoral Commission update the electoral materials, information and procedures so that all people will be able to actually exercise their right to vote. He also proposed more appropriate instructions and guidelines for the work of the electoral authorities in order to ensure the full exercise of the right to vote for all, especially for the voters to whom this right was returned. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>125</sup> Available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-osnutka-zakona-o-spremembah-in-dopolnitvah-zakona-o-invalidskih-organizacijah/>.

<sup>126</sup> Available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-vrnitve-volilne-pravice-ljudem-z-intelektualnimi-in-psihosocialnimi-invalidnostmi-s-predlogom-zakona-o-spremembah-in-dopolnitvah-zakona-o-volitvah-v-drzav/>.

<sup>127</sup> Available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-dostopnosti-volilnih-gradiv-postopkov-in-glede-usmeritev-volilnim-organom/>.

## 4.8 Accessibility

This subsection presents brief summaries of recommendations on the following regulations and documents, in chronological order:

- 4.8.1 Act Amending the Mass Media Act (2019)
- 4.8.2 Act Amending the Mass Media Act (2020)
- 4.8.3 Audiovisual Media Services Act (2020)
- 4.8.4 Act Amending the Audiovisual Media Services Act (2021)
- 4.8.5 Consumer Protection Act (2021)
- 4.8.6 Improving access to information and television for the sensory handicapped (2021)
- 4.8.7 Equalisation of Opportunities for Persons with Disabilities Act – Ensuring Accessibility of Public Facilities for Persons with Disabilities (2022)
- 4.8.8 Availability of the Football World Cup matches on RTV Slovenija programmes for the deaf and hard of hearing (2022)
- 4.8.9 Accessibility of secondary schools for persons with reduced mobility (2022)
- 4.8.10 Act on Accessibility of Products and Services for Persons with Disabilities (2022)
- 4.8.11 Ensuring accessibility of health care providers (2023)
- 4.8.12 Ensuring accessibility of family medicine outpatient clinics (2023)
- 4.8.13 Health Information System Act (2023)
- 4.8.14 Ensuring accessibility of health care providers (2023)
- 4.8.15 Equal access to rail transport for persons with disabilities (2023)
- 4.8.16 Inaccessibility of public inter-urban bus service for people with reduced mobility (2023)
- 4.8.17 Minimum requirements for accessibility of goods and services available to the public (2023)
- 4.8.18 Courts Act (2023)
- 4.8.19 Inaccessibility of public facilities for persons with disabilities (2023)
- 4.8.20 Inaccessibility of public inter-urban bus service for people with sensory disabilities (2023)
- 4.8.21 Road Transport Act (2023)
- 4.8.22 Directive of the European Parliament and of the Council on package travel and linked travel arrangements (2024)

### 4.8.1 Act Amending the Mass Media Act (2019)<sup>128</sup>

The Advocate was particularly involved in the public debate regarding the prohibition of incitement to inequality and intolerance, which is in substance directly related to the prohibition of a special form of discrimination, i.e. incitement to discrimination. The Advocate recommended to the Ministry of Culture (the MC) that statutory diction must clearly encompass all personal grounds which are protected against discrimination, including disability, as regulated, for example, in the PADA. The Advocate also pointed out that, in accordance with the Convention, the issue of (in)accessibility of media or programme content for persons with disabilities should be regulated. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>128</sup> Available at: <https://zagovornik.si/izdelki/komentar-in-priporocila-zagovornika-nacela-enakosti-v-zvezi-s-predlogom-zakona-o-spremembah-in-dopolnitvah-zakona-o-medijih/>.



#### **4.8.2 Act Amending the Mass Media Act (2020)<sup>129</sup>**

The Advocate recommended that the Ministry of Culture (the MoC) reconsider the implementation of the prohibition of incitement to inequality and intolerance in the media in a way that would define the violation of this prohibition as an offence, and entrust the competent inspectorate with the supervision of the implementation of this prohibition. The Advocate also recommended that the priority criteria in the implementing Act should include the accessibility of programme content for persons with disabilities in techniques, forms and languages adapted to them. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.8.3 Audiovisual Media Services Act (2020)<sup>130</sup>**

In the recommendation to the MoC, the Advocate called for wider accessibility of all audiovisual media services (including websites, web applications and an electronic program guide, as well as the provision of information on accessibility and accessible formats). He also proposed considering the enactment of stricter control over the implementation of accessibility requirements in a way that will provide the persons concerned with a binding time frame and measurable content goals, as well as indicators for achieving the accessibility of their services, and synchronise their internal policies. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.8.4 Act Amending the Audiovisual Media Services Act (2021)<sup>131</sup>**

The Advocate recommended that the deputies of the National Assembly of the Republic of Slovenia adopt a legal regulation that would, in accordance with the Convention, ensure the accessibility of all audiovisual media services (including websites, web applications and an electronic program guide, as well as the provision of information on accessibility and accessible formats). He proposed solutions for stricter control over the implementation of accessibility requirements in a way that will provide the persons concerned with a binding time frame and measurable content goals, as well as indicators for achieving the accessibility of their services, and synchronise their internal policies. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.8.5 Consumer Protection Act (2021)<sup>132</sup>**

The Advocate recommended that the Ministry of Economic Development and Technology should include a clear provision prohibiting discrimination against consumers in the draft Act. He also stressed that both the Convention and the applicable EOPDA already entail obligations to ensure accessibility in communication for consumers with disabilities in the relevant languages and fonts and that the Act should make this clearer to persons concerned. He also advocated for a general prohibition of any advertising that promotes inequality or intolerance and hatred due to personal grounds. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>129</sup> Available at: <https://zagovornik.si/izdelki/priporocila-in-komentar-zagovornika-nacela-enakosti-v-zvezi-z-novim-osnutkom-predloga-zakona-o-spremembah-in-dopolnitvah-zakona-o-medijih/>.

<sup>130</sup> Available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-v-zvezi-z-osnutkom-novele-zakona-o-avdiovizualnih-medijskih-storitvah-28-7-2020/>.

<sup>131</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-zakona-o-spremembah-in-dopolnitvah-zakona-o-avdiovizualnih-medijskih-storitvah/>.

<sup>132</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-zakona-o-varstvu-potrosnikov/>.

#### **4.8.6 Improving access to information and television for the sensory handicapped (2021)<sup>133</sup>**

The Advocate recommended that the Government of the Republic of Slovenia, with the aim of improving the situation of sensory impaired persons and fulfilling its obligations under the Convention, should fully remedy the deficiencies in the legislative, financial and technical areas by adopting appropriate strategies and legislative measures. These should include sanctions in the event of non-compliance with accessibility standards. The Advocate also recommended providing financial resources to improve access to information and television as soon as possible (reasonable). At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.8.7 Equalisation of Opportunities for Persons with Disabilities Act – Ensuring Accessibility of Public Facilities for Persons with Disabilities (2022)<sup>134</sup>**

With a recommendation to State authorities, municipalities and institutions in the field of public administration services, education, justice, social and health care, culture and sport, the Advocate drew the attention of the competent authorities to the timely implementation of activities aimed at achieving the requirement of accessibility of facilities in public use for persons with disabilities. 11 December 2025 is the statutory deadline by which existing public facilities must be adapted so that they are accessible to all persons with disabilities. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.8.8 Availability of the Football World Cup matches on RTV Slovenija programmes for the deaf and hard of hearing (2022)<sup>135</sup>**

The Advocate recommended to the management of Radiotelevizija Slovenija (RTV SLO) that the broadcasts of the Football World Cup matches and other sports events should also be accessible to the deaf and hard of hearing. Ensuring the accessibility of the football championship coverage would benefit the deaf and hard of hearing, the elderly and many other spectators who watch the championship in a noisy environment. The recommendation was implemented.

#### **4.8.9 Accessibility of secondary schools for persons with reduced mobility (2022)<sup>136</sup>**

When examining a concrete case, the Advocate found that data on the accessibility of secondary schools for students with reduced mobility in Slovenia is insufficient. Above all, he also noted that not all secondary schools are accessible to students with reduced mobility. In the Special Report on the accessibility of secondary schools for persons with reduced mobility, he presented the obligations of the State and the persons concerned under the Convention and the sectoral legislation and also collected information on the physical, spatial or architectural accessibility of secondary schools.

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<sup>133</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-glede-izboljsanja-dostopa-do-informacij-in-televizije-za-senzorno-ovirane-osebe/>.

<sup>134</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-zagotovitve-dostopnosti-objektov-v-javni-rabi-za-ljudi-z-invalidnostmi-po-zakonu-o-izenacevanju-moznosti-invalidov/>.

<sup>135</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-za-vecjo-dostopnost-prenosov-sportnih-prireditev/>.

<sup>136</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-dostopnosti-srednjih-sol-za-gibalno-ovirane/>.



The Advocate recommended to the Government of the Republic of Slovenia to provide the necessary funds for the financing of investment maintenance works on secondary school facilities and equipment, with the aim of ensuring and improving accessibility. According to Article 38, all secondary schools must be fully accessible pursuant to the EOPDA by the end of 2025. The Recommendation had not yet been implemented at the time of the preparation of the Special Report.

#### **4.8.10 Act on Accessibility of Products and Services for Persons with Disabilities (2022)<sup>137</sup>**

Among other things, the Advocate recommended that the MLFSAEO harmonise the Act with the obligations to ensure accessibility of products and services under EU law, the Convention, the European Convention on Human Rights, the PADA and the EOPDA. The legislative proposal only followed the minimum standard of one of the European directives and did not take into account other obligations already in force. Some solutions would create confusion by ostensibly introducing new additional deadlines or exceptions to ensure the accessibility of individual services. The Advocate also recommended that the term "disabled persons" be replaced by the term "people/persons with disabilities", which would have a significant impact on the scope of the obligations of persons concerned. He also recommended that a rulebook on the minimum requirements for accessibility to all goods and services should be adopted as soon as possible in accordance with the EOPDA, thus clarifying the obligations in detail. At the time of the preparation of the Special Report, the Recommendation had not yet been implemented.

#### **4.8.11 Ensuring accessibility of health care providers (2023)<sup>138</sup>**

The Advocate recommended that the Ministry of Health, when issuing health care permits or decisions on the entry in the register of private health care workers, should ensure that health care providers, both public and private and at the primary, secondary and tertiary levels, will enable the accessibility of premises and thus the accessibility of health services for persons with (physical and sensory) disabilities. The Advocate recommended that accessibility should also be ensured when granting a concession, consent or authorisation for the provision of health services in the public health service network, at the primary or secondary level. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.8.12 Ensuring accessibility of family medicine outpatient clinics (2023)<sup>139</sup>**

The Advocate recommended that the Ministry of Health should ensure that patients are provided with all possibilities of contact with family medicine outpatient clinics during their office hours, as provided for in Article 15a of the Patients' Rights Act and Article 4 of the Rules on the Referral of Patients, the Management of Waiting Lists, and the Maximum Permissible Waiting Times, i.e. in person (at the outpatient health clinic), by phone, by mail or electronically. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>137</sup> Available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-k-osnutku-predloga-zakona-o-dostopnosti-do-proizvodov-in-storitev-za-invalidel/>.

<sup>138</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-obcinam-glede-zagotavljanja-dostopnosti-izvajalcev-zdravstvene-dejavnosti/>.

<sup>139</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-komunikacijske-dostopnosti-ambulant-druzinske-medicine/>.

#### **4.8.13 Health Information System Act (2023)<sup>140</sup>**

The Advocate sent recommendations to the Ministry of Health that would reduce the risks of discrimination against patients on the basis of their health status, disability, age, language, and financial situation. He warned of the importance of ensuring digital and analogue accessibility, comprehensibility, and gratuity of health status information for some vulnerable groups. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.8.14 Ensuring accessibility of health care providers (2023)<sup>141</sup>**

The Advocate recommended that municipalities, when preparing tenders and when granting concessions for the provision of public health services at the primary level, ensure that health care providers will enable the accessibility of premises and thus the accessibility of health services for persons with (physical and sensory) disabilities. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.8.15 Equal access to rail transport for persons with disabilities (2023)<sup>142</sup>**

The Advocate of the Principle of Equality recommended the Ministry of Infrastructure (the MI) and the Slovenian Railways carry out, in a timely manner, all necessary activities to adapt the accessibility of trains and other railway infrastructure to persons with disabilities. He pointed out that, pursuant to the EOPDA, the deadline for providing accessible options in railway traffic will expire in December 2025. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.8.16 Inaccessibility of public inter-urban bus service for people with reduced mobility (2023)<sup>143</sup>**

December 2020 marked the end of the legal deadline by which buses in public inter-urban passenger transport should be made accessible to persons with sensory disability or reduced mobility. In his Special Report, the Advocate found that this has not been achieved. He therefore recommended the Ministry of the Environment, Climate and Energy (the MECE) adopt, as soon as possible, the minimum standards and criteria regarding the accessibility of buses for persons with sensory disability or reduced mobility. The Ministry should also determine the necessary adaptations to be implemented in buses, as well as the share of the buses adapted to persons with disabilities that each individual concessionaire should have in order to comply with the requirement set out in the EOPDA. In addition, the Advocate also recommended that the MECE establish a system of verification of compliance with legal requirements, as well as provide additional financial resources for the purpose of adapting the buses. At the time of preparation of the Special Report, these recommendations had not yet been implemented.

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<sup>140</sup> Available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-osnutka-predloga-zakona-o-zdravstvenem-informacijskem-sistemu/>.

<sup>141</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-obcinam-glede-zagotavljanja-dostopnosti-izvajalcev-zdravstvene-dejavnosti/>.

<sup>142</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-enake-dostopnosti-do-prevoza-v-zelezniškem-prometu-za-invalidne/>.

<sup>143</sup> Available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-nedostopnosti-javnega/>.

#### **4.8.17 Minimum requirements for accessibility of goods and services available to the public (2023)<sup>144</sup>**

In accordance with the EOPDA, the Advocate recommended that the Minister adopt the rules on minimum requirements for accessibility of goods and services available to the public. These rules are necessary for the efficient implementation of the provisions set out in the EOPDA. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.8.18 Courts Act (2023)<sup>145</sup>**

The Advocate made several recommendations to the MoJ regarding the draft of the new Courts Act. The Advocate recommended, among other things, that the draft Act more appropriately provide for measures to prevent and eliminate discrimination due to inaccessibility or insufficient architectural, information and communication accessibility of courts for persons with disabilities and other persons with reduced mobility, and regulate the obligation of courts to provide reasonable accommodation. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.8.19 Inaccessibility of public facilities for persons with disabilities (2023)<sup>146</sup>**

In a Special Report, the Advocate confirmed that spaces which should be equally accessible to all residents are mostly inaccessible to persons with disabilities. Therefore, the Advocate issued a number of recommendations to the competent ministries, including providing a methodological and professional comprehensive analysis of the state of spatial accessibility of all public facilities and making it publicly available, adopting minimum requirements for accessibility of goods and services available to the public, and providing dedicated budgetary resources for the adaptation of public facilities. At the time of preparation of the Special Report, the majority of these recommendations had not yet been implemented.

#### **4.8.20 Inaccessibility of public inter-urban bus service for persons with sensory disabilities (2023)<sup>147</sup>**

In a Special Report, the Advocate described the obstacles of persons with sensory disabilities in the use of road public transport. The accessibility of public inter-urban bus services should be ensured by the end of 2020 pursuant to the EOPDA. The Advocate recommended to the MECE to add an obligation to the tenders for granting a concession for the provision of passenger transport in public road transport, to ensure that the digital platforms of transport providers for finding information on bus transport comply with the requirements of the Accessibility of Websites and Mobile Applications Act (the AWMAA). This will also make them accessible to persons with sensory disabilities. Applicants for public tenders should request evidence that the bus drivers employed by transport providers are aware of the fact that persons with disabilities have the right to get on a bus with an accompanying person or a guide dog at no extra cost. At the time of preparation of the Special Report, the recommendations had not yet been implemented.

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<sup>144</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-pravilnika-o-minimalnih-zahtevah-za-dostopnost-do-blaga-in-storitev-ki-so-na-voljo-javnosti/>.

<sup>145</sup> Available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-osnutka-predloga-novega-zakona-o-sodiscih/>.

<sup>146</sup> Available at: <https://zagovornik.si/en/what-we-do/>.

<sup>147</sup> Available at: <https://zagovornik.si/en/what-we-do/>.

#### **4.8.21 Road Transport Act (2023)<sup>148</sup>**

When preparing the amendment to the Road Transport Act, the Advocate recommended that the MECE more specifically define why some groups of the population are entitled to free or subsidised inter-urban bus and train transport, while others are not. Under the proposed amendment to the Act, holders of a disability card who are employed or self-employed were not entitled to such free transport. At the time of preparation of the Special Report, the Recommendation was implemented.

#### **4.8.22 Directive of the European Parliament and of the Council on package travel and linked travel arrangements (2024)<sup>149</sup>**

The Advocate recommended to the Ministry of the Economy, Tourism and Sport (the METS) to propose an amendment to the Directive in such a way that the proposal would also include a commitment to the accessibility of all information and documents, and that the form provided as an annex to the package travel contracts would be accessible in several ways and in plain and intelligible language. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>148</sup> Available at: <https://zagovornik.si/izdelki/zagovornik-s-priporocili-glede-dolocanja-upravicencev-do-brezplacnega-prevoza-v-medkrajevnem-linijskem-cestnem-prometu/>.

<sup>149</sup> Available at: <https://zagovornik.si/izdelki/priporocili-zagovornika-nacela-enakosti-na-predlog-direktive-evropskega-parlamenta-in-sveta-o-spremembi-direktive-2015-2302-zaradi-povecanja-ucinkovitosti-zascite-potnikov-ter-poenostavitve-in-pojasni/>.

## 4.9 Other

This subsection presents brief summaries of recommendations on the following regulations and documents, in chronological order:

- 4.9.1 Personal Data Protection Act (2019)
- 4.9.2 Act Amending the Housing Act (2020)
- 4.9.3 Motor Vehicle Tax Act (2020)
- 4.9.4 Act amending the Criminal Code (2022)
- 4.9.5 Resolution on the National Programme for the Prevention of Domestic Violence and Violence against Women for the 2023–2028 period (2023)
- 4.9.6 Renewal of driving licenses during the physicians' strike (2024)
- 4.9.7 2024–2027 Action Plan for the Resolution on the National Programme for Culture 2024–2031 (2024)

### 4.9.1 Personal Data Protection Act (2019)<sup>150</sup>

With regard to the draft Personal Data Protection Act, the Advocate recommended the collection of data on equality that are important for the adoption and implementation of special measures to ensure equality, for example, of persons with disabilities, as these must be based on analyses. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

### 4.9.2 Act Amending the Housing Act (2020)<sup>151</sup>

In the context of the public debate, the Advocate recommended to the Ministry of the Environment and Spatial Planning, among other things, to justify the tender criteria for the selection of tenants of public rental housing (as a specific measure to ensure equality under the PADA), and also recommended the use of the broader term "person with disabilities" instead of the term "disabled". At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

### 4.9.3 Motor Vehicle Tax Act (2020)<sup>152</sup>

In a recommendation to the deputies of 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) and protection pursuant to the Convention. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>150</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-na-predlog-zakona-o-varstvu-osebnih-podatkov-zvop-2/>.

<sup>151</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-osnutka-zakona-o-spremembah-in-dopolnitvah-stanovanjskega-zakona-18-8-2020/>.

<sup>152</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-predloga-zakona-o-davku-na-motorna-vozila-4-12-2020/>.

#### **4.9.4 Act Amending the Criminal Code (2022)<sup>153</sup>**

The Advocate recommended to the deputies of the National Assembly of the Republic of Slovenia to adopt a text of the amendment to the Act which would cover all forms of criminal offenses committed out of a tendency of hatred and intolerance due to a personal ground. This would ensure better identification and appropriate treatment of the perpetrators of these offences. At the time of preparation of the Special Report, this Recommendation was partially implemented.

#### **4.9.5 Resolution on the National Programme for the Prevention of Domestic Violence and Violence against Women for the 2023–2028 period (2023)<sup>154</sup>**

The Advocate recommended to the MLFSAEO to provide accommodation in maternity homes, safe houses, shelters, and crisis centres for persons with disabilities who are victims of domestic violence. In order to achieve the goal, the MLFSAEO should add to the resolution appropriate measures and indicators for monitoring progress. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

#### **4.9.6 Renewal of driving licenses during the physicians' strike (2024)<sup>155</sup>**

The Advocate recommended to the Ministry of the Interior (the MoI) and to the Government to ensure that persons with disabilities with an expired driving license will still be allowed to drive during the period when the validity of the license cannot be extended due to the physicians' strike, in order to ensure the respect of their basic rights. In addition, he recommended that the Government should adopt legal bases so that the issuance of medical certificates for drivers with disabilities would also be possible during the physicians' strike. The recommendation was implemented.

#### **4.9.7 2024–2027 Action Plan for the Resolution on the National Programme for Culture 2024–2031 (2024)<sup>156</sup>**

The Advocate recommended that certain measures should emphasise all aspects of accessibility for persons with physical, sensory and intellectual disabilities and for persons with functional disabilities, and encourage the publication of high-quality literature in a format enabling easy reading. The Advocate also recommended that the term "deaf-mute" be omitted when co-financing media content in the public interest, and that the updated annual call for co-financing programme content expands the range of beneficiaries to persons with hearing impairments, deafness, visual impairment, blindness, deaf-blindness and intellectual disabilities, using techniques adapted to them. At the time of the preparation of the Special Report, this Recommendation had not yet been implemented.

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<sup>153</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-predloga-zakona-o-spremembah-in-dopolnitvah-kazenskega-zakonika/>.

<sup>154</sup> Available at: <https://zagovornik.si/izdelki/priporocili-zagovornika-nacela-enakosti-glede-predloga-resolucije-o-nacionalnem-programu-preprecevanja-nasilja-v-druzini-in-nasilja-nad-zenskami-2023-2028/>.

<sup>155</sup> Available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-ukrepov-za-ljudi-z-invalidnostmi-ki-zdravniske-stavke-ne-morejo-podaljsati-vozniskih-dovoljenj/>,  
<https://zagovornik.si/izdelki/priporocilo-vladi-glede-ukrepov-za-ljudi-z-invalidnostmi-ki-zaradi-zdravniske-stavke-ne-morejo-podaljsati-vozniskih-dovoljenj/>,  
<https://zagovornik.si/izdelki/priporocilo-vladi-republike-slovenije-glede-priprave-zakonskih-podlag-za-ureditev-polozaja-ljudi-z-invalidnostmi-ki-zaradi-zdravniske-stavke-ne-morejo-podaljsati-vozniskih-dovoljenj/>.

<sup>156</sup> Available at: <https://zagovornik.si/izdelki/zagovornik-s-priporocili-za-dostopnejso-kulturo/>.



## 5 METHOD OF THE ADVOCATE'S ASSESSMENT REGARDING THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE CRPD COMMITTEE

### 5.1 Clarification of the methodology

The Act ratifying the Convention on the Rights of Persons with Disabilities and Optional Protocol to the Convention on the Rights of Persons with Disabilities<sup>157</sup> transposed the content of the Convention into Slovenian internal law in 2008. This represents the highest universally recognised international legal standard of protection of the rights of persons with disabilities. The Convention has been ratified by a large majority of UN Member States, and the European Union has also acceded to it.

As early as 2014, Slovenia reported on the fulfilment of its obligations under the Convention to the UN Committee on the Rights of Persons with Disabilities (the CRPD Committee). In 2018, the CRPD Committee<sup>158</sup> recommended, in its Concluding Observations of the UN Committee on the Rights of Persons with Disabilities and on the basis of Slovenia's report on the implementation of the Convention, that Slovenia should implement a series of measures to improve these efforts, and to achieve all key objectives of respect, protection and effective exercise of the rights and freedoms of persons with disabilities.

The Advocate contributed to the dissemination of knowledge about the content of the conclusions of the CRPD Committee by preparing a translation of the initial report in the Slovenian language, which was published in the Annual Report of the Advocate of the Principle of Equality for 2018.

Five years after the issuance of the recommendations of the CRPD Committee, the Advocate has prepared his own assessment of the implementation of the recommendations. In doing so, the Advocate relied on data and information obtained in various ways, with the purpose of making his assessment as objective as possible. The Advocate has assessed the extent to which the recommendations of the CRPD Committee, adopted on 5 March 2018, have been followed. In addition to the analysis of publicly available sources, he included the Government of the Republic of Slovenia, which is the main body responsible for the implementation of the Convention (political measures, executive powers, legislative planning), in the process and consulted with civil society organisations.

The Advocate's assessment includes activities relating to the period from 1 January 2019 to 30 April 2024.

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<sup>157</sup> Act ratifying the Convention on the Rights of persons with Disabilities and Optional Protocol to the Convention on the Rights of Persons with Disabilities, Official Gazette of the Republic of Slovenia – International Treaties, No. 10/08).

Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5314>.

<sup>158</sup> See the Conclusions of the UN Committee on the Rights of Persons with Disabilities regarding the initial Report of Slovenia on the Implementation of the Convention on the Rights of Persons with Disabilities (the Convention), adopted at the 386th session on 5 March 2018 (CRPD/C/SVN/CO/1). Paragraph 58, point b). Available at: <https://documents.un.org/doc/undoc/gen/g18/105/33/pdf/g1810533.pdf>.

## 5.2 Stages of preparation of the Advocate's assessment

The following section includes a description of the preparation of the Advocate's assessment which took place in the following stages:

- 5.2.1 Review and analysis of publicly available information
- 5.2. Advocate's recommendation and an analysis of the response of the Government of the Republic of Slovenia to said recommendation
- 5.2.3 Analysis of NGO responses to the Advocate's inquiry
- 5.2.4 Examination of all available information and verification of the Advocate's original assessments
- 5.2.5 Corrections to the Advocate's original assessments and formulation of the Advocate's final assessments

### 5.2.1 Review and analysis of publicly available information

The Advocate reviewed publicly available information relating to the period from the issuance of the recommendations of the CRPD Committee to 31 May 2023.

The Advocate formulated the analysis of this information in such a way that each individual item of the CRPD Committee's recommendation (which refers to an article from the Convention) was followed by the Advocate's Assessment of the Implementation of the Recommendation (2024). This included an indication of whether the recommendation had been implemented, as well as a rationale for the assessment.

When assessing the implementation of individual recommendations of the CRPD Committee, the Advocate particularly considered the information from the annual reports on the implementation of the 2014–2021 Action Programme for Persons with Disabilities (APPD)<sup>159</sup> from 2018 onwards, from the minutes of the meetings of the Council of Persons with Disabilities of the Republic of Slovenia from the 2nd session of the 2017–2021 mandate onwards,<sup>160</sup> as well as from the content of individual sectoral strategies, possible changes in legislation, and assessments of the situation in individual areas contained in these documents. The most important highlights from the annual reports and generally available information on the work of the Ombudsman of the Republic of Slovenia<sup>161</sup> and the recommendations of the Advocate were also taken into account when referring to the Convention in the reasoning of the recommendation.

In its conclusions of 2018, the CRPD Committee did not comment on the implementation of certain articles or rights under the Convention, i.e. regarding Article 10 (right to life), Article 17 (protection of personal integrity) and Article 22 (respect for privacy) of the Convention, which is why these obligations arising from the Convention were not the subject of the Advocate's analysis.

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<sup>159</sup> Reports are available at <https://www.gov.si/zbirke/projekti-in-programi/akcijski-program-za-invalidce/>.

<sup>160</sup> The minutes of sessions are available at <https://www.gov.si/zbirke/delovna-telesa/svet-za-invalidce-republike-slovenije/>.

<sup>161</sup> Available at <https://www.varuh-rs.si/porocila-projekti/publikacije-gradiva/letna-porocila-priporocila-dz-odzivna-porocila-vlade/>.



The Advocate's analysis, which was carried out by 31 May 2023, revealed that it was only possible to make an assessment of one fully (or at least largely) realised article of the Convention, i.e. Article 11 of the Convention (situations of risk and humanitarian emergencies). This was largely influenced by the State's response during the COVID-19 pandemic and the crisis associated with it. The State has significantly improved the protection of persons with disabilities in such situations.

For all other articles of the Convention, to which attention was drawn by the CRPD Committee in its recommendations, the Advocate assessed that at least certain individual points of the recommendations of the CRPD Committee related to an individual article of the Convention remained unfulfilled. The Advocate assessed that the Recommendation of the CRPD Committee to the Republic of Slovenia was only fully implemented in two of the 80 individual points of the recommendation.

In his analysis, the Advocate found that, although the progress of the State in implementing the recommendations of the CRPD Committee is perceptible, it is not sufficient, and that significant systemic inconsistencies remain in almost all articles of the Convention and key points of the CRPD Committee recommendations.

### **5.2.2 Advocate's recommendation and an analysis of the response of the Government of the Republic of Slovenia to said recommendation**

Based on the analysis, the Advocate issued a Recommendation to the Government of the Republic of Slovenia in June 2023 regarding the implementation of the recommendations of the Committee on the Rights of Persons with Disabilities<sup>162</sup> in relation to the Convention, highlighting 33 key or particularly systemically important recommendations that have not been implemented.

In his recommendation to the Government, the Advocate did not specifically highlight some of the provisions of the Convention and recommendations of the CRPD Committee, as he assessed that they had already been implemented, at least in part. However, he also emphasised that these provisions and recommendations also require consideration and the adoption of additional measures for their full implementation. The Advocate recommended that the Government of the Republic of Slovenia should implement all recommendations of the CRPD Committee, thus ensuring the full and equal exercise of all rights and freedoms of persons with disabilities.

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<sup>162</sup> The Advocate's recommendation, available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-vladi-republike-slovenije-glede-uresnicevanja-priporocil-odbora-za-pravice-oseb-z-invalidnostmi-v-zvezi-s-konvencijo-o-pravicah-invalidov/>.

In July 2023, the Government of the Republic of Slovenia sent a response to the Advocate.<sup>163</sup> From the answer, it follows that:

- in the Republic of Slovenia, all competent ministries are responsible for the preparation and implementation of the legislation related to persons with disabilities,
- the Government of the Republic of Slovenia has collected the answers of the competent ministries responsible for individual issues of persons with disabilities, as well as an overview of the legislation, and
- the Government of the Republic of Slovenia notes that the "national legislation is being realised and implemented pursuant to" the Convention and on the basis of the recommendations established by the CRPD Committee.<sup>164</sup>

This was followed by a comprehensive inventory of the activities of individual competent ministries, as well as by the annex "Legal acts and strategic documents in the field of protection of persons with disabilities, adopted from 2014 to 2021". The Government of the Republic of Slovenia stated that the ministries provided data "on the harmonisation of Slovenian legislation in the field of protection of persons with disabilities with the Convention". In the message on the session of the Government of the Republic of Slovenia, it is stated that the written reports of the departments "show that the Government of the Republic of Slovenia is implementing the commitment made when the Convention was ratified".<sup>165</sup>

The Advocate found a high degree of overlap between the content of the document and the content of the response of the Government of the Republic of Slovenia to the inquiry of the Ombudsman of the Republic of Slovenia on issues related to the review of the compliance of legislation and policies with the Convention and on the implementation of the recommendations of the CRPD Committee.<sup>166</sup>

The response of the Government of the Republic of Slovenia is a non-transparent collection, in terms of content and form, of very diverse responses of individual departments, which reported on what they consider to be "their" competencies, and listed activities that they perceive as efforts "for disabled people". Almost no competent ministries responded in a structured and focused manner to the individual assessments of the Advocate relating to the specific articles of the Convention and to the points of the recommendations by the CRPD Committee.

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<sup>163</sup> The response to the Advocate of the Principle of Equality regarding the matter of the harmonisation of legislation in the field of protection of persons with disabilities with the Convention on the Rights of Persons with Disabilities 2018–2023 was available among the materials of the Government of the Republic of Slovenia at <https://www.gov.si/drzavni-organi/vlada/seje-vlade/gradiva-v-obravnavi/show/10613>, but is no longer publicly available, with the exception of the decision itself, which is available at: [https://gradiva.vlada.si/mandat22/VLADNAGRADIVA.NSF/aa3872cadf1c8356c1256efb00603606/9b291fbcf4e1da28c12589f300447f83/\\$FILE/SklepVlade.docx](https://gradiva.vlada.si/mandat22/VLADNAGRADIVA.NSF/aa3872cadf1c8356c1256efb00603606/9b291fbcf4e1da28c12589f300447f83/$FILE/SklepVlade.docx).

<sup>164</sup> This citation comes from the document of the Government of the Republic of Slovenia, No. 07000-8/2023/5, 20 July 2023, "Response to the Advocate of the Principle of Equality regarding the matter of the harmonisation of legislation in the field of protection of persons with disabilities with the Convention on the Rights of Persons with Disabilities 2018–2023". On 29 July 2023, the Slovenian Press Agency published a news item entitled "According to the Government's findings, Slovenia is implementing the legislation on persons with disabilities in accordance with the UN Convention". Available at: <https://www.sta.si/3196273/slovenija-po-ugotovitvah-vlade-uresnicuje-zakonodajo-o-invalidih-skladno-s-konvencijo-zn?q=odgovor,vlad,zagovornik,na%C4%8Del,enak>.

<sup>165</sup> Available at <https://www.gov.si/assets/vlada/Seja-vlade-SZJ/2023/07-2023/sevl60.docx>, p. 8.

<sup>166</sup> The response of the Government of the Republic of Slovenia to the inquiry of the Ombudsman of the Republic of Slovenia is available at: [https://gradiva.vlada.si/mandat22/VLADNAGRADIVA.NSF/aa3872cadf1c8356c1256efb00603606/c6537c9eeb25fc65c125896e004ca642/\\$FILE/Odg1Var.docx](https://gradiva.vlada.si/mandat22/VLADNAGRADIVA.NSF/aa3872cadf1c8356c1256efb00603606/c6537c9eeb25fc65c125896e004ca642/$FILE/Odg1Var.docx).

Two competent ministries did not contribute to the content of the joint response of the Government of the Republic of Slovenia. What is particularly incomprehensible is the lack of contribution from the Ministry of Health (the MoH).

According to the Advocate, not a single ministry responded comprehensively and substantively to all recommendations of the CRPD Committee for which they were responsible. Some ministries have described positions on the recommendations of the CRPD Committee which the Advocate did not highlight in his recommendation or which he assessed as already implemented. The ministries mostly detailed their efforts but provided no replies whatsoever to systemic questions or questions that transcend several ministries in terms of content. The inventory of legal and strategic documents was inadequate and untimely since there were no indications of a number of important substantive shifts that had already been made. For example, the adopted legislation on long-term care was never mentioned.

The Advocate found that the Government of the Republic of Slovenia and the Ministries failed to provide their opinions on:

- almost one half of the (un)implemented recommendations of the CRPD Committee (the Government of the Republic of Slovenia provided no response regarding 18 out of 33 of the Advocate's assessments),
- most of the warnings about the (in)compliance of the legislation with the Convention or legal gaps in national legislation in relation to the provisions of the Convention.

It follows from both the Advocate's analysis and the response of the Government of the Republic of Slovenia, that some progress has been made on individual issues of regulating the rights of persons with disabilities at the legislative level, as well as in practice, e.g. when it comes to the position of children with special needs in education. In addition, some irregularities have also been defined, and certain solutions are currently being planned. However, the fact that efforts are being made does not necessarily mean that the objective or purpose of the recommendations of the CRPD Committee, i.e. the realisation of all rights of persons with disabilities, has already been achieved. Despite the efforts of the Government of the Republic of Slovenia and competent ministries, the Advocate believes that most of the recommendations of the CRPD Committee still remain unrealised.

### **5.2.3 Analysis of NGO responses to the Advocate's inquiry**

The Advocate involved NGOs dealing with the rights and situation of persons with disabilities, i.e. organisations for persons with disabilities and in particular disability organisations, in the process of evaluating the implementation of the recommendations of the CRPD Committee. This respects the general principle of "nothing about us without us". Such obligations arise from the third paragraph of Article 31 of the Convention, which guarantees accessibility of data and, in particular, the third paragraph of Article 33 of the Convention, which guarantees civil society involvement and full participation in the Convention implementation monitoring process. The Advocate is generally bound by Article 15 of the PADA and the second paragraph of Article 4 of the Disability Organisations Act, which regulates the obligation to consult with disability organisations.

In October 2023, the Advocate sent an inquiry in the form of an online questionnaire to 255 addressees – non-governmental organisations working in the field of rights of persons with disabilities. The addressees were selected on the basis of the register of disability organisations,<sup>167</sup> membership in the National Council of Disability Organisations of Slovenia,<sup>168</sup> and also among organisations that have previously already worked with the Advocate in the past.

In the survey, the Advocate invited the addressees, in the same way as the Government of the Republic of Slovenia, to provide their comments on the 33 points of the recommendations of the CRPD Committee or the Advocate's assessment of whether these recommendations are being implemented or not. The addressees were able to provide their assessment according to their knowledge in the particular field. The data from the survey are based on the assessment of the respondents.

Respondents answered open-ended questions and also had the possibility to provide additional comments. Respondents answered the survey questionnaire between 19 October and 17 November 2023. 59 representatives of 53 NGOs responded to the survey.<sup>169</sup> The responses include reactions by representatives of the following NGOs (listed in alphabetical order):

1. Društvo Altra - Odbor za novosti v duševnem zdravju,
2. Društvo distrofikov Slovenije,
3. Društvo gibalno oviranih invalidov Slovenije VIZIJA,
4. Društvo gluhih in naglušnih Južne Primorske,
5. Društvo gluhih in naglušnih Podravja Maribor,
6. Društvo gluhih in naglušnih Posavja Krško,
7. Društvo invalidov Izola - Associazione degli invalidi Isola,
8. Društvo invalidov Krško,
9. Društvo invalidov Ljubljana Vič – Rudnik,
10. Društvo invalidov Majšperk in Kidričevo,
11. Društvo invalidov Žiri,
12. Društvo oseb z okvaro sluha celjske regije,
13. Društvo paralizikov Slovenije,
14. Društvo paraplegikov Gorenjske,
15. Društvo specialna olimpiada Slovenije,
16. Društvo študentov invalidov Slovenije,
17. Društvo učiteljev gluhih Slovenije,
18. Društvo vojnih invalidov Dolenjske,
19. Društvo za cerebralno paralizo Sonček Posavje,
20. Inštitut Digitas,
21. Invalidsko športno društvo DiTra,
22. Medobčinsko društvo gluhih in naglušnih Velenje,
23. Medobčinsko društvo invalidov Murska Sobota,
24. Medobčinsko društvo slepih in slabovidnih Ljubljana,
25. Nacionalni svet invalidskih organizacij Slovenije,
26. Nefron - društvo ledvičnih bolnikov Celje,

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<sup>167</sup> These are NGOs working in the public interest in the field of disability care at the State and local level in the Republic of Slovenia. Available at: <https://podatki.gov.si/dataset/register-invalidskih-organizacij>.

<sup>168</sup> Available at: <https://www.nsios.si/nasi-clani/>.

<sup>169</sup> In the case of some NGOs, several representatives of the same NGO responded to the inquiry.

27. PIC - pravni center za varstvo človekovih pravic in okolja,
28. Sklad Silva,
29. Sonček - društvo za cerebralno paralizo Dolenjske in Bele krajine,
30. Sonček - Zasavsko društvo za cerebralno paralizo,
31. Sonček - zveza društev za cerebralno paralizo Slovenije,
32. Sonček, pomursko društvo za cerebralno paralizo,
33. Šent - slovensko združenje za duševno zdravje,
34. YHD - Društvo za teorijo in kulturo hendikepa,
35. Zavod Risa - Center za splošno, funkcionalno in kulturno opismenjevanje,
36. Zavod Združenje tolmačev za slovenski znakovni jezik,
37. Združenje Gluhih Slovenije 14 11,
38. Združenje gluhoslepih Slovenije DLAN,
39. Združenje ILOS,
40. Zveza društev civilnih invalidov vojn Slovenije,
41. Zveza društev gluhih in naglušnih Slovenije,
42. Zveza paraplegikov Slovenije,
43. Zveza Sožitje Ilirska Bistrica,
44. Zveza Sožitje Kamnik,
45. Zveza Sožitje Kranj,
46. Zveza Sožitje Ljubljana,
47. Zveza Sožitje Ptuj,
48. Zveza Sožitje Radovljica,
49. Zveza Sožitje Ribnica,
50. Zveza Sožitje Sevnica,
51. Zveza Sožitje Slovenj Gradec,
52. Zveza Sožitje Trbovlje,
53. Zveza Sožitje.

The Advocate also examined the materials submitted by Slovenian and international NGOs to the CRPD Committee in the summer of 2023 as part of the new reporting round on the implementation of the Convention. These materials contain information with the purpose of gaining insight into the current situation that will help the CRPD Committee prepare a list of questions for the relevant country. The Committee drew up and sent this list of questions to Slovenia.<sup>170</sup> The answers to these questions will be the content of the next periodic report prepared by Slovenia, which is still being drafted at the time of the issuance of this Special Report.

#### **5.2.4 Examination of all available information and verification of the Advocate's original assessments**

By the end of April 2024, the Advocate examined all information that has been collected, both the publicly available information and the information obtained from the Government of the Republic of Slovenia or its departments and NGOs. The Advocate also considered recent developments, his own practices, and recommendations.

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<sup>170</sup> NGO contributions and a list of questions are available in English at [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2623&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2623&Lang=en).

The Advocate also examined the report submitted by the Ombudsman of the Republic of Slovenia to the CRPD Committee in August 2023 as part of the start of the next round of periodic reporting to be provided by Slovenia to the CRPD Committee. In this report, the Ombudsman of the Republic of Slovenia drew attention to open areas that still needed to be improved in relation to the situation of persons with disabilities.<sup>171</sup>

The Ombudsman of the Republic of Slovenia stated various violations of the rights of persons with disabilities, both in terms of non-discrimination and ensuring equal opportunities for persons with disabilities, as well as in terms of the functioning of competent institutions and violations in the field of social affairs, health care, restriction of personal freedom, participation in the management of public affairs, administrative affairs, justice, housing matters, and the exercise of children's rights.

### **Key points from the report of the Ombudsman of the Republic of Slovenia pursuant to individual Articles of the Convention:**

#### **Article 7 (Children with disabilities) and Article 24 (Education)**

Urgent systemic measures are necessary in the field of institutional care for children with severe mental disorders. The Ombudsman of the Republic of Slovenia warned that these children and adolescents should only be placed in protected departments, which are, in terms of staff, space, services and programmes, intended for children and adolescents and not for adults, as is the case for protected departments in special social welfare institutions where they were placed. The Ombudsman of the Republic of Slovenia persistently calls for deinstitutionalisation. He also highlighted the problems faced by children with blindness and visual impairments in the context of upbringing and education. He also expressed concern about the general lack of experts in the field of clinical psychology of children and adolescents, psychiatry, and child psychiatry in Slovenia.

#### **Article 9 (Accessibility)**

Persons with disabilities are too often confronted with the inaccessibility of public facilities, which was also demonstrated in the Ombudsman's research on the accessibility of social work centres. A quarter of these centres are physically inaccessible to persons with reduced mobility.<sup>172</sup>

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<sup>171</sup> The Ombudsman's report to the CRPD Committee is available at:  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCRPD%2FICS%2FSVN%2F53379&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCRPD%2FICS%2FSVN%2F53379&Lang=en).

<sup>172</sup> Available at:  
[https://www.varuh-rs.si/fileadmin/user\\_upload/pdf/posebna\\_porocila/Posebno\\_porocilo\\_VCP\\_RS\\_-\\_Dostopnost\\_centrov\\_za\\_socialno\\_delo.pdf](https://www.varuh-rs.si/fileadmin/user_upload/pdf/posebna_porocila/Posebno_porocilo_VCP_RS_-_Dostopnost_centrov_za_socialno_delo.pdf).

## **Article 14 (Liberty and security of the person) and Article 15 (Freedom from torture or cruel, inhuman or degrading treatment or punishment)**

As was pointed out by the Ombudsman of the Republic of Slovenia, involuntary placement and detention in a protected department of a social welfare institution can constitute an interference with the human rights and fundamental freedoms of a detained person, which is why he advocates for other forms of treatment of persons with mental disorders that would take place within the community or at home. For this purpose, the report provides a more detailed description of the activities of the National Prevention Center, which operates within the institution of the Ombudsman of the Republic of Slovenia and is responsible for supervising all places of deprivation of liberty in the country and examining the treatment of persons deprived of liberty.

## **Article 16 (Freedom from exploitation, violence and abuse)**

The Ombudsman of the Republic of Slovenia pointed out that it is necessary to investigate the extent of domestic violence against all persons, including children and the elderly, and to pay appropriate attention to persons with disabilities. He pointed out that Slovenia had not yet adopted a strategy to prevent all forms of violence, and mentioned women with disabilities as a key protection group.

## **Article 19 (Deinstitutionalisation – living independently and being included in the community)**

The Ombudsman of the Republic of Slovenia drew attention to the need for appropriate, affordable and acceptable services for persons with disabilities who need help in order to exercise their right to independent living and inclusion in their communities in cities and rural areas. He particularly focused on irregularities regarding the implementation of personal assistance. It was stressed that the issue of the content and purpose of personal assistance should be addressed through a systematic approach.

## **Article 21 (Freedom of expression)**

The Ombudsman of the Republic of Slovenia called on the Government of the Republic of Slovenia to fully exercise the rights of persons with hearing impairments, primarily in the field of inclusion and development of the Slovenian sign language, through an enshrinement in the Constitution of the Republic of Slovenia. It is crucial to ensure that these rights are exercised in practice.

## **Article 23 (Respect for home and the family)**

The Ombudsman of the Republic of Slovenia pointed out the lack of family assistance in families caring for children with special needs under the age of 18, with the aim of reducing the institutionalisation of children with special needs and exercising their right to family life.

## **Article 25 (Health) and Article 26 (Habilitation and rehabilitation)**

Regarding the provision of treatment and rehabilitation, the Ombudsman of the Republic of Slovenia pointed out, among other things, the issues with the accommodation and treatment of people after the end of their hospital treatment and people with an acquired brain injury, as well as the inaccessibility of dental care for persons with special needs.



## **Article 28 (Adequate standard of living and social protection)**

The Ombudsman of the Republic of Slovenia pointed out the lack of adapted housing for persons with disabilities and for those who cannot return to their home environment without help and care after hospital treatment. In the field of providing social protection, the Ombudsman pointed out the length of the processes and the inadequacy of some clarified decisions issued to persons with disabilities by competent institutions, e.g. by the Pension and Disability Insurance Institute of Slovenia.

## **Article 31 (Statistics and data collection)**

In the opinion of the Ombudsman of the Republic of Slovenia, the State does not collect appropriate disaggregated data on persons with disabilities for the development of appropriate measures and the implementation of the Convention.

## **Article 33 (National implementation and monitoring)**

The Ombudsman of the Republic of Slovenia called on the authorities to provide adequate additional resources for the implementation of tasks, including additional staff, office premises and financial resources, which will, however, inevitably increase the costs of the institution which should be taken into account when considering budgetary issues.

### **5.2.5 Corrections to the Advocate's original assessments and formulation of the Advocate's final assessments**

Following the review, the Advocate partially changed the content of some of his initial assessments of the implementation of the recommendations of the CRPD Committee due to the progress made in the period from June 2023 to the end of April 2024. However, it must be noted that, for none of the obligations under each of the 33 individual assessments, the progress was sufficient for us to be able to claim that the recommendation of the CRPD Committee provided to the Republic of Slovenia was implemented in full. Some final assessments also provide more details in terms of the unrealised obligations.

Compared to the Advocate's recommendation to the Government of the Republic of Slovenia regarding the implementation of the recommendations of the CRPD Committee, the sequence of individual assessments in the Special Report<sup>173</sup> is amended and follows the order of the Articles of the Convention and the recommendations of the CRPD Committee.

The Government of the Republic of Slovenia must lead and direct the policy in this area. Externally speaking, in the international space, the Government of the Republic of Slovenia also represents the State when it comes to monitoring the implementation of international obligations and assumes responsibility for this. Therefore, the burden of proving that the rights of persons with disabilities are effectively protected lies with the Government of the Republic of Slovenia. In case of doubt (absence of information on the contrary), the assessment that the recommendation has not been implemented is provided in specific cases. Thus, except for one of the points (the return of the right to vote to disenfranchised persons, which was, however, not proposed by the Government of the Republic of Slovenia), the Advocate maintained all of his original assessments, i.e. that the recommendations were mostly not implemented.

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<sup>173</sup> The Advocate's recommendation, available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-vladi-republike-slovenije-glede-uresnicevanja-priporocil-odbora-za-pravice-oseb-z-invalidnostmi-v-zvezi-s-konvencijo-o-pravicah-invalidov/>.



The purpose of this Special Report is to open a debate on how to make progress where such an action would either be crucial, where no progress has already been made, or where the progress made is insufficient. Therefore, this is not a general report on the implementation of the Convention or on the progress achieved in this area in general.



## 6 THE ADVOCATE'S ASSESSMENT OF THE UNFULFILLED RECOMMENDATIONS OF THE CRPD COMMITTEE

In the document "Conclusions of the UN Committee on the Rights of Persons with Disabilities regarding the initial report of Slovenia on the implementation of the Convention on the Rights of Persons with Disabilities",<sup>174</sup> the CRPD Committee drew attention to 81 points of recommendations, in which Slovenia was warned of the obligations under individual articles of the Convention that have remained unrealised. Based on the previously obtained information and data, the Advocate checked the implementation of the recommendations of the CRPD Committee and found that most of the recommendations were still not implemented.

The following is a summary of all recommendations of the CRPD Committee which, according to the Advocate's assessment, had not yet been implemented by the end of April 2024. A more detailed presentation of individual assessments is provided in the following subsections.

Assessments of unfulfilled recommendations in the following sub-sections are organised into the following sections:

- 1) **Recommendation of the CRPD Committee to the Republic of Slovenia (2018):** the subtitle lists the area of rights and the article from the Convention to which the assessment relates. The first paragraph lists the serial number of the recommendation of the CRPD Committee and the content of the recommendation.
- 2) **The Advocate's assessment of the implementation of the recommendation (2024):** the Advocate's assessment of the implementation of the recommendation in terms of one or more unrealised recommendations of the CRPD Committee is provided for. This is followed by a more detailed justification of the assessment, with reference to publicly available sources.
- 3) **Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023):** summaries of the responses of non-governmental organisations, based on the individual assessment by the Advocate of the unfulfilled recommendations of the CRPD Committee, are provided.
- 4) **Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendation (2023):** summaries of the responses of the Government of the Republic of Slovenia or line ministries to the relevant assessments of the Advocate in terms of the unfulfilled recommendations of the CRPD Committee.

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<sup>174</sup> Adopted at the 386th session on 5 March 2018 (CRPD/C/SVN/CO/1). Paragraph 58, pt. (b). The text is available in the Slovenian language in the Annual Report of the Advocate of the Principle of Equality for 2018, p. 167 et seq. Available at: <https://zagovornik.si/wp-content/uploads/2022/08/Redno-letno-porocilo-2018.pdf>.



## 6.1 Harmonisation of legislation and practice with the Convention and the human rights-based model of understanding disability (Articles 1 to 4 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 5, point a),

- the CRPD Committee recommended the State Party conduct a review of its national legislation, policies and programmes and bring them into line with the provisions of the Convention, including the various definitions of disability in legislation, and align it with the human rights model of disability.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**A systematic review of legislation, policies and programmes has not been prepared. These remain inconsistent with the provisions of the Convention. The legislation was not harmonised with the human rights-based model for addressing disability.**

In their response to the Advocate's inquiry, neither the Ministry nor the Government of the Republic of Slovenia explicitly stated that a systematic process of review of all national legislation would be carried out in order to harmonise it with the provisions of the Convention. The new 2022–2030 Action Programme for Persons with Disabilities (APPD),<sup>175</sup> however, does list the Convention as the basis for the preparation of measures, but mainly on the level of principle. The APPD only includes a minimum response to the findings and recommendations of the CRPD Committee. Among other things, the APPD lacks the substantive goals and indicators of fulfilling the obligations under the Convention, i.e. the so-called indicators of respect for human rights.

The APPD is primarily a governmental program adopted by the Government of the Republic of Slovenia and other stakeholders invited to participate in its creation. The Government of the Republic of Slovenia plays a central and irreplaceable role in the implementation of obligations under the Convention; specifically, it is responsible for leading and directing social development in this area.

In the process of preparing the APPD, the Advocate recommended to the Ministry of Justice (MoJ) and other developers of APPD measures to establish and harmonise the system with the strategic documents of the United Nations (UN), the Council of Europe (CE) and the European Union (EU). In doing so, the Advocate pointed out some key substantive shortcomings and recommendations of the CRPD Committee.<sup>176</sup>

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<sup>175</sup> Action Programme for Persons with Disabilities 2022–2030. Available at: <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.gov.si%2Fassets%2Fministrstva%2FMDDSZ%2Finvalidi%2FAPI-2022-2030%2FAkcij%2Fprogram%2Fza%2Finvalid%2F2022-2030.docx&wdOrigin=BROWSELINK>.

<sup>176</sup> Recommendation of the Advocate available at: <https://zagovornik.si/izdelki/priporocilo-glede-priprave-akcijskega-programa-za-invalid-2022-2026/>.

The Advocate received a negative response from the MLFSAEO to its recommendation that a plan for the implementation of the recommendations of the CRPD Committee should also be included in the APPD. The alleged reason lies in the autonomy of decision-making on the planned measures of the competent line ministries, as well as the lack of (financial) resources of the APPD for these purposes.<sup>177</sup>

If the APPD does not form the basis for measures intended to harmonise the legislation, policies and programmes with the Convention, the pertinent question is whether another plan exists to eliminate the detected inconsistencies. The Advocate also pointed out a number of key systemic irregularities and recommendations of the CRPD Committee in several other recommendations, e.g. in the field of mental health<sup>178</sup> or deprivation of legal capacity; for the most part, however, he received no response. The recommendations of the Advocate pertaining to the regulation of cross-sectional issues which are related to several line ministries or which even extend beyond the issue of the functioning of the Government of the Republic of Slovenia received the least response.

So far, the systemic efforts of the Government have been focused, in particular, on the creation of a more appropriate body for monitoring the implementation of the Convention under the second paragraph of Article 33 of the Convention, which the CRPD Committee has identified as a priority; even this, however, has not been consistent and successful so far.<sup>179</sup> The effort to provide for more appropriate involvement of disability organisations in these processes was also not based on the Convention standards, which require the involvement of all organisations of persons with disabilities and not just some of them.<sup>180</sup>

Most new national policies, measures or changes in legislation related to the rights of persons with disabilities are created to comply with EU law. In doing so, drafters often only follow the minimum requirements of the EU law, which, for example, does not comprehensively regulate the prohibition of discrimination on the basis of disability in all areas of social life, and only partially regulates the accessibility of goods and services available to the public. Failure to comply with the already achieved level of protection of the rights of persons with disabilities in the national legislation may lead to a deterioration of their protection and further inconsistencies with the Convention (e.g. regarding accessibility standards). The Advocate has repeatedly pointed out the gaps and internal conflicts between several acts.<sup>181</sup>

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<sup>177</sup> The MLFSAEO stated that "the proposal to insert the recommendations of the CRPD Committee into the programme cannot be taken into account. With a decision, the Government of the Republic of Slovenia has adopted and confirmed the implementation of the recommendations, the implementation of which is the responsibility of all line ministries, depending on their competence. The 2022–2026 APPD has no financial implications intended specifically for this purpose. The line ministries implement measures on the basis of their annual programmes from their budget and then report on the implementation of the programme for the previous year as well."

<sup>178</sup> Recommendation of the Advocate available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-k-predlogu-zakona-o-spremembah-in-dopolnitvah-zakona-dusevnem-zdravju/>.

<sup>179</sup> See explanations in subsection 6.33 and the Advocate's recommendations for the Council of Persons with Disabilities Act. Available at: <https://zagovornik.si/izdelki/komentar-in-priporocila-zagovornika-nacela-enakosti-v-zvezi-s-predlogom-zakona-o-svetu-za-invalidne-republike-slovenije/>.

<sup>180</sup> See, for example, the Advocate's recommendations for the Disability Organisations Act. Available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-osnutka-zakona-o-spremembah-in-dopolnitvah-zakona-o-invalidskih-organizacijah/>.

<sup>181</sup> See, for example, the Advocate's recommendations for the Audiovisual Media Services Act. Available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-zakona-o-spremembah-in-dopolnitvah-zakona-o-avdiovizualnih-medijskih-storitvah/>.

The response of the Government of the Republic of Slovenia to the Advocate's recommendation regarding the implementation of the recommendations of the CRPD Committee in relation to the Convention<sup>182</sup> shows that the legislation is already being implemented in accordance with the Convention, or that it is in accordance with the Convention. However, the substantive review shows that there is no basis for this claim, either in the replies of the departments or in publicly available information.

The Council of Persons with Disabilities of the Republic of Slovenia monitors the implementation of the APPD; its task of monitoring the Convention remains unclear, however, nor does it have the appropriate resources for this task. Furthermore, its independence and representativeness are also questionable. The fact that the Council does not perform these tasks in a focused manner is clearly confirmed by the review of documents on its work, which is only faced with issues of implementation of the Convention in exceptional cases, or even by an external initiative (example of a response to the Advocate's inquiries regarding disenfranchisement). Despite the Advocate's recommendation, the human rights-based model of understanding disability was not (in content or form) included in the new API, although the latter should assume the role of providing a common understanding of what is required by the Convention.

In addition, this document also does not mention or take into account the so-called inclusive equality. Instead of focusing on persons with disabilities, policy attention should be focused on the transformation of the social environment. The social environment should become not only non-discriminatory (equality) but also inclusive, ensuring full and equal participation for all.

The issue of understanding what disability is, which categories include persons with disabilities, and which organisations exist for their protection is also due to the inadequate translation of the Convention (more in the explanation in subsection 6.2). Many definitions of disability and of persons with disabilities in national legislation and practice remain inconsistent with the Convention. They are still dominated by the so-called medical model of understanding disability, which seeks to accurately measure disability in terms of incapability, and to determine the durability of a condition that cannot be significantly improved by treatment. Although the part of the Social Welfare Act that used designating terms, e.g. "disabled persons", is no longer applicable, the MLFSAEO and other ministries continue to use these terms as general synonyms.

Understanding of disability is also highly marked by the social model, especially in the context of social protection measures based on the understanding of persons with disabilities as vulnerable people in need of special care and additional assistance, who are perceived to be incapacitated or to have limited ability. In practice, the term "disability protection" is often unjustifiably interpreted as synonymous with issues of the rights of persons with disabilities, with special care and patronising assistance (the so-called *charity* model) at the forefront.

Many alleged protective measures provide excessive deprivations or restrictions of the rights of persons with disabilities, or at least prevent them from exercising these rights themselves, e.g. without guardians. Measures that inhibit persons with disabilities are too often unjustifiably taken for granted, instead of using other empowerment measures. The understanding of disability under the Convention requires the abolition of measures that prevent persons with disabilities from exercising their rights.

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<sup>182</sup> The Advocate's recommendation, available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-vladi-republike-slovenije-glede-uresnicevanja-priporocil-odbora-za-pravice-oseb-z-invalidnostmi-v-zvezi-s-konvencijo-o-pravicah-invalidov/>.

Currently, no definition of disability or of persons with disabilities under individual national laws is identical to the terms used in the original iteration of the Convention. More appropriate definitions of persons with disabilities are included, for example, in the EOPDA<sup>183</sup> and in the Act on Accessibility of Products and Services for Persons with Disabilities (the AAPSPD).<sup>184</sup>

There are no perceived efforts to unify the understanding of the concept of disability and of who the persons with disabilities actually are. The Advocate's proposals in this regard were rejected. New legal definitions, including some that would constitute a serious setback, are always emerging.<sup>185</sup> In each case, the legislator may not arbitrarily regulate the contents of the concept of a person with disabilities without taking into account the Convention.

The content of the concept of disability must not be conditioned by its origin (illness, injury, the classification of diagnoses etc.), the area in which it originated, or whether a person has any of the statuses of a disabled person. Understanding what a disability is should also not be conditional on the content of the rights or measures to which someone is entitled. What constitutes a disability under the Convention is not up to the discretion of each individual State Party.

Likewise, the recognition of the existence of a disability must not be dictated by practical, administrative reasons alone, e.g. proving a disability through a decision on the recognition of the status of a disabled person. It is unjustifiable to deny the existence of a disability to a person, arguing that determining their disability would be too complicated or too expensive. Therefore, many persons with disabilities cannot obtain a decision on the status of a disabled person, nor a disability decision.

Thus, the Slovenian legal order does not adequately protect the rights of all persons with disabilities under the Convention, but often only protects those who have a recognised status of a person with a disability under one of the many laws governing this area (e.g. disabled workers, vocational rehabilitation, children with special needs, students with special needs). This means that the domestic regulation excludes a significant proportion of all persons with disabilities (according to some estimates, almost a half of them) who live with one or more types of disabilities but do not have a recognised status. Even though they should be granted all their rights under the Convention, this is not the case in practice. A broader expansion of the topic is available, for example, in the calls of the Ombudsman of the Republic of Slovenia related to the lack of understanding of the MLFSAEO of all categories of persons with disabilities under the Convention.<sup>186</sup> The Advocate already discussed a similar issue of the non-inclusion of all persons with disabilities in the legal regulation in the assessment of the discriminatory character of the legal regulation of the Social Inclusion of Disabled Persons Act.<sup>187</sup>

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<sup>183</sup> Equalisation of Opportunities for Persons with Disabilities Act (Official Gazette of the Republic of Slovenia, No. 94/10, 50/14 and 32/17). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4342>.

<sup>184</sup> Access to Products and Services for Persons with Disabilities Act (Official Gazette of the Republic of Slovenia, No. 14/23). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8537>.

<sup>185</sup> An example of this is the draft of the new Personal Assistance Act, put into public debate in 2023, which would exclude people with permanent disabilities which are the result of a disease from the circle of beneficiaries, even when they have the status of a disabled person, despite the fact that the applicable Personal Assistance Act regulates this appropriately, while the criterion for allocation is only the identified needs (arising from the consequences of disability), and not the criteria for determining the type, degree or origin of disability.

<sup>186</sup> Available at <https://www.varuh-rs.si/sporocila-za-javnost/novica/vsi-so-enaki-le-da-so-nekateri-malo-bolji/>.

<sup>187</sup> The Advocate's recommendation, available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-spremembe-zakona-o-socialnem vkljucevanju-invalidov-v-delu/>.



### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

35 representatives of non-governmental organisations expressed their view on this assessment of the Advocate. Their answers clearly state that 21 of them agreed with the assessment. Three of them stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment. One of them stated, in their response, that the legislation was "mostly complied with", which shows that they disagreed with the Advocate's assessment. The answers of the 10 remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

Legislative fragmentation, lack of human resources, uneven distribution of financial resources and the regulation of the rights of persons with disabilities through the medical view or model have been identified as existing challenges in this area. A proposal for a comprehensive review of existing legislation, policies and programmes was identified as a potential solution.

Examples of comments provided by representatives of non-governmental organisations:

- Compliance with the Convention is not a political priority, which is why the organisation proposed the required harmonisation of the human rights-based model of understanding disability, as recommended by the CRPD Committee.
- "...policies are not changing, since most institutions do not have any knowledge of modern concepts and handicaps, and do not see or do not want to see them from a human rights perspective". In general, we are only addressing the protection, care and support of persons with disabilities, which in itself implies their subordinate position and unequal treatment or inequality.
- The review of the harmonisation of legislation with the Convention must be conducted urgently and immediately and must be immediately followed by actual harmonisation since people are facing serious issues in practice.
- The State should cooperate with disability organisations and other relevant stakeholders when it comes to the design and implementation of legislative changes. The State should also implement education and awareness campaigns related to the rights of persons with disabilities and legislative changes. Following the adoption of the amendments, the State should establish a monitoring and evaluation system to monitor the effectiveness of new laws, policies and programmes in ensuring the rights of persons with disabilities.

#### 4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)

- In response to the Advocate's assessment, the **MLFSAEO** reported that the Minister responsible for the protection of persons with disabilities had adopted a Decision on the Appointment and Tasks of the Monitoring Committee of the 2022–2030 Action Programme for Persons with Disabilities (the APPD). Said Committee consists of representatives of line ministries, professional organisations, the National Council of Disability Organisations of Slovenia (the NCDOS), other disability organisations outside of the NCDOS, and the Association of Pensioners' Societies of Slovenia. Every year, the Committee must submit a report on the implementation of the APPD during the previous year to the Government of the Republic of Slovenia. At the end of the last report for a certain period, an overview of the implementation of the programme is prepared, and a complete overview of policies and legislation from the entry into force of the APPD to the end of the period in question is recorded in the APPD for the new period. Every year, the APPD reports also clearly list the policies, legislative acts, and any amendments that have been adopted during the previous year.
- In its response, the **Ministry of Education (the MoE)** explained that, after 2018, a gradual review of the entire legislation in the field of the rights of children with special needs was carried out, seeing as their rights are enshrined in all sectoral laws, as they are supplemented by the Act Regulating the Integrated Early Treatment of Preschool Children with Special Needs and the Act Regulating the Placement of Children with Special Needs.
- **The Ministry of the Interior (the Mol)** has explicitly stated that such a legislative review has not been carried out.

## **6.2 Ensuring an accurate translation of the Convention (Articles 1 to 4 of the Convention)**

### **1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)**

In paragraph 5, point b)

- of the recommendation, the CRPD Committee recommended the State Party review the current official translation of the Convention into Slovene with a view to ensuring accuracy in all accessible formats.

### **2) The Advocate's assessment of the implementation of the recommendation (2024)**

|                                                                             |
|-----------------------------------------------------------------------------|
| <b>An accurate translation of the Convention has not been provided yet.</b> |
|-----------------------------------------------------------------------------|

An incorrect translation of the Convention into the Slovenian language poses a key problem for misunderstanding the type of obligations under the Convention. At the level of State authorities, however, this problem is not only not recognised but is also being denied. The Slovenian translation of the Convention contains numerous errors, including serious errors that raise doubts about whether the Slovenian translation can be equated to any of the originals prepared in English, Arabic, French, Chinese, Russian or Spanish. These errors raise questions about the professional and legal terminological suitability of the translation.

An incorrect translation of the Convention makes it difficult for persons with disabilities to understand their rights. Due to translation errors, it is very difficult to understand the protection against discrimination, especially the fundamental concepts such as inclusive equality, as well as the objectives of the Convention and the scope of the rights of persons with disabilities under the Convention. The correct interpretation of obligations under the Convention is also difficult for persons concerned, i.e. those who must respect and protect the rights of persons with disabilities.

The current translation of the Convention contains many incorrectly translated words (e.g. "multiple", not "multifaceted" discrimination; "equality", not "egality", "diversity", not "difference") or entire phrases (e.g. regarding the definition of disability and inclusive equality). A correct understanding of the Convention therefore often requires a complex legal interpretation and compliance with the provisions of the Convention in the original texts.

The Ombudsman of the Republic of Slovenia has repeatedly pointed out the problem of incorrect translation of the Convention. In 2017, for example, the Ombudsman made a recommendation to correct the translation of Article 12 of the Convention so that it would clearly regulate the right to full legal capacity.<sup>188</sup> In its report provided as a response, the Government of the Republic of Slovenia rejected the recommendation of the Ombudsman of the Republic of Slovenia.<sup>189</sup>

The Advocate issued a number of warnings about specific errors in the Slovenian translation of the provisions of the Convention, namely in the recommendations to various laws, including when preparing the APPD.<sup>190</sup> In 2023, the Advocate carefully reviewed the currently applicable Slovenian translation of the Convention and prepared a draft of a more accurate translation, including the translation of the Protocol to the Convention.

The Advocate also prepared an in-depth explanation of the errors detected in the translation. On the basis of these actions, it was recommended that the Government of the Republic of Slovenia provide a new and improved translation of the Convention, which should eliminate errors and inconsistencies in the text of the valid official Slovenian translation of the Convention.<sup>191</sup> In the annex to the recommendation to the Government of the Republic of Slovenia, the Advocate provided comprehensive explanations for 51 points or sets of proposed corrections, of which 44 points were designated as key points.<sup>192</sup> The Advocate also summarised some key examples of inaccuracies in the translation of the Convention in the explanations of other recommendations.<sup>193</sup>

So far, the Government of the Republic of Slovenia has failed to respond to the Advocate's recommendation to provide a more accurate translation of the Convention. Through a press release, the MLFSAEO responded that there was no need to provide a new translation of the Convention. The argument was made against the use of the term "persons with disabilities" since, in the field of law, "disabled person" is an established and neutral term used both in the Slovenian Constitution and in the legislation governing the field of disability".

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<sup>188</sup> The Government of the Republic of Slovenia should prepare a proposal for amendments to the Act ratifying the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention on the Rights of Persons with Disabilities, which will take into account the established Slovenian legal terminology. See the Annual Report of the Ombudsman of the Republic of Slovenia for 2017, p. 327–373, available at [https://www.varuh-rs.si/fileadmin/user\\_upload/pdf/lp/LP\\_2017\\_-\\_za\\_splet.pdf](https://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/LP_2017_-_za_splet.pdf). Mutatis mutandis, this would make it clear that the Convention prohibits deprivations of legal capacity. See e.g. dilemmas on the translation of reasonable accommodation in the 2008 Annual Report (available at [https://www.varuh-rs.si/fileadmin/user\\_upload/pdf/lp/Varuh\\_LP-2008.pdf](https://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/Varuh_LP-2008.pdf), p. 54), or personal assistance in the annual report for 2009, available at [https://www.varuh-rs.si/fileadmin/user\\_upload/pdf/lp/Letno\\_porocilo\\_Varuha\\_za\\_2009.pdf](https://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/Letno_porocilo_Varuha_za_2009.pdf), str. 51.

<sup>189</sup> The Response Report of the Government of the Republic of Slovenia to the twenty-third regular Annual Report of the Ombudsman for 2017, p. 20, in the table regarding the recommendation no. 71, available at [https://www.varuh-rs.si/fileadmin/user\\_upload/pdf/lp\\_-\\_odzivna\\_porocila\\_vlade/23\\_-\\_Odzivno\\_porocilo\\_Vlade\\_RS\\_na\\_23\\_LP\\_2017\\_in\\_info\\_o\\_realizaciji\\_priporocil\\_DZ\\_ob\\_obravnavi\\_LP\\_2016.pdf](https://www.varuh-rs.si/fileadmin/user_upload/pdf/lp_-_odzivna_porocila_vlade/23_-_Odzivno_porocilo_Vlade_RS_na_23_LP_2017_in_info_o_realizaciji_priporocil_DZ_ob_obravnavi_LP_2016.pdf).

<sup>190</sup> Recommendation of the Advocate available at: <https://zagovornik.si/izdelki/priporocilo-glede-priprave-akcijskega-programa-za-invalidne-2022-2026/>.

<sup>191</sup> The Advocate's recommendation, available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-vladi-republike-slovenije-glede-revizije-in-uveljavitve-ustreznejsega-prevoda-konvencije-o-pravicah-invalidov/>.

<sup>192</sup> The annex to the Advocate's recommendation, available at: <https://zagovornik.si/wp-content/uploads/2023/12/PRILOGA-1-Pregled-dolgh-obrazlozitev.pdf>.

<sup>193</sup> The Advocate's recommendation, available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-osnutka-zakona-o-spremembah-in-dopolnitvah-zakona-o-invalidskih-organizacijah/>.

At the same time, the MLFSAEO referred to the legal terminological dictionary and its content definition of disability, which contains a predominantly medical definition of disability. The understanding of disability in terms of a person's incapacity or diminished capacity is inconsistent with the definition under the Convention and is applicable, at most, to the social welfare system, i.e. when someone is entitled to a special situation (or, in this particular case, "assistance").<sup>194</sup> Even the substantive definition of the word "disabled person" provided in the Fran online portal of the Fran Ramovš Institute of the Slovenian Language of the Research Centre of the Slovenian Academy of Sciences and Arts (the ZRC SAZU) is more consistent with the Convention, while also drawing attention to the expressive (signifying) use of the word "disabled person".<sup>195</sup> The Government of the Republic of Slovenia still uses designating terms, e.g. a "disabled person".

In many cases, an inadequate translation of the Convention, be it willingly or not, helps to create the impression that changes directed towards aligning the national legislation with the Convention are not necessary (e.g. a meaningful distinction between disabled persons and persons with disabilities). The uncritical adoption of narrower terms from domestic law into the Slovenian translation of the text of the Convention may hide the meaning of rights. In some cases, Slovenian terms that are already used in the legislation are not used in the translation of the Convention, even though they would be appropriate. The incorrect Slovenian translation of the Convention represents one of the key systemic shortcomings that would, if corrected, convey a more appropriate respect for the rights of persons with disabilities in Slovenia.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

21 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that 15 of them agreed with the assessment. Four of them stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment. The answers of the two remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

A proposal for the use of appropriate terms based on the inclusion of persons with disabilities in society based on the model of social integration, and the need to ensure the accessibility of the Convention in a facilitated form that would be easier to read, was identified as a potential solution.

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<sup>194</sup>Slovenian Press Agency. In the opinion of the Ministry of Labour, a new translation of the Convention on the Rights of Persons with Disabilities is not required, 15 December 2023. Available at:

<https://www.sta.si/3247801/ponoven-prevod-konvencije-o-pravicah-invalidov-po-mnenju-ministrstvu-za-delo-ni-potreben>. On 18 December 2023, the message was also summarised by the web portal Dostopno of the public broadcaster RTV Slovenia. Available at: <https://www.rtvlo.si/dostopno/clanki/ponoven-prevod-konvencije-o-pravicah-invalidov-po-mnenju-pristojnega-ministrstva-ni-potreben/692012>.

<sup>195</sup> "Disabled person: 1. Anyone who has a long-term physical or mental impairment which, due to various obstacles or non-adjustments in the environment, may hinder them in fully and effectively participating in society on an equal basis with others. 2. a person who is less able, incapable of doing something". The Fran web portal states that, etymologically speaking, the term "disabled person" ("invalid" in Slovene) comes from the German word *Invalid*, and the French word *invalide*, i.e. the independent adjective of the word "*invalide*" – weak, infirm. In the 16th century, this was borrowed from the Latin word *invalidus* with the same meaning, which consists of the Latin prefix *in-* meaning "not" and the adjective *validus* meaning "strong, able-bodied, firm". Available at: <https://fran.si/iskanje?View=1&Query=invalid>.

Examples provided by NGO representatives:

- "The Slovenian translation of the Convention on the Rights of Persons with Disabilities does not take into account the recommendation to harmonise the translation with the current principles and practices in the field of disability. The Convention is based on a model of social integration that considers disability as a consequence of social constraints. However, the Slovenian translation uses terms based on the medical model of disability, which considers disability as a personal trait. The use of the term 'disabled person' is particularly problematic, since a disabled person is to be understood as a person with 'a sort of a limitation'. This can be harmful, since it can create a stigma and provoke discrimination. Instead of the word 'disabled', it would be more appropriate to use terms such as "persons with disabilities" or "persons facing certain barriers". These terms emphasise that a person is more important than their disability. In addition, translation should be coordinated with other documents based on the model of social integration. For example, the Persons with Disabilities Act uses terms such as "persons with disabilities" and "environmental barriers". The regulation of the Slovenian translation of the Convention on the Rights of Persons with Disabilities is important, as it can contribute to a better understanding and implementation of the rights of persons with disabilities."

#### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.

### **6.3 Consultations with all organisations of persons with disabilities, including organisations of persons with mental health issues (Articles 1 to 4 of the Convention)**

#### **1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)**

In paragraph 5, point c)

- of its recommendation, the CRPD Committee recommended to the State Party to Ensure timely, thorough and full consultations with representative organisations of persons with disabilities at all stages of decision-making processes, particularly when designing, implementing and monitoring disability-related legislation, programmes and measures, pursuant to the rights enshrined in the Convention. The State Party should ensure the impartiality and autonomy of the Foundation for the Financing of Disability and Humanitarian Organisations and provide for its sustainable funding for the promotion and realisation of the rights of persons with disabilities, in line with the Convention.

#### **2) The Advocate's assessment of the implementation of the Recommendation (2024)**

**Some organisations for persons with disabilities, such as organisations helping people with mental health problems, are not allowed to acquire the status of disability organisations; therefore, the State does not consult them and they are also unable to participate in the formulation of legislation and in the preparation of measures for the exercise of the rights of persons with disabilities, as well as to monitor the current situation.**

Consultations with disability organisations when adopting legislation and policies are regulated by the second paragraph of Article 4 of the Disability Organisations Act<sup>196</sup> (the DOA). Consultations are held with the National Council of Disability Organisations which operates on the basis of the DOA. In practice, this is the National Council of Disability Organisations of Slovenia (the NCDOS); consultations are also performed with representative disability organisations and, occasionally, with other disability organisations.

Pursuant to the EOPDA, the Council of Persons with Disabilities of the Republic of Slovenia is responsible for monitoring the implementation of the Convention and is appointed as the responsible body from the second paragraph of Article 33 of the Convention. Another one of its tasks is to provide opinions on various laws and strategic acts. The Council includes a large number of representatives of representative disability organisations.

Representatives of these organisations also participate in various working bodies of the Government of the Republic of Slovenia or working groups, e.g. for the preparation of legislation in the field of protection of persons with disabilities.<sup>197</sup> It is questionable whether consultations with other, non-representative disability organisations are also provided, and whether consultations really take place on all matters concerning the situation of persons with disabilities, as well as how effective these consultations actually are (e.g. which deadlines exist to provide a response, the degree to which comments are taken into account, etc.).

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<sup>196</sup> Disability Organisations Act (Official Gazette of the RS, No. 108/02 and 61/06 – DOA-1). Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1460>.

<sup>197</sup> For working bodies of the Government of the Republic of Slovenia, see the website <https://www.gov.si/zbirke/delovna-telesa?start=0>.

The regulation in the DOA is outdated, as it dates from before the ratification of the Convention by the Republic of Slovenia. In particular, the arrangement does not guarantee the participation of all organisations of persons with disabilities as required by the Convention. In this context, it makes sense to note that the Convention is inadequately translated, as it replaces the term "organisations of persons with disabilities" with the term "disability organisations". According to the DOA, the term "disability organisation" has a narrower meaning.

In principle, the activities of disability organisations focus on the field of social protection and on the implementation of special social programs that complement public services. Advocating for the protection of the human rights of persons with disabilities is not necessarily the essence of their activities, although it is, of course, one of their goals.

In 2023, the MLFSAEO prepared an amendment to the DOA,<sup>198</sup> in which it tried to further strengthen the position and funding of the National Council of disability organisations (which is, in fact, the NCDOS). At the same time, no explanation exists of how the proposed changes relate to other key solutions and the position of disability organisations in the DOA, although these are essentially related to the subject of regulation.

The drafter of the Act should prepare an in-depth analysis of the current regulation and the effects that the amendments of the Act have on the current regulation. The Advocate therefore recommended that the MLFSAEO harmonise<sup>199</sup> the regulation of the functioning and financing of all organisations of persons with disabilities with the understanding of disability, the rights of persons with disabilities, and the role and position of organisations of persons with disabilities under the Convention. The Advocate also recommended conducting an analysis of the current model of consultations with disability organisations, representative disability organisations and the two national councils of disability organisations. It should also provide for measures to overcome the shortcomings, in particular the non-involvement of certain groups of persons with disabilities in these processes.

Until now, some large groups of persons with disabilities have not been (and could not have been) included in the integration and cooperation processes. Pursuant to the DOA, organisations for people with long-term mental health issues, dementia etc. cannot obtain the status of a disability organisation. This means that many organisations for persons with psychosocial disabilities are excluded from participating in the formulation of legislation and measures for the exercise of the rights of persons with disabilities. They do not have a systemically guaranteed consultation, seeing as they are not even a part of the Council of the Persons with Disabilities of the Republic of Slovenia.

The proposals for the legislative reform of the position of the Council of Persons with Disabilities of the Republic of Slovenia did not raise the issue of cooperation of all organisations of persons with disabilities, which was pointed out by the Advocate through his recommendations.<sup>200</sup> He assessed that the draft Act does not indicate whether the definitions of the scope of work and the implementation of organisational and procedural solutions are appropriate in terms of obligations under the Convention.

More information is provided in the explanations of the Advocate's assessments in subsections 6.32 and 6.33.

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<sup>198</sup> At the time of preparation of this Special Report, it has not been adopted yet.

<sup>199</sup> Available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-osnutka-zakona-o-spremembah-in-dopolnitvah-zakona-o-invalidskih-organizacijah/>.

<sup>200</sup> Recommendation of the Advocate available at: <https://zagovornik.si/izdelki/komentar-in-priporocila-zagovornika-nacela-enakosti-v-zvezi-s-predlogom-zakona-o-svetu-za-invalidce-republike-slovenije/>.



### 3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)

17 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that 7 of them agreed with the assessment. Six of them stated that they were not sufficiently familiar with the area in question. Two of them wrote that they disagreed with the assessment; one of them believes that organisations of people with mental health issues are allowed to acquire the status of disability organisations. The answers of the two remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

Unfair distribution of funds by the State among such organisations, the inability to participate in legislative changes (except through working groups), as well as the longevity and complexity of obtaining the status of a disability organisation have been identified as challenges in this area. A call for a change in sectoral legislation was proposed as a potential solution.

Examples of comments provided by representatives of non-governmental organisations include:

- "... we can only participate in the formulation of legislation and measures if we are invited to participate in work groups, and what happens later is that our participation is purely cosmetic, and the adopted legislation completely ignores our contributions..."
- some organisations for persons with mental health issues may "...participate in the formulation of legislation and measures for the exercise of the rights of persons with disabilities through individual disability organisations".

### 4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)

- In response to the Advocate's assessment, the **MLFSAEO** explained that the Minister responsible for the protection of persons with disabilities had adopted a Decision on the Appointment and Tasks of the APPD Monitoring Committee for the purpose of monitoring and implementing the APPD. Said Committee consists of representatives of line ministries, professional organisations, the National Council of Disability Organisations of Slovenia (the NCDOS), other disability organisations outside of the NCDOS, and the Association of Pensioners' Societies of Slovenia. Every year, the Committee must submit a report on the implementation of the APPD during the previous year to the Government of the Republic of Slovenia. At the end of the last report for a certain period, an overview of the implementation of the programme is prepared, and a complete overview of policies and legislation from the entry into force of the APPD to the end of the period in question is recorded in the APPD for the new period.

#### 6.4 Systematic training sessions pertaining to human rights standards under the CRPD (Articles 1 to 4 of the Convention)

##### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 5, point d)

- of its recommendation, the CRPD Committee recommended to the State Party to provide persons in positions of responsibility at the regional and national level, including members of the National Assembly and the Government, judges and court staff, health-care professionals, social workers, providers of mobility aids and other administrative and professional staff, with training in the rights of persons with disabilities and the State Party's obligations under the Convention. The State Party should develop such training, in close cooperation and collaboration with representative organisations of persons with disabilities.

##### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**A systematic and comprehensive training on human rights standards for persons with disabilities under the Convention is not provided to members of the Parliament, to members of the Government, to judges and judicial staff, to health and social workers, and to other administrative and professional staff.**

Almost no systematic and comprehensive training sessions on human rights standards under the Convention exist. The approaches to training sessions are partial and mostly only happen during spontaneous events (e.g. informative days related to individual professions, where dilemmas are presented in practice or, exceptionally, also thematic events) and project activities (e.g. events and materials of the ZaVse/4ALL project<sup>201</sup>), which relate, for example, to the employment of people with disabilities, the disability insurance reform, and accessibility.

These efforts do not contain a substantive focus on the standards enshrined in the Convention, generally tend to be more sensitive to persons with disabilities, and present the content of Slovenian legislation as well as existing incentives. From time to time, organisations of persons with disabilities are included in these training sessions; however, their involvement is not always guaranteed or measurable.

Partial progress on systematic training, in particular on the treatment of persons with hearing impairments, is perceptible in courts (training sessions for judges and staff to be more sensitive to their needs). An example of manuals and other educational materials can be found on the World Health Organization's website on the rights of persons with intellectual and psychosocial disabilities. The Advocate has already referred to them, for example, when recommending the amendment to the Mental Health Act,<sup>202</sup> and in relation to the necessary reform and regulation of the supportive decision-making system.

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<sup>201</sup> Website of the ZaVse/4ALL project. Available at: <https://za-vse.eu/>.

<sup>202</sup> Recommendation of the Advocate available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-k-predlogu-zakona-o-spremembah-in-dopolnitvah-zakona-dusevnem-zdravju/>.

Training sessions are urgently needed, as there is a great misunderstanding of the Convention's standards, in particular of the human rights-based model of disability. The MLFSAEO, as the line ministry responsible for the rights of persons with disabilities, as well as other ministries often adhere to the obsolete medical model of understanding disability (e.g. the controversy involving the Ombudsman of the Republic of Slovenia in subsection 6.1). The medical model of understanding disability must not be the key to defining who are persons with disabilities, since numerous social barriers and their consequences cannot be measured according to this model and since, in particular, the model does not provide the tools to assess the consequences of disability on the lower level of enjoyment of human rights and freedoms and of the barriers for their participation in society.

The medical model can have undue and far-reaching consequences for the rights of persons with disabilities (e.g. in the context of self-determination), and also narrow the recognition that someone is living with a disability that is not always considered to be a permanent condition. The state of certain disabilities (e.g. psychosocial disabilities) cannot always be measured according to the medical model, as the methods for this are neither objective nor scientific. The latter may constitute an unjustified restriction of access to rights which is only enabled to a narrow circle of persons with disabilities. The need to harmonise the legislation and practice with the standards of the Convention is also highlighted by the World Health Organization (the WHO).<sup>203</sup>

Some professional publications in the national context deal with the Convention, in particular the monograph "Protection of the Rights of Persons with Disabilities in International and Slovenian Law", which also includes a review of the case law.<sup>204</sup> The Guide on the Rights of Persons with Disabilities,<sup>205</sup> issued by the MLFSAEO, is a fairly general document that does not provide a comprehensive insight into the rights under the Convention. There are some practical thematic manuals available, e.g. "Personal Assistance", a manual for understanding independent living published<sup>206</sup> by the YHD – Handicap Theory and Culture Association; furthermore, materials from partner NGOs are also available in the framework of the zaVse/4All project,<sup>207</sup> which also aims to raise awareness of "applicable legislation and rights in the field of protection against discrimination", including for persons with disabilities.

The Administrative Academy, which operates within the Ministry of Public Administration, offers workshops for the preparation of accessible online content and documents for employees in the public sector.<sup>208</sup> Access to information on the rights of persons with disabilities and the obligations of the State is also available in the Advocate's recommendations, in which the Advocate also refers to various good practices for training in the international space (e.g. the WHO regarding the understanding of the so-called psychosocial disability, self-determination issues, and supportive decision-making).

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<sup>203</sup> World mental health report: Transforming mental health for all. Available at:

<https://www.who.int/publications/i/item/9789240049338>.

<sup>204</sup> Murgel, J. (2020). Protection of the Rights of Persons with Disabilities in International and Slovenian Law by Reviewing the Case Law (1st print, p. 363). Lexpera, GV založba. Available at <https://gvzaložba.si/varstvo-pravic-oseb-z-invalidnostjo-v-mednarodnem-in-slovenskem-pravu-s-pregledom-sodne-prakse/>.

<sup>205</sup> Guide to the Rights of Persons with Disabilities (2015). Available at:

[https://www.gov.si/assets/ministrstva/MDDSZ/Invalidi/Zmoremo/Vodnik\\_po\\_pravicah\\_invalidov.pdf](https://www.gov.si/assets/ministrstva/MDDSZ/Invalidi/Zmoremo/Vodnik_po_pravicah_invalidov.pdf).

<sup>206</sup> Modic, K., Pečarič, E., & Retelj, D. (2021). Personal Assistance: A Guide to Understanding Independent Living (p. 187). YHD – Handicap Theory and Culture Association. Available at: <https://yhd-drustvo.si/publikacije/>.

<sup>207</sup> Website of the ZaVse/4ALL project. Available at: <https://za-vse.eu/>.

<sup>208</sup> Administrative Academy, "Web accessibility – basic level" training session. Available at:

<https://ua.gov.si/aktivnosti/detajli?ID=c7c944e0-5e0b-ee11-9c9a-005056818ee6&Tag=459,576>. "Web accessibility – advanced level" training session. Available at: <https://ua.gov.si/aktivnosti/detajli?ID=b737c3e6-5f0b-ee11-9c9a-005056818ee6&Tag=459,576>.

The Advocate presented these practices on various occasions when it came to regulating mental health issues, long-term care, the work of courts, etc.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

19 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. The answers clearly state that 13 of them agreed with the assessment, while two of them stated that they were not sufficiently familiar with the area. One representative wrote that they disagreed with the assessment, but did not provide a detailed explanation. The answers of the three remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

A lack of interest in any sort of change among decision-makers has been identified as a challenge in this area.

Examples provided by NGO representatives:

- "In this case, it is necessary to provide opportunities for deaf professionals and not just for hearing people to prepare a lecture on behalf of a representative organisation, if they are invited to do so in the first place. This is insufficiently taken into account by various public institutions. A plan for the education on discrimination and warning of violations at the State and local level is needed, including with the help of deaf people with different qualifications, regardless of their membership in organisations."

### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.

## 6.5 Reasonable accommodation and strengthening of the fight against discrimination at the governmental level (Article 5 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 7:

- point a) of its recommendation, the CRPD Committee recommended to the State Party to enact legislation that explicitly recognises and sanctions the denial of reasonable accommodation, across all areas of life, as a form of disability-based discrimination.
- point b) of its recommendation, the CRPD Committee recommended the State Party strengthen the capacity and role of the focal points designated to combat discrimination, including discrimination against persons with disabilities, and provide them with adequate resources and the capacity to respond effectively to cases of disability-based discrimination, including the denial of reasonable accommodation and multiple and intersectional discrimination.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**Comprehensive legislation to prevent discrimination, which would also recognise and sanction the denial of reasonable accommodation in all areas of social life as a form of discrimination on the basis of disability, has not been adopted. The authority to manage, direct and coordinate all non-discrimination policies at the government level has not been established.**

The CRPD Committee warns Slovenia that one of the forms of discrimination is not adequately regulated by law. The requirement to provide reasonable accommodation arises from Article 5 of the Convention and applies to all areas of regulation under the Convention. Pursuant to Article 2 of the Convention, reasonable accommodation means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.

It is crucial to understand that the institute of reasonable accommodation should be available whenever a person with a disability needs it, instead of the States being able to introduce it at their own discretion. Mutatis mutandis, this is a request of a person with a disability for access measures and equal enjoyment of rights in the event that the accessibility of rights is not adequately ensured for that person in general. The persons concerned must provide a reasonable adjustment if this does not constitute a disproportionate burden. Failure to provide such reasonable accommodation shall constitute discrimination.<sup>209</sup>

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<sup>209</sup> According to Article 2 of the Convention, discrimination on the basis of disability includes "all forms of discrimination, including refusal of reasonable accommodation". Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5314>.

General solutions for regulating the collective exercise of the rights of persons with disabilities, for example in terms of accessibility, are not enough, as disability exists alongside a great diversity of needs, both within groups of persons with individual types of disabilities and, even more so, in the event of different combinations of simultaneous disabilities. Universal design and legal design cannot adequately cover the needs arising from all disabilities, which is why individuals with disabilities will always need individual adjustments (e.g. regarding alternative forms of communication) in order to fully and equally enjoy their rights, in addition to general adaptation measures.

In the national legislation, reasonable adjustments are primarily regulated in the EOPDA, but only in certain areas; the EOPDA introduces this institute as an option to access documents in proceedings before public authorities, to access and obtain goods and services, to access education, to access information, to access cultural goods, housing and the built environment in public use, as well as to access road and rail transport and maritime and inland navigation.<sup>210</sup>

Reasonable adjustments in the field of employment and work are sensibly, but insufficiently regulated in the sectoral legislation (e.g. the Pension and Disability Insurance Act (the PDIA-2)<sup>211</sup>, the Vocational Rehabilitation and Employment of Persons with Disabilities Act<sup>212</sup> (the VREPD)).

The requirement to provide reasonable accommodation should, *ad hoc*, protect all persons with disabilities who wish to work or in connection with their work and training, but does not do so. This requirement should not only protect the people who are applying for a job or who are already in employment relationships (or are currently training for them), but should also protect the people in all more flexible forms of employment (including the status of a self-employed person or people working pursuant to copyright contracts and other labour contracts), and in relation to all persons concerned (employer in formal terms, business partner, etc.), both in the public and in the private sector. This is an example of inadequate implementation of the provisions of Article 5 (ii), indent 2, paragraph 2 of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.<sup>213</sup>

The necessary adaptations of the environment and processes to individuals with disabilities arise from decisions of competent authorities when they decide on the status of a disabled person (e.g. according to the Pension and Disability Insurance Act), or on the status of a child with special needs. National legislation lacks a clear general obligation for the persons concerned to adapt its conduct to the specific living situations and needs of persons with disabilities. Reasonable adjustments are not legally mandated in a clear enough manner, even in the laws where this institute is mentioned (e.g. labour law legislation).

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<sup>210</sup> See e.g. Articles 9, 11 and 14. Equalisation of Opportunities for Persons with Disabilities Act (Official Gazette of the Republic of Slovenia, No. 94/10, 50/14 and 32/17). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4342>.

<sup>211</sup> See, in particular, Articles 70 and 73 of the Pension and Disability Insurance Act (Official Gazette of the Republic of Slovenia, No. 48/22 – official consolidated text, 40/23 – ZČmIS-1, 78/23 – ZORR, 84/23 – ZDOsk-1, 125/23 – decision of the Constitutional Court, and 133/23). Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6280>.

<sup>212</sup> See in particular Articles 15, 33, 37 and 72 of the Vocational Rehabilitation and Employment of Persons with Disabilities Act (Official Gazette of the Republic of Slovenia, No. 16/07 – official consolidated text, 87/11, 96/12 – ZPIZ-2, 98/14 and 18/21). Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3841>.

<sup>213</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. Available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:SL:HTML>.

The applicable legal regulation of the requirement for reasonable accommodation is too vague, as not even employees with disabilities clearly understand what they could be entitled to, which is even less clear to employers, who also don't know their own obligations or the extent to which they reach beyond the scope of the PDIA-2 and VREPDa. This severely hinders the comprehensive understanding and effectiveness of the prohibition of discrimination and also undermines the protection and legal certainty of persons with disabilities.

The EOPDA uses the term "reasonable adjustments" in an inconsistent manner, mostly instead of the term "appropriate adjustments"; in one instance in Article 14, the EOPDA uses the term "appropriate or reasonable adjustments". The same applies to other Acts that do not uniquely name the institute of reasonable accommodation. The Advocate drew attention to the inconsistent denomination in his recommendation regarding a more appropriate translation of the Convention which, in the current official Slovenian translation, uses an inadequate term, namely "appropriate adaptation".<sup>214</sup>

The Ombudsman of the Republic of Slovenia has already pointed out the missing regulation of reasonable accommodation in his 2006 annual report.<sup>215</sup> The issue of inadequate legal regulation of the requirement for reasonable accommodation was also pointed out by the public official who performed the tasks of the former advocate of the principle of equality within the MLFSAEO in 2013, when the Employment Relations Act (the ERA) was proposed,<sup>216</sup> as well as in 2016 when the PADA was adopted.<sup>217</sup>

In 2021, the Advocate recommended to the Ministry of Justice and other stakeholders that the requirements for reasonable accommodation be properly regulated in general, as well as in the context of justice. Other explicit and specific recommendations of the Advocate to regulate this more appropriately were also not taken into consideration.<sup>218</sup>

There is no progress when it comes to the legal arrangement of who is the beneficiary of the institute of reasonable accommodation. Beneficiaries should be all persons with disabilities, not only those who have the status of a disabled person (e.g. in electoral legislation, regarding postal elections). In the current legislative regime, the persons concerned and responsible for ensuring said reasonable accommodation are not even clearly set out. In particular, this is not regulated in areas which are not directly regulated by the EOPDA, the Convention or the provisions of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.

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<sup>214</sup> The Advocate's recommendation, available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-vladi-republike-slovenije-glede-revizije-in-uveljavitve-ustreznejsega-prevoda-konvencije-o-pravicah-invalidov/>.

<sup>215</sup> The Annual Report of the Ombudsman of the Republic of Slovenia for 2006, see, for example, p. 41, available at: [https://www.varuh-rs.si/fileadmin/user\\_upload/pdf/lp/Varuh\\_LP\\_2006\\_SLO.pdf](https://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/Varuh_LP_2006_SLO.pdf).

<sup>216</sup> See materials to the Employment Relationships Act in the legislative procedure, available at <https://imss.dz-rs.si/IMiS/ImisAdmin.nsf/ImisnetAgent?OpenAgent&2&DZ-MSS-01/81a73caf2ff2d095064591ad5c81907a96f448dd56db59791fe8255cbaa77c69>.

<sup>217</sup> See the materials to the PADA in the legislative procedure, available at [https://www.dz-rs.si/wps/portal/Home/zakonodaja/izbran/lut/p/z1/04\\_Sj9CPykssy0xPLMnMz0vMAfijo8zivSy9Hb283Q0N3E3dLQwCQ7z9g7w8nAwnMz1w9EUGAWZGgS6GDn5BhsYGwQHGPHEaPfAAdwNCBOPx4FUfiNL8gNDQ11VFQEAAxcoa4l/dz/d5/L2dBISEvZ0FBIS9nQSEh/?uid=C1257A70003EE6A1C1257F8C002EF62E&db=konzak&mandat=VII&tip=doc](https://www.dz-rs.si/wps/portal/Home/zakonodaja/izbran/lut/p/z1/04_Sj9CPykssy0xPLMnMz0vMAfijo8zivSy9Hb283Q0N3E3dLQwCQ7z9g7w8nAwnMz1w9EUGAWZGgS6GDn5BhsYGwQHGPHEaPfAAdwNCBOPx4FUfiNL8gNDQ11VFQEAAxcoa4l/dz/d5/L2dBISEvZ0FBIS9nQSEh/?uid=C1257A70003EE6A1C1257F8C002EF62E&db=konzak&mandat=VII&tip=doc).

<sup>218</sup> E.g. the Advocate's recommendations regarding the draft of the Public Employees Act. Available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-osnutka-predloga-zakona-o-javnih-usluzbencih/>.



There is a lack of clear legal definition stating that an unjustified refusal of reasonable accommodation constitutes discrimination. In several systemic laws, the institute of reasonable accommodation is not even mentioned, despite the explicit recommendations of the Advocate, not even in documents in which such a requirement on the basis of the EOPDA already applies and a systemic interconnection would be necessary to ensure clarity (e.g. the new Consumer Protection Act<sup>219</sup>, the Act on Accessibility of Products and Services for Persons with Disabilities<sup>220</sup>).

In his practice, the Advocate interprets reasonable accommodation through the legal interpretation or direct application of the law of the Convention and EU law, e.g. in labour law, when it comes to the responsibility of public authorities, regarding the scope of providing sign language interpretation for deaf teachers, and regarding leave days for employees with children with special needs. Examples of the mention or use of the concept of reasonable accommodation in case law are rare.

The Advocate also provided extensive reports on the inadequate regulation of reasonable accommodation in connection with the control mechanism under the European Social Charter, the standards of the International Labour Organization, Equinet (in the process of reviewing the implementation of the Council Framework Directive 2000/78/EC), and to an expert of the European Commission, a member of the European Academic Network of Disability Experts (ANED).

Regarding the recommendation of the CRPD Committee that the State Party should strengthen the competence and role of contact points dedicated to fighting against discrimination, the Advocate notes that, in Slovenia, no clear structure or body exists for the management, direction and coordination of all anti-discrimination policies at the government level; furthermore, no such integrated policy exists either, although this stems from international commitments.<sup>221</sup> In autumn 2022, the Advocate recommended to the Government of the Republic of Slovenia to establish a single point at the government level (Ministry, office, or another organisational unit) responsible for the drafting, adoption, and effectiveness monitoring of national policies on discrimination prevention and elimination and comprehensive and uniform promotion of equal opportunities. This recommendation remains unfulfilled.<sup>222</sup>

The reviews of the annual reports on the implementation of the APPD in the period under review do not contain the description of any activity, practice or development in this area, except for the description of the adopted legislation. The intersectional approach to policies is extremely rare, and the same applies to the two-tier approach (e.g. regarding policies towards children or women with disabilities), except in the field of children with special needs in primary and secondary education. The key recommendations provided by the Advocate are not taken into account in this field, probably because there are cross-cutting issues that concern more than one line ministry.

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<sup>219</sup> Recommendation of the Advocate, available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-zakona-o-varstvu-potrosnikov/>.

<sup>220</sup> Recommendation of the Advocate available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-k-osnutku-predloga-zakona-o-dostopnosti-do-proizvodov-in-storitev-za-invalidne/>.

<sup>221</sup> In addition to the recommendations of the CRPD Committee, such recommendations have also been made by the Committee on Economic, Social and Cultural Rights, and are also known from the Universal Periodic Review process.

<sup>222</sup> Recommendation of the Advocate available at: <https://zagovornik.si/izdelki/priporocilo-glede-priprave-nacionalnih-strateskih-nacrtov-za-varstvo-pred-diskriminacijo/>.



The response of the Government of the Republic of Slovenia to the Advocate's recommendation is significant; the MLFSAEO, for example, explains, among other things, the areas for which it is not responsible, but does not specify the body responsible for the management, direction and coordination of all non-discrimination policies. The current way of creating policies and coordinating them is not sufficient for us to be able to call these processes "coordination".

No progress has been made on the issues of anti-discrimination control policies either. Competent inspections in this area rarely impose fines, especially in higher amounts. No changes were made regarding the independent monitoring body under the second paragraph of Article 33 of the Convention, either.

Since 2018, the Advocate's capacities as an equality body or as a body for independent supervision of the prohibition of any discrimination, including against persons with disabilities, and the promotion of equal treatment have been significantly strengthened. However, serious interventions were detected in the amount of funds allocated to the Advocate's work in the 2024 and 2025 budgets. From the Advocate's practice, it follows that, when advising, identifying discrimination and assessing the discriminativeness of regulations, the suspicion of discrimination due to disability is the most often addressed suspicion (a stable share is observed every year; in 2022, 11.6 per cent of all Advocate's cases were related to this type of suspicion).<sup>223</sup>

In his practices, the Advocate uses and promotes a comprehensive, human rights-based model of understanding disability, as well as an understanding of all forms of discrimination (denial of reasonable accommodation, cross-sectional or intersectional discrimination) and its aspects (hate crimes, hate speech). It promotes the understanding of all layers of equality (equality, equal opportunities and substantive equality), including inclusive equality. The use of these specific forms and aspects of discrimination in the practice of authorities from the executive branch is almost non-existent. In addition to a lack of clear legislation, an inadequate translation of the Convention hinders the understanding of these issues.<sup>224</sup>

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

32 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that 27 of them agreed with the assessment. One representative stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment. The answers of the five remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

A lack of understanding of the concept of reasonable accommodation, the absence of activities for the inclusion of persons with psychosocial and intellectual disabilities, and the absence of a sanctioning mechanism in cases where appropriate accommodation is not provided for have been identified as challenges in this area. A review of the gaps in the legislation relating to the denial of reasonable accommodation, the establishment of a national contact point, and the promotion of a public debate on the issue have been proposed as potential solutions.

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<sup>223</sup> From the annual report Advocate for 2022, p. 43 in the System part, the PDF version of the report. Available at: <https://zagovornik.si/en/what-we-do/annual-reports/>.

<sup>224</sup> The Advocate's recommendation, available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-vladi-republike-slovenije-glede-revizije-in-uveljavitve-ustreznejsega-prevoda-konvencije-o-pravicah-invalidov/>.

Examples of comments provided by representatives of non-governmental organisations include:

- "We see the incompleteness of the legislation primarily in the fact that, even though victims of discrimination have the possibility of making use of private legal remedies (actions for elimination and compensation) and initiating some misdemeanour proceedings, the legislation does not provide for any powers of the administrative state apparatus, which could achieve the same in a faster and more efficient way, and without exposing the victim. We agree that no such contact authority has been appointed."
- "The lack of such legislation and institutional support creates a gap in the protection of the rights of persons with disabilities. While reasonable adjustments are key to providing equal opportunities to individuals with disabilities, their absence can be a source of systematic discrimination. A comprehensive regulation that would explicitly sanction the refusal of reasonable accommodation and the establishment of a body or contact centre at the government level would be crucial to ensure the effective protection of the rights of persons with disabilities and to prevent discrimination on the basis of disability in all spheres of life."

#### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

- In response to the establishment of a body (contact point) for the management, direction and coordination of all non-discrimination policies at the government level, the **MLFSAEO** described the activities for the establishment of a mechanism for the supervision and monitoring of the implementation of the Convention and the reporting on the implementation to the CRPD Committee (which is a specific issue; more on this in subsection 6.33). The MLFSAEO stated that, on the basis of the Convention, it implements the legislation in its field of activity and is the Reporting Coordinator for the CRPD Committee, but is not responsible for the reporting of other ministries. The MLFSAEO reported on the current measures in the field of employment, work and social protection, and stated that it would prepare the missing rulebook, which should have set the standard of accessibility of goods and services available to the public more than eleven years ago.

## 6.6 Multiple and intersectional discrimination (Article 5 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 7, point c of its recommendation,

- the CRPD Committee recommended to the State Party to explicitly incorporate in its anti-discrimination legislation, policies and strategies, the recognition of multiple and intersectional discrimination based on sex, age, ethnic background or sexual orientation or on migrant, asylum-seeking, refugee, disability or any other status.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**Cross-sectional discrimination is not explicitly included in legislation, policies, and strategies. Multiple discrimination is only included in the legislation, but is not included in policies and strategies.**

The Convention protects people against multiple discrimination. The Slovenian translation of the Convention inappropriately translates multiple discrimination, for which it uses the term "multifaceted" discrimination (in point p) of the preamble), while its Article 6 mentions "different types" of discrimination. The meaning of the warning about the prohibition of this special form of discrimination is lost in an inadequate translation.<sup>225</sup>

Multiple discrimination means discrimination based on several personal grounds at the same time. The PADA regulates the prohibition of multiple discrimination, with its Article 12 defining it as a more serious form of discrimination.

However, the legislation does not regulate intersectional discrimination. This form of discrimination arises due to the intersectional effect (coincidence) of several personal grounds at the same time, due to which a person is discriminated against, which creates a completely new disadvantage and also causes specific consequences for the person who is being discriminated against. This type of discrimination is not the sum of each of the different personal grounds, as is the case of multiple discrimination.<sup>226</sup> In understanding intersectional discrimination, it is crucial to understand that people have complex or multiple identities at the same time and that they cannot be solely understood in terms of their individual personal grounds, e.g. only as members of a certain gender, with a certain disability or of a certain age.

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<sup>225</sup> It would make sense to compare the original in English with the official translation into Slovenian. Available at: <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2008-02-0045?sop=2008-02-0045>.

<sup>226</sup> For a comparative definition of intersectional discrimination, see, for example, Article 14 of the Equality Act in the United Kingdom, available at <http://www.legislation.gov.uk/ukpga/2010/15/section/14/enacted>. It is also mentioned in the Serbian Law on the Prohibition of Discrimination; paragraph 5 of Article 13 also lists "diskriminacija lica po osnovu dva ili više ličnih svojstava (višestruka ili ukrštena) diskriminacija" (discrimination against a person on the basis of two or more personal characteristics (multiple or cross) discrimination) among the more serious forms of discrimination. Available at:

[http://www.ravnopravnost.gov.rs/images/files/Zakon\\_o\\_zabrani\\_diskriminacije\\_i\\_prevodi.pdf](http://www.ravnopravnost.gov.rs/images/files/Zakon_o_zabrani_diskriminacije_i_prevodi.pdf). These countries did not introduce any specific characteristics related to their own country, but only followed the development of legal concept and also recognised and explicitly protected the right to equal treatment in this part.

Only the definition of the prohibition of cross-sectional discrimination would also allow the settlement of the issue of legal liability for discrimination against persons within a group of persons with disabilities, which can be referred to as a "disadvantaged group". Cross-sectional discrimination is particularly pressing in the treatment of children, such as children with intellectual disabilities. The explicit recommendations of the Advocate to include cross-sectional discrimination were not taken into consideration. According to known information, the Advocate is the only body that uses cross-sectional discrimination in legal practice through the interpretation or application of UN law. It also uses this approach as a method of analysing policies and legislative proposals in monitoring the situation and preparing recommendations.

Due to the inadequate translation of the originals of the Convention into the Slovenian language, it is also unclear that the Convention prohibits discrimination against persons with disabilities due to various personal grounds, including any status. The use of the word "status", which is otherwise foreign (but instead of which the word "position" could be used), makes it easier to explain that the reasons for discrimination can also be legal, and not just actual positions or statuses (e.g. citizenship, permanent residence, marriage). The legislation does not state certain personal grounds (the difference between the biological and social aspects of gender, the status of foreigners), which makes it difficult to understand what is covered by cross-sectional and multiple discrimination.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

25 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that 13 of them agreed with the assessment. The representative of one organisation partially agreed with the assessment, but did not provide a detailed explanation for their position. The representatives of two organisations stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment. The answers of the nine remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

The lack of implementation of laws in practice, the negative effects of cross-sectional discrimination on the health and mental health of alleged victims of discrimination, and their social exclusion have been identified as challenges in this area. The inclusion of representatives of persons with disabilities in improvement plans, taking into account the specific needs and experiences of persons with disabilities, and the provision of adjustments that would enable them to be included on an equal footing were proposed as solutions.

Examples provided by NGO representatives:

- "We fully agree with your finding. Cross-sectional and multiple barriers, as well as consequent discrimination, are a long-standing blind spot of laws, policies, strategies, as well as programs aimed at providing rights and services."

### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.

## 6.7 Mechanisms and remedies for fighting against discrimination (Article 5 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 7, point c) of its recommendation,

- the CRPD Committee recommended that the State Party provide for judicial and quasi-judicial remedies in cases of discrimination in the public or private sector, disseminate information among persons with disabilities about such remedies, provide redress and all adequate compensation, and establish sanctions for perpetrators.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**No progress has been made in terms of the effectiveness of anti-discrimination safeguards, in particular when it comes to ensuring adequate compensation and enforcing sanctions for some of the most common violations.**

Several legal ways exist to fight against discrimination in the legislation; as a rule, they are not mutually exclusive. On the other hand, it can be very difficult for individuals to determine which of these legal remedies are available to them on a case-by-case basis. For an individual who is not an expert in the field of law, the system of protection against discrimination is non-transparent. The question of the effectiveness of the legal remedies and judicial protection provided is even more difficult to answer unequivocally, as context must be taken into consideration.

In the Advocate's reports to international stakeholders (e.g. in the event of reflections on the standards of equality bodies), doubts were expressed as to whether protection was effective. There are gaps in the possibility of taking action against certain forms of discrimination (segregation, promotion of discrimination, hate speech). There is no equal protection of rights or inspection measures and also no possibility of prosecuting offences in certain areas (lack of inspections, lack of competence of inspections to impose fines). For violations of the prohibition of discrimination, except in the field of employment relations in the narrow sense, only minimal fines (which are neither proportionate nor dissuasive) can be imposed since, according to the PADA and the EOPDA, it is not allowed to impose fines in a certain range.

In some situations in labour law (e.g. internal acts of the employer, systematisation, content of collective agreements), legal remedies are not available directly for persons with disabilities (they are only available to trade unions or social partners). There are cases of regression in the legislation when defining sanctions for misdemeanours (e.g. due to inaccessibility in the field of the digital market for goods and services; a similar mechanism is planned for the media legislation).

There is almost no data on the application of the provisions on sanctions in practice (e.g. there is no data on the imposition of fines pursuant to the EOPDA with regard to Articles 8 and 16 of the EOPDA). Given that, in the event of repeated doubts about the effectiveness of protection, the burden of proof may be on the State Party, it is possible to conclude that the control system is too weak. This is also supported by data from the monitoring of the situation in the field of accessibility (survey on the functioning of public institutions,<sup>227</sup> special report of the Advocate on the accessibility of secondary schools for persons with reduced mobility<sup>228</sup>), where mass violations are recorded.

Despite several cases of legislative regulation and despite the Advocate's recommendations, the actual legal remedies available to those affected (e.g. in cases of inaccessibility on the so-called digital market) remained unclear. In the event of complaints, it is also unclear how the Agency for Communication Networks and Services of the Republic of Slovenia can act in the event of unavailability of audiovisual media services.<sup>229</sup>

Some progress has been made in raising awareness and informing about possible legal pathways for persons with disabilities. The courts have made basic explanations about their services available in recordings in the Slovene sign language.<sup>230</sup> Information on the support options provided by the Advocate is widely disseminated (brochures, leaflets, annual reports, special reports); some are adapted to target audiences (e.g. leaflets for the elderly or for persons with disabilities, manuals for employers and employees), and are also available in various adapted formats (Braille, easy reading).<sup>231</sup> They are also disseminated by the Advocate on a targeted basis at events and through intermediaries.

Some information is also provided in Slovene sign language, e.g. round tables regarding special reports, which are also accessible through recordings.<sup>232</sup> Information on the work of the Ombudsman of the Republic of Slovenia is available in easy reading and in the Slovene sign language.<sup>233</sup> Other key protection authorities, such as inspections, do not perform any similar activities.

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<sup>227</sup> Annex to the special report "Inaccessibility of Public Facilities for Persons with Disabilities". Available at: <https://zagovornik.si/wp-content/uploads/2023/10/Priloga-Nedostopnost-objektov-v-javni-rabi-za-ljudi-z-invalidnostmi-3.docx>

<sup>228</sup> Special report "Accessibility of Secondary Schools for Persons with Reduced Mobility". Available at: <https://zagovornik.si/en/what-we-do/>

<sup>229</sup> Recommendation of the Advocate available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-zakona-o-spremembah-in-dopolnitvah-zakona-o-avdiovizualnih-medijskih-storitvah/>.

<sup>230</sup> For an example, see the website <https://nasodiscu.si/animacije-v-znakovnem-jeziku>.

<sup>231</sup> See the awareness-raising products prepared by the Advocate. Available at: <https://zagovornik.si/izdelki-zagovornika/ozavescanje/>.

<sup>232</sup> See, e.g. the Round Table of the Advocate "The Right to Equal Treatment and Equal Opportunities for People with Disabilities", 7 December 2023. A recording is available at: <https://www.youtube.com/watch?v=ORW0mGvy2qk>.

<sup>233</sup> See, for example, the presentation of the institution of the Ombudsman of the Republic of Slovenia. Available at: <https://www.varuh-rs.si/kaj-delamo/iscete-pomoc/kdaj-se-obrniti-na-varuha/>.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

17 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. The answers clearly state that eight of them agreed with the assessment, while four of them stated that they were not sufficiently familiar with the area. One representative wrote that they partially agreed with the assessment, while another representative wrote that they disagreed, but did not provide a detailed explanation for their position. The answers of the three remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

The lack of protection of deaf people from discrimination, which is reflected in the loss of rights and benefits at a certain age, as well as limited access to an interpreter, inaccessibility of information in the media, etc., has been identified as a challenge in this area.

Examples provided by NGO representatives:

- "Slovenian laws, such as the Act Regulating the Use of Slovene Sign Language, the Audiovisual Media Services Act etc., do not contain criminal provisions or alternative measures in the case of violations/abuse of rights, in the sense that these laws would enable the deaf or the hard of hearing to benefit from a full access to media and information in various forms using sign language and other communication tools."

### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.

## 6.8 Elimination of systemic discrimination (Article 5 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 7, point d) of its recommendation,

- the CRPD Committee recommended to the State Party to take into account Article 5 of the Convention in implementing targets 10.2 and 10.3 of the Sustainable Development Goals.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**No progress has been made in systematically eliminating systemic discrimination against persons with disabilities, especially in legislation and in the field of mental health and institutionalisation.**

Furthermore, no progress has also been made when it comes to systematically eliminating systemic discrimination. A number of principled and also more specific recommendations of the Advocate to carry out individual systemic discrimination were disregarded.

At the level of individual cases, e.g. when it comes to the conduct of employers, the Advocate found, in many cases, that additional remuneration of employees due to the company's business performance ("Christmas bonuses") is discriminatory.<sup>234</sup> When awarding individuals for the company's business performance, employers unjustifiably took into account the employee's (justified) absence from work as a criterion for effective attendance at work. This had discriminatory consequences for persons who were absent due to parenthood (maternity, parental leave), health reasons (pregnancy, absence for care or for the care of sick children), or disability.

The Advocate systematically reported on these findings to the public, which was also summarised by many media outlets, which is why these findings were notable.<sup>235</sup> Some employers accepted the Advocate's findings and eliminated the controversial practice, while others unsuccessfully enforced the requirements for judicial protection in an administrative dispute against the Advocate's decisions (all of the Advocate's decisions have so far passed judicial protection tests, and some of them are final). According to the Advocate's analysis, such a discriminatory solution between the social partners is agreed and included in 11 out of 24 applicable sectoral collective agreements.

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<sup>234</sup> See, for example, the two examples described at: <https://www.zagovornik.si/diskriminatorna-merila-pri-dolocanju-nagrade-za-poslovno-uspesnost/> ter: <https://www.zagovornik.si/zagovornik-odsotnost-zaradi-bolezni-in-starsevstva-ne-sme-biti-razlog-za-diskriminacijo-pri-izplacilu-bozicnice/>.

<sup>235</sup> See, e.g., reports published by the Slovenian Press Agency, 22 November 2022. Available at: <https://www.sta.si/2833496/zagovornik-nacela-enakosti-znizanje-bozicnice-zaradi-manjse-prisotnosti-na-delovnem-mestu-je-diskriminatorno>.



The Advocate also drew the attention of all social partners to this part of the problem on several occasions (training sessions for trade unions, employers), and recommended to the MLFSAEO to adopt a more strategic approach to eliminating such systemic discrimination (during the preparation of the proposal for the Resolution on the National Programme for Equal Opportunities for Women and Men by 2030,<sup>236</sup> at the meetings of the Council for Equal Opportunities for Women and Men, and when preparing the new APPD<sup>237</sup>). So far, no procedures have been put in place to make appropriate changes to these parts of the collective agreements through political or legal channels.

Rare cases of elimination of irregularities based on the recommendations of the Advocate are, for example, the amendments to the Act Regulating the Supplement to Pensions for Work and Outstanding Achievements in Sports regarding athletes with disabilities, and the Road Transport Act regarding the provision of free transport for students with disabilities.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

27 representatives of non-governmental organisations expressed their views on this assessment of the Advocate.

Their answers clearly state that 18 of them agreed with the assessment. Three of them stated that they were not sufficiently familiar with the area in question to be able to provide an opinion. One of the representatives wrote: "We disagree. We have noticed that things are slowly moving along, but it all depends on the field in question (health care has not improved, but things are progressing in the field of education)." The answers of the five remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

The disregard of the professional public in the proposals provided by the ruling party, the unavailability of information, goods and services for persons with disabilities, and attempts at deinstitutionalisation have been identified as challenges in this area. Independence for those who receive personal assistance, a call to ensure the inclusion of persons with disabilities in the legislative branch of government, and the improvement of national legislation have been proposed as potential solutions.

Examples of comments provided by representatives of non-governmental organisations include:

- "There is no progress due to a lack of awareness, and there are not enough efforts made to achieve progress in this area. At the same time, sanctions for discriminatory treatment are insufficient. A change is necessary."
- "In recent years, some measures have been taken at the national level to improve the situation of persons with disabilities. These measures, however, have not been effective enough to systematically eliminate systemic discrimination experienced by persons with disabilities."

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<sup>236</sup> See the Advocate's recommendation, available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-resolucije-o-nacionalnem-programu-za-enake-moznosti-zensk-in-moskih-2021-2030/>.

<sup>237</sup> See the Advocate's recommendation, available at: <https://zagovornik.si/izdelki/priporocilo-glede-priprave-akcijskega-programa-za-invalidne-2022-2026/>.

**4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.

## 6.9 Integration of the rights of women with disabilities into national plans and strategies (Article 6 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 9:

- point a) of its recommendation, the CRPD Committee recommended to the State Party to adopt a twin-track approach by mainstreaming the rights of women with disabilities across all national action plans and strategies concerning women's rights in general and equality between women and men, but also in sectoral plans concerning access to justice, action against violence, education, health, political participation, employment, and social protection; and by adopting targeted and monitored measures aimed specifically at supporting and empowering women with disabilities.
- point b) of its recommendation, the CRPD Committee recommended to the State Party to provide women and girls with disabilities, especially women and girls with intellectual and/or psychosocial disabilities, with specific protection measures and redress in cases of gender-based violence against them, ensure the dissemination of information in accessible formats about available remedies and provide for the effective prosecution and sanctioning of perpetrators.
- point d) of its recommendation, the CRPD Committee recommended to the State Party to adopt measures to ensure the participation of women with disabilities in decision-making processes at the local and national levels, including by facilitating the establishment and functioning of organisations of women with disabilities and their access to financial resources, and adopt legislation requiring authorities to consult with representative organisations of women with disabilities.
- point e) of its recommendation, the CRPD Committee recommendation to the State Party to allocate sufficient resources to conduct research and collect statistical data on the situation of women and girls with disabilities, disaggregated by age, geographical area, type of impairment, family situation and place of residence.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**A strategy for the prevention and elimination of domestic and gender-based violence with an emphasis on the vulnerability of women and girls with disabilities has not yet been adopted. Shortcomings also exist in the targeted inclusion and participation of women with disabilities in decision-making processes; furthermore, little research into their situation exists on the subject.**

The two-tier approach means that the country pays particular attention to women and girls with disabilities and treats them strategically, both when it comes to measures aimed at all women and when it comes to measures aimed at persons with disabilities. Such an approach did not exist for a long time in the period considered: from the end of 2020 until September 2023, there was a lack of a general strategy for equal opportunities for women and men, which the State should have adopted on the basis of the Equal Opportunities for Women and Men Act.<sup>238</sup>

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<sup>238</sup> See Articles 10, 15, 16 and 17 of the Equal Opportunities for Women and Men Act (Official Gazette of the Republic of Slovenia, No. 59/02, 61/07 – ZUNEO-A, 33/16 – ZVarD and 59/19). Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3418>.

There are, however, still no implementation action plans (or the so-called periodic plans) that would operationalise the adopted Resolution on the National Programme for Equal Opportunities for Women and Men 2023–2030.<sup>239</sup> This can even signify a state of regression.

The specific focus on the situation of women is only contained in the new APPD in two measures, namely in measure 6.6, which envisages "providing particularly vulnerable groups of persons with disabilities, e.g. women with disabilities, the elderly and severely disabled, access to mechanisms for increasing social security and reducing the risk of poverty", and in measure 12.2, which envisions "warning the public about violence and abuse (especially violence against children with disabilities, women with disabilities and the elderly) and the importance of (non-)discrimination".

There is still no specific strategy regarding the treatment of children with special needs, e.g. in the field of education.

Progress has been made in terms of the normative regulation of the situation of vulnerable groups in the area of justice, in particular when it comes to the protection against gender-based violence and sexual violence. The amendment to the Criminal Code adopted changes to the definition of rape, and the recognition of hate crimes allows the construction of femicide. Persons with disabilities who are victims of other crimes, especially children with disabilities, have additional protection, including under the Act on the Protection of Children in Criminal Proceedings and their Holistic Treatment in a Children's Home.<sup>240</sup>

In alignment with the Istanbul Convention,<sup>241</sup> which largely follows the pace set by the requirements of EU law, progress is insignificant, given the lack of a broader policy. Since 2014, there has been no current strategy for the prevention and perpetration of domestic violence and gender-based violence which is currently still being prepared. No progress has been made in terms of other support measures and perceived shortcomings, such as the accessibility of safe houses for persons with disabilities.

No progress has also been made regarding milder forms of violence against persons with disabilities (e.g. prevention and prosecution of harassment cases, especially in the context of labour law), despite the specific recommendations of the Advocate.<sup>242</sup>

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<sup>239</sup> Resolution on the National Programme for Equal Opportunities for Women and Men 2023–2030 (Official Gazette of the Republic of Slovenia, No. 105/23-8772). Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=RESO132>.

<sup>240</sup> The Protection of Children in Criminal Procedure and their Comprehensive Treatment in Children's House Act (Official Gazette of the Republic of Slovenia, No. 54/21). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8216>.

<sup>241</sup> The Council of Europe Convention on preventing and combating violence against women and domestic violence of the Council of Europe (Istanbul Convention). Available at: <https://www.coe.int/en/web/gender-matters/council-of-europe-convention-on-preventing-and-combating-violence-against-women-and-domestic-violence>.

<sup>242</sup> Recommendation of the Advocate available at: <https://zagovornik.si/izdelki/priporocilo-glede-priprave-akcijskega-programa-za-invalidne-2022-2026/>.

The Resolution on the National Programme for the Prevention of Domestic Violence and Violence against Women has not been adopted yet.<sup>243</sup> In the draft resolution, there is insufficient emphasis on the vulnerability of women and girls with disabilities. The Advocate made a recommendation to solve the problem of insufficient accessibility of safe houses for persons with reduced mobility in a focused manner; the recommendation, however, was not taken under advisement.<sup>244</sup>

With the exception of a general analysis of the representation of women in decision-making processes at the local and national level<sup>245</sup>, no disaggregated data on the participation of women with disabilities or specific measures to encourage their participation in decision-making processes are available. Furthermore, there is also no analysis (e.g. of the architectural accessibility of buildings in which such functions are being performed) nor a systematic policy to ensure this.

The Advocate made general recommendations for measures to encourage women's participation in decision-making on public matters, especially at the local level and where a quota system cannot be introduced.<sup>246</sup> The CRPD Committee also drew attention to inadequate employment quotas for persons with disabilities in public administration that have not been achieved. The Government of the Republic of Slovenia and the line ministries provided no response to this recommendation in their answer to the Advocate's inquiry. The Advocate's recommendation for additional legal measures to ensure the accessibility of electoral procedures was also not taken into account.<sup>247</sup>

There are no publicly known women with more serious disabilities who would perform the most responsible functions, especially in both political branches of government and representative bodies. No special organisations of women with disabilities are known to operate in Slovenia, and no specific NGOs for women or political parties have special sections for women with disabilities within their associations.

With regard to the recommendation of the CRPD Committee to allocate sufficient resources for the conducting of research and the collection of statistics on the situation of women and girls with disabilities, no information exists on such research; domestic research on the consequences of the epidemic, for example, did not contain this aspect either.

The Advocate prepared a survey entitled Situation in nursing homes during the first wave of the COVID-19 epidemic, which covered persons in nursing homes, including the position of the most severely disabled patients in the highest categories of care, including persons with caregivers. The Advocate warned about the particular vulnerability of older women in these accommodations and presented warnings from various international stakeholders about this topic. The vast majority of persons who responded to the survey were women.

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<sup>243</sup> Available at: <https://e-uprava.gov.si/si/drzava-in-druzba/e-demokracija/predlogi-predpisov/predlog-predpisa.html?id=9480>.

<sup>244</sup> Recommendation of the Advocate, available at: <https://zagovornik.si/izdelki/priporocili-zagovornika-nacela-enakosti-glede-predloga-resolucije-o-nacionalnem-programu-preprecevanja-nasilja-v-druzini-in-nasilja-nad-zenskami-2023-2028/>.

<sup>245</sup> For the results of the 2018 local elections, broken down by gender, see 2018 Local Elections: Elections in Figures, available at: [https://volitve.gov.si/lv2018/volitve\\_v\\_stevilkah.html](https://volitve.gov.si/lv2018/volitve_v_stevilkah.html).

<sup>246</sup> Advocate's recommendation, available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-resolucije-o-nacionalnem-programu-za-enake-moznosti-zensk-in-moskih-2021-2030/>.

<sup>247</sup> Advocate's recommendations, available at: [https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-vrnitve-volilne-pravice-ljudem-z-intelektualnimi-in-psihosocialnimi-invalidnostmi-s-predlogom-zakona-o-spremembah-in-dopolnitvah-zakona-o-volitvah-v-drzavi/](https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-vrnitve-volilne-pravice-ljudem-z-intelektualnimi-in-psihosocialnimi-invalidnostmi/).

Among the target group of residents in retirement homes, two thirds (67 per cent) of respondents, four fifths (79 per cent) of family members and as many as six sevenths (86 per cent) of employees were women.<sup>248</sup>

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

27 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that 14 of them agreed with the assessment. Three of them stated that they were not sufficiently familiar with the area in question to be able to provide an opinion. The answers of the 10 remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

Too many bureaucratic procedures and the existence of gender inequalities, especially within vulnerable groups of people, have been identified as challenges in this area. The design and implementation of the current general strategy for equal opportunities for women and men was proposed as a potential solution.

Examples of comments provided by representatives of non-governmental organisations include:

- "The problem is also the architectural accessibility of safe houses and maternity homes, where women with disabilities and their children could find refuge in the event of domestic violence."
- "We agree with the assessment, but cannot provide further comments on it, as we have not prepared our own assessments for this area yet."

### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.

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<sup>248</sup> Available at: <https://zagovornik.si/wp-content/uploads/2022/08/Razmere-v-domovih-za-starejse-v-prvem-valu-epidemije-Covida-19.pdf>

## 6.10 Strategy to prevent violence against children with disabilities in respite care (Article 7 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 11:

- point a) of its recommendation, the CRPD Committee recommended to the State Party to adopt a strategy to monitor the situation of children with disabilities in alternative care, with a view to identifying all instances of violence against children with disabilities.
- point b) of its recommendation, the CRPD Committee recommended to the State Party to ensure effective coordination among the various parties involved in child protection.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**When it comes to protecting the rights of children with disabilities, no strategies exist to prevent violence against children in respite care. Effective coordination between the various actors in this area is not ensured.**

The State addresses the field of prevention of violence against children with disabilities in a cross-sectional manner, with two different strategic documents, namely the APPD<sup>249</sup> and the 2020–2025 Programme for Children<sup>250</sup>. Both documents mention measures that include children with disabilities among the target groups. The 2020–2025 Programme for Children also places children in "respite care" (foster care) among the most vulnerable groups of children; children with disabilities, however, are not mentioned in relation to that. None of the strategic documents envisage the preparation of a strategy for monitoring the situation of children with disabilities in respite care.

The State does not have an established structure at the level of the Government or ministries which would be aimed at coordinating various actors in the field of protection of the rights of all children with disabilities in all areas of social life.

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<sup>249</sup> Action Programme for Persons with Disabilities 2022–2030. See Objective 12: Violence and discrimination, which envisages that special attention should be paid to women, the elderly and children in the implementation of this goal, as they are particularly exposed to violence and discrimination in society, while measure 12.2 envisages "warning the public about violence and abuse (especially violence against children with disabilities, women with disabilities and the elderly) and the importance of (non-)discrimination". Available at:

[https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.gov.si%2Fassets%2Fministrstva%2FMDDSZ%2FInvalidi%2FAPI-2022-2030%2FAkcijski\\_program\\_za\\_invalidi\\_2022\\_2030-.docx&wdOrigin=BROWSELINK](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.gov.si%2Fassets%2Fministrstva%2FMDDSZ%2FInvalidi%2FAPI-2022-2030%2FAkcijski_program_za_invalidi_2022_2030-.docx&wdOrigin=BROWSELINK).

<sup>250</sup> 2020–2025 Programme for Children. See, e.g., p. 15, which states that the State must protect groups of children, including children with special needs and vulnerabilities, from discrimination, stigmatisation, social exclusion, marginalisation, poverty, violence, neglect, abuse, etc., through special measures in all areas. Available at: <https://www.gov.si/assets/ministrstva/MDDSZ/druzina/Zakonodaja/Program-za-otroke-2020-2025.pdf>.



The MLFSAEO is a line ministry covering the areas of disability care and families<sup>251</sup> (including children, in this context). At the level of the Ministry, according to publicly available data, there is no clearly visible structure aimed at a comprehensive coordination of all different actors in the field of protection of the rights of children with disabilities, including, for example, the fields of education, social welfare, and health.

Coordination between the various actors involved in the protection of the rights of all children is being implemented at the level of the Council of Children and Families of the Republic of Slovenia, which was first established in 2017.<sup>252</sup> One of the Council's tasks is to prepare initiatives for coordinated action by the competent authorities in the field of children and families, as well as for cooperation between the competent authorities, professional institutions, and NGOs.<sup>253</sup> The Council<sup>254</sup> met in nine sessions in the period from 2018 to 2021, which means that they had an average of two annual sessions. The annual reports show that none of these sessions were specifically dedicated to children with disabilities; even though the Council did discuss the rights of children with certain disabilities during some of its sessions, none of these discussions were conducted in a systematic, comprehensive manner.

The report of the Council of Children and Families of the Republic of Slovenia for the period 2017–2019<sup>255</sup> mentions a life without violence as the priority, with special attention being paid to the challenges of violence against children with disabilities. One of the challenges is also the fact that "different organisations and different bodies, which are inadequately coordinating their efforts, are responsible for children with disabilities". The Strategy for the Prevention and Elimination of Domestic Violence has not yet been adopted.

However, sectoral connections do exist between various actors, e.g. in the case of MoE, which has designated centres of expertise that perform tasks related to the coordination of their cooperation; this, however, is only a coordination between centres for children with emotional and behavioural problems and disorders, and does not include other actors responsible for children with other types of disabilities.<sup>256</sup>

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<sup>251</sup> State Administration Act (Official Gazette of the Republic of Slovenia, No. 113/05 – official consolidated text, 89/07 – decision of the Constitutional Court, 126/07 – ZUP-E, 48/09, 8/10 – ZUP-G, 8/12 – ZVRS-F, 21/12, 47/13, 12/14, 90/14, 51/16, 36/21, 82/21, 189/21, 153/22 and 18/23). See Article 28. Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3225#>.

<sup>252</sup> The Council of Children and Families of the Republic of Slovenia is a consultative body of the Government, which was established on 13 April 2023 in the current convocation of the Government. Available at: <https://www.gov.si/novice/2023-05-26-ustanovljen-svet-rs-za-otroke-in-druzino/>.

<sup>253</sup> See Article 18 of the Family Code (Official Gazette of the Republic of Slovenia, No. 15/17, 21/18 – the ZNOrg, 22/19, 67/19 – ZMatR-C, 200/20 – ZOOMTVI, 94/22 – dec. of the Constitutional Court, 94/22 – dec. of the Constitutional Court and 5/23). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7556>.

<sup>254</sup> Up to and including 29 February 2024, the annual report of the Council of Children and Families of the Republic of Slovenia for 2022 was not publicly available, so we examined the reports for the 2018–2021 period.

<sup>255</sup> Report of the Council of Children and Families of the Republic of Slovenia for the 2017–2019 period. P. 49–52. Available at: [http://vrs-3.vlada.si/MANDAT20/vladnagradaiva.nsf/71d4985ffda5de89c12572c3003716c4/340a369b3ba6af65c12585d8005f5711/\\$FILE/Porocilo\\_SOD.pdf](http://vrs-3.vlada.si/MANDAT20/vladnagradaiva.nsf/71d4985ffda5de89c12572c3003716c4/340a369b3ba6af65c12585d8005f5711/$FILE/Porocilo_SOD.pdf).

<sup>256</sup> Decision on the designation of centres of expertise and individual centres of expertise that perform tasks related to the coordination of the cooperation of centres of expertise in each field. Available at: [https://www.gov.si/assets/ministrstva/MVI/Dokumenti/lzobrazevanje-otrok-s-posebnimi-potrebami/sklep\\_mreza\\_strok\\_centrov\\_PP.pdf](https://www.gov.si/assets/ministrstva/MVI/Dokumenti/lzobrazevanje-otrok-s-posebnimi-potrebami/sklep_mreza_strok_centrov_PP.pdf).



The Advocate repeatedly warned about the inadequate treatment of children, including in terms of suspicions of discrimination on the grounds of age, due to the assumption that they cannot exercise their rights on their own, e.g. regarding the legislation governing long-term care and personal assistance, as well as regarding the legislation governing the field of mental health,<sup>257</sup> which is particularly sensitive. Suspicions of discrimination include those older minors and adolescents who already have the right to decide for themselves but for whom the law places too much weight on the will of their parents, legal representatives or guardians. A special question is how, in the cases of so-called conflicts of interest, children with disabilities are provided with access to a child rights defender, or how they are trained to provide special forms of communication or use specific languages.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

21 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Eight of them explicitly wrote that they agreed with the statement; three of them noted that they did not know the area well enough, while two of them believe that children with disabilities are taken care of, which indicates that they disagree with the assessment. The answers of the eight remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

The view that children are always the most vulnerable and disregarded population of a society, the lack of coordination of actors, and financial issues have been identified as challenges in this area. Education and awareness-raising were proposed as potential solutions, as well as the regulation of the legislation on the rights of children with disabilities up to the age of 18.

Examples of comments provided by representatives of non-governmental organisations include:

- "We agree with the assessment. The key issue that we note is the lack of coordination of actors and, consequently, the lack of transparency, as well as inefficiency."
- "There is no protection, there is no care, there is no real vision, there is no progress. We are left to our own devices and to the mercy of our parents and guardians, for as long as we have them...and then, what?"

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<sup>257</sup> The Advocate's assessment of the discriminatory character of the regulation, available at: <https://zagovornik.si/izdelki/zakon-o-osebni-asistenci-po-oceni-zagovornika-diskriminatoren-tudi-do-mladostnikov-zaradi-omejevanja-pravic-po-starosti/>.

#### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

- In their response to the Advocate's assessment, the **MoE** explained that the Organisation and Financing of Education Act stipulates that kindergartens, schools, and other institutions responsible for the education of children and adolescents with special needs must provide a safe and stimulating learning environment, where the corporal punishment of children and any other form of violence against and among children, as well as unequal treatment based on gender, sexual orientation, social and cultural origin, religion, racial, ethnic and national origin, and special features in physical and mental development are prohibited. When it comes to early assistance for children with disabilities, the Act Regulating the Integrated Early Treatment of Preschool Children with Special Needs was adopted, which provides for the integrated treatment of children with special needs and children with risk factors in the preschool period and their families, in order to ensure and encourage the development of those children, strengthen the family capacity, and promote the social inclusion of both the family and the child. The aforementioned Act provides for the participation of various experts and the inclusion of parents in the preparation of individual family assistance plans. An important systemic innovation in the field of work with children with special needs was the provision of the Act stipulating that the so-called development departments must be co-financed from the State budget. These are departments in which a tailored pre-school education programme is being implemented for children with special needs (these departments are also subject to an adapted norm, with a maximum of six children per department). With this measure, the MoE aims to improve the network of development departments across kindergartens in Slovenia and thus improve the accessibility of professional assistance to preschool children and their families in a balanced way throughout the country.

## 6.11 Compliance with strategic and legal provisions regarding accessibility (Article 9 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 15, point a) of its recommendation,

- the CRPD Committee recommended the State Party ensure that the Accessible Slovenia Strategy and the Equalisation of Opportunities for Persons with Disabilities Act are fully operational and effective. It also recommended the adoption of clear accessibility standards and measures providing for sanctions for failure to comply with accessibility standards.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**The "Accessible Slovenia" national strategy is less successful when it comes to achieving certain objectives. Furthermore, an important part of the Equal Opportunities of Persons with Disabilities Act (the EOPDA) does not fully comply with the accessibility requirements. Clear standards and measures intended to ensure accessibility, which would ensure the imposition of sanctions for unavailability in all areas as provided for in the Convention, have not yet been adopted.**

Inaccessibility can lead to discrimination, directly and inadmissibly interfere with many human rights, or even prevent them from being observed. This applies to both specific cases of individuals and mass cases where groups of persons with disabilities may be concerned.

Accessibility is a necessary condition or a prerequisite for the full and equal enjoyment of many rights by all people, including persons with disabilities. Accessibility requirements are also protected under the legal prohibition of discrimination. The Constitutional Court of the Republic of Slovenia has repeatedly found (indirect) discrimination, i.e. a violation under the first paragraph of Article 14 of the Constitution of the Republic of Slovenia, e.g. due to inaccessibility of communication at trial and due to architectural inaccessibility of premises in which human rights<sup>258</sup> are exercised, simultaneously with violations of specific human rights.

The relationship between accessibility and the commandment of equal treatment or inaccessibility and violation of the prohibition of discrimination is explained in more detail in the General Comment of the CRPD Committee No. 6 on discrimination.<sup>259</sup> In point D, the comment emphasises that accessibility and the requirement for reasonable accommodation are two different concepts, seeing as

- accessibility duties apply to groups of people and should be implemented gradually (positive trend) but unconditionally. Accessibility regulates the future treatment of people in advance.

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<sup>258</sup> In case U-I-146/07, due to the unavailability of documents (inability to use Braille) for the blind in court proceedings. In case U-I-156/11, the Constitutional Court of the Republic of Slovenia identified the regulation of partial instead of full accessibility of the built environment or the unsatisfactory standard of the minimum (built) accessibility of polling stations as a violation.

<sup>259</sup> Available at:

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/6&Lang=en).

- Duties to provide reasonable adjustments, however, are individualised according to the requirements of individuals in specific situations. They apply to the exercise of all rights, but may be limited by the principle of proportionality. Obligations to provide reasonable accommodation shall take effect from the moment an individual sets a specific request for accessibility of the service, and not in advance, as is the case with accessibility.<sup>260</sup>

Since the gradual implementation of accessibility in the built environment and in terms of the information and communication aspects of business operations can take a long time, a reasonable adjustment can be used during the transition period as a means of providing access to the individual, seeing as this is an immediate duty.

The "Accessible Slovenia" strategy in the form of the National Guidelines for Improving the Accessibility of the Built Environment, Information and Communication for Persons with Disabilities,<sup>261</sup> prepared in 2005, has not succeeded in achieving all of these objectives. All deadlines for achieving these objectives, with the exception of one of them (accessibility of line and urban public transport), have already expired at the end of 2015, whereby some planned objectives have not been achieved during this period.

The same or similar deadlines for ensuring full accessibility were also set out in the EOPDA. Even the EOPDA is not being fully respected, seeing as some objectives also remain unfulfilled. According to the information also collected by the Advocate, most public facilities<sup>262</sup> are still architecturally inaccessible and are also partially inaccessible in terms of communication. By the end of 2025, when the deadline for ensuring total accessibility will expire, most of the facilities in public use will probably still not be fully accessible.

The deadlines for ensuring the full accessibility of goods and services, which also include the architectural accessibility of buildings in which they are offered, as well as the accessibility of public transport, expired in 2015 and in 2020, respectively. Nevertheless, a significant portion of them remains inaccessible to persons with physical, communicative and cognitive impairments (which also includes architectural inaccessibility, absence of tactile markings, possibilities of all provided forms, modes of communication which should be adapted if necessary, and accessibility of easily understandable information).

A lack of a more detailed analysis of the state of accessibility has been observed, and no progress was made in the field of adoption of integrated standards. Pursuant to the explicit provision of Article 8 of the EOPDA, a rulebook on minimum requirements for accessibility of goods and services available to the public should have been adopted in 2011, but has not been adopted yet. This greatly complicates the implementation of the EOPDA and the understanding of persons concerned in terms of how they should ensure accessibility for all, and what this should look like. The rulebook should include, in one place, all the essential aspects of accessibility standards, which are now dispersedly regulated by individual sectoral legislation or which are not regulated in a sufficiently clear and explicit manner.

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<sup>260</sup> Although a broader concept is established in the Slovenian legislation, the requirement for reasonable accommodation also includes the need for the advance removal of obstacles (according to Article 3 of the EOPDA, among other things, with legislative and administrative measures; for case law, see e.g. judgements in case Pdp 915/2008), which is why the delimitation of reasonable accommodation and accessibility is even more blurred.

<sup>261</sup> National Guidelines for Improving the Accessibility of the Built Environment, Information and Communication for Persons with Disabilities (Official Gazette of the Republic of Slovenia, No. 113/05). Available at <http://www.pisrs.si/Pis.web/pregledPredpisa?id=STRA27>.

<sup>262</sup> See, e.g. the special report of the Advocate "Inaccessibility of Public Facilities for Persons with Disabilities" (2023). Available at: <https://zagovornik.si/en/what-we-do/>.

This clarification would also be important in order to ensure the accessibility of public services and utilities. The EOPDA applies to all, both public and private law entities, regardless of the nature of the goods and services that may be public or offered on the market (payable or not). The commitment of the MLFSAEO to create a work group that would be responsible for preparing such a rulebook has not yet been realised; furthermore, it is also unknown whether such a work group was even established or if it is currently operating.<sup>263</sup>

The Rules on universal construction and the use of construction works<sup>264</sup> set out the standards for the accessibility of newly built facilities. The standards set out in Article 4 of the Rules (accessibility and usability of the built environment, hearing aids and floor tactile guiding system), however, only apply to facilities that have been newly built. The minimum requirements for older public facilities in which, for example, goods and services are offered are therefore unclear.

However, the fact that it is only necessary to ensure architectural accessibility after the reconstruction of a facility or at the end of 2025, at the latest, does not mean that all services in such facilities may be inaccessible to persons with reduced mobility up until then.

Fines for violations of accessibility requirements are defined in Articles 36 and 37 of the EOPDA, but only for violations of accessibility of goods and services and in public transport. If inaccessibility constitutes discrimination, the fines are also defined in the PADA. There is no information on violations detected and fines imposed due to inaccessibility, which testifies to weak control. Pursuant to the EOPDA and the PADA, fines can only be imposed at the level of the minimum prescribed amounts, since both of these acts do not allow the misdemeanour authority to impose a certain range of said fine.

Despite the recommendations of the Advocate, the uncertainty of persons concerned is maintained or unnecessarily increased not only due to the lack of rules on minimum requirements for the accessibility of goods and services, but also in terms of adopting new legislation. It is unclear whether and how the availability of certain specific products or services on the so-called digital market is regulated.

Final deadlines to ensure full accessibility which have already expired pursuant to the EOPDA, e.g. for the accessibility of public transport and self-service terminals, were intended to be extended by the Act on Accessibility of Products and Services for Persons with Disabilities (the AAPSPD)<sup>265</sup>, but the Advocate opposed this solution.<sup>266</sup> He also opposed the exclusion of micro-companies as persons concerned in the part regulating consumer relations. He pointed to the provisions of Article 5 of the EOPDA and Article 3 of the PADA, which apply regardless of other applicable acts if such a regulation is more favourable for a person with a disability or a victim of discrimination. Even though the AAPSPD was already adopted, it is not being used yet. Nevertheless, this causes uncertainty about the obligations of persons concerned, as well as about the rights of people.

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<sup>263</sup> See the MLFSAEO's response to the Advocate's inquiry regarding the implementation of the recommendations of the CRPD Committee.

<sup>264</sup> Rules on universal construction and the use of construction works (Official Gazette of the Republic of Slovenia, No. 41/18 and 199/21 – the BA). Available at <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV12693>.

<sup>265</sup> Access to Products and Services for Persons with Disabilities Act (Official Gazette of the Republic of Slovenia, No. 14/23). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8537>.

<sup>266</sup> Recommendation of the Advocate available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-k-osnutku-predloga-zakona-o-dostopnosti-do-proizvodov-in-storitev-za-invalidel/>.

The Advocate<sup>267</sup> also made similar recommendations regarding attempts to regulate less binding regulation of media accessibility in the field of audiovisual media services and accessibility of websites, as regulated in the EOPDA. The Advocate recalled that a minimum standard defined by EU directives under EU law (when it cannot be understood as a clear example of the so-called maximum harmonisation) should never be an excuse for lowering existing standards in national law, nor is this expressly prohibited by the Convention.

Full accessibility issues should be addressed holistically and in a cross-sectional manner across all policies. The Advocate made recommendations for a new Consumer Protection Act.<sup>268</sup> Given the extent of unavailability of goods and services that should have been made available to the public, the Advocate recommended to clearly regulate the connections between the various regulations and to ensure that persons concerned, i.e. legal or natural persons engaged in a gainful activity, also provide reasonable accommodations. The Advocate recommended that housing be made more accessible. Practically none of the Advocate's recommendations in this area were taken into account. The Advocate also made concrete proposals to address specific issues, e.g. that funds to ensure the accessibility of buildings could also be obtained through the use of various European financial resources, including resources dedicated to energy renovation. According to our information, some progress on the issue of accessibility is only recorded in some places, especially when it comes to the issue of accessibility of schools (more in the explanation in subsection 6.25).

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

27 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. The answers clearly state that 16 of them agreed with the assessment, while two of them stated that they were not sufficiently familiar with the area. The answers of the nine remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

The lack of accessibility of public (inter-urban) transport to persons with disabilities, non-compliance with and non-implementation of the strategy, and shortcomings in the accessibility of information to persons with disabilities, as well as the lack of attention paid to the accessibility of services and information to persons with intellectual and psychosocial disabilities have been identified as challenges in this area. Potential solutions included a proposal of setting deadlines for the implementation of adjustments, implementing sanctions, updating the list of devices used by persons with disabilities, and regulating the area according to the needs of people (and not according to regulations).

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<sup>267</sup> Recommendation of the Advocate, available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-v-zvezi-z-osnutkom-novele-zakona-o-avdiovizualnih-medijskih-storitvah-28-7-2020/>.

<sup>268</sup> Recommendation of the Advocate, available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-zakona-o-varstvu-potrosnikov/>.

Examples of comments provided by representatives of non-governmental organisations include:

- "We agree with everything that you have mentioned. Unfortunately, once again, the strategies and regulations showed that they are adapted to the requirements coming "from the outside" and are often an end in themselves (they only exist so that the State and its authorities can show that we have adopted them), but are certainly not adapted to the needs of persons with disabilities, who have also not actively participated in their preparation, implementation and evaluation."
- "... the disability care system, which is based on the medical model of disability, promotes the thought that the State is responsible for financing greater accessibility. This model treats disability as a medical condition that needs to be treated or corrected. This leads to considering accessibility as a cost that must be paid, rather than an investment that benefits everyone. The persons concerned therefore expect the State to finance the provision of accessibility services. This is completely absurd, since the subjects themselves can also ensure accessibility if they accept the principles of universal design. Universal design is an approach to planning and development that excludes exclusion and ensures that all persons, regardless of their abilities, can use products, services, environments and information technology in an equal manner. If persons concerned accepted the principles of universal design, they could ensure accessibility at no additional cost. This would be in everybody's best interest, as it would enable persons with disabilities (especially the deaf, hard of hearing and the deaf-blind, blind and partially sighted) to fully participate in society. Above all, it is important that the development of technological solutions for persons with disabilities considers their wishes and needs to the greatest possible extent."

#### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

- In response to the Advocate's assessment, the **MLFSAEO** reported that, pursuant to Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on accessibility requirements for products and services, it had convened an interdepartmental working group to transpose the content of the Directive into the national legislation. At its 6th regular session, held on 24 January 2023, the National Assembly of the Republic of Slovenia adopted the Act on Accessibility of Products and Services for Persons with Disabilities (the AAPSPD). The Working Group also prepared a proposal for the Rules on the Accessibility of Products for Persons with Disabilities, which was adopted in June 2023, and which will contribute to the improvement of the accessibility of everyday products and services for persons with disabilities. The MLFSAEO also explained that it would establish, in the shortest possible time, an interdepartmental working group for the preparation of a regulation on minimum requirements for the accessibility of goods and services available to the public on the basis of Article 8 of the EOPDA. According to the explanation of the MFLSAEO, it would be reasonable to wait with the preparation of minimum requirements set out in Article 8 of the EOPDA in order to have them comply with the AAPSPD.

- In response to the Advocate's assessment, the **Ministry of the Economy, Tourism and Sport (the METS)** reported that an amendment to the Act Regulating Technical Requirements for Products and Conformity Assessment had been adopted in the National Assembly of the Republic of Slovenia. This act is one of the foundations of Slovenian technical legislation and extends, among other things, to the accessibility requirements of products for persons with disabilities, as more and more technical products (e.g. elevators, ICT-related products etc.) must also take into account the aspect of accessibility for persons with disabilities. The aim of the proposed amendment to the Act is to provide a quality legal basis for the work of inspection bodies and to enable the sanctioning of infringements related to non-compliance with the obligations of economic operators, information society service providers, and product owners and administrators through criminal provisions.

In the field of tourism, the third indent of the first paragraph of Article 18 of the Act on the Promotion of Tourism Development stipulates an exemption from the payment of the tourist tax for persons with disabilities or any physical impairments. Article 15 of that same act also defines the activity of informing tourists, including tourists with special needs, as one of the activities and services performed in the public interest at the level of the tourist area in question. The Rules on the categorisation of accommodation establishments set out the assessment criteria, some of which are also related to barrier-free access (for wheelchairs and for the blind and visually impaired); furthermore, one of the minimum criteria for a hotel to obtain four or more stars is an elevator for guests. Other requirements of catering facilities are set out in the regulation on the construction of facilities.

- In response to the Advocate's assessment, the **Ministry of the Interior** pointed out that the provisions on the prohibition of discrimination and equal participation in proceedings before State authorities, access to services, and the use and adaptation of public facilities were particularly important in the EOPDA from the point of view of police work and exercise of police powers. The provisions on the unhindered access to the use of facilities are taken into account by the Police in all new buildings and during major adaptations of older buildings; in cases where this cannot be provided immediately, alternative options are sought (e.g. a bell in front of the building with which a person with a disability can call the police officer on duty, etc.). In the future, the Police will continue to strive to improve the provision of services for persons with disabilities, as well as for employees.



- In response to the Advocate's assessment, the **Ministry of Infrastructure (the MI)** or the **Ministry of the Environment, Climate and Energy (the MECE)**<sup>269</sup> reported that 52 new sets of passenger trains began to be used in 2021 and in 2022. All trains are low-floor trains and are also adapted for persons with reduced mobility. In addition to the retractable step which allows persons with reduced mobility to directly board the train (without using a mobile lifting platform), all trains also have a mobile lifting ramp which allows for an unimpeded boarding, even on regional lines where the platform is not at the same height as the door. For this purpose, members of the railway support staff underwent special training to assist these persons. New trains also have a special allocated space for wheelchairs and adapted sanitary facilities. A modern information system enables the blind and visually impaired, as well as the deaf and hard of hearing, to benefit from a high-quality experience during their journey. The Ministries listed several projects that regulate lifts and/or ramps, parking spaces for persons with disabilities and persons with reduced mobility, barrier-free access, steering belts, tactile signage in Braille, etc. In 2022, the Maritime Inspection carried out an inspection in terms of safety requirements for persons with reduced mobility on the Slovenian passenger ship "Laho". It has been established that the accesses to the ship and the passageways to the ship's premises are adequate and that the ship, within the limits of its technical capabilities, meets the criteria for the transport of persons with reduced mobility. The Ministry intensively cooperates with the NCDOS in involving persons with disabilities in the implementation of project activities. For the sixth year in a row, the NCDOS has been involved in the project "Enabling Multimodal Mobility of Persons with Disabilities", while the project "Spatial Data Support for Public Passenger Transport Management – Persons with Disabilities in Public Passenger Transport" has been benefitting from their support for two years. They will also participate in the project "Mobility and Online Accessibility Platform for Persons with Disabilities and the Elderly in their Home Environment", which is currently being prepared for implementation.

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<sup>269</sup> With the reorganisation of ministries at the beginning of 2023, the competence in the field of accessibility of public passenger transport passed from the Ministry of Infrastructure (the MI) to the newly established Ministry of the Environment, Climate and Energy (the MECE).

- In response to the Advocate's assessment, **the Ministry of Natural Resources and Spatial Planning (the MNRSP)** primarily focused on the aspect of the accessibility of the built environment. It explained that, for the purpose of supervising facilities built on the basis of building permits, control systems are provided in terms of mandatory compliance with universal accessibility standards for designers, contractors, and supervisors at the time of construction, as well as inspection control for the building inspection service, in accordance with the Building Act (the BA). Sanctioning the owners of public facilities will only be possible after December 2025, when the part of the EOPDA related to accessibility of facilities will enter into force. The BA already sets out the necessary mechanisms for the purpose of implementing sanctions. Measures to achieve the accessibility of all buildings which are open to the public, which also include facilities in which judicial protection is carried out, as well as law enforcement buildings and all buildings in which education at all levels is being carried out, are already provided by the BA and by-laws; for existing buildings, this is enshrined in the EOPDA. Should all adjustments not be feasible due to interventions that would significantly affect the other essential requirements of the facility (mechanical resistance and stability, fire safety, etc.), the MNRSP believes that it is necessary to envisage protocols that would allow for the most appropriate measures. Pursuant to the Act, in cooperation with the competent organisations in this field, a secondary regulation is being prepared, which will regulate the aforementioned issues in more detail and legislate the mandatory application of standards in the field of universal construction of facilities.

## **6.12 The right to alternative and complementary forms of communication and the use of sign language and the language of persons with deafblindness (Article 9 of the Convention)**

### **1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)**

In paragraph 15, point e) of its recommendation,

- the CRPD Committee recommended to the State Party to ensure the promotion and availability of alternative and augmentative (supplemental) modes of communication and information in an easily readable and understandable ("Easy Read") format.

### **2) The Advocate's assessment of the implementation of the recommendation (2024)**

**The amendment to the Constitution of the Republic of Slovenia with the recognition of the right to use sign language and the language of persons with deafblindness has not obtained the necessary detailed response of the legislator yet. No progress has been made in promoting the development of the Slovene sign language. In practice, the use of the language of persons with deafblindness is not yet guaranteed. Other forms of complementary (reinforcing) communication and supportive decision-making are not regulated.**

In its third objective,<sup>270</sup> the APPD 2022–2030 lists some measures for the introduction of individual alternative and extended (complementary) modes of communication, some of which are also elaborated in more detail in the Resolution on the National Programme for Language Policy 2021–2025.<sup>271</sup> In its point 3.4, the APPD states that ensuring access to information and communications includes:

- adaptation of materials related to decision-making at the State and local level into an easy-to-read technique; – the use of Slovene sign language for the deaf and the option of reading subtitles and closed captions for the blind (public broadcasting and operators and commercial TV channels);
- promoting e-accessibility and use of other information and communication technology;
- encouraging manufacturers to equip their products with Braille;
- maintaining relay centres for persons with sensory and communication disabilities, i.e. centres that ensure that information can be passed from the deaf or hard of hearing persons and other persons and vice versa through deafblind interpreters.

Other complementary (reinforcing) and alternative methods of communication are not mentioned.

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<sup>270</sup> Action Programme for Persons with Disabilities 2022–2030. Available at: <https://www.gov.si/zbirke/projekti-in-programi/akcijski-program-za-invalidce/>

<sup>271</sup> Resolution on the 2021–2025 National Programme for Language Policy (Official Gazette of the Republic of Slovenia, No. 94/21). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=RESO123>.

The amendment to Article 62a of the Constitution of the Republic of Slovenia was adopted, which now explicitly protects the right to use the Slovenian, Italian and Hungarian sign language and the language of the deafblind.<sup>272</sup> The Advocate supported this with a recommendation, but added that it was essential to ensure that these rights would not only exist formally and in principle, but also substantively, and thus effectively, in all areas of life, especially in the field of education. Therefore, an adequate and sufficient legislative regulation of the right to use these languages, as well as its effective implementation and the provision of all necessary resources for implementation, will be crucial.

The Advocate recommended that the existing gaps in the legislation be eliminated as soon as possible.<sup>273</sup> This has not happened so far; progress is being made in drafting a law that will regulate the right to use the language of the deafblind. Publicly available sources state that, among State authorities, only the Advocate provides interpretation for the deafblind. No progress has been made so far in promoting the development of the Slovene sign language. The Advocate has repeatedly made recommendations to plan and regulate complementary (reinforcing) forms of communication and supportive decision-making. These have not been taken into account so far.

Progress is particularly evident in the field of easy reading. On its "Accessible" (Dostopno) portal, RTV Slovenia<sup>274</sup> started to provide regular information in easy reading, and Slovenian standards were adopted to ensure easy reading.<sup>275</sup> Several bodies, including the Ombudsman of the Republic of Slovenia and the Advocate, ensure the availability of key information about their work and services in this form; some guides to support the exercise of rights have also been created, including access to certain key legislation (e.g. the Constitution of the Republic of Slovenia, the Personal Assistance Act). The scope of available literature in this area (libraries) is significantly reinforced. Some empowerment efforts by NGOs are exemplary, e.g. in terms of information, in these forms of exercising political rights.<sup>276</sup>

Despite the recommendations of the Advocate, no progress has been made in providing a supportive decision-making system. This would also bring solutions for those who need the support of a third party when communicating (receiving or transmitting information, as well as substantive support in decision-making).

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<sup>272</sup> The Constitution of the Republic of Slovenia (Official Gazette of the Republic of Slovenia, No. 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99, 75/16 – UZ70a and 92/21 – UZ62a). Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=USTA1>.

<sup>273</sup> Recommendation of the Advocate, available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-za-zacetek-postopka-za-dopolnitev-ustave-z-62-a-clenom/>.

<sup>274</sup> Available at: <https://www.rtvlo.si/dostopno>.

<sup>275</sup> Easy to Read: Tips for Easy Reading in the Slovenian Language 2: Rules. Available at: <http://www.lahkojebrati.si/Portals/1/Knjige/Lahko%20je%20brati%20%20-%20Pravila.pdf>.

<sup>276</sup> See, e.g., the myPart project, available at: <https://mypart-project.eu/?lang=sl>.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

17 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. The answers clearly state that eight of them agreed with the assessment, while two of them stated that they were not sufficiently familiar with the area. One representative wrote that they partially agreed with the assessment, while another representative wrote that they disagreed with the assessment; neither provided a detailed explanation for their position. The answers of the five remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

Examples provided by NGO representatives:

- "We agree with the assessment but would like to point out, at the same time, that such a regulation of the entry of the right to language of individual groups in the Constitution is not necessarily appropriate. In our opinion, the umbrella act must ensure the recognition of the right to accessible language and communication for all persons with disabilities. The partial resolution of the issue of discrimination (according to individual groups of disabilities) can even be assessed as a possible further discrimination in some part."

### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

- In response to the Advocate's assessment, the Ministry of Digital Transformation (the **MDT**) reported that, in accordance with the Electronic Communications Act<sup>277</sup> (the ECA), measures for users with disabilities are also envisaged by the Government of the Republic of Slovenia and the competent ministries. In accordance with the law governing the media, the State specifically supports the creation and dissemination of programme content intended for the blind, the deaf and the deafblind in techniques adapted to them, as well as the development of appropriate technical infrastructure (pursuant to the second paragraph of Article 202 of the ECA).

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<sup>277</sup>Electronic Communications Act (Official Gazette of the Republic of Slovenia, No. 130/22 and 18/23 – the ZDU-10). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8611>.

- In response to the Advocate's assessment, the **Ministry of Higher Education, Science and Innovation and the Ministry of Education (now the Ministry of Education, Science and Sport)**<sup>278</sup> reported that the Act Regulating the Integrated Early Treatment of Preschool Children with Special Needs provides for the communication and teaching of adapted ways of communication (tactile sign language) to children with deafblindness in kindergartens, institutions or other appropriate establishments, in the framework of an individual family assistance plan. The Rules amending the Rules on additional professional and physical assistance for children with special needs were adopted in April 2023, which, among other things, newly regulate the right to an interpreter. Deaf and hard of hearing children who communicate in the Slovene sign language are also granted the right to a Slovene sign language interpreter based on a special education needs guidance decision. Children with deafblindness also have the right to use interpreters, with the difference being that specifically adapted communication methods which are mainly based on touch are used when it comes to interpreting for deafblind children. The right is now defined for all programmes: if deaf or hard of hearing children have the right to an interpreter according to the special education needs guidance decision, interpreting in the SSL is carried out within the scope of hours determined by the expert group that prepares and evaluates individualised programmes. Interpretation is carried out by a SSL communication teacher/educator or by an SSL interpreter. The right to an interpreter for children with deafblindness is defined in the same way. The method in which schools and institutions can obtain the assistance of an interpreter is also defined, namely through institutions for the education of children and adolescents with special needs, for working with the deaf and hard of hearing, or for working with the blind, or through organizations that implement programs for the deaf or for people with deafblindness. Currently, not enough qualified teachers are available on the market. The funds of the 2021–2027 European Cohesion Policy plan to implement several measures aimed at ensuring the full and equal enjoyment of rights and respect for the dignity of persons with disabilities.

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<sup>278</sup> With the reorganisation of ministries at the beginning of 2023, the competence passed from the Ministry of Education, Science and Sport to the newly established Ministry of Higher Education, Science and Innovation and the Ministry of Education.

## 6.13 Deprivation of legal capacity and support decision-making mechanism (Article 12 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 19 of its recommendation, the CRPD Committee

- recommended the State Party repeal all discriminatory provisions allowing for deprivation of legal capacity on the basis of impairment and ensure that the amendment to the Family Code withdraws provisions for any form of substitute decision-making for persons with disabilities, in any area of life.
- called on the State Party to establish a procedure aimed at restoring full legal capacity for all persons with disabilities and to develop and implement supported decision-making mechanisms that respect the autonomy, will and preferences of the person concerned.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**The legislature has not abolished legal provisions that allow for the deprivation of operational capacity. Procedures for restoring the full operational capacity of persons with disabilities and supporting decision-making mechanisms have not been established.**

No progress has been made in this area; a systemic regression has even been observed. The conduct of the State with the adoption of laws, as well as in practice, directly contradicts the recommendations of the CRPD Committee and a number of the Advocate's recommendations to follow them. The issue is not improving in any aspect of legal capacity. Such efforts are not planned even in the applicable APPD, despite the explicit recommendations of the Advocate; guardianship is only mentioned in the context of the applicable legislation, while support decision-making is not mentioned at all, except in the context of providing accessible materials for persons with intellectual disabilities (e.g. in easy reading).

The Family Code (FC) has formally tightened the conditions for placing adults under guardianship, so that only partial deprivation of legal capacity is possible (deprivation of one of the parts of legal capacity which are, as a rule, aspects of legal capacity, but can also mean other parts, e.g. procedural capacity, the ability of a person to make their own decisions, etc.), and has left it exclusively to the courts to decide on this. Nevertheless, the number of cases of guardianship (alternative decision-making) is skyrocketing. In particular, the trend is likely to be attributed to the increasing number of elderly people under guardianship (dementia).

It is not possible to determine the exact nature of these deprivations in terms of content (according to the scope of the restriction, according to the areas to which they relate), nor is it unknown whether, in practice, changes in guardianships have been introduced before the National Assembly on the basis of complete deprivation of legal capacity and extension of parental rights. These remain in force, but should be transformed in accordance with the purpose of the National Assembly. No information exists on whether this occurs at all.

The problem of deprivation of legal capacity, which should be reduced due to partial deprivation, is paradoxically even exacerbated: in the proposed new legislation, any (partial) guardianship (regardless of the content or individual aspects of legal capacity) is often already a connecting circumstance for alternative decision-making (e.g. mental health context when it comes to making decisions about oneself and accommodation) and for the termination of the functions of prosecutors, private detectives, and insolvency administrators. Until now, the legislation only provided for such incapacity in the event of a complete deprivation of legal capacity, but not in the event of a partial one.

No progress was made in terms of self-determination issues – prohibition of forced treatment or placement. Despite the decision of the Constitutional Court of the Republic of Slovenia in case U-I-294/12, through which the Court repealed certain provisions of Article 74 of the MHA, the legislation has not been amended, and those affected in this situation are protected by the temporary regime arising from the decision of the Constitutional Court of the Republic of Slovenia.

Due to the unconstitutional presumption of the incapacity to consent, guardians were able to place the ward (person placed under guardianship) in a protected department of a social welfare institution, thus restricting their freedom and subjecting them to medical treatment. The drafts of the new laws put to public scrutiny still envisage such solutions and even expand the area of alternative decision-making.

The Advocate persistently draws attention to these issues in a number of recommendations in various areas and to a wide range of stakeholders, while also drawing attention to the standards of protection under the Convention and making recommendations to abolish alternative decision-making, restore the legal capacities of which people have been deprived, and provide them with a system of supportive decision-making. These recommendations remain without a substantive response.

There is no progress in the area of legal remedies intended to ensure the protection of persons under guardianship, nor are there clear and unambiguous methods to return individual aspects of the deprived legal capacities.

Guarantees for the protection of the rights of persons under guardianship or the appropriate work of guardians are also lacking. The Ombudsman observes that legal ways to control the decision-making of the guardians are either unclear and undetermined or too weak. With regard to objections against the work of guardians under the provision of Article 256 of the National Assembly, social work centres shall decide in such a way that they do not issue a formal decision but instead examine the substance of the matter and forward their findings to the applicant in a letter.

Judicial supervision also has no doubts against this (decision of the Administrative Court of the Republic of Slovenia no. U 1386/2008-7 of 9 June 2009), and such informal treatment is also considered appropriate by the MLFSAEO.

If, when assessing the objection against the work of the guardian, it is established that the conditions for the replacement of the guardian are met, the competent court shall be informed and the procedure for the replacement of the guardian shall be initiated. The Ombudsman of the Republic of Slovenia considers that the consideration of objections against the work of a guardian in a formal, prescribed (even if only) declaratory procedure is a prerequisite for adequately clarifying the actual circumstances of the objections to the work of a guardian (temporary guardian, conflict guardian or special case guardian), which is further a prerequisite for making a correct decision regarding the protection of the best interests of a person under guardianship.



In the event of a notification sent by a letter, no guarantees are given, not even when it comes to the person opposing the work of the guardian knowing which claims were examined, and which facts were found in this regard, and how. The Ombudsman will propose an amendment to the legislation in order to ensure an effective remedy.<sup>279</sup>

Individual cases of returning any of the legal capacities that a person has been deprived of are rare; more practice is known only in terms of preventing such conditions from occurring.

On 15 March 2024, the Ministry of Solidarity-Based Future (the MSF) adopted the 2024–2034 Strategy of the Republic of Slovenia for Deinstitutionalisation in Social Welfare.<sup>280</sup> One of the key highlights of the strategy is the development of supportive decision-making services that could replace the institution of guardianship; this, however, does not fall within the portfolio of the MSF that adopted the strategy.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

26 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. The answers clearly state that 16 of them agreed with the assessment, while two of them stated that they were not sufficiently familiar with the area. The representative of one organisation disagrees with the Advocate's assessment. The answers of the seven remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

The lack of provision and disregard of the right to vote for all persons with disabilities, the lack of understanding of the concept of supportive decision-making by the State, and the lack of provision of interpreters for persons with disabilities have been identified as challenges in this area.

Examples of comments provided by representatives of non-governmental organisations include:

- "Yes, this is true. Nearly 4,000 disabled persons are deprived of their right to vote in this country. Article 7 of the National Assembly Election Act is inconsistent with the Constitution.<sup>281</sup> As a consequence, this means that Article 29 of the Convention is not being implemented in Slovenia."

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<sup>279</sup> For a more detailed description of the issue, see the information on the website of the Ombudsman of the Republic of Slovenia at <https://www.varuh-rs.si/obravnavane-pobude/primer/oseba-pod-skrbnistvom-mora-imeti-pravico-zahtevati-presoj-ravnani-skrbnika/>.

<sup>280</sup> 2024–2034 Strategy of the Republic of Slovenia for Deinstitutionalisation in Social Welfare. Available at: <https://www.gov.si/novice/2024-03-15-ministrstvo-za-solidarno-prihodnost-sprejelo-strategijo-deinstitucionalizacije/>.

<sup>281</sup> The comment was made before the adoption of the Act Amending the National Assembly Election Act (the NAEA-E) in 2024.

- "We fully agree with the first part of the assessment ("the State has not abolished the provisions"); as regards the second part ("the State has not introduced procedures for re-establishment"), we would like to warn about the risk of discrimination of such procedures (certain groups of persons with disabilities are discriminated against due to the deprivation of their legal capacity, which they must prove in contrast to the rest of the population; as a consequence, discrimination is also attached to re-establishment procedures), and we fully agree with the third part (supportive decision-making)."

#### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.

## 6.14 Access to justice (Article 13 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 21:

- point a) of its recommendation, the CRPD Committee recommended to the State Party to enact appropriate legislation and implement a strategy to ensure the removal of all barriers to access to justice by persons with disabilities and developing guidelines and protocols to provide procedural, gender- and age-appropriate accommodations based on the free choice and preference of persons with disabilities, including the provision of information and communications in accessible formats.
- point c) of its recommendation, the CRPD Committee recommended to the State Party to implement procedural accommodations and alternative formats of communication, paying due attention to the situation of deaf-blind persons and persons with psychosocial and/or intellectual disabilities, including those living in institutions, and increasing their legal awareness.
- In point d) of its recommendation, the CRPD Committee recommended to the State Party to step up its efforts to empower persons with disabilities to be part of the justice system as direct and indirect participants, such as lawyers, court officials or law enforcement officials. In point e) of its recommendation, the CRPD Committee recommended to the State Party to be guided by Article 13 of the Convention in the implementation of sub-target 16.3 of the Sustainable Development Goals.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**All barriers for persons with disabilities, including persons with deafblindness and persons with psychosocial and/or intellectual disabilities, have not yet been eliminated when it comes to their access to justice.**

In the field of eliminating all barriers and providing full access to justice for persons with disabilities, only minor progress has been observed, mainly only with regard to some communication barriers. Partial progress on systematic training, in particular on the treatment of persons with hearing impairments, can be observed in courts (training sessions for judges and staff to be more sensitive to their needs). It is unclear if there are also any explicit guidelines (apart from the general rules set out in the legislation). In recent years, a standardised clause has been included on invitations to court hearings, which should enable the provision of reasonable adjustments or special rights; whether this could also be understood as a possibility of providing procedural adjustments remains unclear. It is also questionable whether, on the basis of a limited statement, the beneficiaries even know what to expect or request, as the clause reads: "Persons with disabilities and other persons with special needs have the right to equal participation in the proceedings. If you are going to exercise your right to equal participation in the proceedings due to your disability or other special needs, please inform the court before the hearing."

Within the framework of the target research program "CRP 2019" – Mobility of Persons with Disabilities in the Facilities of Judicial Authorities (project no. V5-1919), co-financed by the Ministry of Justice and the Public Agency for Research of the Republic of Slovenia, an analysis of the situation and perceived shortcomings regarding the architectural and communication inaccessibility of court buildings (and a manual on what should be the more appropriate situation) was prepared.

In 2021 the State Councillor raised a question regarding the accessibility of courts for persons with reduced mobility and with sensory disabilities. The answer provided by the Ministry of Justice reveals that, at that time, none of the courts in the country met all the conditions referred to in Article 32 of the Building Act for the accessibility of persons with reduced mobility and with sensory disabilities.<sup>282</sup>

It is unclear if any strategy exists with defined objectives and resources to achieve the appropriate situation. There was no response to the Advocate's recommendation to the APPD in this part (e.g. provision of supportive decision-making, alternative and reinforcing forms of communication, situation of the deafblind).

The active provision of information in adapted formats is mainly limited to the accessibility of the courts' websites, which only meets the needs of certain groups (e.g. the visually impaired, the blind, and the deaf who know how to use Slovene sign language). Despite the amendment to the Constitution, no implementation progress has been made regarding the use of the language of the deafblind.

There was no adequate response to the explicit recommendations of the Advocate to the draft of the new APPD in this part, and the amendment to the Constitution of the Republic of Slovenia is not sufficient and only represents a declaratory progress, as the right to use the language of the deafblind as a right of an active status (which must be filled with content, in particular regarding the obligations of State authorities to provide said right, e.g. through an appropriate system of interpreters) is still not regulated, although more than two years have passed since the amendment to the Constitution. The Advocate is the only State body that actively claims that they will provide interpreters for the deafblind.

Persons with disabilities do not appear to be employed or involved in the work of the judiciary branch to a greater extent than before. In addition to the actual ones, the perceived legislative obstacles are also systemic (e.g. the issue of the treatment of persons with hearing impairments in the notary profession, which does not take into account the possibility of interpreters but requires additional witnesses for the validity of notarial records). For some groups, legislation has even become more stringent. Partial deprivations of legal capacity (regardless of the content) have also become a reason for the termination of the functions of prosecutors, and they have also been proposed in the draft amendments to the laws regarding liquidators. Most of the Advocate's recommendations were not taken into consideration.

The situation in terms of the inaccessibility of buildings in the judiciary branch significantly hinders the possibility that persons with disabilities could be employed and work in them under the same conditions.

No progress has been made in terms of access to justice. Due to the increasing number of guardianships, there is a growing fear that the situation is worsening, especially for persons with intellectual and psychosocial disabilities. The Advocate made recommendations due to concerns about the reduced availability of judicial protection due to the electronic method of filing and the mandatory representation by lawyers regarding the protection of the right to vote.

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<sup>282</sup> See p. 7 of the Minutes of the 1st session of the Commission of the National Council for Social Welfare, Labour, Health and the Disabled, which took place on Thursday, 26 January 2023. Available at: [https://www.ds-rs.si/sites/default/files/dogodek/658-1zap\\_predlog.pdf](https://www.ds-rs.si/sites/default/files/dogodek/658-1zap_predlog.pdf).

Difficulties are also perceived when it comes to the implementation of special benefits prescribed by law to protect persons with disabilities from violations of rights. The Advocate considered a case in which he supported the client due to the conduct of the court which, in the proceedings for protection against discrimination due to disenfranchisement, refused to grant the client the special right to exemption from payment of costs (court fees) while protecting them against discrimination.<sup>283</sup> The exemption was later granted, but only after the court assessed, on the basis of the data that had been requested and obtained, that the client was entitled to the exemption due to their financial situation.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

21 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. The answers clearly state that 13 of them agreed with the assessment, while two of them stated that they were not sufficiently familiar with the area. The answers of the six remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

The absence of a supportive environment that causes isolation of people, as well as the inadequacy of conditions for the full development of persons with disabilities with the help of a legal representative have been identified as challenges in this area. Proposals to replace guardianship with supportive decision-making, to also provide judicial protection and appropriate adjustments for people with deafness, and to expand the possibility of benefitting from a court interpreter to a wider circle of people who need it in the proceedings were proposed as potential solutions.

Examples of comments provided by representatives of non-governmental organisations include:

- "We absolutely agree with your assessment and believe that it is inevitably related to the previous issue and the institution of guardianship, which should be fully replaced by supportive decision-making, while the placement under guardianship should be abolished, seeing as it is nothing else but an interference with the right and ability of persons to access full judicial protection and full representation."
- "It is also necessary to provide judicial protection and appropriate adjustments for the deaf, as there are many cases in which deaf people come up empty-handed when it comes to inheritance issues due to potential misunderstanding or conflicts in the interpretation, exacerbated by the manipulation of their relatives. Often, the deaf do not understand what the interpreters are explaining about the content of the discussion, and experience a shock in the end, after the conclusion of these discussions or at the time of signing the papers, when they realise that they will be left with nothing or that they will not get much. Therefore, it is highly desirable that deaf interpreters should also be present in the discussion room with the help of personal hearing interpreters from their teams, as such practice is increasingly established around the world as best practice and is perceived as pushing the limits, since it can thereby provide the best interpretation and translation possible."

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<sup>283</sup> See the advice provided by the Advocate, available at: <https://zagovornik.si/izdelki/oprostitev-placila-sodne-takse/>.

#### 4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)

- In response to the Advocate's assessment, the **MoI** reported that the right to use the language of the deaf is regulated in more detail in the Act Regulating the Use of Slovene Sign Language,<sup>284</sup> on the basis of which a deaf person has the right to use sign language in all proceedings before State authorities. This right is exercised through the exercise of the right to a sign language interpreter, which is why, in order to facilitate the exercise of this right, the Police (and the Ministry of the Interior) have concluded a contract with certain interpreters. In order to better understand these personal circumstances, the Police cooperates with the Association of Interpreters of Slovene Sign Language when it comes to educating their police officers.
- In response to the Advocate's assessment, the **MoJ** reported that the Judicial Order is<sup>285</sup> a by-law governing the operation of the courts, namely the internal organisation of courts, the operation of courts in individual types of cases, operations in court administration cases, office operations, financial operations of courts, and the computerisation of courts. In terms of the participants in the proceedings who are persons with disabilities or persons with special needs, Article 223 of the Court Rules stipulates that they have the right to equal participation in the proceedings. The summons through which these persons are summoned to the court contains a notice that they must inform the court before the hearing that they will exercise their right to equal participation in the proceedings. The purpose of this provision is for the court to ensure appropriate adjustments (e.g. an interpreter, access to the court building etc.) before the hearing, which consequently allows for the smooth participation of the participants in the proceedings, as well as for the smooth conduct of their hearing.

The Supreme Court of the Republic of Slovenia has a special website intended to be used by the deaf and the blind in court proceedings. An explanation is available to them in the form of a video clip recorded in sign language, which stipulates the rights of persons with special needs in court proceedings. Due to their specific needs, the deaf and hard of hearing, as well as the blind and visually impaired, can benefit from special rights in courts regarding the use of language, which enable them to equally participate in court proceedings. The website also explains the right to interpretation, the right to oral translation or interpretation of documents, and the right to present all documents in an understandable form for the blind and visually impaired. The costs for interpreting or translation or for providing documents in a form understandable to deaf and blind persons are not borne by persons with special needs but are paid by the court in question from the budget.<sup>286</sup>

Article 23 of the Court Rules stipulates that the MoJ is responsible for any investments intended to regulate the access, entry, and use of court buildings and court premises for persons with disabilities or persons with special needs.

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<sup>284</sup> Act Regulating the Use of Slovene Sign Language (Official Gazette of the Republic of Slovenia, No. 96/02). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1713>.

<sup>285</sup> Court Rules (Official Gazette of the Republic of Slovenia, No. 87/16 and 127/21). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=DRUG4076>.

<sup>286</sup> Available at: [https://sodisce.si/informacije/gluhi\\_in\\_slepi\\_v\\_sodnih\\_postopkih/](https://sodisce.si/informacije/gluhi_in_slepi_v_sodnih_postopkih/).

The Department of Real Estate and Investments of the Judicial Authorities of the MoJ implements measures to regulate the accessibility of persons with reduced mobility, primarily in order to ensure vertical accessibility to buildings, mostly through the construction of elevators. In addition, the Department is also implementing measures to ensure accessibility to sanitary facilities and their organisation, and accessibility to courtrooms in the context of internal or comprehensive renovations of buildings. Concrete investments and adjustments were made in several courts, including in Nova Gorica, Koper, Celje, Ljutomer and Slovenj Gradec.

The construction of elevators and the organisation of sanitary facilities in court buildings is also currently taking place in other cities across Slovenia. In 2023, project documentation for the renovation of premises to be used by the judicial authorities in Celje and Maribor also started being prepared, and will also include the arrangement of vertical access to elevators and the organisation of sanitary facilities for persons with disabilities.

Since the end of 2019, the Ministry has also been included in the CRP 2019 national target research program where, together with the Slovenian Research Agency, it co-financed the project entitled "Mobility of Persons with Disabilities in the Facilities of Judicial Authorities", project no. V5-1919".<sup>287</sup> The project was completed at the end of June 2021. As part of the project, a methodology for a census of internal and external access to the buildings of judicial authorities was established, and censuses were carried out at more than 34 locations. The CRP project also provides the basis for any further activities of the Ministry in terms of the implementation of measures to ensure the accessibility of persons with reduced mobility. The project plans to continue the maintenance of the database and implement the action plan for the elimination of obstacles by 2025.

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<sup>287</sup> Available at: [http://mfoo.uirs.si/portals/mfoo/Zaklju%C4%8Dno\\_poro%C4%8Dilo\\_CRP\\_dostopnost\\_UI\\_GI.pdf](http://mfoo.uirs.si/portals/mfoo/Zaklju%C4%8Dno_poro%C4%8Dilo_CRP_dostopnost_UI_GI.pdf).



## **6.15 Full access to justice, including accessibility of law enforcement buildings (Article 13 of the Convention)**

### **1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)**

In paragraph 21:

- point a) of its recommendation, the CRPD Committee recommended to the State Party to enact appropriate legislation and implement a strategy to ensure the removal of all barriers to access to justice by persons with disabilities and developing guidelines and protocols to provide procedural, gender- and age-appropriate accommodations based on the free choice and preference of persons with disabilities, including the provision of information and communications in an accessible format, and
- point b) of its recommendation, the CRPD Committee recommended to the State Party to ensure full access to the judicial system for persons with disabilities by, among other things, strengthening its efforts to ensure the accessibility of buildings of law enforcement agencies and the judiciary for all persons with disabilities.

### **2) The Advocate's assessment of the implementation of the recommendation (2024)**

|                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>A strategy to ensure the accessibility of buildings of law enforcement agencies and judiciary buildings for all persons with disabilities has not yet been established.</b> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

The issue of accessibility of courts is extensively described in the explanation in subsection 6.14.

Certain analyses of the existing situation have been carried out or announced, but without providing a timeline for the implementation of concrete solutions.

Data on the accessibility of other judicial bodies are not easily accessible. The Advocate's inquiry or the self-assessment of the judicial authorities which is evident from the survey provides similar worrying information as for the courts.<sup>288</sup>

14 respondents with the facilities of the Prosecutor's Office within their competence have responded to the Advocate's inquiry. Five of them estimated that facilities do not provide construction adjustments, three of them estimated that the facilities for which they are responsible have no technical adjustments, and nine or more of them estimated that the facilities for which they are responsible are not equipped with sound or light indicators and written information. 13 respondents answered the question about the planned provision of accessibility by the statutory deadline. Four of them estimate that they will not provide construction adjustments in the facilities, two of them estimate that they will not provide technical adjustments, and four or five of them estimate that they will not provide sound and light indicators and written information by the statutory deadline. The largest number of respondents (five) estimated that, of these three adjustments, they would not provide adjustments in the form of light and sound indicators by 11 December 2025.

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<sup>288</sup> The query methodology and data are presented in more detail in the Advocate's special report "Inaccessibility of Public Facilities for Persons with Disabilities". Available at: <https://zagovornik.si/en/what-we-do/>.



70 respondents also responded to the Advocate's inquiry, stating that, among other facilities, they are also responsible for police stations. 22 of them assessed that the facilities for which they are responsible do not provide construction adjustments, while 58 of them assessed that they do not provide technical adjustments. 62 or 64 respondents estimated that the facilities for which they are responsible do not provide sound and light indicators and written information.

67 respondents responded to the question "Please assess whether the following types of adjustments of public facilities in your jurisdiction will provide accessibility for persons with disabilities no later than 11 December 2025." 17 of them estimated that the facilities for which they are responsible will not provide construction adjustments by the deadline; 48 of the respondents estimated that the facilities for which they are responsible will not provide technical adjustments by the statutory deadline, and 50 or more of the respondents estimated that no sound and light indicators and written information would be provided in the facilities.<sup>289</sup>

The situation is worrying, as these conditions indicate both the inability to ensure the full accessibility of these facilities to customers with disabilities and customers with functional limitations, as well as obvious obstacles for the employment of persons with disabilities. Insofar as this means the inaccessibility of services, the situation is also inconsistent with Article 8 of the EOPDA; at the same time, it can also represent an important obstacle to the protection of any right that persons with disabilities would seek to protect in judicial proceedings.

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<sup>289</sup> The data are presented in more detail in the Annex to the Advocate's Special Report "Inaccessibility of Public Facilities for Persons with Disabilities", available at: <https://zagovornik.si/wp-content/uploads/2023/10/Priloga-Nedostopnost-objektov-v-javni-rabi-za-ljudi-z-invalidnostmi-3.docx>.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

19 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. The answers clearly state that 11 of them agreed with the assessment, while one of them stated that they were not sufficiently familiar with the area. The answers of the seven remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

The lack of sectoral strategies, the lack of access to information, and the lack of access to goods and services for persons with different types of disabilities in different areas of social life have been identified as challenges in this area. Prescribed sanctions in the event of non-compliance with the legislation and entering the right to accessibility in the Constitution were proposed as potential solutions.

Examples of comments provided by representatives of non-governmental organisations include:

- "We fully agree with the assessment and emphasise that buildings must be accessible to all persons with disabilities. Under no circumstances should accessibility be limited to physical and sensory (hearing, vision) disabilities. Very little is said, for example, about cognitive accessibility. We are committed to adopting an overall and not a partial strategy, legislation and regulations."
- "... the issue of accessibility is extremely important, since equal access is a necessary condition for the effective participation of all individuals in private and social life and thus for the exercise of the majority of the rights of persons with disabilities."

### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The response of the Government of the Republic of Slovenia or line ministries is described in subsection 6.14, whereby it is important to note that the MPs only spoke about the courts but did not address the issue of the public prosecutor's office. The Ministry of the Interior only expressed an opinion on the right to use the Slovene sign language, but did not express an opinion on the accessibility of detention facilities and police stations.

## 6.16 Involuntary referral of persons with disabilities to psychiatric treatment (Article 14 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 23, point a)

- of its recommendation, the CRPD Committee recommended to the State Party to conduct a review and repeal all legislation providing for the involuntary commitment and non-consensual psychiatric treatment of persons with disabilities on the grounds of their actual or perceived impairment in any circumstances, including alleged risk and dangerousness, taking into account the Committee's guidelines on the right to liberty and security of persons with disabilities (see Annex I of the appendix no. 55 (A/72/55) to the report of the Committee on the Rights of Persons with Disabilities).

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**Provisions and practices allowing involuntary admission of persons with disabilities to psychiatric treatment have not yet been eliminated. There is no guarantee of personal integrity and protection of persons with disabilities residing in institutions or hospitals. In the penitentiary system, all reasonable adjustments have not yet been provided for.**

The Advocate made several focused recommendations on this issue (more in the explanation in subsection 6.13). The questions of the denial of various aspects of legal capacity ("legal capacity") were first raised when the new Mental Health Act was drafted.<sup>290</sup> The same applies to the recommendation regarding the amendment to the Mental Health Act of 2023<sup>291</sup> (the MHA), which was intended in particular to comply with the decisions of the Constitutional Court of the Republic of Slovenia in cases U-I-294/12<sup>292</sup> and U-I-477/18-19<sup>293</sup> regarding involuntary referrals to institutional care. The Advocate comprehensively presented the standards of the right to self-determination under the Convention, which are also referred to by the World Health Organization, and emphasised that this is the most strictly protected circle of personal rights.

The change in terminology in the MHA ("treatment of mental disorders" instead of "psychiatric treatment") did not in any way improve the situation of persons who were ordered to undergo involuntary treatment and treatment placement (in closed wards of hospitals) either by their guardians, legal representatives, doctors or relatives or according to a court decision, without their will. The unconstitutional link between the deprivation (or a limitation) of legal capacity and the assumption that a person does not have the right to make their own decisions was also only eliminated in relation to the decision of the Constitutional Court of the Republic of Slovenia, and not in general.

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<sup>290</sup> Recommendation of the Advocate, available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-predloga-novega-zakona-o-dusevnem-zdravju-30-11-2020/>.

<sup>291</sup> Mental Health Act (Official Gazette of the Republic of Slovenia, No. 77/08, 46/15 – decision of the Constitutional Court, 44/19 – decision of the Constitutional Court, 109/23 and 136/23 – the ZIUZDS). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO2157>.

<sup>292</sup> Decision of the Constitutional Court of the Republic of Slovenia. Available at: <https://www.us-rs.si/odlocba-ustavnega-sodisca-st-u-i-294-12-z-dne-10-6-2015/>.

<sup>293</sup> Decision of the Constitutional Court of the Republic of Slovenia. Available at: <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina?urlurid=20192012>.

The legal regulation of the institute of guardianship in the Family Code<sup>294</sup> (the FC) allows for restrictions on certain parts of legal capacity (i.e. the ability to conduct business or express a will in civil law). Other aspects of limiting the ability to form a legally effective legal relationship are not regulated, although the context of guardianship should also be in the "effort to treat" (Articles 11 and 262 of the Family Code).

When it comes to the case of normal interventions in legal capacity (e.g. management of real estate or property), such guardianship should not have any legal consequences in the field of medical treatment, i.e. regarding the part of legal capacity that implies the right of a person to make decisions about themselves (e.g. to give informed consent for medical interventions, to agree to be placed in psychiatric treatment or to be placed in an institution). Exceptionally, on the basis of the FC, such guardianships would also be allowed but should be explicitly determined in terms of content by the specific content of an individual court decision (guardianship which is established precisely to replace the will of the patient to make decisions about themselves, e.g. in certain medical procedures). Existing mental health legislation still does not take this fact into account. In part, it is still based on a false presumption of the inability of a person to make decisions about themselves, and regulates alternative decision-making by guardians, legal representatives or doctors.

The Ministry of Health (the MH) did not respond to the Advocate's recommendation regarding the implementation of the recommendations of the Committee on the Rights of Persons with Disabilities in relation to the Convention,<sup>295</sup> at least not with in-depth arguments. However, the position of the Ministry of Health is known from the aggregate response of the Government of the Republic of Slovenia to the inquiry of the Ombudsman of the Republic of Slovenia on the implementation of the Convention: "The Ministry of Health has reviewed the internal legislation, policies and programs related to persons with disabilities in terms of their internal compliance and their compliance with the provisions of the Convention on the Rights of Persons with Disabilities. Referring to this matter, we would like to inform you that the Mental Health Act (Official Gazette of the RS, No. 77/08, 46/15 – decision of the Constitutional Court and 44/19 – decision of the Constitutional Court) is in accordance with the rights of persons with disabilities relating to the field of health."<sup>296</sup> Such a position was taken by the Ministry of Health before the obligation from the aforementioned decision of the Constitutional Court of the Republic of Slovenia was realised.

With the recommendations to the MHA, the Advocate managed to prevent at least an additional deterioration of the position of people under any guardianship (more information can be found in the explanation regarding legal capacity). However, the Advocate's proposals for more appropriate solutions regarding self-determination, the provision of all support measures, accessibility and other parts of the support decision-making system in this area were not successful.

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<sup>294</sup> Family Code (Official Gazette of the Republic of Slovenia, No. 15/17, 21/18 – the ZNOrg, 22/19, 67/19 – ZMatR-C, 200/20 – ZOOMTVI, 94/22 – dec. of the Constitutional Court, 94/22 – dec. of the Constitutional Court and 5/23). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7556>.

<sup>295</sup> The Advocate's recommendation, available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-vladi-republike-slovenije-glede-uresnicevanja-priporocil-odbora-za-pravice-oseb-z-invalidnostmi-v-zvezi-s-konvencijo-o-pravicah-invalidov/>.

<sup>296</sup> Response to the letter of the Ombudsman of the Republic of Slovenia on the harmonisation of legislation in the field of protection of persons with disabilities with the Convention on the Rights of Persons with Disabilities. Available at: [https://gradiva.vlada.si/mandat22/VLADNAGRADIVA.NSF/aa3872cadf1c8356c1256efb00603606/c6537c9eeb25fc65c125896e004ca642/\\$FILE/Odg1Var.docx](https://gradiva.vlada.si/mandat22/VLADNAGRADIVA.NSF/aa3872cadf1c8356c1256efb00603606/c6537c9eeb25fc65c125896e004ca642/$FILE/Odg1Var.docx).

The legislation thus still contains all the controversial solutions mentioned by the CRPD Committee, does not reduce the scope of alternative decision-making in terms of self-determination, and allows guardians to be informed about the most sensitive health conditions (regardless of the content of the guardianship). In this area, there is an acute lack of supportive decision-making in all of the most critical stages of procedures (examination and communication with doctors, procedures for ordering and protection against ordered measures, implementation phase), while measures similar to supportive decision-making are available in the later stages of recovery.

The Ombudsman of the Republic of Slovenia points out that it is unacceptable for the affected persons to be charged with the costs of such care in the event of an involuntary placement in a protected department of a social welfare institution.<sup>297</sup> On the basis of the same arguments, the Constitutional Court of the Republic of Slovenia has not established the unconstitutionality of this regulation (decision in case U-I-780/21<sup>298</sup>).

In his practice, described in the Annual Reports and the annual reports of the State preventive mechanism, the Ombudsman of the Republic of Slovenia identifies irregularities in the admission of patients and the application of special protective measures.<sup>299</sup>

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

20 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. The answers clearly state that 13 of them agreed with the assessment, while four of them stated that they were not sufficiently familiar with the area. The answers of the three remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

Inadequately regulated situations for adolescents and envisaged expansion of the network of protected departments, including for children, have been identified as challenges in this area. The provision of psychiatric assistance to persons with disabilities immediately after the onset of said disability was proposed as a potential solution.

Examples of comments provided by representatives of non-governmental organisations include:

- "We agree with the assessment. We are concerned about the adoption of the Act Amending the Mental Health Act, which provides for the expansion of the network of protected departments, including for children, in the name of human rights and equal opportunities."

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<sup>297</sup> Opinion available at: [https://www.varuh-rs.si/index.php?id=1768&L=%27A%3D06&tx\\_news\\_pi1%5Bnews%5D=5812&tx\\_news\\_pi1%5Bday%5D=23&tx\\_news\\_pi1%5Bmonth%5D=9&tx\\_news\\_pi1%5Byear%5D=2020&cHash=9026f6ad9334cede9edf7a6a6b1c5013](https://www.varuh-rs.si/index.php?id=1768&L=%27A%3D06&tx_news_pi1%5Bnews%5D=5812&tx_news_pi1%5Bday%5D=23&tx_news_pi1%5Bmonth%5D=9&tx_news_pi1%5Byear%5D=2020&cHash=9026f6ad9334cede9edf7a6a6b1c5013).

<sup>298</sup> Decision of the Constitutional Court of the Republic of Slovenia. Available at: <https://www.us-rs.si/odlocba-ustavnega-sodisca-st-u-i-780-21-z-dne-1-12-2022/>.

<sup>299</sup> For example, see Chapter 2.14 Restriction of Personal Freedom in the Annual Report of the Ombudsman of the Republic of Slovenia for 2022. Available at: [https://www.varuh-rs.si/fileadmin/user\\_upload/pdf/lp/LP\\_2022/Letno\\_porocilo\\_VC\\_P\\_RS\\_za\\_letu\\_2022.pdf](https://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/LP_2022/Letno_porocilo_VC_P_RS_za_letu_2022.pdf).

- "We fully agree with the aforementioned assessment. We would like to point out that even the proposed amendments to the Mental Health Act will not change this situation and will probably have the opposite effect. We have a medical law on mental health that only serves to regulate detention and prescribe treatment, but does not pay any attention to community forms of treatment and recovery – the proposed law does not propose any improvements."

#### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.

## **6.17 A "more appropriate" imposition of inadmissible psychiatric treatment – the Oviedo Convention (Article 14 of the Convention)**

### **1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)**

In paragraph 24, the CRPD Committee:

- called on the State Party to be guided by its obligations under article 14 of the Convention (2015) and by the above-mentioned guidelines throughout the regional discussions concerning the Additional Protocol to the Council of Europe Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No. 164) (the Oviedo Convention) (see Annex I of the appendix no. 55 (A/72/55) I to the report of the Committee on the Rights of Persons with Disabilities).

### **2) The Advocate's assessment of the implementation of the recommendation (2024)**

**The positions of the State on the planned protocol to the Oviedo Convention on minimum standard procedures for ordering forced psychiatric treatment and placement or on its (non-)compliance with the Convention have not been accepted.**

In the Additional Protocol to the Oviedo Convention, the countries within the Council of Europe (CoE) are negotiating the establishment of "more appropriate" safeguards for ordering the conditions and content of psychiatric treatment. The Convention opposes all such interventions, and it cannot be overlooked that all Member States except one have ratified the Convention. Countries are expected to try and unify other international instruments in good faith as well, instead of creating ones that run counter to the Convention.

From the publicly available information, it is not possible to detect the substantive position of Slovenia on this planned protocol on minimum standard procedures for ordering forced psychiatric treatment and placement. The content of such a position is not such that it could reasonably remain inaccessible to the public (diplomatic confidentiality protocols). The procedure for adopting the aforementioned protocol has been temporarily suspended until 2024 due to the decisions of the CoE bodies that it is first necessary to examine the doubts about the compliance of the protocol with the Convention (pressure from the professional public, the movement of persons with disabilities and some members) in more detail.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

19 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. The answers clearly state that nine of them agreed with the assessment, while five of them stated that they were not sufficiently familiar with the area. A representative of one organisation disagreed with the assessment since, in their opinion, a public position of the State on the planned protocol already exists. The answers of the four remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

Social exclusion, unemployment and poverty have been identified as challenges in this area, which may lead to an increased risk of developing mental disorders for some people. Consideration of the profession in such issues has been proposed as a potential solution, and that people with mental health disorders should be directly involved in the planning, implementation and supervision of the provision of services.

Examples of comments provided by representatives of non-governmental organisations include:

- "International recommendations made to Slovenia are aimed at directly involving persons with mental disorders in the planning, implementation and supervision of the provision of services (although opinions are not always uniform), as well as ensuring adequate resources for this."
- "We fully agree with what has been established, which indicates a misunderstanding of the State about the impact and importance of forced psychiatric treatment and its impact on the rights of persons and their recovery."

**4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.



## 6.18 The prohibition of torture and cruel, inhuman or degrading treatment or punishment (Article 15 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 26, the CRPD Committee:

- recommended to the State Party to eliminate the use of seclusion, physical, chemical or mechanical restraint or any other non-consensual medical treatment in all medical facilities, in particular psychiatric hospitals, that may amount to torture or cruel, inhuman or degrading treatment or punishment.
- recommended to the State Party to ensure that independent authorities and organisations of persons with disabilities have access, for monitoring purposes, to all facilities, including the Forensic Psychiatric Unit, and develop criteria for gender-sensitive and age-appropriate monitoring activities.
- recommended to the State Party to investigate all allegations of torture and ill-treatment in psychiatric institutions and prosecute perpetrators. The State Party should provide fair and adequate compensation, reparation and rehabilitation measures for persons with disabilities who have been subjected to acts of torture and ill-treatment.
- recommended to the State Party to strengthen the capacity of the national preventive mechanism of the Human Rights Ombudsman and provide it with adequate human, technical and financial resources to effectively address allegations of torture and ill-treatment of persons with disabilities in institutions.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**The legislation regarding the admissibility of the use of isolation or physical, chemical or mechanical coercive agents and the use of any treatment against one's will remains unchanged. No progress has been made in terms of ensuring investigations, prosecution of perpetrators of violations, and the provision of effective remedies and compensation, indemnification and rehabilitation.**

The Advocate notes, from publicly available information, that no significant changes were made in the legislation regarding the admissibility of the use of isolation or physical, chemical or mechanical coercive agents, and the use of any treatment against a person's will. The legislation still allows, except in the case of children, for the most invasive special methods of psychiatric treatment to be carried out without the consent of the person in question (during electroconvulsive therapy (the CRPD Committee mentions electroshocks), hormonal therapy and the use of psychotropic drugs in values exceeding the maximum prescribed dose. This deprives people of the possibility or capability to decide for themselves.

The planned legislation (the drafts of the new Mental Health Act and the amendments to said act) did not provide for the elimination of the most controversial methods and means for involuntary treatment in hospitals and institutions, and therefore did not follow the recommendations of the CRPD Committee. The Advocate also drew the attention of the MoJ (along with the recommendation for the new APPD) and the MoH, among other institutions, to these questions.

The measures of the new APPD mention the protection of personal integrity in forced hospitalisation and involuntary treatment as an objective, but the measures to ensure this are not evident, except with regard to the warning on the prohibition of performing medical and research experiments without consent (measure 12.6).<sup>300</sup>

The Advocate also noted some serious consequences of inadequate conditions for the treatment of persons with disabilities in medical and other institutions where restrictions on freedom are imposed. These conditions can sometimes also reach the level of severely degrading treatment. On the basis of the "Special Report on violations of human rights of persons with mental disabilities in their involuntary placement and treatment in protected departments of social welfare institutions" of the Ombudsman of the Republic of Slovenia<sup>301</sup> on the alarming situation in institutions intended for the placement of persons with mental health issues after the end of treatment, more funds were allocated to these institutions to improve spatial- and personnel-related conditions, but it is questionable whether this progress is really significant. There is no other publicly known information about the procedures for the protection of persons with disabilities residing in institutions and hospitals, about the scope of their use and about their results (individual court cases are, of course, closed to the public).

The places of detention were the institutions in which the strictest closure regimes applied for the longest amount of time during the COVID-19 pandemic. Some people in these institutions, including prisons, were temporarily released in the second wave of the epidemic for safety reasons, but how many of them were persons with disabilities is unknown.

There is no explicit requirement in the legislation to ensure reasonable accommodation for persons with disabilities when it comes to the system of execution of criminal sanctions and places of detention (deprivation of liberty). As in many other areas (more in the explanation of subsection 6.5), this obligation is only evident on the basis of the direct application of the Convention.

The state of accessibility in the system of execution of criminal sanctions and places of deprivation of liberty is not satisfactory. Regarding the accessibility of police stations and detention facilities, some data from the Advocate's research are provided in the explanation of subsection 6.14. It is difficult to expect that institutions will still provide appropriate individual reasonable adjustments in the event of poor general accessibility. Persons with disabilities are therefore more likely to be moved to accommodations where accessibility is guaranteed. This means, among other things, that they may be further away from their place of residence (which makes it difficult for them to remain in contact with their relatives).

Persons who are applicants for international protection, including those with disabilities, do not have the right to health care, except for the most basic health care, until the decision to grant such protection becomes effective. Any care is tied to the conclusion of any commercial health insurance policy, if they can financially afford it. It is questionable how access to health services, which are otherwise provided by health clinics for uninsured persons to people who are not incarcerated, is provided to those who are deprived of their liberty and are staying in accommodation centres for foreigners.

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<sup>300</sup> See p. 21 of the APPD, available at: [https://www.gov.si/assets/ministrstva/MDDSZ/Invalidi/API-2014-2021/API\\_2014\\_2021.pdf](https://www.gov.si/assets/ministrstva/MDDSZ/Invalidi/API-2014-2021/API_2014_2021.pdf).

<sup>301</sup> Special report on violations of human rights of persons with mental disabilities in their involuntary placement and treatment in protected departments of social welfare institutions. Available at: [https://www.varuh-rs.si/fileadmin/user\\_upload/pdf/posebna\\_porocila/VCP\\_PP\\_DUSEVNA\\_MOTNJA\\_www.pdf](https://www.varuh-rs.si/fileadmin/user_upload/pdf/posebna_porocila/VCP_PP_DUSEVNA_MOTNJA_www.pdf).

In a preventive manner, the Ombudsman of the Republic of Slovenia supervises all places of deprivation of liberty within the framework of the National Preventive Mechanism (NPM) under the Act ratifying the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The NPM visits (sometimes unannounced, sometimes in a preventive and sometimes in a control manner) all places of deprivation of liberty in the country and examines the treatment of persons deprived of their liberty, in order to strengthen their protection against torture and other forms of cruel, inhuman or degrading treatment or punishment. At the same time, the NPM recommends to these authorities how to improve the situation and treatment of persons, and how to prevent torture and other forms of cruel, inhuman, degrading treatment or punishment.

In this regard, they may submit proposals and comments on applicable or proposed acts. The work of the NPM is a model example of good practice in the international context. The progress due to the work of this mechanism lies particularly in the fact that, in 2020, crisis centres for young people in Slovenia were additionally included among the places of deprivation of liberty and were therefore supervised (taking into account the special age group and its needs). In 2019, the Intensive Child and Adolescent Psychiatry Unit was also opened, where treatment fully adapted to children is performed.

The Ombudsman of the Republic of Slovenia may monitor the situation in the field of treatment of persons with mental health issues in all institutions where psychiatric treatment is taking place, as well as of persons with disabilities in other accommodation centres that entail the deprivation of liberty. In doing so, the Ombudsman prepared a number of recommendations, including a special report on the situation in social welfare institutions, in which he draws attention to the (over)crowding of these institutions, which results in inadequate living conditions and in inadequate treatment of persons accommodated in these centres, as well as in an excessive workload of the staff who take care of them. Otherwise, in the field of operation of social welfare institutions in connection with the use of the Health Insurance Institute, the Ombudsman also regularly identifies issues related to the compliance with the definition of a protected department in institutions for the elderly, the admission of persons to these departments, the provision of the necessary staff, the use of special protective measures, and more. The strengthening of the NPM takes place, in particular, in terms of the growth trend of the staff and financial resources provided.

The information available in the regular annual reports of the Ombudsman of the Republic of Slovenia<sup>302</sup> does not contain any information on perceived cases of torture or other cruel punishment or treatment; with its recommendations for improving the situation, the NPM warns of examples that may constitute inhuman or degrading (ill) treatment of individuals deprived of their liberty. These are mainly recommendations for the elimination (termination) of individual violations, as well as recommendations for general and systemic measures in specific institutions<sup>303</sup> or on a broader scale intended to improve the situation in the field of prevention of such actions. They also include recommendations for a more precise regulation of the course of action and its control, but contain no explicit warnings about the controversy of certain methods as such.

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<sup>302</sup> Available at <https://www.varuh-rs.si/porocila-projekti/publikacije-gradiva/porocila-drzavnega-preventivnega-mehanizma/>.

<sup>303</sup> Available at: <https://www.varuh-rs.si/o-varuhu/organizacijske-enote-in-svet-varuha/drzavni-preventivni-mehanizem/levi-meni/preventivni-obiski/?categories=111>.

The NPM and the consideration of initiatives submitted to the Ombudsman of the Republic of Slovenia regarding individual violations of rights is an auxiliary measure, but not a compensation for the provision of effective legal remedies or judicial protection. No data exist on the use of these channels, and even less data exist on possible criminal proceedings against the persons responsible for these violations. Due to the nature of the matter (the trials are closed to the public), it is also not possible to check the appropriateness of punishing perpetrators and ensuring the correction of injustices in concrete proceedings; furthermore, no specific mechanisms for this purpose exist, either.

The effectiveness of control systems in abuse cases is questionable, as evidenced by the responses of control mechanisms to disclosures or testimonies of violence in psychiatric institutions in the contributions of investigative journalists.<sup>304</sup>

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

21 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. The answers clearly state that 11 of them agreed with the assessment, while five of them stated that they were not sufficiently familiar with the area. One representative stated that they partially agreed with the statement, but did not provide a detailed explanation. A representative of one organisation disagreed with the assessment since they considered that changes were currently ongoing, but did not provide a more detailed explanation. The answers of the three remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

The permissibility of coercive means, the understanding of institutionalisation as a right and not as an infringement, and the lack of awareness of the rights and capabilities of certain groups of persons with disabilities have been identified as challenges in this area. The proposal to change the legislation and increase the influence of institutions that have a direct approach and insight into each individual situation has been proposed as a potential solution.

Examples of comments provided by representatives of non-governmental organisations include:

- "We agree with everything that you have mentioned. All these means and their use are still entirely left to the discretion of the medical profession, which is also firmly trusted by the judicial profession when deciding on these means."
- "We fully agree with the compensation of damage and rehabilitation of persons with disabilities, and would like to recall that institutionalisation, which is still defined as a right and not as a violation, even in the newer acts adopted in the Republic of Slovenia, also constitutes a violation of the rights of persons with disabilities."

### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.

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<sup>304</sup> See, e.g., the article on the N1 portal available at: <https://n1info.si/poglabljeno/kaj-se-dogaja-na-psihiatricni-kliniki-ljubljana-razkrivamo-pricevanja-o-nasilju/> ter novice o razvoju dogodkov, npr. <https://n1info.si/novice/slovenija/odsla-predsednica-sistemskega-nadzora-nad-psihiatricno-kliniko/>.

## 6.19 Strategy to prevent all forms of violence against persons with disabilities (Article 16 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 28, the CRPD Committee recommended that the State Party, recalling the commitment made by the State Party in the 2014 Universal Periodic Review for Slovenia (see A/HRC/28/15) and recalling the recommendations made by the Committee on the Elimination of Discrimination against Women (see CEDAW/C/SVN/CO/5-6, paras. 19–20):

- adopt a strategy to prevent all forms of violence, abuse and ill-treatment, in public and private spheres, against persons with disabilities, in particular women with disabilities (point a)). The State Party should ensure that the strategy includes information in Easy Read and other accessible formats and awareness-raising for persons with disabilities and their families.
- provide persons with disabilities with early warning mechanisms that allow them to identify and report any situation of risk of violence, abuse and neglect (point b)).
- conduct an investigation into all allegations of violence and abuse of persons with disabilities in institutions (point d)).

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**The strategy to prevent all forms of violence against persons with disabilities, especially against women, has not been adopted. Persons with disabilities do not have any adequate early warning mechanisms available to identify and report the dangers of violence.**

There is no specific, sufficiently focused or disaggregated strategy to prevent all forms of violence against persons with disabilities, especially against women with disabilities, although such an objective was nominally contained in both the old and the new APPD (more in the explanation in subsection 6.9). The chapter of the APPD on protection against violence and discrimination highlights the need to raise public awareness of the phenomena that burden women with disabilities.

Since 2014, there has been a lack of a general strategy for protection against domestic and gender-based violence. The reports on the implementation of the APPD do not provide concrete information on the measures taken to reduce and prevent domestic violence or violence in general, except for the education of professionals regarding the treatment of particularly vulnerable groups, including persons with disabilities, including women, children, and the elderly. These reports only contain references to general training of staff to detect and respond to domestic violence, which is not specific to persons with disabilities.

The State does not provide easily accessible information on the prevention of violence against persons with disabilities, including in easy reading. However, some key information on sexual violence is available in easy reading version, prepared by disability organisations of the Sožitje Association.<sup>305</sup> The newspaper "20 Minutes", published by the RISA Institute, also deals with

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<sup>305</sup> See [https://www.zveza-sozitie.si/modules/uploader/uploads/news/files\\_news/Spolnonasilje.pdf](https://www.zveza-sozitie.si/modules/uploader/uploads/news/files_news/Spolnonasilje.pdf).

this topic. One of the key judgements of Slovenian courts in this field, which was important for the understanding of the definition of rape, has also been published in easy reading format.<sup>306</sup>

There are no specific strategies aimed at detecting, preventing and mitigating the problem of violence against older people with disabilities (including in the context of deprivation of legal capacity, especially the ability to dispose of one's assets).

There is a lack of sufficient capacity for persons with reduced mobility who seek shelter from domestic violence in safe houses. In general, no solutions exist for addressing violence against men, as most measures in the field of protection of victims of violence only include children and women.

No progress has been made regarding milder forms of violence (e.g. prevention and prosecution of harassment cases, especially in the context of labour law), despite the Advocate's specific recommendations for the new APPD<sup>307</sup> and the Resolution on the National Programme for Equal Opportunities for Women and Men 2021–2030.<sup>308</sup>

No progress has been made in terms of rapid response procedures and other support measures, such as ensuring the accessibility of safe houses and emergency accommodation for persons with disabilities. The situation in terms of ensuring the accessibility of these services for persons with other sensory (blind, deaf), cognitive or other disabilities (e.g. long-term mental health issues) is unknown.

Regarding supervision, there is no publicly available information on violence against persons with disabilities, except for what can be deduced from the work of the Ombudsman of the Republic of Slovenia. The Ombudsman of the Republic of Slovenia performs two forms of supervision. In the event of informal consideration of infringement initiatives, the Ombudsman may issue findings that are not legally binding and may be accompanied by a recommendation to remedy irregularities, including the compensation for damages, but such recommendations are extremely rare in practice.<sup>309</sup> The information of the Ombudsman of the Republic of Slovenia (more in the explanation in subsection 6.18) does not reveal any information on the speed of investigations, on the methods used to correct injustices for victims, and on the punishment of perpetrators of individual violations. The focus is on the elimination (termination) of individual violations and recommendations for general and systemic measures in specific institutional care institutions, prisons, etc.

No statistical data exist on the criminal treatment of violence and abuse in institutions, of which persons with disabilities are victims, nor are they reported, for example, in reports on the implementation of the APPD.<sup>310</sup>

The new APPD partially follows the recommendation of the CRPD Committee regarding the collection of data on suspicious deaths of persons in institutions, but anticipates that the issue

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<sup>306</sup> Available at: <http://www.risa.si/Domov/Knji%C5%BEnica/%C4%8Casopis-20-minut>.

<sup>307</sup> Recommendation of the Advocate available at: <https://zagovornik.si/izdelki/priporocilo-glede-priprave-akcijskega-programa-za-invalid-2022-2026/>.

<sup>308</sup> Advocate's recommendation, available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-resolucije-o-nacionalnem-programu-za-enake-moznosti-zensk-in-moskih-2021-2030/>.

<sup>309</sup> See, for example, the initiatives of the Ombudsman of the Republic of Slovenia regarding institutional protection <https://www.varuh-rs.si/obravnavane-pobude/obravnavane-pobude-in-sirsa-vprasanja/socialna-varnost/institucionalno-varstvo/>.

<sup>310</sup> Reports on the implementation of the 2022–2030 Action Programme for Persons with Disabilities, available at: <https://www.gov.si/zbirke/projekti-in-programi/akcijski-program-za-invalid/>.



of the possibility of collecting and obtaining this data will first have to be examined (measure 12.7). No information exists about the type of the suspicious death in question.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

21 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. The answers clearly state that 10 of them agreed with the assessment, while one of them stated that they were not sufficiently familiar with the area. The answers of the 10 remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

A lack of awareness of the functioning mechanisms for the prevention of violence, the fact that sanctions are too mild and that judicial procedures are too slow, as well as the occurrence of violence against men have been identified as challenges in this area. The establishment of a response network or a contact point for reporting and assistance, as well as actively raising awareness of deaf women about their rights, have been proposed as potential solutions.

Examples of comments provided by representatives of non-governmental organisations include:

- "Even though we agree, we would like to note that there is also a lot of violence against men with disabilities, which is not adequately taken care of."
- "We agree with the assessment and believe that, in addition to the strategy and action plan, we would also need an independent body or contact point that would indirectly ensure their implementation."

### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

- In response to the Advocate's assessment, the **Mol** explained that the respect for the human person and human dignity in police procedures is also reflected in the fact that police officers may not, as a rule, use coercive means against the so-called privileged persons. These are persons who, due to their constitution or other unique physical characteristic, would find it difficult to strongly resist police officers, attack them, flee, or self-harm, which means that police officers may only use coercive means against them in extraordinary circumstances, in accordance with Article 76 of the Act.





## 6.20 Deinstitutionalisation strategy (Article 19 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 32, points a) and d), the CRPD Committee:

- recommended to the State Party, with reference to the Committee's general comment No. 5 (2017) on living independently and being included in the community, to adopt and implement a strategy and action plan, within a time frame, aimed at deinstitutionalisation.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

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| <b>An action plan with a timeline for deinstitutionalisation has not yet been adopted.</b> |
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The topic of deinstitutionalisation in the narrow sense concerns at least three competent ministries: the MLFSAEO, which is responsible for providing measures for living in the community, the MoH and the MSF. Neither of these ministries responded to the Advocate's assessment regarding deinstitutionalisation, the prevention of transinstitutionalisation and reinstitutionalisation, and the provision of sufficient resources for services necessary for independent living in the community, which is discussed in subsection 6.21.

Institutionalisation under the Convention is understood as a situation in which persons with disabilities do not have a choice in terms of living arrangements, and in which segregation occurs for various reasons. A number of their rights are being violated, in particular the right to an independent life, since the issue is not only their inability to choose the conditions of living and socialising with people, but the general inability to live as they choose, which includes a limited choice of possible leisure activities. These violations occur in accommodation and care during psychiatric treatment and after said psychiatric treatment is finished, e.g. when they are placed in special social institutions. The same applies to the placement of persons with disabilities in special environments, such as care, training and work institutions, care work centres and institutions in which persons with disabilities live and educate themselves.

It is also important to understand the institutionalisation of the elderly, including those who reside in nursing homes due to weakness, physical disability and other aspects of disability (e.g. dementia), some of which also live in the so-called closed wards where freedom of movement is restricted. Many people living in such life arrangements (e.g. people with mental health issues or dementia) have not, so far, been understood as persons with disabilities, which is why the Convention opens up an understanding of what institutionalisation is all about.

Deinstitutionalisation is therefore a process in which people are entitled to make their own decisions and choices, as well as a number of support services that allow them to not live in segregated environments but in a community. This assumes the underlying condition of an accessible environment (e.g. accessibility of housing and other built environments, accessibility of goods and services), special services tailored to their needs, including personal support, care, and personal assistance, as well as empowerment so that people can make their own decisions about how they wish to live, and maintain their independence from others. Deinstitutionalisation therefore occurs when the intertwining of customs, structures and activities in institutions changes, or when the reason for its existence is lost. Deinstitutionalisation is the process of abolishing institutions and developing community services, which also develops various preventive measures that prevent further institutionalisation.

Deinstitutionalisation is one of the objectives of public policies. This stems from the mental health strategy and the new APPD. However, the objective is only to reduce its scope and not to eliminate institutionalisation altogether. Clear qualitative targets are missing, e.g. on cases in which involuntary placement or treatment would no longer be admissible under the Convention.

The following services and measures are available under the social protection system for persons with disabilities:

- institutional care (e.g. nursing homes, care work centres, rehabilitation institutions and other specialised centres), but certain shortcomings exist in accessing these services, both in terms of accessibility (long waiting lists) and in terms of the quality or adequacy of care;
- daycare (e.g. daycare centres for the elderly and daycare centres for persons with disabilities), in which they receive social activation, therapeutic services, socialising, and support.<sup>311</sup> Accessibility to these services is limited;
- home assistance (e.g. assistance when it comes to performing basic daily tasks), which is intended to maintain one's independence and enable them to continue living in their home environment.<sup>312</sup>

The most important progress in ensuring independent living has been recorded since 2018 due to the implementation of the Personal Assistance Act<sup>313</sup> (the PAA). After several deviations from the application of the Social Inclusion of Disabled Persons Act<sup>314</sup> (the SIDPA), some community-based services are provided, while others have not been implemented yet. The performance of the provision of services for living in the community according to the SIDPA cannot yet be assessed. The systemic issue is that the rights of beneficiaries under this Act are regulated with by-laws to an excessive extent. The Long Term Care Act<sup>315</sup> (the LTCA-1) entered into force on 1 January 2024, but no decision on the exercise of rights has yet been issued. For the time being, only the right to a carer of another family member should be exercisable.

The scope of home assistance services is limited, and the services are expensive. There is also a significant lack of capacity (staff) for the provision of these services, as well as an uneven scope and range of the provision of these services by individual regions.

With all of his recommendations, the Advocate constantly drew attention to the key elements for the implementation of the deinstitutionalisation process (accessibility, supportive decision-making, community care services, personal assistance, etc.). He also drew attention to the flat-rate restrictions and mutual disregard for the effects of the adopted and planned legislation. Furthermore, he also noted the systemic inconsistency or lack of mutual harmonisation of the legislation, which contains insufficient solutions for the inclusion of persons with disabilities in the community according to their different needs (in terms of scope, as well as qualitatively

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<sup>311</sup> Available at: <https://varnastarost.si/varna-starost-d70/info-linki-za-upokojenje-d41/dnevni-centri/seznam-dnevnih-centrov/>.

<sup>312</sup> Available at: <https://www.gov.si teme/pomoc-na-domu/>.

<sup>313</sup> Personal Assistance Act (Official Gazette of the Republic of Slovenia, No. 10/17, 31/18 and 172/21). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7568>.

<sup>314</sup> Social Inclusion of Disabled Persons Act (Official Gazette of the Republic of Slovenia, No. 30/18, 196/21 – ZDOsk, 206/21 – ZDUPŠOP and 84/23 – ZDOsk-1). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7808>.

<sup>315</sup> Long Term Care Act (Official Gazette of the Republic of Slovenia, No. 84/23). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8819>.

speaking). Due to the gap between these Acts, which do not provide adequate services for everyone, institutional care is still the only choice for numerous people; the other option they have is depending on the care of their relatives, which is also not necessarily consistent with the idea of independent living.

Article 19 of the Convention is one of the most comprehensive and cross-cutting articles of the Convention and must be considered as an indispensable component of the full and comprehensive understanding and implementation of the Convention. In this regard, the CRPD Committee issued the General Comment No. 5 on Article 19 – right to living independently and being included in the community.<sup>316</sup> This right is not compatible with institutionalisation, which conveys a predetermined lifestyle.

In point 4 of its General Comment, the CRPD Committee emphasises that personal assistance is one of the key tools for understanding independent living, along with efforts to create universal<sup>317</sup> services and goods for all.<sup>318</sup> Personal assistance allows people to make decisions about their lives, not only about their accommodation but in terms of all everyday issues. It is a right that empowers or enables the exercise of other rights. It is one of the essential elements (tools) for ensuring the right to independent living, as well as a prerequisite for the enjoyment of numerous other human rights and freedoms, both civil and political, as well as economic, social and cultural rights. The right to independent living and inclusion in the community is also important for the exercise of all other legal rights, legal interests and access to benefits, as well as the exercise of people's responsibilities or duties (e.g. parental duties, duties of employees).

According to the Advocate, the PAA is unjustifiably unavailable to persons over 65 years of age. This limitation stems from the old-school (ageist) position of the MLFSAEO that the elderly should have less right to independent living, because they should work less and should therefore be less active. The Advocate made several recommendations on the basis of the assessment<sup>319</sup> that said regulation is discriminatory, and also challenged it in the proceedings before the Constitutional Court of the Republic of Slovenia in case U-I-90/23. In these proceedings, the Advocate precisely explained the gaps in the existing system and the reason for which the services of personal assistance, long-term care and home assistance and the services under the SIDPA cannot be compared to one another (in terms of content and time, according to the financial aspect, etc.).

Personal assistance is furthermore not available for persons under the age of 18, not even for those who are already employed or are recognised as adults. The LTCA-1 also sets the entry threshold for access to the right to long-term care above the age of 18, but does include older

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<sup>316</sup> General Comment of the CRPD Committee No. 5 on Article 19 – right to living independently and being included in the community. Available at <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no5-article-19-right-live>.

<sup>317</sup> Article 2 of the Convention explains that "universal design" means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialised design. The term "universal design" does not exclude assistive devices for particular groups of persons with disabilities where this is needed.

<sup>318</sup> One of the essential elements of Article 19 of the Convention (point c) is the general accessibility of all public goods and services and the responsiveness to the special needs of persons with disabilities (which indicates the need for reasonable accommodation). The issue of the need for personal assistance is therefore directly related to the level of unavailability of the environment. The more the environment is inaccessible or insufficiently accessible (architecturally, communicatively or otherwise) and thus exclusive for persons with disabilities, the greater the need for personal assistance (e.g. for a trite bridging of architectural obstacles such as a pavement without a ramp, opening the door, or the orientation in an environment without tactile markings).

<sup>319</sup> The recommendation of the Advocate is available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-zakona-o-osebni-asistenci/>.

minors who are employed and could therefore be insured under this Act. Regarding the LTCA-1, the Advocate made extensive recommendations according to the previous and new regulations. He drew attention to the aspect of overlooked rights of persons with intellectual and psychosocial disabilities, i.e. to their right of self-determination, which should be the central criterion for decisions regarding long-term care. The Advocate's recommendations were not taken into consideration. The PAA and the LTCA include no legal remedies due to potentially inadequate service; the only thing a person can do is replace their personal assistant, carer or contractor.

Personal assistance is a human right and an expression of protection against discrimination. In his 2007 Annual Report, the Ombudsman of the Republic of Slovenia has already pointed out that personal assistance services enabling independent living can also be understood as one of the forms of meaningful and necessary adjustments.<sup>320</sup>

The risk of regression in terms of this right is particularly worth highlighting. Even though personal assistance became a more widespread option after 2018, the amount of funds allocated for this service is recently being perceived as an important fiscal "issue" due to the unexpectedly large number of beneficiaries. It is blatantly obvious that, for the sole purpose of saving money, certain interventions are planned regarding the scope and reach of this right, as well as regarding the circle of beneficiaries, which is in clear contravention of the Convention, namely (among other things) of the prohibition of regression and the command to make use of all available resources referred to in Article 4 of the Convention. The Ombudsman of the Republic of Slovenia, the Advocate and representatives of disability organisations actively oppose this practice.

The prerequisites for living in a home environment or in a community are greatly aggravated by the existing poor conditions in terms of the inaccessibility of the existing building stock, i.e. housing. This, in itself, also makes it impossible to live in the community, even if the services developed for this purpose were actually available to a sufficient extent.

The general unavailability of the environment is also of particular concern. At the end of 2023, the Advocate conducted an inquiry on the accessibility of public facilities, on the basis of which he later prepared the Special Report on the Inaccessibility of Public Facilities for Persons with Disabilities.<sup>321</sup> In the field of social security, 171 respondents out of 255 addressees have completed the survey in full. According to the survey respondents, 12 per cent of facilities have no construction adjustments, more than a fifth (21 per cent) have no technical adjustments, and 71 per cent or more provide no adjustments with sound and light indicators and written information. On the basis of the assessment of respondents from the field of social security who have completed the survey in full, 11 per cent of facilities will not have any construction adjustments by 11 December 2025, while 11 per cent of facilities will also have no technical adjustments, and about a third of facilities will not provide any adjustments with sound or light indicators and written information.

The situation in terms of the accessibility of public transport for persons with disabilities is also worrying. The Advocate prepared a comprehensive outline of the situation and recommendations for regulating this area in his special reports Inaccessibility of Public Inter-

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<sup>320</sup> Available at <http://www.varuh-rs.si/publikacije-gradiva-izjave/letna-porocila/>. See p. 43.

<sup>321</sup> Advocate of the Principle of Equality (2023). Special report: Inaccessibility of Public Facilities for Persons with Disabilities. Available at: <https://zagovornik.si/en/what-we-do/>.

urban Bus Service for Persons with Reduced Mobility<sup>322</sup> and Inaccessibility of Public Inter-urban Bus Service for Persons with Sensory Disabilities.<sup>323</sup>

The field of deinstitutionalisation has been the subject of analyses and has recently obtained an organisational structure (first as a directorate in the MLFSAEO, and now also in the newly established MSF). Certain pilot projects are also being implemented. On 15 March 2024, the MSF adopted the 2024–2034 Strategy of the Republic of Slovenia for Deinstitutionalisation in Social Welfare.<sup>324</sup> The strategy of the MSF is aimed at planning and implementing deinstitutionalisation for the target group of children and adults with disabilities, including those over 65 years of age, who live in special and combined social care institutions, work centres and training, work and care centres. It does not, however, focus on supporting older people who are eligible for long-term care services in nursing homes, which accounts for the majority of people living in institutions<sup>325</sup>. It is also not focusing on questions of deinstitutionalisation in the field of mental health.

The strategy of the MSF does not represent a comprehensive national strategy in this area. Action plans for its implementation, which would determine and describe concrete goals and tasks, together with a timetable and a financial plan, have not yet been established. The comprehensive reform or a deinstitutionalisation process, the implementation of the long-term care system, and the network of other services for living in the community have not yet come to life and are regularly being upgraded.

The issue of the deinstitutionalisation of mental health is not understood in the field of disability and thus remains within the competence of the MoH. The current structure enabling a more successful coordination of questions related to deinstitutionalisation among ministries is unclear. No progress has also been made in terms of supportive decision-making issues for persons with intellectual and psychosocial disabilities, which should be crucial for their exercise of the right to independent living (more in the explanation of sub-chapter 6.13). Issues of certain community integration services remain in the domain of the MLFSAEO, including in the field of personal assistance.

When it comes to the question of implementing deinstitutionalisation in terms of all necessary solutions and providing for the empowerment of all persons with disabilities, the debate is really just beginning.

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<sup>322</sup> Advocate of the Principle of Equality (2023). Special report: Inaccessibility of Public Inter-Urban Bus Service for People with Reduced Mobility. Available at: <https://zagovornik.si/en/what-we-do/>.

<sup>323</sup> Advocate of the Principle of Equality (2023). Special report: Inaccessibility of Public Inter-Urban Bus Service for Persons with Sensory Disabilities. Available at: <https://zagovornik.si/en/what-we-do/>.

<sup>324</sup> 2024–2034 Strategy of the Republic of Slovenia for Deinstitutionalisation in Social Welfare. Available at: <https://www.gov.si/novice/2024-03-15-ministrstvo-za-solidarno-prihodnost-sprejelo-strategijo-deinstitucionalizacije/>.

<sup>325</sup> The strategy shows that social care provides care in institutions for 4,565 children and adults under the age of 65 living in 37 different institutions or residential units. In Slovenia, there are 18,977 people living in 97 retirement homes. In 2021, there were 23,094 people living in institutions. By 2034, 22 institutions will be transformed in the process of deinstitutionalisation.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

23 representatives of non-governmental organisations expressed their views on the assessment of the Advocate. The answers clearly state that 17 of them agreed with the assessment, while two of them stated that they were not sufficiently familiar with the area. The answers of the four remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

The absence of State assistance in finding or adapting apartments, as well as the exclusion of the non-governmental sector when it comes to decision-making in this area have been identified as challenges in this area. Positive effects of cooperation with NGOs in this area have been proposed as potential solutions; otherwise, several respondents have indicated that a strategy is being prepared, which may indicate an improvement in the situation.

Examples of comments provided by representatives of non-governmental organisations:

- "This assessment is correct. The strategy is currently being adopted but the process of its adoption is not transparent, and the working group is limited to the competent ministry and the institute. The professional public, especially the non-governmental sector, is excluded from this process, and we would particularly like to highlight the problematic exclusion of users, i.e. persons with disabilities [...]"
- "We agree with everything that you have mentioned. We were informed that a strategy is being prepared. However, the preparation process is, once again, performed in a way that this strategy will be prepared, financed and implemented as a project, which is unacceptable. The State should define deinstitutionalisation as a central multi-sectoral programme and objective, and adequately finance it using regular funds, as well as provide legislation and a system to ensure that it is implemented in a quality manner."
- "Even though no timetables were mentioned, the Personal Assistance Act and the Long Term Care Act allow for a certain progress in the field of deinstitutionalisation."

### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.

## **6.21 Transinstitutionalisation and reinstitutionalisation, and sufficient funding of schemes and services for independent living based on the integration in the community (Article 19 of the Convention)**

### **1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)**

In paragraph 32,

- point b), the CRPD Committee recommended to the State Party, with reference to the Committee's general comment No. 5 (2017) on living independently and being included in the community, to prevent any form of transinstitutionalisation and reinstitutionalisation and provide sufficient funding for developing community-based independent living schemes.
- point c), the CRPD Committee recommended to the State Party to allocate sufficient resources to ensure that services in the community are available, accessible, affordable, acceptable and accommodating of persons with disabilities, so that such persons may exercise their right to live independently and be included in their communities, in both urban and rural areas.

### **2) The Advocate's assessment of the implementation of the recommendation (2024)**

**No guarantees exist to prevent any form of transinstitutionalisation and reinstitutionalisation. There is insufficient funding to develop schemes to exercise the right of persons with disabilities to an independent life that is accessible to all.**

The deinstitutionalisation process does not take place in an integrated manner (more in the explanation in subsection 6.20). It is questionable whether the possibility of transinstitutionalisation and reinstitutionalisation is adequately prevented. Transinstitutionalisation is a process in which individuals who are supposed to leave the institutional system (deinstitutionalisation) end up in other institutions and do not live independently in their homes due to social welfare policies. To a certain extent, this can signify an improvement in living conditions (e.g. in terms of space), but it does not bring a qualitative leap in terms of independent living.

Reinstitutionalisation means sending people back to institutions after they have already left the institutional system. This phenomenon is often related to the treatment of people with mental health issues, which are often taken back to treatment or care in institutions. This problem also concerns all those who, due to the lack of empowerment or inadequate services for living in the community, are unable to live independently or find it too difficult to do so, and therefore return to institutional forms of care.

Persons with disabilities, in principle, have the possibility to leave institutionalised forms of residence and live in family houses and apartments. However, these are usually group accommodations, e.g. life in residential communities (units).<sup>326</sup> On one hand, this can signify important progress, especially if such a stay is accepted as desirable and is a matter of choice for the person who decides to live in such a way. However, the question arises whether this is perhaps not the only possible choice (with the second one being to live in a large institution), which would thereby constitute transinstitutionalisation.

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<sup>326</sup> See e.g. <https://www.cudv-ml.si/programi/bivanje/bivanje-odraslih/>.



Often, there are no objective conditions for the right accommodation in the community (inaccessible housing, no recognised right to personal assistance, insufficient other services for living in the community, which is more precisely explained in subsection 6.20), or the person in question does not have sufficient skills for independent living.

It seems that relocations to housing groups often involve living arrangements that actually function as institutions in miniature, as such communities are usually created under the auspices of institutions, e.g. special social welfare institutions, and are organised by them. This way of life is still regulated by the same staff, and there is little or no room for personal assistance (a professional who is not selected by these persons as a personal assistant, for example, takes care of everyone at once). This regime often represents a combination of living and working in occupational activity centres.

Such a practice is perceived by the CRPD Committee as transinstitutionalisation, as it is only considered as a shift in the intensity of interventions into the right to an independent life, and not as a qualitative shift towards an independent life. These are so-called intermediate structures, and not independent living in a supportive community.

The problem of the elderly is similar in essence, since long-term care has not yet been established to a sufficient extent; furthermore, it is also limited in scope and excluded by the institute of personal assistance. Elderly people whose disabilities occurred during treatment are often placed in nursing homes after treatment, although they have adequate housing and would like to live independently with appropriate support.

The phenomenon of institutionalised treatment of people with mental health issues is similar, first in the context of psychiatric and potentially even involuntary treatment, followed by judicial referral or a referral to special social welfare institutions after the end of treatment (more in the explanations in subsections 6.13 and 6.16).

The EU legislation perceives these risks and explicitly and systematically seeks to prevent any use of public funds for institutionalisation, transinstitutionalisation or reinstitutionalisation, e.g. in financing the construction or renovation of institutions or in relocating people to newer, EU-funded or renovated facilities.

The Advocate participates in the work of the Interdepartmental working group for the coordination of the implementation of the EU Charter of Fundamental Rights and the UN Convention on the Rights of Persons with Disabilities in the framework of the European Cohesion Policy.<sup>327</sup> In doing so, the Group acts as a consultative body in cases of non-compliance of operations (funded projects) supported by the European cohesion funds, as well as in complaints against possible unjustified allocation of such funds (e.g. for reinstitutionalisation).

In the explanation of subsection 6.20, the Advocate described the shortcomings due to which the process of deinstitutionalisation has not yet been established in practice. The provision of services for the inclusion of people with disabilities in the community according to the SIDPA is completely dependent on the conduct of the MLFSAEO in terms of content, scope, and means intended for this purpose.

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<sup>327</sup> Procedures for the implementation of the EU Charter of Fundamental Rights and the UN Convention on the Rights of Persons with Disabilities in the framework of the European Cohesion Policy. Available at: [https://evropskasredstva.si/app/uploads/2023/05/Postopkovnik\\_podpisana-verzija.pdf](https://evropskasredstva.si/app/uploads/2023/05/Postopkovnik_podpisana-verzija.pdf).



The amount of funds required for personal assistance is perceived as an issue, which is why attempts are made to reduce the scope of the right and the number of beneficiaries in order to reduce the amount of funds. The number of beneficiaries of personal assistance is already greatly reduced by the discriminatory age limit.

In several recommendations regarding the discussions on personal assistance and long-term care, the Advocate pointed out the need to always define independent living with the possibility of choosing life in the community as a central objective, and that financial constraints can only be an extreme corrective measure and definitely not a starting point for planning such services. The Advocate drew attention to the obligation to provide these rights with all available resources. When limitations cause discrimination (e.g. age-based discrimination), economic objectives are neither a legitimate nor a justifiable objective.

Typical examples of non-conforming policies are inadequate processes for ensuring the accessibility of the environment, goods and services, and mobility in the broadest sense, which enable integration into the community. These objectives are also subject to excuses that ensuring accessibility represents a significant financial burden. Given the development and ability of the economy, as well as the availability of available financial national and international resources, the State cannot prove that it does not have sufficient funds for these purposes.

Several times, most recently when proposing the amendment to the PAA in 2023, the Advocate recommended that the international legal obligations of the Republic of Slovenia be taken into account, including under the second paragraph of Article 4 of the Convention. It follows from these obligations, among other things, that financial reasons must not be the key reason for limiting social and other rights or access to them; that all available resources must be devoted to their gradual realisation; that permanent regression in their use is prohibited; and that even when restrictions are permissible (e.g. in the context of crises, such as the war in Ukraine and the energy crisis, the COVID-19 crisis or the 2023 floods), the rights of the most vulnerable groups, including persons with disabilities, must be protected as a matter of priority.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

15 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that 12 of them agreed with the assessment. Three of them stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment.

Examples of comments provided by representatives of non-governmental organisations include:

- "We fully agree with the assessment. We have repeatedly warned the persons responsible about these dangers, but we believe that they do not understand the pitfalls of trans- and reinstitutionalisation, which has been evident from their activities in recent years, which lead to reinstitutionalisation even before the beginning of the process of deinstitutionalisation."
- "We fully agree with the assessment and, based on the public tenders and calls made in 2021–2023, we are afraid that the current "official" process of deinstitutionalisation is aimed at financing the displacement or dislocation of institutions, whereby the system is not changed and services in the community are not provided."

**4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.

## 6.22 Acquisition of high-quality and accessible mobility aids and assistive technologies (Article 20 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 34, the CRPD Committee:

- recommended to the State Party to ensure the availability and support for the acquisition of high-quality mobility aids and assistive technologies, tailored to individual requirements.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**Persons with disabilities still find it hard to obtain high-quality and accessible mobility aids and assistive technologies.**

The field of assistive devices and technological support for the mobility of persons with disabilities is mainly regulated by two Acts, namely the EOPDA<sup>328</sup> and the Health Care and Health Insurance Act<sup>329</sup> (the HCHIA). The right to use guide dogs for the blind is additionally regulated by the Animal Protection Act.<sup>330</sup>

Article 21 of the EOPDA regulates the right to claim the payment of the costs of vehicle adaptation for persons with reduced mobility once every six years. More precisely, the content is determined by the Rules on technical aids and vehicle adaptation.<sup>331</sup> The purchase of a new adapted vehicle is also co-financed.

Accessibility of an assistance dog for persons with severe or most severe physical impairments due to disability is not the same as accessibility of a guide dog for the blind, since persons with reduced mobility have to pay a significant amount to assess their compliance with the access conditions, which does not apply to the blind.

In the currently valid List with code lists, medical criteria, authorisations, procedures and price standards of 9 May 2023<sup>332</sup> a uniform service life of 60 months applies for all persons in the event of wheelchairs; in the list published on 13 October 2018,<sup>333</sup> the service life for all wheelchairs (except for electric scooters) amounts to 36 months for insured persons who have a concluded employment relationship or who are performing an independent activity, are regularly going to school or are undergoing rehabilitation, and 60 months for all other people.

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<sup>328</sup> Equalisation of Opportunities for Persons with Disabilities Act (Official Gazette of the Republic of Slovenia, No. 94/10, 50/14 and 32/17). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4342>.

<sup>329</sup> Health Care and Health Insurance Act (Official Gazette of the Republic of Slovenia, No. 72/06 – official consolidated text, 114/06 – ZUTPG, 91/07, 76/08, 62/10 – ZUPJS, 87/11, 40/12 – ZUJF, 21/13 – ZUTD-A, 91/13, 99/13 – ZUPJS-C, 99/13 – ZSVarPre-C, 111/13 – ZMEPIZ-1, 95/14 – ZUJF-C, 47/15 – ZZSDT, 61/17 – ZUPŠ, 64/17 – ZZDej-K, 36/19, 189/20 – ZFRO, 51/21, 159/21, 196/21 – ZDOsk, 15/22, 43/22, 100/22 – ZNUZSZS, 141/22 – ZNUNBZ and 40/23 – ZČmIS-1). Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO213>.

<sup>330</sup> Animal Protection Act (Official Gazette of the Republic of Slovenia, No. 38/13 – official consolidated text, 21/18 – ZNOrg, 92/20 and 159/21). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1353>.

<sup>331</sup> Rules on technical aids and adaptation of vehicles (Official Gazette of the Republic of Slovenia, No. 71/14, 37/17, 57/18 and 58/22). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV12201>.

<sup>332</sup> List with code list, medical criteria, authorisations, procedures and price standards of 9 May 2023. Available at: <https://www.zzzs.si/?id=126&detail=DFDC914987E44E2AC1257353003EC73A>.

<sup>333</sup> Available at:

[https://api.zzzs.si/ZZZS/info/egradiva.nsf/0/dfdc914987e44e2ac1257353003ec73a/\\$FILE/SEZNAM%20S%20%20C5%A0IFRANTOM,MK,POSTOPKI\\_13.10.2018\\_dopolnjenjexo.xlsx](https://api.zzzs.si/ZZZS/info/egradiva.nsf/0/dfdc914987e44e2ac1257353003ec73a/$FILE/SEZNAM%20S%20%20C5%A0IFRANTOM,MK,POSTOPKI_13.10.2018_dopolnjenjexo.xlsx).

This may mean that the service life of wheelchairs has been extended, which in turn indicates a reduction in the possibility for users to be able to use wheelchairs of a higher quality which are also more technologically advanced.

It is questionable how devices for cognitively impaired persons and for the needs of alternative and complementary communication related to mobility are provided, as this issue is not regulated by the legislation (more in the explanation in subsection 6.23). Projects to provide for greater multimodal mobility,<sup>334</sup> which include aids for navigation in inaccessible environments and facilitate movement, are able to provide certain solutions, but it is questionable to what extent; their effects are also geographically limited, as these services are largely absent, especially in rural areas.

It is also questionable whether access to individual aids also takes into account the level of accessibility of the built environment, which is generally lower in rural areas (e.g. wheelchairs designed to overcome smaller stairs).

Due to the limitations of the EOPDA, the offer of technical aids is tied to Slovenian providers, which is why the availability of these devices at acceptable prices (compared to prices on the market in the EU) or even their inaccessibility according to the specifics of each individual disability may be questionable.<sup>335</sup> The solution is controversial from the point of view of equal treatment of all providers of these services, regardless of their establishment in EU law.

Publicly available information does not make it possible to determine the type of support in terms of information and counselling which is offered by the State to persons with disabilities when it comes to obtaining mobility aids and support technologies. This area is regulated through various acts and is not transparent. The website which supposedly lists all information related to the State's measurement for the equalisation of opportunities of persons with disabilities<sup>336</sup> does not include comprehensive information; when it comes to State measures related to personal mobility, information about guide dogs for the blind is missing, for example. The aforementioned website also includes no information about counselling options for persons with disabilities.

Although there are a multitude of providers of devices and support technologies for the mobility of persons with disabilities on the market, their goal is, at best, to provide advice on the devices they offer, but not to provide advice on all types of disabilities and all devices available for rent or purchase.

Some issues in terms of services related to mobility have also been regulated by the Act on Accessibility of Products and Services for Persons with Disabilities,<sup>337</sup> which has, however, not entered into force yet. This Act otherwise regulates the so-called digital services market, in accordance with EU law. This Act will make it impossible to offer goods and services that will not be accessible.

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<sup>334</sup> A brief description of the project is available at: <https://www.gov.si/zbirke/projekti-in-programi/multimodalna-mobilnost-oseb-z-razlicnimi-oviranostmi/>.

<sup>335</sup> See the fourth paragraph of Article 19a of the EOPDA: "A technical aid may be purchased by a disabled person from any supplier of technical devices in the Republic of Slovenia and paid for in part or in full with a voucher." Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4342>.

<sup>336</sup> Available at: <https://www.gov.si teme/izenacevanje-moznosti-invalidov/>.

<sup>337</sup> Access to Products and Services for Persons with Disabilities Act (Official Gazette of the Republic of Slovenia, No. 14/23). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8537>.

However, the Act unjustifiably introduces exceptions to the requirements which are already in force in the applicable legislation (the EOPDA), which was pointed out by the Advocate in the recommendations at the time of the adoption of the Act;<sup>338</sup> his recommendations were not taken into account. The Act seeks to introduce exceptions for air, bus and water passenger transport services, including urban, suburban and regional transport services (e.g. passenger notifications, online ticket purchases), for self-service terminals (e.g. for ticket purchases and ATMs), which is also in clear contradiction with the CRPD's complaint-handling practices.

In addition, the Act also introduces a general exception to the obligation for micro-enterprises to provide accessible services to consumers. To a large extent, all of the above also refers to the issues of accessibility of information and communications (more in the explanation in subsection 6.23). Even though these provisions are legally ineffective,<sup>339</sup> they do create great uncertainty and point to attempts at regression policies.

At the beginning of 2024, the Advocate dealt intensively with the consequences of the physicians' strike. It was impossible for persons with disabilities who use adapted vehicles to undergo a medical examination necessary for the granting or renewal of their driver's licence.<sup>340</sup> These medical examinations later began anew, despite the ongoing medical strike.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

26 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that 15 of them agreed with the assessment. One representative stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment. In their response, six of them stated that State support regarding these aids exists, which shows that they disagreed with the Advocate's assessment. The answers of the four remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

The inability to adapt these aids to the Slovenian language, the lack of providing instructions on the proper use of these aids, and the financial burden of assistive technologies have been identified as challenges in this area. Amendments to the legislation and the submission of appropriate arguments to the health advisers of the Government of the Republic of Slovenia were proposed as potential solutions.

Examples of comments provided by representatives of non-governmental organisations:

- "[...] there is insufficient improvement regarding the State support for the deaf in obtaining high-quality and accessible aids and assistive technologies in case of sound use."

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<sup>338</sup> Recommendation of the Advocate available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-k-osnutku-predloga-zakona-o-dostopnosti-do-proizvodov-in-storitev-za-invalidel/>.

<sup>339</sup> Article 5 of the EOPDA stipulates the connection with other regulations, namely: "The exercise of the rights of persons with disabilities is also subject to non-discriminatory provisions and provisions that ensure the equalisation of opportunities under other regulations. Notwithstanding the provisions of other acts, the provisions of this Act shall apply if they are more favourable for a disabled person".

<sup>340</sup> Recommendation of the Advocate, available at: <https://zagovornik.si/izdelki/priporocilo-vladi-republike-slovenije-glede-priprave-zakonskih-podlag-za-ureditev-polozaja-ljudi-z-invalidnostmi-ki-zaradi-zdravniske-stavke-ne-morejo-podaljsati-vozniskih-dovoljenj/>.

- "Practical experiences obtained through direct work with persons with disabilities show us that, in this regard, people are often left to their own devices. We estimate that at least one of the factors of insufficient improvement is the absence of available information."
- "In this area, the legislation and its consistent implementation are quite exemplary. Of course, there is still room for improvement, even in this area."

**4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.

## 6.23 Accessibility of information and means of communication to persons with disabilities (Article 21 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 36,

- point a), the CRPD Committee recommended to the State Party to develop time-bound strategies and allocate a budget to ensure the accessibility of information and communications provided by all public or private mass media services, including television and the Internet, for all persons with disabilities.
- point b), the CRPD Committee recommended to the State Party to develop the standards on the use of sign language, Braille, augmentative and alternative communication, including Easy Read, and all other accessible means, modes and formats of communication, including mobile applications, and their implementation throughout the public and municipal sectors.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**The measures taken to ensure that persons with disabilities have access to information and means of communication, including public and private mass media such as television and the Internet, are not implemented in a satisfactory manner. Alternative and reinforcement communications are not provided throughout the public and municipal sectors.**

Legislation on the accessibility of information and means of communication to persons with disabilities has been adopted, which also applies to strategic documents such as the new APPD and the 2021–2025 Resolution on the National Programme for Language Policy.<sup>341</sup> However, this does not constitute a guarantee that, in practice, the applicable legislation will be interpreted in favour of the rights of persons with disabilities in a friendly manner and in accordance with the Convention. The impression is that the newly dispersed sectoral legislation (e.g. in the field of media, the Internet, and the so-called digital market for products and services) often delays the fulfilment of the obligation to ensure the full accessibility of individual media and communication services for all people. The requirement for full accessibility of goods and services available to the public should take into account the already applicable provisions of Article 8 of the EOPDA, which have been applied since December 2005 and apply to all services in all areas.

Among other things, Article 5 of the EOPDA contains the following provision: "[...] regardless of the provisions of other acts, the provisions of this Act shall apply if they are more favourable for a disabled person"; furthermore, a similar provision is also contained in paragraph 3 of Article 2 of the PADA, in order to prevent regressive legislative interventions.<sup>342</sup> The application of sectoral regulations should be prevented if these rights are regulated more narrowly than in the EOPDA or in the PADA.

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<sup>341</sup> Resolution on the 2021–2025 National Programme for Language Policy (Official Gazette of the Republic of Slovenia, No. 94/21). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=RESO123>.

<sup>342</sup> The latter states: "Notwithstanding the provisions of other laws, the provisions of this Act shall apply if they are more favourable for the discriminated person."

The field of accessibility is regulated in a non-uniform manner in the sectoral legislation and does not provide the necessary explanations for the specifics of those arrangements that are not in accordance with the EOPDA or PADA. This raises the question of the possible ambiguity of such different arrangements, as well as the possible regressive effect for some persons concerned.

The Advocate drew attention to this in the coordination of the amendment to the Radio-Television Slovenia Act, the amendments to the Media Act, the amendment to the Audiovisual and Media Services Act and in the Act on Accessibility of Products and Services.<sup>343</sup>

One of the more important issues of the lack of transparency of the applicable obligations is that Article 8 of the EOPDA is not implemented in this area or in any other areas, since the minimum standard of ensuring the accessibility of these services has not been adopted, which the Advocate has repeatedly pointed out.<sup>344</sup>

In view of the above, no clear strategies exist for ensuring that information and means of communication are available to persons with disabilities, nor are specific dedicated public sources envisaged for this purpose.

The programmes of the Radio-Television Slovenia public broadcaster and its multimedia web portal have made significant progress in terms of ensuring accessibility (sign language, Easy Reading and, to a lesser extent, audio descriptions). The Advocate registered certain complaints about the insufficient accessibility of individual major media broadcasters, particularly television stations, for persons with sensory disabilities.

Progress is recorded in the use of alternative and reinforcing forms of communication in the functioning of the authorities, e.g. ensuring the use of Slovene sign language in providing information during the COVID-19 pandemic, or amending the Constitution of the Republic of Slovenia for the recognition of the right to use sign language and the language of the deafblind. We are also making progress in the field of easy reading development, since the EOPDA<sup>345</sup>, the PAA<sup>346</sup> and the Constitution of the Republic of Slovenia,<sup>347</sup> for example, are available in the Easy Reading format, with the latter also being illustrated in a comic book<sup>348</sup>. A guide to the rights of persons with disabilities is also available in the Easy Reading format.<sup>349</sup> Regardless of all these efforts, there is still a lot of room for improvement.

The need for focused efforts to ensure all technical conditions for adapted communication of persons with disabilities in the digital space has deepened in the process of planning for the promotion of digitalisation and during school closures, but significant progress has not yet been made.

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<sup>343</sup> The summaries of the Advocate's individual recommendations on the aforementioned acts are provided in subsection 4.8 of this Special Report.

<sup>344</sup> See, for example, the recommendation of the MLFSAEO in the Special Report on the Situation of the deaf in the Educational System. Available at: <https://zagovornik.si/en/what-we-do/>.

<sup>345</sup> Easy Read format of the EOPDA, available at: [https://za-vse.eu/wp-content/uploads/2020/10/Zakon-o-socialnem-vkljucevanju-invalidov-v-lahkem-branju\\_web.pdf](https://za-vse.eu/wp-content/uploads/2020/10/Zakon-o-socialnem-vkljucevanju-invalidov-v-lahkem-branju_web.pdf).

<sup>346</sup> Guide to the Personal Assistance Act, available at: [https://za-vse.eu/wp-content/uploads/2020/10/Vodnik-po-zakonu-o-osebni-asistenci-v-lahkem-branju\\_web.pdf](https://za-vse.eu/wp-content/uploads/2020/10/Vodnik-po-zakonu-o-osebni-asistenci-v-lahkem-branju_web.pdf).

<sup>347</sup> Easy Read format of the Constitution of the Republic of Slovenia, available at: [https://www.us-rs.si/wp-content/uploads/2021/05/Lahko\\_berljiva\\_Ustava\\_RS\\_male\\_tiskane.pdf](https://www.us-rs.si/wp-content/uploads/2021/05/Lahko_berljiva_Ustava_RS_male_tiskane.pdf).

<sup>348</sup> Illustrated Constitution of the Republic of Slovenia, available at: <https://www.us-rs.si/ustava-v-stripu/>.

<sup>349</sup> Guide to the Rights of Persons with Disabilities, available at: [https://www.gov.si/assets/ministrstva/MDDSZ/Invalidi/Zmoremo/Lahko\\_berljiva\\_in\\_razumljiva\\_oblika\\_Vodnika\\_po\\_pravicah\\_invalidov.pdf](https://www.gov.si/assets/ministrstva/MDDSZ/Invalidi/Zmoremo/Lahko_berljiva_in_razumljiva_oblika_Vodnika_po_pravicah_invalidov.pdf).



### 3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)

18 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that nine of them agreed with the assessment. Two of them stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment. The answers of the seven remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

The fact that organisations have no influence over the media which are not publicly owned, and that content still remains unavailable despite the Audiovisual Media Services Act were identified as two of the challenges in this area. The implementation of measures envisaged for the accessibility of websites was proposed as a potential solution.

Examples of comments provided by representatives of non-governmental organisations:

- "If we understand and predict correctly, pursuant to the plan for the availability of audiovisual media services from 2022 to 2024 in which every broadcasting media had to state how much time will be devoted to subtitling and to Slovene sign language by every TV programme, the information based on the prepared plans received from the AKOS (Agency for Communication Networks and Services of Slovenia) or from broadcasting media is rather worrying..."
- »... The Accessibility of Websites and Mobile Applications Act (the AWMAA) has been in force since 2018; despite that, the situation in terms of access to the websites of State bodies, bodies of self-governing local communities and public law entities under the law governing public procurement in Slovenia is still at a very low level, as the Slovene sign language is not included at all in nearly 98 per cent of the cases."
- "We fully agree with the assessment." At the same time, as an organisation which is active in this field, we are committed to a holistic approach to the challenge of accessibility based on the needs of individuals, and evaluate any possible partial resolution of the needs of individual groups of persons with disabilities as potentially problematic, as this puts us at risk of additional or further exclusion of certain groups of persons with disabilities, e.g. persons with intellectual disabilities."

### 4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)

- In response to the Advocate's assessment, the **MPU** emphasised that the operators of State websites, such as eUprava, SPOT, gov.si etc., make every effort to meet the requirements of the Accessibility of Websites and Mobile Applications Act,<sup>350</sup> and thus provide the information offered by these websites to all users, including persons with different types of disabilities, in a non-discriminatory manner.

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<sup>350</sup> Accessibility of Websites and Mobile Applications Act (Official Gazette of the Republic of Slovenia, No. 30/18, 95/21 – the ZInfV-A, 189/21 – the ZDU-1M and 18/23 – the ZDU-10). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7718>.

## 6.24 Marital relationships of persons with psychosocial and intellectual disabilities and assumption of their parental responsibilities (Article 23 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 38, point b),

- the CRPD Committee recommended to the State Party to repeal all discriminatory provisions and practices preventing the right to marriage and parental responsibilities of persons with psychosocial and/or intellectual disabilities and ensure support for them in the exercise of their responsibilities.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**Persons with psychosocial and intellectual disabilities are still prevented from entering into marriages and assuming parental responsibilities. No support is provided in the exercise of their parental responsibility.**

Article 25 of the Family Code<sup>351</sup> stipulates that marriage may not be concluded by a person who is not sound of mind or a person who, at the time of concluding marriage is temporarily sound of mind, but who for reasons causing their unsoundness of mind is incapable of establishing with the other spouse a domestic community. This narrows the possibilities for the validity of the marriage of persons with psychosocial disabilities, as it is based on the projection of the soundness of mind, which is related to persons with perceived mental health issues and those with intellectual disabilities.

National legislation does not regulate supportive decision-making regarding parental responsibilities or family planning, nor does it regulate the field of family personal assistance to support children with disabilities.

The issues are closely related to the lack of understanding of the consequences of partial deprivation of legal capacity or placing persons with disabilities under guardianship (more in subsection 6.13). It is questionable how persons who lack full legal capacity are allowed to exercise parental responsibilities or other custodial responsibilities (e.g. in relation to a spouse). The Long Term Care Act<sup>352</sup>, for example, prevented persons who lack full legal capacity from performing the tasks of a family carer.

It is unclear whether and to what extent a person who lacks full legal capacity may be authorised to exercise individual responsibilities towards children or family members (e.g. legal representative, guardian, foster parent) in the part where they are not under guardianship. There is no effort to consider the existence of any guardianship other than non-critical disqualification, where a person is presumed incompetent or not sound of mind (more in the explanations in subsections 6.13 and 6.16).

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<sup>351</sup> Family Code (Official Gazette of the Republic of Slovenia, No. 15/17, 21/18 – the ZNOrg, 22/19, 67/19 – ZMatR-C, 200/20 – ZOOMTVI, 94/22 – dec. of the Constitutional Court, 94/22 – dec. of the Constitutional Court and 5/23). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7556>.

<sup>352</sup> Long Term Care Act (Official Gazette of the Republic of Slovenia, No. 84/23). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8819>.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

20 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that 10 of them agreed with the assessment. Seven of them stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment. The answers of the three remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

Guardianship of parents or advocates who use their role for their own interests has been identified as a challenge in this area. A change in the legislation and the provision of all support mechanisms for marriage and parenthood was proposed as a potential solution.

Examples provided by NGO representatives:

- "We fully agree with the assessment and believe that it is necessary to amend both the Family Code and some other laws in this regard (e.g. the Act concerning the medical measures for the materialisation of the right to freely decide on the birth of children, the Equalisation of Opportunities for Persons with Disabilities Act, etc.), and to establish interdepartmental cooperation."

### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.

## 6.25 Accessibility of educational institutions to persons with disabilities (Article 24 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 40:

- point b) of its recommendation, the CRPD Committee recommended to the State Party to adopt a strategy and action plan with a clear time frame for the implementation of inclusive education at all levels for all children with disabilities and, further, establish a comprehensive monitoring system to assess the progress of inclusive education.
- point c) of its recommendation, the CRPD Committee recommended to the State Party to strengthen the capacity of inclusive schools to train teachers in inclusive education, curriculum accommodation and teaching methods. The State party should enhance the quality of educational support by adopting an individualised approach to children with disabilities and their capacity-building.
- In point d) of its recommendation, the CRPD Committee recommended to the State Party to provide lifelong learning for persons with disabilities and ensure accessibility and reasonable accommodation in all tertiary education institutions, including vocational and higher education schools.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**All educational institutions are not yet fully accessible to persons with disabilities, and the monitoring of progress in this regard is not defined by appropriate quantitative and qualitative indicators.**

The 2022–2030 National Child Guarantee Action Plan of the Republic of Slovenia<sup>353</sup> (Child Guarantee) provides a time frame for the implementation of inclusive education at all levels, but is not actually that ambitious. The system for monitoring progress is not specifically defined pursuant to sufficient quantitative and qualitative indicators. It does not contain any performance criteria and also lacks the necessary human and technical resources for a successful implementation.<sup>354</sup> Adopted in April 2023, the Child Guarantee represents significant progress towards more comprehensive treatment of children. It defines key objectives for children with special needs<sup>355</sup> and children with mental health issues and/or mental disorders, including specific measures in the field of upbringing and education. Certain gaps can be perceived in the legislation regarding the scope of necessary adjustments and support measures.

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<sup>353</sup> 2022–2030 National Child Guarantee Action Plan of the Republic of Slovenia. Available at: <https://www.gov.si/assets/ministrstva/MDDSZ/Nacionalni-akcijski-nacrt-Republike-Slovenije-za-jamstvo-za-otroke-20222030-v2.pdf>.

<sup>354</sup> Ibid. See, for example, tables on p. 36 and 42.

<sup>355</sup> Ibid. P. 13. "These include children with intellectual disabilities, blind and visually impaired children or children with impaired visual function, deaf and hard of hearing children, children with speech and language disorders, children with reduced mobility, children with long-term illnesses, children with deficits in individual areas of learning, children with autistic disorders and children with emotional and behavioural disorders".

Objective 4 of the new APPD,<sup>356</sup> Upbringing and education, explains that the APPD also includes measures for children with special needs,<sup>357</sup> which might not encompass all children with disabilities. The current national practice does namely not recognise the existence of disability for persons with psychosocial disabilities, which is why they could be denied the requirement to make reasonable adjustments pursuant to the EOPDA.

Other measures set out in the APPD also include "developing and supporting lifelong learning of adults with disabilities, the unemployed and employees" and "providing spatial and technical opportunities for the implementation of education programs and adapted transport (ensuring the accessibility of the built environment in educational institutions must also encompass the accessibility of premises such as sanitary facilities, including the installation of moving aids for persons with disabilities, such as ceiling hoists)". The measures in the APPD are planned in the form of objectives or processes and are therefore very vague, do not contain qualitative and quantitative benchmarks, and also do not include specific human, technical and financial resources in general, which are furthermore also not disaggregated specifically for children with disabilities.

The 2018–2028 Resolution on Family Policy entitled "A Society Friendly to All Families"<sup>358</sup> also includes measures for children with special needs in some areas of social life (including upbringing and education), which does, however, not necessarily mean that these measures can be extended to all children with disabilities.

For all three of these documents, the State monitors their implementation on an annual level, but mainly only on the basis of the so-called process indicators that only measure the effort but do not measure their impact.

Otherwise, the State provides monitoring of the living conditions of children through the co-financing of the activities of the Social Protection Institute of the Republic of Slovenia<sup>359</sup>. The database collects some statistical data on children with special needs in certain areas of social life (including upbringing and education, as well as training), but not in all and not always in an appropriate manner, e.g. with data on equality, equal opportunities and equal treatment, which would allow comparisons of the performance of these efforts in relation to the situation in the general population of children.

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<sup>356</sup> Action Programme for Persons with Disabilities 2022–2030. Available at: [https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.gov.si%2Fassets%2Fministrstva%2FMDDSZ%2FInvalidi%2FAPI-2022-2030%2FAkcijski\\_program\\_za\\_invalidne\\_2022\\_2030-.docx&wdOrigin=BROWSELINK](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.gov.si%2Fassets%2Fministrstva%2FMDDSZ%2FInvalidi%2FAPI-2022-2030%2FAkcijski_program_za_invalidne_2022_2030-.docx&wdOrigin=BROWSELINK).

<sup>357</sup> Ibid. P. September "The 2022–2030 APPD also includes disabled persons, which are defined by the Placement of Children with Special Needs Act as children with intellectual disabilities, blind and visually impaired children or children with impaired visual function, deaf and hard of hearing and physically impaired children and adolescents."

<sup>358</sup> Resolution on Family Policy 2018–2028, "A family-friendly society". Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=RESO118>.

<sup>359</sup> The Social Protection Institute of the Republic of Slovenia carries out activities within the Children's Observatory. Its purpose is to "comprehensively and systematically monitor the situation and quality of life of children in Slovenia and, based on the data obtained in this way, formulate proposals for improving their situation. In this area, the Institute has conducted numerous studies and research focused on individual areas of children's lives." Available at: <https://irssv.si/institut-republike-slovenije-za-socialno-varstvo/otroci-in-druzine/spremljanje-polozaja-otrok-in-druzine/>.

Individual ministries collect some data pertaining to children with disabilities, e.g. the MoE which monitors the number of children with special needs who are included in the education system according to the type of deficit, obstacle or disorder,<sup>360</sup> but not regarding the exercise of their rights in this area.

At the level of tertiary education and non-formal training (e.g. lifelong learning), not enough measures exist to support persons with disabilities, as the acquired statuses of pupils or students with special needs are not uniform at the level of internal acts of higher education institutions or do not apply at these levels. This raises the question of providing reasonable accommodation for students and adults with disabilities pursuant to the EOPDA.

Several years after the expiration of the legal deadline, there is still no legal regulation that would, in accordance with Article 69a of the Higher Education Act (the HEA), enable students with special needs, including the deaf and other students with a special status, to uniformly and effectively enjoy specific rights, including:

- a more favourable treatment in the selection procedure in case of restricted enrolment, and
- adaptation of the implementation of study programmes and additional professional assistance during studies, including the right to advance and complete their studies in a longer period than the one provided by the study programme, and the right to retain other general rights and benefits of students.<sup>361</sup>

With the Child Guarantee, the State envisages the provision of teacher training for inclusive education, as well as the adaptation of educational programs and teaching methods. In doing so, it ensures that qualified teachers and other professionals, such as psychologists, speech therapists, rehabilitators, social workers or teacher assistants, are available.

However, the practical aspect of the situation is unsatisfactory, as schools lack qualified staff, and challenges also exist when it comes to the organisation and provision of premises. It is envisaged to improve the quality through an individual way of working with children with special needs. However, significant systemic barriers exist (e.g. limitations on the scope and type of individual support) that prevent many from providing sufficient support.<sup>362</sup>

The Child Guarantee envisages the establishment of a production school that will offer a program of activities for adolescents who have dropped out of secondary school and who need additional support in growing up in a healthy manner. These are young people with emotional and behavioural problems, mental health issues, etc. The question arises whether the provisions of the Convention will be taken into account in ensuring the standards for the implementation of their rights, as, in principle and in practice, these groups are not considered as persons with disabilities, which also applies to persons whose conditions are temporary and long-term but are not permanent.

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<sup>360</sup> See, for example, the table "Data related to pupils with special needs in primary schools with adapted implementation and additional professional assistance." Available at: [https://www.gov.si/assets/ministrstva/MVI/Dokumenti/Izobrazevanje-otrok-s-posebnimi-potrebami/Statistike-in-analize/Tabela\\_ucenci\\_s\\_posebnimi\\_potrebami.pdf](https://www.gov.si/assets/ministrstva/MVI/Dokumenti/Izobrazevanje-otrok-s-posebnimi-potrebami/Statistike-in-analize/Tabela_ucenci_s_posebnimi_potrebami.pdf).

<sup>361</sup> Advocate of the Principle of Equality (2021). Special Report: Situation of the Deaf in the Educational System. Available at: <https://zagovornik.si/en/what-we-do/>.

<sup>362</sup> National study report "Identification of Problems and Good Practices in the Education of Children with Special Needs with Amendments (2023)". Available at: [https://www.gov.si/assets/ministrstva/MVI/Dokumenti/Razvoj-solstva/Ugotavljanje-in-zagotavljanje-kakovosti/Nacionalne-evalvacijske-studije/Identifikacija-tezav-ter-dobrih-praks-pri-VI-OPP\\_Zakljucno-vsebinsko-porocilo.pdf](https://www.gov.si/assets/ministrstva/MVI/Dokumenti/Razvoj-solstva/Ugotavljanje-in-zagotavljanje-kakovosti/Nacionalne-evalvacijske-studije/Identifikacija-tezav-ter-dobrih-praks-pri-VI-OPP_Zakljucno-vsebinsko-porocilo.pdf).

The Child Guarantee also provides for the adaptation of facilities and educational materials for the education and care of preschool children, and educational institutions for children with special learning needs and children with disabilities, as well as an appropriate response to their specific needs.

The provisions of the fourth paragraph of Article 14 of the Act Regulating the Integrated Early Treatment of Preschool Children with Special Needs<sup>363</sup> entered into force on 1 September 2019. The fourth paragraph reads: "In accordance with the norms and standards applicable to the activity of preschool education and the implementation of educational programs for children and adolescents with special needs, funds are provided from the State budget to pay for the higher costs of kindergarten development departments, in the amount of the difference between the price of the programme, which is the basis for the payment for the parents of children with special needs in accordance with the law governing kindergartens, and the price of the development department adopted by the municipality that founded the kindergarten."

According to the response of the line minister to the recommendations of the Advocate, provided when discussing the inaccessibility of secondary schools for persons with reduced mobility,<sup>364</sup> the mapping of the needs of all stakeholders is currently in progress, and measures to eliminate or overcome obstacles are not yet planned. This shows that strategic policy planning is not in line with the Convention and is also not in line with the applicable legislation. This is, in fact, a nominal commitment to objectives which can perhaps not be achieved, however, with the previously planned inadequate measures that are also not sufficiently focused, and with the resources dedicated for this purpose.

At the end of 2023, the Advocate conducted an inquiry on the accessibility of public facilities, on the basis of which he later prepared the Special Report on the Inaccessibility of Public Facilities for Persons with Disabilities.<sup>365</sup> The Advocate received 731 fully completed surveys from 1,226 addressees working in bodies or institutions active in the field of education. Respondents estimated that 37 per cent of the facilities for which they are responsible do not have any construction adjustments, technical adjustments are lacking in more than half (56 per cent) of those facilities, while 89 per cent or more institutions do not provide adjustments with sound or light indicators and written information. On the basis of the assessment of respondents who have completed the survey in full, 33 per cent of facilities will not have any construction adjustments, a little less than half (46 per cent) will not have any technical adjustments and about two thirds (66 per cent) or more of the facilities will not provide any adjustments with sound or light indicators and written information.

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<sup>363</sup> Act Regulating the Integrated Early Treatment of Preschool Children with Special Needs (Official Gazette of the Republic of Slovenia, No. 41/17). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7681>.

<sup>364</sup> Advocate of the Principle of Equality (2022). Special report: Accessibility of Secondary Schools for Persons with Reduced Mobility. <https://zagovornik.si/en/what-we-do/>.

<sup>365</sup> Advocate of the Principle of Equality (2023). Special report: Inaccessibility of Public Facilities for Persons with Disabilities. Available at: <https://zagovornik.si/en/what-we-do/>.



Article 10 of the Act on the Social Inclusion of Persons with Disabilities<sup>366</sup> states that "persons with disabilities have the right to social inclusion services, provided by providers of social inclusion services in the community, for the purpose of equal coexistence of persons with disabilities and persons without disabilities in the community". Social inclusion services are, among other things, intended for lifelong learning, which, in accordance with Article 12 of this Act, is "a set of social inclusion services aimed at preserving acquired knowledge and acquiring new knowledge with the aim of maintaining the greatest possible independence of persons with disabilities in the community". It follows from the above that the measures are primarily aimed at social skills and competencies, but do not concern education for possible self-sufficiency and contribution to society, e.g. in economic, political, cultural or other areas.

The 2022–2030 Resolution on the National Programme for Adult Education in the Republic of Slovenia<sup>367</sup> envisages, among other things, measures for the inclusion of adults in lifelong learning, with an emphasis on vulnerable groups, including persons with disabilities. The resolution envisages the development of certified educational programmes to develop comprehensive support for vulnerable groups, as well as the development of non-formal educational programmes for adults. The aim of the latter is to prevent the neglect of the cultural capital, including vulnerable groups. The resolution also considers the creation of informal training programmes aimed at integrating the categories of people who have less access to the labour market (including vulnerable groups of the population).

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

22 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that 15 of them agreed with the assessment. Two of them stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment. One of them stated, in their response, that "not everything is exactly as [we] claim", which shows that they disagreed with the Advocate's assessment. The answers of the four remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

The provision of adaptations for children with special needs in the education process, the lack of construction adaptations and other types of adaptations for persons with disabilities, and the limited number of hours available for learning Slovene sign language remain some of the challenges identified in this area.

Examples of comments provided by representatives of non-governmental organisations include:

- "We fully agree with your assessment and believe that the priority regulation of this area is necessary, as the exclusion of persons with disabilities already begins at a (pre)school age."

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<sup>366</sup> Social Inclusion of Disabled Persons Act (Official Gazette of the Republic of Slovenia, No. 30/18, 196/21 – Long Term Care Act and 206/21 – Act on Additional Measures to Stop Spreading and Mitigate, Control, Recover and Eliminate the Consequences of COVID-19). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7808>.

<sup>367</sup> Resolution on the 2022–2030 National Programme for Adult Education in the Republic of Slovenia. Available at: <https://www.gov.si/assets/ministrstva/MIZS/Dokumenti/Odrasli/AndragoskiCenterSlovenije-ResolucijaPISRS-210x260mm-Digital.pdf>.



- "In this area, we see the predominance of technological determinism, which represents the view that it is technology that determines society and not the other way around. In the context of accessibility of educational institutions, this means that technology-based solutions are implemented, but not on the basis of the needs of persons with disabilities. Such solutions may not be effective, since they do not take into account the diversity of the needs of persons with disabilities. In addition, they can create new obstacles, as they may require special skills or knowledge that persons with disabilities may not have."

**4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

- In its response to the Advocate's assessment, the **MECE** reported that measures to achieve the accessibility of all buildings open to the public, which also include facilities in which education at all levels is provided, are already set out in the Building Act and in by-laws. For existing buildings, however, this is enshrined in the EOPDA. Should all adjustments not be feasible due to interventions that would significantly affect the other essential requirements of the facility (mechanical resistance and stability, fire safety, etc.), the MECE believes that it is necessary to envisage protocols that would allow for the most appropriate measures.

## 6.26 Accessibility of health services for persons with disabilities (Article 25 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 42 of its recommendation, the CRPD Committee:

- recommended to the State Party to ensure the accessibility and availability of health services for all persons with disabilities, whatever their impairment and wherever they live, whether in institutions or elsewhere. It also recommends that the State Party ensure universal access to sexual and reproductive health-care services, including family planning, information and education, and integrate the right to reproductive health into national strategies and programmes, as set out in sub-target 3.7 of the Sustainable Development Goals.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**The spatial and communication accessibility of health services for persons with disabilities is not yet fully guaranteed.**

Accessibility to health care must be ensured in connection with the mobility of persons with disabilities, the accessibility to the built environment and the elimination of architectural barriers, as well as the accessibility to information or communications.

The importance of ensuring accessibility for individuals with disabilities in all areas of life is also explicitly highlighted by the 2022–2030 APPD, objective 7, which covers the field of health and health care and states that "access to adequate health care and health assurance must be one of the inalienable human rights."<sup>368</sup>

The 2016–2025 National Health Care Plan entitled "Together for a Society of Health"<sup>369</sup> also points out that the lack of access to quality health care for individual groups of the population, including due to various forms of disability, also contributes to health inequalities.

Although national legislation is enforced in the field of ensuring the accessibility of all goods and services in a wide variety of areas,<sup>370</sup> it is questionable whether it is effectively implemented. In the near future, the deadlines for ensuring the architectural accessibility of all facilities in public use, including facilities where health services or health-related services are provided, will also expire.<sup>371</sup>

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<sup>368</sup> Action Programme for Persons with Disabilities 2022–2030. Available at: [https://www.gov.si/assets/ministrstva/MDDSZ/Invalidi/API-2022-2030/Akcijski\\_program\\_za\\_invalide\\_2022\\_2030-.docx](https://www.gov.si/assets/ministrstva/MDDSZ/Invalidi/API-2022-2030/Akcijski_program_za_invalide_2022_2030-.docx).

<sup>369</sup> Resolution on the 2016–2025 National Health Care Plan "Together for a Society of Health" (Official Gazette of the Republic of Slovenia, No. 25/16). It also states: "In addition to the access barriers faced by the majority of the population (e.g. waiting periods), vulnerable groups also have issues related to geographical distance, the inadequacy of health institutions for persons with various disabilities, health services and medication surcharges, stigma, linguistic and cultural differences, and the fact that the programmes are not adjusted to their needs." Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=RESO102>.

<sup>370</sup> See Article 8 of the Equalisation of Opportunities for Persons with Disabilities Act.

<sup>371</sup> Public facilities, the use of which is intended for everyone under the same conditions, are defined by the Building Act (the BA), on the basis of which the Decree on the classification of structures was adopted. Said Decree further specifies the list and types of facilities that fall into this category. Decree on the classification of structures (Official Gazette of the Republic of Slovenia, No. 96/22). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED8497>.

In order to monitor the state of accessibility of health services for persons with disabilities and the awareness of the general deterioration of the premises hosting public hospitals (a large number of these buildings are very old) and equipment (as many as 80 per cent of them should have already been depreciated), the Advocate made a number of recommendations, including in order to ensure greater accessibility of the health system for persons with disabilities and to provide them with more appropriate care.

Among other actions, he prepared a recommendation to the Draft Act on the Provision of Funds for Investments in the Slovenian Health Care in the Years 2021 to 2031.<sup>372</sup> The Advocate explicitly recommended, among other things, that the necessary dedicated resources be established to ensure the accessibility of all health institutions and their services for persons with disabilities and other sensory, communication, mobility and cognitive issues. The recommendation was not taken into account so far. In order to draw attention to these obligations, the Advocate recommended to a number of entities, including the entities that ensure the exercise of the right to health care and the implementation of other issues related to the highest attainable level of health, to ensure the full accessibility of their facilities.

In addition, the Advocate also recommended some other necessary measures due to an inadequate situation that may disproportionately affect persons with severe disabilities. It was recommended that the Draft Law should set out, in a more specific manner, the objectives of the development of sufficient capacities of nursing homes and hospitals, and also take into account the need for adequate palliative care for patients.

In addition to the lack of doctors, the Advocate also recommended addressing the need for other key health personnel, such as nurses and nursing technicians, and to more concretely determine the goals for the development and transformation of the health system through the computerisation, digitisation and introduction of e-health or telemedicine, which also make it possible to perform care in the community and not only in an institutional environment. So far, the recommendations have not been taken into account.

Since the State does not have a clear overview of the existing situation in terms of the inaccessibility of public facilities, the Advocate asked hospitals, health centres and pharmacies to self-assess the situation through an inquiry (in the form of an online survey). In the field of health care, 223 respondents provided their answers to the inquiry. 14 per cent of them estimated that facilities under their jurisdiction currently have no construction adjustments, with 43 per cent having no technical adjustments and more than three quarters of facilities in this area having no sound or light indicators and no written information.<sup>373</sup>

What follows is a more detailed self-assessment of accessibility according to the type of health institution or institution related to the provision of health services.

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<sup>372</sup> Recommendation of the Advocate, available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-zakona-o-zagotavljanju-sredstev-za-investicije-v-slovensko-zdravstvo-v-letih-2021-do-2031/>.

<sup>373</sup> This information is derived from data obtained from a survey conducted by the Advocate.

30 respondents with hospital or clinical centre facilities within their competence have responded to the inquiry. Two of them assessed that the facilities for which they are responsible do not provide construction adjustments, while five of them assessed that the facilities do not provide technical adjustments. 16 or more of them have estimated that the facilities for which they are responsible do not provide sound and light indicators and written information. 27 respondents answered the question about the planned provision of accessibility by the statutory deadline. Two of them estimated that the facilities for which they are responsible will not provide construction adjustments, four of them estimated that the facilities for which they are responsible will not provide technical adjustments, and five or more of them estimated that the facilities for which they are responsible will not provide sound and light indicators and written information by the statutory deadline.

129 respondents with health centre facilities, clinics, outpatient clinics or consultation rooms within their competence have responded to the inquiry. 17 per cent of them estimated that facilities for which they are responsible do not provide construction adjustments, 39 per cent of them estimated that facilities for which they are responsible do not provide technical adjustments, and 53 per cent or more of them estimated that the facilities for which they are responsible are not equipped with sound or light indicators and written information. 120 respondents answered the question about the planned provision of accessibility by the statutory deadline. 12 per cent of them estimated that they will not provide construction adjustments, 32 per cent of them estimated that they will not provide technical adjustments, and half or more of them estimated that they will not provide sound and light indicators and written information by the statutory deadline.

Of the 52 respondents who stated that they are responsible for pharmacies, six of them assessed that the facilities for which they are responsible do not provide construction adjustments, and 37 of them assessed that the facilities for which they are responsible have no technical adjustments. 42 or more of them have estimated that the facilities for which they are responsible do not provide sound and light indicators and written information. 47 respondents answered the question about the planned provision of accessibility by the statutory deadline. 9 of them estimated that the facilities for which they are responsible will not provide construction adjustments, 31 of them estimated that the facilities for which they are responsible will not provide technical adjustments, and 34 or more of them have estimated that they will not provide sound and light indicators and written information by the statutory deadline.

The situation is also not encouraging in the case of the 13 remaining respondents, e.g. "professional associations", "a dialysis centre", "a diagnostic centre". One respondent estimated that the facilities for which they are responsible have no construction adjustments, four of them estimated that the facilities for which they are responsible have no technical adjustments, and almost all of them (11 or more) estimated that they do not provide sound and light indicators and written information. The same number of respondents answered the question about the planned provision of accessibility by the statutory deadline. One respondent estimated that the facilities for which they are responsible will not provide any construction adjustments, four of them estimated that they will not provide any technical adjustments, and eight or more of them estimated that they will not provide sound and light indicators and written information in their facilities by the statutory deadline.

The Advocate prepared extensive recommendations for the new Draft Mental Health Act (the MHA-1).<sup>374</sup> The Advocate proposed to add the prohibition of any form of discrimination, stigmatisation or other neglect based on a mental disorder and intellectual and psychosocial disability to the Act, and to provide a system of supportive decision-making for persons with mental health disorders and intellectual and psychosocial disabilities or other forms of disability. Furthermore, the Advocate also recommended examining the compatibility of the proposed solutions with the Convention in order to respond to the findings and recommendations of the CRPD Committee to ensure information, counselling and education of persons with mental health disorders, in accordance with the principles of accessibility: in appropriate languages (not only in the official language), in suitable forms (e.g. enlarged print, Braille), and in adequate technologies (e.g. IT-tools), including the Easy Reading format. In addition to correspondence, receiving shipments and visits, and using the telephone, the list of the rights of persons under hospital treatment should be supplemented by the right of access to communication through available information and communication technologies (ICT).

The Advocate also recommended that the position and rights and obligations of children be considered in more detail and duly taken into consideration when it comes to preparing legal solutions, in particular that they should be able to enjoy their rights themselves, in accordance with their age and maturity, and thus have a say in their health treatment even before they reach the age of 15. The recommendations have not been taken into account.

In several of his recommendations, the Advocate pointed out that, when it comes to all persons under guardianship, it must be borne in mind that this does not necessarily mean that they do not have the right to make their own decisions regarding their medical treatment, i.e. that it does not mean that they cannot either request or refuse it. He also drew attention to this in the Advocate's Recommendations on the Draft Health Information System Act.<sup>375</sup>

The Advocate prepared an analysis of the communication accessibility of family medicine outpatient clinics. In doing so, the Advocate relied on the results of qualitative research performed with a focus group and through semi-structured interviews, as well as on his own verifications conducted by phone. Participants in the research evaluated the accessibility of health services as increasingly less accessible in terms of communication, with possible or legally required forms of communication narrowing down, mainly due to the introduction of digital means of communication. In the verifications conducted by phone, the Advocate established some violations, namely preventing the ability to communicate (make an appointment) with a family medicine outpatient clinic using all legally determined methods (by phone, by mail, in person, electronically). He found that this also puts persons with intellectual and psychosocial disabilities in a less favourable or disadvantaged position.<sup>376</sup>

Regarding the recommendation on ensuring accessibility to health services for persons with disabilities, regardless of where they live, the State has an obligation, pursuant to the EOPDA, to provide the public utility service of public regular transport of passengers in road transport by ensuring that providers operate buses that are accessible to individuals with reduced mobility and sensory disabilities. In its inquiry, the Advocate found that persons with disabilities are still not guaranteed access to public road transport at the level required by the Convention and the EOPDA, although the deadlines for doing so have expired.

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<sup>374</sup> Recommendation of the Advocate, available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-predloga-novega-zakona-o-dusevnem-zdravju-30-11-2020/>.

<sup>375</sup> Recommendation of the Advocate, available at: <https://zagovornik.si/izdelki/priporocilo-glede-predloga-zakona-o-zagotavljanju-sredstev-za-investicije-v-slovensko-zdravstvo-v-letih-2021-do-2031/>.

<sup>376</sup> Recommendation of the Advocate, available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-komunikacijske-dostopnosti-ambulant-druzinske-medicine/>.

Regarding the recommendation on ensuring general access to health care in the field of sexual and reproductive health, including family planning, information and education from the point of view of legal regulation, we would only like to highlight the Rules for the Implementation of Preventive Health Care at the Primary Level.<sup>377</sup> These Rules set out the need to provide additional services for young mothers with disabilities, but only in the form of two additional home visits for infants of blind and disabled mothers (up to the child's first year of age). The Rules do not provide for additional measures to help mothers with disabilities before the birth of a child.

At the level of assessing compliance with the recommendation when implementing measures in practice, we point out, for example, the possibility of participation of persons with disabilities in the School for Parents programme which is implemented at the Maternity Hospital Ljubljana of the Gynaecological Clinic of the University Medical Center Ljubljana. Although the website does not provide any information on spatial accessibility for the participation in their prenatal preparation courses for parents and early pregnancy courses for persons with disabilities, they do offer individual meetings for "enrolees with special needs (blind, deaf, psychiatric patients or otherwise ill pregnant women)".<sup>378</sup>

Individual health and educational work in the form of special meetings<sup>379</sup> is offered for "enrolees with special needs (blind, deaf, psychiatric patients or otherwise ill pregnant women)".<sup>380</sup> Videos from the School for Parents all have subtitles<sup>381</sup>, but recordings of their interpretation into Slovene sign language are not available. According to publicly available information, adjustments are only available for persons with certain types of disabilities.

During the greatest health crisis caused by the COVID-19 pandemic, the Advocate made a recommendation on the proposal of a new Infectious Diseases Act and recommended to the Ministry of Health that information, counselling and education of the population about communicable diseases, their prevention and measures to be taken in this regard be provided in accessible languages, forms and technologies, in line with the principle of accessibility. Everyone must be provided with accessible information in an understandable form, including persons with disabilities. The recommendation was later followed to a large extent.

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<sup>377</sup> Rules for the Implementation of Preventive Health Care at the Primary Level (Official Gazette of the Republic of Slovenia, No. 19/98, 47/98, 26/00, 67/01, 33/02, 37/03, 117/04, 31/05, 83/07, 22/09, 17/15, 47/18, 57/18, 57/18, 57/21, 162/21 and 39/23). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=NAVO59>.

<sup>378</sup> Available at:

[https://www.kclj.si/index.php?dir=/pacienti\\_in\\_obiskovalci/klinike\\_in\\_oddjelki/ginekoloska\\_klinika/porodnisnica\\_ljubljana\\_-\\_ko\\_za\\_perinatologijo/sola\\_za\\_starse](https://www.kclj.si/index.php?dir=/pacienti_in_obiskovalci/klinike_in_oddjelki/ginekoloska_klinika/porodnisnica_ljubljana_-_ko_za_perinatologijo/sola_za_starse).

<sup>379</sup> An example of an invitation to a special meeting is available at:

[https://www.kclj.si/index.php?dir=/pacienti\\_in\\_obiskovalci/klinike\\_in\\_oddjelki/ginekoloska\\_klinika/porodnisnica\\_ljubljana\\_-\\_ko\\_za\\_perinatologijo/aktualno\\_v\\_porodnisnici&id=6650](https://www.kclj.si/index.php?dir=/pacienti_in_obiskovalci/klinike_in_oddjelki/ginekoloska_klinika/porodnisnica_ljubljana_-_ko_za_perinatologijo/aktualno_v_porodnisnici&id=6650).

<sup>380</sup> Available at:

[https://www.kclj.si/index.php?dir=/pacienti\\_in\\_obiskovalci/klinike\\_in\\_oddjelki/ginekoloska\\_klinika/porodnisnica\\_ljubljana\\_-\\_ko\\_za\\_perinatologijo/sola\\_za\\_starse](https://www.kclj.si/index.php?dir=/pacienti_in_obiskovalci/klinike_in_oddjelki/ginekoloska_klinika/porodnisnica_ljubljana_-_ko_za_perinatologijo/sola_za_starse).

<sup>381</sup> Available at:

[https://www.kclj.si/index.php?dir=/pacienti\\_in\\_obiskovalci/klinike\\_in\\_oddjelki/ginekoloska\\_klinika/porodnisnica\\_ljubljana\\_-\\_ko\\_za\\_perinatologijo/video\\_sola\\_za\\_starse](https://www.kclj.si/index.php?dir=/pacienti_in_obiskovalci/klinike_in_oddjelki/ginekoloska_klinika/porodnisnica_ljubljana_-_ko_za_perinatologijo/video_sola_za_starse).

NGOs warn about problems with inaccessibility or difficult access to services and issues with health care in the field of sexual and reproductive health for persons with disabilities. The Association of Paraplegics of Slovenia draws attention to the issues in terms of lengthy procedures, which is a problem for everyone, regardless of disability, and the accessibility of certain biomedical fertilisation procedures, which are less invasive for quadriplegics and paraplegics, but must be paid for, while infertility treatment for all is provided within the framework of compulsory health insurance, meaning that no additional payment is required for these treatments.<sup>382</sup>

The 2016–2025 National Health Care Plan entitled "Together for a Society of Health"<sup>383</sup> does not mention health care in the field of sexual and reproductive health. The same applies to the horizontal 2030 National Development Strategy of Slovenia<sup>384</sup>, the 2023–2031 National Health Quality and Safety Strategy<sup>385</sup> and the 2018–2028 Resolution on the National Mental Health Programme.<sup>386</sup>

The second objective of the new APPD, "Residence and Integration", contains, in principle, an intention regarding preventive education: "Programmes and education on partnership, sexuality and family should also be provided for persons with disabilities, as well as those who coexist with them or are in contact with them"<sup>387</sup>, which is, however, not concretised. The same text was already included in the 2014–2021 Action Programme for Persons with Disabilities<sup>388</sup>, which shows that no progress has been made in this area.

One of the basic systemic problems is the issue of regulating health insurance rights. Compulsory Health Insurance Rules are a general act of the Health Insurance Institute of Slovenia, which regulates the rights of insured persons under the Health Care and Health Insurance Act.<sup>389</sup> This is an inadequate regulation that is not in accordance with Articles 87 and 51 of the Constitution of the Republic of Slovenia. The Constitutional Court of the Republic of Slovenia has repeatedly ruled that it is not permissible to regulate the rights stemming from compulsory health insurance with the Compulsory Health Insurance Rules if this does not follow from the purpose of the law.

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<sup>382</sup> Paraplegik, newsletter of the Slovenian Paraplegic Association, No. 168/April 2022, p. 7-8. Available at: <https://www.zveza-paraplegikov.si/sites/default/files/168MAR22.pdf>.

<sup>383</sup> Resolution on the 2016–2025 National Health Care Plan "Together for a Society of Health" (Official Gazette of the Republic of Slovenia, No. 25/16). Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=RESO102>.

<sup>384</sup> 2030 Development Strategy of Slovenia (2017). Available at: [https://www.gov.si/assets/ministrstva/MKRR/Strategija-razvoja-Slovenije-2030/Strategija\\_razvoja\\_Slovenije\\_2030.pdf](https://www.gov.si/assets/ministrstva/MKRR/Strategija-razvoja-Slovenije-2030/Strategija_razvoja_Slovenije_2030.pdf).

<sup>385</sup> 2023–2031 National Health Quality and Safety Strategy. Available at: [https://www.gov.si/assets/ministrstva/MZ/DOKUMENTI/NOVICE/Nacionalna\\_strategija\\_kakovosti\\_in\\_varnosti\\_v\\_zdravstvu\\_SLO\\_potrjena.pdf](https://www.gov.si/assets/ministrstva/MZ/DOKUMENTI/NOVICE/Nacionalna_strategija_kakovosti_in_varnosti_v_zdravstvu_SLO_potrjena.pdf).

<sup>386</sup> Resolution on the National Mental Health Programme 2018–2028. Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=RESO120>.

<sup>387</sup> Action Programme for Persons with Disabilities 2022–2030. P. 6. Available at: [https://www.gov.si/assets/ministrstva/MDDSZ/Invalidi/API-2022-2030/Akcijski\\_program\\_za\\_invalide\\_2022\\_2030.docx](https://www.gov.si/assets/ministrstva/MDDSZ/Invalidi/API-2022-2030/Akcijski_program_za_invalide_2022_2030.docx).

<sup>388</sup> Action Programme for Persons with Disabilities 2014–2021. Available at: [https://www.gov.si/assets/ministrstva/MDDSZ/Invalidi/API-2014-2021/API\\_2014\\_2021.pdf](https://www.gov.si/assets/ministrstva/MDDSZ/Invalidi/API-2014-2021/API_2014_2021.pdf).

<sup>389</sup> Health Care and Health Insurance Act (Official Gazette of the Republic of Slovenia, No. 72/06 – official consolidated text, 114/06 – ZUTPG, 91/07, 76/08, 62/10 – ZUPJS, 87/11, 40/12 – ZUJF, 21/13 – ZUTD-A, 91/13, 99/13 – ZUPJS-C, 99/13 – ZSVarPre-C, 111/13 – ZMEPIZ-1, 95/14 – ZUJF-C, 47/15 – ZZSDT, 61/17 – ZUPŠ, 64/17 – ZZDej-K, 36/19, 189/20 – ZFRO, 51/21, 159/21, 196/21 – ZDOsk, 15/22, 43/22, 100/22 – ZNUZSZS, 141/22 – ZNUNBZ, 40/23 – ZČmIS-1 and 78/23). Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO213>.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

19 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that 10 of them agreed with the assessment. Two of them stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment. Two of them stated that they partially agreed with the assessment, but did not provide a more detailed explanation. The answers of the five remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

The lack of access to health services, including access to dental services for persons with intellectual and physical disabilities, and access to health services for persons with reduced mobility have been identified as challenges in this area. State responsibility for improving the situation in this area was proposed as a potential solution.

Examples of definitions provided by representatives of non-governmental organisations include:

- "We fully agree with the assessment. Accessibility of health services for persons with disabilities is a very serious problem, and a solution does not yet appear to be in sight."
- "As far as our cases are concerned, our health care system is quite rigorous in controlling our issues and taking care of them. The situation could be better, but in many places in our neighbourhood, it is also much worse."

### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.



## 6.27 Employment and work of persons with disabilities (Article 27 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 46,

- point b) of its recommendation, the CRPD Committee recommended to the State Party to create specific incentives for employers and provide reasonable accommodation for persons with disabilities, particularly for persons with intellectual disabilities, aimed at facilitating their inclusion in the open labour market.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**Incentives to employ persons with disabilities are only available to employers who wish to employ workers with the status of a person with a disability and are not available to all employers who employ persons with disabilities. Employment quotas in public administration and in the information services sector are still the lowest compared to other sectors.**

A specific systemic problem that has a strong negative impact on the employment of persons with disabilities is the inadequate regulation of the requirement for reasonable accommodation (more in the explanation of subsection 6.5). This obligation is considered by the Convention as an expression of the prohibition of discrimination and not as a specific or positive incentive measure.

The Vocational Rehabilitation and Employment of Persons with Disabilities Act (the VREPDA)<sup>390</sup> sets out forms of incentives for greater or more equal integration of persons with disabilities into the labour market, including the payment of the costs of workplace adaptation.

Pursuant to Article 67 of the VREPDA, the following financial incentives may be recognised for a more equal inclusion of persons with disabilities in terms of employment: wage subsidies for persons with disabilities, payment of the costs of adjusting workplaces and resources for work of persons with disabilities, payment of the costs of support employment services, exemption from payment of contributions for pension and disability insurance of persons with disabilities, awards for exceeding the quota, annual awards for employers for their good practice in the field of employment of persons with disabilities, and other incentives in the field of employment of persons with disabilities and preservation of workplaces for persons with disabilities. Professional advisory services can also be offered.

In the event that a disabled person can only be employed in a workplace which is specifically adapted for them, or that they need adapted means of work to perform their duties, the VREPDA may, after receiving the application by the employer of the person with disability in question, recognise the payment of the costs for appropriate adjustments. An application for the payment of the costs of the adjustment of the workplace and means of work may be submitted by the employer for a person with disabilities who is already employed or who is unemployed, with whom said employer concludes an employment contract for at least 12 months, if there is no other person liable to pay the costs of adjustment.

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<sup>390</sup> Vocational Rehabilitation and Employment of Persons with Disabilities Act (Official Gazette of the Republic of Slovenia, No. 16/07 – official consolidated text, 87/11, 96/12 – ZPIZ-2, 98/14 and 18/21). Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3841>.

Exceptionally, an application may also be submitted by the vocational rehabilitation provider (during the duration of said vocational rehabilitation), if its implementation is not possible without adjustment, which must be evident from the rehabilitation plan.

The Public Scholarship, Development, Disability and Maintenance Fund of the Republic of Slovenia (a public fund) reimburses the employer for eligible costs. Eligible costs are the costs that should be added to the costs that would be incurred by the employer if they employed employees who are not persons with disabilities. This suggests that the system of ensuring a reasonable adjustment for beneficiaries under the VREPDA should cover all financial burdens of employers. According to the VREPDA, incentives and payment of aids or of adjustment of the workplace are available for employers and not for employees, which means that an employed person with a disability must go through a new process every time their employers change. It is unclear whether these services are also fully available to self-employed persons who are not technically an employer themselves, although the situation is comparable in terms of content.

Incentives are available to employers who employ persons with disabilities (with a disability status), and not to all employers who employ persons with disabilities, including persons with more severe disabilities such as severe forms of psychosocial disabilities, unless these disabilities already represent a permanent condition and if it is possible to determine any of the levels of their disability according to the Pension and Disability Insurance Act. No benefits are foreseen for bridging or support in temporary positions and in the event of short-term employment.

The annual reports of the public fund<sup>391</sup> show that, from 2018 to 2021, the share of persons with disabilities in employment remains approximately the same, amounting to 3.8 per cent. The number of employers who are paying fines because of their failure to meet the quota is increasing, exceeding 2,100 in 2021; in December 2021, however, this number decreased to 1,771. In total, about EUR 34,500 were paid from receivables in 2020, and about EUR 38,500 in 2021. The report also shows that the incentive for workplace adjustments has become slightly more animated, since the number of applications has been growing since 2018, especially in 2020, when the most applications were submitted (104, compared to 25 the year before). The number of approved applications is also growing, with 13 applications approved in 2018 and 27 in 2021.

In 2020, slightly more than EUR 60,300 were paid for workplace adjustments; in 2021, slightly more than EUR 94,300 were paid for this purpose. At the time of the entry into force of the VREPDA in 2006, 2,305 decisions were issued in relation to the recognised right to a reward for exceeding the quota. In 2021, 6,338 decisions in relation to the recognised right to a reward for exceeding the quota were issued, meaning that their number doubled. Thus, the number of requests for payment of the award is also increasing; in 2021, the fund received as many as 68,287 of these requests. This suggests that the number of employers employing persons with disabilities in excess of the prescribed quota is increasing every year, and that they are applying financial incentives due to the fact that they are exceeding the quota. Slightly more than EUR 18 million were paid as rewards for exceeding the quota in 2020, and slightly more than EUR 20 million were paid for this purpose in 2021. The report does not indicate whether employers must purposefully use the remuneration from the reward or not.

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<sup>391</sup> Annual reports of the Public Scholarship, Development, Disability, and Maintenance Fund of the Republic of Slovenia. Available at: <https://www.srips-rs.si/sl/sklad/o-nas/informacije-javnega-znacaja/letno>.

Although employers are informed and encouraged to benefit from the available benefits through information materials, including in individual projects and manuals,<sup>392</sup> it is questionable whether they therefore use them to a greater extent and, in particular, whether this contributes to the achievement of the objective of employing persons with disabilities to a greater extent.

There is no progress in the legal regulation of ensuring reasonable accommodation, as the duty does not apply generally and independently of the decisions of the competent authorities on the status of a disabled person or, in particular, the medical aspect of disability; in addition, a violation of the obligation to provide reasonable accommodation is not defined as a violation of the prohibition of discrimination anywhere in the legislation, with the exception of the Convention.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

20 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that 11 of them agreed with the assessment. Two of them stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment. The answers of the seven remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

The fact that employers are not sufficiently aware of the incentives for the employment of persons with disabilities, the potential harmfulness of the incentive for employers in terms of long-term employment of persons with disabilities, and the lack of a quota system for the employment of persons with disabilities have been identified as challenges in this area. A change in the legislation was proposed as a potential solution.

Examples of comments provided by representatives of non-governmental organisations:

- "We agree with the assessment. At the same time, we would also like to note another issue, i.e. lowering the employer's quotas by submitting certain works to organisations that are implementing protected forms of employment and employment integration."
- "Incentives for the employment of persons with disabilities are designed to encourage employers to employ persons with disabilities who have the status of a disabled person. This can lead to employers only hiring persons with disabilities for incentives and not for the potential that they can offer. This can have several negative consequences."
- "Although the State recognises that deaf people have the right to work and to be paid for their work, it unfortunately does not have any anti-discrimination legislation in the workplace that would protect deaf people from workplace discrimination in terms of employment opportunities in accordance with their education, but not in the case of requalification, as well as in the case of an "invisible" refusal when it comes to finding a job opportunity for these people. With the help of sign language and interpreters, deaf people can work in all areas."

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<sup>392</sup> See, e.g. Advocate of the Principle of Equality (2023). Handbook for employers: Ensuring equal opportunities and preventing discrimination in employment and work. Available at: <https://zagovornik.si/wp-content/uploads/2024/02/2023-03-10-Prirocnik-delodajalci-DOLGI-1.pdf>.

- Incentives for the employment of persons with disabilities should "[...] also be available to budget users, as it is easier to provide work for persons with disabilities in the public administration than in companies".

#### 4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)

- In its response, the **MLFSAEO** explained that the quota system for the employment of persons with disabilities covers both the private and public sector, the economy and businesses with at least 20 employees. The quota amount under the Vocational Rehabilitation and Employment of Persons with Disabilities Act amounts from 2 per cent to 6 per cent, which depends on the activity of the employer. The MLFSAEO evaluates that the quota system in the Republic of Slovenia is successful. The Ministry further explains that employers who do not meet the quota must pay a contribution to the Public Scholarship, Development, Disability and Maintenance Fund of the Republic of Slovenia, whereby said contribution must amount to 70 per cent of the minimum wage for each "missing" person with a disability. If they fail to pay the contribution, the payment of said contribution becomes enforceable by the Financial Administration of the Republic of Slovenia. If employers exceed the prescribed quota (including employers with less than 20 employees), they are eligible for exemption of payment of the pension and disability insurance contribution for all persons with disabilities who exceed the quota, and they also receive a monthly reward in the amount of 20 per cent of the minimum wage for every surplus person with disabilities.
- In its response, the **MoD** reported that they are exceeding the legally prescribed quota of employed persons with disabilities, i.e. 2 per cent, which is set for public administration, defence and compulsory social security activities. According to the MoD, this represents an example of good practice of employing vulnerable groups, such as persons with disabilities.

## 6.28 Access to adequate housing (Article 28 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 48,

- point c) of its recommendation, the CRPD Committee recommended to the State Party to ensure the accessibility of public housing for persons with disabilities, disseminate information about available and affordable housing in accessible formats and engage with the private sector with a view to promoting the development of accessible housing units.
- point f) of its recommendation, the CRPD Committee recommended to the State Party to ensure a dignified and inclusive social protection system for older persons with disabilities.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**Access to suitable housing for persons with disabilities is extremely limited. There is a lack of services to integrate older people into the community so that they can stay in their home environment instead of having to move to a care institution.**

The legislation provides opportunities for incentives and priority treatment of persons with disabilities when it comes to accessing the public housing fund. This housing stock is extremely limited and is also not fully architecturally accessible. Recently, there have been significant shifts towards planning the provision of a larger public housing stock and its affordability in terms of prices, but the impact will only be visible in the medium to long term.

In accordance with Article 148a of the Housing Act (the HA-1), the Housing Fund of the Republic of Slovenia<sup>393</sup> ensures the acquisition of suitable apartments on the market for tenants. The Fund provides an offer of suitable rental housing to the beneficiaries of public rental housing. Public rental apartments are an activity of the Fund which, due to the public interest in the supply of rental apartments, rents apartments on the market and subleases them to beneficiaries at a non-profit rent. Public rental of apartments is carried out in accordance with the provisions of the Housing Rental Relationships and Housing Rent Act.

Another public source of accessible housing for persons with disabilities is housing owned by municipalities or their special housing funds. Article 87 of the HA-1 stipulates that, when allocating non-profit apartments for rent, priority is also given to persons with disabilities and families with a disabled family member. This area is regulated in more detail in Article 3 of the Rules on the Allocation of Non-Profit Housing for Rent.<sup>394</sup>

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<sup>393</sup> Housing Act (Official Gazette of the Republic of Slovenia, No. 69/03, 18/04 – ZVKSES, 47/06 – ZEN, 45/08 – ZVEtL, 57/08, 62/10 – ZUPJS, 56/11 – dec. of the Constitutional Court, 87/11, 40/12 – ZUJF, 14/17 – dec. of the Constitutional Court, 27/17, 59/19, 189/20 – ZFRO, 90/21, 18/23 – ZDU-10 and 77/23 – dec. of the Constitutional Court). Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO2008>.

<sup>394</sup> Rules on the allocation of non-profit apartments for rent (Official Gazette of the Republic of Slovenia, No. 14/04, 34/04, 62/06, 11/09, 81/11, 47/14, 153/21 and 62/23). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV5102>.

This article stipulates that persons with disabilities who are permanently attached to the use of a wheelchair or who permanently need the assistance of another person, regardless of their place of residence, may also apply for a non-profit apartment in another municipality where there are greater opportunities for employment or where they will be able to be provided with the assistance of another person and medical services. When allocating non-profit apartments for rent, surface norms may be exceeded by taking into account additional living or sleeping space, if family or social health conditions require it (these conditions also include severe disability and serious illness requiring permanent care), which is regulated by Article 15 of the Rules.

If the non-profit apartment is intended for a disabled person or a family with a disabled member who is unable to move normally, the need to eliminate architectural barriers in the apartment or when accessing or exiting the apartment building, as well as sufficient living space, must be taken into account when allocating the non-profit apartment (Article 16 of the Rules). The problem that occurs in practice is that, due to municipalities deciding on priority categories of other population groups (e.g. priority for people with a higher education, families with several children, etc.), the advantages of persons with disabilities in renting a non-profit apartment can be neutralised.

In his recommendation to the Draft Act Amending the Housing Act,<sup>395</sup> the Advocate recommended that priority categories of applicants should always be justified by a legitimate aim when they are related to personal grounds (e.g. age, education, financial situation, gender, parenthood). These categories should be determined on the basis of data and analyses and explained. He also recommended that it would make sense for the decision on priority categories of applicants to be justified in national or municipal strategic documents, such as the 2015–2025 Resolution on the National Housing Programme.<sup>396</sup>

One option would be, for example, to bind all tender conditions to a valid resolution which is based on analyses and which is of a strategic nature. Tenders for renting non-profit apartments are published on the websites of municipalities or of the Housing Fund of the Republic of Slovenia, but some pages are not provided in accessible formats.

The third public source of renting accessible apartments for persons with disabilities are apartments owned by the Pension and Disability Insurance Institute. However, these apartments are only available to the elderly and are largely inaccessible to persons with reduced mobility.

The legislation also allows for subsidies for renting apartments that an individual finds on the market. However, only few of these apartments would actually be accessible. According to the Ministry of the Environment and Spatial Planning, there were 6,233 four- or multi-storey buildings in Slovenia without an elevator (a total of 77 per cent of all such buildings) in 2019. In Ljubljana, there were 1,970 such buildings. Some NGOs working in the field of the elderly claim that there are as many as 11,000 such buildings.<sup>397</sup> At the same time, there is a huge shortage of housing in general, let alone affordable housing, especially at reasonable prices.

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<sup>395</sup> Recommendation of the Advocate, available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-osnutka-zakona-o-spremembah-in-dopolnitvah-stanovanjskega-zakona-18-8-2020/>.

<sup>396</sup> Resolution on the National Housing Programme 2015–2025 (Official Gazette of the Republic of Slovenia, No. 92/15). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=RESO114>.

<sup>397</sup> Available at: <https://www.delo.si/novice/slovenija/enajst-tisoc-vecstanovanjskih-stavb-v-sloveniji-brez-dvigala/>.



Persons with disabilities may already have more serious health issues, meaning that a few stairs can completely prevent them from living their everyday life, as they either become prisoners of their own apartments or have to find accommodation in institutions. In addition to several draft amendments to the Housing Act, the Advocate recommended that, in the event of construction works intended to eliminate architectural barriers, only the majority consent (more than 50 per cent) of the owners of multi-apartment buildings should be introduced, instead of the current threshold of 75 per cent of ownership shares. The Advocate also recommended that a broader concept of persons with disabilities be consistently introduced into legislation instead of the status of a disabled person, so that they could be entitled to additional benefits in access to housing.<sup>398</sup>

According to some estimates, many apartments in Slovenia are empty, which is because no negative incentives (e.g. tax incentives) exist that would force the owners to put them into use, including for persons with disabilities. An additional problem, especially when it comes to tourist attractions, is the short-term rental of apartments, which is why the market of conventional rental apartments for long-term rentals is even decreasing, or prices are increasing.

A social protection system has been established in Slovenia, which also includes special measures and services for older persons with disabilities.<sup>399</sup> The aim of this system is to ensure a decent and inclusive life for all citizens, including older persons with disabilities.

The insufficient services intended to integrate older people into the community are described in subsection 6.20. Programmes intended to promote social inclusion, active ageing and volunteering, which contribute to comprehensive support for older people with disabilities,<sup>400</sup> do not outweigh these shortcomings.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

20 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that 13 of them agreed with the assessment. One representative stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment. One of them stated, in their response, that "many things were regulated", which shows that they did not fully agree with the Advocate's assessment. The answers of the five remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

A large financial burden of housing adaptation, the absence of adaptation providers, a narrow set of adapted apartments in relation to a wide range of applicants, and problematic tender conditions for the acquisition of apartments have been identified as challenges in this area. Financial support from the State was proposed as a potential solution, whereby it would be reasonable to focus on the adaptation of existing apartments.

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<sup>398</sup> Recommendation of the Advocate, available at: <https://zagovornik.si/izdelki/priporocilo-zagovornika-nacela-enakosti-glede-osnutka-zakona-o-spremembah-in-dopolnitvah-stanovanjskega-zakona-18-8-2020/>.

<sup>399</sup> Available at: <https://www.gov.si/podrocja/socialna-varnost/varstvo-starejsih/>.

<sup>400</sup> Available at: <https://www.gov.si/assets/ministrstva/MDDSZ/sociala/Brosura-Mreza-socialnovarstvenih-programov-programov-za-invalidne-in-programov-v-podporo-druzini.pdf>.

Examples of comments provided by representatives of non-governmental organisations include:

- "Yes, this is true. Recently, the Long Term Care Act was finally adopted, but will only be implemented gradually. Unfortunately, in the example of home care, it only sets a limit of up to 110 hours of assistance per month, which amounts to a little over 3 hours of assistance per day. Obviously, this is not enough for people who need help with most or all of their daily activities, which is why they are forced to seek institutional care."
- "We agree with the assessment. We are aware of the practical application of the rules on the basis of which persons with disabilities apply for the same non-profit apartments as other applicants; if they do not obtain enough points, which is especially an issue for people who do not have the status of a disabled person under the Vocational Rehabilitation and Employment of Persons with Disabilities Act, meaning that they do not have the attributed degree of disability, the apartment in a new building that is adapted for a person with a disability is also rented to a person without a disability. On the other hand, some persons with disabilities do not have a housing issue (e.g. a person with an intellectual disability in a family with elderly parents) but are still unable to benefit from housing in the future and will have to go to an institution, due to the lack of services available in the community."

#### **4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.



## 6.29 Participation of persons with disabilities in elections (Article 29 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 50,

- point a) of its recommendation, the CRPD Committee recommended to the State Party to ensure the right of all persons to vote, whatever their impairment, and provide them with supported decision-making, including accessible voting materials for all persons with disabilities, regardless of their impairment.
- point b) of its recommendation, the CRPD Committee recommended to the State Party to enable persons with disabilities, in particular women with disabilities, to exercise their political rights, including the right to stand for public office and participate in the conduct of public affairs.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**By amending the legislation in February 2024, the State eliminated the deprivation of the right to vote for persons with intellectual and psychosocial disabilities, and also provided for the possibility of the presence of a support person when a person with a disability is voting at the polling station. Effective participation of persons with disabilities in elections with accessible information, procedures, and election materials, as well as appropriate education of the persons responsible, has not yet been enabled.**

In the period after the issuance of the recommendations of the CRPD Committee, there was a partial improvement in 2019 regarding disenfranchisement; in 2021 and then again in 2023, however, a systemic decline was observed, and the situation was even worse than before the issuance of the recommendations of the CRPD Committee. In February 2024, the right to vote was then returned to voters with intellectual and psychosocial disabilities at the proposal of MPs and of the National Council.<sup>401</sup> With the adoption of laws, as well as in practice during this period, the actions of the State directly contradicted the recommendations of the CRPD Committee and a number of the Advocate's recommendations to abolish disenfranchisement and empower people to participate in political and other aspects of life in society as equal members of society. This is a good explanation for the shortcomings or, in fact, the absence of the strategic harmonisation of the legislation and practices with the Convention, which is why we are providing a detailed description of the process.

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<sup>401</sup> National Assembly Election Act (ZVDZ). (Official Gazette of the Republic of Slovenia, No. 109/06 – official consolidated text, 54/07 – dec. of the Constitutional Court, 23/17, 29/21 and 12/24). Available at: <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2024-01-0293>.

Disenfranchisement became legally impossible on 15 April 2019, with the entry into force of the Family Code<sup>402</sup> (the FC) and the new Non-Contentious Civil Procedure Act.<sup>403</sup> The Act does not allow for a (complete) deprivation of legal capacity or extension of parental rights over persons with psychosocial or intellectual disabilities. The disenfranchisement still applied to those people who had previously been deprived of their right to vote. In 2021, the amendment to the National Assembly Election Act (the NAEA-D)<sup>404</sup> enabled the revocation of the right to vote in the elections to the National Assembly, upon judicial appointment under guardianship (partial deprivation of legal capacity). This enabled the disenfranchisement of those who could not be disenfranchised before 2019.

The Advocate has repeatedly pointed out to a number of key stakeholders, including the legislator, the controversy over the disenfranchisement of persons with intellectual and psychosocial disabilities in terms of the prohibition of discrimination on the grounds of disability under the Constitution of the Republic of Slovenia and the Convention;

for the first time before the European Parliament elections in May 2019, and then once again after these elections in August 2019. No written responses were received by the Advocate. The Council of Persons with Disabilities of the Republic of Slovenia was the only body that adopted a decision in October 2019 to support the abolition of disenfranchisement.<sup>405</sup> The Advocate raised the issue with the MPs in his regular annual report for 2019.<sup>406</sup> He then raised the issue again with his Recommendation to the Amendment to the Local Elections Act and the Amendment to the Referendum and Popular Initiative Act.<sup>407</sup>

In the explanation<sup>408</sup> to the NAEA-D, the legislator explained the solution as an "editorial solution" (p. 4), in the sense that this regards the harmonisation with the new NA; the statement that "the regulation does not change in terms of content" was also made (p. 14). This is not true; disenfranchisement was no longer legally possible and only became possible again with the entry into force of the NAEA-D, i.e. from 16 March 2021 onwards.

In June 2022, the Advocate assessed in a special procedure that Article 7 of the National Assembly Elections Act discriminates against persons with intellectual and psychosocial disabilities.<sup>409</sup> The regulation unduly allows for the disenfranchisement of persons with these personal grounds. It provides for the possibility of depriving voters of their right to vote, based on an expert assessment of their ability to understand the purpose, meaning and impact of elections, while for other citizens the assessment of their abilities is not envisaged.

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<sup>402</sup>Family Code (the FC). (Official Gazette of the Republic of Slovenia, No. 15/17, 21/18 – the ZNOrg, 22/19, 67/19 – ZMatR-C, 200/20 – ZOOMTVI, 94/22 – dec. of the Constitutional Court, 94/22 – dec. of the Constitutional Court and 5/23). Available at: <https://pisrs.si/pregledPredpisa?id=ZAKO7556>.

<sup>403</sup>Non-Contentious Civil Procedure Act (the NCCPA-1). (Official Gazette of the Republic of Slovenia, No. 16/19). Available at: <https://pisrs.si/pregledPredpisa?id=ZAKO7879&d-49683-s=2&d-49683-p=1&d-49683-o=1>.

<sup>404</sup>National Assembly Election Act (the NAEA-D). (Official Gazette of the Republic of Slovenia, No. 29/21). Available at:

<https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2021-01-0618>.

<sup>405</sup> Conclusion under item 2.1: "The Council for Persons with Disabilities of the Republic of Slovenia strongly supports the position that disenfranchisement of persons with disabilities is inadmissible. The State is obliged to ensure the protection of the right to vote for persons with disabilities at all positions and at all levels.", available at <https://www.gov.si/zbirke/delovna-telesa/svet-za-invalidne-republike-slovenije/>.

<sup>406</sup> See 12.4.1, Summary of the study on disenfranchisement of persons with intellectual and psychosocial disabilities, p. 198-201. Available at <https://zagovornik.si/en/what-we-do/annual-reports/>.

<sup>407</sup> Both available at: <https://zagovornik.si/izdelki-zagovornika/letno-porocilo/>.

<sup>408</sup> The draft text of the NAEA-D is available at: <https://imss.dz-rs.si/IMiS/ImisAdmin.nsf/ImisnetAgent?OpenAgent&2&DZ-MSS-01/54c145664a50275d93cba56da85d0e08928e5e28fbb63d93bd7abe06aa409ccd>.

<sup>409</sup> The rating and recommendation are available at: <https://zagovornik.si/izdelki/moznost-odvzema-voliine-pravice-osebam-z-intelektualnimi-in-psihosocialnimi-invalidnostmi-je-diskriminacija/>.

The Advocate assessed that such differential treatment is not justified and that this arrangement cannot be understood as an exception to the prohibition of discrimination. This measure is neither an appropriate nor the only possible and proportionate way of achieving the legitimacy of elections and preventing abuses in voting. In particular, this measure is not appropriate because persons with intellectual and psychosocial disabilities are not provided with any support services such as supportive decision-making when they have to make their decision. Therefore, the Advocate recommended to the MPA to eliminate the discrimination by amending the Act. The MPA responded positively to this recommendation and undertook to prepare amendments to the National Assembly Elections Act in order to implement the Advocate's recommendation.

Nevertheless, additional regressions occurred since, despite the additional recommendation of the Advocate regarding the proposal of the amendment to the National Council Act, the legislator adopted and introduced disenfranchisement for National Council elections, even though disenfranchisement did not exist since 2004. The number of disenfranchisements significantly increased during the period considered. According to the Mol, there were 2,035 people without active and passive voting rights in May 2019, and 4,024 people in 2024, when the right to vote was returned to them once more. The number of persons who could not be elected (whose passive right to vote was abolished) was even higher.

According to the available information, the legislation should not be interpreted to the detriment of persons who are deprived of their right to vote pursuant to the NAEA in all elections. When it comes to electing the President of the Republic, disenfranchisement is not planned for at all. When it comes to local elections and European Parliament elections, however, the direct application of the prohibition of discrimination under primary EU law would prevent the application of the contested restrictions on the right to vote.

With the Act Amending the National Assembly Election Act (the NAEA-E), the right to vote was restored in full to all persons with intellectual and psychosocial disabilities. However, not all solutions were appropriate at first. The Advocate provided the NA of the Republic of Slovenia with recommendations<sup>410</sup> to amend all acts regulating the right to vote by abolishing the possibility of disenfranchisement and revoking the impact of judicial disenfranchisements that have been performed thus far. He also recommended that persons with disabilities and persons with other types of impairment be given the opportunity to support the person of their choice in elections, so that they can fully and equally enjoy the right to vote.

The legislator followed these two recommendations in the NAEA-E, which entered into force on 10 February 2024. However, the legislator did not follow the recommendation to update and ensure the accessibility of electoral procedures with appropriate legal guarantees. After the entry into force of the NAEA-E, the Advocate also assessed that the information and election materials available on the websites of the National Election Commission, the e-uprava portal and the website of the Ministry of Public Administration were not relevant in terms of content. Many of them do not comply with the adopted legislation stating that disenfranchisements no longer exist, did not explain the role of electoral assistants, and did not even comply with the applicable legislation regarding the scope of beneficiaries for postal elections or the interpretation of the Constitutional Court of the Republic of Slovenia in case U-I-168/16 determining that persons with disabilities are also entitled to vote at home. The information is also not provided in Easy Reading format.

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<sup>410</sup> Recommendation of the Advocate, available at: <https://zagovornik.si/izdelki/priporocila-zagovornika-nacela-enakosti-glede-vrnitve-volilne-pravice-ljudem-z-intelektualnimi-in-psihosocialnimi-invalidnostmi-s-predlogom-zakona-o-spremembah-in-dopolnitvah-zakona-o-volitvah-v-drzav/>.

Important progress was only made in terms of the availability of information on elections in adapted formats (including Easy Reading), especially due to the operation of the Accessible (Dostopno) portal of the RTV Slovenia. In 2022, for example, in the so-called super-election year in Slovenia, the portal Accessible offered information on electoral procedures, party programmes, candidates and summaries of electoral and referendum debates. They were also available in Easy Reading format.<sup>411</sup> Efforts by NGOs to empower persons with intellectual and psychosocial disabilities are also important.<sup>412</sup>

No significant progress was made when it comes to promoting candidatures for the public office and the participation in the management of public affairs of persons with disabilities. Access to and termination of certain functions is further restricted if the person in question is placed under any partial custody. Partial deprivations of legal capacity (regardless of the content) have also become a reason for the termination of the functions of prosecutors, and they have also been proposed in the draft amendments to the laws regarding liquidators (more in the explanations of subsection 6.13).

Given the increased number of persons deprived of their legal capacity, especially those who were deprived of their legal capacity due to dementia, it is likely that the impact on women in this sphere is disproportionately greater (due to a longer survival rate, which is certainly the case, for example, regarding the deprivation of the right to vote); regarding the participation of women, more information is available in the explanation in subsection 6.10. No supportive decision-making exists for the participation in the management of public affairs (performance of functions). Most of the Advocate's recommendations were not taken into consideration. The inaccessibility of buildings used by all branches of government for their public institutions (more in the explanation in subsection 6.15) significantly hinders the possibility of employment and work in judicial bodies for persons with disabilities under the same conditions. No special analysis has been prepared as to the accessibility of representative bodies at the local level (mayoral offices, meeting rooms of municipal councils).

So far, no progress has been made in promoting the possibility of directly participating in the management of public affairs as civil servants, and the Advocate's recommendations have not been taken into account (e.g. regarding the PAA). The obligation to employ persons with disabilities in line with the number of all employees applies to both the public and private sectors. The State administration, compared to other taxpayers, is still subject to the lowest quotas (2 per cent, compared to 6 per cent in some other sectors) when it comes to the requirement to employ a certain percentage of persons with disabilities among all employees.<sup>413</sup> Nevertheless, State administration institutions, instead of fulfilling this regulated minimum employment of persons with disabilities, still largely decide to fulfil this obligation by paying a contribution to promote the employment of persons with disabilities, or with one of the alternative options, such as performing business transactions with persons with disabilities.

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<sup>411</sup> See information on the Dostopno (Accessible) portal – [www.dostopno.si](http://www.dostopno.si), see sections in *Easy Reading* related to [parliamentary](#), [local](#) and [presidential elections and referendums](#) in 2022.

<sup>412</sup> The RISA Institute, Center for General, Functional and Cultural Literacy, and its partners implemented a project to promote political participation and active citizenship of persons with intellectual disabilities, and on how to better involve them in political and public life. Available on [myPart](#) and on a special [Erasmus+ website](#).

<sup>413</sup> Regulation establishing the employment quota for persons with disabilities (Official Gazette of the Republic of Slovenia, No. 21/14). Available at: <https://pisrs.si/pregledPredpisa?id=URED6489&d-49683-s=3&d-49683-p=1&d-49683-o=1&d-49681-o=1&d-49681-p=1&d-49681-s=3>.

### 3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)

24 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that 14 of them agreed with the assessment. Five of them stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment. One of them wrote in their response: "We absolutely agree that persons with the type of disability that prevents them from understanding the elections and that makes it impossible for them to express their own will should not be allowed to participate in the elections. If they had the opportunity to participate in the elections, this would mean that anyone could be abusing their right.", which shows that they disagreed with the Advocate's assessment. The answers of the four remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

The inaccessibility of information in the media for the deaf and the hard of hearing has been identified as a challenge in this area, since not all information obtained by persons without hearing problems when deciding which election candidate to vote for is accessible to them. A change in the legislation, the constitution and other legal acts was proposed as a potential solution.

Examples of comments provided by representatives of non-governmental organisations include:

- "... the revocation of the right to vote directly violates at least the Constitution of the Republic of Slovenia and the Convention on the Rights of Persons with Disabilities. We believe that this is an example of the alienation of a fundamental civil right in the name of "protecting" individuals. We strongly believe that the State should not pass on the responsibility for understanding or, better yet, failing to understand the meaning, purpose and effects of elections to citizens. On the contrary, it is the State that is obliged to ensure the accessibility of elections to citizens; i.e. provide for appropriate adjustments and means or technology so that they can exercise their right to vote and make independent decisions in the electoral process, like all other citizens."
- "... although certain contents on the website of the National Electoral Commission (NEC) are equipped with sign language and although they inform about where and how to vote, deaf voters are deprived of obtaining information in sign language in the elections (e.g. for the President of the Republic, the National Assembly of the Republic of Slovenia, the European Parliament, for supplementing a certain article in the law) and referenda, because they do not understand the written material; furthermore, they also do not receive complete information, especially when all candidates meet and discuss their positions on TV, in newspapers and on websites, etc."

### 4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)

- In its response, the **MPA** explained that substantive recommendations that have not yet been implemented are not directly related to the MPA. In the continuation of their answer, they stated that, in accordance with the recommendations of the CRPD Committee on Article 29 of the Convention and taking into account the recommendations of the Advocate from 2022 in this regard, the Ministry, when preparing the amendment to the National Assembly Election Act, will also adequately address the issue of judicial deprivation of the right to vote for persons with intellectual disabilities who have been placed under guardianship.

## 6.30 Accessibility of published works and other cultural and leisure content (Article 30 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 52, the CRPD Committee:

- encouraged the State Party to adopt all appropriate measures to ratify and implement the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled as soon as possible.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**Accessibility of published works and other cultural and leisure content for the blind, the visually impaired and persons with other reading disabilities (i.e. the content of the Marrakesh Treaty) is limited.**

The country has not ratified the Marrakesh Treaty to Facilitate Access to Published Works for the Blind, Visually Impaired or Otherwise Print Disabled.<sup>414</sup> Therefore, when taking steps towards adopting the standards of this contract, the State Party only follows the legal acts of the EU, which partially take into account this Treaty in terms of content. In 2019, Slovenia implemented Directive (EU) 2017/1564<sup>415</sup> with the amendment of the Act Amending the Copyright and Related Rights Act (the AACRRA-H)<sup>416</sup>, namely Article 48b (definition of eligible persons) and Article 48c (authorised entities), which enable the production of copies in an accessible format for eligible persons and the exchange of these copies on the internal market. Some issues in the field of the digital market (e-books) are also regulated by the Act on the Accessibility of Products and Services for Persons with Disabilities, which has, however, not entered into force yet.<sup>417</sup>

The problem of ensuring the accessibility of published works and other cultural and leisure content online through audiovisual content for the blind, the visually impaired and persons with other reading disabilities is largely covered by the issue of the inaccessibility of media content and the Internet. Failure to implement control and the absence of said control when it comes to violations of Article 8 of the EOPDA regulating the accessibility of goods and services available to the public is also an issue. In providing audiovisual adaptations for the blind, progress has been made in understanding and standardising approaches, e.g. to describe audiovisual works; the scope of the works provided is, however, insufficient, as the objectives set (one film with an audio description per year) are very modest.

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<sup>414</sup> The Marrakesh Treaty to Facilitate Access to Published Works for the Blind, Visually Impaired or Otherwise Print Disabled is available at: <https://www.consilium.europa.eu/sl/press/press-releases/2018/02/15/marrakesh-treaty-on-access-to-published-works-for-blind-and-visually-impaired-persons-council-authorises-ratification/>.

<sup>415</sup> This is the Directive (EU) 2017/1564 of the European Parliament and of the Council of 13 September 2017 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the blind, visually impaired and otherwise print disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society. Available at: <https://eur-lex.europa.eu/legal-content/SL/TXT/?uri=CELEX:32017L1564>.

<sup>416</sup> Act Amending the Copyright and Related Rights Act (Official Gazette of the Republic of Slovenia, No. 59/19). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7916>.

<sup>417</sup> Access to Products and Services for Persons with Disabilities Act (Official Gazette of the Republic of Slovenia, No. 14/23). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8537>. The entry into force of the law is 28 June 2025.



The number of works provided to the blind in Braille and in physical form is limited. In addition, such materials or books are, in principle, not available in public and school libraries but are primarily available in a special library for the blind, located at the premises of the Association of the Blind and Visually Impaired of Slovenia.<sup>418</sup>

In the field of providing Easy Reading formats, progress is being made both in terms of standardisation and when it comes to providing a range of content and works intended for cultural and leisure activities (e.g. the "20 Minutes" newspaper,<sup>419</sup> content available on the Accessible portal of RTV Slovenija<sup>420</sup>).

At the end of 2023, the Advocate conducted an inquiry on the accessibility of public facilities, on the basis of which he later prepared the Special Report on the Inaccessibility of Public Facilities for Persons with Disabilities.<sup>421</sup> In the field of arts and culture, 127 respondents have completed the survey in full. According to their own estimates, about a third (35 per cent) of facilities had no construction adjustments, 41 per cent had no technical adjustments, and more than three quarters of institutions had no adaptations with sound and light indicators and written information. 29 per cent of respondents who completed the survey in full estimated that the facilities will not provide any construction adjustments by the end of the statutory deadline, i.e. by 11 December 2025, while 35 per cent of these facilities will have no technical adjustments. Approximately one half (47 per cent) of respondents in this field are not planning to provide any adjustments with sound or light indicators and written information.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

15 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that nine of them agreed with the assessment. Four of them stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment. The answers of the two remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide an opinion on the assessment.

The unavailability of audiobook reading aids and the absence of cultural content accessible to persons with different types of disabilities have been identified as challenges in this area. The adoption of a comprehensive strategy in this area was proposed as a potential solution.

Examples provided by NGO representatives:

- "We agree with the assessment and estimate that a strong overall strategy would be necessary in this area, instead of partial solutions aimed at individual types of disabilities, for individual groups of persons with disabilities."

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<sup>418</sup> This is the Minka Skaberne Library for the Blind and Visually Impaired. Information is available at: <https://www.kss-ess.si/>.

<sup>419</sup> The journal "20 Minutes" of the RISA Institute is available at: <http://www.risa.si/Domov/Knji%C5%BEnica/%C4%8Casopis-20-minut>.

<sup>420</sup> The "Dostopno" portal is available at: <https://www.rtvlo.si/dostopno>.

<sup>421</sup> Advocate of the Principle of Equality (2023). Special report: Inaccessibility of Public Facilities for Persons with Disabilities. Available at: <https://zagovornik.si/izdelki-zagovornika/posebna-porocila/>.

**4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

- In response to the Advocate's assessment, the **MoC** reported that Article 2 of the Act Amending the Librarianship Act stipulates that public library service includes "providing access to library material and electronic publications". Article 16 of the Act stipulates that public libraries "organise special forms of activities for children, youth, and adults with special needs". Article 31 which is intended for special libraries stipulates that special libraries are also "the libraries that carry out library activities in special techniques adapted for the blind and the visually impaired". These include, according to statements provided by the MoC, the Minka Skaberne Library for the Blind and Visually Impaired with the Association of the Blind and Visually Impaired of Slovenia.



## 6.31 Collection of disaggregated data on persons with disabilities (Article 31 of the Convention)

### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 54,

- point a) of its recommendation, the CRPD Committee recommended to the State Party<sup>422</sup> to develop, bearing in mind target 17.18 of the Sustainable Development Goals, systematic data collection and reporting procedures, through the Disability Information System of the State Commission and representative organisations of persons with disabilities, that are in line with the Convention and take into account the Washington Group Short Set of Questions on Disability.
- point b) of its recommendation, the CRPD Committee recommended to the State Party to collect, analyse and disseminate disaggregated data on its population with disabilities, including data disaggregated by sex, age, ethnicity, type of impairment, socioeconomic status, employment and place of residence, as well as data on the barriers that persons with disabilities face in society and their level of poverty.

### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**Systematic procedures for collecting disaggregated data on persons with disabilities to develop appropriate measures and monitor the implementation of the Convention have not been developed.**

There is no publicly available information to collect official data on persons with disabilities in line with the Washington Group Short Set of Questions on Disability.<sup>423</sup> The State does not cooperate with representative organisations of persons with disabilities in the collection and analysis of data on persons with disabilities.

The problem is partly substantive, due to the prevailing inadequate and predominantly medical models of understanding disability, and partly technical (most data are collected administratively within the records on the status of a disabled person); to a certain extent, it is also due to reservations and non-participation of some authorities in obtaining said data.

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<sup>422</sup> Changing the World: 2030 Agenda for Sustainable Development (2015). Sub-objective 17.18 entitled "Data, monitoring and accountability" reads as follows: "By 2020, enhance capacity building support to developing countries, including for LDCs and SIDS, to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts", p. 23. Available at: [https://www.gov.si/assets/ministrstva/MZZ/Dokumenti/multilateralala/razvojno-sodelovanje/publikacije/Agenda\\_za\\_trajnostni\\_razvoj\\_2030.pdf](https://www.gov.si/assets/ministrstva/MZZ/Dokumenti/multilateralala/razvojno-sodelovanje/publikacije/Agenda_za_trajnostni_razvoj_2030.pdf).

<sup>423</sup> The Washington Group on Disability Data has formulated a set of six questions that they recommend for use in national censuses and surveys. The existence of a disability that is not only based on medical indicators should be determined on the basis of these data. The questions reflect progress in understanding disability and use the WHO's International Classification of Functioning, Disability and Health (ICF) as a conceptual framework. Available at: <https://www.washingtongroup-disability.com/about/about-the-wg/>.

In the publication "European Pillar of Social Rights, Slovenia 2000–2020" in 2021, the Office of the Republic of Slovenia for Macroeconomic Analysis and Development estimated that "there is no official data on the number of persons with disabilities in Slovenia, as there is no established register of persons with disabilities, although the collection of official statistics is one of the obligations of the Convention on the Rights of Persons with Disabilities, which Slovenia ratified in 2008".<sup>424</sup>

On the occasion of the International Day of Persons with Disabilities in 2014, the Statistical Office of the Republic of Slovenia issued a statement: "There are no official data on the number of persons with disabilities in Slovenia, but an estimate of this number can be prepared on the basis of entries in the registers of individual categories of disabilities. It is estimated that there are between 160,000 and 170,000 persons with disabilities in Slovenia (disabled workers, children and adolescents with special needs, disabled war veterans, and moderately, severely and seriously mentally and physically disabled persons). Of these, about 8 per cent have a disability certificate issued on the basis of different legislative Acts, while the remaining five percent (according to the estimates of disability organisations or their membership) are persons with a major physical handicap."<sup>425</sup>

According to some estimates, the number of persons with disabilities in Slovenia is even significantly higher, especially since the official institutions do not recognise this position, e.g. for all persons with psychosocial disabilities whose conditions are long-term but not permanent, and other persons. In addition, to obtain the status of a disabled person, it is necessary to prove that your condition is permanent and that it cannot be changed, which is contrary to the definition of disability under the Convention, which defines disability as a long-term condition. At the same time, disability must be understood not only in the medical context, but also in the context of a human rights-based model.

The collection, analysis and accessibility of data on persons with disabilities is flawed. The collection of disaggregated data in Slovenia is also not guaranteed or is provided only to a very limited extent, but not comprehensively and systematically. For the most part, the collection of personal data is carried out for the purposes of entering persons with disabilities, who have acquired the status of a disabled person because they met the conditions set out in one of the various laws, into the records.<sup>426</sup>

By way of example, Article 11 of the Act Governing the Register of Insured Persons and Beneficiaries of Rights Provided under Pension and Disability Insurance<sup>427</sup> determines which data on insured persons are entered in the register. These include, for example, data on the type of impairment (on the basis of which it is conditionally possible to determine the type of disability), employment and residence, but it is not envisaged, for example, to collect data on ethnicity, socioeconomic status, the obstacles that persons with disabilities face in society, and the poverty level of these persons.

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<sup>424</sup> Institute of Macroeconomic Analysis and Development of the Republic of Slovenia. European Pillar of Social Rights, Slovenia 2000–2020 (2021). P. 216. Available at: [https://www.umar.gov.si/fileadmin/user\\_upload/publikacije/ESSP/2021/ESSP\\_splet.pdf](https://www.umar.gov.si/fileadmin/user_upload/publikacije/ESSP/2021/ESSP_splet.pdf).

<sup>425</sup> Statistical Office of the Republic of Slovenia. International Day of Persons with Disabilities (2014). Available at: <https://www.stat.si/statweb/news/index/4916>.

<sup>426</sup> The status of a disability is recognised on the basis of various laws, such as the Pension and Disability Insurance Act, the Placement of Children with Special Needs Act, the Vocational Rehabilitation and Employment of Disabled Persons Act, the War Disabled Persons Act, the Social Inclusion of Disabled Persons Act.

<sup>427</sup> Act Governing the Register of Insured Persons and Beneficiaries of Rights Provided under Pension and Disability Insurance (Official Gazette of the Republic of Slovenia, No. 111/13 and 97/14). Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6784>.

Similarly, Article 42 of the Placement of Children with Special Needs Act,<sup>428</sup> which determines the databases kept by the Institute of the Republic of Slovenia for Education, determines the collection of personal data of children with special needs, which includes, among other things, their gender and residence, but not other data recommended by the CRPD Committee.

Some data on persons with disabilities, e.g. data on equality, equal opportunities and equal treatment, are collected in a targeted manner, e.g. regarding cases of protection against discrimination in the institution of the Advocate,<sup>429</sup> the Ombudsman of the Republic of Slovenia<sup>430</sup> and inspections.<sup>431</sup> Some data are also collected on a targeted and ad hoc basis in the framework of individual research projects. However, they are only publicly available to a limited extent.

Determining the overall situation of persons with disabilities is difficult or almost impossible due to the aforementioned limitations. Consequently, the effectiveness of measures otherwise aimed at equalising the opportunities of persons with disabilities cannot be assessed. The problem partly overlaps with the lack of human rights-based policies and therefore lacks appropriate quantitative and qualitative performance indicators.

The collection and processing of disaggregated data at the systemic level has long been recommended to Slovenia by many international mechanisms for monitoring the implementation of human rights of the UN and the Council of Europe. In a number of recommendations and discussions with key stakeholders, the Advocate also highlighted the need for systematic collection of this data, and also responded to excuses that such collection should not be allowed for the protection of (sensitive) personal data, which is a qualitative second issue.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

17 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that 12 of them agreed with the assessment. Two of them stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment. The answers of the three remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

An independent body was proposed as a potential solution to keep all the necessary records related to persons with disabilities.

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<sup>428</sup> Placement of Children with Special Needs Act (Official Gazette of the Republic of Slovenia, No. 58/11, 40/12 – Fiscal Balance Act, 90/12, 41/17 – Act Regulating the Integrated Early Treatment of Preschool Children with Special Needs and 200/20 – Act on the Intervention for Children and Youth with Emotional and Behavioural Disorders in Education). Available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5896>.

<sup>429</sup> See the regular annual reports of the Advocate of the Principle of Equality. Available at: <https://zagovornik.si/en/what-we-do/annual-reports/>.

<sup>430</sup> See the Annual Reports of the Ombudsman of the Republic of Slovenia. Available at: <https://www.varuh-rs.si/porocila-projekti/publikacije-gradiva/letna-porocila-priporocila-dz-odzivna-porocila-vlade/>.

<sup>431</sup> Article 16 of the Protection against Discrimination Act stipulates that the Advocate and the competent inspection services must collect anonymised data on the number of considered discrimination cases, classified according to individual personal grounds, forms of discrimination and individual subject areas. The inspection services provide this information to the Advocate once a year. Despite the legal provision and the calls of the Advocate, some inspections do not provide this information. See the regular annual reports of the Advocate of the Principle of Equality for more information. Available at: <https://zagovornik.si/en/what-we-do/annual-reports/>.

Examples of comments provided by representatives of non-governmental organisations include:

- "We need a presentation of quantitative and qualitative indicators. It should take place in the same way as, for example, a monthly report on social transfers. In Slovenia, we do not have a single record of the deaf and the hard of hearing, which is why we do not have an insight into the actual number of people belonging to the deaf population, nor people who are deaf from birth (if someone is deaf/hard of hearing or not). Abroad, organised health systems exist where parents receive an invitation from the centre which acquaints them with the rights of their child, and also tells them which possibilities exist for the inclusion of sound language in the communication with the child. In a similar vein, parents also have the opportunity to participate in a free course of their national sign language to facilitate communication with their deaf child, which is also prescribed in their legislation."
- "We agree with the assessment; at the same time, we would also like to draw attention to the problem of the sensitivity of the collection of such data, which must be thoughtfully and (precisely) targeted."

**4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.

## **6.32 The involvement of all organisations of persons with disabilities in international cooperation (Article 32 of the Convention)**

### **1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)**

In paragraph 56, the CRPD Committee:

- called upon the State Party to involve representative organisations of persons with disabilities in international cooperation and to ensure that any funding invested in services for persons with disabilities complies with the State Party's obligations under the Convention and as a member of the European Union.
- recommended that the State Party incorporate a disability rights-based perspective into all efforts aimed at achieving the Sustainable Development Goal. The Committee further recommended that the State party facilitate the acquisition by the national umbrella organisation of the status of legal entity enabling it to participate in international cooperation.

### **2) The Advocate's assessment of the implementation of the recommendation (2024)**

|                                                                                                                                                                                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>The involvement of all organisations of persons with disabilities in international cooperation is not guaranteed. Not all aspects of the rights of persons with disabilities are included in the implementation of the goals of the 2030 Agenda.</b> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

The National Council of Disability Organisations of Slovenia (the NCDOS), representative disability organisations, disability organisations and other non-governmental organisations of persons with disabilities may participate in international cooperation activities for persons with disabilities. They can be involved in international connections (e.g. international NGOs such as the European Disability Forum – EDF, European Network on Independent Living – ENIL). They can also obtain funds to carry out activities in the framework of programmes of different international organisations, which encourage the participation of partner organisations from several countries. Projects can be co-financed by various EU instruments, under other international financial mechanisms (e.g. the Norwegian Financial Mechanism and the European Economic Area Financial Mechanism) or with foreign donors.

This means that these international financial resources, unlike some domestic ones, are also available to organisations of persons with psychosocial disabilities and other disabilities who cannot obtain the status of a disability organisation. The same applies to those who do not meet the criteria set out in the EOPDA because, for example, they do not implement sufficiently specific social programs but focus instead on other goals, for example, the protection of the rights of persons with disabilities in the narrow sense. These resources are often also specifically available to prevent discrimination and promote equal opportunities, both in general and for persons with disabilities and individual groups, or to encourage their participation in individual areas of social life.

It should be emphasised that organisations of persons with disabilities who cannot obtain the status of a (representative) disability organisation are not involved in the processes of monitoring the implementation of the Convention, e.g. through the Council of Persons with Disabilities of the Republic of Slovenia or in consultations on the content of the country reports, regarding the implementation of the 2030 Agenda, etc. In this way, they have significantly less opportunities to engage in key international cooperation activities, unless they are directly involved in the work of international organisations (e.g. shadow reporting).

The only plan is to strengthen the National Council of Disability Organisations, which would, however, only increase the imbalance between organisations for persons with disabilities regarding the possibility of effective participation in international cooperation in the field of standards of protection of people with disabilities under the Convention (more in the explanations in subsections 6.3 and 6.33).

In order to fulfil the obligations regarding all relevant rights of persons with disabilities, an Interdepartmental Working Group for the coordination of the implementation of the Charter of Fundamental Rights and the Convention in the framework of the European Cohesion Policy was established in the new 2022 EU Financial Perspective to monitor the use of resources from certain structural funds. The Advocate, who also participates in this group, has contributed to ensuring the widest possible accessibility of possible complaint channels through a single online entry point. Similar supervisory bodies are established for other EU financial instruments. There are currently no reliable data sources on possible discrepancies, e.g. on the use of funds for transinstitutionalisation.

The inclusion of all aspects of disability rights in the implementation of the goals of the 2030 Agenda is not ensured, which is already evident from the Advocate's recommendations on missing content in the APPD, as well as other issues. The Advocate also drew attention to these issues during the review of the implementation of the goals of the 2030 Agenda. The 2030 Agenda also contains shortcomings in the translation of individual commitments.

The national umbrella representative organisation of persons with disabilities is the NCDOS which, pursuant to the DOA, has the status of a national council of disability organisations and is supposed to coordinate the views of organisations of persons with disabilities in dialogue with the State and with other stakeholders. During this period, the NCDOS acquired the status of a legal entity under the Societies Act, which allows it to independently obtain funds pursuant to the domestic regulation and from international cooperation.

In the new APPD, a number of points are explicitly aimed at strengthening the capacities of NCDOS; in practice, be it as a carrier or a partner, the NCDOS already implements projects in the framework of international cooperation (e.g. regarding the provision of multimodal mobility, the introduction of the use of the European Disability Card, etc.).

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

16 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that nine of them agreed with the assessment. Five of them stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment. The answers of the two remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

High membership fees in international organisations, the lack of financial resources for international cooperation, and the lack of policy dialogue with smaller non-governmental organisations have been identified as challenges in this area.

Examples provided by NGO representatives:

- "Funding for disability organisations in Slovenia is based on resources derived from the tax on gambling and lottery tickets. Funds are raised in the Foundation for the financing of disability organisations and humanitarian organisations of Slovenia and are used to finance basic activities and programmes of organisations aimed at improving the quality of life and equal opportunities for vulnerable social groups. While such funding represents an example of good practice, it does not provide sufficient resources to meet the growing needs of recent years. The lack of funds means that no systemic funds exist for international cooperation."

**4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)**

The Advocate did not receive any response to his assessment from the Government of the Republic of Slovenia or from line ministries.

### 6.33 Coordination of the implementation and monitoring of the implementation of the CRPD (Article 33 of the Convention)

#### 1) Recommendation of the CRPD Committee to the Republic of Slovenia (2018)

In paragraph 58:

- point a) of its recommendation, the CRPD Committee recommended to the State Party, to reinforce the role and capacity of the designated focal points in coordinating the implementation of the Convention across different sectors and at different levels.
- point b) of its recommendation, the CRPD Committee recommended to the State Party to set up an independent monitoring mechanism that adheres to the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and provide it with adequate funding, bearing in mind the guidelines on independent monitoring frameworks and their participation in the work of the CRPD.
- point c) of its recommendation, the CRPD Committee recommended to the State Party to ensure the full involvement of organisations of persons with disabilities in the monitoring tasks under the Convention and provide them with the funding necessary for this purpose.

#### 2) The Advocate's assessment of the implementation of the recommendation (2024)

**The coordination of the implementation of the Convention and the care for the coherence of the implementation of the human rights of persons with disabilities in various areas are not systematically regulated. There is also no independent mechanism to monitor the implementation of the Convention. The existing mechanism also does not include all organisations of persons with disabilities.**

Regarding the recommendation of point a) pertaining to the role and capacity of the designated focal points in coordinating the implementation of the Convention across different sectors and at different levels, it bears pointing out that the State mechanism for the creation and coordination of policies has not become more focused but is now rather dispersed, and in no way seems to be more effective.

A part of the responsibilities related to the situation of persons with disabilities for which the MLFSAEO was previously responsible was assumed by the MoD (with regard to war veterans with disabilities), while another part was assumed by the MSF (issues of deinstitutionalisation and long-term care). The MLFSAEO remains the contact point regarding the implementation of the Convention, but only in terms of the reporting processes on the implementation of the Convention (especially to the CRPD Committee; furthermore, it also coordinates the collection of portfolio reports, etc.). The MLFSAEO itself even explicitly rejects proposals to significantly strengthen and focus the implementation policies of the Convention (e.g. regarding the issue of including the Convention standards in the APPD). If anything, the situation has worsened now.

Regarding the recommendation in point b) on the establishment of a more appropriate, independent monitoring mechanism to monitor the implementation of the Convention, it should be emphasised that the CRPD Committee considers this a priority task. The functioning of the Council of Persons with Disabilities of the Republic of Slovenia is focused on individual issues of dealing with the rules for persons with disabilities under the Convention, but this is still a significantly smaller part of its activities, while the composition and manner of work has not changed significantly.



In his investigation of the minutes of the meetings of this body, the Advocate found little new and, above all, useful information for this report. Obviously, the tasks of this body related to the monitoring of the implementation of the Convention only increase with each report to the CRPD Committee.

The State has pursued progress in this area by publicly discussing the draft Council of Persons with Disabilities Act of the Republic of Slovenia, but in a substantively problematic manner. The Advocate made recommendations to the Draft Act.<sup>432</sup>

One of the overlooked essential aspects is the lack of understanding of all persons with disabilities who must be subject to monitoring of the exercise of their rights under the Convention. Among them, persons without the status of a disabled person and persons with psychosocial disabilities who cannot establish disability organisations were overlooked, which is why their rights and organisations were overlooked when planning the operation of such a council. The subject of monitoring the implementation of the Convention is, in particular, the exercise of human rights, and not the implementation of disability protection, which is why legislative proposals should involve all relevant stakeholders.

No progress was made in the financing and functional autonomy of the current Council of Persons with Disabilities of the Republic of Slovenia. In 2022, a Draft Act was submitted to the legislative procedure by the National Council of the Republic of Slovenia which was, however, also inadequate in terms of content and was then not adopted. For more than 12 years, the Ombudsman of the Republic of Slovenia has repeatedly recommended the establishment of an independent body to promote, protect and monitor the implementation of the Convention. He recommended that his competencies be supplemented for this purpose, as his office was ready to take on these tasks.

The Human Rights Centre, acting within the framework of the Ombudsman of the Republic of Slovenia, informs the public about the work in the field of human rights of persons with disabilities once every three months, and also participates in shadow reporting under various protection instruments, including the CRPD Committee. In the 2022 Annual Report, the Ombudsman of the Republic of Slovenia welcomed developments (proposals for different legal solutions), since this contributed to a broader awareness of the importance of this issue. In June 2023, the MoJ prepared an amendment to the Ombudsman Act that would take into account the Ombudsman's recommendation, and submitted it to a public hearing. The legislative process is currently suspended for the time being.

Regarding the recommendation of the full inclusion of organisations of persons with disabilities, the new APPD as well as the proposed amendment to the Disability Organisations Act envisage measures for empowerment (also with dedicated financial resources), but only for some of them (the National Council of Disability Organisations, which actually means the NCDOS but does not include all representative disability organisations (such as e.g. YHD, Sonček and the Association of the Blind and Visually Impaired of Slovenia), or organisations of persons with disabilities (e.g. persons with psychosocial disabilities, persons with dementia).

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<sup>432</sup> Recommendation of the Advocate, available at: <https://zagovornik.si/izdelki/komentar-in-priporocila-zagovornika-nacela-enakosti-v-zvezi-s-predlogom-zakona-o-svetu-za-invalidne-republike-slovenije/>.

### **3) Summary of the opinion of NGOs in relation to the assessment of the Advocate (2023)**

18 representatives of non-governmental organisations expressed their views on this assessment of the Advocate. Their answers clearly state that nine of them agreed with the assessment. One representative stated that they were not sufficiently familiar with the area in question to be able to provide an opinion on the assessment. The answers of the eight remaining representatives were not sufficiently clear so as to be able to determine whether they agreed with the assessment, or they did not provide a clear opinion on the assessment.

Some of the challenges that have been identified in this area include the adoption of measures in line with the wishes of larger disability NGOs, while smaller ones have been excluded from the decision-making process; a small number of persons with disabilities in the position of decision-makers; and the inefficiency of working bodies in this area. The involvement of all disability organisations and compliance with the decisions of the Convention were proposed as potential solutions.

Examples of comments provided by representatives of non-governmental organisations:

- "We agree with the assessment; such a mechanism is necessary. At the same time, we point out that, in practice, it would be necessary to examine the role of representative disability organisations, if necessary, to adjust/amend the Disability Organisations Act and to enable transparent participation of both societies and associations of societies, as well as independent institutions in the non-governmental sector, which are, as a rule, excluded from the decision-making process and the system of financing in the field of disability."
- "The Advocate of the Principle of Equality should be provided with additional options regarding the Protection against Discrimination Act (the PADA) in order to better protect and represent the interests of persons with disabilities in the event of discrimination. This includes active participation in administrative procedures, which should not be burdened with bureaucratic obstacles, as this is key to improving their situation and ensuring fairness."
- "In order to reach an appropriate solution, a consultation was organised in December 2022 by the National Council of the Republic of Slovenia. The conclusion of the consultation was that the Ministry of Labour, Family, Social Affairs and Equal Opportunities should appoint a working group in which representatives of disability organisations and the Ombudsman will participate to formulate an appropriate solution. This working group was never appointed."

#### 4) Response of the Government of the Republic of Slovenia or line ministries to the Advocate's recommendations (2023)

- In response to the Advocate's assessment of the coordination mechanism for the implementation of the Convention, the **MLFSAEO** explained that the Ministry acted in the role of the coordinator. On the basis of the Convention, the Ministry implements the legislation in its field of activity and is the Reporting Coordinator for the CRPD Committee, but is not responsible for the reporting of other ministries. The Ministry reported that the Council of Persons with Disabilities of the Republic of Slovenia was established on the basis of the EOPDA; the Council entered into its first term of office on 11 February 2014, into its second term of office on 7 December 2017, and into its third term of office by the decision of the Minister on 1 September 2021. In 2017, the members of the Council have made the initiative for the preparation of an independent Council that would act in accordance with the provision of Article 33 of the Convention. The MLFSAEO adopted a decision on the implementation of the Public procurement for the preparation of an analysis of the legal and financial structure of the Council, which had to meet all conditions in accordance with the Convention, the Paris Principles, and the Slovenian legislation. The Institute for Public Administration at the Faculty of Law Ljubljana prepared a draft of the Council for Persons with Disabilities of the Republic of Slovenia Act, and also put forward a financial and establishment plan. The draft of the Council for Persons with Disabilities of the Republic of Slovenia Act has been confirmed by the members of the Council during its 5th regular session held on 19 March 2019. In order to establish an independent body, a meeting was organised on 3 June 2021 and attended by the State Secretary of the MLFSAEO, the Ombudsman of the Republic of Slovenia, the Ministry of Justice, the Ministry of Foreign Affairs, the NCDOS, and representatives of the Council. No agreement was reached on the establishment of said independent body. In June 2022, the State Councilor Mr Dane Kastelic submitted a proposal for the Council for Persons with Disabilities of the Republic of Slovenia Act. After the hearing held at the Committee on Labour, Family, Social Affairs and Disability, it has been agreed that a consultation will be held in the National Council of the Republic of Slovenia by the end of 2022 with a view to establish an independent body and regulate the field in question. All stakeholders were present at the consultation held on 2 December 2022, including a representative of the Ombudsman, Simona Drenik Bavdek PhD, Assistant Head of the Human Rights Centre, who presented a vision of the establishment of the independent body in accordance with Article 33 of the Convention.
- In response to the Advocate's assessment, the **Ministry of Justice (MoJ)** explained that, with regard to independent supervision regarding the implementation of the Convention, the Ministry prepared the wording of the Draft Act Amending the Ombudsman Act, which addresses, among other things, the issue of an independent body under the second paragraph of Article 33 of the Convention. In the Draft Act, this jurisdiction would be assigned to the Ombudsman of the Republic of Slovenia or to its special body, i.e. the Council of the Ombudsman. The principle of participation of persons with disabilities is also taken into account, since two members of the Council must be representatives of persons with disabilities or disability organisations. The proposal does not interfere with the powers of the existing Council for Persons with Disabilities under Article 28 of the EOPDA. Since 22 June 2023, the Draft Act remains in public consultation.



## 7 ACRONYMS AND ABBREVIATIONS

|                                     |                                                                             |
|-------------------------------------|-----------------------------------------------------------------------------|
| APPD                                | Action Programme for Persons with Disabilities 2022–2030                    |
| AAPSPD                              | Act on Accessibility of Products and Services for Persons with Disabilities |
| AAWMA                               | Act on the Accessibility of Websites and Mobile Applications                |
| Advocate                            | Advocate of the Principle of Equality                                       |
| AMSA                                | Audiovisual Media Services Act                                              |
| BA                                  | Building Act                                                                |
| CEDAW                               | Convention on the Elimination of All Forms of Discrimination Against Women  |
| CHI                                 | compulsory health insurance                                                 |
| Constitution of the RS              | Constitution of the Republic of Slovenia                                    |
| Constitutional Court of the RS      | Constitutional Court of the Republic of Slovenia                            |
| Convention                          | Convention on the Rights of Persons with Disabilities                       |
| Council of the Republic of Slovenia | Council for Persons with Disabilities of the Republic of Slovenia           |
| CRPD                                | Convention on the Rights of Persons with Disabilities                       |
| CRPD Committee                      | United Nations Committee on the Rights of Persons with Disabilities         |
| DOA                                 | Disability Organisations Act                                                |
| EC                                  | European Commission                                                         |
| ECA                                 | Electronic Communications Act                                               |
| ECHR                                | European Commission of Human Rights                                         |
| EOPDA                               | Equalisation of Opportunities for Persons with Disabilities Act             |
| EP                                  | European Parliament                                                         |
| ERA                                 | Employment Relations Act                                                    |
| EU                                  | European Union                                                              |
| FC                                  | Family Code                                                                 |
| FFDHO                               | Foundation for Financing Disability and Humanitarian Organisation           |
| Government of the RS                | Government of the Republic of Slovenia                                      |
| HCHIA                               | Health Care and Health Insurance Act                                        |
| HEA                                 | Higher Education Act                                                        |
| LTCA                                | Long Term Care Act                                                          |
| MECE                                | Ministry of Environment, Climate and Energy                                 |
| MESS                                | Ministry of Education, Science and Sport                                    |
| METS                                | Ministry of Economy, Tourism and Sport                                      |
| MHA                                 | Mental Health Act                                                           |
| MI                                  | Ministry of Infrastructure                                                  |
| MLFSAEO                             | Ministry of Labour, Family, Social Affairs and Equal Opportunities          |
| MNRSP                               | Ministry of Natural Resources and Spatial Planning                          |
| MoC                                 | Ministry of Culture                                                         |
| MoE                                 | Ministry of Education                                                       |
| MoH                                 | Ministry of Health                                                          |

|                     |                                                                           |
|---------------------|---------------------------------------------------------------------------|
| Mol                 | Ministry of the Interior                                                  |
| MoJ                 | Ministry of Justice                                                       |
| MOL                 | Municipality of Ljubljana                                                 |
| MPA                 | Ministry of Public Administration                                         |
| NA RS               | National Assembly of the Republic of Slovenia                             |
| NAEA                | National Assembly Election Act                                            |
| NC                  | National Council of the Republic of Slovenia                              |
| NCDOS               | National Council of Disability Organisations of Slovenia                  |
| Ombudsman of the RS | Ombudsman of the Republic of Slovenia                                     |
| PA                  | personal assistance                                                       |
| PAA                 | Personal Assistance Act                                                   |
| PADA                | Protection against Discrimination Act                                     |
| PDIA-2              | Pension and Disability Insurance Act                                      |
| RS                  | Republic of Slovenia                                                      |
| RTA-2               | Road Transport Act                                                        |
| RTVS                | Radiotelevizija Slovenija (Slovenian Radio and Television)                |
| SIDPA               | Social Inclusion of Disabled Persons Act                                  |
| SORS                | Statistical Office of the Republic of Slovenia                            |
| SPM                 | State preventive mechanism                                                |
| SSL                 | Slovene sign language                                                     |
| TRP                 | Targeted research programme                                               |
| TSI                 | technical specifications for interoperability                             |
| VREPDA              | Vocational Rehabilitation and Employment of Persons with Disabilities Act |
| UN                  | United Nations                                                            |

## **8 ACKNOWLEDGEMENT**

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## Implementing Rights of All People with Disabilities in Slovenia – Special Report

### **Issued by**

The Advocate of the Principle of Equality

### **On behalf of the Advocate**

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Six years after the issuance of the recommendations of the United Nations Committee on the Rights of Persons with Disabilities (the CRPD Committee) to the Republic of Slovenia, the Advocate of the Principle of Equality analysed the implementation of the Convention on the Rights of Persons with Disabilities (the Convention). He assessed that the progress of the State in this regard was insufficient. He recommended to the Government, the ministries and other persons concerned in the field of exercising the rights of persons with disabilities to systematically approach the exercise of all rights of persons with disabilities, as set out in the Convention.

The purpose of this Special Report is to draw attention to the important issue regarding the exercise of the right to equal treatment and equal opportunities in all areas of social life for persons with disabilities. This is provided for in the Protection against Discrimination Act and in the Convention.

The special report contains the Advocate's assessment of how the State has so far implemented the 33 key recommendations of the CRPD Committee, how the government explained these efforts to the Advocate, and how the relevant NGOs have responded to the Advocate's assessment.

The Special Report also explains the key concepts of the Convention and the prohibition of discrimination on the grounds of disability.

The Advocate of the Principle of Equality is an independent State authority for the protection against discrimination, promotion of equal opportunities, equality and equal treatment. It was established in 2016 on the basis of the newly adopted Protection Against Discrimination Act, with which Slovenia transposed the five European directives in the field of equal opportunities. The Advocate of the principle of equality is a member of the European Network of Equality – Equinet.

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