



REPUBLIC OF SLOVENIA
ADVOCATE OF THE PRINCIPLE OF EQUALITY

2022

Annual Report
SYSTEMIC OVERVIEW



REPUBLIC OF SLOVENIA
ADVOCATE OF THE PRINCIPLE OF EQUALITY

Annual Report 2022

SYSTEMIC OVERVIEW

PART ONE

Ljubljana, April 2023



Miha Lobnik, Advocate of the Principle of Equality

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

Last year, the Advocate of the Principle of Equality successfully closed the first case of representation of a victim of discrimination in court. After three years of litigation, the representation of the party subject to discrimination based on age was completed with the court establishing the occurrence of discrimination and awarding the victim a compensation. In addition, the Slovenian equality body also prepared leaflets which draw attention to the inadmissibility of discrimination against both the elderly and young people.

When people reporting discrimination reach out to us, in most cases they already know that in order to establish discrimination, a personal ground that has led the unjustifiable disadvantage must be given. In 2022, 440 individuals were provided with advisory assistance, out of which most referred to the personal ground of disability as the reason for discrimination.

In relation to this personal ground, the Advocate issued a special report last year on the accessibility of secondary schools for persons with reduced mobility. We found that in some regions no schools are available for them at all while in other regions only one school is properly adjusted in terms of accessibility. We reminded that the year 2025 is the deadline by which the accessibility of all facilities in public use should be ensured pursuant to the Equalisation of Opportunities for Persons with Disabilities Act.

Last year again, the highest number of complaints received concerned the field of work and employment. Often the cases were associated with parenting, pregnancy and health status when awarding performance and Christmas bonus awards related to the companies' performance. Last year again, some successful companies reported that they had been unaware of discrimination, promising to eliminate it.

In order move forward in ensuring equal treatment and equal opportunities in society, the Advocate's recommendations also play an important role. The recommendations are intended to eliminate discrimination, promote equal treatment and improve draft laws and regulations in force. Last year, the implementation of one of these recommendations eliminated long-standing discrimination in blood donation.

Better knowledge of the principles of equal treatment and equal opportunities is also strengthened by means of panel discussions and online discussions about our products. One such discussion took place on the occasion of the publication of our expert translation of the handbook on European anti-discrimination law by the EU Agency for Fundamental Rights (FRA). As the participating professors of the three faculties of law pointed out, examples from the handbook also make it easier to present legal concepts while teaching. The translation will be of assistance in the further development of Slovenian legal terminology.

A piece in the mosaic of improvements in the field of protection against discrimination in Slovenia was also added by obtaining European funds for the project »Face discrimination – creating a society of equal opportunities«.

I would hereby like to thank all my colleagues for their professional and committed work. I would also like to thank all those who continue to support the functioning, activities and development of the Advocate of the Principle of Equality.

Miha Lobnik

THE ADVOCATE OF THE PRINCIPLE OF EQUALITY

Ljubljana, April 2023

ANNUAL REPORT 2022

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1 FUNCTIONING OF THE EQUALITY BODY

1.1 Legal bases for the Advocate's functioning

Protection against discrimination is one of the fundamental human rights enshrined in Article 14 of the Constitution of the Republic of Slovenia¹ (the Constitution).

On 21 April 2016, the National Assembly of the Republic of Slovenia (National Assembly) adopted the Protection Against Discrimination Act² (PADA), which entered into force on 24 May 2016. Based on the PADA, a new independent state authority was established, specializing in the field of discrimination – the Advocate of the Principle of Equality (Advocate).

In line with the EU acquis, the Advocate carries out the tasks of the national equality body. In this way Slovenia ensures the implementation of Articles 15, 21, 23 and 39 of the Charter of Fundamental Rights of the European Union and the compliance with the following directives:

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

THE ADVOCATE HIGHLIGHTS

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

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

All are equal before the law.

¹ Official Gazette of the Republic of Slovenia, No. 33/91-I, 42/97 – UZ568, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99 and 75/16 – UZ70a

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



1.2 The Advocate's functioning and operation in 2022

In the financial year 2022, the Advocate spent budgetary resources in the amount of EUR 1,462,709 for the implementation of its statutory tasks. Of this, EUR 996,655 was earmarked for personnel costs, EUR 431,421 for material costs and EUR 34,632 for investments and investment maintenance.

As of 31 December 2022, 27 civil servants were employed by the Advocate in addition to the Head of the Advocate.

2 ACTIVITIES OF THE EQUALITY BODY

2.1 Key functions of the Advocate

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

Providing information, advisory activities and advocacy

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

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

Receiving complaints and discrimination identification

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

- 3. The work of the Advocate dedicated to individual cases;
- 6. Discrimination investigation

Research, monitoring, making recommendations and awareness-raising initiatives

The Advocate shall also carry out work of systemic nature involving the investigation and analysis of the situation of discrimination at the national level, on the basis of which independent reports, recommendations and proposals for specific measures shall be prepared. The systemic tasks also include: monitoring the general situation, awareness-raising, education and exchange of available information within the European Union and other international cooperation. More details are given from chapter 8 inclusive:

- 8. Information on cases of discrimination addressed by other state authorities to chapter 16 inclusive: International cooperation.

THE ADVOCATE HIGHLIGHTS

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



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

I.

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

Question	How many and which independent surveys were conducted in 2022?
Answer	In 2022, the Advocate conducted six independent surveys: two analyses, one public opinion poll and three qualitative surveys using the focus group methodology.
Clarification	<p>In 2022, the Advocate conducted six independent surveys, namely:</p> <ul style="list-style-type: none">• Analysis of the conditions and criteria for allocating non-profit housing;• Analysis of the experience of different religious communities in society;• Public opinion poll on discrimination in Slovenia in 2022 and <p>Three qualitative surveys using the focus group methodology on the following topics:</p> <ul style="list-style-type: none">• Inclusion of the Roma in education;• Inclusion of the Roma in employment;• Access to a personal physician.
Implementation	This activity was ³ carried out by Department A in coordination with the Cabinet ⁴ .
Chapter	12. The Advocate's research activities

³ Cabinet – Cabinet of the Advocate

⁴ Department A – Department for Systemic Monitoring, Awareness-raising and Prevention of Discrimination.

II.

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

Question	How many independent reports were published in 2022?
Answer	In 2022, the Advocate prepared and published three independent reports.
Clarification	<p>In 2022, the Advocate prepared and published the Annual Report for 2021 and one Special Report.</p> <p>The Annual Report for 2021 was presented to the National Assembly, more precisely to the Committee on Labour, Family, Social Affairs and Disability on 6 July 2022. The Advocate also presented the Annual Report for 2021 to the National Council, namely to the Commission for Social Welfare, Labour, Health and Disability on 2 June 2022 and at the plenary session of the National Council on 8 June 2022.</p> <p>In 2022, the Advocate prepared and published a special report Accessibility of Secondary Schools for Persons with Reduced Mobility.</p>
Implementation	This activity was implemented by departments A and B and the Cabinet in coordination with the Head ⁵ .
Chapter	All reports are published on the website www.zagovornik.si under the tab: Advocate's products.

⁵ Department B – Department for Discrimination Investigation, Advisory and Advocacy



Question	How many recommendations were issued (and to whom) regarding the situation of persons with a particular personal ground (which one) in connection to the prevention or elimination of discrimination in 2022?
Answer	In 2022, the Advocate issued 81 recommendations.
Clarification	<p>The Advocate issued 81 recommendations, 55 of which were directed at laws and regulations (in force or proposals) and 26 recommendations were intended to promote equal treatment and eliminate unequal treatment.</p> <p>Of this, 33 recommendations were addressed to the National Assembly, 35 to different Ministries, six to the Government, six to different public law entities and one recommendation to a private law entity.</p> <p>In most cases, the recommendations pertained to the following personal grounds: disability (40), parenting (13), health status (11), citizenship (10), social status (6), race, nationality and ethnic origin (4) and gender (3). Two recommendations were issued regarding each of the following personal grounds, i.e. language, sexual orientation, gender identity and place of residence, and one recommendation was issued for each of the following personal grounds, gender expression, property status and education.</p>
Implementation	This activity was carried out by departments A and B in coordination with the Head and the Cabinet.
Chapter	10. Recommendations

III.

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

Question	How many complaints from Chapter 5 of the PADA were considered with the Advocate in 2022?
Answer	In 2022, the Advocate closed 50 complaint procedures.
Clarification	<p>In 2022, the Advocate completed the examination of 50 complaints. In 2022, the Advocate issued 20 substantial decisions and 12 procedural decisions. In the remaining 18 cases, the outcomes of the proceedings varied from a written clarification, official endorsement, and referral to the competent authority or recommendation to a failure to initiate the proceeding. In 14 cases concluded by the Advocate with a substantial decision, discrimination was found. In three cases concluded by the Advocate with a substantial decision, no discrimination was found and in three cases a rejection decision was adopted. In 2022, the Advocate also issued 11 proposals for the initiation of minor offence proceedings to the competent inspections (all in connection to discrimination found). In 2022, the Administrative Court failed to issue any judgement related to the Advocate's decisions. The court issued one decision to terminate the proceeding as the plaintiff (offender) withdrew the action in the administrative dispute.</p> <p>On 31 December 2022, twelve more procedures were pending before the Administrative court in which the parties contested the Advocate's decision within the context of an administrative procedure. The cases concern the following topics:</p> <ul style="list-style-type: none">removal of the advertisement by the Živim Institute from the Ljubljana city bus – case from 2019 once again pending before the Administrative Court due to a new violation of non-discrimination, case initiated in 2022;discrimination of customers in connection with the treatment they receive from Sintal security guards in the Spar store in Radovljica on the grounds of race, case initiated in 2019;discrimination against a person living with HIV in access to dental care in the Maribor Health Centre, case initiated in 2019;discrimination against women in the Ig prison, case initiated in 2020;discrimination of a civil servant in Črnuče kindergarten on grounds of parenthood in the annual performance review, case initiated in 2021;providing the television content in a form adapted to sensory impaired on RTV Slovenia, case initiated in 2021;discrimination on grounds of health and parenting in the consideration of business performance by taking into account attendance at the workplace in the companies Elektro Celje, Arrica and Krka – three cases, two cases initiated in 2021, one case initiated in 2022;closure of a personal bank account with NKB Maribor due to Cuban citizenship, case initiated in 2022;access to free ski passes for students from the municipality of Kranjska Gora based on the date of permanent residence registration, case initiated in 2022;less favourable treatment of political parties who, in their programs, oppose the values of a particular religious community by the radio station Radio Ognjišče, case initiated in 2022.
Implementation	This activity was carried out by department B in coordination with the Head and the Cabinet.
Chapter	3. The work of the Advocate dedicated to individual cases 6. Discrimination investigation



IV.

Providing independent assistance to persons subject to discrimination when enforcing their rights regarding protection against discrimination in the form of advisory and legal assistance for parties in other administrative and judicial proceedings related to discrimination (indent 4 of Article 21 of PADA)

Question How many discriminated persons were provided independent assistance in administrative and other judicial proceedings in relation to discrimination in 2022?

Answer **In 2022, the Advocate provided independent assistance to 440 people.**

Clarification The Advocate provided approximately 1,900 hours of counselling in 2022.
Advisory and legal assistance was provided to 440 people.

In 2022, the Advocate conducted a total of 524 individual consultations and legal assistance in different forms, of which 225 were conducted via telephone and 299 in writing.

Implementation This activity was carried out by department B in coordination with the Head and the Cabinet.

Chapter [3. The work of the Advocate dedicated to individual cases](#)
[4. Advisory, informing and support activities](#)

V.

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

Question	Which awareness-raising activities were carried out and which measures to prevent discrimination were taken in 2022?
Answer	In line with international recommendations, the Advocate has set communication objectives, priority target groups, key messages and different communication channels. Awareness-raising activities were held throughout the entire year.
Clarification	<p>In 2022, the Advocate also carried out activities to increase the visibility of the equality body and stress the importance of protection against discrimination across the general public and state administration.</p> <p>The Advocate informs the public about all activities performed on the official website and through social media Facebook and Twitter and media appearances of the Head of the institution (9). Moreover, 65 press releases were prepared and 43 journalistic questions were received and answered. On the website www.zagovornik.si, 78 news and updates on the work of the Advocate were published.</p> <p>The Advocate organized four panel discussions and presented the work of the equality body to foreign diplomats. Additionally the EU project “Face discrimination – creating a society of equal opportunities” was launched.</p> <p>In 2022, the Head of the Advocate spoke at 22 events and actively participated in other 43 events in the field of protection against discrimination.</p> <p>The Advocate cooperated with more than 90 civil society organisations in the form of written queries, participation in events and letters to support projects with which civil society organisations competed in public tenders for national and European funding.</p> <p>In 2022, the Advocate published the Annual Report for 2021 (800 copies printed). The Annual Report for 2021 was translated into English (250 copies printed), Hungarian (150 copies printed) and Italian (150 copies printed).</p> <p>In 2022, the Advocate also published a special report Accessibility of Secondary Schools for Persons with Reduced Mobility (250 copies printed). An English, Hungarian and Italian translation of a summary of the special report on the accessibility of secondary schools for persons with reduced mobility was published in electronic form.</p> <p>Two different leaflets were produced: “Say No to Discrimination of the Elderly” and “Say No to Discrimination of Young People”.</p>
Implementation	This activity was carried out by department A in coordination with the Head and the Cabinet.
Chapter	13. Education, awareness-raising and communication



VI.

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

Question	How was the overall situation in the field of protection against discrimination and the situation of persons with certain personal grounds monitored in 2022?
Answer	In 2022, the Advocate monitored the situation in the field of protection against discrimination through queries, which were directed at 203 different legal entities.
Clarification	In 2022, the Advocate requested 14 ministries and four constituent bodies, i.e. government departments, to report on the specific measures taken and implemented. He called on 25 inspection bodies, the Police, the Supreme State Prosecutor's Office and 66 courts in the Republic of Slovenia to provide information on discrimination cases considered in 2022. The Advocate also monitored the situation in the field of non-discrimination with 18 different local communities and public housing funds, as well as 17 entities operating in the area of health and religious freedom. Through written queries, the situation of 57 civil society organisations was monitored.
Implementation	This activity was carried out by departments A and B in coordination with the Head and the Cabinet.
Chapter	8. Information on cases of discrimination addressed by other state authorities 11. Measures to eliminate discrimination and promote equal treatment 12. The Advocate's research activities 14. The Advocate's cooperation with civil society

VII.

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

Question	What are the specific measures for the improvement of the situation of persons in a less favourable situation due to a particular personal ground (which) were proposed in 2022?
Answer	In 2022, the Advocate did not propose the adoption of specific measures to eliminate discrimination. Nevertheless, 81 recommendations and requests directed at Ministries for data submission on adopted and implemented special measures were forwarded in 2022.
Clarification	<p>In 2022, the Advocate did not propose the adoption of special measures aimed at the elimination of discrimination.</p> <p>In 2022, the Advocate also conducted a review of the replies from the Ministries and government departments on the implemented special measures. The Advocate notes that knowledge and monitoring of the situation of persons with a particular personal ground is crucial for the implementation of special measures within the meaning of the PADA. The prerequisite for this is the system-wide and systematic collection and processing of equality data.</p>
Implementation	This activity was carried out by department A in coordination with the Head and the Cabinet.
Chapter	10. Recommendations 11. Measures to eliminate discrimination and promote equal treatment



VIII.

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

Question	How many and which judicial proceedings involved the Advocate's participation in 2022?
Answer	In 2022, the Advocate completed the representation a party in a court proceedings initiated in 2019.
Clarification	<p>In 2022, the Advocate continued to represent a party in a court proceedings dealing with discrimination on the grounds of age. The action by the Advocate was filed on 3 October 2019 before the District Court in Ljubljana against the Slovenian Association of Cycling Judges, which no longer allowed the complainant to judge competitions due to reaching the age of 70. In the action, the Advocate contended that direct discrimination took place on the grounds of age and demanded the discriminatory approach to end (by amending the statute and issuing a license for the cycling judge), compensation for the discrimination and publication of the judgement in the media.</p> <p>In this case, the District Court in Ljubljana issued the judgement No. IV P 1366/2019 of 8 October 2021, in which discrimination on grounds of age was confirmed. The victim was awarded compensation and the publication of the verdict in the media was ordered. Yet, the Court did not uphold the claim from the action that the company shall amend its articles of association in a way as to prevent future discrimination. This part was rejected, owing to the Court's position that in this particular court proceeding, the cycling judge and the Advocate cannot request the amendment of an autonomous act of an entity governed by private law, even though it may be discriminatory. The cycling judge disagreed with this position of the Court and, with the help of the Advocate, filed an appeal against this part of the judgement.</p> <p>In its judgment No. I Cp 616/2022 of 28 June 2022 the Ljubljana Higher Court dismissed the appeal of the plaintiff and the defendant and upheld the judgment at first instance. Following the decision of the Court of Appeal, the party to the proceedings decided to submit a motion for leave to appeal to the Supreme Court, authorizing a law firm for representation. In its Decision II DoR 370/2022 of 15 December 2022, the Supreme Court rejected the motion. After receiving the Decision of the Supreme Court, the Advocate agreed with the client on the termination of representation in court.</p>
Implementation	This activity was carried out by departments A and B in coordination with the Head and the Cabinet.
Chapter	5. Advocacy – representation in judicial proceedings

IX.

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

Question	To what extent did the Advocate cooperate in the international exchange of data in 2022 and which information were subject to such exchange?
Answer	In 2022, the Advocate carried out 51 mutual exchanges of information on discrimination within the European Union and other international organisations.
Clarification	<p>In 2022, the Advocate conducted 51 mutual exchanges of information with European and international organizations with a view to monitor the state of discrimination. Of these, there were 50 responses to requests for the submission of information and one request for information made by the Advocate.</p> <p>For the purpose of information exchange, the Advocate prepared an English translation of the Annual report for 2021, which is available at the Advocate's website. Copies of the report were sent to all Equinet members and other competent international institutions. The report was also sent to foreign embassies in Slovenia and Slovenian embassies abroad.</p> <p>In addition, the Advocate sent the English translation of the summary of the special report Accessibility of Secondary Schools for Persons with Reduced Mobility to all Equinet members, the European Commission, European Parliament, Council of Europe, United Nations, OSCE, embassies of other countries in the Republic of Slovenia and several international non-governmental organizations working in the field of disability.</p>
Implementation	These activities were carried out by departments A and B in coordination with the Head and the Cabinet.
Chapter	16. International cooperation



Question	How many international events in the sphere of protection against discrimination did the Advocate attend in 2022?
Answer	In 2022, the Advocate attended 76 international expert consultations, conferences and other events.
Clarification	<p>In 2022, the Advocate participated in 76 international expert consultations, conferences and other events held live or via the internet:</p> <ul style="list-style-type: none"> • 11 meetings within the European Network of Equality Bodies – Equinet working groups; • 29 other events organised or co-organised by Equinet; • 13 events within the EU or under its auspices; • four events within the Council of Europe; • 19 other international expert events and meetings.
Implementation	These activities were carried out by departments A and B in coordination with the Head and the Cabinet.
Chapter	16. International cooperation

X.

Conducting other tasks determined by this Act (10th indent of Article 21 of PADA)

Question	What are other tasks of the Advocate that are provided for by this Act?
Answer	Other tasks provided for by this Act include the consideration of requests for reviewing constitutionality or legality of a regulation or a general legal act (Article 38 of PADA).
Question	How many requests for the assessment of discriminativeness or reviewing constitutionality of a general legal act or regulation were considered by the Advocate in 2022?
Answer	In 2022, the Advocate considered 34 requests for the assessment of discriminativeness of regulations.
Clarification	In 2022, the Advocate received 21 new requests for the assessment of discriminativeness of regulations. Together with 13 such requests carried over from 2021, in total 34 assessments of discriminativeness of regulations were considered 2022. In 2022, the Advocate completed 29 discrimination assessment procedures. In 12 of the cases closed, the regulations were assessed to be discriminatory. In 17 cases, the discriminativeness of the regulation was not identified. In eight such cases, initiated by individual complainants, a detailed discrimination assessment was not carried out as the preliminary analysis did not show any discrimination. Five cases were carried over to 2023 for further consideration.
Implementation	This activity was carried out by department B in coordination with the Head and the Cabinet.
Chapter	7. Assessing the discriminativeness of regulations



3 THE WORK OF THE ADVOCATE DEDICATED TO INDIVIDUAL CASES

3.1 Legal basis for work dedicated to individual cases

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

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

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

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

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

THE ADVOCATE HIGHLIGHTS

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

Human rights and fundamental freedoms shall be exercised directly on the basis of the Constitution.

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

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

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

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



3.2 Fundamental concepts

3.2.1 Existence of discrimination

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

Identifying discrimination requires the following steps to be taken:

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

THE ADVOCATE HIGHLIGHTS

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

3.2.2 Intention to discriminate

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

3.2.3 Personal grounds

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

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

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

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

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

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

THE ADVOCATE HIGHLIGHTS

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

Everyone has the right to personal dignity and safety.



3.2.4 Areas of social life

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

Areas of social life where protection against discrimination applies

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

Work and employment

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

Membership in workers' or employers' organisations

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

Social rights

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

Health care

- Health care;

Education

- Education and schooling;

Goods and services market

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

Other

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

3.2.5 Forms of discrimination

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

Forms of discrimination are as follows:

- **Direct discrimination** (paragraph 1 of Article 6 of PADA),
- **Indirect discrimination** (paragraph 2 of Article 6 of PADA),
- **Harassment** (paragraph 1 of Article 8 of PADA),
- **Sexual harassment** (paragraph 2 of Article 8 of PADA),
- **Instructions to discriminate** (Article 9 of PADA),
- **Incitement to discrimination** (paragraph 1 of Article 10 of PADA),
- **Public justification for neglecting or despising persons or groups of people due to personal grounds** (paragraph 2 of Article 10 of PADA),
- **Victimization** (Article 11 of PADA).

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

Severe forms of discrimination are:

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

THE ADVOCATE HIGHLIGHTS

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

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



3.3 The Advocate's powers in investigation of individual cases

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

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

By the end of 2022, the Advocate exercised the following powers:

- Providing independent assistance to discriminated persons;
- Discrimination investigation on the basis of a complaint by a discriminated person;
- Ex officio discrimination investigation;
- Requesting the information necessary for discrimination investigation;
- Filing requests for reviewing the constitutionality of regulations;
- Representation of clients in judicial proceedings;
- Referral to competent inspections.

3.4 Clarification of the methodology

In 2022, the Advocate simultaneously addressed cases received in 2022 as well as cases carried over to 2022 from previous years. The Advocate statistically reports on cases addressed, which have been closed in the 2022 calendar year. The code “closed” means that a case is closed as per the powers of the Advocate and an output was produced (e.g. reply in counselling, substantive decision, procedural decision, discrimination assessment).

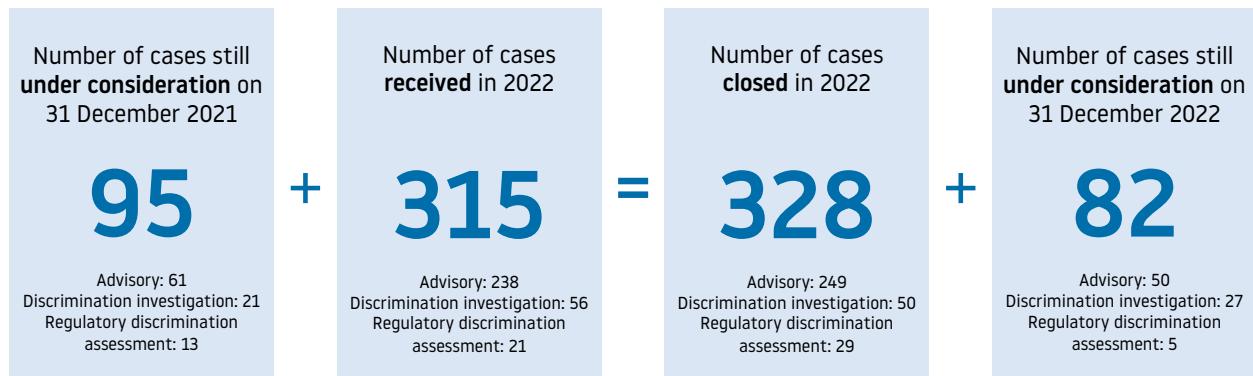
The statistical review provides information on personal grounds stated in the complaints or requests for advice as the reason for the report or request (alleged personal grounds). The same applies to the areas and forms of discrimination.



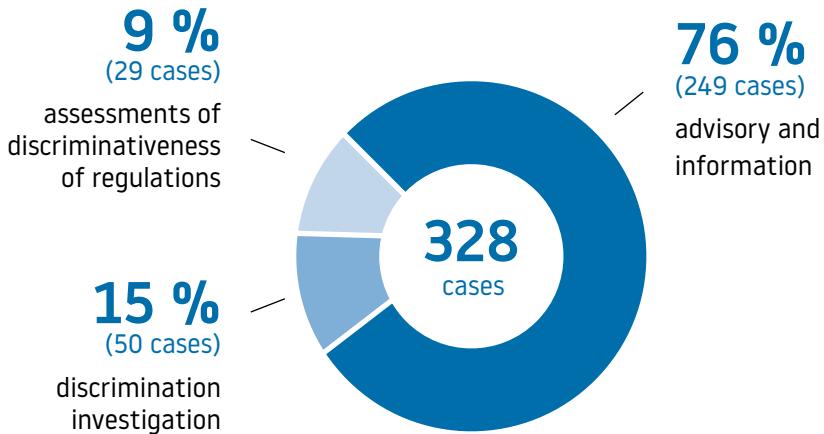
3.5 Statistics of cases closed in 2022

95 cases were carried over to 2022 from the previous years. In 2022, the Advocate received 315 new cases for advisory, discrimination investigation, and regulatory discrimination assessment. A total of 410 cases were therefore considered in 2022. Of these, 328 cases were completed, while 82 cases were carried over to 2023.

Graphical presentation of the statistics of cases addressed and closed in 2022



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



3.6 Statistics of cases closed by personal grounds

Table: Alleged personal grounds of discrimination in cases closed in 2022

Alleged personal grounds of discrimination	Advisory, information	Discrimination investigation	Reviews	Total	Percentage total (%)
1. Gender	18	3	1	22	6,2
2. Nationality	6	2	2	10	2,8
3. Race or ethnic origin	5	2	2	9	2,5
4. Language	2	0	0	2	0,6
5. Religion or belief	9	6	0	15	4,2
6. Disability	27	6	8	41	11,6
7. Age	14	4	5	23	6,5
8. Sexual orientation	9	1	0	10	2,8
9. Gender identity	4	0	0	4	1,1
10. Gender expression	1	0	0	1	0,3
11. Social status	3	0	0	3	0,9
12. Property status	0	1	6	7	2
13. Education	0	0	0	0	0
14. Citizenship	15	7	3	25	7,1
15. Place of residence	7	3	2	12	3,4
16. Pregnancy, parenthood	24	7	1	32	9,1
17. Health status	24	6	1	31	8,9
18. Other	4	4	1	9	2,5
19. No personal ground	84	7	6	97	27,5
TOTAL	256	59	38	353	100

In the table, the sum of the number of cases with the alleged personal grounds does not correspond to the number of cases closed in 2022. The reason for this is that one claimant may simultaneously allege discrimination on the basis of several personal grounds, the personal ground leading to discrimination may not be given or the cases may involve general issues not pertaining to any personal ground or discrimination in general.

The statistical review according to personal grounds shows that in around 27 percent of cases closed involving advisory assistance, discrimination investigation, and regulatory discrimination assessment, the personal ground was not stated nor was it directly discernible from the conduct, whether the complainants alleged unequal treatment based on other reasons, not related to any personal ground from the PADA.

3.7 Statistics of cases closed by areas of life

Table: Alleged areas of life considered in cases closed in 2022

Alleged area of discrimination	Advisory, information	Discrimination investigation	Reviews	Total	Percentage total (%)
1. Access to employment, self-employment, and profession, including the selection criteria and employment conditions, notwithstanding the type of activity or the level of the professional hierarchy, including promotion	9	10	1	20	6,5
2. Access to all forms and all levels of career orientation and counselling, vocational and professional education and training, further vocational training and retraining, including internship.	2	0	0	2	0,6
3. Employment and working conditions, including termination of employment contracts and wages.	53	13	5	71	23,1
4. Membership and inclusion in workers' or employers' organisations or any organisation whose members perform a certain vocation, including benefits provided by such organisations.	1	0	0	1	0,3
5. Social protection, including social security and health care	34	2	5	41	13,3
6. Social benefits	9	0	8	17	5,5
7. Education and schooling	16	4	2	22	7,2
8. Access to goods and services available to the public, including housing facilities and supply thereof.	47	14	1	62	20,1
9. Other	58	7	7	72	23,4
TOTAL	229	50	29	308	100

In the table, the sum of cases pertaining to the listed areas of life does not correspond to the number of cases closed in 2022. The reason for this is that one claimant may allege discrimination in several areas of life as well in areas not listed in the law or outside the Advocate's powers or may address to the Advocate only a request for general information on cases concerned. Such cases are excluded from the statistics of cases closed by areas of life.

Around 23 percent of cases related to other areas not explicitly mentioned in the law, including the operation of courts, the administrative operation of state authorities, home affairs, the conditions of public tenders, and the area of the media.

3.8 Statistics of cases closed by form of discrimination

Table: Alleged forms of discrimination in cases closed in 2022

Alleged forms of discrimination	Advisory, information	Discrimination investigation	Reviews	Total	Percentage total (%)
Direct discrimination	145	31	26	202	69,2
Indirect discrimination	41	14	5	60	20,6
Harassment	19	2	0	21	7,2
Sexual harassment	0	0	0	0	0
Instructions to discriminate	0	1	0	1	0,3
Victimisation	0	1	0	1	0,3
Incitement to discrimination or public justification for neglecting or despising	6	1	0	7	2,4
TOTAL	211	50	31	292	100
Of which:					
Mass	61	24	29	114	39
Multiple	11	6	3	20	6,8
Intersectional	9	1	2	12	4,1

In the table, the sum of the number of cases pertaining to particular areas of life does not correspond to the number of cases closed in 2022. The reason for this is that one case may display the characteristics of several forms of discrimination, on the other hand, some cases do not fall within any category due to a lack of discriminatory nature.



4 ADVISORY, INFORMATION AND SUPPORT ACTIVITIES

4.1 The procedure of the Advocate's advisory activities

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

In doing so, the Advocate also encounters individuals who are unwilling to take action (e.g. to lodge a complaint), for various reasons, they want to keep a low profile or remain anonymous, but still need information and guidance on how to act if they decide to take action.

Some individuals enquire whether action can be taken in their case even if they remain anonymous. In this case, the Advocate explains that this depends on the circumstances of the particular case; if the matter involves specific conduct in relation to a specific person and a specific offender, then anonymity cannot be ensured, as an investigation of specific conduct in a way that does not at the same time reveal the identity of the applicant is not possible. However, in cases of multiple victims and discrimination based on required conditions or widespread practice, anonymity can be ensured even during the proceeding in question.

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

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

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

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

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

4.2 Statistics of advisory, informing and support activities

In 2022, the Advocate **completed 249 advisory matters in writing, and in 225 cases advisory assistance was provided by telephone**, where the parties were informed about the Advocate's powers and opportunities for action in case of discrimination, received advisory in relation to proceedings pending before other state authorities as per discrimination, and were offered support and assistance in writing applications and letters related to the protection against discrimination.

Cases that the Advocate keeps as advisory, informing, and support matters are resolved in various ways. The majority of advisory procedures are completed by preparing a written clarification. Some cases are resolved by the Advocate making a query with the offender and thereby resolving the situation.

In three cases, the Advocate completed the advisory procedure by making appropriate recommendations. In one case, the Advocate reminded the police administration to avoid publications that strengthen gender stereotypes, in another, the equality body recommended an audio-visual media service provider to improve the accessibility of its services for people with disabilities, and in the third case, a recommendation was made to a public institution for the improvement of accessibility of content for people with disabilities when broadcasting the football World Cup.

The resolution of the proceedings also depends on the responsiveness of the complainant. If the complainant fails to respond to a request for supplementation of the complaint and the original application does not contain sufficient information to prepare an explanation, the proceeding ends with a formal note. At the same time, a formal note is used to conclude cases that the Advocate receives only for its information. When the Advocate receives a request for the forwarding of any of the decisions in closed proceedings or receives only a general question regarding the matters under consideration, the response consists of transmitting the requested data, decisions, or judgments. In the table below, such matters are included among informally closed matters.

Graphical representation of advisory statistics

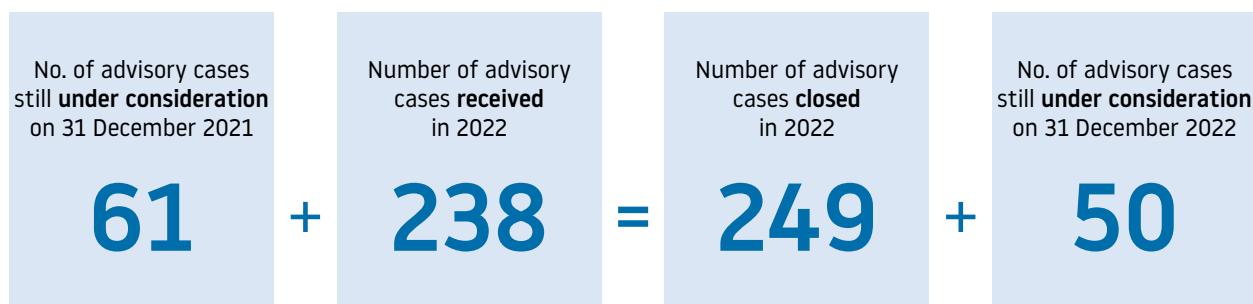


Table: Outcomes of advisory proceedings before the Advocate for cases closed in 2022

Outcomes of proceedings before the Advocate	Number	Percentage (%)
Written clarification	215	86,3
Recommendation	3	1,2
Formal note on the closure of the case	9	3,6
Informally closed cases (forwarding the Advocate's decisions, requests for statistical data on the cases under consideration, compliments and complaints, etc.)	10	4,1
Advisory assistance (written question received, advisory assistance provided by telephone or at a meeting in person)	3	1,2
Referral of the case (received as a request for advice, changed to discrimination investigation case, or referred to the system department for consideration)	6	2,4
The Advocate is not competent	3	1,2
TOTAL	249	100



5 ADVOCACY – REPRESENTATION IN JUDICIAL PROCEEDINGS

5.1 Advocacy and representation of parties in judicial proceedings

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

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

If the person gives their consent, the **Advocate may also accompany them in the court proceedings**. To enable the presence of the Advocate in judicial proceedings, an authorisation is not required – it suffices that the person subject to discrimination states that a certain person employed with the Advocate is accompanying them and that they wish them to be present during the proceedings.

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



5.2 The first case of representing a party in court

In 2022, the Advocate completed the representation a party in a court proceedings initiated in 2019.

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

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

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

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

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

3. the claim for the payment of statutory default interest of EUR 2,000.00 for the period from 1 January 2015 until 2 October 2019 shall be rejected;
4. a higher claim (for additional EUR 1,500.00) together with statutory default interest attached to it shall be rejected;
5. the judgment and parts of the grounds of the judgment shall be published in the newspapers Delo, Dnevnik, and Večer at the expense of the defendant.
6. The action was rejected in the part in which the plaintiff requested, that the defendant shall amend the statute and the corresponding rules, in the part limiting the work of cycling judges to 70 years of age.
7. The Court ruled that each party shall bear its own costs of the proceedings.

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

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

In its judgment No. I Cp 616/2022 of 28 June 2022 the Ljubljana Higher Court dismissed the appeal of the plaintiff and the defendant and upheld the judgment at first instance. According to the Court of Appeal, the rule linking the termination of the career of a cycling judge to the fulfilment of a certain age is not in itself discriminatory. It turned out to be discriminatory only in the specific procedural situation, in the relationship between the plaintiff and the defendant. According to the Court of Appeal, the plaintiff did not demonstrate a legal interest in the request for amending the Rules, so the action was inadmissible in this part. Also, regarding the amount of compensation awarded for discrimination, the Court of Appeal ruled that the plaintiff's allegations and the established circumstances of the case do not justify an amendment to this decision.

Following the decision of the Court of Appeal, the party to the proceedings decided to submit a motion for leave to appeal to the Supreme Court, authorizing a law firm for representation. In its Decision No. II DoR 370/2022 of 15 December 2022, the Supreme Court rejected the motion. After receiving the Decision of the Supreme Court, the Advocate agreed with the client on the termination of representation in court.

The Advocate's view of the outcome of the proceeding of representing a party in court

With this strategic litigation, the Advocate achieved acknowledgment that discrimination indeed occurred in this case, while the Court's judgment also sets a precedent in the field of age discrimination when carried out in such a way as to determine an age limit for access to a particular profession or activity on a flat-rate basis. The judgment states that the setting of a maximum age limit must always be substantiated in detail: the regulator must demonstrate that the setting of an age limit pursues a legitimate or constitutionally admissible objective and that the particular age limit is appropriate, necessary, and proportionate, thus complying with the strict principle of proportionality.



Through strategic litigation, the Advocate achieved that compensation for discrimination was awarded to the client. This is only the second compensation granted under the PADA since its adoption. The amount of the compensation awarded is low, as the awarded amount is lower than half of the possible compensation (it can range from EUR 500 to 5000). Future litigation will show whether a higher compensation is possible in the area of discrimination, and the danger lies in the fact that the compensations granted would be stabilised in low amounts. In this way, the compensations would no longer have a preventive function, in the sense that they would prevent future discrimination. In fact, the payment of such low compensations could be factored into the infringer's operations who could continue with their discriminatory practices without excessive costs.

In future litigation, in addition to the above, the Advocate identifies as a major challenge the question of who is charged with the costs of the procedure. Since the PADA does not include provisions on who shall bear the costs of the court proceedings, the parties to proceedings under Article 39 of the PADA shall be subject to general rules of civil law regarding the costs of proceedings. This means that the losing party may, after a court decision, become obliged to reimburse the opposing party, i.e. the infringer of the principle of non-discrimination. Since, in the context of discrimination, the plaintiff is, as a rule, a weaker party to the dispute, it would be reasonable to consider including in the PADA a provision similar to that in the Labour and Social Courts Act. Article 41, paragraph 5 of this Act provides that the employer shall bear their own costs of the proceedings, regardless of the outcome of the proceedings, unless the worker abused their procedural rights by filing an action or dealing in the proceedings. By analogy, the PADA could stipulate that in proceedings under Article 39 of the PADA, the defendant who is the alleged violator shall bear their own costs of proceedings, regardless of the outcome of the proceedings, unless the person alleging discrimination abused their procedural rights by filing an action or dealing in the proceedings. Such regulation would significantly facilitate the decision of victims of discrimination to initiate proceedings under Article 39 of the PADA and contribute to a better implementation of this provision.

6 DISCRIMINATION INVESTIGATION

6.1 Discrimination investigation procedure

Discrimination investigation is carried out in line with the administrative procedure based on complaints received by the Advocate from clients (Article 33 of PADA) and in proceedings instituted *ex officio* (Article 34 of PADA).

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

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

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

The Advocate is not competent to impose sanctions in case the alleged offenders or other entities fail to respond to the requests for information. Nonetheless, past experience seems to indicate that entities that requested information are mostly willing to actively cooperate in the proceedings. Should this not be the case, the Advocate can only repeatedly call them to respond and in the end take a decision based on the facts and documentation available. The nature of the discrimination investigation procedure, where the reversed burden of proof plays a key part, encourages the alleged infringers of non-discrimination to cooperate in the proceeding, as otherwise, if the complainant meets the burden of the allegation, the burden of proof shifts to the alleged infringer and they must prove that the absence of discrimination. Hence, if they fail to use the opportunity to present proof to support the fact that the complainant was not subject to discrimination, the consequences of the proceeding could be unfavourable for them.



The Advocate can resolve cases in various ways. In the discrimination investigation proceedings conducted under Articles 33 and 34 of the PADA, the Advocate may issue decisions or refer the matter to other competent authorities. The resolution of the proceedings also depends on the responsiveness of the complainant. If the complainant fails to respond to a request for supplementation of the application, and the original application (complaint, request, letter, etc.) does not contain sufficient information to prepare an answer to the complainant, the Advocate closes the proceeding by means of a formal note.

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

6.2 Statistics of discrimination investigation procedures

In 2022, the Advocate completed the examination of 50 complaints.

In 14 cases concluded by the Advocate with a substantial decision, discrimination was found.

In 2022, the Advocate also issued 11 proposals for the initiation of minor offense proceedings to the competent inspections (all in connection to discrimination found).

Graphical representation of discrimination investigation statistics

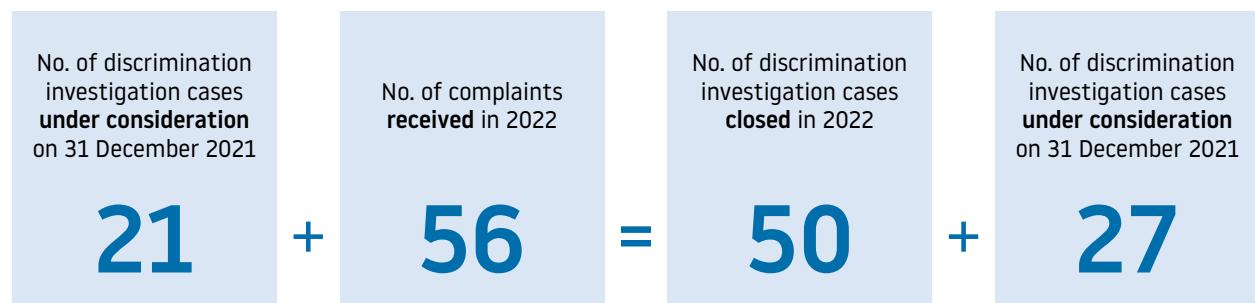


Table: *Outcomes of discrimination investigation proceedings before the Advocate for cases completed in 2022*

Outcomes of proceedings before the Advocate	Number	Percentage (%)
Decision – declaratory – discrimination found	14	28
Decision – declaratory – discrimination not found	3	6
Decision – negative – not a matter of discrimination	3	6
Decision to suspend the proceeding	9	18
Decision on dismissal on procedural grounds	3	6
Formal note on the closure of the case	6	12
Written clarification	3	6
Failure to commence proceedings	6	12
Referral to other competent authority	1	2
Recommendation – when it means closing the proceeding	2	4
TOTAL	50	100

6.3 Proceedings initiated ex officio

If the Advocate initiates an ex officio discrimination investigation proceeding in accordance with Article 34 of the PADA, the fact-finding and collection of evidence of the occurrence of discrimination is conducted in the same manner, i.e. in accordance with Article 37 of the PADA and GAPA.

In 2022, 14 ex officio proceedings were initiated by the Advocate. The ex officio proceedings are initiated by the Advocate on the basis of an anonymous report, question, or notification by a third party (not a victim of discrimination). In 2022, the Advocate addressed and closed six ex officio proceedings carried over from the previous years.

In 2022, the Advocate closed 15 proceedings, which were initiated ex officio in 2022 or in previous years. One proceeding from 2020 was closed as well as five proceedings initiated in 2021 and nine proceedings initiated in 2022. Five ex officio proceedings were carried over to 2023.

In six cases closed in 2022 where the complaint was lodged by an anonymous or third person, the Advocate failed to initiate an ex officio proceeding. In these cases, the substance of the anonymous complaint or complaint by a third person did not indicate any issue related to discrimination under the PADA.

The ex officio cases closed by the Advocate in 2022 (15) related to the following topics:

Discrimination found

- The Advocate found discrimination in the payment of benefits and salary supplements in a company (Decision No. [0700-5/2021/9](#) of 31 January 2022).
- Christmas bonus reduction based on maternity and parental leave is discriminatory (Decision No. [0700-12/2021/14](#) of 4 February 2022).
- The arrangement of granting free ski passes to students by the municipality is discriminatory (Decision No. [0700-53/2020/15](#) of 19 April 2022).
- At the interview, a school violated the principle of non-discrimination by asking the candidate a question regarding her plans to start a family (Decision No. [0700-7/2022/20](#) of 19 July 2021).
- The Advocate found discrimination in the payment of benefits and salary supplements in a sales company (Decision No. [0700-62/2021/14](#) of 29 August 2022).

- In its programmes and shows, the radio station discriminated against certain political parties opposing the values of a particular religious community (Decision No. [0700-9/2022/9](#) of 19 September 2022).
- Renovation of the railway station facility is an example of discrimination against persons with reduced mobility (Decision No. [0700-29/2022/17](#) of 24 October 2022).
- The Advocate found discrimination in the criteria for company performance (Decision No. [0700-13/2022/11](#) of 30 November 2022).
- The Advocate found that three guests were discriminated against in a catering establishment on the basis of their personal grounds of nationality or ethnic origin (Decision No. [0700-8/2022/48](#) of 19 December 2022).

Discrimination not found

- Conditioning some discounts upon the use of a mobile application is not discriminatory (Decision No. [0700-28/2022/12](#) of 17 November 2022).

Decision to suspend the proceeding

- The Ljubljana Secondary Schools have successfully remedied the situation where due to the lack of Slovenian sign language interpreters, the implementation of reasonable accommodation for deaf students was jeopardized (Decision on the suspension of the proceeding No. [0700-56/2021/13](#) of 18 February 2022).
- In accordance with the Amendment to the Personal Income Tax Act, the disputed position of the Financial Administration of the Republic of Slovenia on taking into account the exemption of social security contributions by the state from the tax treatment of taxpayers applying standardised expenditures was eliminated (Decision on the suspension of the proceeding No. [0700-29/2021/19](#) of 19 April 2022).
- In a recommendation, the Advocate drew attention to the inconsistent regulation of withholding social contributions to self-employed persons (Decision on the suspension of the proceeding No. [0700-14/2022/5](#) of 10 June 2022).
- The Advocate recommended to the Ministry of the Interior to regulate appropriately the system of recording data on applications for temporary residence of children so as to avoid errors (Decision on the suspension of proceeding No. [0700-10/2022/29](#) of 11 July 2022).
- The requirement for an expected pleasant visual appearance in terms of orderliness in the employment advertisement does not represent a personal ground under the PADA (Decision on the suspension of the proceeding No. [0700-25/2022/9](#) of 18 August 2022).



6.4 Referrals to inspectorates for the purpose of initiating misdemeanour proceedings

Article 44 of the PADA identifies the competent inspections as misdemeanour authorities responsible for inspection and control in the respective spheres of administrative competence where the discrimination occurred. The PADA grants no misdemeanour powers to the Advocate as an independent and autonomous state authority in the field of protection against discrimination.

However, based on the administrative procedure under the General Administrative Procedure Act (GAPA), the Advocate⁶ is competent to carry out discrimination investigation proceedings. Where discrimination is found, the Advocate issues a declaratory decision. Pursuant to Article 43 of the PADA, the Advocate prepares a proposal to initiate a misdemeanour proceeding in accordance with the law governing misdemeanours and refers it to the competent inspection for further consideration. The competent inspection is obliged to consider the case and inform the Advocate of its decision.

The table presents all proceedings from previous years closed by the Advocate with a declaratory decision and subsequently referred to competent inspectorates with a proposal for the initiation of an inspection and misdemeanour proceeding.

Since 2019, when the Advocate submitted the first proposal for the initiation of misdemeanour proceedings to the Internal Affairs Inspectorate, the Advocate referred 25 cases to the competent inspectorates by 31 December 2022. In 11 cases, the competent inspectorate, following the procedure, upheld the Advocate's findings and issued fines or admonitions to the violators, in two cases the inspectorates declared lack of jurisdiction in the matters, and four cases were rendered obsolete. In eight cases, the Advocate is still waiting for the decision of the inspectorates.

In 2022, the Advocate issued 11 proposals for the initiation of misdemeanour proceedings to the competent inspections.

⁶ Official Gazette of the Republic of Slovenia, No. 24/06 – official consolidated text, 105/06 –Administrative Dispute Act-1, 126/07, 65/08, 8/10, 82/13, 175/20 – Act Determining the Intervention Measures to Mitigate the Consequences of the Second Wave of COVID-19 Epidemic and 3/22 – De-bureaucratization Act.

Table: Referral of cases to inspectorates for the purpose of misdemeanour proceedings in 2017–2022 according to the chronological order

	Inspectorate	File number	Date of referral for misdemeanour proceedings	Date of notification on the decision of the inspectorate or the initiation of the proceeding	Decision of the inspectorate	Generic description of the case
1	Internal Affairs Inspectorate	0700-45/2017	19 March 2019	3 May 2019	The inspectorate is not competent	Discrimination against a cycling judge
2	Market Inspectorate	0700-2/2019	16 July 2019	9 September 2020	Infringement/fine	Discriminatory removal of advertisement
3	Market Inspectorate	0700-24/2020	3 September 2020	13 July 2021	Infringement/reprimand	Discrimination when entering a store
4	Internal Affairs Inspectorate	0700-30/2018	25 September 2020	2 February 2020	Obsolescence	Discriminatory conduct of a security guard
5	Market Inspectorate	0700-78/2019	26 October 2020	5 July 2021	Infringement/reprimand	Discrimination against passengers by taxi drivers
6	Market Inspectorate	0700-45/2020	28 October 2020	28 December 2022	Infringement/fine	Discriminatory tennis fee
7	Labour Inspectorate	0700-12/2020	5 November 2020	2 December 2021	Infringement/fine	Discriminatory payment of Christmas bonus
8	Labour Inspectorate	0700-30/2019	6 November 2020	17 September 2021	Infringement/fine	Discriminatory payment of Christmas bonus
9	Labour Inspectorate	0700-14/2020	19 March 2021	20 December 2021	Infringement/reprimand	Discriminatory payment of Christmas bonus
10	Labour Inspectorate	0700-19/2021	30 September 2021	7 February 2023	Decision not yet taken	Discriminatory payment of Christmas bonus

	Inspectorate	File number	Date of referral for misconduct proceedings	Date of notification on the decision of the inspectorate or the initiation of the proceeding	Decision of the inspectorate	Generic description of the case
11	Labour Inspectorate	0700-14/2021	30 September 2021	5 January 2022	Infringement/fine	Discriminatory payment of Christmas bonus
12	Labour Inspectorate	0700-4/2021	5 October 2021	2 December 2021	Infringement/fine	Discriminatory payment of Christmas bonus
13	Labour Inspectorate	0700-17/2021	8 November 2021	15 July 2022	Infringement/reprimand	Discriminatory payment of Christmas bonus
14	Labour Inspectorate	0700-16/2021	29 November 2021		Decision not yet taken	Discriminatory payment of Christmas bonus
15	Labour Inspectorate	0700-38/2021	15 February 2022		Decision not yet taken	Discrimination against an employee
16	Labour Inspectorate	0700-12/2021	8 March 2022		Decision not yet taken	Discriminatory payment of Christmas bonus
17	Labour Inspectorate	0700-55/2020	8 March 2022		Decision not yet taken	Discriminatory payment of Christmas bonus
18	Inspectorate for Education and Sport	0700-28/2021	8 March 2022	28 July 2021	The inspectorate is not competent	Discrimination in home schooling
19	Market Inspectorate	0700-2/2021	18 March 2022	28 March 2022	Obsolescence	Discriminatory conduct of a bank
20	Market Inspectorate	0700-27/2021	18 March 2022	28 December 2022	Infringement/reprimand	Discriminatory conduct of a bank

	Inspectorate	File number	Date of referral for misconduct proceedings	Date of notification on the decision of the inspectorate or the initiation of the proceeding	Decision of the inspectorate	Generic description of the case
21	Labour Inspectorate	0700-5/2021	21 March 2022	2 February 2023	Obsolescence	Discriminatory payment of Christmas bonus
22	Market Inspectorate	0700-53/2020	26 May 2022	3 August 2022	Decision not yet taken	Discrimination against high-school students
23	Labour Inspectorate	0700-26/2021	15 July 2022	1 February 2023	Decision not yet taken	Discriminatory payment of Christmas bonus
24	Inspectorate for Education and Sport	0700-7/2022	17 August 2022	3 February 2023	Obsolescence	Discrimination against a candidate in a job interview
25	Labour Inspectorate	0700-62/2021	1 December 2022	6 February 2023	Decision not yet taken	Discriminatory payment of Christmas bonus



Possible outcomes of the misdemeanour proceedings dealing with referred cases:

No infringement:

No irregularities were found in the inspection procedure conducted by the inspectorate, hence misdemeanour proceeding was not initiated.

Infringement – reprimand:

A misdemeanour procedure was conducted against the entity/responsible person, in the course of which a misdemeanour decision was issued imposing a reprimand.

Infringement – fine:

The entity/responsible person was subject to a misdemeanour decision and a sanction (fine) was imposed for the committed misdemeanour.

Decision not yet taken:

The inspectorate has not yet initiated the procedure. A misdemeanour proceeding was initiated against the entity/responsible person. The proceeding is still pending.

The inspectorate is not competent:

In this specific case, the inspectorate is not a supervisory authority over the violator's actions hence misdemeanour proceedings could not be initiated.

Obsolescence:

For the offense, the misdemeanour proceeding is no longer admissible as more than two years passed since the completion of the action (relative limitation period).

6.5 Cases before the Administrative Court of the Republic of Slovenia examining the Advocate's decision

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

In 2022, the Administrative Court failed to issue any judgment related to the Advocate's decisions.

The Court issued one decision on the suspension of the proceedings:

- in the case of victimization of a civil servant by her employer based on her statements in a television interview, the plaintiff (violator) submitted a request to withdraw the action in the administrative dispute based on which the proceeding before the Court was suspended (Decision No. I U 283/2022-13 of 1 July 2022 in the Advocate's case No. [0700-38/2021/24](#) of 31 January 2022).

On 31 December 2022, **twelve more procedures** were pending before the Administrative court in which the parties contested the Advocate's decision within the context of an administrative procedure. Examples refer to the following topics and are presented in the chronological order

- Removal of the advertisement by the Živim Institute from the Ljubljana city bus, case once again pending before the Administrative Court (Decision No. [0700-2/2019/98](#) of 16 June 2022);
- Discrimination of customers in connection with the treatment they receive from Sintal security guards in the Spar store in Radovljica on the grounds of race (Decision No. [0700-30/2018/58](#) of 16 July 2019);
- Discrimination against a person living with HIV in access to dental care in the Maribor Health Centre (Decision No. [0700-3/2017/42](#) of 5 September 2019);
- Discrimination against women in the Ig prison (Decision No. [0700-67/2019/23](#) of 2 September 2020)⁷;

⁷ In case No. 0700-67/2019, in which the Republic of Slovenia, the Ministry of Justice, and the Prison Administration of the Republic of Slovenia filed an action against the Advocate's decision No. 0700-67/2019/23, in which discrimination against women in prison was found, the Administrative Court issued a decision of 8 March 2023 dismissing the action as inadmissible. In the reasoning, it was stated that a dispute between certain public legal entities is possible under the third paragraph of Article 7 of the ZUS-1, but the condition from the first part of this provision is not met, since it is a dispute between two state authorities. Regarding the condition "if the constitution or law do not provide other judicial protection", the Administrative Court finds that it is also not fulfilled because in a specific case, other judicial protection is provided, namely, an action against the Advocate's decision could be brought by a public interest representative. The decision of the Administrative Court was appealed by the Ministry of Justice, and the Prison Administration through the State Attorney's Office in an administrative dispute.



- Providing the television content on RTV Slovenia in a form adapted to the sensory impaired (Decision No. 0700-29/2019/49 of 24 February 2021)⁸;
- Discrimination against a civil servant in Črnuče kindergarten on grounds of parenthood in the annual performance review (Decision No. 0700-26/2020/41 of 1 July 2021);
- Discrimination on grounds of health and parenting in the consideration of the business performance by taking into account attendance at the workplace in the companies Elektro Celje, Arriva, and Krka (Decision No. 0700-14/2021/10 of 7 September 2021, Decision No. 0700-55/2020/17 of 11 October 2021 and Decision No. 0700-3/2021/6 of 13 December 2021);
- Closure of a personal bank account with NKB Maribor due to Cuban citizenship (Decision No. 0700-2/2021/37 of 9 March 2022);
- Access to free ski passes for students from the municipality of Kranjska Gora based on the date of permanent residence registration (Decision No. 0700-53/2020/15 of 19 April 2022);
- Less favourable treatment of political parties who, in their programs, oppose the values of a particular religious community by the radio station Radio Ognjišče (Decision No. 0700-9/2022/9 of 19 September 2022).

⁸ Against the Advocate's Decision No. 0700-29/2019/49 of 24 February 2021, an action was filed with the Administrative Court, which issued judgment No. I U 504/2021-49 of 18 January 2023, by which it partially granted the action, by abolishing point 3 of the operative part of the Advocate's decision and returned the case to the Advocate for reconsideration in this part (regarding the rejection of the proposal to deal with victimisation and the rejection of the proposal to deal with discrimination in the right of access to information and television by three commercial TV stations and in the part in which discrimination is alleged against other commercial TV stations and responsible persons of alleged violators). For the remainder (pt. 1 and 2 of the Advocate's decision), the Administrative Court dismissed the action (i.e. regarding the Advocate's finding that Radio Television Slovenia and an individual private operator did not violate the prohibition of discrimination under the PADA).

6.6 Practices not regarded as discrimination under the PADA

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

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

- 6.6.1 Permitted exceptions to the principle of non-discrimination (that vary according to individual personal grounds);
- 6.6.2 Personal choices, not personal grounds as the reason for unequal treatment;
- 6.6.3 The absence of interference with rights, legal interests or benefits;
- 6.6.4 Various instances of conduct that do not interfere with the rights of others;
- 6.6.5 Other wrongdoings or irregularities not defined in the PADA.

6.6.1 Permitted exceptions to the principle of non-discrimination

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

6.6.2 Personal choices, not personal ground

The complainants often state reasons for discriminations reasons which the Advocates finds not to comply with the definition of personal grounds under the PADA. Personal ground in the legal sense means congenital or acquired personal traits, characteristics, conditions, or statuses, which are, by and large, permanently and inextricably linked to a particular individual and their personality, in particular their identity, or can not easily be altered by the individual.

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

Determining personal grounds which could be the reason for the alleged treatment is one of the first steps in the proceeding before the Advocate intended to establish whether or not the equality body is competent. The Slovenian legislation grants the Advocate a wide range of powers, as the PADA, as well as Article 14 of the Constitution, contain a wide range of protected personal grounds, and both regulations also contain an open general clause ("any other personal ground") which allows for personal grounds outside the list to be considered too. These are identified by the Advocate using the definition of personal grounds from the PADA. Sexual harassment is the only practice in which a personal ground is not necessary.

6.6.3 The absence of interference with rights, legal interests or benefits

Discrimination cannot be identified in cases where no interference with human rights, fundamental freedoms, other rights, legal interests, or benefits can be identified, as provided for in Article 4 of the PADA. Accordingly, the Advocate first checks whether the protected benefit pursued by the complaint is provided for by the law and whether it can be determined in line with an applicable legal framework (even if not explicitly defined as a right).

Such a right, benefit, or advantage may also be defined in a way that imposes a specific obligation on the state, local community, other legal entity, natural person, or any other person liable under the PADA. If the right, legal interest, or benefit is not given, no discrimination can be identified under the PADA.

6.6.4 Conduct that does not interfere with the rights of others

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

In such cases, specific measures may exist that can be either encouraging or positive. The measures are intended only for particular (vulnerable) groups that are disproportionately subject to discrimination and are taken with the aim of eliminating the existing less favourable position of these groups. Persons not belonging to the vulnerable groups are not discriminated against when excluded from the benefits of the specific measure, as, unlike the vulnerable group they are not in a less favourable position. The specific measures are namely a way of preventing indirect discrimination against persons from vulnerable groups, but at the same time represent an exception to the prohibition of direct discrimination against persons not belonging to the vulnerable group.

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

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

6.6.5 The difference between discrimination and other wrongdoings or irregularities

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



6.7 Restrictions pertaining to discrimination investigation before the Advocate

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

6.7.1 Proceedings before other state authorities

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

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

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

6.7.2 Private and other relationships outside of legal regulation

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



7 ASSESSMENT OF DISCRIMINATIVENESS OF REGULATIONS

7.1 Legal basis for assessing the discriminativeness of regulations

Article 38 of the Protection against Discrimination Act (PADA) grants the Advocate the power to file requests for the review of the constitutionality and legality of regulations before the Constitutional Court of the Republic of Slovenia. 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. The discrimination assessment procedure is not an administrative procedure, but an internal procedure aimed at ensuring the transparency of decision-making. Based on the regulatory discrimination assessment the Advocate issues either a recommendation to amend the disputed regulation or submits a request for reviewing the constitutionality and legality to the Constitutional Court.

Before the Advocate carries out the regulatory discrimination assessment of an individual regulation, a preliminary test or preliminary analysis of this regulation is performed. If the content of the regulation is found not to fall within the Advocate's domain and where it is very clear that no discrimination took place, the discrimination assessment is not carried out. In this case, a written clarification is made with reasons for such a decision. In the opposite case, the Advocate carries out a regulatory discrimination assessment which is concluded either by identifying the regulation as discriminatory or non-discriminatory.

The regulation is discriminatory if in comparable situations unequal treatment of individual groups of people occurs, based on one or more personal grounds referred to in the first paragraph of Article 1 of the PADA (gender, nationality, race or ethnic origin, language, religion or belief, disability, age, sexual orientation, gender identity, and gender expression, social status, property status, education or any other personal ground). The Advocate's field of activity includes not only protection against discrimination in the exercise of human rights and fundamental freedoms but also protection against inadmissible discrimination with regard to other rights, legal interests, and benefits. Less favourable treatment of individuals based on their specific personal grounds may be permissible, but only exceptionally if the regulation pursues a legitimate objective (e.g. employment policy, social policy) and the means to achieve that objective are adequate (appropriate in relation to the objective), necessary (limited to what is strictly necessary) and proportionate (balancing different rights and interests).

The Advocate may submit a request for reviewing the constitutionality and legality of the regulation both based on its inconsistency with the first paragraph of Article 14 of the Constitution, which refers to the prohibition of discrimination in relation to any human right and fundamental freedom, and based on its inconsistency with the second paragraph of Article 14 of the Constitution, which refers to the general principle of equality before the law, in cases where the distinction is based on particular personal grounds.⁹

The Advocate carries out discriminatory assessment procedures at the initiative of a client or at their own initiative.

The Constitutional Court is the state authority taking a final decision on whether a particular regulation is unconstitutional.

⁹ The procedural locus standi of the Advocate before the Constitutional Court was explained in Decision No. U-I-16/21-12 and U-I-27/21-12.

7.2 Statistics of regulatory discrimination assessments

In 2022, the Advocate carried out 34 discrimination assessment procedures. In 2022, 29 discrimination assessments were completed while five cases were carried over to 2023 for further consideration.

In 12 of the cases closed, the regulations were assessed to be discriminatory.

In 17 cases, the discriminativeness of the regulation was not identified.

In the twelve cases of regulatory discrimination assessment that were closed, the Advocate also issued appropriate recommendations. This was in ten cases in which the regulation was found to be discriminatory and in two cases in which the discriminativeness of the regulation was not confirmed, yet still, the addressees were recommended to remedy certain shortcomings.

In 2022, the Advocate did not submit any request to the Constitutional Court for a constitutional review of the regulation.

Graphical representation of regulatory discrimination assessment statistics

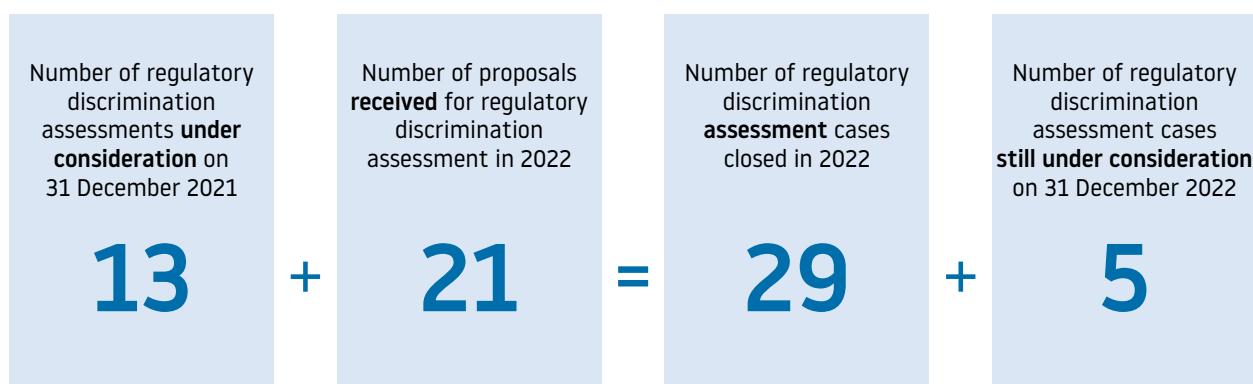


Table: Outcomes of regulatory discrimination assessment proceedings before the Advocate closed in 2022

Outcomes of proceedings before the Advocate	Number	Percentage (%)
Assessment – discrimination found	12	41
Assessment – discrimination not found	9	31
Clarification – discrimination not found	8	28
Total number of discrimination assessment cases closed	29	100
Still under consideration	5	
Total number of discrimination assessment cases considered	34	



7.3 Review of regulatory discrimination assessments

Below are the summaries of the regulatory discrimination assessment proceedings carried out by the Advocate in 2022. The summarised cases include those in which the regulation was found to be discriminatory (ten), those in which the discrimination assessment was not carried out as within the preliminary analysis discrimination was not demonstrated (eight), and cases in which according to the procedure carried out discrimination was not found (nine). In the end, regulatory discrimination assessments still under consideration are summarised where the proceeding has not yet reached the phase of issuing the final assessment.

7.3.1 Regulatory discrimination assessments

Discrimination assessments carried out by the Advocate in 2022 where the regulation or part of the regulation was found to be discriminatory (ten cases):

- According to the Advocate, the Pension and Disability Insurance Act (PDIA-2) is discriminatory. This Act discriminates against those employees who perform jobs that cannot be successfully and professionally performed after a certain age (e.g., police officers). The suspension of occupational insurance puts them at a disadvantage, compared to other employees, which is an unjustifiable consequence of their personal grounds of parenthood, gender, and disability. The Advocate proposed to the competent ministry that PDIA-2 be amended to make sure that the suspension of occupational insurance for work that cannot be successfully and professionally performed after a certain age is removed from the law. The matter falls within the competence of the Ministry of Labour, Family, Social Affairs, and Equal Opportunities (MLFSAEO) (050-2/2018/22).
- According to the Advocate, the Labour Market Regulation Act (LMRA) is discriminatory against third-country nationals, as it provides that they must demonstrate basic knowledge of Slovenian no later than 12 months after registering in the register of unemployed persons, while this time condition is not so strict for citizens of other EU Member States, the EEA and the Swiss Confederation. The matter falls within the competence of the Ministry of Labour, Family, Social Affairs, and Equal Opportunities (MLFSAEO), 050-24/2020/14).
- According to the Advocate, the Pension and Disability Insurance Act (PDIA-2) is discriminatory, since the regulation of the right to assistance and service allowance for minors who depend on care and assistance due to their disabilities is not available to all beneficiaries in the said Act. The matter falls within the competence of the Ministry of Labour, Family, Social Affairs, and Equal Opportunities (MLFSAEO) (050-28/2020/24).
- According to the Advocate, the Social Inclusion of Disabled Persons Act (SIDPA) is discriminatory. The Act stipulates that adults who are unable to pursue social security and participate in society due to disability and incapacity for work are entitled to disability compensation, regardless of their financial situation. However, this compensation for work is not granted to persons with working disabilities due to mental illnesses whose condition is permanent and is not expected to improve. According to the SIDPA, they cannot be granted the status of a disabled person. The matter falls within the competence of the Ministry of Labour, Family, Social Affairs, and Equal Opportunities (MLFSAEO) (050-29/2020/12).
- According to the Advocate, the Act Amending the International Protection Act (IPA-1A) is discriminatory against refugees with poor financial situations. It provides for the possibility of dismissing refugee advisers in cases where it would turn out that the competent authorities have not disclosed information that could negatively affect their clients, which is considered discriminatory. As a result of this regulation referred to in Article 9 of the International Protection Act, the right to effective legal protection in appeal proceedings is guaranteed only to applicants for international protection who can pay for legal services. According to the Advocate, the regulation thus leads to an unjustified inferior treatment of applicants for international protection on the basis of their financial situation. The Ministry of the Interior (MI) and the Ministry of Justice (MoJ) are competent (050-21/2021/13).

- According to the Advocate, the International Protection Act (ZMZ-1) is discriminatory against unaccompanied minor applicants for international protection. It stipulates that the legal representative of an unaccompanied minor applicant for international protection may be dismissed upon failure to provide the competent authorities with information on the protected person that could negatively affect the applicant in the process of obtaining refugee or subsidiary protection status. With the possibility of dismissal of the legal representative in the event of withholding certain information, the regulation deprived the legal representative of their primary purpose, which is to establish a confidential relationship between the representative and the protected person and to pursue the client's best interests. The matter falls within the competence of the Ministry of the Interior (MI) (050-23/2021/9).
- According to the Advocate, the Music Schools Act (MSA) is discriminatory. It lacks the provision of appropriate accommodations for children with special needs who wish to attend music school as regards entrance exams. It is only when such adjustments are introduced that these children will be made equal with their peers without disabilities. The matter falls within the competence of the Ministry of Education, Science, and Sport (MESS) (050-38/2021/18).
- According to the Advocate, the National Assembly Election Act (NAEA) is discriminatory, as it enables the disenfranchisement of persons with intellectual and psychosocial disabilities. The Ministry of Public Administration (MPA) and the Ministry of Justice (MoJ) are competent (050-2/2022/12).
- According to the Advocate's assessment, the Act Determining Emergency Measures to Mitigate the Consequences of the Impact of High Energy Commodity Prices does not comply with the provisions on special measures in accordance with Article 18 of the PADA. The assessment points out that when taking specific measures, the privileged treatment must be substantiated accordingly. For the assessed act, such justifications were not given, hence the funds were granted to persons who had no need for such aid while not all who based on the personal ground of property status and energy poverty needed them. The Ministry of Infrastructure (MI) and the Ministry of Labour, Family, Social Affairs and Equal Opportunities (MLFSAEO) are competent (050-10/2022/6 – assessment, 050-7/2022, 050-8/2022).
- According to the Advocate, the Higher Education Act (HEA) is discriminatory in the part that stipulates as one of the conditions for admission to subsidized student residence Slovenian citizenship. The Advocate assessed that this condition for admission to one of the forms of subsidized student residence is disproportionate and exclusionary, and thus could indirectly interfere with the right to equal educational opportunities, which is a fundamental human right at both the level of binding international legal acts and the Constitution. The Advocate proposed that all students with permanent residence in Slovenia, regardless of their nationality, should be eligible for subsidized residence. The matter falls within the competence of the Ministry of Education, Science, and Sport (MESS) (050-15/2022/9).

7.3.2 Rejected requests for the assessment of discriminativeness of regulations

In 2022, the cases (eight) in which the Advocate did not conduct an assessment of discriminativeness, as the preliminary analysis showed no discrimination, were:

- According to the Advocate, the Labour Market Regulation Act (LMRA) is not discriminatory, since the level of education required for a particular job is not a personal ground within the meaning of the PADA, since one can achieve the level of education required by participating in further education, and a sufficient period of time has been provided to this end. The requirement to increase the educational level for employment in the public sector is thus regulated appropriately. The Ministry of Public Administration (MPA) and the Ministry of Labour, Family, Social Affairs, and Equal Opportunities (MLFSAEO) are competent (050-1/2022/2).
- According to the Advocate, the Act Amending the Kindergartens Act (AAKA) is not discriminatory, as the provision on free kindergarten fees for a second child is regulated accordingly. The Act reintroduces the measure of exemption from the payment of kindergarten fees for a second child in kindergarten at the same time as the older child, and extends the right to free kindergarten to the third and fourth children from the same family, without the condition that the child be simultaneously included in the kindergarten together with siblings. In this way, according to the explanatory memorandum, compliance with the principle of improving the financial accessibility of kindergartens is fully ensured. The Advocate further noted that when assessing the regulation, it is necessary to make a comparison between a family that has one child included in the kindergarten at a certain time and a family that has two children included in the kindergarten at the same time. According to the Advocate, these two families are not in a comparable situation. The matter falls within the competence of the Ministry of Education, Science, and Sport (MESS) (050-3/2022/3).
- According to the Advocate, the Defence Act (DA) is not discriminatory, since the provisions stipulating the termination of the employment of soldiers who reach a certain age are appropriate. The Advocate found that the Constitutional Court of the Republic of Slovenia had already ruled on this subject. With regard to the alleged discriminativeness of the provisions of the DA, the Constitutional Court took the view that the alleged discrimination or violation of the principle of equality before the law is unfounded. The Advocate further concluded that termination of employment in the field of defense does not imply an obligation to retire. It only means that when one fulfills the conditions for an old-age pension, taking into account the additional period from the compulsory supplementary insurance, their employment in defense is terminated. The matter falls within the competence of the Ministry of Defence (MD) (050-5/2022/3).



- According to the Advocate, the Road Transport Act (RTA-2) is not discriminatory against persons with disabilities who are employed, compared to persons with disabilities who are not employed. The Advocate found that the compared categories of persons (with disabilities) differ based on their economic activity. This means that the reason for the distinction is not disability, but the status of employment, which does not constitute a personal ground within the meaning of the PADA. The matter falls within the competence of the Ministry of Infrastructure (MI) (050-11/2022/3).
- According to the Advocate, the Act Determining Intervention Measures to Assist in Mitigating the Consequences of the Second Wave of COVID-19 Epidemic is not discriminatory, as differentiated taxation of covid supplements is appropriate. The differentiated taxation was not based on the individual's personal grounds, but on the grounds of employment with an individual operator or with a provider of certain services. The Advocate found that the performance of work at an individual operator or employment in an individual market segment (e.g. health care, education, etc.) does not constitute a personal ground within the meaning of the PADA. The matter falls within the competence of the Ministry of Finance (MF) (050-12/2022/3).
- According to the Advocate, the Promotion of Digital Inclusion Act (PDIA) is not discriminatory, as the ineligibility of foreigners with temporary residence in Slovenia to digital vouchers is not discriminatory. The Advocate found that foreigners with temporary residence are not in a comparable situation as foreigners with permanent residence. In the Slovenian legal system, a person with permanent residence has a broader range of rights according to the law compared to a person who has a temporary residence or registered residence permit (in the case of a citizen of another EU Member State), regardless of their nationality. The matter falls within the competence of the Government Office for Digital Transformation (050-14/2022/3).
- According to the Advocate, the Act Determining Temporary Measures to Remedy the Consequences of Higher Living Costs of the Most Vulnerable Population Groups (original proposal) is not discriminatory towards persons with disabilities due to the determination of the living allowance. The Advocate found that the circle of beneficiaries was selected according to the income status of the individual. Beneficiaries included those individuals (whether pensioners, disabled, unemployed, etc.) whose income status is the lowest or those who live in low-income households. The matter falls within the competence of the Ministry of Labour, Family, Social Affairs, and Equal Opportunities (MLFSAEO) (050-16/2022/3).
- According to the Advocate, the Act Determining Measures to Mitigate the Consequences of Energy Commodity Price Rise in Business and Agriculture is not discriminatory, since the reduction of the tax rate only for some energy products does not constitute a personal ground in accordance with the PADA. The question of which energy product an individual uses during the heating season is not, in principle, a question of their personal ground within the meaning of the PADA, but may also be due to an individual's choice or other reasons not related to personal grounds (e.g. housing in residential blocks in which the heating system is already installed, in environments in which connection to district heating is mandatory, etc.). The matter falls within the competence of the Ministry of Finance (MF) (050-17/2022/2).

7.3.3 Assessing the non-discriminativeness of regulations

Cases of regulatory discrimination assessment (nine) carried out by the Advocate in 2022 in which the Advocate did not find discrimination pertained to the following topic:

- According to the Advocate, the Roma Community in the Republic of Slovenia Act (RCR-SA-1), which refers to the representation of members of the Roma community in the Council of the Roma Community, is not discriminatory. Based on the analysis of the data submitted to the Advocate by four out of five working Roma associations, the Advocate assessed that, with the exclusivity of the Association of Roma in Slovenia in the Council of the Roma Community, Roma associations based in municipalities in areas where the Roma community is not traditionally inhabited are not placed in a less favourable position compared to Roma societies based in municipalities in areas where the Roma community is indigenous. The matter falls within the competence of the Government (050-14/2021/28).
- According to the Advocate, the Pension and Disability Insurance Act (PDIA-2), which requires the simultaneous fulfilment of the age and pension period conditions for obtaining the right to an old-age pension for citizens who started working before the age of 18, is not discriminatory. The regulation pursues the legitimate objective of ensuring the long-term sustainability of the pension system in order to ensure the exercise of the rights of insured persons who are only just entering insurance on the basis of the principle of intergenerational solidarity. Reducing the retirement age from 65 to 60 for those who have reached the retirement age of 40 before the age of 65 is already an adjustment for people who have joined the labour market early. The matter falls within the competence of the Ministry of Labour, Family, Social Affairs and Equal Opportunities (MLFSAEO) (050-22/2021/9).
- According to the Advocate, the Ordinance determining the conditions of entry into the Republic of Slovenia to contain and control the COVID-19 infectious disease is not discriminatory with regard to the place of residence. It is permissible that the benefit of crossing borders without the DCP condition and without quarantine is granted to residents living in the border zone of up to 10 km, but not to other residents. This is namely a special area of the border zone set out by the Promotion of Balanced Regional Development Act, and the residents of the border zone are therefore not in a comparable situation as the residents of areas outside this border zone. The Ministry of the Interior (MI) (050-29/2021/8).
- According to the Advocate, the Pension and Disability Insurance Act (PDIA-2) is not discriminatory as regards the provisions on the eligibility of severe mental patients for assistance and service allowance. The Advocate found that severe mental patients as a group are not excluded from eligibility, for either the higher nor the highest assistance and service allowance. However, eligibility depends on the professional assessment of the individual's medical condition (cognitive abilities). The Advocate cannot go into the details of such an assessment, as this exceeds its competencies set out by the PADA. The matter falls within the competence of the Ministry of Labour, Family, Social Affairs, and Equal Opportunities (MLFSAEO) (050-40/2021/8).



- According to the Advocate's assessment, the municipality did not violate the principle of non-discrimination based on age in the tender for municipal pocket money, which was provided for in a municipal decision. The applicant was compared with medical/veterinary students for whom a higher age limit is set, or with students who were born in the same year and had not yet reached the age of 25 at the time of application. Although age is one of the expressly listed personal grounds according to the PADA, the Advocate assessed that in the case of the granting of municipal pocket money, the age limit has passed the proportionality test, and therefore it is considered an exception to the prohibition of direct discrimination under Article 13 of the PADA. The matter falls within the competence of the municipality (050-41/2021/10).
- According to the Advocate, the Income Tax Act (PITA-2) is not discriminatory as regards the taxation of severance pay of persons related to the employer. The Advocate assessed that the status of a related person is not a personal ground within the meaning of the PADA. Related persons include certain family members of the employer who are employed by the employer, as well as other legal and natural persons, who are subject to capital or ownership control by the employer. In addition, the Advocate assessed that workers, who are related persons, are not in a comparable situation with workers who are not related to their employer within the meaning of family or control function. They may therefore be subject to different rules on the taxation of severance pay. The matter falls within the competence of the Ministry of Finance (MF) (050-4/2022/12).
- According to the Advocate, the Integrity and Prevention of Corruption Act (IPCA), which does not provide for the stated exception from the incompatibility of the function of a deputy of the National Assembly and the function of a councillor of a self-governing national community, is not discriminatory. The Advocate believes that positive protection of minorities does not guarantee that the function of a deputy of the national community and the representation of a self-governing national community could be performed by the same member of a particular national community. This does not stem from the constitutional framework of the special protection of minorities, nor from the laws that regulate in more detail this special form of protection. The matter falls within the competence of the Ministry of Justice (MoJ) and the Commission for the Prevention of Corruption (CPC) (050-6/2022/2).
- According to the Advocate, the National Assembly Election Act (NAEA) is not discriminatory as regards the regulation of elections for expatriates when stipulating that the costs of sending the ballot shall be borne by themselves. Since people live outside of Slovenia for various reasons, the Advocate cannot, in the present case, consider the place of residence as a personal ground on the basis of which discrimination would occur due to the obligation to pay the cost of sending electoral material. People live outside of Slovenia for various reasons that do not have a common denominator. Moreover, individuals who vote by mail from Slovenia are not eligible for the reimbursement of voting costs either. The matter falls within the competence of the Ministry of Public Administration (MPA) (050-9/2022/9).
- According to the Advocate, the Promotion of Digital Inclusion Act (PDIA), which sets out who the recipients of digital vouchers '22 shall be, is not discriminatory, however, the incentive measure for the allocation of vouchers '22 itself does not meet all the conditions under the PADA. In the first part, the Advocate assessed that the different arrangements for obtaining a voucher '22 for people over 55 years of age and for schoolchildren do not constitute a discriminatory arrangement on grounds of age, as the two groups are not in a comparable position.

The Advocate further assessed the general provision that all persons aged 55 or more are entitled to a financial benefit of EUR 150, regardless of the actual need for education to raise digital literacy and regardless of their financial situation, is not appropriate for achieving the set goals due to the limited number of places in the courses. The matter falls within the competence of the Government Office for Digital Transformation (050-13/2022/11).

7.3.4 Assessing the discriminativeness of regulations still under consideration

The cases (five) still under consideration on 31 December 2022 pertaining to the following topics:

- Are the provisions on free HPV vaccination after the age of 10 for girls only discriminatory towards boys who are eligible for free vaccination after the age of 10? The matter falls within the competence of the Ministry of Health (MH) (050-33/2021).
- Are the provisions of the Communicable Diseases Act (CDA) and vaccination and protection programmes adopted on the basis of this Act for a given year, which stipulate that everyone born after 1992 is entitled to free vaccination against hepatitis B upon entering primary school, discriminatory against individuals who were born before 1991 and have to pay for the vaccination? The matter falls within the competence of the National Institute of Public Health (NIPH) (050-18/2022).
- Are the provisions of the Rules on subsidised student accommodation, which stipulate the allocation of additional points for the candidacy for a room in a dormitory only to persons who have the status of a disabled person under the Employment Rehabilitation and Employment of Persons with Disabilities Act (EREPDA), discriminatory against persons with certain types disabilities who do not have the status under the EREPDA (e.g. autistic persons)? The matter falls within the competence of the Ministry of Education, Science, and Sport (MESS) (050-20/2022).
- Does the failure to enable the hybrid way of schooling or ensure an adequate level of reimbursement for homeschooling constitutes discrimination in the case of children with special needs who are unable to attend school due to their specific health status? The Advocate will assess the provisions of the Placement of Children with Special Needs Act (PCSNA) in connection with the Rules on Primary Education of Students with Special Needs and the Organisation and Financing of Education Act (OFEA). The matter falls within the competence of the Ministry of Education, Science, and Sport (MESS) (050-21/2022).
- Are the provisions of the Pension and Disability Insurance Act (PDIA-2), which set out that the employer is entitled to a partial contribution refund in the case of mothers taking care of a child aged less than three, when they are first employed for an indefinite period and remain with the same employer, discriminatory against fathers? The matter falls within the competence of the Ministry of Labour, Family, Social Affairs, and Equal Opportunities (MLFSAEO) (050-22/2022).

8 INFORMATION ON CASES OF DISCRIMINATION ADDRESSED BY OTHER STATE AUTHORITIES

8.1 Legal basis and method of data collection

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

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

Within the tasks and powers under the PADA, the Advocate monitors the overall situation in the Republic of Slovenia with regard to the protection against discrimination and the position of persons with particular personal grounds (sixth indent of Article 21 of PADA). In this light, the Advocate submitted a request to the competent authorities for information on reported cases of discrimination in 2022, accordingly classified by individual personal grounds, forms of discrimination, and individual areas of life. Besides the inspection services, the Advocate submitted the request also to the Police, the Office of the State Prosecutor-General, and all courts.

The Prosecution office and the Police were requested to provide information on cases of criminal offenses with the constituent elements from Article 297 of the Criminal Code (CC), i.e. public incitement to hatred, violence, or intolerance, and Article 131 of the Criminal Code (CC-1), i.e. violation of the right to equality in connection to any personal ground (gender, nationality, race or ethnic origin, language, religion or belief, disability, age, sexual orientation, gender identity, and gender expression, social status, property status, education or other), which could as such be discriminatory under the PADA, or based on other regulations (e.g. if any other crime was committed with a racist, homophobic, transphobic, sexist, or any other discriminatory motive). The Advocate also requested the Police to provide data on minor offenses under Article 20 of the Protection of Public Order Act (PPOA-1).¹⁰

¹⁰ Official Gazette of the Republic of Slovenia, No. 70/06



Additionally, the Advocate requested anonymised information from courts regarding final judgments pertaining to Article 14 of the Constitution of the Republic of Slovenia, the Criminal Code (CC-1), in particular Articles 297 and 131, Article 20 of the Protection of Public Order Act (PPOA-1), the Protection against Discrimination Act, the Implementation of the Principle of Equal Treatment Act, Articles 6, 6a, 27 and 133 of the Employment Relationships Act, Article 6 of the Equalisation of Opportunities for Persons with Disabilities Act, Article 3 of the Freedom of Religion Act¹¹ and other regulations containing the prohibition of discrimination and the obligation of equal treatment regardless of the respective personal grounds.

In 2022, the Advocate addressed a request to the competent authorities for data on a number of discrimination cases considered according to individual personal grounds, areas of life, and forms of discrimination, with the purpose of monitoring the overall situation.

These authorities were: inspectorates, the Police, the Supreme State Prosecutor's Office, and all courts.

¹¹ Official Gazette of the Republic of Slovenia, No. 14/07, 46/10 - dec. Constitutional Court, 40/12 – Fiscal Balance Act and 100/13

8.2 Cases of discrimination considered – Inspection services

Pursuant to Article 16 of the PADA, the Advocate requested information from 25 inspection authorities. Of the 25 inspection services approached, 23 responded. Of the 23 responses received, 19 inspection services did not investigate any cases of discrimination in 2022 according to personal grounds, forms, and areas of discrimination. The Slovenian Maritime Administration – the Maritime Inspection and the Metrology Institute of the Republic Slovenia – Metrological Control Sector failed to respond to the Advocate's call.

Four inspection services reported cases of discrimination in 2022:

- Labour Inspectorate of the Republic of Slovenia;
- Inspectorate of the Republic of Slovenia for Education and Sport;
- Market Inspectorate of the Republic of Slovenia
- Agency for Communication Networks and Services of the Republic of Slovenia;

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

THE ADVOCATE HIGHLIGHTS

An overview of all cases referred by the Advocate to the inspectorates is provided in Chapter 6.4 Referrals to inspectorates for misdemeanour proceedings.



8.2.1 Labour Inspectorate

In its reply, the Labour Inspectorate of the Republic of Slovenia stressed that records or databases are not kept by the cases considered, but by the established violations of the provisions of labour law, which applies also to violations of the prohibition of discrimination. Moreover, the Labour Inspectorate does not keep any records with regard to personal grounds that led to discrimination.

In 2022, the Labour Inspectorate recorded 14 cases of violations of the principle of non-discrimination (under Article 6 of ERA-1 and in one case also a violation under the PADA). In all cases, the violations of the principle of non-discriminations affected employees.

13 cases concerned remuneration from an employment relationship paid to workers in varying amounts or timescales. In one case, however, discriminatory behaviour related to a different amount of annual leave granted.

In eight cases, workers were paid a salary or holiday bonus in different amounts or at different times. One case pertained to the personal ground of disability.

The Labour Inspectorate addressed three cases of violations of Article 6 of ERA-1 and the PADA regarding the assessment of the amount of the business performance bonus or part of the salary. The personal grounds of workers were health status, parenting and disability.

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

- issued a warning based on Article 33 of the Inspection Act (in four cases);
- issued a recorded warning based on Article 53 of the Minor Offences Act (in four cases);
- Issued a decision establishing minor offense with a caution based on Article 21 of the Minor Offences Act (in five cases);
- In one case, the inspector initiated a minor offense proceeding at the end of 2022, which, however, was not completed by the date of this Report.

In 2022, the Advocate referred six cases of identified discrimination to the Labour Inspectorate for the purpose of initiating misdemeanour proceedings. In five cases decision has not yet been adopted and one case has become obsolete.

8.2.2 Inspectorate for Education and Sport

Similar to the previous years, the Inspectorate for Education notes in 2022 that in the field of education, complainants accuse educational institutions of discrimination in cases of correction measures, pupil and student assessment, granting the status of athletes or artists, cooperation with parents and in cases of communication in the school premises.

The complaints received also relate to the field of employment, which does not fall within the competence of school inspection, the non-selection of a candidate is referred to as discriminatory choice. In addition, the Inspectorate was informed about the questions asked when interviewing candidates, which could lead to unequal treatment in the decision-making process of filling vacancies.

The Inspectorate for Education received 21 complaints of alleged discrimination related to justifying neglect or contempt of persons or groups due to individual personal grounds. All cases of alleged but unconfirmed discrimination are related to various forms of direct discrimination based on other personal grounds. However, the Inspectorate for Education and Sport found no violations pertaining to discrimination. The Inspectorate for Education and Sport addressed the complaints in light of the applicable school regulations and associated rights and obligations of students and professionals as well as cooperation with parents. It was pointed out that the school legislation also sets out appropriate practices to be followed on school grounds.

The Inspectorate assessed that, in one case, the unequal treatment of candidates in the procedure for appointing the Principal could constitute a violation of the PADA. Hence, the Inspectorate referred the matter to the Advocate for further examination.

In 2022, the Advocate referred two cases to the Inspectorate for Education and Sports for additional misdemeanour proceedings. In one case, the inspectorate declared itself incompetent and the other case became obsolete. It is the same case that the Inspectorate for Education and Sport referred to the Advocate in 2022 for further resolution – discrimination investigations. The Advocate found discrimination and referred the case to the Inspectorate for the purpose of initiating a misdemeanour proceeding. In February 2023, the Inspectorate informed the Advocate that misdemeanour proceeding was not initiated as the case became obsolete.

8.2.3 Market Inspectorate

According to the provisions of PADA, the Market Inspectorate supervises access to goods and services available to the public. Supervision is carried out solely based on received complaints.

In 2022, the Inspectorate dealt with six cases in the field of discrimination, namely in relation to the personal grounds of gender (two cases) and citizenship (one case). In three cases, there were no specific personal circumstances (DCP condition, civil law case falling within the competence of a Court, mobbing).

Of the six cases, the Inspectorate found no discrimination under the PADA in four cases.

In two cases, the Inspectorate conducted minor offense proceedings upon a proposal by the Advocate in cases of already established discrimination under the PADA. In one case, a reprimand was issued (citizenship), and in the other, a fine was imposed (gender).

In 2022, the Advocate referred three cases of identified discrimination to the Market Inspectorate for the purpose of initiating a misdemeanour proceeding. One case has become obsolete, in the second case a reprimand was issued by the Inspectorate, and in the third case, the decision is still yet to be taken.



8.2.4 Agency for Communication Networks and Services

In 2022, the Agency for Communication Networks and Services of the Republic of Slovenia addressed one case of discrimination in the field of electronic media.

The Agency conducted an inspection procedure against the broadcaster for non-compliance with the provisions of the first indent of Article 9 of the Audiovisual Media Services Act (AMSA). A violation in the area of promotion of violence and hatred towards a group of persons or a member of such a group on the basis of a belief, political or other opinion was identified by the Inspectorate, as a result, the violator was ordered to cease the violation, take certain measures and inform the Inspectorates about it.

8.2.5 Overview of information on cases addressed by inspection authorities

Four inspectorates found discrimination in 2022, which is one more compared to 2021. According to the data received from the inspectorates, the largest number of cases of reported discrimination pertained to the field of education, followed by the area of access to goods and services, while the Labour Inspectorate did not submit the number of received complaints, but only information on the violations found. The Agency for Communication Networks and Services considered one case of discrimination.

In 2022, the Labour Inspectorate found by 17 violations fewer compared to 2021. In 2022, the Inspectorate for Education and Sport received five complaints more compared to 2021. The Market Inspectorate reported two cases less than in 2020.

In the cases examined, the inspectorates investigated discrimination based on the following personal grounds: gender, citizenship, belief, and other personal grounds.

*Table: Overview of the data made available by the inspection services regarding the addressed cases of discrimination – comparison between 2017, 2018, 2019, 2020, 2021 and 2022 **

Inspection service	Received 2017	Identified 2017	Received 2018	Identified 2018	Received 2019	Identified 2019	Received 2020	Identified 2020	Received 2020	Identified 2021	Received 2022	Identified 2022
1. Market Inspectorate	7	4	3	2	6	0	6	2	8	4	6	2
2. Labour Inspectorate	/	11	/	17	/	16	/	12	/	31	/	14
3. Defence Inspectorate	5	0	/	/	5	1	4	0	0	0	0	0
4. Inspectorate for Education and Sport	9	/	16	2	6	/	10	0	16	0	21	0
5. Health Inspectorate	0	0	0	0	1	0	/	/	0	0	0	0
6. Public Sector Inspectorate	0	0	6	/	0	0	/	/	/	0	0	0
7. Agency for Communication Networks and Services										1	1	

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

8.3 Cases of discrimination considered – the Police

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

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

Additionally, the Police were requested to provide information on cases involving unequal treatment (e.g., if a crime or minor offense of any kind was committed with a racist, homophobic, transphobic, sexist, or any other discriminatory motive).

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

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

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

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

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

In 2022, the Police imposed measures in 65 cases of minor offenses under Article 20 of the Protection of Public Order Act (PPOA-1). Most violations of Article 20 of the Protection of Public Order Act were committed in connection with Article 6 thereof (violent and reckless behaviour), which means in practice that most violations occurred during fights or arguments. The number of violations relating to Article 7 of the PPOA-1 (indecent behaviour), Article 12 of the PPOA-1 (damaging an official sign, mark, or decision), and the number of violations under Article 15 of the PPOA-1 (destroying national symbols) increased while the number of cases violating Article 13 (writing on buildings) remained unchanged.

Table: Overview of measures under Article 20 of the PPOA-1 – violations found, as reported by the Police in 2022 for 2021, while correcting the data for 2018, 2019, and 2020 and violations found, as reported by the Police in 2023 for 2022.

Article of the PPOA-1	Number of violations						
	2016	2017	2018	2019	2020	2021	2022
6. violent and reckless behaviour	29	32	35	41	43	40	41
7. indecent behaviour	11	8	6	7	12	12	15
12. damaging an official sign, mark or decision	1	7	11	1	5	4	5
13. writing on buildings	1	/	3	3	1	1	1
15. destroying national symbols	/	1	1	4	3	2	3
TOTAL	42	48	56	56	64	59	65



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

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

In 2022, the Police dealt with four suspects and six victims in procedures under Article 131 of the CC-1. Data on criminal offenses under Article 131 of the Criminal Code are prepared in such a way as to cover cases of the above-mentioned criminal offenses for which the criminal charge or a criminal charge supplement was issued by the Police in 2022.

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

Year	2016	2017	2018	2019	2020	2021	2022
Number of suspects		5	5	9	5	1	4
Number of victims	11	13	10	14	6	1	6

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

Pursuant to Article 297 of the CC-1, whoever publicly provokes or stirs up hatred, strife or intolerance, based on nationality, race, religion or ethnicity, gender, skin colour, origin, financial situation, education, social status, political or other belief, disability, sexual orientation or any other personal circumstance, in a way to disturb public order and peace or carried out in a manner which is threatening, abusive or insulting shall be punished by imprisonment of up to two years (paragraph 1). The same sentence shall be imposed on a person who publicly disseminates ideas on the supremacy of one race over another, or provides aid in any manner for racist activity or denies, diminishes the significance of, approves, disregards, makes fun of, or advocates genocide, holocaust, crimes against humanity, war crime, aggression, or other criminal offences against humanity as provided for in the legal order of the Republic of Slovenia (paragraph 2). If the offence under preceding paragraphs has been committed by publication in mass media or on websites, the editor or the person acting as the editor shall be sentenced to the punishment, by imposing the punishment referred to in paragraphs 1 or 2 of this Article, except if it was a live broadcast and he was not able to prevent the actions referred to in the preceding paragraphs or if it was a website publication where the users could not be prevented from posting contents in real time without prior supervision (paragraph 3). If the offense under paragraphs 1 or 2 of this Article has been committed by coercion, maltreatment, endangering of security, desecration of national, ethnic or religious symbols, damaging the movable property of another, desecration of monuments or memorial stones or graves, the perpetrator shall be punished by imprisonment of up to three years (paragraph 4). If the acts under paragraphs 1 or 2 of this Article have been committed by an official by abusing their official position or rights, he shall be punished by imprisonment of up to five years (paragraph 5).

Data on criminal offenses under Article 297 of the Criminal Code are prepared depending on the final document submitted, which means that the data covers cases of the above-mentioned criminal offenses for which the final document (criminal charge or report) was submitted by the Police in 2022.

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

Year	Number of cases considered						
	2016	2017	2018	2019	2020	2021	2022
Charges	18	13	13	16	50	39	31
Report	31	13	19	23	44	50	25
Total	49	26	32	39	94	89	56



8.4 Cases of discrimination considered – the Prosecution

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

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

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

For cases with the said reference, it is possible to obtain information in the electronic database on the number of criminal offences with reference to the motive of hostility. However, these cases can not be further disaggregated according to the underlying personal grounds. The Prosecution introduced such a marking only in 2021. In 2022, twelve files were marked in this way (of which two were criminal offenses under Article 297 of the CC-1, and the rest were other criminal offenses).

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

Event	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Criminal complaints received	21	8	21	63	83	34	13	20	37	13	32	26	38	73	37
Decision rejecting the criminal complaints	22	5	6	29	37	36	13	30	19	19	15	24	32	68	41
Charges or proposals to impose educational measures or a sentence filed	1	3	5	5	26	15	1	2	1	2	6	2	7	3	3
Convictions	/	/	4	4	3	9	4	2	/	1	/	/	3	0	4
Judgements on penalty orders	/	/	1	3	13	/	2	/	1	/	1	2	3	2	1
Acquittals	2	/	/	1	/	/	/	1	/	1	/	1	1	0	0
Rejection judgements	/	/	3	/	/	2	/	/	/	3	/	3	/	0	0



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

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

In the years 2020 and 2021, there has been a noticeable increase in the number of filed criminal charges, however, at the moment, it is not clear to which extent this trend is the result of the aforementioned Supreme Court judgement no. I Ips 65803/2012. In 2022, the number of criminal charges brought fell again. The number of charges remains low.

8.5 Cases of discrimination considered – the Courts

Pursuant to Article 21 of the PADA, in order to monitor, record and assess the situation in the field of protection against discrimination in the Republic of Slovenia, the Advocate collected data on case law in the area of non-discrimination. First, the equality body reviewed the database (search engine) of the Supreme Court of the Republic of Slovenia – www.sodnapraksa.si. Through the search engine, judgements from 2022 in the field of discrimination were identified using the keywords discrimination, harassment, sexual harassment, instructions to discriminate, victimisation, and revenge by individual personal grounds. 19 judgements were relevant as the given personal ground was evident, in other judgements the plaintiff flatly alleged discrimination without stating a personal ground or meeting other elements of the burden of allegation or the cases are related to the DCP condition. The 19 relevant judgments are presented in tables.

Following the keyword discrimination, the Advocate identified 41 judgments in the database of the decisions of the Constitutional Court of the Republic of Slovenia, of which five decisions are the most relevant and presented in the table below.

The tables include the decision of the Supreme Court and the judgment and decision of the Ljubljana Higher Court issued by the courts in the case previously addressed by the Advocate, in which the Advocate represented the party in accordance with Article 41 of the PADA, and the decision of the Administrative Court in a case also previously addressed by the Advocate.

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

The Advocate received 54 responses from the courts, wherein 14 courts indicated that in cases covered by their competence in 2022, discrimination occurred.

The Higher Court in Ljubljana considered 14 cases. The Higher Labour and Social Court reported on 27 cases, pointing out that due to the registers (which are kept only by the type of application), and the data on the number of cases considered may not be completely credible. The Koper Labour Court considered six cases, the Ljubljana Labour and Social Court considered five cases, and the Maribor Labour Court reported on one case that has not yet been closed. The Administrative Court of the Republic of Slovenia considered one case. The Koper District Court considered one case. The Ljubljana District Court considered six cases. The Celje District Court considered one case and received three applications for judicial protection against the decisions of misdemeanour authorities (the cases have not yet been closed). The Koper District Court, the Jesenice District Court and the Maribor District Court each considered one case. The Črnomelj District Court reported that in 2022, one subsidiary charge was filed for the criminal offense of violation of equality under paragraph one of Article 131 of the Criminal Code (so far no procedural action has been taken in the case). The Kranj District Court reported that in 2022, one case was considered and in 2021, one application for judicial protection was received, but the case has not yet been resolved. The judgements received are presented in the table.



The remaining responses of the courts state that no discrimination cases were considered or data cannot be provided as databases are not kept according to criteria such as Articles of particular Acts, which are of interest to the Advocate, nor are they arranged according to personal grounds or forms of discrimination. Data on the discrimination cases would have to be obtained manually, which is not possible due to the current restrictions. Some courts questioned judges and asked them to identify files that could fall within the area of discrimination. Even the courts that were able to provide information on the discrimination cases do not keep records in a way to easily obtain information regarding judgements in the field of discrimination and whether an appeal was lodged. Moreover, the issue of discrimination may arise in connection to other issues dealt with in a particular case. For example, when discrimination is the basis for deciding on indemnification, actions for unlawful termination of an employment contract, disciplinary proceedings, monetary claims, and the like. However, judgements in the field of discrimination are often interlinked with allegations of ill-treatment.

Tables: Relevant judgements of courts in the field of discrimination delivered in 2022

Constitutional Court

Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Constitutional Court	U-I-101/18, Up-276/18	Finding non-compliance with the Constitution	Disability and age	Workplace and employment	Indirect discrimination	The arrangements in ZUPPJS16 and ZUPPJS17 concerning the maximum number of days of annual leave actually affected only those civil servants who were of a certain age and/or disability.
Constitutional Court	U-I-486/20, Up-572/18	Finding non-compliance with the Constitution	Sexual orientation	Marriage	Direct discrimination	Different-sex partners can conclude marriage while same-sex partners can conclude partnership. These are legal concepts that differ in designation and consequences, even though different-sex and same-sex partners are in substantial matters in the same legally relevant factual situation. The argument of tradition cannot justify discrimination.
Constitutional Court	U-I-91/21, Up-675/19	Finding non-compliance with the Constitution	Sexual orientation	Joint adoption	Direct discrimination	The statutory regulation of joint adoption, which denies same-sex partners the possibility of joint adoption of children, while giving such a possibility to married couples/cohabiting partners, violates the right of same-sex couples to non-discriminatory treatment.



Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Constitutional Court	U-I-396/20	Compliance with the Constitution found	Property status	Health care	Indirect discrimination	The applicant makes no allegations regarding different treatment in public health.
Constitutional Court	Up-411/21	The constitutional complaint is rejected	Disability	Court proceedings	Positive discrimination	The complainant argued that based on the principle of positive discrimination, the Court of first instance should treat cases in which the party is a mental patient differently from cases where the party is a healthy person. The hearing panel of the Constitutional Court rejected the constitutional complaints because all available legal remedies have not been exhausted.

Supreme Court

Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Supreme Court	Supreme Court decision II DoR 370/2022	The motion is unfounded	Age	Workplace and employment	Direct discrimination	

The motion for the admission of review related to the question whether paragraph one of Article 39 of the PADA represents the legal basis to request for an amendment of a discriminatory autonomous act of a private law entity or to request that the defendant cease to discriminate in such a way as to amend its Statute itself and whether, in accordance with the provision of paragraph two of Article 39 of the PADA, monetary compensation for exposure to discrimination can be higher than that one provided for by the Court (EUR 2,000.00), and be set in the amount claimed by the plaintiff in the action (EUR 3,500.00) and whether such a low compensation as the one awarded by the Court of first instance and confirmed by the Court of appeal can be considered as dissuasive and proportionate in relation to the severity of the discrimination found, as provided for in Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

Administrative Court

Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Administrative Court	Decision I U 283/2022	The proceeding is suspended	Nationality and ethnic origin	Workplace and employment	Victimisation	Withdrawal of the action in the administrative dispute against the decision of the Advocate, in which victimization of a civil servant who in an interview with the online media drew attention to discrimination against members of a certain minority ethnic group in Slovenia was found.



Higher Labour and Social Court

Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Higher Labour and Social Court	HLSC Judgment Pdp 68/2022	In the part where discrimination is alleged, the appeal is dismissed	Health status	Workplace and employment	Direct discrimination	The Court failed to find that the plaintiff was made redundant because of their health status.
Higher Labour and Social Court	HLSC Pdp 263/2022	The appeal is dismissed.	Disability	Workplace and employment	Direct discrimination	Due to the recognised disability, the plaintiff was transferred to another position, while another person with the same degree of disability could remain in the same position. The Court found that the Pension and Disability Institute had issued a supplementary opinion to the other person stating that they are able to remain in the workplace, which was not the case of the plaintiff.
Higher Labour and Social Court	HLSC Judgment Pdp	The appeal is dismissed.	Health status	Workplace and employment	Direct discrimination	The plaintiff's health status was not the reason for their dismissal, as the dismissal was for culpable reasons.
Higher Labour and Social Court	HLSC Pdp 163/2022	The appeal is dismissed.	Health status – sick leave	Workplace and employment	Direct discrimination	The plaintiff did not give any specific indication of how her absence due to sick leave would affect the assessment of work performance.
Higher Labour and Social Court	HLSC Pdp 616/2021	The appeal is dismissed.	Health status	Workplace and employment	Harassment	The defendant (employer) has initiated all necessary measures to protect the plaintiff.

Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Higher Labour and Social Court	HLSC Pdp 73/2022	The appeal is dismissed.	Disability and age	Workplace and employment	Direct discrimination, retaliation	The dismissal did not constitute retaliation, as the defendant was not aware of the proceedings before the Advocate for the Principle of Equality. The defendant also demonstrated that the dismissal was the result of business reorganisation.
Higher Labour and Social Court	HLSC Pdp 436/2022	The appeal is upheld.	Health status	Workplace and employment	Direct discrimination	The plaintiff alleged that her working hours were significantly changed, due to a longer sick leave, and the defendant failed to prove otherwise.
Higher Labour and Social Court	HLSC Judgment Pdp 176/2022	The appeal is dismissed.	Health status	Workplace and employment	Direct discrimination	The plaintiff's absence due to a long sick leave did not affect the termination of the employment contract.
Higher Labour and Social Court	HLSC Decision Vdp 127/2022	The appeal is upheld.	Health status	Workplace and employment	Direct discrimination	The performance assessment of a civil servant cannot be justified by reasons relating to their health status.
Higher Labour and Social Court	HLSC Judgment and Decision 244/2022	The appeal is upheld.	Disability	Workplace and employment	Indirect discrimination	When selecting the employee to be dismissed, the defendant indirectly acted in a discriminatory manner, as the plaintiff was placed in a less favourable situation compared to other workers due to the seemingly neutral criterion of work performance.



Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Higher Labour and Social Court	HLSC Decision Pdp 338/2022	The appeal is upheld.	Gender	Workplace and employment	Sexual harassment	The plaintiff alleged indecent behaviour of the employer towards a minor student. The Court of First Instance erred in applying substantive law and found the factual situation incomplete.
Higher Labour and Social Court	HLSC Judgment Pdp 26/2022	The appeal is upheld.	Health status	Workplace and employment	Direct discrimination	The defendant's statements do not contain information on whether the decision on whose employment contract shall cease was a result of a personal ground indicating discrimination.
Higher Labour and Social Court	HLSC Judgment Psps 16/2022	The appeal is dismissed.	Gender	Pension schemes	Direct discrimination	The more favourable status of certain groups in respect of individual rights does not in itself constitute an infringement of the principle of equality if the specific advantages are logically justified and do not go beyond what is justified by the reason for its existence.
Higher Labour and Social Court	HLSC Judgment Pdp 151/2022	The appeal is dismissed.	Gender	Workplace and employment	Direct discrimination	There was no causal link between the conduct and the damage.

Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Higher Labour and Social Court	HLSC Judgment Pdp 179/2022	The appeal is dismissed.	Health status	Workplace and employment	Direct discrimination	The plaintiff claimed that the defendant had terminated their employment contract due to health problems. The defendant was able to prove that there was a reason for the termination of employment, and this was confirmed by two witnesses.
Higher Labour and Social Court	HLSC Judgment and Decision 181/2022	Appeal upheld and case referred back to the Court of first instance	Family status	Workplace and employment	Direct discrimination	The plaintiff's employment contract was terminated due to increased costs. She claimed that the defendant treated her unequally in the calculation of labour costs while including the costs of sick leave and parental leave. The Court of First Instance found the factual situation incomplete and referred the case back for a fresh ruling.
Higher Labour and Social Court	Judgment Pdp 593/2021	The appeal is dismissed.	Health status – sick leave	Workplace and employment	Direct discrimination	The director denied the fact that the plaintiff's employment was terminated due to sick leave, however, she was not able to adequately justify the decision as to why she chose the plaintiff from a larger number of employees in the workplace.



Higher Court of Ljubljana

Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Higher Court of Ljubljana	HCL Judgment and Decision I Cp 616/2022	The appeal is dismissed.	Age	Workplace and employment	Direct discrimination	According to the Court of Appeal, a rule linking the termination of a judge's career in a particular sport to the fulfilment of a certain age is not in itself discriminatory. It turned out to be discriminatory only in the specific procedural situation'. The plaintiff does not show a legal interest in the claim seeking the general preventive benefits of other persons who may be affected by the disputed rule, hence the action is therefore inadmissible in this part. The awarded compensation for discrimination is within the amount range set out in the PADA.
Higher Court of Ljubljana	HCL Partial judgment I Cp 157/2022	The appeal is dismissed.	Health status	Workplace and employment	Harassment and direct discrimination	The Court found that the allegations of the plaintiff fail to indicate any personal ground leading to a disadvantageous position that the plaintiff's allegations are not specified in terms of time and space, and are not supported by evidence.

Labour Courts

Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Ljubljana Labour and Social Court	Settlement Pd 51/2020	Settlement			Harassment and discrimination	No other information was provided. ¹²
Ljubljana Labour and Social Court	Settlement Pd 35/2021	Settlement			Harassment and discrimination	No other information was provided.
Ljubljana Labour and Social Court	Decision Pd 59/202	Dismissal			Discrimination	No other information was provided.
Ljubljana Labour and Social Court	Settlement Pd 90/2020	Settlement			Harassment and discrimination	No other information was provided.
Ljubljana Labour and Social Court	Settlement Pd 60/2021	Settlement			Harassment and discrimination	No other information was provided.
Koper Labour Court	Judgment and Decision Pd 7/2021	The lawsuit is upheld.	Age	Workplace and employment	Direct discrimination	Termination of the employment contract on the basis of the third paragraph of Article 89 of the ERA-1, without stating a justified reason to the worker who meets the conditions for the acquisition of the right to old-age pension in accordance with the first and fourth paragraphs of Article 27 of the Pension and Disability Insurance Act is illegal.

¹² The Labour and Social Court in Ljubljana reported on four concluded settlements and one dismissal of the action and provided information on the case numbers, the outcome, and the form of the alleged discrimination, but failed to submit other information, although a favourable judgment was not issued in the cases.



Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Koper Labour Court	Judgment Pd 77/2021	The lawsuit is upheld.	Health status – sick leave	Workplace and employment	Direct discrimination	Termination of the employment contract for a fictitious reason, where the termination is actually based on a temporary absence from work due to work incapacity, as a result of illness or injury, is illegal.

District Courts

Court	Case No.	Outcome	Personal ground	Area of life	Form of alleged discrimination	Indemnification/note
Celje District Court	Judgment I K 13816/2017	Conviction	Religion	Other	Public incitement to hatred, violence and intolerance	The defendants drew a graffiti with inappropriate content on a religious symbol and a religious facility.
Koper Local Court	Judgment I K 26704/2020	Acquittal	Religion	Other	Public incitement to hatred, violence and intolerance	The accused, who allegedly shouted at the injured party in the courtyard and insulted them, was acquitted.
Ljubljana District Court	Judgment II K 32326/2021	Conviction/ non-final	Race or ethnic origin	Other	Public incitement to hatred, violence and intolerance	By insulting publications in the media, the defendants publicly spread the idea of the superiority of one race over another and approved of the genocide.
Maribor Regional Court	Decision no. PR 686/2022	Imposition of an educational measure: reprimand	Race or ethnic origin	Other	Violent and reckless behavior and incitement to intolerance	The minor behaved inappropriately against the seller and hit him, thereby committing a misdemeanour under PPOA-1.



9 PROTECTION AGAINST DISCRIMINATION AT THE SOCIAL LEVEL

9.1 Legal basis for protection against discrimination at the social level

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

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

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

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

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

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



10 RECOMMENDATIONS

10.1 Legal basis and purpose of the recommendations

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

Article 2 of the Protection against Discrimination Act (ZVarD) binds state authorities "... to ensure protection against discrimination and/or equal treatment of all persons in all areas of authoritative decision-making, legal transactions and their other activities or conduct in relation to third parties." According to the PADA, state authorities, local communities, self-governing national communities, and holders of public authorisations shall, in their respective fields, "in their respective fields of competence, the conditions for equal treatment of all persons, irrespective of any personal circumstance, through raising the awareness and monitoring the situation in this field and through measures of a regulatory and political nature." (Article 14).

The efficiency of individual stakeholders in ensuring equal treatment varies and depends on several factors. The second indent of Article 21 of the PADA states that the Advocate shall include "... making recommendations to state authorities, local communities, holders of public authority, employers, economic operators and other entities regarding the established situation of persons with a certain personal circumstance, namely relating to the prevention and elimination of discrimination and the adoption of specific and other measures to eliminate discrimination."

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

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



The Advocate's recommendation is issued as a result of one or more preliminary activities, e.g.: Monitoring the overall situation in the area of protection against discrimination;

- Analyses and research conducted by the Advocate or other contractors;
- Analyses of draft laws and regulations;
- Assessments of discriminativeness of applicable laws and regulations;
- Completed procedures of discrimination investigation as regards specific conduct (in individual cases);
- Cooperation with various stakeholders and international cooperation.

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

The recommendation numbers are entered in colours indicating the relevant areas of social life, as illustratively referred to in Article 2 of the PADA:

Work and employment

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

Membership in workers' or employers' organisations

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

Social rights

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

Health care

- Health care;

Education

- Education and schooling;

Goods and services market

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

Other

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

10.2 Overview of the Advocate's recommendations

In 2022, the Advocate issued 81 recommendations in the framework of different procedures, tackling discrimination. Of these, 55 recommendations were directed at laws and regulations (applicable laws or proposals).

In preparing the annual report for 2022, the Advocate changed the method of recording the issued recommendations with the purpose of greater transparency and consistency of monitoring recommendations and more detailed monitoring of the status of recommendations (taken into account/not taken into account). In previous years, the entire document (or letter) was considered a recommendation, which could however contain several specific recommendations. In 2022, each individual point (or specific recommendation) in the submitted document is now considered a separate recommendation. These recommendations are marked with consecutive numbers.

In 2022, the Advocate issued:

According to the type of recommendation

Recommendations regarding proposed laws and regulations (prevention of discrimination)	45
Recommendations directed at applicable laws and regulations (elimination of discrimination)	10
Recommendations to promote equal treatment (prevention of discrimination)	25
Recommendation to eliminate unequal treatment in specific cases	1

With regard to the addressee

National Assembly	33
Ministries	35
The Government	6
Bodies governed by public law	6
Legal entity governed by private law	1



According to the content or personal ground in question¹³

Gender	3
Race, nationality or ethnic origin	4
Language	2
Disability	40
Sexual orientation	2
Gender identity	2
Gender expression	1
Social status	6
Economic status	1
Education	1
Place of residence	2
Citizenship	10
Parenthood	13
Health status	11
Religion or belief	1
All personal grounds at the same time	9
Other topics – general area of protection against discrimination	7

¹³ The sum by personal grounds is not equal to the total number of recommendations, as some recommendations are related simultaneously to several personal grounds. Moreover, some recommendations also referred to the general field of protection against discrimination and not only to particular personal grounds.

The Advocate checked the status of the recommendations by inquiring with the addressees of the recommendations sent in January 2023. Based on the answers received, the Advocate defined the status of recommendations as taken into account or not taken into account as of the cut-off date of 31 January 2023.

Recommendation status as at 31 January 2023:

- Taken into account: 
- Not taken into account: 

Some of the recommendations to promote equal treatment are systemic and general in nature, aimed primarily at prevention and awareness-raising, and often sent to multiple addressees at the same time. In these cases, it is not possible to easily and unambiguously determine their status. In these cases, they are marked as:

- Systemic recommendation: 

An overview of the recommendations issued in 2022 is published in full at the Advocate's website.¹⁴

Recommendations addressed to the National Assembly or the Government (in the legislative procedure) are also classified under the competent ministries covering the relevant subject area.

¹⁴ The Advocate's recommendations are available at <https://zagovornik.si/izdelki-zagovornika/priporocila/>.



10.2.1 Recommendations regarding proposed laws and regulations

Ministry of Labour, Family, Social Affairs and Equal Opportunities

File number/
Recommendation status¹⁵

Labour Market Regulation Act (EPA 2547 - VIII)¹⁶

0709-29/2021/3

- 1 Recommendation to provide a detailed analysis and clarification of all the purposes, objectives, and, in particular, impacts of the added Article 13a on the changes of the definition of the so-called suitable employment. The proportionality of the proposed measure in relation to the rights of workers or the unemployed and within the framework of other functions of the state in regulating the labour market should be further clarified.
- 2 Recommendation to amend the statutory provision in a way as to extend the period of inclusion in the public works programme.
- 3 Recommendation to provide a justification of proportionality of the proposed Article 9, which newly regulates that an appeal against the decision on the removal from the register of unemployed persons does not suspend enforcement.
- 4 Recommendation to abolish the provision of the applicable law which stipulates the requirement of entry-level knowledge of the Slovenian language, as it distinguishes between registered unemployed persons on the basis of their personal ground.
- 5 Recommendation to eliminate distinction persons based on the level of education attained in the eligibility for the employment incentive referred to in Article 66a of the same Act.

Parental Protection and Family Benefits Act (EPA 2545 - VIII)¹⁷

0070-13/2021/4

- 1 Recommendation to provide justification of the provisions relating to the transposition of Directive (EU) 2019/1158, in particular in the part where alignment with the Directive is not strictly necessary.
- 2 Recommendation to carry out an analysis of the unjustified absences of (Roma) pupils, their alleged early school leaving, and the suspension of further education, as well as an impact analysis of the proposed legal provisions on equality, equal opportunities, and equal treatment.

¹⁵ Status of the recommendation as at 31 January 2023.

^{16, 17} It was addressed to the National Assembly.

- 1 Recommendation to include a comprehensive impact assessment on equality, equal opportunities, and equal treatment in the framework of the planned measures to tighten the eligibility requirements for receiving financial social assistance. ●
- 2 Recommendation to carry out a comprehensive impact assessment on equality, equal opportunities, and equal treatment in the framework of the planning of measures aimed at the Roma in particular. ●

- 1 Recommendation to adopt the Draft Act amending the Family Code (DZ-B). ●

- 1 Recommendation to change the title of the Act to "Act on Access to Certain Products and Services". ●
- 2 Recommendation to harmonise the law with the obligations to ensure accessibility of products and services under EU law, the Convention on the Rights of Persons with Disabilities, the European Convention on Human Rights, the Equalisation of Opportunities for Persons with Disabilities Act, and the Protection against Discrimination Act. ●
- 3 Recommendation to provide a clear definition that the Access to Products and Services for Persons with Disabilities Act shall regulate consumer rights by linking them to other obligations already in force for providers to ensure the accessibility of products and services to final consumers and by ensuring equal treatment of consumers (non-discrimination), which includes the obligation for providers to provide consumers with reasonable accommodations in access to goods and services. ●
- 4 Recommendation to replace the term "disabled" with the term "persons/people with disabilities" and to include persons with functional limitations as eligible consumers of these products and services and to identify them accordingly. ●

18, 19 It was addressed to the National Assembly.



- 5 Recommendation to abolish the proposed exemptions and additional transitional periods for the accessibility of those products and services vis-à-vis the final consumer.
- 6 Recommendation to ensure that Article 22 of the Access to Products and Services for Persons with Disabilities Act regulates all key criteria for eligible exemptions from accessibility requirements due to substantial product change or excessive burden.
- 7 Recommendation to adopt a regulation on the minimum requirements for accessibility to all goods and services for the implementation of the paragraph 5 of Article 8 of the Equalisation of Opportunities for Persons with Disabilities Act.
- 8 Recommendation to ensure a clear regulation of the rights of consumers, their organisations, and associations to protection in cases of breaches of accessibility requirements by identifying the remedies available to them and allowing them to participate in judicial and administrative proceedings. The amount of the planned fines for minor offenses shall not be lower than that provided for in the Equalisation of Opportunities for Persons with Disabilities Act.

Ministry of Economic Development and Technology

Consumer Protection Act (EPA 180 - IX)²⁰

0700-40/2022/1

- 1 Recommendation to ensure a clear provision prohibiting discrimination against consumers.
- 2 Recommendation to impose an obligation to ensure accessibility when communicating with consumers with disabilities in the relevant languages and fonts.
- 3 Recommendation to prohibit advertising that promotes inequality or intolerance and hatred.

²⁰ It was addressed to the National Assembly.

Ministry of Education, Science and Sport

Resolution on National programme of higher education 2030 (EPA 2421-VIII)²¹

0070-19/2021/4

- 1 Recommendation to monitor the effective provision of equal opportunities for students with different personal grounds, 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.
- 2 Recommendation to ensure the spatial and communication accessibility of all educational institutions, including the establishment of a database on the accessibility of the premises.
- 3 Recommendation to introduce specific, dedicated scholarships for students with special needs that would be available under the existing scholarship system.
- 4 Recommendation to promote the training and awareness-raising of teaching staff in the field of human rights exercise and protection against discrimination for the benefit of students with special needs.

Ministry of Public Administration

National Assembly Election Act (EPA 2587 - VIII)²²

0070-2/2022/1

- 1 Recommendation to carry out a comprehensive assessment of the effects on equality, equal opportunities, and equal treatment based on a strict proportionality test in relation to the proposed restriction of the right to stand in the election due to a criminal record, and to adapt the statutory solutions to these results, if necessary.
- 2 Recommendation to supplement the text by deleting the second and third paragraphs of the current Article 7 of the National Assembly Election Act; namely, the right to vote in the elections to the National Assembly should be available to all adult citizens, including all people who have been deprived of their legal capacity, over whom parental rights were extended or who were placed under guardianship.

21, 22 It was addressed to the National Assembly.



- 1 Recommendation to remove the second paragraph of Article 2, which would legalize the possibility of judicial deprivation of the right to vote and right to stand in the election to the National Assembly to people with intellectual and psychosocial disabilities. ●
- 2 Recommendation to provide a system of supportive decision-making to people with mental health problems, to people with intellectual and psychosocial disabilities, and to people with other forms of disabilities that may hinder their full and equal enjoyment of the right to vote. ●

Ministry of Justice

- 1 Recommendation to amend Article 1 to include all forms of hate crimes motivated by particular personal grounds, irrespective of whether the wronged persons have or can be attributed the specific personal grounds or these personal grounds are connected to them, or the persons are connected to any organisations with the respective personal grounds. ●

Government Office for Digital Transformation

- 1 Recommendation to include an analysis of needs and impacts of the respective Act on target groups of beneficiaries. ●
- 2 Recommendation to ensure a clearer regulation of the fundamental principle of equal accessibility outlined in the law. ●
- 3 Recommendation to further specify particularly vulnerable groups of people who already fall within specific target groups of measures (mainly age-related), in particular people in a weak financial situation or at risk of poverty. ●
- 4 Recommendation to amend the condition of residence in order to benefit from the measures. ●

^{23, 24} It was addressed to the National Assembly.

- 1 Recommendation to include an analysis of needs and impacts of the respective Act on target groups of beneficiaries. ●
- 2 Recommendation to ensure a clearer regulation of the fundamental principle of equal accessibility outlined in the law. ●
- 3 Recommendation to further specify particularly vulnerable groups of people who already fall within specific target groups of measures (mainly age-related), in particular people in a weak financial situation or at risk of poverty. ●
- 4 Recommendation to amend the condition of residence in order to benefit from the measures. ●

10.2.2 Recommendations directed at applicable laws and regulations

Ministry of Labour, Family, Social Affairs and Equal Opportunities

File number/
Recommendation status²⁶

- 1 Recommendation to amend the Act to enable all minor children with special needs who need the assistance of another or a third person to meet their basic living needs, or their parents or guardians, to be entitled to the assistance and service allowance or to an appropriately increased childcare allowance. ●

- 1 Recommendation to amend the Act as to eliminate discrimination against third-country nationals in such a way that the obligation to participate in the course and take the Slovenian language exam at the entry-level (level A1) will also apply to third-country nationals or to all unemployed foreigners on the same terms as it applies to all other EU citizens. ●

²⁵ The recommendation was addressed to the National Assembly.

²⁶ Status of the recommendation as at 31 January 2023.

²⁷ Pension and Disability Insurance Act (Official Gazette of the Republic of Slovenia, No. 48/22 – official consolidated text).

²⁸ Labour Market Regulation Act (Official Gazette of the Republic of Slovenia, No. 80/10, 40/12 – Fiscal Balance Act, 21/13, 63/13, 100/13, 32/14 – Prevention of Undeclared Work and Employment Act-1, 47/15 – Employment, Self-employment and Work of Foreigners Act, 55/17, 75/19, 11/20 – dec. of the Constitutional Court, 189/20 – Municipal Costs Reduction Act, 54/21, 172/21 – Organisation and Work of the Police Act-G, 54/22 and 59/22 – dec. of the Constitutional Court)



- 1 Recommendation to amend the Act in the part regulating the circle of beneficiaries of the disability status, that is, to extend the applicability of paragraph 1 of Article 3 of the Social Inclusion of Disabled Persons Act in such a way that persons with a long-term mental illness who, due to their disability, cannot independently meet the majority or all of their living needs, pursue their livelihoods and participate in society on an equal basis without assistance will also be entitled to the status of persons with a long-term mental illness.

- 1 Recommendation to prepare and submit an amendment to the PDIA-2 in such a way as to remove the suspension of occupational insurance for work that cannot be successfully performed after a certain age from the eleventh paragraph of Article 200 in connection with the second paragraph of Article 211.

29 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).

30 Pension and Disability Insurance Act (PDIA-2) Official Gazette of the Republic of Slovenia, No. 96/12, 39/13, 46/13 - Implementation of the Republic of Slovenia Budget for 2013 and 2014 Act-A, 63/13 - Intervention Measures for the Labour Market and Parental Protection Act, 99/13 - Social Assistance Payments Act-C, 101/13 - Implementation of the Republic of Slovenia Budget for 2014 and 2015, 111/13 - Act Governing the Register of Insured Persons and Beneficiaries of Rights Provided under Pension and Disability Insurance-1, 44/14, 85/14 - Fiscal Balance Act-B, 95/14 - Intervention Measures for the Labour Market and Parental Protection Act-A, 97/14 - Act Governing the Register of Insured Persons and Beneficiaries of Rights Provided under Pension and Disability Insurance-1A, 95/14 - Implementation of the Republic of Slovenia Budget for 2014 and 2015-C, 95/14 - Act Regulating Measures Relating to Salaries and Other Labour Costs for 2015 and other Measures in the Public Sector and extraordinary adjustment of pensions, 95/14 - Fiscal Balance Act-C, 31/15 - Investment Funds and Management Companies Act-3, 90/15 - Intervention Measures for the Labour Market Act, 90/15 - Act Regulating Measures Relating to Salaries and Other Labour Costs for 2016 and other Measures in the Public Sector and extraordinary adjustment of pensions, 96/15 - Implementation of the Republic of Slovenia Budget for 2016 and 2017, 102/15, 42/16 - dec. of the Constitutional Court, 80/16 - Implementation of the Republic of Slovenia Budget for 2017 and 2018, 88/16 - Act Regulating Measures Relating to Salaries and Other Labour Costs for 2017 and other Measures in the Public Sector and extraordinary adjustment of pensions, 40/17, 23/17, 75/17 - Intervention Measures for the Labour Market Act-A, 65/17, 71/17 - Implementation of the Republic of Slovenia Budget for 2018 and 2019, 28/19, 75/19 - Implementation of the Republic of Slovenia Budget for 2021, 75/19 - Act Regulating Measures Relating to Salaries and Other Labour Costs for 2020 and 2021 and other Measures in the Public Sector and extraordinary adjustment of pensions 2021, 75/19, 36/20 - Fiscal Intervention Measures Act, 49/20 - Act Determining the Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy, 61/20 - Act Determining the Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy-A, 139/20 - Act Regulating Measures Relating to Salaries and Other Labour Costs 2021 and other Measures in the Public Sector and extraordinary adjustment of pensions-A, 139/20, 174/20 - Implementation of the Republic of Slovenia Budget for 2020 and 2021 Act, 189/20 - Municipal Costs Reduction Act, 15/21 - Additional Measures to Mitigate the Consequences of COVID-19 Act, 51/21, 74/21 - Implementation of the Republic of Slovenia Budget for 2020 and 2021 Act-A, 121/21.

Ministry of Infrastructure

Act Determining Emergency Measures to Mitigate the Consequences of the Impact of High Energy Commodity Prices³¹

050-10/2022/7

- 1 Recommendation to justify the categories of allowance beneficiaries through analyses and to take into account their financial situation and actual inability to satisfy their basic energy needs when defining the categories of beneficiaries in the adoption of measures to eliminate the consequences of energy poverty.

Ministry of Education, Science and Sport

Music Schools Act³²

050-38/2021/19

- 1 Recommendation to amend or supplement the Act as to add a provision on appropriate accommodations for children with special needs in the enrolment in music schools in the chapter regulating enrolment (Chapter III of the respective act).

Higher Education Act³³

050-15/2022/10

- 1 Recommendation to amend the Act as to remove the condition of Slovenian citizenship from the conditions for admission to subsidized student residence from the chapter regulating subsidised student residence. At the same time, the Ministry should also prepare appropriate amendments to the relevant rule.

Ministry of Public Administration

National Assembly Election Act³⁴

050-2/2022/13

- 1 Recommendation to amend Article 7 of the Act in such a way as to remove paragraphs 2 and 3 in the part relating to the right to vote and to supplement the transitional provisions as to eliminate the effects of disenfranchisement of people with intellectual and psychosocial disabilities provided for in other Acts.

³¹ Act Determining Emergency Measures to Mitigate the Consequences of the Impact of High Energy Commodity Prices (Official Gazette of the Republic of Slovenia, No. 29/22). The recommendation was addressed to the Government of the Republic of Slovenia.

³² Music Schools Act (Official Gazette of the Republic of Slovenia, No. 81/06 – official consolidated text).

³³ Higher Education Act (Official Gazette of the RS, No. 32/12 – official consolidated text, 40/12 – Fiscal Balance Act, 57/12 – Act Amending the Road Transport Act, 109/12, 85/14, 75/16, 61/17 – Act Regulating the Position of Students, 65/17, 175/20 – Act Determining the Intervention Measures to Mitigate the Consequences of the Second Wave of COVID-19 Epidemic and 57/21 – Decision of the Constitutional Court, 54/22 – Student Status Act-1 and 100/22 – Professional and Academic Titles Act).

³⁴ National Assembly Election Act (Official Gazette of the Republic of Slovenia, No. 109/06 – official consolidated text, 54/07 – dec. of the Constitutional Court, 23/17 and 29/21).



Ministry of the Interior

International Protection Act³⁵

050-21/2021/14

- 1 Recommendation to amend the sixth indent of Article 9, paragraph 10 of the respective Act as to remove the reason for the dismissal of refugee counsellors if they have information that could be detrimental to the applicant in the international protection procedure and fail to disclose it to the competent authority.



Government Office for Digital Transformation

Promotion of Digital Inclusion Act³⁶

050-13/2022/12

- 1 Recommendation to amend the act so that the principle of equality be followed; to justify the categories of beneficiaries pursuant to Article 18 of the PADA through analyses performed and to take into account the financial status and actual digital competencies when defining the categories. In addition, the implementation of the Act should ensure equal access to training in regional terms.



Government of the Republic of Slovenia

Promotion of Digital Inclusion Act³⁷

050-13/2022/12

- 1 Recommendation to amend the act so that the principle of equality be followed; to justify the categories of beneficiaries pursuant to Article 18 of the PADA through analyses performed and to take into account the financial status and actual digital competencies when defining the categories. In addition, the implementation of the Act should ensure equal access to training in regional terms.



Act Determining Emergency Measures to Mitigate the Consequences of the Impact of High Energy Commodity Prices³⁸

050-10/2022/7

- 1 Recommendation to adopt measures to eliminate the consequences of energy poverty in such a way as to justify the categories of allowance beneficiaries through analyses and to take into account their financial situation and actual inability to satisfy their basic energy needs when defining the categories.



³⁵ International Protection Act (Official Gazette of the Republic of Slovenia, No. 16/17 – official consolidated text and 54/21).

³⁶ Promotion of Digital Inclusion Act (Official Gazette of the Republic of Slovenia, No. 35/22). The recommendation was addressed to the Government of the Republic of Slovenia.

³⁷ Promotion of Digital Inclusion Act (Official Gazette of the Republic of Slovenia, No. 35/22).

³⁸ Act Determining Emergency Measures to Mitigate the Consequences of the Impact of High Energy Commodity Prices (Official Gazette of the Republic of Slovenia, No. 29/22).

10.2.3 Recommendations to promote equal treatment

Ministry of Labour, Family, Social Affairs and Equal Opportunities

File number/
Recommendation status³⁹

Pension and Disability Insurance Act⁴⁰

0700-14/2022/6

- 1 Recommendation to regulate the entitlement to the exemption from contributions in the case of sick leave of sole proprietors entitled to exemption during sick leave of up to 30 days, so that the compensation payer will also be exempted from contributions in the case of sick leave longer than 30 days.

Act on the Payment of Unpaid Disability Benefits⁴¹

0702-212/2022/2

- 1 Recommendation to amend the Act in such a way as to ensure the right to disability benefit under the Act on Social Care of Persons with Mental and Physical Impairments to all beneficiaries starting from the age of majority.

Ministry of Education, Science and Sport

Accessibility of Secondary Schools for Persons with Reduced Mobility

0709-18/2022/1

- 1 Recommendation to provide for a methodological and professional analysis of the current physical accessibility of secondary schools. The analysis must be independent, carried out in the field by qualified experts, and periodically updated to ensure that the data are always accurate, credible, and complete.
- 2 Recommendation to make publicly available the results of the analysis on the accessibility of secondary schools and include it in the lists of secondary schools and in the call for enrolment in secondary schools and students' homes.
- 3 Recommendation to inform secondary schools and their management in a targeted manner about the importance of ensuring accessibility and their legal obligations in the area of the protection of the rights of persons with disabilities and to provide them with all necessary professional assistance in planning the full physical accessibility of schools.

³⁹ Status of the recommendation as at 31 January 2023.

⁴⁰ Pension and Disability Insurance Act (Official Gazette of the Republic of Slovenia, No. 48/22 – official consolidated text).

⁴¹ Act on the Payment of Unpaid Disability Benefits (Official Gazette of the Republic of Slovenia, No. 202/21).



- 4 Recommendation to prepare accessibility improvement plans in which schools should document the needs and classify them according to the complexity of the adjustment implementation, as well as identify the necessary financial resources and time needed. in doing so, they should receive all the necessary professional support on the part of the Ministry.
- 5 Recommendation to prepare an investment plan aimed at systematic investment planning on the basis of an analysis of the spatial accessibility status of secondary schools and the collected plans to improve the accessibility of secondary schools. In the process, a transitional solution would be to give priority to those secondary schools which require the least investment and are suitable from the geographical point of view and in terms of the number of programmes implemented (the so-called temporary network of fully accessible schools).
- 6 Recommendation to prepare an additional separate call aimed exclusively at financing the improvement of the accessibility of secondary schools.
- 7 Recommendation to actively pursue the use of European funds to improve the spatial accessibility of secondary schools, in cooperation with the Government Office for Development and Cohesion Policy and other Ministries at all levels in terms of planning and implementation.

Ministry of Public Administration

Procedures for legal gender recognition for transgender people

0709-14/2021/310

- 1 Recommendation to prepare and submit an amendment of the Decree on administrative operations, in such a way that the procedure for changing one's name can be arranged at any administrative unit in Slovenia.

Ministry of the Interior

Extension of applications for temporary residence for children of foreigners

0700-10/2022/30

- 1 Recommendation to record the data on the registration of temporary residence of children of foreigners, both those who are born in Slovenia and those who are not, during the time of the decision-making procedure before the administrative units on the extension of their residence permit.

Marriages between foreigners and Slovenian citizens

0700-32/2022/5

- 1 Recommendation to instruct administrative units to treat foreigners in the proceedings of marriage in the same way as Slovenian citizens, that is, by not requiring from foreigners those documents that are not strictly necessary for marriage.

Possibility of extending the driving license of an applicant for international protection

0702-227/2022/3

- 1 Recommendation to eliminate administrative barriers and adapt the information system of administrative units in such a way as to permit the acquisition, renewal, or replacement of a driving license and the taking of a driving test also to applicants for international protection.



Ministry of the Environment and Spatial Planning

Accessibility of Secondary Schools for Persons with Reduced Mobility

0709-18/2022/2

- 1 Recommendation to prepare a draft amendment to the Building Act in a way as to include a final deadline for the mandatory appropriate adaptation of existing public facilities referred to in Article 38 of the Equalizations of Opportunities for Persons with Disabilities Act and establish the competence of inspection services and fines in case of violations.



Ministry of Health

Funding of vaccination against human papillomavirus infections⁴²

050-33/2021/24

- 1 Recommendation to extend the possibility of recommended HPV vaccination in the Vaccination and Protection Programme for the current year at the expense of the compulsory health insurance or the national budget in such a way as to enable vaccination to all interested persons up to 26 years of age, regardless of gender, in addition to the current beneficiaries.



Prison Administration of the Republic of Slovenia

Persons serving a sentence in the Ig prison

0700-17/2022/20

- 1 Recommendation to implement similar activities for female prisoners, as previously provided to male convicts, in particular participation in events, performances, organization of hikes in nature or activities outside the prison, as one of the ways of re-socialization of prisoners.



⁴² It is also addressed to the National Institute of Public Health.



Accessibility of Secondary Schools for Persons with Reduced Mobility

0709-18/2022/3

- 1 Recommendation to provide the necessary funds for the financing of investment maintenance works on secondary school facilities and equipment in order to ensure and improve accessibility. According to Article 38 of the Equalisation of Opportunities for Persons with Disabilities Act, all secondary schools must be fully accessible by the end of 2025.

Preparation of national protection against discrimination strategic plans

0709-26/2022/1

- 1 Recommendation to prepare and adopt the four missing strategic plans at the national level, which are the key basis for designing forward-looking and EU-co-ordinated protection against discrimination measures and for promoting equal opportunities, both at legislative and policy levels.
- 2 Recommendation to establish a focal point at the government level (Ministry, office, or another organizational 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.

Roma Community in the Republic of Slovenia Act⁴³

050-14/2021/29

- 1 Recommendation to amend the Act as to enable a representative representation of members of the Roma community in the Council of the Roma Community of the Republic of Slovenia. It should be borne in mind that, in addition to the Roma Association of Slovenia, there are other associations of Roma societies based in the areas of both traditionally and non-traditionally inhabited Roma communities.

State authorities and local communities

Adoption of special measures

0070-10/2022/1

- 1 Recommendation to state authorities and local communities who are responsible to ensure protection against discrimination and equal opportunities to consistently follow Articles 17 and 18 of the PADA in the preparation of special measures (which ensure specific benefits or forms of aid to certain groups in society).

⁴³ Roma Community in the Republic of Slovenia Act (Official Gazette of the Republic of Slovenia, No. 33/07).

State authorities, municipalities and institutions in the field of public administration services, education, justice, culture and sport

Ensuring accessibility of public facilities for people with disabilities

0070-11/2022/2

- 1 Recommendation to ensure the timely implementation of all necessary activities in such a way that the facility in public use will be adapted and accessible to people with disabilities. Pursuant to the Equal Opportunities of Disabled Persons Act⁴⁴, this must be ensured no later than by 11 December 2025.



Faculty

Interference with the established form of education

0700-6/2022/7

- 1 The recommendation that in the future when intervening in the established form of education, the Faculty should refrain from measures and communication that would result in unequal treatment of foreign students or other students with specific personal grounds, both in relation to measures and communication-related to the epidemic and otherwise, unless reasonable and material reasons for different treatment are given.



Municipalities

Ensuring accessibility of public facilities for people with disabilities

0070-11/2022/2

- 1 Recommendation to timely implement all necessary activities in such a way as to ensure that all facilities in public use covered by the competence of the municipalities in various areas of social life are adapted or accessible to people with disabilities. Pursuant to the Equal Opportunities of Disabled Persons Act⁴⁵, this must be ensured no later than by 11 December 2025.



RTV Slovenija

Availability of the RTV Slovenia programme to the deaf and hard of hearing

0702-198/2022/2

- 1 Recommendation to make available the matches of the football World Cup and major shows related to the championship to the deaf and hard of hearing in an appropriate manner (either by providing live subtitles, interpreting into Slovenian sign language, or in any other prescribed manner).



⁴⁴ Equalisation of Opportunities for Persons with Disabilities Act (Official Gazette of the Republic of Slovenia, No. 94/10, 50/14 and 32/17).

⁴⁵ Equalisation of Opportunities for Persons with Disabilities Act (Official Gazette of the Republic of Slovenia, No. 94/10, 50/14 and 32/17).



10.2.4 Recommendations to eliminate unequal treatment in specific cases

Real Estate Portal

File number/
Recommendation status⁴⁶

Discriminatory advertisements on the internet site

0700-2/2022/2

- 1 Recommendation to inform the user who published the problematical advertisement that it is not permissible to offer real estate on the market in such a way as to exclude individuals from access to housing due to their personal grounds (in this particular case non-EU citizens). 
- 2 Recommendation to supplement the terms and conditions of use of the website and prohibit the publication of discriminative advertisements. 

⁴⁶ Status of the recommendation as at 31 January 2023.

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

11.1 Legal basis and purpose of special measures

Article 14 of the Constitution of the Republic of Slovenia entitled “Equality before the law” stipulates that 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.

According to the established case law of the Constitutional Court, “the principle of equality before the law does not mean that the legislator cannot regulate the situation of individual legal entities differently”. The Constitutional Court stated that the legislator “is not required to treat all persons in all aspects in the same manner, however the aforementioned principle requires that essentially similar cases be treated similarly and substantially different cases be treated differently, while taking into account their diversity and special characteristics”.⁴⁷

Therefore, “the requirement to prohibit discrimination means at the same time the requirement to exercise special legal situations or special rights and positive measures aimed at preventing the less favourable situation of certain individuals”.⁴⁸

In addition to the term “special measures”, the terms “provisional measures”, “reverse discrimination” and “positive discrimination” are also in use when referring to such measures.

Article 17 of the PADA (Special Measures to Ensure Equality) sets out:

»(1) Specific measures are temporary measures which have as their objective to guarantee the enjoyment of the right to equal treatment, equal opportunities or actual equality and participation in the areas of social life of the persons who are disadvantaged or potentially disadvantaged on the grounds of a particular personal circumstance. Specific measures shall be adopted with a view to prevent or eliminate the consequences of such a situation or compensate for a disadvantage.

(2) Specific measures shall include in particular:

- incentive measures providing specific benefits or introducing special incentives for persons who are at a disadvantage in a particular area or particular environment,
- positive measures favoring persons with a particular personal circumstance when the prescribed criteria and conditions are being equally met and which may, in particular, be applied when there is a clear disproportion as regards the possibilities of exercising the rights or accessing goods, services or benefits.«

⁴⁷ Higher Court of Ljubljana Available at: <https://bit.ly/3KOadMI>

⁴⁸ Higher Labour and Social Court Available at: <https://bit.ly/41prR0e>



According to the PADA, specific measures to ensure equality are measures that provide certain groups that are in a less favourable situation due to their personal grounds with equal opportunities to participate equally in different areas of social life (e.g. employment and work, education). According to the Equal Opportunities for Women and Men Act (EOWMA), special measures are temporary measures aimed at creating equal opportunities for women and men and promoting gender equality in individual areas of social life, where gender imbalance or unequal situation persons of one gender exists.

The key objective of introducing special measures to ensure equality is the elimination of inequalities and a less favourable factual situation of persons with a certain personal ground, through privileged treatment in access to rights and goods and services.

Pursuant to **Article 14 of the PADA**, state authorities, local communities, self-governing national communities and holders of public authorisations are obliged to create conditions for equal treatment of all persons, regardless of any personal grounds (e.g. elderly people, persons with disabilities, women and men, parents, foreigners, etc.). Pursuant to Article 17 of the PADA, special measures may also be taken for this purpose either of regulative or policy nature.

Regulative measures include the preparation of laws, by-laws and other regulations. Non-binding acts, such as resolutions, declarations and similar documents, also fall within the category of regulative measures. Policy measures include enforcement actions and relevant projects carried out by the authority itself or in cooperation with other stakeholders (e.g. other state authorities, NGOs, private entities).

Policy measures also include calls for tenders and calls by e.g., Ministries, government departments or local communities, aimed at ensuring conditions of equal treatment, promoting equal opportunities and protection against discrimination. This category includes strategies and action plans aimed at persons with a certain personal ground and regulating their situation. Policy measures also include various awareness-raising campaigns aimed at the general or specific public. Research and studies also fall within the category of policy measures.

Adoption and implementation of special measures in accordance with the PADA

The conditions for adopting special measures are set out by **Article 18 of the PADA**, which reads as follows:

»(1) Under the conditions laid down in this Act, state authorities, self-governing local communities, holders of public authority, employers, educational institutions, economic operators and other entities may adopt specific measures with regard to their nature of work and scope of action in the areas referred to in Article 2 of this Act.

(2) Specific measures shall pursue a legitimate objective of eliminating a disadvantage of a person with a particular personal circumstance, justified on the basis of an analysis on the existence of a disadvantage, and shall be a necessary and appropriate means for eliminating such disadvantage. The entities referred to in the preceding paragraph which adopt specific measures, shall regularly verify the merits or eligibility of their continuation. If they establish that the objective of their implementation has been achieved, they shall immediately cease implementing them.«

When adopting special measures, the competent authority must therefore follow the provisions of Article 18 of the PADA, which lays down the necessary legal conditions for such measures. Thus, specific measures should:

1. Be based on clear quantitative and qualitative analyses of the actual occurrence of a less favourable situation for persons with a particular personal ground, i.e. on analyses justifying the actual need to eliminate the less favourable treatment;
2. pursue a legitimate objective of eliminating a less favourable position of persons with a particular personal ground;
3. constitute an adequate and necessary means to remedy such a situation, which means that the measures can effectively achieve the legitimate objective of remedying the less favourable situation of persons (adequacy), and the legitimate objective cannot (to the same extent) be achieved by another, less restrictive measure (necessity);
4. be temporarily and regularly checked by the aforementioned entities regarding the justification of their further implementation. The implementation of specific measures should be discontinued as soon as the objective of eliminating the unequal situation of persons be achieved.

Specific measures should always be directed at those who are actually in a less favourable situation. They must be justified, reasonable and properly assessed, otherwise they may even lead to new inequalities or deepen the existing ones instead of eliminating discrimination.



11.2 Implementation of special measures by Ministries and Government services

In December 2022, in the context of monitoring the situation in the field of protection against discrimination in the country, the Advocate conducted a query between the Ministries, institutions under the Ministries and some Government services regarding the measures for the protection against discrimination and promotion of equality, equal treatment and equal opportunities taken in 2022.

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

Since its establishment, the Advocate has been developing a method of systematic monitoring of the activities of Ministries and Government services in the field of implementing measures of protection against discrimination and promoting equal treatment, including special measures. Since 2017, the Advocate conducts queries regarding all measures every year. Summaries of the responses received and the relevant findings were published in the respective Annual Reports.⁴⁹

The Advocate subdivided the enquiry on the relevant measures into two parts, namely:

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

⁴⁹ Available at <https://zagovornik.si/en/what-we-do/annual-reports/>

Also in 2022, the Advocate asked the addressees of the enquiries for an annotation in their replies of whether a certain measure was implemented in response to the covid-19 epidemic.

Replies were provided by almost all the Ministries, institutions under the Ministries and Government services between the end of December 2022 and February 2023. Some addressees replied that in 2022, no measures were taken as regards the issue under consideration in the query.

More detailed summaries of the responses of Ministries and Government services regarding special and other policy measures are presented in Part Three of the Annual Report for 2022.⁵⁰

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



Table: Overview of general and specific measures by individual Ministries and Government Services in 2022

Ministries and Government Services (in alphabetical order)	General measure	Specific measure	Response to covid-19
1. Ministry of Labour, Family, Social Affairs and Equal Opportunities (MLFSAEO)	●	●	●
2. Ministry of Finance (MF)			
3. Ministry of Economic Development and Technology (MEDT)	●		
4. Ministry of Infrastructure (MI)	●	●	
5. Ministry of Education, Science and Sport	●	●	●
6. Ministry of Public Administration (MPA)			
7. Ministry of Agriculture, Forestry and Food (MAFF)	●	●	●
8. Ministry of Culture (MC)	●	●	
9. Ministry of the Interior (MI) and the Police	●		
10. Ministry of Defence (MoD)	●		
11. Ministry of the Environment and Spatial Planning (MESP)	●		
12. Ministry of Health (MH)	●		
13. Ministry of Foreign Affairs (MFA)		●	
14. Ministry of Justice (MoJ)	●	●	
15. Government Office for Nationalities (GON)	●		
16. Government Office for the Support and Integration of Migrants (GOSIN)	●	●	
17. Office for Slovenians Abroad (OSA)	●	●	
18. Government Office for Development and European Cohesion Policy (GODECP)			
19. Government Office for Digital Transformation (GODT)	●		

12 THE ADVOCATE'S RESEARCH ACTIVITIES

12.1 Legal basis and importance of research for the Advocate's work

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

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

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

Equality data includes any information that can be applied in describing and analysing the state of affairs in the society. Information can be quantitative or qualitative and shows the prevalence of inequality, unequal treatment and unequal opportunities, and the effects or causes of the latter. Sources of data can be population censuses, administrative registers, household and individual surveys, studies, public opinion polls revealing the values and attitudes of the population, data on discrimination cases addressed, situational testing of discrimination, monitoring of diversity by employers and service providers, as well as qualitative research strategies such as case studies, in-depth and expert interviews etc.⁵¹

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

⁵¹ The definition of equality data is taken from the European Commission publication (2016) European Handbook on Equality Data, p. 15. Available at: https://ec.europa.eu/newsroom/just/document.cfm?action=display&doc_id=43205



The lack of research and data on the existence of discrimination and the current state regarding inequality, unequal treatment and unequal opportunities makes it impossible to understand the causes, extent and characteristics of discrimination. As a result, the formulating and implementation of measures and policies for the protection of discrimination is also hampered. Only by obtaining quality data and independent research findings, which ensure an impartial and realistic picture of the situation relating to discrimination, can measures and legislative solutions be designed that ensure equal treatment of all.

Slovenia was also reminded of the significance of systematic and comprehensive access to data on equality, equal treatment and equal opportunities by several international control mechanisms.⁵² The latter pointed out the lack of credible, disaggregated data on individual groups of people with a particular personal ground and, in this context, also the lack of relevant research.

The need to improve the collection of reliable and comparable data at European and national levels has also been stressed in a number of European Union (EU) initiatives, including the Gender Equality Strategy 2020–2025, the LGBTIQ Equality Strategy 2020–2025, the EU Roma Strategic Framework on Equality, Inclusion and Participation 2020–2030 and the EU Anti-racism Action Plan 2020–2025.⁵³

At meetings with Ministers and high representatives of state authorities, the Head of the equality body drew attention to the challenge of incomplete data collection on equality, equal treatment and equal opportunities, as Slovenia is currently lagging behind other EU member states.⁵⁴

Quality and reliable equality data is particularly needed for:⁵⁵

1. identifying and establishing indirect discrimination; indirect discrimination within the meaning of the second paragraph of Article 6 of the PADA is taken to occur when a person or group with a certain personal ground was, is or could be in a less favourable position compared to other persons due to an apparently neutral provision, criterion or practice; this arrangement is in line with the EU law, which explicitly states that the national legislation may define, that the existence of indirect discrimination is also established on the basis of statistics;⁵⁶

⁵² Report of the Special Rapporteur on Minority Issues (2019), available in Slovenian translation in the Regular Annual Report of the Advocate of the Principle of Equality for 2018 and on www.zagovornik.si.

⁵³ More information on the European Commission's work in this area is available at: https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/combatting-discrimination-0/equality-data-collection_en.

⁵⁴ The European Commission study from 2017 described the collection of equality data in Slovenia as "critically weak", and the efforts of the Slovenian authorities to disseminate, improve and use the existing data are far below the average of the European Union Member States. Read more: European Commission (2017) Analysis and comparative review of equality data collection practices in the European Union: Equality data indicators: Methodological approach, p. 49. Available at: https://ec.europa.eu/newsroom/just/document.cfm?action=display&doc_id=45793

⁵⁵ A more detailed analysis setting out reasons for the need for equality data in: European Commission (2016) European Handbook on Equality Data, p. 19–22. Available at: https://ec.europa.eu/newsroom/just/document.cfm?action=display&doc_id=43205.

⁵⁶ As e.g.: Recital No. 15 of the Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. Available at: EUR-Lex - 32000L0043 - EN - EUR-Lex (europa.eu)

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

In 2022, the Advocate conducted six independent surveys, namely:

- Analysis of the conditions and criteria for eligibility to non-profit housing;
- Analysis of the experience of different religious communities in society;
- Public opinion poll on discrimination in Slovenia in 2022.

Three qualitative surveys using the focus group methodology on the following topics:

- Inclusion of the Roma in education;
- Inclusion of the Roma in employment;
- Access to a personal physician.



12.2 Special Report Accessibility of Secondary Schools for Persons with Reduced Mobility

Among the areas of social life where discrimination is prohibited, the PADA also lists the field of education. Among the personal grounds based on which no one should be treated unequally or inferiorly, the PADA also includes disability.

People with disabilities must be afforded equal opportunities in access to education. Pursuant to the Equalisation of Opportunities for Persons with Disabilities Act, public facilities must be adapted accordingly which includes secondary schools. In accordance with Article 38 of the EOPDA, such appropriate accommodations must be implemented no later than by 11 December 2025.

The Advocate considered the case of a ninth-grader with reduced mobility who wished to enrol in one of the grammar schools, but chose not due to the inaccessibility of the school for persons with reduced mobility. When examining this case, the Advocate found that data on the accessibility of secondary schools for students with reduced mobility in Slovenia is insufficient. Above all, not all secondary schools are accessible to students with reduced mobility, although secondary schools as public facilities should be accessible to all people, regardless of potential permanent or temporary disabilities.

In the context of the preparation of the special report, the Advocate collected information on the physical, spatial or architectural accessibility of secondary schools for students with reduced mobility. Recommendations were prepared on what needs to be done for the appropriate accommodations required by the law to be taken into account.

The Advocate's report primarily relates students with reduced mobility. Reduced mobility is a broad term, since it can be manifested in different forms and there are different reasons why it occurs. In the queries, the Advocate focused primarily on students with severe physical disabilities who use a manually operated or electric wheelchair. If secondary schools are accessible for students with severe reduced mobility, they are also accessible for those with milder forms of reduced mobility. From the data collected by the Advocate through queries with secondary schools, it follows that in the last decade, a total of more than 800 students with reduced mobility were included in education. According to the data of the Ministry of Education, Science and Sport, 57 students with reduced mobility were enrolled in secondary schools in the school year 2019/2020.

A frequent clarification by secondary schools in the reply to the Advocate's query was that no student with reduced mobility ever enrolled in the school hence the architectural barriers were not removed. The Advocate highlights that schools are obliged to ensure accessibility which must be provided for in advance, regardless of whether students with special needs have enrolled or whether the enrolment of such a child can be expected.

The Advocate also stresses the need to ensure accessibility for all and that this obligation applies to all types of disabilities, including temporary ones. Therefore, it is not only about the situation of students with special needs and those who may still be waiting for the granting of such status, but also of all the people who may be affected by the (in)accessibility of schools or have mobility difficulties. These include employees, parents, parents with strollers, grandparents and other school visitors who also need spatial adjustments. In this respect, we are talking about a universal design.

According to the responses to the Advocate's queries and other examined materials, the following challenges appear to have been identified in the provision of accessibility of secondary schools:

1. Schools need to be spatially adapted in a way as to include all children with disabilities in the educational process, including those with reduced mobility. In most cases, inclusive education is more beneficial for them than schooling in special schools.
2. Students with disabilities should be ensured integration in education programmes in the environment where their live. Only in this way, their opportunities of equal access to education are comparable to other students.
3. Existing publicly available data regarding the accessibility of secondary schools are incomplete.
4. Accessibility of secondary schools in Slovenia is very limited. Only 26 percent of all secondary school facilities in Slovenia fulfil all the necessary conditions for the inclusion of people with reduced mobility in the educational process. Moreover, differences between statistical regions exist, as in some of them only one secondary school is fully accessible or in some cases there is no such school.
5. Among the reasons for inaccessibility, the schools mostly indicated the lack of financial resources for building interventions. The Ministry of Education, Science and Sport implements the legal obligation of investment maintenance and renovation of schools on the basis of annual calls, which however do not allow for the financing of investment and maintenance works on facilities and equipment in order to improve the spatial accessibility of schools (unless this coincides with the general non-compliance of the facility with essential requirements).
6. So far, European funds have not been used in Slovenia for the purpose of improving the spatial accessibility of schools, although the possibility exists.
7. The reasons for inaccessibility are not always of financial nature, but are also linked to the lack of knowledge regarding the needs of people with disabilities, sometimes also lack of knowledge as regards legislation.
8. The EOPDA sets deadlines for the adaptation of existing public facilities to people with disabilities, which applies also to secondary schools. This time limit expires on 11 December 2025. Based on the responses to the Advocate's queries, a conclusion can be made that this time limit is approaching without visible (accelerated) efforts to remove the aforementioned barriers.



9. Although the EOPDA sets deadlines for the adaptation of existing public facilities, no inspection powers have been granted in this regard. The exercise of the rights is now primarily in the hands of people with disabilities themselves. Moreover, legal exceptions to the obligations regarding the adaptation, which are vague and unclear.

The Advocate recommended to the Government of the Republic of Slovenia, Ministry of Education, Science and Sport and Ministry of the Environment and Spatial Planning, based on the information received in the replies to the queries and information from other publicly available sources.

On 19 October 2022, the Advocate organised a panel discussion at the House of the European Union in order to support a public consultation on measures to improve equal opportunities of people with disabilities in the field of education. Representatives of Ministries and educational institutions to which the recommendations were addressed actively participated in the event. They were joined by representatives of NGOs dealing with the rights and situation of people with disabilities and other interested parties.⁵⁷

The full version of the Special Report is available on the Advocate's website.⁵⁸

⁵⁷ More information about the event is available at: <https://zagovornik.si/zagovornik-na-okroglih-mizah-o-polozaju-gluhih-v-izobrazevanju-in-dostopnosti-srednjih-sol-za-gibalno-ovirane/>.

⁵⁸ Available at: <https://www.zagovornik.si/posebna-porocila/>.

12.3 Analysis of the conditions and criteria for the allocation of non-profit housing

In 2022, on the basis of Articles 14 and 78 of the Constitution and Article 2 of the PADA, the Advocate conducted an analysis on the conditions and criteria for the allocation of non-profit housing in urban municipalities. A number of reasons have led to a situation where “a shortage of housing exists in locations where demand for housing is the highest; there is a lack of rental housing, especially those that would enable solving the housing problem of more vulnerable groups; current legislation does not support the development of the rental market, etc.”⁵⁹ The general lack of rental housing in particular increases inequality and, at the same time, puts a certain group of people in an unequal situation. These are, in particular, the less well off, the young, the elderly/pensioners, certain types of households and families (e.g. single parents, large families), people in a certain social situation (e.g. homeless), people with disabilities and foreigners.

Since the need for housing is widely recognized and frequently discussed in public, the Advocate focused in this analysis on a specific aspect of housing accessibility, namely the conditions for access to non-profit housing. The Advocate has already highlighted these issues when amendments and supplements of the Housing Act were being adopted by making relevant recommendations to the Ministry of the Environment and Spatial planning in 2020⁶⁰ and 2021⁶¹.

For the purpose of preparing the analysis, the Advocate sent queries to all urban municipalities and their housing funds to obtain information on tenders for non-profit apartments, detect problems linked to the current legal regulation, identify their positions and examples of good practices.

Based on the information collected, the Advocate analysed the suitability of the current arrangement of public rental apartment allocation with emphasis on the conditions and criteria for access to such housing from the perspective of protection against discrimination of groups with a particular personal ground or vulnerable groups.

⁵⁹ Resolution on the National Housing Program 2015–2025

⁶⁰ Recommendation of the Advocate of the Principle of Equality aimed at the draft Act Amending the Housing Act of 18 August 2020 (0709-62/2020/1). Available at: <https://www.zagovornik.si/priporocila/>

⁶¹ Recommendation of the Advocate for the Principle of Equality aimed at the draft Act Amending the Housing Act,EPA: 1621 – VIII of 26 March2021 (0709-62/2020/2). Available at: <https://www.zagovornik.si/priporocila/>



As part of the analysis, the Advocate examined the regulation of protection against discrimination in connection with the accessibility of non-profit housing from the viewpoint of international and national law. Based on the information collected through queries and from other sources, the Advocate identified several challenges. The right to rent a non-profit apartment is ineffectively regulated by law. Limitation of the right to a non-profit apartment also with regard to the personal grounds of the applicants is inadequately justified and supported by analyses. The effects of the existing regime are unclear, as the selection criteria are not fully transparent. The Advocate examined whether the conditions for access to a non-profit apartment follow the purpose of guaranteeing equal opportunities in resolving the housing problems and whether the area is regulated in a non-discriminatory manner. As regards protection against discrimination, the criteria or certain priority categories of applicants for the rental of a non-profit apartment raise certain concerns.

The Advocate will use the results of this analysis in further work.

12.4 Analysis of the experience of different religious communities in society

The prohibition of discrimination on grounds of religion means that no person should be discriminated against based on their religious belief, affiliation or non-affiliation to a particular religion, any change of their religious belief; believing or refusing to believe or not wishing to express their opinion on these issues.⁶² Discrimination on grounds of religion is prohibited under the Constitution, the PADA, the Freedom of Religion Act and other sectoral laws, as⁶³ well as other binding commitments of the Republic of Slovenia under international law.

The analysis highlighted the situation of members of religious communities in the fields of employment and work, education, health care, hate speech and media reporting, as well as the attitude of the state towards religious communities in terms of ensuring equal treatment and protection against discrimination.

The Advocate made three queries directed at religious communities, the profession, state authorities and civil society organizations, which are the basis for the preparation of a Special Report, namely:

- one query on recorded damage on religious facilities and other forms of intolerance;
- two queries concerning the perceived unequal treatment of members of religious communities and their experience with discrimination based on the personal ground of religion.

The Advocate focused on the situation of members of religious communities regarding perceived disadvantaged treatment. This means that the queries did not relate to discrimination or expression of intolerance towards atheists, agnostics, humanists (in the sense of worldview belief) or persons who refuse to share their religion or worldview.

⁶² The European Court of Human Rights stated in several judgments that the state cannot prescribe what religion or belief means and that these concepts protect “atheists, agnostics, skeptics and undeclared persons” and thus those who decide to “accept religious beliefs or not and engage in religious activity or not”. Retrieved from the publication: Council of Europe, European Court of Human Rights, European Union Agency for Fundamental Rights, European Anti-Discrimination Law Handbook: 2018 edition, Publications Office, 2019. Available at: <https://data.europa.eu/doi/10.2811/161884>.

⁶³ The prohibition of discrimination is also regulated by sectoral laws, e.g. Employment Relationships Act, Patient Rights Act.



Key findings arising from the conducted query on damage to religious facilities and other forms of intolerance are that three out of five religious communities that responded to the Advocate's inquiry reported cases of damage to religious facilities. The conducted query on the perceived experience of members of religious communities with discrimination on the grounds of religion shows that religious communities experience discriminatory practices in various areas of social life, most often in the areas of employment and work, education, health care, hate speech and media reporting, as well as regards the attitude of the state towards religious communities.

The Advocate will use the results of this analysis in further work.

12.5 Survey on Discrimination in Slovenia in 2022

12.5.1 About the public opinion poll

In 2022, the Advocate conducted a public opinion poll “Survey on discrimination in Slovenia in 2022” aimed at monitoring trends in the area of discrimination among the general public. It is an upgrade of two public opinion polls “Perceptions of Discrimination in Slovenia – public opinion survey in 2017” and “Perceptions and experience with discrimination in Slovenia in 2020”.

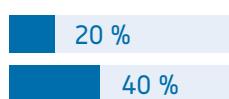
The purpose of the public opinion poll was to gain insight into people’s attitudes and experience with discrimination, an additionally assess the visibility of the Advocate. On that account, it prepared a special questionnaire with an external contractor, the survey was conducted by the research institute Inštitut za raziskovanje trga in medijev Mediana, d. o. o. The research method was a combination of computer-assisted telephone survey and computer-assisted online survey. The polling was conducted from 19 to 29 September 2022.

The sampling frame was the population of Slovenia, namely, the general population aged between 18 and 75 years. The survey is representative with regard to gender, age, region and education; it was performed on a sample of 1,006 persons.

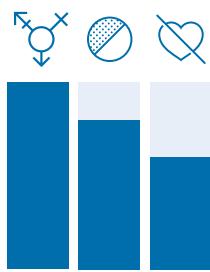


12.5.2 Perception and experience with discrimination and familiarity with the equality body

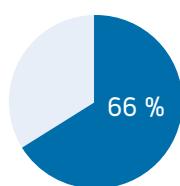
The respondents answered various questions related to perception and experience with discrimination. The key observations based on the answers provided and, in part, on the comparison with the results of the 2017 and 2020 opinion polls, where possible due to the methodology, are as follows:



In 2022, a fifth of the population of Slovenia regarded discrimination as one of the most widespread problems in the country, while 40 percent consider discrimination as equal to other problems. For a third of the population, discrimination was less important than other challenges. This share has been increasing slightly since 2017.



In 2022, the inhabitants of Slovenia understand discrimination most often as unequal treatment of people due to their gender, as well as due to skin colour or in general. Unequal treatment due to skin colour was referred to as the reason for discrimination by a smaller share of the population compared to 2020. However, new aspects of understanding discrimination have emerged: intolerance, lack of understanding, oppression and hostility, as well as prejudices and stereotypes among the less frequent. Compared to 2020, a larger number of definitions of discrimination referred to humiliation and underestimation, disadvantages, violation of rights and unequal treatment on the grounds of belief.



According to two thirds of the population of Slovenia, discrimination in 2022 was the most widespread in the field of employment and work, followed by the areas of social security, police procedures, justice and real estate rentals, except for the last one, all to a lesser extent than in 2020. The share of perceived discrimination was also relatively high in the areas of health care and media.



According to the residents of Slovenia, among the groups of people most frequently targeted by discrimination, foreigners and poor people occur more often in 2022 compared to 2020. Women and homosexual people follow, who together with the Roma were the most frequently identified as targets of discrimination already in 2020. Less respondents than in 2020 indicated the Roma as a frequent target of discrimination. To a lesser extent compared to 2020, immigrants, refugees, ethnic minorities, Muslims and transgender people were also listed as targets of discrimination.



The inhabitants of Slovenia referred to nationality, race or ethnic origin and sexual orientation as the most common reason for discrimination in 2022, but in a smaller measure than in 2020. The often referred reasons for discrimination were religion, social status, disability, age and citizenship, and less often political opinion.



According to the inhabitants of Slovenia, discrimination was most often committed by individuals in 2022. They were followed by private sector employers, politicians and superiors in general. With the exception of the latter, these groups were less often referred to as violators compared to 2020. Rarely, government, public sector employers and state organizations were referred to as violators in 2022. Compared to 2020, respondents identified new groups of violators such as civil servants, teachers and health care employees.



Very few people from the 2022 survey who were subject to discrimination, harassment or sexual harassment decided to take action. The key obstacles to this, as stated by the inhabitants of Slovenia, were resignation, to some extent also fear of procedures or deterioration of their situation, and less often also little knowledge on the authorities that could offer support or not being aware of their rights.

10%

In case of discrimination, a tenth of the population of Slovenia would turn to the Advocate in 2022, which is the same share as in 2020 and 2017. The majority of the population would still turn to the police or relatives in the event of discrimination, and about a third would contact the Ombudsman.



The visibility of the Advocate in 2022 was better compared to the data from previous surveys in 2020 and 2017, and the satisfaction with the Advocate's work increased.



12.6 Qualitative research using focus group method and semi-structured interviews

12.6.1 Inclusion of the Roma in education

The aim of the research was to shed light on the situation of Roma children in the field of education, their motivation for school work, the obstacles they face in integrating into education, and to identify examples of good practices in this field.

Qualitative research was conducted using the focus group method. The focus group was conducted on 10 November 2022.

It was attended by nine people. The participants were representatives of kindergartens, schools, the advisory profession, state authorities and research institutions that are professionally engaged in education, assistance or research in the field of Roma inclusion in education.

The key barriers to the inclusion of the Roma in education, as indicated by the focus group participants, are as follows:

1. The greatest obstacle to the inclusion of the Roma in education is a lack of understanding that there is a link between education and a higher quality of life. Therefore, the support of the family and the immediate social circle for the education of Roma children is low.
2. Fear and distrust towards educational institutions contribute to the lack of family support and the immediate social circle in the education of Roma children. The experience of parents with schools is often poor, the peer acceptance of the Roma in schools is poor, and therefore education resistance is also greater.
3. Participants, especially from the south-eastern part of the country, also note the increase in intolerance towards the Roma and informal pressure from parents to separate Roma and non-Roma children. This attitude is passed on to Roma children, especially in higher grades, which affects their school attendance.
4. The dropout rate of Roma children in schools may also be associated with lower teacher expectations towards them. Although they could achieve more and that is what the often want, teachers are often satisfied with a minimum knowledge and thus indirectly (inadvertently) reduce the motivation of these children.
5. Teachers and other staff in educational institutions do not have sufficient competences to promote the inclusion of all vulnerable groups, not only the Roma, in the educational process.

6. Adult Roma find it difficult to obtain formal education because the educational programmes are too demanding for them.
7. Financial incentives are important for the Roma in deciding whether to continue their education or to leave the regular education system. For example, many Roma students leave school after grade 6 in order to continue it after reaching the age of majority, when a financial incentive is granted.
8. Inadequate living conditions significantly complicate the proper preparation of Roma children for school and school work at home.
9. Some participants of the focus group observed an increase in early marriages of Roma minors and pregnancies during the COVID-19 epidemic in the southeastern part of the country, and consequently a slightly higher dropout rate in primary school, while other participants did not agree with this observation.

12.6.2 Inclusion of the Roma in employment

The aim of the survey was to shed more light on the situation of the Roma in the field of employment and work, in particular to examine the evaluation, motivation for employment and the current situation.

Qualitative research was conducted using the focus group method. The focus group was conducted on 10 November 2022.

It was attended by eight people. The participants were representatives of the Employment Service, other state authorities, employers, educational institutions and NGOs that are professionally engaged in the inclusion of the Roma in employment.

The key barriers to the inclusion of the Roma in employment, as indicated by the focus group participants, are as follows:

1. Prejudice for both employers and market service users is a key obstacle to the inclusion of the Roma in employment. Roma who are motivated for employment often do not get the opportunity to apply for a job because of the negative attitude of employers as regards their origin.
2. Employers have good but also bad experience regarding employment of the Roma due to a lack of work ethics. There is a discrepancy between the expectations of employers and the wider society and the ability and willingness of the Roma to adapt to the established work habits.
3. The content of informal training programmes implemented in Roma centres is not tailored to the interests of the Roma, so there is little interest in them, and as a result these programmes fail to contribute to better opportunities for their employment.



4. The conditions for the performance of work, related to the acquired formal education and not so much to competences, make it impossible to employ motivated Roma without formal education. Hence, for example, without a secondary education, they could not pass exams to operate machinery or mechanization, although they would be able and eager to do so. The same applies to the work of a Roma assistant.
5. The framework of social protection and tax policy also represents an obstacle preserving the vicious cycle of poverty and dependence of the Roma on social transfers, undeclared work and crime. Due to lower competencies and consequently poorly paid work, the Roma often prefer to choose social assistance, since the state deducts a large part from their salary for the repayment of fines, debts and the like. Social transfers may be higher than wages in the case of larger families, which in some cases becomes an incentive for early, sometimes even minor marriages and early motherhood.

12.6.3 Access to a personal physician

The purpose of the qualitative research was to verify communication accessibility of personal physicians, to identify barriers and reasons for limited or poor access to a personal physicians and to identify the possible consequences of poor access to medical doctors.

The research was conducted using the focus group method and semi-structured interviews. The focus group was implemented on 22 November 2022 and the semi-structured interviews were conducted between 22 and 24 November 2022.

Nine people participated in the focus group and ten in the individual interviews. Most of the participants were older (55 years and more), people who do not speak Slovenian fluently (foreigners, immigrants, minorities), have chronic diseases, disabilities or mental health problems and people who are expected to have poorer digital skills.

- **Key barriers**, as indicated by the focus group and semi-structured interviews participants, are as follows:
 1. Limited time and forms of interaction with the personal physician (especially via digital channels);
 2. Lack of knowledge and/or inability to communicate electronically with the personal physician's clinics;
 3. Absence and shortage of medical personnel; and
 4. Inappropriate attitude of medical staff towards patients.

- **Resolution or action strategies** highlighted by the focus group and semi-structured interviews participants are as follows:
 1. Apathy;
 2. Waiting;
 3. Self-medication and denial of symptoms;
 4. Recourse to private (self-paying) treatment, including abroad;
 5. Recourse to alternative and complementary treatment practices;
 6. Dependence on the help of loved ones;
 7. Action by means of reports to competent authorities.
- **The consequences of the obstacles** highlighted by the focus group and semi-structured interviews participants are as follows:
 1. Prolonged treatment;
 2. Deterioration of health or transition to a chronic illness or disability;
 3. Anger, disappointment, helplessness, mistrust;
 4. Mental distress.

According to the participants, digitalization can be a challenge for the elderly and for people with disabilities and limitations (e.g. blindness, dementia, immobility, poor knowledge of the Slovenian language). Difficulties worsen when patients cannot or do not know how to use digital means of communication.



13 EDUCATION, AWARENESS RAISING AND COMMUNICATION

13.1 The role and importance of education and communication

In 2022, the Advocate of the Principle of Equality (Advocate) carried out numerous activities aimed at raising the awareness, educating and informing the general public as well as selected targeted public. In respect of their aims and content, these activities comply with the **fifth indent of Article 21 of the Protection against Discrimination Act** (PADA), which includes raising the awareness of the general public on discrimination and measures to prevent it among the tasks and powers of the Advocate.

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

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

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



13.2 Education

In the context of guaranteeing human rights and protection against discrimination, education in this field is of key importance. In this context, the Advocate focused on educating the interested public in 2022 while special attention was dedicated in particular to those who have the possibility of further, indirect dissemination of the obtained knowledge and information through their own channels to reach their members and the general public. These efforts are aimed at professionals, civil servants, social partners and public sector organisations, teachers, civil society and NGOs.

In terms of direct education, i.e. cooperation in the form of contributions and lectures, the Head of Advocate Miha Lobnik and other employees attended 12 events, partly via online platforms, and partly in person. These events were:

1. Presentation of the Advocate as part of the Marginal Social Groups subject, 5 February 2022 and 30 May 2022;
2. Lecture at the “Help” seminar on the rights of persons with disabilities, 18 March 2022;
3. Training at the Slovenian Human Resources Congress, 7 April 2022;
4. Training for participants of a study tour to Slovenia provided by the Advocate at the Trade Union of Education, 9 May 2022;
5. Presentation of the Advocate’s work at the Faculty of Law, University of Maribor, 12 May 2022;
6. Training of employees on caring for people living with HIV in retirement homes, 16 June 2022;
7. Training as part of a professional excursion of mentors and students of the study programme “Studies on disability and diversity”, 16 June 2022;
8. Training as part of the 21st Days of Vocational and Employment Rehabilitation, 27 September 2022;
9. Training of primary school teachers on the work of the Advocate and legislation in the field of discrimination prevention, 10 and 24 November 2022;
10. Training at the event TransMission IX: depathologize us! organized by TransAction, 15 November 2022;
11. Lecture on legal concepts in the field of anti-discrimination law, 21 November 2022;
12. Training of female students held by the Career Centre of the University of Maribor, 13 December 2022.

A more detailed description of the Advocate’s educational activities is presented in Part Two of the Annual Report for 2022 available on <https://zagovornik.si/en/what-we-do/annual-reports/>.



Photo: Slovenski kadrovski kongres



Photo: Slovenski kadrovski kongres

At the Slovenian Human Resources Congress in Portorož, the Head of the Advocate for the Principle of Equality, Miha Lobnik, pointed out that respect for and management of a diversity of employees is actually an opportunity for companies and other organizations.



13.3 Awareness raising by organizing own events

Through organizing own events, the Advocate ensures that the general public is familiar with the topic of discrimination and measures to prevent it. In 2022, **the Advocate organized five events** aimed at specific audiences. Within the specific awareness-raising activities, the Advocate also initiated the implementation of the EU project “Face discrimination – creating a society of equal opportunities” in 2022.



As part of a special event, the Head of the Advocate of the Principle of Equality Miha Lobnik presented the English translation of the Annual Report to ambassadors and other representatives of foreign countries in Slovenia.

Presentation of the Advocate's activities to foreign diplomats in Slovenia

The Annual Report for 2021 has also been translated into English. At a special event on 14 June 2022, the Head of the Advocate Miha Lobnik presented the English translation of the Annual Report to ambassadors and other representatives of foreign countries in Slovenia. This way he presented to them the development, competences and work of the equality body. The event was attended by ambassadors, deputy ambassadors and other representatives of the embassies of Albania, Austria, Bulgaria, Croatia, the Czech Republic, France, Great Britain, Hungary, Kosovo, the Netherlands, Poland, Romania and Spain.

EU project “Face discrimination – creating a society of equal opportunities”

On 1 December 2022, the Advocate also initiated the implementation of the EU project “Face discrimination – creating a society of equal opportunities”. The partners in the implementation of the project are the Academy of Theatre, Radio, Film and Television of the University of Ljubljana, the Association of Municipalities of Slovenia and the Prizma Foundation. In the next two years, the Advocate will establish a learning platform for mass open online courses, prepare a modular programme of education on discrimination and conduct a campaign of awareness-raising on discrimination. The aim of the project is also to organize training on discrimination for local self-government employees who will, as promoters of equality, put into practice appropriate ways of dealing with clients.

The value of the project is estimated at 440 thousand euros, with the contractors receiving 90 percent of the planned funds from the EU Citizens, Equality, Rights and Values programme.





Panel discussion on the position of transgender people in medical and administrative procedures was attended (from left to right) by: Jure Trbič, State Secretary at the Ministry of Public Administration, dr. Polona Mozetič, Secretary in the Cabinet of the Minister of the Interior, moderator mag. Jelena Aleksić, Head of the Advocate's Department, Helena Valas, Head of the Department at the Ministry of Labour, Family, Social Affairs and Equal Opportunities, and dr. Ivan Eržen, Expert Director of the National Institute of Public Health.



Panel discussion on the position of intersex people in medical procedures was attended by (from left to right): Jerneja Turin from the Human Rights Centre, acting within the framework of the Ombudsman, mag. Gorazd Kavšek, Head of the Clinical Department of Perinatology at the University Medical Centre Ljubljana, moderator mag. Jelena Aleksić, Head of the Department at the Advocate, Aleš Ojsteršek, Head of the Department for Development Education at the Ministry of Education, Science and Sport and Mojca Kraševac, Secretary at the Directorate for Administrative Internal Affairs at the Ministry of the Interior.



Panel discussion on the situation of the deaf in the education system was attended by: Aleksandra Valančič from the Association of Principals and Assistants to Principals, Samo Rumež, Director of the Centre for Hearing and Speech Maribor, Bernarda Kokalj, Acting Director of the Institute for the Deaf and Hard of Hearing Ljubljana, moderator mag. Jelena Aleksić, Head of the Department at the Advocate, Tanja Dular from the Directorate for Persons with Disabilities at the Ministry of Labour, Family, Social Affairs and Equal Opportunities, and others. Boris Černilec, Acting Director of the Directorate for Pre-School Education and Primary Education at the Ministry of Education, Science and Sport.



Panel discussion on the accessibility of secondary schools for people with reduced mobility was attended by: Dane Kastelic, President of the Association of Paraplegics of Slovenia, Georgi Bangiev, Director General of the Directorate for Spatial Planning, Construction and Housing at the Ministry of the Environment and Spatial Planning, moderator mag. Jelena Aleksić, Head of the Department at the Advocate and Mira Koren Mlačnik, Head of the Sector for Preschool and School Infrastructure at the Investment Directorate of the Ministry of Education, Science and Sport.



13.4 Awareness raising through participation in events

Through the participation in various events the Advocate raises awareness and informs participants about the importance of protection against discrimination and the promotion of equality.

In 2022, the Advocate engaged in public awareness-raising through attending the following 11 events:

1. Expert consultation on digital rights of young audiences, 11 January 2022;
2. Event on treatment of the elderly during the COVID-19 epidemic from the Agon(ija) epidemic cycle, 1 March 2022;
3. Citizen round table, 15 March 2022;
4. Conference of the Association of Administrative Workers of Slovenia, 18 March 2022;
5. Presentation of recommendations from young people in the area of discrimination prevention and inequality organized by the Red Dawns, 30 March 2022;
6. Workshop for Women with Migrant Experience, 12 April 2022;
7. Seminar of the Slovenian University Sports Association on the topic of discrimination among young people in sports, 21 June 2022;
8. Expert consultation on regulation of the status and rights of persons with deafblindness, 27 September 2022;
9. Festival of the Third Age, 27–29 September 2022;
10. Presentation of the PRESS Project – Promoting Roma Equality in Slovenia and Slovakia, 10 November 2022;
11. Follow-up meeting on the implementation of the Framework Convention for the Protection of National Minorities in Slovenia, 28–29 November 2022.

A more detailed descriptions of the Advocate's awareness-raising activities is presented in Part Two of the Annual Report for 2022 available on <https://zagovornik.si/en/what-we-do/annual-reports/>.

In 2022, the Advocate also attended 32 other events:

1. Consultation on palliative care as a universal essential service, 21 February 2022;
2. Presentation of the scientific monograph entitled Right to Abortion, 3 March 2022;
3. Discussion on the book Opening the Horizons of the Possible, 8 March 2022;
4. Closing discussion within the project Our opinion counts!, 29 March 2022;
5. Training on the subject of the General Administrative Procedure Act (GPA) review, 7 April 2022;
6. Seminar on the Strategy for Improving the Employability and Employment of the Roma, 14 April 2022;
7. Workshop on measures for work-life balance in gender equality plans organized by the ZrC SAZU, 20 April 2022;

8. Lecture by dr. Kristina Čufar on Artificial Intelligence and Automated Discrimination, 13 May 2022;
9. 3rd Information Security Law Conference in Portorož, 16–17 May 2022;
10. Panel discussion within the Days of Intergenerational Coexistence, 23 May 2022;
11. Focus group of experts on online violence against girls due to gender, organized by the Faculty of Social Sciences, 24 May 2022;
12. 21st Days of Labour Law and Social Security, 26–27 May 2022;
13. Women in Business Empowerment Event, 31 May 2022;
14. Professional conference on gender-sensitive integration of immigrant children into the educational process, 1 June 2022;
15. Press conference and presentation of books on intersectionality organized by the Peace Institute, 30 June 2022;
16. Online event on the best AI solutions in the field of sustainable development and innovation goals, 5 July 2022;
17. European Conference on Politics and Gender, 6–8 July 2022;
18. 6th Conference of Pension and Disability Insurance, 13 September 2022;
19. Professional programs within the Festival of the Third Age, 27–29 September 2022:
 - Language as a tool of inclusion and empowerment – the profession should come closer to people;
 - From Madrid to Rome, from ageing to longevity: United Nations Economic Commission for Europe (UNECE) Ministerial Conference;
 - What changes should digital transformation bring to the lives of elderly people and vulnerable groups?;
 - Lack of human resources in the implementation of social services and programmes for the elderly and beyond in the field of social security;
 - Gerontology and geriatrics in an ageing Slovenia;
 - Longevity – a challenge for learning, education and research (Knowledge for the well-being of the elderly);
20. Closing event on the social activation programme for Roma women, 30 September 2022;
21. Expert Consultation on “Suppression of Abnormalities and Conversion Therapy”, 7 October 2022;
22. 48th Days of Slovenian Lawyers, 10–11 October 2022;
23. Project conference on the occasion of Mental Health Day, 10 October 2022;
24. Presentation of the Prevention of Money Laundering and Terrorist Financing Act (ZPPDFT-2) and its implementation procedures, 25 October 2022;
25. Presentation of selected projects of non-governmental organizations in the field of gender equality, 7 November 2022;
26. 6th National Global Learning Conference Decolonization of Knowledge, 17 November 2022;
27. Training for conducting an oral hearing in administrative proceeding, 24 November 2022;
28. Closing conference of the project Early occupational and employment rehabilitation in the process of returning to work, 24 November 2022;
29. National Conference on prevention and response to violence against women in Slovenia, 25 November 2022;
30. Consultation on the regulation of an independent body in accordance with Article 33 of the Convention on the Rights of Persons with Disabilities, 2 December 2022;
31. Closing event Improving accessibility of goods and services for people with disabilities who are holders of the European Disability Card, 8 December 2022;
32. Formal signing of the Diversity Charter and traditional event on the occasion of the celebration of the World Human Rights Day, 9 December 2022.



13.5 Awareness-raising of the Advocate using own materials

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

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



Annual Report for 2021

- Language: Slovenian
- Number of copies: 800
- Distribution: 480 addressees

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



Annual Report for 2021

- Language: English
- Number of copies: 250
- Distribution: 106 addressees

The English translation was sent to the European Network of Equality Bodies – Equinet, Slovenian embassies abroad, foreign embassies in Slovenia, Slovenian MEPs, the European Commission, the European Parliament, and the Council of Europe.



Annual Report for 2021

- Language: Italian, Hungarian
- Number of copies: 300 (150 (ITA) + 150 (HUN))
- Distribution: 79 addressees (41 (ITA) + 38 (HUN))

The Annual Report in the Italian and Hungarian languages was sent to the Italian and Hungarian national community's deputies, the Ambassadors of Italy and Hungary in Slovenia, as well as to autonomous communities, minority organisations, municipalities, and state authorities in the bilingual area.



Special Report Accessibility of Secondary Schools for Persons with Reduced Mobility

- Language: Slovenian + English
- Number of copies: 400
- Distribution: 323 addressees (177 (SLO) + 146 (ENG))

In the context of monitoring the situation in the field of discrimination in 2022, the Advocate prepared a Special Report on the Accessibility of Secondary Schools for Persons with Reduced Mobility. The Advocate submitted the Special Report to the Government, the President of the Republic, the National Assembly and the National Council, Ministries and other state authorities, NGOs, educational institutions and journalists. An English, Hungarian and Italian translation of a summary of the Special Report on the Accessibility of Secondary Schools for Persons with Reduced Mobility was published in electronic form. The Advocate sent the English translation of the summary of the Special Report Accessibility of Secondary Schools for Persons with Reduced Mobility to all equality bodies that are Equinet members, the European Commission, European Parliament, Council of Europe, United Nations, OSCE, embassies of other countries in the Republic of Slovenia and different international non-governmental organizations working in the field of disability.





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

- Language: Slovenian
- Number of copies: 250
- Distribution: 98 addressees

With this Special Report, the Advocate drew the attention of legislators and the general public to the importance of respect for human rights and equal opportunities for people who have been assigned a gender at birth, with which they do not identify and which does not reflect their gender identity. The Advocate submitted the Special Report to the Government, the President of the Republic, the National Assembly and the National Council, Ministries and other state authorities, healthcare institutions, educational institutions working in the field of health, NGOs and journalists.



Leaflets: “Say No to Discrimination of the Elderly” and “Say No to Discrimination of Young People”.

- Language: Slovenian
- Number of copies: 800
- Distribution: 480 addressees

In 2022, the Advocate prepared two different leaflets: “Say No to Discrimination of the Elderly” and “Say No to Discrimination of Young People”.

Festival of the Third Age

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



At the Festival of the Third Age, the Advocate's team presented the Advocate's work and competences in the field of protection against discrimination against the elderly to the visitors.



Children's bazaar

Through play and brooch making, the expert associates of the Advocate raised awareness among children about the right to equal treatment and equal opportunities, and at the same time informed their parents about the same subject through conversation. The focus was on informing participants about the possibilities of protection against discrimination based on the personal grounds of pregnancy and parenting. Parenting, pregnancy and caring for family members are personal grounds that often give rise to discriminatory treatment. The visitors were provided with promotional materials of the Advocate, a leaflet presenting the equality body, the complaint form, special reports and the Advocate's Annual Report.



At the children's bazaar, children learned about the right to equal treatment and equal opportunities through play, while their parents learned about the same subject talking to the Advocate's advisors.

13.6 Notification

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



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



The Advocate received 43 journalistic questions relating to current social issues, alleged cases of discrimination, and matters addressed by the equality body.



As many as 65 press releases were prepared by the Advocate, presenting the cases of discrimination under consideration, assessments of the discriminativeness of regulations, recommendations, conducted research, special reports and other current issues within the scope of work of the equality body.



On the website www.zagovornik.si, 78 news and updates on the work of the Advocate were published. On the official website, the Advocate publishes news on closed cases of advisory assistance to parties, anonymised examples of procedures for discrimination investigation and assessing the discriminativeness of regulations, recommendations, research and other conclusions.



14 THE ADVOCATE'S COOPERATION WITH CIVIL SOCIETY

14.1 Challenges of discrimination from the perspective of civil society organisations

NGOs, social partners, and other civil society organisations represent one form of citizen participation in the governance of public affairs. Many of them implement programmes and projects in the public interest in key areas of equality, equal opportunities and protection against discrimination. Civil society organisations perceive problems and needs in the country and in society at the individual and systemic level and act as an important link between individuals and the public structures. They also make an important contribution to effective awareness raising and tackling issues of equal treatment, protection of human rights and fundamental freedoms through advocacy and direct assistance to discriminated persons.

For the Advocate, civil society organisations are important strategic partners in monitoring the situation of protection against discrimination in the country (**Article 21 of PADA**) as well as in formulating solutions and proposals for the implementation of measures.

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

In 2022, the Advocate maintained cooperation with at least 90 civil society organisations.
The forms of cooperation were as follows:

- Queries by the Advocate as part of the preparation of surveys, analyses and special reports (queries with 57 NGOs);
- Answers of the Advocate to the queries made by civil society organizations (eight queries by five NGOs);
- A meeting with civil society organisations;
- Information, awareness-raising and education activities (participation in 14 events and organisation of four large-scale awareness-raising events);
- Letters of support for projects of civil society organisations (supporting six projects).



15 THE ADVOCATE'S COOPERATION AT THE STATE LEVEL

15.1 The role and importance of cooperation

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

These activities are principally related to:

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

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



15.2 President of the Republic of Slovenia



Photo: Nebojša Tejić, STA

The Advocate of the Principle of Equality, Miha Lobnik, presented the work and products of the Advocate among the first to the President of the Republic, Borut Pahor. At the meeting, the President expressed the wish that the Advocate's work would continue to be successful and professional in the future.

On 30 May 2022, the Head of the equality body, Miha Lobnik, submitted the Annual Report to the President of the Republic, Borut Pahor, and presented the work of the Advocate in 2021. He informed the President about the most pressing challenges in ensuring equal treatment and equal opportunities.

At the same time, he thanked him for his participation in the 5th Regional Conference of equality bodies from South-East Europe, which took place in Slovenia in October 2021 and also contributed to the international recognition of the Advocate's institution.

President Borut Pahor pointed out that the Advocate of the Principle of Equality has become an institution that significantly contributes to the society of equal opportunities. Through diverse work, including in the field of research and awareness raising, the Advocate has become a well-known body with a good reputation and respect in the public. The President thanked the Advocate and all his colleagues for their excellent work and wished them the same success and professionalism in the future.

15.3 National Assembly of the Republic of Slovenia

Photo: Matjaž Sušnik, Državni zbor



At the presentation of the Advocate's Annual Report, the President of the National Assembly mag. Urška Klakočar Zupančič announced that she would advocate for the eradication of discrimination in Slovenia.

On 27 May 2022, the Advocate of the Principle of Equality, Miha Lobnik, handed over to the President of the National Assembly, mag. Urška Klakočar Zupančič the Advocate's Annual Report for 2021. He presented to her the development and operation of the equality body and certain cases where systemic solutions need to be adopted to ensure equal treatment. Urška Klakočar Zupančič announced that she will advocate for the eradication of discrimination in Slovenia.

On 6 July 2022, the Advocate for the Principle of Equality, Miha Lobnik, presented the Annual Report to the Members of the Committee on Labour, Family, Social Affairs and Disability. The members of Parliament who participated in the debate stressed the importance of raising awareness on discrimination.

At the same meeting of the Committee on Labour, Family, Social Affairs and Disability, the Advocate also presented two special reports prepared by the equality body in the framework of monitoring the situation in the field of discrimination and awareness raising. These are the Special Report on the Situation of the Deaf in the Education System and the Special Report on the Situation of Intersex People in Medical Procedures of Gender Identity Confirmation and Legal Recognition of Gender in Slovenia.

On 8 December 2022, the Advocate presented to the members of the Committee on Labour, Family, Social Affairs and Disability the Special Report Accessibility of Secondary Schools for Persons with Reduced Mobility. Members of the Parliament welcomed the report and called for a swift implementation of the commitments related to the accessibility of public facilities under the Equalisation of Opportunities for Persons with Disabilities Act.



15.4 National Council of the Republic of Slovenia

On 2 June 2022, Miha Lobnik presented the Annual Report for 2022 to the members of the National Council at the Commission for Social Welfare, Labour, Health and the Disabled, and then in a plenary session of the National Council on 8 June 2022. The members of the National Council commended the work of the Advocate and assessed that the Report and its presentation evidence significant progress in the work of this state authority.

The fact that in 2021 the Advocate provided assistance and support to 415 people, which is 151 more than in 2020, was highlighted as a good indicator that the equality body is becoming increasingly recognized and trusted in the Slovenian space.



The Advocate of the Principle of Equality, Miha Lobnik, presented the work of the equality body to the National Council in the past year. Members of the National Council noted that the Annual Report reflects the progress in the work of the equality body.

15.5 Government of the Republic of Slovenia

On 22 August 2022, the Head of the Advocate for the Principle of Equality, Miha Lobnik, met with the Prime Minister, dr. Robert Golob and submitted to him the Annual Report for 2021. He presented to him the development and work of the equality body and introduced some possibilities for improvement in the field of anti-discrimination at the systemic level.

According to dr. Robert Golob, the Advocate of the Principle of Equality is an institution which contributes importantly to the society of equal opportunities. Moreover, the Prime Minister expressed his support for solutions eliminating years of discriminatory practices that contribute to reducing inequalities in Slovenia.

Photo: Nebojša Tejić, STA



At the presentation of the Advocate's Annual Report, the Prime Minister dr. Robert Golob pointed out that the Advocate of the Principle of Equality is an institution that significantly contributes to the society of equal opportunities.

In 2022, in the framework of meetings with Government representatives, the Head of the Advocate Miha Lobnik met with:

- Minister of the Interior Tatjana Bobnar;
- Minister of Justice dr. Dominika Švarc Pipan;
- Minister of Public Administration Sanja Ajanović Hovnik;
- Minister of Education dr. Igor Papič;
- Minister of Health dr. Danijel Bešić Loredan;
- State Secretary of the Ministry of Labour, Family, Social Affairs and Equal Opportunities, Simon Maljevac.

A more detailed description of the meetings and the line common themes is presented in Part Three of the Annual Report for 2022 available on <https://zagovornik.si/en/what-we-do/annual-reports/>.



16 INTERNATIONAL COOPERATION

16.1 Legal basis and importance of international cooperation

International cooperation of the Advocate of the Principle of Equality (Advocate) is partly stipulated by the Protection against Discrimination Act (PADA), which in the **ninth indent of Article 21** assigns the Advocate the task of ensuring the exchange of available information on discrimination with bodies of the European Union (EU). Yet, the Advocate's activities at the international level are significantly more extensive and include:

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

The Advocate's international activities also include bilateral projects, e.g. meetings with diplomatic representations of other countries in the Republic of Slovenia and equality bodies from other countries. The importance of the international operation of equality bodies and the responsibility of EU Member States to enable such cooperation is also stressed in the European Commission's (EC) Recommendation on standards for equality bodies.⁶⁴

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

In 2022, the Advocate carried out 127 international activities, participating in professional consultations, conferences and other live or online events and implementation of written forms of information exchange. This includes:

- 11 meetings within the European Network of Equality Bodies – Equinet working groups;
- 29 other events organised or co-organised by Equinet;
- 13 events within the EU or under its auspices;
- four events within the Council of Europe;
- 19 other international expert events and meetings;
- 51 mutual exchanges of information with a view to monitoring the area of protection against discrimination and the functioning of equality bodies.

⁶⁴ Commission Recommendation (EU) 2018/951 of 22 June 2018 on standards for equality bodies, point 1.3 (3).



16.2 European Network of Equality Bodies – Equinet

The European Network of Equality Bodies – Equinet brings together 47 national equality bodies from 37 European countries. The key purpose of the network is to ensure a continuous exchange of information between Equinet members with a focus on peer learning based on good practices and challenges that equality bodies face in fulfilling their tasks.

Equinet working groups (WG) are regular meetings of expert staff from national equality bodies addressing issues related to the development of protection against discrimination, identified gaps and specific needs for further work; and exchange information on examples of good practice. In 2022, the Advocate attended ten meetings of the following working groups:

Policy Formation Working Group

1. Meeting, which focused on the involvement of equality bodies in the implementation and monitoring of programmes financed by the European Structural and Investment Fund, 29 April 2022.
2. Meeting where the debate concerned in particular the concept of reasonable accommodation when not related exclusively to the circumstance of disability, 14 October 2022.

Equality Law Practice Working Group

1. Meeting, where the members presented themes considered as important and deserving more attention in 2023: online hate speech, protection of whistle blowers and harassment faced by persons with disabilities, 28 April 2022.
2. Meeting, where the use of various data to demonstrate discrimination in administrative or judicial proceedings was presented with an emphasis on identifying good practices, challenges in this field and improving knowledge of the relevant EU CJ and ECtHR case law, 26–28 October 2022

Communication Strategies and Practices Working Group

1. Meeting on the activities of national equality bodies in the first six month of the year and planned activities by the end of 2022. The debate covered the issue of dealing with the Ukrainian people fleeing the war zone and other applicants for international protection in individual countries, 1 July 2022.
2. Meeting on a new European Commission initiative on standards for equality bodies, 3 December 2022.

Research and Data Collection Working Group

1. Meeting on the work plan for the preparation of a manual for data collection, 11 March 2022.
2. Two meetings aimed at information exchange on good practices in the field of equality data collection and presentation of innovations related to the regulation of this field at the EU level, 30 May and 26 October 2022.

Equinet's Standards for Equality Bodies Project

1. The meeting at which the participants discussed the European Commission's proposal for the adoption of two new directives that would further set out the tasks of equality bodies, standards for maintaining their independence and conditions for effective work, 15 December 2022.

Seminars and other activities within the scope of Equinet

In 2022, the Advocate also attended 29 other events within the framework of Equinet.

1. Training on artificial intelligence in connection with human rights and discrimination, 17 and 18 February 2022;
2. Meeting on the potential of equality bodies for cooperation in the work of the United Nations in the field of ageing, 25 February 2022;
3. Workshop on the fight against anti-Semitism, 10 March 2022;
4. Meeting of the Working Group on Data Collection, 11 March 2022;
5. Equinet Working Group meeting in the field of economic and social rights, 16 March 2022;
6. Meeting with Equinet members addressing the war in Ukraine, 29 March 2022;
7. Panel discussion on the extension of the list of personal grounds in the post COVID-19 period, 30 March 2022;
8. Meeting of the Equinet Working Group on the Legal Status of Same-Sex Families in Cross-Border Situations, 6 April 2022;
9. Workshop on cases with no identified discriminated person, 26 April 2022;
10. European Diversity Month event, 29 April 2022;
11. Seminar on specific measures to prevent systemic discrimination, 10 May 2022;
12. Conference on the role of equality bodies in supporting equality planning by public authorities and private actors, 19 May 2022;
13. Online seminar on the role of equality bodies before national and European courts, 2 June 2022;
14. Conference on the role of equality bodies in combating gender discrimination, 3 June 2022;
15. Seminar on human rights and equality in the age of artificial intelligence, 7 June 2022;
16. Discussion on dealing with alleged discrimination and hate speech against Russians and possible socio-political consequences, 17 June 2022;
17. Training on equality, equal opportunities and equal treatment research relating to hard-to-reach groups of people, 20-21 June 2022;



18. Disability Working Group meeting, 13 September 2022;
19. Workshop on combating discrimination and intolerance against Muslims, 15–16 September 2022;
20. XII Meeting of the Platform of European Institutions on Social and Economic Rights, 20 September 2022;
21. Workshop on understanding EU funds, 21 September 2022;
22. Equinet Economic and Social Rights Group meeting, 10 October 2022;
23. Panel discussion on the role of equality bodies in the implementation of the European Pillar of Social Rights Action Plan, 11 October 2022;
24. Workshop on combating racism and discrimination against persons of African descent, 21–22 November 2022;
25. Salary Transparency Seminar, 29–30 November 2022;
26. Training on discrimination and artificial intelligence, 1–2 December 2022;
27. Second annual meeting of the Equinet Group in the field of age, 5 December 2022;
28. Online seminar on strengthening the capacity of equality bodies in the area of psychosocial disabilities and mental health, 6, 8 and 12 December 2022;
29. Meeting on future standards for equality bodies functioning, 15 December 2022.

16.3 European Commission

The European Commission (EC) is responsible for the drafting of legislative proposals and policies of the EU and correct and full implementation of the acquis. Within the EC, the area of fight against discrimination falls within the competence of the Directorate-General for Justice and Consumers. The current Commission, with the mandate for 2019–2024, has a special independent portfolio, which is managed by the European Commissioner for Equality Helena Dalli and the EC's Special Task Force on Equality.

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

The High Level Group on Non-Discrimination, Equality and Diversity (HLG) is an informal permanent expert group. In line with its mandate, the HLG is primarily intended for cooperation between representatives of national governments and policy-making bodies; the representatives of equality bodies participate in as secondary members.

Within this group, the representatives of the Advocate attended four events, namely:

1. Workshop aimed at discussing the standards of equality bodies and the future regulation of their competences in the form of minimum standards at European Union level based on a new directive (1 March 2022).
2. Workshop with the purpose to gain insight into the tools used by equality bodies to achieve goals, including participation in litigation, mediation, research/investigation and decision-making (11 March 2022).
3. Training in the field of racism prevention (21 March 2022).
4. Presentation of preliminary results of the research carried out for the purpose of drafting a proposal on binding standards for equality bodies (4 April 2022).

The Advocate has been a member of the HLG Subgroup on Equality Data since 2019. Within the subgroup, the representative of the Advocate attended a meeting on 9 June 2022 with the purpose of coordinating the text of the Instructions for the collection and use of LGBTIQ equality data prepared by this working subgroup.

Since 2021, the Advocate has also been a member of the LGBTIQ Equality Subgroup within the HLG. Within this subgroup, the representative of the Advocate attended two meetings. At the meeting on 3 February 2022 guidelines were presented for the development of national action plans to improve the situation of LGBTIQ persons, umbrella European LGBTIQ NGOs (TGEU, OII Europe, IGLYO, ILGA Europe), and the responses of LGBT NGOs to members and members of the subgroup. At the second meeting on 10 March 2022, the participants endorsed the draft guidelines for strategies and action plans to strengthen the protection of LGBTIQ rights and became acquainted with the conceptual draft of a new project to strengthen fact-based storytelling as a tool for preventing discrimination.



16.3.2 Other events organised by the European Commission

The Advocate attended five other events organised or co-organised by the EC in 2022:

1. Online conference “Digital Transformation for Diversity”, 4 February 2022;
2. Participatory Conference on the European Commission’s Legislative Initiative on Binding Standards for Equality Bodies, 4 April 2022;
3. Fifth meeting of national equality bodies on the freedom of movement of workers, 28 April 2022;
4. European Commission expert conference on combating racism and intolerance in cooperation with Equinet, 26 September 2022;
5. European Equality Law Network Seminar, 1 and 2 December 2022.

16.4 Agency for Fundamental Rights

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

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

Within the framework of the FRA, a representative of the Advocate participated in an international conference “Research methods for measuring human rights in Europe”, held on 1 and 2 June 2022.



16.5 Council of Europe

Within the Council of Europe (CoE), four bodies are important in terms of protection against discrimination:

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

The **European Court of Human Rights (ECtHR)** plays a particularly important role in the CoE system, ensuring that the rights and freedoms enshrined in the European Convention of Human Rights (ECHR) are respected by the CoE Member States. The ECHR case law is of great importance for the work of the Advocate as, among other things, it sets binding standards of legal protection against discrimination.

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

1. Annual training for national human rights institutions and equality bodies organised by the European Social Charter Section within the Council of Europe, 2 February 2022;
2. Online conference on the participation of children and youth in Europe and presentation of the results of the CP4Europe partner countries project, 23–25 May 2022;
3. Expert conference with equality bodies on intersectional discrimination, 26 September 2022;
4. Follow-up meeting on the implementation of the Framework Convention for the Protection of National Minorities in Slovenia on the basis of the assessment and recommendations of the 5th Advisory Committee Opinion on the Framework Convention for the Protection of National Minorities in Slovenia, 28–29 November 2022.

16.6 United Nations

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

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

In 2022, the Advocate did not attend events organised by the UN institutions and bodies.



16.7 Other international events

In 2022, representatives of the Advocate attended and actively participated in 19 other international events, which took place outside the scope of the aforementioned organisations. These events were as follows:

1. Closing international online conference **Project TRANSFORM: Raising standards of healthcare service provision for LGBTIQ people (2019–2022)**, 19 January 2022, organised by the Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics Unit (SOGIGESC);
2. Online training **Migration and Gender Equality**, 24 February 2022, organized by the International Organization for Migration;
3. Online training **COVID-19 and Global Inequalities** organized by the University of California, Berkeley;
4. **Islamophobia Endemic in Europe** webinar, 15 March 2022, organised by the European Network on Religion and Belief (ENORB);
5. Online event **Launching a global network of AI excellence centres in sustainable development**, 4 May 2022, organised by the International Research Centre on Artificial Intelligence under the auspices of UNESCO (IRCAI);
6. **Conference against Transphobia 2022**, 13 and 14 May 2022, organized by the Transgender Network Netherlands and the Dutch Ministry of Education, Culture and Science;
7. Online conference **Setting the Framework for Digital Equality**, 17 May 2022, organized by the University of California, Berkeley;
8. Conference **(Un)Safe to be Me? Exploring the Rights and Lived Experiences of LGBTI people in the UK**, 9 June 2022, organised by the University of Bristol and Sussex, United Kingdom;
9. **Comparative Equality Law in a Post-Pandemic World**, June 22–24, 2022, organized by the University of California, Berkeley;
10. Online event **Launch of IRCAI 2022 Call for TOP 100 international list of AI solutions in SDGs and new UNESCO Global SDG Innovation Framework for AI innovation in pursuing SDGs**, 5 July 2022, organized by the Slovenian National Commission for UNESCO;
11. **European Conference on Politics and Gender**, 6–8 July 2022, organised by the European Consortium for Political Research, the Gender and Policy Group (ECPR) and the University of Ljubljana;

12. **Sixth Regional Conference of South-East Europe Equality Bodies**, 5–7 September 2022, organised by the Commission for Prevention and Protection against Discrimination, North Macedonia;
13. **International Human Rights Conference**, 13–14 September, organised by Civil Rights Defenders, Serbia;
14. Online event **European Islamophobia Report 2021 – the latest findings**, 21 September 2022, organized by the European Faith and Belief Network (ENORB);
15. Online **Gender Equality Forum 2022**, 24–25 October 2022, organized by the European Institute for Gender Equality (EIGE);
16. **#EurofoundLIVE webinar: Building a Stronger Europe – Making the European Care Strategy Work**, 27 October 2022, organised by Eurofound;
17. Event **Presentation of the PRESS Project – Promoting Roma Equality in Slovenia and Slovakia**, 10 November 2022, organized by the EPEKA Association;
18. Consultative **Meeting with the EESC Group on Fundamental Rights and the rule of law**, 18 November 2022, organised by the European Economic and Social Committee;
19. **Online Hate Speech: Legal and Policy Developments Conference**, 24–25 November 2022, organised by the Academy of European Law (ERA).



16.8 International exchange of information on discrimination

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

In 2022, the Advocate carried out altogether 51 mutual information exchanges in the field of discrimination, of which:

- 50 were replies to requests for information on the manner in which certain areas are regulated in Slovenia, of which:
 - 17 were prepared in the framework of the Equinet Working Group on Equality Law;
 - 33 were prepared within international exchanges of information or questionnaires and enquiries from various international organisations; and
- one was a request for information on the regulation of certain issues in other countries within the Equinet Working Group on Equality Law.

16.8.1 Requests for information received

Within Equinet and as part of other international queries and questionnaires, the Advocate contributed to as many as 50 exchanges of information in 2022. These were either shorter inquiries or more specific and comprehensive questionnaires covering several areas or issues related to discrimination. The following is an overview of information exchanges, shown by the organisations requesting the information.

Equinet

Within Equinet, the Advocate replied to one general questionnaire regarding the implementation of the 2021 work plan for and the current 2019–2022 strategy, together with an assessment of the importance of priority areas as planned by Equinet in the new strategy for the period 2023–2026.

In the framework of the Equinet Equality Law in Practice Working Group, the Advocate received 17 requests for information in 2022 submitted by equality bodies from other EU member states regarding the Slovenian regulation of particular legal issues in some specific areas. The Advocate responded to all queries.

1. The Advocate provided information on national case law relating to religious ceremonies – whether they are considered as goods or services in accordance with anti-discrimination legislation.
2. The Advocate replied to questions about the legal regulation of wardrobe labelling, with an emphasis on the regulation for non-binary persons.
3. The Advocate provided information on positions and legal regulations regarding the unequal treatment of Russian citizens in the private sector (e.g. renting of apartments)
4. The Advocate prepared information on the transposition of the Work-Live Balance Directive.
5. The Advocate provided information on appropriate accommodations for persons with sensory impairments in relation to occupational requirements at the workplace and in education.
6. The Advocate answered questions on the national regulation and case law relating to the concept of discrimination by association.
7. The Advocate shared information on the national regulation of so-called other personal grounds (not protected under EU directives) and the proportion of complaints based on such personal ground in relation to all received complaints.
8. The Advocate reported on compensations, sanctions and remedies in cases of discrimination.
9. The Advocate sent data on the use of facial recognition technology, other biometric technology or artificial intelligence by the police or in criminal proceedings and on possible discriminatory effects on minorities.
10. The Advocate answered questions on trade union membership as a personal ground and the related benefits in national labour law.
11. The Advocate provided information on the personal ground of age (elderly persons) and the regulation of cash payment of pensions at the home address and contracts on life support and handover agreements.
12. The Advocate prepared answers to questions on discrimination in education with an emphasis on discrimination on grounds of language and the right to learn the mother tongue.
13. The Advocate provided information on the powers of equality bodies to access the judicial information system (database of court decisions).
14. The Advocate prepared answers on the investigative powers of equality bodies and on the use of evidence obtained in proceedings before the courts and on national case law.
15. The Advocate sent information on the regulation of mediation or settlement in proceedings before the Advocate.
16. The Advocate provided information on lawyers and the wearing of religious symbols in the legal profession, including during representation before the courts.
17. The Advocate reported illiteracy as a possible protected personal ground in accordance with anti-discrimination legislation.

Within the Equinet Working Group for Research and Data Collection, the Advocate replied to two queries or questionnaires, namely on the preparation of a collection of good practices in the use of equality data by equality bodies as evidence in discrimination cases and regarding the preparation of a training on investigation of the situation of hard-to-reach groups of people. The Advocate also contributed information on a research project implemented for the purpose of a test entry into the online library of equality bodies' research projects.



Within the Equinet Working Group on Rainbow Families on the Move the Advocate replied to one questionnaire regarding the substantive and organizational preparation of the first meeting of the cluster members.

Within the Equinet Equality Mainstreaming Working Group, the Advocate replied to one questionnaire on best practices of national equality bodies in promoting the integration of the principle of equality in the functioning of public institutions and private organisations.

In the context of an information exchange within the Equinet Disability Working Group, the Advocate responded to two queries by other equality bodies related to the issue of experience in regulating the accessibility of services for people with disabilities, namely regarding harmonization with EU law and the danger of lowering the existing national level of protection and harmonization with Directive 2020/1828, which regulates collective protection of consumers' interests.

Within the framework of Equinet, the Advocate also responded to one query by the Latvian equality body, namely on linguistic segregation in education in Slovenia.

European Commission

In 2022, the Advocate prepared nine contributions in the framework of the European Commission Consultations.

1. The Advocate replied to the questionnaire and prepared answers for an in-depth interview for the preparation of the Study to support the preparation of the retrospective and prospective analytical document, in view of a legislative proposal on binding standards for equality bodies (two contributions).
2. The Advocate prepared a contribution to the consultation on the role of equality bodies in promoting equality and combating discrimination, which represented a public consultation on the need to regulate binding standards for equality bodies.
3. The Advocate reviewed the legal gaps as regards protection against racial discrimination as defined in Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.
4. With the contributions, the Advocate participated in the preparation of the Rule of Law Annual Reports of the European Commission for 2022 and 2023 (two contributions).
5. The Advocate participated in the review of the functioning of the bodies promoting the principle of equality for migrant workers in the EU.
6. The Advocate prepared an overview of the equality body's practices relating to the Charter of Fundamental Rights of the European Union (the Charter). That information will be included in the European Commission's report on the role of civil society and human rights defenders in the application of the Charter.
7. The Advocate reported on the use of the concept of reasonable accommodation of jobs and shared information on analyses, surveys, collected data or reports related to these issues. The data was sent to the national disability expert at the European Equality Law Network.

Agency for Fundamental Rights (FRA)

In 2022, the Advocate prepared responses to seven queries within the framework of the EU Agency for Fundamental Rights.

1. The Advocate prepared two contributions, which included: statistical information on discrimination investigation on the basis of personal grounds and on specific issues related to the situation of the Roma, on the practice of applying the Charter, on the preparation of possible strategies and plans in the field of proactive work, raising awareness and collecting good practices for the purposes of the FRA Annual Report.
2. The Advocate reported on the equality body's involvement in the development of a national strategy to combat anti-Semitism.
3. The Advocate provided information and data for the purpose of the project "Anti-racism in police work in the EU: challenges and promising practices".
4. The Advocate reported on the developments in connection with the implementation of the Convention on the Rights of Persons with Disabilities and examined the facts in the part of the text relating to Slovenia.
5. The Advocate answered the questionnaire regarding the preparation and financing of educational and awareness-raising materials related to the Charter.
6. The Advocate sent data for the thematic bulletin on the consequences of the war in Ukraine for fundamental rights in the EU and examined the facts in the part of the text related to the area of the Advocate's competence.

Other international organisations

In nine cases, the Advocate provided information to other international organisations.

1. Within the framework of the European Institute for Gender Equality (EIGE), the Advocate prepared additional clarifications to the previously provided responses for the research of the European Institute for Gender Equality on institutional mechanisms for gender equality and gender mainstreaming, which related to the understanding of cross-sectional (intersectional) discrimination in legal and social terms.
2. At the meeting with the delegation of the Group on Fundamental Rights and Rule of Law of the European Economic and Social Committee, the Advocate orally presented information on ensuring equal treatment and answered some specific questions, relating e.g. to encouraging discrimination and the situation of particularly vulnerable social groups in Slovenia.
3. The Advocate gave a response to the 2002 Report of Slovenia on the progress of the implementation of the Madrid International Plan for Action on Ageing (MIPAA) and its regional implementation strategy (MIPAA RIS) for the period 2017–2022.



4. The Advocate prepared a contribution in the framework of the Report of Slovenia to the International Labour Organization on compliance with its labour standards for 2022, in two large sets. The documents referred to the implementation of the Convention concerning Discrimination in Respect of Employment and Occupation (No. 111), the Workers with Family Responsibilities Convention (No. 156), of the Convention on Maternity Protection (No. 183) and recommendations for the implementation of these conventions. The Advocate also prepared information for reporting under the Right to Organise and Collective Bargaining Convention (No. 98), Convention concerning Equal Remuneration (No. 100), the Migrant Workers Convention (additional provisions, No. 143). In addition to responding to specific questions about the Advocate's work and statistical data that are kept after cases are closed, the Advocate illustratively highlighted the key cases of advisory, discrimination investigation, assessments of the discriminativeness of regulations, and requests for constitutional review. Moreover, the Advocate's key recommendations were presented.
5. The Advocate answered questions of the Council of Europe on the impact of artificial intelligence on equality.
6. The Advocate reported for the purposes of responding to the 5th and preparing the 6th report on the implementation of the Framework Convention for the Protection of National Minorities, namely on the activities carried out by the Advocate with regard to the right to protection against discrimination of minority ethnic communities.
7. The Advocate prepared a contribution to the 22nd Report of the Republic of Slovenia on the implementation of the amended European Social Charter, which is related to the reporting on the protection of children, families and migrants and refers to the reporting period from 1 January 2018 to 30 December 2021.
8. The Advocate answered the questions of the Organisation for Economic Cooperation and Development regarding the Advocate's research activities on the perceived phenomena of racism in the workplace.
9. The Advocate sent to the Election Control Commission of the Organization for Security and Co-operation in Europe the course of development of the legal regulation of the deprivation of the right to vote to people with intellectual and psychosocial disabilities in Slovenia.

16.8.2 Requests for information sent

In 2022, the Advocate prepared one query which was sent to the Equinet Working Group on Equality Law in Practice. It referred to the personal ground of religion, namely the admissibility of prayer in the workplace and the existence of any case-law. The Advocate received three replies from the Austrian, Belgian and Czech equality bodies. The Belgian equality body presented an example of a general ban on the practice of prayer in the workplace, the Austrian equality body reported that no such cases were encountered so far, and the Czech equality body presented a comparable case in which no discrimination was identified.

ACRONYMS AND ABBREVIATIONS

ADA	Administrative Dispute Act
ADEMMCIHECP	Act Determining Emergency Measures to Mitigate the Consequences of the Impact of High Energy Commodity Prices
ADIMAMCSWCE	Act Determining Intervention Measures to Assist in Mitigating the Consequences of the Second Wave of COVID-19 Epidemic
Administrative Court	Administrative Court of the Republic of Slovenia
ADTMRCHLC	Act Determining Temporary Measures to Remedy the Consequences of Higher Living Costs of the Most Vulnerable Population Groups
Advocate	Advocate of the Principle of Equality
AEMFVATMRPEP	Act on the Emergency Measure in the Field of Value Added Tax to Mitigate the Rising Prices of Energy Products
ASA	Assistance and service allowance
CC	Criminal Code
CDA	Communicable Diseases Act.
Charter	Charter of Fundamental Rights of the European Union
CoE	Council of Europe
Constitution	Constitution of the Republic of Slovenia
Constitutional Court	Constitutional Court of the Republic of Slovenia
covid-19/SARS-CoV-2	coronavirus disease
CRPD	Convention on the Rights of Persons with Disabilities
DA	Defence Act
DCP	vaccination/test/recovery
DHHCAS	Deaf and Hard of Hearing Clubs Association of Slovenia
EC	European Commission
ECHR	European Convention on Human Rights
ECRI	Council of Europe's Commission against Racism and Intolerance
ENNHR	European Network of National Human Rights Institutions
EOWMA	Equal Opportunities for Women and Men Act
EQUINET	European Network of Equality Bodies
ERA	Employment Relations Act
EU	European Union
FARS	Financial Administration of the Republic of Slovenia

FRA	European Union Agency for Fundamental Rights
GAPA	General Administrative Procedure Act
GODECP	Government Office for Development and European Cohesion Policy
GODT	Government Office for Digital Transformation
GONM	Government Office for Nationalities
GOSIM	Government Office for the Support and Integration of Migrants
HEA	Higher Education Act
ICHR	Interdepartmental Commission on Human Rights
IPA	International Protection Act
IPCA	Integrity and Prevention of Corruption Act
IPETA	Implementation of the Principle of Equal Treatment Act
KA	Kindergarten Act
LGBTIQ+	Lesbian, gay, bisexual, transgender, intersex, queer and other diverse identities
LMRA	Labour Market Regulation Act
MAFF	Ministry of Agriculture, Forestry and Food
MC	Ministry of Culture
MD	Ministry of Defence
MEDT	Ministry of Economic Development and Technology
MESP	Ministry of the Environment and Spatial Planning
MESS	Ministry of Education, Science and Sport
MF	Ministry of Finance
MFA	Ministry of Foreign Affairs
MH	Ministry of Health
MI	Ministry of the Interior
MLFSAEO	Ministry of Labour, Family, Social Affairs and Equal Opportunities
MOA	Minor Offences Act
Mol	Ministry of Infrastructure
MoJ	Ministry of Justice
MPA	Ministry of Public Administration



MSA	Music Schools Act
NAEA	National Assembly Election Act
National Assembly	National Assembly of the Republic of Slovenia
NCDPOS	National Council of Disabled People's Organisations of Slovenia
NGOs	Non-governmental organisations
NHRI	National Human Rights Institution
NIPH	National Institute of Public Health
NPMR	National Programme of Measures for the Roma
OHCHR	Office of the United Nations High Representative for Human Rights
OSA	Office for Slovenians Abroad
OSCE	Organisation for Security and Cooperation in Europe
PA	personal assistance
PADA	Protection against Discrimination Act
PDIA	Pension and Disability Insurance Act
PDIA	Promotion of Digital Inclusion Act
PITA	Personal Income Tax Act
PPOA	Protection of Public Order Act
RCRSA	Roma Community in the Republic of Slovenia Act
RS	Republic of Slovenia
RTA	Road Transport Act
SIDA	Social Inclusion of Disabled Persons Act
SSL	Slovenian sign language
SSP	Supreme State Prosecutor's Office
The Government	Government of the Republic of Slovenia
UL	University of Ljubljana
UN	United Nations
VREPDA	Vocational Rehabilitation and Employment of Persons with Disabilities Act

Annual Report of the Advocate of the Principle of Equality for 2022
Systemic Overview – Part One

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PART ONE: SYSTEMIC OVERVIEW

PART TWO: OVERVIEW BY PERSONAL GROUNDS

PART THREE: OVERVIEW BY MINISTRIES AND OTHER INSTITUTIONS

The Advocate of the Principle of Equality is an independent state authority established to ensure the protection against discrimination, promotion of equality, equal treatment and equal opportunities. It was established in 2016 on the basis of a newly adopted Protection Against Discrimination Act with which **Slovenia** transposed and implemented the five European Equality Directives. The institution is a member of the European Network of Equality Bodies – Equinet.

