



REPUBLIC OF SLOVENIA

ADVOCATE OF THE PRINCIPLE OF EQUALITY

Železna cesta 16, 1000 Ljubljana
+386 1 4735 531
info@zagovornik-rs.si

Government of the Republic of Slovenia

Gregorčičeva 20, 25
1000 Ljubljana

E: gp.gs@gov.si

Number: 0070-11/2023/1
Date: 15 June 2023

Subject: The Advocate of the Principle of Equality's Recommendation to the Government of the Republic of Slovenia on the implementation of the recommendations of the Committee on the Rights of Persons with Disabilities concerning the Convention on the Rights of Persons of Disabilities

Dear Sir or Madam:

Pursuant to Article 21 of the Protection against Discrimination Act (ZVarD), the Advocate of the Principle of Equality (the Advocate) issues a recommendation to the Government of the Republic of Slovenia.

The Advocate recommends to the Government of the Republic of Slovenia that it cooperate with other state bodies and implement all recommendations to the Republic of Slovenia issued by the Committee on the Rights of Persons with Disabilities (CRPD Committee) in its report 2018 titled "Concluding Observations on the Initial Report of Slovenia", as it pertains to the implementation of the Convention on the Rights of Persons with Disabilities (CRPD).

This will ensure full and equal enjoyment of all rights and freedoms of persons with disabilities, as stipulated in the CRPD.

The Advocate requests that the Government of the Republic of Slovenia respond within 60 days of receipt of this recommendation.

Sincerely,

Miha Lobnik
ADVOCATE OF THE PRINCIPLE OF EQUALITY

Appendices:

- Reasoning prepared by the Advocate's Expert Department No. 0070-11/2023/1
- The Advocate's translation of the Concluding Observations of the UN Committee on the Rights of Persons with Disabilities on Slovenia's initial report on the implementation of the CRPD (published in the Advocate of the Principle of Equality's Regular Annual Report 2018, p. 216); also available at: <https://zagovornik.si/wp-content/uploads/2022/12/Prevod-Sklepnih-ugotovitev-Odbora-OZN-za-pravice-oseb-z-invalidnostmi-glede-uvodnega-porocila-Slovenije-o-izvajanju-MKPI.pdf>

Sent to:

- the addressee (via e-mail),
- documentary archives.

Courtesy copies:

- Office of the President of the Republic of Slovenia (gp.uprs@predsednica-slo.si)
- Cabinet of the Prime Minister of the Republic of Slovenia (gp.kpv@gov.si)
- National Assembly of the Republic of Slovenia (gp@dz-rs.si)
- National Council of the Republic of Slovenia (gp@ds-rs.si)
- Ministry of Labor, Family, Social Affairs and Equal Opportunities; gp.mddsz@gov.si
- Ministry of Foreign and European Affairs (gp.mzez@gov.si)
- Council of the Republic of Slovenia for Persons with Disabilities (svetzainvalide-rs.mddsz@gov.si)
- Human Rights Ombudsman (info@varuh-rs.si)
- Social Protection Institute of the Republic of Slovenia (irssv@siol.net)
- National Council of Disability Organizations of Slovenia (info@nsios.si)
- ALTRA – Committee for Innovations in Mental Health (info@altra.si)
- Amnesty International Slovenia (amnesty@amnesty.si)
- CNVOS - Centre of Non-Governmental Organizations of Slovenia (info@cnavos.si)
- Ozara Slovenia, National Association for Quality of Life (info@ozara.org)
- Sonček - Cerebral Palsy Association of Slovenia (zveza@soncek.org)
- SPOMINČICA - Alzheimer Slovenia - Slovenian Association for Dementia Care (info@spomincica.si)
- ŠENT - Slovenian Association for Mental Health (info@sent.si)
- UNICEF Slovenia (info@unicef.si)
- YHD - Association for the Theory and Culture of Handicap (yhd-drustvo@yhd-drustvo.si)

ELABORATION TO ACCOMPANY RECOMMENDATION NO. 0070-11/2023/1, AS PREPARED BY THE ADVOCATE'S SPECIALIST SERVICE

The Advocate recommends to the Government of the Republic of Slovenia that it cooperate with other state bodies and implement all recommendations to the Republic of Slovenia issued by the Committee on the Rights of Persons with Disabilities (CRPD Committee) in its report 2018 titled “Concluding Observations on the Initial Report of Slovenia”, as it pertains to the implementation of the Convention on the Rights of Persons with Disabilities (CRPD).

This will ensure full and equal enjoyment of all rights and freedoms of persons with disabilities, as defined in the CRPD.

The Act Ratifying the Convention on the Rights of Persons with Disabilities and Optional Protocol to the Convention on the Rights of Persons with Disabilities (“CRPD Ratification Act”) ratified the CRPD effectively in 2008, both in terms of international and domestic law. The CRPD constitutes the highest universally recognized legal standard for protection of rights of persons with disabilities. The CRPD has been ratified by the vast majority of UN Member States and has also been acceded to by the European Union. In 2014, Slovenia submitted its report to the CRPD Committee on compliance with its obligations laid out in the CRPD. In its 2018 Concluding Observations of the UN Committee on the Rights of Persons with Disabilities, which were based on Slovenia's report on the implementation of the CRPD¹, the CRPD Committee issued a number of recommendations to Slovenia to improve these efforts and to achieve all key objectives of respect, protection and effective exercise of the rights and freedoms of persons with disabilities.

Pursuant to the sixth indent of Article 21 of the Protection Against Discrimination Act (ZVarD), the Advocate of the Principle of Equality (the Advocate) monitors the situation pertaining to protection against discrimination. Disability is one of the grounds on the basis of which anti-discrimination protection is provided under the Protection Against Discrimination Act. In this context, the Advocate also monitors the situation of persons with disabilities. For this purpose, the Advocate also carries out independent research (first indent of Article 21 of the Protection Against Discrimination Act - ZVarD).

The Advocate incorporated its own translation of the Concluding Observations of the CRPD Committee in the 2018 Annual Report of the Advocate of the Principle of Equality. This is the Advocate's contribution to promote and improve understanding of the new model of understanding disability on which the CRPD is based, and of discrimination on the basis of disability, as well as of the concept of so-called inclusive equality. In its recommendations, the CRPD Committee underlined certain systemic problems and inconsistencies, including in the current legislation regulating the prohibition of discrimination in Slovenia. The Advocate informed the general public and all key decision-makers of the fact that the translation and the CRPD Committee's observations and recommendations have been published in the Advocate's annual report. Namely, the Advocate's annual report is on the agenda of both the National Assembly of the Republic of Slovenia and the Government of the Republic of Slovenia (see Section IV of the Concluding Observations).

¹ See “Committee on the Rights of Persons with Disabilities: Concluding observations on the initial report of Slovenia”, as adopted at its 386th session of 5 March 2018 (CRPD/C/SVN/CO/1). Paragraph 58 (b). The Slovenian translation is available in the “2018 Annual Report of the Advocate of the Principle of Equality”, p. 167 ff.; <http://www.zagovornik.si/wp-content/uploads/2019/05/RS-Zagovornik-načela-enakosti-Redno-letno-poročilo-za-letno-2018.pdf>

The Advocate has issued several recommendations in the past, pointing out the need for more consistent observation of the CRPD and implementation of the CRPD Committee's recommendations.

The Advocate has presented a number of the CRPD Committee's recommendations to decision-makers, either by way of direct quotes or by directing attention to the standard of protection of human rights under the CRPD.

This is one of the reasons why, five years on, the Advocate has prepared an analysis of the implementation of CRPD Committee's recommendations, based on publicly available documented information and information obtained in the exercise of his other statutory tasks and competencies. The present recommendation was prepared on this basis.

The assessment takes into account developments up to 31 May 2023. This assessment shows that progress in implementing the CRPD Committee's recommendations, while notable, has been modest. Significant systemic inconsistencies were found with almost all of the Articles of the CRPD and key points of the recommendations provided by the CRPD Committee.

The Advocate has indicated all recommendations where no progress could be discerned from publicly available sources as unimplemented.

The following are the key unimplemented obligations from specific provisions of CRPD, which refer to the individual paragraphs/points of the CRPD Committee's recommendations:

1. **the State has not undertaken a systematic review of its legislation, policies and programmes, and these remain inconsistent with the provisions of the CRPD; the legislation is not aligned with the human rights-based model of disability** (Article 4 of the CRPD - General Principles and Obligations; Recommendation of the CRPD Committee, paragraph 5, point a))
2. **there is no comprehensive national legislation in place which would impose sanctions for denial of reasonable accommodation across all areas of life as a form of discrimination on grounds of disability, and no body (contact point) has been put in place to manage, steer and coordinate all anti-discrimination policies at the government level** (Article 5 - Equality and non-discrimination; CRPD Recommendation, paragraph 7, points a), b))
3. **intersectional discrimination is not explicitly included in the legislation, policies and strategies, and multiple discrimination is only included in the legislation** (Article 5 - Equality and non-discrimination; CRPD Recommendation, paragraph 7, point c))
4. **there has been no progress in terms of the State systematically addressing systemic discrimination** (Article 5 - Equality and non-discrimination; CRPD Recommendation, paragraph 7, point d))
5. **the State is backsliding in the integration of the rights of women with disabilities in national plans and strategies, as there is no overall strategy in place for ensuring equal opportunities for women and men; there is no strategy in place for prevention and elimination of domestic and gender-based violence, with particular emphasis on the vulnerability of women and girls with disabilities; inadequacies have also been noted in the context of the inclusion and participation of women with disabilities in decision-making processes and in the context of research studies on their situation** (Article 6, paragraph 9, points a), b), d) and e))
6. **in the area of protection of the rights of children with disabilities, there is, inter alia, no strategy in place to prevent violence against children receiving respite care; there is a lack of effective coordination between the various actors in this segment** (Article 7, paragraph 11, points a) and b))
7. **the State's "Accessible Slovenia" strategy has not been fully implemented, the Equalization of Opportunities for Persons with Disabilities Act is not fully complied with and some objectives remain unmet. The State has not adopted clear standards and measures to ensure accessibility which would allow imposing sanctions for lack of accessibility across all areas, as defined by the CRPD** (Article 9 - Accessibility; CRPD Committee Recommendation, paragraph 15, point a))
8. **the State has not repealed the provisions which allow the deprivation of legal capacity and has not introduced procedures for reinstating the full legal capacity**

of persons with disabilities and has not implemented supported decision-making mechanisms

(Article 12 - Equal recognition before the law; CRPD Committee Recommendation, paragraph 19)

9. the State is not ensuring that all barriers are removed and that full access to justice is assured, including for deafblind persons and persons with psychosocial and/or intellectual disabilities

(Article 13 - Access to justice; CRPD Committee Recommendation, paragraph 21, points a), c), d) and e))

10. the State has failed to abolish legislation and practices that enable involuntary commitment and non-consensual psychiatric treatment of persons with disabilities and has failed to ensure the personal integrity and protection of persons with disabilities residing in institutions or hospitals. All reasonable adjustments are not provided in the penal execution system

(Article 14 - Liberty and security of person), CRPD Committee Recommendation, paragraph 23, points a), b) and c))

11. there is no public position of the State regarding the planned Protocol to the Oviedo Convention on minimum standards for procedures involving the ordering of compulsory psychiatric treatment and placement and its (in)compatibility with the CRPD

(Article 14 - Liberty and security of person), CRPD Committee Recommendation, paragraph 24)

12. no significant amendments have been made to the State's legislation in regards to permissibility of the use of seclusion or physical, chemical or mechanical restraints and the use of any medical treatment against one's will; no progress has been made in the area of ensuring investigations and prosecuting the perpetrators of violations, and in the area of provision of effective remedies, reparation, redress and rehabilitation

(Article 15 - Freedom from torture or cruel, inhuman or degrading treatment or punishment; CRPD Committee Recommendation, paragraph 26)

13. the State has not adopted a strategy to prevent all forms of violence against persons with disabilities, and women in particular; nor has it provided persons with disabilities with adequate early warning mechanisms to identify and report risks of violence

(Article 16 - Freedom from exploitation, violence and abuse), CRPD Committee Recommendation, paragraph 28, points a), b) and d))

14. the State has not adopted a national strategy and action plan with a timeline for de-institutionalization

(Article 19 - Living independently and being included in the community; CRPD Committee Recommendation, paragraph 32, points a) and d))

- 15. there is a lack of improvement in the State providing support to persons with disabilities to obtain quality and accessible mobility aids and assistive technologies**
(Article 20 - Personal mobility; CRPD Committee Recommendation, paragraph 34)
- 16. the State has not abolished the provisions and practices preventing persons with psychosocial and intellectual disabilities from marrying and taking on parental responsibilities, nor has it provided adequate support in the exercise of parental responsibility**
(Article 23 - Respect for home and the family; CRPD Committee Recommendation, paragraph 38, point b))
- 17. the State has not yet fully ensured accessibility of health services for persons with disabilities, either in terms of physical accessibility or in terms of communication accessibility; some persons with disabilities do not have access to the complete range of health services, for example to reproductive health services**
(Article 25 - Health; CRPD Committee Recommendation, paragraph 42)
- 18. the State continues to prevent persons with disabilities from voting, and is even extending the scale of disenfranchisement**
(Article 29 - Participation in political and public life; CRPD Committee Recommendation, paragraph 50, points a) and b))
- 19. the State has not developed systematic procedures for collecting relevant disaggregated data on persons with disabilities in order to design appropriate measures and implement the CRPD**
(Article 31 - Statistics and data collection; CRPD Committee Recommendation, paragraph 54, points a) and b))
- 20. the State has not established an effective system to coordinate the implementation of the CRPD and to ensure that the human rights of persons with disabilities are consistently observed across different areas, nor has it established an effective independent mechanism to monitor the implementation of the CRPD, nor does it incorporate all organizations representing persons with disabilities**
(Article 33 - National implementation and monitoring), CRPD Committee Recommendation, paragraph 58, points a), b) and c))

The following are the key and only partially implemented CRPD obligations, which refer to individual paragraphs/points of the CRPD Committee's recommendations:

- 21. the recommendation to ensure the accuracy of the translation of the CRPD has not been observed**
(Articles 1 through 4 of the CRPD - General Principles and Obligations; Recommendation of the CRPD Committee, paragraph 5, point b))
- 22. the State does not allow organizations of persons with mental health problems to acquire the status of organizations of persons with disabilities, and as a result they are unable to participate in the process of designing laws and measures to realize the rights of persons with disabilities**
(Articles 1 through 4 of the CRPD - General Principles and Obligations; Recommendation of the CRPD Committee, paragraph 5, point c))
- 23. there is almost no provision in the State of systematic and comprehensive training in the human rights standards within the context of the CRPD for members of parliament, members of government, judges and court personnel, health-care professionals and social workers, and other administrative and professional staff**
(Articles 1 through 4 of the CRPD - General Principles and Obligations; Recommendation of the CRPD Committee, paragraph 5, point d))
- 24. the State has made no progress in terms of the effectiveness of the country's anti-discrimination protection mechanisms, particularly when it comes to ensuring adequate remedies and the enforcement of sanctions**
(Article 5 - Equality and non-discrimination; CRPD Recommendation, paragraph 7, point c))
- 25. the amendment of the Constitution of the Republic of Slovenia to incorporate the right to use sign language and the language of the deafblind does not yet have the necessary detailed normative response from the legislator; the use of the language of the deafblind is not guaranteed; other forms of augmentative communication and supportive decision-making are not regulated**
(Article 9 - Accessibility; CRPD Committee Recommendation, paragraph 15, point e))
- 26. there is no national strategy to ensure that buildings of law enforcement agencies and the judiciary are accessible to all persons with disabilities**
(Article 13 - Access to justice; CRPD Committee Recommendation, paragraph 21, point b))
- 27. there are no guarantees to prevent any form of trans-institutionalization and re-institutionalization and there is insufficient funding provided for development of universally accessible schemes to realize the right of persons with disabilities to independent living**
(Article 19 - Living independently and being included in the community; CRPD Committee Recommendation, paragraph 32, points b) and c))

- 28. measures taken to ensure accessibility of information and communications provided by all public or private mass media services, including television and the Internet, for all persons with disabilities, are not being implemented to a satisfactory degree; augmentative and alternative forms of communication are not regulated and are not guaranteed in the public sector**
(Article 21 - Freedom of expression and opinion, and access to information; CRPD Committee Recommendation, paragraph 36, points a) and b))
- 29. all educational institutions are not yet accessible to people with disabilities, and monitoring of progress is not defined by adequate quantitative and qualitative indicators**
(Article 24 - Education; CRPD Committee Recommendation, paragraph 40, points b), c) and d))
- 30. incentives for employing people with disabilities are only available to employers seeking to employ workers with disabilities, rather than to all employers who employ people with disabilities; employment quotas in the public and IT services sectors are still the lowest compared to other sectors**
(Article 27 - Work and employment; CRPD Committee Recommendation, paragraph 46, point b))
- 31. there is very limited access to adequate housing for people with disabilities; there is a lack of services to integrate older persons with disabilities into the community so that they may remain in their home environment and do not need to be institutionalized**
(Article 28 - Adequate standard of living and social protection; CRPD Committee Recommendation, paragraph 48, points c) and f))
- 32. limited accessibility of published works and other cultural and leisure content for blind and partially sighted persons and persons with other reading disabilities, progress has been modest due to the fact that the goals have been set at a modest level**
(Article 30 - Participation in cultural life, recreation, leisure and sport; CRPD Committee Recommendation, paragraph 52)
- 33. the State party does not ensure inclusion of all organizations of persons with disabilities in international cooperation; not all aspects of the rights of person with disabilities are included in the implementation of the 2030 Agenda goals**
(Article 32 - International cooperation; CRPD Committee Recommendation, paragraph 56)

The Advocate's analysis has shown that a rating of *“Fully Implemented”* or at least *“Partially Implemented”* may only be given in respect of one – Article 11 of the CRPD (Situations of risk and humanitarian emergencies).

In all other articles of the CRPD which the CRPD Committee has brought attention to, the Advocate has assessed that at least some of the points recommended by the CRPD Committee remain unfulfilled. The Advocate assessed that only two of the 80 individual points of the recommendations had been fully implemented.

In its 2018 Observations, the CRPD Committee did not comment on the implementation of certain articles or rights under the CRPD, and therefore the following articles of the CRPD have not been included in the Advocate's analysis:

- Article 10 (Right to life),
- Article 17 (Protecting the integrity of the person),
- Article 22 (Respect for privacy).

With regard to the stipulations of the CRPD and the recommendations of the CRPD Committee which it considers *Partially Implemented*, the Advocate underlines that these recommendations require consideration and the adoption of (additional) measures to ensure their full implementation. The Advocate recommends that all of the CRPD Committee's recommendations be implemented to ensure the full and equal enjoyment of all rights and freedoms of persons with disabilities.

In assessing the (non-)implementation of the CRPD Committee's recommendations, the Advocate took into account, in particular, the content of the amendments to the legislation and, to a lesser extent, the Constitutional Court case-law and the degree of compliance with the Advocate's recommendations.

With respect to the policies for implementation of the CRPD, the Advocate's analysis took into account the annual reports on the implementation of the Action Programme for Persons with Disabilities (API)² for the years 2018 to 2021, reviewed activities of the Slovenian National Disability Council during the period ranging from the 2nd session of the 2017-2021 mandate onwards,³ individual sectoral strategies, and it also took into account the status assessments in individual areas (the Committee's assessments of individual obligations under the CRPD, status assessments found in the country's strategic documents, and the Advocate's assessments reflected in assessments of discrimination, special reports and individual recommendations). The Advocate also reviewed the Human Rights Ombudsman's annual reports and other available information on the work of the Ombudsman.⁴

It is clear from the strategic documents of the Government of the Republic of Slovenia and the Council of the Republic of Slovenia for Persons with Disabilities (the National Council for Persons with Disabilities) that implementation of the CRPD is not being monitored comprehensively. Generally, implementation of national legislation is monitored only instead. While the stipulated goal of the strategic acts is to ensure compliance with the CRPD standards, these standards are not elaborated (detailed) in these acts. As a result, the policies are not measurable, in particular, they are not measurable through appropriate substantive indicators which would be based on measuring the degree of respecting and providing individual human rights and freedoms.

Except for a few selected issues (e.g. the transformation of the Council for Persons with Disabilities into an independent body for monitoring and promoting the implementation of the CRPD under the second paragraph of Article 33 of the CRPD), specific substantive standards of the CRPD are, as a rule, not mentioned in the envisaged documents (legislative bills, strategies, action plans).

² The reports are available at <https://www.gov.si/zbirke/projekti-in-programi/akcijski-program-za-invalidne/>.

³ The minutes of the meetings are available at <https://www.gov.si/zbirke/delovna-telesa/svet-za-invalidne-republike-slovenije/>.

⁴ Available at: <https://www.varuh-rs.si/porocila-projekti/publikacije-gradiva/letna-porocila-priporocila-dz-odzivna-porocila-vlade/>.

Based on the information gathered, it can be concluded that the processes for aligning legislation, policies and practices with the CRPD standards for the protection of the rights of persons with disabilities are not organized, planned and quantifiable to a sufficient degree, nor have sufficient resources been dedicated to these processes.