



REPUBLIC OF SLOVENIA  
ADVOCATE OF THE PRINCIPLE OF EQUALITY

# The Evolution of the Advocate of the Principle of Equality, Slovenian Equality Body

Publication accompanying the annual conference of the Berkeley Center on Comparative Equality and Anti-Discrimination Law, entitled “The (R)evolution of Equality Law: Reflecting on 25 Years of Anti-Discrimination Law in Europe & Beyond”, held in Ljubljana in July 2025

Dear conference guests, dear colleagues,

on behalf of the Slovenian equality body,  
welcome to Ljubljana!

The Berkeley Center on Comparative Equality and Anti-Discrimination Law has always been a great inspiration and valuable support for us, especially as we've been developing the Slovenian equality body since 2016. We've been attending the Center's annual conferences and following its work, as it has provided us with important opportunities to understand anti-discrimination legislation in a broader, global context. The network offers us a good insight into the diversity of challenges faced by those who apply anti-discrimination legislation in everyday life.



That is one of the reasons why I am particularly pleased that this year we are co-organising the conference, together with the Faculty of Law in our home town, Ljubljana. It is no coincidence that we have joined forces on this project with the Faculty and Professor Tilen Štajnpihler Božič. The Advocate of the Principle of Equality and the Ljubljana Faculty of Law are collaborating since 2016.

At this conference, with your help, we will extend our cooperation to a larger international sphere. We will bring together different perspectives from those who apply anti-discrimination legislation in practice (other equality bodies) and those who study it on an academic or research level (network). This conference offers a space and opportunity for a large-scale international dialogue between institutions, researchers, and academics. Through such collaboration, everyone contributes to our shared goal: protecting the right to equal treatment and equal opportunities.

There is still much work ahead of us. It is essential that we equip ourselves with knowledge. Only through understanding legal context and social processes behind it we can contribute to a more fair and inclusive society. So, let's make good use of the following days and learn from each other. I wish you all a successful conference and an enjoyable stay in Slovenia.

**Miha Lobnik**

Advocate of the Principle of Equality

## About the Advocate of the Principle of Equality

### Functions and activities

- Providing support and information, advisory activities, and advocacy to the victims of discrimination
- Investigating discrimination (public and private sectors) → resulting in binding decisions
- Assessing discriminativeness of regulations → investigates contested legislation and can file requests for constitutional and legality reviews
- Issuing recommendations → makes suggestions for improvements in anti-discrimination protection
- Researching, monitoring, and awareness-raising initiatives



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The Advocate of the Principle of Equality is Slovenia's independent equality body. It contributes to the protection of human rights in Slovenia by being authorised to rule on cases of discriminatory practices occurring in both the public and private sectors—something the Human Rights Ombudsman does not have a mandate to do. The Advocate conducts proceedings to determine whether actions are discriminatory and, within the framework of strategic litigation, represents victims of discrimination in lawsuits against those who breach anti-discrimination provisions. Every year, the Advocate receives around 400 reports of discrimination. It also provides support and counselling to anyone who believes they have been discriminated against, amounting to over 2,000 hours of counselling annually. In addition, it assesses the discriminatory nature of legislation and other regulations and submits requests for constitutional review of discriminatory provisions. The Advocate prepares studies and reports on discrimination in Slovenia, provides recommendations to improve draft legislation and raises awareness of protection against discrimination among experts and the general public. It works with Slovenian non-governmental organisations and is a member of the European Network of Equality Bodies (Equinet).

The origins of the Advocate date back to 2004 when the first advocate began working within the ministry responsible for equal opportunities. At that time, this function was performed by one public official appointed by the government. This official decided in cases where people suspected discrimination, but the decisions were informal. In 2012, the then Advocate decided not to prepare any further annual report as a protest against untenable working conditions and the authorities' failure to respond to his warnings. The protest was justified—soon after, the European Commission launched proceedings against Slovenia for failing to properly transpose EU equality directives into national law.

It was precisely because of these proceedings that the Protection Against Discrimination Act was adopted in May 2016, in line with the European directives. In October 2016, Miha Lobnik was appointed the first Head of the Advocate of the Principle of Equality by a majority vote of the National Assembly.

The Advocate's early period was mostly marked by efforts to secure sufficient funding. Even today, the budget of the body still depends on the commitment and persuasiveness of its leadership to secure funding and the political will of the government in power to pursue anti-discrimination policies. This means that Slovenia still falls short of a key standard for effective equality bodies: ensuring decision-making independence, which also requires adequate resources.

Securing sufficient resources to carry out statutory duties and to guarantee institutional independence is likely to remain the most difficult challenge in transposing the new European legislation on standards for the functioning of equality bodies (adopted in May 2024) into the Slovenian national legislation. The Advocate has already implemented the substantive part of the directives and, in terms of the quality of its work, is fully comparable to much older equality bodies in other EU countries.

Another key challenge ahead will be to ensure an effective system of sanctions for violators of anti-discrimination law. Currently, the Advocate does not have the authority to impose fines. As a result, confirmed cases of discrimination are typically referred to the relevant inspectorates, which presents two problems: there are more areas where discrimination occurs than there are designated inspectorates, and enforcement by existing inspectorates is inconsistent, as they give a warning in even serious cases of discrimination, while administering fines in others, where discrimination may have been unintentional.

## Discrimination in Slovenia

Protection against discrimination in Slovenia is regulated, among other things, by the Constitution and the Protection Against Discrimination Act (PADA). The latter assigns primary responsibility in this area to the Advocate of the Principle of Equality.

Under PADA, discrimination is prohibited in all areas of social life. The legislation explicitly covers employment and work; access to and supply of goods and services available to the public, including housing; education and training; social protection; healthcare; and participation in workers' and employers' organisations.

PADA specifically prohibits discrimination on the basis of personal grounds, such as gender, nationality, race or ethnic origin, language, religion or belief, disability, age, sexual orientation, gender identity and gender expression, social status, property status, and education. However, the list of legally protected personal grounds is open-ended, as the Act also prohibits discrimination on the basis of "any other personal ground". To date, the Advocate has recognised pregnancy, parenthood, health status, citizenship, sexual characteristics, and place of residence as other such personal grounds.

The tasks of the Advocate include conducting independent research on the situation of persons with specific personal grounds, publishing independent reports and making recommendations for the prevention and elimination of discrimination. The Advocate also provides assistance to individuals who believe they have been discriminated against in asserting their rights, raises public awareness, monitors the overall state of discrimination in Slovenia, proposes specific measures, and ensures the exchange of information with European Union institutions. It also has the power to request a review of the constitutionality and legality of regulations.

The Advocate's regular public opinion surveys on the perception of discrimination show that one in five residents of Slovenia believes they have been discriminated against. Some report experiencing discrimination on multiple occasions. However, only a quarter of those who reported discrimination say they took any action. Most chose not to act because they believed it would only make things worse, that no change would result, or that the process would be complicated and time-consuming.

In surveys, people in Slovenia report that they most often experience discrimination in employment and work, and in access to social services. These findings are partly consistent with the Advocate's own data, which show that the majority of discrimination reports concern these two areas, as well as in access to goods and services. Most of the cases in which the Advocate has determined discrimination, fall within these three areas.

Research also shows that people believe discriminatory treatment in Slovenia is mostly based on race or ethnic origin, nationality, gender, sexual orientation, disability, religion, age, and social status. On the other hand, Advocate's case outcomes show that the most common grounds for discrimination are health status, pregnancy or parenthood, disability, nationality, and race or ethnic origin.

The picture of discrimination in Slovenia is continually changing, partly due to the work of the Advocate. The most significant contributions to advancing protection against discrimination come from progressive, precedent-setting cases where discrimination was confirmed, as well as from recommendations stemming from the Advocate's special reports. Some of these achievements are presented in this publication.

## **Progress in ensuring equal treatment and equal opportunities**

### **In vitro fertilisation available to all women of childbearing age**

A single woman who had been denied all forms of medical assistance in conceiving a child solely because of her marital status reported discrimination to the Advocate, citing the legislation governing this matter.

The Advocate considered that women who are single, divorced, widowed, or in same-sex relationships are effectively disadvantaged in accessing in vitro fertilisation. It found no valid justification for such exclusion that would constitute a permissible exception to the prohibition of discrimination. It therefore found that the legislation was discriminatory on the basis of marital status and sexual orientation.

Under PADA, if the Advocate deems a regulation discriminatory, it may request the Constitutional Court to review its constitutionality or legality. In this case, it did so, since Article 14 of the Slovenian Constitution guarantees human rights to everyone regardless of their personal grounds, while Article 55 guarantees everyone the freedom to decide on having children. A petition for a review of constitutionality was also submitted by a group of deputies in the National Assembly.

In autumn 2024, the Constitutional Court partially upheld the Advocate's request and ruled that the regulation on access to biomedically assisted fertilisation was unconstitutional. In June 2025, the National Assembly remedied the law.

### **Blood donation now open to all men**

Prior to July 2022, all men in Slovenia who had ever had sexual relations with another man were automatically excluded from donating blood. The exclusion of these potential blood donors was introduced to ensure the safety of

donated blood. The Advocate therefore assessed whether the measure used to achieve this legitimate aim was appropriate or whether such a restriction constituted discrimination on grounds of sex and sexual orientation regarding participation in this important humanitarian act.

The Advocate examined the case and found that it did indeed constitute unlawful discrimination. It found that the legitimate aim of ensuring that donated blood is free from infection could be achieved more appropriately by imposing a temporary ban on individuals with multiple partners or those engaging in risky sexual behaviour. As the Advocate explained, the risk of transmitting blood-borne viruses depends primarily on sexual behaviour, which is not necessarily linked to gender or sexual orientation. In reaching its decision, the Advocate also took into account that donated blood has, for many years, been tested for the presence of certain viruses.

In its decision, it also pointed out that stigmatising same-sex orientation does not, in itself, ensure greater safety in blood donation. Determining whether a potential blood donor had had sexual relations with men was based solely on self-identification in a special blood donation questionnaire completed prior to donation. The Advocate pointed out that, due to stigma and a desire to donate, a same-sex oriented candidate might provide inaccurate information.

A permanent ban on blood donation for all men who had had sex with other men provided only a false sense of safety. It relied solely on the honesty of questionnaire responses and failed to account for everyone who may unknowingly carry blood-borne viruses. The Advocate therefore concluded that the measure caused disproportionate actual and potential harm to both society and individuals, as it contributes to stigmatisation, infringed on the rights of individuals whose blood was in fact safe, and resulted in the unnecessary rejection of their blood donations.

During the discrimination investigation, the Slovenian Institute for Transfusion Medicine announced that Slovenia would soon adopt temporary bans only, and that the selection of blood donors would depend on the risk associated with their sexual behaviour, regardless of their gender or sexual orientation. This change has since been implemented.

### **Appropriate recognition of outstanding achievements by athletes with disabilities**

Among the conditions for a special pension supplement for top athletes, it was stipulated that winners of medals at the Olympic Games, Paralympic Games, Deaflympics, Chess Olympiad, or World Championships in Olympic sports disciplines are eligible. However, athletes with disabilities who have won medals at world championships in Paralympic sports disciplines were excluded.

The Advocate assessed that this regulation constituted direct discrimination based on disability, as it valued comparable top achievements differently for athletes with and without disabilities.

As it explained, top athletes with disabilities who won medals at world championships in Paralympic sports disciplines were denied the opportunity to receive a pension supplement solely because of their disability. If they were not disabled and had won a medal at such a high-level competition, they would have been entitled to the supplement.

The Advocate recommended that the competent ministry and the National Assembly remedy the discrimination, which was subsequently done at the initiative of members of parliament.

### **Space for conjugal visits also provided in women's prison**

The Advocate received a letter from female prisoners who claimed that the state treated them worse than male prisoners in several aspects.

In the proceedings to determine discrimination, the Advocate confirmed the prisoners' statements on several points. It also found discrimination against female prisoners in receiving visits and private contact. While male prisoners were offered six studio apartments as a privilege, allowing them to spend the night with their intimate partners, female prisoners were not allowed to have their partners stay overnight because there was no suitable space. The competent authority has since taken appropriate action.

### **Right to vote also for adult citizens with mental health problems**

Slovenian electoral legislation allowed for the deprivation of voting rights solely for people with intellectual or psychosocial disabilities. Only these individuals were subject to expert assessments of their capacity to understand the purpose, significance and impact of elections.

The Advocate found this discriminatory on the basis of disability. It repeatedly recommended that the government and relevant ministries propose amendments to all legislation regulating the right to vote. The National Assembly has subsequently abolished the discrimination at the National Council's initiative.

### **Greater sensitivity to the needs of different population groups when making doctor's appointments**

After the largest community health center in Slovenia introduced a new electronic appointment booking system, the Advocate began receiving reports about the difficulties this created for patients. The problems were mainly experienced by older people, people with disabilities, those with limited proficiency in Slovenian, and those with serious health conditions, as they were either unable or untrained to use new communication technologies.

In response, the Advocate conducted an anonymous survey, calling several dozen community health centers in Slovenia. It found most were indeed hard to reach and did not offer all legally required appointment channels: in-person, phone, post, and electronic.

The Advocate alerted health centres and other relevant authorities about the duty to ensure communication accessibility in family medicine clinics, to prevent discrimination. The findings of the investigation were shared with the competent inspectorate, which, after conducting its own inspection, issued several warnings to the healthcare providers and ordered corrective action.

### **Changing perceptions of fairness in awarding business performance bonuses**

Slovenian legislation allows employers to reward employees for their individual work performance and also provide bonuses based on the overall business performance of the company. Discrimination emerged in cases where companies used workplace attendance as one of the criteria for determining the amount of business performance bonuses. Employees who had been absent for most of the year received a lower bonus or no bonus at all.

As the Advocate found in several cases, this seemingly neutral criterion disadvantaged employees who had been absent due to personal grounds such as health conditions, pregnancy, parenthood, disability, or family status.

Following the Advocate's initial decisions in this area, companies frequently initiated administrative disputes. Under PADA, jurisdiction for such cases lies with the Administrative Court, which holds the status of a higher court. In one of its decisions, the court fully endorsed the Advocate's arguments.

However, in another case of alleged discrimination in awarding bonuses, the Higher Labour and Social Court sided with the company's reasoning. Due to conflicting decisions by two higher courts, the Supreme Court intervened to unify the case law and, in doing so, indirectly upheld the reasoning of both the Advocate and the Administrative Court.

### **Increased awareness of the duty to ensure accessibility for people with disabilities**

The Advocate has been a leading voice against inaccessible public spaces and public transport for people with disabilities in Slovenia.



It raised these issues in several special reports: on the inaccessibility of secondary schools for people with reduced mobility (66 % of secondary schools were not fully accessible); the inaccessibility of public-use buildings (29 % of public-use buildings were inaccessible); the inaccessibility of inter-municipal public transport for people with physical and sensory impairments (inter-municipal public transport remains inaccessible); the situation of deaf people in the education system; and the failure to comply with the provisions of the UN Convention on the Rights of Persons with Disabilities.

Based on the findings of these special reports, the Advocate issued several recommendations to the competent authorities that led to better accessibility and, in general, increased awareness of the need for adjustments.

### **Better knowledge of the rights of intersex and transgender people**

In a report on the treatment of intersex people in medical procedures, the Advocate found that intersex children and adolescents in Slovenia may be subjected to unjustified surgical interventions, leading to physical and psychological harm. It emphasised the need for establishing a unified protocol for the care of intersex people, in line with modern medical guidelines and practices. The report was shared with all relevant institutions.

In its report on the situation of transgender people, the Advocate supported the protection of trans-persons from stigmatisation and discrimination by recommending that legal gender recognition procedures be made available at all administrative units across the country. The competent ministry accepted this proposal. The Advocate also called for the establishment of a working group to prepare national guidelines on medical procedures for confirming gender identity, and for training healthcare staff on the appropriate treatment of transgender people. It also provides general training on protection against discrimination for public employees working in various state institutions.

Advocate's special reports:



Advocate's annual reports:



What we do: <https://zagovornik.si/en/what-we-do/>



## **The Evolution of the Advocate of the Principle of Equality, Slovenian Equality Body**

### **Issued by**

Advocate of the Principle of Equality

### **On behalf of the Advocate**

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### **Text**

Advocate of the Principle of Equality

Ljubljana, 2025

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This publication is free-of-charge and freely available.

Published online at [www.zagovornik.si](http://www.zagovornik.si)

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### **Online edition**

Katalogni zapis o publikaciji (CIP) pripravili v Narodni in univerzitetni knjižnici  
v Ljubljani

[COBISS.SI](https://cobiss.si/)-ID [263144963](https://cobiss.si/263144963)

ISBN 978-961-96817-8-7 (PDF)