

Note: Text of basic regulation

## **PROTECTION AGAINST DISCRIMINATION ACT (ZVarD)**

### 1. General provisions

#### **Article 1 (Purpose and Contents of the Act)**

(1) This Act shall determine the protection of all persons (hereinafter: person) against discrimination irrespective of their gender, nationality, racial or ethnic origin, language, religion or belief, disability, age, sexual orientation, gender identity or gender expression, social status, property status, education, or any other personal circumstance (hereinafter: personal circumstance) in various fields of social life, when enforcing human rights and fundamental freedoms, exercising rights and obligations and in other legal relationships in political, economic, social, cultural, civil or other fields.

(2) This Act shall establish the Advocate of the Principle of Equality (hereinafter: Advocate), as an independent state authority in the field of protection against discrimination, including the Advocate's tasks and powers.

(3) Protection against discrimination shall also apply to legal entities defined by the legal order of the Republic of Slovenia if the nature of the circumstances which could be the basis for discrimination refers to such persons.

(4) This Act shall define and prohibit discrimination, appoint authorities and determine measures for promoting equal treatment, determine the status and competences of the Advocate, the Advocate's procedure when establishing the existence of discrimination and particularities of legal protection of persons subject to discrimination.

#### **Article 2 (Application of the Act)**

(1) This Act shall bind state authorities, local communities, holders of public authorisations, legal entities and natural persons to ensure protection against discrimination or equal treatment of all persons in all fields of decision making, legal transactions and other operations or conduct, particularly in regard to:

- conditions for obtaining employment, self-employment and profession, including selection criteria and employment conditions, notwithstanding the type of activity or the level of occupational hierarchy, including promotion;
- accessing all forms and all levels of career orientation and consulting, 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 and inclusion in workers' or employers' organisations or any organisation whose members perform a certain vocation, including benefits provided by such organisations;
- social protection, including social security and health care;
- social benefits;
- education and schooling;
- accessing goods and services available to the public, including housing facilities and the supply of housing facilities.

(2) Special acts may define behaviour which constitutes discrimination in more detail, and determine sanctions for them in the relevant fields.

(3) Notwithstanding the provisions of other acts, the provisions of this Act shall apply if they are more favourable for the person subject to discrimination.

### **Article 3 (Transposition of legal acts of the European Union)**

By means of this Act, the following legal acts of the European Union shall be transposed into the legal order of the Republic of Slovenia regarding protection against discrimination:

- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ L 180, 19 July 2000, p. 22);
- Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2 December 2000, p. 23);
- Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to, and supply of, goods and services (OJ L 373, 21 December 2004, p. 37);
- Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) (OJ L 204, 26 July 2006, p. 23);
- 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 (OJ L 128, 30 April 2014, p. 8).

## 2. Forms of discrimination and equal treatment

### **Article 4 (Discrimination)**

(1) Discrimination shall be any undue actual or legal unequal treatment, differentiation, exclusion, limitation or failure to act due to personal circumstances, the result or consequence of which is hindrance, reduction or nullification of equal recognition, enjoyment or exercise of human rights and fundamental freedoms, other rights, legal interests and benefits.

(2) Discrimination due to any personal circumstance shall be prohibited.

### **Article 5 (Equal treatment)**

(1) Equal treatment shall be the absence of direct and indirect discrimination due to any personal circumstance of a person, including the absence of any other treatment which in compliance with this Act denotes discrimination.

- (2) As per this Act, equal treatment shall also be guaranteed to:
- a person who is actually or legally connected to a person who is in certain personal circumstances;
  - a person who is discriminated against because of incorrect conclusions about the existence of certain personal circumstances.

## **Article 6 (Direct and indirect discrimination)**

(1) Direct discrimination occurs if a person or group of people are, were or could be treated less favourably in the same or similar circumstances due to certain personal circumstances than another person or a group of people is, was or would be treated.

(2) Indirect discrimination occurs when a person or a group of people in certain personal circumstances is, was or could be in a less favourable position than other people due to a apparently neutral provision, criterion or practice, unless this provision, criterion or practice is objectively based on a legitimate objective and the means of attaining this objective are appropriate and necessary.

## **Article 7 (Other forms of discrimination)**

Discrimination shall also include:

- harassment, sexual harassment and any other less favourable treatment of a person for rejecting or permitting such behaviour;
- order, command or any other instruction to discriminate against a person for their personal circumstance (hereinafter: instructions on discrimination);
- incitement to discrimination;
- retaliatory measures (hereinafter: victimisation).

## **Article 8 (Harassment and sexual harassment)**

(1) Harassment is unwanted conduct related to any personal circumstance, which has the effect or purpose of creating an intimidating, hostile, degrading, humiliating or offensive environment for a person and which violates the dignity of that person.

(2) Sexual harassment is any form of unwanted verbal, non-verbal or physical conduct or behaviour of a sexual nature that occurs with the effect or purpose of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.

## **Article 9 (Instructions on discrimination)**

Instructions on discrimination are any instructions the result of which is, was or could be discrimination in the sense of this Act, which also includes an instruction not to prevent or eliminate discrimination.

**Article 10**  
**(Inciting discrimination)**

(1) Inciting discrimination is any incitement of other persons to carry out actions the result of which is, was or could be discrimination as per the provisions of this Act. Prohibited severe conduct particularly includes delivering or disseminating racist, religious, national and sexually discriminatory appeals, inducing, abetting or inciting hatred and discrimination, and broader public haranguing which promotes discrimination.

(2) The public justification for neglecting or despising persons or groups of people due to personal circumstances under Article 1 of this Act is also prohibited as discrimination, including justifying ideas of the supremacy or superiority of a person or a group of people with certain characteristics which arise from the aforementioned personal circumstances and which are supposedly superior to those who are not part of such group.

**Article 11**  
**(Victimisation)**

Victimisation is exposing a person subject to discrimination, or a person helping the aforementioned person, to unfavourable consequences due to actions which they take to prevent or eliminate discrimination.

**Article 12**  
**(Severe forms of discrimination)**

Severe forms of discrimination shall include:

- multiple discrimination occurring when a person is discriminated against simultaneously due to several personal circumstances;
- mass discrimination occurring when several people are discriminated against simultaneously by disputable conduct, particularly if motivated by hatred or contempt for people with certain personal circumstances;
- persistent or repeated discrimination;
- discrimination which has or could have consequences for the person subject to discrimination that are difficult to remedy regarding damage caused to the person's legal position, rights or obligations, particularly if directed at children or other weak persons.

**Article 13**  
**(Exemptions from the prohibition of direct discrimination)**

(1) Notwithstanding paragraph one of Article 5 of this Act, unequal treatment due to a certain personal circumstance shall not constitute discrimination as per this Act if such treatment is based on a legitimate objective and the means of attaining such objective are appropriate, necessary and proportional. Notwithstanding the preceding paragraph, unequal treatment in the fields in indents one to four of paragraph one of Article 2 of this Act due to gender, race, nationality, religion or belief, disability, age or sexual orientation is always prohibited, except in cases determined in this or another Act.

(2) Notwithstanding paragraph one of Article 5 of this Act, unequal treatment in the fields in indents one to four of paragraph one of Article 2 of this Act due to gender, race, nationality, religion or belief, disability, age or sexual orientation shall not constitute discrimination if such characteristic constitutes a significant or decisive vocational requirement due to the nature of a certain vocational activity or context of its implementation, under the condition that such an objective is legitimate and the requirement appropriate, necessary and proportional.

(3) Notwithstanding paragraph one of Article 5 of this Act, unequal treatment due to age in the fields in indents one to four of paragraph one of Article 2 of this Act shall not constitute discrimination if this is objectively and reasonably substantiated with a legitimate objective, including the legitimate objectives of employment policy, labour market and vocational training, and if the means to attain this objective are appropriate, necessary and proportionate.

(4) Notwithstanding paragraph one of Article 5 of this Act, unequal treatment in the fields in indents one to four of paragraph one of Article 2 of this Act due to a person's religion or belief during professional activities in churches or other religious communities and public or private organisations, whose ethics are based on religion or belief, shall not constitute discrimination if religion or belief constitute a legitimate and justifiable vocational requirement as per the organisation's ethics due to the nature of such activities or the context in which they are performed.

(5) Notwithstanding paragraph one of Article 5 of this Act, unequal treatment in connection with the favourable protection of women due to pregnancy and maternity in the fields in indents one to four of paragraph one of Article 2 of this Act shall not constitute discrimination.

(6) Notwithstanding paragraph one of this Article, unequal treatment due to gender, nationality, racial or ethnic origin is always prohibited in the fields in indents five to eight of paragraph one of Article 2 of this Act, unless providing goods or services exclusively or mainly to persons of one gender if such treatment is justified by a legitimate objective and the means of attaining such an objective are appropriate, necessary and proportional.

### 3. Promotion of equal treatment

#### **Article 14 (Holders of tasks)**

(1) In their respective fields and within their competences, state authorities, local communities, self-governing national communities and holders of public authorisations shall provide conditions for the equal treatment of all people, irrespective of any personal circumstances, by raising awareness and monitoring the situation in this field and with measures of a normative and political nature.

(2) Ministries and governmental services responsible for the fields in Article 2 of this Act or for groups of people in certain personal circumstances shall prepare proposals of measures in their respective fields of work.

#### **Article 15 (Cooperation with social partners and non-governmental organisations)**

When forming solutions and proposals to attain the objective of this Act, the Government of the Republic of Slovenia (hereinafter: 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.

#### **Article 16 (Data collection)**

(1) The Advocate and competent inspection services from Article 44 of this Act shall collect anonymised data on the number of discrimination cases discussed according to individual personal circumstances, forms of discrimination and individual fields from Article 2 of this Act. The inspection services shall submit these data to the Advocate once a year.

(2) The data from the preceding paragraph shall be collected and used for monitoring, planning and managing the non-discriminatory policy and for scientific and research purposes.

#### **Article 17** **(Special measures to ensure equality)**

(1) Special measures are temporary measures whose objective is to ensure the realisation of the right to equal treatment, equal opportunity or actual equality and participation in the fields of social lives of people who are in a less favourable position due to certain personal circumstances. Special measures shall be adopted in order to prevent or eliminate consequences of such a position or provide a substitute for a less favourable position.

- (2) Special measures shall particularly include:
- incentive measures providing special benefits or introducing special incentives for persons in less favourable positions in a certain field or environment;
  - positive action which gives advantage to people in certain personal circumstances when they meet the prescribed criteria and conditions to an equal extent, and which may be applied particularly in the case of evident disproportion regarding the possibilities of accessing the enforcement of rights, or accessing goods, services or benefits.

#### **Article 18** **(Adopting special measures)**

(1) Under the conditions of this Act, special measures may be adopted by state authorities, self-governing local communities, holders of public authorisations, employers, educational institutions, business entities and other bodies regarding the nature of work and area of action as per Article 2 of this Act.

(2) Special measures shall pursue a legitimate objective of eliminating less favourable positions of people in certain personal circumstances based on analyses of the existence of a less favourable position, and which are necessary and appropriate means of eliminating such a position. The entities as per the preceding paragraph which adopt special measures shall regularly verify the merits or eligibility of continuing to implement them. If it is established that the objective of implementing them has been achieved, the measures shall be ended immediately.

### 4. Advocate

#### **Article 19** **(Position of the Advocate)**

(1) The Advocate shall function as a separate state authority with competences as determined by this Act.

(2) The Advocate shall conduct their tasks as per this Act or other acts independently within the framework of, and on the basis of, the Constitution and law.

## **Article 20**

### **(Autonomy of the Advocate)**

The Advocate may not be given binding instructions referring to expert matters regarding their work, in particular:

- content of published studies and research in the field of discrimination and decisions on drafting research regarding discrimination in a certain field or regarding a group of people with a certain personal circumstance;
- recommendations provided by the Advocate to state authorities, local communities, holders of public authorisations or other entities as per this Act regarding cases of established discrimination;
- content of reports published by the Advocate regarding cases of established discrimination;
- decisions of the Advocate made in cases discussed;
- decisions on whether the Advocate would participate in judicial proceedings in specific cases as per this Act.

## **Article 21**

### **(Tasks and powers of the Advocate)**

The Advocate's tasks shall include:

- conducting independent research on the position of people in certain personal circumstances, particularly gender, nationality, racial or ethnic origin, religion or belief, disability, age, sexual orientation and other issues regarding discrimination of people with certain personal circumstances;
- 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 circumstances, i.e. relating to preventing or eliminating discrimination and adopting special and other measures to eliminate discrimination;
- 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;
- providing independent assistance to persons subject to discrimination when enforcing their rights regarding protection against discrimination in the form of counselling and legal assistance for clients in other administrative and judicial proceedings related to discrimination;
- raising the awareness of the general public on discrimination and measures to prevent it;
- monitoring the general situation in the Republic of Slovenia in the field of protection against discrimination and the situation of people in certain personal circumstances;
- proposing the adoption of special measures to improve the situation of people who are in a less favourable position due to certain personal circumstances;
- participating in judicial proceedings involving discrimination as per this Act;
- ensuring the exchange of available information on discrimination with bodies of the European Union;
- conducting other tasks determined by this Act.

## **Article 22**

### **(Reports)**

(1) In regular annual or special reports, the Advocate shall report to the National Assembly of the Republic of Slovenia (hereinafter: National Assembly) about their work and findings on the existence of discrimination involving individual groups of people in certain personal circumstances.

(2) The annual report shall be submitted by the Advocate to the National Assembly no later than by April for the previous year.

(3) As per its competences, the National Assembly shall adopt findings and recommendations from the reports mentioned in paragraph one of this Article. The Government shall provide a preliminary opinion on the reports.

(4) The personal data of complainants in the reports from paragraph one of this Article shall be anonymised.

### **Article 23 (Appointment of the Advocate)**

(1) The Advocate shall be appointed by the National Assembly at the proposal of the President of the Republic (hereinafter: President of the Republic). The person appointed as Advocate must meet the following conditions on the day the public call expires:

- be a citizen of the Republic of Slovenia;
- have a university degree in social sciences or humanities, or higher professional education in the same fields with specialisation or a master's degree, or education in the same fields obtained according to a second-degree study programme as per the act governing higher education;
- have at least five years of work experience, of which at least three years are in the field of realising the principle of equality or human rights and fundamental freedoms;
- not be a member of bodies of a political party;
- has not been convicted *res judicata* to unconditional imprisonment, and
- is not subject to criminal proceedings for a criminal offence prosecuted *ex officio*.

(2) The Advocate shall be appointed for a period of five years and may be reappointed once.

### **Article 24 (Public call)**

(1) The Advocate shall inform the President of the Republic on the expiry of their term at least six months before the expiry.

(2) The public call for collecting proposals of possible candidates (hereinafter: candidate) for the Advocate shall be published within 30 days from the receipt of the notification from the preceding paragraph in the Official Gazette of the Republic of Slovenia.

(3) The deadline for application must not be longer than 30 days; in the case of early termination of the term, the deadline must not be longer than 15 days after the publication of the public call.

(4) Proposals must be substantiated and equipped with the written consent of the possible candidate that they are willing to accept the candidacy for the position.

### **Article 25 (Proposal by the President of the Republic)**

(1) The President of the Republic shall propose a candidate for the vacant position of the Advocate from the proposed candidates, but may also propose other candidates. The President of the Republic may propose several candidates to the National Assembly.

(2) The President of the Republic shall submit the substantiated proposal with the candidate's written consent to the National Assembly.



(3) The President of the Republic shall submit the proposal no later than 30 days after the expiry of the deadline in paragraph three of the preceding Article.

### **Article 26 (Voting on the candidate)**

(1) The National Assembly must vote on the proposed candidate for the Advocate within 30 days following the submission of the substantiated proposal by the President of the Republic.

(2) The candidate may resign from the candidacy until the start of voting.

(3) If the President of the Republic proposes several candidates, the order of candidates on the ballot paper shall be determined by drawing lots. If no candidate receives the prescribed majority in the first round of voting, the voting shall be repeated for candidates who received the most votes.

### **Article 27 (Procedure in the case of insufficient number of votes)**

(1) If the proposed candidate for the Advocate fails to receive sufficient majority of deputies' votes, the President of the National Assembly shall immediately inform the President of the Republic, who no later than seven days after voting in the National Assembly shall inform the President of the National Assembly of the decision on further proceedings regarding the election of the Advocate.

(2) If, on the basis of the newly substantiated proposal by the President of the Republic, an Advocate is still not elected, the election shall be conducted on the basis of new proceedings as per Articles 24 and 25 of this Act. In this case, the President of the Republic shall publish a call no later than seven days after the repeated vote in the National Assembly. The deadline for collecting proposals of possible candidates must not be longer than 15 days after the publication of the call.

### **Article 28 (Status of the Advocate and their dismissal)**

(1) The Advocate has the status of a high official.

(2) The Advocate may be dismissed before the end of their term of office by the National Assembly only if:

- this is requested by the Advocate;
- the Advocate no longer meets the conditions to perform the function referred to in paragraph one of Article 23 of this Act;
- the Advocate permanently loses the capacity to perform their function, or
- violations of the Act or the Constitution are established, which prevent the lawful or independent implementation of their function as per this Act.

(3) The procedure for dismissing the Advocate shall commence at the proposal of the President of the Republic.

### **Article 29 (Incompatibility of office)**

(1) The function of the Advocate shall be incompatible with functions in state authorities, local community authorities, bodies of political parties and trade unions or other functions and activities which, according to law, are incompatible with implementation of a public function.

(2) A function which is incompatible with the function of the Advocate shall cease when the Advocate takes office or is suspended if so determined by the law.

### **Article 30 (Expert service of the Advocate)**

(1) The Advocate has an expert service which shall conduct expert, administrative and other tasks.

(2) On the basis of an authorisation by the Advocate, public employees in the expert service may conduct procedures as per Chapter 5 of this Act.

### **Article 31 (Budget of the Advocate)**

Funds for the Advocate's work shall be provided by the budget of the Republic of Slovenia and determined by the National Assembly.

### **Article 32 (Registered office and organisation)**

(1) The registered office of the Advocate is in Ljubljana.

(2) The title of the body is Advocate of the Principle of Equality (*Zagovornik načela enakosti* or *Zagovornica načela enakosti* in Slovenian).

(3) The organisation and procedures shall be defined by the Rules of Procedure and other general acts.

5. The Advocate's procedure in the case of discrimination

### **Article 33 (Procedure at the proposal of the person subject to discrimination)**

(1) A person who believes they have been discriminated against may file a complaint for consideration at the Advocate.

(2) The person as per the preceding paragraph shall be a party to proceedings.

(3) The person as per paragraph one of this Article may withdraw the complaint until the delivery of the Advocate's decision.

### **Article 34 (Ex officio procedure)**

(1) The Advocate may consider a case of discrimination *ex officio* if they learn about the existence of discrimination on the basis of an anonymous complaint, complaint

by a third party or in any other way.



(2) To discuss a discrimination case *ex officio*, the Advocate must obtain the consent of the person who is subject to discrimination, unless said person cannot be determined or a (large) group of people are being discriminated against or a case is considered to be generally important for protection against discrimination, which the Advocate shall assess on a case-to-case basis.

(3) Persons subject to discrimination who did not file a complaint for consideration have the right to attend the procedure.

### **Article 35** **(General provisions)**

(1) The procedure conducted by the Advocate shall be free-of-charge for the parties involved.

(2) The parties involved shall have the right to access the case file kept by the Advocate regarding the case discussed, with the exception of sensitive personal information defined as such by the Advocate.

### **Article 36** **(Personal information)**

(1) For the needs of consideration and supervision as per this Act, the complaint must include at least the following information:

- personal name or company name or any other name of the complainant, address of permanent or temporary residence or registered office;
- statement of the opposite party or the offender if known to the complainant, their address of permanent or temporary residence or registered office;
- description of circumstances, personal names and contact information of possible witnesses or other information regarding the case which demonstrate the occurrence of discrimination;
- contact information of the complainant, and
- signature of the complainant.

(2) If the complaint is anonymous, the data as per indents two and three of the preceding paragraph shall suffice.

### **Article 37** **(Procedure)**

(1) Following the receipt of the complaint, the Advocate shall request evidence from the alleged offender or other persons, from whom the Advocate may request the submission of information and documents, which, as per the principle of proportionality, are necessary to consider an individual case to determine the existence of discrimination. At the Advocate's request, state authorities, local communities, holders of public authorisations, legal entities and natural persons shall submit all information, including personal, and documents free of charge, which the Advocate needs to establish discrimination in a case under consideration. The preceding clause shall not apply to the submission of information from confidential relationships determined by law, or information whose acquisition is subject to a preliminary decision by a court of the Republic of Slovenia.

(2) In the case of victimisation, the Advocate may call on the offender to protect the person subject to discrimination or the person helping the person being discriminated against from victimisation, or eliminate the consequences of victimisation by means of

appropriate measures.

(3) In the procedure as per paragraph one of this Article, the Advocate may, if this is necessary for considering an individual case and is compliant with the principle of proportionality, request the submission of personal information, i.e.:

- personal name;
- birth data (day, month, year, place);
- gender;
- address of permanent or temporary residence;
- citizenship;
- function, position or status in a certain entity;
- wages, other means of income or financial situation;
- promotions and other working conditions;
- family status;
- health status;
- activity status;
- membership in trade unions or other organisations.

### **Article 38 (Review of constitutionality and legality)**

If the Advocate assesses that an act or any other regulation is discriminatory, the person proposing a review of constitutionality and legality may be informed thereof, or the Advocate may submit a request for a review of constitutionality or legality of a regulation or general legal act issued to execute public authorisations.

## 6. Particularities of legal protection against discrimination

### **Article 39 (Legal protection)**

(1) A person who believes that they have been or are being discriminated against may file an action requesting the cessation of discrimination, the payment of compensation for discrimination or the publication of the ruling in the media.

(2) Due to exposure to discrimination, the person subject to discrimination shall be entitled to financial compensation paid by the person causing discrimination. Financial compensation shall range between EUR 500 and EUR 5,000.

(3) When determining the amount of compensation, the duration of discrimination, exposure to severe forms of discrimination and other circumstances of the case shall be considered.

(4) A request to publish the ruling in the media shall be granted if the court, as per the circumstances of the case, assesses that the publication of the ruling is necessary to eliminate the consequences of discrimination or to prevent discrimination in other similar cases. The ruling shall be published in an anonymised form.

(5) Decision making in the action of this Article shall be subject to the provisions of the act governing civil proceedings.

### **Article 40 (Reversal of the burden of proof)**

(1) When a person subject to discrimination, in a procedure conducted by the Advocate, relevant inspection service, or in another procedure in which the discussion of discrimination is requested, provides evidence justifying the belief that the prohibition of discrimination was violated, the offender must prove that the violation of the prohibition did not occur in the relevant case or that unequal treatment was admissible as per this Act.

(2) The preceding paragraph shall not apply in criminal proceedings.

#### **Article 41** **(Role of the Advocate and non-governmental organisations)**

(1) Notwithstanding the provisions of the act governing civil proceedings, a person subject to discrimination may authorise the Advocate or a non-governmental organisation working in the field of protection against discrimination and human rights protection to represent them in the judicial proceedings as per Article 39 of this Act. Procedural acts on behalf of the Advocate or a non-governmental organisation may be implemented only by a person employed by the Advocate or a person who is a representative of a non-governmental organisation, and who has passed the state bar examination.

(2) An organisation is considered a non-governmental organisation which operates in the field of protection against discrimination and human rights protection if it has been granted the status of working in the public interest in the field of protection against discrimination or human rights protection.

(3) The status of a public interest association in the field as per the preceding paragraph shall be granted by the relevant ministry according to the act governing associations and as per the rules adopted by the relevant ministry. The status of working in the public interest in the field of protection against discrimination or human rights protection may also be obtained by other non-governmental organisations, whereby the provisions of the status of a public interest association determined by this Act and by the act governing associations shall apply *mutatis mutandis*.

(4) The Advocate or a representative of the non-governmental organisation as per the preceding paragraph may accompany a person subject to discrimination in judicial proceedings under Article 39 of this Act if the said person consents to this, whereby the Advocate shall not represent the person subject to discrimination. To enable the presence of the accompanying person in judicial proceedings, it shall suffice that, prior to the proceedings or during the proceedings, the person subject to discrimination states that a certain person is accompanying them and that they wish them to be present during the proceedings.

### 7. Supervision of implementing the Act

#### **Article 42** **(Inspection supervision)**

(1) The supervision of implementing the provisions of this Act shall be conducted by the Advocate and competent inspection services. When conducting supervision, the Advocate shall apply the provisions of the act governing inspection and the provisions of the act governing general administrative procedure, if not determined otherwise by this Act.

(2) The supervision conducted by the Advocate and the competent inspection service shall include supervision of the implementation of the provisions of this and other acts as per the prohibition of individual forms of discrimination in the fields of Article 2 of this Act.

(3) If it is determined during supervision that the prohibition of discrimination under Article 45 of this Act has been violated, the Advocate may:

- order the elimination of irregularities established during the supervision by a deadline determined by the Advocate;



- propose the adoption of appropriate measures to prevent further discrimination or eliminate the consequences of discrimination by a deadline determined by the Advocate;
- prohibit further discrimination.

(4) If the Advocate assesses that the issue of the decision as per the preceding paragraph is not reasonable in a specific case, the Advocate may immediately refer the case to the competent inspection service to instigate minor offence proceedings.

(5) No complaint shall be possible against the Advocate's decision as per paragraph three of this Article; however, an administrative challenge shall be permitted, but shall not stay the implementation of the Advocate's decision. The Administrative Court of the Republic of Slovenia shall be responsible for decision making in an administrative challenge at its registered office in Ljubljana.

(6) The offender must report to the Advocate on the execution of the Advocate's decision as per indents one and two of paragraph three of this Article within eight days of the expiry of the deadline.

### **Article 43** **(Referring a case to the competent inspection service)**

If the offender fails to comply with the decision of the preceding Article within the set time limit and the Advocate believes that the prohibition of discrimination has been violated, the Advocate shall draft a proposal to instigate minor offence proceedings as per the act governing minor offences and submit it to the competent inspection service for further consideration. The competent inspection must consider the case and inform the Advocate of its decision.

### **Article 44** **(Minor offence authority)**

(1) As per this Act, the minor offence authorities shall include competent inspection services which are responsible by law for inspection supervision in the field in which discrimination occurred according to individual administrative fields.

(2) The competent inspection services shall conduct minor offence proceedings and decide on them on the basis of regulations governing their operations within the jurisdiction granted them by law.

## 8. Penal provision

### **Article 45** **(Fines)**

(1) A fine between EUR 3,000 and EUR 20,000 shall be imposed on a legal entity, sole trader or a self-employed person if they, in the fields of Article 2 of this Act:

- expose a person to discrimination (Article 6);
- expose a person to harassment or sexual harassment (Article 8);
- order discrimination (Article 9);
- victimise a person helping a person subject to discrimination (Article 11).

(2) A fine between EUR 3,000 and EUR 30,000 shall be imposed on a legal entity, sole trader or a self-employed person if they, in the fields of Article 2 of this Act, victimise a person subject to discrimination (Article 11) or expose a person or several people to severe forms of discrimination (Article 12).

(3) A fine between EUR 250 and EUR 1,200 shall be imposed on a person committing an offence under paragraph one of this Article.

(4) A fine between EUR 500 and EUR 3,000 shall be imposed on a person committing an offence under paragraph two of this Article.

(5) A fine between EUR 250 and EUR 2,500 shall be imposed on a responsible person of a state authority or a self-governing local community, a responsible person of a legal entity or a responsible person of a sole trader or a self-employed person by whom an offence as per paragraph one of this Article was committed.

(6) A fine between EUR 500 and EUR 5,000 shall be imposed on a responsible person of a state authority or a self-governing local community, a responsible person of a legal entity or a responsible person of a sole trader or a self-employed person by whom an offence as per paragraph two of this Article was committed.

## 9. Transitional and final provisions

### **Article 46 (Procedures in progress)**

Consideration of complaints by persons subject to discrimination filed before the enforcement of this Act and minor offence proceedings instigated before the enforcement of this Act shall be completed as per the provisions of the Implementation of the Principle of Equal Treatment Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 93/07 – official consolidated text).

### **Article 47 (Appointment of the Advocate)**

(1) The National Assembly shall appoint the Advocate at the proposal of the President of the Republic as per this Act in six months following the enforcement of this Act.

(2) The current Advocate of the Principle of Equality shall continue their work following the enforcement of this Act until the appointment of the Advocate according to the preceding paragraph as per the provisions of the Implementation of the Principle of Equal Treatment Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 93/07 – official consolidated text).

(3) If the current Advocate of the Principle of Equality is not re-appointed as per this Act and cannot find employment at another suitable workplace in public administration, the Advocate shall have the right to three months' pay compensation in the amount of 80 per cent of the last monthly wage received when conducting the tasks of the Advocate of the Principle of Equality as per the Principle of Equal Treatment Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 93/07 – official consolidated text).

### **Article 48 (Salary grade of the Advocate)**

As a high official, the Advocate's salary grade shall be determined at 55 according to this Act until the act governing the wage system in the public sector is amended.

### **Article 49**

### **(Transfer of cases)**

The Advocate shall take over all unfinished cases and the archives of the Advocate of the Principle of Equality.

### **Article 50 (Implementation of administrative and technical tasks)**

The Ministry of Labour, Family, Social Affairs and Equal Opportunities shall implement administrative and technical tasks for the Advocate's operations for two years after the enforcement of this Act.

### **Article 51 (Rules of Procedure of the Advocate)**

The Advocate shall issue the Rules of Procedure as per paragraph three of Article 32 of this Act within three months after their appointment.

### **Article 52 (End of validity)**

On the day this Act comes into force, Articles 20 to, and including, 29 of the Equal Opportunities for Women and Men Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos. 59/02 and 61/07 – ZUNEO-A) and the Implementation of the Principle of Equal Treatment Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos. 50/04, 61/07 and 93/07 – official consolidated text) shall cease to apply.

### **Article 53 (Entry into force)**

This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.

No. 000-04/16-6/33  
Ljubljana, 21 April 2016 EPA  
1041-VII

National Assembly of  
the Republic of Slovenia  
**Dr. Milan Brglez**, signed  
President