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Case ref. no.: 0700-52/2020/11  
Date: 20 September 2021

In proceedings initiated in an *ex officio* capacity against the publisher of the printed medium in the matter of the determination of discrimination under the Protection Against Discrimination Act (Official Gazette of the Republic of Slovenia, no. 33/16 and 21/18 - ZNOrg, hereinafter referred to as "ZVarD") and the first paragraph of Article 207 of the General Administrative Procedure Act (Official Gazette of the RS no. 24/06 - official consolidated text, 105/06 - ZUS-1, 126/07, 65/08, 8/10, 82/13 and 175/20 – ZIUOPDVE, hereinafter referred to as "ZUP"), pursuant to Article 21, with reference to Article 37 of the ZVarD, the Advocate of the Principle of Equality (hereinafter referred to as: "the Advocate") hereby issues the following

## DECISION

1. The determination is made that by the act of having published in the printed issue of the periodical *Demokracija* on 3 December 2020 the article titled '*Presežki 5*' (translation: "*Transcendents 5*") , which violates the legal protections afforded to persons based on the personal circumstances of their racial or ethnic background and their creed and worldview, the publisher of the printed medium violated the prohibition of discrimination and **satisfied the statutory description of incitement of discrimination, as referred to in the second paragraph of Article 10 of the ZVarD.**
2. No costs were incurred in the proceeding.

## REASONING

### I. Substance of the discrimination complaint

On 6 December 2020, the Advocate received a Discrimination Complaint about a media piece entitled *Presežki 5* (translation: '*Transcendents 5*'), which appeared in the printed issue of the *Demokracija* periodical on 3 December 2020. The complainant argues that the published article is an obvious call to racial intolerance, hatred and violence. The complainant believes that, in addition to encouraging discrimination based on race, the article also fits the description of the criminal offense of public incitement to hatred, violence or intolerance, punishable under Article 297 of the Slovenian Criminal Code (KZ-1). The complainant enclosed to the Discrimination Complaint a photograph of the published article, which reads:

*"Immigrants of other races, for example, have a substantially greater amount of radium inside them and all it takes is to create a micro-organism which doesn't tolerate radium very well, and you have a disease which attacks only immigrants. It will therefore come to pass one day that migrants will mysteriously start to fall ill and die off because God will create a micro-organism which will not tolerate their DNA. It is therefore possible to create a virus which will only target specific people, races, groups of people with specific characteristics. In short: targeted elimination. Just as*

*people will target certain types of natural pests, molds, weeds, etc., so can God target a certain type of harmful people.*

*Because the white race is unable to defend itself from the massive inflow of certain races, God will create a virus in order to save the most highly advanced race from destruction. Does that make God racist? No more so than the people who exterminate specific animal and plant species which are harmful to them. It is not about racism. It is about cleansing. It is about eliminating the weeds. This is necessary to ensure a good crop. Make no mistake, a large part of the white race will be exterminated as well, because at the end of the day, we are not talking about people, but rather about spiritually advanced souls, and as previously said, about 350 million people will remain for the golden age, and the good souls of all races will be among them. The vast majority of them, naturally, are white, since this race was given the gift of Christianity and thus the potential for spiritual advancement. Jesus was white, as well. For good reason. He was not black, or yellow. ...”*

## **II. Procedure before the Advocate**

ZVarD provides protection against discrimination for each individual, as well as groups of individuals and legal entities, if the nature of the circumstances which could form the basis for discrimination refers to such persons.

The Advocate first assessed whether or not the requirements are met for the Advocate to carry out the assessment of the case of discrimination. Pursuant to Article 33 of the ZVarD, the discrimination assessment procedure before the Advocate can begin either based on a complaint filed by the person discriminated against, or on an *ex officio* basis, pursuant to Article 34 of the ZVarD. 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. The Advocate received the discrimination complaint from a third party whom the Advocate does not consider the victim of discrimination. However, the Advocate decided that the case is important to ensure protection from discrimination based on racial or ethnic background and creed or worldview, therefore he undertook a discrimination assessment procedure in an *ex officio* capacity pursuant to Article 34 of the ZVarD.

In accordance with the second paragraph of Article 34 of the ZVarD, in order 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 assesses on a case-by-case basis. In the *ex officio* assessment case concerned, the Advocate did not seek consent from the persons subjected to discrimination, since the case involves a larger group of persons, and the Advocate also considers the case to be of general relevance to ensuring protection against discrimination.

In a discrimination case, which is regulated in Chapter 5 of the ZVarD, and which is subsidiarily subject to the provisions of the General Administrative Procedure Act (ZUP), the discrimination assessment procedure concludes with a finding confirming or disconfirming the existence of discrimination (a declaratory administrative decision). Accordingly, the Advocate in this case performed an assessment of discrimination and issued a declaratory decision, as outlined in Section 1 hereinabove.

The publisher of the printed medium *Demokracija* is a company which is the offending party in the context of this proceeding.

Besides the discrimination complaint, the Advocate also considered some publicly accessible reactions made by the responsible person at *Demokracija* in reference to the *Presežki 5* media article.

As can be seen from the MMC news portal,<sup>1</sup> the media report that the director and executive editor believes that the public outrage is unjustified, since “those who read the periodical *Demokracija* on a regular basis know that the page 6 column in the “7edem” section are always satirical ....« ... »Similarly, a glosa is always featured on page 9 ... This is already part five of a series, of which part one was published on 5 November”.

While the author himself did not comment or interpret the published piece publicly, the director and executive editor of the weekly periodical *Demokracija* said in an interview for the *Dnevnik* daily newspaper on 7 December 2020 that it is a periodical “satirical piece”, and he likened the circumstances of the media article to the journalistic stylistic form of ‘glosa’.<sup>2</sup>

On 8 December 2020, the director and executive editor of *Demokracija* weekly periodical repeated in the text *I, Racist 3.0* (orig. “Jaz, rasist 3.0”) appearing on the website of the *Nova24TV* medium that the issue revolves around the “satirical column written by one of our colleagues” and that those who recognize racism “in Part Five of the continuing publication” [...] “got stuck on the last part without having read all the parts”.<sup>3</sup>

In order to gain more clarity on the circumstances of the case concerned, the Advocate turned to a media expert and author of numerous journal publications and Associate Professor of the University of Ljubljana’s Faculty of Social Sciences, Dr. Igor Vobič (researcher SICRIS number 29384, 769.02 points for academic publications in the past five-year period, number of citations in the Scopus database: 102 over the past ten years). The Advocate commissioned from him a media report expert’s opinion about the definition and the elements/characteristics of the journalistic styles of *glosa* and *satirical texts*, and to render an expert’s assessment on which journalistic style the media article *Presežki 5* can be classified as. The Advocate requested the expert opinion for the purposes of gaining clarity on the substantive and factual aspects of the case. The Advocate sent Associate Professor Dr. Vobič the media article *Presežki 5*, as well as the remaining forty-six articles published by the author in the *Demokracija* weekly periodical between 2 January 2020 and 10 December 2020.

Acting on the basis of the discrimination complaint, publicly available opinions voiced by the publisher of the printed medium and executive editor of *Demokracija*, media publications published by the author in *Demokracija*, and the expert opinion prepared by Associate Professor Dr. Igor Vobič, the Advocate sent the offending party the observations made thus far so as to inform the offending party and allow it to respond and provide clarifications (Document no. 0700-52/2020/8 of 30 March 2021). At the same time, the Advocate notified the offender that, pursuant to Article 146 of the Slovenian General Administrative Procedure Act (ZUP), with reference to Article 9 of the ZUP, the offender had the right to explain its position in writing, within 15 days of receiving the letter, concerning the facts and circumstances which could bear relevance to the decision.

The Advocate informed the offending party of his observations made thus far and of the fact that it is the Advocate’s assessment that the act of publishing the offending article constituted a violation of the prohibition of discrimination stipulated in Article 10 of the ZVarD, therefore the Advocate is leaning towards issuing a decision which would confirm the existence of discrimination. For the purposes of this proceeding, the Advocate applied the reverse burden of proof principle. In accordance with Article 40 of the ZVarD, the rule of the reverse burden

<sup>1</sup> <https://www.rtvsllo.si/slovenija/glosa-v-demokraciji-sprozila-prvo-ovadbo-kako-se-bo-odzvalo-tozilstvo/544862>

<sup>2</sup> Lebinger, Anže. 2020. Demokracija on White Jesus and God’s Virus Promising to Protect the White Race - Criminal Complaint Filed against the Columnist and Executive Editor of the Periodical. *Dnevnik.si*, 7 December <https://www.dnevnik.si/1042944893>

<sup>3</sup> Biščak, Jože. 2020. Jaz, rasist 3.0. *Nova24TV.si*, 8 December <https://nova24tv.si/kolumna/jaz-rasist-3-0/>

of proof is applied to all proceedings involving the assessment of discrimination (i.e. not just in proceedings before the Advocate), with the exception of criminal proceedings. In this specific procedure before the Advocate, the discrimination complaint made by a third party presented sufficient facts and evidence to satisfy the *onus proferendi*, and demonstrated that the matter concerned may constitute discrimination. At this point, the burden of proof passed onto the offending party, who was given the opportunity to prove that it did not discriminate.

### III. The offending party's reaction to the Advocate's preliminary observations

The offending party responded within the provided time limit (response from 8 April 2021, document no. 0700-52/2020/10) and stated the following in the introduction:

1. "Since you yourself admit that you received the Discrimination Complaint from a third party who is not a victim, you made the decision to initiate the proceeding in an *ex officio* capacity.
2. You refer to the opinion of Dr. Igor Vobič, Associate Professor at the Faculty of Social Sciences of the University of Ljubljana, finding that the author's *glosa* does not fit the stylistic form of either *glosa* or satire. You also make reference to his opinion that *Demokracija* is a "right-leaning (conservative)" weekly periodical, and you also make reference to his comment that the Slovene Association of Journalists (DNS)' Journalists' Ethics Council (NČR) identified violations of the Slovene Association of Journalists' Code of Ethics.
3. You are of the view that the text incites discrimination, and in doing so you apply the reverse *onus* principle.
4. You make reference to the example of abuse of rights referenced in Article 17 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("ECPHRFF"), stating that the stylistic form of *glosa*, which is the subject of this proceeding, does not enjoy protections under Article 10 of the ECPHRFF."

Further on, the executive editor of the *Demokracija* weekly periodical offered a perspective on the Advocate's findings, as follows:

1. "It is clear from the European Court of Human Rights (ECHR) case-law that the text published in the periodical *Demokracija* falls within the limits of the freedom of expression, as protected under Article 10 of the ECPHRFF.
2. It is also clear from ECHR case law that you misconstrue Article 17 of the ECPHRFF, which cannot apply to cases such as the one before you. In this context, it is irrelevant how you or anyone else would define the literary styles of *glosa* or satire. It should be noted that the presumably incriminated text is taken out of context.
3. The fact that the text is satirical in nature, or that it is written in the style of a *glosa*, is also clearly indicated in the periodical. Since you make reference to Dr. Igor Vobič's opinion, I would like to present you with the opinion of V. V., long-time editor, journalist and former director of Radio Slovenia, and certainly the most prolific author of *glosa* and satire in post-independence Slovenia, who lives and breathes the *glosa* (or satire) as the author of over 20 thousand journalistic texts (spread across his career of more than 50 years). I mean to say that not only is he familiar with the style of *glosa* (or satire) from a theoretical standpoint, but he also has practical experience with both the subject matter and different reactions from the audience and readers. V. asserts that the text authored by the author is a *glosa* (see Appendix).
4. Dr. Igor Vobič's references to the Journalists' Ethics Council (NČR) are entirely moot, since I have not been a member of the DNS since the mid-1990s, so I am not familiar with their Code of Ethics, being a non-member. I have pointed this out on a number of occasions in the past, however abuses of my name and stature happen continually time and again.
5. In conclusion: It is entirely unacceptable that you should refer to Dr. Igor Vobič's opinion, since it is clear from your letter that he operates under an ideological bias. He

clearly writes that in determining whether or not a piece is satire, it should be taken into consideration that Demokracija is defined as a “right-wing”, or “conservative” medium, which is clearly opposed to illegal migrants. Apparently, according to him, conservatism, which is clearly not a worldview Dr. Igor Vobič shares (let me be clear: there is nothing wrong with that, because everyone is free to choose their worldview), is automatically and unconditionally discriminatory, and this fact alone (i.e. this context) means that “the text featured in *Presežki 5* cannot be characterized as a mix of exaggeration, irony and parody, which are otherwise characteristic elements of satire.” The fact that the *glosa* appeared in a conservative weekly, which is unambiguously opposed to illegal migrations and other new-age agendas (which we state publicly and unapologetically), therefore means that it is not in fact a *glosa* (or satire). Making reference to a person who automatically considers conservatism (which is a perfectly legitimate worldview or ideology) as negative is unworthy of the institution of the Advocate of the Principle of Equality of the Republic of Slovenia, since it discriminates against conservatism as a worldview. You confirm this yourself in your penultimate paragraph, where it is stated that the Advocate of the Principle of Equality of the Republic of Slovenia “is leaning towards issuing a decision which would confirm the existence of discrimination”. The Advocate therefore takes a prejudicial position, without first hearing the presumed offending party’s opinion.”

#### **IV. Legal basis for finding the discrimination**

Article 4 of the ZVarD defines *discrimination* as 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.

In order to confirm a finding of discrimination, a specific personal circumstance must be the decisive reason for comparably worse treatment. These circumstances are either inherent or acquired personal characteristics, features, conditions or statuses, which, as a rule, are either permanently and inalienably linked to a particular individual and their personality, in particular their identity; or cannot easily be changed by the individual. In accordance with Article 1 of the ZVarD, this includes gender, nationality, racial or ethnic origin, language, religion or belief, disability, age, sexual orientation, gender identity or gender expression, social status, financial situation, education, or any other personal circumstance.

In the case concerned, the Advocate recognized race<sup>4</sup> and ethnic background (it mentions immigrants<sup>5</sup> of other races), as well as the chosen religion or worldview<sup>6</sup>, as the personal circumstances based on which individuals are afforded protection from discrimination under Article 1 of the ZVarD. Said personal circumstances are also explicitly mentioned in Article 63 of the Slovenian Constitution, since the Constitution condemns as unconstitutional any incitement to national, racial, religious or other discrimination, and the inflaming of national, racial, religious or other hatred and intolerance.

In accordance with Article 7 of the ZVarD (which also prohibits other forms of discrimination besides direct and indirect as the two base forms of discrimination), discrimination is deemed to include any calls for discrimination as a special form of prohibited discrimination.

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<sup>4</sup> The term “race”, as used in this Decision or in the ZVarD, does not signify acceptance of the theories which are being presented as proof of existence of separate human races. Compare to Recital no. 6 of the Preamble 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.

<sup>5</sup> Groups of persons who are not members of the Caucasian race.

<sup>6</sup> Groups of persons who are not Christians.

This form (incitement towards discrimination) is specified in more detail in Article 10 of the ZVarD, which stipulates:

“(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.”

The principle of a reversal of the burden of proof applies in proceedings involving assessment of discrimination (Article 40 of the ZVarD). In the context of a proceeding before the Advocate, a competent inspection authority or another type of proceeding, when a victim of discrimination is able to demonstrate facts which justify the assumption that the prohibition of discrimination has been violated, the suspected offender must demonstrate that they did not violate the prohibition in the case under review, or that unequal treatment is permissible and in compliance with this law.

Under Article 2 of the ZVarD, protection against discrimination is provided in all fields of government decision-making, legal transactions and other operations or conduct in relation to third parties. Since the media article concerned was published in the printed edition of the weekly periodical *Demokracija*, which can be purchased freely at points of sale or subscribed to, in accordance with the General Terms and Conditions of the *Demokracija* weekly periodical<sup>7</sup>, whereas the printed edition is available to subscribers who are both individuals and legal entities, this constitutes provision of goods to the (interested) population on the market. Which means that the content of the *Demokracija* weekly periodical was offered publicly and made available to all interested consumers, whereas the reach of each issue of the weekly periodical is 18,500, according to the data published on the offending party's website.<sup>8</sup>

The bill of the Protection Against Discrimination Act (2015-2611-0046), which was submitted into legislative procedure before the National Assembly of the Republic of Slovenia, clearly states in Article 2 of the Act that equal treatment applies to areas of social or public life, i.e. areas where individuals (and in some cases legal entities) exercise their rights and obligations and take part in legal transactions, but it does not apply to private relationships (e.g. family relations, friendships). There is no doubt that the contentious piece published in the printed edition of the weekly periodical *Demokracija* was available to all interested consumers/readers of the weekly periodical, therefore the offending party was under obligation to ensure protection from discrimination in its actions which affect third parties, and should have refrained from any conduct which constitutes discrimination, regardless of form. Having considered the above, the Advocate deemed that this was a field which falls within the scope of the ZVarD.

In passing its decision on the matter at hand, the Advocate limits himself to the assessment of unlawful conduct within the scope of his competence, as defined in Article 10 of the ZVarD. Since the Advocate is not competent for conducting criminal proceedings, the Advocate refrains from expressing an opinion on the statement expressed in the

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<sup>7</sup> <https://demokracija.si/splosni-pogoji-za-narocnike-vednika-demokracija/>.

<sup>8</sup> [https://demokracija.si/wp-content/uploads/2021/01/CENIK\\_DEMOKRACIJA\\_2021.pdf](https://demokracija.si/wp-content/uploads/2021/01/CENIK_DEMOKRACIJA_2021.pdf).

Discrimination Complaint, claiming that as a result of his publishing the piece, the author also satisfied the criteria of the criminal offense of public incitement to hatred, violence or intolerance, an offense punishable under Article 297 of the KZ-1.

#### **V. Observations of the Advocate regarding violations of prohibition of discrimination stipulated in Article 10 of the ZVarD**

Acting on the basis of the discrimination complaint, publicly available opinions voiced by the publisher of the printed medium and executive editor of *Demokracija*, media publications published by the author in *Demokracija*, and the expert opinion prepared by Associate Professor Dr. Igor Vobič, and based on an analysis of relevant regulations and case-law, the Advocate **finds that the media article in question constitutes a violation of prohibition of justification of ideas of supremacy or superiority of one group over another, stipulated in the second paragraph of Article 10 of the ZVarD.**

In the Advocate's assessment, individual elements of the published piece constitute the public justification of ideas of the supremacy or superiority of 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, which is explicitly prohibited under the second paragraph of Article 10 of the ZVarD.

In his piece, the author publicly defends the idea of supremacy or superiority of a group of persons in relation to another group of persons based on the personal circumstances of racial or ethnic background (the group concerned are members of other races or migrants, or groups of non-white persons) and based on religion or creed (the group concerned are groups of persons of non-Christian denominations), which are protected personal circumstances under Article 1 of the ZVarD.

Said personal circumstances are also explicitly mentioned in Article 63 of the Slovenian Constitution, since the Constitution condemns as unconstitutional any incitement to national, racial, religious or other discrimination, and the inflaming of national, racial, religious or other hatred and intolerance. Article 63 of the Slovenian Constitution regulates a specific aspect of the freedom of expression: the fact that certain types of expression are explicitly specified as not being subject to constitutional protections indicates that the legislator considered these specific types of expression, out of a myriad types, as particularly harmful.<sup>9</sup>

#### **The author of the published opinion piece writes:**

*"Because the white race is unable to defend itself from the massive influx of certain races, God will create a virus in order to save the most advanced race from destruction."*

**With these words, the author recognizes the white race as the most advanced and therefore superior race compared to other races.**

#### **The author also writes:**

*"Just as people will target certain types of natural pests, molds, weeds, etc., so can God target a certain type of harmful people."; "Does that make God racist? No more so than the people who exterminate specific animal and plant species which are harmful to them. It is not about racism. It is about cleansing. It is about eliminating the weeds."*

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<sup>9</sup> Klemen Jaklič in Lovro Šturm, Commentary of the Constitution of the Republic of Slovenia, Faculty of Government and European Studies, 2010, pp. 617 – 619.

**With these words, the author compares certain groups of people with harmful animal and plant species, or weeds. In this way, the author further reinforces his thesis that all other (i.e. non-white) races are inferior.**

**The author also refers to the white race as superior by saying:**

*“The vast majority of them, naturally, are white, since this race was given the gift of Christianity and thus the potential for spiritual advancement. Jesus was white, as well. For good reason. He wasn’t black, or yellow.”*

**In the Advocate’s assessment, the author’s statements were in violation of the second paragraph of Article 10 of the ZVarD, which prohibits the public justification of ideas of the supremacy or superiority of one group of people based on certain characteristics which arise from personal circumstances over those who are not members of such group.**

**VI. The opinion piece is not sanctioned under the freedom of expression from Article 39 of the Slovenian Constitution or Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms**

The Advocate also assessed the published opinion piece from the perspective of the freedom of expression, as enshrined in Article 39 of the Slovenian Constitution and Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The latter stipulates in the first paragraph that everyone has the right to freedom of expression. This right includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The second paragraph of Article 10 of the European Convention on Human Rights stipulates that the exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

According to established European Court of Human Rights’ case-law, Article 10 of the European Convention on Human Rights protects not only the imparting of information and ideas which are well-received, but also those which shock, insult and disturb the state or any segment of its population. There can be no democratic society without pluralism of ideas, tolerance and openness towards people with different opinions. This means that any limitation of freedom of expression must be proportionate, with consideration to the goal it aims to achieve.<sup>10</sup> At the same time, tolerance and respect for equality and dignity of all forms the very foundation of democratic and pluralistic societies. This means that in some cases, it is necessary to restrict such forms of expression which aim to spread, encourage, advertise or justify hatred based on intolerance, provided that such restriction is proportionate with consideration to the legitimate goal which the restriction aims to achieve.<sup>11</sup>

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<sup>10</sup> ECHR, *Handyside vs. the United Kingdom*, Judgment of 7 December 1976, para. 49. See also Lovro Šturm, *Commentary of the Constitution of the Republic of Slovenia*, Faculty of Government and European Studies, 2010, p. 426.

<sup>11</sup> ECHR, *Erbakan versus Turkey*, Judgment dated 6 July 2006; *Pavel Ivanov versus Russia*, Judgment dated 20 February 2007; *M'Bala versus France*, Judgment dated 20 October 2015; *Glimmerveen and Haqenbeek versus the Netherlands*, Judgment dated 11 October 1979; *Belkacem versus Belgium*, Judgment dated 27 June 2017. See also other broader ECHR case law in the area of sanctioning hate speech.

As explained in Point 9 of the Reasoning section of the Slovenian Constitutional Court Ruling no. U-I-109/10 of 26 September 2011, human dignity as a fundamental value is normatively expressed in many provisions of the Constitution, in particular it is specified in the provisions which enshrine individual human rights and fundamental freedoms; these specifically aim to protect various aspects of human dignity. Among these, some can be emphasized as being particularly linked to the human being as a person with an absolute inherent value, and among these the Constitutional Court particularly underlines the prohibition of discrimination (first paragraph of Article 14) and the right to personal dignity and safety (Article 34). In Point 8 of the Reasoning section of the aforementioned Ruling, the Constitutional Court explains the concept of personal dignity and states: "In essence, human dignity is linked to the premise that each human being has equal and absolute inherent value, which they are entitled to precisely because they are a human person."

The Advocate deems that, consistent with Constitutional Court and European Court of Human Rights case-law, the opinion piece which constitutes the subject of this proceeding does not enjoy the protections under Article 39 of the Slovenian Constitution and Article 10 of the European Convention on Human Rights. The Advocate finds that this is a case of abuse of rights afforded under Article 17 of the European Convention on Human Rights. Under said Article, no provision of the European Convention on Human Rights can be interpreted to give any country, group or individual the right to engage in any action or activity aimed towards the violation of any rights or liberties afforded under the European Convention on Human Rights. The published opinion piece in question, at its core, negates the very essence of both the European Convention on Human Rights and the Slovenian Constitution. Both aforesaid documents are founded on the idea of equality and equal dignity of all people. In the case in question, the published opinion piece grossly violates the rights of other persons, specifically the rights of Non-Christians, Non-Whites or persons who do not identify as members of the Caucasian race, and immigrants. It violates their right to personal dignity and security afforded under Article 34 of the Slovenian Constitution, and their right to the sanctity of their physical and mental integrity and personality rights afforded under Article 35 of the Slovenian Constitution, and the right of any individual to be protected under Article 63 of the Slovenian Constitution, which prohibits encouragement of inequality and intolerance.

In his interpretation of the ZVarD, the Advocate is also bound to observe the obligations undertaken under the International Convention on the Elimination of All Forms of Racial Discrimination. Article 1 stipulates that the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

For the same reasons, the Advocate also is of the view that the published opinion piece is not protected under the Media Act. Article 6 of the Mass Media Act stipulates that mass media activities shall be based on freedom of expression, the inviolability and protection of human personality and dignity, the free flow of information, media openness to different opinions and beliefs and to diverse content, the autonomy of editorial personnel, journalists and other authors/creators in creating program in accordance with program concepts and professional codes of behavior, and the personal responsibility of journalists, other authors/creators of pieces and editorial personnel for the consequences of their work. In accordance with Article 63 of the Slovenian Constitution, this Act also defines the limits of the freedom of expression in the media, since Article 8 of the Public Media Act clearly prohibits the dissemination of programming contents containing incitement to racial, religious, sexual or other inequality, and to national, racial, religious or other discrimination, and the inflaming of national, racial, religious, sexual or other hatred and intolerance. This means that the limitation of the freedom of expression is stipulated both in the Media Act and in the Protection Against Discrimination Act, as Article 10 of the European Convention on Human Rights requires (more on this below).

All of the aforementioned regulations are publicly accessible and available to the general public, which means that they are considered known to the general public, and citizens, including authors of opinion pieces and media publishers, should be aware of said limitations and of the potential consequences of publication of such content.<sup>12</sup>

In his response to the Advocate's preliminary observations, the executive editor of the medium concerned argued that it was clear from the European Court of Human Rights (ECHR) case-law that the opinion piece published in the weekly periodical *Demokracija* falls within the limits of the freedom of expression, protected under Article 10 of the ECPHRFF. The executive editor did not provide any further explanation to support this argument, therefore the Advocate considered the offending party's argument to be a blanket statement and not based in fact. On the contrary, the Advocate extensively explained that despite the central position which freedom of expression enjoys in a democratic society under Article 10 of the ECPHRFF, the ECHR case-law establishes certain limits to hate-charged expressions, since the fundamental freedoms enshrined under the ECPHRFF also include tolerance, dignity and equality.<sup>13</sup>

Furthermore, in its clarifying statement of response, the offending party also made a general blanket statement that the Advocate misconstrued Article 17 of the ECPHRFF, which cannot be applied to cases such as the one in question. In doing so, the offending party did not explain his arguments, nor did he support them with any concrete examples of ECHR case-law which it claims to exist and support its arguments.

The Advocate thus finds that Freedom of Expression, enshrined in Article 39 of the Slovenian Constitution and in Article 10 of the ECPHRFF, do not protect the media piece which constitutes the subject of this proceeding, and that this published opinion piece is a violation of the prohibition of inciting discrimination, as stipulated in the second paragraph of Article 10 of the ZVarD.

## **VII. The opinion piece does not meet the genre characteristics of the *glosa* or satire form**

**The Advocate is of the view that the opinion piece violates the prohibition of discrimination protected under Article 10 of the ZVarD, regardless of whether the opinion piece was written as *glosa* or satire. The opinion piece is discriminatory because it justifies the ideas of supremacy or superiority of one group of persons over other groups of persons, regardless of the genre in which it was presumably written. However, because the offending party, in its response statement, argued that the piece was written as *glosa* or satire, and as such the opinion piece was presumably not to be considered discrimination, the Advocate also explained his position on the defensive arguments put forward by the offending party.**

**For this purpose, the Advocate analyzed the journalistic genres of *glosa* and satire, and, as mentioned before, engaged an expert in the field of media studies for this purpose. Based on the expert's professional opinion, the Advocate found that the opinion piece entitled *Presežki 5* published in the printed edition of the periodical *Demokracija* on 3 December 2020 is neither satire nor *glosa*, as it holds no genre characteristics typical of these established formats of journalistic discourse.**

In response to the Advocate's request, the expert, Associate Professor Dr. Igor Vobič, gave the following expert opinion in reference to the published opinion piece *Presežki 5*:

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<sup>12</sup> Klemen Jaklič in Lovro Šturm, Commentary of the Constitution of the Republic of Slovenia, Faculty of Government and European Studies, 2010, p. 423.

<sup>13</sup> Supreme Court of the Republic of Slovenia, Legal Bulletin (Pravosodni bilten - PB) issue no. 3/2016, p. 103

**1. Initially, the expert explained that the text in question is not satire.** He explained that the common denominator of internationally agreed definitions is that satire is defined as a form of public discourse which critically analyzes social absurdities or contradictions through use of the rhetoric devices of exaggeration, irony and parody, juxtaposing actual reality against what is written or spoken, to a humorous effect, thereby creatively contributing to public culture.<sup>14</sup> In making the assessment of whether or not a particular piece of writing is satire, one must consider both the context in which it is expressed, and the context in which the opinion piece is read.

In regards to the piece in question, firstly, the expert explained that if one considers the context in which it was expressed, as the director and executive editor of *Demokracija* also points out, i.e. that the “satirical piece” is repeatedly published on page six, and that this is the opinion’s “part five in a series”, one can conclude that the piece *Presežki 5* is not satire. Although the four preceding “parts” indeed appear on page six of the weekly periodical *Demokracija*, the author does not create any intertextuality, in which the effects and links between individual pieces of writing to “part five”, which mentions “*mysterious illness and death of migrants*” and “*eliminating the weeds*”, would create a humorous effect and make a satire about the “golden age” and “apocalyptic times” through an apparent contradiction with the written word. For example, in his piece *Presežki 1*, published on Thursday, 5 November 2020 on page six of the periodical weekly *Demokracija*, the author writes: “*An even greater achievement was made in Belgium. After endless bickering, a new government was ultimately formed, in which a trans-sexual person sits for the very first time. This creature is going to head the ministry of demographics and fight for raising the fertility rate. Belgians are going to go extinct, and we are going to get the first racially pure country in the EU. Purely Muslim.*» In the piece *Presežki 4*, published on Thursday, 26 November 2020 on page six of the periodical weekly *Demokracija*, one can read the following, inter alia: “*How to get rid of the hostile races, the migrants? You cannot kill them off, as they would sooner kill you. God is on the side of those who stand closer to him, and no matter how it may sound, I feel closer to the current race, which emerged in Christianity and reached a higher level of spirituality than the others, but make no mistake. All races have either already come up to the chopping block, or still have the chopping block waiting for them. The race which is currently closest to God is helplessly facing the invasion by others, God will protect it and remove the threat.*” These examples cannot be considered humorous.

Secondly, the expert continues, in the assessment of whether the piece *Presežki 5* is satire, one must consider the context in which the text is read, where the opinion piece was published in the weekly periodical *Demokracija*. “It is no secret,” says the director and executive editor of *Demokracija*, that the political weekly periodical published by the Nova obzorja d.o.o. publishing house is “right-(conservative) leaning”.<sup>15</sup> Pieces published in the second half of 2020 also contain clear bias and intolerance against immigrants. For example, in the piece *Horrific! The mess that illegal migrants left behind*,<sup>16</sup> published on 6 October 2020 on *Demokracija.si*, the author writes: “*Their beloved illegal migrants left behind themselves a pigsty along their illegal border route, the sight of it should make any Slovenian sick to the stomach.*” In the piece entitled *Look at this disgrace! Illegal migrants are leaving trash on the killing sites in the Kočevski Rog Forest!*,<sup>17</sup> published on 28 August 2020 on the *Demokracija.si* website, where the author writes: “*Because Slovenia is located on the Balkan route along which the migrants are arriving, the number of migrations is growing from year to*

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<sup>14</sup> Peifer, Jason, and Taeyoung Lee. 2019. Satire and Journalism. Oxford Research Encyclopedia of Communication

– Journalism Studies. DOI: 10.1093/acrefore/9780190228613.013.871

<sup>15</sup> Biščak, Jože. 2020. Jaz, rasist 3.0. Nova24TV.si, 8 December <https://nova24tv.si/kolumna/jaz-rasist-3-0/>

<sup>16</sup> Perš, Luka. 2020. Horrific! The mess that illegal migrants left behind! *Demokracija.si*, 6 October <https://demokracija.si/migracije/groza-kaksno-svinjarijo-so-za-seboj-pustili-ilegalni-migranti/>

<sup>17</sup> Kovač, Sara. 2020. Look at this disgrace! Illegal migrants are leaving trash on the killing sites in the Kočevski Rog Forest! *Demokracija.si*, 28 August <https://demokracija.si/slovenija/poglejte-kaksna-sramota-ilegalni-migranti-smetijo-pomoriscih-v-kocevskem-rogu/>

year. The problem of illegal migration is only getting worse during the epidemic. On the one hand, migrants can be a source of new infections, while on the other hand it can well be that we will face an economic crisis, which will require that we take care of our own citizens.” Furthermore, in its Reasoning to the decision rendered in the case of *G. G. vs. B. S. and the executive editor of Demokracija*, the Journalists’ Ethics Council (NČR) of the Slovene Association of Journalists decided that publishing the cover page and the piece titled *Rape Culture is coming to Slovenia with the migrants*, which was published in *Demokracija* on 30 August 2018 was a breach of Article 20 of the Slovene Journalists’ Code of Ethics: “A journalist must avoid all ethnic, racial, gender, age, religious, geographic and other stereotypes and details related to sexual inclinations, disability, physical appearance, social status or other personal circumstances of individuals and groups of individuals.”<sup>18</sup> In the Reasoning section, the Journalists’ Ethics Council wrote:

As the author of the cover page and the statement appearing on the cover page of *Demokracija* is not known to the Tribunal, the person responsible for the publication of the content stated in the complaint is the executive editor. /.../ Pursuant to Article 20 of the Code, the journalist (executive editor) should have refrained from using stereotypes listed in this Article, as well as details linked to the personal circumstances of individuals and groups. The photo montage appearing on the cover page only further deepens and reinforces racial, sexual, religious and geographic stereotypes. It suggests that all men of color are potential rapists of white women. /.../ The photo montage on the cover and the claim that rape culture is coming to Slovenia with the migrants is hate speech which incites hatred and intolerance.

In the expert’s opinion, this context establishes a significant frame of reference when reading the piece entitled *Presežki 5*, and is of the opinion that the piece is not satire. “Targeted elimination” “of migrants” with a “microorganism” which will be “created by God”, and the comparison of “targeting certain types of natural pests, molds, weeds” conveys no humorous effect and cannot establish an apparent contradiction through irony, which is characteristic of satire. When taking into account the context in which the piece is expressed and the context in which it is read, the piece *Presežki 5* does not contain any interplay of the mechanisms of exaggeration, irony and parody, which are otherwise characteristic of satire. The piece merely reinforces the continuity of exclusion, hostility and prejudice, with clear elements of racial discrimination and intolerance, interwoven with religious fanaticism and apocalyptic eugenics, which does not contribute to public culture.

**2. The expert went on to explain that the text in question is not *glosa*.** The director and executive editor likened the circumstances in which the piece *Presežki 5* was published to a *glosa*.<sup>19</sup> In journalism studies, a *glosa* is defined as a genre of journalism of an interpretive, commentary variety, which “puts sheds light on the background of not necessarily just major topical events, but also of smaller, seemingly less important ones.”<sup>20</sup> It is structured similar to a traditional, classic commentary, where the attitude of the *glosa* is akin to satire, since it employs the stylistic devices of sarcasm, ridicule and humor, while its tone is ironic and witty, which is not characteristic of other journalistic genres.<sup>21</sup> In the context of a *glosa*, as an established form of journalistic expression, journalism comes close to satire, as the definition itself suggests. Although historically the efforts of journalism and satire diverge in the ways they convey knowledge, and in the forethought they employ, what they have in common is a sense of “idealism in their conveyance of solid assessments of reality in a society.”<sup>22</sup>

<sup>18</sup> Slovene Association of Journalists: Slovenian Journalists’ Ethics Code. <https://novinar.com/drustvo-novinarjevslovenije/o-nas/dokumenti/kodeks/>

<sup>19</sup> <https://www.dnevnik.si/1042944893>

<sup>20</sup> Košir, Manca. 1988. *Nastavki za teorijo novinarskih vrst*. Ljubljana. DZS, p. 86.

<sup>21</sup> Ibid.

<sup>22</sup> Peifer, Jason, and Taeyoung Lee. 2019. *Satire and Journalism*. Oxford Research Encyclopedia of Communication – Journalism Studies. DOI: 10.1093/acrefore/9780190228613.013.871

The expert explained that, as explained in the course of the intertextual analysis of the context in which a text is expressed and that in which it is read (in the preceding section), the text of the piece does not approach social reality in a manner which is characteristic of satire. *Presežki 5* does not employ sarcasm, ridicule and humor, nor does it contain any figures of wittiness or irony, which are characteristic of *glosa*. While the topic of discussion in *Presežki 5* does fall into the broad framework of the journalistic genre of *glosa*, it is more difficult to identify the structure and scheme which, in the commentary style, consists of the introduction, which contains the exposition, or “point of departure” of the commentary, the body of the text with the explanations, argumentation and analysis, and the final point of the text.<sup>23</sup> Although the introductory exposition (“targeted elimination”, where “God can target a certain group of harmful people”) and the closing point (“look forward to the Apocalypse and be thankful for it, as without it humankind would perish before the century ends”) are clear, the argumentation in *Surpluses 5*, as explained above, is fragmented, where the author attempts to build his idea on the mechanisms of racism, religious fanaticism and apocalyptic eugenics, and in doing so he not only departs from the established epistemological boundaries of professional journalism and the prevalent ways of arguing social reality on the principles of enlightenment, but also departs from the standards of professional ethics in journalism, which is founded on the ethics of duty, which puts at its core respect for the human character and human dignity,<sup>24</sup> and are codified, among other places, in Article 20 of the Slovenian Journalists’ Ethics Code.

The expert concludes that the published piece is not *glosa*, as it lacks the genre features which characterize this established style of journalist expression.

Based on the Dr. Vobič’s expert opinion, the Advocate found that the mere fact that the media piece was formally designated as a *glosa* or satire in a medium, does not in itself mean that it is indeed *glosa* and satire. *Glosa* and satire are established genres/styles of journalism, each with its own set of requirements which a piece must meet in order to be designated as such. Even if, for example one were to explicitly refer to a column or commentary appearing in a medium as satire, or even if the piece appeared in a section of the medium which normally features satire, this in itself would not yet mean that the media piece in fact is, or becomes, satire or *glosa*, purely because of how it is referred to or where in the medium it is positioned. The name which a media piece is referred to as is not essential for the classification of a piece (authored work) into a specific genre, and this is also confirmed by a media studies expert’s professional opinion.

The executive editor responded to the expert opinion. Below are his rebuttals and the Advocate’s position on these rebuttals.

The executive editor stated that it is clearly marked in the periodical that the piece is a satirical text, or a *glosa*, and included an opposing opinion by V. V., who he claims has a long career as an editor, journalist and former director of the national radio broadcaster, Radio Slovenija. The executive editor argues about V. V. that not only is he familiar with the style of *glosa* (or satire) from a theoretical standpoint, but he also has practical experience with both the subject matter and different reactions from the audience and readers. The executive editor stated that V. V. says that the author’s text is in fact *glosa*.

In regards to V. V.’s opinion, the Advocate finds that this is the opinion of V. V. as a journalist (having majored in Journalism at the Faculty of Sociology, Political Sciences and Journalism in Ljubljana) and that the author of the opinion does not have a theoretical or scientific/research background in journalism or media studies. The Advocate consulted the SICRIS database and found that V. V. is not registered as a researcher in the database, and according to publicly available databases, the author never published any article in any scientific journal of any academic discipline. Based on this, the Advocate concludes that the

<sup>23</sup> Košir, Manca. 1988. *Nastavki za teorijo novinarskih vrst*. Ljubljana: DZS, pp. 84–85.

<sup>17</sup> Poler, Melita. 1997. *Novinarska etika*. Maribor: Obzorja, pp. 11–19.

<sup>24</sup> Poler, Melita. 1997. *Novinarska etika*. Maribor: Obzorja, pp. 11–19.

opinion is V. V.'s personal opinion about the media piece *Presežki 5*. Due to V. V.'s professional/business ties to the offending party (inter alia, V.V. is also a writer of the *glosa* form and a columnist who writes for the *Demokracija* periodical), the opinion also raises doubts about his bias and objectivity. In his assessment of this case, the Advocate cannot consider V. V.'s opinion to be equivalent to the professional opinion of Dr. Vobič, who has a theoretical background in media studies and who prepared his expert opinion for the Advocate pro bono. In the Advocate's opinion, V. V.'s opinion is not so much an expert opinion but rather a personal opinion of one of the offending party's contributors.

In his letter of response, the offending party also argued that it is irrelevant how the Advocate or anyone else would define the literary styles of *glosa* or satire. As mentioned before the Advocate recognized the piece as discriminatory, regardless of whether or not it might be considered *glosa* or satire. However, since the offending party insists that the piece was admissible for the very reason of it being *glosa* or satire, the Advocate also considered this aspect. According to ECHR case-law, artistic and satirical discourse enjoy special protection by the ECHR (less than political discourse and media discourse, but more than commercial discourse). In the matter of *M'Bala vs. France* (2015), the ECHR was of the view that comedy was merely a "pretext" for something which was closer to a political gathering which promotes negationism, a show of this kind, "however satirical or provocative", cannot be afforded protection by Article 10 of the Convention, since "having regard to circumstances of the case, the Court is of the view that this was a demonstration of hatred and anti-Semitism, supportive of Holocaust denial".<sup>25</sup> A similar situation can be seen in the case at hand. In the Advocate's opinion, the argument that the text is a *glosa*, or satire, is an apologetic attempt to justify the ideas of superiority of a group of persons to other groups of persons.

In his statement of response, the offending party also claimed that the text was taken out of context. The Advocate disagrees. The fact that the text was not in fact taken out of context follows from the expert opinion alone, where the expert explicitly writes that in making the assessment of whether or not a particular example is satire, one must consider both the context in which it is expressed, and the context in which the opinion piece is read. As is clearly evident from the expert opinion, the expert did not limit himself to just the media piece *Presežki 5*, but considered the piece within the broader context of forty-six other pieces (including the preceding pieces in the series, *Presežki 1, 2, 3, and 4*) which the author published in *Demokracija* in the period from between 2 January 2020 and 10 December 2020.

The Advocate also finds that even after receiving the response, it is still unclear if the offending party is claiming that the media piece is satire or that it is *glosa*. While the executive editor claims that the piece is satire, he reinforces his claim with an opinion by V. V., which says that the piece is *glosa*. However, Dr. Vobič's opinion states that the two terms are by no means synonymous, therefore the Advocate considers the inconsistent references to *glosa* one time, and to satire the next, as contradictory.

In his conclusion, the executive editor states that the Advocate makes reference to Dr. Igor Vobič's opinion. In the executive editor's opinion, the observations regarding which the Advocate requested clarifications, clearly show that the expert is "ideologically biased" and that "conservatism is clearly not his worldview" (which the executive editor believes there is nothing wrong with, since each individual is free to choose their personal worldview).

The Advocate clarifies that when engaging the services of a media expert, he chose Dr. Vobič because the latter had never publicly voiced his opinion about the media piece in question (unlike some other experts working in the field). In making the selection the Advocate pursued the principle of neutrality and independence, and he ensured satisfaction of the principle of professionalism by consulting the SICRIS database, which shows Dr. Vobič's professional, expert and academic achievements. In this respect, the Advocate

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<sup>25</sup> Supreme Court of the Republic of Slovenia, Legal Bulletin (Pravosodni bilten - PB) issue no. 3/2016, p. 45.

underlines that the purpose of this proceeding is not to perform an assessment of the worldviews held (if any) by the parties and participants of this proceeding, whatever they may be. In the context of this proceeding, the Advocate was evaluating the content of the media piece, however the offending party, or the executive editor representing the offending party, did not even explain his position on the fact, nor did he attempt to deny the fact that the content of the media piece was discriminatory. Duly observing the existing legal framework and anti-discrimination regulations, the Advocate's task and power is to determine the legally relevant circumstances, and based on that, to render a decision regarding the discrimination of the media piece in question. His role is not to pass judgment on the worldviews held by the parties involved in the proceeding.

In the statement of response, the offending party accused the expert of having branded *Demokracija* as a conservative weekly periodical. This statement is not true. The part, in which the expert mentions that *Demokracija* is a "right- (conservative) leaning" weekly periodical, was not an expression of his opinion, it was his summary of the words from the column by the executive editor of *Demokracija*, under the title "*I, racist 3.0*", published on the website [www.nova24tv.si](http://www.nova24tv.si).<sup>26</sup> This is also clearly stated in the expert opinion, since the editor wrote: "*And it is no secret that Demokracija is right- (conservative) leaning. And for that we have found ourselves the target of an orchestrated assault.*"

In regards to the expert's references to the Journalists' Ethics Council (NČR), the executive editor argues that such reference is completely irrelevant, since he has not been a member of the Slovene Journalists' Association (of which the NČR is part) since the mid-1990s, therefore he is not familiar with their Code of Ethics as a non-member. He had pointed this out on a number of occasions in the past, however abuses of his name and stature happen continually time and again. The Advocate finds that the "references to the NČR" refer to Dr. Vobič's arguments made in his expert opinion. The Advocate presented the complete expert opinion to the offending party on the basis of Article 9 of the General Administrative Procedure Act (ZUP). In issuing his decision, the Advocate does not rely on past decisions of the Journalists' Ethics Council, since these bear no legal relevance to the publication of the media piece *Presežki 5*.

In regards to the argument made by the executive editor, namely that by the Advocate writing in the conclusion of his clarification that he is "leaning towards issuing a decision which would confirm the existence of discrimination", the Advocate is expressing a prejudicial position without first hearing the presumably offending party's opinion, i.e. the opinion of the party who presumably acted in a discriminatory manner, the Advocate notes that under Article 146 of the General Administrative Procedure Act (ZUP), before the decision is issued, the offending party, who is a parties involved in the proceedings, is given the opportunity to give an explanation of all the facts and circumstances which may be relevant to the decision. By so doing, in accordance with the law, the Advocate provided the opposing party the opportunity to explain his position on the matter and present counter-arguments before a decision is issued. In this context, the Advocate also took into account Article 40 of the ZVarD, which stipulates the rule of the reverse burden of proof. As explained in this decision, the Advocate took note of the offending party's arguments presented during this proceeding and took a substantive position on the matter, in observance of the rules of procedure laid out both by the Protection Against Discrimination Act (ZVarD) and the General Administrative Procedure Act (ZUP).

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<sup>26</sup> <https://nova24tv.si/kolumna/jaz-rasist-3-0/>.

## VIII. The Advocate's closing observations

Having considered the above, the Advocate finds that the publication of the media piece *Presežki 5* resulted in a violation of the prohibition of discrimination stipulated in the second paragraph of Article 10 of the ZVarD.

In the manner it was written, the piece violated the prohibition of justifying ideas of the supremacy or superiority of a group of people to those who are not part of such group, regardless of the claims made by the medium's executive editor, arguing that the piece was *glosa*, or satire. Since the executive editor argued that the piece was written in the form of *glosa* or satire, the Advocate also evaluated his position on the merits of the offending party's defense arguments. As explained in detail, the genre of either *glosa* or satire was not found in the media piece over the course of this proceeding.

In accordance with the first paragraph of Article 35 of the ZVarD, the procedure conducted by the Advocate is free of charge for the parties involved, and no special expenses were incurred over the course of the proceedings, therefore the Advocate decided as per Point 2 of the declaratory section of this Decision.

In accordance with Article 44 of the ZVarD, the Advocate is not a body with the power to impose sanctions upon offending parties. Under Article 44 of the ZVarD, certain forms of discrimination are subject to sanctions imposed by competent inspection services in the field in which discrimination occurred. Under the ZVarD, no sanctions are envisaged for the form of discrimination defined in Article 10 of the ZVarD as incitement of discrimination. The same applies to this case.

**Legal notice:** No appeal may be lodged against this decision, although an administrative dispute may be raised. An administrative dispute may be raised by way of legal action, lodged within 30 days of delivery of the decision, before the Administrative Court of the Republic of Slovenia, Fajfarjeva 33, 1000 Ljubljana. The action may be lodged before the competent court either directly in writing, or sent by mail. The action and any enclosures thereto must be lodged in no less than three counterparts. The action must be accompanied by this decision, either the original or a photocopy.

Proceedings overseen by:  
Sergeja Oštir  
Independent Advisor to the Advocate

Miha Lobnik  
ADVOCATE OF THE PRINCIPLE OF EQUALITY

Sent to:

- deliver in person under the General Administrative Procedure Act (ZUP),
- documentary archive