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**Independent Expert on the enjoyment of all human rights by older persons**

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Subject: Call for input: thematic report on ageism and age discrimination

Following the Call by the Independent Expert seeking contributions from States, national human rights institutions, civil society, academia, international and regional organizations, and all other relevant stakeholders, the Advocate of the Principle of Equality (hereinafter: The Advocate), national equality body in the Republic of Slovenia, is pleased to provide the requested information below.

The following answers reflect the work and interventions of the Advocate in the field of discrimination of elderly in 2020, year that was particularly affected by the pandemic-related health crisis which had an especially profound impact on the lives and rights of older people.

**Forms and manifestations of ageism and age-discrimination**

***1. What forms does age discrimination affecting older persons take and which ones are the most prevalent? Where available, please provide concrete examples and collected data including in employment, education, social protection, and health, financial and social services.***

In 2020, the Advocate of the Principle of Equality conducted a public opinion poll titled "Perceptions and Experiences of Discrimination in Slovenia in 2020" with the aim of monitoring trends regarding discrimination among the general public. One of the purposes of the public opinion poll was to gain insight into people's attitudes and experiences regarding discrimination. The poll was an upgrade of the survey "Perception of Discrimination in Slovenia - Public Opinion Survey" conducted by the Advocate in 2017. By repeating part of the survey, it wanted to obtain comparative data, which could monitor possible changes in public opinion over a three-year period.

The survey was conducted by the Institute for Market Research and Media Mediana, d. o. o., between 30 October and 9 November 2020. The methodology was a combination of computer-aided telephone survey and computer-aided online survey. The sample frame was the population of the Republic of Slovenia, the general population aged 18 to 75 years. The survey was conducted on a sample (N = 1007) that is representative of Slovenia in terms of gender, age, region, and education.

According to results, 9 percent of respondents perceive age as the most common reason for discrimination in Slovenia, which is one percentage point less than in 2017.

Respondents who believe they were victims of discrimination most often experienced it on the basis of their age (22 percent), which is three percentage points more than in 2017, when respondents also cited it as the most common reason.

87 percent of respondents believe that older people can make a significant contribution to the development of society (only five percent of respondents disagree therewith); 53 percent of respondents think the older generations are just as capable as the younger ones. 11 percent of respondents believe the elderly are the most frequent targets of discrimination, which is seven percentage points more than in 2017.

The Advocate also conducted a research based on qualitative and quantitative methods, including an online survey (N=1.267), focusing on the experiences and the perception of the situation in care homes for the elderly during the first epidemic wave in Slovenia (from March to May 2020). Final results of the research are to be published in 2021. According to preliminary results of the online survey, almost 60 % of responding residents said they felt worse because of the restrictions, mostly missing social contact with relatives.

***2. Please provide information and data collected about the causes and manifestations of ageism in society, both for younger and older generations, and how it translates into discriminatory practices.***

N/A

***3. From an intersectional perspective, are there specific factors that aggravate ageism and age discrimination and how? Please provide concrete examples and collected data where available.***

In the beginning of 2019, the Public Agency for Research of the Republic of Slovenia invited the Advocate to participate in the implementation of the Target Research Program "CRP 2019". The Advocate participates in the co-financing of two two-year research projects, for which it estimated they will significantly contribute to the understanding of the causes, scope, and characteristics of discrimination in Slovenia.

Within the framework of one of these research projects (titled “Structural discrimination as an obstacle to achieving the goal of a decent life”), an analysis of available statistics and data from advocacy institutions on the state of discrimination against persons was carried out in 2020, with a special emphasis on the effects of the COVID-19 epidemic. The most vulnerable groups, according to analysis results are:

* precarious and self-employed workers who show a worrying deterioration in the socio-economic situation, also due to politically motivated punitive measures taken by the authorities against individuals;
* elderly people living in poverty, most of whom are women over the age of 65;
* adults and children with disabilities who are exposed to an inadequate understanding and regulation of their situation;
* women and children, victims of violence, where patriarchal normalization of violence is noticeable;
* groups facing hate speech, racism, anti-Semitism, homophobia and misogyny;
* increase in the number of people with mental health problems with a significant deterioration in their condition during the pandemic (e.g., increasing suicide rates among adolescents).

**Legal, policy and institutional frameworks related to ageism and age-discrimination.**

***4. What international, regional and national legal instruments are in place to combat ageism and age discrimination?***

In 2016 the National Assembly of the Republic of Slovenia adopted the Protection Against Discrimination Act (PADA)[[1]](#footnote-1) which *inter alia* established the Advocate of the Principle of Equality. In accordance with Article 21 of PADA, the Advocate's tasks are the following:

* conducting independent research on the position of people with certain personal grounds, particularly gender, nationality, racial or ethnic origin, religion or belief, disability, age, sexual orientation and other issues regarding discrimination of people with certain personal circumstances;
* publishing independent reports and making recommendations to state authorities, local communities, holders of public authorizations, employers, business entities and other bodies regarding the established situation of people with certain personal grounds, 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 with certain personal grounds;
* proposing the adoption of special measures to improve the situation of people who are in a less favorable position due to certain personal grounds;
* participating in judicial proceedings involving discrimination as per this Act;
* ensuring the exchange of available information on discrimination with bodies of the European Union;

The competences of the Advocate of the Principle of Equality extend to both public and private sector.

PADA also transposes the following legal acts of the European Union in the national corpus of laws:

* 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).

***5. Please also note any action plans or policies to raise awareness and combat ageism (including antiageism in school curricula) and to move toward a more age-friendly and inclusive society.***

The Advocate performs several activities in general public in order to promote its competences on the field of combating discrimination by:

* providing information, (legal) advice, and advocacy;
* receiving complaints and conducting discrimination investigation proceedings;
* research, monitoring, issuing recommendations, and awareness-raising.

The Advocate conducts a permanent dialogue with different stakeholders in the field of (old) age discrimination, including governmental and non-governmental organizations.

The Advocate is about to release in 2021 the results of the research on the situation in care homes for the elderly in the first wave of the epidemic in Slovenia, which include the results of an online survey among elderly persons in care homes, their relatives, employed personnel and non-governmental organizations (n=1.267). The research also included in depth semi-structured interviews with residents of nursing homes and field experts.

***6. At the national level, please outline the legal protections available against age discrimination and indicate whether age is explicitly recognised as a ground for discrimination? If so, are there specific areas for which equality is explicitly guaranteed? Are there any areas where differential treatment based on older age is explicitly justified?***

One of the most comprehensive legal protection against age discrimination is offered by the 2016 Protection Against Discrimination Act (PADA). PADA determines the protection of all persons 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 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. As evident, age is explicitly listed as a protected ground on the basis of which discrimination is prohibited.

The Act binds state authorities, local communities, holders of public authorizations, legal entities and 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’ organizations or any organization whose members perform a certain vocation, including benefits provided by such organizations;
* 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.

However, PADA (paragraphs 2 and 3 of Article 13) also defines two particular exemptions from the prohibition of direct discrimination that include age:

* The first specific exemption relates to the field of employment and work. It is permissible to treat persons unequally on the basis of sex, race or nationality, religion or belief, disability, age or sexual orientation only if the personal ground concerned 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.
* The second exemption explicitly concerns the personal ground of age and the field of employment and work. Under this exemption, employers may treat persons unequally on the basis of age if such treatment 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.

***7. Do the existing legal protections against age discrimination allow for claims based on intersectional discrimination, that is discrimination which is based on the intersection of age and other characteristics such as race, ethnicity, gender, disability, sexual orientation or other status?***

While intersectional discrimination is not explicitly defined as a separate form of discrimination in PADA, the Advocate has already conducted discrimination investigation proceedings based on claims of intersectional discrimination. These proceedings, however, did not concern the personal ground of age.

***8. What legal and other measures have been taken to address and protect from racism, sexism, ableism or other similar forms of discrimination that might be useful models for addressing ageism?***

N/A

***9. Please indicate if there are institutional or complaints mechanism to address inequalities or grievances related to ageism and age discrimination. If so, please provide statistics on cases and types of cases received?***

The Advocate is an independent state authority mandated to deal with protection against discrimination and promotion of equal treatment. Out of 272 cases of claimed discrimination that the Advocate addressed and closed in 2020, 6 percent included age as the alleged cause of discrimination.

In 2020, the Advocate adopted 13 assessments of discriminatory character of regulations. In five of these assessments, it assessed the regulations as discriminatory, one of the cases referring to the personal ground of age. The Advocate assessed that the measure restricting shopping in grocery stores at the time of the new Coronavirus epidemic, which banned those over the age of 65 from entering grocery stores, except during the time reserved explicitly for them and certain other vulnerable groups, was discriminatory on the basis of age. Based on the assessment, the Advocate issued a recommendation to the Government to take into account the Advocate’s assessment should it consider adopting such measures in the future.

In 2020, the Advocate continued to represent the party in the court proceedings initiated in 2019. The Advocate’s lawsuit was filed in 2019 before the District Court in Ljubljana against the Association of Cycling Judges of Slovenia, which no longer allowed the plaintiff to work as cycling commissaire in competitions due to reaching the age of 70. In the lawsuit, the Advocate claimed direct discrimination on the grounds of age and demanded an end to discrimination.

Out of 48 recommendations issued by the Advocate to various ministries, state authorities and local communities, as well as public agencies and institutions, companies, and non-governmental organizations, 8 addressed the personal ground of age.

**Reports related to ageism and age discrimination and other relevant information**

***10. Please outline any other areas that you deem important in the context of ageism and age discrimination. Thank you for sharing any relevant reports about ageism and age discrimination.***

N/A

Best regards,

**Mag. Jelena Aleksić**
*Head of Department –*

*coordinator of monitoring, awareness-raising and prevention*

1. http://www.zagovornik.si/wp-content/uploads/2019/02/PADA-ZVarD\_EN.pdf [↑](#footnote-ref-1)