



## European network of legal experts in gender equality and non-discrimination

### NEWS REPORT

<b>Country:</b>	Slovenia
<b>Title:</b>	New protection from Discrimination Act adopted
<b>Date:</b>	27 May 2016
<b>Expert:</b>	Neža Kogovšek Šalamon
<b><u>Context</u></b>	
<b>Issue at stake:</b>	New legislation transposing Directives 2000/78/EC and 2000/43/EC
<b>Ground of discrimination:</b>	All grounds
<b>Source:</b>	National Assembly of the Republic of Slovenia
<b>Field:</b>	All fields (employment and work, education, social security, social benefits, access to goods and services)
<b>Applicable law:</b>	Protection from Discrimination Act, Official gazette of the Republic of Slovenia, No. 33/2016, 9 May 2016

### Content

**Law:** On the 21 April 2016 the National Assembly passed a new Protection from Discrimination Act. The new act, which entered into force on 24 May 2016, replaced the previous Implementing the Principle of Equal Treatment Act from 22 April 2004. The new Act covers an extended list of protected grounds and in addition to gender and the grounds protected by the 2000/78/EC and 2000/43/EC directives (race, ethnicity, religion, belief, age, disability, sexual orientation) also includes gender identity, gender expression, social standing, health and other grounds. The personal and material scopes have not changed, as the law imposes the duty not to discriminate on private and public bodies, in all fields, in particular retraining, practical work experience; employment and working conditions, dismissals and pay; membership of and involvement in an organisation of workers or employers, or other professional organisation, including associated benefits; social protection, social security and healthcare; social advantages; education; access to and supply of goods and services which are available to the public, including housing.

Incitement to discrimination is now specifically defined as a prohibited form of discrimination, in addition to the forms that were defined as such before (direct and indirect discrimination, harassment, victimization, and instruction to discriminate). It defines more serious forms of discrimination which include multiple discrimination (which exists when a person is discriminated against on multiple grounds at the same time), mass discrimination, long-term or repetitive discrimination, and discrimination that could cause consequences that are difficult to eliminate in particular if it is carried out against a child or other weak persons. The Act also contains a provision on the duty to collect data which is imposed on the equality body and the competent inspectorates. They have to collect data on the number of cases of discrimination dealt with, personal ground and field, and forms of discrimination.

The Act also provides for a new organisational structure of the equality body (Advocate of the Principle of Equality). Articles 19 and 20 of the Act state that the Advocate is set up as an autonomous state body that may not receive binding instructions related to its work. The competencies and tasks of the Advocate are: to conduct independent research on situation of people with specific ground(s) of discrimination; to publish independent reports and issue recommendations to state bodies, local government bodies and other institutions with public authority, employers, companies, and other subjects; to carry out inspection tasks; to provide independent assistance to discriminated persons such as counselling and legal aid; to raise awareness of the general public on issues of discrimination; to monitor discrimination in Slovenia; to recommend positive action measures; to participate in judicial proceedings in cases of discrimination; and to exchange information on discrimination with European Union bodies.

The Act also regulates a new procedure on the nomination of the Advocate, as after the new Act's entry into force he or she is nominated by the National Assembly upon the proposal of the President of the Republic (under the previous act he or she was nominated by the Minister). Under the new Act the function of the Advocate is a public state function (while under the previous act the Advocate was a civil servant). The Act also states that the Advocate has a team composed of civil servants who carry out professional and administrative tasks. The complaint procedure is also regulated in a different way and the Advocate has some new powers, such as the right to lodge a claim for constitutional review of laws that are discriminatory and the already mentioned inspection tasks.

The Act introduces new provisions in the field of adjudication of discrimination cases. The right to compensation in cases of discrimination is now specifically provided for and the compensation for the sole fact that a person has been exposed to discrimination is set at 500 to 5000 EUR. The right of (the employee working at) the Advocate and the NGOs to represent the discriminated person in judicial proceedings is now specifically defined in the Act, without prejudice to the general rules on representation in judicial proceedings. The condition is that the person representing has passed a state legal exam (bar exam). If it is an NGO that is participating in the proceedings, the NGO has to have a status of an organization in public interest in the field of protection from discrimination or protection of human rights which is granted to the NGO by the Ministry of Labour, Family, Social Affairs and Equal Opportunities. The Act also defines higher fines for discrimination.

**Key points of analysis:** The main reason why the new act was adopted now is the pending infringement procedure initiated against Slovenia by the European Commission, due to failure to correctly implement directives 2000/78/EC and 2000/43/EC. The main reason for the infringement was the insufficient powers allocated to the equality body, the lack of its independence, and the lack of effectiveness of the whole protection system as such.

**Internet link source:** <http://www.uradni-list.si/1/objava.jsp?sop=2016-01-1427>.