

## EQUAL TREATMENT IN HEALTHCARE IRRESPECTIVE OF RACIAL OR ETHNIC ORIGIN IN THE EU AND SLOVENIA

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**Abstract** The systematic review and analysis of legal acts aims to answer the question if people from diverse ethnic and racial backgrounds in EU Member States have equal access to healthcare and what is the degree of implementation of equal treatment in Slovenia. The overall reason of this analysis is to find the potential gaps in the access to health system for people from diverse ethnic and racial backgrounds and to decrease disparities between dominant and minority groups. Both, EU and Slovenia, prohibit discrimination on the grounds of racial or ethnic origin and have strong measures to combat discrimination on these grounds. Regardless the legislation and special protection, inequalities experienced in the most vulnerable and marginalised groups, such as Roma, migrant workers, asylum seekers, still remain an ongoing challenge.

## 1 Introduction

More than 20 million non-EU nationals live legitimately in the EU and many fare worse than EU citizens in terms of jobs, education, social inclusion, and healthcare<sup>1</sup>, despite efforts made to integrate them. Helping them to participate and contribute fully benefits both them and society at large. Basic services, among others health services, are national policy areas, but the EU can help by not only funding and supporting best practices, especially for the most vulnerable, but also through developing pilot training programmes for health professionals (Action Plan, 2016).

Discrimination in healthcare settings is widespread across the world and takes many forms. It violates the most fundamental human rights protected in international treaties and in national laws and constitutions. Discrimination in healthcare settings is directed towards some of the most marginalized and stigmatized populations who are all too often excluded or left behind. Discrimination affects both users of healthcare services and healthcare workers. It serves as a barrier to accessing health services, affects the quality of health services provided, and reinforces exclusion from society for both individuals and groups. Discrimination in healthcare settings is often manifested when an individual or group is denied access to healthcare services that are otherwise available to others. It can also occur through denial of services that are only needed by certain groups, such as women. Examples include specific individuals or groups being subjected to physical and verbal abuse or violence; involuntary treatment; breaches of confidentiality and/or denial of autonomous decision-making, such as the requirement of consent to treatment by parents, spouses or guardians; and lack of free and informed consent. It is also present in the entrenched gender-based discrimination within the largely female health workforce, as evidenced by physical and sexual violence, wage gaps, irregular salaries, lack of formal employment, and inability to participate in leadership and decision-making. National laws, policies and practices can also foster and perpetuate

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<sup>1</sup> *Healthcare* is on its way to becoming a one-word noun throughout the English-speaking world. The change is well underway in British publications, where *healthcare* already appears about three times as often as *health care* and is used as both a noun and an adjective. Many American and Canadian publications resist the change, meanwhile, and *health care* remains the more common form in North American newswriting, as well as in government and scholarly texts. In many cases – such as on health-related U.S. government websites – *health care* is the noun (e.g., “your health care is important”) and *healthcare* is the adjective (e.g., “find a healthcare professional”), but this is not consistently borne out, and both forms are widely used both ways. Many publications and websites seem to have no policy on this at all (Grammarist, 2019). European and Slovenian official databases are also inconsistent in use. It seems that one word (*healthcare*) as noun and adjective is more frequent in newest texts and two words in older ones, but there is no rule. In this text I follow the trend of using only one word.

discrimination in healthcare settings, prohibiting or discouraging people from seeking the broad range of healthcare services they may need. Addressing discrimination in healthcare settings ensure that no one is left behind (Joint, 2017).

The role of the EU, as laid down in the European treaties, is to undertake measures to supplement the work of the Member States, while providing European added value, particularly with regard to major health threats, issues that have a cross-border or international impact and questions relating to the free movement of goods, services and people. Accordingly, a cross-sectoral approach is vital and all community policies must play a role in health protection. The Commission and the Member States have worked together to develop an approach to EU healthcare systems that is based on common values. The Commission White Paper of 23 October 2007 titled “Together for Health: A Strategic Approach for the EU 2008–2013” (Together for Health, 2007) proposed four principles. The first principle states that health is based on shared values, underlining that universality, access to good quality care, equity and solidarity are fundamental. Inequalities between different Member States and between different regions still exist in the health sector. Reducing inequalities is linked to improving health, therefore, the Commission puts forward measures to help reduce these inequalities. The second principle states that health is the greatest wealth. Spending on health-related problems represents a significant economic burden for society. Therefore, the first priority for health expenditure should be investment in prevention, to protect the general health of the population. The Commission and the Member States must develop a programme where the key issues of health status, investment and economic growth must all be analytically studied as they are interconnected. The third principle states that health must be in all policies, such as environment, research and regional policies, those regulating pharmaceuticals and foodstuffs, those coordinating social security systems and those governing tobacco taxation (HIAP approach), and synergies must be created between all the sectors that are vital for health. The fourth principle strengthens the EU voice in global health in order to better protect the health of its citizens and citizens of third countries. The EU must therefore consolidate its position within international organisations and strengthen cooperation with the partners, and ensure that health concerns are not only properly provided in international health agreements but that they also are implemented in international health regulations.

The importance of recognizing human rights in the context of healthcare is illustrated by the *Council of Europe's Convention on Human Rights and Biomedicine* (1997, in force 1999). This Convention refers to several rights that are central in healthcare settings, such as those concerning: a consent to treatment; private life and the right to information; controls on genetics and the prohibition of discrimination; research; and the removal of organs and tissue from living donors for transplantation purposes. The Council of Europe has also produced additional protocols on cloning, transplantations, and biomedical research (McHale, 2010: 283–284).

## 2 Methods: sources and timeframe

A legal mapping of European Union and Slovene legislation related to ethnic health disparities was made in two databases (EUR-Lex<sup>2</sup> and PISRS<sup>3</sup>). The documents of the United Nations and the World Health Organization are also included in this overview.

EUR-Lex provides access to European Union law in the 24 official EU languages in eight domains (EU treaties, directives, regulations, decisions, consolidated legislation; preparatory documents, such as legislative proposals, reports, green and white papers; EU case-law, such as judgments and orders; international agreements; EFTA documents; summaries of EU legislation, which put legal acts into a policy context, explained in plain language; and, other public documents. It also allows the reader to follow the procedures leading to the adoption of legal acts. The database is updated daily with some texts dating back to 1951. Legislative acts that went through ordinary legislative procedure are: regulations of the European Parliament and of the Council, directives of the European Parliament and of the Council, decisions of the European Parliament and of the Council. Other legislative acts are: Council regulations, directives and decisions. Further, the division of European legislation is divided into non-legislative acts (such as delegated acts of the Commission, implementing acts of the Commission and Council, and other acts). Eur-Lex allows searching by author (i.e. institutions such as European Parliament, Council of the European Union, European Commission), by type of act (i.e.

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<sup>2</sup> Access to European Union Law, available at: <https://eur-lex.europa.eu/homepage.html> (January 19, 2020).

<sup>3</sup> Pravno-informacijski sistem Republike Slovenije [Legal information system of The Republic of Slovenia], available at: <http://www.pisrs.si/Pis.web/> (January 19, 2020).

regulations; directives; decisions; delegated regulations, directives and decisions; implementing regulations, directives and decisions), and by repealed or expired acts.

In PISRS one can find national regulations published in the Official Gazette of the Republic of Slovenia, regulations adopted and published before 1991, international contractual and non-contractual acts by the Republic of Slovenia ratified or succeeded. Regulations of the local community are not included and must be sought separately.

The time frame for systematic and structured search of European documents mainly covers the period since 13. 12. 2007, the date of signing of the Lisbon Treaty that regulates the distribution of competences in various policy areas, among others healthcare, between the EU and the states. In addition, the Lisbon Treaty put into force the Charter of Fundamental Rights of the European Union (December 7, 2000; supplement 2012 and 2016) that provides the basis for issues of equality in several areas of social life (e.g., healthcare, especially in the Articles 3, 21, 26, 34, 35). United Nations documents were overviewed from the beginning, that is from the end of the World War II.

Identification of relevant EU legislation that addresses ethnic health disparities in legal database EUR-Lex that gives access to European Union law was made by using keywords “ethnic minority, health” in title and text; and Eurovoc descriptors<sup>4</sup> “illness, medical science, health care profession, health policy”.

Identification of relevant Slovene legislation in PISRS database used keywords such as “zdravje, zdravstvo, manjšina, etničen, (i)migrant, diskriminacija, enaka obravnava, Romi, izbrisani” [in English “health, health service, minority, ethnic, (im)migrant, discrimination, equal treatment, Roma, the ‘erased’”].

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<sup>4</sup> EuroVoc is a multilingual, multidisciplinary thesaurus covering the activities of the EU, the European Parliament in particular. It contains terms in 23 EU languages (Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish), plus in three languages of countries which are candidates for EU accession: македонски (mk), shqip (sq) and српски (sr). EuroVoc contains keywords, organized in 21 domains and 127 sub-domains, which are used to describe the content of documents in EUR-Lex. One of the domains Social “Questions” contains the subdomain “Health”, which is further divided into narrower topics, such as: nutrition, pharmaceutical industry, illness, health policy, health care profession and medical science. “Health policy” contains entries, such as health costs, health expenditure, health service, organisation of health care, health statistics, health care system, e-Health, available at: [https://eur-lex.europa.eu/browse/eurovoc.html?params=28,2841#arrow\\_2841](https://eur-lex.europa.eu/browse/eurovoc.html?params=28,2841#arrow_2841), (January 19, 2020).

### 3 International law: The right to health and healthcare and racial or ethnic equality

Human rights can be loosely divided into ‘negative’ and ‘positive’ rights. Negative rights are typically contained in traditional so-called civil and political statements of human rights. These rights statements have been in existence for considerable periods of time – in some cases, several hundred years, as in the case of the *United States Bill of Rights* (created 1789, ratified 1791). In many of the European Countries such rights include the right to life and rights to privacy of home and family life. These rights are classified as negative since they do not usually involve expenditure of public resources. In contrast, positive rights are to be found in more modern, frequently termed ‘socioeconomic’, human rights statements. Examples include the right to health and right to education. Positive rights typically involve expenditure of public money and tend to be characteristic of more affluent societies. Several international human rights documents refer to rights applicable in the context of health law and policy. By way of example, a right to health was first explicitly stated in the *Preamble of the World Health Organization (WHO) Constitution* in 1946. Some United Nations human rights documents directly address health, such as the right to a standard of living adequate for health and well-being (*Universal Declaration of Human Rights*, 1948, Article 6.), or the need for recognition of the highest attainable standard of physical and mental health (*International Covenant on Economic, Social and Cultural Rights*, 1966, in force 1976, Article 12). International rights declarations also refer to health in the work-place (*Universal Declaration of Human Rights*, 1948, Article 6). Rights declarations also commonly contain right to life claims, prohibitions on torture and inhuman and degrading treatment, and prohibitions on unjustified detention. These declarations may apply in health contexts.

The United Nations, an organization of sovereign States that voluntarily join to work for world peace, promote friendship among all nations and support economic and social progress, which formally came into being on 24 October 1945 and had at that time 51 countries as Members, signed several important documents that deal with health and racial or ethnic equality. Documents, such as the *Charter of the United Nations*<sup>5</sup> (signed on 26 June 1945, in San Francisco, at the conclusion of the United

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<sup>5</sup> *Charter of the United Nations*, available at: <https://www.un.org/en/sections/un-charter/un-charter-full-text/> (March, 18, 2020). The Statute of the International Court of Justice is an integral part of the Charter. The United

Nations Conference on International Organization; in force on 24 October 1945) is based on the principles of the dignity and equality inherent in all human beings, promoting and encouraging universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion.

*The International Convention on the Elimination of All Forms of Racial Discrimination*<sup>6</sup> (ICERD, signed 1965, in force 1969) defines the term “racial discrimination”, which means any distinction, exclusion, restriction or preference based on race, colour, 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 (Article 1). States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, among other, in civil rights, such as the right to public health, medical care, social security and social service (Article 5). States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination (Article 6).

*The International Covenant on Civil and Political Rights* (ICCPR, signed 1966, in force 1976)<sup>7</sup> is based on the principle, that each State respects and ensure to all individuals within its territory and subject to its jurisdiction the rights, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (Article 2, Paragraph 1). In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties may take measures derogating from their

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Nations Association of Slovenia (UNA Slovenia) was established in 1951. Following its declaration of independence on 25 June 1991, Slovenia was subsequently accepted as a UN Member State on 22 May 1992.

<sup>6</sup> *International Convention on the Elimination of All Forms of Racial Discrimination*, available at: <https://www.ohchr.org/Documents/ProfessionalInterest/cerd.pdf> (March 18, 2020).

<sup>7</sup> *International Covenant on Civil and Political Rights*, available at: <https://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf> (March 18, 2020).

obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin (Article 4). No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation (Article 7). Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. The exercise of the rights carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary, among others, for the protection of national security or of public order, or of public health or morals (Article 19). Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State (Article 24, Paragraph 1). All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (Article 26).

*International Covenant on Economic, Social and Cultural Rights*<sup>8</sup> (ICESCR, signed in 1966, in force 1976) recognizes, among other, the right of everyone to the enjoyment of just, favourable, safe and healthy working condition, the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The full realization of this right includes the provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; the improvement of all aspects of environmental and industrial hygiene; the prevention, treatment and control of epidemic, endemic, occupational and other diseases; the creation of conditions which would assure to all medical service and medical

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<sup>8</sup> *International Covenant on Economic, Social and Cultural Rights*, available at: <https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf> (March 18, 2020).



attention in the event of sickness. The rights enunciated in this Covenant should be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (Article 2, Article 7, Article 12).

*The United Nations Convention on the Rights of Persons with Disabilities*<sup>9</sup> (CRPD, 2006) protects at the international level the rights and freedoms of persons with disabilities and is, among other, concerned about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status (Preamble (p)).

#### 4 European Union law – general

The review of European Union law is based both on primary and secondary legislation. Primary legislation is comprised of the Treaties, general principles established by the Court of Justice of the European Union (CJEU) and international agreements. Secondary legislation is comprised of all the acts which enable the EU to exercise its powers.<sup>10</sup>

In the European Union law access to medical care, preventive healthcare, and medical care in pregnancy are fundamental human rights. The European Union law is an important tool for eliminating ethnic or racial physical and mental health disparities. It is a means to develop governmental healthcare infrastructure, to regulate health monitoring, to develop strategies for the early warning of and combating serious cross-border threats to health, as well as to advocate for and increase the awareness of ethnic and human rights in the field of healthcare. However, in reality, regardless of the common European standards of humanity, there are groups of people who, when it comes to healthcare, have been marginalized, as they often have access to medical care only in life-threatening situations or in the worst case scenarios. These marginalized citizens all fall under

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<sup>9</sup> *The United Nations Convention on the Rights of Persons with Disabilities*, available at <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#25>, (March 18, 2020).

<sup>10</sup> European Union (EU) Hierarchy of Norms. EUR-Lex, Access to European Union Law, Summaries of EU Legislation, Glossary of Summaries, available at [https://eur-lex.europa.eu/summary/glossary/norms\\_hierarchy.html](https://eur-lex.europa.eu/summary/glossary/norms_hierarchy.html) (January 19, 2020).

the category of “The Other”, such as Roma people, irregular and regular migrants and asylum seekers.

*The European Convention On Human Rights (ECHR)* was signed in 1950 by the Council of Europe. The ECHR is an international treaty designed to protect human rights and fundamental freedoms in Europe. All 47 countries forming the Council of Europe are party to the ECHR, 28 of which are members of the EU. The ECHR established the European Court of Human Rights, intended to protect individuals from human rights violations. Any person whose rights have been violated under the ECHR by a state party may take a case to the European Court of Human Rights. This was an innovative feature, as it gave individuals rights in an international arena. Judgments finding violations are binding on the countries concerned. The Committee of Ministers of the Council of Europe monitors the execution of judgments. The ECHR has several protocols, which amend its framework. For instance, the Treaty of Lisbon, in force since 1 December 2009, permits the EU to accede to the ECHR and a draft agreement for accession was finalised in 2013.

*The Charter of Fundamental Rights (CFR)* (2007; 2010; 2012; 2016) consolidates all the fundamental rights applicable at the European Union (EU) level. Broader than the European Convention for the Protection of Human Rights and Fundamental Freedoms, it establishes ethical principles and rights for EU citizens and residents that relate to dignity, liberty, equality, solidarity, citizenship and justice. In addition to protecting civil and political rights, it covers workers' social rights, data protection, bioethics and the right to good administration. The CFR is legally binding. In accordance with Article 6 of the Treaty on European Union, it has the same legal value as all other EU treaties. It applies only when EU institutions and EU countries are implementing EU law and does not extend the competences of the EU beyond those already granted in the treaties. The CFR provides the basis for issues of equality in several areas of social life (e.g., healthcare, Articles 3, 21, 26, 34, 35). Article 3 of the CFR defines the right to the integrity of the person in a way that everyone has the right to respect for his or her physical and mental integrity. In the fields of medicine and biology, the following must be respected in particular: the free and informed consent of the person concerned, according to the procedures laid down by law; the prohibition of eugenic practices, in particular those aiming at the selection of persons; the prohibition on making the human body and its parts as such a source of financial gain; and, the prohibition of the reproductive cloning of

human beings. The Article 21 on non-discrimination states that any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. Within the scope of application of the Treaties, and without prejudice to any of their specific provisions, any discrimination on grounds of nationality shall be prohibited. The Article 26 on integration of persons with disabilities states that the Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community. The Article 34 on social security and social assistance states that the Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Union law and national laws and practices. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Union law and national laws and practices. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices. The Article 35 of the CFR states that everyone has the right of access to preventive healthcare and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all the Union's policies and activities. In so far as this Charter contains rights which correspond to rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms (1950), the meaning and scope of those rights shall be the same as those laid down by the said Convention. This provision shall not prevent Union law providing more extensive protection. In so far as this Charter recognises fundamental rights as they result from the constitutional traditions common to the Member States, those rights shall be interpreted in harmony with those traditions.

The European Convention on Human Rights is largely a traditional civil/political statement of ('negative') rights. Nonetheless, there has been some engagement with socioeconomic ('positive') rights at the Council of Europe, notably through the 1961 *European Social Charter* (revised 1996, in force 1999). Like the European Convention on Human Rights, the European Social Charter operates through international law, binding the states that are signatories to it, which include all the Member States of the EU. Article 11 of the European Social Charter refers to the right to the protection of health, *inter alia*: "to remove as far as possible the causes of ill-health; to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health; and to prevent as far as possible epidemic, endemic and other diseases as well as accidents." Under the European Social Charter, Member States must provide evidence of compliance with six aspects of the right to health. These are, first, a health care system including public health arrangements providing for generally available medical and paramedical practitioners and adequate equipment consistent with meeting its main health problems ensuring a proper medical care for the whole population. Second, it requires the provision of special measures safeguarding health and healthcare access for vulnerable groups. Third, public health protection measures, preventing air and water pollution, noise abatement, food control and environmental hygiene, must be provided. Fourth, there is a requirement to provide health education. Fifth, in order to prevent epidemics, measures providing vaccination, disinfection and control of epidemics are required. A sixth aspect, although not explicitly stated as such, is that there shall be the bearing by collective bodies of all, or at least a part of, the cost of health services (McHale, 2010: 290–291).

In December 2000 the European Parliament, the European Commission and the Council of the EU proclaimed the *EU Charter of Fundamental Rights*. With the entry into force of the Lisbon Treaty on 1 December 2009, the Charter became legally binding. It is a relatively new legal instrument that is increasingly used at the national level. The Charter includes civil and political rights as well as economic, social and cultural rights (The EU Charter, 2019). Chapter III of the EU Charter of Fundamental Rights concerns "Equality". Article 20 states that all people are equal before the law. Article 21 includes the prohibition of discrimination on grounds of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief. Article 24 concerns the rights of the child and provides that children should have the ability to freely express their views and that these should be taken into account

in accordance with their age and maturity. Provision is made for the rights of the elderly in Article 25, which include their right to lead a life of dignity and independence, and Article 26 calls for the integration of persons with disabilities into the life of the community on several levels (e.g., political, social). While these three groups containing vulnerable persons are subject to special protection, there is no specific provision safeguarding the rights of those adults who lack mental capacity (McHale, 2010: 302).

One notable aspect of the EU Charter contained in Chapter IV is “Solidarity”: Everyone has the right of access to preventive healthcare and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured by the definition and implementation of all Union policies and activities (McHale, 2010: 303).

According to Article 289 of *The Treaty on the Functioning of the European Union (TFEU)*, legislative acts are decisions adopted under the ordinary or a special legislative procedure. Non-legislative acts are decisions that are adopted, generally by the European Commission, following delegated acts or implementing acts.<sup>11</sup> Some non-legislative acts are adopted in the form of regulations, directives or decisions which do not specify to whom they are addressed, because they are addressed to all EU countries.<sup>12</sup> Legislative and non-legislative acts are published in the Official Journal of the European Union and enter into force on the date specified in them or, if no date is specified, on the 20<sup>th</sup> day following their publication.<sup>13</sup>

#### 4.1 The principle of non-discrimination in EU law

The aim of non-discrimination law is to allow all individuals an equal and fair prospect to access opportunities available in a society. This principle essentially means that individuals who are in similar situations should receive the same treatment, irrespective of status. *The Treaty on the Functioning of the European Union (TFEU)* prohibits discrimination on the grounds of nationality. It also enables the

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<sup>11</sup> Legislative acts. EUR-Lex, Access to European Union Law, Summaries of EU Legislation, Glossary of Summaries, available at: [https://eur-lex.europa.eu/summary/glossary/legislative\\_acts.html](https://eur-lex.europa.eu/summary/glossary/legislative_acts.html), available at: (January 19, 2010).

<sup>12</sup> Non-legislative acts. EUR-Lex, Access to European Union Law, Summaries of EU Legislation, Glossary of Summaries: [https://eur-lex.europa.eu/summary/glossary/nonlegislative\\_acts.html](https://eur-lex.europa.eu/summary/glossary/nonlegislative_acts.html) (January 19, 2010).

<sup>13</sup> Legislative acts. EUR-Lex, Access to European Union Law, Summaries of EU Legislation, Glossary of Summaries, available at: [https://eur-lex.europa.eu/summary/glossary/legislative\\_acts.html](https://eur-lex.europa.eu/summary/glossary/legislative_acts.html) (January 19, 2010).

Council to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Discrimination on the ground of nationality has always been forbidden by the EU treaties (as well as discrimination on the basis of sex in the context of employment). The other grounds of discrimination were mentioned for the first time in *The Treaty of Amsterdam* (signed 1997, in force 1999). In 2000, two directives were adopted: the employment equality directive, which prohibits discrimination on the basis of sexual orientation, religious belief, age and disability in the area of employment; and the racial equality directive, which prohibits discrimination on the basis of race or ethnicity, again in the context of employment, but also in accessing the welfare system and social security, and goods and services. In 2009, *The Lisbon Treaty* introduced a clause with a view to integrating the fight against discrimination into all EU policies and actions (Article 10 *TFEU*). EU citizens may exercise their right to judicial recourse in cases of direct or indirect discrimination, specifically in cases where they are being treated differently in comparable situations or when a disadvantage cannot be justified by a legitimate and proportional objective.<sup>14</sup>

#### **4.2 EU legislation regulating discrimination based on racial or ethnic origin**

The EU treaties are binding agreements between EU member countries. They set out EU objectives, rules for EU institutions, how decisions are made and the relationship between the EU and its member countries. Every action taken by the EU is founded on treaties. Treaties are amended to make the EU more efficient and transparent, to prepare for the accession of new member countries into the EU and to introduce new areas of cooperation.<sup>15</sup>

*The Maastricht Treaty* (officially *The Treaty on European Union*, signed 1992, in force 1993) sought to formally entrench public health protection as a constituent element in all areas of Community policy under a new Article 129. The revision of Article 129, which was replaced by Article 152 in the 1997 *The Treaty of Amsterdam*, meant that a high level of human health protection was to be ensured in the definition and

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<sup>14</sup> Non-discrimination principle. EUR-Lex, Access to European Union Law, Summaries of EU Legislation, Glossary of Summaries, available at: [https://eur-lex.europa.eu/summary/glossary/nondiscrimination\\_principle.html](https://eur-lex.europa.eu/summary/glossary/nondiscrimination_principle.html) (January 19, 2020).

<sup>15</sup> Treaties. EUR-Lex, Access to European Union Law, Summaries of EU Legislation, Glossary of Summaries, available at: <https://eur-lex.europa.eu/collection/eu-law/treaties/treaties-force.html> (January 19, 2020).

implementation of all Community policies and activities (Permanand & Vos, 2010: 155–156). Article 152 of the 1997 *The Treaty of Amsterdam* strengthened disease prevention and health protection in all its policies and activities. In 1999, when *The Treaty of Amsterdam* entered into force, Article 152 was significantly expanded. In particular, Member States became obliged to coordinate their public health policies and programmes, in liaison with the Commission. The main responsibility for public health, however, remained firmly with the Member States (McKee, Hervey & Gilmore 2010: 236).

*The Treaty of Lisbon* (Article 19 on the Functioning of the EU) provides the EU with the legal authority to combat all forms of discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

*The Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.* This directive is one of the principal documents that helps combat all forms of discrimination. Three other significant documents regulating discrimination on racial or ethnic origin ground are:

*Report from the Commission to the Council and the European Parliament – The application of Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.* Directive 2000/43/EC does not define the concepts of racial or ethnic origin. It is up to the Member States to decide whether they define these concepts in their national law. Some Member States only refer to ‘ethnic origin’ or ‘ethnicity’ and do not use the concept of ‘race’ or ‘racial origin’ at all in their national legislation. There is sometimes an overlap between racial or ethnic origin and other grounds, in particular nationality, religion and language. Directive 2000/43/EC does not cover discrimination on the basis of nationality as such (unless differentiation on the basis of nationality or language turns out to be indirect discrimination on the basis of ethnic origin), or the conditions of entry and residence for citizens from non-EU countries. The Directive 2000/43/EC also does not cover discrimination on the ground of religion, because it is protected as such under Directive 2000/78/EC. The Roma, as a particularly sizeable and vulnerable ethnic group, fall squarely within the scope of the Directive (Report 2014). The main keypoints of Directive 2000/43/EC – implementing equal treatment irrespective of racial or ethnic origin (which had to be incorporated into national law by 19th July 2003) in the field of healthcare - forbid direct or indirect discrimination and

harassment, instructions to discriminate and victimisation, among other things, regarding access to social protection and to healthcare. In 2013, the Council adopted a recommendation calling for measures to be taken in a number of areas, including anti-discrimination, to strengthen the integration of Roma people. The recommendation builds upon Directive 2000/43/EC and underlines the importance of its practical enforcement.<sup>16</sup>

The Racial Equality Directive (2000/43/EC) forms an important piece of legislation. It was a major step forward in protecting people against discrimination and giving them possibilities for redress. The fact that the Directive applies to *all* persons, regardless of citizenship or residence status, is also important. Many people are unaware of their rights or find it difficult to pursue a claim. Information about the anti-discrimination laws and access to the right of redress should get more priority. Despite progress in the transposition of the anti-discrimination directives, racism has not decreased. On the contrary. Within the European Union, the amount of registered racial acts has dramatically increased. This unfortunate trend has been accompanied by evidence of increased tolerance for discriminatory behaviour, particularly against immigrants and Muslims. Racism is contrary to the principles of the European Union. It undermines social cohesion and hampers the emancipation of people. Therefore, it is important that there is the political will to address racism in Europe (Report, 2007).

*Council Recommendation of 9 December 2013 on effective Roma integration measures in the Member States.* The aim of this Recommendation is to combat social exclusion and discrimination, and achieve genuine improvements in promoting Roma integration in the areas of healthcare, education, employment and housing. The recommendation calls on EU countries to take measures to ensure equal treatment of Roma in access to universally available healthcare services on the basis of general eligibility criteria. Examples of appropriate measures include: removing any barriers to access to the healthcare system accessible for the general population; improving access to free vaccination programmes targeting both children and other groups that are particularly at risk and/or those living in marginalised and/or remote areas; and, promoting awareness of health and healthcare issues. EU countries need to monitor

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<sup>16</sup> Summary of Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=LEGISSUM:l33114&from=EN> (January 19, 2020).



and evaluate the effectiveness of the measures that they take both in terms of their national Roma integration strategies and within their broader social inclusion policies. These objectives can best be achieved by setting targets and by collecting qualitative and quantitative data on the social and economic effects of the measures taken. The EU Agency for Fundamental Rights has developed a multiannual Roma programme (2012–2020), which prepares regular reports on progress made and provides evidence-based advice to the EU institutions and EU countries based on data gathered from across the EU. EU countries need to report annually to the European Commission by 1 January 2016 any measures taken in line with the recommendation. The Council has issued country-specific recommendations to five countries with large Roma communities (Bulgaria, Czech Republic, Hungary, Romania and Slovakia). The recommendations emphasized better and more transparent monitoring and evaluation of Roma inclusion policies, and targeted antidiscrimination measures for employers, teachers, the media, police, social service providers, other civil servants, trade unions and society-at-large. In 2014, the European Commission published the Roma Health Report (Roma, 2014), which concluded that Roma access to healthcare (in Bulgaria, Croatia, the Czech Republic, France, Greece, Hungary, Italy, Romania, Slovakia, Spain, United Kingdom) is closely linked to social exclusion factors. Roma often do not speak the language, do not understand the healthcare system or may not be registered or insured. They also experience discrimination by healthcare professionals which in turn makes the Roma less trusting of the healthcare system.<sup>17</sup> Therefore, with some variation between countries, Roma populations in Europe generally suffer greater exposure to wider risks of ill health (e.g. socio-economic and environmental); live less healthy lifestyles; have poorer access to and lower uptake of primary care and preventative health services; suffer poorer health outcomes, in terms of morbidity from both infectious and chronic diseases and have a shorter life expectancy (Roma, 2014: 113).

*Report from the Commission to the European Parliament and the Council: Joint Report on the application of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ('Racial Equality Directive') and of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment and employment and occupation ('Employment Equality Directive')* (Report,

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<sup>17</sup> Summary of a Council recommendation of 9 December 2013 on effective Roma integration measures in the Member States (Official Journal of the European Union, C 378, 24. 12. 2013, pp. 1–7.), available at: [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=LEGISSUM:171202\\_5&from=SL](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=LEGISSUM:171202_5&from=SL) (January 19 2020).

2014) The comprehensive framework provided by the EU's two anti-discrimination Directives has shaped the landscape of European anti-discrimination law. Some Member States had minimal legislation in this field before the transposition of the two Directives, which introduced novel elements such as protection from age discrimination into the legislation of all Member States. The first implementation reports were adopted in 2006 and in 2008. Most Member States have incorporated the two Directives into a single national act. The first reports were adopted at a time when many Member States had only recently incorporated the anti-discrimination Directives into national law and therefore lacked practical experience in applying them. Both Directives stress the importance of dissemination of information to ensure that the persons concerned are aware of their rights to equal treatment. All Europeans, not only minority populations, tend to lack awareness of their rights and Member States tend to underreport incidents of discrimination. Data show that across all ethnic and migrant groups surveyed, 82 percent of those who were discriminated against did not report their experience. The most common reasons given for the failure to report acts of discrimination were the belief that no (corrective) action would take place as a result of reporting, lack of knowledge on how and to whom to complain, and negative experiences due to inconvenience, bureaucracy and/or length of the process (Report, 2014).

In terms of combating discrimination, the European Union has one of the most advanced legal frameworks. The *Proposal for a Council Directive of July 2, 2008 of implementing the principle of equal treatment irrespective of religion or belief, disability, age, or sexual orientation* presented by the Commission completed the legal framework of the European Union, which consists of the Directives on equal treatment irrespective of racial or ethnic origin, equal treatment for men and women outside of labour market and equal treatment in employment and occupation.

The principle of equal treatment corresponds to the prohibition of direct discrimination and indirect discrimination. It applies to everybody in the private and public sector and in public bodies. Its scope covers social protection (including social security and healthcare), social advantages, education, as well as access to and supply of goods and services, such as housing and transport.

The application of the principle of equality does not, however, encompass differences in treatment based on the nationality, or legal status of foreigners in the territory of Member States. Member States may introduce or maintain more protective provisions than the minimum requirements provided for in the Directive, as well as positive discrimination measures aimed at compensating for disadvantages linked to religion or belief, age, disability or sexual orientation.

All people wronged by a violation of the principle of equal treatment, or who have a legitimate interest in ensuring compliance with the principle, should have access to judicial and administrative remedies. In order to assure such access, Member States need to institute measures to adapt their judicial system, specifically by sharing the burden of proof between the complainant and the respondent and by introducing measures to protect people who have made a complaint of discrimination against potential victimisation.

## **5 Regulation of the Slovene healthcare system**

### **5.1 Constitution of the Republic of Slovenia**

The Constitution of the Republic of Slovenia contains a number of general provisions, which are connected with the inviolability of the human life and body, human rights in general and their implementation, privacy, personal rights, etc. In Slovenia, everybody is guaranteed the same human rights and fundamental freedoms, regardless of nationality, race, gender, language, religion, political or other leanings, wealth, birth, education, social status or any other personal circumstance. These ‘other circumstances’ unquestionably include an individual’s health status. All are equal before the law (Article 14). The Constitution also protects everybody’s right to personal liberty, equal protection of rights, and freedom of movement. The last right may be limited by law in cases of prevention of spreading infectious diseases, protecting public order and the defence of the state (Žnidaršič Skubic, 2015: 45).

The Constitution guarantees the citizens the right to social security under conditions set down in the legislation. The State is obliged to provide compulsory health insurance (Žnidaršič Skubic, 2015: 23). A special constitutional provision in Article 51 deals with the right to healthcare. It states that “Everyone has the right to

healthcare under conditions provided by law; the rights to healthcare from public funds shall be provided by law; no one may be compelled to undergo medical treatment except in cases provided by law”.

In accordance with Article 8 of the Constitution, ratified and published international treaties are applied directly. Laws and other regulations are required to be in accordance both with generally valid principles of international law and binding international treaties. Ratified conventions and declarations on human rights (in the wider sense) are: European Convention for the Protection of Human Rights and Fundamental Freedoms, Convention on the Rights of the Child, European Convention on the Exercise of Children’s Rights, the UN Universal Declaration of Human Rights. In a narrower sense, the international source of medical law is mainly the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (The Oviedo Convention) and its four additional protocols: Additional Protocol on the Prohibition of Cloning Human Beings, the Additional Protocol on Transplantation of Organs and Tissues of Human Origin, the Additional Protocol concerning Biomedical research and Protocol to the Oviedo Convention regarding Genetic Testing for Health Purposes (Žnidaršič Skubic, 2015: 44-45).

## 5.2 Slovenian legislation

The health insurance system in Slovenia, implemented in 1992, is defined both by the *Health Care and Health Insurance Act* and the *Health Service Act*. Several other acts also play a role, especially the *Patient Rights Act*. All inhabitants with an income must pay their predetermined share of contributions to a specific institution, which manages health insurance and is by nature a non-profit institution. Individuals without income are, under the principle of solidarity, also entitled to basic health insurance. The State is tasked to adopt regulations which insurance companies must comply with and it supervises the execution of such measures (Žnidaršič Skubic, 2015: 23-25).

Compulsory health insurance is obligatory. A certain group of people is included in it automatically upon fulfilling the prerequisites set by law: active insured persons (employees, self-employed, farmers and members of their households etc.); recipients of various social grants (also recipients of permanent financial aid); other

individuals with income; citizens of the Republic of Slovenia with permanent residence in the Republic of Slovenia (they enter into compulsory health insurance by the municipality of their permanent residence if they do not have an income or if the income does not reach a set quota). *The Healthcare and Health Insurance Act* requires that family members have a permanent residence in the Republic of Slovenia. Foreign immediate family members are meanwhile covered by compulsory health insurance if they have a temporary residence permit. Classical cases of compulsory health insurance include insurance in case of illness, injury (both private and professional cases), preventive healthcare services; the right to outpatient medical and dental care; the right to hospital treatment; the right to medical care in social security centres; the right to treatment and care at home; the right to medicinal products; the right to bandage materials; the right to technological medical devices; the right to medical rehabilitation; and, the right to treatment abroad. In the public healthcare network (i.e. public healthcare institutions and private healthcare institutions with concession awarded by the Ministry of Health), which is part of compulsory health insurance, it is unlawful to discriminate against insured persons. The only lawful reason for prioritizing (and thus discriminate) medical services between insured persons is the urgency of the medical procedure. Slovenia has 16 significant Acts that constitute the sources for the Slovenian medical law in addition to numerous implementing regulations that were passed to support them (Žnidaršič Skubic, 2015: 26, 27, 28, 32, 47, 48; Bubnov Škoberne & Strban, 2010: 278, 280): Healthcare and Health Insurance Act [Zakon o zdravstvenem varstvu in zdravstvenem zavarovanju], Health Services Act [Zakon o zdravstveni dejavnosti], General Practitioner Service Act [Zakon o zdravniški službi], Patient Rights Act [Zakon o pacientovih pravicah], Mental Health Act [Zakon o duševnem zdravju], Contagious Diseases Act [Zakon o nalezljivih boleznih], The Removal and Transplantation of Human Body Parts for the Purposes of Medical Treatment Act [Zakon o odvzemu in presaditvi delov človeškega telesa zaradi zdravljenja], Health Measures in exercising Freedom of Choice in Childbearing Act [Zakon o zdravstvenih ukrepih pri uresničevanju pravice do svobodnega odločanja o rojstvu otrok], Infertility Treatment and Procedures of Bio-medically Assisted Procreation Act [Zakon o zdravljenju neplodnosti in postopkih oploditve z biomedicinsko pomočjo], Complementary and Alternative Medicine (CAM) Act [Zakon o zdravilstvu], Healthcare Databases Act [Zakon o zbirkah podatkov s področja zdravstvenega varstva], Medicinal Products Act [Zakon o zdravilih], Health Inspection Act [Zakon o zdravstveni inšpekciji], Pharmacies Act [Zakon o lekarniški

dejavnosti], Act on Medical Devices [Zakon o medicinskih pripomočkih], Act on Pursuing Health Professions in the Republic of Slovenia by Citizens of Other EU Member States [Zakon o opravljanju zdravstvenih poklicev v Republiki Sloveniji za državljane drugih držav članic Evropske unije].

### 5.3 Implementation of main EU legislation concerning discrimination of ethnic groups and minorities in Slovenia

Slovenia has ratified all the main human rights treaties concerning discrimination, most recently *Protocol No. 12 to the European Convention on Human Rights*. Before the adoption of the EU directives, discrimination was already prohibited by penal legislation that was changed in 2008 with the adoption of the *Penal Code*, which defines various crimes connected to violations of equal rights (Article 131 – violations of equal rights, Articles 197, 198 and 202 – violations of equality in employment and social services). After Slovenia joined the European Union in 2004, the *Act Implementing the Principle of Equal Treatment* was adopted in May 2004, transposing *Council Directives 2000/43/EC* and *2000/78/EC* into national legislation. In 2016 it was replaced by the new *Protection against Discrimination Act*. The legislation in place prohibits discrimination in all areas of social life, including the areas required by the directives. Discrimination is prohibited on all five grounds required by the directives – race and ethnicity, religion and belief, sexual orientation, age and disability. The legislation extends the protection required by the *Racial Equality Directive* to other grounds as well, which means that discrimination is prohibited on all five grounds (and more) in all areas of life, listed by *Directive 2000/43/EC*, and also in all other areas of life in general. The law has been enforced in practice to a certain extent, but there is still little case law invoking the anti-discrimination legislation. National legislation regulates the prohibition of discrimination in all areas required by *Directive 2000/43/EC* (including both the private and public sectors) for all personal grounds (and not only for the grounds of race and ethnicity). Discrimination on all five grounds (and beyond) is also prohibited in the areas of social protection, social security and healthcare; social advantages; education; and access to and supply of goods and services which are available to the public, including housing, as required by *Directive 2000/78/EC*. In addition, the *Protection against Discrimination Act* states that this law is binding for state bodies, local communities and holders of public authority, as well as legal and natural persons who are responsible for ensuring protection from discrimination in all fields of

exercising public authority, participation in legal transactions and all other areas of their activities, which means that protection from discrimination extends far beyond the minimum requirements of the directives (Kogovšek Šalamon, 2017: 6-8).

## 6 Conclusion

The author identified more than 100 documents on social policy and ethnic health in the process of identification of European legislation. Some documents, providing the legal basis to combat all forms of discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, date back to 2000, before *The Treaty of Lisbon* (such as *Council Directive 2000/43/EC* implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; and three other documents regulating discrimination on racial or ethnic origin). The Council Directive forbids both direct and indirect discrimination and harassment, instructions to discriminate and victimisation, among other things, regarding access to social protection and to healthcare. The Directive does not, however, cover difference of treatment based on nationality, or the conditions of entry and residence for citizens from non-EU countries. Implementation of equal treatment irrespective of racial or ethnic origin in the field of healthcare had to be incorporated into national laws by 2003. Today, in Slovenia, there are several documents, besides the Constitution, that regulate equal treatment in healthcare. However, as a practical matter, regardless of the law, there are still some vulnerable groups and minorities that lack adequate access to healthcare, such as illegal residents of third-countries, rejected asylum seekers, individuals who have not sought asylum via the correct channels and are held in detention pending a decision, some temporary workers from the former Yugoslav Republics or members of Roma communities, especially Romani women. International protection applicants and persons who have been granted international protection in the Republic of Slovenia, on the other hand, enjoy an enhanced degree of legal protection, ranging from international conventions ratified by the Republic of Slovenia and European law that Slovenia transposed to its legal order.

## Legislation and legal documents

- Action Plan on the integration of third country nationals, Communication from The Commission to The European Parliament, The Council, The European Economic and Social Committee and The Committee of the Regions (COM(2016) 377 final). Brussels, 7. 6. 2016.
- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Official Journal of the European Union, L 180, 19. 7. 2000, p. 22–26. The first implementation reports were adopted in 2006 (COM) (2006) 643 final, 30. 10. 2006, on Directive 2000/43/EC.
- Council of Europe Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to Biology and Medicine: A Convention on Human Rights and Biomedicine, Oviedo, 4 April 1997, in force 1 December 1999, ETS No. 164.
- Council of Europe European Social Charter, Turin, 18 October 1961, in force 26 February 1965, ETS No. 35; Council of Europe European Social Charter (revised), Strasbourg, 3 May 1996, in force 1 July 1999.
- Council Recommendation of 9 December 2013 on effective Roma integration measures in the Member States. Official Journal of the European Union, C 378, 24. 12. 2013, pp. 1–7.
- European Social Charter. Collected texts (7th edition) (2015), Updated: 1st January 2015. Council of Europe.
- Health Services Act [Zakon o zdravstveni dejavnosti], Official Gazette of the Republic of Slovenia, Nos. 23/2005-UPB2, 15/2008-ZPacP, 23/2008, 58/2008-ZZdrS-E, 77/2008, ZDZdr, 40/2012-ZUJF, 14/2013.
- Healthcare and Health Insurance Act [Zakon o zdravstvenem varstvu in zdravstvenem zavarovanju], Official Gazette of the Republic of Slovenia, Nos. 72/2006-UPB3, 114/2006-ZUTPG, 91/2007, 71/2008 Constitutional Court Decisions: U-I-163/08-7, 76/2008, 118/2008 Constitutional Court Decisions: U-I-163/08-12, 47/2010 Constitutional Court Decision: U-I-312/08-31, 62/2010-ZUPJS, 87/2011, 40/2012-ZUJF, 21/2013, 91/2013, 99/2013, 111/2013, 95/2014.
- International Covenant on Civil and Political Rights, available at: <https://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf> (18. 3. 2020).
- International Covenant on Economic, Social and Cultural Rights, available at: <https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf> (18. 3. 2020).
- Joint United Nations statement on ending discrimination in health care settings. Statement (2017). World Health Organization, available at: <https://www.who.int/news-room/detail/27-06-2017-joint-united-nations-statement-on-ending-discrimination-in-health-care-settings> (16. 3. 2020).
- Patient Rights Act [Zakon o pacientovih pravicah], Official Gazette of the Republic of Slovenia, No. 15/2008.
- Penal Code [Kazenski zakonik], adopted on 20 May 2008, available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5050> (14. 1. 2020).
- Proposal for a Council Directive of July 2, 2008 of implementing the principle of equal treatment irrespective of religion or belief, disability, age, or sexual orientation (COM) (2008) 426 final; 2. 7. 2008), available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52008PC0426&from=en> (19. 1. 2020).
- Report from The Commission to The European Parliament and The Council. Joint Report on the application of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ('Racial Equality Directive') and of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ('Employment Equality Directive') (COM(2014) 02 final; 17. 1. 2014), available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52014DC0002> (16. 8. 2019).
- Report on the application of Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (2007/2094(INI)),



- Committee on Civil Liberties, Justice and Home Affairs, Rapporteur: Kathalijne Maria Buitenweg, 6. 7. 2007.
- Roma Health Report. Health status of the Roma population. Data collection in the Member States of the European Union (2014). European Union, Matrix, August, available at: [https://ec.europa.eu/health/sites/health/files/social\\_determinants/docs/2014\\_roma\\_health\\_report\\_en.pdf](https://ec.europa.eu/health/sites/health/files/social_determinants/docs/2014_roma_health_report_en.pdf), DOI:10.2772/3140 (19. 1. 2020).
- Summaries of EU Legislation, available at: <https://eur-lex.europa.eu/browse/summaries.html> (19. 1. 2020).
- The Charter of Fundamental Rights (2007; 2010; 2012; 2016), Official Journal of the European Union, C 303, 14. 12. 2007, pp. 1–16; Official Journal of the European Union, C 83, 30. 3. 2010, pp. 389–403; Official Journal of the European Union, C 326, 26. 10. 2012, pp. 391–407; Official Journal of the European Union, C 202, 7. 6. 2016, pp. 389–405.
- The Constitution of the Republic of Slovenia [Ustava Republike Slovenije], Official Gazette of the Republic of Slovenia, Nos. 33/1991-I, 42/1997, 66/2000, 24/2003, 69/2004, 68/2006, 47/2013.
- The EU Charter of Fundamental Rights in Slovenia (2019) FRA – European Union Agency for Fundamental Rights, Luxembourg, Publications Office. available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2019-eu-charter-in-slovenia\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-eu-charter-in-slovenia_en.pdf), DOI:10.2811/933243 (19. 1. 2020).
- The Treaty of Amsterdam Amending The Treaty on European Union, The Treaties Establishing the European Communities and Certain Related Acts (1997). Luxembourg: Office for Official Publications of the European Communities.
- The Treaty on European Union [Maastricht Treaty], 1992, Luxembourg: Office for Official Publications of the European Communities.
- The Treaty on the Functioning of the European Union (Consolidated version). Official Journal of the European Union C 326, 26. 10. 2012, pp. 47–390.
- The United Nations Convention on the Rights of Persons with Disabilities, available at: <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#25> (18. 3. 2020).
- Together for Health: A Strategic Approach for the EU 2008–2013. The Commission White Paper of 23 October 2007 [COM(2007)630 final – Not published in the Official Journal], available at: [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_07\\_1571](https://ec.europa.eu/commission/presscorner/detail/en/IP_07_1571) (19. 1. 2020).
- United Nations Convention on the Rights of Persons with Disabilities, 6. 12. 2006: available at [https://www.un.org/disabilities/documents/convention/convention\\_accessible\\_pdf.pdf](https://www.un.org/disabilities/documents/convention/convention_accessible_pdf.pdf) (19. 1. 2020).
- Universal Declaration of Human Rights, adopted 10 December 1948 under General Assembly Resolution 217 A (III), UN Doc. A/810, 71, Article 6.

## References

- Bubnov Škoberne, A. & Strban, G. (2010) *Pravo socialne varnosti* (Ljubljana: GV Založba).
- Healthcare vs. health care (2019). *Grammarist*, available at: <https://grammarist.com/spelling/healthcare/> (19. 1. 2020).
- Kogovšek Šalomon, N. (2017) *Country report: Non-discrimination, Slovenia. Reporting period 1 January 2016 – 31 December 2016* (European Commission, Directorate-General for Justice and Consumers), retrieved from: <https://www.equalitylaw.eu/downloads/4437-slovenia-country-report-non-discrimination-2017-pdf-1-96-mb>, doi: 10.2838/52678.
- McHale, J. (2010) Fundamental rights and healthcare, In: Mossialos, E., Permanand, G., Baeten, R. & Hervey, T. (eds.) *Health Systems Governance in Europe: The Role of EU Law and Policy* (Cambridge University Press).
- McKee, M., Hervey, T. & Gilmore, A. (2010) *Public health policies*, In: Mossialos, E., Permanand, G., Baeten, R. & Hervey, T. (eds.) *Health Systems Governance in Europe: The Role of EU Law and Policy* (Cambridge University Press).

- Permanand, G. & Vos, E. (2010) EU regulatory agencies and health protection, In: Mossialos, E., Permanand, G., Baeten, R. & Hervey, T. (eds.) *Health Systems Governance in Europe: The Role of EU Law and Policy* (Cambridge University Press).
- Žnidaršič Skubic, V. (2015) *Medical Law in Slovenia* (Wolters Kluwer Law International).