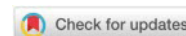


# NONDISCRIMINATION IN INTERNATIONAL LAW: THE CASE OF THE REPUBLIC OF NORTH MACEDONIA

Laureta Alili\*

<sup>1</sup>Assembly of the Republic of North Macedonia; Republic of North Macedonia;  
e-mail: [la.alili@sobranie.mk](mailto:la.alili@sobranie.mk)



**Abstract:** Discrimination is considered any unjustifiable difference or non-equal treatment - exclusion, limitation or advantage directed against certain individuals or groups, as well as family members or other persons closely related to them, whether openly or covertly, on the basis gender, skin color, nationality, ancestry, national or ethnic origin, language, religious or political beliefs, sex, gender identity, sexual orientation, property status or other factors.

The purpose of non-discrimination legislation is to give everyone an equitable chance to take advantage of opportunities that are available in a society. This paper aims to explore the application of non-discrimination in international law within the context of the Republic of North Macedonia. The Republic of North Macedonia (RNM) is discussed in the paper as an example of how the idea has been used domestically. The purpose of this study is to construct a framework for the idea of non-discrimination and to bridge disparate conceptions of it to establish a range of contexts. The principles of equality and non-discrimination as part of rule of law and the paper's specific objectives include identifying non-discrimination law organizations, the background of various statutes, and other facets of this law like The Republic of North Macedonia's legal system and policy.

The purpose of this study will be to examine the non-discrimination in international law, specifically within the context of North Macedonia, which serves the broader purpose of promoting human rights, equality, and social justice within the country and providing valuable insights for similar efforts globally. It helps assess the state's commitment to upholding non-discrimination principles and identifies areas for improvement to ensure that the rights of all individuals are protected and respected.

As a conclusion, we will reaffirm a few of the recommendations given in order to encourage the Republic of North Macedonia's dedication to equality and non-discrimination.

Keywords: non-discrimination, legal framework

Field: Social sciences (law)

## 1. INTRODUCTION

The principle of non-discrimination is a cornerstone of international human rights law, promoting equality and safeguarding individuals from unjust treatment based on their inherent characteristics or affiliations. This principle is preserved in various international treaties and conventions, obligating states to prohibit discrimination in all its forms. The Republic of North Macedonia, a sovereign nation in Southeast Europe, has not been exempt from the global call for non-discrimination. This paper aims to explore the application of non-discrimination in international law within the context of the Republic of North Macedonia.

North Macedonia, as a signatory to numerous international human rights treaties and conventions, has made substantial commitments to uphold the principle of non-discrimination and ensure that it permeates the country's legal framework and societal norms. In this study, we will delve into the legal, institutional, and social dimensions of non-discrimination in North Macedonia. This examination will encompass constitutional provisions, domestic legislation, international obligations, judicial decisions, institutional mechanisms, and awareness initiatives that collectively contribute to the realization of non-discrimination principles.

The significance of this study lies in its capacity to shed light on how North Macedonia has aligned its legal system and practices with international human rights standards regarding non-discrimination. Furthermore, it seeks to highlight the challenges and opportunities that North Macedonia faces in implementing and enforcing these principles effectively. By analyzing the case of North Macedonia, this paper contributes to the broader understanding of how states grasp with the complex issue of discrimination within the global framework of human rights. It also underscores the importance of international cooperation and adherence to universal human rights norms in promoting a more equitable and just society, both within North Macedonia and on the international stage.

\*Corresponding author: [la.alili@sobranie.mk](mailto:la.alili@sobranie.mk)



In the subsequent sections, this study will investigate the North Macedonia's constitutional and legal provisions regarding non-discrimination, its international human rights obligations, the role of institutions in safeguarding non-discrimination, and the efforts made to raise awareness and combat discrimination within the country. Together, these elements provide a comprehensive overview of how North Macedonia addresses non-discrimination in accordance with international law and human rights principles.

The content of this study is as follows. The section that follows discusses the idea of non-discrimination within the UN. Then, legal system of North Macedonia and the principle of non-discrimination are elaborated. It first looks at the legislative difficulties and then moves on to the judicial system of North Macedonia's commitment to equality for all. Section four concludes.

## 2. UNITED NATIONS AND THE PRINCIPLE OF NON-DISCRIMINATION

The United Nations (UN) has played a crucial role in advancing the principle of non-discrimination as a fundamental component of its mission to promote peace, security, human rights, and social progress worldwide. The principle of non-discrimination is enshrined in various UN documents and has been central to the organization's work across multiple domains.

However, prior to 1945, the issues surrounding the prohibition of discrimination were only taken into consideration under the treaties on minorities, which, on the other hand, had very restricted scopes for implementation. The non-discrimination principle is incorporated into international law with the passage of the United Nations Charter.

The United Nations was established on October 24, 1945, following the end of World War II, with the primary objective of maintaining international peace and security. The UN Charter, the organization's foundational document, reaffirms faith in "fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women."

These days, the idea of equality and non-discrimination is widely embraced. The standards *ius cogens* with obligatory action and *erga omnes* in international law are important components of international human rights law. This stance is upheld by the International Court of Justice in the *Barcelona Traction* case. (ICJ Reports, 1970).

Adopted by the UN General Assembly in 1948, the UDHR is a milestone document that sets out fundamental human rights and freedoms. Article 2 of the UDHR states: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status."

After the UDHR was approved, the Human Rights Commission continued to work on the International Charter on Human Rights' implementation measures and the creation of international human rights treaties that would be legally enforceable (Frckoski, 2001).

Since the European Court of Justice started offering legal protection before the idea of human rights was incorporated in the Act of "Confederation," it has played a crucial role in the preservation of human rights in the EU. By incorporating national legal traditions into EU law, the ECJ advances the idea of human rights within the context of universal legal principles.

The general concept of non-discrimination now expressly mentions the principle of discrimination in a significant Union statute, amending the EU-Amsted Agreement for the first time. In peacekeeping and conflict resolution efforts, the UN strives to ensure that all parties are treated fairly and without discrimination based on factors such as ethnicity, religion, or nationality.

The United Nations actively promotes awareness and advocacy campaigns to combat discrimination, raise public consciousness, and mobilize global action. In the same way that discrimination based on race or national origin is illegal, discrimination based on religion or belief, a handicap, age, or personal choice is also illegal in the Union. gender identity. Additionally, the European Court of Justice confirmed in several of the cases under review that discrimination based, for example, on sexual orientation is not covered by EU legislation.

In the Charter, section 21(1) introduces a non-discrimination clause that includes an extensive list of prohibited grounds. It states that: "1. 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. 2. 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 application of this provision will be difficult due to the wide range of rights provided for by the Charter. But the application of the Charter of Fundamental Rights is limited by the fact that it is not mandatory.

In summary, the United Nations is deeply committed to the principle of non-discrimination as a foundational element of its mission to promote human rights, equality, and international peace and security. Through its legal frameworks, monitoring mechanisms, and advocacy efforts, the UN plays a crucial role in addressing and combating discrimination in various forms on a global scale.

### **3. THE LEGAL SYSTEM OF NORTH MACEDONIA AND THE PRINCIPLE OF NON-DISCRIMINATION**

North Macedonia, as a sovereign nation, has its own legal system that incorporates the principle of non-discrimination. The principle of non-discrimination is a fundamental aspect of international human rights law and is typically preserved in the domestic legal systems of countries that are party to international human rights treaties and agreements.

The Constitution of North Macedonia establishes the principles of democracy, the rule of law, and respect for human rights. The Constitution includes provisions that emphasize equality and non-discrimination. Article 9 of the Constitution specifically prohibits discrimination on various grounds, including race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. This constitutional provision lays the foundation for the principle of non-discrimination in the country. Another distinctive position in international law is found in Article 54, paragraph 4, of the Constitution, which prohibits discrimination in situations where citizens' freedoms and rights are restricted. In this section, we should discuss the Constitution's flaws with relation to the anti-discrimination principle. First off, discrimination is only forbidden in relation to a limited number of numerical grounds for exclusion from the enjoyment of human rights, and the list of these grounds (characteristics, attributes) is closed. The list excludes categories like age, disability, sexual orientation, etc. that are now protected worldwide by an international instrument. It is questioned whether foreign nationals can benefit from rights that are granted without facing discrimination, such as basic human rights.

In addition to the Constitution, North Macedonia has enacted various laws and regulations that address discrimination and promote equal treatment. These laws include the Anti-Discrimination Act, which was adopted to align domestic legislation with European Union standards on non-discrimination. This act provides a framework for combating discrimination on multiple grounds, including race, ethnicity, gender, religion, disability, and sexual orientation.

Furthermore, North Macedonia is a party to several international human rights treaties that uphold the principle of non-discrimination. These treaties include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), among others. As a signatory to these treaties, North Macedonia is legally bound to ensure compliance with their non-discrimination provisions in its domestic legal system.

North Macedonia has established institutional mechanisms to address discrimination and promote equality. The Ombudsman's Office and the Commission for Protection against Discrimination are responsible for monitoring and enforcing anti-discrimination laws, as well as providing support to victims of discrimination. The Ombudsman's non-binding and non-enforceable actions remain ineffective, including in the area of protection, when there is a lack of responsibility for the officials and a poor political climate.

Judicial decisions, including those from the Constitutional Court of North Macedonia and other courts, play a crucial role in interpreting and applying the principle of non-discrimination in specific cases. Courts have the authority to ensure that the principle of non-discrimination is upheld in various legal matters, such as employment, education, and access to services.

The government, civil society organizations, and international partners in North Macedonia engage in awareness campaigns and educational initiatives to promote understanding and respect for the principle of non-discrimination among the general population, public officials, and law enforcement agencies.

In conclusion, North Macedonia's legal system incorporates the principle of non-discrimination in its Constitution, legislation, and international human rights commitments. This legal framework, coupled with institutional mechanisms and ongoing efforts to raise awareness and combat discrimination, demonstrates the country's commitment to upholding the principles of equality and non-discrimination as part of its legal and societal fabric.

## 4. CONCLUSIONS

In conclusion, the Republic of North Macedonia demonstrates a strong commitment to the principle of non-discrimination within its legal framework and international obligations. The country has made significant strides in aligning its domestic laws with international human rights standards, emphasizing equality and the prohibition of discrimination on various grounds.

There isn't a specific legislation that forbids discrimination in the Republic of North Macedonia's legal system, although there are other laws that have similar prohibitions. Instead, we urge the RNM—or more specifically, the legislative body—to pass a unique legislation, known as a non-discrimination legislation, that is directly dedicated to outlawing prejudice.

As in EU members, Macedonia lacks a separate, independent body that will advance the idea of equality between people, assist discrimination victims in legal proceedings, and carry out investigations and prepare reports on matters pertaining to discrimination. It is advised that the RNM create such a distinct and independent body.

The absence of affirmative action provisions in the Constitution or any other systemic law (other than the current LMP) poses a challenge for the Republic of Macedonia's legal system. In order to establish true equality in society, we believe that there should be some kind of common provision that will enable the execution of such measures and make their legalization.

On the other hand, North Macedonia's Constitution explicitly prohibits discrimination on multiple grounds, aligning with international human rights principles. Article 9 of the Constitution serves as a fundamental pillar in the country's commitment to non-discrimination. The Anti-Discrimination Act of North Macedonia, along with other relevant laws and regulations, provides a comprehensive framework to address and combat discrimination. These laws encompass a wide range of grounds for discrimination, including race, ethnicity, gender, religion, disability, and sexual orientation. The government, civil society organizations, and international partners actively engage in awareness campaigns and educational initiatives to promote a deeper understanding of non-discrimination principles and to foster a culture of respect for human rights among the public, public officials, and law enforcement agencies.

Overall, the Republic of North Macedonia's legal system and commitment to non-discrimination reflect its dedication to creating a society where all individuals, regardless of their background or characteristics, can enjoy equal rights and opportunities. While challenges may persist in the implementation and enforcement of these principles, the country's efforts to strengthen its legal framework and promote awareness mark significant progress towards upholding the values of non-discrimination and human rights within its borders.

## REFERENCES

- Angeleski, S. (2004) "Zastita na osnovite covekovi prava vo Evropska Unija, kon edinstev Evropski sudski system na zashita", Skopje p.36
- AP, 2200 A (XXI) from 16 December 1966 entered into force on 23 March 1976, under to the provision of Article 9.
- AP, 2200 A (XXI) from December 16, 1966. The ICCPR entered into force on 23 March 1976 under to the provisions of Article 49, while PNDESK entered into force on 3 January 1976 under to the provisions of Article 27. Articles 2, 5 and 10 of of Convention.
- Barcelona Traction, Light and Power Co. case, ICJ Reports, 1970 p.33-34 and Ian Brownlie, Principles of Public International Law, Oxford, 1979, p.596-598
- Buergenthal, B. (1998). "Medunarodna ljudska prava" (u sazetom obliku) Sarajev, p.38.
- Bugental, T. (1997). "Medunarodska ljudska prava", Beograd, p.29-43
- C-409-95 Marchall v. Land Nordrhein Westfalen 1997 ECR I-6363, C-407-98 Abrahamson Fogelqvist 2000, Henry G. Schermers, Denis F. Wealbrock, Judicial protection in the Euroean Union London/New York 2001 p.93-94.
- Case 1/58 Stokv. High Authority 1959 ERC 17, Cases 36, 37, 38 40/59 Geitling v. High Authority 1960 ERC 423 Case 40/64 Segarlati and others v. Commission 1965 ERC 215 1966 CMLR 314.
- Case 11/70 Internationale Handelsgeellschaft v. Einfuhr und Vorratsstelle fur Getreide und Futtermittel (1970). ECR 1125.
- Case 11/70 Internationale Hnadelseschaft v. Einfuhr und Vorratsstelle fur Getreide und Futtermittel 1970 ECR 1125
- Case 29/69 Stauder v. City of Ulm 1969 ERC 419.
- Case 4/73 Nold v. the Commission 1974 ECR 491 p.13
- CCPR, General Comment No18 Nondiscrimination from 10.11.1989.
- CEDAW General Recommendation No 19 1992 p.11 (UN Doc A/47/38)
- CEDR has been approved by Rezulate AP 2106 A (XX) on December 1965, which entered into force on 4 January 1969 under the provisions of Article 19 of the Convention.
- CERD 34/180 on 18 December 1979 while it has come into force 3 September 1981, article 27(1).
- CERD Communication No 10/1997 Ziad ben Ahmed Habassi v. Denmark p.93 (CRED /C/54/D/10/1997)
- CERD General Recommendation XX 1996 which has to do with te non-discriminatory implementation of rights and freedoms

- p.5 (UN/Doc.4/51/18)  
CERD, Communication no 8/1996 B.M.S.v. (CERD /C/54/D/8/1996)  
CERD, General Recommendation XXIV the year 1990 has to do with Reports on persons belonging to different racial groups ,national ethnic or special needs groups p.2and 3 (UN Doc A/54/18 Annex V)  
CERD, General Recommendation No XIV on 1993 article 1.1 of Convents, p.2(UN Doc A/48/18).  
CERD, General Recommendation VIII the year 1990 has to do with identification with any racial or ethnic group (UN Doc A/45/18)  
CESCR General Comment no 5 from 09.12.1994 Doc.E/1995/22 p.11  
CESCR General Comment no.3 from 14.12.1990, Doc E/1995/22  
CESCR General Comment no5 p.9  
CJR Dugard (1966) "The legal effect of United Nations Resolutions on Apartheid" South Africa Law Journal, p.44,53  
Compared to Article 1 of the Internatioal Convention on the Elimination of all forms of rcial discrimination (CERD) discrimination is defunct.  
Council Directive 2000/78 EC of 27 november 2000 establishing a general framework for equal treatment in employment and occupation, article 2.2 303/16  
CRED General Recommendation XI from 1993 p.1 (UN Doc A/46/18)  
CREDAW General Recommendation No 5 1988 (UN/doc. A/43/38)  
Danning V. the Netherlands, Communication No180/1984 p.14  
Defrene v. Sabena (III) Case 149/77 1978 para 26-27  
Dimitijeviq, V. (1997) "Ljudska Prava", Beograd, p.364-365  
Dr Enderby v. Frenchay Helath Autgority and Secretary of State of Health 127/92 ECR 1993  
E.Dankwa, Working paper on Article 2(3) of "The international Covenant on Economic ,Social and Cultural Rights "Quarterly v.9 . 1987 p.230-249  
Equal Treatment Directiv (EEC) 76/207 23.09.2002.  
Equality and non-discrimination Annual report 2004, European Comission, may 2004 p.15-16.  
Explanatory Report. para.26 The Netherland, Judgement of 26.03.1985, Series A, no.91.  
F.H.Zwaan-de Vries v the Netherland ,Communication No 182/1984 16April 1987 CCPR/C/29/D/182/1984  
F.H.Zwaan-de Vries v the Netherlands , Communication No 182/184 p.14  
Filterman, Cees and Henderson, Catherrine. 31 December 1997 UN Doc. ST/LEG/SER/E/16 p. 172,174-175  
Evans, G. (1974). "Benign Discrimination and the right to equality", 6 Fed , Law Review , p.26  
Gueye et al. V France Communication No 196/1985 ,Raport of the human rights committee UNdos. A/44/40 p.189-195.  
Steiner, H.J., Alston, P., International Human Rights in Context, 1996 p.907, Robertson, A.H. Human Rights in the world , 1996 p.101 and Lj.D.Frckoski p.113.  
Vas, H.S. (1989) the Netherlands ,Communication No 218/1986 CCPR/C/35/D/218/1986/Rev1 from 2Maj .  
Human rights committee, General Comment 1/ 1989 p.10  
Human Rights Committee, General Comment No18 (Non-discrimnaion) from9 Noveber 1989, UN Doc. CCPR/21/REV .1/ ADD1. P.13  
Human Rights –internationlas acts summary Tirane ,1993 p.139-146  
Frostel, K. (1999) "Gender Difference and the non-diskrimination" principle I the CCPR and the CEDAW, p.45-48  
Boyle, K., Baldaccini, A., A critical Evaluation of International Human Rights Approaches to Racism, in Sandra FREDMAN (ed.), Discrimination and human rights: the case of racism , 2001, XI/1, 135-191, Collected courses of the Academy of European LawCollected Courses of the Academy of European Law, [AEL] - <https://hdl.handle.net/1814/2945>  
Henkin, L. (1981) "The international Bill of Rights", New York p. 249.  
Law on Election of Disputes in the Assembly of the Republic of Macedonia" Official Gazette of RM" n 4205 Article 34 paragraph 3.  
Law on Employment Relations "Official Gazette of the Republic of Macedonia "no 62/05 of 28.07.2005.  
Law on the Ombudsman of RM "Offiial Gazzete of the Republic of Macedonia "no 60/03 of 22.09.2003 Article 2.  
Frckoski, Lj. D. (2001) "Medunarodna parvo za pravata na covekot" Skopje, p.90-91.  
Warwick, M., (1983) "Equality and discrimination under international law", OUP, New York , p.4  
Aleksandar, P. (1977) ,"Rasna diskriminacija i medunarodna pravo ",Sarajevo, p.50  
Presidency conclusions, Cologne European Council , 3-4 june1999 Annex IV EU Bull 6-1999  
Vukadinovic, R. (1996) "Pravo Evropske Unije", Beograd, p.43  
Racic, O. (1998) "Ljudska Prava, Pet decenija od usvajanja Opste Deklaracija o Pravima Coveka", Beograd, p.7-10.  
Nehemiah, R., (1958)"Universlal Declaration of Human rights", New York, p.104  
Cholewinski, R. (1991) "The racial Convention and the Protection of Cuktural and Lingustic Ethnic Minorities", Rev. de Droit International 69,1991.  
Georgievski, S. (1999) "Primenata a Madunarodna parvo vo ustaviniot poredok na Repubika Makedonija ,zbornik vo cest na evgenij Dimitrov ", Skopje p.481-502.  
Sorensen, M. (1956). "The quest of equality" in International Conciliation, no.507, p.302-307.  
Thornbery, P. (1991), "International law and the Rights of Minorities", Oxford p.281  
UN doc.A/64/Add.1.p.69.  
UN doc.A/C1 & 6/1 str.4  
UN Doc.E.CN.4/52 more in the "Universal Declaration of Human Rights Common Approach Standards" –published by Asbjorn Eide and Gudumundur Alfredson , The Hague 1999 p. 80-82.