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INTERNATIONAL AND EUROPEAN LEGAL FRAMEWORK ON DISCRIMINATION BASED ON SEX AND GENDER

In this scientific paper the authors have described the international and European legal framework on discrimination based on sex and gender. The legal regulation on protection from discrimination is analysed from several angles. The authors give special consideration to positive legal sources analysis, with an emphasis on constitutional provisions, from the international perspective, considering the scope of this paper. The paper tries to examine the endeavours of the International Labour Organization to provide equal opportunities for the employment and promotion of the employees, to prevent activities leading to unequal treatment and to eliminate discrimination through legislative activity and politics. The authors have considered certain Conventions of International Labour Organization, which are referring to protection from discrimination based on sex and gender. In addition, the EU legislative acts regarding this topic are reviewed, through the analysis of the EU's antidiscrimination law on equal treatment of men and women, among which we accentuate the Directive 76/207 from 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

Key words: *Equality. – Gender. – Sex. – Discrimination. – Working conditions.*

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1. THE NOTION OF DISCRIMINATION

Discrimination as a phenomenon in the society causes negative effects, and is provoking different prejudices based on negative perceptions for certain situation of other individuals and group of people, while causing at the same time harmful effect on interpersonal relations. For this reason, the prohibition of discrimination as a measure that provides equality and dignity of individuals in the society is the basis for enabling the rights and freedoms of all people. Discriminatory behaviour from third persons can be active and passive, and that depends on the behaviour of the person who discriminates and/or the unequal behaviour towards another person.

In this context, the term person refers to a person who discriminates as well as the person who is being discriminated. Physical and legal persons, such as State institutions, private legal entities, as well as different types of associations can be considered in this regard.¹

Universal definition for discrimination is difficult to be proclaimed, and does not exist as such in the Macedonian legislation. However, non-discrimination is aimed at enabling the guaranteed equality towards the opportunities the society offers, especially in the field of human rights and freedoms. Non-discrimination, as an antonym of discrimination, is understood and identified in the situations where individuals or a group of people, in the same or similar situation are treated in the same or similar way, depending on the current situation. In order to overcome the discriminatory treatment, it is necessary that a person or group of people are treated in the same or similar manner, in identical or similar situations, i.e. not to be treated differently or in a less favourable manner compared to the treatment that would be given to other individuals or group of people in the same or similar situation.

1.1. What is the reason for the less favourable treatment, and how to recognize it?

This is usually related to the characteristic of an individual or the group of people. When an individual or a group that has some evident

¹ Tomislav Boric, Tatjana Josipovic, Heinz-Peter Mansel, Dushan Nikolic, *Nova pravna revija NPR Casopis za domace, njemacko i evropsko pravo* 2018, 4.

characteristic, are being discriminated, it is called “direct discrimination”. However, the simplest perception of direct discrimination is different treatment in the same or similar situation without objective or justified reason or equal treatment of persons who are in an unequal situation and who ought to be treated in a different manner. To paraphrase the practice of the European Court of human rights on this issue we could also use the following terminology that entails discrimination: “different treatment of persons in analogous or relatively similar situations and is based on an identifiable characteristic”.

2. THE CONCEPT OF EQUALITY

The discrimination, whether covert or overt, deeply violates human rights, and enters every pore of society, and among rights most frequently breached is equality, as a basic human rights principle. The right to equal treatment is concept based on equality, dignity and equal value of each and every individual. When speaking of equality and the concept of equality, an explanation of the equality in a formal, legal sense is inevitable. This means that formal proclamation of the fact that all people have equal rights and freedom exists and is guaranteed with law. The so-called formal access to the concept of equality implies and guarantees that legal framework is established on the premise that all people are equal to enjoy their rights and freedoms. Material equality on the other hand provides and guarantees practical implementation of formal equality norms and their application. The material equality, in its own manner, through the application of the provisions in practice and through their implementation in the societal pores, complements formally guaranteed equality.

As one of the authors of this paper already mentioned “When we speak about equality, a difference should be made between formal and material equality. Formal equality, or equality provided by the law, means to formally recognise that all people have equal rights and freedoms guaranteed by law and equal recognition of the law by the state institutions.”²

The legal definition of the notion of discrimination implies unequal acting, based on some personal characteristics. This discrimina-

2 Lazar Jovevski, Zaneta Popovska, *Antidiscrimination law*, OSCE, Skopje 2017, 24.

tory basis means that those personal prejudices include unfounded differences and classifications in the given situation.³

The discrimination in the area of human rights entails unequal behaviour towards an individual or a group, which are deprived of an equal treatment and the equal enjoyment of the legally provided human rights, or informal implemented rights by a group of people, institution, or individual, on the other side. According to the European Court of Justice, the basis of discrimination is a personal characteristic – status, according to which a person, or a group of people, are different from each other. According to another definition, the basis of discrimination is characteristic of one person, which should not be relevant, in order with different actions, while enjoying certain benefits.⁴

3. PROTECTION AGAINST DISCRIMINATION BASED ON SEX AND GENDER

In the Republic of North Macedonia, legal framework for non-discrimination and equality is based on the Constitution of Republic of North Macedonia,⁵ the laws containing provisions for protection against discrimination, and ratified International agreements in this area. The basic values that constitute the constitutional order in North Macedonia are the basic rights and freedoms of the individual and a citizen that are recognised in the international law, and are established by the Constitution.⁶

The principle of equality and non – discrimination is envisaged in the article 9 of the Constitution of the Republic of North Macedonia, where the basic rights and freedom of the individual and citizen are provided. Article 9 of the Constitution proclaims: “Citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of sex, race, colour of skin, national and social origin, political and religious beliefs, property and social status.”

3 *European commission: North Macedonia 2019 Report*, 2019, 43.

4 L. Jovevski, Z. Popovska, *op. cit.*

5 Устав на Република Македонија, *Сл. Весник на РМ*, бр. 08–4642/1991.

6 Bayefski A.F., “*The Principle of Equality or Non-Discrimination in International Law*”, *Human Rights Law Journal* 1/1990.

3.1. Macedonian Legislative Framework

The aforementioned constitutional provision, i.e. article 9 from Constitution of the Republic of North Macedonia, is developed in many laws from the corresponding areas: Law on Prevention and Protection against Discrimination,⁷ the Law on Courts,⁸ Labour Law,⁹ Law on equal opportunities for women and men,¹⁰ the Law on family,¹¹ the Law on child protection,¹² Law on primary education,¹³ Law on secondary education,¹⁴ Law on high education,¹⁵ Law on volunteering,¹⁶ Law on public health,¹⁷ Law on associations and foundations,¹⁸ Law political parties,¹⁹ etc.

Law on Prevention and Protection against Discrimination is expected to fulfil all legal gaps regarding regulation of discrimination and to contain provisions on prevention of discrimination. Unlike the Constitution of the Republic of North Macedonia, which, as it was mentioned earlier, contains a closed list, and enumerated grounds for discrimination, Law on Prevention and Protection against Discrimination in article 3, provides an open list that envisages: race, sex, gender, skin

- 7 Закон за спречување и заштита од дискриминација, *Службен весник*, 10/2019.
- 8 Закон за судовите, *Службен весник на Република Македонија*, 150/2010.
- 9 Закон за работните односи, *Службен весник на РМ*, 120/2018.
- 10 Закон за еднакви можности на жените и мажите, *Службен весник на Република Македонија*, 166/2014.
- 11 Закон за семејството, *Службен весник на Република Македонија*, 150/2015.
- 12 Закон за заштита на децата, *Службен весник на Република Македонија*, 198/2018.
- 13 Закон за основно образование, *Службен весник на Република Македонија*, 229/2020.
- 14 Закон за средно образование, *Службен весник на Република Македонија*, 30/2016.
- 15 Закон за високо образование, *Службен весник на Република Македонија*, 82/2018.
- 16 Закон за волонтерство, *Службен весник на Република Македонија*, 85/07 и 161/08.
- 17 Закон за јавно здравје, *Службен весник на Република Македонија*, 136/2011.
- 18 Закон за здруженија и фондации, *Службен весник на Република Македонија*, 55/2016.
- 19 Закон за политичките партии, *Службен весник на Република Македонија*, 23/13.

colour, marginalized groups, social status, citizenship, ethnical status, language, religious belief and religion, political affiliation, education, personal and social status, but furthermore it provides an open list of grounds stating: “and any other ground”. This phrase is therefore open to interpretation from the court and other private and public authorities, which deal with discrimination in their field of work.

This Law contains provisions that forbid all forms of discrimination, to cite a few: article 6 forbids harassment and article 10 forbids victimization. Furthermore, the Law envisages in its article 12, multiple discrimination as a more severe form of discrimination committed against one person at the same time on multiple grounds. These forms of discrimination are in the article 4 of the said Law forbidden in the public and private sector, in health, social protection, judicial system, labour relations, housing, management, sport, science, work of trade unions and associations.

Law on Prevention and Protection against discrimination does not explicitly forbid discriminatory statements and advertisements. The direct discrimination is provided and defined in article 6 of this Law as a situation when one person is treated inappropriately, in the form of exclusion, differentiation or limitation based on protective characteristic resulting in a consequence such as deprivation, restriction or violation of the rights of one person, unlike another person in the same or a similar situation. On the other hand, general justification of the direct discrimination in this particular Law is not provided.

4. INTERNATIONAL AND EUROPEAN NORMATIVE FRAMEWORK IN MACEDONIAN ANTIDISCRIMINATION LAW

Macedonian legislation envisages good protection against discrimination in general as well as good institutional structure for its implementation. One of the priorities for the upcoming period should be complete implementation of the Law on Prevention and Protection against Discrimination and the establishment of the functional and efficient Commission for protection against discrimination. When it comes to implementation of international legislation, the Macedonian

legislation is enriched with new Directives, in addition to some older already implemented. Speaking of discrimination protection, the adoption of a regulation is the first precondition for successful and effective fight against discrimination. Implemented legislation that deals with discrimination and promotes non-discrimination of course, should correspond with the prevailing conditions in a certain society, in order to be effectively applied. Moreover, the fight against discrimination is important not only on the level of the legislation adoption, but in other spheres too, such as developing awareness for discrimination and strengthening the capacities of the institutions to cope with the discrimination.

Republic of North Macedonia has ratified a great number of international agreements, therefore taking responsibility towards people under its jurisdiction, who are going to be legally protected from discrimination on different grounds. According to the Macedonian Constitution, ratified international agreements are part of the internal legal order. So, in this way, Republic of North Macedonia, should directly apply the provisions of the international instruments which prohibit discrimination. When speaking of discrimination based on the sex and gender within the Labour law, first we should mention International Labour Organization – ILO's Acts²⁰ as well as Directives of the European Union for equal treatment during employment and occupation along with gender Directives, which will be also explained.²¹

5. INTERNATIONAL LEGAL FRAMEWORK

5.1. International Labour Organization – ILO's Legal Acts

International Labour Organization is an organization that develops its work within the work relations and labour, and for that purpose the International Labour Organization has adopted numerous acts in this field. Therefore, the International Labour Organization has adopted acts in the field of employment, work relations and discrimination, women's protection during pregnancy and motherhood, as well as equality and equal treatment during employment or when choosing a

20 See www.ilo.org, visited 22 October 2020.

21 Frane Stanicic, Bosiljka Britvic Vetma, Božidar Horvat, *Komentar Zakona o upravnim sporovima*, Narodne novine, Zagreb 2017, 62.

profession. International Labour Organization strives to provide people with equal possibilities as well as to prevent non-equal by eliminating the discrimination. Its normative acts centre its politics in three main areas. First one is preventing discrimination of certain categories of employees, especially women, older people, migrant employees, farmers, plantation employees, etc. Second one is to prevent certain forms of discrimination of all employees in certain areas, beside forced work, employment and employment services, freedom at work, social security, firing from work, professional education and promotion at work. Finally, its task is also to implement the basic principles of forbidding prevention of the discrimination in the area of work relations. In this part, we are going to mention some of the Conventions of International Labour Organization which refer to protection from discrimination at work that our country has ratified in our domestic legislation. To name a few: Convention No. 19 from 1925 on equal treatment towards foreign and domestic workers in compensation for accidents caused by work tasks;²² Convention No. 97 from 1949 on protection of workers;²³ Convention No. 100 from 1950 on the prohibition of discrimination between men and women.²⁴ This latter promotes equal valuation of work between men and women and equal work in terms of salary and other allowances the employee receives. Further on, Convention No. 111,²⁵ along with the Recommendation No. 111 from 1958,²⁶ represent acts on prevention of discrimination during employment, specifically for prevention of discrimination in the access to further education, conditions for employment, chosen profession and employment procedure. Convention No. 118 from 1962 guarantees equal treatment of domestic and foreign workers, but in the field of social security.²⁷

22 See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C019, visited 22 October 2020.

23 See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C097, visited 22 October 2020.

24 See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C100, visited 22 October 2020.

25 See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C111, visited 22 October 2020.

26 See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:R111, visited 22 October 2020.

27 See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C118, visited 22 October 2020.

The Convention No. 143 from 1975 deals with migrations and conditions for migrants and in cases of abuse, as well as with promotion of the equality in regard to possibilities and treatment of migrant workers.²⁸ Convention No. 156,²⁹ is a Convention which aligns with the Recommendation for equal possibilities and equal treatment of female and male workers,³⁰ and together there are acts which refer to equal possibilities and equal treatment for workers having family obligations. These acts advocate improvement of conditions of workers with family obligations, as well as equal treatment and equal access to employment measures and Labour relations of male and female workers. When speaking of international standards of Labour relations and antidiscrimination law, International Labour Organization's acts represent the principal basis for regulating these areas and for the protection of the rights of employees.³¹

5.2. European Union's legislative acts

European Union has adopted Directives on antidiscrimination law and on the equal treatment such as Directive 75/7/EEC that deals with the introduction of equal treatment in terms of schemes for social settling.³²

The Directive 76/207 adopted in 1976 includes the principle of equal treatment of men and women during employment, labour relations, promotion at work, as well as everyday working conditions.³³ This Directive provides for equality, meaning that it forbids the discrimination based on sex, in work relations direct and indirect. The

28 See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C143, visited 22 October 2020.

29 See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C15, visited 22 October 2020.

30 See https://www.ilo.org/global/standards/information-resources-and-publications/publications/WCMS_088023/lang-en/index.htm, visited 22 October 2020.

31 Народен правобранител на Р. М. Годишен извешај за сѐејеној на обезбедувањето јочийување, унајредување и зашћийија на човековите слободи и ѓрава, Скопје 2017, 11–14.

32 See <https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=CELEX:31977D0108>, visited 22 October 2020.

33 See <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31976L0207>, visited 22 October 2020.

Directive 86/613/EEC³⁴ is also very important because it treats equal treatment of the employees in agriculture, and the equal treatment of self-employed men and women. The Directive 96/34/EC³⁵ is very relevant as well because it contains provisions for aligning and adjusting work and family life, including the parental leave. This Directive provides for equal treatment and non-discriminatory behaviour towards employees that need parental leave or have additional need to adjust working hours with family life. Furthermore, the 97/80 Directive³⁶ refers to the transfer of the burden of proof in relation to discrimination on grounds of sex.³⁷

Last, but not the least important from the list of the aforementioned directives is the Directive 2005/54/EC,³⁸ which provides equality for men and women during employment, work relations and professional promotion and every other aspect that is related to labour relations, with the aim of gaining equal treatment and guarantee of equal possibilities for professional promotion for men and women. The Directive provides equal treatment for men and women and it encourages positive practice in the areas where women are not enough included and integrated, as well as where there is obviously labour discrimination. This Directive provides the aforementioned conditions in an absolute manner and without exceptions, and provides no exception from special protection provided to women. The rights of the women during pregnancy, parenting and breastfeeding are also protected. The Directive 2006/54/EC is open and is considered as a basis on which many legislators are building their domestic practices regarding this issue.³⁹

Directive 2019/1158/EU provides that the Union shall support and complement the activities of the Member States in the area of equality between men and women in regard to Labour market

34 See <https://eur-lex.europa.eu/eli/dir/1986/613/oj>, visited 22 October 2020.

35 See <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A31996L0034>, visited 22 October 2020.

36 See <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31997L0080>, visited 22 October 2020.

37 Серија информативни белешки, *Работна сила во иднина*, Иницијатива по пово стогодишнината на МОТ, Скопје 2016.

38 See <https://eur-lex.europa.eu/eli/dir/2005/54/oj>, visited 22 October 2020.

39 See <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32006L0054>, visited 22 October 2020.

opportunities and treatment at work.⁴⁰ Also, this Directive provides that the Union shall promote equality between women and men. Similarly, Article 23 of the Charter of Fundamental Rights of the European Union⁴¹ requires equality between men and women to be ensured in all areas, including employment, work and pay.

5.2.1. The Directive of European Union about equal treatment in employment and professions

Directive 2000/78/EC of 27 November 2000⁴² established a general framework for equal treatment in employment and occupation, and explicitly listed four grounds for discrimination such as age, sexual orientation, religion or belief, and disability. Its purpose is to prevent and combat discrimination in employment and in professions. Directive 2000/78/EC prohibits discrimination based on the above mentioned four grounds, and protects the individual from discrimination in employment and occupation. This Directive covers the whole process from the beginning, i.e. from the moment of employment until the termination of employment. That entails announcing the job vacancy, submitting applications for the vacancy, conditions for applying, interviewing candidates, decision criteria, employment, rights and obligations arising from employment, vacations, salaries, promotion, protection to the employees, other benefits from this membership, practical work, until the termination of employment. States may not apply the Directive on equal treatment in employment and occupation in the armed forces solely on grounds of discrimination on grounds of disability or age. The Directive does not envisage provisions regarding state payments on the basis of social security and social protection. It prohibits direct and indirect discrimination, victimization, harassment in the public and private sectors, perpetrated by individuals and legal entities. Directive 2000/78/EC also provides for measures to enable persons with disabilities to be adequately adapted, as well as the implementation of affirmative action measures.⁴³

40 See <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L1158>, visited 22 October 2020.

41 See https://ec.europa.eu/info/aid-development-cooperation-fundamental-rights/your-rights-eu/eu-charter-fundamental-rights_en, visited 22 October 2020.

42 See <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0078>, visited 22 October 2020.

43 Закон за спречување и заштita od diskriminacija, *Службен весник на Република Македонија*, 101/2019, <https://www.mtsp.gov.mk/content/pdf/zakoni/>

The scope of application of the Directive on equal treatment in employment and occupation is reduced by the very provisions for non-application of the Directive. In addition to the provisions which exclude the application of the Directive in social protection and social security, and in the armed forces mentioned above, Article 2.5 of the Directive also allows undertaking of measures necessary for the protection of public safety, and maintenance of public order and peace, protection of the health and rights and freedoms of the people, and prevention of crimes. If these measures contained provisions or initiated certain behaviors which incline different standards in regard to what is the basic framework of equality provided for in the Directive, they would be considered discriminatory, unless there is a justification for the objectives which need to be achieved and the constraint is proportional.

6. GENDER BASED DIRECTIVES

6.1. Directive 2004/113/EC for implementation of the principle of equal treatment of women and men in the access to goods and services and supply with them

This Directive is a legal instrument of the European Union which aims to extend the application of the principle of equal treatment of men and women, but outside of the field of Labour legislation, i.e., employment.⁴⁴ The prohibition of discrimination contained in this Directive applies to both direct and indirect discrimination, including unfavourable treatment during maternity or pregnancy which is considered to be a form of direct discrimination. Also as a form of discrimination, this Directive prohibits forms of harassment as well as sexual harassment. The Directive provides for equal treatment of women and men in the field of insurance and financial activities, introducing a ban on the use of gender as a criterion in the calculation of benefits in the mentioned areas of insurance and financial activities. Exceptions to these areas of insurance and financial activities are also

2019/27,5-Zakon%20za%20zastita%20od%20diskriminacija.pdf, visited 22 October 2020.

44 Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services; *OJ L* 373, 21.12.2004, p. 37–43.

envisaged in cases where gender is a decisive factor in the assessment of a particular risk. In the aforementioned cases, differences in the number of benefits and similar costs may be allowed. This exception must be based on completely accurate information that is publicly available as statistics. This Directive prohibits payment of different amounts of monetary benefits during pregnancy, maternity and parenthood than the previously paid ones, when the employee has used no maternity nor parental leave.⁴⁵

6.2. Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation

This Directive aims to modernize and improve the legislation of the European Union in the field of equal treatment of women and men in employment.⁴⁶ Important and frequently mentioned in this Directive is the *Bilka* case in which the European Court of Justice considered the issue of the different treatment of the managerial views of the employer which justified the fact that part-time workers are excluded from The Pension and Disability Insurance Fund, taking into account the fact that this measure was taken and introduced to encourage full-time work in order to provide sufficient staff for work.⁴⁷ In this particular case, the European Court of Justice has not explicitly ruled on whether this measure is proportionate to the different enjoyment of rights and the different treatment. The case law of the European Court of Justice shows that the Court does not accept the justification of discriminatory behaviour on the basis of sex, when it comes to employment and financial and managerial considerations of employers. As the professors of the book *Antidiscrimination law* have explained, this Directive should secure implementation of the principle of equal treatment in the field of work relations, whilst the accent is given to three spheres of acting: equal access to jobs, including the promotion and vocational

45 L. Jovevski, Z. Poposka, *op. cit.*, 38.

46 Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), *OJ L 204*, 26.7.2006, 23–36.

47 T. Tomanovic, V. Tomanovic, *Work contract*, Skopje 2017, 25–33.

training; work conditions, including the salary; and professional systems of social security.⁴⁸

7. CONCLUSION

Treating someone differently at work, at a party or in the society in general, solely based on the person's sex is sexism or discrimination based on sex or gender (depends on the given situation). No one can be or should be treated differently because of their sex, or because of the way they see themselves in the society, and the way they want to live in it.

To sum up, it is unlawful to harass a person because of his/her sex. Harassment can include "sexual harassment", requests for sexual favours and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, it can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general.

Both victim and the harasser can be either a woman or a man, or the victim and harasser can be the same sex or gender, but with different view about certain things in the society. Harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted). The international law is also very strict about certain issues it regulates, and the country that implements them, should accept and implement them. We have mentioned few conventions that give concise definition of this issue, but that doesn't mean that others legal acts are not important in this field as well.

48 L. Jovevski, Z. Poposka, *op. cit.*, 46.

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MEĐUNARODNI I EVROPSKI PRAVNI OKVIR O PITANJU DISKRIMINACIJE NA OSNOVU POLA I RODA

Rezime

U ovom radu autori su ukratko opisali međunarodne i evropske normative i pitanje diskriminacija na osnovu pola i roda. Zakonska regulativa koja reguliše zaštitu od diskriminacije uvek se analizira na nekoliko nivoa. Posebno se razmatraju i analiziraju pozitivni zakoni, ali uz dodatnu analizu ustavnih odredbi kao i međunarodnog prava, uzimajući u obzir oblast rada. Jedna od glavnih tačaka ovog rada čini analiza nastojanja Međunarodne organizacije rada da zaposlenima obezbedi jednake mogućnosti tokom zapošljavanja i napredovanja, zabrani nejednake aktivnosti i eliminiše diskriminaciju kroz normativne aktivnosti i politike koja je usredsređena na ove oblasti zaštite. Autori su sa posebnim osvrtom razmatrali neke Konvencije Međunarodne organizacije rada, koje se odnose na zaštitu od diskriminacije na osnovu pola i roda. U ovom naučnom radu razmatra se evropsko komunitarno pravo, izraženo kroz standard Evropske Unije, pozivajući se na anti-diskriminaciono pravo i na jednak tretman muškaraca i žena, među kojima je i Direktiva 76/207 iz 1976. godine, koja uključuje princip jednakog odnosa prema muškarcu i ženi kod zapošljavanja, radnog odnosa, napredovanja u radnim odnosima, kao i svakodnevnih uslova rada.

Ključne reči: *Jednakost. – Pol. – Diskriminacija. – Radni odnos.*

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