

# Anti-discrimination in education - legal framework

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# Binding international documents

- 1. Educational anti-discrimination convention;
- 2. International agreement on civil and political rights;
- 3. International agreement on economic, social and cultural rights;
- 4. International convention banning all kinds of racial discrimination;
- 5. Convention on rights of children;
- 6. European convention protecting human rights and basic freedom;
- 7. Provisional convention protecting national minorities.

# Four categories

- 1) Banning segregation in education;
- 2) Guarantee of rights for education ;
- 3) Guarantee of anti-discrimination;
- 4) Discrimination that is considered as «inhuman treatment».

# 1. Banning segregation in education

- **Anti-discrimination convention (KPD)** bans discrimination in education which is defined as «establishment and existence of separate educational systems or institutions for individuals or group or people.» (Article 1 (c)).
- **KPD** also bans «limitation of any person or group of people to substandard education»; as well as enrolment policy that hampers Roma to attend majority schools that receive more funding compared to schools attended by Roma children, is forbidden (Article 1 (b)).
- **Provisional convention protecting national minorities** appeals from the signatories to „put an effort to ensure equal opportunities for members of national minorities to have access to education on all levels of education“ (Article 12). This means that the governments have to enforce affirmative measures in order to prohibit segregation in schools.

## 2. Guarantees of rights for education

- Article 2 of the Protocol no. 1 of the European convention protecting human rights and basic freedom: „No person can be denied the right to education“.
- International agreement on economic, social and cultural rights (MPESKP art. 28) the same as Convention on rights of children (KPD art.13) define the right to education in a broader sense, more specifically define the requirement for governments to provide compulsory and cost free primary education.

# 3. Guarantee of anti-discrimination

- In all the international documents mentioned earlier, it is specifically stated that all the rights that the documents define are guaranteed to everyone indiscriminately.
- **In the International convention on banning all forms of racial discrimination IKERD**, it is stated that the governments are responsible to ban and eliminate discrimination and provide guarantees to legal equality of all the citizens when exercising their right to education (Article 5).
- **The Committee for prohibition of racial discrimination gives a broad definition of MKERD**, which includes banning discrimination and banning seemingly neutral acts with the consequence of «unjustified different influence on the group of people of different race, color of skin, background, national or ethnic origin.» (General recommendation XIV: Definition of discrimination (Article 1, paragraph 1) (Document no. A/48/18, 42. session 1993)).

# 3. Guarantee of anti-discrimination

- **Convention against discrimination in education** art.3 states that it is the responsibility of a government to ban all legal and administrative provisions and put a stop on administrative practice that involves discrimination in education, with the aim to prohibit and eliminate discrimination. As a special requirement there is a demand to take necessary measures, according to the needs, as well as introducing legal regulations, in order to ensure no discrimination during the acceptance process to schools.

## 4. Discrimination that is considered as «inhuman treatment».

- European convention on protection of human rights and fundamental freedoms (Article 3), and MPGPP (Article 7) contain provisions prohibiting «inhuman or humiliating treatment.» European Court for Human Rights has established that « racial discrimination in certain circumstances can represent violation of human rights» and consequently reach the level of inhuman or humiliating treatment.



# Constitutional provisions

- Constitutional provisions in all states contain components, by which the obligations from these documents are incorporated into national acts , stipulating that if these obligations contradict national acts, constitutional provisions have the priority; for example, Bulgarian Constitution - Article 5 (4); Czech Constitution - Article 10; Romania - Article 20; Slovak Republic - Article 11.

# European Union instruments

- European Council 2000/43/EC, in its Line of Direction apply the principle of equal treatment for all, regardless of racial or ethnic background, which is binding for all the European member states. This Line of Direction prohibits «direct or indirect discrimination based on racial or ethnic background» (Article 1), including education (Article 3 (g)). The states are obliged to apply efficient measures towards the discriminated people, as well as to enable organizations to enforce this Line of Direction.