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**THE PRINCIPLE OF NON-DISCRIMINATION IN PUBLIC INTERNATIONAL LAW -
NORMATIVE AND JURISPRUDENTIAL CONSECRATION**

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CONCEPTUAL MARKINGS OF THE RESEARCH

The topicality of the research theme and the importance of the problem addressed.

Equality and non-discrimination are complex concepts, with considerable debate about their meanings and justification. The discussion of equality and discrimination is generally characterized by considerable conceptual and methodological confusion at the level of the application of justice. Therefore, the relevance and actuality of the theme regarding the principle of non-discrimination "descends" from the traditional labels of mass discrimination (the historical cases that happened in the 19th and 20th centuries), to the particular cases of vulnerable groups present in civil society and tolerated discreetly from the public authorities. The definitive eradication of discrimination is, thus, an inherent condition for strengthening the effectiveness of the rule of law .

Description of the situation in the research field and identification of research problems.

The principles of equality and non-discrimination underpin international human rights treaties and declarations. However, the progress achieved in the development of international covenants against discrimination does not mean that this system as a whole is fully satisfactory. The efficiency of even the most advanced protection structures, based on international conventions, is diminished by the fact that they are not ratified by all states and that, upon ratification or accession, many state parties have stipulated reservations that, in many cases, limit significantly the scope of the conventions. Many other countries have ratified the conventions, but have not implemented their implementation mechanisms at the national level. Given these limitations, the need to develop anti-discrimination law seems to be fully justified. There is a consistent body of literature on discrimination in the domestic context, much of which includes elements of regional and international analysis, but there is little work that can present what can be called a purely international perspective .

The purpose and objectives of the thesis. *The purpose of the study* is to analyze from a theoretical point of view and from the perspective of jurisprudence the different causes of discrimination that may affect people of different racial, ethnic, national or social origin, such as communities of Asian or African origin, Roma, indigenous peoples, aborigines and people belonging to different castes. The study will also analyze the cases of people of different cultural, linguistic or religious origins, people with disabilities or the elderly, people with minority sexual orientation or preferences and gender-based discrimination. The specific purpose of this study provides for the analysis of "European" solutions to the problem resulting from the interaction between the restrictions imposed by the text and their interpretation by the competent courts regarding the application of the

principle of non-discrimination, by addressing "discrimination based on specific grounds" and vulnerable groups .

Research objectives: 1. Study of the sources of international law regarding the principle of non-discrimination; 2. The theoretical study of the concepts regarding the principle of non-discrimination; 3. The study of international cooperation regarding the standardization of practices for the application of the principle of non-discrimination; 4. Analysis of trends regarding discrimination by category: discrimination based on gender in socio-economic relations, discrimination based on race, national minority and ethnicity, discrimination against religious minorities and people of different religions, other types of discrimination; 5. The study of the legal and institutional mechanisms regarding the promotion of the implementation of the principle of non-discrimination within the limits of the legal framework and the analysis of the jurisprudence related to the research topic; 6. Analysis of the role of the ECHR and ECJ regarding cases of discrimination and the application of art. 3 and 14 in the case of vulnerable groups; 7. The study of jurisdictional peculiarities regarding the practical implementation of the principle of non-discrimination in the Republic of Moldova.

Research methodology. The policy approach tends to be characterized by specific measures to promote equal opportunities, targeting certain social groups. A number of different methodological tools have been used to mainstream equality considerations into policy development and implementation. These tools are explored through equality screening procedures and involve a screening exercise to assess whether it is appropriate for states to comply with new (and already existing) policies and laws, i.e. through a more detailed assessment of the impact of the principle of non-discrimination for the establishment of equality. From the analysis of the jurisprudence of international courts, it is also highlighted that the approach to vulnerable groups under international treaties and conventions, although it appears broad, is restricted in many respects. Therefore, from a methodological point of view, we carried out an interdisciplinary and comparative research, using the analysis of the literature in the given field, as the main point of reflection, corroborated with the jurisprudence of international courts.

The novelty and scientific originality of the results obtained. One of the objectives of this research is to analyze comparatively and from a historical perspective the implementation of the principle of non-discrimination, namely the jurisprudence of the ECHR and the ECJ. In this sense, the investigation of the international jurisprudence of the ECHR and the ECJ was essential. The novelty part consists in giving increased importance to "European" solutions for dealing with "discriminations based on specific grounds" and vulnerable groups, as a viable formula for the

evolution of socio-political events at the global level. Thus, the differential treatment does not violate the principle of equality and favors the adaptation of the principle of non-discrimination at the level of civil society, which is increasingly differentiated from a cultural and religious point of view. Thus, the solution of interpreting the principle of non-discrimination by means of the temporary favoring of some vulnerable groups is in agreement with the social-economic policies of national governments regarding the problems faced by certain socially-vulnerable categories that require equal and, at the same time, differentiated treatment for particular reasons, due to the problems they face. This aspect is important because it must fall within rational and reasonable grounds, depending on the specific cases .

Important scientific problem solved. While the strengthening of the legal framework at global level, and especially at the level of EU states, in terms of anti-discrimination, provides important legal protection for social groups at risk of discrimination, there is nevertheless a strong case for adopting an approach of integration based on the principle of non-discrimination for vulnerable groups. Thus, non-discrimination issues should be systematically integrated into states' policy-making and implemented from the outset to enhance the desired outcomes in achieving equality. It is important that States comply with their international obligations by adopting legislative and other measures necessary to give effect to the right to non-discrimination, in particular to provide persons who claim to have been victims of discrimination with an adequate effective and easily accessible mechanism for resolution of their complaints. A big step in eliminating discrimination can only be made if collective efforts are made both internationally and by governments.

Theoretical importance. In the case of the Republic of Moldova, despite legal and political commitments to align national legislation with international norms and standards in the field of human rights, Moldova still faces major problems such as unemployment, poverty, mass migration of citizens, corruption, limited freedom of association , discrimination, intolerance and exclusion, etc. Human rights education in schools and universities, including law schools, is very limited and of poor quality. The media reports unprofessionally about human rights. Anti-discrimination legislation in Moldova includes few provisions that explicitly prohibit discrimination. However, in most cases there are severe deficiencies in the state's effective assumption of the rights of persons vulnerable to discrimination.

The applicative value of the work. This research will help civil society and regulatory authorities to consider international practices and, in particular, those dictated by the ECHR and ECJ regarding the application of the principle of non-discrimination in a differentiated, but not different,

aspect. At the same time, the study has a theoretical-practical applicability and reveals the adaptation of national and international law norms to the evolution of social-economic dynamics, which requires a more advanced deepening and a greater diversification of the types of situations that require a non-discriminatory treatment, relative to the deficiencies and the differences they present (vulnerable groups) .

The main scientific results submitted for support: To achieve gender equality, the state should not only give women equal rights with men, but also empower them by creating an environment that allows for equal outcomes. Rather, biological as well as socially and culturally constructed differences between women and men must be considered. In order to achieve the objective of substantial equality, the Republic of Moldova should develop an effective strategy aimed at overcoming the underrepresentation of women in companies. The Republic of Moldova should take measures, including through bilateral or multilateral cooperation, to mitigate the factors that make people, especially women and children, vulnerable to human trafficking. Measures under international law aimed at preventing, suppressing and punishing human trafficking should be interpreted and applied in a way that does not discriminate against trafficked persons on the grounds that they are victims of human trafficking. The interpretation and application of these measures should be consistent with internationally recognized principles of non-discrimination.

Implementation of scientific results. *Recommendations for gender discrimination.* To achieve gender equality, the state should not only give women equal rights with men, but also empower them by creating an environment that allows for equal outcomes. ***Recommendations for racial discrimination.*** The Republic of Moldova should not expel or return a refugee, in any way, to the borders of territories where his life or freedom would be threatened because of race, religion, nationality, membership of a certain social group or political opinion. ***Recommendations for discrimination based on sexual orientation.*** The law in the Republic of Moldova prohibits any discrimination and guarantees all persons equal and effective protection against discrimination based on sexual orientation or gender identity. ***Recommendations for discrimination based on disability.*** In order to remedy discrimination and deter discrimination against people with disabilities, including mental disabilities, there must be comprehensive anti-discrimination legislation in relation to the specificities of each category of disability. ***Recommendations for age discrimination.*** The Republic of Moldova should establish the nature and scope of the problems affecting the elderly, by periodically monitoring their problems and adopting policies and programs designed to meet their needs, ensuring relevant budgetary support or, as appropriate, requesting international cooperation.

Recommendations for the implementation of the principle of non-discrimination in legislation.

From the general observations, following the analysis of specialized literature, jurisprudence and the final observations of the reports issued by the international discrimination monitoring institutions, we can extract the following minimum requirements, which would make the national legislation more effective.

Approval of scientific results: The main results were presented and approved at 7 national and international conferences.

Publications on the topic of the thesis. The research results were reflected in the reports presented at national and international scientific meetings (colloquiums, conferences, congresses), as well as in a series of scientific publications, among which we list the most important:

- *The Functionality of the Principle of Non-Discrimination on Grounds of Gender, Race, Religion and Sexual Orientation in the Postmodern Society.* In: Postmodern Openings, 2021, vol. 12, no. 2, pp. 310-338;
- *The non-discrimination clause in the light of national and international human rights protection instruments.* Published in: Perspectives and problems of integration in the European area of research and education, Volume VI, Part 1, page 183-182 "Bogdan Petriceicu Haşdeu" State University of Cahul, Cahul 2019. The volume includes the works presented at the Conference "Perspectives and problems integration in the European space of research and education", which took place in Cahul on June 6, 2019. ISSN: 2587-3563;
- *The origin and evolution of the concept of non-discrimination.* Within the Scientific-Practical Conference with International participation Theory and practice of public administration TPAP-2019. Materials of the scientific-practical conference with international participation, pp. 425-430;
- Workshop within *the International Scientific Conference Ethical Values in Education* , Research and Innovation, Ştefan cel Mare University in Suceava, October 19-20, 2018;
- LUMEN International Scientific Conference Education, Quality & Sustainable Development EQSD2018, Edition 2. Târgovişte, Romania. November 21-22, 2018;
- Workshop "*Anger Management* " within the International Conference, 3rd Edition "Violence against women. Hypotheses. Explanations. Interventions". Organized by the "Alexandru Ioan Cuza" University in Iaşi, the Faculty of Philosophy and Social-Political Sciences in partnership with the National College of Social Workers from Romania - Territorial Suculeala Iaşi, the Professional Training Center of DGASPC Iaşi and the Association "Aproape de Oameni" 22.11. 2018;
- Regional workshop "*ON HAPPINESS* " held in Iaşi. Organized by the Iaşi Territorial Branch of the National College of Social Workers from Romania and the ProRoma Association in

partnership with the Iași City Hall, the Iași Municipal Museum and the Close to People Association, Iași. February 8, 2019.

- *The principle of non-discrimination in public international law – normative and jurisprudential consecration.* During the conference "Promotion of social-economic values in the context of European integration", December 12-13, 2019. ISBN 978-9975-3287-6-0;

The volume and structure of the thesis includes: introduction, three sections, general conclusions and recommendations, bibliography of 300 titles, 112 pages of basic text.

Keywords: discrimination based on religion or belief; discrimination based on sexual orientation; equality between women and men; equal opportunities; racism and xenophobia; victimization; the principle of non-discrimination .

THESIS CONTENT

The introduction of the thesis contains the necessary references to: the topicality and relevance of the research theme, the purpose and objectives of the thesis, the scientific novelty of the research, the applied value of the research, the research level of the theme, the structure and content of the thesis. In *the Introduction* , a brief presentation of the elements that constitute the novelty and relevance of the research theme, the purpose and objectives, the level of research and the study methodology was made, the scientific novelty of the research theme and its applicative value were highlighted.

Chapter I of the thesis, entitled "*The concept of the principle of non-discrimination of a person in international law: its formation and theoretical issues* ", is a chapter in which some comments were made on the sources of international human rights law, covering the principles of equality and non-discrimination, as well as a brief historical overview of this subject and its implementation in national legislations.

In subsection 1.1. it is shown that equality and non-discrimination are closely related. Both principles strive to achieve the same goal, but go about it in different ways. There are both similarities and differences between the two terms. The similarities are that both terms have a dual meaning, which is a formal and a substantive one. The differences lie in the fact that they include different duties towards states, which are either positive or negative. The formal meaning of equality is that it guarantees equal rights to all, as shown by the text of art. 26 of the ICCPR [1]. The substantive meaning of the term is that everyone has an equal chance to enjoy specific rights, for example, the right to education or the right to vote. The formal meaning of discrimination lies in the fact that the legal system itself discriminates through legal text and public policy statements.

The right to equality and non-discrimination is recognized in art. 2 of the UDHR [2] and is a cross-cutting issue of legislation in various UN human rights instruments, such as art. 2 and 26 of the ICCPR [1] , art. 2 para. 2 of ICESCR [3] , art. 2 of the "Convention on *the Rights of the Child* " (CRC) [4] and art. 5 of the "Convention on *the Rights of Persons with Disabilities* " (CRPD) [5]. In addition, two of the major UN human rights bodies are explicitly established to prohibit discrimination, the Committee on the Elimination of Racial Discrimination (CERD) [6] on the basis of race and "Committee on the Elimination of Discrimination against Women" ("*Committee on the Elimination of Discrimination against Women*" - CEDAW) [7] on gender grounds.

The principle of non-discrimination and equal treatment is also contained in regional instruments, such as art. 2 of the "American Declaration of the Rights and Duties of Man" [8], art. 24 of the ACHR [9] and art. 2 and 3 of the "African Charter of Human and Peoples' Rights" [10], which establishes the "African Commission on Human and Peoples' Rights" ("African Commission on Human and Peoples' Rights" - *ACHPR*). Despite the fact that the principle of non-discrimination is contained in all human rights instruments, only a few instruments expressly provide a definition of non-discrimination: art. 1 paragraph 1 of CERD [6], art. 1 of CEDAW [7], art. 2 of the CRPD [5] and art. 1 paragraph 1 of the "Convention against Discrimination in Education" (*Convention against Discrimination in Education*) [11].

In the sub-chapter devoted to the analysis of concepts and their content, it is highlighted that non-discrimination is formulated in a more selective manner than equality, such as listing the most likely ways to suffer from discrimination and mentioning the social groups that are the most vulnerable. On that note, these two principles are more or less inseparable, being so closely related but also clearly showing some differences, even if these are not identified just by reading the text of treaties or state constitutions. Obviously, these principles are at the forefront of the legal branch of human rights, and rightly so, as they are fundamental to ensuring that they can be enjoyed by all individuals, rather than a select few.

International cooperation to implement the principle of non-discrimination in legal texts and jurisprudence is essential. The principle of non-discrimination has a universal value and is a basic foundation for the effective functioning of the rule of law [12]. For this reason, subchapter 1.3. of the thesis reveals the essential elements of the importance of international cooperation on this subject.

In this chapter, it was demonstrated that the principle of non-discrimination appears both in art. 2.1, as well as in art. 26 of the ICCPR [1]. Art. 2.1 obliges states to ensure that the rights under the covenant are ensured for everyone, without individuals benefiting from different treatment based on individual characteristics. In this regard, several cases that have been brought before the UN Human Rights Committee have been illustrated and show how citizens have been discriminated against by being treated differently by the law. Also, the second part of art. 26 aroused stronger interest and demonstrated how discrimination is prohibited and how states have a broad obligation to uphold it.

The development of the right has been examined and shown how it has transformed from being an adjacent right to becoming an independent right through the work of the UN Human Rights Committee in cases where gender-specific discrimination has occurred. The article itself also implies

the right to be protected by law, so its scope is not only based on the rights set out in the ICCPR [1] but also lies in rights that are prescribed in other treaties or areas, such as the ICESCR

Also, the principle of non-discrimination within the ICESCR was examined. It appears in art. 2.2 of the covenant [3], where the obligation imposed on states is to ensure that the rights provided for in the covenant will be enjoyed by everyone, regardless of sex, appearance or opinions, to name just a few characteristics.

Art. 2.2 is closely related to art. 3 which ensures that all men and women will be able to enjoy rights equally.

It was shown that the ICESCR [3] emphasized that there can be two types of discrimination. First, it is direct discrimination when someone is in the same comparable or even exact position as someone else, but is treated differently. Second, there is indirect discrimination, when the laws or practice of states determine the different application of the ICESCR between natural persons, without any apparent reason for this. Finally, it is worth noting that it has been shown that ICESCR rights cannot be fully enjoyed until discrimination has been completely eliminated from society.

Chapter II of the thesis, entitled "*The functioning of the principle of non-discrimination on certain categories (gender, race, religion): the dynamics of implementation at the current stage*", refers, with priority, to the typology of discrimination and the groups it involves. The essential part of the chapter is occupied with gender-based discrimination which, unfortunately, is very common both in some European states and globally. In the subchapter that analyzes this topic, the dimension occupied by gender discrimination is shown, such as: gender segregation, discrimination on socio-economic grounds, the solutions found to eliminate gender discrimination at the career level, etc.

In the subchapters dedicated to other types of discrimination, the particularities regarding the typology of discrimination and jurisprudence in these areas are analyzed.

Discrimination against the elderly and children. States are trying to accelerate as much as possible the trend towards removing any barriers to discrimination against older people, which still persist in a few areas, such as mandatory retirement ages or access to tertiary education. Everyone has the right to special protection in old age.

Discrimination against people with disabilities. States should ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities, without discrimination of any kind on the basis of disability. People with disabilities have the right to independence, social integration and participation in community life [13].

Discrimination against people of different sexual orientation or on the basis of gender identity. Discrimination on the basis of sexual orientation or gender identity includes any distinction, exclusion, restriction or preference based on sexual orientation or gender identity which has the purpose or effect of nullifying or impairing equality before the law, equal protection of the law or the recognition, use or exercise, equally, of all human rights and fundamental freedoms [14].

In conclusion, all persons are equal before the law and are entitled, without any discrimination, to the equal protection of the law. The content of the right not to be discriminated was established by the jurisprudence of international forums, in cases such as: Ignatane v. Latvia (2001) [15], SWM Broeks v. Netherlands (1987) [16], FH Zwaan-de Vries c The Netherlands (1987) [17], Abdulaziz, Cabales and Balkandali v. Great Britain (1985) [18], PM v. Great Britain (1977) [19], Malawi African Association, Amnesty International, Ms. Sarr Diop, Union Interafricaine des Droits de l'Homme and RADDHO, Collectif des Veuves et Ayants-droit and Association Mauritanienne des Droits de l'Homme v. Mauritania (2000) [20], African Institute for Human Rights and Development v. Guinea (2004) [21], Zimbabwe Human Rights NGO Forum v. Zimbabwe (2006) [22], María Eugenia Morales de Sierra v. Guatemala (2001) [23], Yatama v. Nicaragua (2005) [24], Girls Yean and Bosico v. Republic Dominican [25], Petrovic v. Austria (1992) [26], Konstantin Markin v. Russia (2006) [27] and many others.

Chapter III of the thesis, entitled "*Legal mechanisms regarding the implementation of the principle of non-discrimination in public international law*", highlights some of the numerous cases of discrimination handled so far by the major international monitoring bodies. A primary attention was given to judicial or quasi-judicial bodies. Some of the cases chosen may seem of relatively little importance, since many individuals and groups of individuals suffer infinitely more discrimination than some of those whose cases have been considered by international monitoring bodies. However, the jurisprudence clearly points the way in far more serious situations, as it sets out universal legal criteria, which can and should guide both parliamentarians and the legal profession in law-making and the practical application of the right to equality and to the prohibition of discrimination.

The principle of non-discrimination imposes the need for equal treatment of a person or group regardless of their particular characteristics and is used to evaluate seemingly neutral criteria that may produce effects that systematically disadvantage people who possess these characteristics.

An important aspect of anti-discrimination legislation concerns the measures that allow people to make complaints as victims of discrimination and exercise their rights under the equality directives. All equality directives require EU member states to ensure that there are judicial and/or administrative

procedures to enforce the obligations of the directives. In relation to discrimination claims, an important principle that applies to both direct and indirect discrimination is the burden of proof. The framework directives require, if the claimants prove facts from which it can be assumed that there was direct or indirect discrimination, to shift the burden of proof to the defendant state, which will have to prove that there was no discrimination.

In *Driha and others v. Romania* [28], the Court qualified a Romanian practice, according to which the old-age allowances of some soldiers were subject to taxation, while the allowances of other soldiers in similar circumstances were not taxed, as discrimination. This decision of the Court has been widely analyzed in the international specialized literature, from the perspective of the problems it raises regarding the analysis of vulnerability [29 - 40].

There are complications involved in developing vulnerability analysis in accordance with the European Convention on Human Rights [41]. Broadening the concept of vulnerability could reduce its potential as a tool to facilitate increased protection for the disadvantaged. At the same time, however, the narrower approach of focusing on specific identity groups under Art. 14, also means that the Court's jurisprudence is open to criticism. This is the criticism that the generalizable theory of vulnerability seeks to avoid, namely that classifying a group as vulnerable can reinforce negative stereotypical images of the targeted groups and thus ultimately potentiate their disadvantage.

The thesis ends with a chapter of **Conclusions and recommendations**. The conclusions present a synthesis of the main ideas discussed in the thesis. In the recommendations chapter, some aspects were suggested that may be relevant for the legal framework of the Republic of Moldova and as guidelines for possible social-economic policies aimed at eradicating discrimination.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

There are several key exceptions to the general principles of non-discrimination, which also apply in the framework directives, such as the establishment of genuine occupational requirements and positive action measures. As regards direct and indirect discrimination, an exception to the general principle of non-discrimination applies when there are real requirements relating to a protected category. There will be no unlawful discrimination where it can be shown that the difference occurred because of the nature of the particular professional activities or the context in which they are carried out. The characteristic (race, religion or belief, sexual orientation, disability or age) is a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate.

Vulnerability analysis can also be further restricted to the most disadvantaged subgroups within the larger identity group. Thus, in the context of gender / sex discrimination, it was applied only to victims of gender-based violence, and in the category of ethnic origin / racial discrimination, it was applied only to people of Roma ethnicity (and by the Grand Chamber, only in the case of children of Roman origin). This further nuances the classical approach to grounds of discrimination, clearly highlighting how the Court's analysis is socio-contextual in that it does not look only at the relevant identity marker itself, but instead focuses on the consequences associated with it, how it is shaped by history and other social forces that create and perpetuate disadvantage, and how the experiences of different people within the larger group may not all be the same.

Another line of jurisprudence concerns religious groups. On several occasions, in situations where there is widespread prejudice and hostility towards minority religious groups, the Court has noted the vulnerable situation of their members. This was a significant aspect of the Court's reasoning in finding violations of the substantive and/or procedural element of art. 3, and the Court further noted the vulnerability of those belonging to minority groups in various other contexts. In light of the fact that the Court has expressly extended the applicability of the text of art. 14 to the grounds of discrimination based on religion and nationality, it seems quite likely that minority groups from the perspective of these two grounds of discrimination will be added to the policies addressing vulnerable groups according to art. 14.

The civil society, together with the experts of the OSCE and the Ministry of Justice of the Republic of Moldova, have developed and improved the legal framework in matters concerning discrimination. However, there are some gaps:

1. a more precise classification of the definitions and types of discrimination, for example in the case of "direct and indirect discrimination", "victimization and harassment", "incitement to discrimination";

2. the development of a broader framework of legal instruments for the identification of speech inciting ethnic hatred; this aspect is functional, but not in the speeches promoted in the electoral campaigns or in the speeches of high-ranking officials, who enjoy immunity during the exercise of the office or mandate;

3. conceptual clarifications are also needed regarding the definition of "multiple discrimination", "discrimination by association", "reasonable accommodation", "genuine and determining occupational requirements" and "racial and ethnic segregation";

4. regarding the concept of "reasonable accommodation" of persons with disabilities, several changes are needed to ensure compliance with international and European norms in this regard.

Recommendations for gender discrimination. It is not enough to guarantee women the same treatment as men. Rather, biological as well as socially and culturally constructed differences between women and men must be considered. In certain circumstances, the different treatment of women and men will be necessary to solve the problems generated by these differences in situations where women, due to gender characteristics, become vulnerable (motherhood, establishing a career during the maternity period and the period of raising children, etc. .).

Recommendations for racial discrimination. The benefit of this recommendation may not, however, be used by a refugee in respect of whom there are reasonable grounds to believe that he may represent a danger to the security of the country in which he is or who has been convicted by a final judgment, in particular for serious crimes, which constitute a danger to the community of the respective country.

Recommendations for discrimination based on sexual orientation. However, in this regard, the Republic of Moldova must include several legal mechanisms in the corresponding legislation, which would contribute to the prevention and total prohibition of discrimination based on sexual orientation, especially from religious institutions. Therefore, more legal provisions are needed to guarantee equal treatment and access to all economic, social and cultural rights, regardless of sexual orientation.

Recommendations for discrimination based on disability. Such legislation must not only provide persons with disabilities with adequate remedies, but also provide for social policy programs that enable persons with disabilities to live socially integrated and according to the disability they

have and its severity. As appropriate measures must be taken to undo existing discrimination and to establish fair opportunities for persons with disabilities, these actions should not be considered discriminatory as long as they are based on the principle of equality and are used only to the extent necessary to achieve this objective.

Recommendations for the implementation of the principle of non-discrimination in legislation.

1. [Civil and administrative] law should clearly define and prohibit direct and indirect racial, gender, disability and sexual orientation discrimination.

2. The law should provide that the prohibition of discrimination of any kind does not prevent the maintenance or adoption of temporary special measures designed either to prevent or to compensate for the disadvantages suffered by persons from vulnerable groups. These measures should not be continued once the intended objectives are achieved.

3. The law should provide that the following acts are considered forms of discrimination: segregation, discrimination by association, announced intent to discriminate, instructing another person to discriminate, inciting another person to discriminate, helping another person to undertake acts of discrimination discrimination.

4. The law should provide that the prohibition of discrimination applies to all public authorities, as well as to all natural or legal persons, both in the public and private sectors, in all fields, in particular with regard to: employment of work, membership of professional organizations, education, training, housing acquisition, health, social protection, goods and services intended for public places, the exercise of economic activity, access to public services.

5. The law should impose on public authorities the obligation to promote equality and prevent discrimination in the performance of their functions.

6. The law should impose an obligation on public authorities to ensure that the parties to whom they grant contracts, loans, subsidies or other benefits respect and promote a non-discrimination policy. In particular, the law should provide that public authorities should include in contracts, loans, subsidies or other services offered to legal entities the condition of social responsibility of the company, in which the principle of non-discrimination should be included as a mandatory point. The law should provide that the violation of such a condition may lead to the termination of the contract, subsidy or other benefits contracted by economic agents with public institutions.

7. The law should ensure that all easily accessible judicial and/or administrative procedures, including conciliation procedures, are available to all victims of discrimination. In urgent cases, victims of discrimination should benefit from fast procedures leading to provisional decisions

8. The law should provide for effective, proportionate and persuasive sanctions for cases of discrimination. Such sanctions should include the payment of compensation for both material and moral damages to the victims.

9. The law should provide the necessary legal tools to review, on an ongoing basis, the non-discrimination compliance of all national and local laws, regulations and administrative provisions. Laws, regulations and administrative provisions that are inconsistent with the prohibition of discrimination should be amended or repealed.

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LIST OF PUBLICATIONS OF THE AUTHOR ON THE THEME OF THE THESIS

1. *The Functionality of the Principle of Non-Discrimination on Grounds of Gender, Race, Religion and Sexual Orientation in the Postmodern Society*. În: *Postmodern Openings*, 2021, vol. 12, nr. 2, p. 310-338;
2. *Clauza de nediscriminare prin prisma instrumentelor naționale și internaționale de protecție a drepturilor omului*. Publicat în: *Perspectivile și problemele integrării în spațiul european al cercetării și educației*, Volumul VI, Partea 1, pag. 183-182 Universitatea de Stat „Bogdan Petriceicu Hașdeu” din Cahul, Cahul 2019. Volumul include luicrările prezentate la Conferința “Perspectivile și problemele integrării în spațiul european al cercetării și educației”, care s-a desfășurat la Cahul 6 iunie 2019. ISSN: 2587-3563;
3. *Originea și evoluția conceptului de nediscriminare*. În cadrul Conferinței Științifico-Practice cu participare Internațională Teoria și practica administrării publice TPAP-2019. Materiale ale Conferinței științifico-practice cu participare internațională, pag. 425-430;
4. Workshop în cadrul *Conferinței Științifice Internaționale Valori Etice în Educație, Cercetare și Inovare*, Universitatea Ștefan cel Mare din Suceava, 19-20 octombrie 2018;
5. LUMEN International Scientific Conference Education, Quality & Sustainable Development EQSD2018, Ediția 2. Târgoviște, România. 21-22 noiembrie 2018;
6. Workshop “*Managementul furiei*” în cadrul Conferinței Internaționale, Ediția III-a “*Violența asupra femeii. Ipoteze. Explicații. Intervenții*”. Organizată de Universitatea “Alexandru Ioan Cuza” din Iași, Facultatea de Filosofie și Științe Social-Politice în parteneriat cu Colegiul Național al Asistenților Sociali din România – Suculeala Teritorială Iași, Centrul de Formare Profesională al D.G.A.S.P.C. Iași și Asociația “Aproape de Oameni” 22.11.2018;
7. Workshop regional „*DESPRE FERICIRI*” desfășurat la Iași. Organizat de către Suculeala Teritorială Iași a Colegiului Național al Asistenților Sociali din România și Asociația ProRoma în parteneriat cu Primăria Municipiului Iași, Muzeul Municipal Iași și Asociația Aproape de Oameni, Iași. 8 februarie 2019.
8. *Principiul nediscriminării în dreptul internațional public – consacrare normativă și jurisprudențială*. În cadrul conferinței „Promovarea valorilor social-economice în contextul integrării europene”, decembrie 12-13.2019. ISBN 978-9975-3287-6-0;

ADNOTARE

SPÎNU Oleg, „Principiul nediscriminării în dreptul internațional public - consacrare normativă și jurisprudențială”, teză de doctor în drept, Chișinău, 2023

Structura tezei constă în: adnotări (în trei limbi), listă de abrevieri, introducere, 3 capitole, concluzii generale și recomandări, bibliografie din 300 titluri și 3 anexe, 146 pagini text de bază, declarație de responsabilitate, CV-ul autorului. Rezultatele obținute au fost publicate în 8 lucrări științifice, unele indexate Web of Science.

Cuvinte cheie: discriminarea pe motive de religie sau credință; discriminarea pe motive de orientare sexuală; egalitatea între femei și bărbați; egalitatea de șanse; rasism și xenofobie; victimizare; principiul nediscriminării.

Domeniul de studiu: drept

Actualitatea și relevanța temei de cercetare. Relevanța și actualitatea temei privind principiul nediscriminării „coboară” de la etichetele tradiționale ale discriminării în masă (cazurile istorice petrecute în secolele al XIX-lea și al XX-lea), către cazurile particulare ale grupurilor vulnerabile prezente în societatea civilă și tolerate discret de autoritățile publice.

Scopul și obiectivele tezei. Scopul studiului este să analizeze din punct de vedere teoretic și din perspectiva jurisprudenței cauzele diferite ale discriminării, care pot afecta persoane de origine rasială, etnică, națională sau socială diferite, cum ar fi comunități de origine asiatică sau africană, romi, popoare indigene, aborigeni și persoane aparținând diferitelor caste.

Obiectivele de cercetare: Studiul surselor de drept internațional privind principiul nediscriminării; Studiul teoretic al conceptelor privind principiul nediscriminării; Analiza tendințelor privind discriminarea pe categorii: discriminarea bazată pe gen în raporturile social-economice, discriminarea pe criterii de rasă, minoritate națională și etnie, discriminarea minorităților religioase și a persoanelor de diferite religii, alte tipuri de discriminări, etc.

Noutatea științifică a cercetării. Unul dintre obiectivele acestei cercetări este de a analiza comparativ și din perspectivă istorică implementarea principiului nediscriminării, și anume jurisprudența C.E.D.O. și C.E.J. Partea de noutate constă în acordarea unei importanțe sporite soluțiilor „europene” pentru tratarea „discriminărilor bazate pe motive specifice” și a grupurilor vulnerabile, ca o formulă viabilă pentru evoluția evenimentelor social-politice la nivel global.

Valoarea aplicativă a cercetării. Această cercetare va ajuta societatea civilă și autoritățile cu drept de reglementare să ia în considerare practicile internaționale și, în special, cele dictate de C.E.D.O. și C.E.J. privind aplicarea principiului nediscriminării sub aspect diferențiat, însă nu diferit.

ANNOTATION

SPINU Oleg, "The principle of non-discrimination in public international law - normative and jurisprudential consecration", PhD thesis, Chisinau, 2023

The structure of the thesis consists of: annotations (in three languages), list of abbreviations, introduction, 3 chapters, general conclusions and recommendations, bibliography of 300 titles and 3 appendices, 146 pages of basic text, statement of responsibility, author's CV. The obtained results were published in 8 scientific papers, some indexed in Web of Science.

Keywords: discrimination based on religion or beliefs; discrimination based on sexual orientation; equality between women and men; equal opportunities; racism and xenophobia; victimization; the principle of non-discrimination.

Field of study: law

The topicality and relevance of the research theme. The relevance and topicality of the theme regarding the principle of non-discrimination "descends" from the traditional labels of mass discrimination (the historical cases that happened in the 19th and 20th centuries) to the particular cases of vulnerable groups present in civil society and discreetly tolerated by public authorities.

The purpose and objectives of the thesis. The purpose of the study is to analyze, from a theoretical point of view and from the perspective of the jurisprudence, the different causes of discrimination that may affect people of different racial, ethnic, national or social origin, such as communities of Asian or African origin, Roma etc.

Research objectives: The study of the sources of international law regarding the principle of non-discrimination; The theoretical study of the concepts regarding the principle of non-discrimination; The study of the international cooperation regarding the standardization of practices for the application of the principle of non-discrimination;

The scientific novelty of the research. One of the objectives of this research is to analyze, from a comparatively and a historical perspective, the implementation of the principle of non-discrimination, namely the jurisprudence of E.C.H.R and E.C.J. The novelty part consists in giving increased importance to the "European solutions" for dealing with "discrimination based on specific reasons".

The applied value of the research. This research will help civil society and regulatory authorities consider international practices, and in particular, those dictated by the E.C.H.R. and E.C.J. regarding the application of the principle of non-discrimination under a differentiated, but not different aspect.

АННОТАЦИЯ

СПЫНУ Олег, «Принцип недискриминации в международном публичном праве – нормативно-юридическое освящение», кандидатская диссертация, Кишинев, 2023 г.

Структура диссертации состоит из: аннотации (на трех языках), списка сокращений, введения, 3 глав, общих выводов и рекомендаций, библиографии из 300 наименований и 3 приложений, 146 страниц основного текста, сведений об ответственности, автобиографии автора.

Ключевые слова: дискриминация по признаку религии или убеждений; дискриминация по признаку сексуальной ориентации; равенство между женщинами и мужчинами; равные возможности; расизм и ксенофобия; виктимизация;

Область исследования: право

Актуальность темы исследования. Актуальность темы принципа недискриминации «спускается» от традиционных ярлыков массовой дискриминации (исторические случаи, произошедшие в XIX и XX веках) к частным случаям уязвимых групп, присутствующих в гражданском обществе.

Цель и задачи работы. Цель исследования проанализировать с теоретической точки зрения и с точки зрения юриспруденции различные причины дискриминации, которая может затрагивать людей различного расового, этнического, национального или социального происхождения.

Задачи исследования: Изучение источников международного права относительно принципа недискриминации; Теоретическое изучение концепций, касающихся принципа недискриминации; etc.

Научная новизна исследования. Одной из задач данного исследования является сравнительный и исторический анализ реализации принципа недискриминации, а именно юриспруденции С.Е.Д.О. и С.Е.Ј. Новизна заключается в придании повышенного значения «европейским» решениям по борьбе с «дискриминацией по конкретным признакам» и уязвимым группам как действенной формуле развития социально-политических событий на глобальном уровне.

Прикладное значение исследования. Это исследование поможет гражданскому обществу и регулирующим органам учитывать международную практику, в частности ту, которая продиктована С.Е.Д.О. и С.Е.Ј. относительно применения принципа недискриминации в дифференцированном аспекте, но не в другом.

SPINU OLEG

**THE PRINCIPLE OF NON-DISCRIMINATION IN PUBLIC INTERNATIONAL LAW -
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