



MINISTRY OF LABOUR AND SOCIAL POLICY

NATIONAL ACTION PLAN FOR THE IMPLEMENTATION OF THE LAW ON THE
PREVENTION AND PROTECTION AGAINST DISCRIMINATION

2015-2020

Skopje, 2014

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LIST OF ABBREVIATIONS

ACRR	Agency for Community Rights Realization
AJPP	Academy for Judges and Public Prosecutors
SLI	State Labour Inspectorate
EQUINET	European Network of Equality Bodies
ULSG	Units of Local Self-Government
LPPD	Law on the Prevention and Protection against Discrimination
CPD	Commission for the Protection against Discrimination
MOI	Ministry of the Interior
MoH	Ministry of Health
MISA	Ministry of Information Society and Administration
MFA	Ministry of Foreign Affairs
MES	Ministry of Education and Science
MoJ	Ministry of Justice
MLSP	Ministry of Labour and Social Policy
NAP	National Action Plan
Ombudsman	Ombudsman of the Republic of Macedonia
OSCE	Organization for Security and Cooperation in Europe
SIOFA	Secretariat for the Implementation of the Ohrid Framework Agreement
CMC	Crisis Management Centre

INTRODUCTION

To a greater or to a lesser extent, discrimination is present in all countries. Adoption of legislation for protection against discrimination and establishment of mechanisms for protection against discrimination, ensuring the application of the said legislation, are an important component of the fight against discrimination.

Pursuing the goals of prevention of and protection against discrimination, every country carries the obligation to create conditions, which ensure protection of all victims or of all potential victims of discriminatory actions. Equality bodies in all countries are of paramount importance for the implementation of the anti-discrimination legislation, especially in view of their role in providing support to victims of discrimination, as well as in providing guidelines and recommendations for public and private entities, other stakeholders and for the public at large with respect to the right to non-discrimination, achieving equality, raising awareness about the non-discrimination concept, by conducting surveys and researches about discrimination and ways how to reduce it.

The Republic of Macedonia has established a number of institutional mechanisms, which can be applied in cases of discrimination. The national legislation of the Republic of Macedonia envisages several institutions and bodies to which all natural and legal persons who have been discriminated, i.e. who have been subject to unequal treatment may apply and request protection. These mechanisms also encompass non-judiciary bodies such as the Ombudsman of the Republic of Macedonia, the Commission for the Protection against Discrimination, Gender advocate for establishment of unequal treatment of women and men.

Citizens may exercise their right to court protection against discrimination by applying to the Constitutional Court of the Republic of Macedonia, the Administrative Court of the Republic of Macedonia and to first instance courts- civil and criminal law courts.

1. STRATEGIC NON-DISCRIMINATION DOCUMENTS

With a view to advancing the status of most vulnerable groups of citizens in the Republic of Macedonia and with a view to ensuring continual promotion of the right to equality and non-discrimination, in May 2012, the Government of the Republic of Macedonia adopted a National Strategy on Equality and Non-Discrimination on grounds of mental and physical disability, ethnic origin, age and gender, covering the 2012-2015 period. The adoption of this Strategy was part of the efforts to align the positions, activities and resources in a coherent framework and to define a harmonized approach facilitating sustainable development, promotion of human rights and establishment of equal opportunities. The bases of the Strategy are the Stabilization and Association Agreement with the European Union, as well as the obligations under the European integration process and under the process of approximation and harmonization of the legislation of the Republic of Macedonia with the legislation of the European Union, as well as with provisions of other international instruments. The National Strategy is focused on four grounds of discrimination: mental and physical disability, ethnic origin, age and gender, all elaborated in greater detail through strategic goals and activities for implementation, as well as through indicators and bodies tasked with implementing the Strategy.

The fundamental aim of the Strategy is to ensure continual promotion of the exercise of the right to equality and establishment of equal opportunities.

The Strategy defines 3 general strategic goals: a) advancement of the legislative framework for equal opportunities and non-discrimination; b) strengthening the capacities of institutional mechanisms for prevention of and protection against discrimination and promotion of equal opportunities; and c) raising the public awareness about recognizing forms of discrimination and raising the awareness about and promotion of the concept of non-discrimination and equal opportunities.

The implementation of the Strategy required an Operative Action Plan for the implementation of the National Strategy on Equality and Non-Discrimination on grounds of mental and physical disability, ethnic origin, age and gender covering the 2012-2015 period. The Operative Action Plan defines the objectives, measures, activities, implementing bodies and success indicators for the 2012-2013 period, envisaging as well measures and activities for the 2014-2015 period.

In pursuance with the Methodology for assessment of the implementation of the legislation, which the Government of the Republic of Macedonia adopted on 19 March 2013, the Ministry of Labour and Social Policy, supported by the OSCE Mission in

Skopje, made an ex-post evaluation of the implementation of the Law on Prevention and Protection against Discrimination (LPPD).¹

According to the assessment results, the Republic of Macedonia has a solid institutional framework for the implementation of the LPPD, featured with inclusion of various stakeholders and certain level of harmonization of activities. However, it has been also established that the country lacks an Action Plan for the implementation of the LPPD, which would clearly define the objectives and success indicators. The assessment has found that the lack of the Action Plan is one of the main limiting factors.

2. LAW ON PREVENTION AND PROTECTION AGAINST DISCRIMINATION

Upon the adoption of the Law on the Prevention of and Protection against Discrimination, a concerted legal framework was set up that regulates issues relating to ensuring equal treatment and non-discrimination, under an institutional system composed of established mechanisms for protection against discrimination. Thus, the Law ensures prevention of and protection against discrimination perpetrated by any person, group of persons, state bodies, bodies of units of local self-government, legal persons with public authorities and legal persons in the civil, political, economic, social and cultural areas, as well as in areas of employment, education, housing and access to goods and services. In addition to establishing the legal framework regulating issues such as ensuring equal treatment and non-discrimination, this Law has helped establish an institutional system, i.e. mechanisms and legal remedies for processing individual cases of discrimination.

In addition to discriminatory grounds such as: gender, race, colour of skin, belonging to a marginalized group, ethnic origin, language, nationality, social origin, religion or confession, other types of belief, education, political affiliation, personal or social status, mental and physical disability, age, family or marital status, property status, health conditions, Article 3 of this Law also envisages an open list of discriminatory grounds, containing the clause “or any other grounds.” The Law prohibits all forms of discrimination, including direct and indirect discrimination (Article 6), harassment (Article 7), instruction to discriminate (Article 9) and victimization (Article 10), by natural and legal persons, both in the private and in the public sector. Furthermore, the Law sanctions grievous forms of discrimination such as multiple discrimination (against a person on several discriminatory grounds), repeated discrimination and prolonged discrimination (Article 12). In light of the situation in the country, the LPPD envisages a wide range of exceptions from discrimination, defined under three categories: affirmative measures, protective mechanisms for special categories of persons and unequal treatment.²

¹ Official Gazette of the Republic of Macedonia No. 50, dated 13 April 2010.

² Guidebook on the Role of the Commission for the Protection against Discrimination in court proceedings and on the shift of the burden of proof in cases of discrimination, OSCE 2013.

The Commission for the Protection against Discrimination is the equality body the aim of which is fight against discrimination and facilitating the exercise of the right to equality. The Commission is defined as autonomous and independent body that works in accordance with the competences defined under the Law, having competences in the private and in the public sector. According to Article 24 of this Law, the Commission has wide scope competences, with a view to promoting equality and preventing discrimination on discriminatory grounds defined under the LPPD.

According to the Law, any person that considers to have been subject to discrimination may file an application with the Commission, and after having considered the facts of the case, the Commission issues its opinion on the alleged discrimination within 90 days from the receipt of the application, and accordingly notifies the applicant and the respondent.

However, anti-discrimination provisions contained in other special laws have not been aligned with a harmonized approach to major issues relating to non-discrimination. In this respect, it is necessary to harmonize the definition of discrimination with the LPPD, and then it is necessary to clearly define the types of discrimination, as well as the lists of discriminatory grounds and the terminology used. This requires specific analyses and alignment of the LPPD with the applicable legislation in various areas.

3. TABULAR SUMMARY OF NAP ACTIVITIES

NATIONAL ACTION PLAN FOR THE IMPLEMENTATION OF THE LAW ON THE PREVENTION OF AND PROTECTION AGAINST DISCRIMINATION

The major aim of the National Action Plan for the Implementation of the Law on the Prevention of and Protection against Discrimination is to ensure the efficient application of the LPPD with a view to pursuing the two major goals of the Law, those of prevention of discrimination and protection against discrimination.

The Action Plan is designed to facilitate implementation of specific activities and tasks within a longer timeframe covering a five-year period, as well as to advance the goals and the implementation of relevant measures, while enabling the achievement of expected results, defining as well qualitative and quantitative indicators of the success achieved.

The Action Plan has been developed in response to the interests and priorities of the Republic of Macedonia for efficient and full participation in activities of the international community in fighting discrimination.

The NAP defines the general aims and specific objectives, activities, expected results, indicators for measuring the success of implementation, while defining the process of monitoring and evaluating the implementation of the NAP.

The implementation of the NAP is the primary responsibility of the Government of the Republic of Macedonia and all institutions referred to in the Law on the Prevention of and Protection against Discrimination.

The Ministry of Labour and Social Policy, the Commission for the Protection against Discrimination, the Ministry of Justice, the Ministry of Health, the Ministry of Education and Science, the Ministry of Information Society and Administration, the Secretariat for the Implementation of the Ohrid Framework Agreement, the Agency for Community Rights Realization, the Ministry of Transport and Communications, the Ombudsman of the Republic of Macedonia, the Academy for Training of Judges and Public Prosecutors, the Ministry of Foreign Affairs, the Ministry of the Interior, the Ministry of Defence and the Crisis Management Centre are the key importance institutions for the implementation of the NAP. Experts and representatives of the civil society will also be included in the NAP implementation.

The Action Plan has been developed by thematic working groups, with the support of the OSCE Mission in Skopje and the Ministry of Labour and Social Policy.

In light of the fundamental goals of the Law, these being the prevention of and protection against discrimination, the NAP is structured following two general strategic goals:

1. Pursuance of the preventive purpose of the LPPD/ prevention of discrimination; and
2. Pursuance of the protective purpose / function of the LPPD.

The first strategic goal encompasses activities aimed at raising the awareness about the concept of discrimination, by organizing trainings, campaigns, round tables, as well as specialized trainings for specific institutions, improved communication among relevant institutions at the national and at the local level, preparing analyses and researches to serve as indicators of the state of play in the country, detecting areas and groups of citizens where discrimination most often occurs, and undertaking preventive measures and activities for reduction or for prevention of discriminatory actions. A Coordination Body will be established, consisting of representatives of all relevant institutions, with a view to advancing the cooperation and the monitoring of the implementation of activities set forth under the Action Plan. The competences of the Coordination Body will be defined under its Rules of Procedure.

The protective function covered by the second strategic goal, will be enhanced by specific activities and measures undertaken by specialized bodies, judicial bodies and other relevant institutions, and specifically by ensuring a facilitated access of citizens to these bodies. Other activities would be provision of professional assistance, designing forms that would be easily accessible for all categories of citizens and that would be clear, precise and easy to be filled in. Other envisaged activities cover: design of sample applications against discrimination that would enable practicing lawyers and other legal persons (associations of citizens, professional bodies) to more easily prepare the initial documents defining all constituent elements of discrimination and to present all required facts and evidence. This will be of assistance to courts in establishing the facts of the case and in finding whether there has been discrimination or not.

The Action Plan will make an evident contribution to providing clear and precise guidelines and to specifically define activities to be undertaken by relevant institutions, bodies specialized in protection against discrimination, and the public at large with the goal of ensuring protection against discrimination and ensuring proper protection by judicial and non-judicial bodies.

**National Action for the Implementation of the Law on Prevention and Protection against Discrimination
2015-2020**

Strategic Goal No. 1	Pursuance of the preventive purpose of the LPPD/ prevention of discrimination			
Objectives	Expected Outcome	Activities	Indicator	Implementing body
Enhancing the inter-institutional cooperation at the national and at the local level in the non-discrimination area	Improved coordination and cooperation among institutions at the central and at the local level in implementing the LPPD	<ul style="list-style-type: none"> - Establishment of a Coordination Body consisting of representatives of relevant institutions tasked with the implementation of the Law; - Convening coordination meetings; - Designing a reporting form as an information and data gathering instrument; - Preparation of an annual report on the NAP implementation; 	<ul style="list-style-type: none"> - Established working group; - Number of meetings held; - Designed reporting forms; - Annual reports. 	MLSP CPD Ombudsman SIOFA ACRR AJPP MoJ MoH MES MISA
		<ul style="list-style-type: none"> - Advancing the cooperation system; - Convening meetings; - Organizing workshops; - Pursuance of joint activities. 	<ul style="list-style-type: none"> - Number of meetings held; - Number of workshops organized; - Implemented joint activities. 	State Inspectorate for Construction and Urban Planning
	Adopted 2016-2020 Equality and Non-Discrimination Strategy	<ul style="list-style-type: none"> - Evaluation of the 2012-2015 Strategy and design of the 2016-2020 Equality and Non-Discrimination Strategy 	<ul style="list-style-type: none"> - Evaluation of the 2012-2015 Strategy; - 2016-2020 Equality and Non-Discrimination Strategy. 	SLI Social partners
Alignment of the national	Establishing the	- Analysis of the alignment of the	- Number of prepared	MLSP

legislation with the LPPD and international anti-discrimination standards	degree of alignment of the national legislation with the LPPD and international standards	legislation of the Republic of Macedonia with the LPPD	analyses	CPD Ombudsman SIOFA ACRR AJPP MoJ MoH MES MISA SLI Social partners State Inspectorate for Construction and Urban Planning
	Harmonized national legislation	- Initiatives for amendments and supplements to the national legislation	- Number of initiatives; - Number of harmonized laws.	MLSP MoJ MoH MES MISA
Strengthening the capacities for promotion of the non-discrimination concept	Strengthened capacities for the promotion of the non-discrimination concept and strengthened capacities for	- Analysis of the needs for trainings and development of training programs for various target groups	- Number of prepared analyses of the training needs; - Number of developed training programs.	MLSP CPD Ombudsman SIOFA ACRR
		- Implementation of basic and specialized trainings for employees at state and public institutions at the national and local level,	- Number of implemented	AJPP MoJ MoH

	prevention of discrimination	social partners and the civil society on recognizing discrimination, and about available protective mechanisms	basic and specialized trainings; - Number of trained person.	MES MISA State Inspectorate for Construction and Urban Planning SLI ULSG Social partners
		- Implementation of basic and specialized training with social partners and the civil sector on recognizing discrimination, and about available protective mechanisms		
		Organizing trainings for teachers and employees in pre-school establishments for purposes of raising the awareness and on recognizing the non-discrimination concept	- Number of implemented trainings; - Number of trained persons.	MLSP CPD MES
		Trainings for employees at state inspectorates	- Number of implemented trainings - Number of trained persons	MLSP CPD AJPP
		Trainings for university students	- Number of trained persons; - Number of organized trainings.	MLSP CPD MES Social partners
Raising the public awareness about recognizing forms of discrimination and promotion of the non-discrimination and equal opportunity concept	Increased level of informing and enhanced capacities to recognize discrimination in all areas of social life	- Organization of campaigns, public debates, public events, issuing information for the public, press releases, publication of opinions of the Commission all with a view to raising the public awareness	- Number of implemented campaigns; - Number of public debates organized; - Number of public events organized; - Number of printed and distributed informative and promotional materials.	MLSP CPD Ombudsman SIOFA ACRR AJPP MoJ MoH MES

				MISA SLI ULSG Social partners
		- Examining possible cases of discrimination by the state and the public sectors in delivering services to citizens	- Concluded examinations; - Distributed recommendations.	The MLSP in cooperation with relevant institutions
		- Analysis for purposes of facilitating the access of women from rural areas to guaranteed health care services	- Conducted analysis; - Distributed recommendations.	The MLSP in cooperation with the MoH, the ULSG and social partners
		- Analysis for purposes of facilitating the access of Roma women to guaranteed health care services	- Conducted analysis; - Distributed recommendations.	The MLSP in cooperation with the MoH, the ULSG and social partners
		- Examining possible discrimination in the implementation of the Law on Labour Relations and specifically of the provisions on parenting, giving birth and motherhood in the private and in the public sectors	- Concluded examinations; - Distributed recommendations.	The MLSP in cooperation with relevant institutions
		- Examining possible discrimination in social protection and detecting needs and interests of beneficiaries relating to gender and ethnic origin	- Concluded examinations; - Distributed recommendations.	The MLSP in cooperation with Social Work Centres and social partners

		- Researching the tendencies and trends in the area of discrimination in the society overall	- Number of researches; - Distributed researches	CPD
		Research of the progression of students in primary and secondary schools, which will also cover the number of students leaving or dropping out of schools in the Republic of Macedonia, presented according to gender and ethnic origin	- Number of researches; - Distributed researches.	The MES in cooperation with the MoI, MoH, MFA
Strategic Goal No. 2	Pursuance of the protective purpose / function of the LPPD			
Strengthening the capacities of the mechanisms for protection against discrimination, of the ATJPP and courts	Strengthened capacities of the mechanisms for protection against discrimination, of the ATJPP and courts	- Specialized trainings, study stays, conferences and similar	- Number of trainings organized; - Number of trained persons; - Number of study stays; - Number of persons participating in conferences.	CPD Ombudsman AJPP
		- Establishment of and operative functioning of the professional administrative service of the CPD	- Number of employees working at the professional and administrative service; - Number of processed cases. - Number of interviewed applicants.	CPD
		- Preparing legal analyses and practical tools to be used in cases of protection against discrimination	- Number of prepared legal analyses; - Practical tools.	CPD, AJPP, MLSP and social partners
		-Commentary on the LPPD	- Prepared Commentary	CPD

				AJPP
		- Participation of the CPD in legal proceedings as <i>amicus curiae</i>	- Number of court proceedings in which the CPD has been involved	CPD AJPP
		- Specialized trainings for legal practitioners on filing a class action and <i>actio popularis</i> against perpetrated discrimination	-Number of trainings organized; -Number of trained persons.	CPD ATJPP
Standardization of the work of the CPD	Enhancing the efficiency and professionalism of the CPD	- Designing a set of documents/ forms for applications and opinions and design of the format of communication with applicants	- Number and type of forms; - Form for filing an application for protection against discrimination; - Opinions in cases of discrimination and relevant recommendations.	CPD
		- Designing the CPD database	- Number of data entered in the database	CPD
		- Defining procedures for monitoring the implementation of recommendations of the CPD	- Procedures for monitoring the implementation of recommendations of the CPD; - Number of actions undertaken following monitoring procedures.	CPD
International cooperation with relevant equality bodies from other countries and with international organizations	Exchange of experiences and good practices	- Organizing bilateral meetings, international conferences and study stays and membership of EQUINET	- Number of bilateral meetings; - Number of international conferences; - Number of study stays.	CPD Ombudsman AJPP MLSP

4. LIST OF MEMBERS OF THE NAP WORKING GROUP

1. Atanas Georgievski, Academy for Judges and Public Prosecutors
2. Atula Kasumi, Secretariat for the Implementation of the Ohrid Framework Agreement
3. Dusko Minovski, Commission for Protection from Discrimination
4. Dana Biskoska, Ministry of Education and Science
5. Gulten Mustafafova, Ministry of Labour and Social Policy
6. Emilija Andovska, Ministry of Education and Science
7. Zoran Mihajloski, Appellate Court Skopje
8. Irena Orovcanec, Agency for Community Rights Realization
9. Jovan Ananiev, Commission for Protection from Discrimination
10. Lidija Kanackovik, State Judicial Council
11. Marija Petrusevska, Ministry of transport and Communications
12. Marijan Ponjavik, Ombudsman
13. Nermina Fakovik, Ministry of Health
14. Sanja Janceva, Ministry of Education and Science
15. Svetlana Cvetkovska, Ministry of Labour and Social Policy

Jasmina Ivanova and Lence Kocevska, engaged as experts from the OSCE Mission to Skopje. Zaneta Poposka participated as representative of the OSCE Mission to Skopje.