



# diversity in contemporary legal frameworks: EU level

Milica Kovačević









## Introduction

At the moment, almost every state in Europe is characterized by multi-ethnicity, multilingualism and multiculturalism, or by cultural diversity in the broadest possible sense. Such a state of affairs is conditioned by modern trends that require cooperation between countries and dictate intensive migration processes, but also by the constant exchange of ideas, cultural content and values. It is indisputable that at this level of civilizational development, the intertwining of many cultures is considered an advantage and a valuable resource for the further progress of humanity, and not an obstacle. However, this does not negate the fact that cultural diversity requires adjustments so that members of different races, nations, religions and other groups can truly exercise their rights and enjoy the freedoms that belong to every citizen regardless of personal traits, origin and material circumstances. Therefore, multiculturalism requires complex adjustments of the normative framework within which mechanisms should be envisaged for fostering equality regardless of individual characteristics. Adjustments of the normative framework are being made at the universal, European and national levels. This process has been going on for several decades and its end is not noticeable, given the new and increasingly complex needs that everyday life brings. Economic crises, wars and technological progress continuously put additional demands on the legal system, requiring constant changes, but also the development of new paradigms harmonized with the current moment. The legal analysis that follows focuses on legal documents that encourage and nurture cultural diversity within the three sectors crucial for the realization of human rights. These are the sectors of education, social services and youth work.

## Documents of the organization of United Nations – social care and the right to education

We begin the review of international documents with a summary analysis of documents adopted by the United Nations as the most important universal organization in the present time. Namely, the period after the Second World War is characterized by the founding of the United Nations as an international organization that, in addition to preserving world peace and international cooperation, pleads for the respect of human rights in the broadest possible sense.

The realization of any group of human rights is based on the assumption that all human beings are born free and equal in dignity and rights. Hence, the whole system of human rights derives from the respect for the individual differences of each human being, which must not be an obstacle to the realization of rights and the enjoyment of freedoms. Nevertheless, the organization of the United Nations recognizes the *de facto* inequality of members of certain groups and has adopted some documents that explicitly prohibit all forms of discrimination and plead for the eradication of racial, gender and all other forms of inequality.



**The following documents are recognized as most relevant:**

- ◆ Universal Declaration of Human Rights, 1948
- ◆ International Covenant on Civil and Political Rights, 1966
- ◆ International Covenant on Economic, Social and Cultural Rights, 1966
- ◆ International Convention on the Elimination of All Forms of Racial Discrimination, 1965
- ◆ Convention on the Elimination of All Forms of Discrimination against Women, 2016
- ◆ Convention on the Rights of Persons with Disabilities (CRPD), 2006
- ◆ Convention against Discrimination in Education, 1960
- ◆ UNESCO Guidelines for Intercultural Education, 2006
- ◆ Convention on the Rights of the Child, 1989
- ◆ Universal Declaration on Cultural Diversity, 2001
- ◆ Agenda for Sustainable Development until 2030, 2015

**The Universal Declaration of Human Rights** (UN, 1948) is based on the inviolable postulate that everyone is entitled to human rights and freedoms, without distinction of any kind, such as race, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

**International Covenant on Civil and Political Rights** (UN, 1966), stipulates that the law will prohibit any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. The Covenant obliges state parties to ensure equal rights for women and men. It is envisaged that the restriction of rights in extraordinary circumstances of public danger cannot take on extensive proportions and that restrictions on rights and freedoms must not be based on discriminatory grounds, for example, race, color, gender, language, religion or social origin.

**International Covenant on Economic, Social and Cultural Rights** (UN, 1966), guarantees the exercise of economic, social and cultural rights without any discrimination in respect of race, color, sex, language, religion, political or other opinions, national or social origin, property status, birth or any other status (Art. 2).

**International Convention on the Elimination of All Forms of Racial Discrimination** (UN, 1965), proclaims the prohibition of all forms of racial discrimination and the promotion of racial discrimination as desirable or acceptable conduct. State parties are to undertake, in accordance with their needs, special and concrete measures in the social, economic, cultural and other fields, so that they ensure the development or protection of certain racial groups, or individuals belonging to these groups, in order to protect their human rights and their freedoms. Measures may not result in the maintenance of unequal or different positions for different racial groups, once the objectives for which these measures were originally taken are achieved.



**Convention on the Elimination of All Forms of Discrimination against Women**

(UN, 1979), obliges states to take appropriate measures to eradicate unacceptable social patterns of behavior of men and women, and to eliminate prejudice, traditional customs and practices based on the notion of inferiority or superiority of one or the other sex, as well as the established expectations about the roles of men and women. Measures should be implemented in order to reform family education so that it includes an adequate understanding of motherhood as a social function and respect for the common responsibility of men and women in raising children, implying that in all cases the best interests of the child must be taken into account. An important factor in combating discrimination against women is the education system, as a result of which states are obliged to take measures to eliminate discrimination against women and to provide them with equal rights as men in education, especially: equal conditions in career and career guidance; in terms of opportunities for learning and obtaining diplomas in educational institutions of all categories, both in rural and urban areas; availability of equal curricula; removing the traditional understanding of the roles of men and women at all levels and in all forms of education by encouraging the creation of mixed classes and by revising textbooks and school curricula and adapting teaching methods; reducing the drop-out rate of girls and women and so on.

**The Convention on the Rights of Persons with Disabilities** (UN, 2006) prohibits all forms of discrimination against persons with disabilities and advocates for their equality. The basic principles are: respect for dignity, respect for personal abilities and independence of persons with disabilities, social inclusion, respect for differences and acceptance of persons with disabilities as an inherent segment of human diversity; access to all resources, equality of women and men and respect for the evolving capacities of children with disabilities.

**The Convention against Discrimination in Education** (UNESCO, 1960) condemns all forms of discrimination in education, emphasizing the need to promote equality in terms of educational opportunities and access to all levels of education. However, Art. 2 of the Convention supports the establishment of separate institutions for the purpose of educating members of different sexes, and also the establishment of special institutions for religious or linguistic reasons, but only if attending such institutions is voluntary and if they are not organized according to discriminatory criteria. The education must be accessible to everyone without administrative barriers, while primary education is compulsory and free of charge. States undertake to encourage the education of persons without primary or incomplete primary education and to enable the continuation of education in accordance with the individual traits of students. Article 5 obliges states to ensure that education is aimed at the full development of the individual and the strengthening of respect for human rights and fundamental freedoms, and also to promote understanding, tolerance and friendship among peoples, racial and religious groups.

Furthermore, citizens are guaranteed the right to educate children in institutions that respect their personal beliefs, while no one can be forced into a religious education that is contrary to his personal beliefs. Finally, members of national minorities are guaranteed the right to attend special institutions and study on the languages of national minorities, but this must not prevent members of



national minorities from understanding the language of the majority group and actively participating in the social life of the community as a whole. Also, if special institutions for members of national minorities are established, the curriculum in such institutions cannot be based on lower standards compared to educational institutions attended by the majority of the population, while attending such institutions must be voluntary.

The **UNESCO Guidelines for Intercultural Education** (2006) are based on the principle that multiculturalism covers cultural diversity as a basic feature of human society, while interculturalism is a dynamic concept that refers to ever-changing relationships between members of different cultural groups that can contain unique cultural expression and mutual respect. The document contains three basic guidelines, with the first guideline stipulating that intercultural education is education that respects the cultural identity of students, by providing culturally appropriate and quality education for each individual. According to the second guideline, intercultural education provides all students with cultural skills and knowledge in order to become active and responsible citizens of society. The third guideline stipulates that intercultural education provides knowledge, attitudes and skills that will enable students to develop respect, cooperation and understanding among individuals and ethnic, social and cultural groups and nations.

**UN Convention on the Rights of the Child** (1989), is a document that comprehensively defines the minimum standards and the protection mechanisms in all areas important for the development and exercise of the rights of minors. The Convention obliges the contracting parties to ensure the exercise and protection of the rights of every child without any discrimination, regardless of race, color, sex, language, religion ... or another status of the child, his parent or legal guardians (Art. 2).

**The general comment of the UN Committee on the Rights of the Child** (No. 9, 2006) on the rights of children with disabilities, among other things, emphasizes the need to provide special protection for girls with disabilities. The commentary points out that children with disabilities are often discriminated against in multiple ways, given that the problems of these children are particularly complicated if they live in rural areas or if they are of poor financial status. Also, isolating these children makes it difficult for them to be included in the formal education system, which in turn makes it difficult or even impossible for them to find employment and so further increases social exclusion. Therefore, states have special obligations towards children with disabilities and must pay special attention to their equality. The necessity of cooperation between different sectors was emphasized in order for children with disabilities to exercise all their rights and not just be limited to the rights in the field of narrowly understood social protection. It is noticed that the system of providing support for children with developmental disabilities is often disintegrated, which makes the child's position especially difficult, leading him to the situation of repeatedly turning to different services for similar forms of protection. States should support the work of civil sector in the field of protection of children with disabilities and organize educational campaigns to raise awareness of the need to fully respect the rights of these children.



It should be emphasized that children with disabilities claim the same status as all other children. Furthermore, not only do children with disabilities have the right to attend school, but the educational process must be such as to encourage their development and the realization of personal talents, as well as their mental and physical potential. Therefore, it is necessary to modify the teaching practice and train educators in regular schools in order to encourage the development of these children in the best possible way. At the same time, every child with developmental issues has the right for an individualized approach to be applied in order to develop communication skills, verbal capacities, ability to interact and the ability to solve various problems. People who work with children must monitor the child's progress, as well as how he communicates verbally and emotionally, in order to provide the best possible support for children's development.

The education of children with disabilities must be oriented towards the development of inclusive education within the standard and general education system, which does not mean that the needs of those children could be simply neglected. Namely, the general education system should strive to include children with disabilities, instead of a priori allocating them to special institutions, but, if necessary, inclusion in the general system may include specific support measures. However, the Committee on the Rights of the Child does not deny the factual situation in which not all the states are able to form an inclusive education system in the foreseeable future, due to existing constraints and insufficient resources. In connection with the above, it should be borne in mind that inclusion does not only mean the participation of children with disabilities in the general education system. On the contrary, inclusive education implies a system of values, principles and practices that provide quality education for all students, recognizing their very different personal and social predispositions. Hence, the system should primarily recognize student differences. Thus, inclusion may include the inclusion of students with disabilities in standard classes or the formation of special classes in standard schools, or maintaining a standard teaching process or teaching process with special segments of special education. Inclusion mustn't be equated with simply including students with disabilities in standard/general schools, without insight into the needs they may have. Special training is needed for educators and other school staff in order to fully enable them to develop an inclusive education system.

**Universal Declaration on Cultural Diversity**, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its thirty-first session on 2 November 2001 is based on the assumption that respect for cultural diversity actually encourages and increases opportunities for personal development of all persons, not only in economic terms, but also in terms of personal and spiritual development of each individual.

The **UN Agenda for Sustainable Development** until 2030, which entered into force in 2016, promotes the intensive engagement of states in eradicating poverty, achieving full equality and overcoming the problems brought about by climate change. During the conception of the Agenda, attention has been given to the representation of the views of as many members of different groups as possible, such as: women, elderly citizens, young people, residents of rural areas, members



of the LGBTI population, Roma and others. Only some of the 17 goals envisaged by the agenda are: quality education - which includes providing inclusive and quality education and promoting lifelong learning opportunities; gender equality - which requires the achievement of essential gender equality and the empowerment of women and girls in the broadest possible sense and peace, justice and strong institutions - which includes promoting a peaceful and inclusive society, ensuring access to justice for all and building efficient and reliable institutions at all levels.

## Council of Europe documents

The Council of Europe is an organization committed to respecting democratic values, rule of law and human rights, with cultural diversity being one of the cornerstones on which Europe has been built in the past and which must remain firmly rooted in its foundations. We begin with an overview of documents relevant to the social services sector and youth work, which is followed by a review of documents related to the exercise of the right to education.

### The following documents are recognized as most valuable ones:

- ◆ European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950
- ◆ Revised European Social Charter, 1996
- ◆ European Cultural Convention, 1954
- ◆ Reference Framework of Competences for Democratic Culture (RFCDC), 2013
- ◆ ECRI Recommendation on a general policy on combating racism and racial discrimination in and through school education, 2006
- ◆ Convention on the Participation of Foreigners in Public Life at Local Level, 1992
- ◆ Framework Convention for the Protection of National Minorities, 1994
- ◆ Recommendation of the Committee of Ministers of the Council of Europe to member states on "hate speech", 1997
- ◆ Recommendation of the Committee of Ministers to member states on the education of Roma and Travelers in Europe, 2009
- ◆ Recommendation of the Committee of Ministers to Member States on measures to combat discrimination on grounds of sexual orientation and gender identity, 2010
- ◆ Resolution on Access to Education and School for All Children, 2016
- ◆ Declaration of the Committee of Ministers on Cultural Diversity, 2000
- ◆ Declaration on Intercultural Dialogue and Conflict Prevention, 2003
- ◆ Declaration on 50 years of cultural cooperation in Europe, 2004



- ◆ Recommendation of the Committee of Ministers to member States on multilevel policies and governance for intercultural integration, 2022
- ◆ Recommendation of the Committee of Ministers to member states on youth participation and the future of civil society, 1997
- ◆ Recommendation of the Committee of Ministers to member States on protecting youth civil society and young people and supporting their participation in democratic processes, 2022
- ◆ Resolution of the Committee of Ministers on the youth sector strategy 2030, 2022
- ◆ Recommendation on supporting young refugees in transition to adulthood, 2019
- ◆ Recommendation of the Committee of Ministers to member states on research on young people's access to rights, 2016
- ◆ Recommendation on the access of young people from disadvantaged neighborhoods to social rights, 2015
- ◆ Resolution on the Youth Policy of the Council of Europe, 2008
- ◆ Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education, 2010
- ◆ Recommendation of the Committee of Ministers to member states on the promotion and recognition of non-formal education/learning of young people, 2003
- ◆ European Youth Forum recommendations on social protection and young people in Europe, 2000

**European Convention for the Protection of Human Rights and Fundamental Freedoms** (Rome, 1950, abbreviated: ECHR), guarantees the enjoyment of rights and freedoms without discrimination on grounds such as: sex, race, color, language, religion, political or other opinion, national or social origin, affiliation with a national minority, property, birth or other status (Art. 14-Prohibition of Discrimination).

The case law of the **European Court of Human Rights**, which directly affects the eradication of practices and procedures that violate the equality of citizens at the national level, is also extremely important. In the educational context, Protocol No. 1 to the ECHR is of particular significance, specifically Art. 2 - The right to education, according to which no one can be deprived of the right to education, while the state respects the right of parents to ensure the content and conduct of the educational process in accordance with individual religious and philosophical beliefs.

**Revised European Social Charter**, as a document related to fundamental economic and social rights, attaches special importance to the protection of vulnerable categories of persons such as children, persons with disabilities and migrants. Article 15 of the Charter refers to the rights of persons with disabilities who, regardless of age or nature and extent of disability, should be provided with services to buster their independence, social integration and participation in community life. Therefore, states are obliged to take measures for education



and vocational training, within regular mechanisms whenever possible, or, if not possible, within special institutions, and to promote social integration and participation in the community of persons with disabilities by applying all necessary measures, as well as technical (Art. 15).

The Charter also defines the right of children and youth to social, legal and economical protection. Article 17 stipulates that states are obliged to provide children and young people with a stimulating environment for the development of their spiritual and physical potentials, in which sense states are called to provide adequate capacities, prevent abuse and exploitation of children, provide special support for children without families and guarantee free primary and secondary education.

The **European Cultural Convention** (Paris, 1954) is based on the premise that besides cultural cooperation through bilateral agreements, Europe should also nurture national languages, cultures and civilizations, as well as a unique European cultural heritage. Specifically, Art. 2 of the Convention stipulates that each state will support the study of the culture, language and civilization of other national groups on its territory, as well as that states will support the exchange of cultural knowledge and goods beyond their own borders. In addition, each of the states will strive to preserve cultural goods and values important for European culture as a whole within its competencies.

Council of Europe, **Standing Conference of European Ministers of Education Intercultural education: Managing diversity, strengthening democracy** 21st session Athens, Greece, -10 to 12 November 2003, Declaration by the European ministers of education on intercultural education in the new European context starts from the premise that Europe is characterized by social differences embodied in language, culture and religion. Existing differences, as well as multiculturalism, should actually be nurtured, avoiding the marginalization of any group. Despite that, the creators of the declaration are aware of the presence of xenophobia and racism in the education system, as a result of which respect for human rights, democratic values and intercultural education should be promoted even more decisively. In this regard, the declaration calls for: continued research on intercultural education, development of new methods and tools for intercultural learning, and supports the wide dissemination of good practices. It is necessary to preserve the European dimension of the educational process despite the ever-present globalization trends, while not neglecting the need for general cooperation and the promotion of Euro-Arab dialogue. That is why the declaration supports the understanding and encouragement of linguistic diversity in Europe. Intercultural education should include not only schools but also local communities, parents and students, because the importance of interculturality is not limited to the educational context, but interculturality should be a quality that characterizes society as a whole. In addition, technological progress and modern technological means should be applied as a helping resource to foster intercultural education.

**Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education**, Recommendation CM/Rec (2010)7, adopted by the Committee of Ministers of the Council of Europe on 11 May 2010, assumes that education has a



key role to play in promoting fundamental values such as democracy and respect for human rights, and that it represents the strongest barrier against the rise of violence, extremism, xenophobia, discrimination and all types of intolerance.

**Council of Europe's Reference Framework of Competences for Democratic Culture** (RFCDC), originating in an initiative from Andorra (Council of Europe Standing Conference of Ministers of Education, Conclusions from the Andorran Conference Andorra la Vella, 7-8 February 2013) is based on the belief that the education system should prepare students to be active participants in democratic processes. This implies that students need to know and understand the challenges that they will face, as well as to be aware of the actions they need to avoid. The document contains materials that can be used to teach students so that they acquire competencies needed for active involvement in social life.

**ECRI General Policy Recommendation No. 1** on combating racism, xenophobia, antisemitism and intolerance (ECRI, 1996) calls on states: to take measures in the field of education and information to strengthen the fight against racism, xenophobia, antisemitism and intolerance; to adopt a general policy of raising awareness of the wealth that cultural diversity brings to society; to undertake research on the nature, causes and manifestations of racism, xenophobia, antisemitism and intolerance at the local, regional and national levels; to ensure that curricula, for example in the field of history teaching, are designed to increase the level of respect for cultural diversity; to organize courses to improve understanding of different cultures and knowledge of the legal aspects of discrimination and raise awareness of prejudices that would be attended by those responsible for recruitment and promotion procedures, those in direct contact with the public and those responsible for adhering to standards, policies of non-discrimination and equal opportunities in a particular organization.

**ECRI Recommendation No. 10** on a general policy on combating racism and racial discrimination in and through school education, ECRI (2006) suggests that states should ensure the fight against racism and racial discrimination in schools to become part of a permanent policy and establish a system for monitoring racist incidents in schools and for collecting data on incidents in order to design long-term policies to combat them.

**Convention on the Participation of Foreigners in Public Life at Local Level**, (Strasbourg, 1992), CETS 144 guarantees foreign residents the right to be consulted on important community issues and to be involved in all activities of social importance at the local level.

Council of Europe **Framework Convention for the Protection of National Minorities** (1995) provides that persons belonging to national minorities have the right to study their cultures and historical heritage through the education system and that it is, therefore, necessary to enable the education of educators in that sense. Relevant literature and textbooks should be available. Namely, the convention starts from the historical experience of Europe, which argues that the protection of minority rights is the basis of stability, democracy and peace on the entire continent. A society based on democratic principles respects the ethnic,



cultural, linguistic and religious identity of each individual, and at the same time enables him to express, nurture and develop that identity. Also, only a society based on tolerance and encouragement of dialogue should expect cultural diversity to be a factor of cohesion, instead of the basis for further divisions. Article 1 of the Convention states that the protection of minority rights is an integral part of the protection of human rights which are well recognized at the international level. Article 5 stipulates that every individual has the right to preserve and nurture his or her special identity and that the state must not support the processes of assimilation of members of minority groups. In order to encourage the preservation of diversity, the state encourages education and research in the field of cultural, linguistic, historical and religious characteristics of minority groups.

**Recommendation of the Committee of Ministers to member states on "hate speech"**, CM/Rec (97)20, adopted on 30 October 1997 at the 607th meeting of the Ministers' Deputies, states that hate speech includes all forms of expression that disseminate, encourage, promote and justify racial hatred, xenophobia, antisemitism, as well as all other forms of hatred based on intolerance, including: aggressive nationalism and ethnocentrism, discrimination and hostility towards minorities, migrants and people of immigrant origin. Such forms of expression should be prohibited.

**Recommendation of the Committee of Ministers to member states on the education of Roma and Travelers in Europe**, CM/Rec (2009)4, adopted by the Committee of Ministers on 17 June 2009 at the 1061st meeting of the Ministers' Deputies, envisages that the governments of member states should, with due regard for structures of their education systems, ensure that Roma and Traveler children are effectively accepted in school. Considering the recommendations and policy orientations included in the White Paper on Intercultural Dialogue "Living together as equals in dignity", launched at the 118th Session of the Committee of Ministers (Strasbourg, 7 May 2008) the recommendation is based on the indisputable fact that Roma, Travelers and other homeless people have been discriminated against and rejected by society for centuries, as well as they have encountered significant problems in the field of education and in the field of exercising their human rights in general. The Recommendation acknowledges the fact that Roma and members of similar groups have traditionally been either assimilated within an educational process that did not recognize their needs, or subjected to segregation into closed groups. Due to the specifics of their culture, they were declared socially and culturally handicapped. Therefore, the recommendation condemns all forms of segregation of Roma and Travelers in the education system, especially emphasizing the importance of the case law of the European Court of Human Rights, which has repeatedly stated that Roma's rights have been violated within national education systems.

The Council of Europe emphasizes that the marginalized position of the Roma cannot be overcome without the inclusion of Roma children in the educational process. States are obliged to recognize obstacles to the substantial inclusion of Roma and Travelers in the educational process. Curricula should be designed to enable the educational process in the mother tongue of the Roma, as well as to recognize their experiences and culture as a significant part of cultural diversity.



The specific needs of the Roma should be detected, and the fact that some of them lead nomadic or semi-nomadic lives should be taken into account. Special attention should be paid to the educational needs of Roma girls, while the attendance of primary education by Roma children should be controlled as strictly as the compulsory primary education of non-Roma children. The educational process in European countries must include materials aimed at eradicating prejudice and negative evaluation of Roma and its traditions. Educators should pay attention to the fact that Roma students are to be involved in all types of activities, also they must not narrow the criteria based on which the acquired knowledge is assessed and thus prevent the realization of the full personal potential of Roma students.

**Recommendation of the Committee of Ministers to member states on intercultural dialogue and the image of the other in history teaching**, CM/Rec (2011)6, adopted by the Committee of Ministers on 6 July 2011 at the 1118th meeting of the Ministers' Deputies, is based on the premise that respect for cultural diversity depends on learning about the past and historical heritage and that the globalization processes and cultural diversity also condition education in the field of history. The complexity of teaching about the past is to be recognized, while having in mind the numerous conflicts that have marked it, but at the same time the recommendation states that the past is, by all means, based on exchange and cooperation between different groups. Despite numerous difficulties, the process of education in the field of history should be directed towards intercultural dialogue and glorification of tolerance, as well as critical and analytical thinking about events from the past. One of the goals of history education is to get to know other cultures and civilizations in order to understand them, while focusing on national, regional and local cultural heritage.

**The European Charter for Regional or Minority Languages** (Strasbourg, 1992), CETS 148, is based on the premise that preserving linguistic richness enables cultural diversity and a democratic Europe. It states that the languages of national minorities are languages traditionally used in certain countries by members of minority groups. The languages of national minorities do not include different dialects of one language, nor the languages of migrants. Article 7 of the Charter stipulates that different languages are part of the cultural wealth and that their use should be encouraged in both private and public life. States are called upon to provide adequate conditions for the teaching of these languages, as well as for language research. Also, members of the majority group should be enabled to learn minority languages if they wish to do so and it should be possible to learn these languages at universities. The use of national minority languages should be possible at all levels of the education system, from pre-school to higher education, as well as within adult education. States undertake to provide persons belonging to national minorities with: education in the language of a national minority or partial education in the language of a national minority or the teaching of a minority language to be part of the curriculum. In addition to teaching minority languages, education on the culture and historical heritage of members of these minority groups should also be provided.

**Recommendation of the Committee of Ministers to Member States on measures to combat discrimination on grounds of sexual orientation and**



**gender identity**, CM/Rec (2010)5, adopted at its 1081st meeting on 31 March 2010, states that it should be recognized that lesbians, homosexuals, bisexuals and transgender people have been exposed to homophobia, transphobia and other forms of intolerance and discrimination for centuries. It should be noted that these people were also abused and discriminated against within their own families. Victimization, marginalization, violence and social exclusion are the daily lives of these people, which is why they deserve support in order to achieve equality in human rights with other citizens. Culture, tradition and cultural attitudes of the majority must not be the basis for justifying the discrimination of these persons. It is emphasized that discrimination and social exclusion due to gender identity and sexual orientation can be eradicated by joint measures aimed at members of the minority group and the entire population. States parties must take measures to prevent any form of public and media expression that justifies discrimination and violence against LGBTI persons. The state must prevent any kind of hate speech, while also taking into account the general right to freedom of expression guaranteed by Art. 10 of the ECHR, which has been confirmed many times by the case law of the European Court of Human Rights.

Furthermore, no child should be prevented from enjoying the right to education because of his or her sexual orientation and gender identity. States have to take measures to prevent violence and discrimination against children of a specific sexual orientation and gender identity. Peer violence or degrading treatment is completely unacceptable. The education system must ensure full respect for everyone's personal dignity. Therefore, the school must provide adequate information and education on issues related to sexual orientation and gender identity. Every student must have the opportunity to participate on an equal footing in the educational process by freely expressing their sexual orientation and gender identity. In that sense, educators and other staff should be specially trained in order to meet the needs of students and to improve safety. The rights of parents regarding the education of their children should also be taken into account.

When it comes to exercising the social rights of LGBTI people, it should be borne in mind that they are entitled to enjoy the right to an adequate standard of living, and therefore the right to housing. The illegal eviction of LGBTI people should be prevented and the housing issue should be resolved either through the purchase or lease of real estate or otherwise. Special measures can be applied to prevent homelessness of persons of specific sexual orientation and gender identity, which also applies to children and young people, bearing in mind the frequent rejection of these persons by their families. Therefore, the housing needs of LGBTI people should be assessed without any discrimination.

Combating rising hate against LGBTI people, the Draft resolution, version of 27 September 2021, **Committee on Equality and Non-Discrimination**, notes that in recent years, despite the formal guarantee of human rights of LGBTI people, there have been aggressive outbursts and campaigns against these individuals with, which is of particular concern, the participation of officials, public figures and religious leaders in such endeavors. It is not just an act based on individual beliefs and prejudices, but an attack on human rights, which affects not only the LGBTI



population but also women. Such statements try to point out that the respect for the rights of LGBTI persons is disabling the respect for the rights of women and children and also disabling the nurturing of prosocial and family values. Such a narrative endangers social cohesion. Member states should condemn incidents of homophobic, transphobic and similar nature. Discrimination based on sexual orientation, gender identity, gender expression and sexual characteristics must be prevented and sanctioned.

**Resolution on Access to Education and School for All Children**, Res 2097(2016), adopted at the parliamentary session on 29 January 2016, calls for the barriers in the education system to be lifted. The introductory part of the resolution states that, during the last two decades, significant progress has been made in the field of children's access to education in Europe, but that there are still significant problems. In addition, the focus should not only be on the availability of education, but on quality education also and opportunities for each child. At the same time, not only does the child have the right to education, but it is also in the general social interest for the child to exercise that right, so that all citizens become useful members of society and to prevent unemployment problems. Member States are therefore called upon to support the inclusion of children in the educational process, as well as the successful completion of specific levels of education. Particularly important measures are: measures to encourage inclusive education; measures to encourage cooperation with the family of students, as well as to include those students whose families do not take proper care about enrolling their children in schools; measures for learning the language in which the educational process is primarily conducted by children belonging to minority groups and children of migrants; measures to encourage parents to participate in children's literacy, with measures to be adapted to cultural, ethnic and socio-economic circumstances; measures to involve parents in the educational process attended by their children, with special emphasis on parents of lower educational status and parents who use minority languages; measures related to a positive attitude towards education and motivation to learn, which should especially include students from disadvantaged backgrounds; measures to encourage the inclusion of migrant students or students from marginalized groups in schools known for outstanding results; measures to promote tolerance, equality and non-violent conflict resolution; measures to include content on human rights, democracy and tolerance in curricula; measures to encourage educators' ability to work in multilingual groups; measures for pedagogical support to migrant children and children from marginalized groups; measures to include students in all levels of education, with a special focus on Roma, migrants, refugees and girls with disabilities; measures to popularize scientifically based knowledge about LGBTI people and measures of financial investment in inclusive education with a focus on long-term benefits arising from such investments.

**Declaration of the Committee of Ministers on Cultural Diversity** (2000), adopted on 7 December 2000 at the 733rd meeting of the Ministers' Deputies, emphasizes that modern society is based on cultural diversity, which is significantly influenced by new information technologies, globalization and multilateral trade, recalling that Europe based on cultural diversity and diversity remains its key goal in the 21st century. Cultural diversity implies the coexistence and exchange of culturally



diverse practices and the use of culturally diverse services and products, so that the members of the Council of Europe are called upon to find and promote new ways of preserving cultural and linguistic diversity.

**Declaration on Intercultural Dialogue and Conflict Prevention** (2003), adopted by the European Ministers of Culture in Opatija on 22 October 2003, addresses the activities of the European Ministries of Culture in order to promote intercultural dialogue, cultural exchange and conflict resolution in post-conflict societies by fostering understanding for the cultures of others. The declaration declares that ignorance of other cultures and rejection of the possibility of learning about them is a source of negative social phenomena, such as xenophobia and racism. The Declaration defines the basic concepts on which cultural exchange in Europe is based. Thus, cultural diversity means that every individual or cultural group has the right to express themselves culturally, artistically, linguistically and in other ways as they wish, as long as they do not oppose basic European values. Everyone has the right to nurture and express their cultural identity, while any expression of intolerance and attempts to assimilate anyone culturally is prohibited. Intercultural dialogue involves communication between different cultural groups at the local and regional levels, as well as between countries. This kind of dialogue takes place in the spirit of tolerance, which does not exclude the possibility of differences of opinion and debate. Intersectoral cooperation and good practices in conflict prevention are based upon the participation of various actors, both state and non-state, in cultural exchange. Meetings of representatives of as diverse cultural groups as possible should be encouraged in order to enable mutual understanding.

**Declaration on 50 years of cultural cooperation in Europe** (2004) was adopted by the Ministers responsible for culture, education, youth and sports of the signatory states of the European Convention on Culture, Wroclaw (Poland), on the occasion of the 50th anniversary of the European Cultural Convention. Although the declaration summarizes the significant results achieved in terms of cultural cooperation and exchange in Europe, it is noted that there is significant room for improvement. Thus, the declaration states that even though the wide availability of education is enabled and the cultural rights are respected, the exclusion of minority groups and materially deprived citizens is still present. Significant progress has been made in achieving equality between women and men, but there are still attitudes that do not speak in favor of gender equality. Personal freedoms are widely respected, but alienation is also present in society. Much has been done in the field of protection of cultural heritage and the environment, but these assets are still endangered in situations when conflicts escalate. Citizens have the opportunity to access all sorts of information, but at the same time, it does not mean their cognitive abilities develop at the same pace. There is no ideology that we should all adhere to, but the fact is that racism, xenophobia, antisemitism and extreme nationalism are reviving. That is why the cultural cooperation in Europe must focus on all these issues in the future.

**Recommendation of the Committee of Ministers to member States on multilevel policies and governance for intercultural integration**, CM/Rec (2022)10, adopted by the Committee of Ministers on 6 April 2022 at the 1431st meeting of the Ministers' Deputies, states that policies at all levels should respect



the importance of cultural diversity, encourage the development of an inclusive society and use existing differences to their advantage.

**Recommendation of the Committee of Ministers to member states on youth participation and the future of civil society**, CM/Rec (97)3, adopted by the Committee of Ministers on 4 February 1997 at the 583rd meeting of the Ministers' Deputies, refers to international documents guaranteeing human rights of the child, and in particular the right of the child to actively participate in social processes and to express opinions, as well as the assumption that only a society in which there are no marginalized people could be stable and prosperous. The recommendation emphasizes that the engagement of volunteers in the implementation of various policies is extremely important, which is especially important for the countries in Central and Eastern Europe. Therefore, the recommendation calls on states to take steps to enable the functioning of youth organizations at both local and regional levels, as well as to ensure that youth workers acquire appropriate education so that they can support the participation of young people in social processes.

**Recommendation of the Committee of Ministers to member States on protecting youth civil society and young people and supporting their participation in democratic processes**, CM/Rec (2022)6, adopted by the Committee of Ministers on 17 March 2022 at the 1429th meeting of the Ministers' Deputies, is based on the irrefutable assumption that without the participation of young people in political life there could be no democracy nor respect for human rights. It implies that a democratic society is based on the creativity, competencies and commitment of young people. States are urged to take as many measures as possible to encourage the participation of young people in civil society activities and in democratic political life. In doing so, special attention should be paid to the needs of young people and to the obstacles faced by young members of marginalized groups, which may make it difficult or impossible for them to participate in social life. In addition to the application of measures, it is necessary to evaluate their effects, in order to know whether the measures contribute to the involvement of young people. In order for all young people, especially those from marginalized groups, to participate in civil society activities, it is necessary to strengthen their competencies primarily through the formal education system, but also through non-formal education. Special attention should be paid to the digital and media literacy of young members of marginalized social groups, and to the adoption of democratic values by these individuals.

**Resolution of the Committee of Ministers on the youth sector strategy 2030**, CM/Res (2020) 2, adopted by The Committee of Ministers on 22 January 2020 at the 1365th meeting of the Ministers' Deputies, is based on the notion that young people across Europe should enjoy, promote and nurture the core values advocated by the Council of Europe, namely: respect for human rights, the rule of democracy and the rule of law. For young people to be satisfied and to promote prosocial values, it is necessary to enable their education and participation in social life. Implementation of different measures should especially include young members of marginalized groups, but should also be aimed at respecting the cultural differences that characterize young people across Europe.



**Recommendation on supporting young refugees in transition to adulthood**, CM/Rec (2019) 4, adopted by the Committee of Ministers on 24 April 2019 at the 1344th meeting of the Ministers' Deputies, pays special attention to young refugees, bearing in mind that the values on which modern Europe is based imply the full social inclusion of every citizen, regardless of their background and personal experiences. Young refugees need to be given complex support as they move into adulthood. States are called upon to prevent discrimination against these persons, as well as to take into account the special needs that may arise from victimization through sexual violence, trafficking in human beings and gender-based violence. It is indisputable that after reaching the age of 18, these young people may be deprived of their human rights, given that national legal systems are designed to guarantee special protection primarily for children or minors or persons under 18 years of age. In order to prevent the deprivation of human rights, states should implement adequate measures for these youngsters.

**Recommendation of the Committee of Ministers to member states on research on young people's access to rights**, CM/Rec (2016)7, adopted by the Committee of Ministers on 28 September 2016 at the 1266th meeting of the Ministers' Deputies, starts from the assumption that in order to preserve Europe based on democratic values young people must be included in all social processes. Nevertheless, young people often suffer social exclusion due to socio-economic crises in Europe and the world. Therefore, it is recommended that states take all measures to combat multiple discrimination affecting young people due to the non-compliance with Art. 14 of the ECHR which guarantees equality of all citizens regardless of their personal characteristics. It is emphasized that young people face problems in accessing quality education, with limited opportunities for higher education, as well as the lack of resources that would enable their social and economic independence. States should take measures to make human rights mechanisms easily accessible to young people, as well as to support the education of youth workers so that youth workers could provide more effective services to young people. It is noted that the youth work sector could be a particularly important resource for improving the position of young people. Also, the role and importance of non-formal education should be focused upon. A special segment of the recommendation refers to the local community in a society characterized by cultural diversity. In order to respect diversity, it is necessary to combat discrimination, intolerance and social exclusion, while the inclusion and participation of young people, especially those belonging to marginalized groups, should be encouraged. When it comes to conflict and post-conflict societies, they should especially encourage respect for peace and tolerance.

**Recommendation on the access of young people from disadvantaged neighborhoods to social rights**, CM/Rec (2015)3, adopted by the Committee of Ministers on 21 January 2015 at the 1217th meeting of the Ministers' Deputies, suggests that countries should develop policies to eliminate the social exclusion of young people from underprivileged groups and to eliminate discrimination, poverty and violence that these young people often experience. Local, regional and central authorities should provide young people from disadvantaged areas with the right to social and health care, housing standards, education and adequate information, as well as to enable them to participate in cultural



and recreational activities. One of the measures that could be of great practical importance is the sustainable financing of youth work and youth organizations that would continuously strive for the realization of the rights of young people from disadvantaged backgrounds, while making them visible and empowered.

**Resolution on the Youth Policy of the Council of Europe**, CM/Res (2008)23, adopted by the Committee of Ministers on 25 November 2008 at the 1042nd meeting of the Ministers' Deputies, promotes equal opportunities for all girls and boys, and also for young women and young men to develop their knowledge and skills and to become active participants in all social processes. The resolution calls on postulates highlighted in 2005 campaign "All different-all equal", which was organized in order to stimulate young people to get involved in politics. The resolution focuses in particular on today's society of many differences, where young people should be encouraged to engage in intercultural dialogue, reconciliation and tolerance, especially in societies with different conflicts, with a focus on religiously based conflicts. It is important to invest in work with asylum seekers, refugees and homeless people. When it comes to youth work and training for youth workers, one should keep in mind the need to conceive a set of minimum standards through cooperation and exchange of knowledge between different countries.

**Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education**, adopted on 11 May 2010 in the framework of Recommendation CM/Rec(2010)7 of the Committee of Ministers, is an important document, although it is not formally binding. The charter was created as a result of many years of research and exchange of good practices in the field of educating young people about democratic values and human rights. It is based on the scientifically proven claim that education is the most effective tool against racism, xenophobia, discrimination and violence. The charter refers to all forms of education through which one can learn about human rights and democracy. Thus, formal education is important - as attending a formal program in official institutions, such as schools and universities, as well as non-formal education - the implementation of various educational programs that are not conducted directly within the formal education system and informal education - the use of diverse life experiences and encounters with other people in order to acquire knowledge and skills. Education about democratic values, on one side, and education on societal participation and education on human rights, on the other, are intertwined, but also fundamentally different. Thus, education on democratic values is primarily aimed at stimulating citizens to actively participate in political life, while education on human rights refers to educating citizens about all human rights that belong to them, regardless of their political engagement. The Charter insists that all segments of education are important and it advocates for strengthening the role of the civil sector and youth work in non-formal education.

**Recommendation of the Committee of Ministers to member states on the promotion and recognition of non-formal education/ learning of young people**, CM/Rec (2003) 8, adopted by the Committee of Ministers on 30 April 2003 at the 838th meeting of the Ministers' Deputies, praises the role of non-formal education, emphasizing that it could be a form of education that enables young people



to actively participate in social processes. Therefore, a more precise definition of the non-formal education sector is needed, both in terms of enabling better competencies of those who educate others through non-formal education and the evaluation of the factual effects that result from non-formal education. Since it is indisputable that non-formal education can be used as a method of lifelong learning, measures should be devised in order to multiply non-formal education programs, especially those that are important for young people and even more important for members of marginalized groups. The exchange of best practices should be supported, as well as cooperation between the Council of Europe and the European Union in the field of exchange of knowledge and experiences.

**European Youth Forum recommendations on social protection and young people in Europe**, adopted by the General Assembly Brussels (Belgium) 19-21 October 2000, 0708-2K –FINAL, is a document adopted by the platform of youth organizations in Europe, which cooperates intensively with both the Council of Europe and the European Union. The document states that exercising the right to social protection is especially difficult for young people, given that adult citizens are directly linked to social services in situations of job loss or unemployment, so that they can exercise their basic social rights without practical and technical problems. The position of young people in the entire EU is not at an enviable level, while young people in Eastern and Central Europe and outside the EU are facing additional difficulties. Young people face difficulties in exercising their right to an adequate standard, housing and similar. For all young people, the critical period starts from the end of schooling and ends with acquiring a job, which is especially true for "invisible" young people who are not involved in the educational process or the labor market. The "invisible" youngsters do not exercise their rights to social protection, which increasingly pushes them into social exclusion. The realization of social rights is directly related to the realization of the right to education and information, which implies that young people from rural areas and excluded from the education system deserve special support in order to get to an equal position with their peers. In recent years European Youth Forum has been particularly committed to promoting the political and participatory rights of young people, especially those who for various reasons (gender, economic status, coming from minority groups) can be considered marginalized or unequal.

## European Union documents

Although the European Union was primarily created as a supranational organization striving for the united European market and for economic and political cooperation of EU member states, nevertheless it also intensively deals with other issues important for the prosperity of the old continent and its citizens. In that sense, a significant number of documents refer to the sphere of exercising social rights and encouraging cultural exchange.

**The following documents are recognized as most valuable ones:**

- ◆ Charter of Fundamental Rights of the European Union, 2000



- ◆ Directive on the implementing the principle of equal treatment regardless of racial or ethnic origin, 2020
- ◆ Framework for establishing a European Youth Work Agenda, 2020
- ◆ Council Conclusions on Education and Training of Youth Workers, 2019
- ◆ Youth Strategy 2019-2027, 2018
- ◆ The European Pillar of Social Rights, 2017

**Charter of Fundamental Rights of the European Union** (Official Journal of the European Union, 2007/C 303/01) guarantees the prohibition of discrimination on any personal ground (sex, race, social origin, genetic characteristics, sexual orientation ...), as well as based on citizenship (Art. 21). The right to cultural, religious and linguistic diversity, as well as equality between women and men in all areas, is guaranteed, provided that the application of measures in favor of the underrepresented sex in various spheres is not considered discrimination (Art. 22 and 23).

**Directive on the Implementation of the Principle of Equal Treatment regardless of Racial or Ethnic Origin**, 2000/43/EC of 29 June 2000, states that discrimination based on racial or ethnic origin may jeopardize the achievement of EU goals and objectives. Discrimination is especially detrimental in the field of employment, social protection, living standards and quality of life and incompatible with the EU as a community based on the principles of freedom, security and justice. Unequal treatment of citizens shatters economic and social cohesion and solidarity.

Resolution of the Council and of the Representatives of the Governments of the Member States meeting within the Council on the **Framework for establishing a European Youth Work Agenda** (2020/C 415/01), refers to all types of formal and informal work with young people in order for them to achieve social inclusion both as a group and as individuals, regardless of their personal characteristics. Despite the great differences in the formats of engagement of youth workers across the EU, the essence of their engagement is to enable young people to learn and experience the values embodied in human rights, gender equality, democracy, peace, pluralism, diversity, inclusion, solidarity, tolerance and justice. It is necessary for youth work to respect the practical needs of young people and to create the best possible environment for acquiring knowledge. The beginning of the realization of the agenda is called the Bonn Process, after an online event broadcasted from Bonn and the guiding idea is to strengthen the youth work sector by connecting the local and European levels, both by creating appropriate contexts and strengthening competencies. In the coming period, it is necessary to focus on possible new crises situations, such as Covid-19, in order to plan strategies for overcoming them, in which context digital technologies could be extremely important. Also, intra-European cooperation is needed in order to promote intercultural learning, as well as the exchange of knowledge between young people themselves.

**Council Conclusions on Education and Training of Youth Workers** (Official Journal of the European Union 2019/C412) state that there are basic standards on which the training and work of youth workers everywhere should be based in



Europe as a whole, but that the specific needs of each country should be taken into account. Therefore, the education of youth workers requires a flexible and user-oriented approach, as well as cross-sectoral cooperation. It was noted that at the EU level there is a lack of programs for the education of youth workers, as well as that there are no adequate mechanisms for the exchange of knowledge in this field. Research, exchange of good practices and an approach that summarizes individual experiences in a generally relevant way are essential for the further development of youth work.

European **Union Youth Strategy** 2019-2027, Resolution of the Council of the European Union and the Representatives of the Governments of the Member States meeting within the Council on a framework for European cooperation in the youth field, Official Journal of the European Union, 2018/C 456/01) is a document that directs strategically youth policy in order to realize the potential of youth in the best possible way. The strategy is based on providing support to young people for active participation in political life, which implies that young people should have access to the necessary resources. The three key concepts in this document are the inclusion, connection and empowerment of young people, through which 11 key goals of youth policy are then to be achieved. Some of the goals are: popularizing the idea of a strong EU and reducing Euroscepticism among young people, gender equality, the inclusion of all categories of young people in social processes, creating preconditions for youth equality in rural areas, equal opportunities for education with a focus on non-formal education and spatial and other conditions for the participation of young people, especially through the provision of appropriate infrastructure and support for youth work.

The **European Pillar of Social Rights** is an important document that ensures standards and coordination in the field of social rights. On 17th November 2017, the Council of the EU, the European Parliament and the European Commission published and signed the European Pillar of Social Rights. This document is not formally binding and calls upon a set of documents relevant to the labor market, inclusion and social protection in the broadest possible sense. The pillar is based on 20 key standards, including: gender equality, equal opportunities for all, social dialogue and inclusion of workers in decision-making on their rights, work-life balance, social security, child protection, guaranteeing a minimum standard of living and social inclusion for persons with disabilities.



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